

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 445/2019

DATE: 2020-01-27

FORMAL INQUEST

in terms of section 5 of the Inquest Act 58 of 1999

into the death of the late

DR NEIL HUDSON AGGETT

BEFORE THE HONOURABLE MR JUSTICE MAKUME M

ON BEHALF OF THE STATE : ADV J MLOTSHWA

: ADV S SINGH

ON BEHALF OF THE FAMILY

: ADV H VARNEY

: ADV SCOTT

: ADV FAKIR

ON BEHALF OF SAPS
[Previous SAPS]]

: ADV F COETZEE

ON BEHALF OF SAPS
[Current SAPS]

: ADV M AMOJEE

INTERPRETERS

: MS X HEGENI

: MR B MELEFANE

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PROCEEDINGS RESUME ON 27 JANUARY 2020: [09:42]

COURT: Morning everyone.

CLERK: This is the inquest in the case of late Doctor Neil Hudson Aggett. Case number 445/2019.

MR COETZEE: Thank you M'Lord. May I just tender my apologies for being late. I am very, very sorry. We have just had an accident. Not we but we but we were stuck in one.

COURT: Okay. Thank you. Yes you may proceed Counsel. Thank you.

10 MR VARNEY: M'Lord I would also have to make an indulgence. The witness Mr Nyampule has not arrived this morning. We were hoping he was somewhere in the court building and he is currently not was answering his phone. May I beg the Court's indulgence to try and ascertain his whereabouts and for that we beg leave from the Court to stand down and make these enquires.

COURT: Yes. Okay let us stand down and find out where Mr Nyampule is.

COURT ADJOURNS: [09:42]

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COURT RESUMES: [09:54]

COURT: Thank you. You may proceed. Thank you.

MR VARNEY: As the Court pleases. Luckily Mr Nyampule is here, and he advises that the traffic congestion outside is crazy and he was held up.

COURT: Yes, thank you, you may proceed.

MR VARNEY: Do you need to remind the witness that he is under oath.

COURT: Yes, Mr Nyampule you are still under oath.

JOSEPH MHLUPHEKI NYAMPULE: s.u.o. (through interpreter)

MR NYAMPULE: Well understood M'Lord.

MR VARNEY: As the Court pleases. Mr Nyampule thanks for your struggle to traffic to get here this morning. It is appreciated.

10 MR NYAMPULE: Thank you.

MR VARNEY: Just to recap Mr Nyampule on Friday we went through your background, your early career as a police officer. We asked you various questions dealing with the layout of the cells and the Security Branch officers on the tenth floor.

MR NYAMPULE: Correct Sir.

MR VARNEY: And we also looked at some of the rules and procedures and practices that were in place at John Vorster Square.

MR NYAMPULE: Correct Sir.

20 MR VARNEY: And just to give you a sense of what we aim to cover today. We are going to look at the routes that you took when escorting detainees from the cells to the tenth floor. We are going to look at your experiences in relation to searches of the cells.

MR NYAMPULE: Yes.

MR VARNEY: We are going to ask you questions about the daily routine of detainees.

MR NYAMPULE: Correct.

MR VARNEY: And then to look at the visits to the detainees by Magistrates and District Surgeons.

MR NYAMPULE: Okay.

MR VARNEY: And because in your affidavit you have made certain incidents at John Vorster Square, as well as your interaction with Dr Neil Aggett. There will be a few questions
10 on asking to recall those incidents.

MR NYAMPULE: Okay.

MR VARNEY: And then finally we will end of by asking you to tell the Court what you did following your career at John Vorster Square.

MR NYAMPULE: Okay.

MR VARNEY: So Mr Nyampule starting with the route that you and your colleagues would take when you escorted of detainees from the second floor cells the Nel section through to the interrogation section so either ninth and or tenth floors.

20 MR NYAMPULE: Yes.

MR VARNEY: So could you explain to the Court how you would know what paperwork was involved in perhaps booking out a detainee, and then perhaps describe to the Court what route you would take to get to the tenth floor?

MR NYAMPULE: Yes, I can do that. Can I proceed?

MR VARNEY: Please.

MR NYAMPULE: At the second floor when you come out, you will come out of the cell of the detainees, you come out of the gate, and then you will then see the lifts in front of you. We will go inside the lift; we will press the ground floor. The lift will go down.

MR VARNEY: If you can just pause there. As you were leaving the second-floor cell section would you have to complete any paperwork?

10 MR NYAMPULE: Yes, M'Lord there is a document that we fill in, we book a person out.

MR VARNEY: And when you book the person out would you ask them whether they have any complaints or injuries?

MR NYAMPULE: Yes. The person would be asked.

MR VARNEY: And if so, you would then record it in the, that register?

MR NYAMPULE: Correct Sir.

MR VARNEY: And please proceed you said you had gotten to the ground floor of the cell section.

20 MR NYAMPULE: Let us say the lift will end or stop at the ground floor of the basement. We will alight from the lift and we would turn left. We will find a door. There is a police officer who sits there, who is stationed there. He would then open the gate for us. After he then opened the gate, here in front would be the charge office. We would then walk behind

or at the back of the charge office. We then find a passage or a foyer. We will turn left and then we will go down to the basement. We will turn left, walk straight with the foyer, then we will find another section. John Vorster Square has two sections. There is a Uniform section and then the other section M'Lord from the bottom to go up, that is the Detective section. We would then proceed straight with the basement. There is another door. Open that door, go out of that door.

MS HEGENI: M'Lord can I just go back? The witness say we
10 would walk straight with the basement, open the door and then we will find a parking lot, he says where cars are parked.

MR VARNEY: And if – if I may just ask you to pause for a moment. Is it correct that during *the inspection in loco* last week you pointed to your Lordship that you walk through that car park in order to get to the tenth-floor wing?

MR NYAMPULE: That is correct M'Lord. That is the same route that I am explaining. You walk with that route until you find the lifts for the, the lifts of the Security Branch.

MR VARNEY: And if you can just pause there before we
20 ascend the lifts on our virtual tour, during inspection you wanted to show us a second route to the wing where the Security Branch offices were located.

MR NYAMPULE: Correct so yes.

MR VARNEY: Unfortunately, because we were pressed for time, we – we asked you not to show us but can you confirm

that there is a second route and perhaps describe to the Court how you would take that alternative route?

MR NYAMPULE: The second route, when you get to the door of the Security Branch, we still on the basement, you will walk straight and then on the left-hand side there would be a door. It is where I pointed out, I pointed out the day there are other lifts on that side. So, if the lift on this side is stuck.

MS HEGENI: And M'Lord the Witness is demonstrating when he says this side; he is showing on his left-hand side.
10 Showing on his left-hand side saying that they would catch the other lifts, and he is pointing to his right-hand side. He says when the lifts on the left side is stuck, we then take the lifts on the right side. Should I proceed?

MR VARNEY: Yes, please proceed.

MR NYAMPULE: When we then take that, if we take that lifts.

MS HEGENI: The witness is again pointing to his right-hand side M'Lord.

MR NYAMPULE: When we take those lifts those lifts does not get to the ninth floor.

20 COURT: Up to which floor did they get?

MR NYAMPULE: To the eighth floor. We will then go up using the stairs. We will find the ninth floor. That is the Security Branch now. So, we are not going there, but we are going to the tenth floor. We going to, we are going proceeding further up using the stairs until at the tenth floor. And then the last

one, which I did not point out because of time.

COURT: So, this will be the third route?

MR NYAMPULE: Correct so M'Lord. The first, the – the one that I have just explained M'Lord we were – we were walking inside the basement, that route. We are not inside anymore, now we are walking – now we are walking outside. We exit the door, out the door where the cars park – where the cars park, where the cars go in, where the security cars go in M'Lord. That is when you come out from our office. We turn right and
10 then outside it, it is a parking lot, cars would be parked there. Then there is a wall.

MS HEGENI: The Witness is pointing with his right hand M'Lord when he talks about the wall.

MR NYAMPULE: We would then proceed straight as if we are going to another basement when I look at it. On the left side there is a barracks. A barracks for White people. Also, a canteen where they cook. You then enter in the basement there, you turn right, you will then find stairs, you will then go up with those stairs until you get out from the, you get to the
20 charge office. The charge office would be on this side.

MS HEGENI: The witness is demonstrating M'Lord, showing on the right-hand side, we would walk on this side. Witness is demonstrating with his hands M'Lord showing that we would walk on the left side of the charge office.

MR NYAMPULE: We would then find the gate, the gate which

we would enter where I said there's a police officer there. The police officer would open for us and we would go inside, we will then find a lift, the lift that we exited from. The lift that we used when we came from the second floor.

COURT: Yes.

MR NYAMPULE: We would then go up until the second floor. At the second floor we will find a gate. There will be police officers seated there. They would open for us. We would enter then the detainee would go to his place.

10 MR VARNEY: Okay, thanks for confirming that there is more than one way to access the tenth-floor offices. I think you might have been, am correct in saying that you were then describing that you went back to the second floor cells? Alright.

COURT: Let me just clarify, when you were describing the second route, when you were there last week you said there was a police officer and all these White men who used to open the lifts for you. Was he there for the second route also or was it also only manning the first lifts?

20 MR NYAMPULE: M'Lord ...[intervenes].

COURT: The second – the second set of lifts, was there also someone controlling access in and out of it? Was it the same person?

MR NYAMPULE: Correct so M'Lord there was.

COURT: Was it the same person?

MR NYAMPULE: No M'Lord it is not the same person.

COURT: So, it was another person?

MR NYAMPULE: Yes. M'Lord can I explain it so that you could understand it better?

COURT: Yes, please do so.

MR NYAMPULE: The first route which I showed on this side were there were lifts – lifts there were lifts which were not working anymore.

MS HEGENI: The witness is pointing more to his right side,
10 more to his right side with his right hand M'Lord.

COURT: Yes. Okay.

MR NYAMPULE: When you then get to those lifts you would find police officers. You would enter that lift. We are now going to the ninth floor and the tenth floor. That lift would stop at the ground floor. The lift would then stop for the people that is working on the ground floor. That is the people from the Security Branch. We will proceed with the lift. This lift would then move, first stop to the ninth floor. It will not stop to all the other floors. When you then arrive at the ninth floor, the
20 lift would then open. That is where I find a White man. A White man who is seated the way I am seated here in court. Let us say from here.

MS HEGENI: The witness is showing with his right hand M'Lord. He says from there up to the top it would be glasses. Then when you enter the ninth floor you do not just enter, he

will press a button for you, for a person who is going to the ninth floor. That door, it is a steel door that is as thick as this big.

COURT: What is it? 2 centimetres?

MR VARNEY: I presume it would seem to be more. Perhaps about 25 centimetres.

COURT: Roughly about how many centimetres?

MR NYAMPULE: I am just estimating I am not certain how many centimetres it is.

10 COURT: Yes, okay.

MR NYAMPULE: And then the, the people that is going to the ninth floor would then go to the ninth floor.

MS HEGENI: The witness is indicating with his right hand going to the ninth floor.

MR NYAMPULE: Then, he would then close that door. His job is to operate that door. From the ninth floor we would then go up to the tenth floor. On the tenth floor it is the same procedure as on the ninth floor, but this White man is not at the tenth floor. There is a button that you press and also the
20 door on the tenth floor is a steel door as big as the one at the ninth floor. You will press it. It will then open. After going in, you press again, it will then close. M'Lord, let us say where it closes, we then, we are going to the offices of the tenth floor. I do not know if I can use this witness box as an example M'Lord. There is a passage, a long passage.

MS HEGENI: And the witness is demonstrating by using his right hand M'Lord by pointing forward.

COURT: Yes. Yes.

MR NYAMPULE: Let us say on the edge would be offices. All the way would be offices. And also, on this edge would be offices.

MS HEGENI: And the witness is now pointing on the opposite direction from where he was pointing the first time when he said on this edge M'Lord.

10 MR NYAMPULE: It will also be offices on the opposite side.

COURT: Ja there are offices on both sides of the passage?

MR NYAMPULE: Correct so there is offices on this side, and on that side to show you on the right hand side and on the left hand side. Yes M'Lord, there is a passage and there would be offices on both sides. I do not know how to explain this but let me make an example. If I am with a detainee, should I explain what happens before they take the detainee from us?

COURT: Leave that out please.

20 MR VARNEY: Mr Nyampule perhaps we can ask you, once you arrived on the tenth floor, you have said in your affidavit that you would typically hand the detainee over to someone in particular, who would that be?

MR NYAMPULE: That is correct.

MR VARNEY: And typically, who would that officer be at that time?

MR NYAMPULE: It was Captain Makgoro.

MR VARNEY: And thereafter did you know what would happen to the detainee with Captain Makgoro?

MR NYAMPULE: Makgoro would take the detainee or Makgoro would instruct us or he would say where we would take the detainee to, or to which office.

MR VARNEY: Now, before I interrupted you, you – you were you intimating that there was some other procedure that would happen before you handed the detainee over?

10 MR NYAMPULE: Yes.

COURT: Sorry, you are now on the tenth floor?

MR NYAMPULE: We on the tenth floor M'Lord. All these doors are forever closed. There is no door that must stay open.

MS HEGENI: Witness is now pointing on his right-hand side M'Lord. The offices on his right-hand side.

MR NYAMPULE: It would be Makgoro's office. Makgoro's duties was to make sure, Makgoro's duties was to make sure there is no-one in the passage. No-one is walking up and
20 down that passage. Let me just explain this. Makgoro's office is on this side.

MS HEGENI: Witness is pointing more to the right side.

MR NYAMPULE: Makgoro's office is the small, is a small office. Right opposite Makgoro's office on the left side there is an office, office for Black people and that office is a bit bigger.

That is where the Black people would be in that office and all the other offices were the White people only.

COURT: Sorry can I get clarity. You say the bigger office was for all the Black people. Who are these Black people? Is it the police officers, security officers or the workers? Who are they?

MR NYAMPULE: It was the Security Branch members like myself M'Lord, people who were working with security.

MR VARNEY: Mr Nyampule can you explain why it was
10 necessary for Captain Makgoro to clear the passage or the corridor of people before the detainee was brought through?

MR NYAMPULE: I found it like that. According to him that was the policy of the tenth floor.

MR VARNEY: So, you did not know why that policy was in place?

MR NYAMPULE: Honestly speaking I really do not know. But according to me, it was just for people not to see one another.

MR VARNEY: Okay thank you. Now Mr Nyampule following the interrogation when you were asked to bring the detainee
20 back to the second floor cells, I am not asking you to describe the route again, you have done that, but what would happen when you arrived back at the second floor cells of the reception area?

MR NYAMPULE: I am taking him back?

MR VARNEY: Taking him back and on – on arrival at the

second-floor cells was there a procedure? Any more paperwork.

MR NYAMPULE: From the tenth floor you are now taking the detainee back to the second floor. Out of the lift you found the gate. You then go through that gate.

MR VARNEY: Sorry Mr Nyampule just to save a little time you do not have to describe the route.

MR NYAMPULE: Okay.

MR VARNEY: Although perhaps I should ask you, before we
10 talk about what happened when you returned to the cells, going back, at least going to the tenth floor and perhaps even coming back, approximately how long would it take you to walk with the detainee? Well if there is a difference in time I would like to know but typically from the cells to the tenth floor, how long would it take?

MR NYAMPULE: It would be fifteen minutes or twenty, but not more than thirty minutes.

MR VARNEY: And please explain why it would take longer than normal? Am I correct in saying a normal person might be
20 quicker but if you were escorting a detainee it might take longer?

MR NYAMPULE: Correct.

MR VARNEY: And the reason is?

MR NYAMPULE: The reason would be the detainee would have leg irons on even on the hands there would be handcuffs

on. It also depends where are you, it also depends where do you fasten him because, can I just stand up and show the court? If I have got leg irons on, leg irons or chains.

MS HEGENI: And the witness is showing a holding position with both his hands M'Lord in front of him.

MR NYAMPULE: And also handcuffs. And then with these handcuffs on he should hold this chain and at this chain there is a ring and then he would then move forward.

MR VARNEY: So, the motion of the detainee was somewhat
10 restrained and perhaps they were shuffling as to opposed to walking normally?

MR NYAMPULE: That is correct.

MR VARNEY: And would it also perhaps depend on the condition that the detainee was in? The detainee's health, maybe he had any injuries?

MR NYAMPULE: That is correct.

COURT: Sorry. Was it the same for women detainees? Well you did not escort women detainees.

MR NYAMPULE: We would escort them.

20 COURT: Were they also chained in the same manner?

MR NYAMPULE: Everyone.

COURT: All detainees?

MR NYAMPULE: All detainees M'Lord.

COURT: Sorry you may proceed.

MR VARNEY: As the Court pleases. Mr Nyampule if we can

now fast forward, you have returned your detainee to the second-floor cells. On arrival back at the second-floor cells, what would happen?

MR NYAMPULE: I will make an example. On the second floor there are police officers, uniformed police officers. White police officers who are seated there. Let us say for instance, I am out, I was doing escorting, then one of our members would be there. I will make an example like the people that was working in the cells. Warrant Officer McPherson, Sergeant
10 Patose, Warrant Officer Cilliers, let us say they are all on the second floor, we would enter. The uniformed members would open for us. McPherson or Cilliers would write, for instance let us say, the detainee's name is Jabu Ngwenya. Here is Jabu Ngwenya now. We are bringing Jabu Ngwenya. They would look at the time. He would then be asked are you okay, and whatever. He would be searched. They will unlock his handcuffs; they will then take him and take him and take him back to his cell. When he arrives at his cell, he gets locked up. There is an outer door and an inner door. The outer door
20 is a wooden door that has a hole.

MS HEGENI: And the witness is demonstrating M'Lord by closing one eye and opening his other eye.

COURT: Yes. Yes.

MR NYAMPULE: Then in front, there would be another door, a grill door that is if now the person is going into the cell. There

are two doors. It is the first door and the second door, that is the grill door now, he would go inside, he will then be locked inside. The uniformed member is the ones who would lock. I as the person who is working there, from the Security Branch, there is a chain, a chain as big as this.

MS HEGENI: Witness is demonstrating in a padlock.

COURT: 30 centimetres. Yes.

MR NYAMPULE: That chain has a padlock. When the uniformed member finished locked, I would then take that
10 chain, I would take this chain and then fasten the door, lock this door with using this chain. For example, I would – I would – I would fasten it by putting it around this door and put another round. Where, on the end or on the edges of this chain it will then sit like this.

MS HEGENI: The witness is-is-is demonstrating M'Lord with using his, pointing both his fingers, one finger on top of another, I will then take this padlock. I would take this padlock, put it into this chain and I would lock.

MR VARNEY: Thank you Mr Nyampule. Actually, you have
20 already given evidence on the cell layout and the question of the doors and where the keys were kept. And I missed the quarters for the questions on that aspect I am going to move on.

COURT: No – no, I do not think he told us who chains the detainee when he gets out of the second floor to go for

interrogation? He only told us that he gets unchained when he comes back, I did not hear you tell us who actually chains him? Is it McPherson and others or what?

MR NYAMPULE: I am the one who fetches him, the detainee M'Lord, I am the one who fastens this or who fastens the detainee M'Lord. I put leg irons on the detainee. Thereafter I will then put, I would handcuff him. Then the detainee is cuffed.

COURT: Okay. I am sorry after handcuffing, you were
10 handcuffing was he is in his cell? Where do you handcuff him?

MR NYAMPULE: It depends M'Lord.

COURT: Okay.

MR NYAMPULE: Sometimes I would then fasten him in the cell, sometimes I will fasten him where he, where we book him.

COURT: Okay, you may proceed.

MR VARNEY: As the Court pleases. Mr Nyampule on your return and – and let us just say as you have put the example of Mr Ngwenya, if Mr Ngwenya did have a complaint on return to the cells, what would then happen?

20 MR NYAMPULE: What happens, I ask him, do you have any complaints and what is your complaint if any? If there is a complaint the detainee will say yes, there is, I have a complaint. If he was, if the detainee was assaulted on the tenth floor, the detainee would then say to me I was assaulted. If there are injuries, he would say can you see how I am

injured? And all of that would be noted down.

COURT: So why does that not – not made, is it made in the record book?

MR NYAMPULE: I can see it is a record book because that book is a thick book M'Lord ...[intervenes].

MR VARNEY: That black book over there.

COURT: Oh.

MR NYAMPULE: As big as a diary that, but a – a bit bigger than that diary M'Lord.

10 COURT: It is the type of book you find at the Police Stations? What do you call it? Occurrence books?

MR NYAMPULE: Correct so M'Lord, that is the one.

MR VARNEY: Would it be the Occurrence Book itself or another book?

MR NYAMPULE: Let us take it as [Mechanical failure] [10:42.59 – 10:50.00]. [Recording dragging].

COURT: So, I take it all the details, complaints it will be found there in that book?

MR NYAMPULE: That is correct so M'Lord.

20 MR VARNEY: And who would fill out that book? Would it be yourself or somebody else?

MR NYAMPULE: For example, because I was working at the cells, okay, let us say I am working at the cells and Security Branch members came to book him out, I will be the one who would write down.

The one that is writing is the one who does not go out of the office, the cell office. I am stationed there at the office of the cells. I would write down, note down and do everything, even the booking out. That is the way it starts. I am the one who must note down everything. Then the people who takes the detainee or books him out M'Lord, is the people who will then sign for booking him out.

MR VARNEY: But I am only talking about the recording of the complaint. We have dealt with the booking, only the recording
10 of the complaint.

MR NYAMPULE: If there is – if there is a complaint, we do not write it in that book, there would be another book where we would write the complaints down.

MR VARNEY: We have to be clear about this Mr Nyampule. I, we are talking about the occurrence book – the “OB” or another book for the complaints.

MR NYAMPULE: I must, maybe I should start over. Maybe I should explain it in detail if there is complaints how do I record it down.

20 MR VARNEY: Please do.

MR NYAMPULE: Let us say I am entering the cells like I am working there. Before I would start doing anything at the cells my work is to go cell to cell having a book with me. I am accompanied by the police that is going to open for me, they would open for me, there is the detainee. For example, let us

say Andrew Mbele, I know I would know him because I am working there. I would then say Andrew do you have a complaint, and if what is your complaint? I would then write, I would note down all the complaints. For example he would maybe say I want to see the doctor, I want to consult the doctor because I have got a headache. I would then note down everything and I would then do that round doing all the detainees. Where I wrote, where I noted down, I will then take that, I will then take that book and hand it over to Warrant
10 Officer McPherson because I am a junior to him M'Lord. He will then take that book, take it up to the tenth floor, and he would then hand it over to tenth floor saying this is the detainee's complaints. At that time I am remaining up down there where I am working at the cells.

MR VARNEY: Thank you Mr Nyampule. If you have now return to the situation where you have returned from the tenth floor with the detainee, and he then says I have a complaint. I was assaulted on the tenth floor. If you can just confine yourself to that particular situation on your return to the
20 second-floor cells with the detainee, he says I want to complain about an assault. What would you do and what would then happen?

MR NYAMPULE: I would then note down, I would note down all those complaints and I would do the exact same thing. I would then give all the complaints that I have noted down,

recorded M'Lord, I would give it to my senior and I would say to my senior, these are the detainees complaints.

MR VARNEY: So, then who-who-who would ultimately decide whether to react to that complaint, perhaps arrange for a doctor or medical visit. Who – who had the authority to make that decision?

MR NYAMPULE: M'Lord I after recording the complaints would give it to McPherson and then McPherson would take what I have noted down and take it to the tenth floor. After
10 giving it to McPherson, McPherson would take it up to the tenth floor. At the tenth floor the head of that section of investigation, you would give it to that person. That person at that time was Mr Arthur B Cronwright.

MR VARNEY: Okay so to the best of your recollection, it was not Warrant Officer McPherson who would decide whether to call a doctor or not. It would ultimately be Arthur B Cronwright who was in charge of the investigation.

MR NYAMPULE: That is according to my understanding M'Lord. It would be taken to Mr Arthur B Cronwright and then
20 when it is at Arthur B Cronwright I do not know then who does he give it to and what does he do. Because B Cronwright, Arthur B Cronwright is working with police officers, like Captains, Lieutenants and so on.

MR VARNEY: Thank you Mr Nyampule. So, my last question on this aspect, if the detainee had no complaints on your

return to the second-floor cells, would you record no complaints?

MR NYAMPULE: I would write it down yes M'Lord, note it down but in most cases, there would be complaints. I do not remember of one detainee that come back from investigation that was booked out or come back from interrogation or come back from the tenth floor, that has, that did not complain. There was always complaints.

MR VARNEY: If that was the case Mr Nyampule, can you give
10 a, an indication to his Lordship, the typical kinds of complaints that were being made?

MR NYAMPULE: There was many, it was a lot. But I will name them. Some would complain saying they were assaulted. Some would complain and say they were electrified. Some would complain and say they were standing for a long, very time. They were not allowed to sit down. Some would say to me they were made to lift up their hands in the air. Some would say, complaining to me they were then, they were made to be in a crouching position, like squatting M'Lord as if there
20 is a chair and where there was no chair. Some like this and some like that.

MS HEGENI: Witness is demonstrating M'Lord by holding both his hands while open to the sides. Both his hands, some of them were made to do this, so he is showing a position of lifting up his hands in the air M'Lord. Some would be made to

do like this and witness is showing a demonstration by putting in his hands in the air but to his back. And some would be made to do a frog position.

COURT: Yes.

MR NYAMPULE: Those are some of the complaints which I remember but there were many complaints M'Lord.

MR VARNEY: Thank you Mr Nyampule. And in fact, we are going to return to some of those incidents a bit later in your evidence. In your affidavit, and you confirmed in your
10 evidence that the cells were staffed by uniformed police officers as well as people like yourself in the Security Branch?

MR NYAMPULE: Yes.

MR VARNEY: One of their duties was to patrol the cells?

MR NYAMPULE: That is correct. It was the duty to patrol the cells.

MR VARNEY: Can you explain to the Court how often, how regular those patrols were required to take place?

MR NYAMPULE: Let me just estimate or let me just say roughly M'Lord, hourly.

20 MR VARNEY: So – so every hour on every day of the week a patrol must take place?

MR NYAMPULE: Yes, M'Lord every day. The Uniformed Branch that was their – their duty. And us the, okay and then us as the Security Branch M'Lord, I can estimate by saying every fifteen minutes you should peep to check through that -

that hole, that if that if the person is still alive.

MR VARNEY: But you of course would knock off at four p.m., would the patrols be required, at least hourly patrols be required to continue even after your departure?

MR NYAMPULE: That was procedure M'Lord, they had to patrol two hours ongoing. And they were working shifts.

MR VARNEY: And can you explain in detail what was involved in those hourly patrols? What did the Police actually have to do each time they patrolled the cells?

10 MR NYAMPULE: I can explain that. The hourly patrol would be like this M'Lord. The police officer would open the door, then ask the detainee are you okay? What do you need? What do you need? Any complaint that that person has, or the detainee has.

MR VARNEY: Now presumably if a detainee was speaking to, at least look to see if everything was in order?

MR NYAMPULE: Correct.

COURT: So how would they see?

20 MR NYAMPULE: If – If – if the person is sleeping, they would see the person sleeping. [mechanical failure] [11:03:56 – 11:04:11] Recording is dragging.

MR VARNEY: M'Lord to assist the Court the evidence in the first inquest as per EXHIBIT B(8)(41) which in fact is the occurrence book for the night of 4 February, as well as the morning of 5 February 1982. And I refer your Lordship in

particular to pages 16 to 137.

COURT: 137?

MR VARNEY: 137. It is also known as the SAP 10 book. The evidence would reflect that on the evening of 4 February 1982 a cell visit took place at 22:40, ten thirty in the evening ...[intervenes].

COURT: 22:00.

MR VARNEY: 22:30 so half past then

COURT: On 4 February. Yes.

10 MR VARNEY: And the next cell visit only took place at 00:30. In the morning, the early hours of 5 February. M'Lord I am not going to ask the witness to read this particular document, but if it assist the Court, I have made a copy so you do not have to scramble to find it, and with the leave of the Court I will hand up. Page 136. Page 137 of EXHIBIT B(8)(31). So Mr Nyampule it appears that ...[intervenes].

COURT: Is this to put to the witness.

MR VARNEY: No I am not going to put that to the witnesses.

COURT: Okay. Yes.

20 MR VARNEY: Although I put it to the witness that on the evening in question and the early morning in question for at least three hours between 10:30 p.m. and 01:30 a.m. in the morning there were no patrols. And you have expressed Mr Nyampule in fact your words earlier in your evidence was this was impossible. So are you saying now that you are very

surprised to hear that in fact for three hours no visits took place and as it turns out, during those three hours, at some point in those three hours that Mr Aggett was alleged to have committed suicide.

MR NYAMPULE: Yes, it is surprising. This is a long time M'Lord. Three hours is long.

MR VARNEY: Now Mr Nyampule in such a circumstance would there be some kind of maybe internal inquiry to look into why there were no visits during those three hours?

10 MR NYAMPULE: Procedurally it was supposed to be done.

MR VARNEY: Let me put the question another way. Should there be some kind of repercussions for the police officers who should have been doing those visits but failed to do so?

MR NYAMPULE: According to me, there was supposed to be a discipline.

MR VARNEY: There should have been some kind of disciplinary procedure?

MR NYAMPULE: Correct so yes.

MR VARNEY: M'Lord my junior has advised me that it is
20 approximately eleven fifteen. Is it an appropriate time to take the tea break?

COURT: This being the first day of recess, tea time tends to get longer because of a number of announcements to be made by the Deputy or the Judge present. So do not be surprised if I am not here at 11:30.

MR VARNEY: As the Court pleases.

COURT: It may take a bit longer, but I will try my best. The Court adjourns.

COURT ADJOURNS: [11:09]

COURT RESUMES: [11:33]

COURT: Thank you Mr Nyampule is still under oath. You may proceed.

JOSEPH MHLUPHEKI NYAMPULE: s.u.o. (through interpreter)

10 MR VARNEY: If the Court pleases. So Mr Nyampule when we adjourned for tea your evidence was that there ought to have been some kind of disciplinary procedure following the lapse of some three hours in which no visits were undertaken.

MR NYAMPULE: Yes they were supposed to.

MR VARNEY: Sir would you be surprised that what we can gather from the record in question, there were in fact no disciplinary proceedings instituted against the responsible officers.

MR NYAMPULE: Yes it surprises me a lot.

20 MR VARNEY: And if the responsible officer said, yes we perceive that there were no visits during those three hours but we were terribly overworked so we were not able to do those visits, what would your response be?

MR NYAMPULE: No, I would not agree with them. Which other work, because their duty is to do those visits.

MR VARNEY: So Mr Nyampule in fact that is what the three officers claimed before the first inquest is that they were overworked.

MR NYAMPULE: It is very surprising for me. M'Lord for the record an example of that evidence can be seen at Volume 2 page 285. That is 285 of the record of the record of the first inquest and that evidence were given by one Sergeant Agenbag. It is A-g-e-n-b-a-g. Mr Nyampule before we move onto another topic if I can just take you back to the evidence
10 you this morning where you described the procedure for escorting detainees back and forth from the branch, from the Security Branch on the ninth and tenth floors.

MR NYAMPULE: We can go back.

MR VARNEY: Now you have also testified that you and your other Security Branch colleagues would knock off at four p.m. So, my question is would the same procedure or a similar procedure or another procedure be used after hours, after four p.m. if detainees have to be taken to the tenth floor.

MR NYAMPULE: M'Lord I do not know but it was supposed to
20 be the same procedure.

MR VARNEY: Thank you. Alright. Can we now turn to your experiences dealing with the searched conducted in the cells of the second floor male section?

MR NYAMPULE: Yes.

MR VARNEY: Can you tell the Court approximately how

frequent or how regular would the cells be searched?

MR NYAMPULE: We would search every day. And then the time, do you time.

MR VARNEY: When you say everyday perhaps you can give the time, whether it was a day or how many times per day?

MR NYAMPULE: Some of the days we would search once and some other days we would search many a times, more than once.

MR VARNEY: I see. And on the days that you were searched
10 more than once was that random or was that a reason for that.

MR NYAMPULE: No we would not just search randomly. We would be given instruction that we should go and search in certain person's cell. A detainee cell.

MR VARNEY: I see, so if I understand you correctly at there minimum there would be a daily search of all cells and at sometimes the instructions were given additional searches of specific cells.

MR NYAMPULE: That is correct.

MR VARNEY: And what was the reason for these searches.
20 Why were they important to do?

MR NYAMPULE: It was a feature for us to search all cells on a daily basis, because it was said the only thing the detainee must have in the detainee possession only a bible. Books and, any document or any book were not allowed and even the clothes of the detainee should not be in the cell. The detainee

is only allowed with the clothes that he is wearing.

MR VARNEY: But was it not the case that sometimes detainees might be privileged and perhaps allowed some sweets, chocolates, cookies and perhaps some other books to read.

MR NYAMPULE: Not all of them. Some of them.

MR VARNEY: Some of them. And could you describe a typical search in cell, what would you do once inside.

MR NYAMPULE: I will make an example. What happens
10 M'Lord each cell would only have one detainee in it. When we are conducting a search we would enter and do that search, in his presence.

COURT: Sorry what is a "we." Who and who?

MR NYAMPULE: Myself, Warrant Officer Mr Commissioner Pherson, and sometimes also Sergeant Patos, Warrant Officer Cilliers.

COURT: So at most four people would be in the one cell. Four police officers.

MR NYAMPULE: Yes that would happen. And the procedure
20 M'Lord you should not search alone.

MR VARNEY: Occasionally the superior offices in the Security Branch would allow some of the detainees some privileges. They would get these extra items.

MR NYAMPULE: Yes.

MR VARNEY: Such as extra food items, books and the like.

MR NYAMPULE: Yes. And also sometimes they would be given this, there is a mat that the detainees would sleep on.

MS HEGENI: And the witness is demonstrating M'Lord showing the thickness of this mat. The witness is saying that some of the detainees will sleep on one mat some of them will sleep with two or some others will also sleep with three of those mats.

MR NYAMPULE: We would get instructions, they would tell that a certain detainee give him a thinner mat or a certain
10 detainee give him extra mats to sleep on. And also blankets to sleep with.

MR VARNEY: I see. So are you suggesting that sometimes you were given instructions to make life a little easier for a detainee and at other times to make it more uncomfortable for the detainee?

MR NYAMPULE: I can agree with you. I can say so yes.

MR VARNEY: Sir in your affidavit you say that occasionally when detainees were privileged items and make reference to pens and paper, sweets extra blankets, but you also say that
20 sometimes the officers on the ninth and tenth would instruct for those items to be removed. In your view why do you think they were being removed from those detainees.

MR NYAMPULE: According to my knowledge I think it is when the detainee does not agree or adhere to what the investigating officer wants. Or there would be disagreements

between them. I do not know if I can elaborate how. Let us say for instance there is this information that they are looking for, they do not get it, then it would happen. That happened many times. And I mean many times.

MR VARNEY: Can you explain to the Court the procedure for showering. How it was that a detainee got to shower, the procedure in the actual shower and what items he was allowed to have with him.

MR NYAMPULE: Yes I know that.

10 MR VARNEY: So, proceed.

MR NYAMPULE: Let us say here is the detainee that needs to go and take a shower, it gets open, there is an office where they are, where the detainees belongings stays. Let us say for instance a washing rag with soap, a toothbrush they would go and fetch those things. Having those things in a parcel. He does not take the whole parcel M'Lord. He would only take the soap and whatever, maybe the toothpaste. He would then be taken to the shower ...[intervenes].

MR VARNEY: Just pause there for a moment. You mentioned
20 and toothpaste. What about a towel.

MR NYAMPULE: If it is there he can also take it. After showering or after bathing those things go back.

MR VARNEY: Yes. So in your affidavit you say that the detainees toiletries and towels were kept in that property room.

MR NYAMPULE: This is correct.

MR VARNEY: Then you are saying they would then take his items to the shower.

MR NYAMPULE: That is correct. And if he does, he is not alone at the time.

MR VARNEY: Yes explain.

MR NYAMPULE: Escorted by me. Not just me alone. It would be myself and a Uniformed member. We would then arrive where they are going to shower. He would then go inside. There is a grilled door. He gets locked inside. I will then sit
10 until he finishes. After the detainee is finished I then call the police officer, Uniformed member to come and open the door. I will then take the detainee and take him back to where he took his items. He would then place them back. If he requires clean clothes, he would then clothes from there. He gets undressed right here. He would then undress and dress the clean clothes and put his dirty clothes back into his parcel pack. He would be taken back to his cell. He would be locked up, he would be locked up also with a chain and then we lock them up.

20 MR VARNEY: Okay. Mr Nyampule it was quite an elaborate procedure first having to collect various items from the property room, then the shower, being observed all the time an then items being taken back to the property room. Why were the detainees not allowed to keep their toiletries with them in the cell?

MR NYAMPULE: It was not allowed for detainees to stay with those things inside their cells because he can use the towel inside the cell to hang himself. He can also use his socks. Also use it to hang himself with it. Even the shoelaces. Shoelaces is not allowed into the cell. It will remains where it belongs safe. A belt also is not allowed inside the cell.

MR VARNEY: Okay. That is sufficient. Thank you. So you testified they did not want to leave the detainees with their own towel because they feared that it could have been used to
10 commit suicide by hanging.

MR NYAMPULE: Correct so.

MR VARNEY: Now Mr Nyampule you are aware that it is alleged hanged himself with a material known as a kikoi.

MR NYAMPULE: I hear that.

MR VARNEY: Do you know what a kikoi looks like?

MR NYAMPULE: Yes M'Lord. They have shown it to me. It is something that looks similar like a scarf. But it is not a, but it is not a scarf it looks like a material to wrap yourself. The
body.

20 MR VARNEY: So Mr Nyampule thank you for that description. So in some respects because you can wrap it around you as you say, it is similar as a towel but perhaps not as thick as a towel.

MR NYAMPULE: I do agree with that.

MR VARNEY: So would the detainees be allowed to have a

material like a kikoi with them in their cells?

MR NYAMPULE: No.

MR VARNEY: And the reason for no?

MR NYAMPULE: Okay they are not allowed to anything with them in the cells. With material or something like that with him, he can hang himself with that and commit suicide.

MR VARNEY: So Mr Nyampule who would ultimately decide what could be held in the cells. Now you have already mentioned it was the superiors and the Security Branch at least when it came to privileged items. Did a Captain van Rensburg had a role play in making these decisions?

MR NYAMPULE: It is not van Rensburg. It is Cronwright.

MR VARNEY: Okay. You do in your affidavit describe in some detail how the parcels with gifts, it might be clothing, it might even be a scarf like a kikoi and you know sweets and chocolates, how they are received. Because I do not want to take too much of your time. I am not going to ask you to take the Court through that.

COURT: You must wait for the person.

20 MR VARNEY: Okay.

MR NYAMPULE: Alright.

MR VARNEY: And you do confirm that when a parcel is handed over and on the inspection you pointed out the office in the basement, the parcel there would be a receipt issued. Handed over to the person giving it. And then perhaps you can

tell us, what happened to the parcel after it has been received by the police officer in the basement.

MS HEGENI: Can you just repeat the question.

MR VARNEY: So once the parcel had been handed over by a family member and a receipt issued, what would then happen to that parcel.

MR NYAMPULE: Firstly it get searched. Everything that is not allowed would be looked for. Thereafter the parcel would then be taken. It would then be taken to the cells. When it
10 gets to the cells M'Lord it then go straight to that certain cell, it go to weigh the parcels in. And then the person that these items were brought for, would be then taken out of the cell. And then he would be shown the items or the clothes that is brought for him. And then, because everything gets recorded down that was brought and he would then check and then to make sure that everything that is noted down, that was brought for him is complete. And then he would then sign for it. He would then takes whatever he wants to take and he would leave what he wants to leave, and I do not know if I am allowed
20 if I say he can take what he wants he wants to take.

MR VARNEY: Yes I think you can explain that.

MR NYAMPULE: Let us say sweets were brought to him, sweets he can take. If cigarettes were bought he does not go with the cigarettes to the cell. He only takes what he is going to smoke. And the clothes is labelled that whose clothes

belongs to who. And then if he requires to smoke he would tell us. And he would be taken out of the cell if we are still there, and he would then go and fetch another cigarette. Because even matches were not allowed in the cells. We would light for him.

MR VARNEY: Mr Nyampule if I can just interrupt. You mentioned that it was ultimately Major Cronwright who decided what detainees were to get from and what would be denied to them.

10 MR NYAMPULE: That is correct. I did say that.

MR VARNEY: So presumably before the process that you are describing now, there would have been another kind of inspection and the decision would be taken, yes the parcel go to detainee in question, and he or she can get everything in the parcel, or perhaps only certain items.

MR NYAMPULE: Yes there is such process. After the receipt is taken out of this parcel, all this parcels would then go to the tenth floor and be searched. It would be then said that a certain parcel that belongs to a certain detainee consists of
20 this and this and that. M'Lord that will then say he can be given, this, this and that.

COURT: Sorry. Who says that?

MR NYAMPULE: M'Lord Cronwright is the one, all the instructions come on the tenth floor were given by Cronwright.

MR VARNEY: Mr Nyampule do you ever recall a time where

Mr Aggett did receive items from perhaps included clothing, and books and sweets and then perhaps all or some were taken away from him. Removed.

MR NYAMPULE: About Neil Aggett. What I remember about Neil Aggett. I remember going to the cells. Sorry M'Lord. I remember going to the cells to go take down complaints. At that time whilst busy taking down complaints because I record complaints from the cells. When I arrived to him, he then said to me, he showed to me, he showed to me papers and he said
10 to me he was instructed to write a statement, and all the statements that he was writing they would tear it up.

MR VARNEY: Mr Nyampule we are going to return to that evidence shortly, but for the moment I am only interested whether you can recall some of those privileged items ever being taken away from Mr Aggett. Doctor Aggett.

MR NYAMPULE: M'Lord I cannot remember if things or what were taken from him. I cannot.

MR VARNEY: Okay I am not; you know it goes back some thirty-eight years so it is understandable you cannot remember.
20 Now Mr Nyampule you mentioned in your affidavit that the detainees found ways of communicating with each other.

MS HEGENI: Amongst themselves.

MR VARNEY: Amongst themselves. So, you can you elaborate whether this was easy or difficult for them and how they managed to do so if they did.

MR NYAMPULE: I heard from them, but according to me it was difficult for them. The way they told me, they informed me how they communicate, they said they communicated when in the toilet, because like for instance each cell had a toilet, and they told me that they were communicating whilst they are in the toilet. If one is in the toilet in his cell and the other detainee is in the toilet in the other cell that is how they managed to communicate. I do not know how they were communicating, because when you enter the toilet there is
10 water and the toilets are not close by. They were far apart.

MR VARNEY: Well I will not ask you to wrack your brains of how they did it, and indeed M'Lord we will lead evidence from detainees on that score.

MR NYAMPULE: I do not know if I can act to that part.

COURT: Add not act. Do you want act. Add or act.

MR NYAMPULE: To add. Sorry M'Lord.

COURT: To add yes. That is what I heard.

MR NYAMPULE: What they informed, they told me that ...[intervenes].

20 COURT: Is this the detainees that told you.

MR NYAMPULE: Correct M'Lord the detainees. They were telling me; they did not tell everyone. It was not my duty to go and say what the detainees are saying.

COURT: Well you can tell us now. You can tell us what they told you.

MR NYAMPULE: I left them. Because I could not understand how can communicate with the other whilst in the toilet. I could not understand it.

COURT: Did they tell you how they did it.

MR NYAMPULE: They told me M'Lord, but they never showed me this is how we do it.

COURT: Yes, what did they tell you.

MR NYAMPULE: They talked when they went outside, they would say, the one would say to the other. I was assaulted.
10 This was done. The other one would say that was done to me.

MR VARNEY: M'Lord when we lead the evidence from the detainees there, they would explain the mechanics behind the process.

COURT: Okay. Yes.

MR VARNEY: Besides toilets were there any other way they could somehow communicate with each other?

MR NYAMPULE: No there was not. There was not.

MR VARNEY: Okay. Also in your affidavit you state that you as the Security Branch personnel took pride in maintaining the
20 cleanliness of the cell block and the cell in particular. Why did you as police officers take pride and ensure that the cells were kept so clean?

MR NYAMPULE: For them to stay in a clean place.

MR VARNEY: So what did you do to make sure that the place was clean, did you issue instructions and so, what kind of

instructions.

MR NYAMPULE: Yes. Yes we would tell them, sweep your cell, clean your cell and they would do that. And then some of them would, if they wanted to shine the floors they would that, because there was nothing else to do in the cells. And what I can say is, I have never seen a clean cell like the political detainees' cells. They were very clean. The cells were very clean.

MR VARNEY: And what about the grilled door and the grill
10 itself. That caved section.

MR NYAMPULE: They would also clean it. It was clean. You would never found dust.

MR VARNEY: And would you in fact carry out inspections to see whether it was clean or not.

MR NYAMPULE: Yes.

MR VARNEY: Alright. Thank you, Mr Nyampule. We are going to move now to a different topic. Let us just briefly deal with the question of exercise. What kind of exercise the political detainees were allowed to do?

20 MR NYAMPULE: They were doing push-ups. They were jumping. They were running.

MR VARNEY: And please explain how often they were allowed to this and where.

MR NYAMPULE: They were doing it at a place where it was called the exercise yard. I did point it out to the Court. I

would take them, I will take them all into the exercise yard M'Lord. They would go into the yard one by one. Let us say for instance, one would go into the exercise yard, then the other one after cleaning his cells and would run, and then one would run there at the cells M'Lord. And the cells were in a L - shape. I would stand here, and they would stand here.

MS HEGENI: The witness is demonstrating M'Lord. Showing with his right hand he was standing one side. And one officer McPherson would stand on the other side opposite. Then if the
10 detainee runs from where the witness is, he would then go to where McPherson is standing.

MR VARNEY: Perhaps Mr Nyampule you might help yourself and perhaps the court if you point it out on the floorplan which you might still have. M'Lord that is EXHIBIT G(10) and it is page 4 of that exhibit. Perhaps you can begin by pointing out where the courtyard is, and then you can explain where else they might have run.

MR NYAMPULE: There are three offices, on the sketch plan itself M'Lord. Under B(2).

20 MS HEGENI: The witness is pointing the three offices which are not marked under B(2). M'Lord the witness is pointing on the sketch plan that courtyard is just as a door. And that is a courtyard would be somewhere, situated somewhere.

COURT: Ja I think we saw it when we went for the *inspection in loco*. Where it is written you are here.

MR NYAMPULE: Yes.

COURT: There is a door leading to the courtyard.

MR NYAMPULE: That is correct M'Lord.

MR VARNEY: And then Mr Nyampule just to save a bit of time. Do you see the corridor is like an L-shape.

MR NYAMPULE: That is correct.

MR VARNEY: Would the detainees be permitted from time to time to run along that L-shape corridor?

MR NYAMPULE: No not like that.

10 MR VARNEY: Okay please explain where.

MR NYAMPULE: M'Lord let us say for example I would be standing between B(1) and B(2).

COURT: Yes.

MR NYAMPULE: And McPherson would be standing between B(11) and B(26) but in that same patch.

COURT: Yes.

MR NYAMPULE: Then the detainee M'Lord would run from where I am standing, run until where Warrant Officer McPherson is standing and then he would then run back from
20 Warrant Officer McPherson is standing to where I am standing.

COURT: Ja.

MR VARNEY: Thank you.

COURT: How many times.

MR NYAMPULE: It depends. We will not say how many times they would run. When the detainee is tired he would then stop.

MR VARNEY: Mr Nyampule and while we are looking at the floorplan of the male section, you have already pointed out where the Magistrate's and District Surgeon would meet with the detainees. Just remind us which office that would take place in.

MR NYAMPULE: M'Lord there are three offices which are not marked under B(2).

COURT: Yes.

MR NYAMPULE: The third office.

10 MS HEGENI: The witness is counting one, two, three. The third office is where, the office where there is a green colour in that office, this is where they would come to.

MR VARNEY: Thank you.

COURT: Is it here where it is an inscription "you are here." Is it those offices?

MS HEGENI: What.

COURT: There is a writing "you are here."

MR NYAMPULE: Yes. That is correct M'Lord.

MR VARNEY: And Mr Nyampule who would decide whether
20 the detainees could see District Surgeon or a Magistrate?

MR NYAMPULE: Warrant Officer McPherson.

MR VARNEY: And were there times in your experience that detainees who had requested to see District Surgeon or a Magistrate were held back or prevented from seeing a District Surgeon or Magistrate?

MR NYAMPULE: Yes M'Lord many a times it happened.

MR VARNEY: And do you know the reasons why they might have been seeing a Magistrate or District Surgeon?

MR NYAMPULE: It is when a detainee is injured. Or if a detainee has visible marks of being assaulted.

MR VARNEY: Any other circumstances besides visible injuries that are apparent.

MR NYAMPULE: [Mechanical failure] [12:36:18 – 12:36:23] were not allowed to see the District Surgeon or the Magistrate
10 are the ones that was maybe taken out for further investigation and then they were assaulted and they have got visible entries, they were the ones who was not allowed to be seen by the District Surgeon or the Magistrate.

MR VARNEY: So in your experience.

MS HEGENI: Sorry M'Lord I missed out something. The witness also said, all detainees that were also taken to the interrogation room.

MR VARNEY: So sometimes a Magistrate or a District Surgeon could not see the detainee because he or she might
20 have been on investigation or was in the interrogation room.

MR NYAMPULE: That is correct.

MR VARNEY: So you have indicated firstly that often times individuals who had visible injuries they would be kept away from the Magistrates or the District Surgeons, and then what would they say to the District Surgeons as to why they could

not see these detainees?

MR NYAMPULE: It was said, it was said the reason why they cannot be seen is because those detainees are put out, either for further investigations for few days and that is the reason they cannot see. They are not available in the cells.

MR VARNEY: And do you ever recall a District Surgeon or Magistrate complaining about the fact that they were not allowed to see the detainee for that reason.

MR NYAMPULE: I do not recall of a Magistrate that had a
10 complaint. I do not recall of any District Surgeon that had a
complaint.

MR VARNEY: Okay. Thank you, Mr Nyampule. Now
...[intervenes].

COURT: Sorry can I just found out. When a District Surgeon or a magistrate came to see the detainees. Did he have a name or names as to who he exactly he wants to see, or was it just a general visit for everyone who was there?

MR NYAMPULE: The person that was in charge of the list was
McPherson M'Lord. It was Warrant Officer McPherson and also
20 Warrant Officer Cilliers. They were in charge of the list. They
would say go and fetch a certain person. We were only sent
M'Lord to fetch.

COURT: Yes, but what I want to know is, is that you do not know whether a Magistrate or a District Surgeon wanted to see a particular detainee or not..

MR NYAMPULE: No M'Lord.

COURT: Thank you. You may proceed.

MR VARNEY: As the court pleases. Now let us move onto another topic Mr Nyampule. In your affidavit you make reference to certain incidents that took place at John Vorster Square, and in particular you refer to someone by the name of Paul Langa. Who was Paul Langa?

MR NYAMPULE: Paul Langa is one of the political detainees who was on the second floor.

10 MR VARNEY: And can you explain why you wish to bring the experience of Mr Paul Langa to the attention of this Court.

MR NYAMPULE: Yes. Yes M'Lord, Paul Langa informed me that he is going to be taken for three weeks, taken for further investigations. And he informed me also that they told him, that where they would be taking him for the three weeks, they will be making him to stands. For three weeks. Day and night. And that happened.

MR VARNEY: And did you see him on his return.

MR NYAMPULE: Yes M'Lord I saw him.

20 MR VARNEY: And can you describe this condition?

MR NYAMPULE: His condition was otherwise. His feet, his feet was swollen. It looked like elephant's feet. And also his legs M'Lord, his legs were swollen. You could see that he is tired And when he came back, he was not brought back to the cells because what, M'Lord what happened, they did bring him

to the cells but he was not put back into his cell, and what was also said they continue with what they were doing with him. Making him to stand. And they were taking shift. He was put in the exercise yard.

MR VARNEY: And just to be clear, when you mention "they" who are you talking about?

MR NYAMPULE: I am talking about the members of the Security Branch. White people.

MR VARNEY: Do you happen to recall the names per chance?

10 MR NYAMPULE: I will not be able to remember their names, reason being this is the way security was working or operating. The reason why M'Lord it is because when they were doing these kind of things it was not the members that were, the member from John Vorster Square. Security Branch was all over. They were Head Office. There were some at Head Office. There were some at Germiston. Some at Krugersdorp. And some of them I would not know from which places they are coming from because all around these places there were securities and they would all come to John Vorster Square.

20 MR VARNEY: Okay. Now just be clear. You say his abuse did not end while he was investigated. It continued after he was brought back, and he was made to stand for prolonged periods. Was that in his cell or where exactly was that?

MR NYAMPULE: In the exercise yard.

MR VARNEY: So he was made to stand in the exercise yard.

MR NYAMPULE: That is correct.

MR VARNEY: And was he abused in any other way.

MR NYAMPULE: That is what I can remember.

MR VARNEY: Okay. And was he ultimately allowed to see a Magistrate and or a District Surgeon?

MR NYAMPULE: He was one of detainees that was denied to see a Magistrate or a District Surgeon.

MR VARNEY: Denied altogether or did they eventually allow him at a later stage to see them.

10 MR NYAMPULE: I cannot remember so well if he was allowed to see them or not. I cannot remember.

MR VARNEY: Yes, and besides Mr Paul Langa were there any other detainees complained of similar abuse?

MR NYAMPULE: Yes. The person that I remember, what I can remember, is when I went to the cells McPherson stopped me at the gate. He told me to turn back and I should go back to the tenth floor. He said I should tell them at the tenth floor that Carl Niehaus is trying to kill himself, to commit suicide in his cell. I went to the tenth floor. I told them.

20 COURT: So who did you tell?

MR NYAMPULE: I told Captain Makgoro. Captain Makgoro told Cronwright M'Lord. I then went back to the cells. Before arriving at the cells, but already passed the charge office, at the door, the door which I said that there is a police officer that sits there, after that police officer had opened the door for me,

I met up with up with police officers from the Security Branch accompanied by McPherson. They were with Carl Niehaus and then he was lying on a stretcher. They said they are taking him to either a doctor or a hospital.

COURT: Sorry which year was this.

MR NYAMPULE: I cannot remember which year it was M'Lord. Can I proceed.

MR VARNEY: Mr Nyampule can you recall approximately what the time was when you were told, quickly from the second-floor
10 cells and make a report to the tenth floor. What time was that approximately?

MR NYAMPULE: It was in the morning sir. M'Lord it was in the morning but not that early because when I arrive at work, I start at the tenth floor and I would attend meeting every day in the morning there would be a meeting on the tenth floor.

MR VARNEY: At about what time.

MR NYAMPULE: Because I would arrive there at about quarter past seven M'Lord, half past seven M'Lord. Let us say approximately eight o'clock.

20 MR VARNEY: M'Lord I do have a few questions in regard to this incident but I see it is one o'clock. Is it an appropriate time for lunch.

COURT: Yes it is time for lunch. We will take lunch adjournment.

COURT ADJOURNS:

[11:09]

COURT RESUMES:

[11:33

COURT: Okay Mr Nyampule you are still under oath.

JOSEPH MHLUPHEKI NYAMPULE: s.u.o (through interpreter)

COURT: You may proceed.

MR VARNEY: As the court pleases. Mr Nyampule before lunch, just to remind you, you were relating an incident involving one, Carl Niehaus. And you have mentioned that on your arrival at the second-floor cells on a certain morning, you
10 were asked to quickly head up to the tenth floor. Please remind the Court, why did the Security Branch turn you around and ask you to rush to the tenth floor? What was their request about?

MR NYAMPULE: It was said, I should rush to go and tell Arthur Cronwright that Carl Niehaus wanted to commit suicide, attempted to commit suicide.

MR VARNEY: And then, what happened when you arrived at the tenth floor?

MR NYAMPULE: On arriving at the tenth floor, I then told
20 Captain Makgoro. Captain Makgoro then told Captain Cronwright.

COURT: Was it Captain or Major?

MR NYAMPULE: At that time, he was still a Captain, M'Lord.

MR VARNEY: And-and then after that what did you?

MR NYAMPULE: I went back to the cells.

MR VARNEY: And what happened when you got back to the cells?

MR NYAMPULE: I did explain. I met up with the Security Branch officers and found McPherson. They were carrying a stretcher where Carl Niehaus were laying on.

MR VARNEY: When you say stretcher, like an ambulance stretcher?

MR NYAMPULE: That is correct. That goes into the ambulance at the back.

10 MR VARNEY: And what was your impression after discovering that Mr Niehaus was being carried out on a stretcher?

MR NYAMPULE: I was surprised; I was surprised not knowing what was happening.

MR VARNEY: And you were surprised because for what reason?

MR NYAMPULE: What surprises me M'Lord, is that on the second floor there were phones and, again M'Lord for me to run, because there were phones, for me to run going up to the tenth floor to go and report that, it takes longer if really
20 someone wants to kill himself. Can I proceed?

MR VARNEY: Yes.

MR NYAMPULE: In my mind M'Lord something came to my thoughts that there is something that they are hiding from me.

MR VARNEY: They were hiding something from you so they sent you away so that they could continue hiding something?

Is that what you are saying?

MR NYAMPULE: That is what I was thinking.

MR VARNEY: I see. Now, this morning in your evidence, you mentioned that many, indeed in your words, most of the detainees who went to the tenth floor came back with complaints and you mentioned injuries. Can you give an indication of the typical kinds of complaints and or injuries you either observed or you have heard about?

MR NYAMPULE: Yes, I will try to explain. The injuries that I
10 am referring to, when you put handcuffs on a detainee you do it gentle. You do not fasten it as if you want to break the persons, the bone in the hand, the wrist. Even in the feet when you put in the leg iron, you put it on for that person to be able to move, to be able to walk with it on. If you are tightening, how is that person going to move? How is that person going to walk?

MR VARNEY: So, Mr Nyampule, did you yourself see the injuries from these handcuffs and leg irons?

MR NYAMPULE: Yes. Yes, I saw that.

20 MR VARNEY: And can you give any other examples of injuries?

MR NYAMPULE: And others were showing me visible injuries. They would say look, or they were, they were killing a cigarette or they were switching a cigarette on my flesh, they would show.

MS HEGENI: There was, is showing M'Lord on his arm – the inside of his arm, his left arm.

MR VARNEY: So, you were shown injuries from cigarette burns? Did the detainees show you injuries, other injuries besides those?

MR NYAMPULE: And they, some of them would barely walk M'Lord because – then they would tell me that they were electrified.

MR VARNEY: When you mean electrified, do you mean
10 electric-shock-treatment?

MR NYAMPULE: That is correct.

MR VARNEY: And so these detainees were – were saying to you that, or complaining to you that they had been assaulted by the Security Branch, either on the ninth or the tenth floors?

MR NYAMPULE: Correct so. Yes.

MR VARNEY: Now you have also mentioned earlier in your evidence that from time-to-time detainees who had these injuries, particularly visible injuries, were held back from seeing a District Surgeon or Magistrate until those injuries
20 have been sufficiently healed.

MR NYAMPULE: I did say so yes.

MR VARNEY: And you further said that it was ultimately the Security Branch, and you mentioned it was, either Major or Captain Cronwright who would ultimately decide when they could see a district surgeon or a Magistrate.

MR NYAMPULE: Yes, I did say so.

MR VARNEY: So my-my question then Mr Nyampule is, the officers in charge of the second floor cells, namely Sergeant McPherson and Warrant Officer Cilliers, in your view were they working hand-in-hand with the Security Branch to keep detainees from seeing a Magistrate or a District Surgeon while they had those visible injuries?

MR NYAMPULE: Correct. Yes.

MR VARNEY: Alright, if you can also move on to another
10 topic, or perhaps let me ask. Given that you were seeing these injuries when detainees were returning from the tenth floor, were you yourself concerned about the welfare and safety of these injuries of these detainees and were you concerned about what was going on, on the tenth floor?

MR NYAMPULE: Yes, I was concerned because they are human.

MR VARNEY: And did you take any particular action to assist them. And if not, why not?

MR NYAMPULE: M'Lord I could not help them. How was I
20 going to help them, because that was the system. That was the way they were doing things.

MR VARNEY: And can you explain to the Court why you were not able to help them

MR NYAMPULE: I was going to get into trouble. I am, I was thinking M'Lord I assume or I am thinking I was going to end

up being like that. I was going to end up, they were going to do the things they were doing to those people.

MR VARNEY: Thank you Mr Nyampule. Mr Nyampule you mentioned that there were occasions when detainees were taken to the tenth floor and not returned to the cells by 16.00 hours. What did you think was going on if they had not returned by 16.00 hours?

MR NYAMPULE: To me I thought maybe they were taken to far places and they not back yet, they were busy with
10 investigation or either they were still busy with them up there and they not done with them yet.

MR VARNEY: And you on go to say that sometimes in the morning you would find the detainees were back in the cells.

MR NYAMPULE: Yes I did say that.

MR VARNEY: And after hours when you were not around how do you think they were able to get those detainees back into those cells? When I mean they I mean the Security Branch. If in the morning he discovered that the detainees who had not been brought back by 16:00 hours were back in their cells, who
20 was getting the detainees in their cells?

MR NYAMPULE: I think they I think they were the ones who put, the people who put out the detainees I think they were the ones who brought back the detainees back into the cell because when I leave at four o'clock I take the keys, I take it up to the tenth floor and hand it over.

MR VARNEY: Are you saying that the Security Branch had access to the cells after hours, at night-time?

MR NYAMPULE: Yes, they had access, they could go in.

MR VARNEY: And if they wanted to access particular cells, they could do so?

MR NYAMPULE: Easy.

MR VARNEY: Can you explain why it would be easy?

MR NYAMPULE: Because the keys are with them, the keys are with them. The keys that I am talking about, is the padlock
10 key.

MR VARNEY: But they would need more than one set of keys to get into the cell

MR NYAMPULE: The White people the Uniformed Branch they had the keys, the ones that was stationed there. It was White, White Police Officers, White strictly.

MR VARNEY: And why you emphasizing those particular officers were White?

MR NYAMPULE: Why am I emphasizing the police Whites? When I came there to work there there were Whites, there were
20 no people, Black people never work there.

MR VARNEY: I suppose what I am getting at Mr Nyampule is, correct me if I am wrong, are you suggesting there was some collaboration between the staff on the second floor cells and the Security Branch?

MR NYAMPULE: That is what I am thinking.

MR VARNEY: I see. And you mentioned in your affidavit an example of what happened one night when you discovered two detainees in one cell; can you please elaborate on that example?

MR NYAMPULE: When I left, each and every detainee was in his own place and I locked. When I came back, I would find that the detainee that was in the cell was not in that cell anymore and I check in another cell there were two, there were detainees in one cell.

10 MR VARNEY: And what was your explanation for that?

MR NYAMPULE: It surprised me because procedure there is one detainee in one cell now if there is two detainees in one cell who did that? Who put them in one cell?

MR VARNEY: And who could possibly have done that?

MR NYAMPULE: No one else could do that except the Security Branch, because that place was of the Security Branch.

MR VARNEY: And you are also say in your affidavit that the movement of detainees at night was calm, Mr Nyampule, why
20 do you say that?

MR NYAMPULE: They would tell me in the morning when I come.

MR VARNEY: And what would they say to you?

MR NYAMPULE: They would say the White man came. They took me from here and they then brought me back.

MR VARNEY: And would you try to follow up? Check the records to see what was going on?

MR NYAMPULE: I was trying. I would then discover M'Lord that nothing is written. It is not written who took the detainee and where is the detainee taken to.

MR VARNEY: And what conclusion would you draw from the fact that there was no written record in the register or the Occurrence Book.

MR NYAMPULE: To me what came to mind was that they are
10 doing as they please at their own time.

MR VARNEY: Sir and when you say "they" who was "they"?

MR NYAMPULE: I am talking about the White man or the White people.

MR VARNEY: The White people from?

MR NYAMPULE: Security Branch

MR VARNEY: Did you ever notice detainee's underground interrogation maybe for an extended period coming back exhausted and sleeping for a long time?

MR NYAMPULE: Many of them that I have witnessed.

20 MR VARNEY: And sometimes they would not take their food, they would not exercise or shower?

MR NYAMPULE: Yes

MR VARNEY: Did you ever recall if the late Doctor Aggett was one of those detainees?

MR NYAMPULE: Yes, I do remember that.

MR VARNEY: You do remember Doctor Aggett. If you could just elaborate on what you remember?

MR NYAMPULE: What I remember of Doctor Aggett he said I am I tired can you just leave me to rest.

MR VARNEY: Was that on one occasion or more than one occasion?

MR NYAMPULE: M'Lord I am not sure how many times that happened. I cannot say it did not happen once. And then a witness also said it could be twice it could be more; I am not
10 sure.

MR VARNEY: Were you ever questioned by a superior officer about your relationship with the political detainees?

MR NYAMPULE: Many a times.

MR VARNEY: And can you explain why you were questioned and what the concern was?

MR NYAMPULE: They said I am too friendly to the political detainees and I converse with them for a long time and they had already reported that. The people on the tenth floor already know about this.

20 MR VARNEY: And do you recall which officer, or officers were expressing this concern?

MR NYAMPULE: Yes, I can clearly remember. It was Captain Arthur B Cronwright. He is the one the one that was telling.

MR VARNEY: And what was your response to his accusation?

MR NYAMPULE: I said to him he should transfer me. He

should take me away from the cells.

MR VARNEY: And after that did you adjust your conduct in any way?

MR NYAMPULE: Yes, I did not little, big adjustment.

MR VARNEY: What was that big adjustment?

MR NYAMPULE: I was not communicating to them anymore to them. I was just doing, just doing. They said to me the cells on the second floor; the cells for the political detainees have intercoms. Everything that I am talking with the detainees they
10 can hear it on the tenth floor, and also on the ninth floor.

MR VARNEY: Let us turn to Doctor Neil Aggett's himself. Do you recall when you first became acquainted with him?

MR NYAMPULE: I remember a bit.

MR VARNEY: And you mentioned earlier in your evidence today that you did have a discussion with him in which he said to you, you kept on being told to re-write his statements by the White Security Branch officers. Can you just elaborate on that discussion please?

MR NYAMPULE: Yes, I remember them. I remember that very
20 well and I can explain it. He said to me he has been writing statements and every time he writes the statements and then he would come to him and they would tear it up. And then he would give another statement and then do the very same thing, they would tear it up, and so it went on. Another one was brought, when he gave them another statement they would tear

it up. And so on. He is now asking me, what should he do now because everything he wrote down is what they requested, but these people were not satisfied. M'Lord I was also amused because we knew Aggett was a White man, and they are also White people. Now what is it that he must do?

MR VARNEY: Mr Nyampule can you explain the context in which that discussion happened? Was it possibly while you were escorting him or was it in the cells or the reception area?

MR NYAMPULE: I remember very well that. It was at the time
10 when I was doing my rounds, taking complaints from all the political detainees. I then also got to him. He then, when I got to him he then related back to me. It was like a complaint so I had to write and note down everything what he was telling me.

MR VARNEY: So that was his complaint? He did not complain about anything else.

MR NYAMPULE: I cannot maybe I cannot remember anything else. But I remember this incident very well. When he was telling me he even showed me the paper that was given to him and the pencil. I remember it was a pencil that was given to
20 him to write.

MR VARNEY: Yes. And indeed, you said in your affidavit that he did not have complaints of injuries, at least to yourself, is that correct?

MR NYAMPULE: No, I do not remember.

MR VARNEY: Did you ever have occasion to see inside Neil

Aggett's cell, and in particular what he had in his cell?

MR NYAMPULE: M'Lord I do not want to lie. To me, I have never entered Neil Aggett's cell, because I was told by the White man not to go into Neil Aggett's office. They would say to me they will go in or they have already been in that cell. So, I was not entering that cell.

MR VARNEY: Just to be clear Mr Nyampule, are you talking when you had occasion to search cells, you were told not to go into Doctor Aggett's cell?

10 MR NYAMPULE: Yes, even with that, I was not entering Doctor Neil Aggett's cell. I was told, well they will be the officers who will search Doctor Neil Aggett's cell. Myself and Sergeant Patose were told not to enter into, not to search Doctor Aggett's cell. They will then instruct us and tell us which cells to enter and search.

MR VARNEY: And was it McPherson and Cilliers who were giving those instructions or were there others saying McPherson and Cilliers would tell you which cells you can enter or not?

20 MR NYAMPULE: They were the two that would tell me, that would give me the instruction. Cilliers were a senior to McPherson. He was McPherson's senior and then McPherson was the senior to Patose, yes.

MR VARNEY: And so was it all three or two of them or one of them, can you be clear who said to you do not enter

Mr Aggett's cell we will tell you which cells to go to.

MR NYAMPULE: Both of them, the two. Cilliers and McPherson.

MR VARNEY: Mr Nyampule was that a general instruction or was it just a once off instruction?

MR NYAMPULE: If my memory serves me correct, they told me only once.

MR VARNEY: And does he remember approximately when that instruction was given?

10 MR NYAMPULE: M'Lord when it was, I cannot remember, but they told me, when they told me, it was during the day.

MR VARNEY: But sir you cannot remember the month? Whether it was perhaps in December 1981, or perhaps in January, February 1982?

MR NYAMPULE: M'Lord I would not be able. I cannot remember which year it was. It happened a long time ago, close to 40 years.

MR VARNEY: Yes now I appreciate that. But was it perhaps closer to the time of Neil Aggett's death? Or was it perhaps
20 closer to the time of his initial detention?

MR NYAMPULE: According to me M'Lord I think it was closer to when he was detained.

MR VARNEY: And thereafter, he never entered Doctor Aggett's cell?

MR NYAMPULE: I do not want to lie M'Lord, but Doctor Neil

Aggett's cell I was never, I have never entered it.

MS HEGENI: M'Lord, the witness is saying I was not easily going into Doctor Neil Aggett's cell.

MR VARNEY: Mr Nyampule were you given similar instructions in relation to any other detainee aside from Doctor Aggett?

MR NYAMPULE: Yes, there is.

MR VARNEY: And if you can recall, do you remember the names of the other detainees in the cells you could not enter
10 into?

MR NYAMPULE: Yes, there is. Solomon Mahlangu, also Paul Langa. For now, these are the ones that I remember M'Lord.

MR VARNEY: Okay thank you. How did you get to learn of the death of Doctor Neil Aggett?

MR NYAMPULE: We were told, us Black officers, we were told by Captain Makgoro, and we were told on the tenth floor.

MR VARNEY: And what were you told?

MR NYAMPULE: We were told that one of the detainees has killed himself in the cells. We asked, who? We were then told
20 that it is Doctor Neil Aggett. We then asked how did he kill himself? They then said to us they found him hanging. They said that he hanged himself.

MR VARNEY: And did they explain how he hanged himself and what he used?

MR NYAMPULE: M'Lord we were not told what he used to

hang himself. We were not even taken to be shown. We were only told that he hanged himself.

MR VARNEY: And when did you learn about the instrument of hanging. At point did you discover it was this scarves or kikoi.

MR NYAMPULE: M'Lord I only learned about it recently after very long when the investigating officer came to me about this inquest.

MR VARNEY: To be clear you are talking about this inquest now or you talking about the 1982 inquest?

10 MR NYAMPULE: I am referring to this time one.

MR VARNEY: And what was your response when you eventually learned that Dr Neil Aggett had allegedly hung himself with this kikoi.

MR NYAMPULE: I was shocked M'Lord because it was the very first time for me to see that because he had a photo of it. You know what also surprised me is that this guy, these people, Security Branch M'Lord, they never showed us or maybe a thought of saying this is the way how he hanged himself.

20 MR VARNEY: Do you think they should have?

MR NYAMPULE: Yes, M'Lord they should have because we were working together.

MR VARNEY: Any other reasons why you think the police should have explained exactly what happened to Doctor Aggett?

MR NYAMPULE: Can you please repeat the question to me?

MR VARNEY: Okay. You clearly feel strongly that the police should have explained to you and your colleagues, what had happened, apparently used this kikoi. What would have been the importance of having that knowledge at that time?

MR NYAMPULE: For us to know that oh, this kind of think kills, this is what killed him. And also, how did it get in?

MR VARNEY: Right. And you have already testified that in your view, this kikoi should never have been in the cell?

10 MR NYAMPULE: Yes, it was not supposed to.

MR VARNEY: And do you recall whether any disciplinary proceeding followed the death of Doctor Neil Aggett to try and ascertain why it is he happened to have this kikoi which was in your view illegal or contraband in his cell?

MR NYAMPULE: That is what amazed me or surprised me. There was never a disciplinary hearing. No-one was punished, because if there was, it means I was also supposed to be disciplined, because I was working in the cells, and that is my reason.

20 MR VARNEY: And do you recall Police Officers who may have broken rules or the procedures, were Police Officers from time to time disciplined and punished if they broke the rules?

MR NYAMPULE: Yes, I can say and there is one that I am going to explain. With the Whites, there was no disciplinary hearing. Yes and I can say, there is one that I am going to

explain.

MS HEGENI: The witness also said with the Whites there was no disciplinary hearing, and the witness after that M'Lord said there is one that I am going to explain and he is holding his affidavit.

MR VARNEY: You may explain.

MR NYAMPULE: M'Lord I do not know, should I read it out or should I explain?

MR VARNEY: You can just explain it.

10 MR NYAMPULE: Okay. There was a colleague of mine which we used to work together. His name was Nelson Velapi Mhlanga. We were residing at the Fordsburg barracks. He got an injury on duty. The same job as a security. He got an injury on his head.

MS HEGENI: The witness is touching on the left side of his, M'Lord then there was a plate was then being put on him or inserted to him.

MR NYAMPULE: And it then came out that he cannot do his duties anymore, but he can only do a lighter duty. So he was
20 making tea, his duties were making tea on the tenth floor. From where we were residing at Fordsburg Barracks going to work at John Vorster Square, we were walking barefoot when we go to work. It took us approximately fifteen to twenty minutes to get to work from where we resided.

MR VARNEY: Mr Nyampule just because we do not have too

much time, you said you were going to give us an example of an incident in which there were some discipline. Perhaps you can move to that incident?

MR NYAMPULE: The same person which I am talking about, this Velapi, he once spoke to a political detainee, Velapi was originally from Piet Retief, so this detainee asked something from him. He asked him to take a message to Piet Retief to the family of the whom they were-were-were taking a message M'Lord from the detainee taking it to conveying it to Piet Retief
10 to the detainees family, and that happened.

MR VARNEY: And was he caught out?

MR NYAMPULE: He was caught out.

MR VARNEY: What disciplinary action followed?

MR NYAMPULE: Within twenty-four hours he was transferred from John Vorster to SAPS in Kriel and the police station where he was transferred to is not situated, the farm was in the homelands in his farm.

MR VARNEY: Okay Mr Nyampule if we just return to the death of Doctor Neil Aggett, do you recall, firstly let me ask – were
20 you, do you recall whether you were at work on the morning of 5 February 1992? It is the morning that the hanging was alleged to have taken place.

MR NYAMPULE: Which day of the week was it?

MR VARNEY: We will have to find out for you.

COURT: It was a Friday.

MR VARNEY: I believe that is correct your Lordship.

MR NYAMPULE: Friday? I cannot remember the day so well M'Lord.

MR VARNEY: Alright, we will confirm the day of the week. I am told that it was a Friday, but do you recall at least arriving for work on the morning where you discovered or you were told that Doctor Aggett had committed suicide in his cell?

MR NYAMPULE: Yes, I do recall.

MR VARNEY: And can you explain what happened when you –
10 I am assuming, but correct me if I am wrong that you then –
you typically reported for work on the tenth floor and then you would go down to the second floor cells, is that what happened on that day?

MR NYAMPULE: No.

MR VARNEY: What happened on that day?

MR NYAMPULE: I reported on the tenth floor. We had a meeting with Captain Makgoro. He is the one who informed us. What he also told us M'Lord, he says the White people are still busy at the cells. That is what I remember. And it was also
20 said to me I would get a further notice when to go down to the cells.

MR VARNEY: So, just reminding ourselves of your earlier evidence about the morning meeting on the tenth floor, you had mentioned that was around seven fifteen to seven thirty, so am I right in saying that that was the time you were told about

Neil Aggett's death?

MR NYAMPULE: Yes, that is the time.

MR VARNEY: So, did you wait on the tenth floor until you were instructed to head down to the cells?

MR NYAMPULE: Yes

MR VARNEY: And do you remember approximately how long you had to wait on the tenth floor before you were given that instruction?

MR NYAMPULE: It was a long time M'Lord. If my memory
10 serves me correct I went down to the cells after twelve p.m. I went down to the cells, yes, in the afternoon.

MR VARNEY: Alright so that is quite a lapse of time Mr Nyampule and what did you find at the cells? What was going on there?

MR NYAMPULE: I did not find anything there at the cells M'Lord because I was never taken to Neil Aggett's cell to be shown this is where he hanged himself, nothing.

MR VARNEY: Yes, but did you by chance see any of the
20 investigators who were looking into the alleged suicide perhaps?

MR NYAMPULE: I did not see any investigators.

MR VARNEY: Alright now let us turn Mr Nyampule to what you have observed going on the ninth and tenth floor of John Vorster Square. Now you already testified about what happened to your colleague Nelson Velapi Mhlanga and you

have already testified why he was suddenly transferred out of the Security Branch?

MR NYAMPULE: Yes, absolutely Sir.

MR VARNEY: So-so-so following his transfer, were you asked to take over any particular duties?

MR NYAMPULE: Yes, I then took over his duties to make tea on the tenth floor.

MR VARNEY: I see, and just to be clear when he had those injuries you spoke about in your affidavit you indicated that
10 you had already been assisting with the tea duties while he was injured, is that right?

MR NYAMPULE: That is right.

MR VARNEY: Once-once he was transferred, you then took on the tea duties?

MR NYAMPULE: That is correct.

MR VARNEY: Was that a full-time job you had to do on the ninth and tenth floor?

MR NYAMPULE: Yes but I do not know if I can explain that. When I was conducting those duties on the tenth floor, it was
20 not full-time, I would do those duties – making tea – then I would go down to the cells and do my duties. And then the first teatime, I would make tea at seven thirty. The second teatime would be 11 o'clock. The third teatime would be around one o'clock. Now in-between those times I would do the tea, after doing the tea, I would go do my job – my duties

at the cells.

I would come back and I would do the tea again and I would go back again.

MR VARNEY: And can you give an indication to the Court roughly when you began those duties – approximately what year was that?

MR NYAMPULE: M'Lord I am not sure but if my memory serves me correct it could be around 1986.

MR VARNEY: And, again I know it is a tough question, but
10 prior to that when you were filling in for Nelson when he was injured, approximately the years you were doing that? Yes he- he mentioned that he-he was already filling in for Nelson when he was injured.

MR NYAMPULE: I think it is around those years.

MR VARNEY: Okay.

MR NYAMPULE: It is around those years, 1985, but I cannot remember so well M'Lord.

MR VARNEY: That-that is fine Mr Nyampule, now did your tea serving duties include having besides making the tea would
20 you then have to take it to the various Police Officers

MR NYAMPULE: Yes, but let me explain that thoroughly. I would – the tea that I was making on the tenth floor, and also that Cronwright's office was big and then all those lights would – the Whites – the Whites of the Security Branch, they would all drink tea in his office.

There was a trolley that you would push and the others were still in their offices. If the door is open, if one is in his office, he would stop me and request some tea or coffee from me.

When it is closed I would pass. That is the instruction that was given to me and that is what I was doing.

MR VARNEY: Mr Nyampule it is of interest to us whether you observed anything while you were serving tea on the ninth and tenth floors.

10 MR NYAMPULE: Yes, on the tenth floor I observed something.

MR VARNEY: Can you describe to the Court what you would see on the tenth floor?

MR NYAMPULE: M'Lord on the tenth floor when I pushed the trolley, when the door is opened I could see – I could observe there is a detainee sitting, there is a detainee there and I would also see the investigating officer.

And then if the door is opened, the one who wishes to stop me and ask tea or coffee from me, I would then do that and give it to that person who requested tea or coffee.

20 M'Lord it is there where I observed the detainees, when they are in this offices – these offices, I would observe the position they would be in.

Some of them would be in, some of them would be in a frog position, some of them would squat, some of them would stretch their hands forward, some of them would stretch their

hands up – upwards, and some of them would also stretch their hands M'Lord sideways.

MR VARNEY: And did you wonder to yourself what was going on in those offices when they were in these unusual positions?

MR NYAMPULE: M'Lord yes to me I was amazed but it came back to my thoughts that oh, at the time when I was working at the cells that this is what they do to them when they are here on top in the office.

And it is what, and that is what the detainees told me
10 what it is done to them in those offices. Now I am seeing it for myself.

MR VARNEY: And what else did you observe while you were on the tenth floor? My Nyampule over here I am talking about when they door happened to be opened and you were – you were serving tea?

MR NYAMPULE: When the door is open I would see the detained being inside the office, either sitting or standing or being doing whatever he is doing.

MR VARNEY: To – to be a little more precise did you ever see
20 any other abuse?

MR NYAMPULE: M'Lord I also observed what was common there, there would be assaulted with slaps, open hand, it was a common thing that was happening there. It was common.

MR VARNEY: And any other form of assault that he might have witnessed?

MR NYAMPULE: Well apart from standing in all that I have already mentioned, that is all, there is no trouble. But if there is any other thing that you can remind me of, I ask you to remind me.

MR VARNEY: Okay no I am – I am not going to remind you. I can only ask you to recall. Let us move on. Do you ever recall seeing people, detainees, perhaps sleeping in the offices on the tenth floor?

MR NYAMPULE: No, I do not recall that.

10 MR VARNEY: Do you ever recall seeing perhaps a camp bed or a mattress in one of the offices on the tenth floor?

MR NYAMPULE: I cannot recall.

MR VARNEY: Were the heads of detainees sometimes covered?

MR NYAMPULE: Yes – Yes the head sometimes would be covered with balaclavas.

MR VARNEY: And do you know why sometimes detainees' heads would be covered with balaclavas?

MR NYAMPULE: Yes. For them not to see each other. The
20 one would have a balaclava on and the other one, for that other one not to see who that person is. Can I explain further?

MR VARNEY: Yes please.

MR NYAMPULE: M'Lord the one that has the balaclava on, not to be able to see who the other is, because the balaclava, it is only opened at the piece, its only piece opening at the

eyes and the nose. And these people were pointing one and other.

COURT: When you say these people were pointing one and other, which people were pointing one and other?

MR NYAMPULE: Okay, let us say when they do an investigation on the tenth floor M'Lord, they would then book out the ones on the second floor.

And then on the tenth floor there would be others who would be brought in. They are busy conducting an
10 investigation.

For instance let us say I am wearing a balaclava M'Lord, they will then bring these ones in that they brought in.

They will then ask, is that the one? They asked the detainee which has the balaclava on. In other words it is a pointing out, yes.

COURT: A pointing out?

MR NYAMPULE: A pointing out ja.

COURT: So it was detainees pointing out other detainees. That is all I want to find out. For whatever reason that is being
20 investigated.

MR VARNEY: Thank you M'Lord. Mr Nyampule perhaps you can talk a bit about your life as a Black Security Branch Officer at that time?

Now in your affidavit you say that White Officers and Black Police Officers were not treated equally.

MR NYAMPULE: That is correct.

MR VARNEY: And can you elaborate on that statement and explain to the Court why you believe that was true?

MR NYAMPULE: At the time I was making tea on the tenth floor I was making tea and I was washing the cups.

There was a certain Captain Van Rensburg, who said he would never drink from a cup which were washed by me. Also water which is boiled by me.

And also that our hands were never neat. And a cup that
10 was held by me or that was touched by me. He would then boil the water, boil the water hundred percent, and then he would rinse that cup because I touched it.

He would send me to go and fetch something from the vehicle. He would then give me the key and he will show me what I am supposed to do.

I must hold my hands like this, and M'Lord I must hold my hands like this – he would then give me the key by throwing the key to me from the air.

I would then go and I would do what he has requested me
20 to do.

MR VARNEY: Mr Nyampule you had gone so far to say that Black Police Officers were treated like children. What – what do you mean by that?

MR NYAMPULE: For example, Captain Makgoro, he was supposed to be respected because he is an officer. But he

would be treated as if he is not a Captain.

When they addressed him they would start with the "K" word. Then they would say Captain. That was really not nice.

Even to us they would start with the "K" word or they would for example they would say constable and then the "K" word, constable "K" word or sergeant "K".

I do not know, maybe I should name out this "K" word that I am referring to.

10 COURT: No, I take it as a now known word. It is now referred to as the "K" word. Unless the other people want to know that? It is Keffar or Kaffir.

MR NYAMPULE: That is exactly the one.

COURT: Yes.

MR VARNEY: And Mr Nyampule in your affidavit you also say that the Black officers feared White officers.

MR NYAMPULE: Yes.

MR VARNEY: Can you explain why the Black officers, including yourself, feared the White Security Branch officers
20 and the nature of that fear?

MR NYAMPULE: We-we-we were very afraid of the Whites because many things were happening.

When they want to do something they will do it. I do not know if I should give an example?

MR VARNEY: Yes Sir please do so.

MR NYAMPULE: There was a certain incident that occurred at John Vorster. The Senior told the Junior, this is now a White person that I am talking about, telling a constable. He would then say go tell the Captain to do, tell the Captain, M'Lord a White constable, a White constable would instruct a Black Captain, instructing him to do something.

Then the Captain then did not agree and he said he will not be disrespected by a youngster and tell him what he told him.

10 M'Lord he said I will not do what you instruct me to do because you are a junior. I am supposed to instruct you because I am a Captain.

He did not finish what he said. He then were assaulted M'Lord with a fist and he fell to the ground.

COURT: The constable?

MR NYAMPULE: Correct so M'Lord assaulted by the constable, the White man constable. M'Lord it is not contained in my affidavit but it is some of the incidents that I am just mentioning in Court.

20 MR VARNEY: And since it is not in your affidavit could you perhaps indicate to the Court what happened to that White constable after he assaulted a superior officer who was Black?

MR NYAMPULE: Nothing happened.

MR VARNEY: Mr Nyampule you say in your affidavit that you did not complain about the abuse that you and other Black

officers sustained at the hands of a White Security Branch officer? Just briefly explain why you did not?

MR NYAMPULE: Why did I not complain about it? Because my complaint was not going to assist me in any way.

MR VARNEY: Let us now turn briefly to what happened in your career after you left John Vorster Square, and just to remind you, you indicated in your evidence that – that you continued working with the Security Branch until it was disbanded in 1994. So where did go after 1994?

10 MR NYAMPULE: I went to various places. I went to Sandton. From Sandton I went to Eikenhof. I came back to John Vorster. I left again going to Eikenhof.

Arriving at Eikenhof again I then found a secular. Then the secular indicated that they looking for Police Officers at this very same High Court M'Lord.

Police Officers who will assist with an inquest that transpired at Chan House. I was the first person who volunteered to come here – here at the High Court.

20 That is after I fought with a young White, who instructed me that every day when I arrive I should wash his car.

COURT: This is after 1994?

MR NYAMPULE: Yes, around that time M'Lord. I then decided to leave and come and be here at the High Court.

That was after I came from a course in Graaff-Reinet. Can I proceed?

MR VARNEY: Yes, yes please proceed.

MR NYAMPULE: I did not work, I carried on working, I did. I never returned back to the police.

Here at the High Court I was then taken, there is a certain unit that opened here at the High Court that was called the AG Investigating Unit.

MR VARNEY: AG being Attorney-General?

MR NYAMPULE: Yes.

MR VARNEY: Okay, can you just then conclude your – your
10 career – you carried on working for the AG's Investigation Unit?

MR NYAMPULE: Thereafter I went to Pretoria M'Lord and I worked for Doug Burger. Attorney General Image Board.

MR VARNEY: Okay just to be clear, at the time there was an Attorney-General by the name of Don Leveiro running a special investigation team and you assisted that team with investigations?

MR NYAMPULE: Correct, so

MR VARNEY: And just for the sake of completeness, Mr
20 Nyampule did you then re-join the South African Police Service and the Organised Crime Unit until 2013?

MR NYAMPULE: Before working there, before working for the West Rand M'Lord I was working for the NPA. I was working under Gerrie Nel until they also disband, until they disbanded the Scorpion Unit, I then went to the West Rand. That is where

I then retired.

MR VARNEY: M'Lord I have no further questions.

COURT: Yes, I notice that the time is almost close to four o'clock. It is ten minutes before four. I am sure you would have not been able to present us unless people, the witness has said quite a lot from last Friday. Do you want to start examination now or tomorrow?

MR MLOTSHWA I think it would be better tomorrow morning, to start tomorrow.

10 COURT: Advocate Coetzee?

MR COETZEE: M'Lord I think it would be better if we start tomorrow. It has been a long day.

COURT: Yes.

MR COETZEE: Thank you.

COURT: Mr Nyampule thank you very much, you are not yet excused. It is late in the day. We will start with cross-examination tomorrow morning at half past nine as per agreement.

MR NYAMPULE: Well understood M'Lord.

20 COURT: Court is adjourned for the day. Thank you very much.

COURT ADJOURNS

[15:39]

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