

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: I01-2017

DATE: 2017-07-24, 25

INQUEST INTO THE DEATH OF:

AHMED ESSOP TIMOL

BEFORE THE HONOURABLE MR JUSTICE MOTHLE

ON BEHALF OF THE NATIONAL PROSECUTION

AUTHORITY:

ADV PRETORIUS

ADV MALOTWA

ADV SIGN

ON BEHALF OF THE FAMILY:

ADV VARNEY

ADV MUSANDIWE

ADV FAKIR

ON BEHALF OF THE SAPS:

MR LITHOLE

VOLUME 5
PAGES 330 - 471



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PROCEEDINGS ON 2017-07-24

CLERK: Inquest in the matter of Ahmed Essop Timol. Case number I01/2017.

MR PRETORIUS: As the court pleases, I appear on behalf of the NPA with my colleague Adv Singh, M'Lord.

COURT: Yes.

MR VARNEY: As the court pleases. I appear on behalf of the Timol family together with my learned junior [indistinct].

FEMALE COUNSEL: As the court pleases, M'Lord. I am appearing
10 for the SAPS, it is [indistinct].

COURT: Yes.

MALE COUNSEL: As the court pleases, M'Lord I appear for the witness, Mr Rodriques together with counsel Thompson.

COURT: Okay. Yes, Mr Pretorius?

MR PRETORIUS: M'Lord, like you indicated in chambers it will need some discussion to sort out the full roster. We got a short witness that we can interpose, if that suits the court seeing that you are *dominis litis* in this regard.

COURT: Yes?

20 MR PRETORIUS: We can call Mr Earny Matthis, advocate Matthis, so we can interpose if that suits you, M'Lord.

COURT: Yes, no that is fine, let us proceed.

MR PRETORIUS: Mr Ernest Alexander Matthis, please. M'Lord, just for the record, his statement is in volume C on page 118 to 119.

COURT: Yes.

ERNEST ALEXANDER MATTHIS (duly sworn statement)

COURT: You may be seated, you may be seated, sir. Just make sure that you speak into the microphone.

EXAMINATION BY MR PRETORIUS: Mr Matthis, you are presently living in retirement in KwaZulu-Natal, not so? --- Yes.

You graduated from the university of Cape Town in 1961 and you were admitted as an advocate in January 1962? Is that not correct? --- Correct.

After working as a state advocate for 3 years, you joined the
10 Johannesburg bar in January 1965? --- Correct.

Right now, in 1970 you were briefed by the Attorney General of Transvaal to investigate the affairs of Auto Protection Company, working with the accountants Deloyd & Tush, not so? --- Yes.

So you were doing a prosecution for the state at that stage, is that right? --- Correct.

You were in fact preparing for the prosecution of A N Kramer of Auto Protection, is that correct? --- Correct.

Now, you at a certain stage were in John Vorster police
20 station, either the 4th or the 6th floor, is that not so? --- Correct.

And then I want you to described in your own words, what happened then, while you were working in John Vorster Plein, on that specific case, what happened, tell us in your own words what happened advocate Matthis, please. --- I was standing some distance from the window and I saw a person fall. Then I ... he

landed in a prone position with his arm bended beyond his head. I looked up and I could not see anything, I could not see an open window.

So you saw a body fall past the window? --- Yes.

[indistinct] exactly, and did you rush to the window to go and look? --- Yes.

Did you open the window and looked outside? --- Yes.

And when you looked outside, what did you see, advocate Matthis? --- I saw him lying about a meter and a half from the
10 building, in a prone position.

With his arms above his head, you demonstrated? --- Yes, in the direction of the motorway.

And while the window was opened and you looked through that, did you look up? --- I looked up and I saw no open window.

No open window, and what did you do then? Did you rush down to go and look at the body or what did you do then, advocate Matthis? --- No, I did not rush down. I phoned Harry Swartz in Parliament.

You phoned Harry Swartz in Parliament and you informed
20 him? --- I informed him of what I had seen. He told me subsequently that his announcement caused some consternation in the government ranks.

M'Lord that concludes the evidence that I want to led in brief, M'Lord. Just a second.

COURT: Yes?

MR PRETORIUS: Now after this incident, did the identity of the person that fell and the body that you saw going past the window, did that become known to you at that stage? --- Not at that stage.

And at which stage did you come to know who fell past the window there? --- When I read it in the newspapers.

In the newspapers, and can you just inform us who fell past the window at that stage? --- Ahmod Timol.

Thank you, M'Lord.

COURT: Mr Varney?

10 CROSS-EXAMINATION BY MR VARNEY: As the court pleases. Mr Matthis just a few follow up questions. When you saw the body flying past the window, were you standing or sitting? --- I was standing.

You were standing, and do you recall which section of the building were you in? --- No, I cannot remember.

Was is the south wing, per chance? In other words was it the wing that faced onto the double decker highway? --- No, it was at the right angle to the double decker highway.

Right angle to the double decker highway, so if you were looking out the double decker highway would be to your right hand
20 side? --- Yes.

Do you recall what floor of the building were you on? --- Either the 4th or the 6th. I cannot remember exactly.

Do you remember the approximate time of day? --- No.

Was it morning or afternoon? --- If I were to guess, I would say it was the morning.

When you looked outside you said you saw the body laying prone with the head facing away from the building, in the direction of the motorway? --- Yes.

You also mentioned that ... was it one arm or both arms stretched up? --- No, one arm, the right arm.

So, the other arm was where? Was it underneath the body? --- It might have been, could have been.

And your estimation that the body was laying about a meter and a half from the edge of the building, that is obviously just a rough
10 estimation that you took? --- Yes.

Was the body laying in the garden area, next to the building? --- No, you mean was it laying on the shrubbery?

Yes. --- No.

So it was not laying on shrubbery, was it perhaps laying next to the shrubbery? --- Yes.

So it was in fact in that small garden section that fronts on to the southern wing? --- It was not the small garden section in those days.

I see, but there were some shrubbery and bush perhaps
20 some other vegetation? --- *Ja*.

After you opened the window and saw the body laying prone, can you describe to the court what unfolded thereafter, did you carry on watching and if so, what did you see? --- I have wrecked my brains and I cannot remember anything else.

So do you recall people rushing to the scene, perhaps the

police or medical personnel? --- No.

Do you recall seeing an ambulance? --- No, there was not one, not that I could see.

When you spoke to Mr Harry Swartz on the phone, you mentioned that subsequently he said that there was quite a response to what he had announced in parliament. While you were on the phone with him, reporting what had just happened, what response did he give while you were speaking to him? --- Utter amazement.

Can I just check, after you had spoken with Mr Swartz on
10 the phone, did you then again looked out the window to see what was happening? --- No, not that I recall.

I see, so you only looked out the window on the one occasion? --- As I recall.

So you would not have seen how long the body was sitting on the... at the bottom? --- Obviously not.

My last question, Mr Matthis, is a difficult one because you would only have seen the body fly past the window for a very short space of time, but do you have a recollection of what position the body was in when it was falling? --- It was pointing towards the freeway.

20 As it was falling? --- *Ja*.

The head pointing towards the freeway, and was it... do you recall that it was at an angle, perhaps a horizontal position? --- Horizontal.

Do you recall whether the arms and the legs were flailing or moving? --- No, I do not.

Okay, and did you hear any screams as the body..
[intervene] --- No, I do not recall that. I do not... I did not hear any
screams.

No further questions, Your Lordship.

COURT: Yes, thank you would you like to ask any questions?

RE-EXAMINATION BY MR PRETORIUS: Sir, what were you doing at
that stage in your office, can you recall what you were doing? --- I
was looking at the window.

You were looking at the window for any particular reason? -

10 -- No, by chance.

So, it did not catch your eye, you actually looked at the
window and saw a body falling, was it straight in front of you or to the
side of the window? --- No, it was straight in front of me .

Right, now the position of the body, was the person's head,
was it away from the building, or was he... [intervene] --- Parallel to
the building.

What did you think happened at that very moment? --- I
had no idea, I had no idea what had happened. All I saw was a body
falling.

20 Now, what was your first reaction thereafter? --- I rushed to
the window and I looked out and I saw him laying there.

Did .. the window in your office, was it... is it... can you
describe to the court what the window looked like, please? --- I had
given this some thought, as far as I can recall it was sliding, slid open.

Did it have a solid pane as well, or is it only a sliding

window? --- What do you mean?

Was [indistinct] [15:07 – 16:11 problem with soundtrack]

How long did this whole process take? I mean, did you look up, look down, the body was laying there, looked up then... [intervene]

--- No longer than a minute.

For the whole process? --- Yes.

I see. Thank you, M'Lord no further questions.

COURT: Thank you, on the 4th floor of the building... --- Yes?

Was it a place occupied by advocates, or were you the only
10 one in that ... on that floor? --- No, I was preparing the prosecution of
Auto Protection, the enquiry of Auto Protection and A M Kramer with
the leader.

You had been given an office to consult, or is it usually
where you work, on the 4th floor? --- No, we have been given an
office which was full of books, records of an insurance company.

But then the building was occupied by police, is that so? ---
Yes.

You were only there to prepare for this case, with their
leader? --- Yes, M'Lord.

20 Okay, thank you. Anything else you want to raise?

MR PRETORIUS: Yes, thank you M'Lord. Were you asked to testify
at the first inquest? --- No.

And I just want to understand, when you saw the body
falling past the window, was it legs first, head first, horizontal or how..
[intervene] --- It was horizontal.

Horizontal. And could you notice the limbs of this body moving freely from the torso, or not? --- No.

The last question, was there only one window in this office that you occupied? --- No, there was many.

Thank you, M'Lord.

COURT: Ja, just perhaps a follow up question from advocate Pretorius, apart from phoning Mr... is it Harry Swartz? --- Yes.

Did you make any statement to the police about what you saw? --- Not as far as I can recall.

10 And you never contacted the inquest proceedings to come forward and state what you saw? --- No, no, M'Lord.

Is there any particular reason why you did not do that? --- I was not aware of the inquest.

Oh, okay. No, thank you very much, thank you very much, you are excused.

MR PRETORIUS: Paul Frances Erasmus. M'Lord, we did prepare a statement for the benefit of the court.

COURT: Yes?

MR PRETORIUS: I ask that it be accepted as Exhibit H1.

20 COURT: [indistinct].

CLERK: English or Afrikaans?

WITNESS: English, M'Lord.

CLERK: Your full names and surname?

WITNESS: Paul Frances Erasmus.

CLERK: Do you have any objection in taking the oath?

WITNESS: None.

CLERK: Do you swear that the evidence that you are about to give is the truth, the whole truth and nothing but the truth? If so, please raise your right hand and say: 'So help me God.'

PAUL FRANCES ERASMUS: (duly sworn statement)

COURT: Thank you, you may be seated, Mr Erasmus.

MR PRETORIUS: M'Lord, I can just inform on his way up from the coast to give evidence him and his son was in an accident unfortunately, in a motor car accident, so he is still experiencing some
10 uncomfotability of that, M'Lord, so I just inform the court.

COURT: When was this, today?

MR PRETORIUS: It was on Saturday.. [intervene] --- Friday.

Friday, M'Lord.

COURT: Did you receive any medical attention? Are you proceeding with this? --- M'Lord, I am very comfortable to proceed, I am just very bruised and a bit uncomfortable, so I might not be able to sit for too long.

Okay.

MR PRETORIUS: Thank you, M'Lord.

20 COURT: Okay, no thank you very much, proceed please.

EXAMINATION BY MR PRETORIUS: Mr Erasmus, you were a member of the security branch of the South African Police for 17 years, not so? --- That is correct.

You were mostly based at John Vorster square for that time period, not so? --- That is correct.

You were involved in extensive covert operation for what was then called the 'Blanke Seksie' is that not so? --- That is correct.

Just inform the court, what did the Blanke Seksie entail, what was the job of the Blanke Seksie? --- M'Lord, the security branch was basically divided along racial lines, which I suppose is very much what South Africa was in those years. You had section that specialised in so-called white affairs, one that specialised in Indian affairs, one that specialised in coloured affairs, and of course a very large section that specialised in black affairs, so all matters
10 relating to that racial classification were the responsibility of that section.

You then had your field workers and your investigation branch where any case after the field worker had been done, and your field operatives like I was, or your agents in the field would accumulate information and when it was seen by the state that this could be a case that could come before the court and dealt with by a court it was handed over to what was known as the investigation branch. The investigation branch became somewhat infamous because they were situated on the 10th floor, John Vorster square,
20 and I worked on the 9th floor, John Vorster square.

Thank you, Mr Erasmus for that, we will go into more depth of [indistinct]. In 1993 you were discharged from the police on medical grounds post-traumatic stress syndrome, is that no so? --- That is correct.

But in your 17 years and while you worked at the security

branch, you kept all your case books and the documents pertaining to that? --- That is correct. M'Lord, just for the benefit of the court, these are actually state documents that is supposed to be handed in, but I regarded them as a personal work record, so I just kept them in my cabinet as I moved to other areas within the security branch, I took this amount of documentation with me.

But that is extensive documents and extensive case books that you kept with you, the original ones? --- Yes, it is my full record of 11 000 cases that I investigated or was involved in during my 10
10 years in the security police.

Okay, you gave evidence before the Goldstone commission, not so? --- That is correct.

And you also applied for amnesty before the TRC? --- That is correct, M'Lord I applied for 80 incident involving some 500, I think 526 criminal offences, for which I was given, for the bulk of it, amnesty and in a few instances amnesty was denied or could not be given because of the circumstances.

Okay, I want to move over before [indistinct] first your fields of operation and dirty tricks. You were more a field operator and you
20 had to work after hours, not so? --- That is correct.

Can you please inform the court, did you have to put pressure on suspects and did you became aware of any dirty tricks, tell us in your own words how that progressed? --- M'Lord, as a very young man, I entered into a world at 19 or 20 years old that I did not know existed. Obviously very attracted by those James Bond type

secret agent thing. My immediate commander was a colonel J H L Jordaan, he came into my office the one day and he closed the door and he said to me the young guys go out at night and they go and monitor the suspects and he said sometimes they are naughty. He said because you know that these people are the biggest threat to our South African way of life, he gave me this long speech, which I recall with some detail, about what government policy was and what the security branch's policy was and that was to especially with the white left wing, force these people, terrorise and use whatever means possible to get them out of the country.

This thought process persisted for many years afterwards. I heard it on security courses, and in many, many forum that the powers that be believed that black people in this country could not organise a revolution. If it was not for the white communists that were behind them and in their midst and it is for that reason that most of these, if I may use the phrase nocturnal activities that I participated in, were against known white people that were listed under the suppression of communism like Ms Helen Joseph, the Wineberg family and many, many others.

So did you become involved in these dirty tricks? --- I did. It was extremely exciting for a young man and what was incredibly attractive was the fact that you basically knew from the outset that you were given this license to break the law willy nilly.

Could you break into premises for instance? --- Well, my first tour of fame in the security branch came when I did a very routine

investigation on a Wits student by the name of Diana McClarren and I went, which is unusual actually, I went on my own to her flat in Braamfontein and managed to get into her flat and found a literal gold mine of security value information. She was studying, if I remember, political science and a lot of the stuff were found to be of great interest. I also embellished a little bit as well without manage to get in there and that is, I think I was seen then as somebody that could become one of the naughty boy and could be used in circumstances I could at a later stage.

10 I was not scared to break into premises, I would do anything to achieve the goal that was set out to me.

I do not want to dwell too long on the dirty tricks department, but were you given sometimes the means to do dirty tricks, Bokpoort and that kind of thing? Can you explain to the court what is Bokpoort and the then New Generation tear smoke? --- M'Lord, the issue of Bokpoort is something that is so bizarre that I am certain a lot of people in this court might not even find it anything less than humorous but at a stage I believe it was of military intelligence, probably Dr Wouter Basson, was tasked to created a super steed bomb which we
20 could use to break up meetings, disrupt events and we were issued with these glass bottles which were about three times bigger than your standard steed bomb that M'Lord's children might buy for example at a novelty shop and last for 5 minutes.

This product, whatever it was, once it was poured out was the smell I could only described for valid self, and it did not go away. I

applied for amnesty for using this to stop a UDF meeting at St Mary's Cathedral in Johannesburg, ironically the church where I was baptised, christened, which I suppose give some sort of measure of my ideological commitment at the time, but nevertheless, I went there at 3 o'clock in the morning with somebody else and threw 2 bottles of this evil stuff out and they had to replace the carpets, some of the benches.

The meeting did not take place because nobody could go into the church, this was on a Sunday morning, I think at probably at
10 about 2 o'clock. This is the type of activities that we were doing on behalf of the state and with the state's full blessing and sanction.

You even threw some that into a colleague's car, not so? ---
Well, yes once again something of a humorous, M'Lord it was a colonel that I worked with decided that he had had enough of people misusing the secret fund for private purposes and stealing money from the secret fund which was quite rife at that time, and he threatened to take this matter to the Commissioner of Police in head office. So he was immediately branded the traitor and a very enterprising gentleman, one of our colleagues took a bottle of this stuff and threw it
20 into his police car.

Mr Erasmus, what I really called you for is because of Stratcom. I want you to explain to this court exactly what is Stratcom, how was it structure, what units in the security police worked with Stratcom and what it entailed and how does it entail to this information, so if you can explain to this court, Stratcom please. ---

M'Lord, it is [indistinct] involved in. I will start right at the top, there was four parts of the government or the state organs that carried out Stratcom but to inform you, M'Lord of what Stratcom is, the word is an acronym for Strategic Communication, strategic being ... these are matters that were in the interest of the country as a whole and our society as a whole and of great importance. The second word is of course self explanatory, but the word became then Stratcom.

This was based on a lot of philosophies that... I recall one of them there was an American author by the name of [indistinct] and
10 wrote a manual on counter revolutionary warfare. They took all of these principles and encompassed it in ... which was informal unit which then became a formal unit in 1983, carried out by primarily the South African Police Service, Foreign Affairs under Mr Pik Botha, the old Bureau state security boss, which I believe now known as [indistinct].

These were the organs, of course and military intelligence, the military, sorry about that. Hundreds of projects were set up to get into every facet of live in South Africa. From the church that you went to, to the education that your children received from grade 1 in school.
20 The thinking behind this and a lot of very top people were brought in historians, for example on the Spield issue, was to prepare people and make them, this is a very much cold war thing, aware of certain things, create certain impressions and ultimately in a way could image that if this was applied vigorously enough, the population could be controlled.

There was two sides to this information which it effectively was, I am sure everybody will understand the terms 'information and disinformation'. It is very popular now to call stuff like this fake news, finding it every day on social media where I read for example last week, Richardt Branson died. People just create these things and it is a big issue now in America. In South Africa it became a way and a very effective and possibly the most effective tool that the old South African government, national government had for fighting the liberation movements.

10 In my 10 year in this we stopped at absolutely nothing. We a license fair to do anything. My own little credits range from telling the world in magazines across.. and newspapers across the world that the ANC were a bunch of murdering sumps. Winny Mandela was a drunken woman of low morals, Peter MacCargo was even worse. We never, ever stopped churning out information. The ideal formula for doing this type of stuff, was the stuff by Dr Joseph Googles, who were .. who is one of Adolf Hitler's henchmen during the 2nd World War and the national party took those principles, believe it or not, and it basically was if you could fool people and you could fool them totally
20 and the perfect solution to putting this in, into people's minds was the 70/30 formula.

So if I can use a pretty classic example, Soweto Security branch would send us a report to a Stratcom unit, to me in fact and they would say that mamma Winny Mandela gave a party that night and we had a couple of people around for guests. I would take that

situation and I would turn this into that was a party that was never been held before in Soweto and I would drop these little chariots of news onto this massive informer network that covered the whole of South Africa and the successes of this, eventually I was given commendations because we actually achieved, I actually achieved and got a commendation for putting material of this in the hands of the British Prime Minister, the senior members of the British Government and unbelievably the head of [indistinct], warrant officer in the South African Police Service talking to general Sir Walter Walker.

10 Let me ask you some pointed questions. Did you do some artistic work for Stratcom operations? --- Yes, a very big part of my job and I think maybe how I got involved in this type of thing was, my intentions initially was to study art and I love drawing and that, so I was asked to draw posters which ... the court may remember that suspiciously appeared overnight all over South Africa. Arch bishop Desmond Tutu for god sake, keep killing our children. I did one that went up at 20 000, 30 000 black schools overnight in South Africa with the spectre of guess, hovering over the school saying 'Tutu is killing your children'. Of course behind that was the hammer and sickle.

20 These were all to terrorise the population, scare them and a lot of them in effect were simply because if you had to try and find out who was this third force, you only had to look who has the capability of printing 100 000 posters and putting them up, all in one night right across the Republic of South Africa.

Let me ask another pointed question – did you forged

documents? --- Unfortunately it was very good, not only on the writing side but on the fording side, and spent many, many hours much to the [indistinct] of my commanding officers practicing archbishop Desmond Tutu's signature which was used on many occasions. One of them which, M'Lord I do not know if I should tell the story?

M'Lord, I see it is already 11 o'clock. I do not know when you want to take your tea adjournment?

COURT: 11:15. I think if he can just cover this aspect.

10 MR PRETORIUS: Please, just cover this aspect. --- My commanders came to me the one day with a letter, I just need one minute to just explain how this worked – all post coming into the Republic of South Africa and leaving the Republic of South Africa where it was channelled through Jeppe Street post office, were in the basement.. the security branch had a staff [indistinct] who worked this operation, who never, ever ceased, worked around the clock, all the mail was examined and anything of possible security interest, was taken placed in huge wool bags, driven down the road to John Vorster square into the basement and the ground floor, which was also security branch
20 offices, had an assembly line, M'Lord of old policemen with kettles steaming open envelopes, supervised of course by security police, security policemen on that staff and anything of interest was either destroyed, if it was necessary or it was kept and then the letter was resealed and allowed and was released.

On that day somebody had written to bishop Tutu and

offered him, an American woman, had offered.. she was the administrator of a branch which had a vast fortune of somebody who had deceased, and this money was destined for philanthropic purposes. So she wrote to bishop Tutu and she said she would like to start the proceedings now where she would like him to get a lot of this money. That letter then went back to her, but what did go back to her was a letter that I forged where it said Dear Ms so and so, we resent you white catalyst interfering with our internal affairs. Thank you very much, but no thank you, we really do not need your money.

10 It was actually insulting. The idea was to stop her once again putting money into liberation hands movements or anywhere the state [indistinct] we saw arch bishop at that time.

 So you forged the letter with the signature of arch bishop... and you were the author of that? --- It was sealed up and posted back to her again. There was many other incidents of this, some of them with tragic results, letters and mail coming into Kosatu who was intercepted by a colleague of mine who went to a First National Bank in Hillbrow, opened an account under a false id in the name of Mr Osatu, Charles Osatu and was then able to get intercepted cheques
20 from the WH [indistinct] postal interceptions system, take them to the bank and by simply inserting the dot or a comma, as Mr Charles Osatu, he was able to cash them. So there was theft happening at that time on a pretty big scale.

 While we still have got a little bit of time here, the Inconscription campaign, was anything, any campaign against the

Inconscription campaign? --- Much of what we did was to discredit people who were becoming a danger to the state. The Inconscription campaign were encouraging largely students and people that faced compulsory or obligatory national service. The [indistinct] was to stop conscription as the name implies and via the former network we found out that they were having what was known then as a sticker blits, the same type of stuff that we used to do to help with big posters, they gave thousands of .. [indistinct] stickers made with a peel off backing strip that they were going to put on poles and shops and that right
10 across Johannesburg, and we managed via the informer to get hold of a couple of thousand of these, bought paint remover and put our own backing strip on and stuck them on any motorcar that we could find in Johannesburg and including some motorbikes owned by very a very notorious bike club.

The affect of this was obvious. These guys were head faced the next day and they did not even realised what had happened, that everyone of those people that ever had that sticker on their car was certainly out to flatten one of these guys if they ever saw them, so that was quite a damaging thing and regarded as a very successful
20 operation.

What was operation Romulis? --- The Stratcom operations, M'Lord were finalised in 1983, if I can just backtrack. These, when I joined the security branch in 1997, these things were done on a very *ad hock* type basis.

1997? 79? --- I mean... I beg your pardon, for the first

couple of years were done on a very *ad hoc* type basis. Each security branch unit would be doing its own little number and emulates rewards, I am sure it was 79, policeman was caught in Cape Town and there was almost a huge.. well it was a huge pallava, but he just managed to escape prosecution, he managed to get away with it and he was one of these so-called right wingers, the third force that was operating at night.

I believe that that [indistinct] the state security council and the national government, it was in 1983 a cabinet meeting was held
10 where the entire cabinet were present. They were just [indistinct] ahead of the state security council. They had probably more power than what [indistinct] those years and they decided to formalise and expand on these operations and control them to avoid the type of situation that could have arisen in Cape Town.

So these operations and projects were given names and the biggest one of them, the most heavily funded one was known as operation Romulus and the basic definition was any action that one could carry out which could damage any of the liberation groups, and
80 years later when they became alarmed about the AWB, they
20 sommer added the AWB into that definition as well, so it was up until the release of Mr Mandela, it was known as... that was the defined principle to it.

I see, as an annexure to your statement, if we just look at annexure A to your statement, it is a specifically refers there under point 2: *‘Die aksie moet onder projek Romelus hanteer word en moet*

ten doel hê om die SAPK 'n meulsteen om die ANC se nek te maak...'
and if we can just read number 4 there, *'U kan die aksie loots met alle
vermoeëns waaroor u beskik. Daar word spesifiek gedink aan die
volgende: pamflette, fronte, media kontakte, inligting en benutting
beriggewer, RS agente en medewerkers.'* Does this relate to

operation Romelus and what you could do under operation Romelus?

--- That is correct, M'Lord and I do believe that this particular
document actually even bears the Minister of Police's signature on it.

If it is not this one, I have got a similar one, an original one. Despite

10 what he told the TRC, and I am talking about Mr Adriaan Flok, a
renowned liar because he has told the TRC under oath he had never
given anybody an order to commit any [indistinct] unlawful action. But
his signature are on all of these types of documents and money was
made available via his office for these purposes. This was a huge
operation at that time, that this particular document was written.

Right, before I am going on to this information about the
ANC and foreign countries, I think, M'Lord it is best that we take the
tea adjournment now.

COURT: Okay. Thank you, we will take an adjournment at this stage

20 and we will come back at 11:30, whereupon we will proceed with your
evidence.

COURT ADJOURNS

COURT RESUMES

COURT: You are still under oath. --- Yes, M'Lord.

PAUL FRANCES ERASMUS (still under oath)

MR PRETORIUS: Thank you, M'Lord. Mr Erasmus we were just busy

with you doing any disinformation about the ANC and foreign countries. Were you ever personally involved in disinformation about the ANC and foreign countries? --- I received, I think 7 commendations and became very well-known in the structures for the successes that I had, especially with regards to being able to put quality information, when I say quality, M'Lord it was the usual old formula of 50% or 70% or whatever, in the hands of none other than the British Prime Minister. The effect of this in one instance that I am aware of, I did not always have a mechanism of gauging how effective
10 I was, because I was just a very small little bottom feeder and that would have been known to my bosses in the nationalist party, was that the British government, I understood it, promised an amount of 16 million pounds to Nelson Mandela and after Mr John Major read the drivel that I dished up to him, complete with pictures of this Major style communism that was going to come to place in South Africa, he reduced the amount to 6 million pounds.

Another success was sending out police footage where I removed all record of the origins, as an actual footage video tape of the necklacing. I managed to get on to Japanese TV and as I recall
20 they did not... when they saw it they were horrified. They did not even want Mr Mandela to visit Japan at that stage, it was a bit of a diplomatic embarrassment, so these things are very successful.

I want to talk to you about St Fain, a letter to St Fain, specifically because that relates to the issues in this case. Did you ever sent a letter to St Fain and can you describe to us what exactly

that was? --- Well, one of the big Stratcom targets was the upcoming, I think it was the 48th anniversary of the ANC and another letter, one of the letters that I did send to John Major was a forged invitation from the ANC to the IRA to attend this 48th conference. In that very *skelm* and absolutely horrified, if one realises at that stage of the game they were still fighting the IRA tooth and nail in Northern Ireland, and here was the people they would have to do business with, a prospective new South African government that is already in bed with this guys and this was before the actual handover of power to the
10 ANC.

But what about the signature of Raymond Sutton? --- That was lifted off one document by myself and placed on a forged letter of invitation from the ANC.

If we look at annexure B to your statement, we will see there a letter purportedly being given out by the African National Congress and there Raymond Sutton. You say you lifted that signature of Raymond Sutton? --- That is correct. One can actually notice that I do not think that Mr Sutton would have actually signed that way, if you just look at it, it does not line up it is because I had problems at that
20 stage with the machine that I had to use which was rather primitive piece of equipment.

And you made this forgery? --- Yes.

Okay, and if we can continue along this same line, because that is the relevance for me specifically if we talk about Mr Dave Delling? --- The enemies of the National Party were many and

included obviously people in the opposition ranks of the then parliament and one of them was very cryptical of De Klerk and his cronies was of cause Mr Dave Delling and a rumour had been spread, I do believe by Stratcom agents that worked in the media, and there was hundreds, the media obviously a prime target, that Dave Delling might cross the floor as it were and declare himself by joining the ANC, so we decided to embarrass him and I forged a cheque with his signature on for the R12, that is what it was those years, membership to join the ANC and had it delivered to the newspapers who headlined
10 it.

Of course he was attacked the minute this came out, he was attacked by members, De Klerk and company would have used this now as a means to say to him, but Mr Delling, you are already a member of the ANC and he was so confused because the forgery was very good, I must say to more credit and sadly, he was not even certain that he had not.. in fact I think his first reaction was he said that somebody put cheques in front of him, he did not know what he was actually signing, but he did deny it, which caused him some embarrassment

20 I think annexure D to your statement is a classical example of Stratcom. If you can take us to the Alexandra Civic Association pamphlet and can tell us what was your involvement with this Exhibit D. This leaflets, where did it come from? Who developed and who's handiwork is this? --- This is my artwork. Information was received, it was Alexandra Township in Johannesburg was quite a hotbed of

political activity at that time and one of.. there was two organisations promoting this or fermenting this decent in Alex at that time and the target here was a gentleman by the name of Moses Mayikisa and Obo Bapelo, Richard Madikane and a couple of other members. We found out that they actually moved out of Alexandra township and moved in to, I think one of them was staying in Conti Buildings, so the whole thing here was how could these guys do revolutionaries and representing the people and they did not even live in the place anymore.

10 So I drew this originally with a cocy pen and it was corrected by the government printing services who did all our printing and I think they printed 100 000 or something like this, which were once again dumped all over the township that night and had a very negative effect on the target group that would have been of course Moses Mayikisa, Mr Bapelo, Richard Madikane and others.

 If we go to the second page there, it is stated they are issued by the Alexandra Civic Association. Obviously that is a lie, that is a farce? --- It is totally a fabrication from my side. To just explain that I was not this genius that had all of this. Every day I had ... was
20 given sometimes a box full of stuff that could be of so-called Stratcom value and was very hard pressed to try and do something with these things, because with the time limit and I did not know everything, so it worked like this – as a Stratcom.. as the Stratcom agent, people in the intelligence community would invariably come and see me or they saw a situation which we could have used and I would put something

together.

To conclude on Stratcom I just want to ask you – was any front organisations formed? --- M'Lord, yes there was. There was newsagents formed, one of them was our colleague Mr Marko Billing, ex-captain Marko Billing and I had set up.. and two other people set up the thing called PANA, Pan African News Agency, which I believe still carried on for many years after all of this. On the tracing and side we set up a thing called Confesa, Confederation of South Africa Trade Union, and that was obviously to counter groups like Cosatu and try
10 and find some moderate support and in this way oppose groups, enemy groups like of course Cosatu and Nehawu and the rest of it.

And the support police group also? --- Correct.

To conclude I want to ask you, was it within the state's powers to falsify documents, pamphlets, leaflets or not? --- Well, I had... at the end of my 10 year in John Vorster square we actually moved out to secret offices that were rented for this purpose and under a front company known as Ramont Market Research, I do not know if they are still going but we moved out to executive offices in Randburg and I had a room full of typewriters, every pen, type of
20 paper, fax machine, and I actually had a staff headed by an elderly man who is in his eighties who had been in British intelligence, believe it or not, in the second world war and his sole job, M'Lord was to sit at night and write with either one of his hands and he is very good at it, as I was, but the volume was just too much for me.

I would write letters from Mr John Kanyiso in Atteridgeville

criticising the ANC and then they would print that in the newspapers, but the letters looked so good and we complete the effect by letting them get now dirty, dripped candle wax on them and none of them were every the same, and I think the highlight of this whole campaign was in one day I personally wrote all the letters to the editor in the Citizen newspaper and I wrote the editorial, and the whole thing was one huge monster attack on the ANC's branches in Johannesburg.

Sorry, to answer your question, yes we definitely had the ability to forge and create anything that we wanted to.

10 I want to move over to a new subject and that is torture at John Vorster. Now, being a John Vorster, or for the bigger part of your 17 years in the security police, did you ever observe torture on a suspect or even witnesses at John Vorster? --- Yes, I did, M'Lord.

What methods were used? --- Well, I should maybe just give a little, if I may, M'Lord just a little bit of history. When I joined as a young security policeman, Soweto was a section that was security branch wise run by Johannesburg Security branch from John Vorster square, so we would go on these huge raids together with the Soweto security branch guys and catch the first terrorists that were being
20 identified and being apprehended in South Africa at that time and I witnessed the first torture that I ever saw on a vast scale on the 10th floor at John Vorster square where this man's testicles, and I ask forgiveness if I can give any details, were being crushed by colonel Kronright, who was then Major Kronright.

What struck me at the time was the, I must say this, it was

the severity of this attack and I often wondered if I would be called on to do things like that, but for the rest of my life as a field worker our job is not really on the investigation staff but we were called on regularly to do interrogations. I think one either had the stomach for it or you did not. I do know about the various, I do not know if you want me to elaborate, various forms of torture that were used or pressure that were used on people.

My own role was, I would say more common assault or creating a fear factor by slaps and stuff like that, but I have dealt with
10 all of that in my amnesty application. Yes, torture was standard procedure and the basis of this was sleep deprivation, if there was time permitting. The pressure was on the investigator and the interrogators to get the information as quick as possible. I went on a security course in 1978 and my note book actually exist to this day which I have got here with me, and I think over a period of about 2 days we were lectured on methods of interrogation/torture.

Although, to be quite fair I never, ever said this is how you hit somebody or this is how you use an electric shock machine but in point number 4 of the notes which I put down quite pedantically or
20 very accurately and writing in Afrikaans, because the lecture of course was in Afrikaans. I wrote there '*totale vrees, vrees hy kan enige oomblik vernietig word.*' The aim of this psychologically was that the person that you are interrogating, you had to get control of that person's psyche, as quickly as possible.

Sleep deprivation being a major part of this, would

disorientate the people. They would be given meals at irregular times, your body clock would go out and then of course like you see in the movies, there is always the good guy, bad guy. One guy would go in there and beat the hell out of the detainee and two minutes later a gentle soul would come in and say, no man, you cannot carry on like this, you are going to die in this place. Just tell me this... and of course these methods worked, but yes, to answer your question, I do realise that you wanted some elaboration on this, I saw too many tortures and interrogations where physical violence was used, to even
10 give you an accurate number, it was many and I was not an investigator *per se*.

Ja, the one other relevant part that I want to touch with you is your involvement with the inquest of the Neil Aggot matter, were you involved in the events after the death of Neil Aggot? --- That is correct, M'Lord.

Tell us in your own words exactly what was your role? --- Well on a day I was visited by a young lieutenant, Stephen Pieter Whitehead in my office on the 9th floor. Whitehead worked for Kronright, colonel Arthur Benoni Kronright on the 10th floor and quite
20 personally I did not like him. He had this meteoric rise to becoming an officer. He is a pretty arrogant guy but he came in and he said to me, 'we have chosen you to accompany me on almost a mission impossible. We are going to travel around South Africa but I will be briefed.'

Eventually I was briefed together with him by our

commanding officer and the scenario was this, was that Neil Aggot, Dr Neil Aggott in detention had hang himself and that we were to proceed on a [indistinct] basis, I was accompany Whitehead given my skills at getting in, breaking in to places and being a, M'Lord I am trying to think of another word for a 'bull dust artist'. We would have to create a cover story and go anywhere in South Africa and quite simply prove that Dr Aggott was suicidal from the day he was born.

The brief that we had was that the state could not afford another Ahmed Timol type event or worse, Bigco type event where so
10 much damage had been done to the government. So, Mr Whitehead and I set out on this trip. We started off of course at his school in Grahamstown, and were reasonably successful, but not as far as our brief, we managed to fool a lot of people but we did not find out anything about him being suicidal. We then received information that his parents stayed in Somerset West, had gone away and this proved a possible way of getting into the house and looking for stuff which could be of interest in this matter, personal letters addressed to his parents.

I remember examples like Dear Mom, I am feeling so down,
20 I am so depressed, anything that could come up of value where the state could ward off this thing that he had been tortured or murdered or killed or whatever. On the night that we went to Aggott's parent's home in Somerset West, Mr Whitehead was actually too scared to accompany me. I went on my own and as fate would have, I was caught in the house by the domestic assistant and the whole cover up

attempt to this thing was bungled terribly and here the state were now sitting with, in fact it was so bad, M'Lord that the head of the security branch for Western Cape called us personally into his office, it was a Brigadier Kotze.

He told us in no uncertain terms to get the hell out of his province because the heat was on big time. Not only was ... had we failed in our mission but there was another incident where the state was involved in illegal activity. I was then summoned to the commissioner of police's office in Pretoria, general Johan Coetzee,
10 my ex-boss. In the office was colonel Horack, sorry my apologies, colonel Gloy ... [intervene]

Hans Gloy? --- Hans Gloy and one or two other generals, Viljoen maybe and a meeting was held to decide on how the state or the police were going to handle this thing about me being caught in the house. Gloy then drew up a statement which I have got the original of with his handwriting on it and the story was created that I had gone to the house, we had receive information from an informer that a trade unionist, Gavin Anderson had been hiding at the Aggott's parent's home in Somerset West and that was the reason that I went
20 there. Nothing to do with the trial and it was just supposedly happenstance that Stephen Whitehead had to be there.

I spent the whole day literally in the commissioner's office, preparing the statement, they read it, re-read it, read it, re-read it and at a point Johan Coetzee, the then head of the security branch phoned the attorney general in the Western Cape, Neil Rossouw and

he told him ... Rossouw obviously knew the story but he told him that the man is there, he had spoken to me and he said 'Are you prepared to plead guilty on this? It is not going to be held against you, and it will not go on your record', because I was studying then to get promoted.

He said in fact it is for *Volk en Vaderland*, you know the old .. for the Oranje, Blanje and the Blou, we would like you to go to Cape Town and we will arrange it, some of the charges against you are dropped, but plead guilty to legal search and you are going to be fined
10 R200 and we will give you the money, which I left later that afternoon with a final statement and the R200 and we headed for Cape Town where the case came up. I pleaded guilty, the charges... it is clear the charges were withdrawn and I paid the R200 fine. What I did not know, I might just mention, and one of the reasons why I left the service earlier was that I never passed the promotion exams, suspiciously after that and it took me 8 years to find out that it had in fact gone on my record.

When they tried to correct this, there was of course people that were not involved in this. They said that I am not officer material.
20 So, it cost me very dearly and it is ... was a very unfortunate part of my career.

Maybe the last part that is very..., I am sorry about that Mr Erasmus, but the last part that is very relevant, tell me were any police witnesses prepared for this inquest of Aggott, was there any preparation of the police witnesses for the inquest? --- Whitehead...

we had mock trials on the 10th floor, endlessly where people like myself were called to sit in and pretend to be as is in the court, Mr Dizoz, and throw questions to train Whitehead to resist this process that he had to go through, so we could think up anything that the opposition as in Mr Dizoz here, could come out with at the trial and that was the state's role preparing Whitehead.

But also important, and I will be failing my duty if I do not... telephone tapping, was any telephone tapping done, to know what kind of line of questioning would come? --- I think led by Mr Arthur Benoni Kronright, colonel Kronright who had a pathological hatred for Mr Dizoz, in fact told us in no uncertain terms that given any chance, we must kill him, ride over him, poison him, arrange his demise. Kronright had it in for him very badly, but yes his telephone was tapped and attempts were made to bug Mr Dizoz office, that was not my job I must say, but I was aware of it. I do not know if that ever succeeded, but I do remember clearly that a very successful tomato which was our .. of calling a bug was placed in the offices of Priscilla Jona & Associates, where I think Mr Dizoz actually spent quite a lot of time. I am not certain about that.

20 M'Lord, that concludes my questioning for examination in chief, thank you.

COURT: Yes, Mr Varney?

CROSS-EXAMINATION BY MR VARNEY: As the court pleases. Mr Erasmus, I just want to check, you mentioned in your oral evidence as well as your statement that you were with the security branch for 17

years. When did you actually join the South African Police Service for the first time? --- Immediately after matriculation, January 1975. I was in uniform branch at Cleveland and of course as we all know the riots happen. My intention was to join the police was to get out of 18 months as a so-called *kanon donkie* in Potchefstroom and the easier way to get this military service out of the way was to become a policeman, so I chose that option because it was only 5 months away from home, instead of 18 months away from home, but the 1976 riots had a huge effect on me.

10 I was actually quite a religious young man and when I saw that carnage it, in a way motivated me to see what was behind this and I was then approached in a way, I suppose not to end my career but make a career in the SAP and I was transferred to security branch in January 1977, the 11th of January.

 So prior to January 1977, you were just in the uniform branch doing typical policing duties? --- Patrol duties, delivering summonses the usual stuff.

 If I could just ask a number of questions that arises from your evidence in chief. My learned friend, Mr Pretorius asked several
20 questions relating to Stratcom. The unit in Johannesburg, am I correct in saying that was referred to, that had the name Intelligent Johannesburg? --- M'Lord, these terms changed as this ballooning process happened in the security branch. There was a time C1, C2, D1, D2 which creates a lot of confusion now in retrospect, but to answer your question sir, it would be yes, Covert Intelligence

gathering. Just for the record, Johannesburg did not have an individually constituted Stratcom unit because of the proximity to Pretoria, so initially Stratcom in Johannesburg was... the functions were carried out by the chief Stratcom unit in the country was on the roof at Wachthuis, right on top of the building by colonel MacKintire and his staff.

But they would call on people like me, I was eventually the guy that had to do their artwork. They gave me a lot of pens and inks and whatever I needed.

10 And, Mr Erasmus would I be correct in describing the operations of Stratcom as primarily misinformation and propaganda and ultimately to carry out a strategy of deception? --- That would be a very accurate description.

You have already given us some examples, but just to complete the possible kinds of activities, was there a so-called soft Stratcom and a so-called hard Stratcom? --- That is correct. A soft Stratcom would be something like the Mayikiso pamphlet which was done very quickly and was non-illegal in the sense that there was no major crime being perpetrated here that I am aware of, correct me if I
20 am wrong. On the opposite end of the scale I was involved in a plot for example where the radio announcer Mr John Robby was taking, firing terrible shots those years at that time at the South African Police and a plot was hatched whereby we would get an agent, somebody or one of us possibly under a false flag would challenge Mr Robby on air to come with the police and see what we actually have to deal with.

He would then be taken out to Soweto where, hallo, sorry guess what, colonel De Kock and the Vlakplaas guys would be waiting and they would then stage this fire fight where policemen would rescue John Robby from these balaclava terrorist who shot him, and the plan was to shoot him in the leg, that would have been our classical hard Stratcom, and there is many others. The Motherwell killings, stuff like that.

The Motherwell killings would be hard Stratcom, would it not be? --- Hard Stratcom. If I may add, if I may just sort of benefit to the
10 court, part of the reason I am giving this evidence today was that that was applied to me. At a point I found out things that I should not have found out, long before even the Goldstone commission and when they knew that there was a possibility that I would talk, De Kock himself was given instructions to blow me and my family to pieces, and my son sitting there in the court and De Klerk could have then used that as a thing that the ANC cannot control the SDU's, the self defence units roaming around the country.

Here they murder a young security policeman and his beautiful wife and kids, and that was the day that I decided that is me,
20 done, finished.

That was in the early 1990's? --- That is correct. Stratcom carried on, I might just mention, 18 months after the release of Nelson Mandela in February 1990.

So the examples we have picked up in our research on Stratcom, it included a very impressive range of activities such as

putting up graffiti, fake pamphlets as we have already heard from you, pouring paint remover over vehicles, disrupting protest gatherings, these stick bombs as you have mentioned, tear gas, theft, threatening phone calls, blackmails, offending people, assault, slashing of car tyres, bricks through windows, loosening wheel nuts and bolts of vehicles, firing shots at houses, arson, petrol bomb attacks on vehicles, homes and building, does that all sound familiar to you? --- I think the only one you possibly missed out was blowing up buildings like Cosatu house because that was another Stratcom that was
10 ordered by, I better chose my words here, Mr P W Botha personally, with acting... together with Mr Vlok.

In fact, my colleagues, Eugene De Kock's first job after that job was done was to phone him in the morning and tell him that he did not want anybody killed, that they had carried out the operation without loss of life. That would have been a classical hard Stratcom.

So that was ... bombing of a building would be regarded as hard Stratcom? --- *Ja*.

We have also discovered that there were other activities such as spreading disinformation about an individual in order to cause
20 people to suspect him or her of being an agent and so to attack that person? --- That is correct. I was involved in several matters like that. I do not know if you want me to elaborate.

It is not necessary, it is not necessary. The final example we came across and this is from the Truth Commission records, of a strategy of fabricating stories to suggest that murders and other

crimes were the result of factional conflict, so-called black on black violence. --- Well, that was the brainchild of none other than Mr Roelf Meyer and we were elected extensively. I tended I think two or three courses on this whole principle about so-called black on black violence and I do not think... it has not been said before, but my erstwhile colleague, Mr De Kock was responsible for gun running to factions in KwaZulu Natal as part of this whole thing that the black people were fighting each other more than a pending sort of racial war or a war against the nationalist government.

10 But the exception was, I must point this out, was that the NATS could do business with the Zulu's but not with anybody else and the decisions were then made to arm them but I am not a specialist on that, I did participate on a very limited surface in that I donated some firearms which I had floating around to that particular project.

 Actually just a few more examples dealing with bombings. There was bomb threats and occasional bombings were used in order to create an atmosphere of fear and so sometimes Stratcom operatives would bomb even shopping centres and movie theatres. --
- That is correct. I was once told and I believe it because my very
20 best friend and my partner was one of the people who did this, I am talking about the late warrant officer R A Beyers. After the group bombings in Durban two security policemen, explosive experts, and I think colonel De Kock might have been present, blew up the Wineheart Restaurant and killed people as a reprisal rate, the perception being... was that if MacBride could chose a target like a

little coffee shop, whatever in Durban, we could do the same with a gay club where blacks were dancing in Hillbrow.

I think probably, it is not a bad estimation that 60% of the explosions that happened in Johannesburg were originated from the Johannesburg security branch. In other words, Anglo American by the way, was a message to them, you are going to go and deal with the ANC and Lusako. The ANC is going to double deal you because you have attacking 101 Main Street, Anglo American's head office.

So just to conclude on Stratcom, looking back on it with the
10 benefit of Hans, would you describe it as a success or a failure? ---
What could I say? In some areas it might have been a success. The perceptions that we created those years that exist to this day. I met a lot of the people that were my sort of personal victims for lack of better term, like Peter MacCarbo and I spent possibly 2 hours with him, explaining to how this whole thing worked and he was absolutely flummoxed about a security policeman, saying to him: 'Hell, here let us go and have a drink, here is some money' and conveniently there was another security cop taking a photograph and he cracked a joke and here is Peter MacCarbo smiling and it was captain Erwee from, I
20 think Pretoria security branch giving Peter MacCarbo money.

This thing was then spread out to say that MacCarbo is an agent of the security branch and I do know that that still exist to this day. Another very famous case is of course Ms Mandela, that I was personally involved in.

Okay, thank you. Mr Erasmus I know want to move to the

topic of John Vorster square and in particular to your knowledge and experience of torture and abuse that took place in John Vorster square. The first thing, are you familiar with a particular room in the building which became known as '*Die Ware Kamer*' or the Truth Room? --- I am. I think the room number is, if my memory serves me correct, 1026, 10th floor.

Well, I want to show you some pictures if I may. We have flagged the pictures. M'Lord this is the photo album in volume F.

COURT: Volume F.

10 MR VARNEY: Prepared by warrant officer J M Kruger.

COURT: Is it the same...

MR VARNEY: It is the same one.

COURT: Same document, volume F is here.

MR VARNEY: That has to go to the witness.

COURT: To the witness.

MR VARNEY: M'Lord if I can ask you to turn to photo 37.

COURT: Yes.

MR VARNEY: Unfortunately this particular album is not numbered, but each photograph is numbered so we will start at photo 37. Mr

20 Erasmus have you found photo 37? --- One second. Yes, do you want me to comment on it?

Yes, would that be the *Ware Kamer* or the Truth room? It would be the blue door on the right hand side? --- That is correct, but I do not believe that is room 1026, I think room 1026 was a glass panelled room facing the outside of the building.

Yes, in actual fact and you can see this on the following page on photo 39 it looks like this is room 1037 and that in fact is a store room with no windows, round the corner from room 1026. --- That is correct. I know that area particularly well in fact.

So to be clear, from your recollection was this the so-called *Ware Kamer*, the store room? --- It may have been used as a *Ware Kamer* but I think even in my time it was probably used as a store room, and I would just like to point out the first interrogation that I ever saw actually was right next to that blue door, but there was a lot of
10 people being held at that time, so they were all being hammered. What I am trying to say is it was not always a case of a person had to be taken into x room, the door closed and then beaten or interrogated.

So why was this room referred to as *Die Ware Kamer*, the Truth room? --- I think a lot of that might have been a fear factor for people that had been in detention or came back was it, you know if you are not going to cooperate with us, you are going to go upstairs or you will go, you will end up in the truth room where you will speak. Much of the mechanisms of breaking a person was, as I mentioned fear. But I think it was referred to amongst us as well as *Die Ware*
20 *Kamer*.

There was an expectation that if were taken to *Die Ware Kamer*... [intervene] --- You will talk.

Some pretty brutal torture or assault would take place in the truth room. --- Correct. The same sort of thing about the 10th floor at John Vorster square, had this whole aura of, you know it was the evil

10th floor, because that was where the investigation branch were housed.

So, for the record Your Lordship, photograph 37 does depict the 10th floor. The corner office would be room 1024, that is the office where there is also a vault. Next to it on the right would be 1025 and then there would be room 1026.

COURT: That is on picture 37 you say?

MR VARNEY: It is depicted at photo 37.

COURT: 37, okay.

10 MR VARNEY: It is also depicted in photo 38 and 39.

COURT: You are saying the door that is facing the camera is 1024?

MR VARNEY: That is right.

COURT: Okay. And 1026 does not appear on this picture?

MR VARNEY: It does not, but if you page through photo 42, I believe that that is in fact 1026, so that is round the corner.

COURT: Which one? The one nearest to the camera or the one further away, the one that is open?

MR VARNEY: M'Lord, my junior tells me, my eyesight is also not that great, but he tells me it is the first door that is 1026.

20 COURT: On photo?

MR VARNEY: On photo 42.

COURT: 42.

MR VARNEY: And photo 43 I believe is the entrance to 1025 which has an interleading door into 1024 which also has the vault.

COURT: Okay.

MR VARNEY: Mr Erasmus, in your affidavit at paragraph 6 at page 6 you make reference to the need to breaking a detainee, that is about half way down in paragraph 6. Paramount to breaking a person, can you just explain what is meant by breaking a person? --- I suppose one could define it, M'Lord as where that person reach the stage where you had their cooperation 100%, they were prepared to make a confession, a written confession and they were prepared to cooperate with the state in a trial and if possible an additional bonus would be where they would implicate their fellow travellers or colleagues or
10 whatever, the people that were involved in their group.

And what was involved in breaking a person, is it the same as you mentioned, you said at point 4 in your training notes you mentioned the phrase getting to the state of *totale vrees*? --- That is correct.

Total fear, what would you do to generate this *totale vrees*? --- As we were taught, the whole secret to this interrogation was your analysis of the person that you are interrogating, what were their fears, very important thing. I recall making, just in my own case when this was under discussion, they ask now what fears does one have. I
20 am terrified of spiders, for example so it would not take much for anybody who knew that to put a spider in my face and I would probably tell them anything. So if a person had, for example a fear of snakes, the same thing, the fear of heights, the same thing. You had to get to this point where that person believed that you had sole control over their life. Nobody else, you control their life.

And at that paragraph you spoke of this tactic of sleep deprivation and keeping detainees awake for days on end? --- That is correct.

Was that standard practice? --- Standard practice.

You also spoke about a roster being drawn up for this very purpose so that interrogators could keep going. You say teams of normally two or three people, two or three interrogators would work around the clock to keep the detainees awake? --- M'Lord, that is 100% correct. Even us that were field workers and not on the
10 investigation branch would be roped in to keep this process going because there was not simply staff wise, enough and like I say it carried on, at times for example over Christmas and New Year where you had your teams, they were keeping those guys awake. Sleep deprivation was the basis of this interrogation.

So sometimes you would have to move detainees between offices? --- That happened frequently and was an endless problem or set of problems as many have come to light where people could see through that... (time: 00:48:02 (11:10) till 00:01:26 (12:36) CD ERROR)

COURT ADJOURNS

COURT RESUMES

20 COURT: Is it Mr Erasmus? --- M'Lord?

You are not using the official title you had before? You do not mind if we address you as Mr Erasmus? --- No, preferably I would prefer being addressed as Mister, thank you

Not warrant officer of anything of that sort? --- No, thank you.

Okay, Mr Erasmus you are still under oath. --- Sure, thank you.

PAUL FRANCES ERASMUS: (still under oath)

COURT: Yes, you may proceed, Mr Varney.

CROSS-EXAMINATION BY MR VARNEY (continues): As the court pleases. Mr Erasmus this morning you, in response to one of my questions, you agreed that there was a *waarheidskamer* or a truth room in the John Vorster square building, at least at that time and when you were asked to look at certain photographs, you pointed out
10 a certain room on the 10th floor of John Vorster square. In order to avoid having to get you over to John Vorster square to do an inspection, which in your case we do not think is necessary, we want to show you a short clip that was made in which you assisting the South African history archives in making a DVD titled 'Between life and death'.

You took them around the building and in one particular clip you pointed out this so-called truth room. I am going to ask my learned junior to show you the clip and Your Lordship if there is no objection, I would also like to hand up a copy of this publication
20 together with the DVD which is in a folder at the back of this booklet.

COURT: Yes.

MR VARNEY: And we will point out where you can find this clip in due course. Your Lordship we have given a copy to the representatives of the state and I believe we do have a DVD which we can hand over to our colleagues from the police.

COURT: Yes.

MR VARNEY: We try give you a second DVD as well.

COURT: Is there an objection to this, Mr Pretorius?

MR PRETORIUS: No objection, M'Lord.

COURT: Any objection to the admission of this?

UNKNOWN COUNSEL: No objection.

COURT: No objection, right where are we now in terms of the evidence, the Exhibits? Are we on ..

MR PRETORIUS: M'Lord I think we can give this ..

10 COURT: We are on H, according to my register I see we are on H, is it so?

MR VARNEY: Since it relates to his evidence we could call it H2?

COURT: H2. Well, the document and the DVD is temporarily admitted. Let us hear what the witness has to say about this.

MR VARNEY: The clip is probably less than 2 minutes. Mr Erasmus when you are ready you can view the clip.

DVD PLAYS IN COURT

MR VARNEY: Thank you, Mr Erasmus, do you confirm that it is you who had been interviewed in that clip? --- I do, M'Lord.

20 Do you remember approximately when that clip was filmed?
--- Yes, very clearly.

How long ago was it, do you remember approximately when? --- It must have been 5 years ago.

And was it the South African history archives and not an admitted organisation? --- That is correct.

Did they make this clip? --- That is correct.

Thank you. Your Lordship we may have to call a member from that organisation to confirm that they did produce this booklet and DVD.

COURT: Yes, if necessary, I mean there is no objection to the admission of this and this book here 'Between life and death' you know anything about it? This publication? --- I have never read it, M'Lord. They did send me a copy of this clip that we have just seen, of the final sort of film they made, but I have no knowledge of the
10 book.

COURT: *Ja*, it is the book that we want to... I do not know who is the author here. We may want to call that person, but the clip at least you identify as it is, there is no objection.

MR VARNEY: Yes. Your Lordship, while we are on the question of the Exhibits, my learned friends from the state had very kindly produced two copies of two letters of commendation issued to Mr Erasmus, both then in May of 1991. With your leave I would like to hand these up as Exhibits. M'Lord, we may as well make these Exhibits H2 and H3.

20 COURT: H3 and H4.

MR VARNEY: I beg your pardon, H3 and H4.

COURT: Yes.

MR VARNEY: I understand the court already has copies of these two letters. Your Lordship [intervene]

COURT: Where did they appear? Because I have seen the affidavit

that has been handed to me this morning. I do not think they attached the... are they attached thereto?

MR PRETORIUS: No, M'Lord they are not attached thereto.

COURT: So where are they, where are they.. [intervene]

MR PRETORIUS: We have handed it up during the lunch break to .. [intervene]

COURT: Oh, during the lunch break, okay, because I have not seen them, I went through the material.

MR VARNEY: I can actually hand up further copies of [indistinct].

10 COURT: No, I have got... there is two, yes. I thought perhaps you said they were in one of the volumes that were previously handed.

MR VARNEY: I beg your pardon, Your Lordship they are fresh.

COURT: Okay. H3 and H4. Just for accuracy, the one is dated... they are both.. the one is dated 20th May and the other 30th May 1991, so the one for 20th May will be the H3 and the one for the 30th May will be H4. You want to show the witness to confirm this?

MR VARNEY: Yes, Your Lordship I do not intend to cross-examine the witness on this.

COURT: No, just for identification.

20 MR VARNEY: Perhaps he can just confirm it. Mr Erasmus, do you confirm that those two letters of commendation were issued to you on those dates? --- That is correct, M'Lord.

Thank you. As I said, Your Lordship we will make reference to them in argument but I do not intend to ask the witness any further questions on those letters.

COURT: Okay.

MR VARNEY: Mr Erasmus, I have just got a few outstanding matters to canvas with you. When you were trained, either as a uniform policeman or when you joined the security branch, were you given any training in first aid, did you go on a first aid course? --- During initial, basic police training in police college where I was in 1975, we were given a very parentry couple of classes on first aid, but nothing extensive.

Were you taught what to do or what not to do when coming
10 across a severely or seriously injured person, who might have fractures like spinal injury? --- I cannot recall that we ever were, to be very honest. We did do a little bit more advanced first aid when I did what was known in the police that years as bush course and that was to prepare us to go to the war in Namibia, in northern Namibia. That was a little bit more but

Were you ever told at some stage that certain people who are particularly seriously injured, potentially with fractures, perhaps on the head and the back or elsewhere, that they should not be moved for their own safety? --- Well, I knew that from doing a lot of sport
20 and namely I played rugby for the police in Johannesburg for 10 years, so those years we knew about spinal injuries, but that did not come from the police force, I think it was just more general knowledge issue than...

Right, during interrogation were police aware that there might have been a certain window of opportunity following an

apprehension or arrest, in which information should be extracted from a particular detainee, with the knowledge that unless that information is obtained quickly, for example names of comrades or collaborators, that unless the police could act on those names quickly those individuals might escape or hide? --- There were certainly circumstances like that. Once again I can only refer to where that became paramount was in the border war situation where there was no niceties because people that we arrested might have been armed ... a part of an armed group and we were kind of told that if you
10 interrogate this guy and you do not get that information about where he is from and where the rest of them are, it could result in loss of life including your own colleagues, that could be on their way too, for example attack a base.

My experience, John Vorster square the cases that I was personally involved in, to mention just one or two was the investigation of Marion Spark from the ANC special ops. She had been arrested, the ordinance had been recovered and I was for a stage the chief interrogator of somebody that was arrested with her, Stephan Marais. There was no need then because the whole case
20 was pretty much sewn up, to beat him to a pulp or something, in fact I cannot remember that I ever lifted a hand to him, I made him right. There was not even sleep deprivation because there was not this pressure.

There was no information that there was other people, this whole thing in other words to coin a bad phrase, had been mocked up

all the way down to East London, arrest that we made there, the limpit mines had been recovered. There was not that urgency.

But in cases where the pressure was on, that the mocking up had not happened, where the ... where individuals who might have collaborated with your detainee was still at large, were you aware that police used torture and assault to extract information quickly before these individual got wind of the detention and would hide or escape? --- Sorry, M'Lord I did not quite follow that. Most definitely. That would have been the norm.

10 Standard practice? --- It would be standard practice.

And would I be correct in saying that the first few days after a detention in those circumstances could see some of the most ferocious forms of interrogation? --- Absolutely critical. If I can refer once again, M'Lord to the arrest of Marion Spark with the limpit mines after she planted two explosives in Johannesburg. She was not even taken to John Vorster square. Time was of such essence that she was interrogated in her own flat where she was arrested. There was no time to get her to any other buildings or whatever. The information was to the effect that there were probably more bombs going to go off
20 and we needed to break her. They needed information immediately which was for ... actually forthcoming at that time. She was not subjected to sleep deprivation, there was no time for it and she was not tortured. She came out with it.

Just as a matter of interest, Mr Erasmus, detainees held on the 9th or 10th floor of John Vorster square, were they ever given

books to read, novels and the like? --- In most cases absolutely not. I remember as a young policeman there was a Moslem in detention. It was my job to take the Koran to him. He was in the cells at John Vorster square, [indistinct] I think his name was Ebrahim Ebrahim. I never really worked on his case but at that time I was given the job of taking the Koran down to him during his prayer sessions, but as a general rule no reading matter and I could account other stories where people were not given anything to read as a form of punishment, because one can imagine, sorry with the latitude of the court, if I can
10 just explain this, sitting in a tiny cell with nobody to speak to for hours after hours and days after days in itself must be a terrible form of torture. I could not withstand something like that.

In the cells occasionally they would get perhaps a Koran or a bible? --- Very occasionally.

Very occasionally. In 1971 you were in the uniform branch of the police? --- M'Lord, no I was still in school, 1971.

Sorry, I beg your pardon, of course you did mention that earlier. When you were in the force, particularly security branch, did you get to hear about the death of Ahmed Timol and if so, what did
20 you hear? --- I would have to ask, M'Lord how much time the court has got, I mean it was subject of regular discussion. There was even a policeman whose nickname was Timol Coetzee. He became quite a well-known guy.

Do you know why he was nicknamed Timol Coetzee? --- I never really knew the answer to that one, but if I can just mention

something to the court, that area where room 1026 is, the room that I walked into at one time was even turned into a bar by Kronright and Company and it was a place where you could go up and drink about it and there was a standard thing there that Timol was walking around there, his ghost was there and a lot of jokes were made about it. As to who actually was in the room, I never, ever knew apart from what I was told second hand by other people.

One of the names that comes to mind is Frederick Robert Bouwer, captain, South African Police. Bouwer and I had a particularly bad *tete-e-tete* because he did not like me because of my Afrikaans surname and being English speaking and took this out in a work situation where for example I went to him to get money....
[intervene]

Sorry, Mr Erasmus, our time is a bit limited so unless there is information given directly on the death of Timol I must interrupt. Any other information on the death of Timol you think might be...
[intervene] --- I did hear at that time, I know it is totally hearsay, that he was one of the people that interrogated Ahmed Timol.

Alright, well on that score in terms of people who were possibly interrogating Timol or who were present at least, on the 9th and 10th floors at that time, I want to just take you through a few names and please advise the court if you recognise these names and if so in what context. Warrant officer Neville Els. --- He was my immediate commander the day that I walked into the security branch. He was then a lieutenant and I was answerable first and foremost to

him for any and all of the work that I did. He left the police after I believe a couple of bad escapades with the state president's wife because that was also a job as to look after her and he went to work for Louis Luyt the industrialist and I have never seen him since.

While he was in the security branch, was his career in the security branch unblemished? Was he ever accused of indiscipline or were complaints ever laid against him, for assault perhaps? --- M'Lord, I always thought he was particularly a gentleman and he was very good to me as I learned a lot from him, I suppose mainly
10 because he was very good with English and I was the new kid on the block, but I knew there was something in his career about promotion. It was two junior officers at that time, both lieutenants of which he was one. There was something about he was denied a promotion or promotion was withheld, but as to why this could have been I would just be speculating. I do recall that very clearly.

Okay, did you ever come across a sergeant Joul, sometimes referred to Young Rodrigues? --- No, M'Lord.

Major F J Fourie? --- S'joe a lot of Fouries in the police force. Major Fourie, I cannot say... [intervene]

20 If you cannot recall... --- I cannot recall.

A captain J H Gloy? --- Gloy was the man that I referred to earlier in my evidence that helped me prepare a statement for my court appearance in Somerset West. I had many, many dealings with him on many, many occasions involving many security branch investigations.

Was he regarded as a well qualified interrogator? --- I do not know about the interrogator, but I mentioned about ... did I mention this earlier? Him and brigadier Broodryk were sort of trouble shooters as it were in the security branch, where there was action and something juicy or interesting Gloy and Broodryk were on the scene. Gloy in fact was one of the people that issued... was present when I was given the instruction to stop a singer's music career. I thought he was a particularly ruthless man because another investigation that I did with one of our suspects the Scuitema family, Barends Scuitema,
10 Gloy got Scuitema so incensed that Scuitema actually attacked him and the two then, him and Broodryk had to fight their way out of the situation. That is what I know about Gloy.

Do you know if complaints were ever made against Gloy? Complaints of abuse or assault? --- I dare say, M'Lord I would not have been party to something like that, I have no knowledge of that at all.

A captain Johannes, Zacaria Van Niekerk? --- Johannes..

I think he became a lieutenant colonel. --- At Van Niekerk, I knew him very well. I think he ended up becoming a personal body
20 guard to P W Botha. He was transferred from the security branch. I am assuming it is the same person, we just knew him as At.

And did he have an unblemished career in the security branch as far as you know? --- I would not be able to comment.

A colonel Piet Greyling? --- I am familiar with the name, but very scant memories of him.

A lieutenant Hendrik Cornelius Jacobus Pitout? --- I worked with him and his son. He was on ... he was almost colonel Kronright's right hand man. Regarded with a lot of esteem as a specialist interrogator/investigator.

So he was regarded as a good interrogator? --- Absolutely.

And do you know whether any complaints of assault were made against him? --- Possibly in the interrogation of Oret Van Heerden. He was a suspect at that time, I know that Pitout was the chief interrogator and he used to take ... he handled, I think the whole
10 case as I remember but I am not certain if charges were laid against him. I could not say that with any definite

Last three names – detective warrant officer Gabriel Johannes Deysel? --- Not familiar with that name at all.

Warrant officer Derek Lionel Carter? --- M'Lord, it rings a bell, Lionel Carter....

And the last one, captain Carel Joseph Dirker? --- Once again familiar with the name. I think he might have left the security branch before I started. I remember his name from the arrest of Braam Fisher, reading about it that is, M'Lord.

20 In your years as a security branch officer, did you have occasion to investigate the activities of the South African Communist party, the SACP? --- M'Lord, there was one thing that shone out higher than any other investigation, so if you can please, and that was the great search as I have referred to it, for a replacement as the head of the SACP, the person who replaced Braam Fisher, because that is

where the trail literally ended. So there was endless, endless seminars, classes, notes, input everything and speculation was rife as to who was this person and I can give the court probably a list of 20 names of possible suspects, one of these sitting in the court at this time, with permission M'Lord, Mr Dizoz.

There was some that held he had actually replaced Braam Fisher and there was churchmen involved, father Albert Nolan, yes this was a big priority.

Thanks, Mr Erasmus. Were you aware of a communist party
10 doctrine or perhaps an instruction that communist party members or
operatives who were arrested and interrogated should rather commit
suicide than betray the party? --- I know that story, M'Lord but I have
never, ever read that and I do regard myself as being reasonably well-
read on the history of communism and especially within the South
African context, and personally I have never read thousands and
thousands of documents from Lennon's selected works to Inkululeka, I
personally never saw anything where, for lack of a better word, akada
was instructed to, if caught commit suicide immediately, I must be
candid on that point. I have been asked that and I am not aware of
20 anything like that.

Thank you. Your Lordship I have no further questions.

COURT: Yes, [indistinct]

EXAMINATION BY MR THOMPSON: Mr Erasmus I just have a few
questions, just to clarify. You say that you only joined the South
African Police Service in 1975, am I correct? --- That is correct,

M'Lord.

Thereafter you joined the security branch in 1976? ---
1977.

1977. --- January the 11th, 1977.

And your personal knowledge of what occurs in the South African Police Service as well as the security branch only came to your knowledge at the time when you joined those two forces, am I right? --- M'Lord, I was aware that there was a thing called the security branch, actually still as a school boy because my father
10 worked for the old government and he worked for a thing, which I suppose is now particularly abhorrent called Bantu Affairs, so my father had dealings with a branch of the police and made mention of it and I can tell the court he was actually horrified when he heard I was being transferred to the security branch. He was not happy and nor was my mother, so I knew about it, to answer your question, I did.

Yes, but your personal knowledge as to how, what methods they used to do anything, it only started happening when you joined the SAPS and the security branch? --- I would say that is correct.

Thank you, M'Lord no further questions.

20 COURT: Thank you. Yes, Mr ?

RE-EXAMINATION BY MR PRETORIUS: Thank you, M'Lord I just want to know, Mr Erasmus at that stage at John Vorster, where were the ordinary cells, on which floor and where were the ordinary cells? -
-- The ordinary cells was a whole wing between ... there is sort of three parts of the structure of John Vorster square. There is the

barracks, the living area for mainly uniformed policemen. There is like an admin area between that and then you have got a cell block which I believe was built independently of that and then you have got the main part of the building which we are all very familiar with the blue piece that is parallel with the highway.

The ordinary cells were at the main entrance where the charge office is, the cells were immediately below on the same level and above I think, 4 floors or 5 floors.

Thank you. Thank you, M'Lord.

10 COURT: Thank you. How often, just one question, how often did this trial simulations take place where you say officers were prepared for trial? --- M'Lord, it would be very hard to put a number on it, but it was a daily thing, especially with the Whitehead case. The instructions were very clear that once again I can only reiterate that that case had to be won at all costs. So everything was thrown into the pot to win this thing, including these mock trials and they were held, to answer your question, before the inquest and during the inquest all the way.

20 When a certain stage had been reached, some of us were taken or asked to come up to the 10th floor, they had a double office there, there was an advocate present and we would pretend to be, for example Mr Dizoz and fire questions at Whitehead as a way of preparing him. So I could not give you a number, M'Lord but it was more than once, most definitely.

Who would simulate the role of Mr Dizoz, was it you?

[laughing] --- M'Lord, unfortunately yes, I was just one of many that, forgive me laughing, that had this job to do. So if you had... I was always known to be a reasonably inventive person so, that is why we were picked to sort of come partake of these question and answer sessions and Mr Whitehead would sit there and we would throw the questions at him.

But then during that process, would there be any discussion about what evidence to give and what evidence not to give and how it should be given, to those who had been schooled? --- Most
10 definitely. If you had to ask me for a specific on that, I would not be able to answer but I can ... I would like to just tell the court, M'Lord that Whitehead was even instructed on how to deal with Mr Dizoz in the box and I remember one of the things was that he had to not look at him at any stage. He had to avert his eyes and frustrate Mr Dizoz by asking him to repeat the question. The whole thing, at this stage of the game was to tire Mr Dizoz out and the next day a lot of us were at the court for example, where Mr Dizoz asked the magistrate to intervene to get an answer out of Whitehead. He was looking away and the whole thing was designed by the state psychologist, I think. I
20 think it was Mr Plomp was to gain some sort of psychological edge, even that was important at the time.

Yes, my interest is on the content of the evidence that they were supposed to give. Did you have a sense that during that simulation they would interfere with the evidence of a witness who perhaps may have seen something but been told not to say it or say it

differently? --- I understand, M'Lord but I could not give you a specific, I think with the passage of time... [intervene]

Yes, I understand it, I just want to know what your impression was. Whether that would be the case or whether the evidence of a witness would be left intact during that simulation? --- I think the best way that I can answer this, M'Lord is that like I say, everything went into the pot. If somebody could lie or whatever, or witness was schooled as to what to say, I think a lot of rules as I understood it, were broken at that time. I personally did not know for
10 example that mock trials were not part of the police process, and the first time that I mentioned something like that people were horrified to hear that this had in fact happened. But as to specifics I just... I could not give the court anything, barring yes, my impression is that there was no hold barred. The state had to win that case at all costs, which they did.

Thank you, anything else arising from what ... from my questions? Nothing?

MR PRETORIUS: Nothing further, Your Worship.

COURT: Anything?

20 MR VARNEY: No, M'Lord.

COURT: Thank you. Thank you Mr Erasmus and thank you for your assistance, you are excused. Yes, Mr Varney?

MR VARNEY: Your Lordship, before we call the next witness I wonder if I can just hand us some quick paperwork. Your Lordship we have already provided you with a volume, volume H comprising some

10 affidavits, and over the course of the next 2 weeks we will be calling certain of these individuals but not all of them.

COURT: Yes?

MR VARNEY: And as we call them, we can allocate sub-numbers to them from this volume. I do not know whether you wish me to formally hand up this volume, Your Lordship?

COURT: Yes, if the ... I have gone through... is it the one you are talking.... the one that was delivered on Friday?

MR VARNEY: That is correct, Your Lordship.

10 COURT: Yes, I have gone through some of it and are you saying that there are witnesses here who may not be testifying?

MR VARNEY: That is right so, Your Lordship. The witnesses who can provide similar fact evidence on torture at John Vorster square and elsewhere, we are not going to call those witnesses, but we will refer to the sworn affidavits in argument. Unless, Your Lordship directs that we do call some or all of them?

COURT: No, no I would like to go through them first and I will not make that ruling now. I would like to go through them first and then I will decide whether I need to hear them or not.

20 MR VARNEY: As the court pleases.

COURT: Okay, then the bundle will be marked H. It is the same bundle that I received on Friday?

MR VARNEY: It is the same bundle.

COURT: Yes, then you do not have to hand that one in, I have got it here.

MR VARNEY: Your Lordship, we would like to hand up a few more Exhibits that ourselves and perhaps our colleagues would be referring to as the evidence proceeds over the next 2 weeks. The first document is the Ahmed Timol detention file and this document we would like to give the Exhibit number of G6. And the second document, perhaps we can do it all together.

COURT: G6 or H6?

MR VARNEY: It will be part of... we thought of giving it the Exhibit number G6, because volume G also has other detention files.

10 COURT: Oh, I see, okay.

MR VARNEY: The second document is also a detention file and that is the detention file of one Quinton Jacobson and that Exhibit number would be G7.

COURT: Yes?

MR VARNEY: And the final document we will hand up this afternoon is the police file of Joul Rodrigues and thought of creating a volume for all police files and that would be volume I, so we thought this Exhibit number could be I1.

COURT: Yes?

20 MR VARNEY: With your leave I would like to hand up these documents.

COURT: Yes. Mr Pretorius you have all these documents?

MR PRETORIUS: Yes, M'Lord and should we refer to it as I or should we rather refer to it as J, M'Lord?

COURT: As J, yes, normally we skip I in the Exhibit list.

MR VARNEY: Okay.

COURT: So it should be J1.

MR PRETORIUS: Thank you, M'Lord I did receive all of them this morning.

COURT: Yes. Mr Thompson, have you received any of these documents?

MR THOMPSON: We received the Exhibits, I [indistinct] these documents, M'Lord J1, G7, G6 and [indistinct].

COURT: Okay, thank you. Alright, did you have a discussion with Mr
10 Thompson as to the order in which we are going to be hearing the evidence? I am more particularly interested in the evidence of the police, because I authorised subpoenas to be served on them and I would like to hear Mr Pretorius, whether these subpoenas were served on the police?

MR PRETORIUS: Yes, M'Lord I did discuss it with my investigation officer and if need be I can call him into the box that he can quickly just... [intervene]

COURT: Yes, I think we need to do that. Let us get it out of the way.

COURT: Captain Ben Nel, if you can quickly....

20 CLERK: Full names and surname?

WITNESS: Benjamin Nel.

CLERK: Do you have any objection in taking the oath?

WITNESS: No.

CLERK: Do you swear that the evidence that you are about to give will be the truth, the whole truth and nothing but the truth?

WITNESS: Yes.

CLERK: Please raise your right hand and say: 'So help me God.'

BENJAMIN NEL (duly sworn statement)

EXAMINATION BY MR PRETORIUS: Captain Nel, you already gave evidence in this re-opened inquest proceedings. You also are in court during the proceedings and at the previous time certain subpoenas had to be delivered to the persons involved. --- Yes, M'Lord.

Can you tell us, and let us stick to the police witnesses, which subpoenas were prepared for the witnesses in this regard? ---

10 M'Lord, just give me a second. All the police ... Mr Erasmus was served, then Mr Roelf Venter was served, Mr Neville Els was served, M'Lord. Then Mr William Charles Smith was served with a subpoena, [indistinct] as well as [indistinct].

Captain, if you can help us, was this personally served on the witnesses themselves? --- Yes, M'Lord it was personally served on my colleagues.

Can you give us the dates exactly when this was personally served on them? Did you get a return of service? --- Yes, yes, M'Lord.

20 Can you just give the detail to the court, please? --- Mr Fourie was served on the 5th of July; Mr Rodriques was served on the 3rd of July; Mr Smith was served on the 4th of July; Mr Els was served on the 5th of July; Mr Roelf Venter was served on the 16th of July, M'Lord.

We already agreed that Mr Roelf Venter and Smith would

not be necessary for these proceedings. Mr Els he was at court today, not so? --- Yes, in fact so, M'Lord.

You did see him? --- Yes.

M'Lord, that is the detail that I can provide with the subpoenas that were served on the witnesses.

COURT: And in the subpoenas, did they understand on the date today that they have to be here in court? --- Yes, M'Lord they did.

And you say only Mr Els pitched up here? --- Yes, M'Lord that I think... I did explain after our meeting last week with the
10 defence, we decided on the specific dates they will testify and we let the police advocate general Groenewald, we let her know when we wanted them at court.

They were advised that they were due to testify from Monday next week? --- Yes, M'Lord.

Okay, then is that all? --- Yes, M'Lord.

Thank you, very much. Is there anything you want to ask the captain?

MR VARNEY: Yes, Your Lordship. Just one question.

COURT: *Ja?*

20 MR VARNEY: Captain, have you been requested to prepare a subpoena for one Mr Ahmed Adam, he was apparently a witness to the fall? --- Yes, M'Lord I was. I received the information yesterday afternoon. General Groenewald who is in the court... she said the detectives will serve the subpoena as soon as it has been signed.

Thank you, captain. No further questions, M'Lord.

COURT: Yes, thank you. Thank you, you may ... do you want to ask any questions, Mr Thompson?

MR THOMPSON: No questions, M'Lord.

COURT: Yes, for the record you are representing... are you representing all these members of the police?

MR THOMPSON: No, M'Lord.

COURT: Which one do you represent?

MR THOMPSON: [indistinct] I had for Mr Rodrigues.

COURT: You had for Mr Rodrigues only?

10 MR THOMPSON: Yes.

COURT: Okay, thank you very much. Yes, you may sit down.

MR PRETORIUS: M'Lord, I must put on record here, the general from the police did talk to me and Fanus Coetzee, advocate Fanus Coetzee will be appointed for Mr Els, sir so there will be independent representation both for Joul Rodrigues as well as for Mr Els. So Fanus Coetzee will appear for Mr Els.

COURT: For Mr Els, okay, when is this... [intervene]

MR PRETORIUS: That appointment has been done today, M'Lord.

20 COURT: Oh, I see, okay thank you. And they understand that they are expected here from Monday next week?

MR PRETORIUS: Yes, M'Lord.

COURT: The witnesses?

MR PRETORIUS: But I mean, if they want to cross-examine it is better that they follow, so as soon as... [intervene]

COURT: Yes, I mean the witnesses.

MR PRETORIUS: The witnesses.

COURT: The police, are expected from Monday?

MR PRETORIUS: Monday, yes M'Lord.

COURT: Yes, the advocates are welcome to participate now, because it is important that they follow the proceedings.

MR PRETORIUS: Thank you, M'Lord.

COURT: Yes, thank you and Mr Varney where are we now?

MR VARNEY: Your Lordship, we would like to call Ms Stephanie Kemp as our next witness.

10 COURT: How long is her evidence?

MR VARNEY: Your Lordship, I think her evidence in chief should take approximately 30 minutes.

COURT: Yes?

MR VARNEY: And I do not know how long cross might be. We could certainly complete her evidence in chief this afternoon, or if you wish we could start her in the morning.

20 COURT: I do not know. Let her come in, we will establish from her whether she will be available to come back tomorrow because I am not sure whether we would finish her evidence. Yes, administer the oath.

CLERK: Your full names and surname?

WITNESS: Stephanie Kemp.

CLERK: Do you have any objection in taking the oath?

WITNESS: May I affirm please.

CLERK: Do you confirm the evidence that you are about to give is the

truth, and nothing but the truth? If so, please repeat after me and say I do.

STEPHANIE KEMP: (duly sworn statement)

COURT: Thank you. You may be seated, madam. --- It is okay, I will stand.

Okay. Yes, fire on.

EXAMINATION BY MR VARNEY: Your Lordship, may I proceed with her evidence in chief?

COURT: Yes, just one thing, Ms Kemp we are going to be adjourning
10 for today this afternoon. I am not certain whether we will be able to
finish your entire evidence. Are you available to continue tomorrow?
--- I can do, Your Honour.

Okay, fine then we will start and then you will continue tomorrow, if we do not finish today that is. Yes, proceed.

MR VARNEY: As the court pleases. Ms Kemp have you made out an affidavit for purposes of this inquest? --- I have, yes.

I see you do not have a copy of the affidavit with you, but your affidavit was signed on the 21st of July of this year. Do you confirm that? --- Yes.

20 Your Lordship, Ms Kemp's affidavit is in volume H, the volume that we spoke about a few minutes ago, at page 12.

COURT: Yes?

MR VARNEY: Ms Kemp you are 76 years of age and you grew up and schooled in the Eastern Cape, is that right? --- No, in fact I grew up in Malmesbury in the Western Cape but I am 76, yes.

Okay. --- I went to Port Elizabeth in the Eastern Cape for high school but my....

If we could move to some of your personal history and if you could highlight for the court at what stage you began your political activities, starting with 1962 when according to your statement you volunteered for the defence and aid fund. --- Yes, I went to UCT in 1960 which was of course a momentous year in our history, Sharpville happened as soon as I got there and I was already very clear that I was against apartheid and I looked for something to make some
10 contribution and volunteered at the defence and aid fund which was legal then.

When I was there I was placed in the finance committee of defence and aid and met much older women who were extremely political. There was for instance Ray Edwards who was Alby Sax's mother and had been secretary to Moses Katane and had been a communist all her life as had her former husband, Solly Sax. There is also Sarah Carnison whose husband was on the central committee, Fred Carnison and through them they invited me to their home that turned out every Thursday. So eventually I was 18 then, by the time I
20 was 20 they recruited me into the underground South African communist party.

And at what point were you recruited into the Armed Resistant Movement, the ARM? --- Very soon after that. Everything, of course was extremely secret so it was a bit confusing even for me, but I was recruited into the ARM later in 1962.

And according to your statement you committed certain acts of sabotage. Can you briefly describe those? --- Well, there were quite a lot but one in which I participated was blowing up at several points the signal cable for the southern suburbs railway line, commuter railway, so all the trains came to a halt in the morning because the signal cables had been blown up.

And you were arrested on the 11th of July 1964, in connection with your arm activities, can you explain what happened during the course of your arrest and detention in particular whether
10 you sustained any assault or torture? --- Yes, for the first 3 weeks after I was detained, I was interrogated 3, 4 times a day for long periods so it was really virtually the whole day I was in interrogation. On ... after three weeks some interrogators came from Johannesburg, lieutenant Fichter and a captain Van der Merwe and they told me to stand. They also took me into a store room, interestingly enough, quite a small store room in Caledon square which is the headquarters of the security police in Cape Town.

They told me to stand, all this was happening at a time when few people had been detained. Sixty three people started being
20 detained and Luke Smart and Boodley who was a Cape Town person [indistinct] in detention, so it was all happening we were not sure what was going to be happening. So when they told me to stand, I did not think much of it except that it went on and on and on through the day and into the early hours of the next morning.

There were teams of security policemen who came in and

out and eventually the sergeant who had been one of my main interrogators for the previous three weeks, came into the store room, I was still standing and begged the head of security in Cape Town, captain Rossouw, to be left alone with me. After a while captain Rossouw marched out and I was left with just sergeant Van Wyk who then started saying to me 'Stephanie, I know you hate me' and I would say 'I do not hate you, Van Wyk' and he would say, he kept this up and eventually I felt irritated and I said 'Okay, Van Wyk I hate you.'

He started hitting me, on both sides of my head and I ... and
10 then he grabbed me, I had long hair then, he grabbed me by my hair and pulled me down to the floor and bashed my head on the floor until I was unconscious. Then I woke up, I was incoherent so there was no way they could take a statement from me. I do not, in any case believe that that was the purpose of all this. They appeared to have as much information as I could get them. Some of the leading people in this organisation had already make statements. I think they wanted me to give evidence for the state but also somebody mentioned, Mr Erasmus mentioned that I think there is a feeling they just want to break you, to control you, to have complete power over you.
20 want me to go on?

Do you have any of the evidence to give on your torture if there is anything else? --- Perhaps the only thing that... soon after this, I was at that time and a magistrate would come round to the detainees every week to see if you were okay. By the time the magistrate came I was bruised down the side of my face, my nose

was creaking and painful and he came in and sort of greeted me and went again. I was then moved to Wineberg Police cells.

Did you make a complaint to the magistrate? --- No. I was pretty terrified, I think is the right word. I was then moved to Wineberg police station and when I got there, still with a bruised face, the station commander said to me 'what happened?' I told him and he brought in another magistrate who took a sworn affidavit about that for me... from me.

You were charged with being a member of an illegal
10 organisation? --- Initially five of us were charged with sabotage which was a capital charge and then a deal was made for three of us, with the state and we pleaded guilty to belonging to an unlawful organisation which brought the maximum sentence down to 10 years, which could be suspended.

Then according to your statement you served two years, or close to two years and you were then released. Can you explain to the court what happened following your release in December of 1965?
--- I was, in fact got a year's parole, all the whites in that trial did and it was very unusual for political prisoners to get parole and the
20 conditions was that I would live with my parents in Bonsa Bay just north of East London. But because I had by then civil action against Vorster and the policeman that beat me up, I had an excuse to get to Cape Town as well. I was blacklisted as a physiotherapist which I trained as, but I got a job at Firestone South Africa in East London and one day two policemen turned up, put me on a plane and took me

to Pretoria where they took me to Compa Building, the 10th floor of Compa Building where I was interrogated for the whole day by general Hendrik van den Berg who was the head of the security police.

His interest was only whether I was a member of the SACP, which of course I denied for the whole day. He then ... they then allowed me to go back to East London and within a week or so I got a letter from the liquidator that was appointed when the Suppression of Communism Act was passed in 1950, they listed you as a communist and I was particularly anxious because my junior counsel had been
10 Alby Sax who was under very heavy banning orders and so on and if I was listed I could not communicate with him, without their permission and I wanted to do so.

But I got to Cape Town for the civil action and I was...
[intervene]

Just tell the court what was the outcome of your civil action?
--- They settled the afternoon before we were due in court and paid me out some money without admitting liability or culpability or whatever the phrase is.

And I understand that you travelled to Pretoria to see Van
20 den Berg who was then the head of the security branch? --- Yes.

And as a result of that visit you managed to persuade him to unlist you as a communist? --- Well, that happened... I was listed after I had been interrogated by him, so I wrote to him, I found his private bag address and wrote to him, saying that I had denied membership, but now I am listed. And then I was immediately

unlisted.

Okay, alright, what prompted you to leave South Africa? ---
Well, after... in 1966 which was when I was out of prison, I spent a lot
of the time in Cape Town and I was watched without any secret being
made of it, by security policemen, even if I went down to Clifton
beach, they would come and stand on the beach and watch. I had also
been told having lied to general Van den Berg for the whole day, as I
left he said to me 'Stephanie if I ever find you have lied to me, I will
have no mercy on you.' I was scared, these guys were watching me
10 which meant that I really could not make contact with the SACP or
they with me.

I was... I felt that I was useless then, so I applied for a
passport, it was refused, applied for an exit permit and left as a
stateless person.

So in fact you left on a one-way ticket out of South Africa? -
-- Yes.

And describe briefly for the court what it was you did in the
United Kingdom and how it was that you became politically involved
with the exile community? --- Well, as soon as I got there, within
20 three weeks I married Alby Sax and I also made contact with the
underground. The SACP even in a country like Brittan, still operated
underground so I made contact with them and I was integrated into
the structures of the SACP in the UK.

And you also worked for the British Anti Apartheid
Movement? --- For three years, from 1967 to 1970 I was membership

secretary of the British Anti Apartheid Movement, but I worked basically for the SACP all the time, through that employment and then it became full time for the SACP until I returned to the country in September 1990.

And can you describe for the court the kinds of activities, the kind of work that you carried out for the SACP in London? --- This was a period after the Rivonia arrests when everything was really shuttered within South Africa, all underground structures and so on. What happened in the SACP in London is that we tried to begin to see
10 if we could get some reviving of political feeling going again. We knew it was there but we wanted people to stand up again, so the first while we sent a lot of propaganda into South Africa. I was responsible for sending the African Communist that came out every month and we took clandestine precautions when we did these work so I would hire three typewriters so that I have different fonts, get different types of envelopes, post from wide range of postal districts.

I had about 10 people or so who worked with me in a group, putting the African Communist into the envelope, putting the stamps on, sealing the things, so I had a group that I worked with. We did a
20 lot of propaganda, some very imaginative things. So there was a lot happening through the SACP from my London base then. Dr Jusef Dido was the leader of the SACP, he took over from Braam Fisher and there was also Red September and Joe Slovo who were doing this work.

Myself, Ronnie Casrels, Aziz Spahad, we did things like...

there was a little record that we made where Alby and I started off singing *Die Stem* and then in came some AK47's that interrupted us and then a voice called 'This is the ANC, this is the voice of the African National Congress.' We post those things in, comic books, we did what we called Little Lennons which was using like automobile association handbook that inside would be Lennons what is to be done and so on.

We also started recruiting non-South Africans, partly through the British Communist Party who would tell us about people who could
10 do this and also Ronnie Casrels went to the LSE and recruited other progressive non-South Africans there. These people would travel into South Africa and out again. When they were in South Africa they would do sometimes very dramatic distribution of literature. Sometimes posting but other times we taught people to make little plastic bucket with a little bomb in the inside that would scatter the leaflets at bus stops and so on.

There was also an occasion in this period where we had a project that was a ship that was going to sail from Mogadishu, this is not in my [intervene]

20 [indistinct].. --- We acquired a ship through ... with assistance of the Soviet Union and there were generals operating in Greece at the time, so we were very close to the Greek Communist Party, Betty and Tony and [indistinct] where in exile in London and they were providing us with a Greek crew for this ship which was going to sail from Mogadishu and take gorillas and arms to ...

somewhere to land somewhere in South Africa. I was involved, as were many other people in looking at topographical maps and trying to find alcoves and so on where this ship could land.

So a lot was going on. We then started looking at how can we renew SACP's structures so to set up cells and I think Ahmed Timol was one of the first people that was recruited for that purpose. By then... [intervene]

According to your statement, and I am glad that you have come to the question of Ahmed Timol, according to your statement
10 you never actually met him personally. --- No.

But through your underground work you obviously had an association. Could you describe how that started and what transpired? --- By the end of the 1960's, 1968 or 1969 an operational unit was set up in London with Dr Dido as the chairperson, including Joe Slovu, Red September, Aziz Pahad, Ronnie Casrels and myself and other people, sometimes coming in and going out as well as people who did not meet with us weekly, like Jack Hodgson but who were very involved with the work we were doing.

My task with Timol was ... and with the other people we
20 recruited as well, so quite a lot of people were recruited, maybe not before Timol but almost immediately there is a heap of people then, I learned how to encrypt into secret writing, the communications between the leadership in London and the person who was setting up a cell in South Africa.

So, what happened was that they were accountable, they

remained accountable to the leadership in London and they would .. we would try to help really, to make sure that they did not do anything rash that if Timol told us that he wanted to recruit Salim Essop then we sort of asked questions, you know are you sure he is okay, what is he doing to make sure that this thing was not broken up the minute it started and people were obviously inexperienced so we tried to help.

Can I check, were you given these specific responsibility or instruction to begin the vigil to carry out secret communications with Ahmed Timol? --- Yes.

10 In South Africa? --- Yes.

And can you explain to the court and some of it is in your affidavit, it would be good for the court to hear how it was that you carried out these communications. What was your methodology? --- Oh, so first I recruited low profile British persons to write [indistinct] letters so somebody would write to Timol and they had correspond. On the back of those letters I would use a particular chemical powder and I would rub it into the pages of a book, say 10 pages, I would make in effect carbons and then you would use it like a carbon. You would put a piece of paper there... the letter there and a piece of
20 paper there and you would write in block capitals.

The same when Timol replied to us, he had gone into the country with a book with his carbons that I have made, and so he could use the same method. He would write an ordinary friendly letter about the weather and send it back. The woman in his case that I recruited unfortunately also had the name Stephanie, Stephanie

Seagul, she had been a neighbour of mine and had moved to another address by then and so she would bring me the letter and then I would use chemicals to develop what Timol had said in his letter, then I had hand it over to Joe Slovo or Dr Dido.

And do you recall the timeframe in which these communications took place? --- There was not any timeframe specified, but it was sort of perhaps monthly we would hear. There was in fact a period where we did not hear from him, so that was obviously very worrying, and because he also had the possibility of
10 sending us a postcard if he was not able to do a letter or he had nothing to say, which is unlikely. He could simply acknowledge that he had received our letter by sending us a postcard and that did not happen, so there was a gap there that was worrying.

In the end when he started re-communicating with us he said that he had problems within the family, his family.

And that was an explanation that so that you accepted? --- We did at the time, *ja*. I mean, there is not much that you can do about it.

Yes, of course and in those days there was very limited
20 forms of communication so ... [intervene] --- Absolutely.

You were reliant on correspondence and postcards. --- You could phone or send letters. I mean that was really, maybe a telex.

I think it would be interesting for the court to hear what it is you heard from South Africa in terms of the arrest and subsequent death of Ahmed Timol. --- All these recruits had some training from

the people I have already mentioned and I understand that Jack Hodgson had helped with the training. You would be trained into how to use a Romiac machine amongst others, also how to acquire a Romaic machine and how to do stencils but you would also get security type of training.

You know at the time, the fact that people, that we could be killed, that there were spies around us was normal. That was what the struggle was about. I do not specifically remember hearing about Timol's death. But what I do remember is that while this group, this
10 inner group, so it is a group that trusted one another, none of them mentioned the possibility that maybe he committed suicide, it never arose. I am sure... not sure, but anyway, it was just that he had been caught and it was terribly, right?

If we can return to the training and you mentioned that people like Jack Hodgson were giving the recruits training before they were sent back into South Africa, and you mentioned how to deal with certain situations, such as interrogations, do you recall what kind of training somebody like Timol would have received in relation to what to do in an interrogation and what tactics to employ? --- I never gave
20 anybody, to my recollection that specific training. We also trained people in the history of the struggle and so on. But what the going attitude was, was that ... was already that it is possible, likely that you would give a statement and that you needed to delay that for as long as possible to allow other people to make their escape.

The overwhelming attitude was that you needed to have

courage. The whole communist ethos in the Soviet Union after the second world war, where 20 million people died, was the attitude to struggle and to being part of a world movement that was making a better world, was one of heroism and courage. So you looked to somebody that, Nelson Mandela who was sentenced life imprisonment just before I was detained. And while I was in detention I looked him, I need to .. I need to have the courage that somebody like, I did not know him either, but like somebody like he did. So overwhelmingly, that was the approach was one of heroism and courage.

10 And more specifically, Ms Kemp, in your affidavit you say that you were called that recruits were trained to try and stall their interrogators and to hold on for as long as possible to allow others to escape? --- Yes, to escape, should you give their names for instance, that you should try and give people time.

 So was that pretty much standard training that the recruits received at that time? --- I believe so, but of course I did not know with each recruit, because all these things were done secretly.

 During the course of your affidavit you had occasion to look at a publication title 'Nkululeko Freedom Number 1' dated July 1971. I
20 want to put a few questions to you about this particular document. M'Lord, this document is in volume C of the record. It is at page 15 of volume C. M'Lord with the leave of the court, I would like to hand up a copy so that the witness can take a look at it.

COURT: Yes. --- Thank you, this is number 2.

MR VARNEY: This is number 2. It is headed '[indistinct]' of

Freedom'. --- This is number 2, February 1972.

Yes, yes in fact I am only going to question you on this particular document. --- Okay.

So it is 'Inkululeko Freedom' February 1972. It is number 2. For the record, your affidavit records that in your view the number 1 issue of July 1971 was an authentic document so we are not going to take up time dealing with number 1, we are going to focus on number 2. And if I can draw your attention to page 7 and the text, that very last page, the text under the heading 'Stand firm'. Could you compare
10 that text with the balance of the document and give this court your views? --- Yes, when I read this, it was quite clear to me and I say that categorically, that that last paragraph 'stand firm' is a forged paragraph and why I say that is firstly it says issued by the Communist Party of South Africa. Now it was a major event in the history of the Communist Party that from 1921 when it was founded until 1950 with the Suppression of Communism Act, it was called the Communist Party of South Africa, the CPSA.

Any communist today, if you talk about the CPSA today, they will think you are a bit mad, really. In 1950 if the Communist
20 Party in 1950 was disbanded to try to avoid its members being arrested. 1953 people like Dr Joseph Dido agreed to re-constitute the Communist Party and it specifically changed its name to the South African Communist Party, the SACP. Any communist knows that, you know there is no way that you can have a communist writing issued by the Communist Party of South Africa by the SPSA.

So are you saying if this was a *bona fide* publication, it is not the kind of mistake that would have been made? --- No way, it is not a simple mistake, it is a fundamental mistake in terms of our image. The second thing is, for us to have put in the last sentence or so, you know there are... there is a spelling mistake for instance, professional with to 'f's' and so on, but it is possible we could make mistakes. I do not put too much on that, but we say Vorster who was Minister of Justice will not help our people when we have comrades like Rolly Arenstein, Vernon Berrange, Issy Mazels, M D Naidoo, George Dizoz,
10 Sogget and others who had been fighting with us since the days of Rivonia.

It is inconceivable, there is no way that the illegal Communist Party will make a list of names which we knew immediately everybody would get arrested, there is no question about that. I mean this is just not possible. Quite applied from by then I think Rolly Arenstein, I am not quite sure he certainly was considered a bit of a maverick by the Communist Party. I am not sure we would have mention him, but mainly that, you know to mention somebody like Vernon Berrange, you are asking the police to lock him up and put
20 him through torture and possibly death. There is no way.

The third thing is that I think that the whole [indistinct] of the previous 1, 2, 3 paragraphs 4, is crass, it is harsh, it is... if you look at the previous pages the language is quite different. That language, the previous pages, the language I recognise. This is how we spoke, even if we were extremely militant and angry we spoke like the

previous, but this do not fear arrests, be on your guard not to divulge any information to the enemy. Do not be misled by kind words and good treatment, be on the offensive. Counter every question with another question or accusation.

Remember Mandela and Sisulu, that really applied to people in Johannesburg, I am not sure if we would have used Sisulu's name in that context, Mandela perhaps. And then it says 'harass your enemy by going on hunger strikes. Act insane, lodge complaints whether true or false, resort to civil and criminal action in courts as often as possible. Make sure your complaints and actions against the suppressors get the utmost publicity. Rather commit suicide than to betray the organisation.

That is not the checklist, and some of those things people had done off their own sitting in detention, that is what they do. There is mixture here between what is possible if you are in detention and what ... assuming that you are going to get out one day, so making maximum publicity is not possible when you are sitting in solitary confinement, but it is like a checklist, it just does not say... I do not think we would have been that prescriptive to anybody. Most of the people in the group, except myself had not been in detention. I do not think we would have told people, this is what you must do.

Given that this purports to be an official SACP publication, can you comment specifically on the words 'rather commit suicide than to betray the organisation.' --- The first thing that I have a problem with is we did not relate ourselves to the organisation, we

related ourselves to the people of South Africa. So it would have said perhaps something like 'remember the suffering, the millions of South Africans are going through.' We would not have called for this kind of looking back at the organisation.

I mentioned Jack Hodgson, I remember the conversation I had with him. Jack Hodgson had earlier been an underground miner at the [indistinct] in a gold mine, I think, maybe copper in Northern Rhodesia. He ... later than this he had so much emphysema that he really could not walk from here to where these young people are
10 sitting on the floor, without having to clutch the wall and catch his breath. He really was annihilated. He really could not do anything and he turned to me one day and he said: 'Do you think it is acceptable for a communist to take his own life when he is in the condition that I am in?'

I thought about it and I said: 'No.' What communism then was about was a celebration of life, it was about making a good life for everybody on earth. It was not about... so my response to him, which he asked for, and I think that tells you that the Communist Party was not about to encourage people to commit suicide.

20 If you are of the view that this is a forgery concocted by the security branch.. --- Yes.

Why do you think they did that, why, what was the purpose behind this forgery? --- Well, this forgery, this Inkululeko is actually dated after Timol had died, I believe even after the original inquest but as we heard before, there was a growing international and national

outcry against the.... Timol was the 22nd person to die since 1963, when detention without trial started. I would has it a guess that 80% of those were said to have committed suicide. Babla Selugi had fallen from the 9th floor in Grey's building. Others had hang themselves, like Solwan Ngudle.

These people were seasoned trade unionists ANC people, you know so I think that this was added in order to find some way of exonerating the security police. There was huge... over Timol massive outcry both internationally and here and I think they wanted
10 to begin to show that, you know they did not do this.

Your Lordship, no further questions.

COURT: Yes. Thank you. Advocate Pretorius?

CROSS-EXAMINATION BY MR PRETORIUS: Thank you, M'Lord. The name Quinton Jacobson, does it ring any bell? --- It rings a bell but I cannot add anything to that. I remember his name coming up and there had been questions around why his name came up. In other words my memory is that he was purported to be involved in the underground struggle by the security police in a way that ... or by the media here at the time, in a way that we did not accept. So he was
20 implicated, that is all I remember. I certainly had no contact with him in the secret communication that I am talking about.

Thank you, M'Lord.

COURT: That is all. Any questions?

MR THOMPSON: No questions, M'Lord.

COURT: You have no questions. And I notice in your affidavit,

paragraph 19 you say you never met Timol? --- No.

And ... but you heard his name several times. --- Yes, his name would be brought to this group that was chaired by Joseph Dido, we would say, you know he is going to go back in and start this, he would be given a [indistinct] which in his case was Stephan.

Yes. --- So that was .. sometimes some of the people who were not killed, who came... after they had come back after a period in prison and then I might .. in fact I did meet quite a lot of those people, but Timol because he was killed, I never met him.

10 Okay, yes thank you very much for your... we managed to go through all of it today. So, we will not be continuing with it tomorrow. --- And we do not have to come back tomorrow?

No, no you do not have to, but you are welcome to come and sit in. Yes, Mr Varney?

MR VARNEY: Your Lordship, we have no further witnesses for today, unless my colleagues have anything, so we .. from our side we are happy to adjourn.

COURT: Who are we having tomorrow?

MR VARNEY: Your Lordship, tomorrow we are going to commence,
20 with the leave of the court, with an expert witness by the name of professor Ken Boffard.

COURT: Yes?

MR VARNEY: And then we have a witness by the name of Essop Pahad. So, so far we only have two witnesses for tomorrow, unless my colleagues have others we expect to adjourn early tomorrow.

COURT: Okay, and do I have their affidavits? Essop Pahad, is the former Minister?

MR VARNEY: Essop Pahad, you do have an affidavit. We have not prepared an affidavit for professor Boffard, but we will be handing up his curriculum vitae.

COURT: Okay, okay fine. We will adjourn then until tomorrow at 10 o'clock. And I requested a programme of all the witnesses to testify. How far are you with that? Have you brought Mr Thompson into the picture?

10 MR VARNEY: Your Lordship at this morning's meeting we handed up this list, which has not changed as yet.

COURT: Yes?

MR VARNEY: The only discussion we have had is in relation to potential dates for closing arguments.

COURT: Yes.

MR VARNEY: And the proposal, Your Lordship is the 17th and 18th of August, that is Thursday and Friday.

COURT: Yes? For closing of arguments?

MR VARNEY: For closing arguments.

20 COURT: Please bring Mr Thompson into the picture when we adjourn, because I would like to take this programme as I said, you know to discuss with the judge president, in regard to those dates you are mentioning now and I do not want, after doing that, only to find out Mr Thompson has other ideas and to .. we have to revisit the whole thing.

MR VARNEY: As the court pleases.

COURT: Please, I would like him and as well as, is it advocate Coetsee you said? Who is representing Mr Els?

MR PRETORIUS: Yes.

COURT: Yes. Just consult them with this programme, that is priority for me. So that then I know the schedule as to until when we are going to sit. As it is now, it is until the 11th of August.

MR PRETORIUS: Yes.

COURT: But then if we are going to go beyond that, I would like them
10 consulted so that the issue be finalised and then we should not
change after that. Okay?

MR VARNEY: As the court pleases.

COURT: Okay, thank you very much, so then we adjourn until tomorrow, 10 o'clock.

MATTER POSTPONED TO 25 JULY 2017

COURT ADJOURNS

PROCEEDINGS ON 25 JULY 2017

COURT: Yes, counsel?

MR COETZEE: As the court pleases, M'Lord. I just wish to place myself on record. It is advocate S J Coetzee from High Court Chambers, Pretoria, Pretoria Bar. I am instructed by the state attorney to represent warrant officer Els in this proceedings.

COURT: Yes. Thank you, advocate.

MR COETZEE: Thank you, M'Lord.

COURT: Yes, Mr Varney?

10 MR VARNEY: As the court pleases. Your Lordship I would like to call our next witness, professor Kenneth Boffard. Your Lordship I would like to hand up the curriculum vitae of professor Boffard. We have marked it as Exhibit C2, so that will be part of volume C. All the parties had been given a copy of this CV.

COURT: You said Exhibit C2? Yes?

MR VARNEY: Thank you, M'Lord. Professor Boffard.

CLERK: Your full names and surname?

WITNESS: Kenneth David Boffard.

CLERK: Do you have any objection in taking the oath?

20 WITNESS: I do not.

CLERK: Do you swear that the evidence that you are about to give is the truth, the whole truth and nothing but the truth. Please raise your right hand and say: 'So help me God.'

KENNETH DAVID BOFFARD: (duly sworn statement)

COURT: Thank you. You may be seated professor. Yes, Mr Varney?

EXAMINATION BY MR VARNEY: Thank you, M'Lord. Professor Boffard, firstly thank you so much for taking the time out of your busy schedule at Northpark Hospital to be with us this morning. --- Thank you.

Professor Boffard, as has been explained to you during our consultation, we have called you to court this morning to advise the court on the do's and do not's of treatment of individuals who have suffered critical injury for example, after a 10 storey fall. Before we tackle that question, I would like you to give the court a sense of your
10 expertise and experience as a doctor and as a specialist surgeon. We have provided the court with a copy of your CV which is just under 50 pages. We do not have time to go through all 50 pages, so can I ask you to provide us with some of the highlights of your professional career, and M'Lord in this regard I can direct you to page 2 of his curriculum vitae which provides for a helpful overview.

COURT: Yes.

MR VARNEY: And perhaps professor you can commence with telling us what you are currently doing and then speak about your qualifications and certain of your experiences. --- Thank you. I am a
20 qualified surgeon and I have received significant extra training in the field of trauma surgery. That is the field of surgery dealing with the injured patient, M'Lord. I am currently a professor emeritus at the University of the Witwatersrand and was for a period of 15 years professor and head of the department of surgery at WITS at [indistinct] general hospital.

Prior to that for a further 15 years I was chief of trauma at the same hospital. Since 1940 I have been chief of trauma at Milpark Academic hospital and that is a satellite of the university and is recognised as a training centre as well. So for my adult life I had been, after my training, trained as a general surgeon and as a trauma surgeon. I qualified at WITS in 1974. I did my specialist surgical training overseas at Guys Hospital in London and at the Burmy Maxent hospital and returned here in 1984.

Thank you, professor. You are also currently the secretary
10 general of the International Society of Surgery, which I understand is the world's oldest and largest international surgical organisation, and just for the record you have some 80 publications to your name, as well as 20 book chapters and you have written 3 books on trauma surgery. I would like to highlight, with the leave of the court, some of the book titles and journal pieces which I think really highlights your expertise in this area, and if there are any others that you think should be highlighted please let me know.

So amongst the credited journals that you have authored there is one by the name of 'Regional emergency care' in 1989, 'Flight
20 for Life, making it work', 'Selection of patience for air transport', published in 1990. 'Roadside indo-tracheal intubation', incidentally for us lay people, what is that about? --- If a patient up the side of the road has breathing difficulties, previously the options of what to do were limited, but with the improvement in training of what became paramedics, it was possible to put a plastic tube down into the trachea

and get good breathing for that patient.

Thank you. There was a bit of few published articles on gunshot injuries, one is titled 'Major gunshot injury in South Africa.' An interesting piece on penetrating neck injuries, treatment of bleeding, is to stop bleeding. Treatment of trauma related haemorrhaging. Then you have published a book titled 'Definitive surgical trauma care' which is now in its fourth edition. Professor any other journals or books that you wish to highlight for the court? --- I am happy with that.

10 This, I may say that from your CV you had a distinguished career and certainly not an idle one. --- Thank you.

Professor, in preparing for your testimony today, did you study any documents or reports? --- I did. I was furnished with the post-mortem report from Dr Scheepers who was the medical officer who performed the post-mortem. I also received a short text from Dr Vernon Kemp, certifying that he had certified death, and those were the two relevant ones that I have received.

Your Lordship, for the record the statements of Deysel, Pattel and Kemp as well as the post-mortem report can be found in
20 volume B. Professor perhaps it would be helpful if we just summarise the contents of the statements of warrant officer Deysel and brigadier Pattel because this essentially sums up the police version of what happened in the aftermath of the fall. Warrant officer Deysel alleges that once he was advised of the fall, he raced down to the site together with a colonel Greyling.

He grabbed two blankets on the way and on arrival at the scene he attempt or in fact did roll Timol onto the blanket and transported him, or first discovered that there was a pulse that he was alive, transported him into the entrance foyer of John Vorster square. Apparently examined him again, at that point in time discovered that there was no pulse and then removed him to the 9th floor, at which point in time Dr Kemp arrived on the scene some minutes later and declare Timol to be dead.

10 Brigadier Pattel was not present at this time, but he did bump into colonel Greyling and warrant officer Deysel in the ground floor entrance foyer to John Vorster square. His evidence is slightly different because he saw them carrying Mr Timol towards the elevators. So that in sum is the police version. I would like you to offer your comment on what the police did when they discovered Mr Timol laying in the garden outside the south wing of John Vorster square and when you offer your comment, please do so wearing your hat as specialist surgeon and medical expert and please inform this court whether they acted appropriately and if not, what in your view they ought to have done. --- Thank you. M'Lord, if I may just make a
20 couple of additional remarks about my background. I trained in medicine at WITS from 1966 to 1973. One of the things that I did during that time was worked on what was then the Sandton Ambulance service and Johannesburg Ambulance service such as it was. Both ambulance services at that time were completely segregated into a European and a non-European service and I worked

on both.

When I returned from the United Kingdom in 1984, the ambulance service was to my memory unified, but I also took over as academic head of ambulance training for the province of the Transvaal. The difference between the 1960's and 70's is that ambulance personnel were essentially ambulance drivers, and I will come back to that. By 1984 the Transvaal Ambulance training college had been established. The concept of paramedic had not yet been developed, so there was a degree of ambulance training even in 1984
10 and that is 13 years later, which recognised that ambulance personnel were not people wearing a white coat with very limited training.

The paramedic training became available in the late 1980's much later. So at the time of this incident taking place, ambulance services had ... *[15:03 – 15:39 soundtrack faulty]* ... and so the ambulances at that time were almost not equipped apart with stretchers and blankets, certainly not with drips and the expertise of the ambulance personnel or the police in terms of what we think of today, was not even dreamt of it was very limited indeed. So that is the sort of background as to what pertained at the time and what I
20 then, as a very junior ambulance officer had at my disposal during the time that I was at medical school but working part time in an ambulance service.

So, as a preface, those are the conditions. The first aid at the time, and it really was developed over years from the British particularly, the first aid at the time recognised that people could be

severely injured and specifically recognised the danger of neck injury, so that if somebody had fallen or been hit by a car, there was a very high risk of neck injury. The recommendation from both the military and civil emergency care books at the time, was that a patient if they had been badly injured, should not be moved. They should be turned into what was called the coma position, which essentially meant laying on the side, almost using the hard surface of the road or whatever it was as a stabilising surface.

One knee was drawn up, so in this particular situation there
10 was one leg was broken. The patient should have been rolled to the other side, one leg drawn up, the knee bent and the patient left laying in what was called the three quarter position, laying on their side until emergency help arrived and that included an ambulance stretcher. They were put onto that and transported to hospital.

Thank you, professor. Professor, one of the reasons why we believe this evidence is very important is because over the years the family have had great concern that the manner in which Timol was handled, physically handled at that time could very well have worsened his particular condition. The police in question were aware
20 that Mr Timol had fallen 10 storeys and presumably would have known that anybody falling 10 storeys would be critically hurt. In your view, would moving a person, any person in that position, done considerable or any harm, further harm to the injured person? ---
M'Lord, any sort of movement of a critically injured patient, even at that time, was recognised as causing more severe injuries. Clearly

no-one had the details on the post-mortem at that time. Equally I have no knowledge of the surface onto which the deceased fell. But at that time, the police in fact certainly the provincial police and mostly the South African Police Service did not even carry first aid kits in their vehicles and one of the things that we had both as students and doctors was we were told repeatedly even if the patient is in the middle lane of the newly opened M1 motorway, they must stay there, they must not be moved because far more damage will occur.

We had situations where roadside tow trucks helped us to
10 tow the vehicle out of the middle lane of the highway before the person was removed from the vehicle or if they were laying on the highway, assist us to move them out of the source of danger, so across the emergency services, including traffic police and I assume the South African Police as it was it was drummed in, you do not move these patients because you may cause further injury, particularly to the spine.

Particularly also if there are broken bones, big broken
bones, and the deceased did have what would have been very visible a big... damage to his one leg with the break in his leg. The teaching
20 was you have to split that before moving it. So I would recommend that this patient should not have been moved until emergency services arrived, but I have no knowledge of the availability of emergency services at that time.

COURT: You say that it could exacerbate the injury, but would you say that it would be fatal to move a person who is injured? Can it

result in death? --- M'Lord, the normal cause of death in patients such as this is either they obstruct the airway, they are actually unable to breath. Typically seen at somebody with very bad facial injuries or bad neck injuries, or they are actually unable to breath because the lungs are not working, or they bleed until they die, or they have such a severe brain injury that after a while the brain stops working and any factor which can make this worse, this is why the three quarter position has been advocated, it allow the airway to be open.

It allow the maximum choice of being able to breath and
10 more importantly the not moving of the patient meant that whatever breaks there were, would not cause further damage to the tissue around them, by moving those breaks and increasing the amount of bleeding that the patient had. So, the restriction in movement would have been clammed as reducing the factors that would increase the onset of death.

Oh, --- So they would not of themselves have been the only cause of death but they could have made the other causes worse.

There could be a contributing factor? --- Correct.

Was there any mention of that in the reports that you studied
20 from Dr Scheepers or Dr Kemp? Did you find any discussion on this subject? --- Dr Kemp purely certified that the patient was dead, so there was nothing to add there. Dr Scheepers had a very comprehensive, in my opinion, post-mortem for the time and he documented neck injuries, he documented other spinal injuries, he documented internal injuries, all of which could bled quite a lot and I

have no doubt contributed both to the onset of death, but on top of that he documented two major bony injuries of the arm, the upper arm, the humerus and of the femur and moving a patient in a blanket rather than on a stretcher would have moved those fractures and I think would have increased the amount of bleeding from the fractures would contributed to the death.

And did you have sight of Dr Gladman's report? --- I have not.

You only looked at Dr Scheepers report? --- I have.

10 And from that report and the injuries he explained there, would you then conclude that it is possible, it is a possibility that the nature of the injuries were such that if the body would be removed or moved from the position it was, that that might contribute towards the death of the patient? Would you say that, based on your knowledge? --- M'Lord, based on the post-mortem findings, and the severity of brain injury sustained by the impact, I think that the eventual outcome would have been fatal come what may. But that was not known at the time.

20 Yes. --- So my opinion is that the movement would have contributed to a more rapid cause of death.

Okay. You may proceed.

MR VARNEY: Thank you, Your Lordship. Your Lordship, I should advise you that unfortunately the Dr Gladman report is part of the earlier part of the record which is still missing and we are still searching for that part... [intervene]

COURT: Yes, yes I know, I know I tried to look at the documents that were before me, I could not find it and it puts us at a rather difficult position, but you may proceed.

MR VARNEY: Just also for Your Lordship's knowledge, we do have the testimony of Dr Gladman as part of the transcript, but I can tell you that he does not deal with this aspect.

COURT: Yes, yes, I have noticed that. That is why I am asking this witness because that is one factor that is missing.

MR VARNEY: Yes.

10 COURT: Yes, you may proceed.

MR VARNEY: Thank you. Professor while we are dealing with what ought to have happened or not happened, at the impact site, can I put to you from a lay person's perspective what I think should have happened and you can either agree and perhaps elaborate. Where there is a potential spinal injury one should immediately stop the head or neck from moving to prevent further damage, would you agree with that assertion? --- Particularly when you are falling from a height, unless you already have the evidence. When you fall from a height, particularly if you fall on your feet that may not have been the case
20 here, but again that was not know at the time, the whole force of landing works axelly. The force is applied, for example to the feet and the shock of landing goes through the spine, from the bottom to the top and then when you fall over often you then hit your head hard on the road.

So, not only is there a very high risk of injury to the neck

because the head moves independently of the torso and the neck itself can be damaged, as in fact turned out in this case. But in addition to that the axial compression, think of a whole lot of tea cups stacked up, that is the spinal cord and if you drop those tea cups as a column onto a hard surface some of the tea cups in the middle may break as well and that in fact is also recorded in the post-mortem.

We assume this in any fall from a height, so even in the first aid books not only is the neck protected, but the recommendation is the patient should not be picked up by the arms and by the legs,
10 because the bits in between will bend, but the patient should be what is called body rolled, and that was known and practised at that time and we practised it as ambulance personnel and it was taught in the first aid books. So, you did not pick up and drag a person off... that is a little different in the military context, because obviously there is combat risk. But in the civilian context they were picked up or rolled onto a board or onto a stretcher without moving the spine further, not just the neck but the whole spine.

And further professor, would it be advisable to grip each side of the head to support the head in a position so that the head,
20 neck and spine are in a straight line. --- That would be correct.

And then, one would want to support the head until emergency services can take over, no matter how long it takes for those emergency services to arrive? --- That is correct.

And then finally, one may want to open the airway in case the person is unresponsive, so it is as a matter of record on the police

version that none of these things happened. Professor you make reference in your evidence to injuries that Mr Timol sustained, to his neck and to his spine in fact and we also know from the post-mortem report that he also sustained severe head injuries. If you can recollect, can you describe those injuries and perhaps indicate to the court why in such injuries it would have been best not to have moved this particular man? --- May I refer to the post-mortem report?

Yes. --- M'Lord I am referring to the post-mortem report by Dr N J Scheepers who was the senior government pathologist, I am
10 not sure of your bundle reference number.

M'Lord, it is in volume D, I believe it is Exhibit XX. Volume B, Exhibit X.

COURT: Exhibit X.

MR VARNEY: In fact it is described as.. it is X, pages 48 to 59.

COURT: Volume B?

MR VARNEY: Yes.

COURT: I have just looked at X and I get something different there. I get my [indistinct].

MR VARNEY: It is the volume, Your Lordship which has all the
20 affidavits and Exhibits as well in it.

COURT: Yes, I am on that one yes. I will just have to go to the index here because I ... XX1.

MR VARNEY: M'Lord, we can give you a copy... [intervene]

COURT: Yes, I have it. It is XX1, it is not X. Yes?

MR VARNEY: Thanks professor, you may proceed. --- M'Lord, I am

not for obviously reasons going to go through this in detail, but I will pick up on a couple of the salient points and with Your Lordship's permission I will report in English, I welcome if anyone feels that I am not translating adequately. On page 50...

COURT: Yes? --- *Uitwendige voorkoms van die liggaam* it reports on the external injuries and the first line is that there is a fracture of the right elbow and a fracture of the mid-shaft of the right femur. These are the two external fractures and certainly the elbow and the femur fracture, the femur fracture that is the upper leg would have been quite visible, I think in terms of distortion of the shape of the arm or the leg, especially the leg.

Moving to page 51 under item 6 *Skedel* or the skull, the report from the 3rd line reports there is a fracture of the base of the skull and a fracture of the posteriorly and the left orbital plateau and the [indistinct]. In other words the skull has a top, a side and a bottom that surrounds the brain, so this is the area under the brain, between the brain and the body itself. It is the thickest part of the skull and to break it requires a very large amount of force. That is not totally relevant to the skull, it is what is in the skull that is important, in other words if you see a fracture of the base of the skull, that implies that the brain has the potential for very great injury.

Also under, I am sorry I misread *skedel* is number 5 and then number 6 *skedel inhoud* it report widespread sub-arachnoid bleeding, especially on the inferior aspect of the left frontal and temporal areas. So, again the brain occupies the skull, we have this

bad break under the brain, and bleeding within the brain and on the surface of the brain primarily where that break was. Now, that is the most protected part of the brain and is also the area to some extent which governs your really important functions.

That is the bit of the brain which tells you to breath. That is the part of the brain which also maintains your blood pressure and pulse and it is called the mid-brain and that was the area that was the most badly damaged. Moving on to number 7 there was a break of the nasal bones and underneath the eyes. That is also part of the way you breath in air, so it can partly obstruct the way you are breathing your air and under 8 there are further fractures of the upper .. of the upper jaw which again can imply this patient may have breathing... particularly if there is bleeding inside the mouth or nose and the person is laying on their back at any time, that blood accumulates at the back of the mouth and stops the breathing.

Traditionally we again we roll the patient if we can, onto the side so that the blood runs out of the mouth rather than into the lungs or blocks up the breathing and even in those times there were two techniques taught which was a mouth sweep to remove any broken teeth and so on from the mouth and sometimes, and something call the jaw of thrust. When you are holding the head, if you put your thumbs at the back of the jaw and push it forward, it allows breathing to be easier. So that was also why advocate reported that one should hold the neck.

The neck structures were reported as bleeding at the front of

the neck and that is important again from the point of view of breathing. Moving down there are lots of other bruising in the lung cavity and I am now on page 52. There was about 230ml of free blood on the left side of the lung. That is not enough to kill him. Also a tear in the right lung and so on. Those would eventually continue bleeding, but I do not think that they were a specific cause of death here.

When we move to the abdominal cavity, just moving forward, please forgive me for a second.. the abdominal cavity reported and I
10 may have to .. just go forward.. that the renal artery had been torn off.

COURT: Is it on page 56 or are you still on the.... --- Page 56, it makes just a comment that there is bleeding around the kidneys, that is halfway down under *niere* on page 56.

Yes? --- And I believe I am actually, I cannot locate it at the moment but somewhere there was a mention of the renal artery on the right being torn.

I see on ... [intervene] --- And blood around it.

I see the last page he mentions the artery there and on the last page, just before, above his signature. Could it be the one you
20 are looking for? --- The left carotid artery shows an area of tearing in the elastic of the elastic [indistinct], that is not what I was referring to, that is still up in the neck, so there was I think significant neck injury as has been documented. But, ...

MR VARNEY: Professor can .. may I refer you to something in particular? This is .. it is one of the annexures to the post-mortem

report, titled *Lys waarnemings*, so it is .. I think it is the very last annexure to the post-mortem report, I beg your pardon, the second last annex and could you comment on paragraph 27, that would be on page 55 and perhaps I will translate. --- Okay.

It is titled 'Spine' and then paragraph 27 says 'Spinal column' there is a fracture of the body of the 7th cervical vertebrae and 28 says 'Spinal cord' it says not exposed. Could you comment for the court on those two paragraphs? --- There is a fracture of the 7th cervical vertebrae. Now, the head is attached to the torso by the so-called cervical vertebrae, which start underneath the scull and finish with the thoracic vertebrae, there are 7. So the 7th vertebrae is the bottom most one. It is also the most vulnerable because when there is an injury, the head if it moves, most of the load of that is actually placed on the 7th vertebrae and the 6th and the 7th vertebrae are typically the vertebrae that break either in a fall or in a bad rugby tackle and render the rest of the body without a spinal cord so quadriplegic, tetraplegic.

So the 7th vertebrae if it has a fracture, that is a major fracture with potential major complications going with it and that could include permanent spinal injury.

Yes, I think you have demonstrated to us that Mr Timol had sustained very serious injuries to his spine, his neck as well as his scull as well as other injuries, so unless there is anything else in the post-mortem report you want to point us to, are you of the considered view that given the peculiar injuries that Mr Timol suffered that he

should not have been moved from the spot he landed and the measures that you have described, emergency measures, should have been taken at that time? --- Unless there was circumstances placing his life at further risk for example, in the middle line of an uncontrolled motorway, my opinion is that he should not have been moved until he was transported to hospital.

Thank you. And then finally, the example that you gave of police not wanting to move seriously injured persons even on a busy highway, it suggest that there was perhaps a fear or a culture
10 amongst the police at the time that even in a dire situation as a busy highway there was some reluctance to move injured persons, so in your view that culture persisted and you were aware of that culture at the time. We you surprised then to hear that fairly experienced police officers decided to move Mr Timol almost immediately, notwithstanding their knowledge that this man had fallen 10 storeys?
--- During the time that I worked within the ambulance service, a very senior police officer expressed to me the anxiety in the uniformed South African Police that if police officers attempted to administer medical care, including first aid to anybody, they might be held liable
20 for doing so. In those days there were no first aid kits on police vehicle to my knowledge and the police for the same reason expressed a wish not to move patients from the site of their injury, again because they might be held liable for further injuries that occurred.

So I am very surprised that they would have moved this

patient, especially in urban, metropolitan Johannesburg, Commissioner street area, because there was availability of ambulance services at that time and they were based in central Johannesburg, so the ambulances should have been available reasonably quickly.

And in fact that, the impact zone, the impact site is located in a garden just outside the southern wing which fronted onto a road where an ambulance could easily have stopped in order to attend to the injured Timol and take him to hospital, does that add to your
10 surprise? --- It does.

No further questions, Your Lordship.

COURT: Mr?

CROSS-EXAMINATION BY MR PRETORIUS: Thank you, M'Lord. Professor Boffard, just on a different track here, if you were to certify the person dead, how would you go about to discern that the person is dead, what would you do, what would be of significance in a situation like that? --- Thank you, and my question, I presume refers to were a practitioner have to certify death?

Yes, the district surgeon, say for instance you were the
20 district surgeon and you were to certify the person dead, what would you do and what would be of significance then? --- There are a number of tests for life and separate tests for brain death which is more relevant to transplantation but the circumstances you are referring to here, I would look for external signs of life, in other words any movement, any attempt to breath at all. Then I would look at

measuring the basic parameters of life and that is again are there any attempts to breath, is there a pulse present, because if there is a pulse present then the heart is still beating and the person is still alive.

Also any reflexes, reflexes are response to basic functions not higher brain functions, so that if you are in a doctor's consulting room and the doctor taps your knee and the knee moves, you are not moving the knee, it is a basic spinal function. Equally if you shine a light into the eye, the pupil gets smaller. So a patient who was making no attempt to breath at all, and I am taking 1971 there are
10 other tests now, no attempt to breath at all, no pulse palpable at all and shining lights in the eye, the pupil is widely dilated and not responding that would have been what was used to ascertain the cause of death.

The reason I am asking you if we look at the original inquest, Exhibit T, M'Lord that would be volume D, Exhibit T and that would be page 44, is an affidavit by Dr Kemp and I want to read it to you because I want to ask you to comment on some of the matters.
*Bernard Dennis Kemp verklaar ek is die distriks geneesheer te Johannesburg op 27/10/1971 omstreeks 3:55 het ek 'n berig ontvang
20 as gevolg waarvan ek na John Vorster plein gegaan het. Met my aankoms daar om 4:05 namiddag het ek na die veiligheidskantoor op die 9de vloer gegaan, waar ek die liggaam van 'n Indier .. waar die liggaam van 'n Indier man aan my uitgewys was. Met die ondersoek het ek vasgestel dat hy reeds dood was.*

And then the interesting part to me and that is why I am

questioning you on this '*Hy was pas dood.*' How would you ascertain that the person died just before that? How would you ascertain that? --- I am having trouble answering in that we are talking about a timeline where a person's heart stops and that is usually the first event, partly because the brain is no longer telling it to keep going. Until the heart stops there is some oxygen going to the brain and after that the pupils will dilate up. But at that time all the physical appearances, the patient is still warm, the patient's limbs are still can be physically moved, they are not stiff and that really does not change
10 for a while and you would have to refer to a forensic scientist to give you more of a time, but certainly within an hour I would not be able to say whether the patient had died a minute ago or an hour ago.

I am just thinking, what would be the significance as to exactly when this person died, why would you put in, in the death certificate *hy is pas dood.* What is the significance of that? --- I do not know.

Thank you, M'Lord no further questions.

COURT: Yes? Any questions advocate Coetzee?

CROSS-EXAMINATION BY MR COETZEE: M'Lord, there is just a
20 couple of issues I would like to ask. Professor should any attempts had been made to resuscitate Mr Timol what would have been... I mean by resuscitation by massaging his heart or artificial breath in his... anything like that, what would that effect had been? --- Again, I am taking the context of 1971 and actually even in my... 2017 the attempts at resuscitation by lay people would have been CPR. At that

stage that was not as common as one would want and I think at the time the resuscitation would have been to keep the airway open, move into the coma position, stop any visible bleeding by pressing on it and that was about it.

Yes, and as to the injuries and taking into account the limited paramedical training at that stage and the ambulance services, do I understand you correctly that your evidence is that regardless as to their revival at the scene, whether he was left there in the garden, Mr Timol would have died? --- From the injuries I have seen, he
10 sustained fatal injuries which may well have been fatal in 2017, but again that is in retrospect. Those injuries would not have been a parent and remember this is even before the days of brain scans, so those injuries would not have been apparent to anyone on the scene at the time.

Yes, but objectively, if we look objectively at the injuries and the consequences of those injuries, could anything have been done to prevent him dying? --- I do not believe so.

Thank you, M'Lord.

COURT: Thank you. Advocate Thompson? I still [indistinct].

20 MR THOMPSON: No questions, M'Lord.

COURT: No questions.

MR VARNEY: M'Lord, I just have one further technical question, if I may put it to the witness?

COURT: Yes?

MR VARNEY: M'Lord, my learned colleague, Mr Pretorius raised the

question of pulse and checking for life. Professor, is it possible in some circumstances not to find a pulse on the wrist or arm, potentially to find a pulse elsewhere? --- You are correct. The first pulse to go is the wrist. As the blood pressure falls at that stage you can still feel a pulse in the groin and then that pressure goes and then the last, because it is relatively easy to feel, is in the neck, just above the collar bone and I am indicating on myself, and that is the last one to go and that would be the pulse we would normally look for particularly in the slimmer individual, normally look for because that one is still felleable
10 when the others are not. In 2017 we have electronic means of assessing it.

So, when officer Deysel alleged in his statement that when Timol had been brought into the foyer and he checked for a pulse on his wrist and there was not one, and he was therefore dead, possibly or conceivably Deysel could have been wrong? --- If I look at the injuries, this patient did not primarily die of loss of blood. If I may put numbers on it, very briefly, a normal blood pressure is about 120mm of mercury. That is what most of us in this room have. As you bleed and because of a low pressure is general bleeding, as you bleed when
20 the blood pressure falls to about 80 it is no longer possible to feel the wrist pulse. When it falls to about 60 it is no longer possible to feel the groin pulse and when it falls to 40 it is usually not possible to feel any pulse.

So, the post-mortem findings I see here report primarily brain and vertebral injury with multiple fractures. And those to me

were the cause of death whereby the heart stopped beating. That being said, on what I see I would have expected warrant officer Deysel to be correct that he would have been able to feel a pulse if that patient was alive, because there was enough blood to provide the pulse. It is possible he could have been mistaken. Many times it is reported as a pulse when in fact we are feeling our own pulse by mistake

Thank you, professor.

COURT: Professor you studied the post-mortem report, would you
10 say that those injuries, all of them were sustained after the fall? ---
M'Lord thank you, I have studied the post-mortem report and again I
am not a forensic scientist. There were a number of injuries which
reported and in fact there are photographs there as significant
bruising and there are significant visible bruises. They appeared to
me to be old bruises. I think that the injuries to the spine certainly
would have been caused by the fall, but I would not .. my expertise
would not be to the court's benefit for me to say that they were all
sustained by the fall. I think on what I have seen there were some
pre-mortem injuries as well, particularly involving the bruising of the
20 skin and of the face and maybe the orbital fractures, but I would not
feel as an expert I can comment on that.

Okay. Thank you, thank you very much. Thank you,
doctor... professor you are excused.

MR VARNEY: M'Lord, would be a perfect time for a tea adjournment?

COURT: Oh *ja*, fine you can take the tea adjournment and [indistinct].

We adjourn until 11:30.

COURT ADJOURNS

COURT RESUMES

COURT: Yes, Mr Varney?

MR VARNEY: Thank you, M'Lord. M'Lord before we call our next witness I wonder if I can just deal with some more paperwork.

COURT: Yes?

MR VARNEY: Tomorrow we are also hearing from two medical experts and we would like to hand up the independent medico-legal opinion of Dr S R Naidoo and also a second document, M'Lord and
10 this is a translation of the post-mortem report into English. It is an unofficial translation, but we have consulted with our colleagues for the state as well as counsel for the different police officers, and there is no objection to handing up this translation of the post-mortem report.

COURT: Did you do the translation?

MR VARNEY: It was carried out by another doctor.

COURT: Yes.

MR VARNEY: And we can actually put this to Dr Naidoo because he arranged a colleague of his to translate the post-mortem report.

20 COURT: Then that is fine, it will assist, okay.

MR VARNEY: M'Lord, with your permission we would like to mark the independent medico-legal report of Dr Naidoo as C3 and the translation of the post-mortem as C4.

COURT: Yes, it is so marked.

MR VARNEY: Your Lordship could I bring another matter to your

attention.

COURT: Yes?

MR VARNEY: We have consulted with some of our remaining witnesses, Mr Moodley who is our projectory expert. He is in the [indistinct] that he is only available on Friday morning. We had anticipated not sitting on Friday morning, but with your permission we would like to call just Mr Moodley for Friday morning and we think he could be done before lunch, potentially just after 2 we think we might finish with him.

10 COURT: Okay.

MR VARNEY: In that case, Your Lordship we had done some shifting and we propose moving Mr Frank Dutton and Mr Enthias Kajee to Thursday afternoon, so we anticipate a full day for Thursday.

COURT: Who is coming on Thursday afternoon?

MR VARNEY: Well, just to remind you in the morning we have Mr Don Vorster.

COURT: Yes?

MR VARNEY: In the afternoon Mr Frank Dutton and Mr Enthias Kajee. We will supply you with an amended witness list.

20 COURT: From Mr Kajee?

MR VARNEY: Yes, the nephew of Mr Timol.

COURT: Yes, I know. Is he not coming at the end?

MR VARNEY: We thought of calling him now, because he fear that next week might be quite a busy week.

COURT: I have read his affidavit, I would have preferred to hear it at

the end.

MR VARNEY: If you prefer to call him towards the end next week, we are happy with that Your Lordship.

COURT: *Ja*, at the end, next week.

MR VARNEY: Okay. With your leave I would like to call our next witness, Your Lordship and that is Essop Gullan Pahad.

COURT: Yes. Ask him first.

CLERK: Your full names and surname?

WITNESS: Essop Gullam Pahad.

10 CLERK: Any objection in taking the oath?

WITNESS: I will affirm.

CLERK: Do you affirm that the evidence that you are about to give is the truth, the whole truth and nothing but the truth?

ESSOP GULLAM PAHAD: (duly affirmed statement)

COURT: Yes? You may be seated, Mr Pahad. --- Thank you.

EXAMINATION BY MR VARNEY: Your Lordship, Mr Pahad has indicated that he is wearing a hearing device and he has requested us to talk as loudly as we can so that he does not have to strain to hard to hear.

20 COURT: Okay.

MR VARNEY: And I hope my colleagues will also raise their voices should they wish to examine Mr Pahad. Mr Pahad, do you have a copy of the affidavit that you attested to on the 18th of July? --- I do.

And do you confirm that this is your affidavit? --- It is my affidavit.

Your Lordship for the record this affidavit is in volume H at page 5.

COURT: Yes. Volume H, page 5, yes. I have seen the affidavit.

MR VARNEY: Thank you. Mr Pahad, thank you for taking the time to come to court this morning. Before we get to your association with Mr Timol, it is important for us to hear a bit about yourself and for you to describe to the court how it was that you got involved in politics and the liberation struggle and you may kick off with aspects of your early life and which organisations you started working with. --- My parents
10 were very deeply involved in the struggle. My mother has been in prison three times, twice [indistinct] for the [indistinct] of Resistance Campaign and once in the 1952 difference campaign. My father was the leader of the Indian Congress and they worked very closely with Dr Joseph Dido who is widely regarded as one of our pre-eminent struggle leaders. So we grew up in a political home. My parents flat in Johannesburg was used for all types of political meetings, both of the ANC as well as the Indian Congress.

So I guess for me to join the demonstrations when I was mere 13 years old in 1952, was a natural progression of what I had
20 grown up with. So my entire life has been devoted to the struggle and at a young age, at the age of 18 I was elected to the executive committee of the Transvaal Union Youth Congress and that is where my political activities took place. I was very active in student politics when I was a student at the University of the Witwatersrand. Both my brothers, his and I were banned in January 1964. We had both

graduated in December 1963, from WITS and very interestingly we were ordered to go to the old special branch, Greys building, it was in Marshallstown.

The special branch officer read the banning orders to us separately, and when I said to him but this is causing problems because actually banned persons cannot communicate with each other, he said that is not my problem, you go to the chief magistrate and get permission. So we had to walk to the magistrate's court but he walking behind me because we could not communicate and the
10 chief magistrate said 'I give you temporary permission to communicate with each other, until the Minister of Justice does so.'

We then had to write to the Minister of Justice who was Vorster at that time, as well as asking him to give us permission to continue with our post-graduate studies at WITS. He wrote back to say that he does not see to our request to continue our studies, but he will give us permission to communicate with each other.

And you lived in the same house? --- We lived in the same house and shared the same bedroom, so it would have been quite impossible not to communicate. So, I carried on being actively
20 involved in [indistinct] even when we were under banning orders. We did whatever work was asked of us to do until we were asked by the.... well we were both arrested for breaking of banning order and at that time I then also consulted with Braam, Braam Fisher about what should happen and then we were asked by the ANC to leave South Africa to go for further training abroad, which we did. We left on an

exit permit in December 1964.

You need an exit permit, is that a one-way exit out the country? --- It is a one-way exit which means you have undertaken not to return on pain of getting arrested. So we took an exit permit because it was also much easier to take an exit permit because the presses and the movement was too great at that time for the underground structures to take people out of this country and so it as easier for those who could get an exit permit to take an exit permit and leave and that is what we did do. In exile we both became very
10 actively involved in the work of the ANC.

I continued my studies, I did my MA at the University of Sussex. I then stayed on and did a doctorate in history at the University of Sussex but we were very actively involved in the organisation. I was recruited into the South African Communist party in 1966 and since then have served in the leading structures of the South African Communist party, both the central community as well as the [indistinct] bureau. I served in various structures of the African National Congress, including being a member of the National Executive Committee from 1994 to 2007.

20 In the meantime I also represented the South African Communist party on the editorial council of the Hallmarks Review, from 1975 to 1985. In the meantime, after I returned to London in 1985 I was asked to serve on the ANC's regional political and military council, based in London. So we continue our political work until we came back from exile in I came back in July 1990... [intervene]

Just before you talk about your return to South Africa, just for the record, you joined the SACP in 1966, according to your statement? --- I was recruited. In those days you did not join the SACP you were recruited.

And on what basis were you recruited? --- Well, on the basis that the SACP had a position that from that point of view, those who were leading the party at that time, that they would recruit into the party what they considered to be, or who they considered to be some of the best [indistinct] in the movement and so I guess they thought I
10 was good enough to be recruited to be a member of the SACP.

Was the SACP in London working openly or underground? -
-- No, totally underground so for example the unit I belonged to in London only goes so far so a part of that unit knew who was in the unit except of course the people in their leadership. But the rest of us... and we were not at liberty to disclose our parting membership to anybody outside of the unit that we would belong to.

And you mention that you reached the highest level of the decision making body of the SACP, the central committee and that was when? --- In the 80's some time I was elected onto the central
20 committee and after 1990 I was elected onto the [indistinct] bureau of the South African Communist party.

Before I interrupted you, you mentioned that you had just return to South Africa, I think in 1990? --- In July 1990 there were three of us who were given a specific task that is Jeremy Chronen as well as ... what is her name? She.. Geraldine Frazer Moleketi and I

were given the task of resuscitating or rebuilding or building a legal party, if you will recall that the SACP was also unbanned in February, the 2nd 1990 and the three of us were given the task of being in the forefront of creating the structures of a legal SACP which is what we did do and which is what I did do.

One of my early responsibilities was to be in charge of the party finances and at the same time to be head of the international department of the South Africa Communist party as part of my responsibilities in the central committee and Polit bureau. I served on
10 both those structures. In 1994 when the first democratic elections took place, I was put on the ANC list to go to the national assembly. Prior to that in the Northwest Province at that time it was called the Western Transvaal, but Northwest Province I was nominated to be the premier elect. Well, I turned it down.

I turned it down because I thought that it was not going to be in the interest of the ANC if they had somebody who was a well-known communist in a situation in which the Bantu stance in the old work at Bobpuhatswana and then had some effect where in the rural areas you might still have anti-communist feelings. Secondly I did not speak
20 Tswana as a language and in my view if you want to be a premier in the province you have to speak the language of the people.

Mr Pahad, you ultimately did serve in parliament and you became... [intervene] --- I then became an MP, and after I became an MP I first served as the parliamentary counsellor to [indistinct] person Thabo Mbeki and that is just after the elections a few months

after the elections. In 1996 president Mandela appointed me, deputy Minister in the deputy person's offices that is in Thabo Mbeki's office. After the elections in 1999, Mbeki appointed me as Minister in the Presidency responsible for a whole number of functions and after the elections in 2004 he once more appointed me as the Minister in the Presidency, which is where I served until I resigned, both as a Minister as well as an MP.

In 2008 when the national [indistinct] of the ANC asked Mbeki to step down as president of the country.

10 And you have also served on boards of national, non-governmental organisations? --- What I did serve on was a number of them but I think the two main ones would have been the Timbuktu trust fund that we set up, which essentially is after Mbeki had been to Timbuktu and realised that a lot of the most priceless, of the priceless documents relating to the history of our continent, but especially in relation to Timbuktu and the development of Islam in that whole region, that he undertook to build a structure that could house the documents, but I was then head of the Timbuktu trust.

I also chaired the South African Democratic Education trust
20 which had been responsible for the production of, in my time, at least 5 volumes of the more detailed history of our struggle in South Africa.

Thank you, Mr Pahad. Can we now turn to your relationship with Ahmed Timol and can you describe how it was that you came to know Ahmed Timol? --- Well, when [indistinct] our grandparents came from the same village in India and so you tended to know each

other because for many of the people who came from the same village they might have even been related through marriage. But our grandparents knew each other. Our parents were friends of each other and so we knew each other from an early age. But our friendship really grew after ... at the time when Timol came to study, to be a teacher in Fordsburg because then we saw a great deal more of each other and we spent a lot of time together and of course almost every weekend Timol would come to Johannesburg from Roodepoort and we would spend a lot of time together at weekends. But that is
10 where our friendship really grew.

And I understand from your statement that you were so close that when you were banned Timol helped you out? --- He did, inspite of him having to give money to his parents. He would help me out in terms of when I had lack of funds, [indistinct] to slip into a cinema or buy something to eat or something in the cafe's while you are sitting outside. Then when I left for London he bought me my first overcoat. I had never worn an overcoat before in my life, he bought me my first overcoat and so for many years the overcoat I wore in London was the one that he bought for me.

20 Please tell the court your association with Timol when Timol arrived in London? --- When Timol arrived, when they knocked on our flat door and I went to open it, I found him standing there and said what do you want here? So he said, no, no I have come, I come to London I was in Mecca and met with Dr Dido and [indistinct] and I decided to come to London. So our flat in London in Northend house

in West Kensington was, if you like an open door flat, there might be 20, 30, 40 people staying there at the same time, so we said, come, welcome. There is a bed occupy the bed and .. but you have to work, which means you must learn how to wash dishes, you must know how to clean toilets, you must learn how to clean the bathroom, because there is nobody who is going to do that for you here in England.

But he found a teaching job and so he was able to make a contribution towards buying food and all that in the house. And so that is how we became even closer and had a great deal more time to
10 engage in political discussions, because Timol was greatly interested, not only in South African politics in our own struggle politics, but he was also greatly interest in what was happening in the world. What were the international struggles all about and that time the CND was a very powerful factor in British politics, that is a campaign for Nuclear [indistinct], and so we had a lot of discussions about international politics and so our relationship well only became much more closer but took on a much greater political content because of the continuous discussions that we had.

And can you describe the kinds of political activities he
20 engaged in, Timol engaged in while he was in London and abroad? -
-- Well we asked him not to, although sometimes he slipped away and joined the CND [indistinct], because we said to him that he should not come to this political activities, because the South African security police were obviously keeping an eye on people and that if he was going to go back home then it would make it much more dangerous for

him to go back home and so he did not participate in openly anti-apartheid activities taken by the anti-apartheid movement.

And what do you know of his recruitment into the SACP? ---

Sorry?

What do you know of his recruitment, his joining of the SACP? --- I would state that he was recruited by Dr Joseph Dido who was obviously one of the leaders of the South African Communist party. He was then asked by the leaders of the SACP to go and study at the Institute of Social Sciences school in Moscow which is also the
10 learning party school and he was there together with Thabo Mbeki and N Nicholson. I knew that he was going there because he was given permission to talk to me about going to the Soviet Union, going to the party school, so I was aware where he had gone. [Indistinct] was aware of that and so he went to the party school for nearly a year.

When he came back we had a lot of discussions about what he did at the party school and then he was asked to go back home to work in the underground structures, both of the SACP as well as the ANC.

Who asked or instructed him to return to South Africa? --- I
20 would assume that it would be Joseph Dido and he also received training by Jack Hodgson, because in London Jack Hodgson was principally responsible for training people in how to prepare petrol bombs and so and so forth because at that time one of the methods that we used to distribute our illegal material was by the use of petrol bombs and other underground work, so he did receive training, I know

that from Jack Hodgson.

We you mean a petrol bomb you mean a bucket bomb? ---

A bucket bomb, yes.

According to your statement you were in fact the last person to talk to Ahmed Timol before he left for the airport. --- I was.

During that discussion you spoke about the dangers, particularly dangers that might arise following an arrest. --- It is very important to understand and that is what we did discuss about and I say this in my affidavit, that the possibilities of him getting arrested
10 were very real. Partly given the fact that we had been heavily infiltrated by the old security police, partly that what he was doing was dangerous work and he could be identified as such and in the course of that discussion what we were also then discussing is how would one respond because we already had enough information about the forms of torture that was used by the security branch officials to obtain information from detainees.

So we had that information, we also knew a lot of people themselves [1:27 – 1:27:30 *faulty soundtrack*]... give them your name and address. [Indistinct] did not realising what torture can do to
20 people, but for me and that is what we discussed with Ahmed, that it is not [indistinct] to break under torture. There are some individuals who manage to withstand the worst form of torture. Two of them would have been [indistinct] and Lalo Chiba who would stood the worse form of torture without breaking down, without giving any information. But it is not prejudice to break down under torture. As I say in my affidavit

there is a limit to human endurance and we understood that there is a limit for human endurance.

The important thing for us in the movement was that if you do break down and you do give information, what you should try to do is limit the information that you give so that if you know that you worked with a number of people, you limit the number of names you would give of people that you worked with in the underground. Secondly that you would try to, as much as is possible, give this information gradually so that those who have been working with you in
10 the underground, or that you had been recruiting would realise that you are under arrest, and therefore they would help then to take the necessary measures to protect themselves, which means either they would leave the country, depending on what they were doing, or to go into hiding, and that is what we discussed in terms of what are the possible things that could happen to him if he was arrested while he was doing the underground work movement.

It is not in your statement, but did you per chance discuss with Mr Timol approximately how long he should try and hold out for?
--- Sorry?

20 Did you discuss with Mr Timol the duration of time that he should try to hold out for if he was arrested and interrogated? A day, two days? --- Not really a duration of time but that you try to hold on to as long as it is possible. Because it is impossible to determine in my view, how anyone particular individual would respond to the kind of pressures and tortures that was imposed on them, so the idea was

just hold on for as long as you can and as I said earlier if you have to give names, give them on a gradual basis.

And you discussed the possibility that the police might generate incriminating evidence against Mr Timol and what he should do in that situation? --- Oh yes, because it was obvious that all of the other trials that took place, that quite a lot of the so-called evidence that was being brought forward, incriminating type evidence was engineered evidence. So we discussed that it is possible that if he gets arrested they will find ways and means to incriminate him for a
10 number of things, but it is impossible to say what exactly that would be because you then know what information the security police would have about you and what is it that they were then looking for.

And the question of getting evidence against others, was that discussed? --- That has been the position in the movement and that is the position that we took for example one of my task man have returned to England in 1985 was when people came to England and they were going to come back into the underground in the movement, I had to take them for political education and I took them for political education, and that is one of the things that we did discuss about the
20 delaying of giving the information but time to limit the amount of information that you would give that would incriminate somebody else.

Not about yourself because you can tell them all about yourself if you are incriminating yourself in any case once they had arrested you and it was clear they had the information and that is what we did discuss, always with all our people that we were involved in in

terms of the kind of political education training we would give them before they came back.

According to your statement, what was discussed was the possibility of breaking under torture and then potentially even agreeing to testify but then recanting at court and saying, well in fact I was tortured and I refuse to testify, was that a tactic that was discussed with Mr Timol? --- It was so much and we also had our own experiences here in South Africa. For example a very close friend mine was now dead, Billy Nannon, Billy had been arrested, had
10 been tortured. He agreed to give evidence and when he came to court he refused to give evidence and it was one of the things you did in order to reduce the volume of torture that was imposed on you, you will agree to give evidence. But the idea was once you go to court, you then refuse to give evidence.

They can either then charge you with the other Accused or take you back, but by that time at least the information would have been public that you had been tortured because you can take to court that it was under torture that you agreed to give evidence, but you are not going to give evidence against any of your comrades. And that
20 was discussed and that was the position that we tried to install in those of our people who were coming in to work here in South Africa, that you can do that, so that it is possible that you break down and that is not treacherous but do not give evidence against another comrade, be ready to go and be charged and be ready to be in prison, which in my view Timol was ready to be imprisoned.

So he was aware of the risk of a potential long prison term and you say he was ready for that, was that discussed? --- Oh, he was certainly aware of it and he was certainly ready to undertake any term of imprisonment that would have been imposed on him.

So in your view this was not a man he was scare of facing a prison sentence, even a long term one? --- No, not at all because if he was he would not have agreed to come and work in underground.

Can we turn to the attitude and the policy, if there was one, of the SACP in relationship to its padres taking action such as suicide
10 for purposes of protecting the party? --- Your Lordship, can I refer to a document?

COURT: Yes, yes. --- It is the document called Inkululeko, February 1972 and in my view... [intervene]

MR VARNEY: Sorry, sorry Mr Pahad, Your Lordship the document he is referring to is Inkululeko Freedom dated February 1972, number 2. It is in volume C, at page 15.

COURT: Please proceed. --- In my view the concluding paragraphs under the sub-heading 'Stand firm'.... int

MR VARNEY: And that is on the last page... [intervene] --- That is
20 on the last page, no it would be the last.... *ja* that could be the last page. It is an absolute fabrication by the South African security police, it has nothing to do with the rest of the Inkululeko document and I think if you read it carefully you will be able to tell that it actually is a translation from the Afrikaans. For example they use the word here, if I may quote from it, Your Lordship, 'Make sure your

complaints and actions against the suppressors get the utmost publicity.’

There is no such word and none of us would ever use the word suppressors. You would always use the word oppressors. I would guess that it is some translation from the Afrikaans, so that certainly would be one and secondly in the last paragraph a number of people’s names are mentioned. A concoction of name, Roy Ahersten, [indistinct] M D Naidoo, George Dizoz, Sogott and others who had been fighting with us since the days at Rivonia. In my view the SACP
10 would never have mentioned those names in this document and never have said that these are people working with us, because what would that mean, working with us?

[Indistinct] was a lawyer, George was a lawyer, they were defending our people in the political [indistinct] and I think this was a fabrication in order to try to implicate some of this lawyers in things that they were not doing or were not responsible for. So my very firm view is that those paragraphs under the sub-heading ‘Stand firm’ is an absolute fabrication that is [indistinct] attached to the thing to try to indicate that the position of the SACP was that you should commit
20 suicide if necessary and my view is very clear I am not aware, and I have been a member of the party for a long time, having been involved in political education work, with [indistinct] that were coming back into this country.

Having also gone to Angola for military training in the Cashito camp, that it has never been part of policy or the party or the

ANC or any protocol and you will never find it in any documents of the party or the ANC where anybody would have been asked to commit suicide. It just is not possible, the party would never have said it, the ANC would have never said it.

If we can return for a moment to your last discussion with Mr Timol, in your affidavit you make a reference, you say 'In our last discussion we had agreed that Ahmed should not commit suicide.' In what context was that raised? --- The context was that we were also discussing how the security police and the state agencies and how the
10 courts themselves in South Africa were responding to the deaths of detainees. And you will recall that absurd statement from mates such as somebody slipped on a bar of soap, somebody fell down a flight of stairs, that they will make up these stories and in the context of that discussion about how the state structures would respond to the death of a detainee, we then discussed this matter that Timol would never commit suicide.

And why do you say that knowing Mr Timol that he would never commit suicide? --- Well additionally there are two reasons I give in the affidavit, one Timol himself was a Moslem, [indistinct] was
20 a Moslem, and his parents were very [indistinct] religious people and a Moslem in terms of Islamic [indistinct] should not and cannot commit suicide and if you do you will not be able to be buried in a Moslem gravesite. So from that point of view it seemed to me that as a Moslem Timol would have been not in the position in which he would have wanted to commit suicide.

The other reason was also that whilst he was in exile he met Ruth Langone. They fell madly in love, he really wanted to spend time together, at one time they even thought of getting married until Timol agreed to leave her behind and come and work in the underground. Now I remember that Ruth could not join him here, because of the Immorality Act. As a person of Indian origin, he would have been arrested if he was seen living in cohabitation never mind sleeping with a white woman.

So she had to stay behind in England and for me, always
10 Ahmed was going to come back to Ruth and Ruth always thought that at some point Timol would come back to her. And therefore the idea that Timol would commit suicide for me just does not seem plausible at all.

Thank you, Mr Pahad. M'Lord, no further questions.

COURT: Thank you. Advocate Pretorius?

CROSS-EXAMINATION BY MR PRETORIUS: Thank you, Your
Lordship. Just getting back to Inkululeko number 2, the last
paragraph. It said there 'Issued by the Communist party of South
Africa.' Have you got any comment on that, issued by the Communist
20 party of South Africa. --- I am aware that the party was issuing
Inkululeko. I am not aware of this particular issue, because I did not
work on it, but having been given sight of it, I am absolutely clear that
those last few paragraphs are a fabrication.

Did you work on other publications, Mr Pahad? --- I did, I
was on the editorial board of the African Communist as well as

another journal of the party Umsibensi.

Thank you, M'Lord no further questions.

COURT: Thank you. Mr Thompson?

MR THOMPSON: No questions, M'Lord.

COURT: Yes. Mr Coetzee?

MR COETZEE: M'Lord, I also have no questions to deal with.

COURT: Okay, thank you. The discussion you had with Mr Timol before he left, could it be possible that in addition to that he might have had discussions with Dr Dido or with Jack Hodgson about how to
10 conduct himself in case he is arrested? --- Well I am sure that he would have certainly have had discussions with Dr Dido, because Dr Dido was one of the leaders of the party and Dr Dido recruited him to go and work in the underground of the SACP. What those discussions were I have no idea, he never told me what they discussed, and we never discussed what were discussed between him and Dido.

He might have had similar discussions with my brother, Aziz, we were living in the same flat and again I am not aware of any discussions that he had with him, nor did he ever tell me what discussions he might have had with Aziz Pahad before he left London
20 for South Africa.

Could it be possible that they might have discussed the question of suicide? --- Sorry?

Could it be possible that they might have discussed the question of suicide, of him committing suicide? --- Your Lordship, I cannot on that, because I do not know what they would have

discussed, but I would have no doubt in my mind that Joseph Dido would never have ever discussed, and knowing Joseph Dido as I did, and having worked under him for so many years, is that he would have had a discussion that of suicide, that was not part of the policy. It would be most strange if Dido was a leader of the Communist party, South African Communist party, would discuss that matter, because it was never part of the party's policy.

And the last question from me, to your knowledge, do you know if before 1971 if there was any member of the South African
10 Communist party who is said to have committed suicide in South Africa, in prison or in detention? --- No, Your Lordship I am not aware of anybody.

Okay, thank you. Thank you, very much. Yes, thank you for your evidence you are excused. --- Thank you.

Yes. --- And thank you for speaking a bit loud.

Oh, okay *[laughing]* yes I was warned to do that. Okay, thank you very much. Yes, Mr Varney?

MR VARNEY: M'Lord that concludes the evidence for today.

COURT: Yes.

20 MR VARNEY: Tomorrow we have two important witnesses, two forensic pathologists that is professor Holland and Dr Naidoo.

COURT: Yes.

MR VARNEY: And we will kick off with professor Holland in the morning and we will call Dr Naidoo after she has finished.

COURT: Yes.

MR VARNEY: We do expect to probably use up much of tomorrow with those two witnesses.

COURT: And Thursday, what is the position? I just removed one witness from there.

MR VARNEY: I beg your pardon?

COURT: For Thursday?

MR VARNEY: So on Thursday there is a slight change. The prosecution will commence with Mr Don Vorster in the morning and once he is done, we then are going to have Mr Frank Dutton a private
10 investigator for the family.

COURT: Yes, and that will be it?

MR VARNEY: And that will be it, *ja*.

COURT: Yes. I want to hear the evidence of Mr Kajee at the end.

MR VARNEY: At the end?

COURT: *Ja*.

MR VARNEY: I will make sure that he comes at the end.

COURT: Yes, I am giving him the honour to be heard at the end. We are here because of him.

MR VARNEY: That is right.

20 COURT: So there are interesting points he raises there, which I would like to discuss with him when he is on the witness box. That is why I want to hear it at the end.

MR VARNEY: As the court pleases.

COURT: Okay, yes. We will then adjourn until tomorrow 10 o'clock.

MR THOMPSON: M'Lord, M'Lord....

COURT: Oh, Mr Thompson, just a minute, Mr Thompson?

MR THOMPSON: M'Lord before we adjourn, there is just one issue in respect of Mr Rodrigues that I wish to argue or address His Lordship on. I have not yet had an opportunity to give my learned colleagues a copy of the [indistinct]. It is only in respect of the missing portion of the record concerning the evidence given in the 1972 inquest proceedings that Mr Rodrigues have testified to. I have not yet had an opportunity to prepare arguing orally in court, and I have only given my colleagues these documents now.

10 If His Lordship is inclined to also hear this point tomorrow, I would beg leave to hand up the document which I have to [indistinct], M'Lord just for that point.

COURT: Oh, you want us to hear a motion, it is a motion that you want to bring tomorrow?

MR THOMPSON: It is not a motion, M'Lord it is just a participation of Mr Rodrigues at this stage of the proceedings, M'Lord. With the circumstances that we have concerning the record of the inquest proceedings of 1972.

20 COURT: Yes, that record for reasons I do not understand, the record does not have the evidence of all the policemen who were interrogating and some of the investigators. That is the missing part of the record.

MR THOMPSON: Yes, M'Lord.

COURT: Strangely, and I have the rest of the other witnesses who testified as well as the judgment by the magistrate.

MR THOMPSON: I have seen that, M'Lord.

COURT: Yes, and the magistrate does sum up some of what transpired during the proceedings, that is as close as we can get to the proceedings.

MR THOMPSON: Yes, M'Lord.

COURT: How much evidential value we will place on that is something that you will argue at the end.

MR THOMPSON: Yes, M'Lord.

COURT: Yes, but you say you want us to deal with this then
10 tomorrow?

MR THOMPSON: If it please the court, M'Lord because I have not yet had an opportunity to prepare myself. I have only drafted a concise set of submissions on that point, which I wish to address tomorrow.

COURT: Okay, okay fine.

MR THOMPSON: I also can give my colleagues an opportunity to consider that point as well and make submissions on that point.

COURT: Yes, okay.

MR THOMPSON: As the court pleases.

COURT: Okay fine, we will then start with ... Dr Pretorius how long is
20 the evidence of Mr Vorster, is it going to be

MR PRETORIUS: Professor Don Vorster's evidence will not be that long, M'Lord, 2 hours at the most. Already the book, Detention and Torture in South Africa I have given copies to some of the people so it basically it is a summary of his book, so the first day it is a good idea that we can do the argument seeing that tomorrow we will have the

evidence of the medical personnel tomorrow and doctors tomorrow that Thursday possibly if we want to prepare something, but his evidence will not be long, 2 hours, M'Lord.

COURT: You had rather we hear this argument on Thursday?

MR PRETORIUS: I think so, seeing that it is quite complicated the evidence that is going to be led tomorrow, M'Lord and to give us time to do a bit of preparation, M'Lord.

COURT: Yes, Mr Varney what is your view on this?

MR VARNEY: Yes, M'Lord I would agree.

10 COURT: Yes....

COURT ADJOURNS UNTILL 26 JULY 2017