

ANNEX B

OUTLINE OF THE EVIDENCE IN THE REOPENED INQUEST

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OUTLINE OF EVIDENCE IN REOPENED INQUEST

Investigation officers

Frank Kgamanyane¹

Career

- 1 Frank Kgamanyane is a warrant officer in the South African police Service (SAPS) stationed at the unit Crimes Against the State (CATS), Organised Crime, Directorate for Priority Crime Investigation (DPCI). This unit is mandated to investigate TRC cases.² He was allocated to the reopened Aggett inquest in May 2019.³

Missing exhibits

- 2 Kgamanyane handed up the contents of the inquest docket. Notably, Kgamanyane testified that
 - 2.1 he was unable to trace the police docket from JVS;⁴
 - 2.2 photographs of the crime scene from Aggett's hanging were never submitted to the South African Historical Archives (SAHA), which was confirmed by SAHA;⁵

¹ 2020 testimony is in the 2020 consolidated transcript bundle from page 29 to page 87.

² Oral testimony of Frank Kgamanyane on 20 January 2020 at page 28, line 23; 2020 consolidated transcript bundle page 29

³ Exhibit F, para 1 and 2

⁴ Exhibit F, para 5.

⁵ Exhibit F, para 9.

- 2.3 that certain key Security Branch (SB) players in Aggett's detention were deceased including Stephen Whitehead, Arthur Benoni Cronwright, and Andries Abraham Struwig;⁶

Exhibits

- 3 Kgamanyane handed up various exhibits, including:
- 3.1 five photographs of Aggett's death scene - three of Aggett hanging that he received from Webber Wentzel⁷ and one that was provided to him by Paul Erasmus, being the Kikoi that was used in Aggett's hanging,⁸
- 3.2 a list that was handed up as evidence in the reopened inquest into the death of Ahmed Timol, which included tables of death's during SB detention, including alleged suicides in detention,⁹
- 3.3 various amnesty applications to the Truth and Reconciliation Commission (TRC) of previous SB officers, including Roelof Venter¹⁰.

Benjamin Nel¹¹

Career

- 4 Benjamin Nel (Nel) is a Captain in the South African Police Service (SAPS) stationed at the unit CATS, Serious Organised Crime, DPCI. He was the first

⁶ Exhibit F, para 4

⁷ Exhibit FGK 7(1), 7(2), 7(3), 7(4)

⁸ Exhibit FGK 15

⁹ Exhibit FGK16

¹⁰ Exhibit FGK 17.1

¹¹ 2021 testimony is in the 2021 consolidated transcript bundle from page 2230 to 2264

investigating officer assigned to the reopened inquest in 2016, before he fell ill, and it was handed over to Frank Kgamanyane.¹²

- 5 In Nel's statement of 17 February 2021 he states that he only took one statement regarding the reopened inquest and that was the statement of Paul Erasmus.¹³ Nel indicated that this affidavit should have been in the inquiry file. This statement was never placed before the court as an exhibit.¹⁴ Nel gave testimony at the reopened inquest on 15 February 2021. During his testimony he stated that he interviewed Paul Erasmus, Petrus Woensdregt, Brigadier Wal du Toit, Joe Nyampule, Victor MacPherson, Martin Naude, and William Smith when investigating the reopened inquest.¹⁵
- 6 Nel admitted under cross-examination by the family's counsel that Warrant Officer Walter MacPherson was an important witness and that a statement should have been taken from him when he was interviewed by Nel and Torie Pretorius.¹⁶
- 7 When cross-examined about why a statement was not taken from Stephen Whitehead, Nel stated that the Aggett and Timol inquests were reopened at the same time and that Aggett was put on hold so that work on the Timol case could be done,¹⁷ and he had other cases to handle. He denied that little was done on the Aggett case despite only one statement taken in two years.¹⁸

¹² Exhibit J4, para 2.

¹³ Exhibit J4, para 3.

¹⁴ 2021 consolidated transcript bundle page 2241.

¹⁵ 2021 consolidated transcript bundle page 2233

¹⁶ 2021 consolidated transcript bundle page 2246.

¹⁷ 2021 consolidated transcript bundle page 2247.

¹⁸ 2021 consolidated transcript bundle page 2249

SB Culture

- 8 Nel testified that he was called a traitor for investigating white Security Branch officers and admitted that there was an expectation on the part of other white police officers, especially former Security Branch officers, that a white policemen should not be investigating them.¹⁹
- 9 Nel claimed that an additional problem with the TRC cases is that all the documents they look for are missing – they were either destroyed or with old SB officers who refuse to hand them over.²⁰ He admitted that dockets were destroyed to cover up crimes that had been committed.²¹ He further admitted that the TRC cases were being suppressed.²²

Family and legal representatives

Elizabeth Jill Burger²³

Relationship with Aggett

- 10 Ms Burger is the sister of Dr Aggett and the chief representative for the Aggett family in the proceedings.²⁴ She testified that Dr Aggett's death left an open wound that never fully closed. The Aggett family sought closure which could only come from finding the truth of how Dr Aggett died.²⁵

¹⁹ Oral testimony of Benjamin Nel on 15 February 2021 at page 22, line 6 to 16; 2021 consolidated transcript bundle page 2251.

²⁰ Oral testimony of Benjamin Nel on 15 February 2021 at page 23, line 15.

²¹ Oral testimony of Benjamin Nel on 15 February 2021 at page 24, line 8 to 11.

²² Oral testimony of Benjamin Nel on 15 February 2021 at page 25, line 1.

²³ Affidavit dated 16 22 January 2020 at G2.

²⁴ Burger testimony in 2020 consolidated transcript bundle p 101, G2 p 1 para 1

²⁵ Burger testimony in 2020 consolidated transcript bundle p 102

- 11 Ms Burger testified that Dr Aggett was a very generous, kind, soft-hearted man.²⁶ From a young age he showed a great deal of compassion and helped others.²⁷ He developed into an intellectual that read deeply, wrote poetry and was always enquiring and searching for the truth.²⁸
- 12 Ms Burger testified that upon his arrest, Dr Aggett phoned her from the police station on 27 November 1981 and indicated that he had been arrested. Dr Aggett was calm and told her that she did not have to worry as he had not done anything wrong and there was nothing the SB could pin on him.²⁹

Interaction with Aggett during detention

- 13 Ms Burger visited Dr Aggett at JVS on 31 December 1981.³⁰ She observed him looked very pale and thin and he had developed eczema on his eyebrows and eyelashes which had not been treated.³¹ He was wearing no belt or shoelaces,³² both of which could have been used to harm himself or take his own life. Dr Aggett assured her that he would be released from detention in a few months.³³ Ms Burger also testified that Aggett wished to continue his medical career and requested a book about emergency surgery.³⁴

²⁶ Burger testimony in 2020 consolidated transcript bundle p 103

²⁷ Burger testimony in 2020 consolidated transcript bundle p 104

²⁸ Burger testimony in 2020 consolidated transcript bundle p 104

²⁹ Burger testimony in 2020 consolidated transcript bundle p 109

³⁰ Burger testimony in 2020 consolidated transcript bundle p 111

³¹ Burger testimony in 2020 consolidated transcript bundle p 113

³² Burger testimony in 2020 consolidated transcript bundle p 113, G2 p 2 para 7

³³ Burger testimony in 2020 consolidated transcript bundle pp 113, 117, G2 p 2 para 9

³⁴ Burger testimony in 2020 consolidated transcript bundle p 116, G2 p 2 para 9

14 Ms Burger testified she learned of Dr Aggett's death when a police officer arrived at her family home early on the morning of 4 February 1982. Her father took the news particularly badly. On his arrival in Johannesburg he could not stand up straight and he could not stop weeping. He was a broken man.³⁵

Contestation of the original inquest

15 Ms Burger testified that the Aggett family strongly disputed that Dr Aggett had committed suicide.³⁶ They were only persuaded to advance an induced suicide theory before the first inquest court on the advice of their legal representatives as a matter of legal tactics.³⁷

16 Ms Burger testified that Bizos SC warned her not to say anything of importance on the telephone, as her calls were most likely being monitored by the SB.³⁸ She also testified that the public benches of the court room in the first inquest were packed with SB officers, whose presence intimidated and deterred witnesses from testifying freely.³⁹ The Aggett family's suspicions were further deepened when they heard that the SB officers gained illegal entry into their home in Somerset West, while they were away, in a fruitless attempt to find evidence of Dr Aggett's alleged suicidal tendencies.⁴⁰

³⁵ Burger testimony in 2020 consolidated transcript bundle pp 119-120

³⁶ Burger testimony in 2020 consolidated transcript bundle p 121, p 130, G2 p 3 para 11

³⁷ Burger testimony in 2020 consolidated transcript bundle p 122, G2 p 4 para 15

³⁸ Burger testimony in 2020 consolidated transcript bundle p 127, G2 p 5 para 17

³⁹ Burger testimony in 2020 consolidated transcript bundle p 123

⁴⁰ Burger testimony in 2020 consolidated transcript bundle pp 127-128

- 17 Ms Burger indicated that the Aggett family had no faith in the original inquest court finding. Those proceedings smacked of a cover-up from start to end. In Ms Burger's view, the original inquest court was thoroughly corrupt and engaged in a charade to protect the image of the SB.⁴¹
- 18 Ms Burger testified that she would like Dr Aggett to be commemorated in the medical field by naming one of the hospitals he served at, such as Tembisa hospital, in his honour.⁴²

David Dison⁴³

Relationship with Aggett

- 19 Mr David Dison testified that he was a good friend of Dr Aggett and Dr Floyd.⁴⁴ He had previously worked for the Legal Resources Centre and joined Bell Dewar and Hall law firm in 1980.⁴⁵
- 20 Mr Dison was aware that Aggett was never a member of any banned organisation.⁴⁶ He testified that Dr Aggett firmly believed he could make a bigger difference through the trade union movement and did not want to be targeted by the State because of associations to a banned organisation.⁴⁷

⁴¹ G2 p 4 para 16

⁴² Burger testimony in 2020 consolidated transcript bundle p 133

⁴³ Affidavit dated 21 January 2020 at G3.

⁴⁴ Dison testimony in 2020 consolidated transcript bundle p 155

⁴⁵ Dison testimony in 2020 consolidated transcript bundle p 157

⁴⁶ Dison testimony in 2020 consolidated transcript bundle p 176

⁴⁷ Dison testimony in 2020 consolidated transcript bundle pp 181-182

- 21 Mr Dison testified that he did not recall Aggett wanting a radio despite having been responsible for delivering parcels to JVS for Dr Aggett.⁴⁸ He testified that the conclusion that Dr Aggett would take his life for this reason was “*absurd*” and “*patently incorrect*”.⁴⁹
- 22 Mr Dison testified that Dr Aggett spoke with him prior to his detention about the Close Comrades list (Exhibit B.3.5.21) and indicated that in his view he had nothing to answer for as the work he was engaged in was perfectly legitimate.⁵⁰ After Dr Aggett’s detention, Dison assisted the Aggett family with the bringing of parcels to JVS and effectively became their main legal representative.⁵¹

Investigation on Aggett’s death

- 23 After learning of Dr Aggett’s death, Mr Dison was called by Jill Burger and he put together a legal team to represent the Aggett family in their efforts to establish the truth behind the death of Aggett had died.⁵² He was the junior attorney in this team. His instructions from the Aggett family was they were adamant that Neil had been murdered.
- 24 Dison testified that his investigations made him deeply suspicious. He analysed, amongst other evidence, the disparity in Dr Aggett’s first and second statements. This led him to question the statement in the second statement that “*I support the Marxist Ideology and therefore I am a communist*”, which he regarded as

⁴⁸ Dison testimony in 2020 consolidated transcript bundle p 161

⁴⁹ Dison testimony in 2020 consolidated transcript bundle p 181

⁵⁰ Dison testimony in 2020 consolidated transcript bundle p 160

⁵¹ Dison testimony in 2020 consolidated transcript bundle p 160

⁵² Dison testimony in 2020 consolidated transcript bundle p 162

completely uncharacteristic of anything Dr Aggett would ever say.⁵³ It could only be explained, in Dison's view, as the result of heavy interrogation and torture.⁵⁴ Dison recalled the view of Lt Whitehead that Aggett, who had foregone a lucrative medical practice and could have lived in Houghton, could only be explained by him being a communist.⁵⁵ In Dison's view this was an attempt to paint Aggett as a member of the banned South African Communist Party (SACP).⁵⁶

25 Mr Dison testified to the difficulties faced by the legal team for the Aggett family before the first inquest court. During the 1982 inquest, the SB bugged the offices of the Aggett family's legal representatives, including George Bizos SC, and tapped their phones.⁵⁷ He noted that the SB used these recordings to assist it to prepare for the inquest. The public benches of the first inquest court were also packed with SB officers whose presence intimidated and deterred witnesses from testifying freely.⁵⁸

George Bizos⁵⁹

Careers

26 Adv George Bizos SC (Bizos) provided evidence on affidavit. He represented victims of apartheid violations throughout his career at the Johannesburg Bar.⁶⁰ He acted as counsel in a wide range of matters that came before the courts including criminal trials of activists and inquests into the deaths of detainees.⁶¹

⁵³ Dison testimony in 2020 consolidated transcript bundle p 173

⁵⁴ Dison testimony in 2020 consolidated transcript bundle p 173

⁵⁵ Dison testimony in 2020 consolidated transcript bundle p 175, G3 p 7 para 22

⁵⁶ Dison testimony in 2020 consolidated transcript bundle p 176

⁵⁷ Dison testimony in 2020 consolidated transcript bundle p 184, G3 p 9 para 33

⁵⁸ Dison testimony in 2020 consolidated transcript bundle pp 176-178

⁵⁹ Affidavit dated 16 October 2018 at G1.

⁶⁰ G1 p 1 para 4

⁶¹ G1 p 2 para 5

He devoted his working life to the pursuit of justice for victims of apartheid-era brutality. He died on 9 September 2020 two months short of his 92nd birthday.

Inquests during the apartheid-era

- 27 Bizos described how apartheid-era detainees routinely complained of torture and the police. They were often sued in the civil courts for torture and damages were awarded against them.⁶² These include the widow of Abdullah Haroon who sued the state for R22 000 in respect of her husband's death in detention and received an *ex gratia* payment of R5 0000. The mother and sons of Steve Biko similarly sued the State and were paid an amount of R65 000.
- 28 Bizos noted the disturbing trend of detainees dying while in SB custody with at least 73 detainees known to have died in security detention between 1963 and 1990.⁶³ The true circumstances of most of these deaths were unknown, which were typically attributed to 'natural causes'. In reality the true circumstances of their deaths were concealed.⁶⁴
- 29 Bizos noted that apartheid-era inquests were typically heard before white senior magistrates who invariably accepted police explanations despite such accounts lacking in credibility.⁶⁵ These magistrates had no real desire to reach the truth but felt it was their duty to protect organs of the State, such as the police.⁶⁶

⁶² G1 pp 5-6 paras 20-21

⁶³ G1 p 3 para 11, the full list is contained at G64

⁶⁴ G1 p 3 paras 12-13

⁶⁵ G1 p 4 para 14

⁶⁶ G1 p 4 para 15

- 30 Bizos noted that regional magistrates who usually conducted political trials were carefully selected.⁶⁷ Typically the SB arranged with the control prosecutor to set a matter down in courts presided over by magistrates they trusted. All these magistrates had started their careers as prosecutors. Most had prosecuted political cases and knew most of the senior security policemen.
- 31 Bizos held the firm view that there was no basis for Magistrate Kotze to exonerate the police involved in the detention and interrogation of Dr Aggett. There was sufficient indication that Dr Aggett had sustained unrelenting abuse and torture during his police detention. Magistrate Kotze did what was expected of him by the apartheid regime. He uncritically accepted the police version even though it flew in the face of the probabilities.⁶⁸

Former JVS police

- 32 In this section we summarise the evidence of former JVS police officers called to testify by the Aggett family legal team.

Joe Nyampule⁶⁹

Career

- 33 Joe Mhlupheki Nyampule (Nyampule) was a police officer who in 1977 was stationed at the 2nd floor cells of the John Vorster Square where security detainees were held.⁷⁰ Nyampule was told by his superiors that the political prisoners on the second floor were “*terrorists*” and “*dangerous*” but he could not

⁶⁷ G1 p 24 para 105

⁶⁸ G1 p 26 para 112

⁶⁹ Affidavit dated 16 August 2018 at G5.

⁷⁰ G5 p 2 para 7

reconcile this description with his observations of the detainees who were typically educated and always courteous in their interactions with him.⁷¹

- 34 Mr Nyampule advised that Warrant Officer (WO) Cilliers was in charge of the second floor cells and Sgt MacPherson as his deputy, and below them were Sgt Patose and Nyampule, then a constable.⁷² Nyampule testified that the members of the SB stationed on the second floor did not have keys to the padlock on the grill door of the second floor cells.⁷³ A duplicate set of keys for the padlock would be kept at the charge office in a safe.⁷⁴ It was possible to access the second floor cells without going through the front office via a second staircase on the ground floor.⁷⁵

Treatment of detainees

- 35 Nyampule testified that detainees did not have direct access to their property as there may have been items they were not permitted to have in the cells.⁷⁶ He stressed that detainees were not allowed towels, socks, shoelaces, or belts as a detainee could use these items to harm himself.⁷⁷ He specifically disputed that a detainee would be permitted a kikoi inside his cell as this could be used to commit suicide by hanging.⁷⁸

⁷¹ Nyampule testimony in 2020 consolidated transcript bundle p 342, 346, G5 p 3 para 10

⁷² Nyampule testimony in 2020 consolidated transcript bundle p 348

⁷³ Nyampule testimony in 2020 consolidated transcript bundle p 349, 363

⁷⁴ Nyampule testimony in 2020 consolidated transcript bundle pp 366-367

⁷⁵ Nyampule testimony in 2020 consolidated transcript bundle p 375

⁷⁶ G5 p 7 para 26

⁷⁷ Nyampule testimony in 2020 consolidated transcript bundle pp 382-383, 424

⁷⁸ Nyampule testimony in 2020 consolidated transcript bundle p 425

- 36 Once parcels were handed to the police officer at the basement of JVS the parcels would be searched for contraband.⁷⁹ Thereafter the detainee would be required to sign for the parcel and would only be permitted to take those items that were not contraband, subject to these items being permitted by Major Cronwright.⁸⁰
- 37 Nyampule indicated that SB officers would occasionally allow certain detainees some privileges. such as extra food items and books.⁸¹ These privileges would be removed when the detainee did not co-operate with the SB.⁸²
- 38 Officers would, on a regular basis, move detainees from one cell to another as detainees were not allowed to stay in one cell for a long period. This moving was done suddenly and without warning, so that if they had hidden something which was not discovered during cell searches, the sudden move would separate the detainee from such items.⁸³
- 39 Nyampule indicated that police officials would conduct daily searches of detainee's cells "[t]o ensure that nothing illegal was in the cells".⁸⁴ Nyampule described the searches in the following terms:

"When we searched the cells, we looked everywhere. We looked under each mattress particularly under those cells where a detainee had a layer of one, two or three, mattresses. We would take each one off and search it individually and put it aside while we searched.

The searches would usually take fifteen to twenty minutes as there were two or three officers searching a cell at the same time.

⁷⁹ Nyampule testimony in 2020 consolidated transcript bundle p 426, G5 p 13 para 46

⁸⁰ Nyampule testimony in 2020 consolidated transcript bundle pp 426-427

⁸¹ Nyampule testimony in 2020 consolidated transcript bundle p 420, G5 p 11 para 42

⁸² Nyampule testimony in 2020 consolidated transcript bundle pp 421-422

⁸³ G5 p 7 para 27

⁸⁴ G5 p 10 para 38

If we found anything illegal or an item that was not supposed to be in the detainee's cell, it would be confiscated and reported.”⁸⁵

40 Mr Nyampule also testified that:

“It was a feature for us to search all cells on a daily basis, because it was said the only thing the detainee must have in the detainee possession only a bible. Books and, any document or any book were not allowed and even the clothes of the detainee should not be in the cell. The detainee is only allowed with the clothes that he is wearing.”⁸⁶

41 According to Nyampule Aggett was detained in cell B15.⁸⁷ However, he was ordered not to enter or search Dr Aggett’s cell by his superior officers.⁸⁸ When it was put to Nyampule that Aggett’s cell contained books, puzzles, Christmas cards, food items, multiple clothing items and more, Nyampule testified that Aggett may as well have been in a “five-star hotel”.⁸⁹

42 Nyampule testified that while taking a complaint from Dr Aggett, he complained that he was instructed to write statements but that all his statements had been torn up.⁹⁰

43 According to Nyampule detainees would be kept for interrogation for long hours and he would often find that detainees had not been returned to their cells by 16h00, and would only be returned to their cells the following morning.⁹¹ SB

⁸⁵ G5 pp 10-11 paras 40-41 See also Nyampule testimony in 2020 consolidated transcript bundle pp 384-385

⁸⁶ Nyampule testimony in 2020 consolidated transcript bundle pp 419-420, Hogan testimony in 2020 consolidated transcript bundle p 668

⁸⁷ Nyampule testimony in 2020 consolidated transcript bundle p 570

⁸⁸ Nyampule testimony in 2020 consolidated transcript bundle p 453

⁸⁹ Nyampule testimony in 2020 consolidated transcript bundle p 571

⁹⁰ Nyampule testimony in 2020 consolidated transcript bundle pp 428, 451, G5 p 19 para 72

⁹¹ Nyampule testimony in 2020 consolidated transcript bundle p 446

officers would do this by obtaining cell keys after hours from the uniformed branch officers stationed at the second floor cells.⁹²

44 Nyampule advised that he would take down complaints which he would provide to Sgt Macpherson who, in turn, would pass them onto Major Cronwright.⁹³ He testified that detainees returning from interrogation would often complain that they were assaulted, electrocuted, made to stand for prolonged periods, and were forced to perform exercises and adopt difficult body postures.⁹⁴ He also observed visible injuries on detainees such as wounds from leg irons and handcuffs and cigarette burns. He was often told by detainees that they had been electrocuted.⁹⁵ He confirmed the existence of a '*waarheid kamer*' or 'truth chamber' on the 10th floor.⁹⁶

45 Nyampule testified that a detainee would not be permitted to see a visiting magistrate or doctor where the detainee was injured or had visible assault marks and the magistrate or doctor would be told that the detainee was out for interrogation.⁹⁷

46 Nyampule testified that cell visits had to be conducted every hour on every day on the second floor to determine if the detainees were still alive.⁹⁸ Patrolling officers were required to open the cell door to confirm if everything was in order.⁹⁹

⁹² Nyampule testimony in 2020 consolidated transcript bundle p 447

⁹³ Nyampule testimony in 2020 consolidated transcript bundle pp 410-411

⁹⁴ Nyampule testimony in 2020 consolidated transcript bundle p 412

⁹⁵ Nyampule testimony in 2020 consolidated transcript bundle pp 443-444

⁹⁶ Nyampule testimony in 2020 consolidated transcript bundle p 565

⁹⁷ Nyampule testimony in 2020 consolidated transcript bundle p 435, 444

⁹⁸ Nyampule testimony in 2020 consolidated transcript bundle p 413

⁹⁹ Nyampule testimony in 2020 consolidated transcript bundle p 414

Detainees would also be monitored through the outer wooden door of the cells which had a peephole that could be used to see inside the cell.¹⁰⁰

- 47 According to Nyampule the absence of cell visits for three hours in the late evening / early morning of 4 - 5 February 1982 was an extraordinarily long gap. Such a long gap was surprising and that he would have expected there to be an internal inquiry into why the relevant officers failed to patrol during this time.¹⁰¹ Overwork would not be an excuse as it was the specific duty of the relevant officers to patrol.¹⁰² Similarly, Nyampule noted that there was never a disciplinary hearing into how a kikoi was in the cell of Dr Aggett, which was contraband material.¹⁰³
- 48 He noted that normally swift disciplinary action would be taken against 'non-white' police officers when they engaged in misconduct.¹⁰⁴

Posting the day of Aggett's death

¹⁰⁰ Nyampule testimony in 2020 consolidated transcript bundle pp 364-365

¹⁰¹ Nyampule testimony in 2020 consolidated transcript bundle p 416

¹⁰² Nyampule testimony in 2020 consolidated transcript bundle p 417

¹⁰³ Nyampule testimony in 2020 consolidated transcript bundle p 457, G5 p 20 para 76

¹⁰⁴ *Ibid* p 459. Constable Masoeu Paul Sehloho, a black officer, was on duty on at the 2nd floor cells the night and morning of Aggett's death between 4 and 5 February 1982. He testified that when he worked night shifts, he was the only person on duty. See from page 439 of the 1982 consolidated transcript (A2.4, affidavits at B1.40 and B8.35). On the night in question he did not do any cell patrols between 11.00 pm and 1.30 am claiming there was no need as the detainees were not troublesome and he would hear any disturbance (p 442 of the consolidated transcript). Sergeant James Agenbag reported for duty on 4 February 1982 at 21h45. He was the senior officer on duty. Together with A/O Marais and Sehloho, he visited the 2nd floor cells, including Aggett's cell at approximately 22h25. He claimed to be doing paperwork on the first floor so missed cell visits during the same period as Sehloho. He instructed Constable Maarten to make false entries into the Occurrence Book that the cells were visited. (Affidavit at B1.43 and testimony at A1.3.1).

49 Nyampule testified that when he reported for duty at the tenth floor of JVS on the morning of Dr Aggett's death (5 February 1982), he and the other black officers were instructed by Cpt Makgoro that the white officers were still busy on the second floor cells. He was instructed to wait until he was given permission to go down to the cells.¹⁰⁵ He was only permitted to go to the cells much later at about 12pm that day.¹⁰⁶

50 Nyampule duties later changed to serving tea on the tenth floor of JVS. He testified that he observed detainees being tortured, including being forced to perform exercises and being slapped with an open hand.¹⁰⁷ He described how a detainee, Mr Paul Langa, was tortured by being forced to stand for prolonged periods:¹⁰⁸ According to Nyampule at the end of Langa's ordeal "Paul's feet were swollen, like an elephant's feet because of the standing".¹⁰⁹ Nyampule also observed other detainees with swollen feet and bruises from handcuffs and leg irons.¹¹⁰

Observation on Whitehead's position within the SB

51 Nyampule testified that Lt Whitehead enjoyed a special status due to his father in law being the deputy head of the Bureau of State Security and apparently a

¹⁰⁵ Nyampule testimony in 2020 consolidated transcript bundle p 460

¹⁰⁶ Nyampule testimony in 2020 consolidated transcript bundle p 461

¹⁰⁷ Nyampule testimony in 2020 consolidated transcript bundle pp 464-465

¹⁰⁸ Nyampule testimony in 2020 consolidated transcript bundle p 437

¹⁰⁹ G5 p 15 paras 58-59

¹¹⁰ G5 p 16 para 62

close friend of PW Botha.¹¹¹ This manifested in Whitehead being rapidly promoted to Lieutenant.¹¹²

Mohanoë Gerden Makhetha¹¹³

Career

52 Mohanoë Gerden Makhetha (Makhetha) was a police officer who started working for the Security Branch at the 10th floor of JVS in 1979.¹¹⁴ Makhetha's duties were primarily that of escorting political detainees between cells on the second floor of the Cell Block and to and from the 10th floor.¹¹⁵ On the first day that he arrived for duty he was made to sign a form that indicated that everything that occurs at JVS was secret.¹¹⁶ His work was of a menial nature and he was never involved in the important tasks that white SB members did. He was never required to assist in operations, investigations, or interrogation.¹¹⁷

Inspection of parcels

53 During his testimony in 2020, Makhetha indicated that his tasks included checking parcels that were sent for detainees for any items that the detainee could use to injure themselves. He said these items would be removed.¹¹⁸ He also confirmed that only food and clothes from the parcels would be given to

¹¹¹ G29 p 21 para 75

¹¹² Nyampule testimony in 2020 consolidated transcript bundle 565

¹¹³ 2020 testimony is in the 2020 consolidated transcript bundle from page 1267 to page 1338. 1982 testimony is found at A2.8. Affidavit dated 9 July 2018 at G5.

¹¹⁴ Exhibit G6 para 9 to 10.

¹¹⁵ Exhibit G5, para 13.

¹¹⁶ line 18; 2020 consolidated transcript bundle page 1269.

¹¹⁷ Exhibit G5, para 14.

¹¹⁸ line 11; 2020 consolidated transcript bundle page 1284.

detainees. They were not given books or cigarettes.¹¹⁹ Makhetha testified that when he went to Aggett's cell to collect him he saw no games, books or a kikoi in his cell.¹²⁰ He testified that he last entered Aggett's cell during the week of his death. According to the detainee receipt contained in exhibit B8.21, Makhetha delivered an item to Aggett on 2 February 1982. The Occurrence Book (B8.41) reveals a few entries on 2 and 4 February of escorts to and from the cells to the 10th floor where the police officer is not identified, or the signature is illegible.¹²¹ One of more of these could have been Makhetha.

Search of cells

54 The detainees' cells were searched daily to look for any prohibited items.¹²² Makhetha testified that if a police officer allowed an item such as a scarf (or Kikoi) to remain in a detainees cell the officer would be taken to a disciplinary enquiry.¹²³ He added that the detainee cells on the second floor were visited every hour and such patrols were recorded in the Occurrence Book. He was surprised to hear that during the hours before Dr Aggett allegedly hung himself that there were no visits of the cells.¹²⁴

Treatment of black police officers

¹¹⁹ 2020 consolidated transcript bundle page 1284 to 1285.

¹²⁰ 2020 consolidated transcript bundle page 1316.

¹²¹ Serial no 106: Time 08h17:2/2/1982: Investigation out: 1WM Neil Aggett Cell no 3004/12 (security) taken by ...-.;
Serial no 106/135: Time 15h41: 2.2.82: Back from Investigation. Black man N Aggett: Cell no 3004.
Serial 266/311: Time 08h37: 4.2.82: Investigation out: 1 WM Cell no 3004 taken by ...
Serial 266/311: Time 15h...: 4.2.82: Investigation back: 1 WM Neil Aggett: cell no 3004 – no signature.

¹²² line 17; 2020 consolidated transcript bundle page 1288.

¹²³ line 18; 2020 consolidated transcript bundle page 1310.

¹²⁴ line 4 onwards; 2020 consolidated transcript bundle page 1291.

55 Makhetha's affidavit of 9 July 2018 provides some detail on the treatment of black police officers in the SB. The black police officers were not treated well by the white members of the SB as they were regarded as inferior and untrustworthy.¹²⁵ Black police officers were constantly monitored. At the time he feared that black officers could be arrested and interrogated on the slightest of suspicion, and as a result they were at risk of being assaulted or even possibly killed.¹²⁶

Interactions with Aggett

56 Makhetha was required to collect Dr Aggett from his cell on many occasions through January and February 1982, and he often handed him over to Lieutenant Whitehead for interrogation.¹²⁷ On 25 January 1982, Makhetha, while waiting with detainee Maurice Smithers (Smithers) after his optometrist's appointment in office 1011, saw the abuse of Aggett in the office next door. He viewed this abuse through the ribbed glass partitioning between the two office.¹²⁸ He observed Whitehead and two other SB members in office 1012 making Dr Aggett exercise by jumping up and down, running on the spot and holding out his arms and hitting him with what looked like a rolled-up newspaper. This went on for about an hour. This evidence is corroborated by the testimony of Smithers.¹²⁹

SB Culture

¹²⁵ Exhibit G5, para 15 to 16.

¹²⁶ Exhibit G5, para 21 to 22.

¹²⁷ Exhibit G5, para 27 and 31.

¹²⁸ Oral testimony of Mohanoe Gerden Makhetha on 5 February 2020 at page 72, line 30; 2020 consolidated transcript bundle page 1312 to 1313.

¹²⁹ Exhibit G5, para 33 to 38.

57 After the death of Dr Aggett, Smithers smuggled a note detailing this abuse to Helen Suzman MP who disclosed it in Parliament. A statement denying that Makhetha had witnessed the abuse was prepared for him by the SB. He was made to write out in his own handwriting and sign it.¹³⁰ He put up this fabrication in his oral evidence before the inquest court in 1982. The court was full of SB members.¹³¹ Makhetha testified that he went along with this lie because he was intimidated by the SB and feared for his life.¹³² He confirmed that his statements before the first inquest court were false.¹³³ Makhetha's evidence proves for the lengths the SB went to cover up the abuse and torture of political detainees.

Knowledge of the treatment of detainees

58 Makhetha confirmed that he was aware that detainees were abused during interrogation sessions on the 10th floor. He heard screams of pain and sounds of blows. He knew that detainees were forced to stand for long periods and perform exercises to punish them.¹³⁴ He further testified that when detainees were assaulted, they were generally not struck on their faces where one could see injuries.¹³⁵

Paul Erasmus¹³⁶

Career

¹³⁰ line 24 onwards; 2020 consolidated transcript bundle page 1313 to 1314. The statement is part of the missing B2 folder of the original inquest – labelled 503.

¹³¹ 1982 consolidated transcript at page 591, line 2 and 592, line 27.

¹³² 2020 consolidated transcript bundle page 1269. Affidavit dated 11 February 2020 at G29.

¹³³ Exhibit G5, para 41 to 46.

¹³⁴ Exhibit G6, para 52.

¹³⁵ line 24; 2020 consolidated transcript bundle page 1327.

¹³⁶ 2020 testimony is in the 2020 consolidated transcript from page 1809 to 2072.

59 Paul Erasmus (Erasmus) was a non-commissioned officer of the SB. He was stationed for most of his career at JVS and worked mostly in the field as a field operative and investigator. Erasmus appeared as a witness for the Aggett family.

SB Interrogation training courses

60 Erasmus gave evidence on SB interrogation training courses. They were taught to bring a person to a point where they are desperate and so far removed from reality that they will break.¹³⁷ Erasmus indicated in his affidavit of 11 February 2020 that torture methods employed during that time included:

60.1 sleep deprivation (which was the first option),¹³⁸

60.2 assault (always with a flat hand so no mark was left),¹³⁹

60.3 forced exercise (so that the person was at the point of complete exhaustion, and they could not concentrate),¹⁴⁰

60.4 making a detainee strip down naked;¹⁴¹

60.5 crouching in a squatting position,

60.6 standing and balancing on a plank or bricks for extended periods,

60.7 electric shocks; strangulation and suffocation;¹⁴² and

60.8 the wet bag treatment.

¹³⁷ line 16 onwards; 2020 consolidated transcript bundle page 1830.

¹³⁸ line 22; 2020 consolidated transcript bundle page 1832

¹³⁹ line 23; 2020 consolidated transcript bundle page 1833.

¹⁴⁰ line 14; 2020 consolidated transcript bundle page 1838.

¹⁴¹ line 22; 2020 consolidated transcript bundle page 1839.

¹⁴² line 14 onwards; 2020 consolidated transcript bundle page 1878.

61 SB members were taught to torture detainees in a manner where little to no physical evidence of the abuse could be found.¹⁴³ When inspectors came to JVS to check on detainees, the detainees would be removed from their cells for "further interrogation."¹⁴⁴

SB Culture

62 According to Erasmus the SB were a law unto themselves and the general approach to intelligence gathering was that the ends justified the means. This meant it did not matter what one did to get the desired results. The State would protect SB members, no matter what.¹⁴⁵ The system allowed for the SB to get away with practically anything.¹⁴⁶ There was a strong prevailing culture and brotherhood amongst the SB, which meant that you did not squeal on one another.¹⁴⁷

63 Erasmus indicated that the SB could access detainees in their cells without creating a paper trail. This would be arranged with the cell block staff. He also said that the second-floor control office, could be avoided through an alternate route. Erasmus said that SB officers retained keys offsite, which they could use to enter the second-floor cells.¹⁴⁸

On the content of Aggett's cell

¹⁴³ Exhibit G29 at para 15 and 35.

¹⁴⁴ Exhibit G29 para 34

¹⁴⁵ Exhibit G29 at para 25.

¹⁴⁶ Exhibit G29 para 34.

¹⁴⁷ line 3 onwards; 2020 consolidated transcript bundle page 2064.

¹⁴⁸ Exhibit G29 at para 39.

64 Erasmus indicated in his 2020 testimony that he was surprised that Dr Aggett had a kikoi in his cell as procedure on such items was followed strictly and it should not have been there.¹⁴⁹

Fabrication of evidence

65 At the end of March 1982, Erasmus was asked by Whitehead to accompany him on a "top secret countrywide mission" the purpose of which was to prove that Aggett had suicidal tendencies.¹⁵⁰

65.1 The importance of the mission was stressed by Brigadier Muller to Erasmus and Whitehead and indicated that if they fared badly in the inquest into Aggett's death it would "sink the ship."¹⁵¹

65.2 They visited Aggett's high school and tried to find police records from his time at UCT. Erasmus gained illegal entry to the family home in Somerset West in order to find evidence of such suicidal tendencies but found none.¹⁵²

65.3 During the trip, Whitehead admitted to Erasmus that he may have pushed Aggett too far.¹⁵³ Erasmus took this to mean that the interrogation was too tough and Aggett had succumbed or he was driven

¹⁴⁹ line 7; 2020 consolidated transcript bundle page 1981.

¹⁵⁰ Exhibit G29 at para 46.

¹⁵¹ Exhibit G29 at para 44.

¹⁵² Exhibit G29 at para 56 to 61.

¹⁵³ Exhibit G29 at para 52.

to the point of self-destruction.¹⁵⁴ During this mission, Whitehead would continually liaise and report to Professor Jan Plomp.¹⁵⁵

66 Erasmus was involved in the full breadth of surveillance of people and organisations, including postal interception (codenamed WH10), telephone tapping (WH11) and planting of listening devices / bugs (WH12). He indicated that the SB telephone tapping system was massive and operated across the entire country. The mail of the attorneys representing the Aggett family in the first inquest were intercepted.¹⁵⁶ Erasmus was not involved in the operations to bug the home and office of George Bizos but he is sure that they were bugged as it was generally discussed in the SB.¹⁵⁷ Transcripts would have been provided to the SB and used to prepare for the first inquest.¹⁵⁸ Mock trials were held to prepare Whitehead for the first inquest.¹⁵⁹ SB officers were told to attend the inquest court in order to intimidate witnesses.¹⁶⁰

Former detainees

Elizabeth Catherine Floyd¹⁶¹

Relationship with Aggett

¹⁵⁴ line 20; 2020 consolidated transcript bundle page 1947.

¹⁵⁵ line 21; 2020 consolidated transcript bundle page 1899.

¹⁵⁶ Exhibit G29 at para 19 to 22 and annexure PFE 1 to the affidavit and Oral testimony of Paul Erasmus on 11 February 2020 at page 61, line 10; 2020 consolidated transcript bundle page 1858.

¹⁵⁷ line 11; 2020 consolidated transcript bundle page 1937

¹⁵⁸ Exhibit G29 at para 73 to 74.

¹⁵⁹ line 24; 2020 consolidated transcript bundle page 1937 and line 18, 2020 consolidated transcript bundle page 1948.

¹⁶⁰ line 15; 2020 consolidated transcript bundle page 1940

¹⁶¹ Affidavit dated 22 January 2020 at G4.

67 Dr Elizabeth Catherine Floyd (Floyd) was Dr Aggett's romantic partner and a fellow unionist at the time of Dr Aggett's detention. Dr Floyd was also arrested and detained at the same time as Dr Aggett.

68 Dr Floyd testified that Dr Aggett was a strong willed and committed activist for social justice.¹⁶² She stressed that Aggett was never a member of the ANC, adding that they both chose specifically not to work with the ANC:

*"We chose to work in public organisations and not to work underground for the ANC. We believed that we could be more effective this way, and we worked with a lot of people who took the same approach. We did not take instruction, nor did we report to the ANC structures. Neil felt that to take orders from outside the Union not based on the shop floor would be undemocratic."*¹⁶³

Whitehead attitude towards Aggett

69 Dr Floyd explained how, ironically, Aggett's inability to provide incriminating evidence to the SB was dangerous as the SB, particularly someone as unsophisticated as Lt Whitehead, would assume that he was withholding evidence.¹⁶⁴

70 Dr Floyd testified that she and Dr Aggett were initially interrogated by Captain Naude. In her view Captain Naude was an experienced policeman and did not employ an aggressive style.¹⁶⁵ In contrast, Lt Whitehead and Sgt Carr were very aggressive, intimidating and threatening.¹⁶⁶ Floyd recalls Sgt Carr threatening

¹⁶² Floyd testimony in 2020 consolidated transcript bundle p 228

¹⁶³ Floyd testimony in 2020 consolidated transcript bundle p 224

¹⁶⁴ Floyd testimony in 2020 consolidated transcript bundle pp 235-236

¹⁶⁵ Floyd testimony in 2020 consolidated transcript bundle pp 234-235, G4 p 7 para 24

¹⁶⁶ Floyd testimony in 2020 consolidated transcript bundle p 242

her by recounting that he had hung detainees out of the window by their feet and that it was very easy to drop them.¹⁶⁷ She pointed out that Whitehead was immature and inexperienced and had to resort to bullying and aggression as a style of interrogation.¹⁶⁸ In short, Naude knew what he was doing whereas Whitehead did not.¹⁶⁹

Events on the day of Aggett's death

71 Dr Floyd testified how she was interrogated on the tenth floor of JVS on 4 February 1982 and heard a man scream, leading her to conclude someone was being tortured possibly by electric shocks.¹⁷⁰ She also heard a woman crying.¹⁷¹ Her interrogation continued until 17h00 or 18h00 after which she was returned to Hillbrow police station.¹⁷² Floyd testified that the impression she gained from her detention was that, in the eyes of the SB, it made no difference whether a detainee was involved in legal or illegal activities.¹⁷³

72 In relation to the ongoing abuse Floyd noted that detainees often felt there was no point in lodging complaints as the Magistrates or district surgeons had no power to intervene or would not do so.¹⁷⁴

¹⁶⁷ Floyd testimony in 2020 consolidated transcript bundle p 244, G4 p 8 para 28

¹⁶⁸ Floyd testimony in 2020 consolidated transcript bundle p 247, G4 p 8 para 29

¹⁶⁹ Floyd testimony in 2020 consolidated transcript bundle p 248

¹⁷⁰ Floyd testimony first inquest p 1325, Floyd testimony in 2020 consolidated transcript bundle pp 243, 258

¹⁷¹ Floyd testimony in 2020 consolidated transcript bundle p 257

¹⁷² Floyd testimony in 2020 consolidated transcript bundle p 249

¹⁷³ Floyd testimony in 2020 consolidated transcript bundle p 235

¹⁷⁴ Floyd testimony in 2020 consolidated transcript bundle p 257,

73 Dr Floyd was still in detention when she learned of Dr Aggett's death. She was granted permission to observe Aggett's body in the mortuary two days before his funeral.¹⁷⁵ Aggett's body was positioned unusually and deliberately so that his neck was tipped very high so that Dr Floyd could clearly see his neck.¹⁷⁶ Dr Floyd sketched a drawing of Dr Aggett's face from memory as well as sketches of the kikoi wrapped around his neck from memory of observing a photograph she saw during the first inquest, but which is no longer part of the inquest record.¹⁷⁷

Consequences of detention at JVS

74 Dr Floyd testified that she was diagnosed with Post Traumatic Stress Disorder ("PTSD") as a result of her detention resulting in poor concentration, severe loss of short-term memory, difficulty sleeping and depression.¹⁷⁸ Detainees were deprived of clocks, calendars and isolated to leaving them disoriented and easier to interrogate.¹⁷⁹

Barbara Hogan¹⁸⁰

Relationship with Aggett

75 Barbara Hogan (Hogan) was a member of the ANC. Dr Aggett's name featured on the Close Comrades list prepared by Ms Hogan.¹⁸¹ Hogan was tricked by an

¹⁷⁵ Floyd testimony in 2020 consolidated transcript bundle p 266

¹⁷⁶ Floyd testimony in 2020 consolidated transcript bundle pp 268-269, G4 annex EKF2

¹⁷⁷ Floyd testimony in 2020 consolidated transcript bundle pp 272-273. G4 annex EKF3.

¹⁷⁸ Floyd testimony in 2020 consolidated transcript bundle p 263, G4 pp 16-17 paras 50-53

¹⁷⁹ Floyd testimony in 2020 consolidated transcript bundle p 315

¹⁸⁰ Affidavit dated 28 January 2020 at G13.

¹⁸¹ Exhibit B3.5.21

under-cover agent pretending to assist her to leave the country to prepare this list. The list went straight to the SB.¹⁸²

76 Ms Hogan testified that she identified herself as “under discipline”, which meant that she had submitted herself to the discipline of the ANC.¹⁸³ Aggett was identified as one of the people that Ms Hogan would consult with as part of her reference group.¹⁸⁴ His name appeared under the heading “Advisory/ Reference Group/ People (only above ground work)”. Hogan stressed that this group was only available for above ground work and she never engaged with them about ANC work nor attempted to recruit them into an ANC network.¹⁸⁵ Nonetheless the appearance of Aggett’s name led to his arrest.

77 Ms Hogan was certain that Dr Aggett was never a member of the ANC.¹⁸⁶ She testified to a general view amongst certain unions that if they had a relationship with the ANC the apartheid State would act against their organisers and ban them, thus preventing them from advancing the interests of black workers.¹⁸⁷ She recalled as a conversation with Aggett where he indicated that as he was a unionist an association with the ANC would jeopardise his position.¹⁸⁸

Arrest and detention at JVS

¹⁸² G13 at paras 21 – 31.

¹⁸³ Hogan testimony in 2020 consolidated transcript bundle p 596

¹⁸⁴ Hogan testimony in 2020 consolidated transcript bundle p 618, G13 p 9 para 27.4

¹⁸⁵ Hogan testimony in 2020 consolidated transcript bundle p 619

¹⁸⁶ Hogan testimony in 2020 consolidated transcript bundle p 620

¹⁸⁷ Hogan testimony in 2020 consolidated transcript bundle p 602

¹⁸⁸ Hogan testimony in 2020 consolidated transcript bundle p 604

78 Ms Hogan was arrested at her flat by Major Arthur Cronwright on 22 September 1981 and detained at JVS. She testified that she was also interrogated by Captain Naude was not aggressive and she regarded him as 'more on top of his job'.¹⁸⁹ However, after Hogan returned from the doctor Naude joined the other SB officers in screaming and shouting at Hogan and threatening her.¹⁹⁰

79 Ms Hogan testified that Major Cronwright was identified as an angry, aggressive man whose staff called him 'Hitler'.¹⁹¹ She testified that Major Cronwright had told her that he had cracked the ANC political underground and that he would bring activists in truckloads to court just like the Rivonia trial.¹⁹²

Interrogation processes

80 Ms Hogan testified that the SB interrogated her overnight and sometimes made her sleep on a camp bed in an office rather than return her to her cell.¹⁹³ She surmised that she was constantly supervised in this manner because her interrogators were worried that she would commit suicide because they were pushing her hard.¹⁹⁴

81 Ms Hogan testified that SB officers Deetlefs, Prins, Van der Merwe, Cronwright and Struwig were responsible for her interrogation.¹⁹⁵ Her interrogations were

¹⁸⁹ Hogan testimony in 2020 consolidated transcript bundle p 646

¹⁹⁰ Hogan testimony in 2020 consolidated transcript bundle p 646

¹⁹¹ Hogan testimony in 2020 consolidated transcript bundle p 626, G29 p 5 para 17

¹⁹² Hogan testimony in 2020 consolidated transcript bundle p 628, G13 p 11 para 32, G17 p 3 para 7, G29 p 11 para 40,

¹⁹³ Hogan testimony in 2020 consolidated transcript bundle p 632

¹⁹⁴ Hogan testimony in 2020 consolidated transcript bundle p 633

¹⁹⁵ Hogan testimony in 2020 consolidated transcript bundle p 634

highly aggressive, with shouting, stomping and handcuffing her to various objects.¹⁹⁶ She was made to continuously re-write a statement which would be torn up if it was not good enough.¹⁹⁷ She was assaulted on 22 October 1981 by Prins and Deetlefs, who handcuffed her to a chair and hit her on her back and across her face repeatedly causing her to bleed internally.¹⁹⁸ Deetlefs also threatened Ms Hogan with electrocution and brought a wet towel and kettle chord to her for this purpose.¹⁹⁹ Hogan testified that when she was taken to the doctor the following day, Deetlefs told her that if she said anything he would kill her and make her disappear so that no-one would know what happened.²⁰⁰ She was later assaulted again by Captain Struwig who hit her across the face and on the hip with a piece of wood.²⁰¹

82 Ms Hogan's most intense interrogation took place on 15 November 1981 when Abrie, Prins, Naude and Olivier took shifts to keep her awake and prevent her from sleeping.²⁰² Her abusive treatment led to her attempting suicide by consuming an overdose of tablets that had been prescribed for her.²⁰³

83 Ms Hogan got the overall impression that the SB were incompetent and unprofessional. She provided the example of the SB's decision to release Gavin Anderson who was central to the case.²⁰⁴ He was an ANC member and had met

¹⁹⁶ Hogan testimony in 2020 consolidated transcript bundle p 634

¹⁹⁷ Hogan testimony in 2020 consolidated transcript bundle p 635

¹⁹⁸ Hogan testimony in 2020 consolidated transcript bundle pp 636-637

¹⁹⁹ Hogan testimony in 2020 consolidated transcript bundle p 637

²⁰⁰ Hogan testimony in 2020 consolidated transcript bundle p 643

²⁰¹ Hogan testimony in 2020 consolidated transcript bundle p 655

²⁰² Hogan testimony in 2020 consolidated transcript bundle pp 657-658

²⁰³ Hogan testimony in 2020 consolidated transcript bundle pp 647-648

²⁰⁴ Hogan testimony in 2020 consolidated transcript bundle p 654

with ANC cadres in Gaborone. She also noted that Whitehead had an unhealthy interest in Dr Aggett and Dr Floyd, including their private lives.²⁰⁵

Reverend Frank Chikane²⁰⁶

84 The Reverend Frank Chikane (Chikane) was a political detainee held at the second-floor cells of JVS. He was detained at JVS between 20 November 1981 and 7 July 1982.²⁰⁷ He was transferred to JVS on 20 January 1982.²⁰⁸

Torture

85 Rev Chikane testified that he was tortured multiple times. He testified that over a six week period he was assaulted, chained in difficult body positions, hung by a broom with his head facing down, and made to stand for 48 to 50 hours on a set of bricks.²⁰⁹ Chikane was taken to a doctor who acknowledged that his feet were swollen but he was returned to his cell without treatment.²¹⁰ Even after his release from detention he could not sleep in one place for two nights for fear that he would be re-detained and further tortured.²¹¹

86 Rev Chikane testified that he was assaulted in the presence of Deetlefs who did not object or attempt to stop the assault.²¹² He was insulted with racial slurs²¹³

²⁰⁵ Hogan testimony in 2020 consolidated transcript bundle p 663

²⁰⁶ Affidavit dated 29 January 2020 at G14.

²⁰⁷ Chikane testimony in 2020 consolidated transcript bundle p 762

²⁰⁸ Chikane testimony in 2020 consolidated transcript bundle p 765

²⁰⁹ Chikane testimony in 2020 consolidated transcript bundle pp 749-750, G14 p 4 para 12

²¹⁰ Chikane testimony in 2020 consolidated transcript bundle p 751

²¹¹ Chikane testimony in 2020 consolidated transcript bundle p 756

²¹² Chikane testimony in 2020 consolidated transcript bundle pp 767-769, p 775, G14 p 7 para 21

²¹³ Chikane testimony in 2020 consolidated transcript bundle p 770

and beaten while chained up.²¹⁴ He was told that he would be thrown out of the tenth floor like Timol.²¹⁵ Chikane personally witnessed SB officers torturing young detainees using electric shock treatment.²¹⁶

SB search of cells

87 Rev Chikane testified that patrols took place nightly and that the cell lights would remain switched on so that detainees were visible.²¹⁷ He testified that SB officers would search detainee's cells on a regular basis without notice.²¹⁸ The SB would take detainees belts, shoe laces and anything the police thought you could use to hurt yourself or hang yourself with.²¹⁹

88 Chikane to complain about his abusive treatment to Sgt Blom, but this resulted in Deetlefs assaulting him. This led Chikane to conclude that Blom conferred with Deetlefs and that they were colluding.²²⁰ He and other detainees felt that there was no point in lodging a complaint as the Magistrates or district surgeon had no power to intervene or would not do so.²²¹ This logic also applied to noting complaints in the complaint book that detainees would have to sign on a daily basis.²²²

Interaction with Aggett

²¹⁴ Chikane testimony in 2020 consolidated transcript bundle p 771

²¹⁵ Chikane testimony in 2020 consolidated transcript bundle p 772

²¹⁶ Chikane testimony in 2020 consolidated transcript bundle p 746

²¹⁷ Chikane testimony in 2020 consolidated transcript bundle pp 800-801

²¹⁸ Chikane testimony in 2020 consolidated transcript bundle record p 788

²¹⁹ Chikane testimony in 2020 consolidated transcript bundle record p 786, G 14 p 7 para 24

²²⁰ Chikane testimony in in 2020 consolidated transcript bundle p 779

²²¹ Chikane testimony in 2020 consolidated transcript bundle p 776

²²² Chikane testimony in 2020 consolidated transcript bundle p 799

89 Rev Chikane testified that he observed Dr Aggett on 1 February 1982 through the peephole in his cell on the 2nd floor. He stated that:

“He was walking towards the direction of the cells so I could tell he was coming back from interrogation. He was not in a good state. He was walking slower than usual and bending forward, clearly struggling to walk. I had seen Neil on the second floor before, I do not recall how many times, and I had not seen him struggle to walk like that. I suspect he was in pain and he looked very weak. The image is etched in my mind because that was the last time I saw him.”²²³

90 Rev Chikane testified that the SB resorted to extrajudicial killings by attempting to murder him by poisoning.²²⁴

Parmanathan Naidoo²²⁵

91 Parmanathan Naidoo (Naidoo) was arrested because of his involvement in the Transvaal Indian Youth Congress and the Transvaal Anti- SAIC council.²²⁶ He was detained at John Vorster Square as well as Vereeniging. He was tortured by members of the SB during his detention.

Torture

92 The torture that Naidoo suffered at the hands of the SB included the following:

92.1 they made him strip naked,

92.2 they mocked him and hit his penis with elastic bands²²⁷;

²²³ G14 p 10 para 34

²²⁴ Chikane testimony in 2020 consolidated transcript bundle pp 734-736, 742

²²⁵ 2020 testimony is in the 2020 consolidated transcript bundle from page 850 to page 921. Affidavit dated 26 July 2018 at G8.

²²⁶ Exhibit G8, para 4 and 5

²²⁷ Exhibit G8, para 14.

- 92.3 they handcuffed Naidoo's wrist to his ankle and made him stand in that position for long periods,
- 92.4 they physically assaulted him,²²⁸.
- 92.5 they deprived him of sleep. On one such occasion they interrogated him for 72 hours straight,²²⁹
- 92.6 solitary confinement;²³⁰
- 92.7 they made him do exercise for lengthy periods, such as holding a chair above his head²³¹, sit-ups, push-ups, and squats²³², while officers kicked and nudged him as a form of torture;²³³
- 92.8 suffocating by way of plastic bag,²³⁴
- 92.9 officers would push the legs of a chair onto his head²³⁵, and beat the bottom of his feet with a piece of wood.²³⁶
- 92.10 Cronwright was verbally abusive and called him racial terms such as "coolie"²³⁷ and generally swore at him.²³⁸

²²⁸ Exhibit G48, para 9.

²²⁹ Exhibit G47, para 17.

²³⁰ Exhibit G08, para 16.

²³¹ Exhibit G47, para 11.

²³² Exhibit G47, para 9.

²³³ Exhibit G48, para 4.

²³⁴ Exhibit G48, para 25.

²³⁵ Exhibit G47, para 11.

²³⁶ Exhibit G47, para 12.

²³⁷ Oral testimony of Parmananthan Naidoo on 31 January 2020 at page 19, line 15; 2020 consolidated transcript bundle page 857.

²³⁸ 2020 testimony is in the 2020 consolidated transcript bundle from page 850 to 921. 1982 testimony is exhibit A4.6

92.11 Naidoo stated that Major Arbee pulled his hair and smacked his head against the table and threatened to throw him off the tenth floor of John Vorster Square.²³⁹

Objects not allowed in cells

93 He testified that the detainees were not permitted to have shoes or belts.²⁴⁰ Naidoo was not allowed access to any books in his cell but, after a while in Vereeniging he was allowed a copy of the Bhagavad Ghita and the Bible. Novels were not permitted in the cells at Vereeniging, as the cells would be searched every morning²⁴¹.

Ismail Momoniat²⁴²

94 Ismail Momoniat (Momoniat) was detained for the first time by the SB and held at JVS from 26 April 1980 until 8 May 1980. He was detained in relation to the school boycotts at many schools in Indian and Coloured townships.²⁴³ Ismail was involved in the Black Student Society at Wits and the Transvaal anti-SAIC Committee.²⁴⁴ He was arrested and detained for a second time at JVS on 20

²³⁹ Exhibit G8, para 11; Exhibit G16, para 7, Naidoo initially stated that it was Major Arthur B Cronwright who pulled his hair, but it was later clarified that it was Major Arbee who pulled his hair and smacked his head against the table.

²⁴⁰ Oral testimony of Parmanathan Naidoo on 31 January 2020 at page 27, line 7; 2020 consolidated transcript bundle page 865.

²⁴¹ Exhibit G8, para 36 and 37.

²⁴² 2020 consolidated transcript bundle from page 922 to page 1015. 1982 testimony is exhibit A4.5. Affidavit signed on 10 June 1982 at G17; affidavit dated 26 July 2018 at G8; supplementary affidavit signed on 30 January 2020 at G16, affidavit signed on 2 February 2020 at G18.

²⁴³ Exhibit G18, para 3.

²⁴⁴ Exhibit G18, para 4.

January 1982 until 21 April 1982²⁴⁵ due to his involvement with Barbara Hogan and her activities.²⁴⁶

Interaction with Aggett and objects allowed in cells

95 Momoniat stated that Dr Aggett was in cell 209, which was five cells away from his cell²⁴⁷. He stated that under solitary confinement, one had no access to lawyers, friends, family or other detainees.²⁴⁸ Momoniat confirmed that detainees only had a sleeping mat, blanket and pillow in the cell,²⁴⁹ but no books, pen or paper other than the Bible or Quran.²⁵⁰ However, due to organisations like the Detainees Parents Support Committee, individuals were allowed reading material, but only after the completion of their primary interrogation²⁵¹. He stated that the SB did not permit detainees to have shoelaces, belts, or towels, presumably so that detainees could not hang themselves.²⁵²

Treatment of black detainees

96 He stated that the SB Officers usually treated black detainees worse than other races, but the SB were brutal on any detainee when extracting information and confessions.²⁵³ Momoniat stated that during his detention he was interrogated

²⁴⁵ Exhibit G18, para 6.

²⁴⁶ Exhibit G18, para 7.

²⁴⁷ Exhibit G18, para 16.

²⁴⁸ Exhibit G18, para 17.

²⁴⁹ line 10; 2020 consolidated transcript bundle page 932

²⁵⁰ Exhibit G18, para 18.

²⁵¹ Exhibit G18, para 24.

²⁵² line 20; 2020 consolidated transcript bundle page 933

²⁵³ Exhibit G18, para 24.

around 10 times²⁵⁴ and his primary interrogation took place on 4 February 1982²⁵⁵. During his interrogation the officers taunted him, laughed derisively, swore at him and made racist and derogatory comments such as calling him a "coolie".²⁵⁶ The SB physically assaulted Momoniat by hitting him, pushing him around²⁵⁷ and slapping his chest.²⁵⁸ The assaults also consisted of Momoniat being manhandled, lifted up and shaken.²⁵⁹ He stated that the SB would make him stand for long periods of time, while naked from the waist upwards, and threatened him with electric shocks.²⁶⁰

Reporting mistreatment during interrogations

97 He stated that it was commonly known amongst the detainees that interrogations would not be terminated early or postponed due to the detainees' state of health.²⁶¹ Momoniat stated that when he visited Dr Norman Jacobson, (a doctor, and senior District Surgeon for Johannesburg, (Dr Jacobson) on 5 February 1982, he complained of the assault and provided details of both the assault and the perpetrators.²⁶² When Momoniat first laid a complaint against the SB officers, the Magistrate informed him that all he would do was record the incidents but that he could not assist Momoniat in any way.²⁶³ However on 11 March 1982 he

²⁵⁴ Oral testimony of Ismail Momoniat on 3 February 2020 at page 36, line 12; 2020 consolidated transcript bundle page 935

²⁵⁵ Exhibit G18, para 26.

²⁵⁶ Exhibit G18, para 27.

²⁵⁷ Exhibit G18, para 28.

²⁵⁸ Exhibit G18, para 28.

²⁵⁹ Exhibit G18, para 37.

²⁶⁰ Exhibit G18, para 32.

²⁶¹ Exhibit G18, para 36.

²⁶² Exhibit G18, para 46.

²⁶³ Exhibit G17, para 9(b).

was accused of lying to Dr Jacobson²⁶⁴ by the SB Officers and they suggested that he should make a statement retracting his complaint.

- 98 In his 1982 affidavit he states that Sergeant Blom claimed that she investigated the assault charges. Sergeant Blom took down a sworn statement²⁶⁵ from Momoniat relating to the assaults but he did not hear anything further.²⁶⁶

Treatment of detainees after Aggett's death

- 99 Momoniat noted that only after Aggett's death were detainees given additional items.²⁶⁷ A detainee was not permitted to have a book, radio or newspapers, but detainees were allowed these things after Aggett died.²⁶⁸ Momoniat reported that he did not recall seeing any books or any other items in Aggett's cell while Aggett was alive.²⁶⁹

Interaction with Aggett – including the day of his death

- 100 Momoniat recalled that he came into contact with Aggett a few times²⁷⁰ during his detention and that Aggett appeared to be normal and "as relaxed as a detainee could be."²⁷¹ However, during the weekend of 30 January 1982, he noted that Aggett had not returned to his cell, and he checked the meal book and

²⁶⁴ Exhibit G18, para 49.

²⁶⁵ Found in the 1982 testimony is exhibit B3.3.2

²⁶⁶ Exhibit G17, para 9(h).

²⁶⁷ Exhibit G18, para 53.

²⁶⁸ Exhibit G18, para 54.

²⁶⁹ Exhibit G18, para 59.

²⁷⁰ Exhibit G17, para 8(a).

²⁷¹ Exhibit G18, para 58 and 62.

saw that he had not signed for his food on any day that weekend, and when he went to shower and exercise, he did not see Aggett in his cell.²⁷²

101 Momoniat recalled seeing Aggett for the last time on 3 or 4 February 1982 – they were both on the first floor waiting to be signed out.²⁷³ He noted that Aggett appeared to be in a terrible²⁷⁴ and dazed state²⁷⁵, and that Aggett did not respond²⁷⁶ to Momoniat's greeting.²⁷⁷ On this occasion Momoniat also noticed a large mark on Agget's forehead, which he believed was a bruise or injury. He could not recall whether it was on the left or right side of Aggett's forehead.²⁷⁸ Momoniat did not believe that Aggett had the physical capacity to commit suicide, based on the poor physical condition that he appeared to be in.²⁷⁹ He indicated that he did not give this evidence in 1982 as they were not supposed to communicate with other detainees and they were still living under the Apartheid State.²⁸⁰

²⁷² Exhibit G18, para 63.

²⁷³ Exhibit G18, para 67.

²⁷⁴ line 10; 2020 consolidated transcript bundle page 977

²⁷⁵ Exhibit G18, para 67.

²⁷⁶ Exhibit G17, para 8(d).

²⁷⁷ Exhibit G18, para 68.

²⁷⁸ line 10; 2020 consolidated transcript bundle page 977

²⁷⁹ line 17; 2020 consolidated transcript bundle page 983

²⁸⁰ line 21; 2020 consolidated transcript bundle page 978.

Maurice Smithers²⁸¹

102 Maurice Peter Smithers (Smithers) was working underground²⁸² for the ANC²⁸³ and was familiar with Aggett²⁸⁴, as Smithers and Aggett moved in the same circles and knew each other on a social level.²⁸⁵ He was initially detained on 22 September 1981²⁸⁶ for a period of two weeks at JVS and was not tortured but was interrogated.²⁸⁷ He was then detained at Randburg Police Station²⁸⁸ for a further four months²⁸⁹ and was occasionally taken to JVS.²⁹⁰ The SB Officers removed his belt and shoelaces before he was locked in his cell.²⁹¹

Treatment in detention

103 Smithers stated that he was not physically tortured during his detention, however the threat of torture was ever present²⁹² and he was placed in solitary confinement for a month, which is a form of psychological torture.²⁹³ Smithers testified that he was beginning to feel insane.²⁹⁴ He confirmed that he was not allowed to keep anything in his cell such as a scarf²⁹⁵ or a kikoi. The only things allowed in the cell were blankets, a bible, and the clothing he wore. However,

282 2020 testimony is in the 2020 consolidated transcript bundle from page 1016 to page 1087; Affidavit of Maurice Smithers signed 15 July 2018 at G9 line 20; 2020 consolidated transcript bundle page 1032.
 283 Exhibit G09, para 4.
 284 line 23; 2020 consolidated transcript bundle page 1041.
 285 line 16; 2020 consolidated transcript bundle page 1040.
 286 line 7; 2020 consolidated transcript bundle page 1028.
 287 Exhibit G09, para 8.
 288 2020 consolidated transcript bundle page 1027
 289 Exhibit G09, para 10 and 12.
 290 2020 consolidated transcript bundle page 1036.
 291 Exhibit G09, para 16.
 292 Exhibit G09, para 14.
 293 Exhibit G09, para 14 and 17.
 294 2020 consolidated transcript bundle page 1033.
 295 line 18; 2020 consolidated transcript bundle page 1076.

after the first month, once the interrogations had stopped, the rules were relaxed, and he was allowed a radio and books.²⁹⁶

Interrogation of Aggett

104 Smithers travelled to JVS on 25 January 1982²⁹⁷ as he had an optometrist appointment scheduled for that day. At JVS he was made to wait in office 1011, the office used to fingerprint detainees.²⁹⁸ He could see Aggett being interrogated in the room next door. This evidence is corroborated by Officer Makhetha²⁹⁹, as he waited with Smithers. He recognised³⁰⁰ that it was Aggett as Smithers had met him several times before.³⁰¹

105 Smithers observed that Aggett³⁰² was being questioned by six or seven officers³⁰³, who repeatedly hit Aggett³⁰⁴ with what appeared to be a rolled-up magazine or newspaper.³⁰⁵ Aggett appeared to be half naked and was forced to do exercises³⁰⁶, as Smithers states that he saw Aggett occasionally running on the spot³⁰⁷ and dropping to the ground.³⁰⁸ Twice when Aggett dropped to the ground Smithers could hear a loud cracking sound which sounded like flesh

²⁹⁶ Exhibit G09, para 16.

²⁹⁷ Exhibit G09, para 18.

²⁹⁸ Exhibit G09, para 19.

²⁹⁹ 2020 consolidated transcript bundle page 1284.

³⁰⁰ Exhibit G09, para 22.

³⁰¹ Exhibit G09, para 20.

³⁰² line 20; 2020 consolidated transcript bundle page 1039.

³⁰³ Exhibit G09, para 23.

³⁰⁴ Exhibit G09, para 23.

³⁰⁵ line 19; 2020 consolidated transcript bundle page 1045.

³⁰⁶ line 7; 2020 consolidated transcript bundle page 1044.

³⁰⁷ Exhibit 2, para 8.

³⁰⁸ Exhibit G09, para 26.

being struck.³⁰⁹ Smithers testified that he could see that Aggett was getting quite tired because he staggered on occasion, wiping his forehead.³¹⁰

106 Smithers recalled that he could hear some actual words because the security police officers would often shout loudly; "who told you to stop?"³¹¹ He witnessed this happening to Aggett for approximately 45 minutes before he went to the optometrist and about another hour when he returned.³¹²

107 Smithers wrote a short note about what he had seen happening to Aggett and managed to smuggle it to a person visiting him, after Aggett had died.³¹³ The note was read out by Helen Suzman in parliament.³¹⁴

Firoz Cachalia³¹⁵

108 Firoz Cachalia (Cachalia) was involved in various organisations that were largely aligned with the ANC. He was detained in December 1981.³¹⁶ In his first week of detention, he was detained at Vereeniging Police Station³¹⁷ and then moved to JVS and detained for a further six months.³¹⁸ Aggett was detained during the same period as him. Cachalia spent the entire six months in solitary confinement and was intimidated and assaulted during that time.³¹⁹ Cachalia testified that he

³⁰⁹ Exhibit G09, para 27.

³¹⁰ Oral testimony of Maurice Peter Smithers on 3 February 2020 at page 143, line 11; 2020 consolidated transcript bundle page 1044.

³¹¹ Exhibit G09, para 29.

³¹² Exhibit G09, para 25, 26 and 32.

³¹³ The note is attached as annexure MS1 to exhibit G09.

³¹⁴ Exhibit G09, para 39 to 44.

³¹⁵ 2020 testimony is in the 2020 consolidated transcript bundle from page 1087 to page 1151. 1982 testimony is exhibit B3.2.2 and B3.5.5

³¹⁶ Exhibit G07, para 4 and 8.

³¹⁷ Exhibit G07, para 8.

³¹⁸ Exhibit G07, para 8.

³¹⁹ Exhibit G07, para 9.

was interrogated on the 10th floor and could hear screaming and shouting from other rooms, which he believed were the screams of detainees who were being tortured.³²⁰

Torture

109 While being interrogated, when SB members were not satisfied with his statement they would tear it up and assault him³²¹ by slapping, punching, and kicking him.³²² This happened on four occasions.³²³ On one occasion the SB officers squeezed his testicles³²⁴ and beat the soles of his feet with a baton.³²⁵ He was also insulted and degraded by being called a "coolie".³²⁶ Although he was not electrocuted the interrogators repeatedly threatened him with electrocution and said that he could be electrocuted by the wires which they would attach to his testicles or shove up his anus.³²⁷ Cachalia testified that the worst torture he sustained was the wet sack treatment. They would place a wet sack³²⁸ over his head and restrict his breathing intermittently, causing him to lose control of his faculties, resulting in him defecating himself.³²⁹

110 Cachalia reported the assaults to Dr Jacobson after Aggett's death.³³⁰ On a physical level the torture resulted in a loss of appetite, constant exhaustion and

³²⁰ Exhibit G07, para 16.

³²¹ line 1; 2020 consolidated transcript bundle page 1107.

³²² Exhibit G07, para 20.

³²³ Exhibit G07, para 19.

³²⁴ Exhibit B3.2.2. para 5.1.

³²⁵ Exhibit G07, para 20.

³²⁶ Exhibit G07, para 20.

³²⁷ Exhibit G07, para 22.

³²⁸ line 10 onwards 2020 consolidated transcript bundle page 1109.

³²⁹ Exhibit G07, para 24.

³³⁰ Exhibit G07, para 26 and 27.

difficulty sleeping and on a psychological level he reported that he experienced strong feelings of anxiety, despair, and depression.³³¹ Cachalia remembers having long days of interrogation, from about 08h00 to 18h00, however, he was never interrogated overnight.³³²

Interaction with Aggett around the day of his death

111 Cachalia testified that the day before Aggett was found dead in his cell, he saw Aggett while waiting in the charge office.³³³ He noted that Aggett did not look like he was coping with detention.³³⁴ He looked to Cachalia like he was at breaking point.³³⁵ There were around four to six police officers in the space during that time and therefore Cachalia and Aggett could not speak but Aggett did give Cachalia a smile.³³⁶

Search of cells

112 He was aware that the SB conducted routine searches of detainees' cells and the cells were bare. They were only permitted a blanket, polystyrene utensils, and a mattress.³³⁷ Cachalia testified that the SB officers were especially concerned about suicide and therefore no detainee would be permitted anything they could harm themselves with, such as shoelaces or string.³³⁸ Cachalia

³³¹ Exhibit G07, para 28.

³³² Exhibit G07, para 37.

³³³ Exhibit G07, para 41.

³³⁴ Exhibit G07, para 41 and 42.

³³⁵ line 20; 2020 consolidated transcript bundle page 1129.

³³⁶ Exhibit G07, para 42.

³³⁷ Exhibit G07, para 38.

³³⁸ line 3; 2020 consolidated transcript bundle page 1121.

indicated that after Aggett's death the pressure and torture from the SB officers ceased and the detainees were allowed books and visits, as well as food parcels.³³⁹

Sisa Njikelana³⁴⁰

Relationship with Aggett

113 Sisa Njikelana (Njikelana) was the president of the South African Allied Workers Union. He got to know Aggett well through his involvement with this organisation.³⁴¹ On 29 May 1981 the SB arrested Sisa from Aggett's home and he was taken to John Vorster Square. Njikelana stated that he was not assaulted or tortured during this detention but was subjected to racist and vitriolic verbal abuse.³⁴² He was arrested again on 13 December 1981 and remained in detention at JVS until 5 May 1982.³⁴³

Interrogation processes

114 SB officers instructed Njikelana to write a statement about his trade union activities throughout his interrogations.³⁴⁴ When Sisa would not provide details, the SB physically assaulted him. They pulled him out of his seat by his chest and pushed him against a wall³⁴⁵, and slapped and punched him³⁴⁶ across the face³⁴⁷

³³⁹ Exhibit G07, para 46.

³⁴⁰ 2020 testimony is in the 2020 consolidated transcript bundle from page 1151 to page 1229. 1982 testimony is exhibit A4.7 and B3.5.4; Affidavit of Sisa Njikelana signed 3 February 2020 at G20.

³⁴¹ Exhibit G20, para 4 and 5.

³⁴² Exhibit G20, para 8.

³⁴³ Exhibit G20, para 10.

³⁴⁴ Exhibit G20, para 13.

³⁴⁵ Exhibit B3.5.4, para 1.

³⁴⁶ line 13; 2020 consolidated transcript bundle page 1178.

³⁴⁷ Exhibit G20, para 17.

repeatedly. The SB Officers attached leg irons³⁴⁸ and handcuffs to him³⁴⁹ and placed the handcuff chain under the leg iron chain¹¹⁷ and he was made to sit on the floor.³⁵⁰ SB officers also placed a canvass bag over his head and administered electric shocks to him.³⁵¹ Njikelana described the sensation as pain rippling across his entire body and he believed that he lost consciousness momentarily.³⁵² He was electrocuted a number of times.³⁵³

Living conditions in JVS and interactions between inmates

115 Njikelana reported that detainees were not permitted to take towels, belts or anything that could be used to harm themselves into their cells.³⁵⁴ He did not report any of the assaults committed against him as he was fearful of the repercussions that would arise if he did.³⁵⁵ During the time Njikelana was detained he saw Aggett in the first week of January 1982, while washing their utensils, and Aggett pointed out a red triangular mark, which was an open wound, on the outside of his right forearm, so he knew Aggett was being tortured.³⁵⁶ The detainees were not permitted to communicate with one another and were always accompanied by officers. The detainee's main way of communicating was

³⁴⁸ line 1; 2020 consolidated transcript bundle page 1164.

³⁴⁹ Exhibit B3.5.4, para 2.

³⁵⁰ Exhibit G20, para 22.

³⁵¹ Exhibit G20, para 23 and 24.

³⁵² Exhibit G20, para 24.

³⁵³ Exhibit G20, para 25.

³⁵⁴ Exhibit G20, para 30.

³⁵⁵ Exhibit G20, para 32 and 34.

³⁵⁶ Exhibit G20, para 36.

through the toilet pipes. Detainees would remove the water from the toilet bowl and speak through the pipes.³⁵⁷

Interactions with Aggett days before his death

116 Njikelana testified that he saw Aggett in late January 1982 and that Aggett's condition had deteriorated and he appeared to be depressed and morose.³⁵⁸ During the night of 4 February 1982 or early morning of 5 February 1982, Njikelana remembers being woken up by a commotion as he heard the sound of a number of voices and gates opening, which was unusual for that time of the night. He stood on top of his toilet to see through the open window³⁵⁹ fronting on the corridor.³⁶⁰ He saw a group of SB officers carrying someone he believed to be Aggett.³⁶¹ Njikelana testified that the Aggett was carried towards the shower area, away from the lifts.³⁶² According to Njikelana, Aggett was carried with his face up and headfirst. Around four or six officers were carrying Aggett at shoulder height, in the same fashion that Muslims carry their dead.³⁶³

³⁵⁷ Exhibit G20, para 37.

³⁵⁸ Exhibit G20, para 38.

³⁵⁹ 2020 consolidated transcript: page 1169 line 13 in reference to B3.5.4; page 1192 line 19 to page 1193 line 20 describing the windows and toilet; page 1194 line 8 in reference to annex SM1 which is the floor plan of the second floor cell block, where he marked the direction the officers were moving.

³⁶⁰ Makhetha confirmed at page 1329 line 21 of the 2020 consolidated transcripts that a detainee would be able to look through the window and see what was happening in the passage. Ngwenya pointed out that in his cell the toilet was in a different place to where it was now located, as seen in the inspection in loco (pages page 1412 to 1415, 1442 – 1444 and 1447 – 1450 of the 2020 consolidated transcripts, Coleman confirms that at pages 1764 of the 2020 transcript bundle that that shorter people would have to stand on the toilet to see out the window. He could stand on tip toes and see out. Photos of the windows in question can be viewed at exhibit G23.1 - 23.3.

³⁶¹ Exhibit G20, para 40.

³⁶² Exhibit G20, para 41; Annexure SN1 to exhibit G20 provides a diagram of the direction in which Aggett was being carried

³⁶³ Exhibit G20, para 41 and 43.

Improvement of conditions in detention after Aggett's death

117 Njikelana testified that the conditions of his detention improved drastically after Aggett's death. Detainees were suddenly allowed radios, food parcels³⁶⁴ and reading material in their cells and family members were permitted to visit the detainees.³⁶⁵

Jabulane Gabriel Ngwenya³⁶⁶

118 Jabulane Gabriel Ngwenya (Ngwenya) was involved in various Anti-Apartheid organisation and met Aggett through Sisa Njikelana.³⁶⁷ He was detained approximately 15 times for his political activities.

119 Ngwenya was detained at Protea Police Station in Soweto on 9 November 1981 and after a week he was transferred to Norwood Police Station. One night, as he was taken back to Protea Station and he was slapped across the face, assaulted, kicked, and choked with a bag to the point that he urinated in his pants.³⁶⁸ The interrogation continued throughout the night.³⁶⁹ On 16 November 1981, he requested to see a doctor and told him about the assaults at Protea, but nothing came of his complaint.³⁷⁰

³⁶⁴ Oral testimony of Sisa Njikelana on 4 February 2020 at page 113, line 8; 2020 consolidated transcript bundle page 1186.

³⁶⁵ Exhibit G20, para 44.

³⁶⁶ 2020 testimony is in the 2020 consolidated transcript bundle from page 1340 to page 1465. 1982 testimony is exhibit A5.2; affidavit of Jabulane Ngwenya signed 4 February 2020 at G23; supplementary affidavit of Jabulane Ngwenya dated 9 February 2021 at G73.

³⁶⁷ Exhibit G23, para 3 and 4.

³⁶⁸ Oral testimony of Jabu Ngwenya on 5 February 2020 at page 118, line 12 - 16 2020 consolidated transcript bundle page 1351.

³⁶⁹ Exhibit G23, para 8.

³⁷⁰ Exhibit G23, para 10.

120 Ngwenya was moved to JVS on 12 January 1982, which coincided with part of the detention of Aggett.³⁷¹ Ngwenya testified that he was threatened with death, insulted, and sworn at under interrogation in JVS.³⁷² Deetlefs questioned him about Cedric Mason and the role he played and threatened to kill him.³⁷³ During March 1982 Ngwenya was transferred to Vereeniging Police Station and placed in solitary confinement and released on 17 September 1982.

Objects not allowed in cells

121 He confirmed that at JVS you were not permitted to keep anything in your cell other than, a mat and blanket. He was forced to remove his belt, shoelaces, and watch.³⁷⁴

Interrogation of Aggett

122 Ngwenya saw Aggett on several occasions during his detention, sometimes in the corridors and sometimes as a distance.³⁷⁵ On 25 January 1982, while waiting to go to the doctor in a 10th floor office he witnessed Aggett being brought into an office of the other side of the corridor and saw through the ribbed glass wall that various SB officers, including WO Carr, abusing Aggett.³⁷⁶

³⁷¹ Exhibit G23, para 12.

³⁷² Exhibit G23, para 12.

³⁷³ Exhibit G23, para 16.

³⁷⁴ Exhibit G23, para 14.

³⁷⁵ Exhibit G23 at para 18.

³⁷⁶ Para 19 of his 2020 affidavit at G23. This may have been the same incident witnessed by Makhetha and Smithers on the morning of 25 January 1982.

123 On 3 February 1982 when Ngwenya was exercising in the corridors he saw Aggett entering the storage room where their belongings were kept and he noticed that he was not walking normally – he was walking wide-legged and it appeared as if something was wrong with his private parts. Ngwenya followed him into the room and pretended he was getting water. When he asked Aggett how he was, Aggett told him he had been assaulted and electrocuted and began lifting the sleeves of his jersey to show Ngwenya his arms. Ngwenya said he looked pale and thin and had tears in his eyes. Officer Macpherson interrupted their conversation by entering the room.³⁷⁷

124 Ngwenya noticed that that Aggett was taken for interrogation during the day and in the evenings and would sometimes only be brought back at night.³⁷⁸ Although Ngwenya stated that he saw Aggett on occasions in the reopened inquest,³⁷⁹ but when he testified in 1982, he did not disclose this as he was afraid of the repercussions since he was still in SB custody.³⁸⁰

125 On the night of 4 February 1982, whilst in his cell, he heard a lot of activity, including people walking up and down the corridors. At one-point officers came down the corridors and closed the cell windows that were open, and an officer was then stationed at the door of each cell obscuring the peephole. Ngwenya said that it was rare to have so many policemen present at once at the 2nd floor cells, especially at night. Because of this, he suspected that someone had

³⁷⁷ Exhibit G23 para 21 to 22.

³⁷⁸ Exhibit G23, para 25.

³⁷⁹ Exhibit G23, para 18.

³⁸⁰ Exhibit G23, para 20.

died.³⁸¹ Ngwenya testified that he believes Aggett was killed by Security Branch members.³⁸²

Keith Coleman³⁸³

126 Keith Coleman (Coleman) was involved in multiple anti-apartheid activities.³⁸⁴ He met Aggett, as they moved in similar social circles.³⁸⁵ Coleman started the national newspaper, "SASPU National" during 1980 – which was an alternative newspaper reporting on strikes, boycotts and union organisation, exposes of living conditions and stories of police and security activity against pro-democracy activists.³⁸⁶ Coleman was detained on 25 October 1981 at JVS, after handing himself over. Coleman's father took him to JVS and told Captain Struwig that if a hair on his head was touched, they would have to answer to him.³⁸⁷

Objects not allowed in cells

127 Coleman testified that he was only allowed to keep a bible³⁸⁸ and a thin mattress (which had blood on it) in his cell.³⁸⁹ He stated that his shoelaces,³⁹⁰ bag, and belt were removed in order to prevent him from committing suicide.³⁹¹ Coleman was always kept in a suicide proof cell with perspex glass covering the grill.³⁹²

³⁸¹ Exhibit G23, para 23.

³⁸² Exhibit G23 at para 26.

³⁸³ 2020 testimony is in the 2020 consolidated transcript bundle from page 1713 to page 1795. 1982 testimony is exhibit A4.2. Affidavit of Coleman dated 10 June 1982 at G28; and affidavit of Coleman dated 9 February 2020 at G27.

³⁸⁴ Exhibit G27, para 7.

³⁸⁵ Exhibit G27, para 15.

³⁸⁶ Exhibit G27, para 10 to 12.

³⁸⁷ Exhibit G27, para 27.

³⁸⁸ line 22; 2020 consolidated transcript bundle page 1734.

³⁸⁹ Exhibit G27, para 28.

³⁹⁰ line 11; 2020 consolidated transcript bundle page 1731.

³⁹¹ Exhibit G27, para 28.

³⁹² Exhibit G27, para 41.

128 Coleman stated that he was moved around to different cells, which prevented him from hiding anything in his cell and that the detainees were prohibited from keeping any books or receiving any food parcels.³⁹³

Interrogation processes

129 Coleman was interrogated every day for six weeks.³⁹⁴ His interrogations consisted of a lot of screaming.³⁹⁵ On one occasion Captain Struwig picked up his chair and dropped it while he was seated in the chair, but he was not badly hurt.³⁹⁶ Coleman testified that the SB officers, such as Prince, asked permission from Struwig to physically assault him but were never given permission.³⁹⁷

130 Although Coleman was never tortured³⁹⁸, he witnessed SB officers dragging other detainees back to their cells after their interrogations, as well as observing bruises³⁹⁹ on other detainees.⁴⁰⁰ Coleman spent five months⁴⁰¹ in solitary confinement. Coleman's account of the trauma experienced in prolonged solitary confinement is set out in annex C of his 2020 affidavit (G27).

131 After his interrogation was over, he was allowed food parcels, books, and a radio.⁴⁰² He once reported to Dr Jacobson that another detainee, Siza Hlongwa, had been tortured and beaten so badly that his ribs had been broken. Dr

³⁹³ Exhibit G27, para 29.

³⁹⁴ Exhibit G27, para 29.

³⁹⁵ Exhibit G27, para 32; line 4; 2020 consolidated transcript bundle page 1733.

³⁹⁶ Exhibit G27, para 35.

³⁹⁷ Exhibit G27, para 35.

³⁹⁸ Exhibit G27, para 43.

³⁹⁹ 2020 consolidated transcript bundle page 1747.

⁴⁰⁰ Exhibit G27, para 44.

⁴⁰¹ Exhibit G27, para 68.

⁴⁰² Exhibit G27, para 46.

Jacobson then treated Siza's broken ribs.⁴⁰³ During his detention Coleman testified that he interacted with Aggett and viewed how thin he was⁴⁰⁴ and testified that Aggett had told him that he was being assaulted.⁴⁰⁵ Coleman testified that Aggett had said that his privileges such as his books, were taken away from him⁴⁰⁶ as the SB officers wanted to place pressure on him.⁴⁰⁷ Coleman stated that detainees would use the toilet system to communicate – they would remove all the water from the toilet bowl and put a blanket over their head and they could talk to the occupant of the adjoining cell.⁴⁰⁸

Interaction with Aggett

132 All of Coleman's interactions with Aggett were brief. On one occasion, when Macpherson had been called away, he was able to open the door to Aggett's cell to speak to him (as it was during the exercise hour). Aggett was not in a good way and he was very thin. Aggett told Coleman that the SB were abusing him. He said that during an assault they had torn his t-shirt and that he was keeping it as evidence of assault. Aggett also told him that all his privileges had been taken away.⁴⁰⁹ Coleman observed that Aggett's cell only had a sleeping mat, a blanket, a few food items, and some clothes bundled together.⁴¹⁰

⁴⁰³ Exhibit G27, para 50.

⁴⁰⁴ Exhibit G27, para 52.

⁴⁰⁵ Exhibit G27, para 54.

⁴⁰⁶ line 12; 2020 consolidated transcript bundle page 1758.

⁴⁰⁷ Exhibit G28, para 5.

⁴⁰⁸ Exhibit G28, para 39

⁴⁰⁹ Exhibit G28, para 52 to 55.

⁴¹⁰ Exhibit G27, para 55.

133 Around the week before Aggett died, Coleman saw Aggett who looked scared and very pale⁴¹¹, his face was filled with desperation⁴¹² and he appeared to be gaunt.⁴¹³ The last time Coleman saw Aggett was during the week he died. Coleman saw him through the window of his cell while he was walking down the cell corridor and he greeted him through the window. However, Aggett did not respond or even look in his direction. He appeared to be a different person.⁴¹⁴

Events on the day of Aggett's death

134 On the night of Aggett's death, Coleman testified that he heard a commotion outside in the corridor, which was highly unusual as usually after the cells were locked at night nothing happened until they were given food in the morning.⁴¹⁵ He could hear footsteps and they sounded quicker than normal. Coleman tried to look through the gaps between the small opaque windows in the cell but a moment later his window was slammed shut by someone and he could hear the slamming of windows going down the corridors. He could see figures going past through the opaque glass.⁴¹⁶

Gavin Andersson⁴¹⁷

135 Gavin Andersson (Andersson) was an anti-apartheid activist working to support the emergence of the black trade union movement.⁴¹⁸ Andersson was involved

⁴¹¹ Exhibit G27, para 57.

⁴¹² 2020 consolidated transcript bundle page 1757.

⁴¹³ Exhibit G27, para 59.

⁴¹⁴ Exhibit G27, para 58.

⁴¹⁵ line 5 onwards, 2020 consolidated transcript bundle page 1763.

⁴¹⁶ Exhibit G27, para 61.

⁴¹⁷ 2020 testimony is in the 2020 consolidated transcript bundle from page 2288 to page 2314; affidavit dated 12 February 2020 at G34.

⁴¹⁸ Exhibit G34, para 3.

in the underground ANC. Andersson understood that Aggett could not be linked to the ANC, due to his involvement with the trade unions. Andersson did not disclose his involvement in the ANC to Aggett.⁴¹⁹

Relationship with Aggett

136 Andersson and Aggett were very good friends.⁴²⁰ Aggett was very interested in the trade union movement.⁴²¹ Andersson testified that Aggett was a quiet person and humble person, but brilliant and very likeable.⁴²²

137 Aggett was working in the Food and Canning Workers Union. He was starting to become a symbol of independent unionism and had built linkages with SAWU, the South African Allied Workers Union from the Eastern Cape.⁴²³

138 Andersson testified that Aggett began working with the Industrial Aid Society (IAS) towards the end of 1977.⁴²⁴ Aggett had a proposal to create a medical scheme within the trade unions.⁴²⁵ In July 1979 Neil was appointed secretary⁴²⁶ of the Transvaal branch of the African Food Canning Worker's Union.⁴²⁷

⁴¹⁹ Exhibit G34, para 32.

⁴²⁰ Exhibit G34, para 20.

⁴²¹ Exhibit G34, para 23.

⁴²² line 1; 2020 consolidated transcript bundle page 2298.

⁴²³ line 20; 2020 consolidated transcript bundle page 2305.

⁴²⁴ Exhibit G34, para 23 and 24.

⁴²⁵ line 8; 2020 consolidated transcript bundle page 2299.

⁴²⁶ line 10 onwards 2020 consolidated transcript bundle page 2301.

⁴²⁷ Exhibit G34, para 27.

139 As a result of the Close Comrades list⁴²⁸ Andersson was detained in September 1981 for two weeks⁴²⁹ at Norwood police station and then JVS for interrogation.⁴³⁰ In the Close Comrades list he was listed under the heading "Close Comrades (as regards above and underground work)". This group was described as Hogan's "primary reference group". Hogan indicated that all 3 in the group were aware that she was "under discipline" and that Andersson and Auret van Heerden were also "under discipline".

Objects not allowed in detention at the Norwood police station

140 Andersson recalled that when he was taken to Norwood police station, he had to remove the laces from his shoes, along with his belt and watch.⁴³¹ Andersson was interrogated for 24 hours, with a two to three-hour break, where he was allowed to sleep sitting in a chair.⁴³²

141 Andersson was not tortured and was released on 6 October 1982.⁴³³ Shortly after his release he briefed Siphon Kubheka and Aggett about his detention. They advised him to leave the country. He shared with Aggett the nightmares he had if he had been tortured and given up names of comrades.⁴³⁴

142 Ten days after his release, he left South Africa and went to Botswana. The day after he arrived in Gaborone the SB arrived at his house to try and detain him

⁴²⁸ Exhibit B.3.5.21.

⁴²⁹ Exhibit G34, para 52.

⁴³⁰ Exhibit G34, para 37.

⁴³¹ Exhibit G34, para 39.

⁴³² Exhibit G34, para 41.

⁴³³ Exhibit G34, para 50.

⁴³⁴ Exhibit G34, para 54.

again. A few days later, Aggett and Floyd and others were detained. Andersson returned to South Africa in 1994.⁴³⁵

Specialist witnesses

143 Certain specialist witnesses were called by the family's lawyers to testify different aspects relating to the case.

Ronald Kasrils⁴³⁶

Role in the anti-apartheid movement

144 Ronald Kasrils (Kasrils) became politically involved in the ANC led liberation struggle in 1960. He served as the secretary of the ANC aligned Congress of Democrats in Natal. At the inception of Mkhonto We Sizwe he became a member of the Natal Regional Command and subsequently its commander. He joined the South African Communist Party (SACP) in 1961.

145 Kasrils was involved in recruiting and training South Africans for the SACP in London and was intimately involved in writing Communist 'propaganda'.⁴³⁷ The relevance of his testimony relates to the Security Branch's apparent reliance on *Inkululeko - Freedom, February 1972, no 2* (Inkululeko Freedom), which he authored with Joe Slovo.⁴³⁸

Fabrication of Inkululeko Freedom

⁴³⁵ Exhibit G34, para 55.

⁴³⁶ 2020 testimony is in the 2020 consolidated transcript bundle from page 1244 to page 1267; affidavit signed on 22 January 2020 at G22.

⁴³⁷ line 9; 2020 consolidated transcript bundle page 1247.

⁴³⁸ Exhibit G22, para 20; line 9 onwards 2020 consolidated transcript bundle page 1254.

146 On 24 February 1982 Captain Carel Jacobus Adriaan Victor (Victor), investigating officer into the death of Neil Aggett, made out an affidavit in which he says he located and certified *Inkululeko Freedom No 2 February 1972* which was retrieved from the files of the SB.⁴³⁹

147 The version of the document retrieved by Victor had been doctored by the SB. A paragraph had been inserted at the bottom of the last page calling on communists to "*rather commit suicide than to betray the organisation.*"⁴⁴⁰ This same fabricated document was relied upon in the judgment of Magistrate de Villiers in the Inquest into the death of Ahmed Timol to buttress his finding that Timol had committed suicide.⁴⁴¹

148 Kasrils indicated that the last five paragraphs on the last page of *Inkululeko Freedom* are a complete fabrication and forgery, for the following reasons:

148.1 Suicide was never a policy of the SACP. The instruction to SACP members was to stay alive, build morale, and study in prison to contribute to building a new South Africa when freedom came.⁴⁴²

148.2 The English used was clumsy and not up to the standard of the SACP.⁴⁴³

⁴³⁹ Exhibit C1, para 13(4).

⁴⁴⁰ RK1 annexed to G22.

⁴⁴¹ Judgment dated 22 June 1972 in Reopened Inquest Late Ahmed Timol I01/2017, Vol A, p 1 155.

⁴⁴² Exhibit G22, para 20.1; Oral testimony of Ronald Kasrils on 5 February 2020, page 23, line 9 onwards; 2020 consolidated transcript bundle page 1255.

⁴⁴³ Exhibit G22, para 20.3 and 20.4; line 23; 2020 consolidated transcript bundle page 1257.

148.3 The SACP would never have written the words "act insane" or publicly instruct recruits to lodge complaints. Operational instructions to outwit the SB would be highly secretive and not openly published.⁴⁴⁴

148.4 The SACP would never publicly name persons living and working in South Africa as it would have put these people in danger.⁴⁴⁵

148.5 The last line of the document states that it was "issued by the Communist Party of South Africa", but the name of the party was changed in 1953, after it was banned by the Apartheid Government, to the SACP.⁴⁴⁶

149 Kasrils is of the view that the SB attempted to introduce the document into the inquest proceedings⁴⁴⁷ in order to cover up the fact that their brutality against Aggett led to his suicide, or to cover up their direct murder of him.⁴⁴⁸

Dr Steve Naidoo⁴⁴⁹

150 Dr Steve R Naidoo (Dr Naidoo) is a specialist forensic pathologist in private practice who has 37 years of experience in forensic pathology. He was instructed by the Aggett family to provide an opinion as to the nature, cause and manner and circumstances of the death of Dr Aggett from a medical perspective. He was

⁴⁴⁴ Exhibit G22, para 20.2; Oral testimony of Ronald Kasrils on 5 February 2020, page 24, 2020 consolidated transcript bundle page 1256.

⁴⁴⁵ Exhibit G22, para 20.5; Oral testimony of Ronald Kasrils on 5 February 2020, page 26, 2020 consolidated transcript bundle page 1258.

⁴⁴⁶ Exhibit G22, para 20.6; Oral testimony of Ronald Kasrils on 5 February 2020, page 29, 2020 consolidated transcript bundle page 1261.

⁴⁴⁷ On 22 June 1982 the magistrate gave judgment on the admissibility of certain statements and excluded the documents Inkululeko and the funeral pamphlet because they were not relevant and there was no proof of their authenticity. 1982 Consolidated Transcripts at page 3520.

⁴⁴⁸ Exhibit G22, para 19 and 22.

⁴⁴⁹ 2020 consolidated transcript bundle from page 1463 to 1709; Medico-legal Report by Dr Steve R Naidoo, dated 4 February 2020 at G21; Supplementary Medico-legal Report by Dr Steve R Naidoo, dated 23 March 2020 at G49.

also asked whether the objective medical evidence could make a distinction between self-hanging by the deceased or a third party hanging of the deceased in an unconscious state.⁴⁵⁰

Private forensic report

151 Dr Naidoo's report was based on the 1982 record, especially the post-mortem report of Dr Vernon Dennis Kemp (District Surgeon of Johannesburg) at exhibit B8.5; the report of Dr Nicolaas Jacobus Scheepers (senior state pathologist) at exhibit B1.14; the report compiled by the family's private pathologist at the time, Dr Jan Barend Christiaan Botha at exhibit B8.76; the report by Professor Johan David Loubser (Chief State Pathologist, Pretoria) at exhibit G25.1;⁴⁵¹ and two photos of Aggett hanging at exhibit FGK7.1 and FGK7.2.⁴⁵²

152 Dr Naidoo indicated that the time of death of 1h30am noted in the police report was probably not the exact time of death as this was the time the body was found. Based on the last sightings of Aggett alive, time of death could be any time between 11pm and 1h30am.⁴⁵³ The time between death and post-mortem at 08h45am means that the body was fresh at the post-mortem and there would be no appreciable post-mortem change.⁴⁵⁴ In Dr Naidoo's opinion time of

⁴⁵⁰ Oral testimony of Dr Steve Naidoo on 6 February 2020, page 69, line 3; 2020 consolidated transcript bundle page 1467. He produced an independent medico-legal report, handed up as exhibit G21, as well as a supplementary report, handed up as exhibit G45.

⁴⁵¹ 2020 consolidated transcript bundle page 1576.

⁴⁵² 2020 consolidated transcript bundle page 1473.

⁴⁵³ line 3; 2020 consolidated transcript bundle page 1484.

⁴⁵⁴ line 20; 2020 consolidated transcript bundle page 1485

death was probably closer to 01h30am as there was a very short period of lividity.⁴⁵⁵

Shortcomings at death scene and autopsy

153 Dr Naidoo testified that there were various shortcomings in the way that the post-mortem was conducted.

153.1 Firstly, there should have been a district surgeon or pathologist at the death scene, especially in a controversial death such as this.⁴⁵⁶ Even at that time this was against protocol.⁴⁵⁷

153.2 It is problematic that there were no autopsy photographs taken under the guidance of a pathologist.⁴⁵⁸ In Dr Naidoo's opinion this indicates neglect and lack of commitment to a thorough examination.

153.3 There should have been a state pathologist present for such a case. Dr Kemp was not a state pathologist but a district surgeon.⁴⁵⁹

153.4 The autopsy was rushed. There was no need to rush the autopsy. A rushed autopsy means that adequate preparation and background checks could not have been done before the autopsy, which left many

⁴⁵⁵ line 20; 2020 consolidated transcript bundle page 1487.

⁴⁵⁶ line 16; 2020 consolidated transcript bundle page 1493.

⁴⁵⁷ G21 at pages 10 – 13.

⁴⁵⁸ Oral testimony of Dr Steve Naidoo on 6 February 2020, page 90, line 20; 2020 consolidated transcript bundle page 1488. Warrant Officer JFF Mostert took photos at the autopsy (which have disappeared) but did not indicate whether this was done under the supervision of Dr Kemp (A1.2.6, affidavits at B1.5 and B1.12).

⁴⁵⁹ line 1 onwards; 2020 consolidated transcript bundle page 1490.

questions unanswered.⁴⁶⁰ A delay of up to 48 hours in performing an autopsy has minimal impact on the evidence.⁴⁶¹

153.5 In Dr Naidoo's opinion it was reckless for Dr Kemp to start the autopsy without giving the Aggett family adequate time to properly consider the representation they wanted present at the autopsy.⁴⁶²

153.6 Dr Botha arrived an hour after the autopsy had started, and the neck dissection had already started taking place, which would have compromised his ability to examine the ligature as it lay around the neck.⁴⁶³

153.7 It appears that Dr Botha and Kemp failed to do a proper examination for deep bruises as neither reported having done this procedure. The examination should have included comprehensive and wide subcutaneous skin-flap dissections under the skin of the trunk and limbs to look for concealed bruising. Such an examination should have taken place and it is a substantial shortcoming in a death of this circumstance. In 1982, the flap dissection technique was an established autopsy procedure.⁴⁶⁴

153.8 The post-mortem report failed to describe the external wounds on Aggett in any detail which undermined the ability to determine the nature of his injuries, their appearance, age, and location. No sketches of the surface

⁴⁶⁰ 2020 consolidated transcript bundle page 1498
⁴⁶¹ line 2; 2020 consolidated transcript bundle page 1502.
⁴⁶² 2020 consolidated transcript bundle page 1508.
⁴⁶³ line 7; 2020 consolidated transcript bundle page 1512.
⁴⁶⁴ 2020 consolidated transcript bundle page 1515.

injuries on anatomical diagrams appear to have been made by Dr Kemp.⁴⁶⁵

Physiological trigger for death

154 Dr Naidoo testified that the medical evidence indicates that the physiological trigger for death was the stopping of the heart by the carotid sinus pressure by the ligature (which causes immediate cardiac arrest) and/ or bilateral carotid artery occlusion.⁴⁶⁶ This means that Aggett was alive at the time of suspension and it was the suspension that killed him.⁴⁶⁷ However, this could have happened in a conscious or unconscious state.⁴⁶⁸ The same medical findings would result with a conscious or unconscious person.⁴⁶⁹ Accordingly, neither possibility may be excluded.⁴⁷⁰

Possible causes of unconsciousness

155 If Dr Aggett was unconscious at the time of his suspension, Dr Naidoo referred to five possible causes of unconsciousness:

155.1 Intoxication of some sort,

155.2 Concussion (traumatic),

155.3 electric shock-induced,

⁴⁶⁵ 2020 consolidated transcript bundle page 1569

⁴⁶⁶ Oral testimony of Dr Steve Naidoo on 6 February 2020, page 123, line 17; 2020 consolidated transcript bundle page 1521

⁴⁶⁷ Oral testimony of Dr Steve Naidoo on 6 February 2020, page 126, line 2; 2020 consolidated transcript bundle page 1524.

⁴⁶⁸ Oral testimony of Dr Steve Naidoo on 6 February 2020, page 121, line 18; 2020 consolidated transcript bundle page 1519.

⁴⁶⁹ Oral testimony of Dr Steve Naidoo on 6 February 2020, page 131, line 15; 2020 consolidated transcript bundle page 1529

⁴⁷⁰ G21 at para 6.8.

155.4 hypoxia-induced, and

155.5 hypoxia/ anoxia from carotid arterial obstruction.

156 Given that an unconscious state prior to suspension could not be ruled out, the family legal team asked Dr Naidoo to prepare a supplementary report, elaborating on the 5 possible causes of a state of unconsciousness. In particular, he was asked to consider in respect of each possibility:

156.1 Its mechanism, rapidity of onset, and period of unconsciousness.

156.2 Whether and after how long could actual brain damage occur.

156.3 Whether Dr Aggett could recover without medical assistance.

156.4 Whether such mechanism could be excluded on the post-mortem findings.

157 Dr Naidoo stressed that these questions could be answered with accuracy as there is no scientific experimental data on human cases, and any answer would be based heavily on the application of pathophysiology and experience of similar or related cases as may have been experienced or reported in the scientific literature.⁴⁷¹

157.1 Intoxication: Dr Naidoo noted that drug testing in 1982 was quite limited so there is a possibility that another drug may have been used that could

⁴⁷¹ Exhibit G45, page 1 to page 6.

not be identified at the time. However, this would have to be verified by a specialist toxicology expert.⁴⁷²

157.2 Traumatic concussion: This may have occurred and cannot be excluded from the autopsy findings, despite the absence of any scalp / skull / brain or facial injury. The onset of a concussion would be immediate after direct impact and can persist for days or longer. In traumatic concussion, actual visible brain damage does not occur.⁴⁷³

157.3 Electric shock-induced unconsciousness: In Dr Naidoo's experience, the electric shock machines that the SB typically used would have caused immense pain but, would not normally result in death.⁴⁷⁴ Typically, electric shocks are applied by using something such as a wet cloth around a particular limb, which means the electrode active surface is evenly distributed over a wide area and so it does not leave a localised burn lesion. This means there will be little or no evidence of use of such a device in the post-mortem.⁴⁷⁵ Electric shock treatment can cause a person to pass out, where a person convulses. If the electric shocks are applied to the chest it can cause a person to stop breathing which may also induce a state of unconsciousness.⁴⁷⁶ He noted that in this context he did not know what current and voltage levels were used. High levels can produce convulsions, but "generalised convulsions can occur with electrical shocks in general."⁴⁷⁷

⁴⁷² Exhibit G45, page 3.

⁴⁷³ Exhibit G45, page 3.

⁴⁷⁴ line 10 onwards; 2020 consolidated transcript bundle page 1610

⁴⁷⁵ line 11 onwards; 2020 consolidated transcript bundle page 1611

⁴⁷⁶ line 18 onwards 2020 consolidated transcript bundle page 1611

⁴⁷⁷ Exhibit G45, page 3.

157.4 Hypoxia-induced unconsciousness: If a person is deprived of air his progression to unconsciousness will depend on his state. If calm a person may remain conscious without active breathing for several minutes, but if in a stressed or anxious state, he would succumb to unconsciousness within a minute or two.⁴⁷⁸ Regarding the effects of the hypoxia and recovery:

157.4.1 If the airway patency and respiration are immediately restored, such persons would regain full consciousness within several minutes, and there are usually no long-lasting effects.

157.4.2 If the airway obstruction or air deprivation is maintained for longer, brain neurons will suffer damage within 5 to 6 minutes of complete hypoxia (anoxia). According to Dr Naidoo, some authoritative sources record that brain neuronal damage may occur in as short as 4 minutes. If Dr Aggett suffered a hypoxia event, it is possible that he would have been in a state of exhaustion, panic and distress and in very high oxygen demand. This can cause permanent brain damage with no full recovery of function.⁴⁷⁹

157.5 According to Dr Naidoo, in either of the two above scenarios, if death occurred soon after the hypoxic/anoxic incident, there would be nothing to be seen at a post-mortem that would point to this having occurred. This is because at least 12 hours of *survival* after the hypoxic/anoxic

⁴⁷⁸ Exhibit G45, page 3 - 4.
⁴⁷⁹ Exhibit G45, page 4.

incident is needed to detect the earliest manifestations (whether by naked-eye or by histology under microscope) of hypoxic brain damage.⁴⁸⁰

157.6 Hypoxia / anoxia of the brain from actual bilateral carotid arterial obstruction: This would cause immediate unconsciousness if pressure was applied to both sides of the neck. If blood supply to the brain is obstructed for approximately 1 minute (several minutes in some instances), death can supervene. No finding would be seen on the brain itself at the autopsy as there would be no appreciable survival period.⁴⁸¹

158 Dr Naidoo pointed out that the question as to how soon brain damage would be caused but not death itself is difficult to answer, but what cannot be excluded is brain damage from carotid obstruction arising from the destruction of cortical grey matter neurons, and the subject remaining alive if blood circulation was restored timeously. This would result in irreversible unconsciousness. As he mentioned, such brain damage would not be detectable at an autopsy if the subject died by other means shortly thereafter.⁴⁸²

159 Dr Aggett added that the five possible causes of a state of unconsciousness if such unconsciousness had occurred, would not necessarily have been mutually exclusive to one another, and that a combination of one or several occurring

⁴⁸⁰ Exhibit G45, page 4.

⁴⁸¹ Exhibit G45, page 4 – 5.

⁴⁸² Exhibit G45, page 5 - 6.

together cannot be excluded, and if so, their individual effects would be additive to the whole.⁴⁸³

Visible injuries

160 Dr Naidoo concluded that the injuries complained of by Aggett in his affidavit of 4 February 1982 were consistent with the findings (both their presence and absence respectively) at the autopsy. He was also of the opinion that the accounts of abuse by Aggett and other detainees reflected degrading and inhuman treatment and assault under security detention.⁴⁸⁴

161 Dr Kemp's post-mortem report refers to four healed scars on Aggett's back around his shoulder blades.⁴⁸⁵ Aggett complained in his statement of 4 February 1982 (B8.55) that he sustained an injury on his back from assaults sustained on 29 January 1982, which involved electric shocks. Dr Naidoo concluded in his supplementary report that "electrical burn marks of low voltage cannot be excluded as having caused these scars on Dr Aggett's back."⁴⁸⁶

162 Dr Kemp's report disclosed a 3 centimetre triangular fresh bruise on the right side of the back which was described as a pinching type of injury, which could have occurred right before death.⁴⁸⁷ Assuming it was a bruise, Dr Naidoo disputed that this would have occurred by Aggett knocking the grille while descending or dropping the short length of the ligature.⁴⁸⁸ He would not expect to see visible

⁴⁸³ Exhibit G45, page 6.

⁴⁸⁴ G21 at pages 34 – 35.

⁴⁸⁵ line 13; 2020 consolidated transcript bundle page 1571.

⁴⁸⁶ Exhibit G45, page 9.

⁴⁸⁷ line 20; 2020 consolidated transcript bundle page 1573

⁴⁸⁸ 2020 consolidated transcript bundle page 1582.

abrasions or bruising as a result of such a manoeuvre.⁴⁸⁹ A bruise requires time to form and so it had to have taken place before the hanging.⁴⁹⁰ He was of the view that it “appears to have been from a patterned instrument or object or surface resulting as a blunt impact injury by direct forceful impaction or by heavy sustained pressure distorting the skin at that point.”⁴⁹¹

163 If not a bruise Dr Naidoo mentioned that it could be an erythema (reddened area of skin such as might have been seen on Dr Aggett's forehead), which could have been caused “by application of a surface that may have been heated, or by scalding, or alternatively being chemically or similarly irritated, or an electric burn cannot be excluded”.⁴⁹²

164 Dr Naidoo indicated that the mark above Aggett's right wrist was a tearing of the skin and is entirely consistent with the description of Aggett's assault by Sergeant Van Schalkwyk, one month earlier, in his complaint to Sergeant Blom.⁴⁹³ In Aggett's complaint he mentioned that he was cuffed with his hands behind his back and shocked, and that this left a mark on his left pulse regular nerve. Dr Naidoo indicated that the effect of a shock would be an involuntary contraction of the muscles which would result in one pulling one's body away from the cuff, which would easily cause a fine scored abrasion or superficial laceration. It is quite possible that at a post-mortem one week later that this small injury would not be seen.⁴⁹⁴

⁴⁸⁹ Exhibit G45, page 8.

⁴⁹⁰ line 5; 2020 consolidated transcript bundle page 1584.

⁴⁹¹ Exhibit G45, page 8.

⁴⁹² Exhibit G45, page 8.

⁴⁹³ line 8; 2020 consolidated transcript bundle page 1590; Aggett's complaint of assault is exhibit B8.55.

⁴⁹⁴ line 20; 2020 consolidated transcript bundle page 1593.

Colin Woodall Savage⁴⁹⁵

165 Colin Woodall Savage (Savage) is a professional architect with Savage & Dodd Architects with more than 40 years' experience.⁴⁹⁶ He was called by the family legal team to testify about the layout of JVS and ways of accessing the second-floor cells.

166 Savage pointed out that John Vorster Square, now Johannesburg Central Police Station was opened in 1968. The complex consists of 5 distinct parts.

166.1 The CID and Personnel Block,

166.2 The Charge Office and Uniform Block,

166.3 The Cell Block,

166.4 The Single Quarters,

166.5 The Waghuis Entrance Building was added in 1982.⁴⁹⁷

167 The **CID / Personnel Block** is a 10-storey building with a basement accessed from the rear – with a dedicated entrance leading to a large vertical circulation core with 4 lifts and 2 staircases. A set of 2 lifts and a service stair link the basement to all floors. The 9th and 10th Floor of the CID / Personnel Block were

⁴⁹⁵ 2020 testimony is in the 2020 consolidated transcript bundle from page 2148 to 2249. A presentation and plans of JVS by Savage & Dodd were handed up as exhibits G32.1 to G32.4, which must be read with Colin Savage's testimony.

⁴⁹⁶ Colin Savage's CV is at G32.5.

⁴⁹⁷ Exhibit G32.1, slide 1.

used exclusively by the Security Branch with a dedicated lift and stair access that were locked off from ordinary personnel.⁴⁹⁸

168 The **CID / Personnel Block and the Uniform Block** are only linked through a “Link Stair” at the Mezzanine Level and through the basement. The **Uniform Block and the Cell Block** are linked at basement and ground floor but are strictly separated from the first floor upwards. It is not possible to access the upper floor of the Uniform Block from the Cell Block.⁴⁹⁹

Cell Block

169 The **Cell Block** consists of a basement, ground floor with 3 floors above. Access to the Cell Block is only through one circulation core consisting of 2 staircases and a lift behind steel doors. Each Floor of the Cell Block was divided between male and female cells which have a separating wall. It is not possible to walk between the female cell section and the male cell section. A second circulating staircase (staircase 10) on the eastern side of the building links the 1,2nd and 3rd floors of the male section.⁵⁰⁰

170 The only vertical access into the Cell Block is through the circulation core labelled accessed through steel gates on the ground level. Detainees were taken up either by one of two staircases (staircase 8 and 9) or the lift from the ground level of the Uniform Block and signed in and out through the control office located behind the steel access gates on each floor.⁵⁰¹

⁴⁹⁸ Exhibit G32.1, slides 6 - 15.

⁴⁹⁹ Exhibit G32.1, slides 6 - 15.

⁵⁰⁰ Exhibit G32.1, slides 6 - 15.

⁵⁰¹ Exhibit G32.1, slides 6 - 15.

171 The 2nd Floor of the Cell Block was allocated to political detainees irrespective of race. Males and Females were separated. The only vertical access onto this floor is through the circulation core, mentioned above, accessed through steel gates on the ground level. Access could also be gained from the 1st and 3rd floors (but not ground floor) via the secondary staircase on the eastern side of the building.⁵⁰²

172 According to Savage the possible cells in which Aggett could have been in on the night of 4 February 1982 (cell 209 in 1982), according to the current floor plan provided at page 4 of exhibit G10, were cells B13, B17, or B19.⁵⁰³

Alternative route

173 The architects from Savage & Dodd discovered an alternative route into and out of the male section of the second-floor cells.⁵⁰⁴

174 On the 2nd floor, a modification has been made to the division wall between the male and female sections. On the 1st floor Cell Block, the end of the eastern passage dead ends in a solid wall separating the male and female sections. However, in the 2nd Floor Cell Block, an opening was made in the corresponding wall with a steel grille door. On the other side of this wall was a cell on the female side of the floor. This cell has been modified with a passage leading from the cell door to this door. This passage cannot be seen from the main circulation passage

⁵⁰² Exhibit G32.1, slides 6 - 15.

⁵⁰³ 2020 consolidate transcript bundle page 2208 to 2217.

⁵⁰⁴ line 11; 2020 consolidate transcript bundle page 2164; exhibit G32.1 slide 17

on the female side without accessing the cell. The former cell door acts as a “false front” to this passage.⁵⁰⁵

175 According to Savage & Dodd, using this passage, it is plausible that a male detainee could be taken out of his cell, through the gate, through the women’s section and down one either staircase [9], the lift or staircase [8] without being signed out at the Control Office. It also follows that the security police could access the male section without passing through the Control Office.⁵⁰⁶

176 Significantly, none of this was reflected on the public works plans that were provided to the architects.⁵⁰⁷ Savage noted that the construction of such a passage was more than likely done at the time the building was constructed or very close to such a time (despite not being include on the original plans).⁵⁰⁸ He confirmed following the original plans, other alterations have been inserted into the plans from Public Works.⁵⁰⁹

177 In addition, if Security Branch members had keys to the security gates enclosing staircase 10 (the secondary staircase on the eastern side), they could ascend from the first floor to the second floor and access the detainee cells without going through the 2nd floor control office.⁵¹⁰

⁵⁰⁵ Exhibit G32.1 slide 18, blue dotted line

⁵⁰⁶ 2020 consolidate transcript bundle page 2165 to 2172; exhibit G32.1, slide 18.

⁵⁰⁷ line 11; 2020 consolidate transcript bundle page 2165.

⁵⁰⁸ line 2; 2020 consolidate transcript bundle page 2207.

⁵⁰⁹ line 11; 2020 consolidate transcript bundle page 2238.

⁵¹⁰ 2020 consolidate transcript bundle page 2174 to 2175. See also line 1; consolidated transcript bundle page 2188 where it is indicated that control room should have been second floor charge office.

Thabo Mothupi⁵¹¹

178 Constable Thabo Mothupi is stationed at Johannesburg Central Police Station and works for the Local Criminal Record Centre (LCRC). He works with fingerprints and photographs.⁵¹² He is a fingerprint technician.⁵¹³ He took the official photographs at the visits to Johannesburg Central (previously, JVS), the album of which was handed up as FGK9.⁵¹⁴

179 Mothupi testified that to climb to the top bar of the cell (in which Aggett would have been in on the 2nd floor at JVS) one must touch at least 3 or 4 of the bars.⁵¹⁵

Crime Scene Photographs

180 Mothupi indicated what photographs he would have taken at a crime scene such as the one in which Aggett was found hanging, which were as follows:

180.1 The first photo would be of the scene as it was found with nothing marked and nothing moved. At least 10 photographs of the scene would be taken.⁵¹⁶

180.2 Photos of the deceased would then be taken, taking into account his position, including the ligature, the height between the deceased and where it is tied.

⁵¹¹ 2020 testimony is in the 2020 consolidated transcript bundle from page 2250 to 2288.

⁵¹² Oral testimony of Constable Thabo Mothupi on 13 February 2020, page 105, line 23; to page 106, line 10; 2020 consolidated transcript bundle page 2252 to 2253.

⁵¹³ 2020 consolidated transcript bundle page 2253.

⁵¹⁴ 2020 consolidated transcript bundle page 2254.

⁵¹⁵ 2020 consolidated transcript bundle page 2257 to page 2260.

⁵¹⁶ 2020 consolidated transcript bundle page 2263.

180.3 The deceased would then be taken down and he would then take photos of the deceased on the floor and note where the rope was tied, which would include a close up with the face and where the knot is tied.⁵¹⁷

Crime Scene Fingerprints

181 Fingerprints of the scene would be taken.⁵¹⁸ If one is able to take fingerprints while the deceased is still hanging there then one would. If it is not easy to do fingerprints will be taken after the deceased is cut down first.⁵¹⁹ Mothupi indicated that actually prints should be taken before and after cutting the deceased down, as the person who takes the deceased down may leave fingerprints.⁵²⁰

182 In cross-examination it was pointed out to Mothupi that only the left forefinger of Aggett was found at the crime scene (as per exhibit B1.13). Mothupi advised that he would have expected to find several fingerprints at this scene.⁵²¹ He noted that the deceased would have gripped the bar with his whole hand, leaving prints of his palm, thumb, and the fingers.⁵²²

183 Mothupi set out who should be permitted in the cell when the crime scene is being investigated. Only the following persons should be present:

183.1 The photographer and fingerprint expert.

183.2 His assistant if he has one.

⁵¹⁷ line 16; 2020 consolidated transcript bundle page 2263.

⁵¹⁸ line 21 onwards; 2020 consolidated transcript bundle page 2261.

⁵¹⁹ line 12; 2020 consolidated transcript bundle page 2262.

⁵²⁰ line 19; 2020 consolidated transcript bundle page 2262.

⁵²¹ line 21; 2020 consolidated transcript bundle page 2274.

⁵²² line 2; 2020 consolidated transcript bundle page 2275.

183.3 The investigating officer, and

183.4 Possibly the investigating officer's superior.⁵²³

184 If an officer has an association with the deceased, and may be a suspect, he should not be at the scene as he may interfere or jeopardise the investigation.⁵²⁴

185 Mothupi confirmed that someone could take the finger of a deceased and place it somewhere to falsely show that they were somewhere.⁵²⁵

186 Under cross examination by counsel for Mr Deetlefs, Mothupi stressed that at a crime scene he will take all the fingerprints he can and transfer all prints lifted to folien, but if there are prints that do not have seven ridges he will not submit them.⁵²⁶

187 Mothupi confirmed that in a case such the instant matter he would attempt to lift as many prints as possible and would not simply lift one print. He said he would keep a record of the folien or scotch tape of prints that he would not use because they were smudged or incomplete. This was particularly important in cases such as this one. Mothupi also confirmed that if one looked at one print it would not be possible to determine if it was a mirror image or not.⁵²⁷

⁵²³ line 1; 2020 consolidated transcript bundle page 2278.

⁵²⁴ line 21; 2020 consolidated transcript bundle page 2278.

⁵²⁵ line 10; 2020 consolidated transcript bundle page 2281.

⁵²⁶ line 10; 2020 consolidated transcript bundle page 2284.

⁵²⁷ 2020 consolidated transcript bundle page 2285 - 2288.

Sietze Albertse⁵²⁸*Private fingerprint expert*

188 Sietze Sibbo Albertse (Albertse) is a fingerprint expert.⁵²⁹ He was called to give expert evidence by the family legal team. He completed a three-year national diploma in police administration at Technicon SA. He also completed an advanced certificate in forensic criminalistics at Unisa, with his main subject being dactyloscopy of fingerprinting. He has completed 17 courses (some international), some of which relate to fingerprint analysis.⁵³⁰ He served in the SAPS for 30 years as a crime scene examiner and fingerprint expert. He now works for a company called Forensic Tools where he is a product development manager.⁵³¹ He has attended more than 5000 crime scenes.⁵³²

Poor quality of fingerprints

189 Albertse testified that the photocopy of the court chart of the fingerprint from the 1982 inquest (exhibit B1.13) was of poor quality,⁵³³ as well as the photographs of the deceased.⁵³⁴

Simulations of Aggett's cell

⁵²⁸ 2020 testimony is in the 2020 consolidated transcript bundle from page 2321 to 2409. Expert Report at G33.1

⁵²⁹ CV at G33.2.

⁵³⁰ line 11; 2020 consolidated transcript bundle page 2322; and exhibit G33.2

⁵³¹ line 7; 2020 consolidated transcript bundle page 2323; and exhibit G33.2.

⁵³² line 6; 2020 consolidated transcript bundle page 2324.

⁵³³ line 19; 2020 consolidated transcript bundle page 2328.

⁵³⁴ line 12; 2020 consolidated transcript bundle page 2333.

190 Albertse performed a simulation in cell B18 at the 2nd floor cells of JVS. He asked a colleague to climb the bars to see where he would touch and how he would climb up such bars and took photos of this. This exercise left various fingerprints on the bars, not in a controlled manner. His colleague made five points of contact with the bars when climbing the grille.⁵³⁵ Albertse then conducted a fingerprint examination and photographed the dust on his hand.⁵³⁶

191 Albertse then conducted a second simulation where he cleaned the bars before climbing up them, which enabled him to lift five developed set of fingerprints that were clearer than when the bars were dusty.⁵³⁷

Evidence about the grille

192 Earlier evidence provided by a former SAP guard suggested that the grille in the cells were cleaned on a regular basis⁵³⁸, although it was not known if they had been cleaned on the day in question.⁵³⁹ Albertse advised that dust presents a challenge to a fingerprint expert, since a fingerprint made in dust is more three dimensional. If they see the dust beforehand then the whole process changes. The fingerprint should not be powdered and should be lifted with a folien and placed in a box. Special care should be taken when taking a fingerprint from a dusty surface.⁵⁴⁰

⁵³⁵ line 16; 2020 consolidated transcript bundle page 2336; and exhibit G33.1 page 7.

⁵³⁶ line 18; 2020 consolidated transcript bundle page 2337; exhibit 33.1 page 8.

⁵³⁷ line 3; 2020 consolidated transcript bundle page 2339; exhibit G33.1 page 9.

⁵³⁸ Oral testimony of Joe Nyampule, page 431, line 9 to 12 of 2020 consolidated transcript.

⁵³⁹ line 9; 2020 consolidated transcript bundle page 2339

⁵⁴⁰ line 1; 2020 consolidated transcript bundle page 2350

- 193 Albertse testified that if a grille bar is gripped with a full hand, it is likely that one would get a better fingerprint reading than when a hand is placed on a flat surface.⁵⁴¹ In this instance one may not see the fingertips but a pinkie print will be more prominent due to the downward force of climbing.⁵⁴²
- 194 Albertse was asked to comment on the fact that Charl Wynand Lambrecht (former SAP Detective Warrant Officer in the Finger Printing Department) only found one index fingerprint on the grill, above the knot on the other side of the bar.⁵⁴³ Albertse indicated in his report and testimony that one would have expected to find a sequence of fingerprints which would include, at least, the middle finger and possibly the ring finger and pinkie when lifting those prints.⁵⁴⁴
- 195 Albertse testified that it is good practice to have a light you can manipulate, like a torch. When carrying out a finger print lifting at night or in a dimly lit place good lighting is required.⁵⁴⁵ Albertse testified that it was an easy crime scene, as the public do not have access it so it could easily been secured by locking the door. They could have removed the body and returned during the day when it was lighter, to take fingerprints.⁵⁴⁶ He further testified that, unlike Lambrechts in 1982,⁵⁴⁷ he used a stepladder to take the prints and that this was advisable.⁵⁴⁸ Albertse indicated that it was bad practice to have a lot of people around in a crime scene while you are processing it.⁵⁴⁹

⁵⁴¹ line 17; 2020 consolidated transcript bundle page 2340.

⁵⁴² line 3 onwards; 2020 consolidated transcript bundle page 2341.

⁵⁴³ G33.1 page 10.

⁵⁴⁴ line 22 onwards; 2020 consolidated transcript bundle page 2346; and exhibit G33.1 page 11.

⁵⁴⁵ line 5; 2020 consolidated transcript bundle page 2351

⁵⁴⁶ line 21; 2020 consolidated transcript bundle page 2354.

⁵⁴⁷ line 12; 2020 consolidated transcript bundle page 2353; exhibit A1.3.5.

⁵⁴⁸ line 17; 2020 consolidated transcript bundle page 2352.

⁵⁴⁹ line 22; 2020 consolidated transcript bundle page 2360.

Scenarios around the single fingerprint

196 In his testimony, Albertse set out three possible scenarios that could have given rise to the solitary fingerprint:

196.1 the first is that Aggett climbed up the bar and committed suicide, leaving only one print.

196.2 the second is that he was hanged, and his finger lifted to make a print on the bar.

196.3 the third is that the print was taken from somewhere else and it was then claimed that it was taken off the bar above the knot.⁵⁵⁰

Charl Wynand Lambrechts⁵⁵¹

197 Charl Wynand Lambrechts (Lambrechts) was a police officer in the SAPS who worked in the Fingerprint Unit from 1967 until 1991, when he retired from SAPS. He was called by Captain Victor at around 03h40 in the morning on 5 February 1982 to attend the crime scene in Aggett's cell to take photographs and lift fingerprints.⁵⁵²

Arrival in Aggett's cell

⁵⁵⁰ line 16; 2020 consolidated transcript bundle page 2370.

⁵⁵¹ 2020 testimony is in the 2020 consolidated transcript bundle from page 2832 to 2877; 1982 testimony at exhibit A1.3.5. Statements at B1.30 and B1.32.

⁵⁵² line 1; 2020 consolidated transcript bundle page 2837.

- 198 Lambrechts testified that there were many people in the cell when he arrived.⁵⁵³ He took four photographs of the scene: the door to the cell with the deceased hanging there; the front of the deceased hanging on the bars; a close up of the deceased's face with the knot; and the concrete bed in the cell.⁵⁵⁴
- 199 Captain Victor pointed out the concrete bed and the deceased to him but he claimed that he was not instructed to do anything by anyone.⁵⁵⁵ In his testimony in 2020, Lambrechts admitted that it could have been a shortcoming that he did not take more than four photos and also that he did not take any photos once the body had been cut down.⁵⁵⁶

Fingerprinting

- 200 To take the prints he used aluminium powder and a fingerprint brush. He did the back of the bars (that face the door) while the deceased was hanging and the front of the bars when the deceased was taken down.⁵⁵⁷
- 201 In relation to the solitary print lifted, Lambrechts referred to exhibit B1.30, which is a pro forma form, which refers in type to fingerprints in the plural. At first, he claimed that he lifted other prints that were on the folien, of which only one was identifiable, but the folien had disappeared. Details of the prints were recorded

⁵⁵³ line 14; 2020 consolidated transcript bundle page 2838

⁵⁵⁴ line 17; 2020 consolidated transcript bundle page 2841; exhibit B1.32.

⁵⁵⁵ line 16; 2020 consolidated transcript bundle page 2843.

⁵⁵⁶ line 14; 2020 consolidated transcript bundle page 2850

⁵⁵⁷ line 19; 2020 consolidated transcript bundle page 2853

on the back of the folien.⁵⁵⁸ Under examination by the Court, he made the following clarification:

COURT: But I do not understand. What happened to the other fingerprints that were lifted?

MR LAMBRECHTS: My Lord, I lifted no other fingerprints because during my investigation I could find on identifiable fingerprints with defendant, which shown ridge pattern so that I can lift as to say it was a fingerprint. It had no significance in lifting those marks on the bars. They were not fingerprints. They were just marks on the bars itself.⁵⁵⁹

202 After Ms Singh for the State demonstrated that there was evidence showing that Aggett's hands were clean, as in dust free, she posed the question:

MS SINGH: Can you explain how then Dr Aggett would have climbed up and left absolutely no trace except one fingerprint right on the top.

MR LAMBRECHTS: My Lord, I cannot explain that. I do not know if there were, I cannot debate upon this whether would have been dust at the time of Dr Aggett's demise or when the investigation was done by the said gentleman that compiled this.⁵⁶⁰

203 Lamprechts did not know why it took two and a half hours for him to be contacted following the discovery of the body in the cell:

MS SINGH: Do you know why, was there any problem with the police getting hold of you at half past one?

MR LAMBRECHTS: No, My Lord.

MS SINGH: You would agree with me that two and a half hours is a long time for them to have contacted you. Is that not... [Intervened]

⁵⁵⁸ 2020 consolidated transcript bundle page 2855 - 2859.

⁵⁵⁹ line 3; 2020 consolidated transcript bundle page 2860.

⁵⁶⁰ line 25 onwards; 2020 consolidated transcript bundle page 2869 - 2870.

*MR LAMBRECHTS: No, My Lord, I had a radio with me next to my bed and my telephone and, which I answered immediately that night....*⁵⁶¹

204 While Lambrechts testified in 2020 that he could not remember if he used a step ladder to carry out his work on the grille,⁵⁶² in 1982 he testified that he pulled himself up onto the bars up against the roof of the cell to get to the top bars.⁵⁶³ Under cross examination by Mr Varney, Lamprechts conceded he had climbed up the grille wearing latex gloves, but claimed he had dusted those sections, which would have been disturbed by his touching and pressure, before ascending.⁵⁶⁴

205 Lamprechts confirmed that it was Captain Struwig, (one of Aggett's interrogators), who cut the body down.⁵⁶⁵

206 Lamprechts confirmed that he was not in fact challenged by dust when attempting to lift prints:

MR VARNEY: In the first Inquest, you made no mention of the bars or the grill being covered in dust?

MR LAMPRECHT: No.

MR VARNEY: So, am I right in saying that at the time you did the fingerprint lifting, you were not challenged by the issue of dust?

*MR LAMPRECHT: No, M'Lord.*⁵⁶⁶

⁵⁶¹ 2020 consolidated transcript bundle page 2872.
⁵⁶² line 20; 2020 consolidated transcript bundle page 2862.
⁵⁶³ Exhibit A1.3.5, page 343 line 9
⁵⁶⁴ 2020 consolidated transcript bundle page 2887.
⁵⁶⁵ 2020 consolidated transcript bundle, line 5, page 2892.
⁵⁶⁶ 2020 consolidated transcript bundle page 2887.

207 Lamprechts conceded that he only arrived at the scene around 4 am and that on arrival he discovered several people inside and outside the cell. He conceded that he should have been called in first, and that the number of people at the scene was a problem:

MR VARNEY: But surely as the main forensic investigator, should you not have been called in first in your view?

MR LAMPRECHT: Ja, usually if they have a scene where forensic or photographs or fingerprints are done, they call the expert out before anything and the scene gets disturbed or moved.

MR VARNEY: Particularly a scene like this where you have testified that there were a large number of people both outside and inside the cell with the potential to disturb the scene?

MR LAMPRECHT: Yes, M'Lord.⁵⁶⁷

208 It was further pointed out to Lambrechts that there were SB officers in the cell, including Lt Whitehead and Captain Struwig, Aggett's leading interrogators who were potential suspects and whose presence in the cell was improper.⁵⁶⁸

209 Lamprechts claimed that if the folien was available it may have reflected a series of fingerprints, indicating that a full grip had been placed on the grille. However, he made no reference to this possibility in the first inquest:

MR VARNEY: But would you agree that nowhere in your evidence, which I assume you have had an opportunity to study, do you refer to a series of prints in that folien?

MR LAMPRECHT: Yes, M'Lord.

⁵⁶⁷ 2020 consolidated transcript bundle page 2888 - 2889.
⁵⁶⁸ 2020 consolidated transcript bundle page 2891 - 2892.

MR VARNEY: Yes, and that is the point I am trying to make, is that we would have expected to have seen some reference to a series of prints rather than just one print.

MR LAMPRECHT: That is correct, M'Lord. If the folien was available, that would have been the case. You would have been able to see.

MR VARNEY: You are saying if the folien was available, it could have depicted a series of prints?

MR LAMPRECHT: That is correct, M'Lord.

MR VARNEY: Sir, is there any reason why you did not mention this to the first Court, that it was a series of prints and not just one print?

MR LAMPRECHT: I cannot remember, M'Lord. I do not know.

MR VARNEY: And the reason why I ask is that yes, identifying a print and connecting it to the deceased obviously is important, but possibly of equal importance, and maybe even more important, is to work out and determine the position of the prints to each other to discover whether in fact the police version that the deceased climbed up the grill and hanged himself is possibly correct.

MR LAMPRECHT: Yes, M'Lord.

MR VARNEY: And so, Mr Albertse in his evidence came to the conclusion that if the [aim] was to properly document the scene and create a realistic visual representation for Court to reconstruct the events that happened on the night and collect evidence to prove the finding that the deceased climbed up and hanged himself then unfortunately he did not achieve his goal.

MR LAMPRECHT: No, M'Lord.

MR VARNEY: What is your comment on that?

MR LAMPRECHT: M'Lord, I can only comment on it that would the folien have been available in the court, we could all see how it was made and the fingerprints in relation to one another that might be on the folien, but it would not have only been one visible print.

MR VARNEY: You see the problem we have, Mr Lamprecht, is there is literally a great deal of suspicion about what happened to Dr Aggett and everybody wants to put their minds at rest as to what actually happened, and one has already heard the questions put to you by Adv Singh for the state, that there might have been other ways of getting the print there and if there had been a reference in the first Inquest proceedings to evidence to show that it was not just a solitary identifiable print, but at least a series of prints, even if the other prints were not necessarily that good, that would have helped the first Court and certainly this Court to come to a more definitive finding on the matter.

MR LAMPRECHT: That is why I am referring to the importance of the folien which unfortunately is not available.

MR VARNEY: Yes.

MR LAMPRECHT: That would have shown it because I would never just take a small piece of folien and lift one print.

MR VARNEY: Yes, but it is also your evidence that you cannot recall what was on the folien?

MR LAMPRECHT: No, I cannot, M'Lord.

MR VARNEY: And unfortunately, there is no reference anywhere in the evidence aside from the identifiable print. Well you made reference to marks ... [intervenues]

MR LAMPRECHT: Ja.

MR VARNEY: On the grill.

MR LAMPRECHT: That is correct, M'Lord.

MR VARNEY: Yet there is no reference to a series of prints that would suggest that somebody had gripped the bars with the full hand?

*MR LAMPRECHT: No, M'Lord.*⁵⁶⁹

210 Lamprechts agreed that the crime scene in the Aggett cell was possibly interfered with:

MR VARNEY: So we also asked Mr Albertse what would a good police crime scene processing have entailed and he said the following, and perhaps you can just comment, (1), To ensure that the scene is properly controlled, secured and protected. Would you agree with that proposition?

MR LAMPRECHT: Yes, M'Lord.

MR VARNEY: Now it does seem, given the numbers of people involved and given that you arrived several hours after the scene, that if that was the rule that applied, that it probably was interfered with.

*MR LAMPRECHT: It is possible, M'Lord.*⁵⁷⁰

211 Lamprecht conceded that it would have been possible for the SB to place Aggett's print on the bar before he arrived on the scene.⁵⁷¹

Frank Dutton⁵⁷²

212 Frank Kennan Dutton (Dutton) was engaged by the Foundation for Human Rights (FHR) as a private investigator to investigate the Aggett case (and other TRC cases). He is an international policing and investigation expert with both local and international expertise. He has more than 40 years of investigative experience. Dutton was the first Chief Investigator of the Directorate of Special Operations (also known as the Scorpions).⁵⁷³ In 2012 he was awarded the order

⁵⁷⁰ Oral testimony of Charl Lambrechts on 20 February 2020; 2020 consolidated transcript bundle, page 2905 -2906.

⁵⁷¹ Oral testimony of Charl Lambrechts on 20 February 2020; 2020 consolidated transcript bundle, line 22, page 2908.

⁵⁷² 2021 testimony is in the 2021 consolidated transcript bundle from pages 2089 to 2192. Affidavit of Frank Kennan Dutton dated 10 February 2021 at G75.

⁵⁷³ Exhibit G75, para 2.

of the Baobab in Gold by the President of South Africa for his policing work and efforts to pursue justice.⁵⁷⁴

213 During his investigations Dutton concluded that there was considerable evidence warranting the re-opening of the inquest into Aggett's death. Significantly he noticed that evidence before the TRC of two former SB officers, Roelof Venter and William Smith directly conflicted with their evidence before the original Inquest. At the original inquest they had both denied assaults and mistreatment of detainees during the SB's "Barbara Hogan" investigation. Whereas their evidence before the TRC was that they had indeed assaulted and mistreated these detainees. He considered their false evidence before the original inquest court was aimed at misleading the court and believed it likely that most if not all SB officers who had testified before the first inquest court had perjured themselves on the question of assault and torture.⁵⁷⁵

214 Dutton noted that the original Inquest court had only allowed a limited number of detainees to provide similar fact evidence. In view of Smith's and Venter's admissions to the TRC it seemed to him that this decision was wrong and that the versions of these detainees would likely demonstrate that that torture, assault, and ill-treatment was routine practice at that time.⁵⁷⁶

⁵⁷⁴ Exhibit G75, para 4. Dutton's CV is attached to his affidavit as FD1..

⁵⁷⁵ Exhibit G75, para 7.1.

⁵⁷⁶ Exhibit G75, para 7.2.

Context and modus operandi of the SB

215 Dutton's testimony was aimed at addressing whether the actions of the SB in torturing Aggett and covering up the full circumstances behind his death were consistent with the typical SB *modus operandi*.⁵⁷⁷ He asserted that the Aggett case must be understood in the wider context where state sanctioned extra judicial killings and rampant criminality by state organs were the order of the day.⁵⁷⁸ The TRC in its Final Report concluded that at a certain point, which coincided with PW Botha's accession to power in 1978, the South African state through its security forces, and in particular, the SB, ventured into the realm of criminality as a matter of state sanctioned policy.⁵⁷⁹ This period ran from the late 1970s to the early 1990s.⁵⁸⁰ The SB served as the effective 'political wing' of the SAP. Its target was any person or organisation which opposed the government. The SB's activities included the close monitoring of the affairs and movements of individuals, the detention of tens of thousands of citizens and the torture of many, as well as trials and imprisonment of suspects.⁵⁸¹

216 Dutton indicated that SB members were more than willing to perjure themselves to mislead criminal courts and judicial inquests to protect themselves and the police as an organisation. This has been admitted by numerous SB members before the TRC, the Goldstone Commission and the Harms Commission.⁵⁸²

⁵⁷⁷ Exhibit G75, para 9.

⁵⁷⁸ Exhibit G75, para 11.

⁵⁷⁹ TRC Report, Vol 5 Ch. 6, Findings and Conclusions, p 212

⁵⁸⁰ Exhibit G75, para 13.

⁵⁸¹ Exhibit G75, para 21.

⁵⁸² line 1; 2021 consolidated transcript bundle page 2103

217 Torture was a routine method of extracting information from detainees, for the SB, from at least as early as 1963. Dutton confirmed this with his interviews with several detainees.⁵⁸³ The methods of torture he recorded from these interviews included:

217.1 physical assault,

217.2 forced long periods of standing on one spot,

217.3 suffocation by placing a bag over the head,

217.4 strangulation,

217.5 holding heavy objects above the head or with arms outstretched,

217.6 forced exercises such as push-ups and frog-jumps,

217.7 sleep deprivation,

217.8 electrical shocks,

217.9 assuming difficult body positions (the imaginary chair),

217.10 suspending victims in painful positions (the aeroplane),

217.11 solitary confinement, and

217.12 derogatory and degrading treatment.

218 Dutton noted that between 1963 and 1990, at least 73 political detainees are known to have died in security detention. Families had considerable difficulties

⁵⁸³ Exhibit G37, paras 29 to 30.

in investigating the deaths of their loved ones in detention since they were held in conditions of total secrecy without access to lawyers and private doctors.⁵⁸⁴

Shortcomings in the police investigation into the death of Aggett

219 According to Dutton the investigation into Aggett's death fell considerably short of an acceptable standard.⁵⁸⁵ Dutton suggested a competent investigation involves:

219.1 Investigators being independent and as impartial as reasonably possible.

219.2 Collecting and preserving all available evidence and presenting same to the inquest court. This includes the following steps:

219.2.1 All potential witnesses must be interviewed, their affidavits obtained, and they must be made available to the court.

219.2.2 There must be a thorough crime scene or incident investigation.

219.2.3 All relevant material evidence must be collected, logged, and preserved.

220 In Dutton's view the police investigation failed on all these counts. He pointed out the following:

220.1 At the time the investigation commenced it was clear that the investigators had already adopted the view that Aggett had committed

⁵⁸⁴ Exhibit G37, para 33 and 36
⁵⁸⁵ Exhibit G37, para 39.

suicide. This fell short of the required level of impartiality which requires an open mind as to the cause of death.⁵⁸⁶

220.2 The selected investigator was Captain Carel Victor. He was attached to the Detective Branch at John Vorster Square and was unlikely to act independently in the face of senior officers such as Brigadiers Rooi Rus Swanepoel and Hennie Muller who were overseeing the investigation of this case.⁵⁸⁷

220.3 Brigadier Theunis Jacobus Swanepoel, known as 'Rooi Rus' was at the time of Aggett's death the Divisional Inspector of the Witwatersrand Division of the SAP. He took charge of the death scene in cell 209 in the early hours of 5 February 1982. Swanepoel was one of the most notorious police officers in the erstwhile SAP. He interrogated Suliman "Babla" Saloojee on the day he fell to his death from the 7th floor of Greys Building in Johannesburg on 9 September 1964. He also interrogated James Lenkoe on the day Lenkoe allegedly hanged himself in March 1969.⁵⁸⁸

220.4 Brigadier Hennie Muller who served as the Divisional Commander of the Security Branch in Johannesburg, at the time of Dr Aggett's death, was closely associated with criminality, including abductions, torture, and murder.⁵⁸⁹ For example, the TRC found that Lieutenant H C Muller (as he then was) was one of the officers responsible for assaulting and

⁵⁸⁶ Exhibit G37, para 41.

⁵⁸⁷ Exhibit G37, para 41.

⁵⁸⁸ See exhibits G15 to 15.7 for background on Rooi Rus Swanepoel; exhibit G37, para 42.

⁵⁸⁹ Exhibit G37, para 25 – 25.3.

torturing Suliman Saloojee in 1964, who fell to his death from the 7th floor of Security Branch Headquarters in Johannesburg.⁵⁹⁰

221 Dutton concluded that the crime scene investigation broke virtually every rule of basic investigation and amounted to little more than a cover-up.⁵⁹¹ These aspects will be dealt with in detail in the section dealing with the 'Cover-up' below.

222 Dutton testified that Aggett's death should have triggered a disciplinary inquiry into he came to be in alleged possession of a kikoi in his cell. Police standing orders and/or protocols⁵⁹² prohibited the police from permitting a detainee to possess an object which could be used to inflict self-harm or harm others. This applied to a kikoi as not even towels were allowed in the cells. No disciplinary inquiry was instituted.⁵⁹³ Further, no cell checks were conducted between 23h00 on 4 February 1982 and 01h30 on 5 February 1982, which happened to be the period in which Aggett died, and a false entry was made in the occurrence book. Both this omission and falsification were serious disciplinary offences and in respect of the false entry in an official register also a criminal offence.⁵⁹⁴

223 In Dutton's view the conduct of Sergeant Blom (now Visser) in immediately informing the suspects of complaints of assault against them (such as Whitehead) before she was ready to take a warning statement from them was reckless and grossly improper.⁵⁹⁵

⁵⁹⁰ TRC Final Report, Page (Original) 540, Vol 3, Ch. 6, Subsection 7, para 54

⁵⁹¹ Exhibit G37, para 44 – 44.10.

⁵⁹² See for example the 1978 SAP circular regarding treatment of detainees in terms of security legislation at G11.2. English translation at G11.1.

⁵⁹³ Exhibit G37, para 45.1.

⁵⁹⁴ Exhibit G37, para 45.2.

⁵⁹⁵ Exhibit G37, para 50.

224 Dutton gave evidence on his interaction with former SB officer, Eddie Chauke on 4 November 2015. Chauke was part of the Aggett interrogation team and was present at his last interrogation on 4 February 1982. Chauke told Dutton that Whitehead had been angry with Aggett for opening an assault case against him. In a rage Whitehead tore Aggett's statement into pieces (the statement that Aggett had been working on for weeks). Whitehead exclaimed that it was all lies and that they would now get the truth out of him. Aggett was downcast as he had hoped to be released soon.⁵⁹⁶

225 According Dutton, Chauke told him further that the last time he saw Aggett alive was at 3pm on 4 February 1982 when he took him back to the cells and he was visibly upset and depressed. Chauke also said that it was the intention of Whitehead, as well as other white members of the interrogation team, to resume the interrogation of Aggett later that night. Dutton denied offering Chauke any money or compensation.⁵⁹⁷

226 Dutton concluded that the version put up by the Security Branch before the first inquest amounted to a fabrication.⁵⁹⁸ He concluded further that the investigation into the death of Aggett amounted to a cover-up designed to conceal the abuse and torture of Aggett and the conduct of the SB in relation to his death.⁵⁹⁹ These aspects will be dealt with in detail in the section of these heads dealing with the "Cover-up".

⁵⁹⁶ Exhibit G37, para 52 – 52.2.

⁵⁹⁷ Exhibit G37, para 52.3 – 53.

⁵⁹⁸ Exhibit G37, para 54 – 58.6.11.

⁵⁹⁹ Exhibit G37, para 59 – 62.

Security Branch officers

227 The evidence of former SB officers who testified in the Reopened Inquest during 2020 and 2021 is considered in this section.

Nicolaas Deetlefs⁶⁰⁰

Career

228 Nicolaas Johannes Deetlefs (Deetlefs) a former Detective Warrant Officer stationed at the SB in Johannesburg interrogated Aggett on the evening of 30 January 1982.⁶⁰¹

Interactions with Aggett

229 In his evidence in chief, Deetlefs says that on the evening of 30 January 1982 Aggett was "relaxed".⁶⁰² Deetlefs took note of everything Aggett said, as Aggett he out his statement.⁶⁰³ Deetlefs states that after Aggett had finished his statement, Deetlefs, read it, but cannot recall what was disclosed.⁶⁰⁴ He claims to remembers an agitated Aggett jumping up from the table saying Theron was responsible for the labour unrest and he could not forgive himself for having

⁶⁰⁰ 1982 transcript at A6.3, p2056-2088; 982 affidavit at B8.46; police file at FGK 13(6). Handwritten unsigned statement / notes by Deetlefs given to Torie Pretorius in 2018 at G36. Page from Deetlefs personnel file missing from FGK13(6) at G40. Affidavit signed on 17 February 2020 at K1. Case books at K3. Testimony in 2020 consolidated transcripts at p 2424 – 2827. He testified from 17 to 20 February 2020.

⁶⁰¹ 2020 consolidated transcript bundle page 2449

⁶⁰² 2020 consolidated transcript bundle page 2449

⁶⁰³ 2020 consolidated transcript bundle page 2453

⁶⁰⁴ 2020 consolidated transcript bundle page 2456

betrayed Theron.⁶⁰⁵ Deetlefs claim to say to Aggett, rather improbably, that he need not write in his statement what he said about Theron. Deetlefs alleged that this brought big relief to Aggett.⁶⁰⁶ Deetlefs claimed to write down the name Theron in his notebook.⁶⁰⁷ It is noted that Deetlefs did not mention the name Theron in the evidence he gave in 1982.

Raising Aggett's suicide risk

230 Deetlefs testified that Lt Whitehead and Lt Joseph Petrus Woensdregt (SB officer at JVS) (Woensdregt) went out to a function the evening of Saturday, 30 January 1982. On their return Deetlefs says he told Whitehead and Woensdregt that Aggett was a suicide risk,⁶⁰⁸ He claimed to give his notes and the statement made by Aggett to Whitehead on his return from the function.⁶⁰⁹ On Monday, 1 February 1982, Deetlefs claimed to be present with Aggett while Whitehead allegedly sent a telex to SB Headquarters.⁶¹⁰

231 Deetlefs said that Whitehead and Woensdregt never gave him the particulars of the function⁶¹¹ they attended, but believed they may have been to a party.⁶¹² Deetlefs testified that Whitehead told him never to mention the function and he again warned Whitehead that Aggett was a suicide risk.⁶¹³ Deetlefs hid these facts from the 1982 inquest.⁶¹⁴

605 2020 consolidated transcript bundle pages 2456 to 2459
606 2020 consolidated transcript bundle page 2459
607 2020 consolidated transcript bundle page 2460
608 2020 consolidated transcript bundle page 2462
609 2020 consolidated transcript bundle page 2463
610 2020 consolidated transcript bundle pages 2463 and 2464
611 2020 consolidated transcript bundle page 2500
612 2020 consolidated transcript bundle page 2446
613 2020 consolidated transcript bundle page 2465
614 2020 consolidated transcript bundle page 2466

Awareness of the treatment of detainees

232 Under cross examination by the Aggett family counsel, Deetlefs at first claimed never to have seen or witnessed electric shocks being administered to detainees. He also claimed that he did not know who was involved in torturing detainees with electric shocks. Counsel for the Aggett family put it to him that he was providing manifestly false evidence to the court.⁶¹⁵

233 After long denying that assaults and torture took place at JVS, Deetlefs finally admitted that they did take place on the 10th Floor. He confirmed he heard detainees crying out in pain.⁶¹⁶ He knew assaults and torture took place on the 10th floor. However, he took no steps to stop the abuse. There were so many offices on the 10th floor so he could not tell precisely who was doing the torture.⁶¹⁷ Adv Varney put it to Deetlefs that he collaborated with his colleagues to cover up the assault and torture.⁶¹⁸ Deetlefs admitted to this.⁶¹⁹ He admitted that each cover-up was an offence.⁶²⁰

SB Culture

234 Deetlefs admitted that the evidence of SB officers must be treated with caution, since cover-ups were practiced by the SB.⁶²¹ Adv Varney showed Deetlefs Exhibit B8.46 (his 1982 affidavit) and referred him to paragraph 4: "*Neil Aggett is*

⁶¹⁵ 2020, consolidated transcript bundle page 2541 – 2542, and 2543.

⁶¹⁶ 2020 consolidated transcript bundle page 2492

⁶¹⁷ 2020 consolidated transcript bundle pages 2493 and 2494

⁶¹⁸ 2020 consolidated transcript bundle page 2496

⁶¹⁹ 2020 consolidated transcript bundle page 79.

⁶²⁰ 2020 consolidated transcript bundle page 2496

⁶²¹ 2020 consolidated transcript bundle page 2498

nie deur my of enige van die offisiere aangerand of mishandel nie." Deetlefs confirmed his statement.⁶²² Incredulously, Deetlefs stated he only found out about Aggett's complaint to Blom in the Daily Maverick in 2019.⁶²³

235 Deetlefs claimed he would have reported to his commanding officer, Major Cronwright, if he feared a detainee might die, but did not do so in respect of Aggett because Whitehead told him not to.⁶²⁴ He later stated that he did subsequently report Aggett's condition to Cronwright.⁶²⁵ Deetlefs also claimed he said to Cronwright and Whitehead that Aggett should be taken to a psychiatric hospital.⁶²⁶

236 In cross examination, Adv Varney put it to Deetlefs that this means Cronwright, Whitehead and Deetlefs, and perhaps others, conspired to keep this from the first inquest.⁶²⁷ Deetlefs admitted that there was such a conspiracy but said he did not know about Cronwright's participation.⁶²⁸

237 Deetlefs admitted to hearing of electric shock treatment at JVS.⁶²⁹ He confirmed that electric shock treatment was done to detainees and it happened a lot.⁶³⁰ He could not say which SB officers used electric shock treatment.⁶³¹ Deetlefs

622 2020 consolidated transcript bundle page 2502
623 2020 consolidated transcript bundle page 2503
624 2020 consolidated transcript bundle page 2509
625 2020 consolidated transcript bundle page 2510
626 2020 consolidated transcripts page 2648
627 2020 consolidated transcript bundle pages 2518
628 2020 consolidated transcript bundle page 2518
629 2020 consolidated transcript bundle page 2536
630 2020 consolidated transcript bundle page 2538
631 2020 consolidated transcript bundle page 2541

admitted that one of the 13 methods taught in interrogation involved the use of force.⁶³²

238 Adv Varney showed Deetlefs exhibit B8.55, the complaint of assault to Sgt Blom by Aggett.⁶³³ Deetlefs denied knowledge of the ordeal during the night of 29 January 1982 of which Aggett complained.⁶³⁴ In his affidavit Deetlefs referred to seeing Aggett on the morning of 30 January 1982. Under cross-examination he said he saw him at 6pm on 30 January 1982 for the first time.⁶³⁵

239 Deetlefs claimed that Aggett appeared to have had a peaceful night, sleeping normally in his cell.⁶³⁶ Varney put it to Deetlefs that he was lying under oath.⁶³⁷

Deetlefs' Interrogation practices

240 Deetlefs indicated that his interrogation tactic was to make a detainee feel at ease,⁶³⁸ and claimed that he had good relations with many detainees.⁶³⁹ Since Deetlefs claimed, unconvincingly, that he was on good terms with Aggett, Varney enquired: "*you were on friendly first name terms yet he did not tell you he had been shocked the night before,*" to which his answer was no.⁶⁴⁰

⁶³² 2020 consolidated transcript bundle page 2548

⁶³³ 2020 consolidated transcript bundle page 2562

⁶³⁴ 2020 consolidated transcript bundle pages 2562 to 2564

⁶³⁵ 2020 consolidated transcripts page 2564

⁶³⁶ 2020 consolidated transcripts page 2565

⁶³⁷ 2020 consolidated transcripts p 2545 and 2565.

⁶³⁸ 2020 consolidated transcripts page 2573

⁶³⁹ 2020 consolidated transcripts page 2579

⁶⁴⁰ 2020 consolidated transcripts page 2566

241 Deetlefs claimed that he had found, through trial and error, that force did not work.⁶⁴¹ Deetlefs admitted under cross examination that early in his career he used force, and conceded that he might have 'klapped' detainees on the face, but not the ears.⁶⁴²

Alleged Aggett disclosures

242 Deetlefs claimed that during his interrogation of Aggett he admitted to crimes regarding his union activity.⁶⁴³ Deetlefs alleged that Aggett recorded this admission in his statement.⁶⁴⁴ Deetlefs recounted his story of Aggett jumping up from the table in great agitation, but in this version of the story he dropped the nicety of allowing Aggett to exclude Theron's name from the statement. Instead he claimed, also falsely, that Aggett asked whether he could record Deetlefs' name in the statement as the person to whom he had made the admission.⁶⁴⁵

243 Deetlefs claimed that he gave the unsigned statement (7 or 8 pages) he took from Aggett and his notes to Whitehead.⁶⁴⁶ Deetlefs stated he was satisfied on the basis of Aggett's disclosures that the police had a basis to act against Theron⁶⁴⁷ since he was sabotaging the economy which was almost high treason.⁶⁴⁸ Deetlefs also falsely stated that Aggett implicated Auret van Heerden and many others.⁶⁴⁹

641 2020 Consolidated transcripts page 2574

642 2020 consolidated transcripts page 2575

643 2020 consolidated transcripts page 2582

644 2020 consolidated transcripts page 2582

645 2020 consolidated transcripts page 2590

646 2020 consolidated transcripts pages 2620 to 2621

647 2020 consolidated transcripts pages 2622

648 2020 consolidated transcripts pages 2634.

649 2020 consolidated transcripts page 2637

244 It was put to Deetlefs, that assuming Aggett had disclosed incriminating or damaging information against Jan Theron, Oscar Mpetha and Auret van Heerden, the SB would act against them. He replied in the affirmative but when asked what had action had been taken, he did not know.⁶⁵⁰ It was put to Deetlefs that in fact no action had been taken against them arising from any information gleaned in the interrogation of Aggett. Deetlefs, implausibly, suggested that the lack of action may have been due to shortage of “manpower” in the police.⁶⁵¹

Duty of care

245 Deetlefs admitted that as a police officer he was under a legal duty to protect the wellbeing and lives of detainees under his control, such as Dr Aggett.⁶⁵² He also agreed with counsel for the Aggett family that Whitehead and Cronwright ought to have taken steps to prevent the suicide of Aggett but failed to do so. It was put to Deetlefs that he could have easily brought this to the attention of WO Macpherson, who had an office on the 10th floor, and who could then have taken steps to monitor and safeguard Aggett. Deetlefs claimed that he might have chatted to “Mac” but when it was pointed out to him that this would have appeared in one of his statements, he retracted the suggestion.⁶⁵³ It was also put to him that a few of the cells on the 2nd floor were ‘suicide proof’ in that the grilles were covered in perspex, he claimed to be unaware of this.⁶⁵⁴

⁶⁵⁰ 2020 consolidated transcripts page 2630

⁶⁵¹ 2020 consolidated transcripts page 2630 - 2643

⁶⁵² 2020 consolidated transcripts pages 2479 and 2665.

⁶⁵³ 2020 consolidated transcripts page 2664.

⁶⁵⁴ 2020 consolidated transcripts page 2630 - 2643

- 246 It was put to Deetlefs that the failure to take steps to prevent a suicide, when you knew that it was likely to happen, amounted to murder. It was specifically put to him that in agreeing to cover up the failure to prevent the suicide, and withholding this evidence from the first inquest court, made him an accessory after the fact to murder.⁶⁵⁵
- 247 Varney put it to Deetlefs that his claim that he had to withhold this evidence and lie to the first inquest court, because he was under pressure and there were SB members in the gallery, was a fabrication. It was put to him that that in fact he was a willing participant in the cover-up and accordingly had nothing to fear from his colleagues.⁶⁵⁶
- 248 When asked why he had not gone to the TRC to come clean about his role in the Aggett case and apply amnesty for amnesty he claimed not to know how to use the procedures of the TRC.⁶⁵⁷
- 249 Deetlefs made the breath-taking claim that Dr Aggett preferred sleeping in a 10th floor interrogation room than his cell because “the atmosphere was nicer”. Counsel for the Aggett family put it to him that he was again lying under oath.⁶⁵⁸

Aggett written statement

⁶⁵⁵ 2020 consolidated transcripts page 2665.

⁶⁵⁶ 2020 consolidated transcripts page 2660 - 2664.

⁶⁵⁷ 2020 consolidated transcripts page 2668-9.

⁶⁵⁸ 2020 consolidated transcripts page 2672.

250 Deetlefs confirmed that the “four pages” written by Aggett that night were so “incredibly sensitive” that national security demanded that privilege be claimed, and they were accordingly withheld from the first inquest court.⁶⁵⁹ Since he agreed that in 2020 such legal privilege no longer applied, he was asked what was in the four pages and he responded:

*“I would lie, I would have to lie if I have to tell you what was contained in those pages.”*⁶⁶⁰

251 Deetlefs agreed that, as a matter of logic, the four pages had to be different to what was already contained in Aggett’s earlier statements, otherwise there would have been no point in not disclosing it. Wishing to take credit for the supposed breakthrough, Deetlefs suggested that the police officers who took the earlier statements were inexperienced since what they failed to extract from Aggett in several months he managed to get in one night.⁶⁶¹

252 Deetlefs claimed not to remember the contents of this supposedly explosive statement.⁶⁶² He speculated that it may contain sensitive names, activities and crimes linked to the ANC and SACTU. Counsel for the Aggett family put it to Deetlefs that the reason he could not remember the contents was because the four pages never existed. It was a fabrication concocted by the SB since in fact Aggett had disclosed no illegality and no crimes. The SB simply wished to prop

⁶⁵⁹ 2020 consolidated transcripts page 2672-3.

⁶⁶⁰ 2020 consolidated transcripts page 2673.

⁶⁶¹ 2020 consolidated transcripts page 2674 – 6.

⁶⁶² 2020 consolidated transcripts page 2677

up its suicide theory to the Court by giving the impression that they were sitting on so much more that Aggett given away on his friends and comrades.⁶⁶³

Claim of telex to head office

253 Another claim made by Deetlefs, that emerged in his application for medical boarding, was that on the Monday morning, 1 February 1982, Whitehead was in his office with Aggett preparing to send a telex to head office on the basis of the four pages, when he was called in by Whitehead to clarify a few matters.⁶⁶⁴ During this time, he claimed that Aggett said in the presence of himself and Whitehead that he does not wish to live anymore. Deetlefs claimed that Whitehead had no response to this startling statement.⁶⁶⁵

254 Since this was now the second time that Deetlefs had heard Whitehead speak in such terms it was put to him that “*alarm bells must have been ringing*” to which, he agreed. When asked what he did about it Deetlefs said he went to Cronwright who was “cool and took note”. Varney then asked why he did not speak to the officer in charge of the 2nd floor cells or report the matter to the Inspector of Detainees or a doctor. He responded that he “did not do anything about it” because he expected his commander to do something. He knows that Whitehead and Cronwright did nothing and accepts that if something had been done, Aggett might be alive today.⁶⁶⁶

⁶⁶³ 2020 consolidated transcripts page 2676 – 7

⁶⁶⁴ 1982 Consolidated Transcripts at 1023-4, testimony of AB Cronwright.

⁶⁶⁵ 2020 consolidated transcripts page 2680 – 3.

⁶⁶⁶ 2020 consolidated transcripts page 2683 – 4.

255 It was put to Deetlefs that his story about the telex was yet another fabrication by the Security Branch. It was designed to give the first inquest court an explanation for the suicide.⁶⁶⁷ Indeed, Magistrate Kotze made specific reference to the telex in his finding.⁶⁶⁸

Treatment of Barbara Hogan and other detainees

256 Deetlefs admitted to assaulting Barbara Hogan on 22 October 1981 and threatening her with electric shots.⁶⁶⁹ He also admitted to abusing other detainees. He claimed quite unconvincingly that between 22 October 1981 and 30 January 1982, when he interrogated Aggett, he had undergone a metamorphosis and made the transition from violent to non-violent methods of interrogation.⁶⁷⁰

SB Cover up

257 In explaining what he meant by the statement in his affidavit “*we had to stand together and cover each other in order to protect the Security Branch*” Deetlefs admitted under cross examination that this included cover-ups on a routine basis, involving the fabrication of evidence and lying under oath before courts.⁶⁷¹ However, he then backtracked and claimed that he only lied under oath in the

⁶⁶⁷ 2020 consolidated transcripts page 2685

⁶⁶⁸ See points 5 and 6 of the judgment at p 3694 of the 1982 Consolidated Transcripts.

⁶⁶⁹ 2020 consolidated transcripts page 2688

⁶⁷⁰ 2020 consolidated transcripts page 2688

⁶⁷¹ Oral testimony of NJ Deetlefs on 18 February 2020, page 137, lines 7 and 2020 24, consolidated transcripts page 2692

first Aggett Inquest and nowhere else, prompting Varney to put it to him that his evidence on this score was so improbable it had to be false.⁶⁷²

258 Finally, it was put to Deetlefs that in the reopened inquest he had persisted with the cover-up as to what happened to Aggett and withheld the full truth. He denied this. Counsel for the family put to Deetlefs that the question to be answered was what he was covering up. It was put to him that he was covering up the abuse, assault, and torture of Aggett and/ or the murder of Aggett.⁶⁷³

Martin Johan Naude⁶⁷⁴

259 Martin Johan Naude retired as a brigadier in 2009.⁶⁷⁵ In 1982 his rank was Captain. He was stationed at the SB in East London and specialised in ANC matters.⁶⁷⁶

260 Naude was sent to the SB at JVS on 26 October 1982, where he was charged with investigating the activities of trade unions inside and outside of South Africa.⁶⁷⁷ Brigadier Muller, head of the SB Witwatersrand Division sent a request to all provinces for assistance in an investigation that could be the biggest treason trial in the history of the country, as they were short on human resources. He and Capt. Olivier, who were both experts on labour matters,⁶⁷⁸ were

⁶⁷² 2020 consolidated transcripts page 2693

⁶⁷³ 2020 consolidated transcripts 2694 to 2695

⁶⁷⁴ 1982 transcript at A5.3, p1713 - 1794; 1982 affidavit at B1.2; 1982 unsworn statement at B8.1; police personnel file at FGK13(7); amnesty decisions at G49 and G50 2021 consolidated transcript at p 28 – 404; no affidavit in 2021. He testified from 18 to 20 January 2021

⁶⁷⁵ 2021 consolidated transcripts page 30 line 12

⁶⁷⁶ 2021 consolidated transcripts page 29 line 21 and page 30 line 8

⁶⁷⁷ Exhibit B1.2 para 1; 2021 consolidated transcripts page 31 line 20

⁶⁷⁸ 2021 consolidated transcripts page 31 line 18

seconded to Johannesburg.⁶⁷⁹ They were required to obtain a statement from Barbara Hogan and then return to East London.⁶⁸⁰

261 Naude said he was supposed to convert the Hogan information into a written statement and commence with the investigation in East London but that this never materialised.⁶⁸¹ It turned out that in terms of the actual interrogations of Hogan he was only an observer.⁶⁸²

262 When Naude arrived in Johannesburg he found it difficult to identify his role. He felt like a 'reserve in a football match'. Naude did not know anyone at JVS and had not worked in Johannesburg before. He was not paired with another SB member until he interrogated Aggett.⁶⁸³

263 Naude indicated that he was essentially running two jobs between East London and Johannesburg.⁶⁸⁴ He cannot recall ever going to the second-floor cells at JVS.⁶⁸⁵

Interactions with Aggett:

264 Naude met Aggett for the first time on 15 December 1981 on the tenth floor when he commenced his interrogation of Aggett. Cronwright, who was his commanding officer in Johannesburg, did not brief him with anything specific in preparation for

⁶⁷⁹ 2021 consolidated transcripts page 31 line 4
⁶⁸⁰ 2021 consolidated transcripts page 32 line 1-10
⁶⁸¹ 2021 consolidated transcripts page 70 line 19
⁶⁸² 2021 consolidated transcripts page 68
⁶⁸³ 2021 consolidated transcripts page 36 line 1
⁶⁸⁴ 2021 consolidated transcripts page 36 line 20
⁶⁸⁵ 2021 consolidated transcripts page 42 line 16

the interrogation. He was told that railway policeman, Van Schalkwyk, would sit in.⁶⁸⁶ Naude was given files to peruse for the interrogation of Aggett and he noticed that Aggett was being monitored by Whitehead before his arrest.⁶⁸⁷

265 On 15 December 1981 he explained to Aggett the reason for his detention and gave him some background information about himself.⁶⁸⁸ Naude said Aggett made no complaints to him during the interrogation.⁶⁸⁹

266 Naude requested Aggett to make a statement and he was given pen and paper to do this. Naude read what Aggett had written and where he was satisfied with progress, he would allow Aggett to begin writing on the next topic. The final version of the handwritten statement was typed. Each day Aggett would date and sign his handwritten notes and Naude would take it to his office and keep it in a file.⁶⁹⁰ During his interrogations of Aggett, he was never alone with him.⁶⁹¹

267 Naude also interrogated Aggett on 17, 21, 22 and 23 December 1981.⁶⁹² On 23 December 1982 Naude was told to go to Bronkhorspruit to interview Liz Floyd and work with her on her statement. Naude observed that she wasn't coping well with detention and told her what she was up against.⁶⁹³

⁶⁸⁶ 2021 consolidated transcripts page 38 line 4 -20
⁶⁸⁷ 2021 consolidated transcripts page 39 line 1
⁶⁸⁸ 2021 consolidated transcripts page 39 line 14
⁶⁸⁹ 2021 consolidated transcripts page 42 line 1
⁶⁹⁰ 2021 consolidated transcripts page 46 line 20
⁶⁹¹ 2021 consolidated transcripts page 45 line 3
⁶⁹² 2021 consolidated transcripts page 69 line 9
⁶⁹³ 2021 consolidated transcripts page 56 line 10

268 Thereafter Naude went home to East London and returned on 4 January 1982.⁶⁹⁴

When Naude went on leave other SB interrogators in Johannesburg continued with Aggett in his absence.⁶⁹⁵

269 Only upon Naude's return to JVS on 4 January 1982 did he realise that the interrogation of Aggett had continued in his absence.⁶⁹⁶ Whitehead informed him that that they had completed the interrogation of Dr Aggett in my absence and once he had finalised the statement and he must go home.⁶⁹⁷

270 When Naude returned from leave on 4 January 1982 he saw Aggett in an office on the 10th floor and he looked '*verflentered*' (tattered). Naude observed him to always be neat and tidy and someone who took pride in himself. Aggett was going to receive a visit from his parents and had attempted to cut his beard with a pair of small scissor.⁶⁹⁸ Despite this, Naude said Aggett had no injuries or complaints, and he did not notice anything out of the ordinary.⁶⁹⁹

271 Upon his return Naude considered Aggett's interrogation complete and wanted to have his statement typed.⁷⁰⁰ Naude worked with Aggett on his statement from 5 January 1982 until 9 January 1982. In the morning of 9 January 1982 Whitehead told him to finalise it and return to East London. Naude indicated that he was not finished but Whitehead said he could go and so Naude left that

⁶⁹⁴ 2021 consolidated transcripts page 43 line 10

⁶⁹⁵ 2021 consolidated transcripts page 50 line 25

⁶⁹⁶ 2021 consolidated transcripts page 52 line 23

⁶⁹⁷ 2021 consolidated transcripts page 54 line 20

⁶⁹⁸ 2021 consolidated transcripts page 53-54

⁶⁹⁹ 2021 consolidated transcripts page 56 line 19

⁷⁰⁰ 2021 consolidated transcripts page 57 line 9

morning. Naude indicated that his relationship with Cronwright had soured and since he was not happy in Johannesburg, he was keen to leave.⁷⁰¹

272 Naude noted that he "*could not find anything that gave me the slightest indication that we are proceeding or that we will ever get to a stage where this group if I can call it that will be charged for the biggest treason trial that this country has ever seen.*"⁷⁰²

273 Importantly, in cross-examination Naude conceded that "*they had a hidden agenda M'Lord. There is no doubt about that and I realised that yesterday for the first time when I looked at 10 the note when Advocate Varney was asking me about the dates and I saw for the first time ever that they shunted me off on the 23rd to Bronkhorstspuit to Dr Floyd and on that day he was subjected. I can make no other conclusions, they did not want me there.*"⁷⁰³

274 He testified that while at JVS, White head never have him any trump cards to assist with his interrogation of Aggett,⁷⁰⁴ and indicated under cross-examination that if it were up to him, he would have seriously considered Aggett's release at the time.⁷⁰⁵ Naude admitted that Aggett made it clear he was not a supporter of the ANC⁷⁰⁶ and he did not think Aggett lied to him.⁷⁰⁷ Naude agreed under cross

⁷⁰¹ 2021 consolidated transcripts page 62 line 24 to 64 line 6

⁷⁰² 2021 consolidated transcripts page 63 line 22

⁷⁰³ 2021 consolidated transcripts page 309 line 8

⁷⁰⁴ 2021 consolidated transcripts page 221 line 1

⁷⁰⁵ 2021 consolidated transcripts page 234 line 20

⁷⁰⁶ 2021 consolidated transcripts page 265 line 24

⁷⁰⁷ 2021 consolidated transcripts page 277 line 2

examination that being a sympathiser of an organisation does not mean that one is a member, as was the case with Aggett and the ANC.⁷⁰⁸

275 Naude agreed that the completion of a statement by a detainee was seen as a possible 'passport to freedom' but indicated that this was not his decision but that of Cronwright and others. Naude stated that If he had been able to complete Aggett's statement, there would have been no need to move to the next phase of his interrogation and he might have still been alive.⁷⁰⁹ Naude conceded that to keep someone in detention without cause was a violation of rights.⁷¹⁰

276 Under cross examination, Naude was informed that the Inspector of Detainees visited JVS on 4 and 6 January 1982 and that Aggett was not available to see him. Naude responded that he was not notified beforehand about the visit and expressed surprise. He said had he known he would have made Aggett available.⁷¹¹

277 Naude testified that he never assaulted Aggett⁷¹² and he did not witness Aggett being assaulted.⁷¹³ Naude said that he never witnessed the torture of detainees but accepted that he was not at JVS for a long time and did not know the officers there very well.⁷¹⁴ However, Naude conceded that sleep and food deprivation as well as prolonged standing were forms of torture.⁷¹⁵

708 2021 consolidated transcripts page 283 line 1

709 2021 consolidated transcripts page 313 line 9

710 2021 consolidated transcripts page 304 line 18

711 2021 consolidated transcripts page 239 line 8

712 2021 consolidated transcripts page 164 line 5

713 2021 consolidated transcripts page 227 line 20

714 2021 consolidated transcripts page 169 line 5

715 2021 consolidated transcripts page 166 line 5

- 278 In answer to Advocate Varney's submission that there was a pattern of abuse that took place at the time, Naude said that torture methods were not a recipe, but " they were part of the day and the incidents as such and the fact that the detainees were tortured etcetera, etcetera, the answer will be yes."⁷¹⁶
- 279 Naude was made aware of WO Deetlefs claim that Aggett made a 4-page confession to him, but the 4 pages were not disclosed at the 1982 inquest and have never seen the light of day. Advocate Varney put it to Naude that the 4 pages were a fabrication of the SB.⁷¹⁷ Naude commented that he was not in a position to comment on its existence as he never saw it but that if the pages did exist they should have been made available⁷¹⁸
- 280 Advocate Varney put to Naude that it was the approach of the security branch to cover up crimes that they and members were personally involved in and, where necessary, to manipulate and massage evidence and mislead courts of law. Naude conceded that this has now been proven and he was not able to dispute it.⁷¹⁹

Interrogation of Barbara Hogan

- 281 Naude admitted to raising his voice at Barbara Hogan,⁷²⁰ attributing it to frustration,⁷²¹ but claimed that he never assaulted her.⁷²²

⁷¹⁶ 2021 consolidated transcripts page 244 line 18 to 245 line 20

⁷¹⁷ 2021 consolidate transcripts page 314 line 11

⁷¹⁸ 2021 consolidated transcripts page 315 line 1 and 317 line 17

⁷¹⁹ 2021 consolidated transcripts page 327 line 14 to page 328

⁷²⁰ 2021 consolidated transcripts page 342 line 15

⁷²¹ 2021 consolidated transcripts page 343 to 344

⁷²² 2021 consolidated transcripts page 336 line 7

282 Naude denied knowledge of the incident on 14 November 1981 where Hogan alleges that Struwig, Deetlefs, Olivier and Naude were in a bad mood and took her to Vanderbijlpark screaming and shouting at her and she was made to sit under the table and answer questions from there. She was also told her friend Alan Fine had died, which was false.⁷²³

283 Naude denied knowledge of Hogan's complaint of being deprived of sleep and food, and denied that she was threatened with prolonged interrogation.⁷²⁴ He further denied that he abused her or threatened her with assault.⁷²⁵ He admitted that he would frequently shout at her.⁷²⁶

TRC Application and Amnesty

284 Naude applied for amnesty at the TRC for his part in a matter relating to the setting up of a so-called "DLB" ("Dead Letter Box") during March 1988 in or near Krugersdorp. This involved the planting of arms and ammunition on the premises of a disused mine. It was done to create the impression that it was an arms cache established by a liberation movement, to justify a planned cross-border raid into Botswana. The arms were transported from Pretoria to Krugersdorp by Naude and another.⁷²⁷

285 His application for amnesty was successful. At the time of the incident he was the commander of C2, and he advised that his duties were mainly to carry out

⁷²³ 2021 consolidate transcripts pages 337 - 338

⁷²⁴ 2021 consolidated transcripts 340 -341

⁷²⁵ 2021 consolidated transcripts page 341 line 9

⁷²⁶ 2021 consolidated transcripts page 341 line 7

⁷²⁷ Exhibit G49

research on members that left South Africa who were coming back into the country. He would then create a 'terror album' of these individuals.⁷²⁸

286 Naude was adamant that he had not committed any other criminal acts for which amnesty was warranted,⁷²⁹ but he was confronted with the following in cross-examination:

286.1 Extra judicial killings carried out by, *inter alia*, C2 operatives in areas adjacent to the borders of South Africa were the end result of process of operationally directed intelligence collection on targeted individuals, all three primary Security Intelligence Arms, National Intelligence Service (NIS), Section C2 of the Security Branch.⁷³⁰ This was the work that Naude did in C2 (Exhibit G58 page 288). Naude responded that he found it difficult to understand how he could be found accountable for the providing of information (as head of the C2 research unit) on which the actions of C1 were based.⁷³¹

286.2 C2 was a subdivision of C1 and Brig. Schoon said at the TRC: “*Sometimes I would, Col, de Kock on short notice would approach me to accompany them and if I could not get hold of Naude, I would at a later stage inform him about it*”⁷³² It was put to Naude that he was aware, informed and okayed operations and therefore had knowledge of criminal activity perpetrated by C2. Naude indicated that his view was

⁷²⁸ 2021 Consolidated transcripts page 391

⁷²⁹ 2021 consolidated transcripts page 352 line 1

⁷³⁰ 2021 consolidated transcripts page 374 line 11 to line 23

⁷³¹ 2021 consolidated transcripts page 375 to 376

⁷³² 2021 consolidated transcripts page 383 line 18

that there was a big difference between his involvement in Krugersdorp and these events as he was not involved and did not plan them – all he did was give information that superiors like de Kok would ask for.⁷³³

286.3 Adv Varney gave further examples of the killings of Thami Zulu, the Chand family, and Glory Sedibe, which were before the TRC, and highlighted that C1 intelligence was used to commit extra judicial killings.⁷³⁴

287 Naude's overall response in relation to his work at C2 was that he did not structure the operations himself. He gave a product to somebody and they then "executed the product in their wisdom."⁷³⁵

288 *Interaction with Advocate Torie Pretorius and Captain Ben Nel*

289 Naude indicated under cross-examination that Captain Nel contacted him on 7 November 2017 and told him that the inquest had been re-opened and they wanted to meet with him. Then on 11 April 2018 he received a call from Advocate Pretorius asking if he could consult with him. He was nearby so he went to see Pretorius and Nel.

290 During this discussion he was advised that the Aggett docket had disappeared. Naude was surprised as all the dockets had been left with the NPA by the time he left their service in 2009. Nel indicated that he had to rebuild the docket with

⁷³³ 2021 consolidated transcripts page 389 line 18

⁷³⁴ 2021 consolidated transcripts page 363 line 10 onwards

⁷³⁵ 2021 consolidated transcripts page 397 line 3

WITS historical papers but that some pages were missing. They asked if he was willing to speak to Webber Wentzel and he said he was. He did not hear from them again. He was next contacted by W/O Kgamanyane on 13 December 2019 who said he had to serve the subpoena.⁷³⁶

Joseph Petrus Woensdregt⁷³⁷

Career

291 Joseph Petrus Woensdregt joined the police in 1967 and was medically bordered in 1991 for PTSD.⁷³⁸ He was at JVS SB from 1978 to 1988⁷³⁹ and was a lieutenant in 1982 investigating cases and doing VIP protection.⁷⁴⁰ He was not a specialist in unions, but he claimed all SB members had expertise on the ANC.⁷⁴¹

292 He took an oath of secrecy when he began working for the SB at JVS and could not disclose matters relating to “sections 394 and 395”, and considers the oath still binding on him and cannot testify about certain sections of the SB.⁷⁴²

293 He occupied office 1020 on the 10th floor of JVS and interrogated people in other offices sometimes.⁷⁴³ Aggett was interrogated in his office when he was on study

⁷³⁶ 2021 consolidated transcripts page 203 to 206

⁷³⁷ 1982 transcripts at A6.4, p 2089 – 2137; 1982 affidavit at L2, Exhibit B2(501); police personnel file at G63; Affidavit signed on 22 January 2021 at L1; 2021 consolidated transcript at p 572 – 1094. He testified from 25 to 26 and 28 to 29 January 2021.

⁷³⁸ 2021 consolidated transcripts page 593 line 6

⁷³⁹ 2021 consolidated transcripts page 594 page 11

⁷⁴⁰ 2021 consolidated transcripts page 595 line 15

⁷⁴¹ 2021 consolidated transcripts page 599 line 13

⁷⁴² 2021 consolidated transcripts page 706 line 19

⁷⁴³ 2021 consolidated transcripts page 596 line 13

leave from 23 to 28 January 1982⁷⁴⁴ and at that point he did not know why Aggett was in detention.⁷⁴⁵

294 Woensdregt was transferred from JVS to the Soweto SB in 1988 and claimed that he was not transferred because of any connection to the death of Dipale.⁷⁴⁶ Woensdregt said further that he worked in many different sections within the SB in his career and cannot recall them all.⁷⁴⁷ When he left the force, his casebook stayed in the possession of the police and he did not take it with him.⁷⁴⁸

295 Woensdregt's personnel file contained a statement he penned in support of an application for medical boarding due to PTSD (Exhibit G63). He was questioned about the following aspects of the statement:

295.1 the violent way he affected his first arrest while stationed at Jeppe Police Station.⁷⁴⁹

295.2 His claims that it felt good to be intimidating. Woensdregt said he could not answer to the question for fear of incriminating himself and relied on the fact that he did not sign the statement.⁷⁵⁰

⁷⁴⁴ 2021 consolidated transcripts page 597 line 15

⁷⁴⁵ 2021 consolidated transcripts page 598 line 11

⁷⁴⁶ 2021 consolidated transcripts page 699-701

⁷⁴⁷ 2021 consolidated transcripts page 702 line 15 -703

⁷⁴⁸ 2021 consolidated transcripts page 625 line 1

⁷⁴⁹ 2021 consolidated transcripts page 643 line 1

⁷⁵⁰ 2021 consolidated transcripts page 650 line 15

- 295.3 His assault of a prosecutor, which he tried to claim as an accident when he tried to close the car door, and subsequent conviction for this assault.⁷⁵¹
- 295.4 That he claimed to have been involved in about 50 to 55 assaults in his career. Woensdregt invoked his right against self-incrimination and did not comment on this.⁷⁵²
- 295.5 That Aggett was interrogated until 3am. However, Woensdregt claimed that he slept from 11pm and was woken up to take back to the cells from the interrogation room at 3am. ⁷⁵³
- 295.6 That Aggett hung himself the night of the interrogation on 30 January 1982. Woensdregt claimed that it is an error in the statement.⁷⁵⁴ When it was put to him that Deetlefs made the same mistake in his application for medical boarding, Woensdregt said he does not know why he made the same mistake and that he cannot talk on his behalf.⁷⁵⁵
- 295.7 That he was a hardened police officer and Neil's death did not affect him. He responded by saying he was attempting to highlight how the stress of his job affected him. ⁷⁵⁶
- 295.8 That he interrogated Dipale, again with Deetlefs, and he too died by allegedly hanging himself in his cell in August 1982.⁷⁵⁷

⁷⁵¹ 2021 consolidated transcripts page 654 line 11

⁷⁵² 2021 consolidated transcripts page 657 line 18

⁷⁵³ 2021 consolidated transcripts page 661 line 8 and page 614 line 17

⁷⁵⁴ 2021 consolidated transcripts page 662 line 2

⁷⁵⁵ 2021 consolidated transcripts page 662 line 19

⁷⁵⁶ 2021 consolidated transcripts page 663 line 3

⁷⁵⁷ 2021 consolidated transcripts page 674 line 18

295.9 That he had to demonstrate his toughness to his colleagues. His response to this was that this was supposed to be a confidential statement to a psychologist to show his stress levels.⁷⁵⁸

295.10 That to be a true policeman one had to drink and fight, to which he responded that it was all in the execution of his duties and it was to stop the guys that started the fights at the bars.⁷⁵⁹

295.11 Colleagues at Jeppe police station were convicted of fraud, assault, and criminality and that at the time he appeared to be surrounded by a culture of violence and criminality. To this he agreed that there were criminals in the community and in the police.⁷⁶⁰

295.12 He had to fit in with his colleagues by being stronger harder and reckless. Woensdregt said he had to assert his authority so they would do what he asked. To this he indicated that he had to show his authority to these types of rough policemen⁷⁶¹

295.13 Aggression is easy but comes with other problems. Counsel put to him that they should be trained to manage their aggression, to which he replied that it is easier said than done.⁷⁶²

296 Woensdregt claimed he did not employ a specific method of interrogation but mainly asked questions and listened to the detainee. If he was not happy with the answers given, he would ask other questions and would let the detainee know

⁷⁵⁸ 2021 consolidated transcripts page 682

⁷⁵⁹ 2021 consolidated transcripts page 925 line 14

⁷⁶⁰ 2021 consolidated transcripts page 926 line 7 to 929 line 11

⁷⁶¹ 2021 consolidated transcripts page 929 line 14 to page 930

⁷⁶² 2021 consolidated transcripts page 931 line 5

they were not being truthful and implore them to tell the truth.⁷⁶³ At other times he would confront the detainee by telling them that there was information showing they were lying.⁷⁶⁴

Interrogation of Aggett: 30 January 1982

297 Woensdregt's first and only interaction with Aggett was on 30 January 1982.⁷⁶⁵ Cronwright told him to assist with Aggett's interrogation from 6pm and that Whitehead would be in charge and he could find out more from him.⁷⁶⁶

298 Woensdregt claimed that Aggett's physical appearance was normal and there was nothing strange about him. He was not tired and had no injuries. At that stage he didn't know how long Aggett had been in interrogation.⁷⁶⁷ He found him there with Visser.⁷⁶⁸

299 Woensdregt was briefed by Whitehead on the purpose of the interrogation, which was to secure information regarding Aggett's involvement with trade unions. He read statements and notes Aggett had written.⁷⁶⁹

300 During the interrogation Aggett would write at times and at others would give answers verbally.⁷⁷⁰ Aggett was cooperative in certain instances and not co-

⁷⁶³ 2021 consolidated transcripts page 600 line 1
⁷⁶⁴ 2021 consolidated transcripts page 601 line 1
⁷⁶⁵ 2021 consolidated transcripts page 602 line 19
⁷⁶⁶ 2021 consolidated transcripts page 603-604
⁷⁶⁷ 2021 consolidated transcripts page 605 line 8
⁷⁶⁸ 2021 consolidated transcripts page 605 line 2
⁷⁶⁹ 2021 consolidated transcripts page 606 line 18
⁷⁷⁰ 2021 consolidated transcripts page 608 line 12

operative in others but Woensdregt could not recall any specifics.⁷⁷¹ He was with Aggett from 6pm until 03h30am the next morning, except when he went out to get coffee or went to the bathroom.⁷⁷²

301 In response to Deetlefs claim that he and Whitehead left to attend a function shortly after 6pm and returned later that night, Woensdregt claimed he could not recall whether this happened or not.⁷⁷³

302 Woensdregt was questioned about Deetlefs claims that he was alone with Aggett that night when he made a 4-page confession and betrayed his comrades. Woensdregt responded that he was not present when the confession was made as he and Whitehead were talking in the passage. Deetlefs approached them and said Aggett revealed something new and handed them the statement. Whitehead proceeded to question Aggett on the new information. Woensdregt claimed to look at the information at the time but cannot recall any of it.⁷⁷⁴

303 Woensdregt denied under cross examination that the 4 pages was a cover-up to bolster the suicide theory or that he was persisting with same cover-up in 2021.⁷⁷⁵ Under cross examination, Woensdregt denied that that SB had no incriminating evidence against Aggett and that it was up to them to extract a confession.⁷⁷⁶

⁷⁷¹ 2021 consolidated transcripts page 609 line 1

⁷⁷² 2021 consolidated transcripts page 609 line 11

⁷⁷³ 2021 consolidated transcripts page 619 line 1 and 1017

⁷⁷⁴ 2021 consolidated transcripts page 610- 612

⁷⁷⁵ 2021 consolidated transcripts page 969 - 970

⁷⁷⁶ 2021 consolidated transcripts page 942 line 16 to 944 line 4

- 304 Woensdregt claimed that from 11pm Aggett was allowed to sleep on a camp-bed in office 1020, while Whitehead, Deetlefs and himself used an office across the passage to go over the information.⁷⁷⁷
- 305 Woensdregt testified that it was easier to have Aggett on the 10th floor so that if they had questions on the notes, they could ask him. Aggett was woken up and escorted to the cells at around 03h30am by Woensdregt and Whitehead because they lived closer to JVS and Deetlefs went home.⁷⁷⁸
- 306 It was put to Woensdregt that according to Deetlefs, Whitehead had instructed him not to disclose the fact that he and Woensdregt were not in the interrogation for most of the night. His response was that it 'sounds like rubbish'.⁷⁷⁹
- 307 It was put to Woensdregt that Deetlefs had concerns that Aggett was suicidal after the interrogation because he had betrayed his colleagues and said he could no longer live with himself. Deetlefs said he approached Whitehead and Cronwright with this concern. Woensdregt denied this happened and stated that he and Whitehead were close friends and Whitehead would have told him this information if it happened.⁷⁸⁰
- 308 Woensdregt testified that he had no knowledge of Aggett being a suicide risk but if that was the case, he would have alerted the officers in the cells to observe him closely and monitor him every hour.⁷⁸¹

⁷⁷⁷ 2021 consolidated transcripts page 613 line 17

⁷⁷⁸ 2021 consolidated transcripts page 614-616

⁷⁷⁹ 2021 consolidated transcripts page 619 line 21 to- 620 line 5

⁷⁸⁰ 2021 consolidated transcripts page 622 line 19

⁷⁸¹ 2021 consolidated transcripts page 623 line 17

309 In relation to Aggett's suicide Woensdregt mentioned that Aggett had made questionable decisions in his life such as leaving a successful career in medicine to advocate for worker's rights.⁷⁸²

310 Woensdregt testified that he could not recall Aggett making a complaint to Sergeant Blom regarding his treatment over the long weekend but recalls that Capt. Victor took his statement on 26 March 1982.⁷⁸³ Woensdregt claimed to be surprised at the allegations against Whitehead.⁷⁸⁴ It was put to Woensdregt that it was unlikely he did not hear about the complaint because Whitehead was his friend and it was a serious accusation with the potential to derail his career.⁷⁸⁵

311 Woensdregt testified that he did not understand why Aggett made the complaint since in the interrogation he was happy and had no complaints. Indeed, he was probably happier in the office than his cell. It was put to Woensdregt that this was a fabrication and he was perpetuating the coverup concocted in 1982, in order to demonstrate Aggett was treated well by the SB.⁷⁸⁶ Woensdregt persisted with the fabrication even when it was put to him that after Aggett did not take meals and was unable to get out of bed (as per exhibits B1.20 and B4.1.1).⁷⁸⁷

Abuse of detainees

⁷⁸² 2021 consolidated transcripts page 1046 - 1051
⁷⁸³ 2021 consolidated transcripts page 631 line 11
⁷⁸⁴ 2021 consolidated transcripts page 780 line 16
⁷⁸⁵ 2021 consolidated transcripts page 954 line 23
⁷⁸⁶ 2021 consolidated transcripts page 1001 line 7
⁷⁸⁷ 2021 consolidated transcripts page 1004 line 3

312 Woensdregt testified that he did not assault, threaten, or intimidate Aggett and did not witness other officers abusing Aggett.⁷⁸⁸ He claimed that he played no role in Aggett's death nor did he contribute to Aggett's demise in any way.⁷⁸⁹

313 He learned of Aggett's death when he got to work on 5 February 1982 and was shocked and surprised⁷⁹⁰

314 It was put to Woensdregt that he misled the 1982 inquest court and is misleading this court regarding assaults on detainees and subsequently covering it up, to which Woensdregt responded that he could not break the oath he took in 1982.⁷⁹¹ He heard about the Timol matter in the newspapers in 2017 but denied any knowledge of the following deaths at JVS:

314.1 Elmon Malele in 1977,

314.2 Mathews Mabelane in 1977,

314.3 Ernest Dipale in 1981,

314.4 Stanza Bopape in 1988,

314.5 Sithole in 1990.⁷⁹²

315 Woensdregt chose not to comment when asked about the SB culture where officers protected each other, but claimed he never had reason to report any of

⁷⁸⁸ 2021 consolidated transcripts page 617 line 19

⁷⁸⁹ 2021 consolidated transcripts page 632 line 1

⁷⁹⁰ 2021 consolidated transcripts page 618 line 1

⁷⁹¹ 2021 consolidated transcripts page 811 line 15

⁷⁹² 2021 consolidated transcripts page 823-825; Exhibit G64

his colleagues.⁷⁹³ He denied knowledge of any interception of post and phone calls and cannot recall planting listening bugs but heard about it occurring.⁷⁹⁴ He denied intercepting Aggett's post and was not aware that the Aggett legal team phones had been bugged before he first inquest.⁷⁹⁵

316 Woensdregt denied verbally abusing detainees but chose to invoke his right against self-incrimination.⁷⁹⁶ He denied assaulting detainees or making them stand for long periods, do forced exercise or hold difficult body positions.⁷⁹⁷ He did however hear of assaults taking place but could not recall where he heard this.⁷⁹⁸ He claimed that was never involved in suffocation, strangulation, sleep deprivation, electric shocks, holding heavy objects for long periods, suspending detainees in the air, solitary confinement, threats, degrading treatment.⁷⁹⁹ Woensdregt claimed he could not remember if there were any complaints filed against in him in his career and how many, but disputed the 50 or 55 assaults mentioned in his statement and it was put to him, that he was misleading the court.⁸⁰⁰

317 It was put to Woensdregt that he had not been a credible witness and had concocted a story in 1982 which was proving difficult to hold together evidenced by the fact that he provided this court with 4 different versions on his interrogation with Aggett.⁸⁰¹

⁷⁹³ 2021 consolidated transcripts page 826- 828

⁷⁹⁴ 2021 consolidated transcripts page 843 line 2

⁷⁹⁵ 2021 consolidated transcripts page 844-848

⁷⁹⁶ 2021 consolidated transcripts page 854 line 15

⁷⁹⁷ 2021 consolidated transcripts page 855 - 861

⁷⁹⁸ 2021 consolidated transcripts page 862 line 1

⁷⁹⁹ 2021 consolidated transcripts page 866 line 20 to 869

⁸⁰⁰ 2021 consolidated transcripts page 882 to 885

⁸⁰¹ 2021 consolidated transcripts page 1088 line 23 to 1090

- 317.1 Woensdregt won Aggett's trust and made a breakthrough.
- 317.2 Woensdregt was not present when the breakthrough was made – he was in the corridor with Whitehead and Deetlefs informed them of the breakthrough.
- 317.3 That whatever breakthroughs were made happened in subsequent interrogation.
- 317.4 Woensdregt was out the office and arrived back very late.
- 318 Woensdregt claimed he was being tricked. It was put to Woensdregt by counsel for the family, that the versions put to him were from his own evidence before this Court as well as the first inquest Court; and that there was no attempt to trick him.⁸⁰²
- 319 It was put to him further that the reason why there were multiple versions and the reason why he is confused is because he and colleagues concocted a cover story. They fabricated a cover story in 1982 and it is always difficult to hold a cover story together. Woensdregt claimed that there was an attempt to confuse him and again claimed his right against self-incrimination.⁸⁰³

Nicolaas Johannes Visser⁸⁰⁴

Career

⁸⁰² 2021 consolidated transcripts page 1092 line 1

⁸⁰³ 2021 consolidated transcripts page 1092 line 13 to 1093 line 10

⁸⁰⁴ 1982 testimony at A5.8, p1987 – 1994 and A6.1, p 1995 – 2010; 1982 affidavit at B8.43; police personnel file at L3; 2021 consolidated transcript at 1103 – 1260; no affidavit in 2021. He testified on 1 and 2 February 2021.

320 Nicolaas Johannes Visser (Visser) started his career with the SAP in 1952. He was medically bordered for a back condition in 1984.⁸⁰⁵ He was stationed at the JVS SB between 1974 and 1982⁸⁰⁶ but requested a transfer and left the SB in March 1982 and was placed near Oshakati in South West Africa, as it was then known.⁸⁰⁷ In 1982 Visser was a captain in the SB and later achieved the rank of major.⁸⁰⁸

321 Visser had an office on the 9th floor of JVS and had a good relationship with his colleagues.⁸⁰⁹ His duties included the control of the non-white department⁸¹⁰ and he dealt with matters related to the ANC,⁸¹¹ but did not have any interest in the unions and the labour movement.⁸¹²

322 Visser recalled attending courses regarding security and banned organisations, but claimed that the course content did not deal with interrogation.⁸¹³ He did not follow a particular method of interrogation⁸¹⁴ but a typical interrogation would entail asking a detainee if he was involved in any incidents.⁸¹⁵ When a detainee did not want to answer a question he would be sent back to the cells and he claimed, unconvincingly, that “to his knowledge” no force was used by him during interrogations.⁸¹⁶

805 2021 consolidated transcripts page 1105 line 3
806 2021 consolidated transcripts page 1108 line 8
807 2021 consolidated transcripts page 1108 line 15
808 2021 consolidated transcripts page 1109 line 3
809 2021 consolidated transcripts page 1109 line 12
810 2021 consolidated transcripts page 1109 line 25
811 2021 consolidated transcripts page 1110 line 1
812 2021 consolidated transcripts page 1110 line 8
813 2021 consolidated transcripts page 1111 line 7
814 2021 consolidated transcripts page 1112 line 1
815 2021 consolidated transcripts page 1112 line 11
816 2021 consolidated transcripts page 1112 line 14

Aggett Interrogation

323 On 29 January 1982 Visser was requested by Major Cronwright to report to JVS on 30 January 1982 at 6am. No details were given.⁸¹⁷

324 Visser first became aware of Aggett's detention on the morning of 30 January 1982.⁸¹⁸ He reported to Cronwright on the 10th floor at 6am on 30 January 1982 and was instructed to interrogate Aggett and secure his cooperation.⁸¹⁹ He did not get instructions on how to win Aggett's trust.⁸²⁰ Captain Daniel Elhardus Swanepoel was assigned to assist him.⁸²¹ Visser thinks Swanepoel was present when he spoke to Cronwright.⁸²² He met with Lt Whitehead that morning as well on the 10th floor before the interrogation began.⁸²³

325 Visser testified that he spoke to Whitehead about Aggett's notes and Whitehead was not satisfied with them and asked Visser to follow up on them. Whitehead wanted more information. Visser claimed that Whitehead told him that he had other information, which led to his unhappiness with Aggett's notes. Visser claimed he was not told specifically what Whitehead was unsatisfied about, nor did he seek clarification.⁸²⁴

326 Thereafter Visser went to room 1020 and found Aggett there alone. He alleged that Aggett was calm and did not appear tired. Visser claimed, unconvincingly,

⁸¹⁷ 2021 consolidated transcripts page 1113 line 4
⁸¹⁸ 2021 consolidated transcripts page 1109 line 19
⁸¹⁹ 2021 consolidated transcripts page 1114 line 3
⁸²⁰ 2021 consolidated transcript page 1115 line 6
⁸²¹ 2021 consolidated transcripts page 1114 line 21
⁸²² 2021 consolidated transcript page 115 line 1
⁸²³ 2021 consolidated transcripts page 1115 line 21
⁸²⁴ 2021 consolidated transcripts page 1116 line 1 to 1117 line 11

that he was not aware how long Aggett had been under interrogation, and he did not make any enquiries in this regard with Whitehead.⁸²⁵

327 Visser claimed that although he did not know about trade unions, he had Aggett's written notes and he would get clarity from Aggett. He received the notes from Aggett himself.⁸²⁶

328 Visser was not given the docket or file on Aggett in preparation for the interrogation. Aggett's undated notes were on the table. He cannot recall how many pages it consisted but there were just "pieces of paper". Visser could not recall how long it took him to peruse the notes.⁸²⁷

329 Visser testified that he and Swanepoel spoke to Aggett about his notes and he said that what was contained in the notes was all he had to say. He was asked about his involvement with SACTU and whether he was a member, which he said he was not, and his relationship with other SACTU members. Visser could not recall if Aggett provided him with names of SACTU members but claimed later that he did.⁸²⁸ Aggett said during the interrogation that he was not a member of the ANC.⁸²⁹

330 Visser testified that Aggett was cooperative, but he denied everything that he was asked. He claimed that the atmosphere was friendly, and Aggett was not cuffed. Aggett was sitting on a chair, and he would get up and walk around and

⁸²⁵ 2021 consolidated transcripts page 1117 line 12

⁸²⁶ 2021 consolidated transcripts page 1115 line 8

⁸²⁷ 2021 consolidated transcripts page 1127 – 1129

⁸²⁸ 2021 consolidated transcripts page 1220 line 15

⁸²⁹ 2021 consolidated transcripts page 1118 - 1119

he smoked, ate, and drank cooldrink. Aggett was given breakfast as well as lunch.⁸³⁰

331 Visser said that he and Swanepoel did not make any notes during the interrogation. Aggett could write when he wanted to as he had a pen and paper. Visser could not recall if Aggett wrote any notes but he denied involvement with SACTU and the ANC. He testified also that Aggett did not make any admissions during the interrogation but shortly before the shift ended at 6pm, Aggett suddenly announced that he wanted to tell the whole truth to him and Swanepoel.⁸³¹

332 Visser claimed that this breakthrough was achieved through the manner he and Swanepoel treated Aggett. He claimed that they treated Aggett well, and were friendly and that Aggett could sit, walk, and smoke in the interrogation room. Visser claimed that he and Swanepoel did not get to hear the truth or take a statement from Aggett because their shift was about to end.⁸³²

333 Visser claimed he made no report to Whitehead at the end of the shift apart from saying that "*this man wants to talk the truth*". At 6pm, Deetlefs, Whitehead and Woensdrecht took over the interrogation. According to Visser, at that stage Aggett appeared calm and was not tired. Visser claimed that he did not assault, threaten or mistreat Aggett and that this was his only interaction with Aggett.⁸³³

⁸³⁰ 2021 consolidated transcripts page 1120

⁸³¹ 2021 consolidated transcripts page 1120 line 20 to 1122 line 3

⁸³² 2021 consolidated transcripts page 1122

⁸³³ 2021 consolidated transcripts page 1123 - 1124

334 Visser doesn't recall who told him about Aggett's death, but he was shocked. He was not aware of Aggett's complaint to Sergeant Blom on 4 February 1982. He never applied for amnesty to the TRC.⁸³⁴

Treatment of other detainees

335 Visser denied assaulting Auret van Heerden and being present while other officers assaulted and tortured him in Benoni police station on 19 November 1982.⁸³⁵ Visser also denied assaulting and verbally abusing Ismail Momoniat⁸³⁶, Barbara Hogan⁸³⁷ and Samson Ndou.⁸³⁸ Visser said he interrogated Jabu Ngwenya but claimed that Ngwenya was not threatened in his presence.⁸³⁹

336 Visser testified that he heard of assaults at JVS but did not assault any detainee at any point during his policing career.⁸⁴⁰ He agreed that sleep deprivation and electric shocks are forms of torture but, claimed incredulously no knowledge of that occurring while he was a police officer. He also denied any knowledge of detainees being made to stand for prolonged periods, forced exercise and body positions⁸⁴¹

Improbable or false evidence

⁸³⁴ 2021 consolidated transcripts page 1125

⁸³⁵ 2021 consolidated transcripts page 1239 line 8

⁸³⁶ 2021 consolidated transcripts page 1234 line 18

⁸³⁷ 2021 consolidated transcripts page 1235 line 6

⁸³⁸ 2021 consolidated transcripts page 1237 line 8

⁸³⁹ 2021 consolidated transcripts page 1193 line 1

⁸⁴⁰ 2021 consolidated transcripts page 1146 line 22, page 1147 to page 1148 and p 1177 line 6

⁸⁴¹ 2021 consolidated transcripts page 1193 line 15 onwards

337 Visser admitted under cross examination by the family's legal counsel that he had no new information to confront Aggett with, but nonetheless Aggett decided to suddenly come clean because he was treated well:

MR VARNEY: So, Mr Visser, please listen carefully, are you seriously suggesting that towards the end of your interrogation Dr Aggett said he was now willing to tell the whole truth simply because you were nice to him?

MR VISSER: That is what happened, M'Lord.

MR VARNEY: Well I must put it to you, Mr Visser, that again your evidence is simply stretching belief to breaking point, and we will be submitting it cannot be taken seriously.

.....

MR VARNEY: we will be submitting that you have fabricated that evidence before the 1982 court, and you are persisting with that fabrication before this court.

*MR VISSER: It is not fabricated, M'Lord, it's what happened.*⁸⁴²

338 Even though Visser did not get to hear the truth from Aggett as his shift ended, he claimed that Aggett disclosed names to him, but he cannot recall them. He did hear of the four pages that Deetlefs claimed to extract from Aggett but claimed to be unaware that they had never been produced in any court. He was also unaware that no action had been taken against the names put up by Deetlefs (Theron, Mpetha and Van Heerden). It was put to Visser, that in the circumstances the so-called four pages had to be a fabrication, to which he responded, "*I don't know*".⁸⁴³

339 Visser claimed not to know that Security Branch officers, including the most senior officers, routinely perjured themselves before courts.⁸⁴⁴

⁸⁴² 2021 consolidated transcripts page 1218 line 9 to 1219

⁸⁴³ 2021 consolidated transcripts page 1220 onwards

⁸⁴⁴ 2021 consolidated transcripts page 1222 to 1223.

340 Visser claimed not to know that Aggett had been deprived of sleep for approximately 50 hours prior to the start of his session of interrogation, but even if he did know he would not have changed his approach in the interrogation:

MR VARNEY: So, Mr Visser, if I am hearing you correctly, even if you had known that he had been kept awake for approximately two days, you would have done everything the same, you would have continued with his abusive treatment, you would have kept him awake for another 12 hours, in other words, you would have continued to torture him by way of sleep deprivation?

MR VISSER: I was also going to talk to him.

MR VARNEY: Because this was your instruction, and so regardless of any knowledge of prior abuse and sleep deprivation, since you were instructed to carry on for 12 hours, you would have simply done that?

.....

MR VISSER: That is what I said, M'Lord.

MR VARNEY: And the necessary implication that this court has to draw is that you would have been happy to continue torturing him with another 12 hours of interrogation through sleep deprivation.

MR VISSER: I did not interrogate him for most 10 of the time, we were talking also about his family, about his training and also about his life and his education.

MR VARNEY: Mr Visser, in the first inquest you put it to the first inquest court that it was not the purpose of your interrogation to tire Aggett out, is that correct?

MR VISSER: It was so, M'Lord.

MR VARNEY: And now that you are aware that Mr Aggett had been under interrogation from 09:00 AM on the 28 January to approximately early morning, it could have been around 03:30 AM on the 31 January, you are now aware that, in fact, he was awake for approximately 62 hours, with the benefit of hindsight and that knowledge, that in fact was the purpose – to tire him out .

MR VISSER: No, [indistinct], I do not know the 31st, the 31st, I had nothing to do with him on the 31st

MR VARNEY: Yes, let me rephrase the question, Mr Visser. If a detainee is kept awake for approximately three days in succession, would you not agree that the purpose of that interrogation is to tire him out and to break him down through sleep deprivation?

.....

MR VISSER: It was not my instruction, M'Lord.

MR VARNEY: But , Mr Visser, if in fact, and let us just talk about any detainee who is kept awake under interrogation for approximately three

days, if that happens, then the purpose is clear, it is in fact to exhaust the detainee.

MR VISSER: [Wel, as hy nie geslaap het vir drie dae nie, sou hy seker uitgeput gewees het, Edelagbare.] I do not know if the purpose thereof was to keep him tired, to tire him out, and I do not know of anyone who experienced that, even Aggett, I was not aware thereof.

MR VARNEY: Mr Visser, why will you not simply admit, as any experienced police officer, or for that matter anyone else, why will you not simply admit that if you know that a detainee is being kept awake for close to three days in succession, that the purpose is obviously and clearly to exhaust him, why will you not admit that?

MR VISSER: If I started to do something, as in this case, that I was asked to talk to him. I cannot ignore an instruction that I get from my senior.

MR VARNEY: Yes, that is indeed apparent.....⁸⁴⁵

341 Even though Visser claimed not to have any new information to put to Aggett, his partner, Captain Swanepoel testified in the 1982 Inquest that he was in possession of “classified information” which he confronted Aggett with. After much obfuscation Visser suggested that Swanepoel may have been mistaken and that “he did not share the information he had with me.” It was put to Visser that as the senior officer in that interrogation, Swanepoel must have shared the information with him, particularly if he was putting it to Aggett. Visser claimed that he did not know if Swanepoel put the information to Aggett, but he certainly did not discuss the classified information with him. Adv Varney put it to Visser that “in the circumstances the claim made by Captain Swanepoel that he had classified information was yet another fabrication put before the 1982 Court,” to which Visser replied “I don’t know”.⁸⁴⁶

342 Visser unconvincingly denied any knowledge of abuse against detainees perpetrated by himself or his colleagues, save that he had heard about assaults

⁸⁴⁵ 2021 consolidated transcripts page 1225 - 1228

⁸⁴⁶ 2021 consolidated transcripts page 1228 – 1231.

generally. Yet there was considerable evidence of complaints made by detainees against him, including:

342.1 he smacked Ismail Momoniat,⁸⁴⁷

342.2 he threatened Barbara Hogan with violence,⁸⁴⁸

342.3 Jabu Ngwenya was sworn at and threatened in his presence,⁸⁴⁹

342.4 he assaulted Auret van Heerden (including hitting him hard,⁸⁵⁰ electrocuting him⁸⁵¹ and strangling him with a wet towel⁸⁵²) and witnessed the assault and torture of him;⁸⁵³ and according to Van Heerden when Visser hit him it was so vicious that he momentarily lost consciousness, and he thought was going to die when Visser strangled him,⁸⁵⁴

342.5 Van Heerden, Ndzanga and Ndou launched legal actions for damages against him,⁸⁵⁵

342.6 In Van Heerden's legal papers,⁸⁵⁶ he complained that Visser and others:

342.6.1 handcuffed his wrist to his ankle and made him remain on his feet in that position for hours,

342.6.2 hit him over his ears with an open wound,

⁸⁴⁷ Exhibit G18 para 33.

⁸⁴⁸ Exhibit B4.2.1 para 10

⁸⁴⁹ Exhibit A5.2 p 1643 to 1644

⁸⁵⁰ Exhibit B4.1.1 para 26.11

⁸⁵¹ Exhibit B4.1.1 para 26.10

⁸⁵² Exhibit B4.1.1 para 26.11

⁸⁵³ Exhibit B4.1.1 para 26.8

⁸⁵⁴ Exhibit B4.1.1 para 26.11

⁸⁵⁵ 2021 consolidated transcripts page 1236 - 1238

⁸⁵⁶ Exhibit G66 on page 27

- 342.6.3 electrocuted him,
- 342.6.4 strangled him with a wet towel,
- 342.6.5 pummelled his head with an open hand,
- 342.6.6 whipped the soles of his feet with a sjambok,
- 342.6.7 assaulted his testicles,
- 342.6.8 struck him on various parts of his body with a closed fist
- 342.6.9 kneed him in the face,
- 342.6.10 slapped him on the face and pulled his beard,
- 342.6.11 stomped his bare feet,
- 342.6.12 threatened to kill him and break his fingers,
- 342.6.13 pulled a tight-fitting bag over his head and poured water over him,
- 342.6.14 pulled him around by his hair.

343 Visser improbably denied all the assertions of assault and abuse and even went so far as to absurdly claim that Van Heerden's injuries were sustained during "exercise."⁸⁵⁷ In respect of the brutality meted out to Van Heerden, Visser conceded under cross-examination that it could have happened when he was

not there, but he does not know anything about it. He then tries to backtrack on this statement⁸⁵⁸

344 Counsel for the family put various torture methods (to avoid leaving marks) and machinations employed by the SB to evade detection for their torture and assault, such as keeping them away from magistrates and district surgeons. Visser, unconvincingly, denied them all. In particular it was put to Visser that detainees would be held for long periods to allow their injuries to heal before being released. This would then make it difficult for the detainees to prove their assaults:

MR VARNEY: And, in fact, it is the case in point with Mr Auret Van Heerden, because he was viciously and brutally assaulted by you and others between 17 and 20 November 1981, but only released on the 9 July 1982.

*MR VISSER: I am not aware of that, M'Lord.*⁸⁵⁹

345 Given Visser's derisory evidence it was put to him:

*MR VARNEY: Mr Visser, we will be submitting to this court that just as you covered up the real facts in 1982, you have persisted with the cover up of the real facts before this court in 2021, and we will be submitting that you have been an evasive witness, you have not been a credible witness, and indeed you have perjured yourself before this court.*⁸⁶⁰

Roelof Jacobus Venter⁸⁶¹

Career

⁸⁵⁸ 2021 consolidated transcripts page 1243 - 1244

⁸⁵⁹ 2021 consolidated transcripts page 1250

⁸⁶⁰ 2021 consolidated transcripts page 1250 to 1251.

⁸⁶¹ 1982 transcript at A7.2, p 2488 – 2566; 1982 affidavit at B5.1.2; police personnel file at FGK17(1); application for amnesty at G70; affidavit signed on 11 February 2020 at K2; 2021 consolidated transcript at p 1263 – 1431. He testified on 3 February 2021

346 After his police college training in 1966 Roelof Jacobus Venter (Venter) was posted to Bramley Police Station⁸⁶² and then transferred to the SB in Johannesburg in 1968.⁸⁶³ Venter remained in the SB until 1995. For a period, he was transferred to headquarters in Pretoria where he served at the SB's counter-insurgency units C1 and later at C2.⁸⁶⁴

347 At the time of the Hogan investigation he was Branch Commander of the SB in Thabazimbi. He was instructed to report to JVS for the Hogan inquiry.⁸⁶⁵ Venter and his team worked directly under the instructions of Cronwright.⁸⁶⁶

Interactions with Aggett

348 Venter claimed never to see or interrogate Aggett.⁸⁶⁷ He advised that he was involved with the Prema Naidoo, Monty Narsoo, Ndlovu and Sherise Nanabhai interrogations but he did not interrogate Barbara Hogan or Liz Floyd. He did not work with Lt Whitehead.⁸⁶⁸

Interrogation methods and application for amnesty

349 Venter confirmed he applied to the TRC for amnesty in respect of his conduct in the Barbara Hogan investigation.⁸⁶⁹ He interrogated detainees about their involvement in the ANC, Communist Party, other banned organisations and the

⁸⁶² 2021 consolidated transcripts page 1267

⁸⁶³ 2021 consolidated transcripts page 1267

⁸⁶⁴ 2021 consolidated transcripts page 1281

⁸⁶⁵ 2021 consolidated transcripts page 1268

⁸⁶⁶ 2021 consolidated transcripts page 1269

⁸⁶⁷ 2021 consolidated transcripts page 1269

⁸⁶⁸ 2021 consolidated transcripts pages 1270 and 1271

unions.⁸⁷⁰ During interrogations he would apply certain pressure to detainees.⁸⁷¹

Venter claimed that he was not trained in how to put pressure and he used his own experience.⁸⁷²

350 Venter testified that he would apply the following pressure:

350.1 interrogate for long hours, not always during the day,

350.2 prolonged standing,

350.3 tearing up statements after completion,

350.4 push- ups, running and sit-ups,

350.5 standing on a detainee's knees

350.6 insults.⁸⁷³

351 Venter claimed, improbably, that he never physically assaulted any detainee.⁸⁷⁴

He asserted that SB interrogators were under pressure to obtain information because of the threat posed by unions and banned organisations to the economy and the government. He said that these groups were training terrorists to attack people in South Africa.⁸⁷⁵ He claimed that he did not treat a political detainee differently to any other arrested person.⁸⁷⁶

⁸⁷⁰ 2021 consolidated transcripts page 1271

⁸⁷¹ 2021 consolidated transcripts pages 1271 to 1272

⁸⁷² 2021 consolidated transcripts page 1272

⁸⁷³ 2021 consolidated transcripts pages 1272 to 1273

⁸⁷⁴ 2021 consolidated transcripts page 1273

⁸⁷⁵ 2021 consolidated transcripts page 1273

⁸⁷⁶ 2021 consolidated transcripts page 1272

352 Venter did not disclose to the 1982 Inquest Court the pressure he applied to detainees because at that time he did not regard such pressure as physical assault.⁸⁷⁷ At the TRC he says his legal adviser advised him to apply for amnesty for assault in general because the pressure they applied was assault.⁸⁷⁸ He further noted that in 1982, SB officers would not have mentioned these assaults because they would not then have seen it as assault, but as part of their work.⁸⁷⁹ He claimed to have no knowledge of the interrogation of Aggett.⁸⁸⁰ He claimed he was never consulted or briefed what to say at the 1982 inquest.⁸⁸¹

353 Venter admitted that the pressure applied to detainees amounted to torture saying it "*comes to torture but there was no other way ...*".⁸⁸² He admitted that the helicopter method of torture was used and that he used it.⁸⁸³ Venter admitted to the imaginary chair method of torture.⁸⁸⁴

354 Adv Singh for the State examined him on the tearing up of witness statements. Venter claimed to have the truth from informants. He said he would make a detainee write a statement again and again until it conformed with the evidence of the informants.⁸⁸⁵ Adv Singh questioned Venter on paragraph 8 of his affidavit which reads: "*Ons was daarop ingestel om geen wonde of letsels op die aangehoudenis te laat nie*" (We were focussed on leaving any wounds or scars

⁸⁷⁷ 2021 consolidated transcripts page 1275

⁸⁷⁸ 2021 consolidated transcripts page 1276

⁸⁷⁹ 2021 consolidated transcripts page 1276

⁸⁸⁰ 2021 consolidated transcripts page 1276

⁸⁸¹ 2021 consolidated transcripts page 1277

⁸⁸² 2021 consolidated transcripts page 1300 ; page 99, lines 5 to 14; 2021 consolidated transcripts page 1302

⁸⁸³ 2021 consolidated transcripts page 1301

⁸⁸⁴ 2021 consolidated transcripts page 1305

⁸⁸⁵ 2021 consolidated transcripts page 1308 to 1309

on the detainee). He explained this to mean that he would carry out his own type of assault which would not leave injuries.⁸⁸⁶

355 Venter denied kicking Prema Naidoo or taking a statement from him in a naked state.⁸⁸⁷ He admitted that he made Prema Naidoo kneel for a long period but denied this caused bruises, as alleged by Naidoo.⁸⁸⁸ Venter cannot remember Naidoo testifying in 1982 that he took him to the spot where Timol fell saying: "*in future, this is going to be known as Prima Heights.*"⁸⁸⁹ He denied having placed a bag over Naidoo's head as testified by Naidoo in 1982.⁸⁹⁰ Singh pointed out that his denials of abuse and torture were in conflict with the evidence of Naidoo, Nanabhai, Clive van Heerden and Jabu Ngwenya.⁸⁹¹

SB Culture

356 Venter testified that top National Party politicians such as FW de Klerk and PW Botha abandoned the SB,⁸⁹² but that General Johann van der Merwe and Brigadier Jack Cronje stood up for the SB.⁸⁹³

357 Counsel for the Aggett family put to him Deetlef's statement in Exhibit K1 para 14: "*...there was no space for split or accuse other members of irregularities. We had to stand together and cover each other in order to protect the security*

⁸⁸⁶ 2021 consolidated transcripts page 1314

⁸⁸⁷ 2021 consolidated transcripts page 1334

⁸⁸⁸ 2021 consolidated transcripts page 1335

⁸⁸⁹ 2021 consolidated transcripts page 1340

⁸⁹⁰ 2021 consolidated transcripts page 1341

⁸⁹¹ 2021 consolidated transcripts pages 1343 to 1347

⁸⁹² 2021 consolidated transcripts page 1376 to 1377

⁸⁹³ 2021 consolidated transcripts page 1377

branch." Venter could not dispute the statement but "could not say if it described the whole culture of everybody involved".⁸⁹⁴

358 Counsel put to him Deetlefs' statement: "*I am aware that my statement before the inquest in 1982 was incorrect and not the truth. That my affidavit that served before the investigation in 1982 did not contain the correct facts. At the time that I testified before the first inquest senior officers of the security branch were present in court.*"⁸⁹⁵ Venter responded saying that SB members at JVS probably felt this way it did not apply to people like him from other places.⁸⁹⁶

359 Venter claimed, most improbably, that assaults did not take place at JVS in his presence,⁸⁹⁷ and he never heard a detainee crying out in pain on the 10th floor.⁸⁹⁸

360 Venter agreed it was highly unlikely an SB officer at JVS in the early 1980s would implicate his colleagues. He also agreed with counsel that the SB culture was an oppressive one because "you dare not step out of line".⁸⁹⁹

Treatment of detainees

361 Venter was reminded of his evidence in 1982 at page 2491 of first original inquest record. Bizo SC asked him if assaults occurred in his presence and his answer was no; whether detainees were threatened in his presence, and he answered

⁸⁹⁴ 2021 consolidated transcripts page 1378
⁸⁹⁵ 2021 consolidated transcripts page 1379
⁸⁹⁶ 2021 consolidated transcripts page 1379
⁸⁹⁷ 2021 consolidated transcripts page 1381
⁸⁹⁸ 2021 consolidated transcripts page 1382
⁸⁹⁹ 2021 consolidated transcripts page 1380

no; whether anyone was insulted in his presence and he answered no. He conceded that he did threaten and insult detainees. It was put to him that in this regard he perjured himself in 1982. He conceded he had perjured himself, and this is why he asked for amnesty.

362 Venter denied that he assaulted Prema Naidoo (p1456 of the first inquest record) by bumping him on the head with a leg of a chair.⁹⁰⁰ He also denied that he pulled Naidoo's ear, kicked him and shot at his penis with elastic bands (p 1461 of the first inquest record).⁹⁰¹

363 The first inquest record disclosed that Venter reported to Cronwright that Prema Naidoo was a suicide risk, although he could not recall this.⁹⁰² Cronwright apparently told him to stay with the detainee.

364 Venter conceded he kept Prema Naidoo awake for a lengthy period,⁹⁰³ and agreed that the purpose of sleep deprivation was to break a detainee and get him to answer questions.⁹⁰⁴ He further conceded that part of the breaking process included rough treatment such as pushing a detainee around.⁹⁰⁵

365 Counsel referred Venter to Naidoo's 1982 affidavit in the B2 folder at page 1018. At paragraph 25 Naidoo records at the end of an interrogation session of being pulled by a policeman officer Booysen by his leg out of the office and down the

⁹⁰⁰ 2021 consolidated transcripts page 1389

⁹⁰¹ 2021 consolidated transcripts page 1389 and 1390

⁹⁰² 2021 consolidated transcripts page 1393

⁹⁰³ 2021 consolidated transcripts page 1394

⁹⁰⁴ 2021 consolidated transcripts page 1395

⁹⁰⁵ 2021 consolidated transcripts page 1397

passage. Naidoo indicated that it was Venter who told him to get up and return to the office. Venter claimed not to recall the incident.⁹⁰⁶ Venter denied knowledge of any assaults by the railway policeman, Van Schalkwyk, saying he was not part of his team.⁹⁰⁷

366 Venter denied various allegations made by Momoniat, including that Venter forced him to stand naked from the waste up, threatened him with electric shock treatment, and made as if to get the equipment, but did not administer shocks.⁹⁰⁸ Venter, improbably denied the assertion of Momoniat that he and Swanepoel suggested he change his report to a district surgeon by retracting his complaint of assaults.⁹⁰⁹

367 Counsel put to Venter the 1982 affidavit of Shirish Nanabhai (at page 1017 in the folder B2). According to Nanabhai, Venter was present with a group of SB officers when he was seriously assaulted and tortured. Venter denied that a plastic bag was placed over Nanabhai's head, before he was punched and kicked about and administered electric shocks.⁹¹⁰

368 Counsel then put the 1982 affidavit (page 1019 in the B2 folder) of Monty Narsoo to Venter. Narsoo alleged he was beaten on the penis by Venter. Venter denied this.⁹¹¹ He also stated that Venter held a lit cigarette under his arm. Venter denied this.⁹¹²

⁹⁰⁶ 2021 consolidated transcripts page 1401

⁹⁰⁷ 2021 consolidated transcripts page 1402

⁹⁰⁸ 2021 consolidated transcripts page 1404, Momoniat's affidavit at G18, para 32.

⁹⁰⁹ 2021 consolidated transcripts page 1405; G8, para 46.

⁹¹⁰ 2021 consolidated transcripts pages 1405 to 1407

⁹¹¹ 2021 consolidated transcripts page 1408

⁹¹² 2021 consolidated transcripts page 1408

369 Venter quite improbably, denied that not only was he never involved in electric shock treatment but he never heard of it being applied at JVS or indeed anywhere else in the country; and he most improbably even denied of physical assaults on detainees being carried out by other SB officers.⁹¹³

Amnesty application

370 Adv Varney reminded Venter that he applied to the TRC for amnesty for the kidnapping of the Pebco 3 and murder in relation to Messrs Swartbooi and Ramakgoba. Varney put to him it was curious that assault was off the table, but that murder and kidnapping were not. Venter was unable to answer and attempted to claim a right against self- incrimination.⁹¹⁴

371 Adv Varney put to Venter that he applied to the TRC for amnesty for assault GBH in respect of Raegen Shope.⁹¹⁵ He said he only did so on the advice of his lawyer: "*You need to apply for assault everywhere, because they are going to say you assaulted them.*"⁹¹⁶ It is of course wholly unlikely that Venter would have applied for amnesty and be granted amnesty for a crime he never committed.

372 Counsel put to Venter the case of Samson Ndou and referred to his 1982 affidavit (exhibit B3.2.3). Ndou accused Venter of punching him on the chest. Venter at first claimed, quite improbably, that he could not remember if he punched Ndou or not, and then claimed that he had not done so.⁹¹⁷

⁹¹³ 2021 consolidated transcripts pages 1409 to 1412

⁹¹⁴ 2021 consolidated transcripts pages 1413 to 1414

⁹¹⁵ 2021 consolidated transcripts page 1415

⁹¹⁶ 2021 consolidated transcripts page 1416

⁹¹⁷ 2021 consolidated transcripts page 1418

373 Counsel put to Venter that in respect of the Hogan investigations he sought amnesty for: "aanranding met die opset om ernstig te beseer" (assault with intent to do grievous bodily harm) in respect of various detainees.⁹¹⁸ Again Venter, quite absurdly, denied he had assaulted anyone, suggesting that he simply followed the advice of his lawyer and applied for amnesty for crimes he did not commit. referred to the legal advice he obtained in this regard.⁹¹⁹ This led Mr Varney to put the following to him:

*MR VARNEY: Alright we will be submitting to this Court that on the question of you not physically assaulting people, that you have misled the Court. You have not been truthful with this Court. And one of the grounds for making that representation will be that according to schedule 3 of your application to the amnesty committee you did apply for assault GBH in relation to several interrogations, and you would not have applied for assault GBH if you had not physically assaulted these detainees.*⁹²⁰

374 Counsel put to Venter his Amnesty application 99/0029, (the decision being AM2774/96), in particular page 56, para 11 (b): "*the use of force in interrogations was generally sanctioned and approved.*" Counsel then put paragraph 11 of Venter's amnesty application to him, which dealt with interrogation techniques: "Enige metode wat effektief sou werk was aanvaarbaar in die knoteks van die oorlog en totale aanslag" (Any method that was effective and acceptable in the context of total war and onslaught).⁹²¹ Venter responded that he stands by this statement and that General van der Merwe has also said this.⁹²²

375 It was also put to Venter that at pages 49 – 50 in respect of injuries caused to persons during interrogations he applied for amnesty in respect of nine

⁹¹⁸ 2021 consolidated transcripts page 1419

⁹¹⁹ 2021 consolidated transcripts page 1420

⁹²⁰ 2021 consolidated transcripts page 1420

⁹²¹ 2021 consolidated transcripts page 1424

⁹²² 2021 consolidated transcripts page 1425

detainees, including Neil Aggett.⁹²³ He admitted that he signed his amnesty application. Counsel put it to Venter:

MR VARNEY: But surely, you know, any normal person would have said, "No, excuse me, I had nothing to do Neil Aggett and do not suggest that I had something to do with him. Please take the name out". Why did you not say that to your lawyers?

376 Venter's extraordinary response was that this was "just a slip."⁹²⁴

Magezi Eddie Chauke⁹²⁵

Career

377 Magezi Eddie Chauke (Chauke) joined the police in January 1980.⁹²⁶ He attended police training college in 1981⁹²⁷ and worked as a recruit at Soshanguve police station.⁹²⁸ He later testified that he was one of three police students specifically selected at the college to work for the SB, and was stationed as a filing clerk at SB head office Pretoria.⁹²⁹ Chauke requested a transfer to the JVS SB, which was granted.⁹³⁰ His duties at JVS included escorting detainees to and from the cells.⁹³¹ He followed instructions given to him⁹³² and never refused an instruction given to him.⁹³³

⁹²³ 2021 consolidated transcripts page 1426

⁹²⁴ 2021 consolidated transcripts page 1427

⁹²⁵ 2021 Consolidated transcript at 1605 – 1748. He testified on 8 and 9 February 2021.

⁹²⁶ 2021 consolidated transcripts page 1609 line 19

⁹²⁷ 2021 consolidated transcripts page 1610 line 2-12

⁹²⁸ 2021 consolidated transcripts page 1610 line 9

⁹²⁹ 2021 consolidated transcripts page 1610 line 16, page 1865 – 6.

⁹³⁰ 2021 consolidated transcripts page 1614 line 3

⁹³¹ 2021 consolidated transcripts page 1623 line 17

⁹³² 2021 consolidated transcripts page 1639 line 18

⁹³³ 2021 consolidated transcripts page 1640 line 8

378 Chauke was stationed at the JVS SB until 1985 when he was transferred to the motor car theft unit at JVS on the second floor.⁹³⁴ He requested the transfer as he felt he could learn more about being a police officer in another unit and was not taken seriously at the SB.⁹³⁵ Chauke left the police force in 2004 because of a motor car accident that resulted in spinal injury and he was declared medically unfit for duty.⁹³⁶

Interactions with Aggett:

379 Chauke testified that on occasion Aggett was interrogated in his presence.⁹³⁷ He was instructed to stay with Aggett when his interrogators left the interrogation room⁹³⁸, but he did not participate in the interrogations and denied his physical presence was necessary for the interrogations.⁹³⁹ He usually read the newspaper during interrogations.⁹⁴⁰

380 He cannot recall if he was with Aggett on 4 January 1982, but recalls he was with Aggett on a few occasions⁹⁴¹. He recalled being with Aggett the whole day in the presence of Whitehead and Van Schalkwyk.⁹⁴² On that occasion he was asked by Capt. Magoro to be present during the interrogation. He did not collect Aggett from the cells that day but found him in the office.⁹⁴³ Chauke testified further that he did not participate in the interrogation and did not also follow the conversation

934 2021 consolidated transcripts page 167 line 8

935 2021 consolidated transcripts page 1681 line 4

936 2021 consolidated transcripts page 1676 line 20

937 2021 consolidated transcripts page 1638 line 14

938 2021 consolidated transcripts page 639 line 6

940 2021 consolidated transcripts page 1639 line 16

941 2021 consolidated transcripts page 1643 line 12

942 2021 consolidated transcripts page 1645 line 17

943 2021 consolidated transcripts page 1645 line 2

between Aggett and his interrogators. Aggett would type during interrogations, and he would escort him to the bathroom.⁹⁴⁴

381 Chauke claimed to be shocked that there had been multiple allegations of assault against the railway policeman, Van Schalkwyk, given his peaceful manner.⁹⁴⁵

Chauke denied that Aggett was assaulted and given electric shocks by van Schalkwyk in his presence.⁹⁴⁶

382 Chauke, also improbably, claimed never to have witnessed forced exercising on the 10th floor.⁹⁴⁷ He claimed only to learn of Aggett's complaint of assaults when this was brought to his attention by Maj Cronwright. He accepted that he took Aggett from the cells to the 10th floor on 4 January 1982 and was present in the interrogation room with Whitehead and Van Schalkwyk.⁹⁴⁸

383 He did not hear Whitehead call Aggett a liar during the interrogation.⁹⁴⁹ Chauke claimed that Aggett was lying when said that he was shouted at during the interrogation and that his interrogators were angry.⁹⁵⁰ He claimed that he witnessed no assault as described by Aggett in his complaint, implying that Aggett fabricated the complaint.⁹⁵¹ This led counsel for the family to put it to Chauke that he provided false evidence to the 1982 inquest and was persisting with the provision of false evidence to the reopened inquest.⁹⁵² Counsel also

⁹⁴⁴ 2021 consolidated transcripts page 1647 line 17

⁹⁴⁵ 2021 consolidated transcripts page 1693 – 4.

⁹⁴⁶ 2021 consolidated transcripts page 1695 line 5, 1703 line 1 to 18

⁹⁴⁷ 2021 consolidated transcripts page 1698 – 9.

⁹⁴⁸ 2021 consolidated transcripts page 1700 - 1701

⁹⁴⁹ 2021 consolidated transcripts page 1702 line 1

⁹⁵⁰ 2021 consolidated transcripts page 1712 line 10

⁹⁵¹ 2021 consolidated transcripts page 1703 – 5.

⁹⁵² 2021 consolidated transcripts page 1706.

put it to Chauke that his evidence that everything was “normal” during that interrogation was a fabrication and part of the cover-up he was colluding in.⁹⁵³

384 He further denied that he was protecting van Schalkwyk even though they were friends⁹⁵⁴ or that he was told by Cronwright what the content of his statement regarding the events of that day should contain. Counsel for the family put it to Chauke that “*the probabilities are overwhelming, that Major Cronwright told you what to put into that statement and told you to deny that any assaults had taken place in early January.*”⁹⁵⁵ Chauke’s denial was not convincing.

385 Chauke testified that he had no problems with Aggett⁹⁵⁶ and would converse with him when escorting him and Aggett even encouraged him to further his studies.⁹⁵⁷

386 Chauke testified that on 25 January 1982 he was called to Capt. Magoro’s office and Aggett was already there. Magoro instructed him to stay there with Aggett.⁹⁵⁸ Chauke denied Smithers assertions that Aggett was assaulted on that day and forced to do exercises⁹⁵⁹. Chauke said that in fact he had never witnessed any detainee doing forced exercises at JVS.⁹⁶⁰ He also denied Jabu Ngwenya’s assertions that two SB officers stormed into the office he was in, which was across from the one Aggett was in, screaming “*Waar is hy.*”⁹⁶¹ He claimed to be

⁹⁵³ 2021 consolidated transcripts page 1713.

⁹⁵⁴ 2021 consolidated transcripts page 1711 line 10

⁹⁵⁵ 2021 consolidated transcripts page 1708

⁹⁵⁶ 2021 consolidated transcripts page 1649 line 11

⁹⁵⁷ 2021 consolidated transcripts page 1647 line 6

⁹⁵⁸ 2021 consolidated transcripts page 1659 line 14

⁹⁵⁹ 2021 consolidated transcripts page 1696 line 20 to page 1699

⁹⁶⁰ 2021 consolidated transcripts page 1699 line 10

⁹⁶¹ 2021 consolidated transcripts page 1661 line 11

unaware that the detainees referred to him as the “Child of Cronwright” and denied he was close to Cronwright.⁹⁶²

387 Chauke also denied during questioning that the reason there was no signature in the occurrence book as to who brought Aggett back to the cells that day was because Aggett was injured and the officers did not want to take responsibility for that.⁹⁶³

388 Detainee Thabo Lerumo claimed he saw Aggett with Chauke on 4 February 1982.⁹⁶⁴ Aggett was handcuffed and walking very slowly and stooped with tears in his eyes. Lerumo alleged that Aggett had blood on his forehead above his left eye.⁹⁶⁵ Chauke said that Aggett was not handcuffed or crying and he had no knowledge of blood on Aggett’s forehead.⁹⁶⁶

389 Detainee Eric Mntonga claimed that he came across Aggett at JVS and Aggett told him “Eric, these people are fucking me up”.⁹⁶⁷ Mntonga also said that Aggett’s appearance was not good and his cheeks were unnaturally red like he had been struck Mntonga said further that he was standing in the passage with Chauke on the second floor of JVS and they had a conversation.⁹⁶⁸ Chauke was waiting for Aggett to finish his breakfast before taking up for interrogation. According to Mntonga, Chauke laughingly referred to Neil as a funny white man who thought he was smart. He said Neil was cheeky. Mntonga said that Chauke

⁹⁶² 2021 consolidated transcripts page 1720,

⁹⁶³ 2021 consolidated transcripts page 1664 line 24

⁹⁶⁴ Exhibit B2.16 (1015) para 6

⁹⁶⁵ 2021 consolidated transcripts page 1669 line 6

⁹⁶⁶ 2021 consolidated transcripts page 1671 line 1 to 21

⁹⁶⁷ Exhibit B3.1.1 para 10.2

⁹⁶⁸ 2021 consolidated transcripts page 1733 line 18 onwards

said that he was glad they had fixed him up yesterday and that Chauke remarked about the way Neil was walking because they had shocked his testicles. Mntonga said Chauke was the talkative type, not a reliable character, and not well disposed towards detainees. Chauke responded to these allegations by denying any knowledge of them ⁹⁶⁹

390 Ismail Momoniat alleged that while he was in detention at JVS during the same period as Aggett, Chauke remarked to him that they hit Aggett on his balls.⁹⁷⁰

Treatment of detainees:

391 Chauke conceded that sleep deprivation is a form of torture⁹⁷¹ as well as forced exercise⁹⁷² and admitted that some detainees were forced to confess⁹⁷³. However, he maintained that he had no knowledge of assault and torture inflicted on detainees at JVS and said he never given an instruction to assault a detainee.⁹⁷⁴

SB Culture

392 Chauke claimed, quite unconvincingly, that, if he had to, there would have been no issue or problem for him reporting to a higher authority that his white colleagues in the SB were assaulting detainees. He also claimed, that even as

⁹⁶⁹ 2021 consolidated transcripts page 1736 line 5

⁹⁷⁰ Exhibit G18 para 76; 2021 consolidated transcripts page 1737 line 5

⁹⁷¹ 2021 consolidated transcripts page 1667 line 25

⁹⁷² 2021 consolidated transcripts page 1668 line 7

⁹⁷³ 2021 consolidated transcripts page 1668

⁹⁷⁴ 2021 consolidated transcripts page 1692 line 16

black junior officer, he feared no pressure or intimidation from his superiors, in respect of the first inquest proceedings.⁹⁷⁵

393 He claimed to be unaware of the culture of the SB at the time, which meant that SB members did not spill the beans on each other.⁹⁷⁶ Chauke did not find the SB culture at the time to be intimidating or oppressive. He had no fear of Cronwright, Whitehead, Van Schalkwyk, or anyone else. He refused to concede that he was permitted into SB interrogation rooms because he was one of the more trusted black officers.⁹⁷⁷

Meetings with Frank Dutton

394 Chauke spoke to Frank Dutton in person⁹⁷⁸ on 4 November 2015 and 17 May 2018 and Dutton said that Chauke told him that after his last interrogation on the day before his death Aggett was thoroughly downcast⁹⁷⁹ and that Whitehead was angry at Aggett for the complaint of assault against him.⁹⁸⁰ In anger Whitehead tore Aggett's statement that he had been working on for weeks;⁹⁸¹ and that Whitehead intended to resume Aggett's interrogation later that night to get the truth out of him because his statement was all lies.⁹⁸² Chauke responded by denying that he had said those things. He claimed that he told Dutton he had no information to give, but Dutton offered to compensate him for information.

⁹⁷⁵ 2021 consolidated transcripts page 1687 – 8.

⁹⁷⁶ 2021 consolidated transcripts page 1689 - 1690.

⁹⁷⁷ 2021 consolidated transcripts page 1690 – 1.

⁹⁷⁸ 2021 consolidated transcripts page 1724 line 25

⁹⁷⁹ 2021 consolidated transcripts page 1725 line 19

⁹⁸⁰ 2021 consolidated transcripts page 1726 line 11 and page 1727 line 18

⁹⁸¹ 2021 consolidated transcripts page 1728 line 1

⁹⁸² 2021 consolidated transcripts page 1729 line 3

Counsel for the family put it to Chauke that he was fabricating a story and lying under oath.⁹⁸³

Daniel Swanepoel⁹⁸⁴

Career

395 In 1982 Daniel Elardus Swanepoel (Swanepoel) was a member of the SB with the rank of Captain based in Benoni. He was called in to assist with the interrogation of the Hogan detainees. As a young officer he went on a security course which focussed on banned organisations.⁹⁸⁵

396 Swanepoel said he often handled informers.⁹⁸⁶ He claimed that intelligence gathering and investigation for purpose of building criminal cases was his forte.⁹⁸⁷ He testified that by 1982 he had accumulated 12 years' experience in investigation and intelligence collection; and by the time he retired in 1997 that experience had accumulated to some 25 years? He agreed that by 1982 he was a seasoned and experienced police officer, by the time he left the force was one of the most experienced members in investigations.⁹⁸⁸

Treatment of detainees

⁹⁸³ 2021 consolidated transcripts page 1727 line 4

⁹⁸⁴ 1982 transcript at A6.2, p2010 – 2055; 1982 affidavit at B8.45; 2021 consolidated transcript at p 1749 – 2089. He testified from 9 to 11 February 2021.

⁹⁸⁵ Oral testimony of DE Swanepoel, page 101, line 24, 2021 consolidated transcripts page 1819

⁹⁸⁶ Oral testimony of DE Swanepoel, page 103, line 12, 2021 consolidated transcripts page 1821

⁹⁸⁷ 2021 consolidated transcripts page 1973

⁹⁸⁸ Oral testimony of DE Swanepoel, page 103, line 12, 2021 consolidated transcripts page 1973

- 397 He claimed he used a soft approach in interrogation of detainees.⁹⁸⁹ His methods included: (1) threatening detainees with imprisonment; (2) making detainees stand for lengthy periods, (3) enforced exercises and (4) raising his voice.⁹⁹⁰
- 398 He claimed that the JVS SB commanding officer, Cronwright, said there should be no assaults on detainees.⁹⁹¹ He confirmed that he and Venter interrogated Ismail Momoniat.⁹⁹² He also interrogated Cedric Mason and Firoz Cachalia.⁹⁹³
- 399 His counsel, Ms Ramla, put to him paragraph 8 of Roelof Venter's affidavit describing the interrogation of Momoniat, which included threats of violence, insults, standing, exercises, tearing up & rewriting statements.⁹⁹⁴ Although present in this interrogation he claimed he did not use the methods described by Venter, but his own methods.⁹⁹⁵ Swanepoel admitted to making Momoniat stand for a long period, but denied his allegation that he slapped him.⁹⁹⁶ Momoniat said Swanepoel made him stand naked from the hip up. Swanepoel said he could not remember that but that it might have happened.⁹⁹⁷
- 400 Swanepoel, claimed disingenuously, that if a detainee was assaulted in his presence he would report it to a senior officer.⁹⁹⁸ He claimed, also disingenuously, that he was not aware of any assaults taking place on the 10th

⁹⁸⁹ 2021 consolidated transcripts page 1754

⁹⁹⁰ Oral testimony of DE Swanepoel, page 37, line 15, 2021 consolidated transcripts page 1755

⁹⁹¹ Oral testimony of DE Swanepoel, page 44, line 13, 2021 consolidated transcripts page 1762

⁹⁹² Oral testimony of DE Swanepoel, page 47, line 16, 2021 consolidated transcripts page 1765

⁹⁹³ Oral testimony of DE Swanepoel, page 48, line 3, 2021 consolidated transcripts page 1766

⁹⁹⁴ Oral testimony of DE Swanepoel, page 49, line 14, 2021 consolidated transcripts page 1767

⁹⁹⁵ Oral testimony of DE Swanepoel, page 50, line 22, 2021 consolidated transcripts page 1768

⁹⁹⁶ Oral testimony of DE Swanepoel, page 54, line 3, 2021 consolidated transcripts page 1772

⁹⁹⁷ Oral testimony of DE Swanepoel, page 54, line 16, 2021 consolidated transcripts page 1772

⁹⁹⁸ Oral testimony of DE Swanepoel, page 55, line 22, 2021 consolidated transcripts page 1773

floor of JVS.⁹⁹⁹ He stated that he was only aware of insults, tearing of statements, slaps on the back of the head, forced exercises such as squatting and deprivation of sleep being inflicted on detainees.¹⁰⁰⁰ He was asked whether he had knowledge of the use of electric shocks to extract information from detainees and he said he was aware of some officers who used it, but never in his presence.

1001

Interactions with Aggett

401 He admitted that he was partnered with Visser on 30 January 1982 in the interrogation of Aggett.¹⁰⁰² That morning Visser said they would interrogate Aggett about his union activities and possible involvement in the ANC.¹⁰⁰³ Visser was the senior officer. Visser gave him a general briefing. Apart from this he had some knowledge given to him by informers but had no documents with him.¹⁰⁰⁴ Late in the day Aggett said he now wanted to tell the truth but did not indicate what he wanted to say. He and Visser left as it was the end of their shift. When asked by counsel what was the physical and mental condition of Aggett. He claimed that Aggett relaxed.

402 Under cross examination by Adv Singh for the State, he claimed that he never seriously assaulted a detainee. When asked what a serious assault was he said this is when assault goes over to a level of violence resulting in injury.¹⁰⁰⁵ He said

⁹⁹⁹ Oral testimony of DE Swanepoel, page 56, line 9, 2021 consolidated transcripts page 1774
¹⁰⁰⁰ Oral testimony of DE Swanepoel, page 56, line 13, 2021 consolidated transcripts page 1774
¹⁰⁰¹ Oral testimony of DE Swanepoel, page 57, line 1, 2021 consolidated transcripts page 1775
¹⁰⁰² Oral testimony of DE Swanepoel, page 57, line 16, 2021 consolidated transcripts page 1775
¹⁰⁰³ Oral testimony of DE Swanepoel, page 58, line 6, 2021 consolidated transcripts page 1776
¹⁰⁰⁴ Oral testimony of Swanepoel, page 59, lines 16 to 21, 2021 consolid. transcripts page 1777
¹⁰⁰⁵ Testimony of Swanepoel, page 104, lines 8 to 18, 2021 consolidated transcripts page 1822

that as far as he can remember he never slapped a detainee.¹⁰⁰⁶ He explained that if a detainee had no marks and he did not complain there was no need to refer him to a doctor.¹⁰⁰⁷ He asked how in such circumstances would we know whether the person had been assaulted.¹⁰⁰⁸ A mere complaint of assault by a member of the public would not cause a referral for a J88 if there were no visible injuries.¹⁰⁰⁹ Although he found it difficult to accept that torture is a crime in a democratic South Africa, he did not subscribe to certain methods of interrogation.¹⁰¹⁰ Asked if he slapped a person 20 times and there was no serious injury if this would not be assault, he responded yes.¹⁰¹¹

403 Adv Singh read to him the common law definition of common assault and he agreed that even if there was no injury it could still be assault.¹⁰¹² Swanepoel could not explain why during the 12 hours with Aggett he would not want to talk, and then suddenly as he and Visser were leaving Aggett, he wanted to talk at the end of the day. He claimed that he would like to believe it was because of how he and Visser treated him.¹⁰¹³

404 Swanepoel claimed that the truth given by a detainee had to be measured against the information the SB had.¹⁰¹⁴ He said the detainee must make admissions in line with the intelligence the SB.¹⁰¹⁵

¹⁰⁰⁶ Oral testimony of DE Swanepoel, page 105, line 4, 2021 consolidated transcripts page 1823
¹⁰⁰⁷ Oral testimony of DE Swanepoel, page 106, line 24, 2021 consolidated transcripts page 1824
¹⁰⁰⁸ Testimony, DE Swanepoel, page 108, lines 7 to 11, 2021 consolidated transcripts page 1826
¹⁰⁰⁹ Oral testimony of DE Swanepoel, page 106, line 17, 2021 consolidated transcripts page 1824
¹⁰¹⁰ Oral testimony of Swanepoel, page 107, lines 16 to 25, 2021 consolidated transcripts p 1825
¹⁰¹¹ Oral testimony of DE Swanepoel, page 109, lines 5 to 7, 2021 consolidated transcripts p 1827
¹⁰¹² Oral testimony of DE Swanepoel, page 110, line 16, 2021 consolidated transcripts page 1828
¹⁰¹³ Oral testimony of Swanepoel, page 118, lines 3 to 15, 2021 consolidated transcripts p 1836
¹⁰¹⁴ Oral testimony of DE Swanepoel, page 122, line 3, 2021 consolidated transcripts page 1840
¹⁰¹⁵ Oral testimony of DE Swanepoel, page 123, line 23, 2021 consolidated transcripts page 1841

- 405 Adv Singh asked Swanepoel whether he made detainees stand for periods of time and he agreed that he did for periods of one to one and a half hours.¹⁰¹⁶ Swanepoel could not explain why standing for long periods would help a person to tell the truth. All he can say was that it was "*n kombinasie van druk...*"¹⁰¹⁷
- 406 Swanepoel stated that he "*would tell a person we had intelligence that showed he was not telling the truth; that it would be in his best interest to tell the truth; if he continued not to tell the truth we had other evidence on which he could be charged.*"¹⁰¹⁸ He did not regard this a threat.¹⁰¹⁹ Rather he was putting the detainee on his guard what could happen.¹⁰²⁰ He stated that he made some detainees run on the spot.¹⁰²¹ Swanepoel conceded that the statements he obtained from detainees were not made freely and voluntarily.¹⁰²²
- 407 Swanepoel agreed that he never admitted these acts of torture in the 1982 Inquest and had denied any pressure in that inquest.¹⁰²³ But remarkable he claimed that his 1982 evidence was correct as there was no physical torture.¹⁰²⁴ He even claimed that no pressure was placed on Aggett.¹⁰²⁵ He claimed that he did not follow the TRC process.¹⁰²⁶

1016 Oral testimony of Swanepoel, page 133, lines 11 to 18, 2021 consolidated transcripts p 1851
 1017 Oral testimony of Swanepoel page 134, line 19 to page 135, line 4, 2021 transcripts p 1852
 1018 2021 consolidated transcripts page 1855 to 1857
 1019 Oral testimony of DE Swanepoel, page 139, line 24, 2021 consolidated transcripts page 1857
 1020 Oral testimony of DE Swanepoel, page 140, line 1, 2021 consolidated transcripts page 1858
 1021 2021 consolidated transcripts page 1860
 1022 Oral testimony of DE Swanepoel, page 144, lines 2 to 9, 2021 consolidated transcripts p 1862
 1023 2021 consolidated transcripts page 1872
 1024 Oral testimony of DE Swanepoel, page 6, lines 9 to 17, 2021 consolidated transcripts p 1877
 1025 Oral testimony of DE Swanepoel, page 12, line 6 to 12, 2021 consolidated transcripts p 1883
 1026 Oral testimony of Swanepoel, page 7, lines 10 and 18, 2021 consolidated transcripts p 1878

- 408 Adv Singh read extracts from Don Foster's book (exhibit FGK11 (2)). At P 84. Foster writes: "*The methods were listed in the order of frequency. Beatings and general physical assaults including severe beatings with a range of implements. Kicking, pushing, slaps in the face. Heads knocked against the wall and other assaults.*"¹⁰²⁷ Swanepoel agreed that some officers employed that kind of violence, but he did not know who they were.¹⁰²⁸
- 409 Swanepoel admitted he had no classified information with him on 30 January 1982, as it was simply information he had got from his informers.¹⁰²⁹ However, he claimed that any information he got from informers was classified.¹⁰³⁰
- 410 Swanepoel denied that on 29 January 1982 Cronwright sent him to tell Pitout that he would interrogate Aggett on Sunday 31 January 1982, and that Pitout said he had other plans for the Sunday; but he told Pitout that Aggett would not hold out that long.¹⁰³¹ Auret van Heerden, who was in Pitout's office, gave this evidence.¹⁰³² Adv Singh put to Swanepoel that, contrary to his earlier claim, this meant he knew who he was going to interrogate over the weekend.¹⁰³³

Interrogation of Aggett

¹⁰²⁷ Oral testimony of DE Swanepoel, page 9, lines 3 to 10, 2021 consolidated transcripts p 1880
¹⁰²⁸ Oral testimony of DE Swanepoel, page 9, lines 11 to 24, 2021 consolidated transcripts p 1880
¹⁰²⁹ Oral testimony of Swanepoel, page 28, lines 16 to 29, 2021 consolidated transcripts p 1899
¹⁰³⁰ Oral testimony of DE Swanepoel, page 29, line 10, 2021 consolidated transcripts page 1900
¹⁰³¹ Oral testimony of DE Swanepoel, page 32, line 13 to 19, 2021 consolidated transcripts p 1903
¹⁰³² Oral testimony of DE Swanepoel, page 33, line 8 to 10, 2021 consolidated transcripts p 1904
¹⁰³³ Oral testimony of DE Swanepoel, page 33, line 13 to 19, 2021 consolidated transcripts p 1904

411 Swanepoel claimed that Aggett was relaxed.¹⁰³⁴ Singh put it to him that in the 1982 inquest Swanepoel he testified that it looked as though Aggett had not slept or had not been in in the cells on the morning of 30 January 1982 because his shirt was creased. It looked as if he had slept in his shirt.¹⁰³⁵ Swanepoel says he cannot remember saying this,¹⁰³⁶ but he accepted that from the presence of Whitehead and de Bruyn that morning, that they must have been interrogating Aggett before him¹⁰³⁷ and accepted that Aggett had not slept the previous night.¹⁰³⁸ Swanepoel admitted that he had interrogated detainee Katala for more than 24 hours.¹⁰³⁹ He admitted that sleep deprivation was in his repertoire of torture.¹⁰⁴⁰

412 Swanepoel stated that in the interrogation they wanted to know from Aggett about his trade union activities and his links to the ANC. Aggett told him he did not have anything further to say.¹⁰⁴¹ He claimed he had information that Aggett had links to SACTU and the ANC and the whole purpose of the Interrogation was to obtain his admission of that.¹⁰⁴²

413 Detainee Firoz Cachalia testified that Swanepoel oversaw his interrogation on an occasion at Benoni SAPS.¹⁰⁴³ Swanepoel was present during an assault on him and during the assault Swanepoel had helped hold him down.¹⁰⁴⁴ Swanepoel

¹⁰³⁴ Oral testimony of DE Swanepoel, page 30, line 13, 2021 consolidated transcripts page 1901
¹⁰³⁵ Oral testimony of DE Swanepoel, page 41, lines 9 to 11, 2021 consolidated transcripts p 1912
¹⁰³⁶ Oral testimony of Swanepoel, page 41, lines 12 and 13, 2021 consolidated transcripts p 1912
¹⁰³⁷ Oral testimony of DE Swanepoel, page 41, line 23, 2021 consolidated transcripts page 1912
¹⁰³⁸ Oral testimony of DE Swanepoel, page 43, line 7, 2021 consolidated transcripts page 1914
¹⁰³⁹ Oral testimony of DE Swanepoel, page 42, lines 6 to 9, 2021 consolidated transcripts p 1913
¹⁰⁴⁰ Oral testimony of DE Swanepoel, page 43, line 15, 2021 consolidated transcripts p 1914
¹⁰⁴¹ Oral testimony of DE Swanepoel, page 45, lines 3 to 8, 2021 consolidated transcripts p 1916
¹⁰⁴² Oral testimony of DE Swanepoel, page 78, lines 5 to 11, 2021 consolidated transcripts p 1949
¹⁰⁴³ Oral testimony of Swanepoel, pp 81 to 89; 2021 transcripts pp 1952 to 1949 to 1960
¹⁰⁴⁴ Oral testimony of DE Swanepoel, page 83, lines 19 to 25, 2021 transcripts p 1954

claimed he could not recall this.¹⁰⁴⁵ Singh read out paragraph 5.1 of exhibit B3.2.2 in which Cachalia says Swanepoel assisted other interrogators hold him down to the floor while Prince squeezed his testicles. Swanepoel claimed that it was highly unlikely that he would do an act like that.¹⁰⁴⁶ Singh read paragraph 5.3 in which Cachalia said that Swanepoel threatened him with electric shocks. Swanepoel claimed he could not remember.¹⁰⁴⁷

SB Culture

414 Under cross examination by counsel for the family, Swanepoel declares that if he could do his time over in the SB, he would do nothing differently. He said he had no regrets about his role in the SB.¹⁰⁴⁸ He claimed he acted strictly within the law and respected the human rights of detainees at all times, however he admitted that looking back his conduct is now seen as assaults, and the pressure he applied did violate the rights of detainees.¹⁰⁴⁹

415 Counsel referred Swanepoel to exhibits G71¹⁰⁵⁰ and G52¹⁰⁵¹ in which senior police officers, including General Johann van der Merwe, Brigadier Jack Cronje and Colonel Roelof Venter, testified that the SB entered a realm of criminality, which included extra-judicial killings, false-flag bombings and coverups. Swanepoel claimed he could never agree with those activities and at that time

¹⁰⁴⁵ Oral testimony of DE Swanepoel, page 85, lines 5 to 11, 2021 transcripts page 1956
¹⁰⁴⁶ Oral testimony of DE Swanepoel, page 86, lines 8 to 19, 2021 transcripts page 1957
¹⁰⁴⁷ Oral testimony of DE Swanepoel, page 87, line 1, 2021 consolidated transcripts page 1958
¹⁰⁴⁸ Oral testimony of DE Swanepoel, page 91, lines 18 to 25, 2021 transcripts page 1962
¹⁰⁴⁹ Oral testimony of DE Swanepoel, page 92, lines 1 and 13, 2021 transcripts page 1963
¹⁰⁵⁰ SAPA press statement dated 27 October 1996
¹⁰⁵¹ TRC transcript of special hearing on the armed forces, 9 October 1997

was not aware of such actions by the SB,¹⁰⁵² but he is now agreed that the SB conducted a reign of terror against its opponents.¹⁰⁵³ He expressed regret that the SB engaged in murders, bombings and other crimes.¹⁰⁵⁴

416 Swanepoel disingenuously denied that there was a general SB culture or practice of covering for one's colleagues. He claimed that if he knew of a serious crime by the SB, he would have reported it.¹⁰⁵⁵ He agreed though that SB members were required to do everything within their ability to protect the country from communism and the ANC.¹⁰⁵⁶ He disputed that Deetlefs could have been pressurised in the 1982 inquest. He felt no such pressure.¹⁰⁵⁷

417 Counsel for the family asked Swanepoel in his capacity as an experienced investigator, why the investigating officer saw fit to uplift a South African Communist Party (SACP) document from the SB files titled Inkululeko Freedom No.2, which contained a passage on the last page exhorting communists to commit suicide rather than betraying their comrades.¹⁰⁵⁸ Swanepoel said that the document may have helped to prove the motivation behind Aggett's suicide. It was put to Swanepoel that the same document had been put up by the SB in the first inquest into the death of the late Ahmed Timol, and relied upon by the Magistrate in his finding of suicide; but that in the reopened Timol Inquest in 2017 it had been demonstrated that the "suicide passage" was a fabrication by the SB.

¹⁰⁵² Oral testimony of DE Swanepoel, page 93, line 5 and line 23, 2021 transcripts page 1964

¹⁰⁵³ Oral testimony of DE Swanepoel, page 94, line 10, 2021 consolidated transcripts page 1965

¹⁰⁵⁴ Oral testimony of DE Swanepoel, page 95, line 20, 2021 consolidated transcripts page 1966

¹⁰⁵⁵ Oral testimony of DE Swanepoel, page 97, line 1 to line 11, 2021 transcripts page 1968

¹⁰⁵⁶ Oral testimony of DE Swanepoel, page 97, line 19, to page 98, line 1 2021 consolidated transcripts page 1968

¹⁰⁵⁷ Oral testimony of DE Swanepoel, page 98, line 15, 2021 consolidated transcripts page 1969

¹⁰⁵⁸ See affidavit of Ronald Kasrils at G22.

Counsel put it to him that the document appeared to be the “go-to” document for suicides and that it featured in both Timol and Aggett smacked of a cover-up. Swanepoel said he was unaware of the document but did not think there was a cover-up in the Aggett case.¹⁰⁵⁹

418 Swanepoel admitted that some interrogators adopted the hard approach.¹⁰⁶⁰ Although he denied that the SB used the ‘good cop, bad cop’ approach. But then he claimed to be the “good cop” in this system.¹⁰⁶¹ He testified that he and Visser did not use the ‘good cop bad cop tactic on Neil Aggett. He accepted that there could have been ‘bad cops’ dealing with Aggett the night before (29 January 1982) when he was assaulted and tortured with electric shocks but claimed to be unaware of the torture. He agreed he had no reason to dispute the truthfulness of Aggett’s complaints.¹⁰⁶²

Treatment of Aggett

419 Swanepoel claimed, quite disingenuously that he had no idea that Aggett had been awake and under interrogation for some 44 hours by the time he commenced his interrogation.¹⁰⁶³

420 On Swanepoel’s repeated claim that he was able to gain the trust of Aggett, counsel for the family put the following to him:

MR VARNEY: But just as a matter of logic Mr Swanepoel, the detainee in question was treated like an animal the night before, he was

¹⁰⁵⁹ Oral testimony of Swanepoel, page 98, line 15, 2021 consolidated transcripts pp 1973 – 1977.

¹⁰⁶⁰ Oral testimony of DE Swanepoel on, page 107, line 15, 2021 consolidated transcripts p 1978

¹⁰⁶¹ Oral testimony of DE Swanepoel, page 108, line 23, 2021 consolidated transcripts page 1979

¹⁰⁶² Oral testimony of DE Swanepoel, page 109, line 12, 2021 transcripts p 1980 - 1981

¹⁰⁶³ Oral testimony of Swanepoel, p 109, line 12, 2021 transcripts p 1981

electrocuted. You might be aware that animals, livestock you know electric prods are used with them, so Dr Aggett was treated like an animal the night before. You are now aware of that, logically I put it to you that the prospects of gaining somebody's confidence and winning him over in those circumstances are not good, in fact they are probably close to zero.

MR SWANEPOEL: I agree with that, M'Lord.

*MR VARNEY: So, then I want to put it you that, your claim in 1982 and before this Court that you had won over his trust and gained his confidence through your soft approach, cannot be correct.*¹⁰⁶⁴

421 It was put to Swanepoel that it was irresponsible of him not to be briefed before going into an interrogation. He claimed he was not briefed, and that Whitehead spoke only to Visser before the interrogation started on the morning of 30 January 1982, and he did not know what was passed over to Visser.¹⁰⁶⁵

Venter Amnesty application

422 Varney put it to Swanepoel that Roelof Venter, in his amnesty application, listed him as one of the officers involved in the Hogan investigation interrogations, and that serious assaults and degrading treatment had taken place in these interrogations. It was put to Swanepoel that Venter was saying that this was the practice for the Hogan interrogations, to which he responded by denying he was personally involved in such acts, but: *"That could possibly have been, yes. I will not deny it."*¹⁰⁶⁶

423 It was put to Swanepoel that at page 50 of Venter's amnesty application he had set out the names of victims of such abuse and the names included Ismail

¹⁰⁶⁴ Oral testimony of DE Swanepoel, p 109, line 12, 2021 transcripts p 1982

¹⁰⁶⁵ Oral testimony of DE Swanepoel, page 112, line 18, 2021 consolidated transcripts page 1983

¹⁰⁶⁶ Oral testimony of DE Swanepoel, p 116, lines 7 to 13, 2021 consolidated transcripts p 1987

Momoniati and Neil Aggett. He was reminded that he had interrogated both these detainees.¹⁰⁶⁷

Treatment of detainees

424 Swanepoel claimed that he never 'seriously assaulted' detainees but when asked whether he assaulted detainees less seriously he claimed not to remember, but it could have happened.¹⁰⁶⁸ Eventually he admitted he may very well have committed less serious assaults, like slapping the faces of detainees.¹⁰⁶⁹

425 Swanepoel professed no knowledge of the practices of keeping injured detainees away from inspectors, and not releasing detainees until their injuries had healed. He also professed ignorance of the practice of torture which did not leave visible injury.¹⁰⁷⁰ Cases of forced prolonged standing leading to serious injury were put to Swanepoel Prema Naidoo, Auret van Heerden and Paul Langa.¹⁰⁷¹ Swanepoel claimed he only made people stand for about one and a half hours. He admitted he might use this repeatedly and that this was abusive treatment.¹⁰⁷² Swanepoel admitted that the physical exercise he forced detainees to do could constitute torture but claimed that what he imposed stopped short of torture¹⁰⁷³

Interrogation of Aggett

¹⁰⁶⁷ Oral testimony of DE Swanepoel, page 116, line 24, 2021 consolidated transcripts page 1987
¹⁰⁶⁸ Oral testimony of Swanepoel, page 118, lines 2 to 18, 2021 consolidated transcripts p 1989
¹⁰⁶⁹ Oral testimony of DE Swanepoel, page 119, lines 2 to 7 2021 consolidated transcripts p 1990
¹⁰⁷⁰ 2021 consolidated transcripts page 1990
¹⁰⁷¹ 2021 consolidated transcripts page 1992
¹⁰⁷² 2021 consolidated transcripts page 1995
¹⁰⁷³ 2021 transcripts page 1999

426 Counsel put to Swanepoel the sleep deprivation suffered by Neil Aggett.¹⁰⁷⁴

Swanepoel denied his 12-hour shift with Aggett was part of ensuring sleep deprivation. He did not know Aggett had been kept awake since Thursday 28 February 1982. In total this meant that Aggett was out of his cell and in the interrogation room for 65 hours before he was permitted to return. Swanepoel's response was, notwithstanding the proof in the Occurrence Book entries: "*I cannot believe it*". Swanepoel agreed that sleep deprivation was a cruel and useless form of interrogation and it was torture. He accepted that it was aimed at undermining the physical and mental health of detainees, disorienting them, and weakening their resistance to questions.¹⁰⁷⁵

427 Counsel put it to Swanepoel that no less than 6 officers between Thursday 28 January and Saturday 30 January claimed that they in fact had made breakthroughs with Doctor Aggett. It was put to him that the evidence of the SB in this regard was not only ridiculous, it was comical. Swanepoel claimed to be unaware of the other claims.¹⁰⁷⁶ Counsel put it to him that the multiple claims of breakthroughs that Aggett was ready to betray his comrades was:

*"...in fact a cover-up that was concocted and agreed to and that is why it appears in so many places. Because after all, the police version was he committed suicide, because you know, he was so ashamed, following his betrayal of his comrades."*¹⁰⁷⁷

¹⁰⁷⁴ 2021 consolidated transcripts page 1999

¹⁰⁷⁵ Oral testimony of DE Swanepoel, consolidated transcripts page 1999 – 2003. See also Exhibit G69: Ergün Cakal, *Befogging reason, undermining will: Understanding sleep deprivation as torture and other ill-treatment in international law*.

¹⁰⁷⁶ Oral testimony of DE Swanepoel, 2021 consolidated transcripts pages 2013 - 2016

¹⁰⁷⁷ Oral testimony of DE Swanepoel consolidated transcripts page 2016

428 Swanepoel did not agree that the multiple claims were a cover-up of the real facts behind Aggett's death.¹⁰⁷⁸ Swanepoel had no adequate answer when the following was put to him in relation to the step of arriving at a 12 hours interrogation session not even knowing who the suspect was:

*MR VARNEY: Because that is just simply hard to believe that you are involved in a sensitive investigation. You are asked to spend 12 hours with a detainee, a suspect and you pitch up at John Vorster Square utterly clueless. You simply do not know what you are going to be doing that day. You do not even know who you are going to be talking to. Is that... Must we take that evidence seriously, Mr Swanepoel?*¹⁰⁷⁹

429 Counsel put it to Swanepoel the monumental incompetence¹⁰⁸⁰ of him conducting the 30 January 1982 interrogation without having been briefed at all and not ascertaining if he had made a previous statement. It becomes apparent Swanepoel had never seen and did not even know of Aggett's statement to Naude as the time of his evidence on 11 February 2021.¹⁰⁸¹ Swanepoel eventually admitted that he had no intelligence contradicting Aggett's explanation why he would not work with the ANC,¹⁰⁸² notwithstanding his claims that they were using intelligence of Aggett's connections to SACTU and the ANC.¹⁰⁸³

430 Swanepoel also admitted that he could not dispute Aggett's explanation as to why he did not get involved with the ANC? It was then put to Swanepoel that getting to the truth was not the aim, but simply to break him for purposes of a confession:

MR VARNEY: Yes. So, you have to agree with me that you blundered in not inquiring about any earlier statements and the contents of the

¹⁰⁷⁸ Oral testimony of DE Swanepoel, page 7, line 3, 2021 consolidated transcripts page 2016

¹⁰⁷⁹ Oral testimony of DE Swanepoel consolidated transcripts page 2021

¹⁰⁸⁰ See also 2021 consolidated transcripts page 2036 - 2038

¹⁰⁸¹ Oral testimony of DE Swanepoel, page 17, line 3, 2021 consolidated transcripts page 2026

¹⁰⁸² Oral testimony of DE Swanepoel, 2021 consolidated transcripts page 2028

¹⁰⁸³ Oral testimony of DE Swanepoel, page 34, lines 11 to 19, 2021 consolidated transcripts p 2043

statements as they are related to his connection to these banned organisations.

MR SWANEPOEL: At this stage I do see that it would possibly be a ...[indistinct] on my side.

MR VARNEY: Yes. Well perhaps, actually it was not your fault, Mr Swanepoel. Because that in fact was not the idea behind this long ...[indistinct] interrogations. It was not in fact to engage in the scientific and methodical extraction of information. The main aim was to ...[indistinct] to simply harass Doctor Aggett and keep him awake and break down his resistance to confess ...[indistinct].

MR SWANEPOEL: ...[indistinct] M'Lord when I was involved with him, we treated him well. ¹⁰⁸⁴

431 Swanepoel conceded that he never asked Whitehead or Visser how long Aggett had been awake and under interrogation; and never enquired this from Aggett himself. It was put to him that this demonstrated that he was contemptuous of Aggett's rights. Swanepoel unconvincing answer was that he disagreed. ¹⁰⁸⁵

432 It was put to Swanepoel that the reason he could not put up his intelligence before the 1982 Court and the reason he has no recollection of the contents of his files is because such intelligence never existed in the first place. It was a fabrication. ¹⁰⁸⁶ Swanepoel denied this but eventually conceded that he did not have any intelligence linking Aggett to SACTU or the ANC¹⁰⁸⁷ and testified that he ultimately wanted a confession of Aggett's involvement with SACTU and the ANC.¹⁰⁸⁸

433 It was put to Swanepoel that:

¹⁰⁸⁴ Oral testimony of DE Swanepoel, 2021 consolidated transcripts page 2030 - 2031

¹⁰⁸⁵ Oral testimony of DE Swanepoel, 2021 consolidated transcripts page 2035

¹⁰⁸⁶ Oral testimony of DE Swanepoel, 2021 consolidated transcripts page 2049

¹⁰⁸⁷ Oral testimony of DE Swanepoel, page 50, lines 2 to 7, 2021 consolidated transcripts p 2059

¹⁰⁸⁸ Oral testimony of DE Swanepoel, page 65, line 10, 2021 consolidated transcripts page 2074

433.1 the supposedly sensitive information Aggett gave betraying his comrades resulted in no action being taken against them,

433.2 that Deetlefs had told Whitehead and Cronwright that Aggett was a suicide risk, but no steps were taken to protect Aggett's life – and

433.3 then Deetlefs was instructed by Whitehead not to disclose this to the first inquest court,

that none of this “added up”, to which Swanepoel responded: “*I do agree M'Lord*”.¹⁰⁸⁹

434 It emerged that Swanepoel was never given sight of the Close Comrades list that reflected that Aggett was in a perfectly legal category (above ground reference group) and who was not even aware of the Hogan's ANC status. Swanepoel agreed that this was crucial information for the investigation, which could have changed the course of it, had he known. He agreed that it was monumentally incompetent of the SB to withhold it from him. It was put to him that this was probably by design since all his superiors wanted him to do was to help break Aggett to extract a confession. His response was “*It could possibly be...*”. He agreed that he possibly was a cog in the machine aimed at breaking Aggett.¹⁰⁹⁰

435 Ismail Momoniat's statement at paragraph 49 was put to Swanepoel that he and Venter tried to get him to change his statement to the district surgeon that they

¹⁰⁸⁹ Oral testimony of DE Swanepoel, 2021 consolidated transcripts page 2051 - 2055

¹⁰⁹⁰ Oral testimony of DE Swanepoel, 2021 consolidated transcripts page 2063 – 2066 and 2079

had assaulted him. Swanepoel claimed he could not recall said disingenuously that it is highly unlikely it was him.¹⁰⁹¹

436 The various forms of torture employed by the SB were put to Swanepoel and he disingenuously stated that he was not aware of such torture or was aware (such as in respect of electric shocks) that other interrogators used them, but not himself. It was put to him that he had engaged in a cover-up before the first inquest court and he was persisting with that cover-up by misleading the reopened inquest court. He denied this¹⁰⁹² claiming, incredulously, that he had been open and honest.¹⁰⁹³

Former SAP

437 The evidence of former SAP officers (who were not members of the SB), who were called by the State to testify in the Reopened Inquest is considered in this section.

Aletta Gertruida Visser (formerly Blom)¹⁰⁹⁴

438 In 1982 Aletta Gertruida Visser (formerly Blom) (Visser) was a Detective Sergeant stationed at JVS with the SAP Detective Branch.¹⁰⁹⁵ She had about 5 years' experience as detective by the time of the Aggett case.¹⁰⁹⁶

¹⁰⁹¹ Oral testimony of DE Swanepoel, page 66, line 24, 2021 consolidated transcripts page 2075

¹⁰⁹² Oral testimony of DE Swanepoel, page 73, line 13, 2021 consolidated transcripts page 2082

¹⁰⁹³ Oral testimony of DE Swanepoel, page 74, line 4, 2021 consolidated transcripts page 2083

¹⁰⁹⁴ 1982 transcript at A2.5, p452 – 500 and A3.2, p 772 – 772 and A3.4, p 808 – 837; 1982 affidavit at B8.50 and B8.71; personnel file at G61; 2021 consolidated transcripts 422 – 569; no affidavit in 2021. She testified on 22 January 2021.

¹⁰⁹⁵ Oral testimony of AG Visser on 22 February 2021, page 13, lines 6 to 22, 2021 consolidated transcripts page 423.

¹⁰⁹⁶ Oral testimony of AG Visser on 22 February 2021, page 19, lines 10 to 12, 2021 consolidated transcripts page 429.

- 439 Visser claimed that she was only permitted to investigate a person of equal or lower rank than herself.¹⁰⁹⁷ The Aggett docket was allocated to her on 4 February 1982, exactly 4 weeks after the original assault complained of.¹⁰⁹⁸ She was allocated the docket at the morning parade that day.¹⁰⁹⁹
- 440 Visser indicated that her procedure was to first get the complainant's statement and then continue the investigation.¹¹⁰⁰ She phoned Major Cronwright to find out where Aggett was.¹¹⁰¹ He told her Aggett was currently with them in an office on the 10th Floor and she should come there.¹¹⁰²
- 441 Visser could not remember whether Aggett was her first political detainee case, but she was investigating cases of several detainees.¹¹⁰³ The 1982 Inquest record discloses that she took complaints from other detainees, including Momoniat, Nanabhai and Ngwenya.¹¹⁰⁴
- 442 It seemed correct to her that she would first contact Cronwright as branch commander of the SB.¹¹⁰⁵ She always spoke to Cronwright first in all her

¹⁰⁹⁷ Oral testimony of AG Visser on 22 February 2021, page 127, lines 7 to 9, 2021 consolidated transcripts page 437.

¹⁰⁹⁸ Oral testimony of AG Visser on 22 February 2021, page 31, line 20 to page 32 line 14, 2021 consolidated transcripts page 441 to 442.

¹⁰⁹⁹ Oral testimony of AG Visser on 22 February 2021, page 33, line 24 to page 34, line 3; 2021 consolidated transcripts page 443 to 444.

¹¹⁰⁰ Oral testimony of AG Visser on 22 February 2021, page 36, line 2; 2021 consolidated transcripts page 446.

¹¹⁰¹ Oral testimony of AG Visser on 22 February 2021, page 37, line 4; 2021 consolidated transcripts page 447.

¹¹⁰² Oral testimony of AG Visser on 22 February 2021, page 37, line 23; 2021 consolidated transcripts page 447.

¹¹⁰³ Oral testimony of AG Visser on 22 February 2021, page 39, lines 4 to 25; 2021 consolidated transcripts page 449.

¹¹⁰⁴ Complaint of assault by Momoniat to Blom at B3.3.2; Complaint of assault by Nanabhai to Blom at B3.3.4; Complaint of assault by Aggett at B3.4.1; Handwritten complaint of assault by Ngwenya at G62.1; Typed complaint of assault by Ngwenya at G62.2

¹¹⁰⁵ Oral testimony of AG Visser on 22 February 2021, page 41, lines 13 to 20; 2021 consolidated transcripts page 451.

cases.¹¹⁰⁶ She cannot recall if this was the first time she went to the 10th floor as there were a series of cases she was dealing with.¹¹⁰⁷ She told Cronwright she was there to see Aggett in connection with a claim of assault.¹¹⁰⁸ She claimed that Cronwright did not ask her, and she did not tell him who was implicated.¹¹⁰⁹ She claimed to be ignorant of the work of the SB.¹¹¹⁰

443 Cronwright took her to the office where Aggett was and she was left alone with him.¹¹¹¹ She could not remember whether Aggett was unwilling or eager to make a statement, but he did make a statement.¹¹¹² Visser completed Aggett's statement by 10:45am.¹¹¹³ Adv Singh put it to her that if Aggett had not wanted to make a statement she would have told the 1982 court that. Visser agreed that Aggett wanted to make a statement.¹¹¹⁴

444 Visser professed ignorance of the five SB detainees who had died at JVS during her employment there.¹¹¹⁵ State prosecutor, Adv Singh, put to her exhibit E being her 1982 statement and referred her to exhibit B8.55 being Aggett's statement to her. She confirmed that she regarded Aggett's complaint as a serious matter. After taking the statement she walked to Cronwright and told him she was finished and that she arranged for Aggett to be taken to a district surgeon, but that could only happen the next day as Cronwright said they were busy with

¹¹⁰⁶ Oral testimony of AG Visser, page 46, lines 6 to 16; 2021 consolidated transcripts page 456

¹¹⁰⁷ Oral testimony of AG Visser, page 53, line 10; 2021 consolidated transcripts page 463

¹¹⁰⁸ Oral testimony of AG Visser, page 59, line 10; 2021 consolidated transcripts page 469

¹¹⁰⁹ Oral testimony of AG Visser, page 62, lines 12 to 19; 2021 consolidated transcripts page 472

¹¹¹⁰ Oral testimony of AG Visser, page 65, lines 19 and 20; 2021 consolidated transcripts page 475

¹¹¹¹ Oral testimony of AG Visser, page 73, lines 18; 2021 consolidated transcripts page 483

¹¹¹² Oral testimony of AG Visser, pages 81, line 25 to page 82, line 2; 2021 consolidated transcripts pages 491 and 492

¹¹¹³ Oral testimony of AG Visser, page 67, line 11; 2021 consolidated transcripts page 477

¹¹¹⁴ Oral testimony of AG Visser, page 82, lines 6 to 22; 2021 consolidated transcripts page 492.

¹¹¹⁵ Oral testimony of AG Visser, page 6, lines 18 to 22; 2021 consolidated transcripts page 511

Aggett.¹¹¹⁶ Visser then withdrew her statement that she had made arrangements for Aggett to see a district surgeon:

*No arrangements were made. No, arrangements were made. Sorry. I am withdrawing what I said. With Aggett's investigation, my hands were tied, I could not do anything further.*¹¹¹⁷

445 Visser claimed that she to hand over her investigation to her branch commander as the investigation had implicated a person senior than herself. That is where the matter ended for her.¹¹¹⁸

446 Counsel for the family, Adv Varney, put it to Visser that when a when a detainee alleges assault, he should be examined by a doctor and it is not his decision as to whether he gets examined or not, correct? She agreed but noted that this did not happen because the Security Branch was busy with Aggett. Visser conceded that there was no reference in the 1982 record to her recommending to her superior (Col Ferreira) that Aggett see a district surgeon. She accepted that Aggett's complaint that he had been given electric shocks.¹¹¹⁹

447 Visser maintained that simply completing the statement and handing it to her officer commander was sufficient protection for Dr Aggett, in circumstances where he was left in the custody of the very people he had accused of assaulting him, and where she believed that the assaults had taken place. Visser responded that she felt that Colonel Cronwright was the person in charge and

¹¹¹⁶ Oral testimony of AG Visser on 22 February 2021, page 11, lines 14 to 22; 2021 consolidated transcripts page 516

¹¹¹⁷ Ibid

¹¹¹⁸ Oral testimony of AG Visser on 22 February 2021, page 12, line 11 to page 12, line 14; 2021 consolidated transcripts page 517 to 518

¹¹¹⁹ Oral testimony of AG Visser, page 67, line 11; 2021 consolidated transcripts page 537 - 540.

who had to take the necessary decisions. Varney put it to Visser that it was a dereliction of duty not to recommend to Cronwright and her commanding officer, Colonel Ferreira, that the persons implicated in the assault of Aggett be immediately removed from his interrogation.¹¹²⁰

448 Adv Varney put it to Visser that instead of interviewing Aggett on 10th floor, where the SB were present and where the assaults had taken place, she should have taken his statement at the cell block consulting rooms on the 2nd or 3rd floors, which were routinely used by inspectors of detainees and magistrates. Visser claimed, unconvincingly, not to know of those consulting rooms, and indeed not even to know of the 2nd and 3rd floor cells.¹¹²¹

449 Visser claimed that she thought Aggett was the only one to complain of electrocution.¹¹²² However, the case of Jabu Ngwenya was put to her, as in fact he made a report of electrocution to her. She did not remember discussing electric torture with him.¹¹²³ Visser admitted that she took a statement from Shirish Nanabhai who alleged electric shock torture.¹¹²⁴ She admitted to not knowing of any further investigations of electric shock torture beyond the statements of the detainees.¹¹²⁵

450 It was put to Visser that she did not take any steps to locate the alleged electric torture device in the Nanabhai case, or indeed in any other case, as investigators

¹¹²⁰ Oral testimony of AG Visser, page 36, line 21; 2021 consolidated transcripts page 541

¹¹²¹ Oral testimony of AG Visser, page 38, lines 5 to 20; 2021 consolidated transcripts page 543

¹¹²² Oral testimony of AG Visser, page 42, lines 15 to 20; 2021 consolidated transcripts page 547

¹¹²³ Oral testimony of AG Visser, page 43, lines 3 to 21; 2021 consolidated transcripts page 548

¹¹²⁴ Oral testimony of AG Visser, page 44, line 7; 2021 consolidated transcripts page 549

¹¹²⁵ Oral testimony of AG Visser, page 44, line 21 to page 46, line 25; 2021 consolidated transcripts page 549 to 551

would normally do. She responded: “Yes, I did not take any further steps. I cannot remember”. Visser admitted that she had never heard of any search for electric shock equipment ever taking place at JVS. She ultimately agreed that there were no serious investigations into multiple allegations of electric shock treatment at JVS.¹¹²⁶

451 Visser agreed with the family counsel that the 15-day delay between Aggett's report to the Magistrate and the docket landing on her desk on 4 February 1982 constituted gross negligence, indeed abuse:

MR VARNEY:I wish to put the following to you, that what transpired, what you have set out in EXHIBIT 8.71 reflects on the part of the authorities, no sense of urgency, and in fact would you agree that taking 15 days from a complaint made to a magistrate to the point where an investigator is assigned, constitutes at best gross neglect?

MRS VISSER: I agree there is.

MR VARNEY: In fact, one might even go further because it would appear that on the 19th of January 1982 the authorities were aware of a vulnerable man in detention in distress. It is not just gross neglect, it constitutes abuse, it constitutes contempt for the welfare of that detainee, a complete and utter lack of compassion and care, would you agree?

*MRS VISSER: Yes, it gives such an impression, yes.*¹¹²⁷

452 Visser accepted that since she used the office of SB interrogator WO K J de Bruyn, even though he vacated the room, he knew that Aggett was making a complaint.

¹¹²⁶ Oral testimony of AG Visser, page 38, lines 5 to 20; 2021 consolidated transcripts page 549 – 551.

¹¹²⁷ Oral testimony of AG Visser, page 52, line 13 to page 53, line 2; 2021 consolidated transcripts p 557 to 558

453 Varney then put the version of Whitehead as to what transpired after she had completed her statement, as set out in the 1982 Inquest record:

MR VARNEY: And then if we can turn to Lieutenant Whitehead himself, the evidence he gave, M'Lord that is at pages 2240 to 2241 [1982 transcript]. He says that he left the room when Blom arrived, He then said he remained in the corridors as well as the tearoom. Whitehead said he remained in the corridor and the tearoom while the interview proceeded.

.....

MR VARNEY:Mr Bizos asked him whether you had spoken to him when you were done with your statement with Dr Aggett, and you replied yes you did, and you found him in the tearoom.

....

MR VARNEY: Yes, do you accept that or deny that?

MRS VISSER: I deny, I never had anything to do with Whitehead in my life.

MR VARNEY: ... [Whitehead] then alleges that Blom came to tell him that there were allegations of assault against him, and that you were seeking an explanation from him.

.....

MR VARNEY: According to Whitehead he asked what the allegations were, and you told him what they were, and he said he would give an explanation.

MRS VISSER: I deny that.

MR VARNEY: Then according to Lieutenant Whitehead, when he was asked his reaction to what you told him, he said he was shocked because he and Dr Aggett have a very good relationship.

.....

MR VARNEY: Lieutenant Whitehead then goes further; he says he walked back into the office where Aggett was. De Bruyn was already there, and he said to Dr Aggett is this how you treat people who have been good to you so far.

MRS VISSER: What can I say, it is a lie.¹¹²⁸

¹¹²⁸

Oral testimony of AG Visser, page 38, lines 5 to 20; 2021 consolidated transcripts page 561 – 563.

454 Counsel then put it to her that her conduct in informing Whitehead at that stage was not only improper but to defeating the ends of justice, which denied:¹¹²⁹

MR VARNEY: Well Mrs Visser, I want to put the following to you, and this is from an affidavit on our private investigator Frank Dutton, who worked on behalf of the family

"... The conduct of Blom in almost immediately informing the suspect before she was ready to take a warning statement is questionable to say the least." "It leads me to the conclusion that she did so in order to tipoff the suspects at the earliest possible moment."

MRS VISSER: What I would get for that? What would I gain doing that, to jeopardise my case ...?

MR VARNEY: Well I suppose I need to put it to you Mrs Visser, that in the circumstances you were not serious about this investigation and you were happy for this case to be jeopardised.

MRS VISSER: I deny that.

MR VARNEY: Let me just conclude with what Mr Dutton will attest. Presumably, this was done in order to permit them, this being, them being security branch, time to deal with the situation before the normal procedures were followed.

MRS VISSER: I was not involved in Aggett's investigation, and I did not need any delaying tactics to hand over the docket to the person who was the correct rank to deal with Whitehead and the others could handle the case.

MR VARNEY: Mrs Visser, we will be submitting that on the balance of probabilities, following the interview with Dr Aggett, you did in fact inform other members of the security branch, including Lieutenant Whitehead, about the allegations against you, and that such conduct was grossly improper and amounted to conduct defeating the ends of justice. Your response?

*MRS VISSER: I deny that.*¹¹³⁰

It was then put to her that as a result of aforesaid conduct the writing was on the wall for Aggett and his "life became hell":

MR VARNEY: And in fact, we will submit Mrs Visser, that in that context in some respects the writing was on the wall for Dr Aggett, because now the interrogators, the very people who had been tormenting him were aware of his complaint almost immediately before he could be protected,

¹¹²⁹ Oral testimony of AG Visser on 22 February 2021, page 61, lines 6 to 16; 2021 consolidated transcripts page 468

¹¹³⁰ Oral testimony of AG Visser, page 38, lines 5 to 20; 2021 consolidated transcripts page 564 – 565.

and it is no coincidence that his life thereafter became even worse. It became hell.

*MRS VISSER: What I can say is that what made them to know about the case is because they were involved in the case. I did not inform them.*¹¹³¹

455 Visser agreed that the conduct of Aggett in allegedly taking his life within 15 hours of making his statement to you was odd and strange, given that he was seeking a reckoning in making a detailed complaint:

MR VARNEY: Now Mrs Visser, Dr Neil Aggett died within 15 hours of making this statement to you. Will you agree that it is a detailed statement? He names the perpetrators involved in the assault and that it is a kind of statement made by a smart medical doctor who in fact wishes to see justice done. He wanted a reckoning. Do you agree?

MRS VISSER: I do agree.

MR VARNEY: And do you also agree that it, in those circumstances, given 10 that he had made a detailed statement and given who he is, that him allegedly committing suicide some 15 hours later, after making a detailed statement in which it is clear the wishes a reckoning, is most strange and most odd?

MRS VISSER: I was very shocked the next morning when I was informed that Aggett is deceased.

MR VARNEY: So, you are agreeing that the suicide in those circumstances, within hours of making a detailed statement in which he wants a reckoning, is just very odd and very strange?

*MRS VISSER: I agree.*¹¹³²

John Edward Lloyd¹¹³³

456 John Edward Lloyd (Lloyd) joined the police force on 2 January 1979¹¹³⁴ and left the force voluntarily at the end of January 1982 at the rank of constable.¹¹³⁵ He began service at JVS SB on 1 December 1981.¹¹³⁶

¹¹³¹ Oral testimony of AG Visser, page 38, lines 5 to 20; 2021 consolidated transcripts page 565.

¹¹³² Oral testimony of AG Visser, page 38, lines 5 to 20; 2021 consolidated transcripts page 565.

¹¹³³ 1982 transcripts at A1.1.1; 1982 affidavit at B8.2; 2021 consolidated transcript at page 1436 to 1495. He did not submit an affidavit in 2021. He testified on 4 February 2021

¹¹³⁴ 2021 consolidated transcripts page 1436 line 22

¹¹³⁵ 2021 consolidated transcripts page 1437 line 6

¹¹³⁶ 2021 consolidated transcripts page 1437 line 22

457 Lloyd came to work at JVS temporarily for a month from Diepkloof.¹¹³⁷ His duties were to accept parcels from the families and friends of detainees, document the receipt of the parcels in a register and hand it over to the investigating officers.¹¹³⁸ He occupied an office on the 10th floor. He recalls that he worked with another officer named Zeelie, whose rank he cannot remember.¹¹³⁹ Parcels for detainees were received by 2 officers in a designated area on the ground floor of JVS.¹¹⁴⁰

458 On 4 December 1981 he took receipt of a parcel, including a multi coloured cloth¹¹⁴¹ for Aggett from S Kaplan at JVS.¹¹⁴² He does not know what happened to the parcel once it was received and it was kept in the office he shared with Zeelie on the 10th floor.¹¹⁴³ Aggett received it on 11 December 1981.¹¹⁴⁴

459 At the time Lloyd did not consider the cloth (kikoi) to be a dangerous item that Aggett could have used to harm himself. The food items were wrapped in the cloth and the whole parcel was delivered to Aggett. With hindsight he accepts it was a dangerous item¹¹⁴⁵ given its size of approximately 160cm x 100cm.¹¹⁴⁶

460 He testified further that it was routine practice to remove dangerous items like detainee shoelaces¹¹⁴⁷ and that cells were visited by officers regularly.¹¹⁴⁸

¹¹³⁷ 2021 consolidated transcripts page 1448 line 8
¹¹³⁸ 2021 consolidated transcripts page 1449 line 5
¹¹³⁹ 2021 consolidated transcripts page 1450 line 1; exhibit A1.1.1 page 9 line20
¹¹⁴⁰ 2021 consolidated transcripts page 1451 line 10
¹¹⁴¹ 2021 consolidated transcripts page 1454 line 6; Exhibit B8.10
¹¹⁴² 2021 consolidated transcripts page 1456 line 2
¹¹⁴³ 2021 consolidated transcripts page 1456 line 23
¹¹⁴⁴ Exhibit B8.10; 2021 consolidated transcripts page 1456 line 17
¹¹⁴⁵ 2021 consolidated transcripts page 1493 line 14
¹¹⁴⁶ 2021 consolidated transcripts page 1494 line 4
¹¹⁴⁷ 2021 consolidated transcripts page 1443 line 21 and page 1479 line 1
¹¹⁴⁸ 2021 consolidated transcripts page 1444 line 10

461 Lloyd was shown exhibit B8.25, the inventory of items found in Aggetts cell at the time of his death, which included cigarettes, plastic bags, matches, numerous pieces of clothing, books and food items such as sweets and a meal of mince and rice.¹¹⁴⁹ He commented that this was strange and that those items would not ordinarily be allowed in cells.¹¹⁵⁰ He agreed with the description of Constable Joe Nyampule who said that it sounded like a “5-star hotel.”¹¹⁵¹

462 Lloyd further testified that the contents allowed in Aggetts cell were in direct contraction to the conditions of detention set by the Commissioner of Police.¹¹⁵² Lloyd was made aware of exhibit G111 and G11.2, being a circular for the treatment of detainees in security detention dated March 1978. He said that if the inventory of items were a true account of what Aggett had in his cell during his time at JVS, the circular was ignored in his case.¹¹⁵³

463 It was put to Lloyd that the alleged contents of the cell at the time of Aggett’s death contrasted sharply with the description of other detainee cells. Frank Chikane, Ismail Momoniat, Parmananthan Naidoo and Maurice Smithers testified that their cells only contained a sleeping mat, bible, and blanket and that their shoelaces and belts were removed.¹¹⁵⁴ Their towels used for bathing were not kept in the cell but in the detainee property room on the same floor.¹¹⁵⁵

¹¹⁴⁹ 2021 consolidated transcripts page 1465 line 18 onwards

¹¹⁵⁰ 2021 consolidated transcripts page 1473

¹¹⁵¹ 2021 consolidated transcripts page 1480 line 8

¹¹⁵² 2021 consolidated transcripts page 1474 line 4

¹¹⁵³ 2021 consolidated transcripts page 1481 line 6 to page 1485 line 7

¹¹⁵⁴ 2021 consolidated transcripts page 1485 line 24 to page 1487 line 13

¹¹⁵⁵ 2021 consolidated transcripts page 1485 line 8

Daniel Hendrik Zeelie¹¹⁵⁶

464 Constable Daniel Hendrik Zeelie (Zeelie) joined the SAP in 1976¹¹⁵⁷ and was seconded to Sandton police station SB in 1982 and thereafter was transferred to the video unit which was a new unit and placed in Soweto.¹¹⁵⁸

465 He was seconded to the SB at JVS around October 1982¹¹⁵⁹ by his commanding officer for an undetermined period and reported to SB a day after being informed by his commanding officer.¹¹⁶⁰ On the day he arrived at JVS he reported to Major Cronwright.¹¹⁶¹ Zeelie signed an oath of secrecy when he started at JVS SB where he undertook an oath to not inform anyone, including family members, what the investigations were about.¹¹⁶²

466 His duties at JVS did not involve interaction with detainees but were mainly administrative, such as keeping ledgers and files and work assigned by the investigators.¹¹⁶³ He only interacted with detainees when taking or removing parcels from them.¹¹⁶⁴ People brought parcels for detainees and came to an office in the basement of JVS near the lifts and two officers would be stationed in this office to receive the parcels.¹¹⁶⁵

¹¹⁵⁶ 1982 transcripts at A1.1.2; 1982 affidavit at B8.9; 2021 consolidated transcript at page 1499 to 1598. He did not submit an affidavit in 2021. He testified on 5 February 2021

¹¹⁵⁷ 2021 consolidated transcripts page 1508 line 3

¹¹⁵⁸ 2021 consolidated transcripts page 1518 line 11 to 25

¹¹⁵⁹ 2021 consolidated transcripts page 1519 line 16

¹¹⁶⁰ 2021 consolidated transcripts page 1513 to 1514.

¹¹⁶¹ 2021 consolidated transcripts page 1515

¹¹⁶² 2021 consolidated transcripts page 1516 line 4

¹¹⁶³ 2021 consolidated transcripts page 1517 line 8

¹¹⁶⁴ 2021 consolidated transcripts page 1517 line 16

¹¹⁶⁵ 2021 consolidated transcripts page 1520 line 12

467 The personnel at this basement office would call up to Constable Zeelie, Lloyd or Richards in the charge office to say a parcel was received and either one of them would collect the parcel from the basement and would go through the contents. Anything that was not allowed to the detainee was given back to the person who brought it.¹¹⁶⁶ If there was an item they were not sure about they asked Capt. Carel Petrus Frederick van Rensburg, who was a member of the Security Branch, and he would make a final decision.¹¹⁶⁷ Details of parcels received were documented in a register.¹¹⁶⁸ Zeelie was the senior officer to Officers Richards and Lloyd¹¹⁶⁹ and reported to Capt. Van Rensburg.¹¹⁷⁰

468 Zeelie would take parcels to the detainees wherever they were held, such as at other police stations and the second-floor cells at JVS.¹¹⁷¹

469 He testified that it was normal procedure to remove belts, shoelaces and anything a detainee could use to harm himself¹¹⁷² or others.¹¹⁷³

470 Parcels received were closely inspected for letters, notes, sharp objects, nail file and blades.¹¹⁷⁴ Matches and cigarettes brought for detainees were taken to W/O Macpherson and if a detainee wanted to smoke Macpherson would give them matches during exercise time. Cigarettes were allowed in the cell but not

¹¹⁶⁶ 2021 consolidated transcripts page 1520 line 17
¹¹⁶⁷ 2021 consolidated transcripts page 1520 line 24
¹¹⁶⁸ 2021 consolidated transcripts page 1522 line 11
¹¹⁶⁹ 2021 consolidated transcripts page 1519 line 20
¹¹⁷⁰ 2021 consolidated transcripts page 1519 line 23
¹¹⁷¹ 2021 consolidated transcripts page 1517 line 24
¹¹⁷² 2021 consolidated transcripts page 1510 line 13
¹¹⁷³ 2021 consolidated transcripts page 1511 line 4
¹¹⁷⁴ 2021 consolidated transcripts page 1524 line 19

matches.¹¹⁷⁵ W/O Macpherson was in charge of the detainees and had an office on the second floor,¹¹⁷⁶ where he kept the detainees' possessions.¹¹⁷⁷

471 In his experience, no beverages, cold-drinks, or matches and clothing were allowed in the cells.¹¹⁷⁸ There was a property register to account for detainee belongings and the register indicated when items were given to and taken from a detainee.¹¹⁷⁹ Zeelie testified that this procedure for detainee belongings, and what they could and could not have in their cells, was taught across the board to officers irrespective of whether they worked in the uniform branch or the SB.¹¹⁸⁰

472 On 4 December 1981, Neil Aggett's parcel from S Kaplan was received by Constable Lloyd and Zeelie and Richards were in the charge office at JVS.¹¹⁸¹ At the time Aggett was being held at Pretoria prison and Zeelie went there on the same day to deliver Aggett's parcel to him. However, at Pretoria prison he was told that detainees were not allowed parcels, so Zeelie returned to JVS with the parcel and kept it in his office until Aggett was transferred to JVS on 11 December 1982.¹¹⁸²

473 On 11 December 1982, Zeelie went to the cells to give the parcel to Aggett. This was the only occasion he visited the cell block at JVS.¹¹⁸³ Macpherson did not

¹¹⁷⁵ 2021 consolidated transcripts page 1525 line 25 to page 1526 line 6

¹¹⁷⁶ 2021 consolidated transcripts page 1526 line 10

¹¹⁷⁷ 2021 consolidated transcripts page 1526 line 19 to 1527 line 2

¹¹⁷⁸ 2021 consolidated transcripts page 1512 line 6

¹¹⁷⁹ 2021 consolidated transcripts page 1511 line 16; the schedule of returned articles signed by Aggett are attached as Exhibits B8.11, B8.15 and B8.17

¹¹⁸⁰ 2021 consolidated transcripts page 1512 line 16 to 1513 line 7.

¹¹⁸¹ 2021 consolidated transcripts page 1519 line 3

¹¹⁸² 2021 consolidated transcripts page 1530 line 1

¹¹⁸³ 2021 consolidated transcripts page 1527 line 10

check the parcel when Zeelie brought it for Aggett at the cells. Zeelie indicated that this could have been because he trusted his judgment.¹¹⁸⁴ Zeelie went to Aggett's cell and gave him the parcel, which he signed for.¹¹⁸⁵ Aggett was alone in his cell at the time and Zeelie did not observe anything specific therein.¹¹⁸⁶

474 Zeelie could not recall what items were handed to Aggett, but thinks there were raisins and sweets but no perishables.¹¹⁸⁷ Zeelie confirmed that he would have given a cloth to a detainee if it looked like a tablecloth, which the Kikoi did, so they gave it to Aggett.¹¹⁸⁸ At that point he did not think Aggett could use a tablecloth to harm himself.¹¹⁸⁹ If they believed that it was a dangerous item Macpherson would have removed it from Aggett's cell.¹¹⁹⁰ Also, even though the cloth was given to Aggett without Capt. van Rensburg's permission, he would read all the receipts of items given to the detainees so would have been aware.

1191

475 Zeelie was made aware of Exhibit B 8.25 being the inventory of the contents of Aggett's cell at the time of his death. Zeelie laughed when he heard what the list comprised and commented that he had never come across a detainee who was permitted to keep all his items and clothing in his cell. This did not make sense

1184 2021 consolidated transcripts page 1527 line 17
1185 2021 consolidated transcripts page 1527 line 14
1186 2021 consolidated transcripts page 1527 23 to 1528 line 8
1187 2021 consolidated transcripts page 1531 line 12
1188 2021 consolidated transcripts page 1540 line 1
1189 2021 consolidated transcripts page 1540 line 18
1190 2021 consolidated transcripts page 1586 line 1 to line 22
1191 2021 consolidated transcripts page 1556 line 3

to him.¹¹⁹² He commented that Macpherson would remove clothing and items until it was needed by the detainee.¹¹⁹³

476 Zeelie agreed with the assertion made by Joe Nyampule that the inventory of Aggett's cell post his death sounded like he was living in a '5-star hotel,'¹¹⁹⁴ commenting, "*yeah I concur. Yeah, it is unbelievable for me. I could not believe it when the prosecutor told me about that. It is not just right a prisoner to have so many items of clothing and other stuff in his cell. It does not sound right. It does not sound right.*"¹¹⁹⁵

477 Zeelie testified that detainees was not allowed to have ties in their cells and was shocked to find out that the inventory drawn up by Capt. Victor showed that Aggett had a tie in his cell.¹¹⁹⁶ He was further shocked to discover that there was no receipt for the tie:

"MR ZEELEY: Oh my word. Yeah, sir. Well, then anybody could have given him the tie. Maybe ask the investigating officer if he did not borrow him or lend him a tie?"

MR VARNEY: But for what possible purpose could a detainee want a tie in security detention?"

MR ZEELEY: I do not know. Maybe-. Did he not, at some stage, have to go to court or something like that?"

MR VARNEY: No.

*MR ZEELEY: Oh my word. Then, sir, I must, I do not know. I do not what to tell you, sir."*¹¹⁹⁷

¹¹⁹² 2021 consolidated transcripts page 1545 line 19 to 1546 line 23

¹¹⁹³ 2021 consolidated transcripts page 1542 line 2

¹¹⁹⁴ 2021 consolidated transcripts page 1569 line 1

¹¹⁹⁵ 2021 consolidated transcripts page 1569 line 5 to 9

¹¹⁹⁶ 2021 consolidated transcripts page 1571 line 16

¹¹⁹⁷ 2021 consolidated transcripts 1572 line 16 to 25

478 After being shown the circular for the handling of detainees (exhibit G11), Zeelie said that it seemed the section relating to items which can be used for suicides (page 3, section b of Exhibit G11) was ignored in relation to Aggett.¹¹⁹⁸

479 Zeelie agreed with the testimony of Joe Nyampule who said that detainees were given items they needed, such as towel for bathing, and only at shower time, after which they were locked up again in the control room.¹¹⁹⁹

480 Zeelie also agreed with Joe Nyampule's evidence that cells were inspected regularly.¹²⁰⁰ With the benefit of hindsight he agreed that the cloth was a dangerous item that should never have been allowed in Aggett's cell.¹²⁰¹

481 Zeelie testified that in the circumstances, all of Aggett's items may have been used to dress up the cell to create the impression that he was treated well.¹²⁰² He said that sometimes detainees were given certain privileges, such as extra items in the cells, but to his understanding, privileges did not include contraband items.¹²⁰³

Other witnesses

482 The evidence of other witnesses who were called by the State to testify in the Reopened Inquest is considered in this section.

¹¹⁹⁸ 2021 consolidated transcripts page 1565 line 10

¹¹⁹⁹ 2021 consolidated transcripts page 1566 line 23

¹²⁰⁰ 2021 consolidated transcripts page 1567 line 17 to page 1568 line 19

¹²⁰¹ 2021 consolidated transcripts page 1567-line page 1597 line 8

¹²⁰² 2021 consolidated transcripts page 1573 line 13 to line 20

¹²⁰³ 2021 consolidated transcripts page 1595 line 13

Jan Theron¹²⁰⁴

483 Jan Pierre Theron (Theron) was the general secretary of the Food and Canning Workers Union and the African Food and Canning Workers, which was the trade union that Aggett worked for until his death.¹²⁰⁵ He and Aggett were good friends. Theron testified to Aggett's character. He stated that Aggett was an extremely strong and serious person.¹²⁰⁶

484 An allegation was made by former SB officer Nicolaas Deetlefs that Aggett gave up Theron's name, amongst others, during the course of his interrogation and that this caused him to commit suicide.¹²⁰⁷ Theron confirmed that he would never had, and never did inform Aggett of his links to the ANC and that these links were not known within the union. He testified that he did not tell anyone, except for his first wife, about his links to the ANC, until after the ANC was unbanned.¹²⁰⁸ Accordingly, there was no disclosure Aggett could have made about Theron that would have made him feel he had betrayed Theron.¹²⁰⁹ Moreover, had Aggett disclosed material information about Theron and his links to the ANC in 1982 then Theron would most likely have been arrested and charged, but this did not happen.¹²¹⁰ Indeed after Aggett's death Theron was not detained or harassed.¹²¹¹

¹²⁰⁴ 2021 consolidated transcript bundle from pages 2198 to 2227. Affidavit of Jan Theron signed 17 February 2020 at J35; supplementary affidavit dated 10 February 2021 at J6.

¹²⁰⁵ Exhibit G35, para 3.

¹²⁰⁶ Oral testimony of Jan Theron on 12 February 2021, page 47, line 10; 2021 consolidated transcript bundle page 2214.

¹²⁰⁷ Exhibit G35, para 5.

¹²⁰⁸ Exhibit J6, para 11.

¹²⁰⁹ Exhibit G35, para 6.

¹²¹⁰ Exhibit G35, para 7.

¹²¹¹ Oral testimony of Jan Theron on 12 February 2021, page 46, line 18; 2021 consolidated transcript bundle page 2213.

485 In addition, in Theron's view, it would have been ludicrous for Aggett to tell Deetlefs that Theron was an underground leader of the South African Congress of Trade Unions (SACTU) when Aggett was acutely aware that organising the workers had to have been done above ground and on the shopfloor. He added that it would be entirely out of character for Aggett to make such a statement, given how careful he was in his use of language, as evidenced in his letters, and how carefully reasoned his statements always were.¹²¹²

486 Regarding the alleged four-page document in which Deetlefs claimed that Aggett incriminated various comrades, Theron testified that he believed that the document was nothing more than a fabrication of the SB to justify the death of Aggett and exculpate themselves of wrongdoing.¹²¹³

Carl Niehaus¹²¹⁴

487 Carl Gerhardus Niehaus (Niehaus) was a former detainee, who was tortured and interrogated by the SB at JVS.¹²¹⁵ He is now a Senior Manager in the Office of the Secretary General of the ANC at Luthuli house.¹²¹⁶ He requested to testify in these proceedings and was called to give evidence by the State.

488 Niehaus' period of detention did not overlap with Aggett's as he was detained in August 1983.¹²¹⁷ Niehaus was subjected to intense interrogation and severe

¹²¹² Exhibit J6, para 34.

¹²¹³ Oral testimony of Jan Theron on 12 February 2021, page 51, line 10; 2021 consolidated transcript bundle page 2218

¹²¹⁴ 2021 testimony is in the 2021 consolidated transcript bundle from pages 2265 to 2324; affidavit signed on 11 February 2020 at J1.

¹²¹⁵ Exhibit J1, para 4.

¹²¹⁶ Exhibit J1, para 2.

¹²¹⁷ Exhibit J1, para 9.

torture during his detention. This included being beaten and subjected to sleep deprivation and psychological torture.¹²¹⁸ He was beaten up by Deetlefs and Captain Van Niekerk to the point where he had to be hospitalised. His eardrums perforated and he lost hearing in both ears. He currently lives as a hearing-impaired person.¹²¹⁹

489 Niehaus stated that he believes that Aggett was tortured to death and did not commit suicide, since he also experienced close to death events during torture.¹²²⁰

490 Niehaus indicated that he sought to testify in this reopened inquest to debunk a claim he believed former SB officer Joe Nyampule made to the court, that detainees were prone to suicide.¹²²¹

491 Under cross examination by counsel for the family admitted he was not aware that Nyampule was a witness for the family and had provided important evidence of torture on the 10th floor of JVS as well as conditions at the 2nd floor cells. Niehaus also admitted that he never sought to study the evidence Nyampule gave before making public accusations against him. Nyampule's evidence was accessible in publicly available transcripts as well as his affidavit. Niehaus simply relied on what he had read in a newspaper.¹²²² This was all the more remarkable

¹²¹⁸ Oral testimony of Carl Niehaus on 15 February 2021, page 43, line 15; 2021 consolidated transcript bundle page 2272

¹²¹⁹ Exhibit J1, para 10 to 100.

¹²²⁰ Exhibit J1, para 13.

¹²²¹ Exhibit J1, conclusion; Oral testimony of Carl Niehaus on 15 February 2021, page 2, line 7; 2021 consolidated transcript bundle page 2292

¹²²² Oral testimony of Carl Niehaus on 15 February 2021, page 8, line 12; 2021 consolidated transcript bundle page 2298.

given that Niehaus was represented by an attorney and had been called to testify by the State.

492 Advocate Varney read extracts from Nyampule's transcript in 2020 to Niehaus that demonstrated that Nyampule did not suggest that the detentions of Aggett and Niehaus overlapped.¹²²³ Upon hearing this, Niehaus retracted his statement in this regard.¹²²⁴ Advocate Varney also put it to Niehaus that there was not the slightest suggestion in Nyampule's evidence that political detainees were prone to committing suicide.¹²²⁵ Niehaus also retracted this statement.¹²²⁶

¹²²³ Oral testimony of Carl Niehaus, page 62, line 9; 2021 consolidated transcript bundle p 2301.

¹²²⁴ Oral testimony of Carl Niehaus, page 63, line 1; 2021 consolidated transcript bundle p 2302.

¹²²⁵ Oral testimony of Carl Niehaus, page 65, line 17; 2021 consolidated transcript bundle p 2304.

¹²²⁶ Oral testimony of Carl Niehaus, page 70, line 5; 2021 consolidated transcript bundle p 2309.