

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 445/2019

DATE: 2020-02-14

FORMAL INQUEST

In terms of Section 5 of the Inquest Act 58 of 1999

Into the death of late

DR NEIL HUDSON AGGETT

BEFORE THE HONOURABLE MR JUSTICE MAKUME

ON BEHALF OF THE STATE : ADV J MLOTSHWA

: ADV S SINGH

ON BEHALF OF THE FAMILY : ADV H VARNEY

: ADV SCOTT

: MS FAKIR

ON BEHALF OF SAPS : ADV F COETZEE
[Previous SAPS]

ON BEHALF OF SAPS : ADV M AMOJEE
[Current SAPS]

INTERPRETERS : MS X HEGENI



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PROCEEDINGS ON 14 FEBRUARY 2020

[09:32]

MR SINGH: Mr Savage on the stand yesterday.

COURT: Mr who?

MR UNKOWN: Mr Savage, the architect.

COURT: Yes.

MR SINGH: M'Lord it has been discussed between the parties and if I can confirm that the evidence that Mr Savage has provided seems to be sufficient and as agreed upon by the parties there will be no need for an inspection-in-loco to JVS,
10 also considering the time constraints.

Further with regards to, at the time of the initial inspection-in-loco there was a request for certain gates to be opened.

COURT: Yes.

MR SINGH: Two gates specific. I can confirm that the information provided by Mr Savage has covered those points.

COURT: Yes.

MR SINGH: And the request for the gates to be opened has subsequently been abandoned. The information provided
20 seems to cover all relevant aspects.

COURT: Okay.

MR SINGH: Further M'Lord, just a second point M'Lord. It is my understanding that court will be winding up at 13:00 this afternoon M'Lord.

COURT: Yes.

MR SINGH: I request the court's permission to be excused at 12:30 for religious purposes.

COURT: That is fine.

MR SINGH: As the court pleases M'Lord.

COURT: Yes, thank you. Advocate Varney?

MR VARNEY ADDRESSES COURT As the court pleases. M'Lord before we commence; as mentioned yesterday we have an expert this morning and we handed up his expert report and CV as Exhibits J33.1 and J33.2. It is a report with a letter
10 head [indistinct] visual pathways.

COURT: Yes.

MR VARNEY: M'Lord with the leave of the court I would then like to call to the stand Mr Zietsa Albertse.

COURT: This is 33.1 and 33.2?

MR VARNEY: Correct M'Lord.

COURT: Which is 33.2? I see 33.1.

MR VARNEY: 33.2 is the curriculum vitae of Mr Albertse.

COURT: Oh okay, no that is fine. I have got it. Thank you. May you come forward.

20 ZIETSA ALBERT ALBERTSE: duly sworn states

COURT: Yes, thank you.

EXAMINATION BY MR VARNEY: As the court pleases. Mr Albertse thank you for making time to come and testify this morning. Do you have in your possession a report dated 24 August 2018 dealing with an investigation into the death of the

late Dr Neil Aggett?

MR ALBERTSE: That is correct M'Lord.

MR VARNEY: And do you confirm that you prepared this report on the instructions of the attorneys representing the Aggett family?

MR ALBERTSE: That is correct M'Lord.

MR VARNEY: Mr Albertse before we commence perhaps we can just look at a few highlights of your career that you have set out in your curriculum vitae. Can we start with your
10 qualifications?

MR ALBERTSE: M'Lord I completed a national diploma in police administration at Technicon SA. It was a three-year diploma. I also completed an advanced certificate in forensic criminalistics at Unisa of which our main subject was dactyloscopy or fingerprinting.

MR VARNEY: Thank you. Now I see that you have listed some 17 courses that you have undertaken over the years, too many to go through. But perhaps I can highlight courses that are relevant for today's proceedings which I think demonstrate
20 your expertise, such as the basic fingerprint course with the SAP. I see you did a course on evidence collection and preservation with the FBI, that is the American Federal Bureau of Investigation. You attended an advance crime scene management course with the French Ministry, was that the French Ministry of police Mr Albertse?

MR ALBERTSE: Yes, that is true M'Lord.

MR VARNEY: And you also attended a course in the United Kingdom titled Virtual Crime Scene Reconstruction for court application. Perhaps we can move to your experience. Can you just take us through your career and the jobs that you have occupied?

MR ALBERTSE: M'Lord I served in the South African Police Service for 30 years as a crime scene examiner and fingerprint expert and I resigned after 30 years. For the last five years I
10 have been in the private sector and I currently work for a company called Forensic Tools where I am a product development manager.

COURT: Called Forensic Tools?

MR ALBERTSE: Forensic Tools is the company's name yes.

MR VARNEY: Mr Albertse you indicate that as an investigator with I assume the detective branch of the SAP you would have attended a large number of scenes. Can you give the court a rough indication as to how many crime scenes you have attended and of those approximately how many would you have
20 been involved in, in taking fingerprints?

MR ALBERTSE: M'Lord just to correct that; most of my career in the South African Police Service I was with division forensic services.

COURT: Forensic.

MR ALBERTSE: Yes.

MR VARNEY: Thank you for that.

MR ALBERTSE: M'Lord it is difficult. I stopped counting how many crime scenes I have done in my career, but just to give an indication; in one year I did approximately 1017 fingerprint cases when I was still a junior fingerprint expert. So, conservatively speaking at least 5 000 to 10 000 cases.

COURT: It is a lot, ja.

MR ALBERTSE: Of which a lot of them are basically fingerprint cases and the last 14 years of my career I was at
10 het national crime scene processing team where we processed crime scenes, high profile crime scenes, serious crime scenes all over South Africa and also in our neighbouring countries.

MR VARNEY: And this would have included taking of photographs and reconstructing crime scenes?

MR ALBERTSE: Correct, all the aspects of the forensic science that pertains to crime scenes we would do on these major cases.

MR VARNEY: Thank you Mr Albertse. On page two of your report you set out the case background. I am not going to ask
20 you to relate the basic details. This court is quite familiar with those details but as we proceed through your report obviously you must feel free to highlight any of those case details you deem to be relevant. But perhaps you can set out to the court he challenged that you faced with this particular investigation. You have set out certain constraints. Perhaps you should

indicate to the court what those constraints were.

MR ALBERTSE: M'Lord in a cold case like this there will always be constraints, there will always be certain assumption and report limitations. One of the assumptions that I had to make was that the fingerprints actually lifted from the scene was lifted with folien. I know that it is stated so in the reports but we cannot find the folien, it is gone. So, I have to assume that the method of lifting the fingerprints was done with folien as stated by Warrant Officer Lamberts. So that is an
10 assumption that I make and that is also one of the constraints, is that I could not get hold of the original folien to look at that. Then obviously other constraints are when we visited the cell in question, we were not really sure if it was the exact cell where the incident took place in 1982, and there were also severe renovations done in the meantime after 1982, of which one was repainting of the cells, which made the colour different and that is also; I mean I am looking at black and white photos of the incident. So, I can also just assume that the cell bars and also the cell door looked to be black during
20 the incident and it was resprayed or repainted to a light grey colour when we visited the cells. So, the method of investigation or the method of testing would be different on the different surfaces, which is a constraint. Then there is one other constraint that I must mention and that is that if you look at the photographs of the cells then when we did the

inspection of the cells there was a thick piece of Perspex that was screwed against the bars. So, we could not use that specific cell that resembled the cell of that incident, the dimensions, so we had to use an inverted cell because two cells next to each other, the one door is this side, the one door is that side. So, the whole bars of the cell and the entrance to the cells is inverted. It is the same size but it is inverted and that specific cell did not have the Perspex. So, we could climb up and down it and have a better look at it. The other one had
10 a piece of Perspex so we could not get access to all the bars. So, we worked it with an inverted situation during the... I can investigation at the scene.

MR VARNEY: But it did appear to you that the specifications as in the size of the grill appeared to be pretty much identical?

MR ALBERTSE: Correct, correct M'Lord, yes.

MR VARNEY: You mentioned that you had to make the assumption that the original fingerprint investigator, Mr Lambrecht had used folien, just to put us laypersons into the picture, would there have been an alternative to folien
20 method?

MR ALBERTSE: Would there be an alternative?

MR VARNEY: Would there have been another way of uplifting the print not using the folien but something else?

MR ALBERTSE: Well, if you used something else to, there is basically, in those days there were two methods. The one was

black powder and the other one was aluminium powder. With black powder you use a different method to lift. Sometime white folien, sometimes what they call Scotch tape and then place it not a paper background. With aluminium powder you used black folien and black folien is like a trade name, it is actually in the industry called a gel lifter. It is a thickish gel with a celloid on top of it. So, you take off the celloid, you place the gel over the fingerprint. The gel lifted over the fingerprint. You lift the fingerprint or the powder and then you
10 place the celloid back to protect the lifted fingerprint.

COURT: But at all instances there is folien being used?

MR ALBERTSE: Yes M'Lord, in most of these instances folien are still used, it is still a method of lifting. Nowadays we used photography a lot but in those days with analog photography it was obviously difficult to photograph fingerprints.

COURT: Okay.

MR VARNEY: Thank you M'Lord. Now Mr Albertse am I correct in saying that you assume aluminium powder was used because at that time the bar was most likely black in colour?

20 MR ALBERTSE: It is a logical deduction for me to say that if the bars are black I would use aluminium powder and if I powder with aluminium powder my method of lifting would be black folien. So, that is the reduction that I make.

MR VARNEY: So, using that configuration would give you the best possibility of uplifting prints?

MR ALBERTSE: Correct M'Lord.

MR VARNEY: And if the bars had been light in colour as you discovered in your reconstruction then it would have been best to use black powder?

MR ALBERTSE: Correct.

MR VARNEY: And if we could just proceed through your report and we are now on page three and you indicate that you were given some poor quality materials, the first one being the court chart and perhaps you could just explain to the court
10 what a court chart [indistinct] and why in your view it is poor quality, and M'Lord if you want a bigger copy of that court chart it is actually annexed to Mr Albertse's report. I believe it is the fifth annex on page six. In the first inquest M'Lord it is marked as B1.13.

COURT: Yes.

MR VARNEY: Exhibit B1.13. So, Mr Albertse perhaps explain to the court what is a court chart and why you might have been disappointed with the quality of this copy?

MR ALBERTSE: M'Lord a court chart is an official SAPS
20 document. It is also called an SAP 33. It is normally done in landscape and there is two fingerprints on the court chart. The left one is normally the print that comes from the crime scene, an enlargement thereof and the second one on the right is an enlargement of the control fingerprint and I also assume that the control fingerprint was the one that was taken at the

mortuary from Mr Aggett. So, the reason why I say this is poor quality, this is not a poor quality court chart. I think the original one was maybe quite good. Just on this photocopy, the left one is, you cannot see the fingerprint which is a real pity and ja. So, I cannot have a clear look at what is going on there. That is why I say the quality was not that good.

MR VARNEY: Thank you. Yes, no I think it is evident that the left illustration, there is not much one can look at there. Just to clear up a possible misconception that arose actually in
10 evidence yesterday. So, since the left one is the actual print lifted on the grill and the right one purports to be the actual print from the finger and that you say presumably taken at the mortuary, sorry the right print. So, the right print which you referred to as the control print and you would then compare the control print with the print lifted.

MR ALBERTSE: Correct M'Lord.

MR VARNEY: And in that way you would then do comparisons. I see there are several numbers reflected on both prints which appear to line up. I think some ten numbers,
20 presumably of overlaps and on the basis of that Mr Nam perhaps could then have concluded that these prints are the same prints?

MR ALBERTSE: Correct M'Lord. They also refer to ridge characteristics or they refer to points on a fingerprint. So, each ridge characteristic are different and it is categorised

different, so in his testimony he would probably have referred to point one as being a bifurcation or point two to being a ridge ending, point three being a short ridge or whatever. There is quite a list of classification for these ridge characteristics. So, we point that out and it would be the same on both fingerprints and then he would make the deduction that based on those amount of points that it would be the fingerprint of Mr Aggett.

MR VARNEY: And am I correct in saying that if the prints lifted was somehow a mirror image or an inversion of the real
10 print, when you looked at the control print you should be able to pick up that the print lifted or allegedly lifted was a mirror image or an inversion?

MR ALBERTSE: Well, there is two things M'Lord that would be; that would have change before you get to that fingerprint on the court chart. If you lift aluminium powder, black folien, when you lift it, it is inverted. So, you must flip it in the photographic process and you must also make the black folien white and the silver fingerprint black because you always compare black fingerprint on a white surface with a black
20 fingerprint on a white surface. That is the best way for they eye to see that. So, we had photographic methods in those days to take the folien, photograph it, flip it, invert it and then print it out and then when the comparison is done you enlarge it two or three times. You cut out that area and it is now, all of it is done digitally nowadays where you then mark out by hand

your points on the fingerprint.

MR VARNEY: Right.

MR ALBERTSE: So, there is a bit of a process before you get to this. You cannot just, it is not a folien. There is a photographic process that is done before you get to this.

MR VARNEY: Right, but to sort of cut a long story short one would be able to detect whether, you know, if there was some funny business going down and a print was perhaps placed there. I understand that it would be an inversion or a mirror
10 image, in other words opposite of what the real print looks like, so one would be able to look at the control print and say well, this is an inversion or it is a mirror image?

MR ALBERTSE: On the original lifter you would be able to see that things are not right, on the original folien.

MR VARNEY: Right, but would there be a way and I am just assuming and of course we are in the realm of a fairy here. Would there be a way of ensuring that the control print does look the same as the inverted print allegedly lifted?

MR ALBERTSE: M'Lord yes. There is an identification
20 process that happens and even in those days there were verification process by the commander. I think if I read on his report it was a Colonel Putter. That would or maybe some other supervisor that will verify the comparison and during the verification of that comparison what is supposed to happen is; you should then look for four things that is out of place, you

know background. Background on the folien, if the background is totally clear and it is not a background of the bars then that would be a red flag. If there is lines on it that should not be on there maybe a print lifted double then that would be a tell-tale sign on the folien. So, there is different ways of telling that a fingerprint was actually planted on a scene.

MR VARNEY: Yes, no, so. That I think is clear; that there are ways of detecting the differences. But my question is if, and again we are in the realm of hypothesis here. If there was an attempt to mislead others would there be a way and let us
10 assume that the print that was put up happened to be a mirror image of the real print, would there be a way of ensuring that the control print looked like the mirror image?

MR ALBERTSE: No, M'Lord. You would, the control print will be the control print and that is the left index finger of Mr Aggett and that is just the way that it is.

MR VARNEY: Right.

MR ALBERTSE: It will be on an official fingerprint form and that will be the; that will be your control. That will be the
20 original to work from.

MR VARNEY: Okay.

MR ALBERTSE: And you will not compare the fingerprints from the folien. There will be a photographic process and in that photographic process it is an automatic process, it was an automatic process. We do not use that anymore where the, it

is called a folien copy machine. It automatically does an invert and it does a flip of the fingerprints and that is then the, the photograph is what you compare with the fingerprint, although you have the folien available.

MR VARNEY: Okay. We will return to aspects of that a little later. You then also indicate that the photographs supplied to you were of a poor quality and I think you have the enlarged photos with you as well.

MR ALBERTSE: Yes.

10 MR VARNEY: M'Lord these are photographs FGK7.1 and 2. So, why in your view are these photos of a poor quality?

MR ALBERTSE: The photocopy of it is poor quality for sure. I, the original ones should be probably better quality.

MR VARNEY: Alright and while we are on photographs perhaps we can just deal with the annex that you have attached to your affidavit by, well it is, I forget his rank now. But Mr Lambrecht.

MR ALBERTSE: Warrant Officer Lambrecht, yes.

MR VARNEY: Warrant Officer Lambrecht, yes so that is...
20 M'Lord it is at page 70 of the record.

COURT: 70?

MR VARNEY: Ja.

COURT: Okay.

MR VARNEY: I do not have the exhibit number for it right now but we will find it, but it is I believe at page 70 of the record

and it is the... But M'Lord I am told that is Exhibit B1.32.

COURT: Ja, is this affidavit, this one?

MR VARNEY: Yes, that is the one M'Lord.

COURT: Ja.

MR VARNEY: So, Mr Albertse perhaps we can just scroll down the document because it reflects the photographs taken by Warrant Lambrecht at the time and if we start at photo one. Would you agree with me that in photo one Warrant Lambrecht is describing the side of the cell and a rear view of the
10 suspended body?

MR ALBERTSE: Yes, M'Lord. It describes the photos that he has taken.

MR VARNEY: So, that is... we cannot say for sure but probably this photograph here.

COURT: Ja.

MR ALBERTSE: First photo yes.

MR VARNEY: FGK7.2 and then the annexed photo, "*foto twee*", seems to be depicting the inside of the cell and showing the suspended body from a frontal view. So, that is likely to
20 be this picture here.

MR ALBERTSE: Yes, M'Lord.

COURT: Ja, would that be FGK1, 7.1?

MR VARNEY: Yes, exactly M'Lord. And then "*foto drie*", we do not have a copy of that photographs but it seems to be a closer picture of the deceased depicting his face and then the

last one which we also do not have "*foto vier*", appears to be depicting perhaps the whole cells.

MR ALBERTSE: The condition of the cell, ja.

MR VARNEY: Condition of the cell and perhaps the contents of the cell as well and we do not have that photograph. M'Lord, Mr Lambrecht will be testifying next week and we will also be putting these photos to him. Mr Albertse is it so that you in fact attended a site visit and attempted various reconstructions, this is reflected at page four of your report.

10 MR ALBERTSE: That is correct M'Lord.

MR VARNEY: Can you just indicate to the court when you visited that cell, the conditions that you found the cell and just take the court through the different steps that you undertook while there?

MR ALBERTSE: M'Lord I visited the cell on the 22 May 2018 and I was there at about 10:00 in the morning.

MR VARNEY: And you have already indicated that the cell in which it was alleged the hanging took place had already had Perspex in it so you then had to use a cell which did not have
20 Perspex against the grill and then you took photographs and measurements?

MR ALBERTSE: That is correct M'Lord. We visited quite a few cells and then we got to this B18 and B19 and we focused there on those. So B19 had the Perspex, so we went to B18 to do a few tests and closer look at the bars.

MR VARNEY: Thank you. M'Lord will recall from the evidence of the architects that of the cells the three prime suspects were along that same corridor and B19 was one of the prime suspects. As Mr Albertse says that had Perspex so they had to do their reconstructions in B18 and I see Mr Albertse that you have provided a reconstructed drawing of the grill together with measurements on page six.

MR ALBERTSE: That is correct M'Lord.

MR VARNEY: I do not think we need to go through those
10 measurements, they are reflected there and indeed I can tell you that the court has conducted its own inspection-in-loco and visited a few of those cells. Perhaps we can then pick it up at page seven where you instructed your colleague Mr Armand van Heerden to climb the bars and perhaps indicate to the court why you asked Mr van Heerden to do this?

MR ALBERTSE: M'Lord first thing is; I just wanted to do an informal test and look at how a person would climb up the bars, where he would touch and what would be the normal mechanics and movements of a person climbing up. Where he
20 would grab the bars, how he would climb up the bars. So, I took a few photos of that and also, another reason for this was that I wanted to leave fingerprints that was not made in a controlled manner. You know place a fingerprint, press hard, put some sweat on it from your forehead and stuff. You know those controlled fingerprints. I wanted to just let him climb up

and see what I could find. So, we did that and then...
[intervene].

MR VARNEY: Just before you move on, would you agree with me that looking at these photographs that Mr van Heerden was either grabbing or touching the bars with his hands at approximately five points of contact?

MR ALBERTSE: Yes, M'Lord. In these photos they will indicate that yes.

MR VARNEY: Thank you.

10 MR ALBERTSE: And I just made him turn around on the bar as well so that I could see how difficult that was and what his actions were.

MR VARNEY: And of course, while he was turning around he obviously still had to hold himself onto the grill. I can see that he has one hand behind him, holding on.

MR ALBERTSE: Yes, M'Lord he had to hang onto the grill when he turned around facing away from the bars, yes.

MR VARNEY: And then on page eight you indicate that you then conducted a fingerprint examination. Perhaps you can
20 explain that process?

MR ALBERTSE: Okay, just before I conducted the fingerprint investigation Mr van Heerden showed me his hands and I could see that there was a lot of dust on his hands so I photographed that. Obviously you cannot recreate conditions 30 years down the line to be exact because you do not know

what the conditions were at the time of the incident. But at the time that we did the, when we visited the site this is what I did not see when I looked at the bars initially, because a thin layer of dust was all over the bars, more accentuated at the top. Then what I did is; I used aluminium powder as a start because that was my deduction that aluminium powder was used but there was just one small piece of a fingerprint that I could develop with aluminium powder.

MR VARNEY: As you have testified a bit earlier given that the
10 bars are now coloured in a lightish colour as opposed to a black colour using aluminium powder would not be the correct powder to use in these circumstances given the colour/

MR ALBERTSE: Not really M'Lord. There is other powders that work better but I had good quality light sources available to use with the aluminium powder. So, I took a chance and used the aluminium powder, because with the correct lighting conditions you will be able to see the fingerprints developed on the bars.

MR VARNEY: You have testified that when it comes to light
20 coloured surfaces it is generally better to use black powder?

MR ALBERTSE: Definitely M'Lord, yes. Black powder and nowadays we also use fluorescent powder but in those days fluorescent powder was not available.

MR VARNEY: Right, alright, then let us move to your page, page nine of your report. Then you undertook a further

reconstruction. Perhaps you can just take the court through the second procedure.

MR ALBERTSE: So, the second time I climbed up the bars and the bars, I cleaned the bars. I cleaned the dust off the bars. So, I climbed up the bars and then I did a fingerprint investigation. I had a ladder with me on the scene so it was easier for me to do the fingerprint investigation and I lifted five developed sets of fingerprints.

MR VARNEY: So, evidence has already been led in this court
10 that in those days the conditions of the cells might have been somewhat different to how they are these days and that the cells were required to be cleaned, including the grills. Of course, we will never know exactly what condition the grill was in and even if it was clean whether the upper bars were cleaned. But nonetheless, let us work up the five prints that you were able to take starting at the bottom photograph of the prints that you lifted.

COURT: Is that on page nine?

MR VARNEY: Page nine M'Lord.

20 COURT: Ja,.

MR ALBERTSE: Okay, on the bottom one M'Lord and you cannot see the ridge characteristics very clear on this report. But there is four fingerprints visible and it was of my right hand.

COURT: Who was it, sorry?

MR ALBERTSE: It was my right forefingers of my right hand.

COURT: It was your right hand, ja.

MR VARNEY: Just, not that I want to question you or second guess you, but if this print was taken where the red arrow ends up on the grill, if you were facing the grill is there a chance that that might have been your left hand?

MR ALBERTSE: No M'Lord, it is definitely my right hand.

MR VARNEY: Is it definitely your right hand, okay and so would you describe that print as quite a good lift fingerprint?

10 MR ALBERTSE: That was quite a good fingerprint. One or two of them were what we call comparable and that means that you can individualise it with a person based on the ridge characteristics on the fingerprints.

MR VARNEY: So, there it seems, correct me if I am wrong but it is quite a good depiction of first and second digits of at least four fingers and perhaps even a bit of the fifth on the side?

MR ALBERTSE: Correct M'Lord. There is four fingerprints where you have the first digit or the nail digit and then the second digit available and that is what I would expect when
20 you touch the bar is that there will be a sequence of fingerprints that is on the bar.

MR VARNEY: And in fact, I think a bit later in your report you do have a picture of and hand gripping a bar which will then explain. If M'Lord wants to look at it quickly, we will come to it but there is such a picture on page 11. So, you are saying

that typically if you grip the bar with a full hand I suppose to one finger you would typically see this sequence?

MR ALBERTSE: Yes, you will definitely see the first digits. They might be smaller than when you place them on a flat surface. The tops of the fingerprints will normally be missing, depending on how you touch but you would expect the tops not to touch the bar. Then sometimes the second digits will not be prominent but the third digit will be prominent, also depending on how you grab the bar and then you would also expect to
10 see maybe part of the finger base on the bar. So, when you grab it like this the finger base comes into contact, some of the digits come into contact and also your first digit or you nail digit will come into contact with the surface.

MR VARNEY: And just to be clear is the finger base the part of the hand just below the fingers?

MR ALBERTSE: Yes M'Lord, it is this part where the fingers connect to the hand, that is called the finger base of the hand and there is also friction ridge characteristics on that finger base. You can identify a person just, if you just have a finger
20 base you will be able to individualise a person.

MR VARNEY: And is it the case that sometimes the pinkie finger is more prominently seen in the prints because of the downward force of climbing up?

MR ALBERTSE: Yes, that was an observation that I made. When you climb up the bars and you grab high then there is a

downwards force of your hand. So, then the pinkie will be pronounced, which in normal handling you would have your index finger that is pronounced, your middle finger and your ring finger when you pick up something and your pinkie might be there, but it is sometimes poorly pronounced. On this bar in two of the cases my pinkie was quite well pronounced and the rest of the fingerprints were there and then the, in one, in the top one my index finger was not there. So, it depends on where you are that bar, if you are holding it straight in front
10 then obviously your index finger comes into play and when you grab and you still pull you would expect to find more and better detail on your middle, ring and pinkie.

MR VARNEY: Thank you. Perhaps we can move to the next photo, just above the bottom photo, the second photograph, the second print.

MR ALBERTSE: The second one is also of the right hand and it will be, there will be three fingers and also the finger bases.

MR VARNEY: So, here are we looking at, at least four fingers?

20 MR ALBERTSE: You are looking at three fingers.

MR VARNEY: At three fingers.

MR ALBERTSE: Ja.

MR VARNEY: And this is also the right hand?

MR ALBERTSE: Also, the right hand M'Lord.

COURT: Whose right hand, yours?

MR ALBERTSE: It is my mine M'Lord, yes.

MR VARNEY: And in this one am I right in saying that first and second digits are visible?

MR ALBERTSE: First, second and third digits are visible, yes.

MR VARNEY: And third.

MR ALBERTSE: Ja.

MR VARNEY: But unlike the bottom picture the finger base, is that visible?

MR ALBERTSE: M'Lord to be honest with you; this report,
10 fingerprint report and printed report is, the quality is not that good.

MR VARNEY: Okay.

MR ALBERTSE: So, if I can remember correctly the finger base, there is a bit of a finger base on this.

MR VARNEY: Okay, let us move to the third photos, which seems to be less busy?

MR ALBERTSE: The next one you can see the bars. There was a fingerprint visible on the bars but when I lifted it, it did not lift. It was not prominent. So, there is nothing on the
20 folien, on the gel lifter, so I just kept it as a reference.

MR VARNEY: And typically when you do an investigation on a scene like this would you keep such prints for reference purposes?

MR ALBERTSE: Some people do, some people do not M'Lord.

MR VARNEY: Let us then move to the next photograph above.

MR ALBERTSE: The next one is of the left hand and there is a part of the finger base available, visible and if I remember correctly there is four, three fingers visible, the middle, ring and pinkie and you will not be able to see it M'Lord. I mean there is just no detail on it.

COURT: Ja.

MR VARNEY: And then let us go to the very top print.

MR ALBERTSE: Top one is also the left. That I the one where the middle, ring and pinkie is visible as well.

10 MR VARNEY: But not the index?

MR ALBERTSE: Not the index no.

MR VARNEY: And that seems to be not as clear as the very bottom print but it is not a bad print [indistinct].

MR ALBERTSE: The original is, it is actually quite clear. I think the middle finger has actually got enough ridge characteristics to probably do a comparison.

MR VARNEY: And if you were confronted by challenges like smudging and the like would you be expected to report on that?

20 MR ALBERTSE: I think a note in your report would be sufficient on the conditions that you encounter and what you, and what will I call it, observations that you made on the scene in rough notes. We can call it that.

MR VARNEY: Okay, let us briefly deal with your report on page ten. We have already had reference to Warrant

Hambrecht's' record of the four photographs. But you make a comment on the fact that photographs provided to you were black and white. But you do make a comment on what appears to be the colour of the bars in 1982.

MR ALBERTSE: Well, even if I look at the black and white photos then the wall is quite dark, ag, quite light. It looks to be almost white or it could be a grey colour and then the bars look pitch black. So, in a black and white photo maybe some dark green colour or, but definitely not a light colour. The bars
10 were dark and the walls were light.

MR VARNEY: Right, so we can reasonably safely conclude that the bars on the grill were of a dark colour.

MR ALBERTSE: Correct M'Lord.

MR VARNEY: And indeed you, I want to say this is conclusive proof but you did see a crack which you have photographed and you say that black paint was visible underneath the current grey paint.

MR ALBERTSE: Just an observation M'Lord that I could see black paint underneath the grey bars, ja.

20 MR VARNEY: So, that may seem to indicate that perhaps at the time the grill was in fact black?

MR ALBERTSE: It could be an indication.

MR VARNEY: And you have put together a very helpful diagram of the grill and you have indicated where according to Warrant Officer Hambrecht's testimony that solitary print was

lifted. Can you just explain to the court with reference to your diagram where it is located?

MR ALBERTSE: It is located on the fourth vertical bar above the top horizontal bar and he indicated that it was above the scarf or... [intervene].

MR VARNEY: Above the scarf knot I believe, ja.

COURT: Was it above the scarf?

MR ALBERTSE: Yes, according to Warrant Officer Hambrecht's testimony the fingerprint was on the same bar as
10 the scarf, just above the scarf.

COURT: Okay.

MR VARNEY: And it seemed to be directly behind the bar, on the opposite side of the bar if you were facing... [intervene].

MR ALBERTSE: If I understand his testimony correct he said that it was on that, let us call it an enclosure, it was on that side of the enclosure where the main door of the cells was. The solid door of the cell. That is where the fingerprint was made. Not on the inside of the cell but on the outside.

MR VARNEY: Right, so if one was on the inside of the cell
20 facing the grill it would have been on the other side of the bar?

MR ALBERTSE: That is 100 percent correct M'Lord.

MR VARNEY: Then if we, we can then turn to page 11. If I can then draw your attention to your paragraph 4.2.4.1 on page 11 actually. Let us start at 4.2.4.1 and if you can just indicate to the court why your report reflects those findings?

But I will just read into the record and then you can comment.
“More than one fingerprint will form part of a transfer, which means that if the left forefinger I would it would be expected that at least the middle finger and possibly the ring finger and pinkie should form part of the transfer, (it is good fingerprint processing practicing to lift these fingerprints in a group).

MR ALBERTSE: That is correct M'Lord. Just to explain that; you must always see a fingerprint in the context that it was found on a crime scene and to illustrate that context, when
10 you find a fingerprint on a crime scene it is good to document the way that it was found. If a fingerprint, if one fingerprint is found in isolation, say for example the middle finger on this wooden surface, how would the middle finger get on the wooden surface and that is the question that you must just ask yourself on the scene. How would the middle finger get onto the wooden surface without the other fingers not being there, it is difficult to find a fingerprint in isolation. If you pick up a piece of glass yes, your thumb will be insolation on the one
20 side, but on the other side you would expect to find the other four fingers. So, it is all about mechanics, all about how you handle evidence, how you handle items. If I pick up this bottle I would expect to find a thumb on the one side of the bottle and four fingerprints of the other side of the bottle and maybe a piece of a palm on the bottle. Some of them might be smudged, some of them might be almost not visible, so I must

also mention M'Lord that it is possible for one fingerprint to be in isolation. I cannot exclude that. But I would expect to find what I call a sequence of fingerprints, index, middle, ring and pinkie when grabbing a bar, those round bars.

MR VARNEY: As typically and you have a very helpful photograph just below and then your next paragraph 4.2.4.2, the second digits of the fingers and some of the other digits should also be expected to transfer onto the bar and would therefore also be expected to develop. I suppose that is
10 simply reinforcing what you said in the paragraph above.

MR ALBERTSE: That is correct M'Lord.

MR VARNEY: And part of the finger base of the first hand are also expected to transfer onto the bar and would be expected to develop. Then you also have a helpful photograph at the bottom pointing out the left pinkie, middle, left-middle. It seems like left-middle is twice, left index and then second digits.

MR ALBERTSE: Ja, the left middle should be actually left ring.

20 MR VARNEY: A left ring, okay.

MR ALBERTSE: It is a typo on my park.

COURT: You say left middle?

MR ALBERTSE: No, it is left index, left middle. That second left middle will be left ring.

MR VARNEY: Left ring, okay thank you.

COURT: Left ring is this one. Okay.

MR VARNEY: So, then on page 12 you point out that dust on the vertical and horizontal bars, especially close to the ceiling had a big influence and that dust presents challenges to the fingerprint expert. If you are confronted with dust from a best practice point of view what should you do in these circumstances if you find a dusty surface?

MR ALBERTSE: M'Lord if you see the dust beforehand and you can see the fingerprint in the dust then the whole
10 processing of it changes. But if you did not see it before, sometimes it is not visible, especially when the lighting conditions are not that good and normally with processing of dust prints you use lighting techniques. It is called oblique lighting because a fingerprint made in dust is more of a three-dimensional fingerprint. So, it is sometimes referred to as an impression. So, you touch the dust and with your sweat you remove the dust. So, then in theory there will be a fingerprint impression in the dust. So, the dust is now removed but some
20 of the dust are still on the scene, on the object or the sub-straight and in those dust, if you touch it in the right way there will be a fingerprint in that dust. It is not a; it is how can I say this... It is easy to destroy that fingerprint if can come up with the correct word for it.

MR VARNEY: So, in dusty conditions it does call for some care and I suppose a methodical approach?

MR ALBERTSE: Well, yes M'Lord. The fingerprints should not be powdered. It should be lifted with the folien and then that piece of folien, the celloid should not be placed back on the folien, the celloid should actually, the fingerprint on the folien should actually be placed in a small box and then photographed at the office. Nowadays we can photograph that evidence on the scene because digital photography allows us to photograph the fingerprint directly in the dust. But with analog it is a bit more difficult because you cannot see what
10 you photograph, so when you get to the office you might have photographed nothing.

MR VARNEY: But in those days and I am talking around 1982, it was known that you had to take care and adopt that approach when confronted by dusty surfaces?

MR ALBERTSE: Yes, part of our training was how to identify dust prints on a crime scene and how to lift those dust prints.

MR VARNEY: But in order to really spot that there is dust it is best to have proper lighting available?

MR ALBERTSE: Proper lighting and by lighting I mean a light
20 that you can manipulate, so in the form of a torch because you want to use oblique lighting techniques, shine it from the side and that shade that the fingerprints creates or that the three dimensional environment create when you use oblique lighting you will be able then to see the fingerprint. If you take away the torch on this surface with the brown dust you will not even

see the fingerprint. You might not even see it.

MR VARNEY: So, typically when you were carrying out an investigation at night time or in a dimly lit place it would be good practice to have a torch or some other light available?

MR ALBERTSE: M'Lord there is no replacement for ambient light of the sun. So, if you are outside that is your best lighting conditions to work with. In a dim lit environment, it gets more difficult. But yes, if you work at night on a crime scene and process for fingerprints it becomes very difficult.

10 You have to have good lighting and use those lighting techniques to find the fingerprints.

MR VARNEY: I see from the affidavit of the officer in charge of the death scene; that is Brigadier Swanepoel. M'Lord we referred to this brigadier previously.

COURT: RooiRus.

MR VARNEY: Also known as RooiRus Swanepoel. That is correct M'Lord. So, his affidavit is marked Exhibit B1.34. But Mr Albertse has helpfully attached it as I think the first annexure to his affidavit. It is at page 77 of the record. If you
20 flip to the second page of the affidavit, the fourth paragraph from the bottom. "*Die lig in die sel 209 is nie baie helder nie*". So, it does seem that according to the man in charge of the scene investigation that the light was not, I suppose "*helder*" in English would be clear?

MR ALBERTSE: Yes.

MR VARNEY: And correct me if I am wrong but I do not recall in the evidence of Lambrecht, him indicating that he was using a separate light source.

MR ALBERTSE: No, he did not. It is not a prerequisite to put in your report what equipment you use but you can make mention of the lighting conditions and certain conditions on a crime scene. You can make mention of that in your rough notes and your scene report.

MR VARNEY: Thank you and then just proceeding with your
10 report; you have already testified in some detail in relation to your attempts of using both aluminium and black powder. So, perhaps let us go down the page to the constraints and observations that you experienced during the investigation. You have already testified about poor lighting and the light source you would have used. Why do you mention that a stepping ladder was used extensively during the investigation?

MR ALBERTSE: M'Lord I would not attempt to process those
20 bars without using a stepladder. I am just too short and when you want to process those bars you want to be at a perpendicular level to the areas that you process. Now on a higher level, if you start hanging on the bars, you have you're your fingerprint powder, you have your brush, you have your folien, you have a torch. So, you have to hand something down to a person, then ask for something and he hands a brush up to you and then you powder and then there is no

powder left on the brush. Then you hand the brush down again and in the meantime you are hanging on the bars. So, you want to hand onto the bars, now look for the fingerprint. As soon as you hand the torch back and say give me the folien you cannot see the fingerprint anymore. So, I would not attempt it. A ladder would be my first or something to stand on would be my first choice of equipment on a scene like this and obviously a good quality torch in the dark conditions. It was even dark when we were at the scene. It was quite dark. I
10 had very strong lights available during the processing that I did on the scene and it was during the day.

MR VARNEY: Alright and talking about having to access particularly the top sections of the grill I note that in Lambrecht's evidence, M'Lord this is Exhibit A1.3.5. I understand is at page four of the record. He in fact says that he struggled to reach the top of the grill and he even says: "I could stand on the lateral enforcement and then full myself further up against the bars to almost reach the top. That is the roof of the cell. So, it seems that he was not using a
20 stepladder but he was physically ascending the bars to get to the top.

MR ALBERTSE: That is correct M'Lord, yes.

MR VARNEY: And perhaps that was an unfortunate way of ascending to the top because he was going to be gripping the, unless he was using gloves, he would have been gripping the

grill himself.

MR ALBERTSE: That is correct so he would then and this is, the deduction that I make is that he would start at the bottom then powder and then as you continue to the top you would start climbing up and powder and powder until you get to the top, because if you climb up and start at the top then your fingerprints will be all over the bars on your way up and even if you wear gloves fingerprints, by a glove, if you touch over a fingerprint you will destroy the fingerprint because it is a loose
10 deposit of sweat onto the surface. So, if you grab with a glove on that bar a good chance that the fingerprint is destroyed.

MR VARNEY: So, gloves would not have protected the prints?

MR ALBERTSE: Not the fingerprint no, not the crime scene no.

MR VARNEY: Just on the question of lighting, you said that if you were there during the day of course there is more lighting available during the day because my recollection is that the cells on that side did have windows which let through some sunlight. Could he perhaps have waited for sunlight before
20 commencing?

MR ALBERTSE: Well, it is an extremely easy crime scene to process because you close the door and your crime scene is protected. So, there is, nobody can get in, nobody can get out. I mean it is not the N3 highway where you have a cash in transit heist and you have to close the whole highway. So,

what you do is you get the body out of the scene, close the scene and come back during the day because the fingerprints will not deteriorate in a day or even two days.

MR VARNEY: Or you, since he was there like 03:40 a.m. it could have just been a few hours, you know four or five hours and the sun would have been up. So, there was no need to rush it and do it there and then?

MR ALBERTSE: No, M'Lord. This is not a crime scene that you need to hand back to a complainant or there is going to be
10 traffic. It is not like in a mall or something that people want to open their shops.

MR VARNEY: So, it is not a thoroughfare that the public has access to and you could have easily secured it I supposed by simply closing the gate and posting perhaps a guard outside.

MR ALBERTSE: Correct M'Lord.

MR VARNEY: Perhaps for us laypersons and we might have dealt with this previously, just say so. At 4.2.8.5 you say the colour of the bar necessitated the use of a different development and lifting medium than that which was used by
20 Warrant Officer Lambrecht?

MR ALBERTSE: Yes, M'Lord I mentioned that because I found quite a few fingerprints on the bars. I used black powder with a white lifter and he used aluminium powder with a black lifter. That means that we are not comparing apples with apples here, it is two different processing and collection methods.

MR VARNEY: Right.

MR ALBERTSE: And that I had to mention... I have to mention that as a constraint because you want to get as close as possible to the original crime scene when you do a reconstruction, but it is not an exact science in the first place and you can never get back the scene as it was.

MR VARNEY: Right, and you have testified that in all likelihood the bars were of a darker colour. So, it probably made sense back then to use aluminium rather than black
10 powder.

MR ALBERTSE: Ja, nowadays we would probably use different, I would use fluorescent powder. But in those days... [intervene].

MR VARNEY: That was not available.

MR ALBERTSE: Was not available, aluminium powder would be your best choice definitely in those days.

MR VARNEY: And then if we could move to paragraph 13 of your report and you.... [intervene].

COURT: Paragraph 13 or page 13?

20 MR VARNEY: Oh sorry, page 13 and paragraph 4.2.9. Mr Albertse you set out various concerns regarding the fingerprint investigation done by Warrant Lambrecht, starting with a statement by Brigadier Swanepoel that the body was only removed after the fingerprint investigation?

MR ALBERTSE: That is correct M'Lord. I looked at the

testimony of Brigadier Swanepoel because he described some activities that happened on the scene. So, it was very important to look at that and one of the discrepancies was that he said in his testimony that the fingerprint investigation was done and then the body was removed, which would be a big discrepancy. Because if the body is still hanging on the bars when the fingerprint investigation was done then half of the bars would not have been processed thoroughly. Maybe on the backside but what you wanted as I explained before, you want
10 the context. You want to see the fingerprints on the side of the bar and the hand wrapping around the bar. So, to process only one side is, that is not the thorough processing of all the evidence on the crime scene.

COURT: Ja.

MR VARNEY: Alright the other concerns you have already testified on, so I will not revisit that; the poor lighting and you noticed that Lambrecht had probably been forced to ascend the cage and we have dealt with that. You set out various conclusions.

20 MR ALBERTSE: I must just make mention of one thing.

MR VARNEY: Yes, please do.

MR ALBERTSE: Is that, when you do a fingerprint investigation before the body was removed that is fine and if you want to continue afterwards but now people will climb up the bars to release the body from the bars. So, then there will

be, then that will lead to destruction of fingerprints and placing fingerprints over that.

COURT: And their fingerprints were not picked up. I mean the people who removed the body?

MR ALBERTSE: Well, not according to the fingerprint investigation. So, I think the fingerprint investigation was concluded and then the body was removed.

COURT: Oh yes, okay.

MR ALBERTSE: And then there would not have been further
10 fingerprint investigation because obviously the scene was then contaminated.

COURT: Ja.

MR ALBERTSE: With the people who climbed up.

COURT: Alright. Ja.

MR VARNEY: But if he had taken the precaution of also
conducting his fingerprint investigation once the body was
done presumably he would be able to distinguish between
fingerprints of the deceased and fingerprints of the detectives
who might have held onto the sides of the grill to get the body
20 down?

MR ALBERTSE: Well if he documented how they climbed up
he could have marked the place where they touched. But you
would not be able to do a comparison on the crime scene.

MR VARNEY: Not, no, subsequently that is, ja. But that is a
good point that if he observed it then he would be able to see

clearly where they had gripped the bars. The evidence of Brigadier Swanepoel is that he together with Captain Struwig and together with another officer held up the body so that Captain Struwig could then cut the scarf. So, it is possible that Struwig and himself would have had to hold onto the bar in order to carry out that manoeuvre given that it was fairly high up. Perhaps we can then move to Brigadier Swanepoel's statement. That reminds me that according to Brigadier Swanepoel who took charge of the death scene investigation in
10 the cell and if you look at the second paragraph from the bottom he indicates that himself and two uniformed constables lifted the body and then it was Captain Struwig who cut the material. If one looks further up the page that would be the fourth paragraph down he says that he was taken by Major Conrad, and if you do not know Major Conrad is quite a protagonist in these proceedings because he was the security branch officer in charge of the tenth floor, so all the cases that were being investigating including that of Mr Aggett fell under his control. Then he mentions that he got to the cell at 03h45
20 where he discovered a number of members of the force outside the cell, which included Captain Struwig, Captain Victor and Lieutenant Whitehead.

COURT: Ja.

MR VARNEY: So, Captain Victor from what we can tell was the investigating officer and we will double check but I am

pretty certain that he would have been from the uniform branch. However, Captain Struwig and Lieutenant Whitehead were from the security branch, they in fact reported to Major Conrad and you might have picked up that Lieutenant Whitehead and Captain Struwig, certainly Lieutenant Whitehead was the lead interrogator of the deceased. M'Lord we will be leading evidence in due course to demonstrate that both Lieutenant Whitehead and Captain Struwig were present during the interrogation of Dr Aggett over the course of the
10 long weekend, the so-called 62-hour period of investigation and as we see Struwig himself was cutting the body down. At a typical investigation where a dead body is suspended would it be proper or normal to have non-investigators present and I ask this with [indistinct], now that we know that these individuals Whitehead and Struwig were connected to the deceased and it could not be ruled out that they were suspects, for them to be present while the investigation was ongoing?

MR ALBERTSE: M'Lord I would not be able to say who was
20 supposed to be there and who was not. If they also said that they were investigating officers investigating the incident then they would probably have been left there. It is not good practice to have a lot of people around in a crime scene while you are processing it. So, the protocol states that you must control, secure and protect the scene and the higher the

profile the more senior people there will be on the crime scene when you arrive at the scene and then it is best to get the people away that is not supposed to be there and then start processing. It sounds easy when I say it like this but it is sometimes not that easy.

MR VARNEY: But individuals and with benefit of hindsight we know that Struwig and Whitehead and in particular Whitehead, let us just say had a close association with the deceased and in fact allegations of torture were made against Whitehead by
10 the deceased. It just sounds to us as laypersons that it is not just improper, it is somewhat unusual, if not objectionable that potential suspects are on the scene together with the investigators carrying out a death scene inquiry.

MR ALBERTSE: M'Lord the only way I can answer this is that I do not know if Warrant Officer Lambrecht's knew of this. If he knew the people. If they knew that they were part of the managing of Mr Aggett, then he should have felt very intimidated when he was on the scene and then the protocol would be to call your duty officer or even the commander of
20 your unit and have them available so that you have also more than one person from your unit available. So, I do not know if he knew even who they were and what their functions were on the scene. There is another thing that I must also state, is that in those days we had units that worked in teams. So, say for example on a murder scene you would find a team of

murder and robbery that would be on the scene. So, there would be four or five murder and robbery detectives on the scene. So, it was not totally shall I say un, now I do not have the word for that.

MR VARNEY: Unusual.

MR ALBERTSE: Unusual to find three or four detectives on the scene.

MR VARNEY: Yes.

MR ALBERTSE: But... [intervene].

10 MR VARNEY: Not unusual but they are detectives after all doing their jobs.

MR ALBERTSE: And they were part of the detective branch I suppose.

MR VARNEY: Yes, indeed and to be fair to Lambrecht's as you say he was only a Warrant Officer and these other individuals were commissioned officers, so they were superior so there would have, there might have been a level of intimidation at least when it comes to ranks and superiority. But indeed, you know I think the final call would have been left
20 to Brigadier Swanepoel as the most senior officer on the scene and he in fact was a divisional inspector from the Witwatersrand division. So, I do not think one can criticise Lambrecht's *per se* because of whatever his views might have been. It would have been Brigadier Swanepoel who would make those decisions.

MR ALBERTSE: Yes, and in those days a brigadier was ranked very high. There was not a lot of them.

MR VARNEY: Yes, indeed.

COURT: But did Major Victor about it being the investigation officer? Did he know that there were two possible suspects in that group?

MR VARNEY: M'Lord this witness I do not think would be in a position to answer that question.

COURT: Ja.

10 MR VARNEY: We are just checking right now but as far as we are aware Captain Victor as he was at the time was a member of the detective branch and perhaps to be fair to Captain Victor I can only image that he would just arrived on the scene and may not necessarily have been aware of who these individuals were. But we will double check that aspect.

COURT: Okay.

MR VARNEY: It also occurs to me that I think Captain Victor was actually based in John Vorster Square, so it is not entirely out of the question that he probably might have known who the
20 other individuals were since both Struwig and Whitehead were also based at John Vorster Square.

COURT: Ja, okay.

MR VARNEY: Mr Albertse I am just looking to see if whether there is anything of note in the subsequent annexures. I think we have dealt with those. Just before you testified today you

brought to my attention that there existed a set of I think guidelines or some protocol and procedure that one would adopt when investigating crime scenes and taking fingerprints. Can you just allude to the court the name of that document?

MR ALBERTSE: M'Lord in the '80's we worked according to what was called the Bureau Administration Guidelines. It was Bureau Administration A and B, thick documents on how to take fingerprints on crime scene, how to lift fingerprints on crime scenes. There was even in these guidelines a whole chapter
10 on how to classify fingerprints which is not done anymore. It is a lost art now where you classify according to [Indistinct] Henry Classification, single finger per classification. So, everything was in this Bureau Administration Guidelines and like I said it was two thick documents and we received our training also from these documents. These documents were used up until 1997 when it was replaced by Policy 12 of 1997 and also received by Policy 13 of 2001 and these two were then replaced by Police 5 of 2003. So, as we have evolved
20 through the crime scene environment through the years the policies change and get updated and stuff and so nowadays we work according to standard or the guys in SAPS work according to standard operating procedures for specific activities. So, there will be a standard operating procedure specifically for normal powders, standard operating procedure specifically for photography.

COURT: Okay.

MR VARNEY: M'Lord we will endeavour to find a copy of the protocol of the guidelines as they applied in 1982 and if we find a copy we will put it up as an exhibit. Mr Albertse would I be correct in saying that it is likely that those guidelines would perhaps at the minimum have set out practices when it comes to crime scene processing and it would have included ensuring that the scene is properly controlled, secured and protected.

MR ALBERTSE: Correct M'Lord.

10 MR VARNEY: Determining, making a determination how the scene is going to be processed and what the outcomes will be then to properly document the scene, to process the scene optimally using all necessary resources and then importantly, ensuring that all the identified evidence is properly marked, documented and collected. So, it does seem as if one is required to be methodical and dare I say to apply some common-sense.

MR ALBERTSE: That is correct M'Lord and obviously these procedures are supported by certain documents that has to be
20 completed on the scene. In those days it was just your basic scene report for fingerprints and your basic scene report for your photography. So, nowadays they have scene reports that goes on for pages and pages because we have so much more processing capabilities in the modern era.

MR VARNEY: If you could just consider the photographs, so

typically speaking if one came across a suspended body in the situation like that, if you were photographing the scene what process would you have adopted and what photographs would you have liked to have taken?

MR ALBERTSE: Well again, in the modern era you can take as many photos as you like because it is all in digital. In that era you had limited access to film. So, you must decide on what you are going to photograph because there was actually at some stage a restriction on how many photos you take on a
10 crime scene because we had limited film. So, you decide beforehand based on the conditions of the scene what you are going to photograph and then you photograph; the rule is normally distance, medium, close-up. So, you start with your distance shot. You describe where you are in the world and then you go closer to your victim and then you go even closer to the body and then if you are satisfied with the photographs that you have taken there then you can start processing, by processing I mean you go to a place where you start removing the body. That will be the first step. Control conditions,
20 remove the body and then when the body is on the ground you again photograph the body and look for wounds on the body. In some cases, even get a pathologist out to the crime scene in serious and high-profile cases and even in normal murder cases, get a pathologist out, let them show you certain things that they maybe want you to photograph and that is basically

the photographic process. Then the overall conditions of the scene, but that would be done first.

MR VARNEY: Right.

MR ALBERTSE: They call it the undisturbed documenting of the scene.

MR VARNEY: Alright, and by coincidence we have already heard evidence from a forensic pathologist that it would have been preferable if a pathologist had conducted a medical examination at the scene and instructed taking of photographs there and then or rather guiding which photos should be taken, and I can tell you that there is evidence that there was no medical examination done at the scene in cell 209, notwithstanding the fact that we are aware that at that time pathologists were conducting some examinations at crime scenes. Am I right in saying that if care had been taken it probably would have been possible to cut the body down without necessarily touching the bars?

MR ALBERTSE: That would be the first prize M'Lord. Get the body down without touching the bars. If the body is out the body can [indistinct] and then you can spend all the time that you need on the crime scene. So, that is the way that I have been taught to process is, get the body out as quick as possible. So, process towards the body and get the body out of the scene and then normally most of the people leave the scene because there is nothing to look at not anymore. So,

then you start processing for physical evidence from thereon. But in this case you have to have a ladder to get up to the body.

MR VARNEY: Yes, although one would have thought that given at John Vorster Square was that time, I believe still is the case today, is the largest police station in Johannesburg, a stepladder would not have been that difficult to locate.

MR ALBERTSE: I would not know M'Lord but I would really try and get hold of something to stand on.

10 MR VARNEY: Yes, it is after all a police station with multiple wings and a large number of police presence so the assumption we are going to make is that the resources needed were available if needed and on that score the local record centre, was that in fact not situated in John Vorster Square?

MR ALBERTSE: I believe it still is.

MR VARNEY: So, all the support resources that they would have required were available from the same building in fact.

MR ALBERTSE: That is correct M'Lord.

20 MR VARNEY: And as you have already testified, there was then no need to rush without those resources given that they were available in the same complex. Now, Mr Albertse before we close up I must put just one or two more questions to you. You are aware of course that this particular death and detention carried some controversy at the time and a great deal of publicity accompanied this particular case. To be fair

that was the case for most deaths in a security branch detention, not just Mr Aggett's. But as it turned out he was the first white detainee to die in detention and certainly from the perspective of his family and colleagues a great deal of suspicion arose as [indistinct] he had committed suicide and it is one of the big question that this court has to look into. And given that only one solitary print appeared as evidence before the first inquest the suspicion is that, in the light of your evidence of typically finding a sequence of prints, the
10 suspicion arises regrettably that maybe that print was part of the cover up. So the question I have for you; what are the scenarios and I understand you have given some thought to this and you have set out roughly three scenarios which would explain the presence on the bar in the location that we have discussed already of the solitary left forefinger print. What are those three possible scenarios, those three possible explanations?

MR ALBERTSE: M'Lord I must first just state that this is not fact that you can prove that a certain thing, that it was done in
20 a certain way.

MR VARNEY: Yes, and to be fair I am asking you to hypothesise and I am simply asking you to use your expertise as to how conceivably the print could have ended up there, not relying on evidence that you are privy to because obviously you do not have that evidence.

MR ALBERTSE: Yes.

COURT: Ja.

MR ALBERTSE: M'Lord okay, one thing is that on the folien Warrant Officer Lambrecht's referred to a specific print and that is the print that he used in the court chart. So, not having the folien we do not know if there were other prints on the folien. So, when we refer to one single print there we must also be just careful that there might have been, there actually might have been a sequence of prints. Having said that; the
10 first if I look at Warrant Officer's Lambrecht's testimony and if I look at the fingerprint on the court chart with that what I have and his explanation, it could have been so that Mr Aggett climbed up there and left a fingerprint there. That is one scenario.

COURT: Yes?

MR ALBERTSE: Also, Mr Aggett could have been hanged there and his hand placed on the bar to transfer a fingerprint onto the surface and that is also a possibility and that would be if the folien was available, obviously that would leave tell-
20 tale signs that you would look at on how the fingerprint was made and how it came there, if it was done in normal mechanics or if it was placed there. So, but it is a possibility. You can take a person's hand, place it on the surface and it will transfer sweat onto that surface when it comes into contact with it. Obviously after a long while there will be no sweat on

the fingerprints left so you will have to actually place sweat on the fingerprints, but that would be a long time afterwards and there is a third thing that; the difficulty of getting to the top of the bars and processing that, when placing a person's fingerprint on the surface that fingerprint can then actually be placed on anything. So, it can be placed on this wooden surface and lifted and then you can just write up the folien and say listen, this fingerprint was found on the bar. That is a very dangerous scenario to call, the reason is you will not be able
10 to recreate that background of the bar when you lift the fingerprints from this wooden surface. So, that makes it, if you analyse that folien and analyse that fingerprint you will be able to see the discrepancies. So that is the three... [intervene].

MR VARNEY: Thank you. On the third scenario and if one looks at B1.13, which is the print that we have, certainly what we have there simply reflects the print itself and no background. So, we are none the wiser as to what the background is from simply looking at this print.

MR ALBERTSE: And this, what is normal practice with a court
20 chart is; you take the whole photo. Then you enlarge it and then you cut out the exact piece on that fingerprint than the enlarged piece on the 192 or the control fingerprint, so that they look and are orientated in the same way so that it is easy for the court to look at the fingerprint and say yes, I can see that point. Yes, I can see that point.

MR VARNEY: And so... [intervene].

MR ALBERTSE: So, this will be an enlargement and a cut-out of the graphic photo [audio faulty from 01:39:09 to 01:39:50].

MR VARNEY: They would not have had the benefit of seeing the folien with the background and simply... [intervene].

MR ALBERTSE: They would have. The folien would have been handed in as evidence.

MR VARNEY: Would the folien have been handed in?

MR ALBERTSE: Yes, the folien must be handed in as
10 evidence and it must be scrutinised by the court.

MR VARNEY: Right.

MR ALBERTSE: Because there is information on the back of the folien that must be described to the court.

MR VARNEY: You say that is what should have happened but it is not clear to us if that did happen. In fact, in the evidence that you studied for purposes of and I think we did provide you with everything we found on the fingerprints. Were you able to see whether the folien was part of that evidence?

MR ALBERTSE: There was actually no reference to the folien
20 in the testimony if I... I must talk under correction.

MR VARNEY: Was there no reference that...[intervene].

MR ALBERTSE: No, the folien was handed in from his testimony. He referred to the folien.

MR VARNEY: We are busy looking for it now. There might have been reference to it. I suppose the question I am asking

you is was there an exhibit depicting the folien before the first inquest court?

MR ALBERTSE: I cannot recall but it is, I mean the folien is the original lift from the scenes so that is normally handed in as an exhibit, as evidence. I cannot remember if.

MR VARNEY: No, no we will certainly look into it further, but from what we can pick up in terms of [indistinct] graphic representation this is all that we can find from the exhibits available to us and then just to conclude. There would have
10 been another way of transferring the print to the bar, although for that one it would have needed some sophistication, some equipment?

MR ALBERTSE: Ja, you would need to make a mould of the hand and then, a cast of the hand, then make a mould of it. That is called the forgery and transplantation of fingerprints. But that is a very tedious process and a very difficult process and if the body is available there, there would be no need to do that. That is when you want to take a person's fingerprint and place it on another crime scene. Say for example you sit
20 and have coffee with somebody in a coffee shop and you take his glass afterwards and then you lift a fingerprint from it and you go and plant it on a scene, so that is what I am referring to.

MR VARNEY: So, in fact given what you are saying the easiest and most logical way of doing it if you did wish to do it

hypothetically since you did have the body of the deceased there, would simply be to place that finger in the appropriate place.

MR ALBERTSE: Correct M'Lord and the appropriate place would be high up on the bar to increase the evidential value of it.

MR VARNEY: M'Lord I have come to the end of my questioning. I do not want to close right now. My learned junior is looking for something so I might or might not have
10 one more question post tea. But if not that will be the end of my questioning. Would this be an appropriate time for the tea adjournment?

COURT: Thank you. We will adjourn.

CLERK: All rise.

COURT ADJOURNS

[11:16]

PROCEEDINGS RESUME [11:35]

COURT: Yes. You may proceed.

EXAMINATION BY MR VARNEY CONTINUES: As the court pleases. So M'Lord, as I indicated just before tea, we just want to clear up the question of the folien. And the fact... M'Lord, if I can refer the court and my colleagues to the testimony of CW Lambrecht, particularly at page 241 and 342. M'Lord, there it is, it indicated for the court's benefit in your ...[indistinct] evidence Part W1, is in fact the scarf, the 10 ...[indistinct]. And then at one, pages through to 9341, you notice that the finger prints taken from Doctor Neil Aggett, presumably in the mortuary, that was marked as evidence Part W3. And then actual folien which was allegedly removed from the grill, that was marked as evidence Part W2. And then also on page 342 you will notice that they do make reference to the court chart, you do have a photocopy of, and that is that we know as EXHIBIT B1.13. Now the only unfortunately thing M'Lord, is that it does not appear as if the folien, which was marked evidence Part W2 was photographed. Well, it might 20 have been photographed. It may very well have been photographed. But certainly in the exhibits that we have, and we now have the full exhibit list, it was not put up as an exhibit. And we would have expected to have seen that exhibit under the B exhibits. So it is regrettable that that is not there. But my only question is ...[indistinct] typically what you expect

to see a photograph of the folien as part of the exhibits.

MR ALBERTS: I would, I would expect the original folien as an exhibit. And if you want to you can, it is not policy, but you can take an inverted photo of the folien and add it to the folien. What we normally do is, we put the folien on an A4 paper to make it easy for the court to file it. So when you hand in the folien there will be, the folien will be on an A4 paper, either in a sleeve so that it can be taken out in court and the back can be checked if it was written up correctly and that. And you can
10 then also put the photograph underneath it of the folien itself. Because like I said before, folien is an inverted flipped image. So it is very difficult to, for the court to compare a piece of folien with the other controls, like the finger prints of the victim or the suspect or the court chart. And also what happens before court in other cases where there is, where there is a suspect, the finger prints of the suspect must be taken before court. And that is also handed in as an exhibit. But in this case...

MR VARNEY: Thank you, Mr Alberts. Thank you again for
20 your time.

COURT: Thank you.

CROSS-EXAMINATION BY MR MLOTSHWA: As the court please. Mr Alberts, the age of the print, does it make a difference in terms of quality thereof?

MR ALBERTS: Yes, definitely M'Lord. There is a lot debate

and there is a lot of research being done on finger prints and how they react with the folien. How they react with powder? When is a print fresh? When is a print old? And after all this research has been done you will never scientifically say that the finger print is this age or that age, unless you wipe the surface, you document the time and you place a finger print on it afterwards. That is your... Then you have a reference of when this was last clean. So that means the print was made afterwards. I have in my career seen finger prints that they
10 say, there is always a saying, the finger print reacts very well with the powder, that means that it must be fresh. But I have seen finger prints that were older that also reacts. It all depends on the consistency of the sweat and what is the contaminance in the sweat. How many, how much fat is in the sweat and how much water is in the sweat. So it is a very difficult one to answer.

MR MLOTSHWA: *Ja.* And let us say for instance on a surface, for how long would you expect a finger print still to be visible or to be able to be uplifted from the surface.

20 MR ALBERTS: On a glossy nonporous surface obviously it will stay longer. Glossy nonporous meaning metal or glass. It does not get absorbed into the, into the surface. That can stay for days, even weeks. I have recovered finger prints from surfaces 15, 20 years afterwards that was left in controlled conditions. But on a porous surface like when the finger prints

are absorbed ...[intervene].

MR MLOTSHWA: Yes.

MR ALBERTS: It can also react long afterwards because you use a different type of chemical than powder. You use chemical, not powder ...[intervene].

MR MLOTSHWA: Yes.

MR ALBERTS: To lift. So, I would say out in the sunlight in your worst conditions maybe a day or two. In controlled conditions it could last up to week where you can say this
10 finger print is fresh. This finger print looks nice. So yes.

MR MLOTSHWA: And in the case like in that grill where allegedly Doctor Aggett has allegedly hanged himself, in a space like that one, for how long would you expect the finger print to last?

MR ALBERTS: Well, on those conditions M'Lord, if it was, it was made under good conditions I would say long, two, a few days. It could last even a few days. Because there is no sun, there is no wind to dry out the finger print. Conditions are controlled. So it could last for quite a while. It is nonporous
20 glossy surface, so the finger print sits nicely on top of the surface. What happens basically is, the water and... Maybe to explain this I must explain how, of what the finger print consists of. Finger print consists of 99 percent water. And then you can add one percent consists of acids and fat. So the water slowly starts to evaporate. So the prints gets worse and

worse and worse over time. But the fat stays, the amino acids will get absorbed into a porous surface and that you can also you know, analyse. But in these conditions the water would stay for quite a while.

MR MLOTSHWA: *Ja.*

MR ALBERTS: If there... Obviously if there is wind, sun, water will evaporate much quicker.

MR MLOTSHWA: Yes. And on a surface like that one in that cell, and under those conditions, would one be able to tell the
10 age of the finger print? Let us say if it were two or three days.

MR ALBERTS: Never scientifically M'Lord. It depends on who deposited the finger prints. And that is a sad thing about age of finger prints, is that you get with very different people you get different deposits. You get people that we call donors. A donor will, anything that he touches there will always be a finger print. People who sweat, who has a lot of sweat on their hands. And then you get people who do not sweat at all in the hands. They will transfer a finger print and a day later it will be gone. Then you get a good deposit. It will, you will be
20 after three days say:

"Jis, but this finger print is, warrant made today.

Look how fresh it is."

So you can, you can get yourself into big trouble by, just by looking at a finger print and say this was a day old, two days old, three days old. There just is no reference.

MR MLOTSHWA: Ja. So in other words, it would have been difficult for, if I may put it that, for Warrant-Officer Lambrecht to have been able to determine whether that finger print was put there on the day of the hanging of Doctor Aggett or on an earlier date.

MR ALBERTS: It would have been impossible for him to scientifically state that to say this was done after, post the hanging ...[intervene].

MR MLOTSHWA: Yes.

10 MR ALBERTS: Or prior to the hanging.

MR MLOTSHWA: Or three days prior the hanging.

MR ALBERTS: He could make a comment on it.

MR MLOTSHWA: Yes.

MR ALBERTS: But to scientifically prove it there would be no way.

COURT: Do you know whether he was asked on that aspect in the first enquiry, Lambrecht?

MR MLOTSHWA: No M'Lord. As far as I... I could, I could not determine that.

20 COURT: Okay.

MR ALBERTS: M'Lord ...[intervene].

COURT: I believe he is giving evidence next week.

MR MLOTSHWA: Yes.

MR VARNEY: M'Lord, I can confirm that Lambrecht did testify. That in his view the print was fresh.

COURT: Oh, okay.

MR MLOTSHWA: Thank you, M'Lord. I have got no further questions.

COURT: Thank you. Advocate Coetzee.

CROSS-EXAMINATION BY MR COETZEE: Thank you very much, M'Lord. Sir, the crime scene investigators and as it was at that stage known as the Local Finger Print Branch, that is what they used to call them, they are a very unique branch of the police in the sense that they are not affiliated to any other
10 branch. They come in and objectively, they do their work as experts. And they give their evidence as experts.

MR ALBERTS: M'Lord, in 1982 the finger print branch, and it was in Afrikaans called the BVAK, they were actually part of the detectives. They fell under the detective branch, but they were seen as individual, as an individual unit. Later on they became division forensic services, where they, where they are now totally on their own.

MR COETZEE: But they pride themselves in their independence. They come in, do a job objectively.

20 MR ALBERTS: Correct M'Lord.

MR COETZEE: They would not involve themselves necessarily in the factual investigation of a crime, apart from the objective visible facts that they can establish through their forensic science.

MR ALBERTS: Unless M'Lord, you need, you need

information on a specific crime scene which will lead you how to process that crime scene.

MR COETZEE: To get directions in other words.

MR ALBERTS: Correct. Get information on what happened so that you can plan on how to process.

MR COETZEE: Yes. I see in the affidavit by Lambrecht that you attached to your, to your report, and the one that is marked 70 at the top, and that is in relation to the photographs. He says here... I am going to read in Afrikaans.

10 *“Daar was sekere punte deur kaptein Victor aan my uitgewys.”*

There were certain points showed by Captain Victor. Is that what is standard? If Victor was the investigating officer he will point to the photographer and say:

 “Take me a picture of this, this and this and that.”

Is that correct?

MR ALBERTS: He would point out certain stuff that he wanted to photograph. But the LCRC member will let himself be led by his own observations. So there is, there is points being
20 physically shown out and there is points that is your own observations.

MR COETZEE: Your own observation. But usually, I mean he is lead. As you have indicated, he is led by the investigators on the scene as to what they consider to be relevant for photographing for example.

MR ALBERTS: Correct M'Lord.

MR COETZEE: And finding finger prints and doing the whole investigation up to the stage where you prepare a court chart, that is supposed to be... The whole idea of independence is that it is an objective fact that comes to the court. In other words the fact that you lift a finger print for example in a bank, it is an objective fact.

“I found the finger print and I have compared the finger print and it is the accused finger print.”

10 It is an objective fact which they establish through their science.

MR ALBERTS: That is correct, M'Lord.

MR COETZEE: Now in preparing the court chart, and the court chart that you attached, and it is marked 11 at the right hand side, obviously this is a copy of a copy of a copy if I can say that. The original court charge would have been an original court charge. It would be written there in pen the numbers, the indicators would have been in pen. That would have been an originally of document.

20 MR ALBERTS: Correct M'Lord.

MR COETZEE: And that would have been very clear.

MR ALBERTS: That would have been crystal clear, M'Lord.

MR COETZEE: Crystal clear yes. And the folien which we know that was handed in, that is handed in for the purpose of visual inspection in court. If any of the parties are doubtful in

relation to the actual folien and the actual lifting it is there for the, for the court obviously, but also for the parties, defending or prosecuting to inspect that folien to see whether they see any discrepancies if they want to look at it.

MR ALBERTS: Correct M'Lord. And the reason for having the folien is, you cannot cut the bars off and take the bars and everything to court. You have to at some stage lift the finger print and take it. So that actually becomes a physical evidence which later becomes an exhibit in court.

10 MR COETZEE: Yes.

COURT: So was the folien handed in?

MR COETZEE: Yes M'Lord. It was ...[intervene].

COURT: It was?

MR COETZEE: Handed in.

COURT: Okay. As an exhibit?

MR COETZEE: As an exhibit.

COURT: W2?

MR COETZEE: W2 yes.

COURT: Okay.

20 MR COETZEE: And that would be the actual folien. That would be the plastic scotch tape or whatever that covered the lifted print and placed on a piece of paper.

MR ALBERTS: Correct M'Lord.

MR COETZEE: If you conduct an investigation as finger print expert on the scene and you are going to prepare a court chart

you do not prepare a court chart on each and every finger print that you find.

MR ALBERTS: M'Lord, there is two ways to go about this and the one is the have the folien with, like I said the sequence of finger prints on it, and you refer to it as the folien.

MR COETZEE: Yes.

MR ALBERTS: Then you normally take the best finger print on the folien and you prepare a court chart from that. I have been asked in court before to make court charts of the other prints.

10 MR COETZEE: Yes.

MR ALBERTS: Because I referred to that in court to say I have also found the middle, ring and pinkie. And then the court says okay, go back and whose finger prints are that now. I say no, it is the same persons because it is made in a sequence. And sometimes the court say no, go and make court charts of those as well.

MR COETZEE: But that is not the normal procedure ...[intervene].

MR ALBERTS: That is not the normal procedure.

20 MR COETZEE: yes.

MR ALBERTS: It depends on the, from case to case.

MR COETZEE: yes. And when you, when you arrived here at the cell for your inspection and your site visit in the cell and obviously you brought along Mr Van Heerden to assist you. Was the purpose for him to climb up there and then for you to

take the finger prints?

COURT: Was that his purpose?

MR COETZEE: Yes. Was that what the plan was? Was the plan for Mr Van Heerden to climb up there and then to try and see whether you can lift these finger prints?

MR ALBERTS: That was the first test that I did M'Lord, yes.

MR COETZEE: And when you arrived there, did you expect to see so much dust on those bars?

MR ALBERTS: M'Lord, I did not. I did not.

10 MR COETZEE: And in the condition that the bars were that you arrived there and when you then tested for finger prints you only found one finger print.

MR ALBERTS: That is correct, M'Lord.

MR COETZEE: Now is it possible to say where that finger print was found? I think on page 8 of your report. I am not sure whether that is what you indicated.

MR ALBERTS: That is correct. That is the... That is where that finger print was visible.

20 MR COETZEE: And was that a usable print? Was that a print that you would have been able to use in a court chart?

MR ALBERTS: It was not M'Lord.

MR COETZEE: And even after you cleaned the surface as you have indicated to the court, a lot of the prints that you then saw were also not usable prints.

MR ALBERTS: There was, there was one that was not usable

that I could see it on the bar, but when I lifted there was, there was nothing. The others was made in sequence, but some them was, I would not have been able to compare.

MR COETZEE: *Ja*. To prepare a court charge on every... We go to that later.

MR ALBERTS: Yes. Say for example there was four fingers in sequence ...[intervene].

MR COETZEE: *Ja*.

MR ALBERTS: One or two of them might have enough points
10 for individualisation.

MR COETZEE: On a situation as a bar where you could climb up, if you were to slip, will that influence the... Or even if there is movement in your hands while you are holding onto the bar, will that influence the clarity of the, of the print?

MR ALBERTS: Interestingly M'Lord, if you slip you will again grab.

MR COETZEE: *Ja*.

MR ALBERTS: So you will be able to with the powder see that slippage and then again the grab.

20 MR COETZEE: *Ja*.

MR ALBERTS: And normally that gives you then again a good, a good finger print underneath.

MR COETZEE: An impression.

MR ALBERTS: And you will be able to see the movement. Which is in itself you can, you can say something about it,

about in which direction that movement was made and how much force was applied and those type of things.

MR COETZEE: And if you were now to be instructed for example to prepare the court chart on, based on these finger prints that you have taken, which of these prints would you have used? Because you have got here, on page 9 you have got there five different photographs of prints. Is there any specific one that you would have preferred to use amongst these for a court chart, which would have a clear 10 point identification marks?

MR ALBERTS: I would probably use the middle finger right at the top, M'Lord.

MR COETZEE: At the top. Is this... So the top one. And I see the middle finger. That seems to be quite a good surface. Now, on the, on the material on these bars, would you consider it as being a good material from which to lift? In other words, obviously there are good, glass, a glass is a very good material from which to lift. These bars with the paint that they had on, would it have been, do you consider it to be a good material from which to lift?

MR ALBERTS: It was, it was... Although we call it a smooth non-porous surface, it is a glossy surface where the finger print just sits on top of the surface, the bars has also a slight, and I do not know if it is the paint or underneath the paint the bar itself, but has these small marks on it. That also if you

look at the second one from the bottom ...[intervene].

MR COETZEE: Ja. What it ...[intervene].

MR ALBERTS: It is quite pronounced ...[intervene].

MR COETZEE: Ja.

MR ALBERTS: In that specific one.

MR COETZEE: One can see the grain of the bar if I can call it that.

MR COETZEE: So it is by no means an easy surface. And when you work around surface it gets even more difficult, 10 because you have to actually work around the whole surface. Because you do not just want part of a finger print. You want the whole finger print.

MR COETZEE: And you have, you have seen the work done by Mr Laubscher ...[intervene].

COURT: Mr Laubscher or Mr Lambrecht.

MR COETZEE: Sorry.

COURT: Is it Mr Laubscher or Mr Lambrecht.

MR COETZEE: Lambrecht. I am sorry M'Lord. That is my mistake. Mr Lambrecht. You have seen his statements. You 20 have heard, you have read his evidence. Apart from the fact that he can perhaps be criticised about certain things, do you see anything untoward there? Is there anything that you have read there or that you see in his statements that alert you to a wrongdoing?

MR ALBERTS: M'Lord, it is, it is always easy to go and look

at another person's work and then to criticise it. There are different ways of processing crimes and evidence and people process it, process it differently. Some people will process for three, four hours, and another person will quickly finalise the process. I would, I would not... If I had to be critical I would have, and that is not according to his statement or his scene report, I would have made a bigger effort of getting the body down, getting the body out of the way. Get some leverage to stand on and process the bars. That is, that is what I
10 ...[intervene].

MR COETZEE: Just some criticism in other words.

MR ALBERTS: That is some criticism that I ...[intervene].

MR COETZEE: But there is nothing untoward that jumps out to say that he did, he was dishonest in the way in which he conducted his work?

MR ALBERTS: No M'Lord. Within the policy, he used the correct forms, he used the correct processing method.

MR COETZEE: And as a... And if it is possible for you to refer back to 1990, to that era, would a finger print expert been
20 able to instruct the officers as to what they must do? In other words, who has the authority on the scene?

MR ALBERTS: The senior member from SAPS has the authority on the scene. But when the finger print expert and the crime scene examiner, and he was both, he was a photographer and finger print expert. Sometimes they are a

team. One guy takes photos. One guy do finger prints. Then he becomes the person in charge of the, of the processing of the scene. So he can actually dictate what should happen on the scene.

COURT: Would you have... Sorry. Would you have expected him to tell Major Victor that:

“Before I take finger prints I want the body to come down.”

MR ALBERTS: He could have M'Lord. He could have
10 instructed them and he could have said:

“I want, I want to process the whole, the whole cell because it is important to mark where finger prints are found or even marks are found.”

So he could have instructed them that he wants the body down and he wants the body out of the way so that he can start processing.

COURT: Okay.

MR COETZEE: And just to get to the finger prints that you lifted, that you referred to after you have cleaned the bars.
20 And even before you cleaned the bars, you said that you were using a lifting gel to lift those finger prints. Is it correct? Did I understand you correctly?

MR ALBERTS: Correct M'Lord.

MR COETZEE: Okay. And a lifting gel is a new, a new method of lifting which was not available in 1992.

MR ALBERTS: No, it is not M'Lord. It is just, I call it a gel lifter. In the LCRC environment they call it a folien.

MR COETZEE: Oh. I was not sure whether it is a gel or something else. So it is in fact the similar, it is like a tape, a clear tape.

MR ALBERTS: *Ja*. Unfortunately I do not have a sample. It is like a tape, but it has got a thick surface and it is like ...[intervene].

MR COETZEE: Translucent, clear and translucent.

10 MR ALBERTS: No, no. It is white. Got a white surface and then it has got a translucent celloid that you take off.

MR COETZEE: Yes.

MR ALBERTS: And that is, when you take that celloid off the surface is sticky underneath.

MR COETZEE: *Ja*.

MR ALBERTS: So you powder and then you lift with that sticky surface and you place the celloid back to protect ...[intervene].

MR COETZEE: You place the colloid back. Yes.

20 MR ALBERTS: The front. Yes.

MR COETZEE: I was not sure whether a gel was now a new invention for a new age of things. And just in relation to crime scene investigation, and I am sure many of us that watch these CSI programmes on the television, there has been much progress in the development in crime scene investigations with

for example digital ...[indistinct] and other new forms and methods of investigation, which was not necessarily available in 1992.

MR ALBERTS: Immensely M'Lord. And it is all driven by technology. Digital photography, better equipment, better DNA analysis. I mean nowadays you can do either the finger print or you can do the DNA on the finger print. So it is ...[intervene].

MR COETZEE: That is new. That was not there at that stage.

10 And just to get back to the folien, ag, to a print on for example the bars. If you force a print, if you... We have all seen finger prints being taken at the police station where they roll your finger and they press your finger, does that display differently from what it is, when it is touched? In other words if a person touch something, will that display differently from when there is pressure on it to roll a finger print?

MR ALBERTS: M'Lord, pressure is definitely something that we look at and on which we can testify. So if there is an excessive pressure the ridges will be thicker and the
20 indentations between the ridges will be less pronounced. If a print is made very, with very light pressure, obviously the ridges will be very thin and the areas in-between the ridges will be much thicker. So there are ways to see if a print was just lightly touched or if there was pressure. And if there was pressure, how much pressure was applied and even in what

direction the pressure was applied.

MR COETZEE: And that is visible? And I mean, that if that, when you enlarge ...[indistinct]. And I have seen some of your colleagues using even a magnifying glass or something like that. So the whole idea of enlarging is so that you can see it more clearly. And that you can even measure it if it is necessary to see the width of the ridges or the valleys or whatever the situation.

MR ALBERTS: Correct M'Lord.

10 MR COETZEE: Yes. Oh, this is, this is the other... On the folien that, that you lift, is that the standard size block let us say, of the white paper that you have with the plastic on top? Does that come in a standard size or do you cut it ...[intervene].

MR ALBERTS: It comes in ...[intervene].

MR COETZEE: Before you take the photo. Ag, before you take the finger prints.

MR ALBERTS: Yes. There are different sizes, M'Lord. There is a bigger size that you can either cut, and then there is
20 smaller sizes that come pre-cut.

MR COETZEE: Pre-cut.

MR ALBERTS: And there is, there is other products on the market where it comes in various ...[intervene].

MR COETZEE: Shapes.

MR ALBERTS: Sizes, shapes.

MR COETZEE: In sizes rather.

MR ALBERTS: So you have a size where you can lift only one finger.

MR COETZEE: Ja. And where you can for example take the palm of, the whole palm ...[intervene].

MR ALBERTS: A whole hand, yes. Or even a footprint.

MR COETZEE: Now, once you have lifted that on your folien, does not matter how big it is, and you have it developed, then you cut it so that it is in the scale the same as your control, as
10 your control piece.

MR ALBERTS: You cut the photograph.

MR COETZEE: Yes.

MR ALBERTS: Yes.

MR COETZEE: So that it is the same size. So there must, there might be much more on the folien than what you have cut and what you put in your court chart.

MR ALBERTS: What was practice is that you cut the folien the size... You cut the photograph the size of the folien, not the size of the finger print.

20 MR COETZEE: Are you ...[intervene].

MR ALBERTS: The photograph, you cut it the size of the folien. Because if you photograph it, obviously your finger print will now be white.

MR COETZEE: Yes.

MR ALBERTS: Ag, black. It will be on a white surface and

the background, because they used... They do not do that anymore. They use large sheets of photographic film. So you can photograph 10 pieces of folien on it. So then the background will be black. And then you cut out that folien the exact size, the photograph the exact size of your folien. And that gets pasted onto a giant arch card and that gets kept in the files. Nowadays they scan, they scan it directly onto automated finger print system.

MR COETZEE: Thank you very much, sir. Thank you, M'Lord.

10 I have got no further questions.

CROSS-EXAMINATION BY MR MOHAMED: No questions.

COURT: Re-examination.

RE-EXAMINATION BY MR VARNEY: M'Lord, just, just a few questions on re-exam. Mr Albert, my learned friend for Mr Venter and Mr Deetlefs spoke about the court chart and said that no, it is simply a question of objective facts. And you responded in the affirmative. And I think in so far as the comparing of the folien with the print lifted from the actual body, that would be a scientific comparison, would it not?

20 MR ALBERTS: Yes. Yes M'Lord.

MR VARNEY: Well, he also mentioned that the location of, if I understood him correctly, where the print was found. In other words it is a location where it might be, that is more a question of investigation as opposed to science. It is not a scientific endeavour in identifying the location of the print in question.

MR ALBERTS: No. It is just a question of documenting it.

MR VARNEY: Of documenting it.

MR ALBERTS: Correctly.

MR VARNEY: You also mentioned, and it appears that this was the case in these proceedings, that the folien was before court. We know that it was marked evidence W2. And I am sure it was the position that if anybody, if the court or the parties wish to inspect they could have. But my question to you, a typical lawyer looking at a folien, he is not trained in
10 investigative or forensic science, would he or she be able to make much sense of what is on that folien?

MR ALBERTS: I do not, I do not really think that they would make detailed deductions of, of what is on the folien. There is a few things that must be on the back of the folien. There is a few things that must, how the folien should look like and should be written up. But pertaining to the finger print on the folien, it is very difficult because there is not many people who can look at a piece of folien and in their mind invert the image, change it from black and white to white to black. And then
20 analyse what is going on on the folien. It is easier with this black powder and the white folien, because you actually see what you see.

MR VARNEY: Yes.

MR ALBERTS: But folien is different.

MR VARNEY: And in fact you have had to assist this court in

some detail, for example looking at the prints that you lifted and reflected on pages 9 and 11. I think without your technical assistance we would have battled to explain exactly what was going on in these photographs. From the evidence that you saw in the testimony and the exhibits, was it apparent that the lawyers for the family had expert finger print, did they lead finger print evidence in that court?

MR ALBERTS: Of... On their side?

MR VARNEY: On their side.

10 MR ALBERTS: I do not, I do not think so M'Lord. No.

MR VARNEY: Yes. ...[indistinct] testimony of the transcripts, the exhibits do not disclose any separate expert evidence from the family's side. In response to a question, it was suggested that typically when it comes to the court chart, the best finger print would be used as opposed to other finger prints. Which may explain perhaps why on a court chart you would typically see only one print. Well, I think you in your response you said there might be occasions where you would put up other prints as well. But if in fact there was as you have testified earlier,
20 you would have expected to see a sequence of prints as opposed to just one, one finger print. Typically you would make reference to, and here I am not talking about the court chart, I am talking about your evidence that you would give in court. Would you ignore the fact that you have seen a sequence of prints and only refer to one print in your

evidence?

MR ALBERTS: M'Lord, there is two things. I think being asked about it in court and I will make reference to it. But if it is important how the finger print were made, and in this case there would have been a sequence, it would be good practice to make, make reference of the other finger prints.

MR VARNEY: Yes. In fact, given the peculiar circumstances of this case, when you are dealing with somebody who allegedly climbed up the grill, presumably using his hands to do so, and if you found prints reflecting a sequence I suspect it would be inconceivable not to disclose that to the court.

MR ALBERTS: M'Lord, the thing is that the finger print investigation in this case is not only done to link Mr Aggett to the bars. For example if you do housebreaking case your primary objective is to link somebody to that finger prints on the crime scene, because you do not know who it is. So Mr Aggett was there. So you do not have to link him to the bars. Yes. If you found finger prints you must distinguish if it is his or if it is somebody else's. But also very important in this case is the manner in which the finger prints were made, where they were made, how they were made. Because that is, gives you a bit more of a reconstruction of could he have climbed up there. Could he have made the finger prints? Could he have... Can you recreate the mechanics of how his finger prints are made? So that is, that becomes extremely important.

MR VARNEY: Thank you. And from what we can discern going through the testimony of Mr Lambrecht, there is no reference to discovering a sequence of finger prints.

MR ALBERTS: Well, he refers to other marks that he lifted. And also he refers to the finger print, the finger prints that he did ...[intervene].

MR VARNEY: Yes.

MR ALBERTS: On the folien. So to better describe it, no, there is no mention of it. And to describe the way that you, 10 that you lift finger prints, or the way that they were made on the scene, sometimes you can testify years later on where that finger print was found and how it was made. So your notes on that must be very clear for you to make certain, to testify on specifically how that finger print was made.

MR VARNEY: Yes. And I think it has since... There is a suggestion by my learned friend that, well perhaps he did lift other prints and he is simply using the best one available. If we can look at the evidence of Mr Lambrecht in that regard, and here I am referring to page 345 of his evidence. And in 20 fact we have attached his testimony. And I am going to translate it in to English, and please correct me if I make a mistake. And I invite the other parties to do the same. But under cross-examination by Advocate Kuny he is asked, and this is at page 345:

“On which one did you find the finger print?”

Answer:

“I found the finger print where the knot was attached at the top of the bar.”

I notice it is one finger print.

“The highest one?”

Answer:

“The highest one. It is on the same bar where the knot was attached, Your Worship.”

10 “Did you look at other cross pieces to see if there are finger prints on it?”

Answer:

“I did Your Worship. I could not find any identifiable prints. There were bars. The cell bars are not evenly smooth everywhere.”

Next question:

“I assume there are plenty finger prints contained on it.”

“There were plenty of marks on it, Your Worship. Not identifiable finger prints.”

20 Question:

“But what would have been finger prints, was it visible?”

Answer:

“It could have been finger prints had it been visible, Your Worship.”

Question:

“Did you look everywhere for finger prints or just on that cross piece?”

“No. I searched the whole cell bar, not just the cross pieces.”

Not entirely clear what he means by the whole cell bar. I suppose that is up for debate. Question:

“Did you lift any other finger prints from the cell bar?”

10 “No Your Worship. None that were identifiable. There were no identifiable prints that I could lift.”

So it seems that Mr Lambrecht is saying that he saw marks, but not identifiable prints except for the one print that he lifted. So it does not seem that Mr Lambrecht lifted a sequence of prints and then simply used the best one available. He simply used the one that he lifted. Is that your interpretation?

MR ALBERTS: Not 100 percent my interpretation. How I see it is that he lifted the print on top of the bar where he, where the knot was made. And he referred to it as a finger print. I
20 must assume that it is one finger prints. And we do not have the folien to see if there was more than one. Then they are referring to other marks. So that is how I see it, different from that finger print. Other, they talk about are there other places on the bars. I do not think they talk about on that specific piece of folien. That is just how I see it. And then he says no,

there is no other identifiable marks. But if on the other side, if there is more than one print on the folien and one of them are also identifiable, then he should have made mention of that.

MR VARNEY: Yes. One would have expected some reference to it.

MR ALBERTS: Yes.

MR VARNEY: It was put to you that on the face of the paperwork that Warrant Lambrecht prepared, that there was nothing, nothing untoward. And your answer was yes, on the
10 face of the paperwork there is nothing untoward. But I assume you still stand by your evidence about the fairly serious shortcomings that you have disclosed in your report. An approach that you would have done differently in order to do a more thorough examination.

MR ALBERTS: Of course M'Lord. I stand by that. I say that if you, if you do a finger print investigation like that and you have to testify two years later you have to have good quality notes of exactly where you find the finger prints, how it was made. In a case like this, and we can speculate about it, but if there
20 is other marks then you, it is good practice to make mention of it, where they are. So that you just do not have this finger print in isolation in the middle of nowhere and there is no reference to other finger... But that is ...[intervene].

MR VARNEY: Yes indeed. And ...[intervene].

MR ALBERTS: A critical analysis of his reports and

...[intervene].

MR VARNEY: And the other shortcomings, and you mentioned you would ...[indistinct] to climb up the grill yourself, the use of a stepladder, the use of adequate lighting, waiting for the body to be taken down. Perhaps waiting for daylight a few hours later. These are all shortcomings that in your view could easily have been addressed, given that they were in John Voster Square and the LCRC centre was in fact in the same building.

MR ALBERTS: Correct M'Lord.

10 MR VARNEY: And then finally still on the question of nothing untoward, at least from the paperwork. If one returns to your, in your scenarios to explain the, how the solitary print emerged, and forgetting about the first scenario, because that is, that is simply if in fact the police version is correct. But the other two scenarios that the finger print was placed on the bar in the place and position before the finger print expert arrives. And then the third scenario, the finger print was placed on something else and then lifted and written up as if it was lifted ...[indistinct].

20 MR ALBERTS: M'Lord, in the modern area definitely footprints and shoeprints, shoe marks will be, will be part of it. In those years they, they should have looked on the, may on the vertical, *ag*, on the horizontal bars where you step on, if there is maybe a scuffmark or something like that and make a note of it. But nowadays... But in those days footprints

comparisons was not that big, I think it was done by the dog, the dog masters in those years. And it was normally done on farms and stuff where you have 3D impressions. Nowadays definitely we would, we would have look at if... It is protocol to look not only for finger prints, but for other trace evidence, other items with potential evidential value or other transfers on the scene. Definitely M'Lord.

COURT: Yes. I am asking that, because Neil had his shoes on. And if he had climbed onto these bars himself he would
10 have at some point in trying to get up there slipped. Or in trying to get up. So that would have probably left some mark on the bar itself.

MR ALBERTS: It could have M'Lord. I looked for that on the inspection that I did and there was no clear scuffmarks from either Mr Van Heerden or myself on the bars.

COURT: There was nothing clear?

MR ALBERTS: Yes. And I think it is, it is the floor of the cell maybe that you do not transfer any other contaminants onto the bars. And maybe the paint is made in such a way or
20 painted in such a way that it is very touch, that it does not come loose. So, definitely worth looking for. If it must be there, I would not, I would not make the deduction that he did not climb on there if I could not find it. So...

COURT: Thank you. Any questions arising out of that.

FURTHER QUESTIONS BY MR MLOTSHWA: Just one

question, M'Lord. Mr Alberts, would you agree with me that it is human for a prisoner when he is inside the cell to, when he is talking to someone who is outside to hold the bars of the grill?

MR ALBERTS: Correct M'Lord.

MR MLOTSHWA: And the finger prints would be on the bars?

MR ALBERTS: If you hold the bars then there is a possibility of transfer of sweat onto the bars leaving finger prints. Yes M'Lord.

10 MR MLOTSHWA: And if you were asked to take finger prints, let us say if you are in the shoes of Warrant-Officer Lambrecht on the day, would you have taken prints on the bars that is where he could have touched while standing on the, on the floor?

MR ALBERTS: Yes M'Lord. You can later on just have something to say about it, to say if yes, there is finger prints on the bars, but in normal handling conditions he would have been able to, to leave those finger prints there. The other thing is, if there is a lot of transfer of finger prints onto the
20 bars, if you touch the bars over and over, there tends to be a layer of sweat on the bars ...[intervene].

MR MLOTSHWA: Yes.

MR ALBERTS: Which makes it almost impossible to process those bars properly.

MR MLOTSHWA: *Ja*.

MR ALBERTS: Lifting proper finger prints. Because you have now got a lot of sweat on those bars and that would typically be on the bottom bars where you will just idly stand and maybe touch the bars.

MR MLOTSHWA: *Ja*. I do not know if Warrant-Officer Lambrecht did take or did not take or look for finger prints on the bars that Doctor Neil could have touched. But what I am saying is that, would you agree with me that it will be strange not to have found if he did look for them. Not to have found
10 prints on the bars that he could touch normally and only to find a print at the top of the bar.

MR ALBERTS: Well, again like I say, there would be a lot of transfer of sweat on the bottom bars.

MR MLOTSHWA: Yes.

MR ALBERTS: But you would expect, you would expect to find other prints. Maybe not in that area where you just normally stand on the bars ...[intervene].

MR MLOTSHWA: Yes.

MR ALBERTS: But just a bit higher up would expect to find...
20 Would expect if I find a good quality finger print at the top ...[intervene].

MR MLOTSHWA: *Ja*.

MR ALBERTS: I would expect to find a good quality print a bit lower.

MR MLOTSHWA: *Ja*.

MR ALBERTS: And that is why you must process the whole bar. Even if there is not good evidential value on that specific bar or on a specific height.

MR MLOTSHWA: *Ja*.

MR ALBERTS: Remember what I said, the top of the bar good quality evidential value, lower down as you mentioned, not that good quality evidential value, because he could have made it just in the normal conversation.

MR MLOTSHWA: *Ja*.

10 MR ALBERTS: But I would expect to find like Mr Lambrecht said, there were marks. Maybe he referred to those.

MR MLOTSHWA: *Ja*.

MR ALBERTS: And a bit higher up, but in isolation at the top.

MR MLOTSHWA: I have got no further questions, M'Lord.

COURT: Thank you.

MR COETZEE: I have no questions. Thank you, M'Lord.

MR MOHAMED: M'Lord, I do not have any questions, but my learned junior has pointed out to me that in the affidavit of Brigadier Swanepoel, that is EXHIBIT B1.34, on the question of
20 shoes, seventh paragraph. And I will just read it into the record.

“Hy het vaal sokkies aangehad en blou pantoffels.”

And I understand that *pantoffels* are not shoes *per se*, but

...[indistinct].

MR VARNEY: Slops or something.

MR MOHAMED: Or slops or slippers or something to that effect. No questions. No further questions, M'Lord.

COURT: Okay. Mr Alberts, thank you very much for your evidence. You are now excused.

MR ALBERTS: Thank you, M'Lord.

NO FURTHER QUESTIONS

COURT: Really appreciated. Thank you.

10 MR MLOTSHWA: As the court pleases. M'Lord, we have got our next witness. If the court would allow us to call him now. Or I am in the hands of the court.

COURT: Yes. We said we are leaving at 1 o'clock today.

MR MLOTSHWA: That is correct, M'Lord. That is why I am saying I am in the hands ...[intervene].

COURT: How long is the witness going to be?

MR MLOTSHWA: M'Lord, I do not think he will be ...[intervene].

COURT: Who, who is it?

20 MR MLOTSHWA: No. I am not saying... I am not M'Lord, that he will be short. It is a long evidence.

COURT: No. Well, if that is the case, because I have also made alternative arrangements unfortunately, because I knew that we are stopping at 1 o'clock.

MR MLOTSHWA: Yes M'Lord.

COURT: Otherwise ...[intervene].

MR MLOTSHWA: I can hear from my colleagues, M'Lord. But from the state's side M'Lord, I can speak to the witness and explain the situation to him.

COURT: Is it a witness that has to, will not be here on Monday?

MR MLOTSHWA: M'Lord, I can speak to the witness. I am sure, it is Professor Don Voster. He is here. If the court may allow me to speak to him.

10 COURT: Okay.

MR VARNEY: M'Lord, we have an hour and our time available, half an hour is half an hour. I understand that this witness is a professor and academic. He is unconnected to the case in question. So I see no reason why we should not use the half an hour, even if we do not finish. Because next week we have a particularly busy week and I would be reluctant to ...[intervene].

COURT: Alright.

MR VARNEY: To waste the time. And the witness is here.

20 COURT: Well... *Ja*.

MR MLOTSHWA: May I then call the witness, M'Lord?

COURT: *Ja*. Okay. That is fine. So it is on the understanding that if we do not finish by 1 o'clock the witness will be available on Monday?

MR MLOTSHWA: Yes M'Lord. Yes. He is ...[intervene].

COURT: Just confirm that with him. Because I do not want him to ...[indistinct] he is not be available on Monday. Just confirm with the witness.

MR MLOTSHWA: Professor, if we do not finish you today, are you going to be available on Monday?

MR VOSTER: Preferably not, but I suppose I could juggle things around. Sorry. Could I just ask a question, M'Lord?

COURT: *Ja*.

MR VOSTER: Do we go through the afternoon or
10 ...[intervene].

COURT: No. The arrangement has been that... That is the reason why I am asking. The arrangement has been that on Fridays because of certain logistics we stop at 1 o'clock. That is why we start at half past 9 every day.

And you know, in expectation, myself also I have made arrangements to do certain things after 1 o'clock. So I am just trying to find out whether it is worth hearing your evidence now or rather start it in Monday. But I believe the 30 minutes may be sufficient. I am not sure.

20 MR MLOTSHWA: Definitely not sufficient M'Lord.

COURT: Has the witness made an affidavit?

MR MLOTSHWA: No M'Lord.

COURT: We do not have an affidavit?

MR MLOTSHWA: We do not have an affidavit. Yes. M'Lord
...[intervene].

COURT: You will be longer than an hour?

MR MLOTSHWA: It is going to be ...[intervene].

MR COETZEE: M'Lord, if I may perhaps just add. The professor has testified previously at the Timol inquest as well. So I know more or less what he is going to say. But he has got a book of research that he has to go through.

It is not going to be nearly finished in half an hour, not even in an hour. I do not foresee that it will be finished in an hour.

10 COURT: *Ja*. In all fairness Mr Varney.

MR VARNEY: M'Lord, it really is customary, particularly with a witness where there is not a crucial necessity that he or she testify at one time, and typically that would be where the witness has an emotional connection and you do not want him to bring him back.

The witness is testifying on the research and we are very familiar with his evidence, because with exception of my learned friend from the state we have heard his evidence before the Timol inquest.

20 And he is simply giving us an account of the research that he has conducted into the abuse of detainees during that time. That is all that this witness can speak about. We certainly do not have to hear about his entire book. In fact he published on multiple occasions.

We only want to hear what his main conclusions are in

relation to his research on abuse of detainees. And we have half an hour. Next week we are very busy with police officers. My suggestion is that we start and we hear what he has to say in 30 minutes. And we carry on with him on Monday morning.

COURT: It is no longer 30 minutes. We are now left with 20.

MR VARNEY: Indeed M'Lord. And the more time we spend debating it, then of course the less time we will have for his evidence.

COURT: No. We will have to find time for this witness next
10 week. No really, I really think that is not fair to cut his... I do not know what he is going to say.

MR MLOTSHWA: Yes.

COURT: To leave his evidence... In 20 minutes' time he would not have finished. So I do not think it is fair that we should do that. Professor, you will have to reschedule for another day if you are not available on Monday.

Talk to your counsel. I am sorry about that. It is just that this has been arrangement for the past two weeks. And as I say, we have also made arrangements for our ...[indistinct].
20 Otherwise they should have started with you.

MR MLOTSHWA: Thank you, M'Lord.

COURT: Thank you on that. Thank you very much. You are excused. They will reschedule you when to come if you are not available on Monday. Yes? Do you want to say something?

MR VARNEY: As the court pleases.

COURT: Okay. Very well then. At this stage the court adjourns until Monday the 17th at 09:30.

MR MLOTSHWA: As the court pleases, M'Lord.

COURT: Thank you very much. Court adjourns.

MATTER POSTPONED TO 17 FEBRUARY 2010

COURT ADJOURNS

[12:34]

10

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