

TRUTH AND RECONCILIATION COMMITTEE

AMNESTY HEARING¹

HELD AT: PRETORIA

DATE: 01-09-1998

NAME: SCHALK JAN VISSER

LEON VAN LOGGERENBERG

JOHAN VELDE VAN DER MERWE

MBEKI NKOSI

DAY 1

CHAIRPERSON: Welcome back after this long adjournment in this matter. We were about to start leading the evidence, Ms Van der Walt of your client. Are we ready to proceed on that basis now?

MS VAN DER WALT: Yes.

CHAIRPERSON: Thank you.

MR VISSER: Mr Chairman, without intending to interfere, I think I do owe you a report back on the ruling which you made regarding the documents.

CHAIRPERSON: Yes.

MR VISSER: It is a very brief report back. It had led to the discovery of some documents. They are bound by my learned friend, Mr Steenkamp, into what is called Bundle 5 or volume 5 and a further volume which is not marked yet, but should be marked volume 6, which contains the Occurrence Book of Roodepoort police station, was discovered by my learned friend's Investigation Unit and they are now before you. That is basically just to round it off, just a short report back.

CHAIRPERSON: Thank you very much Mr Visser. Before we proceed, I have been informed by the sound technician that we've got some new microphones here and they only work on the basis that there is one microphone on at a time, so when you are finished speaking, if you could push the stop button to allow the next person to speak.

MR STEENKAMP: Mr Chairman, I am sorry to interrupt again. Can I just add on that point, if you would allow me a second, the original documents which were obtained from the Police

¹ Source: https://www.justice.gov.za/trc/amntrans/1998/98060109_pre_3bopape1.htm

are all available here, I have them in my possession for perusal and inspection. This is now documents which was contained in Bundle 5.

CHAIRPERSON: Thank you Mr Steenkamp. Yes, Ms Van der Walt, if Mr Erasmus can then proceed.

MS VAN DER WALT: Mr Chairman, then I call the applicant, Brigadier Visser.

SCHALK JAN VISSER: (sworn states)

EXAMINATION BY MS VAN DER WALT: Brigadier, your amnesty application is contained in volume 1, from page 155 to page 167 and you confirm the contents of that, is that correct?

MR VISSER: That is correct Chairman.

MS VAN DER WALT: Brigadier, you were born on the 12th of December of which year?

MR VISSER: No, I was born 12th of January 1939.

MS VAN DER WALT: I am not sure if the Commission has a very clear print of your birth date, in my volume it is not very clear.

CHAIRPERSON: 12th of January 1939.

MS VAN DER WALT: Brigadier, when did you join the Police?

MR VISSER: The 4th of February 1958 I joined the South African Police Mr Chairman.

MS VAN DER WALT: When did you leave the Police Force?

MR VISSER: 31st of November 1991 or 1992, I am not quite sure, 1991.

MS VAN DER WALT: When you left the Police Force, what was your rank?

MR VISSER: I was a Brigadier in the South African Police Force.

MS VAN DER WALT: During your career did you ever work, did you ever do border service?

MR VISSER: That is correct.

MS VAN DER WALT: When?

MR VISSER: Since 1968 I was there on a temporary basis, and in 1969 on a five year basis on the Northern border, on the Zambian border.

MS VAN DER WALT: What was the purpose why the Police had people there?

MR VISSER: In order to prevent the infiltration of trained terrorists into the country. And also to prevent them from doing sabotage and crimes.

MS VAN DER WALT: After you had done the border service, where did you go then?

MR VISSER: I was transferred back to John Vorster Square, where I was, I was there for a few months and then I went to Soweto where I served further.

MS VAN DER WALT: What type of service did you do in Soweto?

MR VISSER: I was Commander of the Security Branch in Soweto.

MS VAN DER WALT: And the purpose of the Security Branch during that time, can you just describe that to us please and that which you have done there?

MR VISSER: It was to secure internal security and to investigate any subversive deeds against the State.

MS VAN DER WALT: After you were in Soweto, where did you go then?

MR VISSER: I went to the Eastern Transvaal, currently known as Mpumalanga as Commander of the Security Branch.

MS VAN DER WALT: Were you there until you retired from the Police?

MR VISSER: No. The end of 1988 I was transferred to the Police Headquarters in Pretoria where I was round about four years before I retired.

MS VAN DER WALT: Brigadier, in your career, did you have a lot to do with terrorist attacks?

MR VISSER: Yes, several cases. I was involved in terrorist activities, land mines, etc.

MS VAN DER WALT: Can you tell the Committee what the situation was during that time and just briefly explain it to them?

MR VISSER: I would describe it that there was a total onslaught by forces from abroad on South Africa, in order to undermine the local government and if possible, to take over the country with violence.

MS VAN DER WALT: Did you experience terrorist attacks personally?

MR VISSER: Yes, while I was on the Northern border, 1969 I investigated 65 land mine cases and I was also there to clear up after a land mine exploded. For example I had to gather the bits of policemen after the bomb had exploded and I had to send it back to the families in South Africa. There were also times when part of the bodies couldn't be found. It was buried on the scene of the crime.

MS VAN DER WALT: In the Eastern Transvaal, you did service there. Did you also have to do with terrorist attacks?

MR VISSER: Yes, several sabotage attacks, land mine incidents and also trained ANC members who entered the country from Swaziland and Mozambique.

MS VAN DER WALT: On the 12th of June 1988, you were contacted by Gen Erasmus is that correct?

MR VISSER: That is correct, Mr Chairman.

MS VAN DER WALT: Can you tell the Honourable Committee what happened?

MR VISSER: It was early in the evening on the Sunday when Gen Erasmus phoned me and he told me that he was experiencing a crisis and that I should be of assistance to him, concerning the destruction of a package.

I asked him if it was necessary for me to be of assistance, and he said yes, he expected that of me. Then I accepted that the aspect must have been reported further and I told him that I was willing to help him.

MS VAN DER WALT: Can you just tell the Committee, at that stage, Gen Erasmus, to which Department did he belong and exactly which rank did he have, was he the senior or just explain the situation to us?

MR VISSER: Gen Erasmus was the Department Commander of the Witwatersrand and he was also my senior at that stage.

MS VAN DER WALT: Could Gen Erasmus at that stage, give you instructions to do certain things?

MR VISSER: Yes, he was in power to do that.

MS VAN DER WALT: Brigadier, you say that Gen Erasmus spoke of a package. Can you just tell the Committee what did you understand he meant by package?

MR VISSER: It was a very sensitive issue, he spoke cryptically and I accepted when he spoke about a package, that it had to do with a person who was questioned or detained by the Security Branch.

MS VAN DER WALT: You say that he spoke cryptic, why?

MR VISSER: Cryptic because you don't speak about such a sensitive issue on the telephone.

MS VAN DER WALT: Did you know that this package had something to do with the Security Branch?

MR VISSER: I accepted that because of the fact that the Security Branch in general only dealt with the onslaught against South Africa, meaning activists and terrorists and they paid attention to those people.

MS VAN DER WALT: You testified that he expected of you to help him. What else did you discuss and what else did you do next?

MR VISSER: He also told me that Captain Van Niekerk would contact me and that happened.

MS VAN DER WALT: You can continue.

MR VISSER: When Captain Van Niekerk phoned me I told him that on the Bronkhorstspuit/Pretoria Road, underneath the bridge, I will meet him there in order to pay attention to the aspect they wanted me to help them with.

MS VAN DER WALT: What did Captain Van Niekerk tell you when he phoned you?

MR VISSER: He asked me where the place was and he didn't say anything else. He just asked me if Gen Erasmus phoned me and I told him where I would meet him and we discussed a rendezvous.

MS VAN DER WALT: You can proceed, what happened after that.

MR VISSER: After he phoned me, I spoke to, I contacted by phone Van Loggerenberg and I told him that John Vorster Square phoned me and told me that they were experiencing a crisis and that we would have to help him in order to solve the problem.

I also asked him to accompany me with his own vehicle and then we went to the rendezvous, which was on the Bronkhorstspuit Road.

MS VAN DER WALT: Was there any reason at that stage why you told him to come with his own vehicle?

MR VISSER: I told him to take his own vehicle concerning the fact that I had other duties to fulfil.

MS VAN DER WALT: You can proceed, what happened next?

MR VISSER: We waited for about half an hour at the designated place and whilst we were waiting there, we were not sure about what was going on but we spoke about it.

We thought that it would be something to do with John Vorster Square. Colonel Van Niekerk arrived half an hour after we arrived there, they were in two vehicles. He was in the first vehicle. He got out and he came to me and he told me that he was in possession of a body of a person who died during questioning.

After I heard these facts, I went to Captain Van Loggerenberg and told him to organise, to make arrangements that the specific body should be transferred into his vehicle. We then turned off the Bronkhorstspuit Road at an exit not far from there and at the side of the road, they did the necessary transfer.

MS VAN DER WALT: Were you present when the body was transferred?

MR VISSER: I was never present then, I stayed on the highway. At no stage did I see the body that was brought by Van Niekerk.

MS VAN DER WALT: After you have learnt that it was a body, did you give any further instructions to Captain Van Loggerenberg?

MR VISSER: I gave him no specific instructions, except that he must proceed and he must destroy the body.

MS VAN DER WALT: You can continue, what happened next?

MR VISSER: After the body was transferred, both of us left. I went back to Middelburg on the Witbank Road and he went on.

MS VAN DER WALT: Did you speak to any of the other two people who were at the vehicle, did you see them?

MR VISSER: I didn't speak to anybody else except Colonel Van Niekerk, but I saw Zeelie close to the vehicle in which they were driving and the other people didn't get out of their car, I do not know who those people were.

MS VAN DER WALT: After Van Loggerenberg transferred the body into his car, did you speak to him again that same evening?

MR VISSER: Negative, no, I didn't speak to him again.

MS VAN DER WALT: When did you see him the next time?

MR VISSER: The Monday morning he came and reported to me and said that the mission was completed successfully and that he was in the vicinity of Komatipoort.

MS VAN DER WALT: Didn't you ask for any other detail concerning how he got rid of the body?

MR VISSER: I didn't ask for any detail Chairman.

MS VAN DER WALT: Brigadier, did you know who the body was, the deceased person was?

MR VISSER: No Chairman, I didn't know at all.

MS VAN DER WALT: When did you for the first time learn that it was Stanza Bopape?

MR VISSER: It was the last bit of 1996, just before the first cut off date of the amnesty applications. I was told by my legal representatives that it was Stanza Bopape, that is when we visited the legal representatives in order to apply for amnesty.

MS VAN DER WALT: Why did you ask Captain Van Loggerenberg to help you?

MR VISSER: I knew Van Loggerenberg for a very long time, even before I took over control in the Eastern Transvaal and I thought I could trust him.

MS VAN DER WALT: Why didn't you ask for further detail concerning what exactly happened to the body?

MR VISSER: His function within the Security Branch was on a need to know basis. The less detail was known, the better it was. I also wanted to forget the whole issue as quickly as possible, because it was against my principles to have done something like that.

MS VAN DER WALT: Brigadier, it was said to the Committee that there were faxes or written correspondence amongst different department of the Security Branch within the South African Police, which was circulated so that all the Branches should know of the activities taking place.

If a mock escape happened, concerning a person who was kept under Section 29, would you have known about that?

MR VISSER: I believe all Branches would have been informed, including my own Branch.

MS VAN DER WALT: So if there was written correspondence or notice that Stanza Bopape escaped after he was detained under Section 29, did you ever think that this might have been the person whose body you got rid of?

MR VISSER: At no stage did I bring the two into connection, the incident and also the escape because at that stage a lot of people were detained and also a lot of people escaped. I just thought it was a **bona fide** escape.

MS VAN DER WALT: No further questions.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

CHAIRPERSON: Thank you Ms Van der Walt. Mr Prinsloo, do you have any questions?

CROSS-EXAMINATION BY MR PRINSLOO: Brigadier is it correct that during your service, the time of your service in the Eastern Transvaal, there was a great onslaught by the ANC for example land mines that exploded in the rural areas and on farms where black people were killed at Davel and Volksrust, Breyten, Carolina and in the Lowveld?

MR VISSER: That is correct Mr Chairman, there were several

incidents where land mines exploded, where farm workers were killed, school children and women were killed. It was a big problem that we had.

MR PRINSLOO: Is it true that this was on a warfare scale, these terrorist activities?

MR VISSER: Yes, it was on an intensive scale and it needed constant attention from the Security Branch.

MR PRINSLOO: Is it correct that many of these incidents did not happen on the border, but in the rural area like Breyten, Volksrust and Carolina and in the Lowveld?

MR VISSER: That is correct. Many of these incidents happened on the farm roads, far from the international border.

MR PRINSLOO: Thank you Chairperson.

NO FURTHER QUESTIONS BY MR PRINSLOO.

CHAIRPERSON: Thank you. Mr Visser, do you have any questions?

CROSS-EXAMINATION BY ADV VISSER: Only one Mr Chairman. Mr Visser, you were asked by Adv Van der Walt if Erasmus had authorisation to give you instructions.

This call the Sunday of the 12th of June, did you see this call as an instruction or a request?

MR VISSER: He was my senior, he had authorisation to give me instruction. To an extent I would see this in the light of the deduction I made, that it was reported to me, I did see it as an instruction.

ADV VISSER: Mr Erasmus tells me that he remembers that it was a request. Not that there is much about it, but I just want to put it that way.

MR VISSER: It is possible, it could be interpreted as a request.

ADV VISSER: Mr Chairman, I have no further questions, thank you.

NO FURTHER QUESTIONS BY ADV VISSER

CHAIRPERSON: Thank you Mr Visser.

ADV DE JAGER: Mr Visser, is there a difference if a General requests something of you or instructs you?

CHAIRPERSON: Are you asking Adv Visser or the witness Visser?

MR VISSER: Well, the Commission is looking at me, so I think I will have to field this one Mr Chairman. This is play with words, that is not of importance here, I just wanted to put it here for completion. It was just from Mr Erasmus' side and I wanted to know if this concurs with what Mr Visser has said, but there is nothing about it any further.

CHAIRPERSON: Mr Rautenbach, are there any questions?

MR GCABASHE: Sorry, just to follow up on that, in terms of your obligations though as a policeman, a request you don't have

to react to and an instruction, you would. That is where the difference would come how you react to that thing, to that instruction or request.

MR VISSER: I've missed part of the question, I did not hear it because of amenities that we have here, can the question be repeated please?

MS GCABASHE: Simply to ask that in terms of your reaction as a senior police officer, there is a difference between a request and an instruction in that you don't have to react to a request. You know in terms of your obligations, whereas an instruction says I am compelling you do to a particular thing.

That is where the difference would come between your interpretation of this as a request or an instruction.

MR VISSER: There is a difference between an instruction and a request, but if it comes from a senior member and you are aware of the circumstances under which this request is given, but you would give attention to it even if it is a request.

CHAIRPERSON: Mr Rautenbach?

CROSS-EXAMINATION BY MR RAUTENBACH: Thank you Mr Chairman. Mr Visser, at any previous stage, did you carry out a similar operation with Mr Van Loggerenberg?

MR VISSER: No Mr Chairperson.

MR RAUTENBACH: As far as it concerns you, this was the first instance where Van Loggerenberg was involved with the destruction of a body?

MR VISSER: As far as I know, yes.

MR RAUTENBACH: Mr Visser, would it be correct of me to say that you, concerning yourself, Van Loggerenberg had no experience or skills to get rid of a corpse?

MR VISSER: I could not agree with you, I saw him as a trustworthy and responsible person and I believed that he would be able to do such.

MR RAUTENBACH: My point Mr Visser is the following, as far as it concerns Van Loggerenberg, you did not know or you did not have knowledge if he had the necessary skills to destroy a corpse?

MR VISSER: I knew him as a responsible and trustworthy person for many years, and in the light thereof I requested him to assist me.

MR RAUTENBACH: Mr Visser, you were under the impression I assume at that stage, that that would be the first time that Van Loggerenberg would destroy a corpse?

MR VISSER: That is correct.

MR RAUTENBACH: At that stage Mr Visser, did you have knowledge of the existence of Vlakplaas, is that correct?

MR VISSER: That is correct.

MR RAUTENBACH: You also had knowledge of the type of operations that Vlakplaas carried out?

MR VISSER: Yes, I was aware of an operation that they did.

MR RAUTENBACH: At no stage, I am just asking Mr Visser, when this conversation took place, in the sense of didn't you ask Mr Erasmus if it would be better to use Vlakplaas instead of using my people?

MR VISSER: I did not mention the name Vlakplaas to him. I just asked him if it was a matter in which I would be of assistance.

MR RAUTENBACH: Mr Visser, did it not make sense to discuss with Van Loggerenberg how he would dispose of the particular package?

MR VISSER: No, I did not prescribe to him and I accepted that he had the necessary ability to do it.

MR RAUTENBACH: This instruction came from, as you said a senior, from the General, is that correct?

MR VISSER: Yes, the request originally came from Gen Erasmus.

MR RAUTENBACH: And he trusts you now to handle a very sensitive matter, is that correct?

MR VISSER: That is correct.

MR RAUTENBACH: On your testimony, what was asked of you, you just delegated it to Van Loggerenberg and turned your back on it?

MR VISSER: That is not correct. A person that was known to me and I approached him, he was trustworthy and responsible and I did not publicise everything, the information that I have.

MR RAUTENBACH: I would assume you knew at all times that if there was a fault here with the disposal of the package, that you would be embarrassed?

MR VISSER: That is correct. I was aware of the risk that was at hand here.

MR RAUTENBACH: And in those circumstances, didn't you think about it at least to get enough information from Van Loggerenberg so that you would be reassured that the task would be completed?

MR VISSER: No, I was satisfied that he would manage.

MR RAUTENBACH: How did you feel in the sense that you knew that you asked Van Loggerenberg to do something that was highly illegal, how did you feel about this?

MR VISSER: I was uncomfortable with it, it was against my principles to do something like this, it was illegal. In the light of the circumstances, concerning the country's security, I was willing to do it and I accepted that he would also be willing to be of assistance.

MR RAUTENBACH: Concerning Van Loggerenberg, did you request of him or did you instruct him to dispose of this body?

MR VISSER: In this matter I was his Commanding Officer. Although it was a request, I meant it as a request, but he might have interpreted it as an instruction.

MR RAUTENBACH: As far as you are concerned, Van Loggerenberg would probably have seen this as an instruction from you?

MR VISSER: I would accept this.

MR RAUTENBACH: I just wish to refer you to an article or an incident that happened under Article 29.

ADV DE JAGER: It is Section 29 of the Truth and Reconciliation Act not the Security Act?

MR RAUTENBACH: That is correct Mr Chairman. I refer to page 549 of those proceedings, it is Volume 2. Let's go back to the previous page, page 548 at the bottom of the page.

The following was asked of you, so it was killing at all costs and the answer was defend your country at all costs and counter fire with fire, fight fire with fire.

Before I continue Mr Visser, you must remember that that testimony of yours was given in Afrikaans and it was translated, that is why if you read it now, would you agree that that was a correct version of what you said at that time?

As far as I have read now, are you satisfied with what was read to you?

MR VISSER: Yes, the urgency and the responsibility that was on me, I did sketch it in this manner.

MR RAUTENBACH: Mr Visser then you were asked by the Chairperson, how do you feel about the fact that the politicians do not in fact take responsibility and your answer was I think it is pathetic. It is my conviction that a climate had been created and I believe that the politicians should take responsibility for trends and a milieu that they had created in that view, in view of that they should take responsibility.

Firstly I wish to know of you, do you agree with this, that this is what you said during those proceedings?

MR VISSER: That is correct. I did testify to that.

MR RAUTENBACH: I refer you to the specific quotation, what did you mean by that that you thought it was pathetic?

MR VISSER: I meant that to accept responsibility for where members of the Security Branch put their lives on the line and to maintain the security of the country, they had to accept the responsibility and would render protection to members if there were problems originating from this.

MR RAUTENBACH: Was your perception then afterwards that the politicians did not give the necessary protection to the foot soldiers?

MR VISSER: That is my perception of that time.

MR RAUTENBACH: Those politicians you refer to, if I look at the amnesty applications, it seems the politicians you refer to is mainly the National Party, is that correct?

MR VISSER: That is correct.

MR RAUTENBACH: You also mentioned, I refer to page 556 there is a question I wish to read out, the question and the answer and I would ask you if this is a correct version of what happened there.

The question that was asked was what was the highest rank or even higher than the police cadre which from your own experience and knowledge, you would have said that man would have known that we were committing illegal acts as part of the struggle or our struggle. Your answer was well, I do not think I am capable of pointing out a particular person. I believe that if politicians were worth their money, they would have been able to know about this, so I cannot point at a particular person.

Firstly, the contents of that, is that what you said, are you satisfied that that is the correct version of the conversation that took place during the Section 29 procedures of the Reconciliation Act, would you agree with that?

MR VISSER: Broadly, that is what I testified.

MR RAUTENBACH: What did you mean with the statement that if the politicians were worth their money, they would have been able to know about this?

MR VISSER: What I meant by this is that they were so intensely involved with the fight against the onslaught, then they would have had deeper knowledge of what had happened.

MR RAUTENBACH: After that question of yours, can I make the following statement then, that you are of the opinion at this stage the so-called foot soldiers, the people who had to do the work, that appear in forums like these while you are of the opinion that the politicians turn their backs on these people and do not accept responsibility for what had happened, is that what you are trying to say?

MR VISSER: I would expect that a certain amount of responsibility should be taken by the Police in the spirit of the total onslaught which was taking place at that time.

MR RAUTENBACH: Just in case it is perception that you are not understanding correctly, you also said in your main evidence that there were forces from abroad which was launching an onslaught on South Africa, is that what you meant or do I understand that you accept that it was mostly people internal, who then went abroad and then came back to commit acts of terror?

MR VISSER: Yes, it was residents of South Africa, citizens of South Africa who left the country and then got training in places like Russia, East Germany and China and then they returned in order to launch a military violent assault on South Africa.

MR RAUTENBACH: Mr Visser, on page 534 of the Section 29 proceedings, there was talk of - or rather 534 it was asked to you, you were asked and you are half way through the page, you can see there is a question asked there, once again I am going to read the question and the answer and I would like you to confirm that that is a true version of what happened.

Where such a particular incident around the Bopape incident was concerned, is this the only event of its nature that you were involved in and the answer no, I was involved in another incident of a similar nature myself, where I was requested by another. This is the only one where another department approached me, where I was not involved myself.

Is that round about a true, correct version of what you answered?

MR VISSER: Yes, that is correct, except the second last line. You can't have department but rather another section of the Security Branch.

MR RAUTENBACH: Mr Visser, if you speak of a similar incident what exactly were you referring to, which incident of similar nature were you referring to?

MR VISSER: I made mention of it but I already applied for the specific incident and it is in my amnesty application Mr Chairman.

MR RAUTENBACH: I don't want to ask you too much concerning that issue, but when this incident did take place, did you have experience concerning the removal or disposal of a body?

MR VISSER: No, I had no experience or training concerning that issue.

MR RAUTENBACH: What did you mean, because we said the word is used in the Section 29 proceedings as well here today, in your evidence that you make mention of destroying of the body. What did you have in mind?

MR VISSER: What I meant by that is that the body should be disposed of, destroyed so that it cannot be traced again or it cannot be found again in the future.

MR RAUTENBACH: Mr Visser, I would also then like to ask you what would you have done if you were contacted by Gen Erasmus or even the then Commissioner and you were specifically asked what did you do, how exactly did you adhere to this instruction?

MR VISSER: I would not have been able to answer him. I would have told him that I made use of Captain Van Loggerenberg and I have no detailed knowledge of exactly what happened.

MR RAUTENBACH: So your answer is then that you said I got an officer lower in rank than myself and I gave him the package and I know of nothing?

MR VISSER: Broadly that is what I would have reported yes, Mr Chairman.

MR RAUTENBACH: You also laid emphasis on the so-called situation of the need to know principle. Is that correct?

MR VISSER: That is correct. We worked on a need to know basis within the Security Branch.

MR RAUTENBACH: I don't understand Mr Visser, for what reason would Colonel Van Niekerk have told you that the man had died in detention, he didn't need to tell you that?

MR VISSER: He had to explain some way or another what the circumstances were, and what happened.

MR RAUTENBACH: That is difficult for me to understand. As I understand it, looking at this need to know principle, then these guys who dropped the body off, they know of nothing and they also don't want to know, is that correct?

MR VISSER: That is correct.

MR RAUTENBACH: Then when you are asked why you would not learn exactly what happened or how the body would have been destroyed, you say that the less I know the better, because we work on a need to know basis.

MR VISSER: I was not further interested in it, because when Captain Van Loggerenberg reported to me and he said that he had completed it successfully, I didn't want to know anything else about it.

If there were investigations afterwards, I would not have been exposed to this or I would not have been able to contribute to it any further.

MR RAUTENBACH: When you saw Van Niekerk at the scene where the body now was brought, we are talking about the situation next to the road, the Bronkhorstspruit Road, did you not ask him where did this body come from?

MR VISSER: I knew it came from John Vorster Square.

MR RAUTENBACH: Did you ask him what happened, how did this man die?

MR VISSER: I did not ask him, he told me that the man died during detention or questioning.

MR RAUTENBACH: So this bit of evidence, if it was that none of the members were interested in what the other ones did on the basis of need to know, then I must tell you that I find it inexplicable that he would have told you the man had died during questioning. If the need to know basis was properly adhered to, this would not have happened?

MR VISSER: No, I cannot agree with you Mr Chairman. It is completely normal, he didn't make it generally known, he only told one person what happened and I was that person.

MR RAUTENBACH: I just want to ask you with regards to the whole question of your application for amnesty, it seems that Van Loggerenberg approached you and told you that he wanted to apply for amnesty, is that correct?

MR VISSER: Yes, he approached me after we had a meeting here in Pretoria Mr Chairman.

MR RAUTENBACH: So he approaches you, where were you when he approached you?

MR VISSER: I was already retired and I was in Middelburg.

MR RAUTENBACH: And he came and saw you and told you that he wanted to apply for amnesty concerning this package incident which happened in 1989 or 1988?

MR VISSER: That is correct yes. After we both attended a meeting which was led by Gen Van der Merwe, the Commissioner and during which the workings of the TRC and the Amnesty Committee was explained to us, and Gen Van der Merwe told the members of the Security Branches that they should each decide personally if he was going to apply for amnesty and if he thought that he made himself guilty of some crime in the past.

MR RAUTENBACH: Mr Visser, what I understand from this is that Gen Van der Merwe had a meeting with old members of the Security Branch and also some serving members and he explained how the amnesty process worked?

MR VISSER: That is correct Mr Chairman.

MR RAUTENBACH: Afterwards, you had a discussion with Van Loggerenberg, is that correct?

MR VISSER: That is correct Mr Chairman.

MR RAUTENBACH: During this discussion, mention was made of the package or the body that had to be destroyed, and Van Loggerenberg as I understand it, told you that he wanted to apply for amnesty concerning that incident?

MR VISSER: The incident we were dealing with here, came to be mentioned and he said that he wanted to apply for amnesty and I said that is fine, I will do it with you because at that stage I was your Commanding Officer.

MR RAUTENBACH: There is one aspect here which I just want to clarify and that is you are here with Van Loggerenberg and he wants to apply for amnesty, but there is one problem. He knows it is concerning a body that was disposed of, but he is not sure who it was, is that correct?

MR VISSER: That is correct.

MR RAUTENBACH: You showed in your evidence that at the scene of the crime you spoke to Van Niekerk and you

also saw Zeelie at the scene, is that correct?

MR VISSER: I saw him at a vehicle they were travelling in, at a distance, but I was only speaking to Van Niekerk.

MR RAUTENBACH: Was there no effort made after you had spoken to Van Loggerenberg regarding the amnesty and also concerning the fact that Van Loggerenberg wanted to apply for amnesty, not to make contact with Van Niekerk or Zeelie and then to ask them, that person we disposed of for you, can you just tell us who that person was so that at least we know in terms of who we should apply for amnesty for?

MR VISSER: I didn't make contact with anybody, it also wasn't necessary because when I approached my legal advisers, they told me who this person was. There was no need to try and learn what the name of the person was.

MR RAUTENBACH: When you came to them you said I do not know what the name of the person was, but we disposed of a person in Bronkhorstspuit and this person came from John Vorster Square and we disposed of this body, is that correct?

MR VISSER: I believe that is correct and at that stage my legal representatives also represented other members of the Force.

MR RAUTENBACH: So your version is that when you said that, then your legal advisors came and said oh, that was Stanza Bopape?

MR VISSER: That was the first time I learnt who the person really was Mr Chairman.

MR RAUTENBACH: Before you had this discussion with your legal representatives, you were not in contact with any other members of the Security Force, not Zeelie or any of the others?

MR VISSER: No, I was not Chairman.

MR RAUTENBACH: In your evidence you indicated that on the Sunday with regards to this package and when you were told by Erasmus that there was a crisis, you said in your evidence that you accepted that the issue was further reported, that was when Erasmus spoke to you?

MR VISSER: That is why I asked him the second time, if it was really necessary that I should be of assistance and then because I trusted him, I accepted the fact that when a person dies in detention, he just can't be left alone. There has to be further reports on that, to a higher authority.

MR RAUTENBACH: Who did you think was the higher authority? We know you said you did something which was against your principles, which higher authority did you accept would have known about this?

MR VISSER: I would have accepted that at least the Commander of the Security Branch who was at Head Office and who was his senior and who was in Head Office, he would have known about this, the Commissioner.

MR VISSER: I see you used the word at least, so you would have expected there might have even been, authorisation might even have come from higher up?

MR VISSER: I cannot tell you who gave what instructions, that was the deduction I made after he had asked me to help him.

MR RAUTENBACH: If the Committee would just bear with me for a moment.

CHAIRPERSON: Would this be a convenient time to take the tea adjournment, I see it is just passed eleven and then you can consider what further questions you want to ask.

MR RAUTENBACH: It will be Mr Chairman.

CHAIRPERSON: We will just take a short adjournment.

COMMITTEE ADJOURNS

ON RESUMPTION

SCHALK JAN VISSER: (still under oath)

CROSS-EXAMINATION BY MR RAUTENBACH: (continued) Mr Visser, if we look at the situation that you were confronted with that particular evening, you received a call to help with a package and afterwards when you arrived at the scene, you hear that this package or body was a person who died during questioning, is that correct?

MR VISSER: That is correct.

MR RAUTENBACH: The first time when you were informed that it was a package, at that stage did you know that it was probably a body?

MR VISSER: I made the inference that it was when Gen Erasmus called me, yes.

MR RAUTENBACH: Could we accept then that at that stage you did not know, let's get to the stage where the corpse was handed over and you gave the instruction to Van Loggerenberg to dispose of this body. I just want to find out from you if you could confirm the following, at that stage you did not know whether the corpse was the corpse of a white or black person?

MR VISSER: Not at that stage.

MR RAUTENBACH: You would have discovered this in 1996, eight years afterwards?

MR VISSER: That is correct.

MR RAUTENBACH: You also did not know if this particular corpse, of what organisation this person was?

MR VISSER: I did not know precisely from what organisation this person was, but I made the inference that it was in connection with acceptable activities and the investigations done by the Security Branch.

MR RAUTENBACH: All that was said to you was this was a person who died during questioning?

MR VISSER: That is correct.

MR RAUTENBACH: It was left to you to make your own inference about what type of person that was?

MR VISSER: That is correct.

MR RAUTENBACH: For example, you did not know if this particular person was a person who was involved with ANC activities?

MR VISSER: No, I had no specific detail about this.

MR RAUTENBACH: You did not know whether this person was possibly with PAC activities?

MR VISSER: That is correct.

MR RAUTENBACH: For all you knew, this person could have been a far ultra right?

MR VISSER: That was possible.

MR RAUTENBACH: This person's role in the political organisation, you had no knowledge of what it was?

MR VISSER: No, not at that stage.

MR RAUTENBACH: Let's assume this person was a person that was knocked over by a police officer with his car and it was asked of you to dispose of the body, you would have still proceeded with it because you would have thought it was concerning security?

MR VISSER: No, I would not have accepted it as such if Gen Erasmus and Colonel Van Niekerk did not contact me, I would not have handled it in this manner.

MR RAUTENBACH: You did not ask any questions about what role this person had or what this person was, where was he involved, whether he was involved with terrorism?

MR VISSER: No, I did not ask any questions and as you mentioned previously, it was on a need to know basis.

MR RAUTENBACH: The instruction that you received was an illegal instruction, correct?

MR VISSER: That is correct Mr Chairperson.

MR RAUTENBACH: In spite of the fact that it was an illegal instruction, you still did not attempt to get any more information?

MR VISSER: I did not attempt to gather any other information because at that time I believed that concerning the onslaught on the RSA, this was a **bona fide** matter.

MR RAUTENBACH: Mr Visser, if I tell you what your answer was now, it seems to me this was according to your version, this was blind conviction in your seniors, would you agree with me?

MR VISSER: Yes. I trusted my seniors and what the Security Branch did at that stage, or what they stood for.

MR RAUTENBACH: In this amnesty application it is referred to the fact that the government is protected and it mentions specifically the National Party, do you agree with the statement?

MR VISSER: I believe it was necessary. They were legally chosen, that is why they were in power.

MR RAUTENBACH: This authority that you had to act even if it was an illegal instruction, did you understand it that you were authorised by your seniors to do it, were was supported by the politicians?

MR VISSER: I made the deduction. Under the circumstances with what the onslaught was on the country, it was necessary under certain conditions to use extraordinary means to keep the country safe.

MR RAUTENBACH: Did you believe that except for your seniors, concerning the politicians, they also gave you these powers?

MR VISSER: I did not accept that they gave me any authorisation, I accepted that what I did was within the limits to stop this onslaught.

MR RAUTENBACH: And that would be approved by the National Party?

MR VISSER: I don't know if they would have approved.

MR RAUTENBACH: Earlier you made a point of it that you did not have enough support from the politicians when these things were made public.

MR VISSER: I believe that the politicians of the day, the government of the day, should have protected Security Branch members who put their lives on the line to ensure the security of the country, and that they would accept more responsibilities for these deeds.

MR RAUTENBACH: To conclude then the fact that you were told that this was a person who died during questioning, was satisfactory to you to continue with this illegal deed, to dispose of the body?

MR VISSER: The suspicion that was grounded by the media towards the government concerning the onslaught and that is why I continued to give my support.

MR RAUTENBACH: Just to come back to my question, the fact that you knew it was a person who died during questioning, was enough for you to carry out your illegal instruction?

MR VISSER: That is correct Mr Chairman.

MR RAUTENBACH: I have no further questions Mr Chairman.

NO FURTHER QUESTIONS BY MR RAUTENBACH.

CHAIRPERSON: Thank you Mr Rautenbach. Ms Van der Walt, do you have any re-examination, oh, sorry Mr Steenkamp, do you have any questions to put, sorry?

MR STEENKAMP: Nothing, thank you.

NO CROSS-EXAMINATION BY MR STEENKAMP.

CHAIRPERSON: Ms Van der Walt, do you have any re-examination?

MS VAN DER WALT: No questions, thank you.

NO RE-EXAMINATION BY MS VAN DER WALT

CHAIRPERSON: Mr Moloi, do you have any questions you would like to put to the applicant?

MR MOLOI: Thank you Mr Chairman. Mr Visser, you had not engaged Van Loggerenberg in similar exercised previously, am I right, that is now of disposal of bodies?

MR VISSER: I do not understand what do you mean with Mr Van Loggerenberg. If you can just put it clearly.

MR MOLOI: Actually all I am saying is before this particular instance, you had not requested Van Loggerenberg to dispose of a body?

MR VISSER: That is correct Mr Chairman, at no other incident did I make use of him.

MR MOLOI: Did you know if he had perhaps on his own or at the request of somebody else, disposed of a body before?

MR VISSER: I am not aware of any other incident.

MR MOLOI: What assurance did you have then that he will effectively dispose of this body?

MR VISSER: The fact that I knew him for several years and I saw him as, he proved himself responsible and trustworthy and this was enough for me to make use of him, Mr Chairperson.

MR MOLOI: I understood you to say that this was a very sensitive issue and had to be dealt with effectively?

MR VISSER: It was a sensitive matter and that is why I only informed Van Loggerenberg about the request that I had received.

MR MOLOI: In view thereof, in view of the sensitive nature of this exercise, the operation of disposing of the body, did you get any enquiries from the John Vorster Square people, Gen Erasmus or Van Niekerk as to how the body was eventually disposed of?

MR VISSER: I never received any enquiries from the persons mentioned.

MR MOLOI: Notwithstanding the sensitive nature of this operation and the need to effectively dispose of this body so that it should not be discovered?

MR VISSER: Can you please repeat the question.

MR MOLOI: I am asking whether, the question is in fact whether the John Vorster Square people, I am referring here to Gen Erasmus or Captain Van Niekerk, they did not make any follow up as to establishing how effectively this body was disposed of in view of the sensitive nature of that operation?

MR VISSER: I had no enquiries and I accepted that when Colonel Van Niekerk gave the body to me, the matter was concluded.

MR MOLOI: At the time you requested or instructed Van Loggerenberg to dispose of this body, in which manner did you view this as promoting the safety of the country against the onslaught you talk about?

MR VISSER: As I already said Mr Chairman, at that stage there was a total agitation and also the government was made suspicious by the media and there were left elements, and in order to prevent that credibility in the government deteriorates and at the same time, to prevent suspicion on the side of the government, therefore I saw it that the commitment to this would have been an assistance to the government.

MR MOLOI: I thank you Mr Chairman. I have no further questions.

CHAIRPERSON: Thank you Mr Moloji. Mr De Jager, any further questions?

ADV DE JAGER: No questions.

CHAIRPERSON: Adv Gcabashe, any questions?

MS GCABASHE: Thank you Chairperson. Just two questions Mr Visser. The first being you cannot verify that that was Stanza Bopape's body that you were asked to dispose of.

MR VISSER: No, I cannot confirm that Mr Chairman.

MS GCABASHE: And then secondly, I understand the request to Van Loggerenberg to assist, but you wanted him to be successful. You knew that he was competent, but just thinking of the practical side of what you were asking him to do, how did you expect one man to dispose, effectively dispose, of a fairly weighty body?

The second part of that being where did you expect that one man to effectively dispose of that fairly weighty body?

MR VISSER: I had no prescriptions as to where this had to happen and I had enough faith in Van Loggerenberg to take the necessary initiative and to dispose of the body effectively, Mr Chairman.

CHAIRPERSON: Thank you. Judge Ngcobo, do you have any questions?

JUDGE NGCOBO: I gather that at some point you were stationed in Pretoria Head Office, is that right?

MR VISSER: Yes, the last years of my career I was stationed at Headquarters and involved with the uniform branch.

JUDGE NGCOBO: What were your duties at the Head Office then?

MR VISSER: I was in control of the anti-hijacking unit in order to protect planes from sabotage and the hijacking of them.

JUDGE NGCOBO: Did you have anything to do with the Security Branch, that is whilst you were stationed at Head Office?

MR VISSER: No, I had no link with the Security Branch and I also did not correspond with them Chairperson.

JUDGE NGCOBO: You testified that information was given to officers within the Security Branch on what was described as being the need to know basis. Is that right?

MR VISSER: I cannot understand the question precisely, could you please repeat it?

JUDGE NGCOBO: I gather that when a member of the Security Branch was given an assignment as was the case with you do dispose of the body, no questions were asked by the officer who was being given the assignment.

MR VISSER: That is correct Mr Chairman, as little as possible detail was given in these cases.

JUDGE NGCOBO: And I gather that it was the policy that the less you know, the better?

MR VISSER: That is correct Mr Chairperson.

JUDGE NGCOBO: Can you perhaps tell us what was the basis of this policy?

MR VISSER: The basis of that was to restrict information to those people who had interest in it and that is why it had to happen on a need to know basis.

JUDGE NGCOBO: We know that there were persons who died in detention and whose bodies were not disposed of as was done in the case of Mr Bopape. You are aware of that, are you?

MR VISSER: That is correct Chairperson. Several cases happened where people died in detention and it was handled in a normal manner, but I believe in this specific case the circumstances surrounding it, made it reasonable for us to treat it in a different manner.

JUDGE NGCOBO: Please do tell us if you will, as to on what basis would you together with your Security Branch personnel make a decision as to whether or not to dispose or to conceal the body of a person who died in detention?

MR VISSER: It was normal practice that when a person died in detention, to follow the normal channels and to make it known officially and afterwards the correct proceedings would take place and then people independent of the Security Branch would then do the investigation.

JUDGE NGCOBO: On what basis did the Security Branch decide whether or not to conceal the body of a person who had died in detention?

MR VISSER: This is the only case that I know of Mr Chairman, and I cannot answer with regard to the specific circumstances involved in whatever case.

JUDGE NGCOBO: You mentioned that this was a special case. Why do you say it was a special case?

MR VISSER: Because of the fear reigning at that stage and also the hysterics in the media, regarding the death of people in detention and also the fact that the government, suspicion was created around the government at that stage because of these deaths.

JUDGE NGCOBO: Did the decision whether to conceal the body of a person who had died in detention, have anything to do with the injuries that the person may have sustained prior to his death?

MR VISSER: I am not able to give any comment on that, because I never saw the body Mr Chairman.

JUDGE NGCOBO: Can you perhaps comment from your years of experience with the Security Branch and as a Commanding Officer of the Soweto Branch?

MR VISSER: I have no experience that during questioning people were caused to have injuries or wounds, because we were always exposed to unknown of visits by Magistrates when people were kept under Section 29.

JUDGE NGCOBO: I may not have captured your answer correctly, but I think in cross-examination just towards the end of your cross-examination you were asked, and I think you said something to this effect, you did not accept that the politician had given you authority to do what you did. Is that a fair answer of what you said?

MR VISSER: That is correct Mr Chairman, they didn't give me the authorisation to do illegal acts.

JUDGE NGCOBO: But at the same time, you seem to take the view that the politician ought to take some responsibility for what the Police officers did, is that right?

MR VISSER: If you take into consideration the extent to which the Security Forces exposed themselves in order to create a stable condition, yes, then I expected and I still do, that the politicians should take a certain amount of responsibility for what the Security Forces do.

JUDGE NGCOBO: I want to ask you a very personal question and that is you were at the time, one of the high ranking officers and I think you had the rank of a Brigadier at the time, is that right?

MR VISSER: That is correct Mr Chairman.

JUDGE NGCOBO: It was your duty to uphold law and order?

MR VISSER: That is correct Mr Chairperson.

JUDGE NGCOBO: How did you as an officer who had sworn to uphold law and order, feel about having to subvert the very law and order that your office had called upon you to uphold?

MR VISSER: I can say Chairperson, that at that stage it was a question of survival, and I am sure certain situations come about, extreme situations which makes it necessary to take extraordinary measures in order to obtain your goal.

JUDGE NGCOBO: Thank you Mr Chairperson.

CHAIRPERSON: Thank you Judge Ngcobo. Brigadier Visser, we have heard much about this policy of working on a need to know basis. We have heard in evidence here that the deceased, Stanza Bopape, died while being interrogated and that after that, there was a cover up in the sense that it was put out that he had escaped.

What I can't quite understand in this matter and perhaps you could throw some light on it, taking into account this policy of a need to know basis, working on a need to know basis, can you think of any reason why Gen Erasmus or Captain Van Niekerk should have got hold of you in a completely different division of the Security Branch, to get involved in this incident? Surely they had people of their own, if they wanted to dispose of a body, that could have done it?

If they wanted to get somebody from without their division, without the Witwatersrand division, then one would have thought they would have looked towards the Krugersdorp Security Branch who were also in a sense involved, because they effected the arrest.

Can you think of any reason why you and the Eastern Transvaal Security Branch should have been implicated in this matter, taking into account the policy of need to know?

MR VISSER: I cannot give you any explanation. I accept the fact that I was known to both Erasmus and Van Niekerk and that might have been the reason why they approached me in order to help them.

CHAIRPERSON: Did you owe Gen Erasmus any favours? Had he done something for you in the past, can you think of any reason along that line why you should have been picked out,

because I am sure that Gen Erasmus and Captain Van Niekerk knew many other members of the Security Branch besides yourself, in different divisions?

MR VISSER: No Chairman, I do not owe him any favours. We were good friends and we knew each other for quite a long time.

CHAIRPERSON: Thank you. Ms Van der Walt, do you have any questions arising out of questions that were put by the Panel?

FURTHER EXAMINATION BY MS VAN DER WALT: Just two questions Chairperson. There was evidence of a Mr Van Niekerk and you were now asked what do you think, what is the reason why you had to dispose of the body at this stage and there was evidence of Mr Van Niekerk who said that the 16th of June, which was just around the corner, would have been a big problem if you followed the normal procedures. What is your comment concerning that bit of his evidence?

MR VISSER: That was one of the factors we had to take into consideration, it was the commemoration of the June 1976 unrest and except for the hysterics concerning the death of people in detention.

MS VAN DER WALT: You were also asked if you thought that Mr Van Loggerenberg could dispose of quite a heavy body and why you gave him alone this instruction. What was the situation before in his career, if you gave him instructions, did he work with a team or what was the situation, did he work on his own or with a team?

MR VISSER: As far as I know, he never worked in a team, even when he was in Soweto, he did investigations by himself and I believed that he was capable of taking the initiative here.

MS VAN DER WALT: No further questions Mr Chairman.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

JUDGE NGCOBO: You left me with the impression that when Gen Van der Merwe, I think it is, telephoned you he merely told you ...

CHAIRPERSON: Erasmus.

JUDGE NGCOBO: Erasmus, I beg your pardon, Erasmus telephoned you, he told you that a person had died in detention during the questioning, and that he wanted your assistance in disposing of the body. Did he say more than that?

MR VISSER: Mr Chairman, he didn't give me any detail. He didn't say somebody died in detention during interrogation. He only told me that he was experiencing a crisis and that he had a package and that I should be of assistance in disposing of it.

JUDGE NGCOBO: Did he describe to you the nature of the crisis that he was having?

MR VISSER: No, Chairperson. The further detail I received was when Van Niekerk met me on the Bronkhorstspuit Road.

JUDGE NGCOBO: What did you discuss with Van Niekerk? what did you discuss with Van Niekerk?

MR VISSER: He only informed me that the body he was going to give me was that of a person who died in detention and during interrogation at John Vorster Square and he also requested of me to open a docket in the Eastern Transvaal which I refused to do and I told him that any further arrangements he thought should be made, he had to do it himself and locally.

JUDGE NGCOBO: When you were being led by your Counsel, you know tell us that one of the things that you had to take into consideration and in dealing with in handling this matter, was the fact that June 16 was about, it was around the corner. When you say one of the things that we had to take into consideration, who is this we you are talking about?

MR VISSER: I referred to the Security Forces who were responsible for keeping internal security concerning the commemoration of the unrest, the June 16 unrest and also the other aspects that could come from this.

JUDGE NGCOBO: What was the reply, I didn't get the reply.

MR VISSER: I said that the June unrest was a factor when we started to be of assistance and except for that, there was also the media who made a big fuss about people who died in detention and it was expected of Security Forces to ensure internal safety and security and to make sure it stabilised.

JUDGE NGCOBO: I thought that you were simply following instructions that were given to you by Gen Erasmus, namely to assist in this crisis, that you were never part of any discussions in regard to the reasons or the rational for doing what you did? Isn't that what your evidence was earlier on?

MR VISSER: No Chairperson, my evidence was that at that stage I was well aware of the onslaught against South Africa and security and that led me to giving assistance in this case.

JUDGE NGCOBO: Thank you.

CHAIRPERSON: Ms Van der Walt, do you want any further questions?

MS VAN DER WALT: No further questions, thank you.

CHAIRPERSON: Mr Prinsloo, any questions arising?

MR PRINSLOO: No questions, thank you.

CHAIRPERSON: Mr Visser, any questions arising from questions put by the panel?

MR VISSER: No, thank you Mr Chairman.

NO FURTHER QUESTIONS BY MR VISSER.

CHAIRPERSON: Mr Rautenbach, any questions arising?

FURTHER CROSS-EXAMINATION BY MR RAUTENBACH: Just one further aspect. Mr Visser, you keep referring to the outburst by the media. What were you thinking with regards now to this incident, why would the media have made an uproar about this?

MR VISSER: If it was known that there was another death in

detention because it has happened before, it would have made headlines everywhere. By following these measures, we could have transferred the suspicion to the activists and those people attacking the security of the country.

MR RAUTENBACH: If I ask you Mr Visser, if you want to be objective about this, wasn't this a situation where the press had a right to have an outburst?

MR VISSER: I believe the press probably do have a right, but I would have thought there would have been a situation where the country was fighting for survival and the suspicion be kept away from them.

MR RAUTENBACH: You say this without having any information about who this person was and what he had done?

MR VISSER: I had no knowledge who the person was and on what basis he was detained.

MR RAUTENBACH: No further questions, thank you.

NO FURTHER QUESTIONS BY MR RAUTENBACH.

CHAIRPERSON: Thank you.

MS GCABASHE: Thank you. I am just a little confused now Mr Visser. When exactly did you personally take the June 16 factor, or the press hysteria factor into account?

MR VISSER: These factors I had knowledge, or I took them into consideration when I was willing to assist with the disposal

of this particular body.

MS GCABASHE: Yes, but the point that has been made certainly by Mr Rautenbach and others, is that you had no knowledge of who this was, it could have been a, as Mr Rautenbach put it, an ultra right winger's body, you didn't know who it was. If it was a right winger's body, that person would have had nothing to do with the June 16 celebrations?

MR VISSER: It would have been a person who died in Police detention, and that could have caused an uproar. I agree if it was a far right person, it wouldn't have made so much uproar, but it was a factor that was considered.

MS GCABASHE: Thank you.

JUDGE NGCOBO: But why should June 16 matter for you because these were the instructions as I understand the position, from your superior and you considered yourself to be somewhat obliged to carry them out, you couldn't question them, could you?

MR VISSER: No, I did not question the instructions from my seniors because myself, personally, I was aware of the circumstances at that stage in the country.

JUDGE NGCOBO: Could you have refused to carry out the instructions or the request as the case may be, from Gen Erasmus?

MR VISSER: Yes, I could have refused Mr Chairman.

JUDGE NGCOBO: So the decision to cooperate was a personal decision, was it?

MR VISSER: The decision to participate in the activities, the disposal of the body was a decision that was made in the light of what the Security Branch was there for and to maintain internal security.

JUDGE NGCOBO: A decision which was made without any knowledge as to who this person was, the circumstances under which he had died, save that he had died when he was being questioned?

MR VISSER: It was concerning orientation of the general circumstances of the country at that time, and this was a deduction that I made and I made my decisions according to this.

JUDGE NGCOBO: Could Mr Van Loggerenberg for example have refused to carry out your instruction, to dispose of the body?

MR VISSER: Yes, he could have refused Mr Chairman.

JUDGE NGCOBO: Thank you.

CHAIRPERSON: Ms Van der Walt, seeing that there were other questions put after you had questioned, do you have any questions arising out of these more recent questions?

MS VAN DER WALT: No questions, thank you.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

CHAIRPERSON: Does any other legal representative have any questions arising? Thank you Brigadier Visser, you may stand down now.

WITNESS EXCUSED.

MS VAN DER WALT: The next applicant is Mr Van Loggerenberg.

LEON VAN LOGGERENBERG: (sworn states)

EXAMINATION BY MS VAN DER WALT: Thank you Mr Chairman. Mr Van Loggerenberg, you applied for amnesty. Can you just give us your full names please?

MR VAN LOGGERENBERG: Leon van Loggerenberg.

MS VAN DER WALT: Your application for amnesty is in Volume 1, from page 168 to 178, do you confirm the contents thereof?

MR VAN LOGGERENBERG: That is correct.

MS VAN DER WALT: Mr Van Loggerenberg, when did you join the South African Police Force?

MR VAN LOGGERENBERG: 24th of September 1968 Mr Chairperson.

MS VAN DER WALT: You have left the Service now, is that correct?

MR VAN LOGGERENBERG: That is correct, on the 31st of May 1997.

MS VAN DER WALT: During your service to the South African Police Force, in which divisions did you tender your services?

MR VAN LOGGERENBERG: Training in 1968 at the Uniform Branch, Radio Control and thereafter I was transferred to the Detective Branch and since middle 1976 or middle 1977, I was in the service with Internal Security at Soweto.

MS VAN DER WALT: You did not stay at Soweto until the end of your service, is that correct?

MR VAN LOGGERENBERG: That is correct. Since 1983 I was in the then Eastern Transvaal.

MS VAN DER WALT: During your service with the Security Branch, did you have anything to do with terrorist attacks?

MR VAN LOGGERENBERG: That is correct. Investigations of deeds of terror, land mine explosions, scenes in the Eastern Transvaal, terrorist attacks.

MS VAN DER WALT: Brigadier Visser said that your instruction was never carried out in a group, what was the situation?

MR VAN LOGGERENBERG: I would say the majority, 90 percent of the matters that was given to me, the investigations and the terrorist attacks, I was the only Investigating Officer and I did not work in a team.

MS VAN DER WALT: Why was this so?

MR VAN LOGGERENBERG: In most cases I chose to work alone, to co-ordinate everything myself and to finalise everything myself. I do not know what the other reason was why personnel was not instructed to work with me.

From my side, I chose it.

MS VAN DER WALT: Since when do you know Brigadier Visser?

MR VAN LOGGERENBERG: Since 1976, 1977 when I started at the Security Branch in Soweto. He was my Commanding Officer and I received direct instructions from Brigadier Visser.

MS VAN DER WALT: Until when did you work with him?

MR VAN LOGGERENBERG: All the time while I was in Soweto. Only a year before I was transferred to the Eastern Transvaal Middelburg, he was already in the Eastern Transvaal, it was a matter of at the most a year that I did not work with him and I was not directly under his command, until his transfer to Head Office.

MS VAN DER WALT: What was your relationship in the work area?

MR VAN LOGGERENBERG: I had faith in him. I believed he was a great Commanding Officer and his assistance in some matters that he gave to me, he had faith in me too.

MS VAN DER WALT: Mr Van Loggerenberg, on page 177 of your application, Annexure A, paragraph 1, you mention of an incident that happened on the 13th of June 1988. It seems from the evidence received that it was the 12th of June, would you like to correct that?

MR VAN LOGGERENBERG: That is correct Mr Chairperson. At the Section 29 investigation, I would like to put it correct the date is the 12th and not the 13th and that the 13th I returned to my office in Middelburg.

MS VAN DER WALT: Mr Van Loggerenberg, can you describe this incident that took place on the 12th of June 1988?

MR VAN LOGGERENBERG: Mr Chairperson, it was a Sunday evening, round about eight o'clock. I received a call from Brigadier Visser. He informed me that Johannesburg Security Branch had a sensitive problem and we had to be of assistance.

He asked me to accompany him in my own vehicle to the area of Bronkhorstspuit. I told Brigadier Visser that I had to put fuel in my vehicle first, which I duly did. I went in Middelburg and I filled up with gas, I took the freeway, I drove behind him on the freeway to Bronkhorstspuit until we got to a bridge that runs over the freeway.

Our vehicles facing the area of Witbank and we waited there for the arrival of the persons from Johannesburg. The Brigadier and myself were in conversation and he mentioned that the people had a sensitive package that had to be disposed of.

At that stage I did not precisely know what the package consisted of, I deduced that it could be a body. After a while, two vehicles arrived and parked behind my vehicle. Colonel At van Niekerk whom I knew, I saw him approaching me to the vehicle where we were in conversation. I returned to the vehicle that was parked behind Brigadier Visser's.

After a while Brigadier Visser came to me and said that these people had a corpse that had to be disposed of and that this corpse had to be transferred to my vehicle. He requested or asked if I would be all right, and I confirmed that I would be okay. He asked this on maybe one or two occasions, I am not sure, but I did confirm that I would be okay.

I climbed into my vehicle and the other two vehicles from Johannesburg followed me. I took the first off ramp left, I went right across, over the freeway and drove on for a while. I am not sure but I think it was the Bapsfontein Road and the first gravel road on the left, I didn't know the area that well, but I just turned off and these two vehicles followed me.

The one vehicle turned around and reversed in my direction. I climbed out of the vehicle, opened the boot and Captain Zeelie who was known to me, opened the boot of the vehicle he was driving. He stood at the side of the vehicle and the package was transferred to my vehicle.

On handling it, I realised that this was the body of a person. The body was wrapped in plastic, the boot was closed. Captain Zeelie asked me if I would manage by myself and I said yes. I turned around, went back to the freeway. I returned and proceeded in the direction of Witbank. I thought it would be better if I drove in the direction of Komatipoort, the direction of the border area.

I went directly to Komatipoort to an area that was known to me, this was Crocodile Hole, it was also known as the Hippopotamus Hole, not too far from the border, close to the Mozambique border. With my arrival, I shone the headlights of my car in the direction to make sure that the area was clean. It was known as a picnic and angling area.

I turned the vehicle around with the boot facing the water. I turned off the lights, I opened the boot. I lifted out the body from the boot, I got a proper grip and I put it on the ground. I moved in between the vehicle and the body in front of me, I picked it up again and I threw it into the water.

I immediately closed the boot and went back to Middelburg.

CHAIRPERSON: Sorry, Van Loggerenberg, at that time, what time of the day or night was it then that you actually managed to get the body into the river? Was it still dark?

MR VAN LOGGERENBERG: Mr Chairman, it was just about after twelve o'clock, between twelve and one o'clock that night, in other words the 13th of June, that morning.

I returned to Middelburg and during the course of the morning, after all the morning meetings, Brigadier Visser, I went to his office. I told him that I was back safely and that I had disposed of the body and well in the Komatipoort vicinity.

MS VAN DER WALT: Did Brigadier Visser ask you any questions regarding the disposal of the body?

MR VAN LOGGERENBERG: Chairman, as far as I can remember, I don't think he asked me any questions. He didn't want to know exactly what I did. I think if I remember correctly, I told him I was in the Komatipoort vicinity and that is where I disposed of the body.

MS VAN DER WALT: Mr Van Loggerenberg, you say that when you left the Bronkhorstspuit Road and moved into the direction of Witbank, did you think - you thought that you had to go to the Mozambique border vicinity. Why did you think of that specific area?

MR VAN LOGGERENBERG: Chairperson, the Crocodile Hole or Hippopotamus Hole was in my mind, that is what I thought of. I seriously considered the issue and thought I had a body that I have to dispose of and how am I going to do it, I am on my own, and the only thing that came up was the Crocodile Hole or the Hippopotamus Hole.

MS VAN DER WALT: Can you just tell the Honourable Committee or describe to them, this Crocodile Hole and the river or rivers that flow through this Crocodile Hole.

MR VAN LOGGERENBERG: Mr Chairman, it is a well known hole in the Komatipoort vicinity and when I arrived in the Eastern Transvaal, the then Eastern Transvaal, I was taken there and usually you will have a braai there and also do some fishing there.

I knew there were crocodiles, I have physically seen them before and there were also hippopotamus and when I got to, when I was introduced to this specific area, there was a lot of talk of people who were attacked by crocodiles there and also people who tried to cross the border and when they did that, they were actually caught by the crocodiles.

That is the only thing that was in my mind at that stage, that was the only place I could think of where to dispose of the body.

CHAIRPERSON: Sorry, Mr Van Loggerenberg, you have described this place as a Crocodile or Hippopotamus Hole. Is it separate from the river? First of all, is that the Crocodile River that flows there?

MR VAN LOGGERENBERG: That is correct Chairperson, the Crocodile River flows through that and it makes a swerve and goes through the Kruger National Park and then goes through to the Mozambique border.

CHAIRPERSON: Now this hole, is it part of the river or is it a hole on its own, filled with water?

MR VAN LOGGERENBERG: It is part of the river Chairperson.

ADV DE JAGER: Sorry, is it the Crocodile River or the Komati River that flows through there?

MR VAN LOGGERENBERG: Chairman, the way I understand it, these two rivers meet there, the Crocodile and the Komati, a little bit before you would find the Crocodile Hole.

MS VAN DER WALT: Chairman, if the Chairperson would allow me I would like to, I have the original map here.

CHAIRPERSON: Thank you. First of all is there any objections from anybody regarding this map, no? Thank you. The number Mr Steenkamp?

MR STEENKAMP: **Exhibit L**.

CHAIRPERSON: This then can be received as far as we know **Exhibit L**, but if not, we will amend the number to be the next one in sequence to what it ought to be.

MS VAN DER WALT: Thank you Chairperson. I have the original map, but it is a bit difficult, a bit awkward, it is a bit big but I can submit it to the Chairperson if you wanted to. I would just like to lead the evidence looking at the map.

Mr Van Loggerenberg, if you look at the map and put it in a right up position, then you can see that the N4 road comes from the left side towards the Mozambique border, is that correct?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: And then you can see the Crocodile River, it is half way into the map, up into the map, on the left side. It flows with a curve through the Kruger National Park and it comes down below and you can see it just above the N4 and that is when it flows through to Mozambique, is that correct?

MR VAN LOGGERENBERG: That is correct Mr Chairperson, you can also see the Komati River joins at number 235JU, that is where it joins the Crocodile River.

MS VAN DER WALT: So the Komati River is coming from below, the bottom of the map and it comes to where you have just indicated, is that correct?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: On the map, can you give us an indication of where the Crocodile Hole is?

MR VAN LOGGERENBERG: Chairperson, if you look right at the bottom of the map, and you look at number 98, if you take the line from 98 up, across the N4 and then the border post was indicated there with spots, and the border is passing on the right and there were you see the round bit of the two rivers, that is where the Crocodile Hole was.

MS VAN DER WALT: That would be across the right side mark 86 and 87?

MR VAN LOGGERENBERG: That is correct.

ADV DE JAGER: That is the longitude and latitude degrees, where those meet 86 and 87 and 98 one, round about there or where exactly are you indicating?

MR VAN LOGGERENBERG: That is correct Chairperson. Where those two meet, you will see there is a black line and it would then be, you can see the curve of the two rivers before it goes into Mozambique, it is there.

MS VAN DER WALT: On the map it is also quite evident, that is quite a broad area where these two rivers meet and the map also indicate that you can see it is a hole?

MR VAN LOGGERENBERG: That is correct Mr Chairperson, and then it becomes a bit more narrow when it runs towards Mozambique.

MS VAN DER WALT: What is also evident from the map is that these two rivers flow together as one into Mozambique?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: The border is basically on the edge of this hole?

MR VAN LOGGERENBERG: I wouldn't say at the edge of the hole, it seems like that on the map. The hole is big, there is a bit of an island in the middle and the rivers go around the island and then they run towards the river.

MS VAN DER WALT: Are you aware of people who came across the border that was attacked by crocodiles, are you aware of any run always who was washed out in Mozambique during that time?

MR VAN LOGGERENBERG: It was said to me Chairperson during discussions which I had, that some of the bodies do wash out, which are not eaten by the crocodiles and the hippopotamus on the Mozambique side and that the Mozambique government then bury the people, once they are retrieved from the river. That is only hearsay though, I do not have any factual information whether that is correct or not. That is just what I have been told.

MS VAN DER WALT: Mr Van Loggerenberg, the picnic spot as you call it, can you tell the Honourable Committee, is it a picnic place in the sense of what you would find in the cities, it is specifically designated area where people only have picnics or where people camp? What was exactly the situation concerning that spot?

MR VAN LOGGERENBERG: Chairperson, the deduction I made was that people who lived in that vicinity and the Policemen who worked there, it is a place known to them. It is not known to the general public, that is the deduction I made. I still think that.

The people from the town and the Policemen around there, know of this place and they make use of it, but it is not known, there is no like indicators, signs indicating this place.

MS VAN DER WALT: This hole, do you know if it is quite deep or was it shallow?

MR VAN LOGGERENBERG: As far as I am concerned the hole is quite deep, the times I was there and I looked at it, and if you stand around there, you would think that the hole is quite deep.

MS VAN DER WALT: You also made mention of the fact that there were hippopotami there and you also indicated when you were questioned under Section 29 on the Law of Indemnity. When you were there at the hole, could you see hippopotami there or what was the situation?

MR VAN LOGGERENBERG: Yes, that is correct. That specific day I do remember, there were hippopotami in the pool and on the opposite side of the hole, there were crocodiles or at least a crocodile which we saw and it was in the reeds.

MS VAN DER WALT: The crocodiles, were they, could you see all of the crocodile or only a part of it?

MR VAN LOGGERENBERG: No, they weren't completely visible. When I pointed it out, I tried several times to show the people where they were laying, they would be laying amongst the reeds.

MS VAN DER WALT: When you pointed it out and it was also taken on video, is that correct?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: You told the Investigation Team of the Committee, you explained exactly to them what you did and they also had a vehicle there to their disposal?

MR VAN LOGGERENBERG: Yes, positive, they had a Volkswagen Polo there that day with a doll, which would have had the same weight as the deceased. It was in their vehicle.

MS VAN DER WALT: You were willing to pull the doll out of the vehicle, is that correct?

MR VAN LOGGERENBERG: That is correct. I wanted them to park the vehicle in the same way I parked mine that night, and then I could demonstrate to them how I went about throwing the body in the river.

MS VAN DER WALT: Did this happen?

MR VAN LOGGERENBERG: I think at that stage, some of the crocodiles on the other side of the pool came into the water and they suggested that we move away from the hole. So I gave them the demonstration, but a little bit away from the pool.

MS VAN DER WALT: I refer the Chairman to Volume 4 which is in front of the Committee, on page 819 up till 822, it is a record from the Department of Water Affairs. You had a part in that, not so?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: From this record and also out of the tables that they give there and specifically indicating when the river flows into this pool, and it seems on page 820 that on the morning, early morning hours of the 13th of June 1988, there was an inflow of more than 8 500 litres of water per second, is that correct?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: As the graphics show us, there was an increase round about the 21st of June and that is eight days after the incident and a great amount of water flowed into this hole?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: As it was known to you during that time, how did you observe the flow of the rivers?

MR VAN LOGGERENBERG: Chairperson, that specific night it was quite dark. I couldn't say how strong the water was flowing and how high the water level in this hole was. I didn't look at that, but the day I pointed it out, if I think of that, then the river was flowing quite strongly, but that is of course quite a few years after the incident.

CHAIRPERSON: When did you do that demonstration Mr Van Loggerenberg, which month?

MR VAN LOGGERENBERG: Mr Chairperson, I would have to refresh my memory. It was a few weeks before the trial in Johannesburg on the 29th. On the 3rd of March 1997 Chairperson.

CHAIRPERSON: I am just asking because this was on the 16th of June, it is winter time.

MR VAN LOGGERENBERG: That is correct Chairperson.

CHAIRPERSON: And the rainfall in that area, is it summer rainfall or don't you know?

MR VAN LOGGERENBERG: I am not sure Chairperson.

MS VAN DER WALT: But on page 822 of Volume 4, the inflow of the water per day and also on a time basis, it is indicated there, not so? You can see it on page 822?

MR VAN LOGGERENBERG: That is correct Chairperson. On the 13th, the morning, 01H36, 7 949 litres per second.

MS VAN DER WALT: And the next two entries, it would seem evident from the graphics there were more water flowing in then?

MR VAN LOGGERENBERG: That is correct Chairperson, 07H06 in the morning it was 8 561 litre per second, and the 14th, the next morning it was 8 476 litres per second. There is a little bit of a decrease in the flow.

MS VAN DER WALT: And also from the report on page 819 and the second paragraph, Department of Water Affairs give us a good set out of the 12th of June 1988. There would have been 8 500 litres per second inflow and then also on the 13th of June 1988, it would have taken seven seconds to fill a pool of 50 000 litres.

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: Looking at this graphics, coming from the Department of Water Affairs, it would seem there was a very strong current in that river.

MR VAN LOGGERENBERG: It would seem the case Chairperson.

MS VAN DER WALT: When you did the pointing out, there was a wall built in the river to keep the water from flowing too strong, that is in the Komati River, is that correct?

MR VAN LOGGERENBERG: Yes, it was built at the bottom end if you look at the map, it was at the bottom of the N4, before it joins the Crocodile River.

MS VAN DER WALT: This wall, was it there when you familiarised yourself with this vicinity?

MR VAN LOGGERENBERG: No, at that stage it wasn't there.

MS VAN DER WALT: This wall was built to keep water back?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: Mr Van Loggerenberg, when you decided on this Crocodile Hole at these two rivers, what did you think what would happen to this body that you threw in there?

MR VAN LOGGERENBERG: I believed that the body would wash out in the Mozambique side and I believed and trusted that that would happen.

MS VAN DER WALT: Did you ever think that the body might be eaten up by the crocodiles?

MR VAN LOGGERENBERG: I did. If the body did not wash out on the Mozambique side, I hoped that the crocodiles would destroy the body.

MS VAN DER WALT: You also testified that the body was wrapped in plastic.

MR VAN LOGGERENBERG: That is correct Mr Chairperson. It was wrapped in plastic, I do not know how it was wrapped in plastic, but it was plastic.

MS VAN DER WALT: Could you see that the body was tied with something?

MR VAN LOGGERENBERG: Chairperson, if I remember correctly I can't remember if you talk about tying up, I can't remember that there were ropes or any other objects around the plastic. If it was stuck together with something, I would not have been able to see it because I was very nervous and I was in quite a rush and I just wanted to get disposed of this body.

I didn't notice any ropes around the body.

MS VAN DER WALT: Once you had thrown the body into the river, did these bags come apart, the plastic bags?

MR VAN LOGGERENBERG: It could have happened, they could have ripped. I don't know, I didn't look at that.

MS VAN DER WALT: The morning when you reported back to Brigadier Visser, was it strange to you that he didn't ask you more about what you had done with the body?

MR VAN LOGGERENBERG: It was not strange to me, no because I have known the Brigadier for a very long time. Often I reported back to him, and I always did it in a cryptic fashion and it wasn't strange to me that he did not make any further requirements and asking me about how exactly I went about disposing of the body.

MS VAN DER WALT: No further questions thank you.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

CHAIRPERSON: Thank you Ms Van der Walt. Mr Prinsloo, do you have any questions?

MR PRINSLOO: No questions, thank you.

NO CROSS-EXAMINATION BY MR PRINSLOO.

MR VISSER: Neither before, nor after lunch thank you Mr Chairman.

NO CROSS-EXAMINATION BY MR VISSER.

CHAIRPERSON: Mr Rautenbach, I see it is one o'clock now. I will ask you after lunch then whether you have any questions. We will now adjourn for the lunch adjournment, thank you.

COMMITTEE ADJOURNS

ON RESUMPTION

LEON VAN LOGGERENBERG: (still under oath)

CHAIRPERSON: Mr Rautenbach, do you have any questions to put to the witness?

CROSS-EXAMINATION BY MR RAUTENBACH: Thank you Mr Chairman. Can you tell us Mr Van Loggerenberg, when you received this call, it was mentioned to you that you had to use

your own vehicle?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: Was the instruction specific I wish you to accompany me to a place close to Bronkhorstspuit, but use your own vehicle?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: At that stage, was anything mentioned concerning this sensitive package in this call?

MR VAN LOGGERENBERG: I cannot recall if it was mentioned to me at that stage that there was a sensitive package, but if I recall correctly, I heard a sensitive problem.

MR RAUTENBACH: I just wish to put to you what you put in your leading evidence. You said you fill your car with gas and you mentioned the freeway. At some stage you say that he told me that there was a sensitive package that had to be disposed of, I deduced that it could have been a corpse. At what stage was it told to you about a civil package?

MR VAN LOGGERENBERG: A sensitive package and this is where we waited for the people from Jo'burg, we were standing at the Bronkhorstspuit rendezvous point.

MR RAUTENBACH: I wish to hear from you, you said civil package, you were in the vehicle with Mr Visser, you waited for this people to arrive, is that correct? It was during that time period?

MR VAN LOGGERENBERG: Mr Chairman, we were standing at the vehicles, we were not sitting in the vehicles. When it was mentioned, when this sensitive package was mentioned.

CHAIRPERSON: Sorry Mr Rautenbach, let's get this clear. You have been talking about a civil package or was it sensitive?

MR VAN LOGGERENBERG: Sensitive.

MR RAUTENBACH: Let's keep to that, the sensitive package that is mentioned, when you say Mr Visser informs you concerning this sensitive package, is that the stage when you were waiting for these people to come from Johannesburg, is that correct?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: And then your evidence was that I deduced that it could possibly be a corpse?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: You continued and said vehicles stopped there and you saw Van Niekerk, is that correct?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

MR RAUTENBACH: I wish to return to the following aspect, when you say you make this inference that it could possibly be a corpse, you make this inference while you are in the company of Brigadier Visser and these persons have not arrived yet, is that correct?

MR VAN LOGGERENBERG: That is correct, it is an inference I drew.

MR RAUTENBACH: At that stage when you made this deduction, you must have thought these people are coming here with possibly a body, you know Brigadier Visser quite well, the situation that was developing at that time, must have had an immense effect on your thinking process? It is not every day that somebody comes with a corpse that has to be handled and this is something extraordinary, is that not so?

MR VAN LOGGERENBERG: That is correct. Your mind plays games with one, it runs off in many directions.

MR RAUTENBACH: What did you say to Mr Visser then?

MR VAN LOGGERENBERG: I cannot recall what I would have said to him. If we discussed anything further, we were not sure, I was not sure.

I cannot think that I would have said something or asked him about it.

MR RAUTENBACH: You see Mr Van Loggerenberg, it is difficult with all respect, to understand you then. I would have thought that any normal person under those circumstances, in such an extraordinary situation would have asked the question, what do we

have to do with this possible corpse? You say that you had already drawn the inference that it was a corpse, what do we have to do with this body? Didn't this come about?

MR VAN LOGGERENBERG: No, Mr Chairperson. I don't think at that stage I was one hundred percent sure that it was a corpse. I just made this deduction by myself, in my mind.

MR RAUTENBACH: Mr Van Loggerenberg, if you made this inference in your own mind, you thought it was a corpse, is it not the obvious thing that you would have said to Mr Visser first confirm, is this a body that is spoken of here and secondly, what are we going to do, what is the plan of action?

I am here with my own car, you are here with your car, what is the plan of action here, was there no discussion around that?

MR VAN LOGGERENBERG: Not as far as I can recall that we had a plan of action right there. I am sure that we decided what to do or what not to do at that point.

MR RAUTENBACH: The next thing that happens is that the vehicle stops, you see Van Niekerk and you see Visser comes and says these people have a body that has to be disposed of.

This body will be put into my vehicle, is that correct?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: Now it is told to you directly by Mr Visser that these people have a corpse. We have to dispose of this corpse, what was your reaction?

MR VAN LOGGERENBERG: My reaction was I was nervous and I said I would manage as I have testified, I think twice. Once or twice he asked me was I sure that I would manage and I said yes.

MR RAUTENBACH: At any stage, when he told you these people have a corpse that need to be disposed of, he is your senior and you say you have much respect for him, you did not ask him what do you want me to do, how must I dispose of it, I am by myself?

MR VAN LOGGERENBERG: I did not ask him how. He asked me if I could manage and I think my answer was, I don't think, I said yes, I would manage. The Brigadier accepted that I would make a decision on my own.

MR RAUTENBACH: As far as I understand you Mr Van Loggerenberg, your earlier testimony was that never before did you dispose of any corpses, is that correct?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

MR RAUTENBACH: This was a new situation for yourself, you hadn't experienced this before?

MR VAN LOGGERENBERG: Yes, this was foreign to me Mr Chairperson.

MR RAUTENBACH: This was not only a foreign experience to you, it was illegal as well, is that correct?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

MR RAUTENBACH: Those circumstances where it was strange, it was a new experience for you, you know it is illegal, did you not ask any questions? Did you not say what on earth by myself, must I do with this corpse?

MR VAN LOGGERENBERG: Mr Chairperson, I am part of the total onslaught in the struggle, it was my conviction at the time that in this struggle against, to protect South Africa and I received such an instruction, I would carry out this order.

MR RAUTENBACH: This particular corpse, what did this have to do with the onslaught on the country?

MR VAN LOGGERENBERG: Mr Chairperson, I was convinced that if Brigadier Visser with other people of the Security Branch from Johannesburg, would not deal with other people if there was a political matter.

MR RAUTENBACH: You did not know who this person was?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: You also did not know whether this person was black or white?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

MR RAUTENBACH: You did not know whether it was male or female?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: You did not know what this person's political convictions were?

MR VAN LOGGERENBERG: I was convinced that the persons who brought the corpse there, would not deal with any other person but a political activist or politician.

MR RAUTENBACH: Elaborate on this please?

MR VAN LOGGERENBERG: A politically involved person, specially the ANC at that stage. The total onslaught on the country was by the ANC against the then government and the Security Branch.

MR RAUTENBACH: You did not even attempt to ask any questions or obtain any information about who, where and from whence this person came from and why this person was there?

MR VAN LOGGERENBERG: I knew that this person came from John Vorster Square area in Johannesburg and I saw that it was Security Branch members from Johannesburg and the

transferral and handling, during which I received the instructions from Brigadier Visser, there was not much time that elapsed during that time.

MR RAUTENBACH: Did you enquire about who the person was and why he was there?

MR VAN LOGGERENBERG: I did not do any enquiries. This was as I said in my testimony, the cars stopped directly behind each other and as quickly as possible the body was transferred to my vehicle and I left.

MR RAUTENBACH: Did you think when you received the instruction that the body was to be transferred to your boot, you did not ask any questions about what should I do?

MR VAN LOGGERENBERG: I did not ask any questions. On two occasions he asked me if I would manage and I said yes. I did not ask any questions about how, what and when I should do it.

MR RAUTENBACH: The person who asked you the question whether you would manage was it Zeelie or Brigadier Visser?

MR VAN LOGGERENBERG: Both of them, Brigadier Visser when I received the message, when he walked to me at the vehicle, and Zeelie asked me if I would manage alone when we transferred the body to my vehicle.

MR RAUTENBACH: You found yourself in a difficult situation there when you drove away from there, you had a corpse in your car and when you left there, you did not even decide what you were going to do with this corpse?

MR VAN LOGGERENBERG: Not immediately. Driving in the direction of Witbank on the freeway the idea came to me that the best area to go to was Komatipoort.

MR RAUTENBACH: The point I wish to make is when you left there, when you left the group of persons there, when you headed your own way, you did not even know yourself, you did not even decide yourself what you were going to do with this corpse?

MR VAN LOGGERENBERG: Not immediately at that stage, but seconds or a minute later, while I was on the freeway on my way to Witbank.

MR RAUTENBACH: You were panic stricken for a little while there when you were left with this corpse and everything was left in your hands, you were by yourself?

MR VAN LOGGERENBERG: Yes, I was nervous.

MR RAUTENBACH: At no stage did you wonder with the knowledge you have now, I mean a person dies in detention, his body has to be disposed of. A special dossier is drawn up to substantiate his escape, but you are left man alone with the responsibility to dispose of the body, wasn't this very strange to you?

MR VAN LOGGERENBERG: At that stage I had no knowledge of the escape dossier.

MR RAUTENBACH: If you, in retrospect, now that you know everything, isn't it strange that you yourself are left with the responsibility to dispose of the body, while all the finer details are worked out to draw up an escape dossier to cover this whole thing up?

MR VAN LOGGERENBERG: I cannot think, or I believe that at the time the Johannesburg Branch, after I heard what was testified here, that I did not think I would be alone in this situation. The instruction from the Brigadier was clear, can I help him and I said yes. I think that Johannesburg would have realised that I continued alone.

MR RAUTENBACH: Where did the Brigadier go when you left from there?

MR VAN LOGGERENBERG: The Brigadier, I cannot remember if I saw him in this party where we made the transferral to my vehicle. He must have driven back in the direction of Middelburg, he did not follow me.

MR RAUTENBACH: When you drove to this place, I understand it as such, the vehicles met you there, from the place where you met, you drove to another place where the corpse was transferred to your boot?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: And from there, when you drove after the corpse was transferred, did you leave before or after the Brigadier?

MR VAN LOGGERENBERG: I cannot remember if I left before or after him. I closed the boot and I drove off. I can't even tell you if the Brigadier was there at the transferral point.

MR RAUTENBACH: When you met the Brigadier at the place where you waited for the rest of the people from Johannesburg, did you ask him why are we here in separate vehicles?

MR VAN LOGGERENBERG: I don't believe that I did ask him why were in separate vehicles.

MR RAUTENBACH: From where did you drive, from Middelburg?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: The Brigadier as well?

MR VAN LOGGERENBERG: The Brigadier as well.

MR RAUTENBACH: This alone, that you drove from Middelburg, when you arrived there, didn't you ask him, you know him well, you have been working with him for years, what is happening here, why are we in separate vehicles?

MR VAN LOGGERENBERG: He already mentioned to me that Johannesburg had a sensitive problem that needed our assistance and it would be logical that we would drive with two vehicles. Ten to one we had to drive in different directions, we did not know what the sensitive problem, at that stage, was.

We just drew our own inferences, so I would accept the Brigadier was correct and he drove in another direction.

MR RAUTENBACH: I want to return to the movement here. This place, this hole where the body was disposed of, you mention it as a Crocodile Hole or a Hippopotamus Hole. You said this was a braai place as well?

MR VAN LOGGERENBERG: That is correct, it is not a public braai facility.

MR RAUTENBACH: But I assume that there are people who are aware of this hole there and people angle there for example?

MR VAN LOGGERENBERG: That is correct, that whole area one could see that people have braai's there and they fish in that area.

MR RAUTENBACH: In your mind, the possibility must have arisen that when you drove away from this Crocodile Hole, that there is a possibility that this corpse, the next day already, could be visible at this hole, whether it be against the banks, there must have been something in your mind to that effect?

MR VAN LOGGERENBERG: The situation concerned, I was concerned with the situation, but I believed that the body will wash out in the Mozambique area and if that didn't happen, the crocodiles would eat the corpse. I was concerned that the body may wash up and that would have been a problem, but I believed in the first instance, that the body would wash up in the Mozambique area.

MR RAUTENBACH: From your testimony then can I understand that that was a possibility that you did consider, but you believed that this was a very small possibility?

MR VAN LOGGERENBERG: Yes.

MR RAUTENBACH: Surely you realised that what you have done, as you mentioned, was illegal and as you mentioned Brigadier Visser himself was involved. This was a sensitive matter and it was an important function that you had to perform here.

MR VAN LOGGERENBERG: Yes, I realised it.

MR RAUTENBACH: Did you think about going back the next day and make sure that there are no signs that this corpse came up?

ADV DE JAGER: You mean the scene where he had committed the crime. If the body was laying there at a foreign scene, people would wonder what is he doing here?

MR RAUTENBACH: I think the answer is obvious. If the body did wash up the next day and the witness, Mr Van Loggerenberg was aware of it, alternative plans had to be thought out, that is why I asked the question.

ADV DE JAGER: A corpse that is found 400 kilometres from where you live? How would you be linked to that corpse?

MR RAUTENBACH: There is always a strong possibility that it could be another Unit of the Police, that persons would enquire about this unknown persons that washed up. It could be a possible explanation.

MR VAN LOGGERENBERG: Mr Chairman, I did not return and I did not plan on returning to that specific spot.

MR RAUTENBACH: So all you did at that stage was to keep hoping that the body would not come to the front?

MR VAN LOGGERENBERG: Yes, I was hoping but I was also worried.

MR RAUTENBACH: Did you have any specific knowledge concerning the behaviour, I understand there are hippopotami as well as crocodiles there, now regarding the behaviour these two animals show towards each other, did you think about that?

MR VAN LOGGERENBERG: Yes, I observed them there and because of what the people said in that vicinity even before this incident, they told me that people were attacked and eaten up by crocodiles.

MR RAUTENBACH: If I can just get clarity, you had no specific knowledge concerning how hippopotami and crocodiles live together, how they move within the same area together?

MR VAN LOGGERENBERG: I had no knowledge concerning that, no.

ADV DE JAGER: Mr Rautenbach, can I just ask do you have a basis on which you put it that crocodile and hippopotami do not live together, because if it is not there, then it is both irrelevant, it is irrelevant questions you are asking and you are wasting our time?

MR RAUTENBACH: With all due respect, I do differ from you. The situation is that this specific witness, Mr Van Loggerenberg explained to you that he went and decided to leave the body at that specific area and constantly it was the attitude of the family of the deceased, that this whole question regarding what should happen to the body, is very suspicious and that is why I am asking these questions.

Specifically with regard to what motivated him to find that specific spot, because I would have expected that a person in his capacity as a member of the Security Police and who has to do this really important thing namely to get rid of a body, that he must have had really good motivation why he would have taken specific steps. If I ask him with regard to hippopotami and crocodiles, and I have no evidence or testimony that shows in the opposite direction, I would like to know if this specific Mr Van Loggerenberg would have had the knowledge to make sure that he would have known what he was doing, and if he didn't have the knowledge and he can't explain it to me, then it becomes more and more suspicious to me. That is what I am going to say at the end of the case.

CHAIRPERSON: You can ask the question.

MR RAUTENBACH: Can I just bring this to a close then. You had no knowledge concerning the behaviour of crocodile and hippopotami and how they lived together or whether the one will chase the other away, you had no knowledge concerning that?

MR VAN LOGGERENBERG: I didn't have the knowledge, but I have seen them there. I have seen both crocodiles and hippopotami there and because of what the people who always lived there, said and what they told me regarding what the crocodile do with people who fall into that pool, it was my hope that firstly if the body washed through to Mozambique which they also said happened, and if that happens they are buried in Mozambique.

If that did not happen the crocodile would eat the bodies, and that is why I was convinced, that what I did there, would have been a successful attempt at disposing of the body.

MR RAUTENBACH: In the Section 29, your appearance in the Section 29, can you remember if you said that you were not sure if crocodiles would eat a person which was wrapped in plastic?

MR VAN LOGGERENBERG: That is correct, I am not sure whether they would have done that.

MR RAUTENBACH: We know Mr Van Loggerenberg, and this is how I understand your evidence, that this plastic thing, plastic he was wrapped in, was not removed before the body was thrown into the water.

MR VAN LOGGERENBERG: I did not remove the plastic.

MR RAUTENBACH: Then regarding the same question, you must have sat here and heard this, the way I understand this, the plastic material which was placed around the body was placed over his head and as well as from the person's feet, it was pulled over the person's body in that fashion, you must have heard that?

MR VAN LOGGERENBERG: Yes, I did hear that Mr Chairman.

MR RAUTENBACH: As I further understand your evidence, there are no evidence that these plastic material which was pulled over the body, there is no evidence that it was tied to the body, there was no question of ropes or masking tape or anything like that, it was basically just pulled over the body?

MR VAN LOGGERENBERG: That is what I heard. I didn't see any ropes myself.

MR RAUTENBACH: With all respect, this seems very improbable that when you took the body out of the car, it is improbable that you could have gotten the body out of the boot of the car, without the plastic coming out of the body. How do you explain that?

MR VAN LOGGERENBERG: Chairman, it might have come off or it could have stayed in position, it might have ripped or torn. You have to realise that I was in a rush, I was nervous and I wanted to get away from there. I wanted to get rid of what was in my position.

It might have come off, I cannot tell you that it did come off.

MR RAUTENBACH: I just want to make dead sure, is your answer that it is possible that this plastic material could have come off and that the body then was exposed?

MR VAN LOGGERENBERG: I don't think the body was exposed. I can't tell you. When I took the body in its plastic wrapping out of the car, I did not notice that any part of the body was exposed, but it could have ripped when I handled it.

It could also have happened when I threw him into the water, when the body rolled into the water, but I did not notice anything.

MR RAUTENBACH: You lifted the body out of the boot and you had it on the edge of the boot, you balanced it there, is that correct?

MR VAN LOGGERENBERG: That is correct, just to get a bit of grip on the body and then I moved it to the ground, and I turned it around, so I had my back facing the boot and then I got my hands underneath the body and then I stepped a yard forward, and I rolled the body into the water.

MR RAUTENBACH: That last action you have mentioned, it is not a question of you lifted it out of the car and put it down, and lifted it up again. You put it down, you lifted it up and you threw it into the water, that is what I understood from your head evidence, are you now saying you rolled it into the water?

MR VAN LOGGERENBERG: No, not rolled. I lifted it up, I had my hands underneath the body. You must realise the body is laying in my elbows, you can't throw it.

I don't mean rolling on the ground, I mean it rolled out of my arms, into the water because in that position you cannot throw someone, you don't have a throw action at hand.

MR RAUTENBACH: So the rolling doesn't mean that you rolled him on the ground, you mean you lifted him up and you threw him in the direction of the water?

MR VAN LOGGERENBERG: That is correct, if you put it like that.

CHAIRPERSON: Just while on that point Mr Rautenbach, is there a bank there, was there sand there or rock? Is the water at the edge of the river where the body went in, deep? Could you just explain?

MR VAN LOGGERENBERG: It is fairly level area where I threw the body into the water, but the water immediately becomes deep. It is not a gradual slope. The day when I pointed it out, I looked at it again, it becomes quite deep, but it is not a bank for example if you look at a table, it is not like a wall into the water, the water and the ground was fairly level, but it became deeper quite soon.

CHAIRPERSON: Sorry, and after the body was in the water, did you see it disappear under the water out of sight, or did you turn away before that happened?

MR VAN LOGGERENBERG: Mr Chairman, it seemed to me that the body disappeared into the water immediately, below the surface of the water.

MR RAUTENBACH: Thank you Mr Chairman. You say that with regards to this material, I assume you didn't have gloves on so you could have felt what you were dealing with?

MR VAN LOGGERENBERG: It was plastic, I didn't have gloves. I don't know what kind of plastic it was. I heard evidence that it was bin liners, but I couldn't say if that was the case or not.

MR RAUTENBACH: But you can say that it was plastic?

MR VAN LOGGERENBERG: Yes, it was plastic.

MR RAUTENBACH: I just want to take you to the document, Volume 4, page 802, where you were asked certain questions at the scene of the crime.

If you look at page 802 in the middle of the page, there is a question asked by the Investigating Official and I am going to read this and you can tell us whether you confirm this or not. The Investigating Officer asks was the body covered with anything and your answer was, if I am correct, I cannot remember for sure, it could have been a blanket or a piece of canvass. It was not a bag, it was just wrapped up and it was in the boot of the car, and he was transferred from the one boot to my boot of my car, and when we arrived at this place, the body was exactly like this, I didn't open it up, I didn't look inside. I took him just the way he was, and I threw him into the water.

Let's take it up to there. Is that correct, is that what you said?

MR VAN LOGGERENBERG: During that visit to the hippopotamus hole, whilst I pointed out, yes, that is correct. I tried to explain that the body was covered and that it was plastic. I wasn't sure whether it was canvass or what the colour was. It might have been grey or black, I said that and I also said yes, a blanket and I started thinking about it, and I am convinced now that it was plastic and not a blanket.

MR RAUTENBACH: Let's just go further and the next question was asked, the Investigating Official asks he was covered with a blanket, maybe a blanket or a canvass or something, he couldn't see the body itself.

The next page, this is the same way that he threw the body into the water here. And then a question okay, so he was wrapped in some sort of cloth. Captain Van Loggerenberg, that is right. Were you at that stage, under the impression that it was a kind of material?

MR VAN LOGGERENBERG: Yes and no. I cannot tell you with surety, I said something cloth and I said yes, but I am convinced that it was a type of plastic.

MR RAUTENBACH: At that stage Mr Van Loggerenberg, can you just tell us, this body you took out of the car, now I am talking about when you arrived at the water hole and you on your own had to handle this body, was the body rigid and I refer specifically to rigor mortis?

MR VAN LOGGERENBERG: That is correct Chairman.

MR RAUTENBACH: Would I be correct if I say that the deceased was a relatively big and heavy person?

MR VAN LOGGERENBERG: Chairman, I would not completely agree, if I have to make an estimate and if I think back, I would say between 70 and 80 kilograms and the body was not in a straight position, so I cannot say exactly how big he was.

MR RAUTENBACH: On page 780 and I am not going to put it across as a fact yet, unless we have definite information to support that, but on page 780 and it is still Volume 4, it would seem according to the Investigators and their information, he was a person weighing around 85 kilograms and he was about 6 ft tall. How does that sound to you, would you say that is possible?

MR VAN LOGGERENBERG: How tall he was, I don't agree with that, and as far as the weight is concerned, I estimated him to be between 70 and 80. They reckon he was 85, yes, maybe but I can't give comment as far as the person's length was concerned, or his height rather.

MR RAUTENBACH: Can you just tell us, the people that arrived at the scene where the body was transferred from the one vehicle to the other, who of the persons from Johannesburg did you know?

MR VAN LOGGERENBERG: Only Captain Zeelie.

MR RAUTENBACH: When you were told by Brigadier Visser about what happened, did you realise that what was asked was something illegal? Do I understand you correctly that you never questioned that, the fact that it was an illegal act that you were about to commit?

MR VAN LOGGERENBERG: The instruction, you mean? That is correct, I didn't question it.

MR RAUTENBACH: In your past, with regards to any illegal things taking place when you were questioning a person in detention, did you ever question it then?

MR VAN LOGGERENBERG: I do not follow you, could you please repeat the question.

MR RAUTENBACH: Let me take you to page 558 of the Section 29 proceedings. No, it must be 588.

CHAIRPERSON: Page 588, Volume 2?

MR RAUTENBACH: If you look at page 588, there with regards to your own history, is it correct then that you there indicated that it might have been 10 to 20 times to which you referred, where you were involved in assaults on people who were in detention, is that correct?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: And then on page 588, you briefly told us which methods you used when it came to interrogating people. MR VAN LOGGERENBERG: That is correct Chairman.

MR RAUTENBACH: Mr Van Loggerenberg, when you had to go to receive the body, at that point in time, did you realise or did you make the deduction that you probably had to do here with a person who died in detention?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: In other words, Mr Van Loggerenberg you thought had to deal with a person who most likely was mistreated or assaulted during detention?

MR VAN LOGGERENBERG: I believed it was a person who died in detention. How he died, I knew nothing thereof.

MR RAUTENBACH: You made quite a few deductions. Did you think that maybe if he died in detention, it was because he was assaulted?

MR VAN LOGGERENBERG: Not necessarily, not necessarily assaulted. There are people who commit suicide in detention.

MR RAUTENBACH: Let's accept that one of the possibilities was suicide or would one of the other possibilities then be possible assault? That there was a problem during the questioning and the interrogation?

MR VAN LOGGERENBERG: Yes.

MR RAUTENBACH: Then I would also like to point out to you at the bottom of the page 588, it is right at the bottom where you were asked I just want to know if this is, it is translated into English, I just want to know whether you can confirm for us whether that is exactly what you said, was it standard practice in the Police Force or was it standard practice where you were, to illicit information from people in this manner, referring to methods of torture and the answer was it was general practice in the entire Police Force at the time, not just Security Branch, is that correct?

MR VAN LOGGERENBERG: That is correct Mr Chairman.

MR RAUTENBACH: Then I want to ask you, where you say this was something that was used as normal practice in the Police Force, it was not only restricted to the Security Branch itself, correct?

MR VAN LOGGERENBERG: As far as I know, yes, it was not only restricted to the Security Branch.

MR RAUTENBACH: Do you have personal experience of the fact that it was not only restricted to the Security Branch but also happened in other departments of the Police?

MR VAN LOGGERENBERG: Yes, in the Detective Branch it did happen.

MR RAUTENBACH: So these methods are not only used when you are working with the total onslaught, but it is also used within the Detective Branch?

MR VAN LOGGERENBERG: I did experience it at the Detective Branch, yes, that is correct.

MR RAUTENBACH: Mr Van Loggerenberg, this was a method used to investigate an issue, correct?

MR VAN LOGGERENBERG: Yes. At this case I was at the Security Branch and this incident took place when I was at the Security Branch, so in the Security Branch as I said before, we did not work with normal, criminal activities.

MR RAUTENBACH: Mr Van Loggerenberg, the Security Branch and within the Security Branch investigations must have been led and a lot of people were accused under Section 54 of the Internal Security Act regarding perpetrations which were criminalised at that point and we are talking about offences regarding the security?

MR VAN LOGGERENBERG: Yes, mostly regarding security legislature, yes.

MR RAUTENBACH: And with those investigations, you had to obtain enough information so you could have enough evidence to find people guilty, is that correct?

MR VAN LOGGERENBERG: Yes, information had to be obtained by means of questioning the people, that is correct. MR RAUTENBACH: That is exactly what happened in the Detective Branch, information had to be gathered in order to get enough evidence in order to prove somebody guilty.

MR VAN LOGGERENBERG: Yes, to find information and to give facts to a court when this person is being tried.

MR RAUTENBACH: So what you want to try and tell us is that the one has a political motive and the other one not?

MR VAN LOGGERENBERG: I was in the Security Branch. That dealt exclusively with political investigations.

MR RAUTENBACH: So what you are trying to tell me, or what you are telling me is if yesterday you investigated a matter with the Detective Branch where a person was assaulted to obtain information from him, and tomorrow you would do the same thing in another branch, you would say to me that the one has a political motivation and the other one not, is that correct?

MR VAN LOGGERENBERG: No. What we did in the Security Branch was to stop the onslaught against the government. I commit myself to the Security Branch. This task that was put to us to stop the onslaught against the government.

MR RAUTENBACH: Now, if we look at the facts before us and then you refer to the total onslaught, the day when this person came to the fore and it was told to you about the sensitive package, were you prepared to act on your own inferences without receiving information to substantiate that this was a political matter?

MR VAN LOGGERENBERG: I was convinced that the instruction that the Brigadier gave me, would not be a criminal matter and it was substantiated when the Johannesburg people arrived there and they were Security Branch members.

MR RAUTENBACH: At the stage when you had to carry out your decision, did you know that corpses were previously being disposed of?

MR VAN LOGGERENBERG: Not what I had knowledge of.

MR RAUTENBACH: I just want you to look, just to get clarity on that, page 857 with regard to the Section 29 proceedings.

It was asked of you do you know of an incident where another person died during interrogation in the Eastern Transvaal where the body was taken to Pretoria to be disposed of and the answer that you give is I do not know about it being blown up, but I do know of a person who was interrogated in the Eastern Transvaal and he was alleged to have died during interrogation. That is a matter which appeared in the Middelburg Supreme Court.

I cannot understand the context of this totally, but do you say then this was a matter that you did not know what happened to the corpse or what are you saying here?

MR VAN LOGGERENBERG: The question at that stage was asked, yes, I know of it, but this was after this incident. I read about it in the paper and at that stage, we heard that it was in Johannesburg, but this matter was in the Middelburg Supreme Court, that is why I had knowledge thereof.

MR RAUTENBACH: What is important is that afterwards you only found out?

Mr Van Loggerenberg, is it correct that some of these persons in your experience, that you assaulted in order to obtain information from them, was convicted because of the information you received in this manner?

MR VAN LOGGERENBERG: No.

MR RAUTENBACH: I just want to put it to you again and you were specifically asked of this, the question was put to you were any of the people that you interrogated, charged and prosecuted and found guilty of any of the crimes and the answer was, I would say yes, if I could. Then the next question, in other words you did not even make that information available to the Court at the time when you tortured these people, and the answer was we would say that we denied that it happened. What is your comment on that?

MR VAN LOGGERENBERG: The methods I used during interrogation was to receive information. If I was asked in court about such torture, I would deny that.

MR RAUTENBACH: You see there was perjury in that manner then?

MR VAN LOGGERENBERG: No.

MR RAUTENBACH: I do not understand your answer, explain to me why you say no?

MR VAN LOGGERENBERG: Perjury was not committed. As I have explained, I cannot speak for other Police Officers, the torture that I used on persons to ask them questions, the information that I obtained was to use to gain more substantial information that could be used in court.

MR RAUTENBACH: Let's just put it clearly Mr Van Loggerenberg, what you did was to put it in layman's terms, you lied about these assaults?

MR VAN LOGGERENBERG: That is correct. As I have said to the Committee, I did deny it in court.

MR RAUTENBACH: It comes down to perjury?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: And this was the practice?

MR VAN LOGGERENBERG: I cannot say this was the practice, this is what I did. I do not know what other persons did.

MS VAN DER WALT: Mr Chairperson, with respect, I am not trying to interrupt Mr Rautenbach's cross-examination, but the manner in which Mr Van Loggerenberg acted during the Section 29 proceedings, he answered these questions, but this has nothing to do with the incident, this matter and these questions are irrelevant. I am trying to control myself, but at some stage we need to reach a point where we can say let's get back to the facts of this matter here. Please Mr Chairperson.

CHAIRPERSON: I think on this one, Ms Van der Walt, we will wait and see what Mr Rautenbach says, but isn't he going on the question of credibility here. It has been put that the victims are disputing the manner in which the body was disposed of. They don't accept it and the cross-examination is being dealt with on the question of credibility here, and he is putting it, saying from what was said in the Section 29, he admitted to lying in court.

We know that that's got nothing to do with what happened at the Crocodile Hole or on the night of the 12th of June, but that doesn't mean that it is irrelevant, does it? On what basis should that question be refused or disallowed?

MS VAN DER WALT: With respect Mr Chairperson, Mr Van Loggerenberg right from the beginning, he said that he did assault people and that by itself has nothing to do with his credibility.

He is making, he says that he assaulted these people and in this matter, if the family's representative wants to make certain statements to say that he is not talking the truth, but we want to get to a point where these questions will stop, thank you.

MR RAUTENBACH: Mr Chairperson, I agree to a certain extent that yes, there must be a cut off point so to speak, one can't go on for ever on issues that merely deal with credibility as such.

On the other hand, this witness is the only witness that can actually tell us what happened to the body. It is the only person that actually can give evidence regarding that specific feature, and I have already pointed out that as far as the family is concerned, the family has got serious reservations about this part of the version by the applicants, as to what happened to the body.

In that respect the credibility of the witness, is of the utmost importance, but I will bear in mind that as far as it only relates to credibility, that a point should be reached where I should not go further than pointing out that these things are important in as far as credibility finding is concerned, as it pleases you.

CHAIRPERSON: I think you have questioned him now and he said that he did tell untruths in the court. He did lie in this regard. The last question was and was that general practice, and he said well, I can't say that. I don't think there is anything further, I mean, to be asked on that point. It has come out.

MR RAUTENBACH: There remains one question, but it is only one question relating to Brigadier Visser. Mr Van Loggerenberg, concerning these incidents and the fact that it was kept quiet in court and during the Section 29 procedures, you said that Mr Visser was aware of this?

MR VAN LOGGERENBERG: That is correct, he would have been aware of this. As I have explained there, it was not after I did it, I went back to him to say I did this and that, but he was aware of it.

MR RAUTENBACH: Do you know Mr Van Loggerenberg, after you disposed of this body, whether contact was made with Brigadier Visser to ensure that the work was completed in the correct manner?

MR VAN LOGGERENBERG: I am not with you, contact by whom, between the two of us?

MR RAUTENBACH: The people from Johannesburg who brought the body there?

MR VAN LOGGERENBERG: Not that I am aware of, I am not sure. I could not comment on this.

MR RAUTENBACH: Could you tell us what is your version, I understand there was this meeting that was held by the Commissioner regarding, during the amnesty, or old members of the Security Branch. How did you react to this, what did you do and how did you go about getting this process into action?

MR VAN LOGGERENBERG: I attended the meeting and I listened to the procedure and what the Commission would do. After the meeting, I spoke to Brigadier Visser and I told him that I felt that I wished to speak out and sent in an application for amnesty regarding this incident. I did not know who the person was and that I would go to the Advocates, and he could also not help me, to tell me who the person was once again, who was disposed of.

He did not have a problem with that and I suggested that I go to Adv Van der Walt and we made an appointment and he accompanied me. With my arrival at the Advocate, during my consultation, the dates and the situation, I explained to them and that I did not know who the

person was. The Advocate told me that it was, it could only be the one person, Stanza Bopape and the people from Johannesburg had already consulted with them, or planned to consult with them, I can't elaborate on this.

MR RAUTENBACH: I just want to ask the question to you as well, you knew Zeelie? You had a manner to enquire about the amnesty, did nobody call Zeelie and asked him who the person was? You are going to the Advocates, I wish to apply for amnesty, but I do not know for whom?

This was unbearable, why didn't you enquire about it?

MR VAN LOGGERENBERG: I first consulted with my Advocate and if they could not get me on the right road and tell me who the person was, I would have by means of my Advocate contacted Zeelie or Van Niekerk, and we would have determined who the person was.

MR RAUTENBACH: Mr Van Loggerenberg, your answer now is that I first wanted to confirm whether they could tell me who the person was, but if they couldn't I would have contacted Zeelie and Van Niekerk. Is that your answer?

MR VAN LOGGERENBERG: No Chairman, I got legal assistance, I told them that I want to apply for amnesty and my problem is that I do not know who the person was.

My legal advisors would then have put me on the right track, and if they did not know, the next step would have been that I would ask them and tell them that the people who would be able to help us with that, is Van Niekerk and Zeelie.

MR RAUTENBACH: So, at that stage you didn't know that they had to do with the other amnesty applications as well?

MR VAN LOGGERENBERG: No, I didn't know that.

MR RAUTENBACH: With regard to the C-Unit of Vlakplaas. They were involved in the area of the Eastern Transvaal?

MR VAN LOGGERENBERG: Yes, I had knowledge of the fact that they worked there.

MR RAUTENBACH: Why would you say you were willing to commit this illegal act, and I mean specifically the disposing of the body?

MR VAN LOGGERENBERG: My political conviction.

MR RAUTENBACH: Would you agree with me if one could describe it as political indoctrination?

MR VAN LOGGERENBERG: Yes.

MR RAUTENBACH: Who would you say was responsible for what you call political indoctrination?

MR VAN LOGGERENBERG: We were in a situation where the ANC used violence in order to undermine the government of that day. They used their MK soldiers to commit violence.

Me, being part of the National Party, was forced to do military service or a career in the Police, I had to do either one of the two, and I decided on the Police Force and there I had an instruction and that came straight from the government and it said you will oppose the MK or the ANC.

You must understand you have an armed MK soldier on the one side and you have a security person on this side and when this two get together, it is war.

That conviction I had with me, I would have done anything within my means to oppose the ANC.

MR RAUTENBACH: Let's stay with that for a while. You would have done anything in your power to oppose the ANC, would that have included illegal acts as far as it is in the interest of the government in order to oppose the ANC, is that correct?

MR VAN LOGGERENBERG: I acted illegally in order to protect the government of that day, specifically the National Party then.

MR RAUTENBACH: You believed then that the end justified the means?

MR VAN LOGGERENBERG: I trusted that if there was a problem with my behaviour, they would stand behind me.

MR RAUTENBACH: You say they, do you refer to the National Party?

MR VAN LOGGERENBERG: Yes.

MR RAUTENBACH: Did you also believe that they would have given approval of your behaviour as long as it was linked with behaviour that fought against the ANC?

MR VAN LOGGERENBERG: I think they approved of it, but silently.

MR RAUTENBACH: Did you see in Section 22 of this law concerning amnesty, it is one of the requirements of amnesty that there should have been silent approval or authorisation of an employee of the State, do you know that?

MR VAN LOGGERENBERG: I have read that, yes. I have read it.

MR RAUTENBACH: I want you to look at page 629 in Volume 2 and again, that is once again the questioning taking place at the Section 29 proceedings.

You can just put us in the picture here, there is something that is not quite clear from this questioning. If you look at the middle of the page, you are asked there, go up a bit, it is about the second, third paragraph. Mr Pigou, just a couple of other further points of clarification, when we were at Komatipoort you indicated that the water level that we found at Komatipoort at that time, was similar to the water level at the time, you couldn't be absolutely sure, but you indicated that it was similar. Then he asked you would you retain that story and

your answer was, correct yes, I cannot tell you exactly what the water level was that day, but I would stay with it that it was roughly at the same level. It was dark, it was night time, so I cannot tell you exactly.

Firstly Mr Van Loggerenberg, that part I have just read to you, is that what was said?

MR VAN LOGGERENBERG: That is about correct yes.

MR RAUTENBACH: Then Mr Prior asks you, do you also maintain that the weir that is built upstream where the bridge crosses the main road from Komatipoort town towards the Mozambican border, that at that time, in 1988, that that weir was not constructed, it was not there and the answer is I don't exactly know what weir you are talking about. Is it the weir where the tarred road crosses or lower down in the river, I am not exactly sure which weir you are referring to.

Can you remember that that is what you answered?

MR VAN LOGGERENBERG: Yes, that is correct. I wasn't sure of which weir he was speaking at that stage.

MR RAUTENBACH: I get the impression he is speaking about an obstacle in the direction of Mozambique, that is the impression I got.

MR VAN LOGGERENBERG: No, I didn't get that impression. I was thinking of the weir which was built later on the right side of the tarmac road on the way to Mozambique and where I was involved, where I got rid of the body, it was on the left side of the road. I was confused.

MR RAUTENBACH: Can you remember on the video, if there were material which indicated these obstacles, can you remember something like that?

MR VAN LOGGERENBERG: I can't remember. I looked at the video tapes, I can't remember that they indicated in that direction. I am not sure about that, I can't give you a good answer.

MS VAN DER WALT: Can I just place something on record please, the question which was asked on this page is the main road from Komatipoort town towards Mozambican border, there is a difference.

CHAIRPERSON: They also talk about it being up stream, so up stream would be away from the border.

MS VAN DER WALT: Yes, but Mr Rautenbach's question is that it would be the main road going towards the Mozambican border and Komatipoort town is away from the road, so the statement must just be corrected.

MR RAUTENBACH: Mr Chairman, the difficulty that I have is I discussed it with my colleague here and you know, we actually thought of, well I actually thought of the possibility of putting up the video and ask a couple of questions with the video material being available, especially if you look into this direction, in which direction are you looking. Are

we now on the side of the place where the body was dumped, if we look, are we looking towards Mozambique, that is the type of question.

I believe however, that it wasn't possible today to actually set up that specific equipment, so I think in the circumstances, what I should do is, I discussed it with Mr Steenkamp and he said to me it will be possible to just set it up tomorrow to get to the relevant video or the relevant material on video and then ask the question.

It can't be done now and in those circumstances, I would rather at this stage, I don't have any further questions, but for those questions on the screen itself.

NO FURTHER QUESTIONS BY MR RAUTENBACH.

CHAIRPERSON: I think Ms Van der Walt, that would probably be the best way to handle this, because it is not clear from the record from this record, the Section 29 record, exactly where they are indicating, which road it is, it is a bit confusing.

I think perhaps on this point, it might also be beneficial for us to see, just get an idea of what the area looks like.

MS VAN DER WALT: I think that is a good plan Mr Chairman.

CHAIRPERSON: In that event Mr Rautenbach, you will conclude your cross-examination subject to what, to this video being shown and any questions arising from that tomorrow.

Mr Steenkamp, would it be possible to secure that video by tomorrow and have the equipment to set it up?

MR STEENKAMP: Mr Chairman, the video's are actually available right now, but I understand, I was told this morning, there is a logistical problem with the specific video recording.

The video's are available, I was ready to show it but I was told unfortunately, it was practically not possible to have them here today. Thank you sir.

CHAIRPERSON: Do you have any questions to ask of the witness.

NO CROSS-EXAMINATION BY MR STEENKAMP.

CHAIRPERSON: Ms Van der Walt, do you have any re-examination?

MS VAN DER WALT: I have no further questions.

NO RE-EXAMINATION BY MS VAN DER WALT.

CHAIRPERSON: Thank you. Mr Moloi, do you have any questions to put to the witness?

MR MOLOI: Thank you Mr Chairman, just a point of clarification here. Mr Van Loggerenberg, you say when you agreed to disposing of this body, you did so because of the

belief you had in the total onslaught on the country and accepted it as your duty to forestall that, or to prevent that?

MR VAN LOGGERENBERG: That is correct Mr Chairman. I saw it as my duty to oppose the onslaught against the country at that stage.

MR MOLOI: And you also stated that it was an order from your superior and you had to comply therewith?

MR VAN LOGGERENBERG: Correct Mr Chairman, it was an order and I complied to do it.

MR MOLOI: I would like you to turn to page 584 of the Section 29 proceedings because then I have a problem that you could possibly sort out for me.

On page 584, you were asked whether you had been given an order or an instruction and in the middle of the page, there you say I am sure it will not make sense to the Commission, but at that time why I agreed to this was that I was requested. I cannot say that I had been given an instruction, but I was requested to take a package and to get rid of the package. Was that a correct report of what you said at that enquiry?

MR VAN LOGGERENBERG: I did say that it was an instruction and when I say instruction, it to me means the same as an order. If you give somebody an instruction to move a glass or if you give him an order to move the glass, he will move the glass.

MR MOLOI: Then you go further and say I cannot explain why I agreed to this. If I think about this clearly, I might well have acted differently at that time and under those circumstances. I cannot explain why I agreed to that, but today you say you were convinced it was your duty to fight against any onslaught against the country and forestall it. Can you explain that to me?

MR VAN LOGGERENBERG: Chairman, that is correct and I will repeat it. If I think back now on what I did, I don't know why I did it. I don't know why we did it. There was only one way out, well there is only one answer for it. It was my political conviction.

But now, where I am sitting here and I think about why I followed that order, or why I disposed of that body, I do not understand it. Today there is no purpose to it any more. The struggle is lost and the only reason I did it, if I think back about it, was the fact that I was politically motivated to do so.

MR MOLOI: Thank you, I've got no further questions Mr Chairman.

CHAIRPERSON: Thank you Mr Moloi. Mr De Jager, do you have any questions?

ADV DE JAGER: Now when you visited the scene again, does the world still look, does it still look the same there as it did 10 years ago?

MR VAN LOGGERENBERG: Chairman, not quite the same no. It is much cleaner on the banks than it was then. Those years there wasn't garbage can of any kind, it didn't exist and it must have been put there not long ago but the reeds on the other side of the river, yes, it is the same. All I can say it is a bit cleaner underneath the trees than it used to be, a bit tidier.

CHAIRPERSON: Adv Gcabashe?

MS GCABASHE: Thank you Chair. The question of Mr Mostert and Mr Engelbrecht, did you see them at all at any time either at the bridge on the Bronkhorstspuit Road or at the time the body was transferred to your motor vehicle?

MR VAN LOGGERENBERG: Chairman, I did see people there but I could not identify them, I did not know them. I also did not speak them, they could have been there. I am not able to say whether they were there or not.

MS GCABASHE: Who transferred the body from the one car to the other, the first time it was transferred?

MR VAN LOGGERENBERG: The transfer of the body at Bronkhorstspuit was done by me and Zeelie.

MS GCABASHE: The next aspect is on the, you know the result that was expected of you by your Commander, you had faith in him, he had faith in you, that is what you have made us understand, is that correct?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS GCABASHE: He considered you to be a very competent man and that too is correct?

MR VAN LOGGERENBERG: I believe he saw me as a competent person.

MS GCABASHE: And yet from your evidence I understand that you weren't sure that you were successful when you turned away and got back into your car at the crocodile pit. You really didn't know what would happen to that body?

MR VAN LOGGERENBERG: I was worried that there might have been a problem, but I believed and I hoped that that body would wash out on the Mozambique side and if not, that the body would be destroyed by the crocodiles.

The fact that I was worried that it might not be successful, yes, that is true, and I was worried about it for a long time.

MS GCABASHE: Now in terms of the competency that your superior believed you had, in terms of the faith he had in you, do you believe that at the time rather, did you believe that that was sufficient that you simply believed certain things might happen to this body, you could not be sure that you had indeed executed your function as expected of a competent Officer, was that sufficient?

MR VAN LOGGERENBERG: I believed that the body would not be found again. I believed in what I did and I was sure that the body would not be found again. The fact that I was worried, yes, I was worried.

MS GCABASHE: Was this belief based partly on the fact that if the body had resurfaced in your area, you would have been one of the people to get to know about it? I've read that

somewhere in the Section 29 hearings that you would probably have been informed about it as you were an Officer in that area?

MR VAN LOGGERENBERG: Chairman, I missed the first bit of the question, can you please repeat it?

MS GCABASHE: The essence really is did you say to yourself if that body does surface at the wrong place, I would have a second opportunity to get rid of it because I am sure to be informed of a body surfacing in our area?

MR VAN LOGGERENBERG: No Chairperson, I was not an Officer in that area. I worked in the Eastern Transvaal region, but I was not an Officer in that specific area and secondly if the body came to the fore, if it appeared, I would not have had a second opportunity to get rid of the body, it would have caused a problem.

I wouldn't have had access to the body.

MS GCABASHE: For a man who is considered very competent by his superior, that actually makes it even more difficult for one to believe that such a competent Officer would not have ensured one hundred percent success result, the first time he did something.

He himself said you were a very competent man, that is why he asked you to assist him?

MR VAN LOGGERENBERG: I was convinced that the method I used, would be successful. It was my conviction.

MS GCABASHE: Then the final aspect is just in relation to your application for amnesty and I may have misunderstood you, but I understood your evidence to be that once you decided to apply for amnesty, you thought you would rely on your Advocates to tell you whose body this was that you had disposed of rather than your colleagues whom you had worked with.

I might have misunderstood you, can you help me there?

MR VAN LOGGERENBERG: No Chairperson, it wasn't my intention. I wanted legal help and I wanted to submit an application. I explained to them my situation, I didn't have the name of a person whom I got rid of. If they could not tell me, I didn't rely on them to know, but if they could not tell me, then I would have by means of my Advocate contacted Zeelie or the Johannesburg people and they might have been able to give us more information.

I did not expect that they would be able to help me with the person's name.

CHAIRPERSON: Did your Advocates or your legal representatives in fact tell you who the deceased was?

MR VAN LOGGERENBERG: That is correct Chairperson. They told me it must be Stanza Bopape because they had clients in Johannesburg whom they were consulting with concerning that issue.

MS GCABASHE: Thank you. Thank you Chair.

CHAIRPERSON: Judge Ngcobo?

JUDGE NGCOBO: At the time when you took the decision to make the application for amnesty, were there any criminal proceedings pending or any criminal investigations being conducted into the death of Mr Bopape, do you know?

MR VAN LOGGERENBERG: Mr Chairperson, after my application was handed in, an Investigation Team from the Attorney General approached me and asked me about the situation and I told the team that I have already handed in an application and that they needed to consult with my legal representatives.

JUDGE NGCOBO: You have testified that you cannot explain why you agreed to dispose of the body. What do you mean, are you saying that at the time when you were instructed or requested to dispose of the body, you didn't think about whether should I do this, if I have to do it, why do I have to do it. You simply followed the instruction?

MR VAN LOGGERENBERG: Mr Chairperson, at the time when I received the instruction, I did it and I knew why I did it. My political conviction, I was convinced that I was doing this for the struggle. What I mean when I said that I don't know why I did it, if I sit now and think back, my acts then, it is difficult for me to tell you why I did it.

My political conviction that I had never become a reality, if I can say it in that manner. That is what I mean when I say I can't really recall why I did it.

JUDGE NGCOBO: I don't know whether I understand what you are saying. When you did it, at the time, you did so because of your political convictions?

MR VAN LOGGERENBERG: That is correct Mr Chairperson. At the stage when I did this, I did this from a political motivation.

JUDGE NGCOBO: But as you sit there now, you can't explain why you did it, is that what you are trying to say?

MR VAN LOGGERENBERG: That is correct Mr Chairperson, the reason being my political motivation and the politicians for whom I did it, left me in the lurch, it never became a reality.

JUDGE NGCOBO: Are you saying that because you did not get the support from the politicians, perhaps you shouldn't have helped in this mission?

MR VAN LOGGERENBERG: If I did receive the support of the politicians, the government of that day, it would have sense to me now why I did it, because I did it because of political motivation, at that time I did do it. But now you ask me why I did it, and I cannot tell you, they just left me just like that.

JUDGE NGCOBO: So really your complaint if I may call it, is that when you took the decision to help in disposing of the body, you did so because of your political conviction and you were helping the government of the day?

MR VAN LOGGERENBERG: That is correct Mr Chairman.

JUDGE NGCOBO: And because you were helping the government of the day, you expected that if there is any problem subsequent to that, you will receive the support of the politicians?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

JUDGE NGCOBO: Now that that kind of support is not forthcoming, you just wonder whether it was wise of you to have done it in the first place?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

JUDGE NGCOBO: Thank you.

CHAIRPERSON: Okay. Mr Van Loggerenberg, how far is Komatipoort, the place in the river where the Crocodile Hole is, from Middelburg, approximately?

MR VAN LOGGERENBERG: Mr Chairperson, the point where it was picked up, or if we speak about from Middelburg, it is about 300 kilometres, it is plus minus 350, 380 from the point where I picked it up and the point where I disposed of it.

ADV DE JAGER: If I could help here, Komatipoort is 420 kilometres from Pretoria.

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

CHAIRPERSON: I just want to try to understand why you then decided to embark on a 700 plus kilometre round trip to dispose of a body which you were, you undertook to do and then dispose of a body in such a way that you are not one hundred percent sure that it won't be found the next morning.

You said you had a conviction that it would go to Mozambique or be eaten by crocodiles, but you were worried and the fact that you were worried was that it wasn't one hundred percent sure that the body would disappear.

Why not bury it in a shallow grave in some lonely place, in your garden, anywhere, but why go to that distance to perform a function that is not one hundred percent guaranteed to work?

MR VAN LOGGERENBERG: Mr Chairperson, from the point of my departure, I could not think of anything else, I could not think of anything else but the Crocodile Hole at Komatipoort.

I did not know any other method of disposing of this corpse, this was the only thing that I had in my mind, I thought this was the best and the right thing to do, away from my place. I cannot tell you now, I could not think of anything else then, of how to dispose of this body except for the hole at Komatipoort.

CHAIRPERSON: Would you agree that if the body had been found the next morning by a fisherman going there or somebody going to collect water, and they come across this body wrapped in a plastic bag, that body would have been identified almost immediately because you knew that the person was in detention and there was probably finger print records of the deceased?

MR VAN LOGGERENBERG: I agree Mr Chairperson, it would have been a problem.

CHAIRPERSON: Did it also cross your mind that the fact that you are getting rid of a body of a person who had died while being investigated, while being in detention, would inevitably have to result in some sort of cover up somewhere along the line, although you didn't know the reason of the cover up, but the fact that the person died in detention and you are now secretly getting rid of the body, would necessarily result in their having to be a cover up about the disappearance of this person.

MR VAN LOGGERENBERG: I was part of this cover up, I got rid of this body and I knew there was going to be a cover up. I believed this, that it would happen.

CHAIRPERSON: Did you on the night in question, the night of the 12th/13th at the hole in the river, actually see yourself that night, any crocodiles or hippopotami?

MR VAN LOGGERENBERG: Mr Chairperson, I drove in with the lights on and to make sure that the place where I stopped was clear, I did not see crocodiles myself. They must have been in the bushes or on the banks, but at that point I did not see any.

CHAIRPERSON: Thank you. Ms Van der Walt, do you have any questions arising by questions put by the Panel?

MS VAN DER WALT: No further questions thank you.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

CHAIRPERSON: Mr Prinsloo?

NO FURTHER QUESTIONS BY MR PRINSLOO.

CHAIRPERSON: Mr Visser?

NO FURTHER QUESTIONS BY MR VISSER.

ADV DE JAGER: Could you think of any better method at that stage to dispose of this corpse?

MR VAN LOGGERENBERG: No, I couldn't think of any other method.

ADV DE JAGER: If you had thought of a better method and this method, would you have weighed up the two methods?

MR VAN LOGGERENBERG: Yes, I would have weighed up my options and I would have taken the best option, or the safest option.

CHAIRPERSON: Mr Rautenbach, do you have any questions arising?

MR RAUTENBACH: No further questions.

NO FURTHER QUESTIONS BY MR RAUTENBACH.

CHAIRPERSON: Mr Steenkamp? No. Thank you Mr Van Loggerenberg, you may stand down.

MS VAN DER WALT: This concludes my applicants.

CHAIRPERSON: Thank you Ms Van der Walt. I see it is now quarter to four, would this be a convenient time to adjourn for the day and then, what time would be convenient to start tomorrow? Half past nine, would half past nine be convenient? Thank you, we have now come to the end of today's hearing and we will adjourn the matter until tomorrow at the same venue, to commence at half past nine in the morning. Thank you.

COMMITTEE ADJOURNS

ON RESUMPTION ON 02-06-1998

CHAIRPERSON: Good morning everybody. When we adjourned yesterday, we were talking about seeing a video. I see Mr Rautenbach's got his finger on his machine, we will listen to what Mr Rautenbach's got to say.

MR RAUTENBACH: Mr Chairman, we have said about the video and we have looked at portions of it, it is definitely not necessary to play all the video's, basically the ones that we are interested are those that depicts the actual place as shown by the witness.

I suggest that we play it and then ask, maybe parties will be allowed to ask some questions from Mr Van Loggerenberg. There is however another issue Mr Chairman, and I would like to raise it at this very point, and that is that last week my Instructing Attorneys sent a letter to Adv Steenkamp and Van Rensburg, relating to this matter the resumption of the part-heard amnesty hearing in which we sent them a motivation in respect of a subpoena, in respect of Mr Adriaan Vlok.

It is the contention of the family that there are grounds at this stage, to serve a subpoena on Mr Vlok to come and give evidence at these proceedings. I will first just hand out copies of the motivation to parties concerned and then, if you will allow me Mr Chairman, I will then proceed with my motivation and reasons for this request.

MR VISSER: May I be allowed to say something perhaps Mr Chairman, I am not certain why we should interrupt the evidence of this witness at this time.

Can't we just finish with this evidence and then deal with that matter because I haven't seen that document and I would certainly like to study it before I can adopt an attitude about it.

CHAIRPERSON: Perhaps can we finish with Mr Van Loggerenberg's evidence.

MR RAUTENBACH: Mr Chairman, Mr Visser's request is one hundred percent reasonable, I understand it and that is in fact a good idea. I agree with that.

CHAIRPERSON: In the mean time if we can distribute the document, none of us have seen that, and should this then be, do you want it as an **Exhibit**, we will call it **Exhibit M**, although strictly speaking, it is not really an **Exhibit**, but we will label it that.

ADV DE JAGER: Are there any other relevant documents?

MR RAUTENBACH: Not at this stage, Mr Chairman.

ADV DE JAGER: If there is an answer on this request, we would like to see that too and if there has been previous correspondence about that, we would like to see that too.

MR RAUTENBACH: May I just put it like this Mr Chairman, the motivation was sent through last week to Adv Steenkamp. It was sent through, he was told about it on Wednesday in discussion with Mr (indistinct) from Cheadle Thompson & Haysom, the document was sent through on Thursday.

I believe, I am not one hundred percent sure, I think Mr Steenkamp said he received the document on Friday. There was no answer to this correspondence. I was under the impression and I raised that issue this morning with Mr Steenkamp, that he actually distributed it to the other parties. He told me that he did not distribute the actual motivation, but he informed them of the fact that there will be a motivation to subpoena Mr Vlok.

This is what Mr Steenkamp told me, I myself was under the impression that he actually distributed it. Having told me that it was not yet distributed, that is why this morning after having advised of that, I immediately wanted to distribute it amongst the parties.

CHAIRPERSON: Ms Van der Walt, if we can then proceed with the video. Mr Rautenbach has indicated that it won't be necessary to see the whole video. I don't know if you arrived at some sort of agreement as to what we are going to see and how you are going to censor it and edit it or whatever the correct word is.

MR RAUTENBACH: I have actually spoken to Ms Van der Walt as well as the witness and we have actually agreed where it should start and where it should stop without wasting time, the Committee's time. I just wonder, maybe, I don't think we are at the spot where we wanted to start with the video.

Okay, I believe that is has been arranged.

CHAIRPERSON: Okay. Ms Van der Walt, I think if you could lead in.

COMMITTEE WATCHES VIDEO MADE AT THE POINTING OUT.

CHAIRPERSON: Thank you. Is that all then Mr Rautenbach and Ms Van der Walt? Ms Van der Walt, I don't know if you want to ask Mr Van Loggerenberg anything about the video?

FURTHER EXAMINATION BY MS VAN DER WALT: Mr Van Loggerenberg, the place you pointed out there, that is the hole you referred to?

MR VAN LOGGERENBERG: That is correct Chairman.

MS VAN DER WALT: At that stage, as they put it there was a weir where the water did not run over, is that correct?

MR VAN LOGGERENBERG: That is correct.

MS VAN DER WALT: So the water which is to be seen on that hole on the video, at the stage you did the pointing out, only received its water from the one river, is that correct?

MR VAN LOGGERENBERG: Yes, if you look at the flow of the river at that point, it was only the Crocodile River which fed that hole.

MS VAN DER WALT: On the 13th of June 1988 when you threw the body into that hole, the weir was not there and the hole was fed by two rivers?

MR VAN LOGGERENBERG: That is correct.

MS VAN DER WALT: The hippopotami, we can see on the video, they were in the same hole?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS VAN DER WALT: Unfortunately I couldn't speak on the microphone whilst the video was being shown, but the last bit of the first video we have just first seen, they showed the hole and also the small little hillet at the back and towards the right of the video. What was that hill?

MR VAN LOGGERENBERG: That was the border area between South Africa and Maputo.

MS VAN DER WALT: No further questions, thank you.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

CHAIRPERSON: Thank you. Mr Prinsloo do you have any questions on the video?

MR PRINSLOO: No further questions, thank you.

NO FURTHER QUESTIONS BY MR PRINSLOO.

CHAIRPERSON: Mr Visser?

ADV VISSER: Thank you, no Mr Chairman.

NO FURTHER QUESTIONS BY ADV VISSER.

CHAIRPERSON: Mr Rautenbach?

FURTHER CROSS-EXAMINATION BY MR RAUTENBACH: Mr Van Loggerenberg, maybe I should just explain I got the impression when looking at the video that you described the process that you would have rolled the body into the water.

MR VAN LOGGERENBERG: That is correct Chairperson.

MR RAUTENBACH: But in your evidence, I must put it to you that I got a completely different impression. Then it sounded like as if you basically picked up the body and threw the body into the water in one movement, what is your comment?

MR VAN LOGGERENBERG: Chairperson, if you look at the video just before I spoke about the rolling movement, I just tried to explain to them that it was a throwing action and as I explained to the Chairman yesterday, I did pick up the body and threw it but in a rolling position, rolling it into the water, but I didn't physically roll it on the ground into the water.

MR RAUTENBACH: Then you also made mention of the fact that, I can't remember your exact words, but you said in the video that hippopotami do not live in shallow water. Why did you say that?

MR VAN LOGGERENBERG: That is a deduction I made and regarding my experience at that specific place, I always thought that hippopotami lived in deep water, but I am not an expert as far as that is concerned. That is a deduction I made.

MR RAUTENBACH: So your intellect told you this and it also would have been better for you to be outside of the water than inside the water?

MR VAN LOGGERENBERG: That is correct.

MR RAUTENBACH: Then I would also just like to ask you with regards to the road you took, what would you have done if you were stopped by Police of the Uniform Branch and who might have had a blockade in the road?

MR VAN LOGGERENBERG: Then Brigadier Visser would have given me assistance and help. If it was a road block, I would have had a fair chance to go through because I had a position within the Security Branch.

MR RAUTENBACH: Would you then have expected that Brigadier Visser would have been able to protect you by using other members of the Security Force?

MR VAN LOGGERENBERG: Yes, if there were problems, I would have contacted him first.

MR RAUTENBACH: Were you in contact with him?

MR VAN LOGGERENBERG: I had a radio in the car. I would not have had direct contact with him to his office, but by means of the other stations, I would have been able to make contact with him.

MR RAUTENBACH: I have no further questions Mr Chairman.

NO FURTHER QUESTIONS BY MR RAUTENBACH.

CHAIRPERSON: Any questions about the video?

MR STEENKAMP: I have none thank you Mr Chairman.

CHAIRPERSON: Mr De Jager?

ADV DE JAGER: The hippopotami hole, how far does it reach downwards with the river now, towards the Mozambique border?

MR VAN LOGGERENBERG: Chairperson, it goes all the way to the border, to the Mozambique border. The hill you can see in the background, it goes all the way to there and directly after the hole becomes a bit narrower and more like a river, that is where you will find the border.

That hole also makes a little turn into the Kruger National Park, so that is why people say it does run through the National Park, but only a small area thereof.

CHAIRPERSON: Adv Gcabashe, do you have any questions?

MS GCABASHE: Thank you Chair. It would be correct to say that you spent very little time in that case at the scene on the night of the 12th?

MR VAN LOGGERENBERG: That is correct Chairperson.

MS GCABASHE: And again, it is correct to say that crocodiles come up the bank, the bank we were looking at here, which is why you all ran away when you saw something in the water, they come up the bank at that point?

MR VAN LOGGERENBERG: That is correct Mr Chairperson.

MS GCABASHE: And you were worried that there might be crocks lurking about just there as well, when you rolled the body down?

MR VAN LOGGERENBERG: That is correct Mr Chairperson. That is what I explained, I first had the head lights on the bank of the river to make sure that there weren't any crocodiles there.

MS GCABASHE: At the point at which you rolled the body down, you were using your rear lights, the red lights, so you couldn't see very well?

MR VAN LOGGERENBERG: That is correct, there was not a lot of light and I was fairly close to the water, and it was just the throw of the body into the water, I closed the boot and immediately left.

MS GCABASHE: Then it can't really be correct to say that, here you said if I remember correctly it sank. I am just quoting what you said on the video.

If I remember correctly it sank. It is not correct to say that, you couldn't determine whether it sank or not, because one, you yourself were afraid of the crocks that might be there, two, this was a rolling throwing motion, so you couldn't determine how far in you had thrown the body, yes, so you really couldn't determine whether it sank or not?

MR VAN LOGGERENBERG: Chairperson, it is a question of seconds in which all of this took place, and as I have said as far as I can remember, it seemed to me that the body did sink.

It wasn't minutes, it virtually took seconds for me to observe that.

MS GCABASHE: Just to clarify this last point, it seemed to you that it sank? My question really is you can't determine even now, you really don't know, then you couldn't really know whether it sank or not, the fact itself, that it did sink, that is really what I am just trying to get clarity on.

MR VAN LOGGERENBERG: As far as my knowledge is concerned, I will accept that the body sank and from what I observed from the position when I threw the body into the water.

MS GCABASHE: Thank you. Thank you Chair.

CHAIRPERSON: Judge Ngcobo, do you have any questions?

JUDGE NGCOBO: No, I don't have any questions thank you Chairperson.

CHAIRPERSON: Ms Van der Walt, do you have any questions arising out of questions that were put, re-examination or questions arising out of what the Panel have asked?

MS VAN DER WALT: No further questions.

NO FURTHER QUESTIONS BY MS VAN DER WALT.

CHAIRPERSON: Mr Prinsloo?

MR PRINSLOO: No questions thank you.

NO FURTHER QUESTIONS BY MR PRINSLOO.

CHAIRPERSON: Mr Visser?

MR VISSER: No thank you Mr Chairman.

NO FURTHER QUESTIONS BY MR VISSER.

CHAIRPERSON: Mr Rautenbach, any questions arising? Thank you Mr Van Loggerenberg, you may stand down now.

WITNESS EXCUSED.

CHAIRPERSON: Mr Rautenbach.

MR RAUTENBACH: Mr Chairman, I have made available to the parties a copy of the letter containing the motivation to subpoena Mr Adriaan Vlok to give evidence in these proceedings.

I would like to start off with my address in this regard to say that this aspect was mentioned when Mr Adriaan Vlok's affidavit was presented to this Committee, it actually appears from page 174 onwards in the record. At that stage reliance was put on the provisions of Section 19(4) of the Promotion of National Unity and Reconciliation Act. As far as Section 19(4) is concerned, it was contended that and I am going to read the provision, if an application is not being dealt with in terms of subsection 3, the Committee shall conduct the hearing as

contemplated in Chapter 6 and shall, subject to the provisions of Section 33, in the prescribed manner notify the applicant and any victim or person implicated or having an interest in the application of the place where and the time when the application will be heard and considered.

And then under subsection (b) inform the persons referred to in paragraph (a) of their right to be present at the hearing and to testify, adduce evidence and submit any article to be taken into consideration.

As far as subsection (4) is concerned, it was argued in an affidavit by that person, if that person wanted to tender an affidavit, that that may well be sufficient in certain circumstances. I want to say Mr Chairman, I am not saying at this stage that because of the fact that Mr Vlok may or may not have been implicated by a particular person, he should give evidence in person.

What I am saying is I want to refer you to the provisions of Chapter 6, subsection 4, Section 19(4) it refers the Committee shall conduct the hearing as contemplated in Chapter 6. If we have regard to the provisions of Chapter 6 specifically Section 29 thereof, Section 29(1) provides as follows:

The Commission may, for the purposes of or in connection with the conduct of an investigation or the holding of a hearing as the case may be, and I am going down to subsection (c) by notice in writing call upon any person to appear before the Commission and to give evidence and to answer questions relevant to the subject matter of the investigation or the hearing.

My argument is Mr Chairman, that Mr Vlok is required to give evidence in these proceedings because of the following reasons: Firstly, I would like to refer you to Section 20 of the Act and specifically Section 20(2). Section 20(2) reads in this Act, unless the context otherwise indicates, act associated with a political objective means any act or omission which constitutes an offence or delict which according to the criteria in subsection (3), is associated with a political objective and which was advised, planned, directed, commanded or committed within our outside the Republic during the period 1 March 1960 to the cut off date by ...

Subsection (b) reads any employee of the State or form of State or any member of the Security Forces of the State or any form of State, in the course and scope of his or her duties, and within the scope of his or her express or implied authority, directed against a publicly known political organisation or liberation movement, engage in a political struggle against the State or a form of State or against any members or supporters of such organisation or movement, and which was committed **bona fide** with the object of countering or otherwise resisting the said struggle.

That, when we deal with the provisions of subsection (b) we specifically deal here with the express or implied authority. Mr Chairman, it is my submission that if one thing is clear as far as the evidence in these proceedings are concerned, it is that from the evidence it is not clear to what extent the authority we are dealing with, whether that authority was only the South African Police, the so-called Police Department or whether that authority was in fact the National Party, or was in fact the politicians.

If for instance you will recall that Mr Mostert when he gave evidence, he was questioned by one of the Panel members specifically as to whether his employers allow him to commit any illegal acts. That was a reference to the government as such. He denied that.

When we dealt with the evidence of for instance Mr Visser, and that appears on page 549 of the Section 29 proceedings and I think a couple of pages later as well where he indicated, where he actually blamed the politicians and where he actually said that any politician worth his salt, would have been aware. Then there is a third indication again, and that was the evidence that was given by Mr Van Niekerk, I would like to refer you, it appears on page 138 of the record, and what Mr Van Niekerk - Mr Van Niekerk was asked again by one of the Panel members about the position and the role that the politicians played, on page 138 I am quoting from the second paragraph "to your knowledge, was it Police practice to notify politicians of the facts surrounding a death in detention? His answer was, yes, that is correct. If the death becomes known by ways of natural cause and an inquest follows, then certainly the Minister would have gotten to know about it. Would the Minister be told the truth? I specifically refer to an inquest which would then have followed the right route, but in our case, I cannot tell you whether the Minister was informed about what actually happens or not.

Do you expect that the Minister would be informed? It is a difficult question to answer. I cannot say yes or no. If I look back at what happened then, at that time in the country, I have a suspicion that the Minister might have known about it, but I am not sure."

Mr Chairman, as far as the applications for amnesty is concerned, you will notice and for instance I can refer you to page 152 of Volume 1, to the amnesty application of Gen Van der Merwe, where for instance, where the motivation has been asked. His motivation is set out in words to the following effect and that is that the actions were done on behalf of the former government and specifically the National Party whose interest were to be furthered.

Regarding the political objective, it is my submission that it is important to obtain evidence of the political Head of the Police at that time. The question that has to be determined is was the express or implied authority from the police Department or did it go higher up. Was it in fact from the National Party itself.

It is impossible, it was impossible during these proceedings for the applicants to actually provide an answer to this question. We have a situation where some of the applicants say well, I would have thought that that was the situation.

It is and the family's attitude that every effort should be made to establish the truth as far as possible. If the truth is that it wasn't only for instance, firstly a cover up by the Police Department but also a cover up with the knowledge of the National Party, of the government of the day, if that is the truth, that truth should be investigated and it is in that sense that we submit that the only person that can give an answer to that question will be Mr Adriaan Vlok.

Mr Adriaan Vlok will then have to be tested under cross-examination and that would put the Committee in a situation where we will, the Committee will be able to say was this and it is not only Mr Chairman, regarding the cover up, it is also regarding the practices, regarding the torturing that took place, regarding illegal acts, whether the party politicians and specifically Mr Vlok was aware, that has to be determined. At the end of the day the Committee may come with a finding and say this is something that took place in the Police Department but

there exists no evidence that the politicians were aware and tacitly condoned these practices, or actively condoned these practices.

Secondly, as far as the cover up in this specific case is concerned, also to put this Committee in a position where this Committee can make a finding regarding the role of the politicians. We, up to now, a lot of the efforts went into the investigation regarding what sometimes is referred to the so-called foot soldiers, but we had clear suggestions that even from the foot soldiers themselves, there is a suggestion that the politicians are not blameless and the politicians should take some responsibility for what has happened.

If that is the case, specifically this matter before you, there is not better person that can give a picture about that situation, than the former Minister of Police, Mr Adriaan Vlok. As I said, did the Minister or the National Party for that matter, did they themselves give implied or express authority to members of the Security Force to act the way they did.

When I address this issue, I say in essence one of the most important questions that has to be answered, is specifically not only as I just put it, whether the National Party gave that express or implied authority, but whether the government and the Minister gave that express or implied authority.

This does not only affect the political objective, this question, it goes further. It actually goes to the heart of what is full disclosure. The family would at the end of the day after this amnesty hearing has been completed, would like to be in a situation where the if possible, the real truth must come out in this case and that includes the question as to whether it was only the Police Department, the South African Police that was responsible and that was responsible for the cover up or whether the government had a hand as well in that knowledge. If that is so the family is certainly entitled that that truth be investigated.

I say Mr Chairman, that the only way to do that is for Mr Vlok to give your evidence. His affidavit does not provide answers regarding all these issues that I have already mentioned. I also would like to make the point that as far as I for one, submit that the probabilities as it stands, seems to be against a assumption that the Minister could not have been aware.

I refer you to the letter that was written, you will notice that the first heading which I dealt with was the heading Political Responsibility. In that heading we deal with the fact that the subsequent cover up was politically motivated in that they were acting in the interest of the National Party government. The family believes that Vlok is the political head of the Ministry of Law and Order, at a material time will assist to determine the **bona fides** of the applicants' claim.

The second heading, I actually have dealt with the political responsibility in my address. The second heading there deals with the (indistinct) of the cover up situation. You will notice that we actually make the allegation that Mr Adriaan Vlok became part of the whole cover up situation.

We know that in his affidavit he says he wasn't aware of that, but he was asked questions in parliament regarding the Stanza Bopape question, what happened to the man and Mr Vlok gave information in parliament relating to the cover up, the fact that the man has escaped.

You will further more see in paragraph, in the rest of those paragraphs that Prof Huysen and Mr Bopape senior at some stage, went to see Mr Adriaan Vlok and had a discussion with him regarding the whereabouts of Mr Bopape's son, Stanza.

As we are putting it there, Mr Adriaan Vlok in fact sent them on a wild goose chase in the sense that he was basically advised that he may look at Lusaka and because of these advises, Mr Bopape senior actually went to Lusaka subsequently.

The question is to what extent, what motivated Mr Adriaan Vlok at that stage to make these statements to Mr Bopape senior, did he have information, was it agreed upon that that would be the response should more enquiries followed?

Mr Chairman, this process carried on through the 1990's, 1993, closer to 1994 and 1995, there were still enquiries made by people from overseas, by Amnesty International and still the Police and up and until 1993, Mr Adriaan Vlok basically stuck to this version.

The question is also, at that stage, did Mr Vlok really believed what he was told in this regard? Did he become aware of the real situation subsequently, say for instance after 1990? All of these questions will have to be answered.

Then there is a heading that we dealt with Interest of Justice, where we just draw attention to the fact that Mr Vlok actually according to our information, applied for amnesty in regard to other incidents, and that being the case, he was generally much more involved, generally had much more knowledge about what was happening in the Security Section of the Police so that on the probabilities we have already made the point, at least he should be questioned and at least he should be put in the situation where he will explain his situation as to whether he was aware or not.

Lastly we just dealt with the so-called, what was termed to be the Balance of Justice, that there is no reason why there can't be any question of any prejudice to anyone if Mr Vlok should come here and give evidence about what the real situation was. What his knowledge was and what the South African government's knowledge was for that matter.

I just want to make a further point and that is that I know that there has always been a reluctance as far as political Heads of Departments are concerned, as far as Heads of States are concerned, to actually give evidence in a court of law, unless it was absolutely necessary and I know in the past, especially before 1994 it did not happen very often that Ministers and political heads gave evidence in court. It was almost an accepted practice to file affidavits.

I can recall for instance the situation where it had to be established whether the Minister has applied his mind in extending a detention for an emergency detainee and that the practice was normally to obtain an affidavit to the extent that in fact this period was extended.

It is my submission Mr Chairman, that transparency has really become a part of South African society since 1994 and there are, and I think in future as far as transparency is concerned, people will be called to book, called to explain their actions, and I think that as far as this Committee is concerned and this Commission is concerned, it can only be in the interest of every one if Mr Vlok comes to these proceedings and tell us what happened, and be tested.

If he has been tested, it may well, not only will it satisfy the family of the deceased, but it may even be in the interest of the applicants that are, or some of the applicants at least, that are present here. That is my address Mr Chairman.

CHAIRPERSON: Mr Rautenbach, if I could just ask you a question on your address.

If you look at Section 29(1)(c) that says that the Commission may for the purposes of the conduct of an investigation or the holding of a hearing, by notice in writing, call upon any person to appear, right?

MR RAUTENBACH: Yes.

CHAIRPERSON: So there is no restriction there subject to them being able, the person being subpoenaed, able to answer questions relevant to the subject matter.

When they talk about a hearing in Section 29, does and this is the question, one of the questions, does that hearing include an amnesty application hearing. Why I ask that is because it says in subsection (2) a notice referred to in subsection (1), that is the subpoena, shall be signed by a Commissioner, right, it doesn't talk about a Committee member or - and none of us here are Commissioners, we are Committee members, so when they talk about hearing, do they include amnesty hearing, and also on that one, if you look at subsection (5), no person other than a Commissioner, a member of the staff of the Commission or any person required to produce any article or to give evidence, shall be entitled or permitted to attend, okay, they only talk about investigations, conducted in terms of this Section.

Bearing that in mind, if a person is subpoenaed, does it have to be cleared out and then, I am going a bit long now, but if you can just - having said that, if one takes a look at Section 19(4), it says that if an application has not been held in terms of subsection (3), the Committee shall conduct a hearing, right, that is us, the Amnesty Committee, and it shall inform in the prescribed manner, notify the applicant and any victim or person implicated or having an interest in the application, and inform such persons of their right to be present at the hearing and to testify, adduce evidence or submit any article.

That has been done I am informed, and I think it is apparent from Mr Vlok's affidavit. He says I am submitting this affidavit because I got notification of being an implicated person.

This is my other question, his being given notice as an implicated person and he is being informed that he has certain rights, namely that he may come and adduce evidence or hand in any article. Can it be said that because of those rights, that he necessarily has, if he has the right that he may come and adduce evidence, he also has the right to remain silent. In other words are implicated persons subject to being subpoenaed, are victims subject to being subpoenaed or do they have rights with regard to this hearing as to whether or not they may give evidence?

If they have a right, whether they want to give evidence to protect their name or not, can they be subpoenaed, in other words can one override that right. If you can just think about those questions, I don't know if you want to answer them straight off now.

Do you want a little bit of time to think about that?

MR RAUTENBACH: Mr Chairman, as far as the latter part of the question is concerned, I cannot think that it could ever have been the intention of the drafters of the legislature that we have a situation where a person may be a victim and a person that is, I am just going to use the example of a victim now, that a victim has certain important information or it transpires from evidence that this specific witness who is coincidentally also a victim, that he has important information that may put the Committee in a better position to actually come to a finding, that it can ever be argued that because that victim doesn't come forward to the Commission with a claim or with whatever action in terms of the Act, that he cannot be subpoenaed should it become clear that he can contribute or that he has the necessary information or some information that may assist the Commission.

That is the first part of the answer. The second part of the answer is that as far as people that are implicated, it is so that if a person is implicated, that that person has a certain right. He can come forward, he can adduce certain evidence, in the current matter there is actually two questions to answer and the first one is, was he implicated?

It seems on the evidence as it stands that he wasn't really implicated.

CHAIRPERSON: But he did receive a notice in terms of Section 19?

MR RAUTENBACH: He did receive a notice, that is correct Mr Chairman, but on the evidence as it stands, I think an argument can be made out that he wasn't really implicated. We know from the evidence as it stands that there is this question that has to be answered, and that is still what was the position of the Ministry as such and the Minister and the government.

If that is a question that this Committee wants to be answered, then once again I do not, I cannot see that this Committee can be prevented from calling a witness that can make a valid contribution to these proceedings.

As far as your first question is concerned, I would - there is just one section that I would like to look at. That is the question in relation to Section 29 and specifically the part that you asked me about the Commission as against a Committee. I would just like to look at that section in the meanwhile.

ADV DE JAGER: It could assist you to look at the definition I think, Commission includes Committee. That is one thing that you could bear in mind, but I would like you to pay attention to the fact that the Commission already heard Mr Vlok.

If it is in the interest of justice for instance, that the Commission should try and unveil the whole truth, they made use of the opportunity already. They have questioned him about it. Is it appropriate to recall a witness because he was Head of the Department of Law and Order, in each and every case, because if it is the position here, it must be the position in all amnesty cases.

If he had once given evidence to the Commission, which is the major body, the governing body, even of the Committee except as far as the decisions of the Commission is concerned, we are subject to the Commission, and evidence has already been given there, should we call him again? He has been questioned there about his role, about what he knew. I don't know whether you have seen his evidence in that regard, but I think it is available if need be.

As far as your submission is that it is the task of this Committee to try and unveil the whole truth and the involvement of the politicians, isn't it exactly what the Commission is now busy doing? Today even, by trying to persuade or having the prosecution of Mr P.W. Botha?

Isn't that a effort to in fact see what is the overall State position, which would be the position in all the amnesty applications?

Shouldn't that be left to the Commission, should we entertain the same thing again? If you could give a thought to those aspects?

JUDGE NGCOBO: What is your attitude to the application Mr (indistinct)

MR RAUTENBACH: Mr Chairman, we are going to oppose the application.

JUDGE NGCOBO: The other applicants as well? Yes, very well.

Is it necessary for us to hear this application at this stage, should we not perhaps complete the evidence of the remaining applicants who I gather were stationed at the Head Office, it may well be that they may well throw sufficient light on some of the matters that you would want to be highlighted by Mr Vlok, and perhaps once we have completed the evidence of the remaining applicants, I gather there is just three remaining applicants now, once we have dealt with those applicants and then we can hear your application fully, because one of the problems that appears to suggest itself here is that up to this stage, what we do have is a suspicion which borders on a belief that the politicians knew and the question is an affidavit which refutes flatly that suggestion, is that not sufficient?

If it is, is it necessary to call the deponent to come and give oral evidence under those circumstances. Perhaps that is not a problem, I think the problem is more a procedural one, shouldn't we dispose of the applicants first?

CHAIRPERSON: Before you answer that. Mr Prinsloo, the affidavit of Mr Vlok was handed in by yourself? Sorry was it Mr Visser? Mr Visser are you representing Mr Vlok as well?

MR VISSER: Yes.

CHAIRPERSON: Are you representing the implicated person as well?

MR VISSER: That is correct Mr Chairman, that appears from the record at the introduction stage. I appear for the three applicants and the implicated person, Mr Vlok.

CHAIRPERSON: Do you know what the attitude of the implicated person is regarding this application?

MR VISSER: Well, Mr Chairman, Mr Adriaan Vlok, I don't have to ask him to tell you what the answer would be.

If you want him here, he will come obviously but the question is whether this is not an abuse of the process and we would like to address you on that, because we want to suggest two things. One, you have already made a ruling and nothing has happened to change that ruling,

that is at page 176 of the record, and secondly, this is a clear abuse of process. It's got nothing to do with these applications.

CHAIRPERSON: I just wanted to know what the attitude of the implicated person was. You only spoke about the applicants that you represent.

MR VISSER: If you order him, he will come Mr Chairman. The question is whether he should be ordered.

CHAIRPERSON: Yes.

MR RAUTENBACH: Firstly, I want to respond to say that as far as the ruling is concerned, it was made very clear at that stage that the family does not accept the contents of the affidavit and that if the affidavit goes in, we are not accepting the affidavit.

That is another issue. As far as what one of your Panel members put to me and that is, is that not the end of the matter if the affidavit is there and he denies it? We would at a later stage, when necessary, argue very strongly that in fact where oral evidence is led and tested, it is a very unsatisfactory situation that an affidavit may merely be filed and that we do not get the opportunity at all to test that evidence especially in the surrounding circumstances.

As far as what Mr De Jager put to me as well, regarding the situation where Mr Vlok, a situation may develop where Mr Vlok is called every time, it is my submission that in the light of these facts, where there has been these specific meetings with for instance the family and Mr Vlok, that this is not the general type of matter where every person can say I want to see Mr Vlok because I was at some or other stage assaulted. It is much closer to the facts of this matter.

It actually distinguishes this matter from any other matter, but I would like to get back to one of your Panel members' suggestion regarding the evidence of the other applicants that still have to be led.

There is something that I really considered, and that is when, at what stage should this application or motivation be made for the, to subpoena Mr Vlok, and it is something that I considered, it shouldn't be done at the end of the evidence. On the other hand, some times it may be argued that if you leave it to then, the argument may be but this should have been raised at an early stage and the motivation should be put before the parties. I must say in principle, I myself and on behalf of the family, have nothing against the suggestion and we will actually go with the suggestion that the evidence should maybe be finished before this argument is taken any further.

CHAIRPERSON: Because one, we don't obviously know what the evidence will be, but it will probably in the circumstances be wiser to wait to hear this application after the evidence which evidence would probably include far more senior members of the Police Force than what we have heard up to now.

Therefore, I think that at this stage I would go along with what has been suggested by my brother Judge and rule that we hear this application after we have heard other applicants, if of course they choose to give evidence, it is up to them, but if not, then we will continue with it immediately.

MR VISSER: I am sorry Mr Chairman, do you want to hear the evidence before tea time or after tea time?

CHAIRPERSON: If it is going to be concluded within five minutes, we might as well hear it now. We will take the tea adjournment, thank you.

COMMITTEE ADJOURNS

ON RESUMPTION

CHAIRPERSON: Thank you. Yes, Mr Visser.

MR VISSER: May it please you Mr Chairman and Honourable Members of the Committee. As you know Mr Chairman, we appear **inter alia** for Generals Erasmus, Van der Merwe and Du Toit. If you will forgive us for having done so, we are calling General Van der Merwe first, which is slightly out of chronological order, bearing in mind the events of the 12th of June.

Chronologically, General Erasmus would have come before him, but we do so for the reason that Gen Van der Merwe, because of his previous position and his experience in the South African Police, may be able to curtail the proceedings in the sense that he would be able to give wider evidence about policy, tactics, etc of government institutions and particularly the South African Police at the time.

Before the General is sworn in Mr Chairman, may I refer you to page 147 and following of Volume 1, which is the amnesty application of Johannes Velde Van der Merwe, that starts really at page 149 and I wish to refer the attention of the Members of the Committee to that particular page Mr Chairman, because I want to move an application for an amendment in paragraph 7(a) and (b), 149 of Volume 1.

CHAIRPERSON: Yes.

MR VISSER: Mr Chairman, in paragraph 7(a) the question is posed if you are/were an officer/officer bearer/member/supporter of any political organisation or liberation movement, state the name thereof and you will see the words not applicable has been inserted, and the same as far as question 7(b) is concerned, which asks state capacity in which you served the organisation.

In modern times in our computerised age Mr Chairman, one has the problem if you make one mistake, it crops up at one hundred different places and this is precisely one of those situations. 7(a) should read Mr Chairman, and I would move for such an amendment, National Party and 7(b) should read, supporter.

I may say Mr Chairman, that there is already a precedent for such amendments to be granted and I would move, by the Amnesty Committee, it is well within your jurisdiction and I would move for such an amendment.

CHAIRPERSON: Are there any contra submissions with regard to that?

MR RAUTENBACH: No objection Mr Chairman.

CHAIRPERSON: Yes, indeed as you correctly say Mr Visser, there has been various precedents of amending certain aspects of application forms and the application to amend the form is duly granted and 7(a) the words not applicable, are deleted and substituted by the words National Party and in 7(b) the words not applicable, are deleted and substituted by the words supporter.

MR VISSER: As it pleases you Mr Chairman. Mr Chairman, I then call Gen Van der Merwe.

I am sorry, my Attorney has just reminded me, we have taken the liberty Mr Chairman, of drafting a document to which Gen Van der Merwe will speak in order to perhaps assist you, not having to write down too much.

We have also taken the liberty of placing that document before you and we will largely Mr Chairman, refer to that document in the evidence of Gen Van der Merwe. He prefers to give his evidence in Afrikaans.

CHAIRPERSON: Mr Visser, is the original document signed because the version that I have is not signed?

MR VISSER: No Mr Chairman, it wasn't intended to be a formal document, but more in the line of assistance but there is not problem with Gen Van der Merwe signing it, if you wish him to do so.

CHAIRPERSON: It would probably be better just for purposes of the record.

MR VISSER: We will see to that Mr Chairman. Perhaps, if you could leave your copy on the table, we will have that signed.

CHAIRPERSON: Yes, thank you. It will be **Exhibit N**.

JOHANNES VELDE VAN DER MERWE: (sworn states)

CHAIRPERSON: Yes, Mr Visser?

EXAMINATION BY MR VISSER: Thank you Mr Chairman. General, you are applying for amnesty with regards to the death of Stanza Bopape and while in detention and the destruction of his body and certain events which took place around the death of Bopape in front of this Commission, is this correct?

GEN VAN DER MERWE: That is correct Chairman.

MR VISSER: Can you look at **Exhibit N** which is in front of you, in paragraph 1 you made reference to several documents in which you ask the Committee to incorporate in your evidence for this amnesty application?

GEN VAN DER MERWE: That is correct Chairman.

MR VISSER: May I just enquire whether Gen Van der Merwe's voice is coming through? Can you just repeat the last question please?

GEN VAN DER MERWE: That is correct Chairman.

MR VISSER: In the first instance you refer to the amnesty application of Gen Gerrit Erasmus and what I want to ask you is, are you known with the contents of Gen Erasmus' application form?

GEN VAN DER MERWE: I am completely aware of what is in there, yes.

MR VISSER: Are you also aware of his recollection concerning the facts and that which happened on the day of the 12th of June 1988?

GEN VAN DER MERWE: Yes, completely.

MR VISSER: And did you learn about this because you applied or you consulted with Erasmus and Du Toit with your legal advisors?

GEN VAN DER MERWE: That is correct.

MR VISSER: What was the purpose of this communal consultation?

GEN VAN DER MERWE: Chairman, the incident happened almost ten years ago and to make sure that we have all the facts and the complete perspective and that we could place it in front of the Committee, we thought it necessary to talk about it together.

MR VISSER: It is your request that the evidence of Gen Erasmus should be incorporated into your application. You also refer in **Exhibit N** to a document called Constitution for the Equality of Law and that is one which is already in front of the Committee, which is **Exhibit P45** and also you refer to submission of yourself, **Exhibit P46**, also a statement of old ex-Generals which was attached to **Exhibit P46**, which is then **Exhibit P47** and you also gave your own evidence to these institutions on the 21st of October 1996 and on the 9th of February 1997. You have already done that, is that correct?

GEN VAN DER MERWE: That is correct Chairman.

MR VISSER: The document for the Creation of Equality of Law was already published.

ADV DE JAGER: Mr Visser, the evidence you refer to, that of the 21st of October 1996 and the 9th of February 1997, can you just identify if, in front of which bodies did this take place?

MR VISSER: Mr Chairperson, if you can remind yourself, or Commissioner De Jager, on the 29th of October 1996 Gen Van der Merwe gave evidence in the amnesty trials of Brigadier Jack Cronje and four others, it was that one, I just want to make sure about the 9th of February one. I think it was in the same circumstances.

Yes, it was in the same circumstances. If you recall at that stage Mr Brian Curing who appeared for the victims he asked that Mr Van der Merwe must be recalled and then he gave evidence a second time. That happened in Pretoria.

There is a further date on which you gave evidence which is not here, that was on the 9th of October 1997, is that correct?

GEN VAN DER MERWE: That is correct, Chairperson.

MR VISSER: That was in front of the Human Rights Violations Committee in a trial which was known as the Armed Forces Hearings?

GEN VAN DER MERWE: That is correct.

MR VISSER: Gen Van der Merwe, in document N, you briefly described your career in the South African Police Force, we are not going to look at it in detail. Your career started on the 3rd of February 1953 and it finished on the 31st of March 1995 when you retired out of the South African Police with the rank of full General and at that stage, just before you retired, you were Commissioner of South African Police?

GEN VAN DER MERWE: That is correct.

MR VISSER: Maybe just another date which might be relevant is, and that is 2(10) on page 2, the 1st of January 1986 you took over command of the Security Branch of the South African Police?

GEN VAN DER MERWE: That is correct Chairman.

MR VISSER: Gen Van der Merwe, before you go to paragraph 3, I wonder would you just tell the Committee about how the members of those who served under you in the Police, saw the whole question or experienced the whole question of the amnesty process when it was instituted by law and which fears existed and what happened in this instance.

Can you just quickly give us a background to that?

GEN VAN DER MERWE: Chairman, I do it with pleasure. Members and ex-members of the Security Forces during the beginnings of the Commission, clashed severely with those people representing of the Human Rights Violations and enforced them to take this case to the High Court and because of that, there was a complete distrust towards the Commission and members and ex-members of the Police, refused to take part in the amnesty process.

After we had discussions with Bishop Tutu and Dr Boraine, and after we spoke to the Departments of Justice regarding the costs, the legal costs, we organised a meeting at the South African Police College to which all members and ex-members of the Police were invited to this.

At this meeting the members and the ex-members, regarding the requirements of the specific law, they were informed by Advocates concerning all of this and afterwards I told the members and the ex-members that me and the other Generals were completely willing where we gave an order, or we influenced members to do an illegal act, which fell within the requirements of the amnesty applications, to accept complete responsibility for that and that the members or the ex-members and that they could mention this in their applications.

I also pointed out to the members and the ex-members that complete disclosure was requested, or required, and that all people's names should be mentioned.

I also asked them to be honest and where members or ex-members were involved, to let them know beforehand that their names are going to be mentioned. I also warned them that if they do not make use of this opportunity, there was no way or no means to ensure that I or the other Generals could protect them against prosecution or civil cases.

I also told them to consult with their legal advisors because specifically of Section 22 was worded in such a way that the legislator's wording was difficult to grasp and this meeting led to the fact that the members who were there, and were influenced in some sense - and they all started taking part in the amnesty process.

MR VISSER: Just to conclude, it is so that there were 60 people who were members of the South African Police who have already applied for amnesty?

GEN VAN DER MERWE: I would say more than that Chairperson.

MR VISSER: General, quickly tell us about who Gen Johan van der Merwe is, where he comes from and which influences played a role in your life and which we argue later, should be seen as a backdrop to what happened later within your Police career and this is in paragraph 3 of the document.

GEN VAN DER MERWE: Mr Chairman, I was born on the 25th of August 1936 in Ermelo, the Eastern Transvaal. My parents were both conservative and strong supporters of the National Party.

From a very young age, I reconciled myself with the objectives of the National Party and that is also relevant for the policy of separate development, which was subscribed and protected by the church, school and the national media as well as the majority of the white community.

There was very little influence on my life which made me think that I was wrong, specifically from authoritative institutions and people like for example the church, political speeches and the opinions of important people, like for example my teachers.

Most of the people I got into contact with, believed in this policy and they supported it. During the struggle of the past, a lot of people died or were injured and there were big problems. Big destruction was caused to people who supported this policy and that led to the fact that the average person of the Police to support the government in some instances indirect, by the exercising of their duties in order to maintain law and order and to protect internal security and to do everything in their power to stop the onslaught.

Through the years the speeches of several leaders of the nation and politicians who wanted to obtain support for separate development and to motivate the Police to stop the violent onslaught, and this strongly influenced me to support the policy of the then government.

We as members of the Police, and specifically the Security Branch, was under the impression that we were the only people who were able to protect the country against chaos and anarchy.

In my official capacity I had access to the publication of radical organisations, for example the ANC/SAC alliance and the PAC and the cold blooded ways in which the masses in South Africa was indoctrinated by these publications in order to commit violence, convinced me that the revolutionary onslaught must be opposed.

Except for that, I also experienced several appalling experiences and these touched me in such a sense that I did everything within my power to fight revolutionary struggle.

The struggle of the past, especially in which the ANC and the SAC alliance tried to undermine the government, and they did not hesitate to kill innocent people and to maim them, and this cause me and other members of the Security Branch as well as the majority of the people of the South African Police, this made us resolute to fight the onslaught.

The protection and the extension of the interest of the government, that is to say the National Party, always came first with regards to myself.

Chairperson, if I then can go to personal experiences and insights, that is 4 of the document. During my career I had to do with all facets of terrorism. The struggle in South Africa was characterised by assassinations on members of the South African Police and the Security Police and specifically the South African Police car explosions, land mine explosions, limpet mine explosions and other explosives where the targets were often civilian people, both white and black.

Examples of this are coming to the front now when people of certain liberation struggles are making their disclosures. The Kerk Street explosion where 217 people died or were injured and 19 died, the most of them were civilians who had nothing to do with the military movement.

The Krugersdorp Magistrate bomb, where the most of the injured people were civilians and also then the explosions in the Wimpy Bar and also in places on public entertainment for example the Sterland Complex in Pretoria and more.

Later I will return to this again. And then there were pressure, this is paragraph 5, pressure to solve the problems. It was different in Namibia, but in South Africa it happened quite often that the Security Forces got into physical confrontation with members of the MK and the struggle which was led by the Security Forces and specifically the Security Branch was much more sophisticated, and the onslaught we had to stop was multi dimensional in nature and it existed out of political, economical and spiritual dimensions. It specifically happened in the middle 1980 years and this got momentum then when the ANC and the SAC alliance did everything within their power to undermine the government.

In order for them to take over the country, the SAC/ANC alliance focused themselves on a people's war which I describe as follows: A war in which the entire nation is engaged, Umkhonto weSizwe, the people's army, workers, rural masses, women, intellectuals, the religious community selectively in groups or as organised individuals, use all forms of revolutionary warfare, (indistinct), legal and illegal means to attack and destroy, all symbols, structures and organs of apartheid power, including all those who manned them.

This statement in 1980 as they put it across by the Central Committee of the South African Communist Party and that was called Forward to the People's Power, the Challenge Ahead.

According to the ANC/SAC alliance, it was a revolutionary war on four pillars. First was the mobilisation of the masses, the underground structure of the ANC, number three, the armed struggle by uMkhonto weSizwe and number four, the international onslaught to isolate South Africa.

In the attempt to usurp the government, the ANC/SAC alliance furthered the objective to involve the masses in the violent struggle.

CHAIRPERSON: Sorry, General, can you please read a little slower for the interpreters please.

GEN VAN DER MERWE: Thank you Mr Chairman. The action programme of 1988 had as theme Year of United Action for People's Power. Everything was put into the struggle to build up underground structures whereby the masses would be politicised and acts against the government, they could get mobilised for acts against the government with the objective to establish ungovernability in black areas, to establish alternative structures and exercise control over people.

The objective was to establish mass action. It was, the objective was as well to establish opportunities as housing, social problems, the detention of political activists, in particular children and youths, deaths in detention of political activists, economic problems and other aspects that could be used to embarrass the government and to sweep the people up.

The action programme of 1988 furthermore entailed the commemoration days of the 21st of March, the Uitenhage massacre the 1st of May, May Day, 16th of June, Soweto Day, the 9th of August, National Women's day, 16th of December, Heroes Day as well as the fifth commemoration year of the UDF on the 20th of August should be used to the maximum to mobilise the masses.

The ANC/SAC alliance succeeded the previous year to reach two points to promote mass participation in the struggle, by means of stay away's and the commemoration of Soweto Day on June, 16th.

MR VISSER: May I interrupt you General. It was just pointed out to me that in the second sentence of paragraph 5.8 the date 21st of March is probably Sharpeville Day?

GEN VAN DER MERWE: Yes, I beg your pardon Mr Chairman, it should be Sharpeville Day.

MR VISSER: You may continue.

GEN VAN DER MERWE: The ANC/SAC alliance also succeeded to mobilise foreign pressure against the country which led to sanctions and boycotts against the country. To keep up this pressure and to elaborate it, every aspect was grabbed by the ANC/SAC alliance and was turned about and made worse.

The domestic supporters of the ANC/SAC alliance could not succeed in using methods already mentioned. They went to great lengths to use intimidation of participate the masses in these violent acts. Blacks in the townships lived in fear and were forced to participate in stay away actions, boycott actions, strikes, marches, etc to participate in these.

MR VISSER: General, you have touched on some points that is applicable or relevant to what your part was after you were aware of the death of Mr Bopape. In paragraph 6 you further more mention and explain in more detail your political motivation, if you can just continue in paragraph 6.

GEN VAN DER MERWE: During my career as member of the Security Branch, it was expected of every member to be loyal to the government and the South African Police.

There was a team spirit amongst the government and members of the Security Branch and there was a mutual trust and in some cases it was just blind loyalty.

Despite the fact that the violent onslaught against the government was controlled and the control of intimidation of the masses by the ANC/SAC alliance, the majority of the black population were in contrast with the policies of the government and the Police.

The political situation worsened and it is just the actions of the Security Forces that limited the extent of chaos and anarchy in the country. The ANC/SAC alliance during the year of 1988, sharpened their action and directed themselves at civilians, although civilians were targeted from 1983, for example the Church Street bomb explosion.

Besides the intimidation where the notorious necklace murders played an important role, most of the black townships were dominated in the country.

Street Committees and Street Courts were established in the black areas and succeeded in establishing or throwing over the black committees and civilian civil committees and to make them powerless.

The South African Police were powerless to prosecute activists, because witnesses feared for their lives and refused to appear in court. Persons who worked with the Security Branch or was suspected of working with the Security Branch, were seen as legitimate targets and were brutally murdered mostly through methods of necklacing and burnt their houses down.

On the 17th of March 1988, a car bomb explosion in front of the Magistrates court in Krugersdorp, two members of the South African Police and a civilian were killed, while 20 civilians were injured, this included a baby girl of 18 months who sustained serious injuries.

When they cleared up the scene where the car exploded, the Police found two limpet mines in the toilet close to the cash hall of the Magistrate building and they made it harmless.

MR VISSER: If I can just interrupt you, the correct facts of the last paragraph you have read should be that there was a second limpet mine which was discovered in a toilet, do you agree with that? It is a second limpet mine which was discovered and in the next paragraph it should be that this limpet mine was made harmless. You may continue?

GEN VAN DER MERWE: That is correct. As was pointed out, this limpet mine was put there in order to put as many people's lives in danger, as possible.

During the time of the 18th of March 1988 up until the 7th of June 1988, there were 17 incidents where by means of limpet mines, civilian targets were attacked. At the same time, there were also six incidents where civilians were attacked with hand grenades and in one case, with a home made explosive.

These incidents have already been submitted by means of **Exhibit D** and there you will find the dates and the times.

MR VISSER: Just to look at **Exhibit D** a bit better, it was not the intention to give a global review of all the terrorist attacks, but it was restricted to the time exactly before the 12th of June 1988 when Mr Bopape died, is that correct?

GEN VAN DER MERWE: That is correct Chairperson, the intent was to indicate what the circumstances were and what the dangers were the Security Police had to face.

Just to summarise then, terror attacks in South Africa in 1988 amounted to 316, that is the highest since 1976 and civilians who died in terror attacks or who were injured in 1988, dead women 6, children 4, and men 22. Those injured women 160, children 33 and men 210.

Members of the Security Branches, mainly those of the SAP who died in terror attacks, were 17 and those of the Security Branches and mainly again South African Police who were injured, 98.

The security situation in South Africa forced the government on the 21st of June 1985, to declare a state of emergency which was retracted on the 4th of March 1986. On the 12th of June 1986 another state of emergency was brought into power and that was renewed every year until on the 8th of June 1990 it was stopped, except for Natal, where it was stopped on the 18th of October 1990.

Despite the situations created by the states of emergency, the security situation within the country, still deteriorated and this then forced the government to take drastic steps with the aim to stop the revolutionary onslaught.

That led to the fact that members of the Security Branch was used more and more to perform duties which were outside the extent of their duties as well as the law.

These included the following acts or behaviours: Destroying of terrorists in neighbouring States, the creation of depots, weapon depots and mock terror attacks and to create an atmosphere for the South African Army to act against the terrorists in the neighbouring States.

Also the blowing up of COSATU in Khotso House. The creation of mock acts of terror in order to stop the showing of Cry Freedom and also the use of propaganda and disinformation.

MR VISSER: General, can I once again interrupt you. These behaviours, were they legal or were they not legal, the ones you've just referred to?

GEN VAN DER MERWE: They were illegal Chairperson.

MR VISSER: And you say in paragraph 6.16 that it was the government who took drastic steps. Does that mean that these acts, these actions were those of the government, is that what you're trying to say?

GEN VAN DER MERWE: Chairperson, these were acts which came after we had the order from the relevant Minister to do so.

MR VISSER: We are here to hear the full disclosure General, can you tell us, in this list you've just mentioned, for example 6.16.3, can you tell us more what happened around COSATU and KHOTSO House in order to illustrate the point you're trying to make?

GEN VAN DER MERWE: Chairperson, in the case of COSATU house we obtained information and we were aware of the fact that this house was used in order to further certain underground movements and all the circumstances pointed to the fact that it played a very important role as far as the commitment of acts of terrors were concerned. And myself and Mr Vlok, the then Minister of Law and Order, we looked at the situation and we came to the conclusion that it would be necessary to stop those activities and the only way to do that would be to destroy COSATU House by means of explosives.

Mr Vlok then gave the order and we organised, made arrangements, that members of Vlakplaas should do the necessary steps to blow up COSATU House. And in the case of KHOTSO House, Mr Vlok told me that he learned from Mr Botha, who was then the President of the State, he received an order from him that we should destroy KHOTSO House.

At that stage we were also aware of the fact that the South African Council of Churches were in KHOTSO House and there was information which indicated that underground movements were also done from KHOTSO House and according to that we received the order and we made arrangements that members of Vlakplaas also blow up KHOTSO House.

MR VISSER: General, at one stage there was a strike on the South African railways where certain employers were transported to a place and later there was a follow-up and it showed that some of these employers were killed. Could you just explain that to us?

GEN VAN DER MERWE: I do not have full details on that but I'm aware of it. The information pointed to the fact that it happened within COSATU House. And also as already mentioned, the incident took place there and pointed to the fact that the underground activities were very intense around COSATU House.

MR VISSER: General, you are saying if I understand your evidence correctly, the Government was forced to act illegally and that's a fact is it not, that some of the police and the South African Defence Force were expected to act in terms of and within the requirements of the statutory legal institutions, is that not correct?

GEN VAN DER MERWE: Yes, that is correct.

MR VISSER: Your perception of the struggle on the one side was security forces and if I can put it like that "wetsgebonde was" and on the side, what was your perception with regard to the differences that was there with regard to the question of rules and regulations between on the one side, the struggle namely the security forces and the liberation movements on the other side?

GEN VAN DER MERWE: As I've already testified, during 1988 there was a state of emergency that was proclaimed. That was where the police could maintain law and order and the regulations. It was an impossible task to protect us totally against the onslaughts that followed because the ANC/SAC Alliance and the other members who participated in the struggle.

From their side they created an atmosphere that was worse than a conventional war. But the fact remains that here we had to deal with firstly, attacks on members of the security branches, particularly the police, by the ANC. Members and their families could be destroyed at any time wherever the opportunity was.

Secondly, the targets were also civilians. Thirdly, methods were used, brutal methods as for example the necklace murders where persons were forced to drink petrol and they were set alight then. I know it sound like clichés now but you are aware of the fact that during 1994 a great number of members, amongst other the ANC, were given blanket amnesty and they also testified to the fact of these incidents ranging from murder, robbery, housebreak, car theft and instances where people were forced to drink petrol and they were set alight. In one instance there was a 70 year old woman. Several instances where people who were suspected that they were police informants, were also forced to drink petrol and were set alight.

We were in a situation, we were forced into a situation that was worst than war because the forces that were let loose were not bothered with the normal conventions or acted otherwise within the framework of the ANC/SAC Alliance, that set themselves this policy.

The attacks that we had to deal with were of such a nature that it was outside the framework of the Geneva Convention and to which the ANC/SAC Alliance aligned them with. There were forces that could just not be controlled and attacked anywhere.

MR VISSER: General, just to this aspect to a close, as I understand you, the reality of the situation, you had the security forces on the one side and they were legally forced to act in a prescribed sense and in those prescriptions there were many shortcomings. In the proclamation of the state of emergency was not enough to address the attack or the onslaught and on the other side you had an enemy who had no rules, who followed no rules. Is that a summary of what you've just said now?

GEN VAN DER MERWE: That is correct Mr Chairperson.

MR VISSER: Can you continue with paragraph 6.17:

GEN VAN DER MERWE: Despite the bad situation the Security Forces succeeded to stop the attempts of the ANC/SAC Alliance to create anarchy. The Security Branch played a decisive role in this and many attacks on civilians were stopped as a result of information gathering by the Security Forces. Many lives which includes the lives of civilians, defenceless civilians were protected in this manner.

To maintain this level of effectiveness, members of the Security Branch had to work long hours under extreme conditions. They had to with many forms of violence and despite the fact that there were super human demands put to them they threw themselves wholeheartedly into their task. They were totally loyal to the Government and irrevocable in their prospects to stop the onslaught from the ANC/SAC Alliance, to create a condition of anarchy and usurp the government. Mr P W Botha said that he is not prepared to apologise for the struggle against those who tried to usurp the government.

It was an undeclared war and the ANC Communist Alliance wanted to gain power with violence. It was the government's duty to defend the country. Unfortunately, both the previous government and the ANC/SAC Alliance in their attempts to fight for the high moral

ground had a smoke screen for the people who had to fight in the struggle and this made it impossible for them to participate fully in it. By the same token the previous government maintained that the country was not in war and that the existing law supported by security legislation and emergency regulations was enough to stop the onslaught.

It was expected of members of the South African Police and the South African Defence Force to stop the violent onslaught at any price even if they had to act outside the law as in a war situation. The ANC/SAC Alliance used forces that could not be controlled and this led to necklaced murders and death and destruction amongst civilians and hereby a situation that was worse than a conventional war was brought about. And the persons who were at grass roots level had to participate in this struggle, often in certain situations had to decide themselves how the interests of their masters best be served.

Thereby it is also important to comment on the acceptance by some people, and as it was testified previously, that it was standard practice that members of the Security Branch brutally assaulted detainees and that head office and commanding officers committed this. In reality there were strict instructions to detainees under the Security Act were not assaulted or tortured. This does not appear in this document. Commanding Officers had to bring this under the attention of their people and during inspections special attention was paid to this.

Special powers whereby the danger and results of the use of violence on detainees was set out at every police station, division or branch of the South African Police Force and every member had to sign this as proof that the contents thereof was explained to him"

MR VISSER: Before you continue, you have an example you found here and you made it available to the Committee that I would like to hand in as **Exhibit O**.

CHAIRPERSON: Thank you Mr Visser.

MR VISSER: It's one it's way Mr Chairman.

And I wish to ask - this is an interruption of the train of thought of the witness, just to summarise this document I wish to ask you to read this document because it does confirm your testimony here. Please remember to read slowly.

GEN VAN DER MERWE: Thank you Chairman.

ADV DE JAGER: Have copies been given to the Interpreters? Chairperson, this is an instruction of the 11th of January 1989 which I gave to all the branches including the Security Branch. I was then the Deputy Commissioner of the South African Police Force, and the heading is:

Death: People in Detention. And I continue to read:

In the recent time there was a worrisome amount of people who died in detention and in most of the cases it would seem as if the people committed suicide but there are also indications that members of the force used illegitimate violence in certain cases. Except for the tragic consequences which it brought about for each member who were accused thereof that he was involved or cause the death of a person in detention, each case remains an embarrassment for the South African Police. It would seem that in the minds of some of the members there's the

confusion or the wrong perception that the use of illegitimate violence in the interest of his duty and his colleagues, in the interest of South Africa, and he has a moral duty to defend himself against the consequences thereof. This misperception already led to several deaths in prison and head office had to handle the comments or the accusations of very embittered parents because of the fact that senior and experienced members did not give the necessary lead or guidance to those subject to them.

You must please make sure that every member under your command should be notified as follows: The use of illegitimate violence exposes a member to prison sentences or they might be kicked out of the force.

In all cases where a detainee died an unnatural death there should be an inquest and a legitimate post-mortem should be conducted and the relatives of such a detainee have the right to use their own pathologist and to be present at the post-mortem where a detainee died because of the use of violence. And it would come to the fore at the inquest and it's obvious that a case of murder should be investigated. It's every commander and every member's responsibility, those who are to make sure about the others' duty and their subjects and to continually emphasise to them that there is a very, very big danger when it comes to the use of illegitimate violence.

Supervision should also be exercised in such a fashion to ensure that the use of illegitimate violence should be restricted. Head Office do not want to prescribe to you how often this instruction or order was brought under the attention of members under your command. It's the responsibility of each member, it is your responsibility to make sure that each member at all times carries knowledge of this.

MR VISSER: General, what is written on page 2 is administrative prescriptions, if I can refer to it in such a fashion, it's not necessary for you to read that as you've submitted **Exhibit O** to the Commission.

Let's just talk about death in detention and also torture by prison police during questioning, in order to obtain information. Are you saying today that you as Commissioner of Police and the then head of Security Police, are you saying that you were not aware that these things were happening or what are you saying? Were you aware of it and what's the situation?

GEN VAN DER MERWE: Chairperson, obviously I knew that there were incidents where people who were detained were tortured and assaulted. We often had to do with and handle complaints otherwise this letter would not have been necessary but it was never condoned.

I'm well aware of the fact that amongst the members of the security branch, even on the level of headquarters, despite these severe instructions they were given and the definite and obvious policy of the South African Police as I've already said, the doubt always existed if a member had the moral duty after he was aware of everything else and he's done everything within the legitimate boundaries to treat a detainee who had very important information and which led to the death and the maiming of defenceless people ... (tape ends) ...

MR VISSER: I must apologise Mr Chairperson, I have taken the witness out of context. He was now reading on page 11 paragraph 6.24.1 and if you will forgive me maybe the witness should just finish that paragraph and then we can turn to 6.23. I'm sorry Mr Chairperson, I wasn't aware of the fact that I would confuse him.

GEN VAN DER MERWE: I'm continuing 6.24.2:

Everybody knew that the assault and the torturing and the death of the person in detention would be a very serious embarrassment for the South African Police and the national government but still there was sympathy for members who in an effort to obtain information which could have led to the saving of lives and then made themselves guilty of these deeds. Those things were not condoned.

MR VISSER: Maybe I can just take you back to where I took you away and that is at paragraph 6.23.2. That was where you were before you read **Exhibit O**.

GEN VAN DER MERWE: Chairperson, detainees according the prescriptions of Section 29 on the Law of Internal Security of 1992, kept at least or at the most 14 days and were examined by the District Surgeon as well as by Magistrates, inspectors of detainees and officers of other divisions within the South African Police.

Any complaints by a detainee with regards to the fact that he was assaulted or tortured was investigated by a different division of the Security Branch and a docket, without exception, was submitted to the Attorney General.

MR VISSER: In this case General, I think there was a suggestion that some of the Generals, in the case where a member of the Security Branch was caught, he found guilty of torturing a person, then some of these Generals would then help or they would interfere in the legal processes which you've just described, which would have led to a submission to the Attorney General. Are you aware, during your career, are you aware of any interference from head office in such a case, an interference with the legal process?

GEN VAN DER MERWE: Chairperson, I do not carry any knowledge concerning such a case. As I said, the investigations were done by another division and not by the Security Branch who beforehand worked beneath the Division Commissioner and they were not under the command of the Security Branch, they functioned completely independent from us. It would not have been impossible but it would have been quite difficult for a member of the Security Branch to interfere with such an investigation.

MR VISSER: Mr Chairman, I've miscalculated ten minutes or nine minutes. I believe that we might be able to finish before one o'clock with - we're really getting to the facts of Bopape and I wouldn't like to interrupt that and for the sake of your concentration as well but perhaps we could go a little beyond one o'clock if I don't finish. If you want me to start with paragraph 7 now, alternatively perhaps after the hard work of this morning we might adjourn 10 minutes early. I'm not sure how you want to do it.

CHAIRPERSON: Is it your intention just to deal with paragraph 7 at this stage because if it goes right to paragraph 9.9 it will be a lot longer than ten minutes I'm sure?

MR VISSER: It really deals with the balance of the document Mr Chairman, yes.

CHAIRPERSON: Well, perhaps we can take the lunch adjournment now seeing that we are at this stage where the witness is about to describe the Stanza Bopape incident. We'll adjourn until two o'clock and recommence then.

MR VISSER: Thank you Mr Chairman.

COMMITTEE ADJOURNS

ON RESUMPTION

MR VISSER: Chairperson, we're now going on to the facts and circumstances surrounding the present incident, but before we go onto that, may I get one other householding matter out of the way? We drafted, for as far as you might be interested in it, a short sketch of the divisions of the Security Branch in the Transvaal in so far as it may either of or of importance to you and for what it's worth we hand it in as **Exhibit P** Mr Chairman.

CHAIRPERSON: Yes, thank you Mr Visser.

MR VISSER: General, you are still under the oath that you made this morning and you are now to proceed to address the document **Exhibit N**.

JOHANNES VELDE VAN DER MERWE: (still under oath)

EXAMINATION BY MR VISSER: (cont)

Will you proceed please?

GEN VAN DER MERWE: Thank you Chairperson, the interpreter has indicated that we can go a little but faster but if they cannot keep up they should indicate.

The decisions that I made in the instance of Mr Bopape and the subsequent action, has to be judged in the light of what I already mentioned in terms of my education, influences on me, the violent and political struggle that prevailed, the pressure that was on the Security Branch to stop violence and anarchy and my support of the Government and the National Party.

At that stage I was the Commanding Officer of the Security Branch of the South African Police. Major General Erasmus visited me on a Sunday morning and came to tell me about the death of Mr Bopape.

MR VISSER: Excuse me, that was the 12th of June?

GEN VAN DER MERWE: Yes, that was the 12th of June.

According to General Erasmus, Mr Bopape was held in accordance with Section 29 on the Security Act at John Vorster Square. He was suspected of being a trained terrorist and he had links with ANC suspects and he was to be involved with certain limpet mine incidents. Members who did the interrogation used electrical shocking devices and according to what he told me, Mr Bopape died immediately after he was shocked. Apparently this was because of a heart attack.

I was also informed that with the exception of handcuff marks on his wrists, there were no marks on his body. General Erasmus furthermore told me that he himself did not see the body and his version was based on the report of a member that was given to him. It says there members but it should read member.

General Erasmus also said that the members that were involved with the death of Mr Bopape feared that if the normal legal process was to be followed it would have far reaching consequences because Soweto Day would be commemorated four days later. The following information was steadfast: Mr Bopape was a detainee in accordance with Section 29 Security Act and it doesn't matter how high he was in the ANC circles, they would have exploited his death with mass resistance and use it on Soweto Day. The SAC/ANC alliance already did everything in their power to use commemoration day to further mass participation and by means of information given by placards, mass gatherings had already been organised for Soweto Day.

The Witwatersrand and Pretoria were effected greatly by terror especially limpet mine attacks. Mass resistance worsened proportionally and members of the Security Branch had to work day and night to stop this terror and to gain the upper hand. The existing law was unsatisfactory to handle the situation and the government had to take drastic measure where members of the Security Branch had to be used to blow up buildings and act outside the parameters of the law. The Security Branch was the most important buffer between the armed governability as well as maintaining law and order in the country. In this aspect the moral of the members of the Security Branch played an important role. The country was in a war situation where extraordinary measures had to be used to fight the enemy.

General Erasmus and myself came to the conclusion that we had to do with a severe situation and the wrong handling thereof would lead to mass unrest and mass violence, that the moral of the Security Branch could be destroyed with catastrophic results for the government and the country and therefore we decided to conceal the death of Mr Bopape and to dispose of his body. We also decided to use the method of a mock escape. I left the practical arrangements to General Erasmus.

General Erasmus called me the same evening and told me that Mr Bopape had escaped. This confirmed that the mock escape was successful.

MR VISSER: General, just to give a bit more information surrounding this document that you addressed now, General Erasmus comes to you, it's Sunday afternoon and he tells you of this incident and according to the testimony that we've hear, the body of Mr Bopape was thrown into a crocodile hole at the Komati River and it was never seen again. Can you remember, concerning the discussion between yourself and General Erasmus, if Eastern Transvaal was concerned here and in which form or in which respect?

GEN VAN DER MERWE: Yes, Chairperson, it did. When we discussed the possibility of a mock escape we decided that it may be best if such a mock escape and the disposal of the body had to be in a remote place close to the border and in that aspect Eastern Transvaal was mentioned because Brigadier Schalk Visser was well known to General Erasmus and he was a friend of he. He was of the opinion that he could handle the situation best.

MR VISSER: Please proceed with paragraph 8.

GEN VAN DER MERWE: Chairperson, I'd like to deal with the occurrences and acts after the 12th of June 1988.

After the 12th of June it was important to maintain this mock escape. I signed letters that were written in this aspect and I had discussions with people whereby I maintained this mock escape as fact.

MR VISSER: Can I just interrupt you here to refer Mr Chairperson to Volume 3 of the documents before you, page 673.

You have it in front of you General. Is this a writing which was signed by you and was addressed to Cheadle Thompson and Haysom attorneys and addressed to Braamfontein re the matter of Johannes M Bopape?

GEN VAN DER MERWE: That is correct Chairperson.

MR VISSER: The contents of this letter, did you draw it up yourself? What is the situation there?

GEN VAN DER MERWE: No, this writing was done by Colonel DP Delpport. He was involved at this desk that handled situations of detainees in accordance with the Section 29 and he also did it at the hand of information which he received via the normal channels.

I can maybe just mention here for further purposes of my evidence that we let this incident flow through normal channels and everything which happened thereafter originated from those channels and I was not involved there with the submission of any information or the handling of any writing.

MR VISSER: But you accept responsibility for the fact that you were part of the distribution of the false information because we know the information at round about lunch time of the 12th of June which came from other divisions were false to that effect.

GEN VAN DER MERWE: That is correct. I did not draw up the information therein but I did sign it and I associated myself with it.

MR VISSER: The contents of the writing speaks for itself and on page 675 there was a writing from Cheadle Thompson and Haysom where certain information was requested and on page 678 of Volume 3 once again you signed a letter there, is that correct? That was drawn up by Lieutenant Delpport and along the same vein as the previous one?

GEN VAN DER MERWE: That is correct.

MR VISSER: Please continue. You were dealing with the letters in paragraph 8.2. Let's continue with the question about the information about the true facts, whether it was distributed further than yourself. Can you just go on further with that?

GEN VAN DER MERWE: I did not mention the true facts to the Commissioner or to the Minister of Law and Order. The reasons for this are obvious. I would not have reached anything by involving these persons there and to force them to become part of this illegal deed. I could not offer anything else to them as a choice between two undesired possibilities. Whichever one they chose they would have been in trouble. There was no sense to involve more people than was absolutely necessary.

I wish to add Chairperson, it was easier to maintain the mock of the story if the person did not know the true facts of the story.

MR VISSER: In these pieces reference was made to enquiries by Mr van Eck that was addressed to Mr Adriaan Vlok and it contained comments that Mr Vlok made in Parliament about Mr Bopape, to the effect that he had escaped. What concerns you personally, when those statements were made, as far as you know, did he know the true facts of the matter?

GEN VAN DER MERWE: No, he did not know of the true facts of the matter.

MR VISSER: This afternoon you were confronted with a situation and you made a decision and the decision was acted upon. The law prescribes that the deed you committed had to be committed in connection with a political motivation. Can you address paragraph 9 for this?

GEN VAN DER MERWE: Yes, Chairperson. As any other member of the Police Force I also swore an oath of trust as a policeman to the State and the government. What I did I did not do for personal gain or for personal reasons. I did it because of what I saw as my duty as a policeman and in the war situation in which the country was and also as a supporter of the National Party against the forces of the freedom organisations and their members.

I **bona fide** believed that my actions were necessary to save the previous government embarrassment and to protect that government. Because of these reasons I believe that my participation was something that adhered to my duties as a policeman and I also believed **bona fide** that I uttered in terms of my sworn capacities as a member of the South African Police Force in order to prevent the revolutionary climate, because of the death of Bopape, to increase by which anarchy, violence and ungovernability would have been furthered.

I was forced to perform the duties, as we see then in Section 5 of the Police Law 7 of 1958. Those duties specifically entailed the maintaining of law and order and the maintaining of internal security and stability. I believe that my action was in the best interest of the country's security and was necessary in order to keep the government of that day in power. I also had the belief that that was exactly what happened.

Given the circumstances, I also believed that I had no other option. On both sides of the struggle in the past there were fighting (indistinct) who inherited the situation and who did not create it themselves. To that extent we were all play balls of the circumstances and we did things we would not have considered doing in other circumstances.

The result is that I now stand in front of this Committee and I'm asking for amnesty for an act I committed against the backgrounds of my education, convictions and a cruel battle which prevailed and with the objective to protect the civilians and also the government of the day and with honest intent to perform my duties as a policeman.

MR VISSER: To return to Sunday afternoon the 12th of June 1988 and the discussion between you and General Erasmus, what was your personal feeling concerning this whole issue? Did you, by your decision to conceal the whole matter and to cover it up, was it to condone the acts of the members of the police or what was the situation?

GEN VAN DER MERWE: I was well known with the functions of all the divisions of in our country and I knew that the members who were involved in the Security Branch worked very

hard and that they also were responsible people and whatever led to their behaviour and whatever necessitated their behaviour, I realised that it had to happen.

I didn't think at that stage, I didn't believe at that stage that there was any other motive except for an honest motive in order to obtain information in order to save people's lives. But at the same time I realised that the behaviour was illegal and it was against orders and that it placed us in a very difficult situation, specifically at that stage and the circumstances we found ourselves in. And for that reason I decided that the death had to be concealed but I did not condone the behaviour as such.

MR VISSER: General, if you can help us and try to refresh your memory. If you stick to political prisoners now, can you remember or can you give us an estimate without having to mention each and every name, how many security prisoners were there who died in detention during the whole time of the struggle?

GEN VAN DER MERWE: Chairperson, I'm talking now only of detainees under Section 29, I'd like to exclude the state of emergency because there were cases of suicide, but the incidents that took place, and again we have to qualify them, when there was a reason for us to suspect that it was unnatural causes of death and what come to the fore in the media, it couldn't have been more than 10 to 20.

MR VISSER: And which time period would this cover?

GEN VAN DER MERWE: It would be the time span over which this Committee concerns itself with.

MR VISSER: Were you in other situations where the actions of subordinates were concealed by you when a death occurred?

GEN VAN DER MERWE: No, definitely not.

MR VISSER: This incident, would you say it was very irregular?

GEN VAN DER MERWE: It was definitely yes.

MR VISSER: I'm talking to you personally now because you are here to make a full disclosure. With regards to the filtering, you were not always a General, you were also a Constable at one stage and you held lower ranks. What was your approach with regards to the filtering of people in your police career?

GEN VAN DER MERWE: Chairperson, I never was guilty of torture myself. During a very difficult stage in our history I was stationed in the Free State where circumstances might have been a bit different than they were in the Witwatersrand, I must tell you honestly I have sympathy with the members who made themselves guilty thereof but on the other hand it was so and later when I reached the position at headquarters, I realised that there was no other means where you as a senior member could protect your subordinates if they made themselves guilty of such acts. And indeed it was immoral to expect that your subordinates should use methods whereby they exposed themselves to far reaching consequences without you being able to protect them against that. Because it is true Chairperson, when a person assaulted someone else, it doesn't matter in which division of the Police you were, and a

complaint was made against him, that occurrence was immediately handled in such a manner that it had negative results for the member himself. For example his promotion would have been, he could not have been promoted until they investigated this case completely. If he was found guilty, investigation was led and there was decided if he could stay in the Police. So there were very negative consequences for the ... (tape ends) ...

Chairman, the motivation and the pressure placed on the members, led to the fact that many people despite this risk and the fact that they were exposed to these negative results, they were still willing to pay that price because they thought that what they were doing was the right thing.

MR VISSER: Now you are saying that you were not guilty in the sense that you tortured people, but there is evidence on record and Mr Maharaj said that your tortured him.

GEN VAN DER MERWE: That is a blatant lie Chairperson, and we are taking steps to bring this matter to an end.

MR VISSER: Is there anything you would like to add to your evidence, General?

GEN VAN DER MERWE: Nothing, thank you Chairperson.

MR VISSER: Chairperson, that is the evidence in chief from Gen Van der Merwe, thank you.

NO FURTHER QUESTIONS BY MR VISSER.

CHAIRPERSON: Thank you Mr Visser. Adv Prinsloo, do you have any questions that you would like to put to the witness?

CROSS-EXAMINATION BY MR PRINSLOO: General, out of your evidence it is quite obvious that the ANC in that specific time span, in 1988, they mobilised all the facets, is that correct?

GEN VAN DER MERWE: That is correct Chairperson.

MR PRINSLOO: And the onslaught was very severe at that stage and they broke every single law?

GEN VAN DER MERWE: It was their policy Chairperson, to create ungovernability as far as possible and in that way, to force the government to back off.

MR PRINSLOO: Ungovernability is very wide and it was strictly adhered to and they really wanted to make the country ungovernable, is that correct?

GEN VAN DER MERWE: Yes, they tried as far as possible to also involve the masses to create a villain disobedience and anything else that could lead the to fall of the government.

MR PRINSLOO: And this included violence?

GEN VAN DER MERWE: Yes, Chairperson.

MR PRINSLOO: General, is it so that members of the Security Branch - could we see them as a very big family, they were very loyal to each other, they trusted each other and were very subordinate towards their Commanders?

GEN VAN DER MERWE: Definitely, yes.

MR PRINSLOO: And the Security Branch specifically worked in very strict secrecy, is that correct?

GEN VAN DER MERWE: Yes.

MR PRINSLOO: The Security Branch was not very big, but because of the onslaught, a lot of things were expected of them, it was more than of any other people, would you agree with that?

GEN VAN DER MERWE: Yes, I have already testified that our members worked day and night, there were high demands put to them.

MR PRINSLOO: Specifically regarding the duty they had to perform, was it necessary for the Security Branch to firstly obtain information, is that correct?

GEN VAN DER MERWE: That is correct Chairperson.

MR PRINSLOO: And information was one of the most important factors that could be used in order to prevent the onslaught, is that correct?

GEN VAN DER MERWE: Yes, that is correct.

MR PRINSLOO: They use informants, but mostly they had to gain the information from people who were arrested, would you agree with that?

GEN VAN DER MERWE: No Chairperson, I think our information network was very important, but then information we got out of questioning, was also of great importance, but I wouldn't say it was of more importance than what we got from our informants.

MR PRINSLOO: General, if you look at all the acts of violence committed and you did not have the information to prevent this, I am sure a lot of information was not obtained?

GEN VAN DER MERWE: Yes Chairperson, that is true. We did not always have all the necessary information and there were a lot of terrains where we could not find enough information to act.

MR PRINSLOO: There were circumstances that it was completely necessary to use other methods in order to fight this onslaught in the sense of legislature and specifically now, Section 29?

GEN VAN DER MERWE: That is correct Chairperson.

MR PRINSLOO: Section 29 was often used specifically to obtain information? It wasn't directed towards the court?

GEN VAN DER MERWE: Yes, the intent of Section 29 was in order to make us capable to get information which would lead to prosecution, but it would also help us to use preventory measures.

MR PRINSLOO: General, if you look at the specific incident, as you well know, the people who are prosecuted in this case, this is (indistinct) and his other accused, were they responsible for several acts in Pretoria and the Witwatersrand?

GEN VAN DER MERWE: That is correct Chairman.

MR PRINSLOO: And those acts were committed in central Pretoria, there were bomb explosions on several places, three Policemen were shot in Atteridgeville, a baby died in the explosion, a train got blown up, there was an office in Atteridgeville also blown up and several other cases which happened in the West Rand which were not part of those acts, are you aware of that?

GEN VAN DER MERWE: Yes.

MR PRINSLOO: Are you also aware of the fact that a great many of the accused in that case, were locally trained and not trained abroad?

GEN VAN DER MERWE: That is correct.

MR PRINSLOO: And that indicated on the severity of the onslaught and the struggle and that is why it was so important to obtain information from these detainees?

GEN VAN DER MERWE: Yes, definitely.

MR PRINSLOO: And this case happened, this happened in Mamelodi, he was a very important person in the Civics?

GEN VAN DER MERWE: That is correct, according to information that I subsequently gained and as far as he know, he was also had a direct link with Maponya who blew himself up at Sterland?

GEN VAN DER MERWE: That is correct.

MR PRINSLOO: And two other foreign trained terrorists?

GEN VAN DER MERWE: That is correct Chairperson.

MR PRINSLOO: It would have been really necessary to obtain information from this person, this Stanza Bopape when he was in detention?

GEN VAN DER MERWE: I agree with that yes.

MR PRINSLOO: General, it is so that letters were addressed and written that people should not be assaulted and it was written in general, it was not only for the Security Branch members but for all the other members of all the other divisions in the country?

GEN VAN DER MERWE: That is correct Chairperson. Our instructions was relevant to all the members of the Police Force.

MR PRINSLOO: In these circumstances, General, when a person finds himself in detention in accordance to Section 29, he doesn't want to give information and then, now looking at the background of the war situation prevailing, can you say that it would not have been expected of people to just stand with their hands behind their backs and not try to obtain information physically? This is within, according to the situation prevailing at that time?

GEN VAN DER MERWE: Chairperson, that is correct but as I have already mentioned, we sat with the situation where we could not protect our people and it is obvious that any person would have sympathy for a person who in those circumstances used violence. But on the other hand, we could not expect it of them, because it would have been immoral to expect them to use violence because I could not have protected him afterwards, and no other senior could protect him.

If anybody brought such a person under the impression that he could use violence, because he would protect him, then definitely he was dishonest towards that member.

MR PRINSLOO: In several instances when people died in detention, whether it be alleged suicide or death in detention, specifically at the Security Branch, when these people were accused and when there was an investigation, they did have the best legal representatives, not true?

GEN VAN DER MERWE: Yes, definitely.

MR PRINSLOO: It would have helped the ANC in their struggle if they were not supported, not correct?

It would have been a victory for them?

GEN VAN DER MERWE: Do you mean if we did not protect them against the consequences of what happened when they tortured someone?

MR PRINSLOO: That is correct, where the legal representation was arranged, where the Force's name was on the line, the Security Forces specifically?

GEN VAN DER MERWE: Chairperson, here you have to make a clear distinction. We acted within the prescribed measures to help such a person. It did not mean that we then condoned such a member's behaviour.

I already said that we had sympathy for that and we did everything in our means to protect his rights and to enable him to protect himself? Yes, definitely, but I think we shouldn't make the deduction from that that it was aimed at the fact to create the impression by this member that you are allowed to torture or assault people and that we would protect him.

MR PRINSLOO: General, could the perception have been there that these people were protected because of the loyalty within the Security Police?

GEN VAN DER MERWE: Yes, Chairperson, I could put it this way and I have moved through all the ranks within the Security Branch and it was indeed the truth that there was no possibility that a member would testify against his colleagues. There was no possibility that a member when we were both involved in the same act, that one colleague would knife his other colleague in the back. They were very loyal amongst each other and towards each other. That is for sure.

That is why it was very evident in my instruction that they should not use violence and then expect that that member should protect him when he made himself of an act of violence and eventually bring all the others with him, into trouble.

MR PRINSLOO: The time span in which the members of the Security Force found themselves then, when there was a very strong onslaught and they made use of illegitimate methods, the ones you described yourself. Then surely such a perception must have been created that their illegitimate acts would have been condoned?

GEN VAN DER MERWE: No Chairperson, there was definitely a grey area. It was created yes, but the instructions were very clear. I don't think there is any member today who can come and say honestly that he did not know that if he used violence, he would have to like face the consequences of his own act himself.

Everybody knew that there would have been sympathy and understanding, yes, but every member also realised that if he used violence, he would have to have faced the consequences himself.

MR PRINSLOO: In several instances where there were other options they used, like you say in the grey area where people were killed or whatever other methods were used because of the war situation, we must remember it was a war situation, was that how it was seen?

GEN VAN DER MERWE: Chairperson, no. We never allowed anybody to kill anybody and we never condoned that. I am not personally aware of it, there might have been cases like that, but I was not involved in them. I cannot take it any further than to say, yes, there was a war situation, there was a very strong loyalty between the members and every member knew that any of the other members would never testify against him. That is true, but on the other hand, every member knew that if he used violence, he would expose himself to certain consequences and that he would have to face these consequences himself. That is definite. And the members knew that and they accepted that.

If he used violence and a complaint was made against him, then he accepted the consequences thereof.

MR PRINSLOO: So, as far as the letters are concerned which started existing within the government and the opposition parties had discussions concerning this, these letters were already written then?

GEN VAN DER MERWE: No Chairperson, these letters were created because of the concern of parents with whom we had discussions and incidents that took place where complaints were brought against people and their promotion was held back and then afterwards we had to control the situation and the intent was honest, we wanted to tell our people that if you are

going to assault someone, these are the consequences. There is no way we can condone that and we cannot protect you.

MR PRINSLOO: General, if we look at this letter it also approves it. It is dated January 1989.

ADV DE JAGER: Sorry, I interrupt. The people realised that you could not protect them, but you also told us you were aware of such circumstances, such instances, so the command structure on own initiative, would the command structure bring accusations against these members on their own?

GEN VAN DER MERWE: The ruling was no exception, where there was a charge laid, you can't investigate it without a charge, but where a person that was detained laid a charge, it was without exception a charge was laid, the investigation of that was left to another department and it would proceed to the Attorney General.

MR PRINSLOO: The document that you handed in here was dated Exhibit O, the 11th of January 1989.

GEN VAN DER MERWE: That is correct.

MR PRINSLOO: That is after the incidents?

GEN VAN DER MERWE: That is correct Chairperson.

MR PRINSLOO: Chairman, there is another aspect that I would like to raise with the General, but I would have to take instructions from the applicant, Mr Zeelie. It is really connected to another application, and I am unable to put that question at this stage to the General. I would like to reserve it until tomorrow morning, if that will be in order with the Committee.

CHAIRPERSON: I have been asked just to have a short adjournment at three o'clock, a brief five, ten minute one. I don't know if that will be sufficient time for you?

MR PRINSLOO: I will take it up and see what I can do to resolve the matter.

CHAIRPERSON: Well perhaps we can take that short adjournment now. Do you have any other questions besides that Mr Prinsloo to put to the General?

MR PRINSLOO: Mr Chairman, no.

CHAIRPERSON: Perhaps we can just take a short ten minute adjournment at this stage and then you can see if you have sufficient time to get the instructions. If not, then you can reserve your cross-examination on that point, to a later stage.

COMMITTEE ADJOURNS

ON RESUMPTION

JOHANNES VELDE VAN DER MERWE: (still under oath)

CHAIRPERSON: Mr Prinsloo, are you in a position to finalise your questioning of the witness?

MR PRINSLOO: Mr Chairman, at this stage I will ask leave to let it stand over till tomorrow morning.

I will only be able to get hold of the document tomorrow morning. The Attorney concerned in the other matter will only be able to make it available tomorrow morning Mr Chairman, thank you.

NO FURTHER QUESTIONS BY MR PRINSLOO.

CHAIRPERSON: Ms Van der Walt, do you have any questions to put to the witness?

MS VAN DER WALT: I do not have any questions, thank you.

NO CROSS-EXAMINATION BY MS VAN DER WALT.

CHAIRPERSON: Mr Rautenbach?

MR RAUTENBACH: Mr Chairman, there is just one aspect at this stage that I would like to mention. I am not blaming anyone in particular, I just want to point out that we received all these Volumes and Section 29, transcripts of Section 29 proceedings

and there were Occurrence Books and so on.

If I look at the document that was used to lead Gen Van der Merwe, it says incorporating application, statement and submission P46, translation of old Generals, **Exhibit P47**, own evidence 21 October, 9 February and there is talk about October 1997.

Mr Chairman if this was a matter of just the same person had to testify in other procedures, and I have no problem with that, but it is for sure a person who had interest in this, and on the grounds of that information, had to be cross-examined, it seems to me it was specifically incorporated at this amnesty application. The moment I saw it, I asked Mr Steenkamp if this document **P** was available and I said if it was part of the application, I would like to see what it is and what is contained in there.

Mr Steenkamp told me that the only thing he could do under the circumstances, was to as soon as possible get it here, it is apparently available and it was incorporated in the application. It is so that at least I would like to have the opportunity to look at it, to see what it is. If it was incorporated, then I believe it has to be put before the parties so that we have insight to it. I would just like to make this point at some point at time. If there is any merit in what I have to say.

CHAIRPERSON: Yes, Mr Rautenbach. I might inform you that we also haven't seen those documents, we have no idea as to what the contents of them are.

Mr Steenkamp, are you saying that they are available?

MR STEENKAMP: Mr Chairman, as far as my memory serves me, the first document called "Stigting vir Gelykheid voor die Reg", this is a document and maybe Mr Visser can help me, but this is a document that has been incorporated in other applications as well.

Maybe you can remember there was another hearing where this document was also used, but from the rest of the documents "Voorlegging en Verklaring van oud-Generaal Eie Getuienis", those documents I am trying now to get, well obviously we must have them in our possession, so I am actually trying to get hold of those documents and I hope they can be couriered to us today even.

CHAIRPERSON: And also Die Eie Getuienis, 21 October, 9th of February.

MR STEENKAMP: They must be transcribed by now, I am sure sir.

CHAIRPERSON: And I wasn't quite clear Mr Visser, Die Eie Getuienis for the 9th of October, is that also incorporated, the third one?

MR VISSER: Yes, the third one as well, yes.

CHAIRPERSON: The 9th of October 1997?

MR VISSER: Yes Mr Chairman. I may just say that this has been foreshadowed in the written application already, not in detail, but it has been foreshadowed.

CHAIRPERSON: Yes. The point that you raise Mr Rautenbach is indeed a valid one.

Would you be in a position to commence with your cross-examination bearing in mind that you will obviously have the right to the access of these documents which the applicant has incorporated in his application?

MR RAUTENBACH: Chairman yes, I obviously at some stage would like to have access to that information and see whether there are important aspects that I would like to cross-examine on, but it doesn't mean that I can't carry on now.

Definitely it will be a waste of time if I don't do so and I would like to put certain questions and see how far we get with the witness as well, the other questions.

CHAIRPERSON: Yes, thank you.

MR VISSER: Perhaps I owe you some sort of explanation Mr Chairman, about these documents. When Gen Van der Merwe gave evidence before this Committee here in Pretoria, we handed in these documents, they are voluminous and it was then agreed with that Committee, which was the original Committee presided

over by Judge Mall, that because of the volume of the documents and practical difficulties, duplicating them for every single application, they were accepted and received by that Committee originally on the basis that they would become formal, standing **Exhibits**.

Obviously the disadvantage of that arrangement perhaps I haven't thought about it as clearly as it has now occurred, is from a point of view if somebody wants to cross-examine, but I do, and I obviously understand the difficulty and the predicament.

But I must say this Mr Chairman, there is nothing different in all of those documents and the evidence than what has been covered basically, very briefly and far more briefly of course, but it has been covered here today.

I certainly I understand my learned friend's problem.

CHAIRPERSON: Yes, sometimes you can find little treasures for cross-examination in large documents.

You may proceed.

CROSS-EXAMINATION BY MR RAUTENBACH: General, concerning these documents that I want to clarify with you, the background and perceptions of the time that we are speaking of. I just want to touch on a few of these aspects.

The first aspect is on page 6. You will see at paragraph 5.10 you made the point of saying that people who stayed in black townships, lived in fear and were forced to participate in stay away actions, boycotts, etc. I would just like to ask you the following questions in accordance to whatever was said here.

You would agree with me that concerning that paragraph, we have to consider that the people you are talking about here, who lived in the black townships, in the first place had no political rights?

GEN VAN DER MERWE: That is correct.

MR RAUTENBACH: And in the second instance, you would agree with me that these people saw the Security Branch as an arm of the government?

GEN VAN DER MERWE: Not necessarily as a whole, but there was some of them who saw the Security Branch as an arm of the government, but I would also say that there was some of them who saw the Security Branch as part of the Police and saw them as normal Police.

MR RAUTENBACH: Gen Van der Merwe, if we look at where you made the point in 6.2 that there was a team spirit between the government and the Security Branch and there was mutual trust that led to blind loyalty, would you then agree with me that such a perception could have been established easily by the people of those black townships?

GEN VAN DER MERWE: I am just afraid to pull this whole thing out of proportion, in the sense that in many instances in many townships, we had excellent co-operation from the black members of the townships.

If you want to say that an arm of the government, if you mean by that that they were enemies, then I would say in many instances it was so, but there were other instances, where the inhabitants were not antagonistic towards the Security Police, but in general I would agree with you.

MR RAUTENBACH: You said that was as far as the majority was concerned?

GEN VAN DER MERWE: Yes, as far as the majority, I agree with you.

MR RAUTENBACH: This also goes in terms of the statement that was made when you said that moderate persons in black townships lived in fear and they were forced to participate in boycotts and stay away actions. The point I want to make, please understand me clearly, I am not saying that at no stage people were not forced or at no stage were people forced to do things, all that I am trying to say is that we could accept that the majority of the people in those townships that we are referring to, were ANC supporters as it seems from after the elections?

GEN VAN DER MERWE: Let's just deal with the first point, if you would tell me that the majority of the inhabitants of the black townships were sympathetic towards the ANC, that is true, definitely.

MR RAUTENBACH: Then we speak about where you make the statement that moderate inhabitants of black townships were forced to participate, that you possibly could concede that there were people who were forced and it cannot be said that a large majority of the inhabitants of black townships were forced to participate.

GEN VAN DER MERWE: It is difficult to differentiate here, because there was no manner or method who voluntarily participated or who were forced or coerced, but if you would go along the community, it would seem that the most people of the black townships wanted to carry on with their normal lives.

In most instances they were not in favour of boycotts and stay away actions and ANC supporters had to use violence and coercion and you would know of this and you would hear from instances where people were given indemnity.

In other words by the organisation, no opposition was because of intimidation and many of these instances, I would say intimidation played a large role.

It is possible that there was a large number of - and in that instance if you want me to accept that the majority, it is not necessarily so. It is not necessarily that the majority of them participated voluntarily.

MR RAUTENBACH: Would you then concede that the majority of them wanted political rights?

GEN VAN DER MERWE: Definitely, but not in the manner that the ANC wanted to get this.

MR RAUTENBACH: Would you then concede that if the majority ... (tape ends) ... marches and stay away actions and boycott actions, as well as political strikes to bring across the message to the government of the day?

GEN VAN DER MERWE: No, not necessarily. It had personal disadvantages to them. If a person, or if the ANC had the co-operation of the majority, then many of these steps would not have been necessary.

It would not be necessary for them to take drastic measures, like to set people alight. They did not need that intimidation.

MR RAUTENBACH: As far as you say General, it would not have been necessary if they had so much support, do you mean to carry on with boycott action and stay away marches?

GEN VAN DER MERWE: No, I mean to intimidate and to force people to participate in these actions. If you have the majority on your side, it would not make any sense then.

MR RAUTENBACH: Would you accept then that we make provision for a situation where persons were forced but it was not the majority of persons who were forced to participate?

GEN VAN DER MERWE: Once again, we are being hypothetical here because you know if you burnt one person by the necklace method, there were very few afterwards, who would not do afterwards, what they were told what to do.

I could not reconcile myself with such a statement.

MR RAUTENBACH: Would you then agree with me in so far as there was no boycott actions, marches and stay away's if these things did not take place, there would have been less pressure on the government to change its political principle?

GEN VAN DER MERWE: That is obvious.

MR RAUTENBACH: And then I also wish to ask of you concerning on page 5, you referred to the matter of the Year of United Action of People's Power, it had its theme in 1988.

Would you agree with me another manner to look at this was just to come to the conclusion that if put differently, the objective there of was to hear the voice of the voiceless?

GEN VAN DER MERWE: I think the ANC's declared objective was to use violence if necessary, to usurp the previous government.

It was not purely to give voice to the masses, but it was also about to use it as a means to get to that objective where mass violence was used.

MR RAUTENBACH: So you don't exclude what I have told you? Then also where you specifically referred to the matter of alternative structures, would you then agree with me concerning alternative structures, this was also about the attitude that people in these townships had established their own structures and refused to accept structures that was forced upon them by the apartheid regime?

GEN VAN DER MERWE: Those structures would indeed by means of democratic election, they could have been elected, but it is true that the inhabitants of black townships did not want to participate in those elections and once again, I would say intimidation played a large role here, but whatever the other factors were, it is true those structures were not acceptable to the inhabitants.

MR RAUTENBACH: Concerning paragraph 6.8 where you mention, that is on page 7, where you mention that the South African Police were powerless to prosecute activists because

witnesses feared for their lives and did not want to appear in court, I would like to put it to you, let's accept for the moment that this did happen in certain instances, would you then agree with this next statement of mine, a further factor that led to the people not wanting to work with the SA Police, not even to appear in court, it was because the Police - many people had the perception that the Police was just the executioner of the apartheid government?

MR VISSER: Mr Chairman, I am going to intervene here if I may. Frankly I have great difficulty understanding the relevance of these questions and perhaps you could help me.

Gen Van der Merwe is applying for amnesty before you, there are certain requirements particularly those set out in Section 20 with which he has to comply.

He has given his evidence. The closest to this cross-examination which one can relate to Section 20 is the political objective. The question which arises here is what do the questions which my learned friend has been asking for the last two minutes, have to do with that political objective?

Is he saying that because a majority of the ANC or supporters of the ANC felt strongly about obtaining political power in this country, therefore Gen Van der Merwe could not have been acting with a political objective, because that is the only illogical, but that is the only obliquely relevance of this cross-examination.

It certainly has nothing to do with credibility and with great respect Mr Chairman, what are we busy with here? This is not a place for political speeches and political justification of one side or the other, it is a question of whether this applicant acted, whether his act was associated with the political objective, and frankly Mr Chairman, I think we are wasting time, but that is your problem to decide about.

We are objecting on a question of irrelevance.

CHAIRPERSON: Mr Rautenbach?

MR RAUTENBACH: Mr Chairman, firstly I can say at the outset that I do not intend taking this very aspect any further, I have actually reached the last question on this very aspect.

The reason why I have raised it is the following and I would like to put that on record, is that Gen Van der Merwe elected to tender this evidence in chief as his understanding of what was happening in South Africa at that stage of South African politics.

He actually proceeded to say later on how this influenced him in making some of his decisions and in his functioning in the capacity he was as a Security Policeman. All I intended to do with a couple of questions, was to understand from Gen Van der Merwe whether he, himself, also realised the other side of the story, the other side of the coin. In other words that it isn't as easy to just say that there was intimidation of people and that was the cause why people took part in strikes and in protests, but in fact that the real political situation on the ground was the fact that there were many people who were unhappy with the system as it was at that stage and that to merely say in his evidence that it is due to intimidation and due to tactics by the ANC of actually forcing people into a position, is an over simplification of the process and it is not making a political point.

The point is just he, Gen Van der Merwe, also realised it at that stage and that is something that did not form part of his evidence originally. So the only reason I asked those questions was as far as the background was concerned, to get more balance as far as his own views, as far as his own knowledge of the political situation was. I do not intend taking the background of the political situation any further.

CHAIRPERSON: Thank you. Well, there it is Mr Visser. We have come to the end of that.

MR VISSER: I will accept the undertaking that my learned friend is not going to continue, in good faith Mr Chairman.

CHAIRPERSON: But I might say that the explanation given by Mr Rautenbach, for his line of questioning, appeared to be reasonable to me.

MR VISSER: Okay.

MR RAUTENBACH: Thank you. Once again I want to ask you with regard to the background information, where it is not concerned with the political information, you did make available to us as **Exhibit P**, you have us the outset of the South African Police in 1988.

Firstly I want to ask you General, as Head of Security, and what I understand from this, you also gave report to the Commissioner of the South African Police?

GEN VAN DER MERWE: That is correct.

MR RAUTENBACH: Then you said on page 6, I have already submitted that paragraph to you, it is 6.2, again you refer to a team spirit between the government and the Security Branch and there was mutual trust between the two, that sometimes led to blind loyalty.

I would just like to refer you to page 8, 6.16 where you said the government was forced to take drastic measures in order to stop the onslaught and that led to the events which you have set out on the next page.

General, I just want to know, as Head of Security, what was the nature of the link you had with Mr Adriaan Vlok because we have you in the position of Head of Security and then we have the Commissioner and then we have the Minister. What was your relationship with Mr Vlok at that stage?

GEN VAN DER MERWE: Chairperson, in most cases I worked with Mr Vlok directly because of the situations that were prevalent and when the Commissioner was not available, because of other responsibilities. Also because of the situation that was prevalent, then it would have been impossible to handle all the things between me and Mr Vlok with the Commissioner.

MR RAUTENBACH: Can I also ask you with regards to the events as you set them out on page 9, we are talking about - in the light of which the government was forced to take dramatic steps - it seems that you consulted directly there with Mr Vlok?

GEN VAN DER MERWE: That is correct Mr Chairperson.

MR RAUTENBACH: If we then say directly ...

ADV DE JAGER: I just want to know, when did Mr Vlok become the Minister of Police, wasn't that in 1987 after the election where Mr Le Grange became Speaker? In 1986 it was Mr Le Grange who was Minister of Law and Order?

MR RAUTENBACH: While we are at that date, can we just spend some more attention to what is written on page 8, paragraph 6.16, these measures that were taken in order to stop the revolutionary onslaught, let's first look with regard to the acts when it came to the destroying of terrorists in neighbouring States.

When were those decisions taken and who made those decisions, which Minister was involved?

GEN VAN DER MERWE: Chairperson, no, that decision must have been taken on State Security Council level, because it was before Mr Vlok's time and then members of the Security Branch acted already against terrorists in the neighbouring States, so that decision must have been taken with the knowledge of the State Security Council and the President who was then governing the country.

MR RAUTENBACH: I just want to get clarity General, do you say that that decision was taken, was a decision coming from the State Security Council, it wasn't one initiated by yourself?

GEN VAN DER MERWE: No, that is correct. Only when it was decided to attack terrorists in neighbouring States, then we were involved.

MR RAUTENBACH: Can I see it as an instruction you received from higher up?

GEN VAN DER MERWE: That is correct.

MR RAUTENBACH: Then can we just look at the question of the blow up of COSATU and Khotso House. I understand your evidence but as far as these aspects are concerned, there were consultations between you and Mr Adriaan Vlok?

GEN VAN DER MERWE: That is correct. If I remember correctly it was during May 1987.

MR RAUTENBACH: Also in regard to this, can I just learn from you, this question surrounding COSATU and Khotso House, was that something initiated from above and then brought to you, were you told that the decision was taken on higher authority and you were told by Min Vlok or did you discuss this with him and did you develop a strategy together with them?

GEN VAN DER MERWE: Chairperson, in the case of COSATU House, there was consultation between me and Mr Vlok and together we analysed the situation and we came to the conclusion that drastic measures had to be taken as far as COSATU House was concerned, and Vlok gave his support for this.

In the case of Khotso House, the instruction came from Mr Vlok and of course looking at the information, also regarding the information we had, but we did not initiate the blowing up of Khotso House.

MR RAUTENBACH: Then once again, COSATU House, at that stage you and Mr Vlok discussed this issue. I accept that this is with regard to what you have already set out earlier in your statement and namely it had to do with the team spirit between the government and the Security Branch.

GEN VAN DER MERWE: That is correct. And also because of the fact that there was a threat.

MR RAUTENBACH: You remember there was in evidence in chief, mention was made of the strikes which took place and COSATU House was concerned there and that strike was by SARHWU, South African Railway and Harbour Workers' Union, is that correct?

GEN VAN DER MERWE: Like I have said, I only commented on that but as far as I remember yes.

MR RAUTENBACH: And it would seem to me and you can tell me if I am wrong, that this relevant strike was quite a big one? This strike had played a direct role in the decision to blow up COSATU House?

GEN VAN DER MERWE: No, there were several other factors that came into play.

The information we had, you must remember I am also applying for amnesty for COSATU House and all the information had been given there, but there was more than that. COSATU House was generally considered as a place where several underground movements were initiated from.

MR RAUTENBACH: The fact that people were taken from there and they were killed, I think it was by Prolokon in the bush, did that have an influence on your decision?

GEN VAN DER MERWE: Yes, definitely.

MR RAUTENBACH: These people who were taken away and then murdered there, they were taken away in a situation of a strike which went on for a long time and they were people working there and they were taken away and killed by people, in the bush?

GEN VAN DER MERWE: I do not have complete facts regarding that.

MR RAUTENBACH: This seemed to have been a case where the initiative came from you and Mr Vlok, is that correct?

GEN VAN DER MERWE: That is correct.

MR RAUTENBACH: But Khotso House was not initiated by you and Mr Vlok, or the blowing up thereof?

GEN VAN DER MERWE: I received the instruction from him.

MR RAUTENBACH: It came from the State Security Council?

GEN VAN DER MERWE: Yes, Mr Vlok told me that the State President gave the instruction, at that stage Mr P.W. Botha.

MR RAUTENBACH: Then I also want to ask you with regard to the policy that was created, once again by the State Security Council regarding the eliminating or the killing of terrorists, in the neighbouring countries, how was this policy enforced, we are working with a Police Force here?

How was this instruction handed over to the members of the Security Police concerning the destruction of people in the neighbouring countries, did it say that you could kill people as long as they are in neighbouring countries, how exactly was this instruction implemented in the State Security Council?

GEN VAN DER MERWE: Here you must differentiate, distinguish between aspects very severely.

Firstly I think it happened almost silently, there was no such written policy which I am aware of. It did not happen during the State Security Council or other meetings, it was never written down, but it was silently said and members of the South African Police and the Army that they could act against the people in the neighbouring countries and that if there were opportunities to destroy terrorists in the other countries, they should do that.

There were also specific incidents where we received instructions to act against terrorists abroad after information was obtained that terrorists in the neighbouring States were ready or preparing themselves to infiltrate the country, and they formed a specific threat to South Africa.

CHAIRPERSON: Mr Rautenbach, we don't want to move too far away from the subject matter of this application.

MR RAUTENBACH: Then I will ask you the next question, as far as this policy is concerned, what would have been the situation where people already infiltrated and they would now be internal?

We know already that there was a policy that people in the neighbouring countries could have been killed, but once they have infiltrated, would you say that problems could have been created when it came to the execution of the policy once they are inside the country, or could it have been seen as a green light also to destroy people within the country?

GEN VAN DER MERWE: I previously testified that there was confusion. It was definitely the policy that when people have already entered, infiltrated the country, they should be treated the same as people who found themselves in the neighbouring States, but confusion was created and we only realised this at a later time, specifically now surrounding amnesty.

There was definitely confusion amongst the people on ground level.

MR RAUTENBACH: General, do you want to say that afterwards it seemed that there was confusion, if there was confusion concerning the destroying of people, whether external of

internal to the country, it could have influenced the members of the Security Police regarding what their powers were and specifically when they wanted information from them for example assaulting them. Don't you think that followed from the fact of this policy, being implemented?

GEN VAN DER MERWE: Of course once again we have to make a distinction between the guidelines where there were guidelines and where the members, because of the specific circumstances under which they found themselves, came to the conclusion that because of the prevailing circumstances, he is allowed to go to certain drastic measures.

That is quite probable that as because of this prevailing circumstances, the impression was created amongst certain members that they do have the right to in certain circumstances, use drastic measures.

MR RAUTENBACH: Would it be correct to say that it seems it has been a direct consequence of the situation - the State Security Council gave instructions to the Security Police which would not always amount to legitimate behaviour?

GEN VAN DER MERWE: As far as the State Security Council is concerned, regarding this aspect, they were concerned with this as far as the destroying of terrorists were involved, but the State Security Council as far as I know, was not involved in the giving of any instructions.

As far as other incidents are concerned, the Police might have been involved, but not the State Security Council.

MR RAUTENBACH: I couldn't hear that last bit, did you say ...

GEN VAN DER MERWE: In the other incidents that is relevant here.

MR RAUTENBACH: Okay. I just want to ask you something once again concerning this document, I just want to get clarity about what you meant.

This mock terror acts to which you refer and I know we are talking a mock escape here, but I am specifically referring now to the mock terror acts, what exactly were they, I didn't follow you well when you gave evidence?

GEN VAN DER MERWE: Chairperson, I was not personally involved, but I was aware of the fact that members of the Security Police received orders to launch certain projects in the townships and to make it look as if it was done by terrorists.

They did not act against people as such, but the impression was created that in those residential areas, terror acts were committed by terrorists.

Mr Chairperson, there was also an application for amnesty in this regard, where members of the Security Police were told to form depots and then afterwards to discover it and then to use those weapons in order for the South African Defence Force to act against terrorists in other countries.

MR RAUTENBACH: In other words it was used as arm caches, is that correct?

GEN VAN DER MERWE: Yes.

CHAIRPERSON: Sorry, Mr Rautenbach if I can just ask on this aspect.

General, as Head of the Security Branch, how much information did you get of the projects or actions carried out by the Security Branch in the various divisions? Did you get a full and complete report of every action?

GEN VAN DER MERWE: Mr Chairperson, no. As far as they were important incidents, we were informed, but you must realise that thousands of incidents took place. We couldn't know of all of them.

If you talk about projects of the Security Branch, then even then, you only knew of the more important projects, but you wouldn't have known about all the projects.

CHAIRPERSON: So in other words, the Head of the various divisions the Witwatersrand, East Rand, West Rand, they had a fair amount of autonomy?

GEN VAN DER MERWE: Yes, that is indeed so. In most of the cases it was left to the Division Commander to organise his own matters in his region. He also of course received instructions from Head Office.

MR RAUTENBACH: If you could just look at **Exhibit Q**, it is that letter you referred to and I think you said you were responsible for the distribution of this, do you have this in front of you?

Can you tell us in the first place, at whom was this letter directed, which persons? Who would have received this letter, who were these persons?

GEN VAN DER MERWE: All Commanders of all divisions of the South African Police without exception.

MR RAUTENBACH: Do I understand then that Gen Van der Merwe, it would not be necessarily every member who would receive such a letter, but it would be left and sent to the Commanders?

GEN VAN DER MERWE: That is correct, but it was the instruction that every member should be informed, but obviously it would not be given to every member in this form.

MR RAUTENBACH: The date, we have looked at it, it says 12 January 1989, would that be round about, is this the date that this document was drawn up?

GEN VAN DER MERWE: This document would have probably, before that date, could have been drawn up before that date, but that is the date on which it was distributed.

MR RAUTENBACH: What was the political situation at that date, was it different from 1988, on this 12th of January 1989?

GEN VAN DER MERWE: No, it was more or less the same.

CHAIRPERSON: Sorry Mr Rautenbach, just for record purposes, this is the date of the 12th of January which the witness says was the date of distribution. The document appears to be dated the 11th of January, the day before. You say it was probably some time before, but it seems to be the 11th?

MR RAUTENBACH: I think there is in fact another date, the 11th of January as well. Can we just get clarity here, it says here the 11th of January 1989, would that be the date, you see there is a date, 12th of January but then there is a date, was this a telex, beneath Kompol Message 462/98/01/11, would that have been the date when the document was drawn up?

GEN VAN DER MERWE: This date stamp was from (indistinct), we received it from Security Branch on the 12th of January.

MR RAUTENBACH: And if we look at what the political situation was at that time, you say it would have been the same as it was in 1988 and all the factors relevant in 1988, was also relevant at this time, is that correct?

GEN VAN DER MERWE: That is correct.

MR RAUTENBACH: And you have earlier mentioned in your reference, you referred to a long period, you said the period that this Commission is looking at, I think you said between ten and twenty persons that died in detention under Section 29?

CHAIRPERSON: That is the period from 1960 through to 1994.

GEN VAN DER MERWE: That is correct, but I have qualified...

CHAIRPERSON: 1960, yes.

GEN VAN DER MERWE: I qualified it clearly that it was just relevant on Section 29 detainees on Internal Security and then prominent cases who died of unnatural causes, I am not speaking of cases of suicide or other matters that were not prominent.

MR RAUTENBACH: It seems to me that you referred to where persons died under unnatural circumstances, that did not include suicide?

GEN VAN DER MERWE: Where there was reason to suspect at that time that the unnatural cause was the result of Police action, I speak of prominent matters that came out of the Section 29 detainees. This would be seen as suicide. I speak about prominent matters.

MR RAUTENBACH: Does it make any difference if these persons were detained, would that also be taken into account?

GEN VAN DER MERWE: Definitely.

MR RAUTENBACH: If we return to the letter and you mention the following. You say, that is paragraph 1, there was a number of persons who died in detention, in most cases it seemed as if those persons committed suicide, but there are also indications that members of the Force in some cases, used irregular methods and the question I wish to put to you, if we look

at this telex you refer to persons in detention, and as I understand it at this stage, concerning this telex, there was a state of emergency is that correct?

GEN VAN DER MERWE: That is correct.

MR RAUTENBACH: This concern that you have spoken of, would that be on account of these people who died in detention, would this make provision for people who were detained under the state of emergency or Section 29?

GEN VAN DER MERWE: That would be for all persons in detention.

MR RAUTENBACH: You say that there were indications that members of the Force used violence. You have also mentioned that it makes a difference if a person should point out or would take into account which persons died while they were detained in terms of these emergency regulations. If that is so, is it possible for you to give us an estimation when you decided to write this telex, how many people at that time died in Police detention where there were indications that this was because of irregular methods or irregular behaviour?

GEN VAN DER MERWE: Mr Chairman, it would not be possible. The number of it was as such that it was necessary to distribute this letter, that is for sure.

But a person would have to go and do some research as to what the amount or number of persons were.

MR RAUTENBACH: The following question, any of these persons that you were writing about here during this time period, have any of the bodies been disposed of?

GEN VAN DER MERWE: Definitely not.

MR RAUTENBACH: But these persons also during the same type of political circumstances that were prevalent, they died in those circumstances?

GEN VAN DER MERWE: No, of course not, none of them died four days before Soweto Day. At that stage, none of them were detained in connection with the Section 29.

There is no similarity here.

MR RAUTENBACH: In the case of the Bopape death, in the first instance you say there is no, no one died so close to Soweto Day, you place a high premium on Soweto Day and then secondly you mentioned not one of these people were detained under the provisions of Section 29.

GEN VAN DER MERWE: Not at that stage as in the case of Mr Bopape.

MR RAUTENBACH: Am I correct if I say that this detention of people in terms of the state of emergency was as controversial as those under the Section 29 regulations?

GEN VAN DER MERWE: Yes, definitely, but one also has to differentiate between the circumstances that were prevalent when this death took place and the detention of this person and the circumstances in which this person found itself in relation to Mr Bopape.

MR RAUTENBACH: It seems to me that the largest distinction that could be drawn here, is the distinction in relation to the closeness to the 16th of June?

GEN VAN DER MERWE: Yes, and all the other factors related to this matter as I have put it to you, as far as the circumstances were concerned according to the run up to the Soweto Day celebrations.

MR RAUTENBACH: To get an answer to that then, it seems as if the only difference that is here between the Bopape matter and the other incidents, is that it happened close to the 16th of June?

GEN VAN DER MERWE: That is correct.

CHAIRPERSON: Would this be a convenient time Mr Rautenbach, I see we are just about at four o'clock?

We have come to the end of the proceedings today and we will then adjourn until tomorrow morning in this hall at half past nine in the morning.

COMMITTEE ADJOURNS