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AFFIDAVIT

FRANK GODISAMANG KGAMANYANE state under oath in English:

1.

I am a warrant officer in the South African Police Service stationed at the unit Crimes against the State, Organised Crime, Directorate for Priority Crime Investigation (DPCI), General Piet Joubert Building, 218 Visagie Street, Pretoria with contact number 071 481 3671.

2.

The unit, Crimes Against the State (CATS) is mandated to investigate cases relating to the Truth and Reconciliation Committee (TRC). During May 2019, I was allocated the investigation into the death of Dr Neil Hudson Aggett who died in police custody on 5 February 1982, DPCI reference 10/06/2016. Prior to that the matter had been allocated to Captain Ben Nel of DPCI.

3

As part of my investigation I attempted to trace the original criminal case docket and original inquest record pertaining to Dr Aggett (Inquest number 139/82). During the course of my investigation I was handed a file by Dr Torie Pretorius of the Priority Crimes Litigation unit in which the following documentation was contained, handed in as per annexure **FGK 1(1-11)**

- Newspaper articles pertaining to Dr Aggett - FGK 1(1)
- Documents from Bell, Dewar and Hall pertaining to Dr Aggett- FGK 1(2)
- Supplementary Argument on behalf of the Aggett family-FGK 1(3)
- Third supplement to report by Bell, Dewar and Hall- FGK- 1(4)

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- Confidential correspondence from Bell, Dewar and Hall dated 4 October 1982-FGK 1(5)
- Correspondence from Bell, Dewar and Hall dated 31 March 1983-FGK 1(6)
- Correspondence from Raymond Tucker to Miller and Co, dated 24 May 1982-FGK 1(7)
- Affidavit of Aurette van Heerden 20 September 1982-FGK 1(8)
- Documentation from the Supreme Court in Case number 6533/82-FGK 1(9)
- Heads of Argument in case number 139/82-FGK 1(10)
- Sworn Affidavit of Petrus Arnoldus Jurgens Kotze- FGK 1(11)

4.

I was also handed two files by Adv RCM Macadam from the Priority Crimes Litigation Unit which contained the following information handed in as per annexure **FGK2(1-6)**

- A calendar for the year 1981-FGK 2(1)
- A telephone list containing the names and extensions of police officials in the WLD –FGK 2(2)
- A file marked :Directorate of Security Legislation: Aggett Neil H- FGK 2(3)
- A file marked Human Rights Violation Protocol, CT 00410- FGK 2(4)
- A file marked "Dipale EM"- FGK 2(5)
- Other documents in file – FGK 2(6)

*Some of life
detainee
file
w/o detheft.*

Also died @ JUS in detention.

5.

I attended at the John Vorster Police Station where Dr Aggett died. I was unable to trace the police docket. I attach the affidavit of Colonel Edwards of the South African Police Service pertaining to his efforts to trace the original case docket or record, handed in as annexure **FGK3**.

6.

As a result of the original inquest been held at the Johannesburg Magistrate court, I attended at the court to try and ascertain whether the original inquest record (Inquest number 139/82) was available. No record was traceable. I attach correspondence from

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the inquest clerk, Mrs Heidi Catharina Venter dated 14 October 2019 in which she detailed her effort to trace the original record, handed in as per annexure **FGK4**. The policy of the Department of Justice, dated 13 June 1986, provides for the destruction of an Inquest record after a period of ten years. I attach a copy of the disposal authority from Department of Justice, handed in as annexure **FGK 5**.

7.

During the course of my investigation, I also approached the offices of the South African National Archives to enquire as to whether they had in their possession, a copy of the inquest. Only a copy of the detainee file of Dr Aggett was received. (see paragraph 18). I also approached the legal representatives that dealt with a civil claim that was instituted by the Aggett family for assistance with obtaining the record or any information they could find to take the investigation further. No documents could be recovered. A copy of the inquest, Inquest number 139/82, was then traced and downloaded from the University of the Witwatersrand (WITS) historical papers website. The downloaded documents consists of 3707 pages of the record, as well as a detailed judgment, summary of the record, Exhibits (missing B, volumes 2 and portion of 3). Arguments and Heads of Arguments, Judgement of the High Court (Case number 6533/1982), correspondence of legal representatives as well as newspaper articles, handed in as per Exhibit A-E respectively.

8.

I attach a consolidated list of the Inquest Record of Dr Aggett, which sets out each of the volumes and the items contained in the volumes, marked annexure **FGK 6**. As stated in paragraph 7 above, a limited portion of the record is missing. Identified on the record as missing are the following:

- Item B1. Statement of Sergeant J Agenbag Page 92
- Item B2 Docket Volume 2
- Item B3.1.3 Barbara Hogan (C is missing/not submitted)
- Item B6.1 Vorster, Chari Affidavit (missing/not submitted)

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Item B7.5	West, LJ Psychosis of sleep deprivation (missing, not submitted)
Item B1	Volume 2 and 3 of Volume 1 are missing/not submitted.
Item B4.1.3	Statement of Auret van Heerden is missing/not submitted.
Item B 3.5.19	Statement by Barbara Hogan is not included.
B4.2.2	Statement by Barbara Hogan is missing, not submitted.

9.

After I had ascertained that the abovementioned documents were not available on the Website, I made enquiries with Ms Gabriele Mohale from Wits University to ascertain where the missing documents might be. She confirmed that the documents are not available because they were never submitted. The online inventory was a correct reflection of what was uploaded according to Ms Mohale. I also attempted to trace any photographs relating to the late Dr Aggett as none were reflected as been part of the inquest record. I was looking specifically for crime scene or post mortem photographs. Initially I was informed that photographs were available. I subsequently followed up with Ms Mohale but was informed that no photographs were available. I subsequently obtained four copies of Dr Neil Aggett hanging in cell 209 which are handed in as annexure **FGK7(1-4)**

10.

As part of my investigation I also downloaded and attached the following Acts/Regulations/Guidelines as per FGK 8(1-7)

- 10.1 Inquests Act 58 of 1959- FGK 8(1)
- 10.2 The Suppression of Communism Act 44 of 1950- FGK 8(2)
- 10.3 The General Law Amendment Act, 37 of 1963- FGK 8(3)

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- 10.4 The Terrorism Act, No.83 of 1967- FGK 8(4)
- 10.5 The General Law Amendment Act, 76 of 1962- FGK 8(5)
- 10.6 The Internal Security Act No. 79 of 1976- FGK 8(6)
- 10.7 Promotion of National Unity and Reconciliation Act 34 of 1995- FGK 8(7)

11.

Further, as part of my investigation, I visited the second floor cells of John Vorster Square whereafter a photo album was prepared in respect of the cell in question. The official police photographer Constable T Mothupi from the Local record Centre, Johannesburg prepared the album handed in as per annexure **FGK 9**. I also obtained the plans for John Vorster Square which was obtained from the Department of Public Works, Pretoria which I hand in as **FGK 10**.

12

As part of the investigation, I also read the following published books/articles/and reports as per annexure **FGK 11(1-4)**

No one to blame by George Bizos - FGK 11(1)

Detention and Torture in South Africa by Don Foster with Dennis Davies and Diane Sandler - FGK 11(2)

Newspaper articles handed in as FGK 11(3)

Political imprisonment in South Africa (Amnesty International Report) handed in as FGK 11(4)

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During the course of my investigation I ascertained the whereabouts of the following police officials/witnesses who were either directly or indirectly involved with Dr Aggett during his period of detention:

Cst Magezi Eddie Chauke:	contact made on 18 January 2010, will be in attendance	✓
Adonis	No surname, unable to trace.	X
W/O Charl Wynand Lamprecht	Subpoenaed (no statement submitted)	✓
Sgt Aletta Getruida Blom (Visser)	Subpoenaed (no statement submitted)	✓
Cst Daniel Hendrik Petrus Zeeley	Subpoenaed (no statement submitted)	✓
Cst John Edward Lloyd	Subpoenaed via email (no statement submitted)	✓
Sgt Michael Stephen Joubert	Unable to trace him, no profile traced	✓
Hendrik van der Merwe	Unable to trace him	X
Van Zyl	Unable to trace him, no first names	X
Cpt Martin Johan Naude	Subpoenaed (no statement submitted)	✓
Cst CJJ Smith	contact made, suffered a heart attack	X
Lt Col Roelf Johannes Venter	Subpoenaed (no statement submitted to me)	✓
W/O Nicolas Johannes Deetleefs	Subpoenaed (No statement submitted to me, advised not to submit a statement)	✓
Sgt Paul Erasmus	Subpoenaed (statements submitted in the Timol inquest as well as to the Truth and	X

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Reconciliation Commission)

14.

I have ascertained that the following police officers involved in the Dr Aggett matter, directly or indirectly, are deceased. Death certificates are handed in as Annexure **FGK 12 (1-13)**

James Agenbang	deceased	2003/07/07	FGK 12(1)
Mosoeu Paul Sehloho	deceased	2000/05/01	FGK 12(2)
Stephen Peter Whitehead	deceased	2019/04/23	FGK 12(3)
Michiel Christoffel Joubert	deceased	2011/10/03	FGK 12(4)
Andries Abraham Struwig	deceased	2014/01/25	FGK 12(5)
Daniel Dennis Mahoney	deceased	2017/04/05	FGK 12(6)
Theunis Jacobus Swanepoel	deceased	1998/07/07	FGK 12(7)
Christiaan Stephanus Scholtz	deceased	1985/12/08	FGK 12(8)
Johannes Stephanus Marais	deceased	1988/08/27	FGK 12(9)
Daniel Gert Oosthuizen	deceased	2015/04/19	FGK 12(10)
Johannes Jacobus Steyn	deceased	2001/11/01	FGK 12(11)
Andre Martin	deceased	2006/03/05	FGK 12(12)
Arthur Benoni Cronwright	deceased		FGK 12(13)

15.

During the investigation I requested a list of files of police officials from the office of Legal Services, South African Police Service. A copy of my correspondence is attached marked Annexure **FGK 13** dated 16 September 2019. This was handed to General Groenewald. Prior to that, I had consulted with Captain Dirksen on 15 August

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2019, who informed me that she had made a request to Archives where the files are kept. After not receiving the files I made a written request in which the following files were requested:

- 1 J Agenbag
- 2 NJ Deetleefs
- 3 M C Joubert
- 4 MS Joubert
- 5 CW Lambrecht
- 6 JE Lloyd
- 7 C Magoro
- 8 DD Mahoney
- 9 MG Maketha
- 10 JS Marais
- 11 A Martin
- 12 MJ Naude
- 13 DG Oosthuizen
- 14 JC Pretorius
- 15 LCP Prince
- 16 CS Scholtz
- 17 MP Sehlolo
- 18 JJ Steyn
- 19 JC Strauss
- 20 AA Struwig
- 21 TJ Swanepoel

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- 22 CH vd Merwe
- 23 SP Whitehead
- 24 DHP Zeelie

16.

Only the following files were furnished, handed in as per annexures mentioned below:

- | | | |
|---|------------------|-----------|
| 1 | MP Sehloho | FGK 13(1) |
| 2 | MS Joubert | FGK 13(2) |
| 3 | Mc Joubert | FGK 13(3) |
| 4 | CH van der Merwe | FGK 13(4) |
| 5 | MG Makthetha | FGK 13(5) |
| 6 | NJ Deetleefs | FGK 13(6) |
| 7 | MJ Naude | FGK 13(7) |
| 8 | J Agenbag | FGK 13(8) |

17.

When I received the files from Captain Dirksen, I was told of all the files, requested, only the abovementioned eight files were available. I was shown the photocopier and told to make the copies of what was contained in the files. I did so. During the time that the files were in my possession, I was not allowed to remove it from the premises. Neither did I tamper with, contaminate or destroy the file in any way. As in indicated on FGK 13, the files that could not be traced were marked clearly by Captain Dirksen as either "no record" or "no file" next to each name.

18.

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I also requested a number of files belonging to detainees/deceased persons from National Archives, Pretoria. When I approached Mr Gerrit Wagner in October 2019, at National Archives, I was informed that detainee files that I sought were requested and handed to Captain Ben Nel on 8 January 2018. I attach the correspondence wherein the below mentioned files were signed for, **FGK 14** refers. After he showed me FGK 14, I approached Captain Nel and requested he hand over the files. The following files were received by me, as was, from Captain Nel on 1 November 2019 at the offices of the Priority Crimes Litigation Unit in Pretoria. The below mentioned files are the copies of the files I received marked as follows: FGK 14(1-8)

1	Firoze Cachalia	FGK 14(1)
2	Frank Chikane	FGK 14(2)
3	Keith Coleman	FKG 14(3)
4	Ernest Dipale	FKG 14(4)
5	Alan Fine	FGK 14(5)
6	Elizabeth Catherine Floyd	FGK 14(6)
7	Barbara Hogan	FGK 14 (7)
8	Thabo Samson Leruma	FGK 14(8)
9	Eric Mntonga	FGK 14(9)
10	Ismail Momoniat	FGK 14(10)
11	Pramanathan Naidoo	FGK 14(11)
12	Shirish Nanabhai	FGK 14(12)
13	Gabriel Jabulani Ngwenya	FGK 14(13)
14	Sisu Njikelana	FGK 14(14)
15	Morris Peter Smithers	FGK 14(15)
16	Auret van Heerden	FGK 14(16)
17	Aggett, Neil H	FGK 14 (17)

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One of the main interrogators Lieutenant Whitehead died on 23 April 2019. I obtained his abridged death certificate from Home Affairs on 30 April 2019. On 14 January 2020, I went to Home Affairs, Pretoria to obtain the copy of the unabridged death certificate. I was informed by Mr Mthembu, an employee of Home Affairs, Pretoria, that this information cannot be furnished to me as this was only for the family members. The same request was made at the Home Affairs, Durban, during investigation in an unrelated matter. I was informed that this unabridged death certificate could only be furnished to family members.

During the course of my investigation, I attempted to make contact with witnesses who might be able to assist with the investigation. I consulted with Mr Paul Erasmus, a former special branch police official who testified at the Truth and Reconciliation Commission (TRC) about the breaking into and entering into the home of Dr Aggett's parents. During my consultation with Mr Erasmus I received a number of documents on 5 December 2019, including a photograph (marked 392 82 on the reverse side of the photograph) handed in as Annexure **FGK 15**. I also received a reel of tape, from Mr Erasmus. He advised that the reel was used in a Nagra spy tape machine, which was issued to the special branch to record conversations, secretly. Mr Erasmus alleged that he might have recorded a conversation with one of the chief interrogators Lt Whitehead and that the reel might contain valuable evidence regarding Dr Aggett. I seized the reel on 5 December 2019 and sealed it in evidence bag PAD002078762. I attempted to obtain the use of the Nagra machine to ascertain the value of the evidence but was unable to. Presently arrangements are being made to source a Nagra Machine domestically which has proved challenging. We await confirmation as to whether the Nagra machine is available domestically or not. I also contacted a number of audio laboratories and informants to ascertain whether they had in their

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possession the Nagra machine. Despite, initial promising leads, I could not secure a machine domestically. The reel remains in my possession, sealed and untampered with.

21.

I also consulted Professor Aziz Haroon, a detainee and a former MK strategist who will during his evidence shed light on systematic torture by special branch members in other provinces, detention, security legislation etc.

22.

During the course of our investigation and in May 2019, we ascertained that Mr Aurette Denis van Heerden was alive and was residing overseas. Mr van Heerden was a fellow detainee of Dr Aggett. Contact was made, via email and despite making contact with us, we have not heard from him again.

23.

I also attach a list of the number of documented detainees that had died in whilst in detention within the South African Police Force marked **FGK 16**. I also secured original newspaper articles surrounding the death of Dr Aggett as part of my investigation.

24.

I also ascertained that there are number of witnesses/police officials are also alive and will be present in court or submit evidence by way of affidavits through the legal firm of the late Dr Aggett.

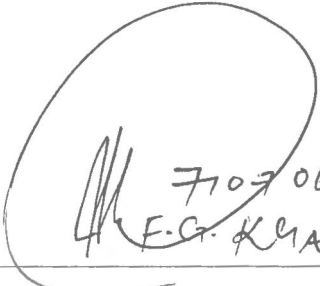
25.

I also downloaded from the SAHA website the following records of the hearings at the Truth and Reconciliation Commission marked **FGK 17 (1-9)**

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Roelof Jacobus Venter	Amnesty application AM 2774/96 –FGK 17(1)
Wikus Johannes Loots	Amnesty application AM 4149/96- FGK 17(2)
Gideon Jacobus van Zyl	
Johannes Albertus Steyn	
Christoffel Johannes Smit	
Isak Johannes Marais	
William Charles C Smith	
Daniel Johannes Niewenhuis	
Phillip Rudolf Crause	
Paul Francis Erasmus, Eric	Amnesty application AM 4158/96
Goosen and Gary Leon Pollock	3690/96,2538/96- FGK 17(3)
Paul Francis Erasmus	Amnesty application AM 3690/96- FGK 17(4)
William Charles Cecil Smith	Amnesty application AM 5469/97-FGK 17 (5)
Elizabeth Floyd	Submissions- FGK 17(6)
Dr Coleman	Special Hearings- FGK 17(7)
The Judiciary	27 October 1997- FGK 17(8)
Charles Alfred Zeelie	Amnesty Application AM 3751/96- FGK 17(9)

That is all I wish to state.


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 F.G. KGAMANYANE

FRANK GODISAMANG KGAMANYANE

2020 - 01 - 20



- I hereby certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at Pretoria on the 27th day of November 2018, the regulations contained in Government Notice No. R 1258 of 21 July 1972, as amended, and Government Notice No. R 1648 of 19 August 1977, as amended, having been complied with.


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