

COMMISSION OF INQUIRY INTO ALLEGATIONS OF POLICE
INEFFICIENCY IN KHAYELITSHA AND A BREAKDOWN IN
RELATIONS BETWEEN THE COMMUNITY AND POLICE IN
KHAYELITSHA PHASE ONE

Major General Sharon Jephtha

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ON RESUMPTION ON 31 MARCH 2014: (at 09:00)

COMMISSIONER: Good morning. Morning, General Jephtha, welcome.

MAJ GEN JEPHTA: Good morning.

COMMISSIONER: Mr Arendse, there are just a few preliminary matters. We had a request from the City in relation to putting questions to General Lamoer tomorrow and we have agreed that we will grant them 15 minutes, which will follow on the DOCS' cross-examination from 12:45 to 13:00 tomorrow, and then the agenda will continue as had been notified last week.

There are still some documents outstanding, Mr Arendse. I am not sure if you are in a – or Mr Masuku are in a position to respond on them. I have a list of them here. Anything that you know about this? I could go through the list.

MR ARENDSE: As far as I know, the requests had been referred to our client and they're busy preparing to get them to us.

COMMISSIONER: Okay. I think that the list was provided to you last week and have you got an indication as to when they will be arriving?

MR ARENDSE: Our key person, Colonel Benting, got married on the weekend and towards the end of last she took ...(intervention).

COMMISSIONER: Okay, so she's been otherwise occupied with wedding arrangements.

MR ARENDSE: Yes. So we very much depend on her. But can we do a follow up maybe during a break or lunchtime for these documents?

COMMISSIONER: Great. Ms Dissel has very helpfully prepared a list here which could be made available to you, and perhaps if you could just go down it at the tea adjournment or the lunch adjournment and just indicate when you expect things to be made available. That would be very helpful.

MR ARENDSE: I think if we can just hand that list to Mr Biko now so that he could in the meantime just follow up.

COMMISSIONER: Okay, certainly. Thanks, Mr Gomo, if you could just give that to Mr Biko, the instructing attorney for the South African Police Service. Thank you, Mr Biko.

General Jephtha, welcome. And I would like to add my thanks to – I know that along the way you have been very involved in making sure that all these various documents that are requested by the Commission become available to us and that your team at the nodal point has done that. We would like to thank

you for that.

MAJ GEN JEPHTA: Thank you.

COMMISSIONER: You are aware, of course, that these proceedings are in public and that your testimony will be covered potentially by both the media and in the Commission's report?

MAJ GEN JEPHTA: Yes, Commissioner.

COMMISSIONER: And you have no objection to that?

MAJ GEN JEPHTA: No, Commissioner.

COMMISSIONER: Do you have any objection to taking the oath?

MAJ GEN JEPHTA: I do not have.

SHARON JOHANNA JEPHTA: (Sworn states)

COMMISSIONER: Thank you very much. Mr Masuku – Mr Arendse, sorry.

EXAMINATION BY MR ARENDSE:

Thank you, Madam Chair. Good morning, General.

MAJ GEN JEPHTA: Good morning.

MR ARENDSE: Just quickly just to go through your length of service in the police. You have been in the police service for 32 years. During this time you have been a station commander, which includes Philippi; you have been a cluster commander of Nyanga, Kuils River, Wynberg clusters; you have been a provincial head of HR and you have also been a provincial head of, is it – what's it, firearms and Vispol. And currently you are the deputy provincial commissioner, operational service, which includes the inspectorate, Vispol, the provincial command centre and operational response services. So with all that mouthful, is that more or less correct or did I miss out something? It's just a summary.

MAJ GEN JEPHTA: That is correct. Maybe you have missed one very important. I just been appointed as the deputy provincial commissioner for operational services. You have missed that I have been the deputy provincial commissioner, operations officer, where my responsibility in terms of making the statement, Commissioner, was the inspectorate.

MR ARENDSE: Okay, I was going to come there. At the time you made your affidavit on the – and when you were then appointed on the 1st of April 2012 you were the DPC operations officer. And at that time the three components were the inspectorate, corporate communications and organisational development?

MAJ GEN JEPHTA: That is correct.

MR ARENDSE: So that has changed subsequently?

MAJ GEN JEPHTA: That has changed, yes.

MR ARENDSE: With effect from what date?

MAJ GEN JEPHTA: It was with effect from 1st of February, but I only took up my post on the 24th of March.

MR ARENDSE: So that's fairly recently?

MAJ GEN JEPHTA: It's like in last week, Commissioner.

MR ARENDSE: Ja. Just while we're on that; maybe explain briefly, what are the essential differences between the time you were appointed in April 2012 and subsequently in terms of your functions?

MAJ GEN JEPHTA: My functions now? My functions were more administrative. ...(Indistinct) bound while the functions now would be operational.

MR ARENDSE: Okay. Now I – you testify here mainly in your capacity as the deputy provincial commissioner responsible for the inspectorate.

MAJ GEN JEPHTA: That is correct.

MR ARENDSE: Now who is otherwise the provincial head for the inspectorate reporting to you?

MAJ GEN JEPHTA: Commissioner, the provincial head for inspectorate is Brigadier Solomons.

MR ARENDSE: And is he the person responsible for conducting these inspections, as it were, on the ground going to stations, clusters, etcetera?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: And would he be the one responsible for putting together whoever his inspection team is or is going to be when they go out to the stations?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: And so you – maybe sometimes heads of department do this; but you yourself, you haven't been on any of these inspections and in particular to any of the Khayelitsha stations, the three stations?

MAJ GEN JEPHTA: I am not part of inspection teams, Commissioner.

MR ARENDSE: But, I mean, you haven't, for example, given anybody a surprise by being part of a team?

MAJ GEN JEPHTA: No, Commissioner.

MR ARENDSE: Okay. Before we go into how these inspections are conducted; when do – do you get these reports, and if so, when do you get these reports from the various stations?

MAJ GEN JEPHTA: These reports come to me when it is time to do assessments of cluster commanders specifically. I would ask for it before the time, I would read through those reports and I would make my input when it is assessment of station commander – of cluster commanders.

MR ARENDSE: Of the cloister commanders?

MAJ GEN JEPHTA: Ja.

MR ARENDSE: So in terms of the – any remedial action or any corrective action that has to be taken in relation – you know, where they are identified by the inspectorate, whose responsibility would that be?

MAJ GEN JEPHTA: That is the responsibility of the line managers. My responsibility, Commissioner, is to ensure that the inspection takes place, that a report is compiled and that the line manager receives the report.

MR ARENDSE: So your inspectorate, and you as the head of the inspectorate in the province or responsible for the inspectorate, your department or your section doesn't, after the inspections are conducted and problems, issues are identified, that you then also do a follow up and ensuring that these problems and issues are addressed?

MAJ GEN JEPHTA: It is a line management function that everything that the inspectorate has queried, that they would implement and that they would put measures in place to ensure.

MR ARENDSE: So, for example, we have had a number of the inspection reports that's part of the record, that has been placed before the Commission and that has been extensively debated and we have gone through them, both in

examination and cross-examination and questions from the commissioners.

These – so, for example, the issue of dockets and cases being withdrawn, dockets not coming before the courts, issue of absenteeism; so absenteeism, you're saying, would be typically an HR function, General Burger?

MAJ GEN JEPHTA: That is correct, Commissioner. Like I say, my responsibility is to do an inspection and find the non-compliance issues and bring it to the attention of the line managers in the form of a report, where they would then have their own interventions to ensure compliance.

MR ARENDSE: Is – the key document for the inspectorate is Standing Order 6. Is your role or your core role and core function really to ensure compliance on the part of police officers, police stations, cluster commanders and so on?

MAJ GEN JEPHTA: No, Commissioner, that is not my role. My role is to identify non-compliance, and that is what the reports are doing.

MR ARENDSE: Ja, sorry for the misunderstanding. I mean, do you – your inspectorate goes in there and there's DVA registers, there's various registers that one – SAP 13, all kinds of things. The inspectorate goes in there and they see, are these being complied with. Is that ...(intervention)?

MAJ GEN JEPHTA: They would inspect that registers.

MR ARENDSE: Yes. So in that sense they want to ensure that people are doing what they're supposed to do?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: In terms of the policies and procedures and the protocols, national instructions, directives and so on of the police services?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: Okay.

MR PIKOLI: Excuse me. General, where there is non-compliance and you say you bring it to the attention of the line manager, how do you do it? Do you do it directly or through ...(talking simultaneously)?

MAJ GEN JEPHTA: Through the – Commissioner, we do it through the inspection reports. You have seen the inspection reports; those are the reports that we issue.

MR PIKOLI: ...(Indistinct – off microphone) Brigadier Solomons?

MAJ GEN JEPHTA: He is the provincial head. He has got inspection teams, Commissioner, and those inspection teams would go and do the inspection. It is not done by one particular person, Commissioner.

MR PIKOLI: I am talking about bringing non-compliance to the attention of the line managers.

MAJ GEN JEPHTA: The report that we issue is the report that indicates non-compliance, Commissioner.

COMMISSIONER: General, I see that paragraph 5 of Standing Order 6 states that,

“On receipt of an inspectorate report ...”

Inspection report effectively,

“... the relevant divisional commissioner and provincial commissioner must ensure the implementation of suitable remedial measures to address negative trends identified during evaluations, inspections and

investigation of complaints and poor service delivery, and ensure the implementation of best practise within his or her divisional province.”

Now who would be, in relation to the three Khayelitsha police stations with which this Commission is concerned, who would be the relevant divisional commissioner and provincial commissioner?

MAJ GEN JEPHTA: We must remember that the provincial commissioner is not able to do everything in the province. So the provincial commissioner can delegate his powers. In this case it would be the station commander and the cluster commander, those are the line managers; the provincial head for the specific area.

Say, for instance, it was a non-compliance in visible policing, the provincial head for visible policing; or non-compliance in detectives, the provincial head for detectives. And then it would be the deputy provincial commissioner responsible for that area.

COMMISSIONER: And in the case of Khayelitsha, who would that be?

MAJ GEN JEPHTA: In the case of Khayelitsha it would be the station commander of Khayelitsha, Genera Dladla; it would be the cluster commander, who is now Brigadier Dyantjie (?), Commissioner.

COMMISSIONER: And then when you move up to deputy provincial commissioner?

MAJ GEN JEPHTA: When you go up to deputy provincial commissioner it all depends, Commissioner, in what area the non-compliance is. If the non-compliance is in the area of supply chain or finance management it would be Deputy Provincial Commissioner Fick.

COMMISSIONER: Yes, I understand. So then it's done by area of responsibility. So if it's operations it would have been General Jacobs until last week and now it's you, and if it was HR it's General Burger. So it works on areas of responsibility, does it?

MAJ GEN JEPHTA: That is correct, Commissioner.

COMMISSIONER: And who is the divisional commissioner? Is that an old phrase?

MAJ GEN JEPHTA: The divisional commissioner for inspectorate is on the national level, and that would be the late Major General Shabalala.

COMMISSIONER: Okay.

MAJ GEN JEPHTA: There is someone acting in his place now, Commissioner.

COMMISSIONER: Okay. So that's a – but that's the national office level?

MAJ GEN JEPHTA: That is correct.

COMMISSIONER: Thank you very much. Mr Arendse.

MR ARENDSE: Thank you. I'm just being pre-empted. But let's start at the beginning. Now many stations are there in the province?

MAJ GEN JEPHTA: We have got 150 stations in the province, Commissioner.

MR ARENDSE: And how many inspections are conducted? How many inspections are conducted annually?

MAJ GEN JEPHTA: By the inspectorate?

MR ARENDSE: Ja.

MAJ GEN JEPHTA: By the inspectorate we conduct 55 – our plan normally say

– we plan for 55 inspections per year, annually, and then 45 follow up inspections. The follow up inspections would be at a different station, Commissioner.

COMMISSIONER: Can I just follow up on that. For some reason I thought there were 147 police stations in the province. Are there actually 150?

MAJ GEN JEPHTA: We have 150.

COMMISSIONER: Are there three new ones or was 147 a couple of years ago or where did I ...(intervention)?

MAJ GEN JEPHTA: It might be a couple of years ago, Commissioner. The latest one that we have opened was the Lentegour Police Station.

COMMISSIONER: Oh, Lentegour. So that's quite recent, isn't it, Lentegour? When was Lentegour opened?

MAJ GEN JEPHTA: Lentegour was opened last year, Commissioner.

COMMISSIONER: Ja, okay. So it's now 150.

MAJ GEN JEPHTA: It's a new one.

COMMISSIONER: Thank you.

MR ARENDSE: And how do you decide and who decides which stations are going to be inspected?

MAJ GEN JEPHTA: We – first of all, we get management input with regards to priority stations. So we select the priority stations. And then we also use the performance chart indicators, Commissioner.

MR ARENDSE: And the Khayelitsha stations, have they always been regarded as priority stations for the purposes of inspections?

MAJ GEN JEPHTA: Yes, Commissioner.

MR ARENDSE: These inspections, how are they conducted? Do you go in there – these are all regulated by Standing Order 6 and it is – for example, 6(1),

“Divisional provincial commissioners and station commanders as well as unit commanders must be informed of the date on which scheduled inspections and evaluations will be conducted, provided that where the divisional commission inspectorate ...”

And that's a national position, that would have been the late Lieutenant General Shabalala,

“... or the relevant provincial head inspectorate ...”

That would be you or Brigadier Solomons,

“... deems it necessary, unannounced evaluations and inspections may be conducted without prior notification.”

Now the – why – the rule seems to be that these inspections and evaluations are announced in advance and the station commanders, since we're talking about the three stations here, they are told that the inspection is going to happen. Why is that the case?

MAJ GEN JEPHTA: Commissioner, we inform the stations about the inspections so that we – so that the station commander can plan, and that we do not hamper service delivery and we do not infringe on planned operations. We know that stations have got programmes and if we suddenly just come on to them, they have got to deviate from their programme.

They might have planned to have a community engagement and we land

up unannounced, Commissioner, then they can't have the community engagement. Or they would have had an operation that was planned for which money was put aside and spent, and if we should land up there and start doing the inspection they will not be able to execute such an operation and it will then be fruitless expenditure, or if executed they would not reach the purpose of that operation.

So that's why it's very important that we do inform the inspectorate – the stations, announce our inspections to them, Commissioner.

MR ARENDSE: Under which circumstances would you deem it necessary to have unannounced evaluations and inspections?

MAJ GEN JEPHTA: We would have that on request from management, senior management, or on the request of a station commander or a cluster commander, Commissioner.

MR ARENDSE: Have you deemed it necessary to conduct any such unannounced evaluations and inspections under your command since 1 April 2012?

MAJ GEN JEPHTA: Not at one of the three stations, Commissioner, but there were other stations, yes, Commissioner.

MR ARENDSE: Are you at liberty to mention these others?

MAJ GEN JEPHTA: We had an unplanned inspection at one of the stations. I just need – under correction, Montagu where we have picked up in terms of the performance chart that the detective service drastically decreased their performance.

And we have gone in to do an unfounded inspection and while we were busy with the inspection the branch commander brought his discharge. That was an unannounced one.

There was a serious – because the performance chart has indicated to us that suddenly there was a serious drop in the production of that specific branch.

MR ARENDSE: Okay. Now the inspection itself, how does the inspectorate decide and what criteria, if any, are used to identify what is going to be inspected, which areas or what areas at the station is going to be inspected, or do you do a complete audit of compliance or non-compliance of a particular station?

MAJ GEN JEPHTA: Commissioner, we do a random inspection on the compliance of policies and national instructions and directions. We do not do a complete inspection. If we have to do – this kind of inspection of the inspectorate takes us three to five days at a station.

If I have to do a full inspection of a station, a station like Khayelitsha will take me up to six months. And the inspectorate does not have the capacity to do such inspections.

MR ARENDSE: So, and who decide on which aspects of operations or in the administration of the station would have to be inspected or is going to be inspected?

MAJ GEN JEPHTA: Commissioner, it would be the inspection team that decides that. But they are led by the provincial strategy as well as by the station operational plan that they utilised; they are led by those documents.

MR ARENDSE: Now we have seen from a number of inspection reports, I think

from 2008, 2009 through to more recent ones at the beginning of 2014, the approach of the inspection team. There is an initial inspection, areas of non-compliance are identified, the station commander is given an opportunity to respond, the inspection team goes back, there's another opportunity to respond and then a sort of final inspection report is then made. Is that the approach?

MAJ GEN JEPHTA: Maybe we have missed out ...(intervention).

MR ARENDSE: What do you want to comment?

MAJ GEN JEPHTA: ... one of it. What we have done is that they would go in, they would inspect. After inspection – before inspection there is first a briefing session with the commanders, indicate to them what is it that they're going to look at and what they need. Then a person is appointed to assist the team. They will conduct the inspection.

After the inspection they would have a debriefing session with the commanders as well and debrief them and give them their findings, where then the station commander together with the team will develop an action plan as to how to go about to address the gaps that were found. And then the inspectorate will then compile a report afterwards and send it to the station.

MR ARENDSE: And after that what – do you play any role subsequent to that final step, or when – and if so, when do you come back in as an inspectorate into that process?

MAJ GEN JEPHTA: The inspectorate would do follow up – are you talking about myself, Commissioner, or ...(intervention)?

MR ARENDSE: Ja, I'm talking about you personally.

MAJ GEN JEPHTA: Me personally?

MR ARENDSE: Ja.

MAJ GEN JEPHTA: That reports come to me and I would make a study of that reports when I do the assessment of cluster commanders. We must remember that previously inspection reports were just sent to stations, they would have answered it and that. Because we have found that there are occurrences of non-compliance we as management has gone a step further with the report.

We would now take the report and make it part of assessment. And there's a specific category that looks at compliance issues that is then assessed. Brigadier Solomons is the only provincial head that sits in when we do assessment of cluster commanders; there's no other provincial head that is on that panel.

MR ARENDSE: And just – and when does that take place?

MAJ GEN JEPHTA: That take place twice a year, Commissioner.

MR ARENDSE: Twice a year.

MAJ GEN JEPHTA: When we do assessments.

MR ARENDSE: And who sits on the assessment team?

MAJ GEN JEPHTA: On the panel it is the – the chairperson of the team is – was Major General Jacobs, which would be me in the new position, and it would be the deputy provincial commissioner for detection (sic) services, it would be the deputy provincial commissioner for human resource management and it would be the deputy provincial commissioner for physical resources.

Myself, I am sitting in here – there, and we have since 2012 brought in

Brigadier Solomons so that he can present those reports to the panel.

MR ARENDSE: So the line managers, the people ultimately responsible, they sit on that panel?

MAJ GEN JEPHTA: That is correct.

MR ARENDSE: And then Brigadier Solomons is also there to highlight these issues that were pointed out in the inspection reports. And it's during that process then you then evaluate whether or not these issues have been addressed; if not, why not. And just talk to us briefly about ...(intervention).

MAJ GEN JEPHTA: Maybe I must take – maybe, Commissioner, I must take you through that process.

MR ARENDSE: Ja.

MAJ GEN JEPHTA: Before we go into the panel every provincial head are requested to give inputs to the HR component. There is a spreadsheet that we have to complete where we have to indicate compliance. So what we do with the inspectorate reports, we would sit down and we would mark the areas before the time where we as inspectorate says that there was non-compliance.

And it's not one or two, but serious – it talk to serious non-compliance; there was non-compliance. Then it would go to HR, who would then place it on the template, and that template where we say we don't – because there's a – where ... The cluster commander would have a self-assessment, then it would be the assessment of management.

Where we say we – there's areas of non-compliance it goes to the cluster commander. He or she then has the opportunity to go through what the management assessment is and then to come to the assessment panel with profile of evidence to either refute what we are saying or to agree what we are saying.

Brigadier Solomons come with his whole box of inspection reports there. So if the senior manager who is assessed does not agree with something we will pull out the inspection report and then we say this was the finding, if you don't agree, this is what we have found, tell us in what context do you not agree.

COMMISSIONER: And you would be looking at all the reports of police stations that fall within the cluster?

MAJ GEN JEPHTA: Commissioner, we will only look at those areas where the cluster commander don't agree on.

COMMISSIONER: Okay. But it's not an inspection of the cluster, it's an inspection of the individual police stations in the cluster?

MAJ GEN JEPHTA: Ja, because the cluster commander is responsible for ... (intervention).

COMMISSIONER: I understand that.

MAJ GEN JEPHTA: ... the management of the stations; so that's why, and specifically in the operational field he is responsible for, Commissioner. So we would at that. We would not go through the inspection reports unless it's queried by the cluster commander.

COMMISSIONER: Okay. Now just a couple of just clarifications for me. So when you described who was participating in these assessments, am I right in thinking that it's actually all five deputy provincial commissioners other than the

provincial commissioner who is responsible for priority crime investigations?

MAJ GEN JEPHTA: That is correct, Commissioner.

COMMISSIONER: Okay. And in a sense, as a result of your changed position in the last week you are now going to participate in your new capacity and General Jacobs will participate in your old capacity?

MAJ GEN JEPHTA: That is correct. I want to say, Commissioner, that prior to 2012 that was not done like that. Ever since I came in 2012 it's done like that. We have changed the way that we do it. We have changed the way that we use our inspection reports. Inspection reports is not used for punitive measures.

I don't use it; that the line managers can use for punitive measures. I, as the deputy responsible for the inspectorate, use it to do assessments and to ensure that there is improvement in performance.

COMMISSIONER: Now just one question. I know that one of the positions of the deputy provincial commissioner is currently – the provincial commissioner is suspended, so that person is absent. And that's detective services, which is obviously a very important component of all the police stations. What happens in their absence? Is there somebody who acts there or do you just have an absence in that area?

MAJ GEN JEPHTA: Commissioner, Major General Molo is appointed as the deputy provincial – as the acting deputy provincial commissioner for detection services and he would then form part of the panel.

COMMISSIONER: And then my other question is, one of the things we've noticed in this cluster is the fact that really for a very long period of time, really since the clusters were established in the latter half of the last decade, there really only have been acting – there have been generally only acting appointments.

And I understand now that the position has been advertised for a permanent appointment. But how does that impact on the assessment? Is it – does it make it more difficult to deal with acting appointments?

MAJ GEN JEPHTA: No, Commissioner. Because everyone, even if they act, there is a generic performance agreement, there is a generic performance assessment too which direct the functions also of the cluster commander.

COMMISSIONER: Do acting appointments get performance agreements in relation to their acting appointments or not?

MAJ GEN JEPHTA: I cannot hear properly, I'm sorry.

COMMISSIONER: Sorry. Do acting appointments get performance agreements in relation to their acting appointments or does that – I mean, that would seem quite laborious, or do they not actually have performance agreements in relation to their acting appointments?

MAJ GEN JEPHTA: In – as far as my knowledge serve me on this, Commissioner, is that when you take up any position you must – within two months of taking up that position you must have a performance agreement in place. So it all depends on the length that the person has been at it, Commissioner.

COMMISSIONER: Thank you. Thank you, Mr Arendse.

MR ARENDESE: Thank you. Now this, what I am sure everyone agrees with, is

an important – not so much an intervention but an important process that you are following. Is that – I am talking now about the evaluation panel. Because if you look at Standing Order 6 there is no specific provision for that. So firstly, your comment on that statement.

And then secondly, where does – who introduced that part of the process and when was it introduced? Because if you look at Standing Order 6, part 7, the last paragraph on reporting, it would appear that you just have to compile your reports and then it must be approved by you, the divisional commissioner inspectorate, and then be submitted to the national commissioner or the relevant divisional or provincial commissioner and so on.

MAJ GEN JEPHTA: That is correct, Commissioner, that is what the standing order say. But the management in the province has taken a decision that if we want to improve performance we have to take into consideration the inspectorate reports. And I can say there has been a huge improvement due to this. We have seen the way how people have complied. The compliance levels are much better.

I can say it is not on standard, it is not where we want it, and I am sure that if we give this system some time, Commissioner, it would improve much more. There has been a level of improvement and that is what the system has brought. This management has taken a firm stance on performance management specifically.

I can honestly say I would not have been comfortable, Commissioner, to take your group to any of the police stations prior to 2012. What you would have found there and what you have found now is a vast difference. You might have heard and you have might have seen in the newspapers what standing committee and what portfolio committee is saying when they walk into police stations what they found. I am sure, Commissioner, you did not find that.

And what I want to say is, this is what the change in using the inspectorate reports for performance has brought. It has brought some change, it has brought some improvement. And I am confident, and specifically in my new role, that it will even play a much bigger part in what we do.

MR ARENDSE: Now one of the questions, one of the many or several questions that's been put to you, I want to put you because we're talking about this area of your responsibility. One of the questions that's been put to you was that General Schooling and Mr Leamy concluded in their evidence that there had been a breakdown in command and control at the three stations.

The question is whether you agree with that conclusion; if not, why not? And if there has been a breakdown in command and control, how could this be – how should it be addressed? So a further question is, your – the inspections that are conducted, do they really address issues of command and control of a station?

When inspection reports are concluded, finalised, after the process which you have already described, briefing, debriefing, opportunities to remedy and so on and so forth, are you in a position to say whether or not a station has suffered a breakdown in command and / or control?

MAJ GEN JEPHTA: Commissioner, I do not agree with the statement. When we

do our inspections we direct it to a certain area. And when the inspection report says there is a lack in command or control it would be a lack of command and control for that specific area. It would not indicate that there's a total lack of command and control at the station because there are various levels of command and control.

And I think what General Schooling's report has looked at is specifically the administrative command and control; that's one area. And yes, that area is not totally on standard. But it isn't of such a nature that there is a total lack of command and control, because we have not looked at what is right. The report only indicates what is wrong.

We can only say that if we have inspected the total area and indicate in terms of the total area this was the amount of work that was done and out of that amount we have found this amount to be non-compliant, we have found this amount to be compliant in terms of command and control. So I do not agree.

Then you also get operational command and control. And the report of Leamy and Schooling does not address the operational command and control where you're in the field, where you look at what the members and observe what members are doing and how they are doing it.

So it also doesn't speak to the command and control in terms of systems, because there is a system command and control that needs to take place. So there's various areas of command and control. It doesn't speak to all the areas of command and control, so it cannot be total lack, Commissioner.

MR PIKOLI: Sorry, excuse me. General, is there a link between the administrative command and control and the operational command and control?

MAJ GEN JEPHTA: There's not a total link, Commissioner. Because if you go on the ground in the field, your command and control – there is a link, but not a total link; because your command and control differs operationally from administratively, Commissioner.

MR ARENDSE: Now it would be or may be said that it's fine to have these distinctions that you draw, different areas of command and control and that one should look at each station and adopt an integrated approach and then make an assessment. But at the end of the day ...

For example, the inspection reports routinely, regularly – your inspection reports identify, for example, in relation to detective services that there is a high number of cases that get withdrawn, that are struck off the roll, dockets that are not brought to court. Now surely if one looks at ...

You know, the proof of the pudding is in the eating, as it were. You know, for all that stuff, people who worked in the office on the administration side, officers that go into the field, Vispol, and drive around and catch people or are supposed to catch people and bring them to book, detectives who investigate cases, at the end of the day this is really where you look at whether you're managing effectively and controlling the station effectively.

If that's what would be put to you, what is your response to that?

MAJ GEN JEPHTA: The purpose of the inspection is to look at compliance, Commissioner. The purpose of the inspectorate is not to look at efficiency; it looks at compliance, Commissioner.

MR ARENDSE: But there would be a national instruction or a standing order or a directive which says this is what you must do to comply, this is how you ... For example, on just opening a docket, I forget the national instruction now, 3 of 2005; you would also look at that as an inspectorate, isn't it?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: So you would look at that whole process from the time a docket is opened and then it goes to detective services and they must investigate. And there's also protocols and directives and procedures how that must be done and how it must be presented to court, when it must be presented to court?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: So you say your job is to look at all of that and to see whether or not there has been compliance with those procedures, protocols and directives?

MAJ GEN JEPHTA: Correct, Commissioner.

MR ARENDSE: But to come back to the issue. At the end of the day you find that obviously there's differences. Maybe they're minor; we'll leave that till later. But routinely you see that there is this problem, which would also be a problem that you address in the evaluation panel, in that committee. What kind of interventions have been discussed there, proposed there? Because now the cluster commanders are held to account, quite properly; they must now explain.

MAJ GEN JEPHTA: Commissioner, if I understand the advocate correctly; the inspectorate's responsibility is to inspect, to give – to then hand over the report to the line managers, who then needs to ensure that there are interventions. The inspectorate does not do the interventions. I don't know whether I got you right; because the inspectorate doesn't do interventions. It is not the inspectorate's responsibly to do any interventions, Commissioner.

MR ARENDSE: No. I think the question relates to the fact that, and it seems to be a common cause fact, that there are these problems with dockets going to court and when they come to court investigations are not completed and so on. And you as the inspectorate, and to your credit, you pick it up every time, and then every time it comes to your notice as the head of the inspectorate. It's that aspect.

And do you just deal with that as an evaluation panel, but just not giving the cluster commander a mark or give him or her a low mark, or how do you address that?

MAJ GEN JEPHTA: When I send out my inspection – when we send out the inspection reports from the inspectorate, Commissioner, a letter normally goes with, a cover letter normally goes with to the different commanders, indicating this is our findings; you go and you check the findings and if you find any disciplinary procedures or codes that has not been adhered to, you take the necessary.

That is how my report normally go out, with a cover letter, and it is up to that line manager to take the steps. It is not my – the inspectorate's responsibility to go and make sure that those steps are taken; there are line managers. If we have to follow up on everything we will not be able to do our work and we will not be able to make the findings that we have made, Commissioner.

MR ARENDSE: What is the reason that the three Khayelitsha stations are

inspected twice a year routinely?

MAJ GEN JEPHTA: Commissioner, I am not sure whether they are inspected twice a year. Because we normally do is, one year we do ...(intervention).

MR ARENDSE: Sorry. Let me just rephrase that; I just took it from what you said earlier, that you have two ...(intervention).

MAJ GEN JEPHTA: Assessments, performance assessments, Commissioner.

MR ARENDSE: Ja, sorry. And you can only do five inspections a year – 45 ... (intervention).

MAJ GEN JEPHTA: 55 inspections, Commissioner.

MR ARENDSE: 55. And that the three Khayelitsha stations are always part of that inspection?

MAJ GEN JEPHTA: They're either part of the inspection or a follow up inspection, Commissioner.

MR ARENDSE: So why do these three stations always feature, either as an inspection or a follow up inspection every year?

MAJ GEN JEPHTA: Because they are regarded, Commissioner, as priority stations within the province.

MR ARENDSE: Okay. Now just to come to ... In paragraph 6 you mention that you – is 45 still the number of personnel at the inspectorate? Has that number changed?

MAJ GEN JEPHTA: Unfortunately that number has changed. We have one member that passed on last month at the inspectorate, Commissioner; so we are at 44.

MR ARENDSE: Now the number of personnel that you have there, is that adequate or sufficient to do what you have to do?

MAJ GEN JEPHTA: Commissioner, you would see that with our inspections we would only cover 99 stations; meaning that there would be 51 stations that the inspectorate would not be able to cover with inspections. What we have done, we have put a, we call it, combined assurance inspection in place.

We have now got all senior managers, including me as a DPC, all deputy provincial commissioners, excluding senior managers who are station commanders, that also do inspections. We would give them those stations that are not covered either by the inspectorate or by the internal audit, we would give them those stations to go and do us an inspection, not on the level that the inspectorate does it, but on specifically crucial areas.

So that mean that in the Western Province we are able to reach now all 150 stations within the province. It is a new approach, but it is also guided by national. It is not my idea, it is guided by national. We speak to the – we call it the factory visits to SAPS ...(intervention).

MR ARENDSE: Now General, I have just given you two documents. Madam Commissioner, may I make – I have asked for these copies to be made; I hope there is sufficient.

COMMISSIONER: Shall we label them SJ1 and SJ2? Can you just describe what their contents are, Advocate Arendse?

MAJ GEN JEPHTA: The first document is a document titled “Quality Assurance ‘Factory Visits to SAPS Stations’”. It’s dated 11th of June 2013; signed by the

provincial commissioner. And the other document is a document styled (sic) "Combined Assurance Quality Checklist; Checklist for Utilisation by Senior Management Service Members During Quality Assurance 'Factory Visits to SAPS Stations, 2013 / 2014'".

COMMISSIONER: So the first of those will be SJ1 and the second will be SJ2.

DOCUMENT "QUALITY ASSURANCE 'FACTORY VISITS TO SAPS STATIONS'"
HANDED IN AS EXHIBIT SJ1

DOCUMENT "COMBINED ASSURANCE QUALITY CHECKLIST; CHECKLIST
FOR UTILISATION BY SENIOR MANAGEMENT SERVICE MEMBERS DURING
QUALITY ASSURANCE 'FACTORY VISITS TO SAPS STATIONS, 2013 / 2014'"
HANDED IN AS EXHIBIT SJ2

COMMISSIONER: Thank you.

MAJ GEN JEPHTA: Can I ...(intervention)?

MR ARENDSE: Ja, please. Just speak to both documents.

MAJ GEN JEPHTA: Commissioner, you have in front of you actually an instruction that was issued by myself on the 11th of the sixth 2013, where we as management said that, you know, we really want to reach every station. And this is how we would reach it. We have indicated that it is process that has been established by national and the concept seeks to give effect to priority, namely improving the frontline service, to transfer skills and to improve standards.

And I can surely say with confidence, Commissioner, since our senior managers are now also started – they have started to inspect other stations on the template that has been supplied to you now we have seen that our senior managers has taken another approach to inspections themselves. They understand ...

They would come back – they would inspect another station, they would come back into their own environments and even look at their own environments differently. This approach has definitely improved performance at the stations.

MR ARENDSE: So this really again is an intervention or a process that falls outside of Standing Order 6 but complements Standing Order 6 and reinforces your functions and your responsibilities, and in a way also, in a very important way, expands the role that you have to play going beyond just your 45 or 44 personnel?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: And also actually brings the line managers – gives them the responsibility of doing almost self-inspections of their particular functions?

MAJ GEN JEPHTA: That is correct, Commissioner. Because there are various of these managers that actually took the tool into their own environments; not just the environments where they have been instructed in terms of this instruction, but they would come back and even do it within their own environments from time to time, Commissioner.

MR ARENDSE: And looking at the combined assurance – the checklist, are these the areas of focus; just looking at the index, for example – sorry, the table of contents, sorry, CSC, community service centre, station detention facilities, firearms, SAP 13 store, the station crime office, station crime prevention and then the station commander?

MAJ GEN JEPHTA: Commissioner, that is correct. Because the inspection is directed to the frontline service, specifically to those areas where we interact with the community to improve those areas, Commissioner.

MR ARENDSE: Just while we're on this checklist. One of the areas of focus would be the station detention facilities. And we know from your inspection reports and also highlighted by the Schooling, Leamy report and by the Shabalala report, is that from time to time suspects are being held for longer than 48 hours. Do you care to comment on that?

MAJ GEN JEPHTA: Commissioner, that might happen that suspects are held for longer 48 hours. If a suspect is arrested on a Thursday evening the time lapse over the weekend, that means that the person would be held longer than 48 hours, Commissioner.

MR ARENDSE: But we know that it's not – again there's a line function that's responsible for ensuring that that doesn't happen. But...(intervention).

COMMISSIONER: Well can we just pause for a minute. I mean, it's clear in terms of the Criminal Procedure Act that that's legitimate. You're not required to bring somebody before a court on a day the court is not sitting. But those aren't the issues that have been raised before this Commission.

They are issues where people are being held for longer than 48 hours; say for example, arrested on a Tuesday and could easily be brought before the court on Thursday but are not brought before the court. The Commission is not concerned about the areas where there is compliance with the Criminal Procedure Act; it's where there is not compliance with the Criminal Procedure Act. Do you have a comment on that?

MAJ GEN JEPHTA: I don't have any information thereof in front of me, Commissioner. If the Commission has find that, it would surely be investigated. And those are kind of – ja.

COMMISSIONER: You know, we saw that in the task team report prepared under the authority of General Shabalala it has been raised along the way. And we are not making specific findings, as you know; this Commission is forward-looking. But am I right in understanding that that would be something that would be considered to be a matter worthy of investigation and a serious issue by SAPS at a senior level?

MAJ GEN JEPHTA: It would be a matter for investigation if there are such incidents, yes, Commissioner.

MR ARENDSE: Now I just want to move on to another topic, which has also been raised quite prominently in the Commission, and that is your relationship, your interaction, with IPID. Can we just discuss that and just describe briefly your interaction with IPID.

MAJ GEN JEPHTA: As you know, the IPID Act has been implemented, Commissioner, since the 1st of April 2012. The inspectorate and IPID has got regular meetings where we specifically look at our information, that we – our information correspond with one another. IPID would send recommendations and the inspectorate is the nodal point for those recommendations.

If we receive those recommendations we would register those recommendations and follow the procedures as prescribed in our provincial

instruction and give feedback to IPID in relation to that.

MR ARENDSE: Now can I also give you – the one document, Madam Commissioner, is a circular from the national commissioner dated 21 September 2013; it's called "Implementation of IPID Disciplinary Recommendations". And then the other document is from the province; so there's that set. There's one for the witness, one for me.

The other document is a document dated 29 October 2013, which is signed by Brigadier Solomons; it's titled "Disciplinary Recommendations in terms of Independent Police Investigate Directorate, Lingeletu West".

COMMISSIONER: So Mr Arendse, should we call the first document SJ3, that's the document from national office, and the second document SJ4.

MR ARENDSE: I was hoping to hand up just a neat bundle, but now they have been unbundled with the copies being made. So ...(intervention).

COMMISSIONER: It's not inconvenient. It's just important that we should just keep them labelled so we know documents we're each talking about.

CIRCULAR "IMPLEMENTATION OF IPID DISCIPLINARY RECOMMENDATIONS" HANDED IN AS EXHIBIT SJ3
DOCUMENT "DISCIPLINARY RECOMMENDATIONS IN TERMS OF INDEPENDENT POLICE INVESTIGATE DIRECTORATE, LINGELETHU WEST" HANDED IN AS EXHIBIT SJ4

MR ARENDSE: Then there is the third document in this category is an IPID letter from Mr Leholo who testified, acting provincial head, IPID, "Comparing and Verification of IPID Annual 2012 / 2013 Recommendations and Feedback with SAPS, Western Cape".

COMMISSIONER: So that will be SJ5, then the letter from Mr Leholo will be SJ5.

LETTER "COMPARING AND VERIFICATION OF IPID ANNUAL 2012 / 2013 RECOMMENDATIONS AND FEEDBACK WITH SAPS, WESTERN CAPE" HANDED IN AS EXHIBIT SJ5

MR ARENDSE: Then there is a further document dated 11 October 2013, it's on the IPID letterhead, and it's titled or headed "Recommendation to SAPS".

COMMISSIONER: This document that's labelled "Recommendation to SAPS" and bears the date-stamp 24 October 2013 will be SJ6.

DOCUMENT "RECOMMENDATION TO SAPS" HANDED IN AS EXHIBIT SJ6

MR ARENDSE: Thank you. Then there is the document, General Jephta, which I actually want to you to start off with. It is a document dated – it is your document, dated 26 April 2012. It's called "Implementation of the IPID Act".

COMMISSIONER: Good. Well that document will be SJ7.

DOCUMENT "IMPLEMENTATION OF THE IPID ACT" HANDED IN AS EXHIBIT SJ7

MR ARENDSE: And then the last document is a document dated 29 January 2014 and it's headed "Disciplinary Recommendations in terms of IPID, Lingeletu West", but importantly, attached to that document, Madam Commissioner, are some recommendations made to SAPS by IPID and it – the witness will be asked to speak to some ... They relate to the three stations, and I will ask the witness to indicate how this was dealt with.

COMMISSIONER: That document will – that's the 29th of January 2014, it will be SJ8.

DOCUMENT "DISCIPLINARY RECOMMENDATIONS IN TERMS OF IPID, LINGELETHU WEST" HANDED IN AS EXHIBIT SJ8

MR ARENDSE: I think that's it. Sorry, and then – it's Monday, we're almost there. Then there's a list of – I don't know whether – oh ja. These are cases that had been referred to, it's just a schedule of cases referred – IPID cases, referred to IPID by SAPS.

COMMISSIONER: That schedule of cases will be SJ9.

SCHEDULE OF CASES REFERRED TO SAPS HANDED IN AS EXHIBIT SJ9

MR ARENDSE: Thank you. General, did you also have a chance to mark your – those exhibits?

MAJ GEN JEPHTA: I got it in the order that you presented it.

MR ARENDSE: Okay, thank you.

MAJ GEN JEPHTA: So I didn't mark it but I've got it in the order that you presented it.

MR ARENDSE: As you discuss it perhaps then just indicate the name of the document, the date of the document. Thank you. Perhaps just start with your – with the document which you issued in April of 2012, Implementation of the IPID Act.

MAJ GEN JEPHTA: Commissioner, a circular was circulated; Circular 1141, dated on the 12th of April, was circulated by the national office on the 17th of April to all email users; meaning that everyone in the province has received the instruction to all emails.

When I looked at the instruction I have seen that there is a responsibility for the provincial commissioner to put certain things in place. And with this instruction we have put in place what was instructed there.

But over and above, we have put in place with this instruction, specially who would be responsible for what, because the national instruction did not add that kind of responsibility. And for management it is very important, to comply and to make sure that there are cases that are not falling through the crack, to put those kind of systems in place.

Now you would say, and I would read paragraph 3 to you, the responsibility of management, the SAPS provincial IPID nodal point has been mandated to the provincial inspectorate. And then we had indicated the contact details, where it is, who is responsible. We also give then also the provincial office of the IPID numbers there in paragraph 3.

In paragraph 4 we have indicated what must all be reported to IPID. And then we also went further in saying that,

“All commanders to note that there is a memorandum of understanding that is still to be formulated by national; hence you must be flexible and not critical when reporting incidents that closely resemble ...

A point of note is that incidents referred to Domestic Violence Act in the national instruction need not to be reported to the provincial IPID office unless the domestic violence incident relates to the above in

terms of paragraph 4.

Notwithstanding the prescribed Section 29, the IPID Act is also mandated in terms of Section 21 – 28(1)(g) and (h) as well as Section 28, to investigate incidents identified by themselves or reported to the office of the Minister or the secretary or the civilian secretary or the MEC.

In terms of the Regulations, Section ...”

And we just read the sections to them actually. I don't want to go and bore the Commission with that. But I think to note is specifically in terms of paragraph 7 where we put different steps in place,

“The following procedures must be followed when an incident, as identified in Section 29 of the Regulations, must be reported to the IPID.

Step 1: The member who identifies or to whom the incident has been reported must immediately ...”

You must remember that the instruction and the Act refer to the provincial commissioner. Now what we have done, the provincial commissioner can delegate functions and this is how we have delegated,

“The member who identifies or to whom the incident has been reported must immediately make an occurrence register entry regarding the incident and inform the relevant station commander, or the acting station commander in his absence, and provide him or her with the relevant occurrence register number and the CAS number if a criminal docket regarding the incident was registered.

If no criminal case was opened, the member must register a criminal case. If the incident occurred at or is reported to a provincial component, cluster or unit the same process must be followed.”

So we cover all business units in terms of that step,

“Step 2: The station or unit commander must immediately inform the provincial IPID office ...”

And we have given the telephone numbers,

“... and obtain their temporary reference number ...”

And we have just given an example of how it should read,

“... whereafter ...”

And this is where the inspectorate comes in; after they have informed the IPID they must inform the provincial inspectorate about the incident. Also in step 2,

“In the event that the station or acting station commander could not be reached ...”

Because there are times that we cannot reach those people,

“... could not be reached, the telephonic report to the provincial IPID becomes the responsibility of the most senior member on duty.

The following information must be reported to provincial IPID office; the name of the station, the type of incident, the SAPS reference number and a brief summary of the incident.”

Then step 3, Commissioner,

“The attached document, which is the Form 1 (?) that is prescribed by the Regulation, must be completed by the most senior SAPS member on duty and it should be forwarded via ...”

We have given the email there. And as they send it to the IPID it must also come the same time to provincial inspectorate,

“The station commander must ensure that a proper record of documents are kept on file ...”

Including the sending delivery, the proof thereof. And then step 4,

“The provincial head inspectorate will be responsible to report all incidents to the provincial commissioner.”

Now Commissioner, what we have also put in place here, because the provincial head inspectorate is not also on duty all the 24 hours. So meaning that the provincial head inspectorate can only report the following day or when he comes on duty and that.

What we as management has put in place, we have structured our standby, after-hours standby system, in such a way that a major general is always the senior person on duty. There would be at the station an officer on duty on the cluster level and then provincial. So it is reported through the chain to the standby deputy provincial commissioner, who would then immediately report.

Those incidents are also captured on the standby report to the provincial commissioner from the deputy. What we do as deputy provincial commissioners, every week when doing standby we compile a report, a standby report, and in those standby reports, that is part of the reporting as well.

And those reports go to each of the deputy provincial commissioners, who will make sure if one of the deputies have picked up anything in their environment, which might be a member involved crime, a member involved in an IPID issue, who would then ensure that in their specific line function they would do the necessary.

The operational instruction pertaining to reporting the serious incidents to the provincial commissioner by senior standby officers must still go ahead. Okay; we've said it there. And then,

“The provincial head inspectorate must prepare a quarterly report under the signature of the provincial commissioner in terms of incidents reported and the status thereof.”

And that we send to the national commissioner on a quarterly basis, Commissioner. Then in terms of step 5,

“Notwithstanding the prescripts of these instructions, the SAPS discipline regulation process must still be adhered to. When the implicated member is known, the commander must institute disciplinary action in terms of the Regulation.”

This means that we are not waiting for IPID all the time to tell us, we would do so immediately; if we have picked it up it would be an immediate action from our line function,

“Provincial inspectorate will, after receipt of recommendations by the provincial IPID office, inform the relevant commander of any

disciplinary steps that must be initiated.”

Now we must also know that the ‘initiate’ is interpreted, if they initiate, it must be investigated. So every recommendation that is forwarded to the inspectorate, the inspectorate ensures that that incident is investigated.

And we must be clear, Commissioner; because many of those investigations do not even – do not result in disciplinary because it might not have been a contravention. But they recommend and we investigate. Those recommendations, when we are finished with investigation, we would also forward the result of that recommendations to the IPID.

You have – I am not going to go again through all the offences and that. But I want to go to paragraph 9,

“All commanders are instructed to report all incidents that has occurred as of the 1st of April ...”

Because there was a time – the national instruction was only issued on the 17th of April. So from the 1st of April to the 17th of April there has been a gap, Commissioner. But we have instructed from the 1st of April,

“All those cases that’s been reported from the 1st of April to the provincial IPID office and to the provincial inspectorate – must be reported to the provincial IPID and inspectorate in the prescribed manner.”

And we have given them a date by when. And then in paragraph 10 we also indicate what documentation should be available at the station for inspection purpose. And when we go do our inspections as the inspectorate those are the things that we are looking at.

And when we would indicate what information must be forwarded to HRM. And then in paragraph 11, very importantly, Commissioner, all commanders had to submit a certificate,

“... confirming that all members under his or her command have been informed and understand the responsibility that has been placed on the SAPS by the Regulation and the national and provincial instructions, confirming that the information, as identified in paragraph 10, is in place and that it is available in the community service centre.”

And then we have asked them to give us this certificate by the 4th of May, that they have complied. And we have indicated that non-compliance will be addressed. Now do you want me to also speak ...(intervention)?

MR ARENDSE: Maybe speak next to the Schedule of IPID cases. Just describe this to us. These relate specifically to the three stations in Khayelitsha.

MAJ GEN JEPHTA: These are all the cases, the IPID cases, Commissioner. The schedule that we have here is actually a database, not a schedule. It is a database that we have that we at the inspectorate has compiled with all the cases that has been reported to IPID for that period, Commissioner.

MR ARENDSE: And the point I want to get; is this a report that arises from your directive, from the provincial directive?

MAJ GEN JEPHTA: That is correct, Commissioner. This is how it’s reported, then it is placed on a database with the inspectorate, and this is the data that we have of all cases that has been reported for that period.

MR ARENDSE: And I see there is an IPID reference number. Whose – is that your reference number or ...(intervention)?

MAJ GEN JEPHTA: Okay. If I can speak, Commissioner, to the report. The report reflects – first of all, the serial number that you would see there, it is the number that is on the database for inspectorate purposes, their number. Then it's the date of the incident, when it took place; the date that it is reported to the police.

You would see that there are incidents that is not reported on the same day; it took place maybe two, three days earlier and then reported. And the date that we have, the date received there, and then it's the – whether they have complied, yes or no. And you would see on the very first one, we have only received it on the – two days later, the report was only received two days later. And then that's the date that it was received by the inspectorate.

Then if you go to the IPID reference number, Commissioner; that is the reference number that IPID gives us that ensures that they have receipted ... (intervention).

MR ARENDSE: What does that other column indicate; 'compliance, yes or no'?

MAJ GEN JEPHTA: Meaning that did they report it as per the instruction in the timeframe, if they have reported it in the timeframe that they had to report it, Commissioner.

MR ARENDSE: Now the very first one, it indicates 'no'. What does that tell us? It wasn't?

MAJ GEN JEPHTA: Commissioner, we can see that this one was reported at the station on the 28th and then it was only sent on the 30th; it's two days later, that one. This was – and you would see that it improves as it go on, because this was the first phase of implementation, Commissioner.

So you would know that with any new thing you would have your hiccups and you would have – and you would look at the system and you will improve and you will improve. And you will see later how it has improved, because that was the first phase. You will have the IPID number there, Commissioner, ... (intervention).

MR PIKOLI: Excuse me, excuse me. General, sorry. The first one and the second one are similar and yet they have got different entries; the other one is 'no' and the other one is 'yes'. But in terms of the date of the incident and the date received, they are not the same.

MAJ GEN JEPHTA: I don't follow you?

MR PIKOLI: I am saying, if you look at the first and second, if you look under the date of incident of the 1st and the date received, ...(talking simultaneously).

MAJ GEN JEPHTA: Now if you look at the dates in-between, Commissioner, you will have the date of the incident, then you would have the date reported to SAPS. So that means the complainant only came to SAPS two days later to report the incident, Commissioner. So and then SAPS has reported the incident the same day that it has been reported to SAPS.

So and you would have various incidents where a thing happened a month ago, Commissioner, where a person would walk in and report it today, it happened a month ago. So you would have that variances, Commissioner.

You would have a station CAS number, the CAS details, the type of in what category it falls, the complaint, and then the summary thereof, Commissioner. Then in terms of the recommendation, ...(intervention).

MR ARENDSE: Just on the columns still. I mean, if you look at the last two columns, there we've got a CAS number that indicates that a case was opened?

MAJ GEN JEPHTA: That is correct.

MR ARENDSE: And then you've got 'type' and 'summary'. So the type describes briefly the type of case, like in this case, alleged torture, assault by police official. There's even one lower down, 249, death in police custody; the last one on the first page, 638, death as a result of police action, and then the case is summarised.

These are fairly serious – these are very serious complaints?

MAJ GEN JEPHTA: These are the cases that we are supposed to report to the IPID in terms of the IPID Act, Commissioner.

MR ARENDSE: Would this correspond with cases that have been or that are reported to IPID, or does this come ...(intervention)?

MAJ GEN JEPHTA: Commissioner, it does. That's why we have with IPID, at least twice a month, a meeting where we correspond our databases. We – I can say this is a database that SAPS has developed and even IPID has taken our format and made use thereof, Commissioner, because we have developed this.

MR ARENDSE: Can I refer you now to ...(intervention).

COMMISSIONER: Just before we move on. There isn't a column here to deal with what actually happens to the cases. Does that get entered into your database as well?

MAJ GEN JEPHTA: Commissioner, that is IPID's responsibility. If a case is out of our environment, there's no feedback, there's nothing to us ... It might be that many of these cases, Commissioner, are unfounded, undetected, whatever; the same that you get in terms of docket management. So we don't have that information.

COMMISSIONER: What I'm asking is, when you get the IPID report you don't ...(intervention)?

MAJ GEN JEPHTA: We don't get any report from IPID on finalised cases. We are in the process, and I have actually requested – because, Commissioner, we want to do an analysis of the last year, specifically to make sure and to look at gaps and that, and that is one of the areas that we are pursuing with IPID, to get regular feedback on these cases.

COMMISSIONER: Because, you know, one of the things that you said in paragraph – in your provincial instruction dated April 2012 was that, you know, you would go ahead with the disciplinary processes under the SAPS regulations, but that if you get a recommendation from the provincial IPID office you would inform the relevant commander of that. So that doesn't happen in every case, it's only sometimes?

MAJ GEN JEPHTA: Well there is a different format for that, Commissioner. If you want me to go there now I can go there.

COMMISSIONER: Not necessarily. I am just trying to understand the totality of the process. It's a bit surprising to me.

MAJ GEN JEPHTA: That is a different process, Commissioner, where we receive recommendations then from IPID and then we have got a different database for recommendations, Commissioner.

COMMISSIONER: Okay. But what you don't get is a record or a report from IPID in each case of the outcome of its investigations into these very serious matters?

MAJ GEN JEPHTA: That is something that we are in discussion with, Commissioner, that I'm sure we would – because we're in discussion with it and we're working a way out how. Because, Commissioner, when a case is signed by IPID on our CAS system it's drawn from our CAS, we don't have access; so we cannot ourselves see what the status of the investigation is, Commissioner.

COMMISSIONER: That's right. So that's all recorded on their database?

MAJ GEN JEPHTA: Yes, Commissioner.

COMMISSIONER: But what you're saying is you're trying to arrange a system so that once that's complete you will get a report which then you would be able to both take – know from a management point of view as to whether – what things may need to be done, but also would be able to report ...(intervention)?

MAJ GEN JEPHTA: Commissioner, I know that there is currently a national memorandum of understanding that the national commissioner is busy with, and we have raised the point to be taken up in the national memorandum of understanding.

COMMISSIONER: Thank you.

MR ARENDSE: Now perhaps that then takes us conveniently to this other document, which is an IPID document, the one that is on the IPID letterhead from Mr Leholo. That document titled 'Comparing and verification of IPID Annual 2013 recommendations and feedback'; and you will see ...

So, one, I want you to discuss – ask you whether you were at that meeting; although I see the document is unsigned. And then we also see on the second page there's some – there's a breakdown of the number of cases, steps that were taken or steps that were not taken by SAPS and differences between IPID and SAPS. Do you want to discuss that document briefly?

COMMISSIONER: Let me get this clear. So this is SJ5, is it? This is the one that starts "To Mr Luyanda Qompo" at the top?

MR ARENDSE: Yes. Thank you.

COMMISSIONER: Alright.

MR ARENDSE: Thank you. You have that document there, Major?

MAJ GEN JEPHTA: I have the document, Commissioner.

MR ARENDSE: Now this arises from a meeting that was held on the 14th August 2013, Mr Qompo representing civilian secretariat, Leholo, and Captain Luke from the inspectorate.

MAJ GEN JEPHTA: This meeting specifically took place due to the fact that there were a difference between the statistics, Commissioner, of what IPID have and what we have. And you would have seen in the IPID annual report that they have indicated in their report that the Western Cape did not give feedback.

And I think this meeting specifically went through that, and it was indeed found that we have given the feedback. And you would see that it is – and the

response that is given there at – the paragraphs are not numbered, but it's in paragraph – it is on the second page where it is then confirmed by Mr Leholo that these are the steps and this is what was given.

But this exercise was more just to make sure that we don't have conflicting reports and to make sure that everyone have the same information and that is where it stems from.

MR ARENDSE: Now there is reference here to one on the IPID, 173 on page 2; this was a difference of six recommendations IPID and SAPS, IPID 173, SAPS 178, difference six. Just talk about that. What does that refer to?

MAJ GEN JEPHTA: Okay. What we say here, that after that verification, the six recommendations by the parties, it was confirmed that it had been an omission from IPID. It just shows you the effectiveness of the database that SAPS has put in place, Commissioner, from the very beginning.

And that's why I said IPID is actually using our database and our format now of how we kept records. So when we went and compared the records we actually had more cases reported to us on our list than they had on their list.

COMMISSIONER: It's very helpful to see this; I am sure Ms Bawa will cover this with you. But we struggle to be reconciling what information we get from IPID with what information we have received from SAPS. So this is of some assistance.

I mean, is it your sense – and one understands that IPID is new, only set up in 2012 effectively. But is it your sense that this kind of difficulty of reconciling their information with your information is going to become a thing of the past, that this is just teething problems?

MAJ GEN JEPHTA: I would think it is teething problems, Commissioner, and specifically in the absence of the memorandum of understanding you would have those kind of things and it needs to be clarified.

What we have done in the province, we have tried – and I would actually say, my term, a gentleman's agreement, and you know, gentlemen's agreement can be broken and I'm not very comfortable with such agreements either.

MR ARENDSE: Just give it another name then.

MAJ GEN JEPHTA: Can I? A gentlewoman's agreement ...(laughter). So in the absence of the memorandum of understanding you would have this kind of tit-for-tat. But it is in a very advanced stage; we have managed in this province to overcome those issues.

MR ARENDSE: In fact I see, Madam Commissioner, in the very – well the last biggish paragraph on the last page, in conclusion,

“We therefore confirm this as the correct information as verified.”

And IPID and SAPS agree to,

“Continue with this verification exercise on a biweekly basis for the financial year 2013 / 2014.”

Major General?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: And has that in fact ...(intervention)?

MAJ GEN JEPHTA: And that meetings are taking place, Commissioner, and it has been very helpful, Commissioner.

MR ARENDSE: There is a document from the national commissioner of 21 September 2013, Implementation of IPID disciplinary recommendations; that really follows on your directive, isn't it? This now gives effect to the instruction that was received in April 2012?

MAJ GEN JEPHTA: That is correct, Commissioner.

COMMISSIONER: Just to keep exhibit reference numbers; that's SJ3. Is that right? It is, SJ3.

MR ARENDSE: Thank you. Is there – I don't think it's necessary for you to discuss this document in particular, but perhaps there may be one or two things you want to highlight?

MAJ GEN JEPHTA: Commissioner, what ...(intervention).

MR ARENDSE: Or do we as a province comply with this?

MAJ GEN JEPHTA: No, there are no problems. Actually when that letter came we had everything in place already as the letter – as the instruction ... Because we – our instruction from the 26th of April already include all those instructions.

MR ARENDSE: Now, Madam Chair, is there any question on the national document?

COMMISSIONER: I think just going ... So what you're saying is that your instruction of April 2012 covered the ground of the letter from national office dated 21st of September 2013?

MAJ GEN JEPHTA: Instruction of 26 of April 2012 covers already ... (intervention).

COMMISSIONER: The ground. And this document was actually 18 months later?

MAJ GEN JEPHTA: It came later, yes.

COMMISSIONER: Yes. Thank you. And just while we're on this. I mean, one of the things that we understood from Mr Leholo is that it's quite challenging for IPID to manage the complaints they get in the light of their staffing levels. I mean, do you have any knowledge of that? Is it a bit slow? What's your sense?

MAJ GEN JEPHTA: Commissioner, there's some noise on this side of my ear, so the sound is not very good. So I'm ...(intervention).

COMMISSIONER: No, it's not. It's one of the reasons why we're all wearing the earphones, I mean, apart from the fact I'm deaf.

MAJ GEN JEPHTA: Can I put some earphones on?

MR ARENDSE: Madam Commissioner, is this also a convenient time just to have a short break?

COMMISSIONER: Yes, we could, we certainly could take a short break. We had intended for you to be finished your evidence-in-chief. How much longer have you got, Mr Arendse?

MR ARENDSE: A half an hour, Madam Chair. And I think – if I am given an opportunity to finish, I think hopefully it will cut down on a lot of other questions.

COMMISSIONER: Well yes. Look, if we give you – that's an extra 15 minutes you're effectively requesting. So we could do that without putting our schedule out. But I'm not minded to reduce the amount of time that has been allocated to other legal representatives for cross-examination. So if we take an adjournment now until eleven, you can continue until 11:30 and then the LRC will continue

until 12:30 and then DOCS will have until 1 o'clock. Will that be in order? Good. Okay, we will adjourn now until 11 o'clock.

COMMISSION ADJOURNS: (at 10:45)

ON RESUMPTION: (at 11:00)

SHARON JOHANNA JEPHTA: (suo)

COMMISSIONER: General Jephta, do those earphones seem to be helping a little?

MAJ GEN JEPHTA: Yes, thank you, Commissioner.

COMMISSIONER: Okay, good. Advocate Arendse.

EXAMINATION BY MR ARENDSE: (cont)

In this set of questions, General, I just want us to deal with Recommendations Received from IPID and how this is dealt with. And I want to do it in this sequence; there is a – the first document is dated – its date-stamped 13 October 2013 from IPID to yourselves. It concerns a particular case, Lingeletu West case.

Then the next document is a SAPS document addressed to the station commander, Disciplinary Recommendations in terms of IPID, and then there's a last document, which is a SAPS document and which has attached to it a schedule of recommendations and indicates whether or not disciplinary action was taken.

COMMISSIONER: Mr Arendse, it would help if we use the exhibit number. So you're talking about SJ4, are you?

MR ARENDSE: Sorry, Madam Chair. I didn't have a chance to – just while you were speaking, I'm just asking our junior to ...(intervention).

COMMISSIONER: Shall we just quickly run through them, so you can just label yours? Would that be helpful? Because I think it's just going to be difficult for the record if we're not referring.

MR ARENDSE: Yes.

COMMISSIONER: SJ1 was the Quality Assurance Factory Visits to SAPS, so it doesn't deal with IPID. And the second was the Combined Checklist for Quality Assurance Visits; so that's SJ1 and SJ2, they were the – that's the new system of visits by non-members of the inspectorates.

MR ARENDSE: Yes.

COMMISSIONER: Then SJ3 is the document which is the Implementation of IPID Disciplinary Recommendations that Brigadier Jephta caused to be sent – sorry, that came from the national commissioner on the 21st September 2013, which we discussed just before we took the tea adjournment. That's SJ3; so it's from the national office, Implementation of Disciplinary Recommendations. Have you got that?

MR ARENDSE: Yes.

COMMISSIONER: And then SJ4 is the letter from Brigadier Solomons dated the 29th October 2013, relating to the Lingeletu West Disciplinary Recommendations, relating to a particular issue. Have you got that, SJ4, it heads SAPS and it's to the station commander at Philippi Railway Police? Oh, you're still trying to catch up with me.

MR ARENDSE: SJ4.

COMMISSIONER: Ja, that's SJ4. Okay. And then SJ5 is an IPID document. It says on the front of it "To Mr Luyanda Qompo", it's headed IPID.

MR ARENDSE: Yes.

COMMISSIONER: That's SJ5. Okay. And then SJ6 is a letter from IPID which is the recommendation to SAPS that I think you've just referred to now.

MR ARENDSE: SJ6.

COMMISSIONER: The Lingelethu West one, SJ6. Then SJ7 is the letter that – the provincial instruction that Major General Jephtha sent out in April 2012, which she testified to just before tea; that's SJ7.

MR ARENDSE: Yes.

COMMISSIONER: And SJ8 is a further letter from SAPS concerning the disciplinary recommendations in relation to Lingelethu West, and it's got a date-stamp the 28th of February 2014. I think you were just about to refer to it now. So that's the letter from SAPS to the deputy provincial head, it's from Colonel Benting, and it's dated 28 February 2014. Have you got that one?

MR ARENDSE: Yes, ma'am.

COMMISSIONER: Okay. And SJ9 then is the schedule of IPID cases that again the General testified to just before we broke for a mid-morning adjournment. So I think you're referring to SJ4, SJ6 and SJ8, if I'm correct?

MR ARENDSE: Yes, ma'am.

COMMISSIONER: Thank you.

MR ARENDSE: General Jephtha, did you follow that?

MAJ GEN JEPHTA: Yes, Commissioner, I have followed. However, I have one document here that I'm not sure whether it was handed in.

COMMISSIONER: And what date is that, or who is it from?

MAJ GEN JEPHTA: It would from Brigadier Solomons to the provincial head of Independents Complaints Directorate. It is ...

COMMISSIONER: We did have one from Brigadier Solomons. Just hang on a second, I think that is ...(intervention).

MAJ GEN JEPHTA: It is just an acknowledgment of receipt for ...

COMMISSIONER: This – the one we have from Brigadier Solomons is dated the 29th of October 2013, it's SJ4.

MAJ GEN JEPHTA: Okay. Is that one SJ4? 29th of October? Okay. I have it, thank you.

COMMISSIONER: Is that correct then?

MAJ GEN JEPHTA: Ja.

MR ARENDSE: Ja.

COMMISSIONER: Good. Thank you.

MR ARENDSE: So General, can we just discuss those three documents. And then the last question in that – dealing with those documents would be the recommendations made to you by SAPS and what action was taken, if any?

MAJ GEN JEPHTA: Commissioner, thank you. The document SJ6, which is recommendations that we received from IPID; when we receive a recommendation like that we place it on the database at inspectorate. These recommendations, there's a nodal point, it goes to inspectorate from IPID; that is the procedure. It goes from IPID, they recommend, it goes to inspectorate.

Inspectorate will register and place it on a database, and that is SJ6. Then after that, inspectorate would acknowledge receipt of that recommendation to the provincial head inspectorate. After that – I am not sure whether we have furnished you with a copy of that receipt, because there's two letters that I have that's dated on the 29th of the tenth.

I think I just need to sort this out, Commissioner. Because you don't have acknowledgment of receipt; what you have is SJ4, that is the letter from Brigadier Solomons to the commander of the station where we would indicate we have received now this recommendation from the IPID and we would ask them to give us feedback on it. And that is just the request to the station then.

And after we have done that and we get the feedback from that ... You must remember we refer it to the line function who is responsible for the necessary investigation; inspectorate is not responsible for that investigation, it is a line function. They report back to us. We then take their report-back and we send it to IPID, and that is on SJ8; you would see how we report that back.

Now when we get a recommendation – I am not sure whether you have got a copy of the database, because it's not marked in and there's some confusion for me; it's not marked and ...(intervention).

MR ARENDSE: This would be attached ...(intervention).

MAJ GEN JEPHTA: To J8 (sic)?

MR ARENDSE: Yes.

MAJ GEN JEPHTA: Okay. If it's attached to J8 ...(intervention).

MR ARENDSE: That's the Benting ...(intervention).

MAJ GEN JEPHTA: Okay.

MR ARENDSE: ... the Benting letter.

MAJ GEN JEPHTA: If it is attached, this is the format how we give feedback. But what is important for the Commission to note; you would have your first paragraph, you would have the serial number, then the station applicable and then the CAS number. The CAS number indicates the CAS on which we must do the disciplinary investigation.

And then you have the CCN number, which is the reference number from the IPID, and then the date when we receive it. And what we've done with this document, we give ourself a due date and to see that we, in terms of the Act, comply with the 30-day. So you would see the timeframe by when we must give feedback on that.

We have also indicated in there if there's any Section 33; meaning, you know, Section 33 of the IPID Act indicates that – if our people did not comply with reporting specifically. Then a docket is opened against whoever is responsible. Then the recombination and then we would indicate whether we have – whether we finalised discipline or not.

What is important in this case; if you go to maybe the first one, Khayelitsha serial number 174, Commissioner, do you have that in front of you?

MR ARENDSE: Ja.

MAJ GEN JEPHTA: 174, look at the CAS number. The CAS number indicates that this incident happened in the eighth month 2012, August 2012. Now if you look at the date that we received it from IPID, we received this on the 29th of the

eleventh 2013, the recommendation, almost a year after the incident.

COMMISSIONER: Yes. And what I was looking for is, I was trying to find this case in SJ9, which is your original register that you showed to us earlier, and I couldn't find it there. Because I was looking to see whether – when you had received it whether there had been a delay from the date of the incident – I mean, this was a death so it would have been opened, I assume, as soon as the death occurred. But I can't find it on SJ9.

MAJ GEN JEPHTA: Ja. We have received that in October, let me just see – okay, this was now just a report-back on these cases. But if you would like me to furnish you with that information we can get that.

COMMISSIONER: It's just that I had thought that the document which we got here, which is SJ9, was a complete record of all the IPID cases that had come from the police stations in 2012, which should include serial number 174, which is the CASE 270/08/2012 from Khayelitsha; but I just can't find it on here. So perhaps you could just have a look through this and let me know in due course whether there has just been an error in compiling SGA9 or whether I'm just misunderstanding SAG9.

MAJ GEN JEPHTA: Ja, SAG9 does not refer to that document *per se* here but if you want the feedback on this one I can get it for you.

COMMISSIONER: And so when we look at that serial number that's on the recommendations register attached to Col Benting's letter and it said 174, that serial number should correspond with the serial number in the other register or is it a different serial number?

MAJ GEN JEPHTA: The serial number – recommendations, I'm not sure if I could give different serial because us the IPID serial number.

COMMISSIONER: This is an IPID serial number.

MAJ GEN JEPHTA: It's an IPID serial number.

COMMISSIONER: So it won't match your serial number?

MAJ GEN JEPHTA: It won't match, Commissioner.

COMMISSIONER: Okay, alright, so that's an IPID serial number?

MAJ GEN JEPHTA: Yes.

COMMISSIONER: Okay, thank you.

MAJ GEN JEPHTA: So what I'm saying is – so you would see that we did not – we say not applicable meaning that there was no disciplinary steps taken and then where the two no's are is that we're not finalised in terms of the disciplinary procedure.

COMMISSIONER: But going back to the point you were making about the time lapse between the date of the incident in that serial number 174 it was in August 2012 and the date upon which you received the IPID report which was in the end of November 2013, is that the sort of time delay one is seeing quite often because if one looks down this schedule that you've provided, certainly those first two cases, you were - you know – well, in fact all of the cases, you're looking at quite a long time delay, is that your experience that IPID is taking quite a long time to finalise these reports?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: Now just follow up on that and an earlier question that was

raised with you by the Commissioner presiding, the directive is clear, that this does not absolve – this is how it's going to be done in relation to reporting cases to IPID but it doesn't mean that the national disciplinary regulations must not be enforced and must be complied with. Now SJ9, that's the list of cases referred to IPID by us, by the police, is that right?

MAJ GEN JEPHTA: That is correct, Commissioner.

MR ARENDSE: The Commissioner presiding points out that this particular case which is serial number 174 on the other document is not on this list. Is your evidence that there could be another list or is your evidence that – or is this a complaint that would have gone to IPID via some other source?

MAJ GEN JEPHTA: Commissioner, I need to investigate this.

MR ARENDSE: Okay.

MAJ GEN JEPHTA: So really don't know, so I need first to investigate to see what there is and where the problem lies.

MR ARENDSE: Because it – I don't know, Madame Commissioner if what you were intending to get to as it were is you don't want a situation where action that cannot be taken a member almost because of some kind of a statutory prescription because in terms of the Labour regulations is now too late to take action and then some of these cases involve very, very serious infractions.

COMMISSIONER: That's right, I mean, there seem to be two issues. One is the way in which we track these very serious complaints and so, you know, how did this one, which, you know, did involve a death not end up on the one register and you may be right, it was referred by somebody other than the police station or the provincial inspectorate. But the second is, what happens to the disciplinary processes in the meantime and also, you know, whether there are issues as one knows so well from labour law of where there's a criminal potentially or a criminal charge pending as a result of a non-compliance with a workplace rule and there's also disciplinary proceedings pending, whether you have difficulties arising from the fact that the accused/employee doesn't want to testify twice and all of that, do those issues arise?

MAJ GEN JEPHTA: Commissioner, you would see that in our provincial instruction we have indicated that line managers must take immediate disciplinary procedures. So we're in the police have got a system in place. If we have the information, we investigate, there's immediate steps taken.

However we do not have access to the content of dockets so you must remember there is a difference between a criminal case and a disciplinary case because in the disciplinary case you don't have to prove beyond reasonable doubt.

COMMISSIONER: When you proceed with the disciplinary enquiry, the – say you have a disciplinary enquiry in a case like this where the – you know, the discharge of a police firearm results in the death of a suspect, you would – and you assume – let's say for a minute that you thought there was a serious disciplinary infraction and you charge the person, they would have to give evidence, that evidence would not be admissible in the criminal proceedings but if you decide at the end of that evidence that that in fact constituted a dismissible offence you would go ahead and dismiss?

MAJ GEN JEPHTA: We would go ahead.

COMMISSIONER: And so there's no delay pending that?

MAJ GEN JEPHTA: There's no delay then.

COMMISSIONER: And ditto in relation to the IPID, you don't wait to see what IPID says, if you think after your disciplinary proceedings that in fact there's grounds for dismissal you would go ahead and dismiss?

MAJ GEN JEPHTA: That's correct and like I said, it's not a criminal matter, it's a disciplinary matter, we look at disciplinary procedures and in terms of - you know specifically when it's a person killed as a result of police action it's for us very serious we cannot wait on IPID for that, Commissioner.

COMMISSIONER: And would the IPID investigators contact the police member concerned and ask that person questions or do they do it without actually and actual conversation/interrogation of the relevant member of the police, say in a case like this?

MAJ GEN JEPHTA: Commissioner, they follow the same investigative procedures that the police is following.

MR ARENDSE: Thank you. Now just a last comment on this schedule. There's quite a number of these - I'm looking at the last column, disciplined, finalised, where disciplinary proceedings have not been finalised and some of these complaints would have originated in 2012. What would be the reason why these matter have not been finalised yet or can you give us maybe an updated schedule?

MAJ GEN JEPHTA: Commissioner you would see even if it happened in 2012 we've only received those recommendations and if you look at the due dates, when is the due dates? If you look a specifically the timeframe, the due dates, but if you want an up to date one we can definitely look at the up to date one, this one was just copied before the up to date but it was copied then, so the due dates, if you look at specifically the Harare one, there's quite a few that was after this copy was made.

MR ARENDSE: Commissioner Pikoli?

MR PIKOLI: General, sorry, can I just refer you to serial number 940, second page of SJ9? Just to explain that long delay there where a matter was reported?

MAJ GEN JEPHTA: Which station are you referring to, Commissioner?

MR PIKOLI: It's 940.

MAJ GEN JEPHTA: Is that station Khayelitsha, Harare?

MR PIKOLI: No, no, no, the stations are not stated here. Is it Harare? It's the second page of SJ9, serial number 940.

MAJ GEN JEPHTA: Let me just get this.

MR PIKOLI: 940, where the matter was reported in November 2012 and only received by IPID in 2013 in February and the case detail there being murder.

MAJ GEN JEPHTA: I'm not sure that I'm on the same page.

MR PIKOLI: It's SJ9.

MAJ GEN JEPHTA: This one, ja?

MR PIKOLI: Second page, serial number 940.

MAJ GEN JEPHTA: Yes?

MR PIKOLI: Are you there?

MAJ GEN JEPHTA: Yes I am there, Commissioner.

MR PIKOLI: That seems to be quite a long delay, it's a serious matter.

MAJ GEN JEPHTA: Commissioner, I must be allowed to go into the specific case. What I can say what also happens, that the case has been reported to the police then the complainant do not know who the suspects are. They don't know who the suspects are now there are preliminary investigation and investigation by detectives and it might be a month or two months later that they now have identified the suspect and then the suspect might be a police officer and then those cases are then referred as soon as the investigation review that it is – I don't say it happened in this case, Commissioner, but those are the reality on the ground because people cannot identify suspects, later it becomes known it is a police officer, it might be a year later that we establish a suspect and then it goes to IPID.

MR PIKOLI: But would it be the same reason for instance on the third page, SJ9, serial number 153 where the type is discharge of firearm by a police official who have gave a delay of about four months?

MAJ GEN JEPHTA: I want to go – I want to have the opportunity to go into the case, Commissioner, I cannot answer for that, no.

MR ARENDSE: Thank you. Can we just move to the 101 standing order? Those are what is commonly called to as service delivery complaint, is that correct?

MAJ GEN JEPHTA: That is correct, Commissioner, it's complaints against service delivery.

MR ARENDSE: Yes. Now you have also prepared a schedule, if I may hand this up, Madame Commissioner where we have two columns, one is the station and then the complaints received and this is for 2012/2013.

COMMISSIONER: That will be SJ10, it's the standing order 101 the complaint schedule.

MR ARENDSE: Can you just explain briefly how the inspectorate monitors or inspects the 101 complaints at the various police stations?

MAJ GEN JEPHTA: Commissioner, when a complaint is received by the inspectorate through various sources, that complaint is registered on the database, then the complaint is forwarded to the relevant office, station or unit to deal with the complaint and then stations would investigate the complaint and give feedback to the nodal point at the inspectorate. Inspectorate, when they go to stations they would inspect some samples of those investigations that's being conducted at the stations.

MR ARENDSE: And these complaints, would they be received from the public mainly or also from other – would they come from other sources? --- Commissioner, these complaints come from various sources – let me just get to my source list, I've actually put a resource list in for me for reference.

MR ARENDSE: And just while you're looking, this schedule, is this for the financial year 2012/2013 is does it cover the entire calendar year of 2012/2013?

MAJ GEN JEPHTA: That covers the calendar year, Commissioner, we work on calendar years so that covers the calendar year for 2012/2013.

COMMISSIONER: i.e. two calendar years?

MAJ GEN JEPHTA: 2012/2013 it is from ...(intervention)

COMMISSIONER: 1 April to 31 March?

MAJ GEN JEPHTA: That's the one.

COMMISSIONER: Thank you.

MAJ GEN JEPHTA: These complaints cover complaints coming from – in writing to the Provincial Commissioner or to any other office, they will send the complaints there from complainants outside. It comes from public, we have established an office at the nodal point. If people want to come and complain because many people rocks up at the provincial office, they want to see the Provincial Commissioner immediately, they've got a complaint and the Provincial Commissioner is not able to attend to everyone walking in there so we have established, after I've taken over the inspectorate complaints office for walk-in complaints or everyone that comes is referred there to the inspectorate, complaints there, it comes from there. The complaint also come from various oversight bodies, standing committee, Human Rights Commission, the Council of Provinces, the portfolio committee, the MEC's office, the Department of Community Safety. It also comes – we have implemented a system in last year. Because of my role also looking at corporate communication, the operational side specifically, we've linked inspectorate with corporate communication where corporate communication will compile on a daily basis for us a media portfolio on all issues related to policing which will then be looked at a person responsible in inspectorate and they would open up complaints of things that we found then that needs to be investigated.

MR ARENDSE: So these also include complaints from – not from the media but picked up in various media publications?

MAJ GEN JEPHTA: No, it is complaints picked up by us in various publications. We call it media portfolio which is compiled every morning, we get it every day, all senior managers gets it, I don't have a copy thereof but you can – I can furnish with a copy of today, it is on my email, I didn't open my email, it would be on our senior manager's emails, that we look at and then we look at is there any merits to open up a complaint and we would then investigate those, Commissioner.

MR ARENDSE: Now just looking at the complaints received, given the focus on the three Khayelitsha stations, on the second page Harare, 30 complaints, Khayelitsha 27 complaints, Lingeletu West 21 complaints and if we look at it comparatively, we look at some other established stations like Athlone 55, Atlantis 44, Cape Town Central quite high at 73, Elsies River 56, Kraaifontein 55, Kleinvlei 50, Manenberg 41, Umfuleni 45 and Mitchells Plain 130 and Nyanga 55. So comparatively speaking the number of complaints, 101 complaints, at the three Khayelitsha stations are not as high as at some of the bigger stations.

MAJ GEN JEPHTA: That is correct, Commissioner. We must remember, Commissioner, that this list only includes complaints that is reported to the nodal point. There are various levels where people complain, they also complain with station commanders, station commanders takes responsibility for monitoring those complaints that is reported directly to them, it does not include those complaints, this include only those complaints that is registered by the inspectorate on their database.

MR ARENDSE: Now there was reference to a letter which obviously you were not party to because you weren't occupying this position at the time. In May 2010 there was a letter issued by the Provincial Commissioner about all complaint must go to the nodal point and it was raised also in the context of DOCS complaints and them apparently now being hamstrung in terms of investigating complaints and I want you to comment on that and at the same time there's also – there will also be reference to – I think it is a letter written to the Provincial Commissioner where DOCS suggests that – or rather questions whether they should – whether some of these complaints should not be investigate independently.

MAJ GEN JEPHTA: Commissioner, I cannot comment on a letter that was written in 2010, I was not in this position. However, I can indicate since I've taken over in 2012 we have a good system in place, not just with the Department of Community Safety but also with all other oversight bodies where we've put a system in place where complaints come to a nodal point.

What we have found in – what I have found also when I came in is that even within our own environment, complaint were – our Deputy Provincial Commissioners tables had many complaints on because they dealt with it themselves, so every complaint that come in, it would have gone there to a deputy and they would deal with it, so there would not be record at inspectorate office and for us to have – to improve service delivery we need to centralise to see where there are gaps also that we can have interventions at the end of the day.

We also have found that we get queries from - specifically you get queries from Department of Community Safety where they query you on complaint that they've sent directly to the station, the Provincial Commissioner doesn't know about it, now we queried, and if you look at the Act, it is very clear, if we don't comply they can report us to the National Minister. Now the station did not comply, the Provincial Commissioner doesn't even know there's been communication, the Provincial Commissioner doesn't even know that there's this interaction between DOCS and the station and now the Provincial Commissioner only comes into the picture when the – I almost use my language that I should not, but what we say when the paw paw hits the fan, when the takkie hits the tar, now the Provincial Commissioner is made aware of it, then we're in trouble already, Commissioner.

So for me – and this is what I've done for the past three years, I've streamlined it, we know exactly what is in our environment, we know exactly who deals with what, exactly. And since the streamline it works and Mr Morris is the one that I deal with. We have regular meetings where we sit down with the complaints ...(intervention)

MR ARENDSE: Mr Morris of DOCS.

MAJ GEN JEPHTA: Of Department of Community Safety where we sit down with the complaint and he can himself come and testify whether this has improved or not. I say it has definitely improved.

MR ARENDSE: I need to move on to another topic and I'm sure someone will come back to it.

COMMISSIONER: How are you doing on time, Mr Arendse? How much longer are you going to be?

MR ARENDSE: I would need longer but if I have to – I just want to maybe lastly – there are several other issues but I'm sure they'll be picked up in cross-examination.

COMMISSIONER: Maybe what you should do is, if there are issues that you haven't dealt with that you would like to – just list what they are so that we know where you're at.

MR ARENDSE: They would mostly be issues that are raised in written questions.

COMMISSIONER: Okay, so those are questions that in fact –either the evidence leaders or the complainants or (indistinct) have indicated that want to cover.

MR ARENDSE: I think we've covered some of them.

COMMISSIONER: And you can always deal with those in reply.

MR ARENDSE: I think just lastly just on the much discussed Tshabalala report, I think it's in one of the first few paragraphs in the Tshabalala report where the task team had a meeting with the Provincial Commissioner on the 5 July 2012. You were not in the meeting. Why were you in that meeting?

MAJ GEN JEPHTA: I was not in the province at the time of the meeting, Commissioner.

MR ARENDSE: And then we know that the following week from the 9 July the task team then conducted their visits to the three stations. Were you – did you interact at all with the task team, did they interact with you? Did you consult with them?

MAJ GEN JEPHTA: I had no interaction with them, I had no interaction, Commissioner.

MR ARENDSE: When did – did you ever see or have sight of the task team report other than in preparing to give evidence in this enquiry?

MAJ GEN JEPHTA: Commissioner, I have received the report on the 2 November 2012 from the Provincial Commissioner with an instruction. He has instructed me to send the report to the Deputy Provincial Commissioners and they were requested to study the report and have to – and to have interventions in their area of responsibilities on the 2 November 2012. They were also requested – it was indicated to them it is a confidential report and they should handle the report as such.

MR ARENDSE: This report itself at the time that the PC instructed or asked you to do what you did, was that a standing order 6 compliant report?

MAJ GEN JEPHTA: No, Commissioner, it was not a standing order 6 compliant report, it was not signed by the Provincial Commissioner and the report is also not – ag, it was not signed by the National Commissioner and the report is not directed to the Provincial Commissioner either.

MR ARENDSE: Then just subsequent to that, there was a letter which was drafted in your name - let me just get the date – on the 7 June 2012 when the Provincial Commissioner was not in the country and I think you were acting. It was from the Premier's office, a letter on the 9 December 2011 where you responded in a fair amount of detail. Do you recall that letter?

MAJ GEN JEPHTA: I can recall that letter, Commissioner.

MR ARENDSE: It was for the attention of the late Lt Gen Shabalala. That response was a comment on the complaints then received from the NGOs, is that correct?

MAJ GEN JEPHTA: That is correct, Commissioner?

MR OSBORNE: Could I interject, sorry? Could you give me, Mr Arendse, a reference in the record to that letter, we just seem to have it to hand.

COMMISSIONER: Mr Arendse?

MS BAWA: May I assist? It's one of the annexures to the Shabalala report that was provided later and it's annexure B3.

MR OSBORNE: Thank you.

MR ARENDSE: It was all – thank you, Ms Bawa - this was also going to be discussed in the context of another letter in fact raised by DOCS, a copy of which I received on the weekend from Mr Osborne, so maybe he should deal with it. You can deal with it then, Gen Jeptha. Can I just lastly ask you, given the terms of reference of the Commission of Inquiry, policing in Khayelitsha and the police in Khayelitsha, would you agree or disagree that they are inefficient, they're not doing their job and on the other leg of the inquiry, their relationship or their relations with the community, would you say they are – how would you describe it and obviously this is based on your position as head of the inspectorate and your inspectors have gone there, there's been a lot of issues, inefficiencies that have been discussed in this Commission of Inquiry, actually to your credit arises from these reports.

MAJ GEN JEPHTA: Commissioner, like I've indicated earlier on that the purpose of the inspectorate reports is to identify non-compliance. The purpose of the inspectorate report is not to find – it's not say – it doesn't have the same mandate as what the Commission has and based on my findings we will never be able to – I can't agree that the police in Khayelitsha is then inefficient or – if the finding is based on inspectorate reports, it cannot be said that the police is inefficient or that there's a breakdown in community police relations.

MR ARENDSE: I think we have had a discussion earlier when there was an issue about command and control of the stations, also in that context when you answered that question. Do you recall that?

MAJ GEN JEPHTA: I recall that, Commissioner.

MR ARENDSE: Thank you, Madame Commissioner.

NO FURTHER QUESTIONS BY MR ARENDSE

COMMISSIONER: Thank you, Mr Arendse. Ms Mayosi?

CROSS-EXAMINATION BY MS MAYOSI: Thank you, Madame Chair.

COMMISSIONER: We'll try and work till quarter to one if that's – for your questions, if that's possible, and then give DOCS time till quarter past and then take the lunch adjournment.

MS MAYOSI: That's fine, Madame Chair. Major General, good morning.

MAJ GEN JEPHTA: Morning.

MS MAYOSI: Just start with your description of your functions, I think you ended on that note just now. You say the purpose of an inspection is to look at compliance and not efficiency. Is that a correct characterisation of what you

said?

MAJ GEN JEPHTA: No, that is not correct. What I have said, Commissioner, is the inspection reports focuses on non-compliance. The inspection report does not focus on compliance, Commissioner.

MS MAYOSI: So you say the inspection report does not focus on...?

MAJ GEN JEPHTA: On compliance. If you have seen everything in my inspection report, I do not say that they are complying with this, they are complying with this, there might be here and there, but is focused on what they are not complying on. That is it.

MS MAYOSI: So it's focused on non-compliance and identifying non-compliances?

MAJ GEN JEPHTA: It's identifying non-compliances.

MS MAYOSI: Okay. When you look at the reading of standing order 6, though, if you could just clarify because I think I'm a bit confused by your excluding efficiency from your mandate and limiting it completely to compliance. If we look at standing order 6, paragraph 4, if we look at 4D, it says:

"The division inspectorate must, among other things, report to the National Commissioner on the effectiveness, efficiency and quality of service delivery by the service."

If you move on to 4E:

"Advise the National Commissioner on how the effectiveness, efficiency and quality of service delivery by the service can be improved."

And then if you go to F:

"On a regular basis assess the effectiveness of any remedial measures implemented to rectify any deficiencies in the effectiveness, efficiency and quality of service delivery to the service."

That would seem to suggest that assessing or having a look at effectiveness and efficiency are also very much part of the division's functions, is that not so?

MAJ GEN JEPHTA: Yes, yes, if you look at all in that context it is definitely part of it.

MS MAYOSI: So it is part – efficiency and effectiveness is part of the functions of...?

MAJ GEN JEPHTA: It is part of the functions.

MS MAYOSI: So it's not limited to just compliance?

MAJ GEN JEPHTA: Okay.

MS MAYOSI: Okay. When we look again at still standing order 6, paragraph 5.2, I just want to understand again with reference to what you said in your evidence-in-chief. 5.2:

"On receipt of a report from the Divisional Commissioner..."

That would be yourself, is that right?

MAJ GEN JEPHTA: No, no, I'm not a Divisional Commissioner Brigadier (indistinct).

MS MAYOSI: Alright, to continue anyway:

"On receipt of a report from the Divisional Commissioner

inspectorate or the provincial head, the relevant Divisional Commissioner and Provincial Commissioner...”

That terms the relevant Divisional Commissioner, is that what you refer to as the line managers?

MAJ GEN JEPHTA: That is correct, Commissioner.

MS MAYOSI: Alright, and they are the people ...(intervention)

COMMISSIONER: Can I just clarify, Ms Mayosi, I understood because I asked the same question a little while ago, that when it says the relevant Divisional Commissioner, we're referring to Lt Gen Shabalala's position.

MAJ GEN JEPHTA: That's correct, Commissioner.

COMMISSIONER: That's actually not a line manager, the line manager as you are formulating them are often the station commander, sometimes cluster commanders, etcetera.

MAJ GEN JEPHTA: Commissioner, ja, those are the line managers.

COMMISSIONER: Yes.

MAJ GEN JEPHTA: It would be.

COMMISSIONER: So within the province, who does 5.2 refer to, who within the province is supposed to ensure the implementation of whatever remedial measures the inspection reports have identified?

MAJ GEN JEPHTA: Okay, if you look at number 2, the last part of paragraph 2, Commissioner, said the relevant Divisional Commissioner. We're going to exclude the Divisional Commissioner for the purpose of this, we just talked to this. This is the relevant Provincial Commissioner. I have explained earlier and the Commissioner has just indicated now, in this province it would be the station commander, the cluster commander and the Deputy Provincial Commissioner responsible.

MS MAYOSI: So it would be the Deputy Provincial Commissioner responsible?

MAJ GEN JEPHTA: Responsible for that specific area that were queried, we have different Deputy Provincial Commissioners so it would be one of those.

MS MAYOSI: For example, if there are no compliances identified in HR and their remedial – so it's that Deputy Commissioner, Provincial Commissioner, who is supposed to make sure that there's implementation of remedial steps?

MAJ GEN JEPHTA: That is correct, Commissioner.

MS MAYOSI: And who is that person accountable to in the province, is it the Provincial Commissioner then?

MAJ GEN JEPHTA: It is ...(intervention)

MS MAYOSI: The buck ultimately stops with the Provincial Commissioner to make sure that those remedial steps are in fact implemented?

MAJ GEN JEPHTA: That is correct, Commissioner. Like I say, the Provincial Commissioner can dedicate these functions, he's got a delegating authority, so he has put people in place, Commissioner, who must make sure. The Provincial Commissioner is not able to get every case himself.

MS MAYOSI: Yes. Looking at again, just for your clarification of the standing order, if we look at paragraph 4F where it says that:

“The division inspectorate must on a regular basis assess the effectiveness of any remedial measures implemented to rectify any

deficiencies in the effectiveness, efficiency, quality of service.”

So would that be the Deputy Commissioner responsible for that particular function?

MAJ GEN JEPHTA: It would be the provincial head for inspectorate that would do that through a follow up inspection, Commissioner.

MS MAYOSI: Okay, the reason I’m really asking these questions is the inspection reports have really been very useful and it’s clear that the inspections are quite thorough in terms of picking up problems and recommending what remedial steps are to be taken but sometimes – and we’ve seen this in all the inspection reports that we’ve received for the three police stations, the non-compliances are recurring issues, they are identified in 2011, they reappear in the inspection in 2012, they appear again in 2013 and the question arises, there’s a system of checks and balances that’s been built in, there’s the inspectorate, who ultimately is supposed to make sure that consequences flow provincially from non-compliance with – from failure to implement the remedial measures?

MAJ GEN JEPHTA: It is the responsibility of the line function, Commissioner. My job is – even if I’m – till I’m blue in my face, I will inspect, Commissioner, and I will give the reports to the line functions.

MS MAYOSI: And ultimately the Provincial Commissioner is ultimately to ensure that actions are taken if there’s failure to implement?

MAJ GEN JEPHTA: That’s correct, Commissioner.

MS MAYOSI: Because when you get recurring identification of problems and, you know, you go through the effort of doing these inspections with a thorough – you identify problems and this occurs all the time, it does create the impression that somewhere somehow the system is not quite functioning to achieve its end which is to improve service delivery, would you agree?

MAJ GEN JEPHTA: Commissioner, you would know and if you have received documents from SAPS and what you have received, it is not a third of the administration at the station, it is not the third of the administration at the station that you have received. If you work with such volumes you will never have perfection, Commissioner, but what I’m saying, there has been a vast improvement in terms of it. Whether it reoccurs or not, there has been a vast improvement and those that you see have to be seen in relation to the volume of the work. You’ve got to judge this in relation to the volume of the work. To take out one out of 33 000 actions and pick on that one all the time is like writing an exam, that’s you’ve got one wrong and 39 000 right.

MS MAYOSI: I accept that, I accept that there is an improvement, I mean there are some non-compliances that are identified and that are dealt with and they don’t reoccur or reappear in the following assessment period but my question really is in relation to those that are identified and when they recur and the inspectorate has seen fit to say as they did in the Khayelitsha 2014 follow up report that these non-compliances are occurring because station management is refusing to take the necessary steps to discipline the errant detectives, for example. That’s a serious issue and my question really is, when it happens over and over again and it is an area of concern for the inspectorate it does create the

impression that somehow somewhere the system is not working because it's not achieving the desired outcome which is to improve service delivery.

MAJ GEN JEPHTA: Commissioner, I've already said that the inspectorate role is to inspect and to give the reports, it is line management function. What the inspectorate has put in place in addition to that I've already explained in terms of performance assessments, so what I'm saying, it is working, Commissioner.

COMMISSIONER: While we're talking about that because you did testify to the relationship between the cluster commander's performance assessment and the inspection reports, does that also apply when the cluster commanders do the performance assessment of station commanders?

MAJ GEN JEPHTA: Commissioner, that is correct.

COMMISSIONER: Since 2012?

MAJ GEN JEPHTA: Correct, Commissioner.

COMMISSIONER: Okay, thank you.

MS MAYOSI: You spoke in your response to my earlier question to the volume of work. Can you just explain fully for the Commission what difficulties there are there, the aim really being how can it be solved in such a way that the inspectorate is able to deal with the volume of work so that these inspections have the desired outcome? Can you talk about what challenges are there so that the Commission can be able to come to recommendations as to how to assist with this volume of work, is it a question of resources or what?

MAJ GEN JEPHTA: Commissioner, the inspectorate doesn't work with the volumes of work. I think I've been quote wrongly or maybe she did not understand me correctly, I said the volume of the work at stations is huge and we only take a little sample, a small sample of that work, that is what I said.

MS MAYOSI: In standing order 4E it states that one of the functions of the inspectorate is to advise the National Commissioner of the effectiveness, efficiency and service delivery and how services can be improved, is that right?

MAJ GEN JEPHTA: That is correct.

MS MAYOSI: How regularly is this done, these reports to the National Commissioner?

MAJ GEN JEPHTA: Commissioner, you would see in every inspection report there are recommendations made. We sent every inspection report to the office of the National Commissioner through the office of the Divisional Commissioner, we send it there, so quarterly we send out inspection reports to the Divisional Commissioner

MS MAYOSI: So it isn't that – it is the inspection reports themselves that are the advice to the National Commissioner regarding efficiency, effectiveness and how service delivery could be improved?

MAJ GEN JEPHTA: That is correct so, Commissioner.

MS MAYOSI: And when it comes – just in summary, really, when it comes to these three stations in Khayelitsha, how could efficiency be improved, what have you advised the National Commissioner in that regard? If you could just pick three or two – a few things that just stand out?

MAJ GEN JEPHTA: Commissioner, the inspection reports was discussed here extensively and I've seen that station commanders, everyone, has spoken to

that. These reports were made available to everyone and those – I stand by the recommendations that are in those reports.

MR PIKOLI: General, can I refer you to SJ2?

MAJ GEN JEPHTA: Can you just give me the name of what it is about, Commissioner?

MAJ GEN JEPHTA: SJ2 is the combined assurance quality checklist specifically bullet point 2 on the background.

MAJ GEN JEPHTA: Yes, Commissioner.

MR PIKOLI: Can you tell us as to who carries out the internal audit functions and who works on the repeat audit findings?

MAJ GEN JEPHTA: What paragraph are you referring to?

MR PIKOLI: The second bullet point on the background.

MAJ GEN JEPHTA: On the quality assurance?

MR PIKOLI: Yes.

MAJ GEN JEPHTA: On the quality assurance?

MR PIKOLI: SJ2.

MAJ GEN JEPHTA: Okay, you go on to the second bullet:

“In addition, SAPS management continues to be faced with the challenge of repeat audit findings by the internal audit component as well as inspection findings by the inspectorate division.”

Yes, now what is the question?

MR PIKOLI: I was asking firstly, who carries out the internal audit function.

MAJ GEN JEPHTA: Who does the internal audit function? We do ... (intervention)

MR PIKOLI: And secondly who works on the repeated findings of the internal audit?

MAJ GEN JEPHTA: Okay. General – sorry, I’m referring to General now because I’m normally – I’m sorry, Commissioner, the internal audit findings, who carries out the internal audits you want to know. We’ve got an internal audit component that was established, Commissioner, and I speak now under correction, I don’t know the date but I think they were established in 2012 somewhere also and that is a national component, Commissioner, and then in terms of who work on that repeated, what happens, Commissioner, these reports go to national, now what they would do, they would evaluate and that’s across the country they will take all reports, all recommendations, all repeated things and that and that is also the directs and they would have a strategic plan in sessions at national once a year where they would have a planning session, use this, look at what were the findings and then indicate to inspectorate from your findings we want you now to go back and to concentrate your inspections if you go except for doing this and that, concentrate on this, so you get national direction in terms of the gaps that were found that we keep hammering on them until it’s dealt with. So there are these findings and recommendations that we sent to national, it’s taken in consideration when the strategic planning session is – the strategic plan for the national inspectorate is being ... (intervention)

COMMISSIONER: Just so I can clarify, is the jurisdiction of the internal audit component limited is does it cover exactly the same terrain that the inspectorate

covers?

MAJ GEN JEPHTA: They have got a national mandate, Commissioner, so they can inspect anywhere in the country, their mandate is different because they are specifically looking at the financial and supply chain environment.

COMMISSIONER: So very much the sort of area which would be Gen Fick's area of responsibility?

MAJ GEN JEPHTA: That is correct.

COMMISSIONER: And wouldn't look at presumably at human resource stuff other than overtime payments, might look at overtime payments but because all the human resource financial issues are dealt with by head office, it wouldn't be looking at that?

MAJ GEN JEPHTA: It would, Commissioner, because they would look specifically in terms of leave capturing and in terms of absenteeism and those kind of things they would look at.

COMMISSIONER: So leave capturing, absenteeism, presumably overtime?

MAJ GEN JEPHTA: Ja and they would also look at discipline management, Commissioner.

COMMISSIONER: But not at things like operational issues like sector policing or at issues like docket management?

MAJ GEN JEPHTA: Commissioner, they do.

COMMISSIONER: They do?

MAJ GEN JEPHTA: Yes.

COMMISSIONER: And they do it on a per police station basis?

MAJ GEN JEPHTA: Commissioner, they have their own selection criteria.

COMMISSIONER: But like they would select a police station and say we're going to go do that?

MAJ GEN JEPHTA: That's correct, Commissioner.

COMMISSIONER: And that's not the under standing order 6, so is that a different standing order that governs that?

MAJ GEN JEPHTA: Like I say, Commissioner, it is a new component that falls directly under the office of the National Commissioner so there is no standing order for that ...(intervention)

COMMISSIONER: And which Divisional Commissioner would be responsible for internal audit?

MAJ GEN JEPHTA: They fall directly under the National Commissioner, there is no Divisional Commissioner for them, Commissioner.

COMMISSIONER: Okay and how many would they do in the Western Cape on an annual basis?

MAJ GEN JEPHTA: Commissioner, I'm not sure now but – I'm not sure.

COMMISSIONER: We're talking a third of your police stations, a tenth of your police stations, so 15 police stations or 50 police stations?

MAJ GEN JEPHTA: It can be between 20 and 30, Commissioner.

COMMISSIONER: Okay, thank you very much. Ms Mayosi?

MS MAYOSI: Thank you. Just to get back to my earlier question, Major General, I was asking you to just summarise what in your view – yes, we have the inspection reports and they've been useful in terms of identifying non-

compliances over the years but if you could assist the Commission and just give us your perception of just critical areas of inefficiency or lack of effectiveness that could be improved in relation to the police stations in Khayelitsha.

MAJ GEN JEPHTA: Commissioner, we have found in various areas non-compliance. If I go into the visible policing environment and it relates to - a lot of them relates to administration. The administration of things. I take, for an example DVA, Commissioner, we go and assess the DVA, you would come and do the inspection and find that one or two - a column is not completed. When you go really into that specific complaint you would find reasons that is acceptable but also not acceptable because it should be done. For me, as inspectorate, it must be done, whether you have a reason for not doing it now or not it must be done. But there are various things that you would pick up. Say, for instance, a constable attend to a domestic violence complaint, he attends to the complaint, from the complaint, as he stands there, he gets a murder in progress, he's not going to come to the police station and write up the register, Commissioner, he's got to make his notes there, get to that complaint. Now he gets to that complaint, he's first got to deal - yes, he's got to go to a scene, he's got to deal with the community and everything, to stand at the scene three to four hours, constable knocks off at six o'clock, this incident came in at five o'clock, that constable only gets back to the police station eight o'clock, nine o'clock hungry and thirsty, what he wants - has he got time to write the register? I come in tomorrow morning and I query him on the register that he did not write up. That's the kind of difficulty that our operational members have. When you go back on the domestic violence complaint - and this is how I check it, I draw from the system, what is it, did you attend to it, what was your response and everything. In some cases we even phone the complainant when we do the inspection to find out where they there, are you satisfied? The complainant will say yes, I'm satisfied but when I go to the register, that two or three columns are not completed. Those are the things that you find in real life. Now I came and I query him, he's been there, he's been exhausted, he has delivered the service, the complainant is satisfied, I query him on the register. And I am the one who people hate to love, I'm not in the popularity contest where I work, the hate to love me but I'm so sweet they have to love me. So I came and query them. That's the kind of difficulty.

MS MAYOSI: Solutions?

MAJ GEN JEPHTA: Solution is a - technology would be some solution, we've got to see how can we be smart, Commissioner, we're in a technology age, why must we have so many papers?

MS MAYOSI: And linked to that could be training them be that would be introduction of something new?

COMMISSIONER: Can we just pause on that, Ms Mayosi, because I'm very pleased to hear you say that and I also know having watched over many years the process of trying to do this in the Department of the Justice in relation to court records and so on, this is not an easy task but do you have thoughts on that? I mean, it did strike us when we heard the evidence on exactly on domestic violence incidents, how much writing an individual constable has to do, it's the

pocket book, it's two DVA registers, it's got to find its way into the occurrence book, this is a ...(intervention)

MAJ GEN JEPHTA: Commissioner, there are 29 registers, if not more, between 29 and 40 registers, just in the CSC environment, Commissioner. I would love to see that the technology must be with the members somewhere, now I know we've got smart phones, we've got this, we've got that, but also on our vehicles, there are no vehicle – if I'm done I can just come in an punch in yes, no, whatever. If we can have some kind of technology on a vehicle where people go and attend, they can immediately do something, they can complete what they're – the driver, he drives while the other one can complete quickly, so when I go to the next complaint I've done what I was supposed to do because by the time when I get there I must go – I've arrested a suspect, I must go through the procedures, I must do all – he must do all that. He forgets he must come and write another register because he gets another complaint. He runs to that complaint, Commissioner.

COMMISSIONER: This must be something that police services all over the democratic world have to deal with because, I mean, my understanding is that certainly in the Commonwealth this system of occurrence books being, as it were, the station bible and the other registers and documents leading out of that are effectively used right across the Commonwealth, I mean are there systems elsewhere that we can look to for guidance on this?

MAJ GEN JEPHTA: Commissioner, I'm sure, I have seen in Seattle, the Seattle Police, they've got the system on there, on their vehicle that you utilise.

COMMISSIONER: Presumably it's a web base so that they – they're putting it into – using tablets as – which are then uploaded into the web – into other registers automatically?

MAJ GEN JEPHTA: I'm not very sure how it operates but it needs to be looked at.

COMMISSIONER: Ja, thank you.

MS MAYOSI: Thank you, Major General, so you say technology the introduction of new technology could really unlock the capacity of members and make them work better?

MAJ GEN JEPHTA: It can yes because it will take the administrative burden away.

COMMISSIONER: You will have a very significant number of people in your service who say I have never used a computer and I don't want to use a computer now, but I imagine that's a training process?

MAJ GEN JEPHTA: Commissioner, if you can use a smart phone you can do anything.

MS MAYOSI: Thank you. Now I understand you said that the purpose of the inspections is not punitive, it is really to correct certain things and to improve service delivery and you said in your evidence though that in the three Khayelitsha stations you've conducted scheduled inspections, is that right, you've never done sort of random in the three Khayelitsha stations that we're talking about?

MAJ GEN JEPHTA: That is correct so, Commissioner.

MS MAYOSI: Now would you accept though as a general proposition that if you're an inspector, if do an unscheduled inspection you're likely to find a more genuine picture of the things you are trying to inspect than if you gave the subject time to prepare for your inspection, just as a general proposition, do you accept that?

MAJ GEN JEPHTA: Commissioner – and I'm honest. For the police environment, it is not conducive to have such inspections. We sit in environment where we deal with crisis, where we deal with safety issues of people and if we get anything that we're unprepared for – I mean, we are able to respond to crisis but to have an inspection is not a crisis, Commissioner. It would have, yes, and we have seen and I've made the example earlier of the station where the branch commander while we were busy putting (indistinct). But I can say – and we, as inspectorate, we do not choose to do it, I've never asked unless there is requested from somewhere else, but I will not put that – the station commander already have a lot of pressure because when you're conducting an inspection unannounced you take everyone else from the core function that they were busy with to give attention to you while there are community standing a station as Khayelitsha, Commissioner, you have visited the station where you've seen how many people standing in a queue, imagine we just – and they knew that you were coming to visit, even you gave us the time that you're coming and we prepared. What I want to say, you can go back because we can't undo an OB. If we had to make an OB entry for something else at that time, we can't undo it, it's there. So when you do an inspection, you can go back on it. There's enough evidence to go back on it to see if people have complied, than to just walk in and do.

MS MAYOSI: So you are personally against unscheduled inspections?

MAJ GEN JEPHTA: I am. Yes, in police stations I am against it, yes, Commissioner.

MS MAYOSI: What – just as a matter of interest, what trigger the unscheduled inspection that you mentioned here in that one police station? I mean, what kind of circumstances, if you are so opposed to it for operational reasons the trigger an unscheduled one?

MAJ GEN JEPHTA: There were two. Specific one, we have just received that day, we have looked at – we received the performance chart, going through it indicate here's a serious problem. First called the cluster commander and say I picked up this. The cluster commander told me yes, you've picked up that but I need an immediate inspection in this environment because I suspect something is not right. Then we went in, that's an *ad hoc* inspection.

MS MAYOSI: And is that station in – part of the Khayelitsha cluster or Nyanga cluster?

MAJ GEN JEPHTA: No, Commissioner, it is somewhere in the rural area.

MS MAYOSI: If I may just refer you to the letter that Adv Arendse mentioned when he was leading you at the end but he did not go into detail. It's a letter that you wrote on the 7 June 2012 to Gen Shabalala. It also appears in the High Court record at page 488 and in the High Court record it is annexure AL48A. Can you just briefly the context of that letter?

MAJ GEN JEPHTA: First of all, Commissioner, I've written this letter when I was the Acting Provincial Commissioner and not when I was inspectorate. I had a different hat on at this stage. There was – and I think – I'm not sure whether it was a telephonic request or it was a written request from the office of Gen Shabalala just to tell us about the complaint that was received and you would see that in the paragraphs given shortened versions per paragraph to it.

MS MAYOSI: Yes, I just to test the conclusions you made in that letter and to test whether based on the information that was emerging from your own inspection reports, those conclusions were justified and whether you still stand by what you concluded at the time. In paragraph 11 of the letter you said that:

“This office would like to indicate that there's no breakdown between the community and the police in Khayelitsha because there are functioning Community Police Forums at all the stations in the cluster.”

And so on and so on. Now just on – I just want to test how you arrived at the conclusion that there were functioning CPFs in all of the stations in the cluster because the information that your own inspection reports were coming with at the time seems to suggest a very different picture. In an inspection for Khayelitsha Site B in 2012 it was found that there was no proper partnership that existed between the CPF and the police station and to an extent this finding was echoed by the Shabalala report which find that there's no relationship really which is conducive to community policing.

In Harare as well at the time an inspection in 2011 found that there was no CPF in existence whatsoever and then an inspection in 2012 found that there was a CPF in existence but these was no evidence that it was functioning in any manner or form. So at the time really it was Lingeletu West which was found to have a fully functional CPF. Now based on those findings on the report do you accept that your conclusion that there were functional CPFs in all the stations in the cluster was not correct?

MAJ GEN JEPHTA: Commissioner, I would like to see the reports referred to and if I have signed that reports that are referred to, then it would be my report.

MS MAYOSI: The Harare inspection reports are in bundle 3 ...(intervention)

MAJ GEN JEPHTA: No, I want to know if I have signed that report.

MS MAYOSI: We will check if you have signed those reports but it's the reports that have been provided by SAPS to the Commissioner, the inspection reports.

MAJ GEN JEPHTA: No, I haven't...

MS MAYOSI: I'll have a look at the Lingeletu West one.

COMMISSIONER: These would have pre-dated, as a matter of fact, these would have pre-dated 2012, there was one from 2011 and one from 2009, are those the ones you're referring to, Ms Mayosi?

MS MAYOSI: The ones I'm referring to, Madame Chair, are the 2011 ones for Harare.

COMMISSIONER: That's right.

MS MAYOSI: And there's a September 2011 for Harare, there's an August 2012 for Harare.

COMMISSIONER: Yes, but we wouldn't be looking be looking at August 2012

when this letter was signed on the 7 June 2012 so we're talking about the inspection report of 2011.

MS MAYOSI: Of 2011. Very well, if you're talking about the inspection report of 2011, the Harare inspection report of 2011 showed that there was no CPF in existence at all. The Khayelitsha inspection report of 2011 had no evidence of minutes of meetings and the CPF was not functioning. The CPF that was in fact running normally at the time was the Lingeletu West CPF and my question really is what your conclusion was based on in your letter of the 7 June 2012, that there were fully functional CPFs in all of the clusters.

MAJ GEN JEPHTA: Commissioner, this letter is signed six months into the new year, into the new year 2012. It is not signed in 2011 when that reports were issued. We have an interaction here – there was interaction with the station commanders and based on what we got from station commanders that is based on there, I did not base my conclusion on any inspection report.

MS MAYOSI: How could you not when you do the inspections and you know that the inspections painted a completely different picture? How would you not base your conclusion in that letter on what you knew?

MAJ GEN JEPHTA: Commissioner, my conclusion is based in what was in front of me, there were no inspection reports in front of me, it was not part of what was given, the documents that was given by the Premier's office. So I based my conclusion on the documents given by the Premier's office and interaction with the station commander.

MS MAYOSI: Major General, anyone else could say that but not you because you are the individual which is responsible for doing the inspections. I put it to you that what you said in that letter was incorrect because you knew, based on the inspection reports, that the picture was completely different on the ground, so whatever it is that your station commander said based on the inspection reports, the 2011 even, the picture was very different on the ground.

MAJ GEN JEPHTA: Commissioner, this letter is signed in 2012, it is not signed in 2011, I would understand the argument if it's signed in 2011. It was not signed in 2011 and standing order 6 does not tell me anywhere that I should use my inspection report to come to conclusions of issues of this nature, so I've done my work.

MS MAYOSI: Major General, the complaint was about the breakdown in trust between the community and in your response to that complaint you made specific reference to the constitutional structure which is set up to enhance those community relations and despite what you knew based on in your mind what was in your knowledge you went and said something that was completely unjustified.

MAJ GEN JEPHTA: Commissioner, on the 7/06/2012 station commanders assured me that they are functioning.

MR PIKOLI: So did you carry out any independent verification of such report?

MAJ GEN JEPHTA: This report was compiled by legal services, it was not compiled by myself, Commissioner, this report was with the help of legal services. In fact they were sent to the station so that they can compile the report.

MS MAYOSI: Major General, the task team visited the police stations in July,

the inspection reports of 2012 was shortly thereafter in August so the position really that you wrote about in June was the same position that the task team would have found in July and that your inspector would have found in August. You said something in your letter which was not supported by any facts on the ground.

MAJ GEN JEPHTA: Commissioner, the report of the task team is not a standing order 6 report. That findings was done by them, I did not test their findings but I'm sure that the line managers is able to have tested their findings and would have found something else.

MS MAYOSI: Moving on to – still with the letter, then, you then concluded in paragraph 12 in your letter that you recommend that the matter, that is the matter of the complaint, be left to the complainant organisations to come back to the police if they intended to proceed with the allegations and you said that the matter – you regarded the matter at the time as being finalised. Now again, I want to test whether you say here that that was the correct conclusion to draw because again based on your inspection reports the issues that the complainant organisations were complaining about were much foregrounded or picked up by your own inspection reports of – if we look at just the 2011 inspection report.

MR ARENDSE: Commissioner, can my colleague just be fair and just quote the whole of the last sentence of paragraph 12? I says:

“The matter is thus regarded as finalised at this stage until we hear from the complainants again.”

It wasn't a final conclusion that was drawn by the author of this letter.

COMMISSIONER: Ms Mayosi?

MS MAYOSI: If I may read the whole paragraph in totality to place it in its proper contest, paragraph 12 says the following in the letter.

“Owing to the fact that the complaining parties are not coming forward to give clarity on their complaints and allegations, it is recommended that the matter be left to them to come back to the police if they intend proceeding with the allegations. The matter is thus regarded as finalised at this stage until we hear from the complainants again.”

My question really is that Major General knew based on the inspection reports of 2011 that the matters that the complainant organisation were complaining about were in fact foregrounded in those very reports. My question is, how could she respond in this manner, which I regard as a dismissive response to the complaints, when she knew that the inspection reports picked up some of the issues that the complaints contained and if I may take you to just one or two of those inspection reports, Major General, I'm not going to belabour the point. If we go to the Harare inspection report of 2011, it's in bundle 330, bundle 3 and it's file 330, and at page 343 paragraph 3.9.3.18, the finding that the inspectors made there related to no communication with complainants during investigations which was one of the pertinent issues that the complainant organisations complained about. That same report found poor preliminary investigations in terms of crime scenes, witnesses, leads, informers and so on. These were some of the issues that the complainant organisations complained about in that complaint. How could you respond in a manner that says they must come back,

these complaints are unwarranted when some of these issues have been picked up in the 2011 inspection report?

MAJ GEN JEPHTA: Commissioner, there was an opportunity given to the organisation to come to a meeting to explain. They did not come and attend that meeting that the cluster commander at that time has called, at the time when I completed this report and based on that I said – because we could not talk to them, the cluster commander wanted to talk to them, we could not talk to them, there was no opportunity to talk to them and due to the fact that we could not talk to them, until we have given them – we’ve told them there’s a meeting, we’ve given them the open door, until they come back we can talk about it, it is not refuted, it’s not thrown away, it is there to say if they come back we will give further attention to it.

MS MAYOSI: Major General, again, you are an official in the public service and you have specific duties to respond in a particular manner in terms of Section 195 of the Constitution of this country, you knew at that time that the issue of complainants not being updated about their cases was a legitimate one, you knew.

You also knew based on the inspection reports of 2011 that the Harare inspection report had found that crime was not being properly addressed. This is in the report, it is in bundle 3, 330, page 389, paragraphs 3.2.8 to 3.2.12, it’s stated that:

“Crime is not properly addressed and crime showed an increase in contact crime, in aggravated robbery, murder. There is no information from the CIO to Vispol.”

And it went ahead and said the following:

“The risk of not reducing crime is the following. The community may take the law into their hands (vigilantism). The community may lose trust in the police leading to bundu courts, negative performance on station performance and community relations.”

Now these were the issues that were complained about by the complainants in 2011. Your inspectorate had found these very same concerns in September 2011. You respond in a dismissive manner in June 2012 as though you know nothing about what your own inspectorate has found. Why is that? I put it to you that you failed to comply with your constitutional obligations.

MAJ GEN JEPHTA: Commissioner, as I indicated I did not have inspectorate report in front of me. This letter was signed in the 6th month of 2012, there was consultation with eh station commanders with regards to this, position can change from – within in six months. I did not go back to the last inspection report.

COMMISSIONER: It seems to me, General, that the inspection report system was an excellent system for identifying difficulties and for addressing those difficulties but I think that the concern that Ms Mayosi putting to you is more of a – it’s a service issue, it’s treating citizens and citizens issue and although it’s important for SAPS to understand what the problems are, it’s also important for SAPS and in terms of the constitutional values of responsiveness to respond and it’s always difficult for organisations to accept if things aren’t perfect but what

your comment on that, on SAPS' duty to listen to citizens as citizens to be responsive to them?

MAJ GEN JEPHTA: At the time when we wrote the letter, Commissioner, there was an attempt by SAPS to interact with the organisation. However, that attempt failed. So there was a willingness on the side of SAPS to look at remedies, Commissioner, but the attempt failed at that time.

COMMISSIONER: If I recall correctly this was one meeting that was called sort of at the last minutes by Col Wiese and the email went out I think on a Thursday for meeting on a Monday or something like that in December 2011 and although it's true that at that stage there seems to be a dispute of fact as to what was communicated to Col Wiese which I don't think the Commission is going to make any findings on but that was one attempt to contact the NGOs and these were a bundle of very serious complaints about very serious crimes in which members of the community were clearly for obvious reasons very distressed and I would have thought that there would be more than that, more than a phone call or one email to set up one meeting that failed. You know, we're not talking about a minor issue here, they were murders, they were rapes, they were really very serious issues which it's not surprising the community – members of the community were distressed about it.

MAJ GEN JEPHTA: Commissioner, I understand that, also I had due time to respond to – because this was not going to be the last interaction in that. We had a specific due time to respond to the request of Gen Shabalala. So yes, if we were given more time at the time that we have written this letter, we would have had more attempts in so much more that when Gen Shabalala come here, at the second attempt and that one was – he had the opportunity to speak to the organisation.

COMMISSIONER: And I think it was positive meeting by all account, is that your perception as well that that was ...(intervention)

MAJ GEN JEPHTA: I have not been in the meeting, ja.

COMMISSIONER: But certainly I think from the point of view the NGOs the meeting with Gen Shabalala was – that that's their testimony, was a positive and I think for the first time in relation to, as I say these very serious complaints which have now been raised at that time for a period of over eight months or seven months, you know, they really felt that was a good meeting and, you know, it seems to me that that is the sort of initiative which one would hope in the spirit of our constitutional values that, you know, organisations in task with constitutional functions would undertake.

MAJ GEN JEPHTA: Commissioner, ja, I would suggest that even if the meeting with Gen Ndlovu would have succeeded it would have also be a positive meeting because I know she is very much for community relations as well, so even if that meeting had succeeded - would have succeeded it would have been done in such a positive light.

MS MAYOSI: Major General, just two last comments. I put it to you that your response was uncaring and it was careless in light of the gravity, the seriousness of the matters complained about, for you to respond and to say the matter is finalised until we hear from the complainants again as an uncaring attitude

towards the community of Khayelitsha.

MAJ GEN JEPHTA: I do not agree.

MR ARENDSE: Madame Commissioner, her response was not that it was finalised.

MAJ GEN JEPHTA: Do not agree.

COMMISSIONER: I think, Mr Arendse you must let the General answer the questions.

MR ARENDSE: But if it's put to her in a manner that is not reflected in the letter then it's unfair.

MAJ GEN JEPHTA: Ja, I do not agree that the matter was finalised, I said at that stage and until we hear from complainants. We have contacted the complainants, we expect that there should be mutual understanding. Yes, we've contacted you, you know that we want to meet, tell us when you are available. That is what it means, Commissioner, that does not say that it is not caring.

MS MAYOSI: The Shabalala report concluded in regard to – after its investigation into the complaints and the systemic issues that were complained about, they concluded that the state of policing Khayelitsha was such that it could not be said the people of Khayelitsha had not reason to complain. What do you say to that conclusion?

MAJ GEN JEPHTA: Commissioner, policing in Khayelitsha is taking place and if you go out you would see our vehicles there. I would maybe say there are some quality issues. Not maybe, I'm saying there are some quality issues and my reports speak to it but it isn't of such a nature that there can be a complete breakdown. There are gaps and that we, as police service, acknowledge, but it is not of such a nature and that I agree with.

MS MAYOSI: I have no further questions, Madame Chair.

NO FURTHER QUESTIONS BY MS MAYOSI

COMMISSIONER: Thank you, Mr Mayosi. Mr Osborne, could we hope that you might be finished a little but before quarter past?

MR OSBORNE: I will try my very best, thank you, Madame Commissioner.

COMMISSIONER: Thank you.

CROSS-EXAMINATION BY MR OSBORNE: Could I ask to hand up a bundle of documents about which I will be asking the witness?

COMMISSIONER: Are they documents that form part of the record, Mr Osborne?

MR OSBORNE: Yes, they do indeed.

COMMISSIONER: Okay, so we don't need to label them as individual exhibits.

MR OSBORNE: No and Madame ...(intervention)

COMMISSIONER: Can you give us the record references please?

MR OSBORNE: Madame Commissioner, it's the bundle that was handed up in connection with the testimony of Dr Lawrence and we labelled it 1 to 10.

COMMISSIONER: Okay. GL1 – 10.

MR OSBORNE: That is correct.

COMMISSIONER: Thank you. Yes, you may hand it in. Have you got copies for the witness and for the various legal representatives?

MR OSBORNE: Madame Commissioner, I only have a copy for the

Commission and for the witness.

COMMISSIONER: Okay well I think we will probably be able to find it. Mr Arendse are you going to be able to locate GL1 – 10 or would you like a copy? I'm sure we can make – because I'll find GL1 to 10 on my computer.

MR ARENDSE: If the witness has copies I would be familiar with those documents.

COMMISSIONER: Okay, good.

MR OSBORNE: Yes. General, could I ask you first turn to what's been designated as GL4 in this little bundle and it's the letter dated 19 June 2012 signed by the Provincial Commissioner but I notice that your name appears as the enquires reference at the top. Do you have that?

MAJ GEN JEPHTA: I have it.

MR OSBORNE: Now this letter, as you may have heard has been much discussed, this letter together with a couple of others and what's interesting to us is that Dr Lawrence has testified that this bespeaks a pattern of a lack of cooperation between SAPS and DOCS in the sense that under Section 206(3) of the Constitution which is mentioned in paragraph 3 of this letter, DOCS has the obligation to monitor and oversee SAPS activities in the province.

What we see reflected in this letter is what we see as a complete denial or repudiation of that. It said, for example, in the second sentence of paragraph 2:

“Only when there is no cooperation or feedback given to the MEC's office may Section 206(3) be evoked to establish a broken relationship or with the purpose to call for a Commission of Inquiry.”

Etcetera. Now is that – I know that General Lamoer signed this but is that consistent with your understanding of the role of DOCS?

MAJ GEN JEPHTA: Commissioner, I think DOCS must be very honest and put this letter in context. This was a response to a request that they sent to us with regards to an investigation against two police officers at the Langa police station.

MR OSBORNE: General, if I may interject, the context is provided conveniently as the previous item in the bundle, GL3.

MAJ GEN JEPHTA: Okay, I have not seen that, you did not take me – us through that ...(intervention)

MR OSBORNE: No, I was going to in a second.

MAJ GEN JEPHTA: What is it? GL...?

MR OSBORNE: GL3. The letter immediately before GL4 and it is, as you say, a letter from DOCS headed to Gen Lamoer with respect to an investigation for an alleged failure by SAPS to take appropriate steps against a SAPS member who was allegedly in contravention of the Domestic Violence Act.

MAJ GEN JEPHTA: Okay.

MR OSBORNE: So that is the context that you referred to, General.

MAJ GEN JEPHTA: Okay. So it was – is it not a general letter that was sent it is in context of this particular incident of which – and I don't know whether you have also attached the response of SAPS after the we have written this letter which we have responded to, so that is not – but what I want to say, Commissioner, and it is correct that it says that the Constitution say that DOCS have to monitor, Constitution does not speak about investigate.

MR OSBORNE: Well no, excuse me, it does, General, if I may, 206(5) of the Constitution reads as follows:

“In order to perform the functions set out above a province:

(a) May investigate, or appoint a Commission of Inquiry.

My reading is that there is now an independent mandate to investigate even antecedent to the Commission of Inquiry pursuant to which we now sit here. So you're wrong, if I may say, General, DOCS may investigate.

MAJ GEN JEPHTA: Commissioner, the understanding of the South Africa Police Service and particularly within the Western Cape is if they can – DOCS can investigate and I'm not a legal expert on this so I'm not going to – as a person in operations I will explain how I understand this, I'm not a legal person ... (intervention)

MR OSBORNE: You are designated as the enquires reference here, General.

MAJ GEN JEPHTA: What I am saying is, our understanding is that DOCS, if we don't comply, liaise with a cabinet member responsible for policing with respect to crime and policing in the province, they would report us if we don't comply.

We have got an arrangement with the Department of Community Safety, that's the arrangement, it's a protocol arrangement that is not contextualised in a memorandum of understanding, it is the ... (intervention)

MR OSBORNE: I'm sorry, which memorandum?

MAJ GEN JEPHTA: It is – I said ... (intervention)

MR OSBORNE: General, which memorandum are you referring to?

MAJ GEN JEPHTA: No, I said it is not contextualised in the memorandum of understanding because as police we understand the role of DOCS, that they do have an oversight role and that there has been an agreement with this office of Mr Morris that all complaint would be forwarded to the nodal point, that's the agreement, to the nodal point and then that we would investigate it and give the feedback, that is the arrangement with – and this letter that they've sent did not comply to that arrangement that was in place.

MR OSBORNE: General, the testimony of Dr Lawrence is that there is no such agreement and that indeed the relationship between DOCS and SAPS has, to use the phrase broken down, and the beginning of that breakdown is signalled by another letter, General to which I refer you, if I may, GI2, the second letter in that bundle. And you'll see that it's letter from the Provincial Commissioner Petros in those days and this particular letter GL2 happens to be addressed to the SAPS hierarchy. The previous letter, which is fundamentally the same is headed or was addressed to Dr Lawrence. Now here we have the reference to what's been called the nodal point.

I refer you, General, to the first sentence of paragraph 3:

“A nodal point for complaints against the SAPS has been established and it is imperative that all complaints received from DOCS are forwarded via this office.”

Now my question for you, General, is this nodal point, is it the nodal point that one finds referred to in standing instruction 6, standing order 6 which you've attached to your statement?

MAJ GEN JEPHTA: Commissioner, I just want to follow because there's a few

questions now. The first issue is that there's been testified that there's no relationship. I cannot testify for anything prior to my time, I'm there since 2012 and what happens since 2012, there are regular meetings between Mr Morris and myself with the component of inspectorate where we have agreed on how we're going to deal with the complaints.

We have agreed that he would send all complaints to the nodal point where the necessary administration and registration, everything, be conducted and that feedback would be given to them.

MR OSBORNE: General, it's odd that there should be such an agreement because Dr Lawrence, the person to whom ...(intervention)

MAJ GEN JEPHTA: Can I please, Commissioner, I'm not finished.

MR OSBORNE: I'm sorry, carry on.

MAJ GEN JEPHTA: There is no protocol agreement on paper and that's why I said earlier on, gentlemen agreements backfire in your face, I want these things on paper and if I have to make one recommendation today, to this Commission of Inquiry, it is a recommendation that the MOU should be developed between the Department of Community Safety and the South Africa Police Service because their – we understand our roles differently. Now if this did not exist, this relationship did not exist, I want to know from Department of Community Safety how is possible that only in the last quarter I could have addressed 192 complaints from them? How, if that relationship did not exist, Commissioner.

MR OSBORNE: No, the allegation, General, is not that he relationship did not exist but it had broken down. If I may refer you to that first sentence then in paragraph 3, you say this was before the time of your responsibility but do you accept as the current policy that indeed SAPS may not deal with a complaint except by referring it to the so-called nodal point.

And then my other question from earlier, I apologise for a compound question, was whether that nodal point is the very nodal point established understanding order 6 within the inspectorate.

COMMISSIONER: Mr Osborne, you erroneously said SAPS when I think you meant DOCS.

MR OSBORNE: I beg your pardon.

MAJ GEN JEPHTA: Okay, the nodal point that you speak about, this is not standing order 6 that is in front of this, this is a letter from the Provincial Commissioner Petros.

MR OSBORNE: No, I'm referring to the standing order attached to your statement that's before us, the standing order 6 refers to a single nodal point. So my question is, is that nodal point the very same nodal point referred to in the first sentence of paragraph 3 of the letter?

MAJ GEN JEPHTA: No, can I just go to the nodal point that you're referring to, Sir. Let me just see where my paper is. You refer to paragraph 6 – standing order 6, what paragraph?

MR OSBORNE: I'm going to have that in a moment. Before we deal with the nodal point, as such, could you answer my earlier question? I'm sorry, I do have it now having momentarily lost it. I'm sorry, let me get back to that, I'm not able to find it for the moment, but my initial question had been, do you stand by, as of

now, the policy set out in the first sentence of paragraph 3 of this letter:

“The requirement that all complaints be funnelled through the nodal point.”

In other words, that DOCS may not of its own initiative investigate?

MAJ GEN JEPHTA: Commissioner, it has been agreed with Dr Lawrence and myself that that is the working agreement.

MR OSBORNE: So you can test Dr Lawrence’s testimony that although that is the way things have been working it’s under protest, as it were, it’s under continuous ongoing protest that requiring DOCS to effectively act as a post-box is not consistent with the mandate of DOCS.

MAJ GEN JEPHTA: I say again, Commissioner, the current way that we work have been agreed with the office of the Department of Community Safety in such a way that Mr Morris has told me they do not even capacity to investigate and that we are helping them. He gets feedback on every complaint that they’ve sent to us.

MR OSBORNE: General, may I take you to another aspect of this letter and that’s paragraph 5.4. We’ve dealt a little earlier this morning with the type of an inspection called an announced inspection as opposed to an unannounced or unscheduled inspection. Now 5.4 is a directive from the Provincial Commissioner to the HOD of DOCS:

“Requests for physical inspections and stations ... must also be forwarded to the nodal point. Station commander will then be given further instructions in this regard.”

Do you have that general?

MAJ GEN JEPHTA: I have it here, Commissioner.

MR OSBORNE: Now a couple of witnesses have told this Commission and I can take you to the references that there is something fundamentally problematic about an announced inspection and my colleague has mentioned this to you also because human nature and human institutions being what they are, if you know that someone with a lot of power over you is arriving tomorrow morning to look at your registers to inspect yourselves to see how many people on duty, it may well be that the station, as inspected, is very different station to that which existed the day before. Could you see that, General?

MAJ GEN JEPHTA: No, Commissioner, I don’t agree with ... (intervention)

MR OSBORNE: You can’t conceive of the station commander hastily fixing up the registers for example in the knowledge that he is going to be investigated or he’s going to be visited?

MAJ GEN JEPHTA: No Commissioner, can I explain, Commissioner, why I say no? Like I’ve indicated, Commissioner, if you’ve got an occurrence register and you have written in you occurrence register since the beginning of the month and it’s now the 31 of the month, how can you go back and correct anything in there unless you scratch our and when anyone can come and do an inspection they will see that’s changes that that were made. If I have attended the complaint or dealt with the complaint two months back, two weeks back and DOCS come in and do that inspection I can’t rectify it, I’ve already messed up if I’ve messed up.

MR OSBORNE: But General ... (intervention)

MAJ GEN JEPHTA: So I can't cant' rectify it. If I have gone, Commissioner, to a complainant and I was supposed to give the complainant feedback on the 14th and DOCS come on the 31st and they didn't give feedback. If I only give feedback yesterday the complainant will tell them no, I only got my feedback yesterday, I didn't get it on the 14th.

MR OSBORNE: General, you may have heard that Dr Aarts of UCT who is responsible for monitoring the treatments of domestic violence reports, she testified before this Commissioner precisely that it was a significant problem, that her visits had to be announced and she said as follows and this, for the record, is at transcript 2179, I'll quote two sentences:

"I have had similar experiences where I had to be announced. I am sure that some of those forms were filled out the night before I arrived. I do think there's a good reason for unannounced inspections."

General, I take it you disagree with that sentiment?

MAJ GEN JEPHTA: I definitely disagree with that because it's not just, Commissioner, a filling out of the form. The form goes together with other actions so you cannot just come the night before and it goes with other actions like I have explained previously because some of those forms must even be signed by the complainant, how will you get – if you have attended to 7 000 complaints, 7 000 complainants the night before? So I don't agree with it, Commissioner. What I also want to say, we have found – and in particular we have found at one station and that's why there should be a memorandum of understanding how we operate, there is this good governance act where she should take these things in consideration. We have found at one station in particular in Dysselsdorp because we didn't know that DOCS is inspecting there, we found their inspection – they inspected there. When my inspectorate turned up there they were there, two inspection teams on one station at a time, can you imagine the pressure that you put in service delivery?

MR OSBORNE: General ...(intervention)

MAJ GEN JEPHTA: I am busy Commissioner, can I be protected please?

COMMISSIONER: Yes you may be but perhaps continue answering the question.

MAJ GEN JEPHTA: Okay. So can you imagine the pressure if there's two inspection teams on one station at this same time? If we don't coordinate our work, Commissioner, we will head for disaster, we will forever get a Commission of Inquiry on this.

MR OSBORNE: Now General, you have stated in paragraph 8 of your own statement that random and *ad hoc* inspections have significant advantages over announced inspections, you say that with respect to the inspectorate's inspections. Why is it not a case of sauce for the goose is sauce for the gander? If there are advantages to your – to you, so to speak, having unannounced inspections – and you're said that you have had such unannounced inspections although not in Khayelitsha. Why doesn't the same apply to DOCS inspections General?

MAJ GEN JEPHTA: Commissioner because DOCS inspection has got a

different focus. Random and unannounced inspection that inspectorate have is specifically requested by management that is in the line, by line management, it's specifically requested by them, they ask us. If they identify certain – they ask us, I said – and how we go about is, they would call inspectorate and say I suspect this, can you come and do an inspection at any time? It's requested, but we're not telling them when we're coming, okay? Even if we come in three months time, we're coming, because they suspect a specific problem there, might be corruption, it might be someone that's not doing what they're supposed to do and that is what then – it's to uncover those kind of things we do it, those inspections is not focused to uncover those kind of things. Theirs is there to ensure to promote relations between the police and the community and to see to the effectiveness of our – so I've done that indicating for inspectorate yes.

MR OSBORNE: General, you mentioned your scepticism that registers would be corrected or brought up to date in advance of an announced inspection. What about the possibility that cells that are not up to standards would be cleaned overnight? Can you not see station commander doing that perhaps?

MAJ GEN JEPHTA: Commissioner, you have extensively dealt with inspectorate reports that were announced. Now I want to know, if that were our findings with announced inspections, why we want to put pressure on a station to have an unannounced inspection while we get what is wrong?

MR OSBORNE: I'm sorry ...(intervention)

MAJ GEN JEPHTA: We cannot perceive that people would do that. We are not a bunch – I am a very honest person, like I sit here, I'm not perfect, I strive to be there, Commissioner, we don't have that amount of dishonest people in our environment, we've got cops that serve the community, we are not on a witch hunt and we don't want to catch them out, we want to improve all the time. With the announced inspections you have gone through our findings, we've made those findings, why should we not tell – why must – a station commander is one person and if you look at standing order 28, we're giving them enough pressure, why putting more on them?

MR OSBORNE: General, Brig Heilbron testified last week and he made the point in his testimony in interaction with Adv Pikoli that there is an advantage to objective outside monitoring precisely because you don't want the conflict of interest that arises when one institution effectively monitors itself. Is there not an advantage and is it indeed not constitutionally mandated that there be an independent mode of inspection which will allow the province to perform its duty as a co-equal sphere of government? Can you see no advantages whatsoever in that?

MAJ GEN JEPHTA: Commissioner, I totally agree with what is said. The independent inspection is great, DOCS have got an oversight role, they've got the mandate to do so. What we have only requested is that they don't do it unannounced so that we put pressure on our people and DOCS can indicate since 2012 and if you can go, you can go to the records, they can put it in front of you, Commissioner, what – how many inspections did they conduct between 2009, 2011 and 2010 and then you go to 2012 and 2013 since I'm in the office. You can look at how many they've conducted. I am not saying – they have got a

constitutional mandate, I respect their mandate, we give them the room to do their work, the only thing that we request for service delivery and for the smooth running of the police station let's announce it, inspectorate is doing so, the standing committee is doing so, the portfolio committee is doing so, the National Council of Provinces is doing so, the Human Right Commission is announcing those inspection to us, good governance.

MR OSBORNE: General, so in fact there are no unannounced inspections whatsoever, every institution has got to announce its intent inspect, is that right?

MAJ GEN JEPHTA: There is – no, there is no such – in the Act it doesn't says that, Commissioner.

MR OSBORNE: Can I take you to something else?

MAJ GEN JEPHTA: It doesn't – Commissioner, it doesn't says in the Act. There are – instances where there are people and it happened with the portfolio committee already where they would rock up at the station from time to time. But what I'm saying is, it will just smooth our operations is we do announced inspections, I ...(intervention)

MR OSBORNE: General, are you aware of any instance in which the Provincial Commissioner has refused DOCS a request for a visit to inspect Khayelitsha stations?

MAJ GEN JEPHTA: Commissioner, I think there was a request, it was not refused, there was a request and I talk to the top of my head now, I might be incorrect, but if my memory serves me well there was a request in the festive season time where – and even the inspectorate we do not go and do station inspections in festive season time because we know the community operations our priority for us at that time and we have requested DOCS not to do – it's a request, it's not an instruction and if they insisted to would have gone on we would have said if you have to do it, do it, but what we are saying, this is high operational time, this is the demand out there, we want all our people on the ground, we don't want operations to be disturbed and I think it - if you refer to that time.

MR OSBORNE: Yes, I'm referring to a different time, General. Could I ask you to turn please to GL10 which is in fact the final document in that little bundle in front of you, this is a letter of 23 October 2012 from the Provincial Commissioner to DOCS.

MAJ GEN JEPHTA: Sorry, GL10?

MR OSBORNE: GL10, that's correct, the very last item. Do you have that, General?

MAJ GEN JEPHTA: No, I've got till – I'm here, yes.

MR OSBORNE: GL10 to the head of department:

“However, the request for the oversight visit to Khayelitsha, Harare and Lingelethu West on request from the Commission of Inquiry cannot be approved.”

That's not saying well, let's talk about it, let's do it some other time, it's a flat refusal and it's a refusal addressed or in response to a letter that you'll see is GL9 from Gideon Morris to whom you've referred asking for an inspection.

MAJ GEN JEPHTA: This was done on behalf of the Commission of Inquiry.

Now we are of – and I think we are of the opinion if the Commission of Inquiry wanted to have any inspections conducted that this is the platform where they had to be tabled and through this Commission it should have come, so we did not receive from Commissioner, you as the Chairperson, we did not receive any request through you to conduct this inspection and that's why we have indicated that we will wait for your request ...(intervention)

MR OSBORNE: General, I'm a little puzzled by that because if you look at GL9 signed by Gideon Morris, it doesn't say anything about DOCS coming on behalf of the Commission, that would be a rather odd arrangement in any event, it's a simply request for an inspection, it doesn't say we're going to do it on behalf of the Commission, it refers to the obligation under Section 206 of the Constitution, this is DOCS' mandate.

MAJ GEN JEPHTA: Can I just have a time to read through this, Sir, this was not placed before me, Commissioner, so can I have the time to read it please?

COMMISSIONER: Of course you may. I mean, we are very close to lunch adjournment are you nearly done, Mr Osborne?

MR OSBORNE: Could I take about eight more minutes? I do have a couple of rather important ...(intervention)

COMMISSIONER: No, that's too long, I'm sorry.

MAJ GEN JEPHTA: Can I request to take a break please, Commissioner?

COMMISSIONER: Sorry?

MS JEPHTA: Can I also request for the break because I drank water and I need to go to the ladies, please.

COMMISSIONER: Fair enough, we did say we'd break quarter past one. At two o'clock when we will reconvene, Mr Osborne, you can have five minutes which I don't think is going to – five minutes maximum.

MR OSBORNE: I appreciate that, thank you, Madame Commissioner.

COMMISSIONER: Okay, good. We'll take the adjournment now until two o'clock.

COMMISSION ADJOURNS: (at 13:15)

ON RESUMPTION (at 14:05)

COMMISSIONER: Good afternoon. Mr Arendse we were just discussing during lunch the issue of the internal audits and we know that we have an affidavit from Brig Green on this in relation to the internal audits, and my understanding is that there is one, only one internal from Brig Green's affidavit, that there's only one internal audit that has been done in relation to these three police stations and that's one during the current year for Khayelitsha Site B. It does not seem to have been made available to us but we would be very grateful if that could be made available to us. I don't think we are going to need to hear from Brig Green but it's difficult for us to assess how do audits relate to the inspection reports without seeing the copy of that internal audit. Do you think you could have that made available to us?

MR ARENDSE: No did – just help me or remind me – did Col Green make reference to the three or to the audits of the three stations?

COMMISSIONER: In her affidavit she states that there has only been one done and that's one in relation to ...(intervention).

MR ARENDSE: So you just want the reports?

COMMISSIONER: Yes please. She does in fact volunteer to testify in relation to it but I think our feeling is that we don't need her testimony but it would be helpful please to have the audit report.

MR ARENDSE: Yes.

COMMISSIONER: While we are talking about documents, I'm not sure if your attorney has had an opportunity to look through the schedule of documents that we still require. Has he had a chance to look at that, Mr ...(intervention).

MR ARENDSE: I know while I've been sitting here I've been seeing him e-mailing and messaging people.

COMMISSIONER: Okay.

MR ARENDSE: I'm not sure. I'll ask Mr Masuku just to follow up.

COMMISSIONER: Okay. I mean it may be something that you can mention to Gen Lamoer as well, that we'll be interested in the relevant management value of the inspections versus the audit reports. Good. Gen Jephtha you are still under oath.

MAJ GEN JEPHTA: Thank you.

COMMISSIONER: Thank you. And Mr Osborne you've got five minutes.

MR OSBORNE: Yes, thank you Madam Commissioner.

MAJ GEN JOHANNA JEPHTA – (s.u.o.)

Three short items if I may. Good afternoon General. If you look at standing order 6 – and I apologise for not having this for you earlier – standing order 6, item 4 ...(intervention).

MAJ GEN JEPHTA: Sorry, can I just have the opportunity to go there? Because I don't have it in front of me now.

MR OSBORNE: It's attached to your statement.

MAJ GEN JEPHTA: Ja. I'll just get it quickly because I've loosened my statement. (Pause). Thank you.

MR OSBORNE: So General when I asked you about the nodal point, the phrase that comes up again and again when DOCS is rebuffed by SAPS, 4(h) says that one of the functions of the division is to co-ordinate and manage the investigation of complaints relating to service delivery against the service and to make recommendations. Is that the nodal point that DOCS is expected to feed its complaints into?

MAJ GEN JEPHTA: Commissioner this only speaks to the function, this paragraph. The paragraph does not indicate that the nodal point should be established and that it should maintain. It speaks to a function of the nodal point, of the Inspectorate.

MR OSBORNE: So General where is this nodal point? Where would we find it?

MAJ GEN JEPHTA: The nodal point is situated at the office of Brig Solomons.

MR OSBORNE: Alright. Then may I take you to GL5 in the package we looked at earlier?

MAJ GEN JEPHTA: Commissioner excuse me, can I come back to this document where we were last, before we broke and that is specifically with

regards to paragraph 3 of GL10. And then I will refer you to GL9. Can I have the opportunity to go to my file to verify whether this was the letter that was attached to the request and whether this was the response? Because I want to verify whether this was a response on this letter or on another letter.

COMMISSIONER: Certainly.

MAJ GEN JEPHTA: Thank you.

COMMISSIONER: Ms Bawa can you – I recall that this issue arose earlier in the life of the Commission of Enquiry and I do think that at some stage the Commissioner was approached, or this issue of provincial inspections did arise, so I can't also offhand remember exactly what it was, but there was certainly no formal request from the Commission for this to be done but I think there may have been a question as to whether it was appropriate for the inspection. I just can't remember. Ms Bawa may be able to remember better than me.

MS BAWA: Yes, I had – and my memory isn't the best but I had interactions with members of the Department of Community Safety requesting investigative reports. At no stage was it suggested that they go and do inspections on behalf of the Commission. That was not the request. So there was certainly a request that in the ordinary course you do inspections to cover that which falls within our jurisdiction as well, but there was no specific request. There was then – and then the SAPS response came back in relation thereto and I think other events overtook it. I think one of the questions that we would ask, if this is the only instance of such a refusal.

COMMISSIONER: I think that may be so. I think certainly it seems to me – please do check your records – our records would have been, that would have been the time that as we wrote to SAPS for example in that very month, October, requesting a whole range of information, we would similarly have written to DOCS and said we wanted a whole range of this sort of information, which would have included you know, any inspections as you saw the letters to SAPS. So it may have been as a result of that. I just... I'm not sure, but please, you are very welcome to check that and you could communicate that back to us via your lawyers.

MAJ GEN JEPHTA: Thank you, we'll get it tomorrow I'm sure.

COMMISSIONER: Thank you. Mr Osborne, continue.

MR OSBORNE: General if you turn then to GL5, the letter dated 25 July, from MEC to the Provincial Commissioner, and the question is or the request is:

“I hereby request information on the number of lost and stolen SAPS dockets in the Western Cape for each of the following financial years. I request information as to whether any particular stations are problematic.”

Now if you turn to the next item, GL6, the short response is:

“It is requested that clarity be given on the following:

The purpose for which this information is required.”

And again you are the enquiree's reference. Do you see that General? Do you have that?

MAJ GEN JEPHTA: I have it Commissioner. This is the question that was asked, that was raised by the Provincial Commissioner. It does not indicate that

the Provincial Commissioner does not want to give the information to the question raised by the Provincial Commissioner.

MR OSBORNE: Do you think the Provincial Commissioner would be entitled in terms of the Constitution to access to these items?

MAJ GEN JEPHTA: Commissioner this is a question asked by the Provincial Commissioner ...(intervention).

MR OSBORNE: I'm sorry, the Minister. I'm sorry, I misspoke, it's the MEC who is asking, not the PC in this case.

MAJ GEN JEPHTA: Commissioner he is definitely entitled to ask, but so too the Commissioner is also entitled to ask.

COMMISSIONER: The question is not so much whether he is entitled to ask, the question is whether he is entitled to receive the information.

MAJ GEN JEPHTA: Definitely, he is entitled, and I don't know whether DOCS has followed up onto this because it is important for the Commission to know whether there was an answer on this question.

MR OSBORNE: The reason I ask you, and this is my final point, I don't have to go – I don't have time I should say, to go through the rest of these documents, but we will argue to this Commission that this is typical of a pattern of refusal and evasion of requests from DOCS and I want to ask you, since the spirit of the Constitution is mentioned in the letter we looked at earlier, whether you think that is consistent with Section 41(1)(h) of the Constitution, which requires that all spheres of government co-operate with one another in mutual trust and good faith by assisting and supporting one another and informing one another and consulting one another on matters of common interest. Now, we are going to argue then that the pattern of recalcitrance that's revealed in this letter and many others indicates that SAPS is not willing to recognise that provision of the Constitution and the mandate given to DOCS thereby.

MAJ GEN JEPHTA: Commissioner is it expected from me to respond to the statement made?

COMMISSIONER: I suppose it is an ...(intervention).

MAJ GEN JEPHTA: Or can we do that in the closing arguments?

COMMISSIONER: Certainly you can do but if you'd like to respond to it now you are also welcome. It's a matter for your choice.

MAJ GEN JEPHTA: Commissioner we will definitely refute that and we'll prove that. We have been working together with the department. If the department doesn't want to recognise it, we have got examples where we have worked and I in my capacity of the Deputy Provincial Commissioner has been very instrumental in developing the... now I must get to the... do they call the APP for...?

COMMISSIONER: The EPP.

MAJ GEN JEPHTA: The EPP for the monitoring of effectiveness of CPFs, I've been very instrumental. I've directed that whole programme for them. My input was given there.

MR OSBORNE: Because General let's not ...(intervention).

MAJ GEN JEPHTA: Can I finish please Commissioner?

MR OSBORNE: Excuse me.

MAJ GEN JEPHTA: If you have looked at the way that we have dealt with all requests or most of the requests coming – and I can give you stacks of requests coming from the department where we have acted, where we have given them feedback.

MR OSBORNE: And I say ...(intervention).

MAJ GEN JEPHTA: I'm not finished Commissioner. And if you look at two and three instances in relation to all the other actions, then you can make a decision on it.

MR OSBORNE: Finally then, the head of department, Dr Lawrence, testified at length to what he viewed as a pattern of resistance and recalcitrance and in addition Mr Njizela, head of inspections for DOCS described the result of the 1910 letter – or the 2010 letter to which we referred, described DOCS as having been reduced to the level of a post office, i.e. merely conduit for the transmission of complaints. You would disagree then I take it, with Mr Njizela's characterisation?

MAJ GEN JEPHTA: I would definitely disagree. There's good co-operation. Since 2012 I can speak from what happened 1st April 2012. I cannot speak what happened before that and the letter.

MR OSBORNE: Thank you General.

MAJ GEN JEPHTA: I have put, Commissioner I have put various measures in place in such a way when the IPID Acts came in, actually on the 1st April 2013 – ag, 2012 – and you can go to any other province in this country, if they do what we do and DOCS do together, we have established a committee, we do what IPID do, we have established – what we did with IPID or ICD, we have established a committee with DOCS where my inspectorate and DOCS sit on a monthly basis, they will also compare their data bases in terms of the complaints that they have – we've received from them and how we've dealt with them and if there's any outstanding. There were also, if there are Station Commanders, there's a non compliance with the domestic violence they will sit, they will see the report of the Station Commander, they will decide together whether the Station Commander has taken the correct action, and that is also in place. We have our monthly meetings in such a way that DOCS has implemented a system of "Reward a Cop" – or "Report a Cop, Reward a Cop". As SAPS we are very excited about this system because this system will not just give us what inspectorate reports give us, non compliance, it will also give us where our clients have been delighted. And I am very excited to see the result. I'm excited; it just doesn't come forth, to see the result of this system. It has been presented to us and we said yes, this is what we want. So we have been working together. I think the picture that has been portrayed here in front of the Commission, it is definitely not the picture of things how it happens in the field.

MR OSBORNE: Okay, thank you General.

NO FURTHER QUESTIONS BY MR OSBORNE

COMMISSIONER: Just on that point General, I mean are you confident now that you have changed your responsibility in the Provincial Office, that that relationship to which you've testified will continue?

MAJ GEN JEPHTA: I have been – I'm very comfortable with it, because

Inspectorate would still be my responsibility Commissioner.

COMMISSIONER: I see. And it's via the Inspectorate largely that the relationship with DOCS works.

MAJ GEN JEPHTA: That is it Commissioner.

COMMISSIONER: Thank you. Ms Bawa?

MS BAWA: Thank you.

CROSS-EXAMINATION BY MS BAWA:

Gen Jephta, may I start off by saying that we are extremely appreciative of the courtesy and professionalism which we have enjoyed in our interactions with Colonel Benting and Brig Solomons. We appreciate the manner in which we have been assisted. I want to go through quite a few topics pretty quickly, but let me start off with what I think is maybe a favourite one with you and me, and it's technology. It does seem that, from your own evidence, that we need to set in place in community service centres what might be a more complicated system by which technology can enhance registers, but we also need to put simpler systems into place for other members, like e-mails etcetera. Would you agree that that's maybe first base, before we look at that? And I know that's a work in progress that has been happening.

MAJ GEN JEPHTA: Commissioner if you have too many e-mails in an environment you don't have control over your administration, because as a Commander you want to know what is coming into your environment and what's going out. If I'm a Commander of an office, say for instance I'm the Visible Police Head, I would like to have my own e-mail because everything then what comes into my environment I will work with, I will disseminate and I will see that they comply with and that the administration is dealt with. If everyone has got an e-mail there is no such control over that kind of administration. For the smooth running of the e-mails, specifically it would be good if every Commander like your Visible Police Commander, your Detective Commander, your Support Services Commander, your Station Commander, that they would have, because they are ultimately responsible for the administration and if they don't know what administration comes in and out they would not know the workload of people in their environment. They would not know the workload of people in their environment, they would not be able to manage that, and things might fall on the ground.

MS BAWA: So you are not in favour of every member of SAPS having an e-mail address?

MAJ GEN JEPHTA: If it is for the purpose of sending circulars to them that everyone needs to know, if it's for that purpose I'm in favour of it. If it is for the purpose of the administration in the office I will not agree.

MS BAWA: Well let's test that a moment, because in the one branch of SAPS where you deal with its detectives for example, detectives communicate with forensics, detectives communicate with people who want to know about their dockets, detectives need to communicate with potentially detectives at other police stations if they wish to make an enquiry in relation to any accused at any stage. If we not maybe include the constable that stands at the front desk of the community service centre, would you agree with me that one way in which you

can save time on a detective and probably enhance communication with victims, with complainants, with witnesses, is essentially through e-mail.

MAJ GEN JEPHTA: Like I say Commissioner, if it is for the purpose of information that must be disseminated to everyone that needs to know, it would be. If it is for the purpose of receiving e-mails of an administrative nature for which the Branch Commander is responsible for, it's going to be a nightmare, because there might be e-mails and taskings and things coming in but for the purpose of communicating with a client, it should not be a problem. If it is for an investigating officer I want to communicate, because many clients they've got their own e-mails, they are on the internet, they've got their blogs, they've got whatever contact they give. For that purpose it's fine but not for administrative, overall administrative purposes Commissioner.

MS BAWA: You currently have an ECAS system in operation. Are you able to access that from a nodal point?

MAJ GEN JEPHTA: Yes we are able.

MS BAWA: So it's a web based system.

MAJ GEN JEPHTA: It's a web based system, that's correct. Are we not talking of the same... is it the E-docket ECAS that you are talking about?

MS BAWA: Ja, the E-docket system, so you can check the dockets at the police station from your nodal point.

MAJ GEN JEPHTA: What we do – the content of the docket or what are we talking of here?

MS BAWA: No, not necessarily the content. You get a printout that tells you what is being put in, not necessarily the content. Where the docket is and something like this.

MAJ GEN JEPHTA: We cannot access the E-docket system, no we cannot, from our... from the nodal point.

MS BAWA: So an E-docket system only operates at the station and it can only be accessed at the station?

MAJ GEN JEPHTA: That is my understanding, I might be wrong. I'm not very dinges in that area at this stage.

MS BAWA: If we turn to issues dealing with Standing Order 101, as I understand it we have legislation, we have regulations, we have national instructions provincial instructions, provincial circulars, national circulars, station circulars, policies and procedures, and what essentially you seek to achieve with Inspectorate reports is to the extent applicable to any particular inspection, you ascertain the compliance with whatever members of the police need to comply with.

MAJ GEN JEPHTA: That's correct Commissioner.

MS BAWA: And you do this through random inspections over three to five day period, am I correct?

MAJ GEN JEPHTA: I just want to get what you've just said.

MS BAWA: When you generally do your... when Brig Solomons' inspection teams go out and they go and do inspections of stations, your testimony was that's usually a three to five day period that they do that.

MAJ GEN JEPHTA: That's correct ja.

MS BAWA: Alright. Now, in the context of discipline, disciplinary issues arise when there's non compliance with those requirements, would you agree?

MAJ GEN JEPHTA: Maybe not in all cases.

MS BAWA: Well I want to put, generally it would arise in that case. Let's start of by saying not all non compliance and not all complaints necessarily result in a disciplinary infraction.

MAJ GEN JEPHTA: That's correct.

MS BAWA: Okay. And not all complaints, even if there is merit to the complaint, would warrant some sort of a disciplinary action or for steps to be taken. There might be a mitigating circumstances or a reason or a first offender or a training requirement which doesn't warrant steps to be taken.

MAJ GEN JEPHTA: Correct.

MS BAWA: Right. Now, and even where it's the same kind of a disciplinary infraction it wouldn't necessarily warrant the same disciplinary action because you would look at the person involved, their experience, their rank, their training, their workload, just to mention a few – or the circumstances in which the infraction happens.

MAJ GEN JEPHTA: That's correct Commissioner.

MS BAWA: Right. Now as I work out there are some categories, there are various categories of complaints; one is what would one call almost pure labour relations, and I would explain that by, it's of the nature that if you were in a private environment is what an employer would deal with an employee. It is what you would want the Station Commander to deal with, with the constable standing in front of the Community Service Centre, it doesn't warrant a Provincial Inspectorate or a IPID kind of categorisation. That's one category of complaints. A second category of complaints would be something which is more egregious, where a station might say to the Provincial Inspectorate "we want you to chastise this member so that they can understand the gravity of the situation."

MAJ GEN JEPHTA: Okay, I do not agree Commissioner with that statement.

MS BAWA: Let me put... the third category would be something which is of criminal nature which would straddle a disciplinary complaint and a disciplinary complaint. Now can I have your comment on that categorisation? The three that I gave you.

MAJ GEN JEPHTA: Okay. When there is a criminal case, there is an automatic discipline that must go together, because there should be an investigation. That is not dealt with by the Inspectorate.

MS BAWA: No?

MAJ GEN JEPHTA: No, that is not dealt with by the Inspectorate.

MS BAWA: But that was the third – now I wasn't meaning that they are all dealt with by the Inspectorate. The third category there would maybe be a disciplinary hearing and I think we had Gen Burger testify that he oversees those kinds of things.

MAJ GEN JEPHTA: Ja, you would have Commissioner where you would take the first category, not so serious, first time, and that's remedial and whatever. Then you would go to your verbal and you would go to your written categories.

MS BAWA: But there is discipline being given at station level and there's

discipline being given at provincial level as well.

MAJ GEN JEPHTA: Okay, can I explain the provincial level?

MS BAWA: Yes, that's where I want to go.

MAJ GEN JEPHTA: At station level remedial steps, verbal warning and written warning is dealt with. Only when you go for hearing it goes to the provincial level and the provincial level hearings are conducted on provincial level Commissioner.

MS BAWA: And that's not Inspectorate, that human resources.

MAJ GEN JEPHTA: That is HR, that's correct.

MS BAWA: So now we've just put them into certain categories, and probably the fourth category which is coming, it's the IPID acts come into force, is that which is sort of falling out of the service delivery and which IPID under the act has to deal with. It doesn't mean that you don't deal with it in your disciplinary complaints or it's not on your disciplinary register but they have a specific legislative responsibility to deal with it, do you agree?

MAJ GEN JEPHTA: I agree.

MS BAWA: Now you gave us some places from which your complaints come and my list was a little bit longer so I just want to add to it; your complaints can come directly from the national minister if somebody is referred to the national minister or the national department. That's one area. Your complaints can come through the Presidential hotline, it can come through parliament, the legislature, the portfolio committee or the standing committees, it can come through the – correct me if I'm wrong, I'm going to go through this quickly and stop my at anytime if I've got them wrong – it can come through the national council of province, the provincial legislature or any provincial department. It can come personally to the office of the Inspectorate or through a mechanism which the Inspectorate has set up. It can come through the 10111, you can get it at an Imbizo that is being held where senior membership attends, you can get it through a media pickup, it can come through the public protector, the human rights commission, the gender commission or in fact any chapter 9 institution, and it can come, be referred to from IPID. I have more or less I think covered the list of that. And as I understand your nodal approach is, we have a central depository where all of these complaints come into. Fine. We then from there, I suppose if it's not already by IPID we send it off to IPID within the time period allowed, or else we send it to the business unit to which it relates. Is that your two avenues out?

MAJ GEN JEPHTA: That might not be the only, because there are certain of these complaints, which complaints... which the Provincial Commissioner might instruct Inspectorate to conduct the investigation themselves and that is specifically where the Station Commander is involved.

MS BAWA: I can understand that. You probably do that when there's a Station Commander involved, there was a Cluster Commander involved, would that be correct?

MAJ GEN JEPHTA: That is, the Provincial Commissioner can instruct anyone, any senior manager to do it, so from time to time there are managers within the Inspectorate that is also tasked to do it, so any senior manager you can instruct

to do that investigation.

MS BAWA: There is one avenue that I seem to have missed that came out in your evidence. You said the complaints to the Station Commander is maintained by the Station Commander and they take responsibility for it.

MAJ GEN JEPHTA: That's correct.

COMMISSIONER: Now what... those don't feed into your nodal point.

MAJ GEN JEPHTA: It does not feed into my nodal point.

MS BAWA: So if I come to the station and I'm assuming that's complaints that's made directly at the station or that's written into – what is it – the external client complaints register, would that be one of the sources in which the Station Commander can (indistinct) a complaint.

MAJ GEN JEPHTA: No, no Commissioner. External client register is there where people enter the CSC, community service centres on the desk, where they would rate to say that they have... they are satisfied with the service or they are not satisfied with the service, so yes, the Station Commander picks up something there and first finds out what it is, if it is a complaint then it should be registered by the Station Commander.

MS BAWA: With you?

MAJ GEN JEPHTA: No Commissioner

MS BAWA: With...(intervention).

MAJ GEN JEPHTA: It's registered at the station.

MS BAWA: Registered at the station.

MAJ GEN JEPHTA: All complaints that's registered at the stations stay at the station and it's dealt with at the station and it's finalised at the station.

MS BAWA: So if I look at the station's disciplinary register then that would include, over and above the complaints that come from the station, anything which is referred via the nodal point to the station as well?

MAJ GEN JEPHTA: Correct Commissioner.

MS BAWA: Okay. So when you give us your figures as in the page, the paragraph in your affidavit or in the schedule, does that include that which goes to the station or only that which goes to the nodal point?

MAJ GEN JEPHTA: I must verify that, whether it includes the station, but I have asked the figures from the nodal point, so I would suggest that it comes from the nodal point. I've got to verify.

MS BAWA: Okay. An while you are verifying that General, it's not a big deal, could you also verify the discrepancy in the number? Because it struck me that that might be the reason for the discrepancy in the number as contained in your affidavit and as contained in the schedule which you handed up today, because it's a few out. One I initially thought could be a calendar year, while the other one could be the financial year, but it's something that can be clarified afterwards and you can just let us know. It's not an issue, I just want to sort that out, okay. Now, if I look at complaints generally, and I want to run a few scenarios through with you, if a complainant says to the investigating officer – and we'll refer to the investigating officer as the person who is... or let me take it from the top first so that we don't get there. The way these complaints are dealt with is managed under standing order 101 which is attached to your affidavit okay, and it's page

25 of your affidavit. Okay, now:

“The object sought to be achieved by this standing order is to manage the complaints which are made against the service and any of its employees.”

And the complainant is defined as:

“A person who is dissatisfied or disappointed as a result of an action or an inaction by a member of employee of the service.”

I'm just reading straight from... have you got the page General?

MAJ GEN JEPHTA: I just want to make sure. It seems to me I lost my standing order 101 with my documents somewhere on my table.

MS BAWA: Let me give you a moment to get it.

MAJ GEN JEPHTA: Please. I just don't have it in front of me.

MS BAWA: Alright, take a moment.

MAJ GEN JEPHTA: Thank you.

MS BAWA: Okay, so what I read out now is what is contained, and I just want to take you through this so that we can get a bit of an understanding as to how this procedure operates. The complaint and the complainant is defined under subsection (d), that is the complaints file which is the Z20 file, which must be used to file all documents relating to a complaint. Right? So one expects a station to have a file and all documentation which a station has in relation to that would be contained in that file. Are there any other documents besides that, which is kept by the nodal point?

MAJ GEN JEPHTA: With regards to a specific complaint Commissioner?

MS BAWA: Yes.

MAJ GEN JEPHTA: A file would be opened, every communication on the complaint should be in that file.

MS BAWA: Okay. So if you look at clause 3, is it compulsory for every station to have an electronic data base on which to log their complaints?

MAJ GEN JEPHTA: In terms of the standing order, but national is still in a process to develop the electronic data base. We had in session, and I think DOCS attended with us at the national office about three weeks ago with national TMS and all the other role players where they are in a process of developing this data base which is a mainframe system Commissioner. Currently the stations are still using the register because we do not have the mainframe. They are in a process.

MS BAWA: Okay. So if you look at clause 5 which is on page 26, it sets out how a complaint must be registered, right? So if the complaint is lodged it must be immediately registered, if it's lodged at a place other than this – let's talk about the business unit as a station so that we can just all be on the same page – if it's not logged at the station which applies to it, it must then be sent to the station that it must get, and the member who receives it must acknowledge receipt of the complaint to the complainant. So in other words if the complaint relates to Harare Police Station and he gets a complaint from Lavender Hill or somewhere else, or Muizenberg, then he has to acknowledge to the complainant that the complaint is now at his police station. Is that how I understand what it is intended to be I (a)?

MAJ GEN JEPHTA: The one who receives it – ja acknowledges it, but also if it

belongs to a certain station, indicate to the complainant where it has been referred to Commissioner.

MS BAWA: So that's so that the complainant is aware which police station is now dealing with the complaint.

MAJ GEN JEPHTA: That's correct Commissioner.

MS BAWA: That's right. Now, it's to be understood that within two days of having received such a complaint, and one would normally expect that to go to the Station Commander in the ordinary course hey? There's no dedicated disciplinary officer at the police station?

MAJ GEN JEPHTA: Commissioner every Station Commander, every station has got a person who deals with complaints, so it would normally go to the Station Commander who would then see that it's registered and that, and then from there following the instruction of the Station Commander who must investigate it.

MS BAWA: Okay. So if you, for example I think at the Site B Police Station it's Lieutenant Colonel Brookes, so the Station Commander would refer it on to Lieutenant Colonel Brookes and then indicate who the IO on that particular complaint must be.

MAJ GEN JEPHTA: Yes.

MS BAWA: And that must take place, that IO must be identified within at least two working days of the complaint having been received, right? And that investigator must acknowledge written receipt of that complaint and that acknowledgement must be sent through to the nodal point, is that correct?

MAJ GEN JEPHTA: That is if the complaint comes from the nodal point. But if the complaint is just registered at the station, it's kept at the station Commissioner.

MS BAWA: You had some difficulties in getting this done in the past and you've sent off reminders to all of the stations. Have you seen an improvements in those acknowledgments coming through to the nodal point?

MAJ GEN JEPHTA: There is definitely an improvement in terms of that Commissioner.

MS BAWA: Now, the next course after the complaint is then acknowledged is the investigation of it. So you went to interview the complainant, you must verify the complaint with the complainant, you must determine the cause, you must determine the relevant measures to redress the complaint, you must confirm with the complainant whether he is satisfied with the proposed corrective measures and you must ensure that the complainant signs a certificate and that certificate is actually a *pro forma* which annexed to the standing order, Annexure A, after finalisation of the investigation to confirm the satisfaction of the complainant with the outcome and then you must compile and submit a detailed report of the investigation to the Commander. So the IO gives it to the Commander and if it's a nodal point investigation then it must go on to the nodal point.

MAJ GEN JEPHTA: Okay. It comes through the Commander, who first has to check that everything has been dealt with and that he or she is satisfied with the investigation and the outcome of the investigation. Then it goes to the nodal point Commissioner.

MS BAWA: Now I want to raise some issues surrounding investigations. Must

you always have a complainant?

MAJ GEN JEPHTA: A complainant for what Commissioner? I'm not sure.

MS BAWA: Well let me put it to you differently. For example, and I was thinking of an example, you have somebody who calls into the station and says to you that Const Arendse was seen driving in Kuil's River with a Khayelitsha vehicle and it's unauthorised use of this vehicle, and it comes to the Station Commander and he allocates it out to somebody to go and investigate, and they can't find the complainant; the complainant's cell phone is off, he doesn't live anywhere. Does that case get closed or does the IO investigate the nature of the complaint?

MAJ GEN JEPHTA: Commissioner we must have a statement from a complainant in the first place, indicating and verifying to us that the person has been seen in a place where the person should not be, because that's your, that's in actual fact your witness. But what we also have as a... and I testified earlier this morning about a systems command and control, we also have an AVL system, electronic system on vehicles. Now as a Station Commander I would have, if someone has brought that to my attention I would have gone to the AVL system and checked with the AVL system who was driving that vehicle and whether that person was in that place legally, because a vehicle can be in another area doing some other work.

MS BAWA: I was giving you an example but I don't want to get bogged down in specific cases. I want to test the principle that if the complainant – and one of the reasons I ask this is sometimes it's not always possible for you to reach the complainant after you have a written statement in which details are contained in the statement, and so my in principle question is, if you've got a substantive complaint that has been laid but you can't find the complainant, is the docket closed or is it investigated?

MAJ GEN JEPHTA: No. There would, and specifically if it's a serious matter Commissioner, there should be "this is what came to my attention, I can't get this person but isn't there something in the system that I can go and look at if this person complied or did the person not comply."

MS BAWA: Because one of the things – and I'm going to take this further – sometimes you can't find a complainant but bear in mind that I'm now... I have gone and I've lodged a complaint about the Harare, about the member at the Harare Police Station. I may have lodged the complaint at a myriad of other places and not at the Harare Police Station. When somebody eventually follows up with me about my complaint it is somebody from the Harare Police Station that follows up on it. I may not want to pursue my claim or my complaint when I'm approached by a member from the very police station against who I've lodged the complaint against the member. Can you comment on that?

MAJ GEN JEPHTA: If you do not want and if a person don't have, there are other, there are various other channels of complaint if the person don't feel comfortable, and likewise to come to the Inspectorate to report it to the Provincial Commissioner, to even report it to the Cluster Commander, because there are many, there are other ...(intervention).

MS BAWA: General you misunderstand me. We've gone through the range of places you can report it to, but ultimately the people who are going to investigate

the complaint save in exceptional circumstances is a member from the very police station against which I lodged the complaint.

MAJ GEN JEPHTA: Like I said, even the Provincial Commissioner can appoint an investigating officer from any other station to a specific case, if there is merit to the request where it... and it happens from time to time where people don't want the specific station to investigate and that requests come, and we do adhere to those kind of requests.

MS BAWA: So as a member of the public, if I want to lodge a complaint against Harare Police Station and I have got fears about that complaint being investigated there, then I must request that at the time I lodge my complaint, because you as the nodal point would otherwise not know what my fears would be, would you agree?

MAJ GEN JEPHTA: But we do have a department that has got oversight over the police where they can go, where people can lodge their complaints.

MS BAWA: No-no, we have no difficulty with the lodgement of complaints, we are testing how a member of the public knows firstly where to lodge a complaint and I think there's enough things out in the public domain that should tell you that, but what a member of the public needs to know when they lodge a complaint. In other words if I have fears of corruption at Harare Police Station – maybe it's unfair to use the particular police station in the public domain – but if I have fears about it then I need to specify up front “don't ask them to investigate my complaint please.” Would you agree?

MAJ GEN JEPHTA: We have dealt with requests like that Commissioner an the Provincial Commissioner has appointed independent people within the organisation to do such investigations already, so our systems within the police are sufficient to deal with that kind of fears.

MS BAWA: If I can then move on to the next kind of thing; since the coming into force of the IPID act, if I come and lodge a complaint of assault, irrespective of the merits of the complaint, that must be referred to IPID, is that how you understand the act?

MAJ GEN JEPHTA: No Commissioner. If you – you say if you assault a person it must be ...(intervention).

MS BAWA: No-no, I'm a member of the public.,

MAJ GEN JEPHTA: Ja?

MS BAWA: And I come and lodge a complaint and I say, “Constable X is responsible for that assault”, that is a complaint that must be immediately referred to IPID, since the IPID act came into force?

MAJ GEN JEPHTA: No Commissioner. If that assault spreads out of his line of duty, out of an action where he was on duty, he was busy arresting a person, then he can – that must be referred, but if it is a complaint against a member where he is off duty and he and his neighbour had a row and he smacked his neighbour, off duty, while not on duty, that does not go to IPID.

MS BAWA: But in the timeframes that you must report to IPID, do you have sufficient time to ascertain whether the complaint that's been lodged is being done on duty or off duty?

MAJ GEN JEPHTA: Yes we do have Commissioner because that's one of the

things we established, and if it is found out at a later stage but this person was – it might be a police officer from another station that comes and maybe do an investigation in Khayelitsha and now there's an incident and the person gets... the person assaults someone, then that person must be on duty. As soon as it is found out that that member was on duty it must be referred to IPID. At the stage of reporting if that member was not on duty, it will not be reported.

MS BAWA: Let's ...(intervention).

MAJ GEN JEPHTA: Only cases of rape get reported whether it's on duty or off duty Commissioner.

MS BAWA: Okay. When we deal with something like corruption, is corruption not something which should not be referred back to a station for investigation? And I put two propositions to you; (1) there is the inherent risk of a perceived actual bias on the part of the station who has got to investigate an allegation of corruption at that station; secondly it may very well impact on the Station Commander's own performance evaluation at a later stage. Do we not, is that not the category of complaints that should be investigated outside of a station from the nodal point?

MAJ GEN JEPHTA: Commissioner there are various categories of corruption. You get corruption where a person would go and if he or she was on sick leave they would change the date on the sick leave certificate, and that is – I mean there's proof of it, it's there. That would not – and I understand what the advocate is saying. We have got the Hawks whose mandate is to investigate corruption and those kind of cases go there. The type of corruption cases that fall outside their mandate, we have got a provincial, on provincial level we've got an investigative capacity where they do take those kind of serious cases referred to and investigate. We are currently in a process to establish a provincial unit also for that.

MS BAWA: Okay. Can we move on please? Do you find that where disciplinary matters are investigated quickly, it's better? You reach a conclusion if you do the investigation very quickly after – I know you've got the 19 days or the 14 days requirement but do you find that there is a more successful conclusion if it is speedily attended to? I don't necessarily mean ...(intervention).

MAJ GEN JEPHTA: I haven't made such...

MS BAWA: Okay.

MAJ GEN JEPHTA: I haven't looked at that Commissioner.

MS BAWA: Okay. One of the things that I always thought was a priority, and that's missing children, and I understand that there are special procedures put into place at police stations when children are reported missing. Am I correct?

MAJ GEN JEPHTA: That's correct Commissioner.

MS BAWA: So when you look at service delivery complaints, for example if somebody hasn't filled out an OB book versus somebody not filling out the SAP55 on a missing child, does that make a difference? It's both an almost admin task, but the one has a different impact than the other. Does that impact on how, the nature of the disciplinary complaint?

MAJ GEN JEPHTA: Commissioner each case has got its own merit. Each case has got its own merit, so when you go into discipline you look at the merits of the

case and then you don't weigh up the one case against the other case Commissioner.

MS BAWA: I seem to find that delays occur in investigations when either the member is on a course or the complainant who happens to be also a member of SAPS is on a course from a different station. Is it very difficult to do an investigation when somebody is on course, if they are at Philippi or Paarl or somewhere? Why is that such a big – or the investigating officer goes on a course and then the thing just stands still.

MAJ GEN JEPHTA: You know Commissioner this is, it is a line function and the Station Commander has got the authority if he or she sees that there would be a delay due to the person not being available, he or she can appoint another investigating officer.

MS BAWA: But if, for example if you are the investigating officer and you've got to get five statements from five members of the tactical response team but you can't get it because two of them are on course, so you've got to wait for the one month or the six weeks that they come back off course, is there not a mechanism by which you can get it from them whilst they are on course?

MAJ GEN JEPHTA: It all depends also where they are on course, because sometimes they are not on course in Cape Town, then you've got to incur costs, you've got to fly and you've got to get accommodation and all those kind of things, if the person is in Thabong or there. But if a person is around here I do not see Commissioner that there should be a problem where a person can make an appointment after – say if the classes are till four o'clock, after four to go and see the person. There should not be a problem Commissioner.

MS BAWA: If you've got a disciplinary complaint pending against you and you leave the station but you don't leave SAPS, you take a transfer or you moved on, some other arrangement, does the disciplinary complaint follow you or does it come to an end?

MAJ GEN JEPHTA: Commissioner it would still be investigated until it's finished by the station where the investigating, where the disciplinary case was registered.

MS BAWA: If a member of the public has lodged a complaint but they should actually have lodged a criminal case, do you assist them in lodging the criminal case rather than the complaint or do you deal with it as a complaint and then a criminal case as well?

MAJ GEN JEPHTA: Commissioner our clients when they come to us and we see that there is an element of crime, we do advise them to open a case, a criminal case, but we do have clients that say "you know what, I really do not want to go for a criminal case. Let's just deal with this departmentally." So it is a choice of a complaint. But a person gets advice Commissioner.

MS BAWA: I don't know if this is at all your stations but I notice that the Site B Khayelitsha station there is a camera that rolls for 14 days and then you don't get the footage anymore. On at least two or three of the occasions that I've come across, by the time the complaint is investigated the footage is gone. Could I make a suggestion, that if the nodal point send off the recommendation that they are given instruction on the preservation of the footage as part of the instruction?

MAJ GEN JEPHTA: I can tell you Commissioner we have utilised the footage already very successfully and I can tell you in our escapes, in our assaults, that is what we utilise it very-very successfully. Where people would say "I visited the cell at a certain time", when we go to the camera we found them sitting right in their chair, not even moving from their chair, so we do as Inspectorate, we utilise it.

MS BAWA: I'm simply saying that there are instances where for delays not related to the Inspectorate but for an administrative nature the station had their initial instruction gone to the station knowing that the complaint arises in the centre where the camera is, instructed the Station Commander to preserve it, even prior to appointing an investigating officer that may not have happened.

MAJ GEN JEPHTA: Okay. It's not in all the police stations. We've got it at – not even in all the police stations.

MS BAWA: Okay.

MAJ GEN JEPHTA: Only where there is a cluster office Commissioner we have these cameras but not all of the cluster officers have it. I am just not able to say how many of them have it, but Khayelitsha does have it, that I know.

MS BAWA: Is there a determination of onus in the way complaints are dealt with?

MAJ GEN JEPHTA: Excuse me, I did not hear you?

MS BAWA: Onus. It's a bit of a legal term, I'm trying to break it down. I am a complainant and I come to you and I say "Constable X smacked me", it doesn't result in any medical attention that's required and Constable X comes back and says "no, I didn't do it." And that's the end of the investigation and the benefit of the doubt goes to the constable.

MAJ GEN JEPHTA: So what is your question?

MS BAWA: My question is, is there a set onus that if you can't on the version of a member of the public and the version of the SAPS member that is resolved in favour of the SAPS member in all instances? In other words is there an obligation on the member of the public to provide the evidence of the complaint?

MAJ GEN JEPHTA: We must remember that disciplinary procedures you don't have to prove beyond reasonable doubt, we don't have to. So each case would also be dealt with on its own merits, on what the person has found there.

COMMISSIONER: But isn't this one of the issues that's really quite problematic in relation to complaints by members of the public? As I understand your testimony and as I understand standing order 101 in probably 90% of cases, anyway in the vast majority of cases it goes back to the police station to be investigated by a designated police officer at that police station firstly, secondly the... so that carries with it, you know a sense of a kind of lack of independence in the investigation. Secondly if there is a conflict in versions between the member of the public who has laid the complaint and the SAPS officer, given that effectively there is no external eye on this, there does seem to be a weighting in favour of SAPS in relation to these complaints. What is your sense of that?

MAJ GEN JEPHTA: Commissioner I did not do an analysis to what extent this is a problem within the organisation, I did not make such an analysis. You know when you come to a hearing with a case, you've got to prove. If there's no proof

there can't be steps against a member.

COMMISSIONER: Well let's just take an example, let's say that a member of the public says that a member of SAPS assaulted the member of the public, perhaps just mildly, just a push away or something like that, but the member of the public comes along and complains about it, then what is going to happen is that complaint under standing order 101 goes to the police station, presumably what happens – I don't know – but presumably what happens, this is before we get to discipline, we are now talking about within a complaint formulation, it's investigated under 101 by a colleague of the police officer against who the complaint is being laid and where it is a situation, as it so often will be, of one person's version against another. I think the import of Ms Bawa's questions is you know, what are the likelihoods that the version of the member of the public is going to be accepted? And let's even assume for the minute that there may not be merit in that, it is also about the perception that the manner in which it is investigated creates. In other words does it promote a sense of trust that the complaint is going to be fairly and even-handedly considered?

MAJ GEN JEPHTA: It all depends also on the investigating officer Commissioner, how the investigating officer would interact with the complainant in terms of this, you know in terms of if no steps were going to be taken, why? And to inform the person and to give the person the reason for that.

COMMISSIONER: If I look down the list – and I don't know, you've given us a schedule today of 2½ thousand complaints in one year for the province and you are not certain whether – I think you think that that does not include complaints that go directly to the station, which you were not hear of in ...(intervention).

MAJ GEN JEPHTA: No the 2000, that what I've given, that definitely does not include the station complaints.

COMMISSIONER: Okay, so it doesn't include the station complaints.

MAJ GEN JEPHTA: Ja.

COMMISSIONER: So really what I'm saying is that I suppose in order to create some sort of apparently independent process to investigate these complaints, you probably would need to take it outside of a station level, you would need to create some sort of complaints body to deal with these in the province or at cluster level or somewhere, and that I can understand would have huge human resources implications and so on, but it is worrying to me that if you've got a complaint against a member of SAPS, if you go to the station it will be dealt with without province ever hearing of it, or most certainly not go into provincial figures. If you go to somebody else and it gets fed through the nodal point, at least you have sort of an overarching eye on it, but it worries me about the perception that these complaints, which may be very material or may not be, but may often be material, are not really subjected to what might be described as an objective investigation or an investigation having perceived to be objective.

MAJ GEN JEPHTA: Commissioner I have testified that the national office is busy to develop technology for the registration of the complaints. It will work the very same as our CAS system, or as a mainframe system where you can go and access, and you would access it right through the province. At nodal point we will be able to access what has happened - very soon I'm quite confident - it all

depends on the national office, we would have that kind of technology where we would be able to see what is happening.

COMMISSIONER: And would that, as you understand the design, that would mean that all your complaints from the nodal point would, from that multitude of sources would go onto it and station based complaints would go onto it.

MAJ GEN JEPHTA: Yes.

COMMISSIONER: And there would be no variation in the system of standing order 101 in relation to the fact that basically complaints, service delivery complaints, even those that may involve allegations of either assault or corruption, will be dealt with by the very same unit against which the complaint is brought.

MAJ GEN JEPHTA: I've missed you for a moment. My concentration level is getting low.

COMMISSIONER: I understand. It's a long day and I may not be very clear, but what I'm saying is that once we've got this mainframe system, will the system of who does the investigation of the complaint which is governed by a standing order 101 change?

MAJ GEN JEPHTA: No, no Commissioner it will not. Like I say my – and I'm not the designer of it but the input that we have given, it will work the same as the CAS system, where you would appoint an investigating officer, you would be able to see on the system who is the investigating officer as well, but it does not mean that there is a different component specifically established to ...(intervention).

COMMISSIONER: And you see my difficulty is the principle upon which standing order 101 is based, is that it is always, except in rare circumstances you indicate where for some reason the Provincial Commissioner thinks it should be otherwise or an IPID matter, but if it's not an IPID matter and it's not a peculiarly sensitive matter, the principle is that the relevant business unit in – i.e. the business unit against which the complaint is lodged investigates the complaint. That's the system designed by 101.

MAJ GEN JEPHTA: That is what it is, but I can also say Commissioner it is effective. Look the system is, and I can testify for the past two years that the system is effective. What we also do at the nodal point – and it's with the complaints that we do and Station Commanders are supposed to do it, also at station level they have implemented a matrix and at cluster level where Station Commanders and Cluster Commanders and Branch Commanders must phone complainants from time to time and find out if they are... So what we do when there is a complaint that we have received from the station and received a satisfactory statement, and we do not do this for all complaints but we do it randomly, just to make sure that – randomly with anyone we would take, we would phone the complainant, we would ask the complainant "are you satisfied? The station said this is how they dealt with it. You have signed it; did they explain it to you?" So that kind of system we have in place at an Inspectorate level. However, it should – and it should happen also at station level.

COMMISSIONER: Leaving aside the question of whether the investigation is done well or not, what do you think about the perception that creates in the mind of the individual member of the public who comes along and says that "I had an

altercation or an argument in which I was very poorly treated by Warrant Officer So and So from X police station”, and that person knows that that complaint is going to be investigated by the very colleagues of Warrant Officer So and So from X police station, what do you think the perception is about that?

MAJ GEN JEPHTA: What I want to say is that our systems that we have is sufficient and is able to even deal with the perception because the Station Commander at the station is put in a very trusted position. Commissioner we trust this Station Commander with a budget of more than how many million Rands and we trust that Station Commander to deal with that perception. If there is such a perception coming to the attention of the Station Commander he needs to intervene, to take the necessary action and to alleviate that perception of the person, if that comes to the Station Commander.

MS BAWA: It is also the Station Commander who ultimately bears the responsibility to make sure that standing order 101 is implemented properly at the station.

MAJ GEN JEPHTA: That is indeed so.

MS BAWA: I have gone through with some care the 2012 and 2013 complaints for the Khayelitsha station, the 2012 complaints for the Harare station and with a little bit less care on the Lingelethu West station. You would see that subsection (3)(a)(vii) requires a complainant to sign a certificate. I have yet to see one certificate. Not one certificate. There is no compliance with Annexure A. I want to finish the submission before you do that. What I do see is instead of taking an annexure which could be easily completed by a complainant, the investigating officer shows a preference to either draft an affidavit – one never knows what is represented to the complainant at the time the affidavit is signed, (2) there is a statement given by the complainant at the time, one sees uncertified affidavits or one simply sees the IO saying “I telephonically confirmed with the complainant that he or she is satisfied.” I have to say that the existence of Annexure A in a set format seems – in the standing order – seems to make good sense. What I can’t understand is why there is deviation from that simple form to have to go draft an affidavit. Could you maybe explain that?

MAJ GEN JEPHTA: The form is there to be utilised.

MS BAWA: Yes.

MAJ GEN JEPHTA: If the station did not implement in that specific cases that you have looked at, if they did not implement they did not comply. They did not comply. The system is there Commissioner and they have to apply.

MS BAWA: So the Station Commander ...(intervention).

MAJ GEN JEPHTA: Comply – sorry.

MS BAWA: The Station Commanders are not implementing. The other thing that concerns me, which is even less used, you’ve got to make sure that the IO compiles and submits a detailed report, and subsection (3) tells you what you do; you find out what is the cause of the complaint, you work out how to redress the complaint, you confirm that they satisfied the complaint and then you see whether you must make a recommendation of any proposed corrective measures in which to make sure that it doesn’t happen. But let’s take you to a simple example, because I don’t want to get bogged down in examples; a docket hasn’t

been opened, a complaint is lodged because a docket hasn't been opened, the report shows that the docket should have been opened and the docket is opened. Nothing further is done. And then we get a statement from a complainant that says the docket has now been opened, the complainant is very happy and he is very satisfied in the manner in which I handled the investigation, but what the report doesn't show you is why the docket wasn't opened and what measures, more importantly, to be put in place to prevent that from happening again. Can you comment on that?

MAJ GEN JEPHTA: There's a myriad of examples ...(intervention).

MS BAWA: Yes but I give a simple example.

MAJ GEN JEPHTA: What I want to say is then people did not comply with the basic principles of the standing order, then they did not comply – if that happens then they did not comply with the basic principles Commissioner.

MS BAWA: But a number of those reports go through a Station Commander and gets submitted to the Inspectorate.

MAJ GEN JEPHTA: What gets submitted to the Station Commander – to the Inspectorate Commissioner is a satisfactory statement, not the other reports, it's a satisfactory statement that gets submitted.

MS BAWA: So are you saying that what comes up to the Inspectorate is not the report which is signed off by the Station Commander but only the satisfactory statement?

MAJ GEN JEPHTA: I just want to verify that, let me just verify that one.

MS BAWA: Because if I look at the – I can assist you with it because invariably when Brig Solomons writes off a letter he sets a time period by which you must appoint an investigating officer and he sets a time period by which you must file that report, which must include your satisfaction certificate. He expects you to file a report and he is pretty regular in reminding you when you are late, because you had quite a problem in 2012 with Harare and he got quite vicious with them in setting up systems to get it straight, so he standard, or the standard letter that goes out is an expectation of a report. Let me then take you through that. It also seems that there has been some difficulty with the compliance of the time periods. Have measures been put in place to assist stations in dealing with them?

MAJ GEN JEPHTA: Commissioner you must remember that it is a new office that we have established and with any new thing there comes – and it's work in progress – there comes development and development and development, and what I have personally done, where I see that there are complaints specifically outstanding for longer than 30 days I will call in myself Station Commanders to come and account why are these things not dealt with in the time frame that is set? I want to say that it was a problem I the beginning. That was one of the reasons why we have established the nodal point to see and to manage. There was a problem Commissioner. It has improved. It is not where we want it as yet, but it has improved tremendously. The dealing of complaints and how – I can say it was a problem, and that's why we've done this thing, putting that Nodals so that we can start monitoring this.

And it is – it has improved. It is not on standard, it is not where we want it,

but it has improved.

MS BAWA: Okay. Can I say that I don't have the 2013 Harare complaints, but I've got the 2013 Khayelitsha complaints, and I don't know whether it must be attributed to Brig Dladla taking over or not, but it does show that the later complaints have an improvement.

Can I also say what is a very nice touch, which I've seen Brig Dladla do which I did not see in any one of the Harare things – he sends off a very nice letter to the complainant in which he says, this was our investigation, this is what we found, this is what we corrected, and on behalf of the station of Khayelitsha I apologise where we found something to be wrong.

And I thought if I was the recipient of that letter, it would have made the world of difference to the approach which I got. And I want to commend him on that approach.

MAJ GEN JEPHTA: It is a good practice. That needs to be noted, Commissioner.

MS BAWA: Can I also say is it a disciplinary measure to shift somebody laterally? In other words, if I have a rank as a Shift Commander in Khayelitsha and I face disciplinary charges there, as a disciplinary measure I get removed from Khayelitsha and I get put in Plumstead – I'm not even sure if Plumstead has a police station.

MAJ GEN JEPHTA: Commissioner, it all depends on the merit of the case, and it all depends what impact that person would have on the station if the person stays there. So it is not a threat right through, and it's not a common thing if it's a disciplinary matter, and specifically when it comes to a person that's got issue with the Commander, because then the Commander cannot command and control.

MS BAWA: Okay. I want to talk to you about Inspectorate reports very briefly. I think my colleague's covered it quite thoroughly. You indicated that you can do 55 Inspectorate reports and 45 follow-ups, and that you – you get your senior management to assist in visiting those stations that you don't reach. And in passing you mentioned that you were part of the EPP process for the CPFs.

Now, I understand that the EPP process, the CPFs were very closely – oversight – it's not comparable to either the Inspectorate reports or what your senior management does. But the Secretariat has developed a very comprehensive monitoring tool which I'm sure you're familiar with, because it's also been used at some of the stations.

In the spirit of cooperative governance and oversight, do you not think that cooperation between SAPS and the Inspectorate – or the Secretariat, rather, in working out a manner by which all stations get covered over a set year would work out well over in addition to the measures you've put, that instead of the Secretariat – and I'm only talking about announced visits for the moment – that you actually work together in covering the monitoring of stations?

MAJ GEN JEPHTA: Standing Order 6 does not make provision for that, Commissioner. And ...

MS BAWA: But the Memorandum of Agreement could, in the sense that you do your Inspectorate job, but that you do your Inspectorate job, but that you coordinate your inspections, and you have a Memorandum of Agreement with

another organ of state who's also got oversight (intervention).

MAJ GEN JEPHTA: I am sure that the Memorandum of Agreement or the amendment on the Standing Order 101 would address such, yes, Commissioner.

MS BAWA: Because I also think that whilst your attention was drawn to 41.1(h) about cooperation, 41.1(h), the fifth one says, Adhering to agreed procedures. And it does seem that the evidence between the Commission – before the Commission is that there is room for improvement. There's not necessarily a breakdown, but there is certainly room for improvement between the respective organs of state. Maybe that would facilitate in that process.

MAJ GEN JEPHTA: That is my recommendation, Commissioner. I've made that recommendation earlier on, if you heard the Advocate, that I would suggest that we come with a Memorandum of Understanding, that we do not – you know, that we're on the one page when we do things.

To do inspections together with the Inspectorate, it would help because it would alleviate pressure of another inspection while it can be one kind of inspection on the station, because if you have an Inspectorate inspection this week and next week you have a DOCS inspection, and the following week you've got an internal audit inspection, and that – if you can at least have two inspections as one it would definitely assist.

MS BAWA: You (intervention).

COMMISSIONER: Sorry, may I just ask – are you aware of any such Memorandums of Understanding or agreements being entered into in any of the Provinces, or would this be a new initiative?

MAJ GEN JEPHTA: I'm not aware at this stage. I don't know whether there is, Commissioner.

MS BAWA: Can I also draw your attention to the guidelines to the optional protocol to the Convention against Torture, of which South Africa is a signatory. And it seems that the guidelines to this requires some form or measure of unannounced visits to places of detention. I simply leave it at that, as one of the things that there may well be room to not disrupt service delivery at the station, but that our international obligations may very well require some sort of inspections of police cells as they do with prison cells.

MAJ GEN JEPHTA: Yes. I agree with that. Commissioner, what we have with Inspectorate in place that we have unannounced visits. Now there is – there is a difference between an unannounced – an inspection and an unannounced visit.

An unannounced visit, we do not produce Inspectorate reports. We visit the station exactly for the reason that the Advocate has indicated, we visit the station to look at those operational things, things that are in operation, because we have access to the station's operational plan. We know exactly on a Friday evening from 7 o'clock till 2 o'clock they are going to have an operation.

So Inspectorate would go and visit to see if the deployment is as (intervention) have planned where the people are. The same is going into the cells then at any times. That visits, unannounced visits – like I say, then we do not interrupt and say we want to see this register, we want to see that register, but we look at the current operation in front of us and we see whether that is of standard.

So there is a difference between inspections and an unannounced visit.

MS BAWA: Can I – I wasn't very clear on that. What is required is that such visits be done by independent parties, not police.

MAJ GEN JEPHTA: If you have looked at – and now you extensively look at our operations – ag, at our visits after hours, and you've spoken to the Station Commander and they've testified about what we have written – what we have written and what we have found. So the findings from SAPS, we do find the mistakes. You've seen the reports. We do find non-compliance. We are capable, and we do have the capacity to do so, Commissioner.

MS BAWA: Can I also say one thing, and I'll run through it quickly – a quick glance at your Inspectorate reports would show that you look at the number of categories, under visible policing you look at SCCF, you look at crime intelligence, you look at the impact on crime, domestic violence, trauma rooms, volunteers, Sexual Offences Act, arrest and detention, cell register, after hour visits, search registers, sector policies, partnership policies, social crime prevention, DPO, firearm control, liquor, exhibits, SAPS 13.

On detectives you look at command and control across the board. You look at the experience of detectives, training needs, crime office, workload, registers, court registers, after hours tracing register, photo albums, CAS integrity, management of dockets, CAS dockets, inquest dockets. On human resource management you look at command and control. You look at resource allocation, both human and vehicles and other equipment. Duty arrangements, human resource developments, employer records, unfit to carry firearms, street survival, complaints against police. You look at absenteeism, sick leave, reports by Section Commanders, time-use inspections, trainings, RAGs, placement of members.

Under finance, you look at command, RAG, allowances, public holidays, payrolls, claims, reservists, detainees, telephones, cellphones, budgets.

Under supply chain you look at personnel utilisation, command and control, facility management, control over State property, day to day management, safety health and environment, loss management, vehicle fleet management, after hours monitoring of drivers' licences, and this seems to be the format that is followed roughly in your inspection report.

It's not an entirely clothes list. This is not simply an administrative exercise. You look at both administration and operational issues when you do your Inspectorate reports. Do you agree with that?

MAJ GEN JEPHTA: That's dealing with inspections.

MS BAWA: That's when you do inspections.

MAJ GEN JEPHTA: That's when we do inspections. It's correct, Commissioner.

MS BAWA: Alright. So – so you look for – you don't simply look at – your inspections are pretty comprehensive of a police station. I'm not saying you cover everything, but I'm saying you look at the day to day issues. If I should measure that up against the performance plan, or the performance of a station, or the performance agreement of a Station Manager, can you basically touch on the heart of what's contained therein when you do an inspection. Would you agree with that?

MAJ GEN JEPHTA: That's correct, Commissioner.

MS BAWA: Right. When – when they – how are inspection teams put together? Are they permanent employees in the Inspectorate?

MAJ GEN JEPHTA: Commissioner, there's a Provincial Head for Inspectorates, Brig Solomons, who has got a team of 44 members. And he would put them together according to their skills. We have very competent people in the Inspectorate with long years of experience that has been Station Commanders as well. Some of them has been Station Commanders. Others has been Branch Commanders. Others has been – have been visible police.

So there's a vast – so they would put a team together according to their skills. A team leader would normally be a Colonel, a full Colonel, and then he would have a team that would have experience in the different things that (indistinct) the different officers.

MS BAWA: As I understood your evidence on performance evaluations of the Cluster Commander, I would understand totally that the performance evaluations in Khayelitsha over the past two years were difficult because the Cluster Commanders came and went, and Gen Ndlovu was quite ill.

But as a norm, putting aside the experience that you've had with Khayelitsha, if you have over a period of time significant concerns raised by the Inspectorate that is brought before the DPCs when they consider performance evaluation, would that impact on your Cluster Commander evaluation?

MAJ GEN JEPHTA: It would, Commissioner, yes.

MS BAWA: Now, your Cluster Commander is evaluated after the Cluster Commander evaluates the stations and after the stations is evaluated. Is that correct?

MAJ GEN JEPHTA: Correct.

MS BAWA: You could very well then have a situation where you as the Deputy Provincial Commissioners grade the Cluster Commander down to a 2, whereas the Cluster Commander's given the very line function or hasn't performed a 3. That could theoretically occur.

MAJ GEN JEPHTA: Commissioner, and I'm honest – this happened with the first assessment. When we did it the first time, it happened. The Cluster Commanders were shocked. They did not agree – we had people that has lost disagreements left, right and centre, while I had the (indistinct) of evidence in front of me. It happened in the first time. After that, no more.

MS BAWA: But if – but if one looked at the Inspectorate reports coming out of Khayelitsha, taking into account all the difficulties that you had, if you had a Cluster Commander that had been regular – and I know what you say about Acting Commanders being held accountable as well, but it is incredibly difficult when somebody's acting for three or six months or five months, to really get into the job – if you had a Cluster Commander who'd been there, set, for three years and you were getting those kinds of Inspectorate reports, it would certainly affect that Cluster Commander's evaluation.

Would you agree?

MAJ GEN JEPHTA: Commissioner, I definitely agree with that, because it would give the specific Cluster Command time to go and implement, to go and put

systems in place, and that. And it's unfortunate because what happened to the Cluster Commander, she got very ill, gravely ill. She got very, very ill. And, unfortunately ...

MS BAWA: Can I understand, what do you understand by civilian oversight?

MAJ GEN JEPHTA: Civilian oversights by a specific body or by ...

MS BAWA: Well, the Constitution contemplates civilian oversight of the police force. And I want to know what you understand by it. I'm not asking for a legal explanation. I'm asking for an explanation from a senior police member of 32 years' experience. Firstly, tell me something – should there be civilian oversight of police?

MAJ GEN JEPHTA: I totally agree. The police needs to be kept responsible. We are in – we are indeed serving the community, the civilians out there, Commissioner. And I totally agree there should be civilian oversight, yes.

MS BAWA: Okay. I'm not convinced we have civilian oversight, and that's why I'm asking you what do you understand by civilian oversight.

MAJ GEN JEPHTA: What I understand is that the community will keep SAPS responsible for service delivery, that they would – they should know what is happening within their area with regards to safety and security of a specific community.

MS BAWA: But you usually set in place structures to ensure civilian oversight, and the two structures that appear to be in place is the Secretary of Police, or based in the office of the National Minister, or in the way it's structured it can hardly be regarded as civilian oversight. Do you have any comments on that?

MAJ GEN JEPHTA: No, Commissioner.

MS BAWA: Okay. And your second – your second kind of civilian oversight is actually another organ of State, or in itself has certain responsibilities that it needs to comply with. And so I ask the question in the context of the following: are you familiar with the CIVOCs which is created under the SAPS Act, the civilian oversight of the Metro Police?

MAJ GEN JEPHTA: No, Commissioner. I haven't seen that.

COMMISSIONER: What happens with CIVOCs, as I understand it, and I stand to be corrected, but effectively it's a group of, by and large, senior retired people who have oversight over the Metro Police. They can see pretty well any documents they want to see. They are people from – who have had experience in the safety and security sector, senior retired police officers, but also people who've been very involved in Community Police Forums and so on.

And they're really there to be a – to ensure oversight and to work in, I suppose, an oversight role in relation to Metro Police. We don't have any similar structure in the Province or at police station level in relation to SAPS, you'd agree.

MAJ GEN JEPHTA: No, Commissioner.

COMMISSIONER: Okay.

MS BAWA: In Comments, you said you made a distinction between the conditions of the stations before 2012, and the conditions after 2012. What is the main distinction between the conditions before 2012 and that now?

MAJ GEN JEPHTA: Commissioner, before 2012 you would have gone into our

stores, and you would have gone into a – a SAP 13 stores, you wouldn't have seen the order that you've seen when you came there. You wouldn't have seen the order. You've seen order, you've seen – you've seen actually structure in our building. You've seen, when you walk into the CSC, from the CSC you go into the crime office, or if you are a traumatised victim, you go into the victim support service. You would not have seen that service chain, if I want to say.

The service chain was not present before 2012. Indeed, it is present now. It was present, but it was not – it was there, but some of the systems did not work. It is working.

MS BAWA: Would you be concerned if report after report, and not only your Inspectorate (intervention) but now you sit as Deputy Provincial Commissioner, and you sit in a meeting and your Inspectorate report comes and say we're battling to get second level command and control, and you have your finance people coming and saying of the stuff that's got to be oversight, there's no second level inspections. And you come to your persal and your persap and your human resource people value, there is no second level inspections. Would that concern you?

MAJ GEN JEPHTA: In my position – which position are you talking of?

MS BAWA: Your position as Deputy Provincial Commissioner.

MAJ GEN JEPHTA: Deputy Provincial Commissioner, when I am now.

MS BAWA: Yes.

MAJ GEN JEPHTA: Operational Services.

MS BAWA: Yes.

MAJ GEN JEPHTA: Okay. Operational Services, not where I was previously.

MS BAWA: Yes.

MAJ GEN JEPHTA: Okay. It will definitely concern me, Commissioner.

MS BAWA: How would you go about fixing that? This is test for the new job!

MAJ GEN JEPHTA: This is the test of my new job. Now, Commissioner, I've indicated I am the person, the one General, I don't know about – I'm speaking for myself, that things that people hate to love, they know my approach, they know that I'm here to do my job, and unless they prepare the report because I know where it comes from, and how it's compiled, it will not pass my desk. I noticed. Work will be done from an Inspectorate report, and people have to account.

MS BAWA: Can I draw something to your attention again. Col Visser gave us a report dated 20th November 2013, which was the assessment regarding the poor performance of all serious crime during the first quarter of two thousand – 2014, 2013/2014 financial year. I want to draw one comment in the report. It says in page 11 of the report – if you go to the very last page of the report, sort-of midway through the Comments. Are you there? The last page, it says Comments.

MAJ GEN JEPHTA: Ja. Yes.

MS BAWA:

“By direction of Major General Jephta, the legal office created a training programme on unlawful arrests and detention. Information sessions were provided to Khayelitsha CID. These sessions will also be rolled out to the other two branches.”

Is that the kind of instructions that you put in place when you see things are not going too well?

MAJ GEN JEPHTA: Can I explain to the Commissioner where this instruction comes from, and in what context this instruction was given, Commissioner?

We had a session and because I had put a risk management plan in place for the Province, we had a session with our legal services that presented to us the picture of civil – civil place. Now, Khayelitsha was one of the stations that attended. There were various – there were – I've actually done this with a presentation through all stations. At that time Khayelitsha was part of it.

And I have indicated, actually, to all stations that attended, because our civil claims are high for unlawful arrests, that all stations should go and implement. And I have given examples. There are acts and everything, and that our legal offices then must take responsibility for – start training the people to prevent civil acts. This was one of the issues raised in that meeting, yes.

MS BAWA: Can I put another thing along, and you can comment on it, which might be out of your scope entirely. One of the things that we've experienced with the Commission is a lot of goodwill from the professional sector. We've had a number of professionals who are prepared to assist us in simply putting information before the Commission. We've also seen a number of non-Governmental interests – non-Governmental organisations have a great interest in wanting to improve policing, and want to make a contribution towards improving policing.

They have skills. Should we not look at getting more of them involved in developing training programmes that can be used by SAPS?

MAJ GEN JEPHTA: Commissioner, we have, with the Trans Gender training manual which is still in a draft form, we have roped in various NGOs and civil society to compile the manual for training. We have ran quite a few of those training programmes. But it needs to be properly planned, it's an HR responsibility. It needs to be properly planned, go through legal services. It's a process to get it going, and it needs to be part of the training plan.

We have seen that when you go to the station and look at absenteeism you will find that many people are either on a course or they're on leave. And we do not just want to give training left, right and centre. It will take our people just out of the operational environment.

MS BAWA: You must understand me, General. May I interrupt you.

MAJ GEN JEPHTA: Maybe – if I can complete, please, because I'm getting to where you – where you want me to be, I think. We can consult if we put such planning together with the National office, HRD office, to make it part of the curriculum of an already existing programme, training programme, to make it part of the curriculum so when a person goes to course it's not an extra course, it is part of a course.

So when you go on a CSC course, and you want customer service to be part of it, this kind of recommendations we can do.

MS BAWA: Well, that's a good one, but that wasn't where I was going.

I was actually thinking, for example, if you took the domestic violence experts who put together an A, B, C, and I'm not saying SAPS doesn't have it,

and they put together an A, B, C, or a dummy's guide to domestic violence on a programme that's put onto a DVD that is made available at a station by this NGO.

Obviously I'm not saying SAPS mustn't vet it to make sure that it's properly done. So that the next time the poor guy at the back of the counter, who hasn't got the DVD, right, he doesn't have to go off to Paarl for a course and disrupt your training session. His – part of his sensitising that you do where he's talking to it, is to say to him, right, you've now got to sit and watch this DVD on your own time, and make sure you get this right. And that's where I'm going with it.

MAJ GEN JEPHTA: I'm sure it is a good proposal, and I will definitely support one like that.

Currently what we have, you have when you – when you visited the station you have witnessed a domestic violence room specifically where the – and what you're saying is that we've got the flow chart from reporting right through. We have the flow chart there.

But a cop can even just have it as an App. You must even go so far as to put it as an App on his 'phone, because he cannot access the DVD when he's in Delft, when he's out in the field. But if he have his cellphone with him, he can put it on the App.

And that App we can actually develop for everyone in the community, Commissioner, because then in the same time as we train the police we develop the community as well.

MS BAWA: You see, General, now we're on the same page! Let me take you to the task team. As I understood it, when General Lamoer met with the task team, you were not here. You were away.

MAJ GEN JEPHTA: Correct. I was not here

MS BAWA: I was very taken aback that when the task team did this inspection in Khayelitsha – and, by the way, it appears to have been an unannounced inspection – the Cluster Commander wasn't there, none of the Station Commanders were there, and I think only one of the senior personnel was there. Should I be surprised by that?

For the five days that the task team was in Khayelitsha there was, I think – I tried to double-check – but only Col – either Col Swart or Col Marais was there. One of them. But nobody else of the senior people were there. They were off for a variety of different reasons, but they were just not there. And here we're looking at the entire Khayelitsha area, and all of them are off.

MAJ GEN JEPHTA: Commissioner, I did not go into that to see where they were and why they were not there, so – there are reasons why people are not there from time to time. There are many times that we in the Province, all of us go together to a meeting in Pretoria, and then we are not here for a couple of days. That doesn't mean that the work stands still and the systems does not work. The work goes on and the systems goes, because delegation falls in place immediately when a senior member leaves.

MS BAWA: Is your evidence that you are mandated to give the report to the DPC and the others, which I understand is Gen Jacobs and you were told by Gen Lamoer to pass the report on to them – did the report go to Brig Solomons

as well?

MAJ GEN JEPHTA: No. It did not go to Brig Solomons, Commissioner. My instruction was that it goes – that I received from my Provincial Commissioner – that it goes to the Deputy Provincial Commissioners.

MS BAWA: Are you – because the subsequent Inspectorate reports which are – which are then concluded subsequent to the Tshabalala task team report, there's no mention, it makes no reference, or doesn't seem to follow up on that report at all. And I understand the distinction between the two reports.

MAJ GEN JEPHTA: No, Commissioner.

MS BAWA: And it's like – at the time Brig Solomons' teams went to do subsequent reports, they were not aware of the Tshabalala report findings.

MAJ GEN JEPHTA: I did not circulate the reports to the Inspectorate, Commissioner.

MS BAWA: Why not?

MAJ GEN JEPHTA: I had an instruction from the Provincial Commissioner that it goes to the most senior people. We must remember that this is an – the Inspectorate is responsible for inspecting and bringing out the report. That is Inspectorate's responsibility. It is not Provincial Inspectorate's responsibility to do a follow-up inspection on an inspection that is conducted by National. It is a National office responsibility to do a follow-up inspection on their own inspection. And it is not Provincial responsibility.

MS BAWA: Did you read the report?

MAJ GEN JEPHTA: I have read the report, Commissioner.

MS BAWA: No, no, did you read it at the time when it was given to you?

MAJ GEN JEPHTA: I've read the report when it was given, Commissioner.

MS BAWA: And the Inspectorate fell under your control. As I understood it, the General asked you, requested to study an intervention in area of responsibility.

MAJ GEN JEPHTA: I had to give it to the Operational Deputy Provincial Commissioners.

MS BAWA: An Inspectorate is not operational?

MAJ GEN JEPHTA: Inspectorate is not – they're not the operational, Commissioner.

MS BAWA: Are you aware of any steps that was taken subsequent to the task team report, as a consequence thereof?

MAJ GEN JEPHTA: I don't know what steps you are referring to, but I know that the Deputy Provincial Commissioner has put teams together and they went to go and visit the station – the stations, and they went into their environments and they have taken certain actions within their environments.

They have furnished me with what they have done.

MS BAWA: Has any dismissals resulted as a consequence thereof?

MAJ GEN JEPHTA: No, Commissioner.

MS BAWA: I'm not – it's not a trick question, because we actually have a statement that says:

“Both the National Commissioner and I take seriously the conclusions of the task team [that's the Minister speaking]. We are assessing the failures highlighted in the task team's report and will

seek to address them with the assistance of the Provincial Commissioner and his management team.”

That’s at 2052 of the record. And then at 2066 at paragraph 69, it says:

“The task team established by the National Commissioner found many cases of misconduct, and policemen were subsequently dismissed.”

And that seemed to be incongruent with the evidence we have.

MAJ GEN JEPHTA: Okay. I don’t know – I don’t know of any case. I don’t say that it did not happen. I don’t know of any case, because I’m not – I’m not responsible for that part of the work. So I can’t say. I don’t know if there was anyone dismissed.

What I know is this: it’s not a Standing Order 6 report on which it is on that report – if it is on that report, it is not a Standing Order 6 report.

MS BAWA: Let me turn (intervention)

COMMISSIONER: Ms Bawa, how much time have you ...

MS BAWA: I need ten minutes to just finish the IPID stuff.

COMMISSIONER: Okay.

MS BAWA: Can that work?

COMMISSIONER: Okay.

MS BAWA: Right. And maybe one other question!

COMMISSIONER: (intervention) that’s good.

MS BAWA: Then I’ll be done! General, we need to do this quickly – I’m being put under pressure here. You’re be having regular meetings with representatives of IPID. For how long has that been going on?

MAJ GEN JEPHTA: It is not myself; it is the office of Brig Solomons’ representatives there.

MS BAWA: Yes. The ...

MAJ GEN JEPHTA: We – we have started in 2012 already. Yes, Commissioner.

MS BAWA: Okay. And are the representatives of the Department of Community Safety part of that meeting, or is it a separate meeting that you have with them?

MAJ GEN JEPHTA: This meeting that we have with the IPID is with regards to cases that has been referred to IPID, and to make sure that our data bases correspond with one another. So it’s IPID-related specifically, Commissioner.

MS BAWA: This – this data base that you handed up to us, which was SJ9, 8 and 9, when was it generated?

MAJ GEN JEPHTA: We started to generate this just after my instruction on the 26th April in 2012, Commissioner.

MS BAWA: Is there a reason why it wasn’t included in the documentation provided to the Commission?

MAJ GEN JEPHTA: I’m not sure what the Commission has asked on the IPID, Commissioner.

MS BAWA: Well, I can tell you that from the Provincial Commissioner’s office, numbers 3.8, 3.9 and 3.10:

“All books and/or documents reflecting complaints and reports referred to and from IPID in terms of Section 29 in respect of the three Khayelitsha police stations, as well as books and/or

documents indicating subsequent progress including when and how such complaints were resolved.”

I would think on a simple reading that would include that which is generated out of your office in respect of the IPID complaints?

MAJ GEN JEPHTA: Commissioner, we did not understand that as such. But the documentation has been there since – you’ve seen the instruction date; it’s been implemented.

MS BAWA: On your instructions, there’s a specific instruction that deals with your notes of April 2012. You exclude domestic violence. I’m sorry, I’m now just looking for the ...SJ? 7. Paragraph 4. Let me – sorry.

MAJ GEN JEPHTA: Can I just rummage through what I have in front of me, Commissioner, if you allow me, please, to just get what the Advocate has got in front of her.

COMMISSIONER: Certainly.

MAJ GEN JEPHTA: Now I don’t know why I’ve written so many letters. I never knew I would be questioned like this.

MS BAWA: I’ve heard Brig Solomons say the same thing. I hope it’s not going to stop you from (intervention)

MAJ GEN JEPHTA: But I’m glad I had done it, Commissioner.

COMMISSIONER: So are we!

MAJ GEN JEPHTA: I have it in front of me.

MS BAWA: Under paragraph 4 you say:

“A point of note is that incidents referred to in the Domestic Violence Act and National Instruction need not be reported to the Provincial IPID office unless the domestic violence incident relates to the abovementioned.”

Is that consistent with the Domestic Violence Act?

MAJ GEN JEPHTA: It is consistent with the IPID Act, Commissioner. This – I’ve used the IPID Act. I did not use the Domestic Violence Act.

MS BAWA: Well, in terms of Section 18(4) of the Domestic Violence Act, it was subsequently amended by the Civilian Secretariat Act, and it also came into force on 1 April 2012.

“The failure by a member of the SAPS to comply with an obligation imposed in terms of the DV Act or the National Instructions referred to in Section 18(3) of the DV Act constituted misconduct as contemplated in the SAPS Act and the ICD had to be informed of any such failure reported to the SAPS. Unless the ICD directed otherwise in any specific case, the SAPS had to institute disciplinary proceedings against any member who allegedly failed to comply with an obligation.

Every six months the ICD had to submit a report upon regarding the number and particulars of matters reported to it in terms of sub-section 4(a), and set out the recommendations made in respect of such matters.”

And then the National Commissioner of SAPS in turn had to submit a report to Parliament every six months and this job was taken over from 1 April

2012 by the Civilian Secretariat.

MAJ GEN JEPHTA: That's correct, Commissioner.

MS BAWA: So is the note that you put in here that you don't refer it to the Provincial IPID office, do you refer it to the Civilian Secretariat?

MAJ GEN JEPHTA: Commissioner, I have testified earlier on that we have a committee with the Secretariat, Provincial Secretariat, where the domestic violence, the specific complaints of domestic violence, is dealt with. So we have a system in place where that is done. Also that the Secretariat also has got specific inspections that they – that's directed at domestic violence that they conduct at our stations, of which we get regular reports from them on that. So that is in place with the Department of Community Safety.

MS BAWA: On the – on the IPID question, we as a Commission asked IPID for the complaints which they had investigated for the last three financial years, and we got lists of them, both of the ones that are completed and the ones that were pending.

I haven't had an opportunity to study your table. We may ask a written question or two emanating from that if Advocate Arendse has no difficulty in relation thereto, because we haven't really had an opportunity to study the table you provided today. Do you foresee any difficulty with that?

MAJ GEN JEPHTA: No, Commissioner.

MS BAWA: Okay. The ...

MAJ GEN JEPHTA: Commissioner, just on the table, seeing that it is on the table, can I just make a rectification, please. The question that the Advocate has raised with regards to number 9.40 on the document. I think it's SJ9. On the document, it is indeed a typing error. It is a typing error. I have proof here that it was sent on the 26th of November 2012. Let me just get my proof – if the Commissioner allows me to hand it in.

COMMISSIONER: Ja.

MAJ GEN JEPHTA: Then I'll do that. So it was indeed – it is a typing error. Thank you very much, Advocate. You're very observant.

MS BAWA: There is a – sorry. And I'll come to my last two questions before I get kicked off the microphone. General, while we're busy giving that out, there is a different reporting mechanism set up between SAPS and IPID and between SAPS and DOCS. If I look at this table, maybe if you can see it, as I understand, DOCS sends you a complaint that they received in a table, and you send it back with the last column, with an answer to the complaint once an investigation has been completed. Is that correct?

MAJ GEN JEPHTA: That's correct. That's correct.

MS BAWA: I've become a little bit of an investigator since we've embarked on this process, and I had the same thought you did.

So what we did, I think it was mid-January, after we started out, we had this list from DOCS. And we had the numbers. We had the 'phone numbers of the complainants for the month of October 2012. And we got our administrator to 'phone those complainants to find out if they were satisfied with the process. And we got a mixed result.

We either couldn't reach them because their 'phones weren't working.

They were very happy, the Station Commander, and it was credit to Col Reitz, called them in, sat them at the table, sorted out the problem. And there were those who were not satisfied at all.

And I think out of the list of – I don't want to misrepresent it, but I think of a list of 11 that we called, there were four or five that fell into the latter category, for which we actually – who actually came into the Commission to give statements.

I raise this because no system is foolproof, but it does seem that, as part of oversight monitoring, one of the functions that does need to be performed is a check-back, even by DOCS, of their own complaints to see whether it has been effectively dealt and, if not, what then.

MAJ GEN JEPHTA: I fully support that when we send our feedback to DOCS that they do that check. I fully support that, Commissioner. I mean, we have started – we have started that, with that, in our environment too, because there were one or two, a few complainants that came back to us and said, hey, we're not satisfied with that.

But we must also know that we've got chronic complainants out there. We have people that you will never satisfy. So I in particular have – and I can – I'm not going to mention any names here, but I have them at the top of my head.

MS BAWA: I did not include him on that list! I'm entirely sympathetic to SAPS and DOCS in relation to that. But I can tell you now, that was not included in the list.

MAJ GEN JEPHTA: Okay.

COMMISSIONER: Can I just pause and say that these two documents that you've submitted to establish the incorrect date in relation to 9.40 will be admitted as SJ11 in relation to the notification of deaths in custody, and SJ12, which is – I can't see if it's got a reference number – it actually seems to be identical, when I actually look at it.

MAJ GEN JEPHTA: The one is just a confirmation of the fax, that show the date that it went through.

COMMISSIONER: Oh, that it was actually – so the one is the fax cover sheet, and that's SJ11. SJ12 is the actual report.

MAJ GEN JEPHTA: Ja.

COMMISSIONER: Thank you.

FAX COVER SHEET FOR REPORT OF NOTIFICATION OF DEATHS IN CUSTODY HANDED IN AS EXHIBIT SJ11

REPORT OF NOTIFICATION OF DEATHS IN CUSTODY HANDED IN AS SJ12

MS BAWA: And ...

COMMISSIONER: You're done, aren't you, Ms Bawa?

MS BAWA: No, I've just got one question, and it's the new job question.

COMMISSIONER: Okay.

MS BAWA: General Jacobs made a submission on Friday that operationally – sorry. That operationally he put forward a strategy, and he said if you decrease crime, you bring your detective load down. You bring your new case load down that the detectives have to face; you automatically would find that you would increase your convictions, and if you increase your convictions then your perpetrators stay in and you have less crime.

That's an almost circular proposal that was put to the Commissioner on Friday. Do you agree?

MAJ GEN JEPHTA: I totally agree with that, Commissioner.

MS BAWA: How are you going to achieve that in your new task coming up?

MAJ GEN JEPHTA: Advocate Bawa, why should you be like that with me! I think first of all, Commissioner, that South African Police Service cannot do this alone. And I'm the first one saying that. And I would like, coming from the Commission, some proposals as specifically – and it will help me in crime prevention – with community development.

I have been tasked by the Provincial Commissioner last year to be the champion of the Women's Month, and I've tried one specific project which I feel should really be implemented throughout. I had done it with the DNA project where we've gone into the communities with our sector managers. We've identified certain hot spot areas, and we got the community together, we give them training as the first responder to crime. They are there before the police, and then they see it happen, they're there, then they call the police. If we – and for me crime prevention, the approach of crime prevention through development, will bring about Adv Bawa has just said.

You know, I need some thought. I've actually – I've thought about it, I had a meeting, my first meeting with the Cluster Commanders on Wednesday, and this is what I told them; I want crime prevention through development.

And if this Commission can assist with crime prevention through development – it is amazing what comes out when we do that training, where people would say but I pick up so many bullets, I've done this, I've done that. They contaminate our scenes before we get there, and if we can get a scene that's protected by the community, where we can go in and collect the evidence needed so that we can get a conviction, it will help right through the value chain.

In all aspects it would help my first responder, because, yes, in Khayelitsha it is a reality, Commissioner, when our cops come to certain complaints there's already a crowd. So they can't get to the crime scene. The crime scene gets contaminated. They first have to do crowd control and call in help before they can get to that scene. And by the time when they get to that scene, there's no scene for them.

So I think, Commissioner, if – and that would be the approach throughout the Province, through community development, contravention through community development and partnerships. And I have learnt there would be no partnership without a Memorandum of Understanding.

So every partnership that would go in would be with a Memorandum of Understanding so that we can ensure when we partner with people, we partner with people that's going to make a difference within the community, and that it's not people that is there for their own personal gain, but is there to make a difference within the community.

MS BAWA: Thank you, Commissioner.

NO FURTHER QUESTIONS BY MS BAWA

COMMISSIONER: Thanks, Ms Bawa.

MR PIKOLI: Thanks, (indistinct). Just on the last point, the one that relates to the

partnership with the community in playing a role in crime prevention.

Now, we have had lots of evidence of assessments being made on the problems relating to the physical design or environmental design, these relating to road infrastructure, housing, sanitation problems. And these fall beyond the community. And this seems to be confirmed also in the annual report of SAPS, 2011/2012, which also speaks of the partnership with the community, without there being any mention of the other Departments that have such a responsibility.

Can you explain this then?

MAJ GEN JEPHTA: Commissioner, if you look at the National Crime Prevention strategy, it makes provision for all Departments to take responsibility for crime prevention. And what I would like to see in the Province is that there is a structure on DG level where specifically that integration, Provincial integrational safety plan is developed under the DG and managed by the DG, where SAPS is part of it and all other Government Departments is part of it.

Yes, we do not have control over the Provincial Departments as Provincial Departments don't have control over SAPS, but I think if there is somewhere in the DG's office a plan where we develop altogether, look at everything that has been presented, and specifically the environmental factors, so to enable us to do policing through environmental – environmental policing together and that we agree to that plan and we drive it together, it will definitely have an impact, Commissioner.

MR PIKOLI: Why I mention this issue that I've seen no record of SAPS having engaged the other relevant Departments which will certainly make your work easier in terms of crime prevention. In the annual report, this is not mentioned. You just refer to community support or community perception.

MAJ GEN JEPHTA: Okay. Commissioner, maybe there's an oversight from the report which is a good observation from the Advocate. We have a Memorandum of Understanding for the education of – and it's a National Memorandum of Understanding with the Department of Education – which we have implemented within – in the Province. There are various strategies that we have in place with other Government Departments for development that we – Department of Justice that we sit with.

So we have programmes and we – specifically when it comes to crimes against women and children, there are different forums that we engage with in the Province.

But I think it needs to be more formalised.

MR PIKOLI: Just as a last follow-up on the same issue; All these problems were identified as far back as 1996 when the NCPS was adopted by Cabinet. And people are still having serious problems of crime. It looks like this matter is not really being addressed appropriately.

MAJ GEN JEPHTA: Are we referring to – are we referring to Khayelitsha, or are we referring to people? I just want to make absolutely sure before I comment on your statement.

MR PIKOLI: No, no, no. It's not only Khayelitsha that is affected around this issue. But since we are dealing with Khayelitsha, it's the same problem.

MAJ GEN JEPHTA: Commissioner, we must remember that if there's no people

there would be no crime. The crime moves with people. And we will always have crime. The police, as police, we cannot eradicate crime totally. It will always be there. And the tactics of criminals change from time to time – their *modus operandi* change, and that. It will always be there. And if you have been a victim or a person close to you has been a victim, you will even feel it – feel it more.

We have seen, in terms of the statistics since 2004 – let's go back to 1994, how the police had brought down crime effectively. And, like I say, with people comes crime. We expect if there's more people that crime will come down. In fact, if there's more people, crime will go up, because more people generate more crime.

COMMISSIONER: I just want to ask a technical question. We were provided with a copy of the FCS inspection report last week by Brig Harri. My understanding is that that's not in fact done under the Provincial Inspectorate, is that right? That the specialised units are not subjective in the same way. It doesn't seem quite like that from Standing Order 6, which is why I was just wanting to have clarity.

MAJ GEN JEPHTA: Ja. Commissioner, I just want to say now, if you look at Standing Order 6, my Inspectorate inspections exclude line managers' inspections.

COMMISSIONER: Okay. So that wasn't an SO6. But would you as the Inspectorate – it talks about office or station, I think. Would you do an inspection of the FCS or not?

MAJ GEN JEPHTA: On the request of the Provincial Head, I would do, Commissioner, and this inspection report was brought under the attention of Brig Solomons, so what we have subsequently done, we have included them with our Project 6 approach, and there's a specific operation that they are busy with to assist their line manager.

COMMISSIONER: Within FCS – you know, as you know, the terms of reference of this Commission are to look at all the units that are operating in Khayelitsha. The ones that we have seen most closely have been FCS, which obviously has a very important role to play, and the stations. And we're aware of public order policing, the tactical response teams, canine, a variety of other units.

Do you – does the Inspectorate inspect any of those other units, most of which are not actually based here, but are based in (intervention).

MAJ GEN JEPHTA: It's National – we don't inspect any National units, Commissioner, but if we are requested to do so, we would do. What I know is that our internal audit do inspect them.

COMMISSIONER: Okay. But now, just so that I understand, TRT and public – Tactical Response and Public Order, are they both National units? I thought they were Provincial units.

MAJ GEN JEPHTA: Commissioner, then they're Provincial units, then they're National units, then they're Provincial units, then they're – currently they are Provincial units.

COMMISSIONER: Okay.

MAJ GEN JEPHTA: TRT has never been a National unit. It is always here, and you would get the TRT on cluster level.

COMMISSIONER: Okay. And then, finally, the laboratory that's situated in ...

MAJ GEN JEPHTA: Parow.

COMMISSIONER: In Parow, yes. That would be – that's a National ...

MAJ GEN JEPHTA: National.

COMMISSIONER: A National unit.

MAJ GEN JEPHTA: Yes.

COMMISSIONER: And would that be subjected to inspections by the National Inspectorate?

MAJ GEN JEPHTA: By the National Inspectorate, yes.

COMMISSIONER: Okay, Because I mean ...

MAJ GEN JEPHTA: Yes.

COMMISSIONER: Although, again, it's not directly here in Khayelitsha, it does seem to be the cause of quite a lot of difficulty, particularly getting lab reports. I mean, is that your experience as well, is that your understanding?

MAJ GEN JEPHTA: Commissioner, you would have viewed now inspection reports, and I'm sure that ...

COMMISSIONER: It certainly turns up (intervention).

MAJ GEN JEPHTA: Some of those things were found in there.

COMMISSIONER: Okay. Thank you very much.

Mr Arendse, re-examination?

RE-EXAMINATION BY MR ARENDSE:

General Jephta, my colleague, Ms Myosi, had been critical of your response or lack thereof when she called your response callous. Now, I just want to contextualise that.

The report, or the complaints that had been referred to the Premier, had been referred also – or copied to the Provincial Commissioner and your letter of the 7th June 2012 records some of the responses to the complaint, and they are captured – I don't know if you have this letter in front of you – Madam Chair, I'm not sure what – whether this specific letter is marked as an exhibit, or is just part of the bundles.

COMMISSIONER: The letter that's annexed to Gen Molo's Affidavit?

MR ARENDSE: Yes.

COMMISSIONER: Well, you know, the whole of that record has been admitted before us, so certainly when I was looking at it this morning when Ms Myosi was referring to it, I was looking at it as part of the record in the High Court.

MR ARENDSE: Thank you. General, have you got that specific letter?

MAJ GEN JEPHTA: I have it, yes, sir.

MR ARENDSE: I don't want to run through the details because of time, but if you – firstly, the response on the 7th June, you say you were assisted by the legal department, legal services, you know, in the Province.

MAJ GEN JEPHTA: That is correct.

MR ARENDSE: And then the letter really repeats the paragraphs in the complaint for the most part in the whole of paragraph 4, and then in paragraph 6 you record that one of the complaints was actually finalised and was dealt with, and the suspects were apprehended, they were brought to court and they were sentenced.

And then in paragraph 7 you record that Maj Gen Ndlovu had convened a

meeting in her capacity as Cluster Commander of Khayelitsha, a meeting for the 6th December 2011. At that meeting you record that none of the complainants pitched. One of the complainants at the time had indicated that they were no longer part of the complaint.

To date in the next paragraph you record that none of the complainants had since approached the Cluster Command or the relevant stations. You also then say that SAPS is the only State or Government Department that had responded.

Now, it seems to me, from paragraph 6 to paragraph 10, those are all factually accurate responses.

MAJ GEN JEPHTA: That's correct, Commissioner.

MR ARENDSE: And then we've been through this – because you say this response is six months after the inspection reports of 2011, and obviously the inspection reports highlight certain issues, deficiencies, inefficiencies, and Station Commanders are then requested to take remedial action. Or the line managers.

MAJ GEN JEPHTA: Correct, sir.

MR ARENDSE: Now, one of them would have been to ensure that CPFs start working again, or they are working, and your response was that, in relation to CPFs, you were told by the Station Commanders that remedial action had now been taken, and they're up and running.

MAJ GEN JEPHTA: Correct, Commissioner.

MR ARENDSE: Then we also see, just reading from the Tshabalala report that the – it's recorded in the first couple of paragraphs, the complaints had been referred to the National Commissioner and the National Commissioner acknowledged receipt of these complaints and also mentioned that she was considering your report, which is the one we've just been through, dated 7 June 2012.

And we also see from the report that shortly after that a task team had been appointed, and they then met with the complainant – the complainants on the 11th July, 2012. You've seen that?

MAJ GEN JEPHTA: Yes, Commissioner.

MR ARENDSE: And it seems as – in several respects, which my colleague, Adv Masuku, had been through with Brig van Zyl, again a most unfortunate wording here to say that contrary to your report, the complainants were engaged – that when the complainants were engaged, they declined to cooperate. That's not stated in your report of the 7th June 2012.

MAJ GEN JEPHTA: It is not there, no, Commissioner.

MR ARENDSE: And then also there's the evidence from Brig van Zyl himself that this was a first report, a first phase report, and we know also from the court papers that subsequently there was an attempt by the National Commissioner to put together a more comprehensive task team to issue some of the issues highlighted in the Tshabalala report. You're aware of that?

MAJ GEN JEPHTA: I am aware, Commissioner.

MR ARENDSE: Then, just in terms of what the Commissioner Presiding raised with you, that she would be concerned that SAPS also has a duty to listen to the citizens of this country, we know from the SAPS Act that, certainly in terms of the

law, that duty is formalised in the form of requiring CPFs to be established in terms of Section 18 of the Act.

MAJ GEN JEPHTA: Ja.

MR ARENDSE: So crucial to giving effect to that duty, is that you need to ensure, or SAPS as an organisation needs to ensure that you have effective CPFs that are representative of the community.

MAJ GEN JEPHTA: That's correct.

MR ARENDSE: But apart from that, we also know from the evidence here that there's nothing stopping SJC or any other NGO from interacting with the Station Commanders or the Cluster Commanders, or even you or the PC.

MAJ GEN JEPHTA: That's correct. And there's also nothing stopping any organisation that is active in certain communities to join the community CPF structure as well, Commissioner.

MR ARENDSE: Just in terms of the number of complaints, referring to 101 and other – other complaints, so the public can really complain to DOCS or IPID or to the police.

Are you aware of DOCS establishing some data base, in some other way that the public can access them for them to lodge complaints with the police?

MAJ GEN JEPHTA: Yes, Commissioner. We had a presentation, and I'm quite excited about the project – I think I've testified on it – the Reward-a-Cop/Report-a-Cop. Report-a-cop, Reward-a-cop, that can be accessed by any person of the community through – through the Internet, that presented that, and the mere fact why I'm excited about the Project, it just don't look at the negatives; it will actually assist us in our award ceremonies where we award our people for excellent work.

MR ARENDSE: But can you comment on whether this ...

MAJ GEN JEPHTA: No. I can say, in terms of my record, we had only received 20 – 20 complaints from that system, but if DOCS has got a system to ensure that that system is really up and running, it will assist us in terms of – in terms of service delivery a great deal.

What we have found is, when – I've questioned DOCS actually on it to ask why are we not receiving any information from this. I was informed that they're not – they have merged their systems, that system with the current system. And I'm not sure how they merge it – how they've merged it. But I was really expecting information coming from that complaint system so that we can use it, because it is also motivational for our members. And it will improve the motivation and the quality of work. If people can see on the Internet a cop has been praised for good work, just imagine what it can do to the motivation level of our members.

MR ARENDSE: But I think there you've accepted and acknowledged, particularly in relation to questions put to you by Adv Bawa and by the Commissioners, that in order to give effect properly to this Constitutional duty, it's not only for SAPS, but also for other agencies who receive these complaints that what is required is an integrated approach.

Our Constitution, in fact, requires this to be done in terms of cooperative governance. Your comment?

MAJ GEN JEPHTA: I don't understand your – your statement.

MR ARENDSE: No, I'm saying that you've already acknowledged that from these various – that one – there's a Constitutional duty on the police and other agencies to listen to the people. And when they complain, they must listen, not only listen, but give effect to it. And you had the long discussion with Adv Bawa on how best this should be done.

So you acknowledged it and integrated approaches with regards that all agencies pool their resources to make it more cost effective and efficient and effectively give the public what they are Constitutionally entitled to.

MAJ GEN JEPHTA: I agree with that, Commissioner.

MR ARENDSE: The other thing you've dealt with, actually, is the difference between an inspection, especially unannounced. That's more problematic because an inspection, you're talking about covering several areas over a period of days, whereas a visit, you can in fact have a spot visit, an unannounced visit.

For example, where you receive some information either of corruption or unlawful detentions that you can actually stop by unannounced and go into the station and visit the – and look at the cells, just for example, and go into the cells, that is far less disruptive and far less problematic.

MAJ GEN JEPHTA: That's correct.

MR ARENDSE: Thank you, ma'am, I've got no further questions.

NO FURTHER QUESTIONS BY MR ARENDSE

COMMISSIONER: Thank you, Mr Arendse. There was just one thing that we wanted to come back to you about, and I see that Gen Jacobs is here. There had been an offer put to the Commission to visit the Provincial Operational Centre in the city, and we discussed it and thought it might be valuable, and wondered whether the afternoon of the 7th April – we're obviously a little bit short of time at this stage – but the afternoon of the 7th April might be possible, at 3 pm. I'm not sure if that's going to suit (intervention).

MR ARENDSE: The 2nd, or the 7th?

COMMISSIONER: The 7th. Monday, the 7th April. So it's a week on Monday, at, say, 3 pm. I'm sure we wouldn't need longer than an hour or so. I'm not sure if that's going to be convenient, but perhaps you could check with your clients and come back to us.

Would that suit you, Ms Myosi, or somebody from your team?

MS MAYOSI: I'll just have to run it by my leader, Adv Bishop...

COMMISSIONER: Okay.

MS MAYOSI: And I'll revert to the Commission.

COMMISSIONER: Alright. So perhaps we could just liaise through Mr (indistinct), the Commissioner's Secretary, on that date. Thank you.

The one other thing that the Commission would like to see, and that is to visit the site that is proposed for the Macassar police station. That again shouldn't take too long. We don't – haven't actually specified a time, but I wonder if you could raise that with your clients as well. We would like to see the site that's been identified for the Macassar police station.

MR ARENDSE: Very good.

COMMISSIONER: Thank you very much indeed, Gen Jephta, for your evidence and for the various assistance that your office has provided to the Commission

over the last six months or so. You may now stand down as a witness.

MAJ GEN JEPHTA: Thank you.

WITNESS EXCUSED

COMMISSIONER: The Commission will adjourn, and we'll reconvene tomorrow morning at 9 o'clock. Thank you.

COMMISSION ADJOURNS TO 1 APRIL 2014 (at 16:20)