

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number: 35447/21

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant

SINDISWA ELIZABETH MKONTO Second Applicant

NOMBUYISELO NOLITHA MHLAULI Third Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE Third Respondent

MINISTER OF POLICE Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN Fifth Respondent

HERMANUS BAREND DU PLESSIS Sixth Respondent

ERIC WINTER Seventh Respondent

CRAIG WILLIAMSON Eighth Respondent

ADRIAAN JOHANNES VLOK Ninth Respondent

GERRIT NICHOLAS ERASMUS Tenth Respondent

IZAK JOHANNES ENGELBRECHT Eleventh Respondent



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|---------------------------|------------------------|
| BAREND JACOBUS DU PLESSIS | Twelfth Respondent |
| FREDERIK WILLEM DE KLERK | Thirteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fourteenth Respondent |
| LUKAS DANIEL BARNARD | Fifteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Sixteenth Respondent |
| SAMUEL JOHANNES DE BEER | Seventeenth Respondent |



NOTICE OF MOTION

KINDLY TAKE NOTICE THAT on a date and time to be arranged with the Registrar, the applicants intend to apply to this Honourable Court for an order in the following terms:

1. Declaring that:
 - 1.1 the unreasonable delay by the third respondent (**National Commissioner of the South African Police Service** or the **NCSAPS**) in finalising the investigation into the kidnapping, torture and murder of Fort Calata, Matthew Goniwe, Sicelo Mhlauli and Sparrow Mkonto on 27 June 1985 ("**the Cradock Four**"),

- 1.2 the unreasonable delay by the NCSAPS in finalising the investigation into the theft of the investigation docket dealing with the kidnapping, torture, and murder of the Cradock Four,
- 1.3 the ongoing failure or refusal of the first respondent (**National Director of Public Prosecutions** or **NDPP**) to take a decision whether to prosecute, or not to prosecute the known suspects for the crimes committed against the Cradock Four,
- 1.4 the ongoing failure or refusal of the fourth respondent (**Minister of Police**) to exercise effective final responsibility in ensuring that the NCSAPS complies with his constitutional and legal responsibilities in respect of the Cradock Four case,

are unlawful, inconsistent with the Constitution and invalid.

2. Reviewing and setting aside the failure or refusal of the NDPP to take a decision whether to prosecute, or not to prosecute the known suspects for the crimes committed against the Cradock Four.
3. Directing:
 - 3.1 the NCSAPS to finalize the investigations into the kidnapping, torture, and murder of the Cradock Four and the missing investigation docket referred to above within 30 days of the granting of this order.
 - 3.2 the NCSAPS to finalize the criminal investigation into the disappearance of the original Cradock Four investigation docket from the head office of

the National Prosecution Authority within 30 days of the granting of this order:

- 3.3 the NDPP to take a prosecutorial decision in the kidnapping, torture, and murder of the Cradock Four within 60 days of the date of this order.
4. Ordering the first to fourth respondents to pay the costs of this application, and those of the other respondents who may oppose this matter, to pay the applicant's costs.
5. Granting the applicant further and/or alternative relief.

KINDLY TAKE NOTICE FURTHER that the affidavits of the **APPLICANT, SINDISWA ELIZABETH MKONTO, NOMBUYISELO NOLITHA MHLAULI, NOMONDE LIZA CALATA, DOROTHY CALATA-DOMBO, TUMANI PAULINE CALATA, CHRISTOPHER REGINALD CLIFFORD MARION, VUSUMZI PATRICK PIKOLI, DUMISA BUHLE NTSEBEZA SC, TIMOTHY SEAN FLETCHER, TIMOTHY PATRICK SMIT** and **HAMILTON HEATH WENDE** and the annexures thereto will be used in support of this application.

TAKE NOTICE FURTHER THAT the applicant has appointed **CLIFFE DEKKER HOFMEYR INC** as its attorneys of record at whose address the Applicant will accept service of all process in these proceedings.

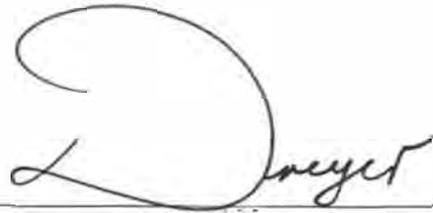
TAKE FURTHER NOTICE that:

- a) The first respondent is called upon in terms of Rule 53(1)(a), to show cause why her failure or refusal to make a prosecutorial decision should not be reviewed and set aside.

- b) The first respondent is called upon, in accordance with Rule 53(1)(b), to despatch, within **15** days after service of this notice of motion on her, to the Registrar the record of the decision sought to be reviewed and set aside, together with such reasons as she by law is required or desires to give or make, and to notify the applicants that she has done so.
- c) In terms of Rule 53(4), the applicants reserve their right to amend, add to or vary the terms of their notice of motion and supplement their founding affidavit within **10** days after the Registrar has made the record available to them.
- d) Any respondent wishing to oppose the relief sought is required within **15** days after service of this notice of motion or any amendment thereof to deliver notice to the applicants that they intend to oppose the application and shall in such notice appoint an address within 15km of the office of the Registrar at which they will accept notice and service of all process in such proceedings; and within **30** days of the expiry of the time referred to in Rule 53(4), to deliver any affidavits as the respondents may desire in answer to the allegations made by the applicants.

If no such notice of intention to oppose is given, application will be made to the above Honourable Court as soon as counsel for the applicant may be heard.

DATED AT PRETORIA ON THIS 19 DAY OF JULY 2021.

**CLIFFE DEKKER HOFMEYR INC.**

Applicants' Attorneys

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TO:

**THE REGISTRAR OF THE ABOVE
HONOURABLE COURT, PRETORIA**

AND TO:

**THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS**

First Respondent

c/o The State Attorney

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Gauteng

SERVICE PER SHERIFF**THE MINISTER OF JUSTICE**

Second Respondent
c/o The State Attorney
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SERVICE PER SHERIFF

**THE NATIONAL COMMISSIONER OF
POLICE**

Third Respondent
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SERVICE PER SHERIFF

**THE NATIONAL MINISTER OF
POLICE**

Fourth Respondent
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SERVICE PER SHERIFF

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SERVICE PER SHERIFF

HERMANUS BAREND DU PLESSIS

Sixth Respondent

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SERVICE PER SHERIFF**ERIC WINTER**

Seventh Respondent

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Eighth Respondent

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Gauteng

SERVICE PER SHERIFF**ADRIAAN JOHANNES VLOK**

Ninth Respondent

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SERVICE PER SHERIFF**GERRIT NICHOLAS ERASMUS**

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Fifteenth Respondent

Duikersingel

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Gansbaai

7220

Western Cape

SERVICÉ PER SHERIFF

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Western Cape

SERVICE PER SHERIFF

SAMUEL JOHANNES DE BEER

Seventeenth Respondent

116 Sixth Street

Linden

Johannesburg

Gauteng

SERVICE PER SHERIFF

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FOUNDING AFFIDAVIT

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I, the undersigned,

LUKHANYO BRUCE MATTHEWS CALATA

do hereby make oath and state that:

INTRODUCTION

- 1 I am an adult male journalist, filmmaker and author currently employed as the Programme Editor at etv news and sport in Cape Town. I am the first applicant in these proceedings.
- 2 I was born on 18 November 1981 in Cradock in the Eastern Cape. I am the son of the late Fort Calata ("**Calata**") who, along with Matthew Goniwe, Sicele Mhlauli and Sparrow Mkonto, became known posthumously as the Cradock Four ("**Cradock Four**"). On 27 June 1985 they were abducted, assaulted, murdered and their bodies burned by the Security Branch of the erstwhile South African Police ("**the Security Branch**").
- 3 More than 35 years later, and notwithstanding countless pleas, my family and I are still waiting for the South African Police ("**SAPS**") to finalise its investigations and for the National Prosecuting Authority ("**NPA**") to take a decision whether to prosecute the known suspects or not. I bring this application to compel these institutions to carry out their functions in relation to the Cradock Four, as they are bound to do under law.
- 4 I submit that the failure to finalize the Cradock Four case represents a deep betrayal of those who gave their lives for the struggle for freedom and

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democracy in South Africa. It has also added significantly to the emotional trauma and anguish of their families, surviving victims and the wider community. I do not know why the South African state has turned its back on victims who sacrificed so much, but it appears to me that until recently this approach was the product of a policy or decision to abandon or suppress these cases.

- 5 Save where the context indicates otherwise, the facts deposed to in this affidavit are within my personal knowledge and were gained primarily from research that I, together with my legal team and private investigator, conducted using official records and national archives. The facts to which I have deposed are to the best of my belief both true and correct. Where I make submissions of a legal nature I do so on the advice of my legal representatives.
- 6 Where I rely on the personal knowledge of others, confirmatory or supporting affidavits from those individuals have been attached. These include:
 - 6.1 The confirmatory affidavit of Clifford Marion, a private investigator, annexed hereto marked "LC1", confirms the inquiries he carried out on behalf of my family, including the search for documents and the considerable support he provided to the investigators from the Directorate for Priority Crime Investigation ("DPCI"). These efforts are outlined in this affidavit.
 - 6.2 The affidavit of Advocate Dumisa Ntsebeza SC, former TRC Commissioner and Investigation Unit Head, annexed hereto marked "LC2", confirms the findings made by the TRC in respect of the Cradock

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Four case, as well findings made against the State Security Council (SSC) and its structures. These findings are outlined in this affidavit.

- 6.3 The supporting affidavit of Advocate Vusumzi Patrick Pikoli, former National Director of Public Prosecutions ("NDPP"), annexed hereto marked "LC3", confirms the political interference that brought an end to the investigation and prosecution of TRC cases.

ORGANISATION OF THIS AFFIDAVIT

- 7 The scheme of this affidavit necessitates me setting out –
- 7.1 An overview of the Cradock Four story.
 - 7.2 The relief sought.
 - 7.3 A full description of the applicants and respondents.
 - 7.4 A description of other role players connected to the Cradock Four case, including:
 - 7.4.1 deceased persons,
 - 7.4.2 those granted amnesty,
 - 7.4.3 those with unknown status, and
 - 7.4.4 members of the State Security Council.
 - 7.5 An account of my quest for justice and the impact on me and my family.
 - 7.6 A description of the four murdered persons.

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- 7.7 The events leading up to the murders.
- 7.8 The abduction and murder of the Cradock Four.
- 7.9 The role of the police in the murders.
- 7.10 Official inquiries into the murders including:
 - 7.10.1 the first and second inquests,
 - 7.10.2 the investigations of the TRC, and
 - 7.10.3 the amnesty applications and decisions.
- 7.11 An examination of the role of the State Security Council and its structures.
- 7.12 A description of how the state security system dealt with the Cradock Four, relying on official documents.
- 7.13 An examination of how the TRC cases, including the Cradock Four case, was suppressed by political interference.
- 7.14 A description of the efforts by my legal team and private investigator to support the SAPS and NPA, which was all to no avail.
- 7.15 An overview of how the investigation docket went missing and the failure to investigate the theft of the docket.
- 7.16 An explanation as to why the delay in finalizing the investigation and taking a prosecutorial decision is unreasonable.

- 7.17 A summary of the legal obligations on the SAPS and NPA to investigate and prosecute, and how they have not complied with their legal duties.
- 7.18 The grounds for relief which include:
- 7.18.1 The constitutional obligation to act without delay,
 - 7.18.2 Requirements under the rule of law,
 - 7.18.3 The constitutional guarantee of the independence of the NPA,
 - 7.18.4 Bill of Rights infringements, which include violations of the rights to dignity, life, freedom and security of the person and equality,
 - 7.18.5 Obligations arising from South Africa's transition and the TRC process,
 - 7.18.6 South Africa's international law obligations.
- 7.19 The grounds for a final interdict compelling the SAPS to finalize their investigations and the NPA to take a prosecutorial decision.
- 7.20 The grounds for shortened timeframes.

OVERVIEW OF THE CRADOCK FOUR STORY

- 8 The Cradock Four' story is rooted in South Africa's bitter and divided past. The four activists devoted their lives to resisting the pernicious system of Apartheid. Notwithstanding that their sacrifices helped to lay the basis for South Africa's democracy with its enshrined freedoms, the new South Africa has turned its

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back on them. My family and I have been searching for answers for more than 35 years. We have pleaded with authorities to take the necessary action to bring closure to this case. These pleas have fallen on deaf ears. However, we have always refused to give up the search for the truth and justice.

9 My family and I have not rested since the murder of our beloved father and husband, Fort Calata. We did not expect the former South African Police ("**SAP**") to investigate themselves. However, we firmly believed that the new democratic South Africa would take the necessary steps. We were wrong. This was a betrayal of the Cradock Four and everything they stood for. This betrayal cut the deepest. It deprived me and my family of closure and our right to dignity.

10 We are aware of the basic story behind the murder of the Cradock Four:

10.1 At a State Security Council ("**SSC**") meeting on 19 March 1984 Barend Du Plessis, then Minister of Black Education, called for the 'removal' of Cradock teachers, Matthew Goniwe and Fort Calata.

10.2 Some 48 hours later, on 21 March 1984, Craig Williamson, former head of Security Branch ("**SB**") Intelligence, sent operatives Jacob Jan Hendrick (Jaap) van Jaarsveld and Bassie Bouwer to assess the most appropriate way of killing Goniwe and Calata. Van Jaarsveld proposed that Goniwe be 'taken out' on deserted road.

10.3 On 23 May 1985, Brigadier "Joffel" van der Westhuizen, Commanding Officer of the South African Defence Force ("**SADF**") in the Eastern Cape ("**Van der Westhuizen**"), sent a signal to the SSC Secretariat

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("SSCS") recommending that Calata and Goniwe should never be appointed to any post ever again.

- 10.4 On 6 June 1985 at the SSC's Joint Security Action Committee (known by its Afrikaans acronym "**GVS**") meeting chaired by Adriaan Vlok, Deputy Minister of Law and Order, sought recommendations on what to do about Goniwe. A sub-committee was appointed under Brigadier Geldenhuys to make recommendations.
- 10.5 On 7 June 1985, Van der Westhuizen ordered Colonel Lourens du Plessis to send a secret signal to Major General Johannes van Rensburg at the SSCS recommending the urgent "permanent removal from society" of Goniwe, Calata and Mbulelo Goniwe (nephew of Matthew Goniwe).
- 10.6 Those at the Local Joint Management Committee ("**LJMC**") level involved in the planning of the murders included Van der Westhuizen, Colonel Lourens Du Plessis, Colonel Harold Snyman (head of the Port Elizabeth SB), Colonel Col Nick Johannes Van Rensburg, Major Herman Barend Du Plessis (SB Unit Commander for Eastern Cape Black Areas) and Eric Winter (head of the Cradock SB). All were denied amnesty for their role in the killings. Eric Winter and Colonel Lourens Du Plessis did not apply for amnesty.
- 10.7 On 27 June 1985, the Cradock Four were apprehended on a deserted road, as recommended by Van Jaarsveld a year earlier, and murdered. The killers on the scene were Major Johan Martin "Sakkie" Van Zyl, Lieutenant Eric Taylor, Sergeant Gerhardus Lotz, Sergeant Amos Faku,

Sergeant Glen Mgoduka and Shepard Shakati. Van Zyl, Taylor and Lotz were denied amnesty. All the killers on the scene have since died.

- 10.8 According to the autopsy reports, Matthew Goniwe and Sicelo Mhlauli died from multiple stab wounds. Fort Calata died from a stab wound in the heart and Sparrow Mkonto died from a gunshot wound to the head and a stab wound to heart.
- 10.9 The government and police fabricated a story claiming that the Cradock Four had been killed by elements from the Azanian People's Organisation ("**AZAPO**") in a factional dispute.
- 11 In 1987 the first inquest presided over by Magistrate De Beer concluded that there was no evidence that any member of the security forces had anything to do with the killings, and that the deaths were brought about by persons or a group of persons unknown. This inquest in my considered view amounted to nothing more than a cover-up.
- 12 In 1994, the second inquest under Judge Zietsman found that it has been established *prima facie* that the murderers were members of the security forces; and that a case of suspicion has been made out against SAP officers Colonel Snyman and Colonel Winter and against SADF members Brigadier van der Westhuizen, Colonel du Plessis and Major General van Rensburg. Notwithstanding these findings, no steps were taken against these members.
- 13 The Truth and Reconciliation Commission ("**TRC**") found that the plot to murder Goniwe had been hatched a year before in 1984 and that the attempt by government to lay the crime at the door of AZAPO was not only a case of disinformation, but a deliberate attempt to stoke conflict. The TRC Amnesty

Committee denied amnesty to Taylor, Lotz, Van Rensburg, Snyman, Van Zyl and Du Plessis and held them responsible for the murders. Notwithstanding this finding, no steps were taken against those denied amnesty for the murders of the Cradock Four.

- 14 The new police service, the South African Police Service ("**SAPS**") and the NPA could have pursued this case. Following the winding up of the TRC's Amnesty Committee in 2002, the Cradock Four case was one of approximately 300 cases referred by the NPA to the TRC ("**the TRC cases**"). Not only were these cases not taken forward, but the government took active steps to ensure that perpetrators of apartheid-era crimes were protected from prosecution.
- 15 One of the machinations devised by the authorities was to amend the NPA's Prosecution Policy to shield perpetrators of apartheid crimes from justice. Pending the development of a new policy to deal with the 'political cases' from the past, an effective moratorium was placed on the pursuit of the TRC cases. When the amendments to the NPA's Prosecution Policy emerged in late 2005 it essentially created a backdoor amnesty for perpetrators of so-called political crimes. It gave such perpetrators, like my father's killers, another opportunity to escape justice.
- 16 The widows of the Cradock Four, together with the sister of Nokuthula Simelane, a young freedom fighter murdered by the SB in 1983, went to court to challenge the amended policy in the matter of *Nkadimeng & Others v The National Director of Public Prosecutions & Others* (TPD case no 32709/07) (the *Nkadimeng* case). In 2008 the High Court in Pretoria struck down the

- amendments to the Prosecution Policy, declaring it to be absurd and unconstitutional.
- 17 During this case the National Director of Public Prosecutions disclosed a secret 2004 government report titled "*Report of the Amnesty Task Team*". This report, to be discussed below, explored ways of promoting impunity for perpetrators of apartheid-era crimes. This report is one of the clearest reflections of the unstated policy of the Government to suppress the apartheid era cases.
- 18 We thought that the striking down of the amendments to the Prosecution Policy meant that the path was eventually cleared for justice to take its course. Again, we were wrong. The NPA and SAPS continued to drag their feet.
- 19 To publicise my father's case, I made a short documentary film titled "Unfinished Business" about the Cradock Four in 2010 which is available on YouTube. In 2018, together with my wife, Abigail Calata, we published a book titled "*My Father Died for This*" in which we explored why the State had failed to pursue justice, notwithstanding two high profile inquests and the findings of the TRC.
- 20 More than 35 years have passed since the Cradock Four were abducted, tortured murdered and their bodies desecrated and burned beyond recognition. More than 25 years have elapsed since South Africa became a constitutional democracy yet not a single person has been indicted for these crimes.
- 21 Despite being refused amnesty by the TRC's Amnesty Committee in December 1999, some former security policemen and military personnel who were involved in the murders of the Cradock Four remain at large. One must assume that they are free men enjoying their State pensions, living normal lives without

ever having had to account for our fathers' murders. Given the total inaction on the part of the SAPS and NPA since the early 1990s I assume they do not have the slightest concern that they will have to face the consequences of their brutality.

- 22 No persons in the chain of command, who were involved in the decision making, planning and who gave the orders to murder the Cradock Four, have been prosecuted. This is notwithstanding clear evidence that in June 1985 a military signal was sent to the State Security Council Secretariate recommending that my father, Matthew Goniwe and Mbulelo Goniwe be "*permanently removed from society*". I will expand on this chilling fact later in this affidavit.
- 23 To date the SAPS have failed, refused or neglected to finalise their investigations, and the NPA has failed to make a prosecutorial decision in respect of the kidnapping and murder of the Cradock Four. Indeed, it appeared that the investigation docket went missing from the offices of the NPA during 2017. Typically, missing dockets are an indication of a cover-up or an attempt to sabotage the investigation. Since it was apparent that no investigation was launched into its disappearance, I was forced to open a case of theft in 2020. I am also not aware of any progress in this investigation.
- 24 On 29 August 2020, Nyameka Goniwe, wife of Matthew Goniwe, passed away. She died before seeing justice done in her husband's brutal murder. The cruel indifference of the post-apartheid South African State robbed her of justice, peace, and closure. My mother, now elderly and unwell, fears that she will die without reaching closure and being afforded the dignity she deserves.

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- 25 My family and I do not believe that the SAPS and NPA are acting in good faith. Indeed, we have lost all confidence in the prosecutors and police. They have betrayed our trust. Given their past idleness such investigations could drag on indefinitely while witnesses and suspects grow old and die. My lawyers and I have engaged in extensive communications with the police and prosecutors to persuade them to finalize their investigations and decide whether to prosecute or not. These efforts have come to naught.
- 26 The historic compromise which gave birth to the new South Africa demanded that those perpetrators denied amnesty, or who did not apply for amnesty, would face follow-up. This has not happened. The state has instead systematically and deliberately dragged its feet or blocked justice in this case and many others. We know who abducted, tortured, and murdered the Cradock Four. They were meant to face justice.
- 27 More than 36 years have passed since the torture and murder of the Cradock Four. We, the family members, can find no peace. The betrayal of Fort Calata, Matthew Goniwe, Sicelo Mhlauli and Sparrow Mkonto, and what they stood for, is almost complete.

THE PURPOSE OF THIS APPLICATION

- 28 The primary purpose of this application is to establish the unlawfulness and unconstitutionality of:

28.1 the unreasonable delay by the third respondent (**National Commissioner of the South African Police Service** or the **NCSAPS**) in finalising the investigation into the kidnapping, torture and murder of

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Fort Calata, Matthew Goniwe, Sicelo Mhlauli and Sparrow Mkonto on 27 June 1985 ("**the deceased**" or "**the Cradock Four**"),

- 28.2 the unreasonable delay by the NCSAPS in finalising the investigation into the theft of the investigation docket dealing with the kidnapping, torture, and murder of the Cradock Four,
 - 28.3 the ongoing failure or refusal of the fourth respondent (**Minister of Police**) to exercise effective final responsibility in ensuring that the NCSAPS complies with his constitutional and legal responsibilities in respect of the Cradock Four case, and
 - 28.4 the ongoing failure or refusal of the first respondent (**National Director of Public Prosecutions** or **NDPP**) to take a decision whether to prosecute, or not to prosecute ("**a prosecutorial decision**") the known suspects in the crimes committed against the Cradock Four,
- 29 Flowing from the primary relief, orders are sought
- 29.1 reviewing and setting aside the failure or refusal of the NDPP to take a prosecutorial decision in the kidnapping, torture, and murder of the Cradock Four,
 - 29.2 compelling the NCSAPS to finalize the investigations into the kidnapping, torture, and murder of the Cradock Four and the missing investigation docket referred to above within 30 days of the granting of this relief, and

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29.3 compelling the NDPP to take a prosecutorial decision in the kidnapping, torture, and murder of the Cradock Four within 60 days of the date of this order.

THE PARTIES

Applicants

- 30 I am the first applicant. I bring this application in my capacity as the son of Fort Calata, one of the Cradock Four. I also bring this application on behalf of all South Africans who respect the rule of law and who seek justice for those murdered and harmed during the apartheid era. I also bring these proceedings on behalf of my mother **NOMONDE LIZA CALATA**, and my sisters **DOROTHY CALATA-DOMBO** and **TUMANI PAULINE CALATA**. Their confirmatory affidavits are annexed hereto marked "**LC4**", "**LC5**" and "**LC6**" respectively.
- 31 The Second Applicant is **SINDISWA ELIZABETH MKONTO**, an adult female and former teacher at Masizame Creche in Lingelihle, and widow of Sparrow Thomas Mkonto ("**Mkonto**"). Her confirmatory affidavit is annexed hereto marked "**LC7**".
- 32 The Third Applicant is **NOMBUYISELO NOLITHA MHLAULI**, an adult female former manager at the South African Social Security Agency and widow of Sicelo Mhlauli ("**Mhlauli**"). Her confirmatory affidavit is annexed hereto marked "**LC8**".
- 33 The applicants act in their own interests and in the public interest in terms of sections 38 (a) and (d) of the Constitution.

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Respondents

- 34 The first respondent is the **NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS** (“**NDPP**”) appointed as such by the President in terms of section 10 of the National Prosecution Authority Act 32 of 1996 (“**the NPA Act**”) and who, in terms of section 5 of the NPA Act is the head of the office of the National Director of Public Prosecutions and the National Prosecuting Authority (“**NPA**”) which is established in terms of section 179 of the Constitution. The NDPP’s address for purposes of service is State Attorney, SALU Building, 316 Thabo Sehume Street, Pretoria, Gauteng Province.
- 35 The second respondent is the **MINISTER OF JUSTICE AND CORRECTIONAL SERVICES**, the cabinet member in the government responsible for the administration of justice, who, in terms of section 179(6) of the Constitution, exercises final responsibility over the prosecuting authority, including the NDPP, whose address for purposes of service is situated at 316 Thabo Sehume Street, SALU Building, 28th floor, Pretoria, Gauteng Province.
- 36 The third respondent is the **NATIONAL COMMISSIONER OF POLICE** (“**the Commissioner**”) acting in his official capacity as head of the South African Police Service (SAPS), whose address for purposes of service is situated at Wachthuis, Seventh floor, 229 Pretorius Street, Pretoria, Gauteng Province.
- 37 The fourth respondent is the **MINISTER OF POLICE**, the cabinet member in the government responsible for the police, who exercises final responsibility over the South African Police Service (SAPS), including over the Commissioner, whose address for purposes of service is situated at Wachthuis, Seventh floor, 231 Pretorius Street, Pretoria, Gauteng Province.

- 38 The fifth respondent is **CHRISTOFFEL PIERRE "JOFFEL" VAN DER WESTHUIZEN** (Van der Westhuizen) a retired adult male former member of the South African Defence Force holding the position of Lieutenant General with ID number 4202075011088 whose address is 496 Barend Spies Street, Constantia Park, 030181, Pretoria. He was the Officer Commanding Eastern Province Command and was the chairperson of the Local Joint Management Committee (**LJMC**) of the SSC. On 23 May 1985, Van der Westhuizen sent a signal to the SSC Secretariat (**SSCS**) recommending that Calata and Goniwe should never be appointed to any post ever again. He also ordered the sending of the signal to urgently "permanently remove" the Cradock Four "from society" on 7 June 1985. The second inquest into the death of the Cradock Four, (hereinafter referred to as the "**Zietsman Inquest**"), found that a case of suspicion for the murders of the Cradock Four had been made out against him. He did not apply for amnesty for the murder of the Cradock Four. He was granted amnesty (AM6499/97) for crimes committed in connection with Operation "Katzen".
- 39 The sixth respondent is **HERMANUS BAREND DU PLESSIS** ("H B Du Plessis"), an adult male with identity number 4409295129000 and a former member of the Security Branch of the South African Police residing at Riverina Plaas, Hobhouse, Free State. He was the SB Unit Commander for Black Areas in the Eastern Cape. He served on the LJMC. He was involved in the planning of the murders and reported back to his superiors after the operation. The TRC's Amnesty Committee found him responsible for the murders. He was denied amnesty for the murder of the Cradock Four. Together with Nicolaas Janse van Rensburg, Gerrit Nicholas Erasmus and another he was granted

amnesty for the kidnapping and murder of Gcinisizwe Kwesi Kondile in 1981. He was refused amnesty (AM 4384 /96) for conspiring and ordering the abduction and murder of Siphon Charles Hashe, Qaqawuli Godolozzi and Champion Galela ("**the Pebco 3**") in May 1985.

40 The seventh respondent is **ERIC WINTER**, ("**Winter**") an adult male with ID number 4708085018087 who was a former head of the Security Branch in Cradock, and who resides at 21 Weltevreden Sun, 1130 Cornelius Street, Weltevreden Park Roodepoort. He served on the LJMC. He did not apply for amnesty for the murder of the Cradock Four. The late Johan Martin (Sakkie) Van Zyl in his amnesty testimony on 23rd February 1998 stated Winter was "*in charge of the mechanical means of spying on Mr Goniwe's home.*" The Zietsman Inquest found that a case of suspicion for the murders of the Cradock Four had been made out against him. He played a leadership role in Special Operations K Unit of the Security Branch known as Koevoet (Crowbar). Winter is currently in hospital at the Flora Clinic, William Nicol St, Florida Park, Roodepoort.

41 The eighth respondent is **CRAIG MICHAEL WILLIAMSON** ("**Williamson**") an adult male and former head of Security Branch Intelligence, with ID number 4904235577086 who resides at 96A Percheron Road Beau Willoway, Midrand. On 21 March 1984, just two days after the SSC meeting which called for the removal of two Cradock teachers, Williamson sent operatives, Jaap van Jaarsveld and Bassie Bouwer to Cradock, to stake out Goniwe and Calata and to advise on the best way of killing them. Williamson did not apply for amnesty for the Cradock Four. Williamson was granted amnesty (AM 5181/97) for the murders of Ruth First on 17 August 1982 in Maputo and of Jeanette and Katryn

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Schoon on 28 June 1984 in Angola. Together with Johannes P. Coetzee, Eugene de Kock, and others he was granted amnesty for the bombing of the ANC offices in London and the conspiracy to bomb the Communist Party office in London in 1982.

- 42 The ninth respondent is **ADRIAAN JOHANNES VLOK** ("Vlok") an adult male and former Deputy Minister of Law and Order and Defence, and later Minister of Law and Order, with ID number 3712115063080 residing at 52 Henri Rd, Centurion. He was a member of the State Security Council and attended the SSC meeting on 19 March 1984 where a call was made for the removal of Goniwe and Calata. Vlok visited Cradock on 5 June 1985. He led the GVS-Advieskomitee meeting on 6 June 1985 which considered what to do with Goniwe. He sought advice from a subcommittee on what steps to take against Goniwe. On the next day, 7 June 1985, the signal to the Secretariat of the State Security Council ("**SSSC**") recommending the "*permanent removal from society*" was sent. He did not apply for amnesty for the murder of the Cradock Four. In an interview on an Al Jazeera documentary titled "*My Father Died for This*" broadcast in early May 2021, Vlok admitted that the words "*permanent removal from society*" were probably an instruction to murder (at minute 13). At a meeting of the SSC on 10 June 1985, less than 3 days after the aforesaid signal was sent to the SSC Secretariat, Vlok called for the JMCs to be given authorisation to act on their own initiative. Just over 2 weeks later the Cradock Four were murdered in an official police operation. Several of the key masterminds behind the murders served on the Eastern Province JMC. Vlok together with Johan Velde van der Merwe, Gerrit Nicholas Erasmus, Eugene de Kock, and several others were granted amnesty for the bombings of Cosatu

House on 7 May 1987 and Khotso House on 31 August 1988. Together with Johan Velde van der Merwe and several others he was granted amnesty (AM 4399/96) for planning the bombing of cinema theatres screening the film "Cry Freedom" in July 1988. On 17 August 2007, Vlok together with Johan Velde van der Merwe and others, were convicted of the attempted murder of the Rev. Frank Chikane, and following a plea and sentence agreement, were given suspended sentences.

- 43 The tenth respondent is **GERRIT NICHOLAS ERASMUS ("Erasmus")**, an adult male, retired Lieutenant General in the SAP with ID number 3608285012081, residing at 202 Kastaaingstraat, Weltevredenpark. In 1984 he was head of the Security Branch in Port Elizabeth. He was a member of the Joint Management Committee (JMC). Jaap Van Jaarsveld and Bassie Boucher reported to him before and after conducting surveillance on Goniwe in Cradock for the purpose of advising on the most appropriate means of killing him. He did not apply for amnesty in respect of the Cradock Four. Together with Nicolaas Janse van Rensburg, Herman Barend du Plessis and another he was granted amnesty for the kidnapping and murder of Gcinisizwe Kwesi Kondile in 1981. Together with Nicolaas Janse van Rensburg, Hermanus Jacobus du Plessis and Gideon Johannes Niewoudt he was granted amnesty for the abduction and murder of Sipiwo Maxwell Mtimkhulu and Topsy Madaka in April 1982. He was granted amnesty for the bombings of Cosatu House on 7 May 1987 and Khotso House on 31 August 1988. He was also granted amnesty for the bombing of the Why Not Club in Hillbrow, Johannesburg on 22 September 1988. Together with Johan Velde van der Merwe he was granted amnesty for the cover up of the murder of Maisha Johannes "Stanza" Bopape.

- 44 The eleventh respondent is **IZAK JOHANNES 'KRAPPIES' ENGELBRECHT**, an adult male, former Major General in the SAP, Commander of the SB's Group C and head of the department of Counter Intelligence of the SAP. with ID number 4002225077082 and residing at 253 Carelsberg Street, Pretoria. He served on the JMC and took control of the investigation of the Cradock Four case, allegedly for purposes of covering up the real facts behind the murders. He did not apply for amnesty in respect of any crime committed in connection with the Cradock Four. Eugene de Kock has implicated him in the authorisation of the murder of askari Goodwill Neville Sikhakane [KZN/MR/011/DN] who was killed near Greytown on 21 January 1991.
- 45 The twelfth respondent is **BAREND JACOBUS DU PLESSIS**, an adult male with ID number 4001195028083 and a former Minister of Black Education, residing at Unit 135, The Retreat, Topflight Avenue, Tyger Valley. At a meeting of the State Security Council on 19 March 1984, dealing with an item titled "Unrest in black schools", he stated that there were two former teachers in Cradock acting as agitators who should be "removed". The 2 teachers were Goniwe and Calata. They were subsequently detained in 1984 and murdered the following year. He also attended the SSC meeting on 10 June 1985, less than 3 days after the "permanent removal" recommendation was made to the Secretariat of the SSC. At this meeting Vlok called for the JMCs to be given the necessary orders or delegations to act on their own initiative. Just over 2 weeks later the Cradock Four were murdered in an official police operation. The key masterminds behind the murders sat on the Eastern Province JMC.
- 46 The thirteenth respondent is **FREDERIK WILLEM DE KLERK**, an adult male and former State President of South Africa (1989 to 1994), Deputy President

(1994 to 1996), National Minister of Education (1984 to 1989) with ID number 3603185032081 residing at 34 Fresnaye Lane, Fresnaye, Cape Town. De Klerk was at all material times a permanent member of the SSC. He attended the SSC meeting on 19 March 1984 where a call was made for the removal of Goniwe and Calata. They were subsequently detained during 1984 and murdered the following year. He also attended the SSC meeting on 10 June 1985, less than 3 days after the "permanent removal" recommendation was made to the Secretariat of the SSC. At this meeting Vlok called for the JMCs to be given the necessary orders or delegations to act on their own initiative. Just over 2 weeks later the Cradock Four were murdered in an official police operation. The key masterminds behind the murders sat on the Eastern Province JMC.

- 47 The fourteenth respondent is **JOHAN VELDE VAN DER MERWE**, an adult male and former Commanding Officer of the Security Branch and Commissioner of the SAP with ID number 3608255044080 and residing at 781 Enkeldoorn Street, Montana, Pretoria. He attended the 19 March 1984 meeting at which a call was made for the removal of Calata and Goniwe. The murders were carried out by a SB team while he was commanding officer of the SB. He was denied amnesty for murders carried out in Lesotho on 19 December 1985 and for facilitating the escape from prison of 2 Transkei police officers. Together with Adriaan Vlok, Gerrit Erasmus, Eugene de Kock and several others he was granted amnesty for the bombings of Cosatu House on 7 May 1987 and Khotso House on 31 August 1988. Together with Adriaan Vlok and several others he was granted amnesty for the bombings of cinema theatres screening the film "Cry Freedom" in July 1988. Together with Gerrit Erasmus

and others he was granted amnesty (AM 4157/96) for the cover up of the murder of Maisha Johannes "Stanza" Bopape. He was granted amnesty for the murder of 8 persons in the "Zero Zero Hand grenade" incident and the bombing of a vehicle in Gaborone in 1987. On 17 August 2007, together with Adriaan Vlok and others, he was convicted of the attempted murder of Rev. Frank Chikane and following a plea and sentence agreement was given a suspended sentence.

48 The fifteenth respondent is **LUKAS DANIEL ("NEIL") BARNARD**, an adult male and Director of the National Intelligence Service (**NIS**) between 1980 and 1992 with ID number 4906145152082 and residing at Duikersingel, 33 Duikersfontein, Gansbaai, 7220. He attended the SSC meeting on 19 March 1984 where a call was made for the removal of Goniwe and Calata. They were subsequently detained during 1984 and then murdered the following year. He also attended the SSC meeting on 10 June 1985, less than 3 days after the "permanent removal" recommendation was made to the Secretariat of the SSC. At this meeting Vlok called for the JMCs to be given the necessary orders or delegations to act on their own initiative. Just over 2 weeks later the Cradock Four were murdered in an official police operation. The key masterminds behind the murders sat on the Eastern Province JMC. The TRC found that intelligence supplied by the NIS to the SAP and SADF was used in the commission of crimes.

49 The sixteenth respondent is **DANIEL JACOBUS LOUIS NEL**, an adult male and former Deputy Minister of Internal Affairs, with ID number 3709185046086 residing at 369 Heldeberg Village, Somerset West. He attended the SSC meeting on 10 June 1985, less than 3 days after the "permanent removal"

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recommendation was made to the Secretariat of the SSC. At this meeting Vlok called for the JMCs to be given the necessary orders or delegations to act on their own initiative. Just over 2 weeks later the Cradock Four were murdered in an official police operation. The key masterminds behind the murders sat on the Eastern Province JMC.

- 50 The seventeenth respondent is **SAMUEL JOHANNES DE BEER**, an adult male and former Deputy Minister of Education and Development Aid, with ID number 4408195023081 residing at 116 Sixth Street, Linden, Johannesburg. He attended the 19 March 1984 SSC meeting at which a call was made for the removal of Calata and Goniwe.
- 51 No relief is sought against fifth to seventeenth respondents and they are only cited since they have an interest in these proceedings because of their possible role in relation to the murders of the Cradock Four. I am advised that these respondents will not necessarily be suspects or accused in any subsequent criminal proceedings, which decisions rest solely with the Director for Public Prosecutions for the Eastern Cape. Costs will only be sought against fifth to seventeenth respondents to the extent they oppose this application.

OTHER ROLEPLAYERS

- 52 Several other persons played a role in or are connected to the crimes committed against the Cradock Four. They have not been cited as they are either deceased or cannot be located or they have been granted amnesty for their crimes.

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- 53 Had the post-apartheid authorities acted in terms of their legal obligations then several or most of the perpetrators could have faced justice in a court of law. The failure to do so in my view is unforgivable. I hold South Africa's post-apartheid authorities responsible for deliberately shielding the killers of the Cradock Four from justice.

Deceased Persons

Killers on the scene

- 54 All the killers on the scene have died in the intervening years. No attempt was made by the authorities to investigate or prosecute these persons post the Zietsman Inquest or the TRC. Our families have been denied the opportunity of seeing these killers face justice. The deceased murderers are:

54.1 **Major Johan Martin "Sakkie" Van Zyl**, former SB with ID number 5002075016080. According to the TRC Final Report he was also an operative of the CCB (Civil Cooperation Bureau). He died of natural causes on 20 August 2011 in Centurion. He was the leader of the death squad that murdered the Cradock Four. The TRC's Amnesty Committee found him responsible for the murders. He was denied amnesty for the murder of the Cradock Four. He was denied amnesty (AM 5637/97) for his role in the torture of Siphon Charles Hashe and Qaqawuli Godolozi in May 1985 (part of the Pebco Three).

54.2 **Lieutenant Eric Alexander Taylor**, former member of the Security Branch of the South African Police with identity number 561202 5024 008. Taylor was one of the killers on the scene of the murders. The

TRC's Amnesty Committee found him responsible for the murders. He was denied amnesty for the murder of the Cradock Four. He died in November 2016.

54.3 **Sergeant Gerhardus Jacobus Lotz**, former SB member with ID number 6012255035080. He committed suicide by shooting himself at his Port Elizabeth home in March 2016 at the age of 56. The TRC's Amnesty Committee found him responsible for the murders. He was denied amnesty. He was also denied amnesty for his role in the murder of three of the killers on the ground in the Motherwell Bombing, to be described below. He was denied amnesty (AM 3921/96) for his role in the torture of Siphon Charles Hashe and Qaqawuli Godolozzi in May 1985 (part of the Pebco Three).

54.4 **Warrant Officer Mbalala Glen Mgoduka ("Mgoduka")**, **Sergeant Amos Temba Faku ("Faku")** and **Mr. Xolile Shepard Sakati**, aka Charles Jack ("**Sakati**"), who was a former Askari. All 3 were part of a group of 4 who were killed in an explosion in their vehicle in Motherwell, Port Elizabeth on 14 December 1989 ("**the Motherwell Bombing**"). Nine former members of the SB applied for amnesty for their murders, some of whom were also connected to the murders of the Cradock Four, including Gerhardus Jacobus Lotz, Nicolaas Janse van Rensburg and Eugene De Kock.

55 Major General Nicolaas Jacobus Janse van Rensburg testified in his amnesty hearing (AM 3919/96 and AC/99/350) that Gideon Nieuwoudt, who was also refused amnesty for his role in the Motherwell Bombing, was concerned that

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the policemen could divulge details of their involvement in the murders of the Cradock Four.

Deceased Masterminds

56 Deceased masterminds and planners include:

56.1 **Colonel Harold Snyman** served on the LJMC and was the head of the Security Branch in Port Elizabeth with ID number 2804235032086. He died of natural causes on 1 November 1998 in Uitenhage. He received instructions from Minister of Law and Order, Louis le Grange to "*make a plan*" with the security situation in Cradock. He discussed the plans for the murders with Major H B Du Plessis and received his report after the murders. The Zietsman Inquest found that a case of suspicion had been made out against him. The TRC's Amnesty Committee found that he had played a role in the murders. He did not apply for amnesty for the murder of the Cradock Four. He was granted amnesty (AM 3918/96) for conspiring and ordering the abduction and murder of Siphon Charles Hashe, Qaqawuli Godolozzi and Champion Galela (the Pebco Three) in May 1985. He was refused amnesty for his role in the death in detention of the Black Consciousness leader, Mr Steven Bantu Biko at Pretoria Central Prison on 12 September 1977.

56.2 **Nicolaas Jacobus Janse Van Rensburg**, an adult male and former second in command of the Eastern Cape Security Branch with ID number 4007235051001. He retired in 1992 as Regional Commissioner Northern Transvaal with the rank of Major General. He died on 27 March 2004. He served on the LJMC. He discussed the planning of the

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murders with H B Du Plessis. The TRC's Amnesty Committee found him responsible for the murders. He was denied amnesty for the murder of the Cradock Four (TRC Amnesty Application Number 3919/96). He was also denied amnesty for the murder of 4 persons on 14 December 1989, at or near Motherwell in the district of Port Elizabeth, three of whom, Mgoduka, Faku and Sakati were killers on the scene of the Cradock Four. He was granted amnesty for the abduction and murder of Sipiwo Maxwell Mtimkhulu and Topsy Madaka in April 1982, together with Hermanus Jacobus du Plessis, Gerrit Erasmus and Gideon Niewoudt. He was also granted amnesty for various murders, attempted murders, abductions and false flag operations in Swaziland, Botswana, and South Africa. He was granted amnesty for the kidnapping and murder of Gcinisizwe Kwesi Kondile in 1981.

- 56.3 **Pieter Johannes Jacobus “Jannie” Geldenhuys (“Geldenhuys”)** was a former General and head of the South African Defence Force (“SADF”) between 1985 and 1990. Geldenhuys served on the Joint Management Committee of the SSC. He died of natural causes on 10 September 2018. On 6 June 1985, the ‘GVS Advieskomitee’ chaired by Deputy Minister Adriaan Vlok sought a recommendation on the fate of Goniwe. A subcommittee was established under Brig Geldenhuys to make recommendations. His report was sent to the Head of Strategy Branch of the SSCS, Maj-Gen van Rensburg. Geldenhuys, who retired as a general, did not apply for amnesty for the murder of the Cradock Four.

Granted Amnesty

57 The following persons were granted amnesty:

57.1 **Jacob Jan Hendrick (Jaap) Van Jaarsveld**, a former Lieutenant in the Intelligence Division of the Security Police stationed at the Security Headquarters in Pretoria, applied for amnesty (AM3761/96) for his role in advising how the murders should be carried out. He was ordered by his superior Major Craig Williamson to investigate the feasibility of eliminating Goniwe in Cradock. He visited Goniwe's home to assess whether he could be murdered in his house. Van Jaarsveld reported to Williamson and General Gerard Erasmus that he could not be killed at home because there were too many people living nearby. He recommended that Goniwe be followed and be eliminated along a road or at some place other than his home. In Van Jaarsveld view, Major Williamson received his orders from his superiors in the Security Branch. His recommendation was accepted and carried out a year later. Since Van Jaarsveld acted under orders of his superior officer, which was within the course and scope of employment, and was directly associated with the political conflict, he was granted amnesty for his part in murders. A copy of his amnesty decision (AC2001/176) is annexed hereto marked "LC9"

57.2 **Eugene Alexander de Kock**, a former colonel and commanding officer of C10, a counter-insurgency unit of the SAP located at Vlakplaas, applied for amnesty for his role in advising Major Sakkie van Zyl on how to cover up the murders. De Kock advised Major Sakkie van Zyl to

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dispose of the firearm used to kill Goniwe by throwing it into the sea. Van Zyl took this advice and disposed of the gun accordingly. Since the act related to a political incident and De Kock had made full disclosure, he was granted amnesty for defeating the ends of justice and any offence incidental thereto. A copy of his amnesty decision [AC/99/0350] is annexed hereto marked "LC10"

Status unknown

58 The following persons are regarded as 'status unknown' as it is not known if they are alive or deceased, and if alive their whereabouts are not known.

58.1 **Major General Frederick Johannes van Rensburg** of the SSC Secretariat. He received the 'permanent removal' signal at the SSC and liaised with Brigadier "Joffel" van der Westhuizen and Deputy Minister Vlok in respect of the action to be taken. Geldenhuys consulted with him on 7 June 1985 prior to the 'permanent removal' signal being transmitted. He also served on the JMC. The Zietsman Inquest found that a case of suspicion had been made out against him. The TRC's Amnesty Committee found that he had played a role in the murders. He did not apply for amnesty.

58.2 The seventh respondent is **LOURENS DU PLESSIS** (L Du Plessis), an adult male member of the South African Defence Force who retired with the position of Lieutenant Colonel and whose last known address was in the suburb of Sunridge Park, Port Elizabeth. Unconfirmed information suggests he may have died. He served on the LJMC. Under the instruction of Van der Westhuizen, he wrote the signal to "*permanently*

remove" the Cradock Four "*from society as a matter of urgency*" on 7 June 1985. He was aware that this was an instruction to murder them. He sent the signal to Major General Frederick Johannes van Rensburg at the SSCS. Du Plessis did not apply for amnesty. The Zietsman Inquest found that a case of suspicion for the murders of the Cradock Four had been made out against him.

- 58.3 **Bassie Bouwer**, was a former Captain in SB Intelligence. Together with Jaap van Jaarsveld he was sent by Williamson to stake out Goniwe and to advise on the best way of killing him. Bouwer did not apply for amnesty for the Cradock Four.
- 58.4 **Henry Fouche** was a former head of the SB in Cradock until March or April 1985, when Winter was appointed. Fouche oversaw the mechanical means to spy on Goniwe. He did not apply for amnesty.
- 58.5 **Adamus Paulus Stemmet**, member of the SSC Secretariat and Head of Branch Strategic Communication of the SSC in 1985, also known as Stratcom. He was an Under Secretary of Justice and later the Deputy Head of the SSC Secretariat. He served on the SSC for more than 10 years. During the time of the Cradock Four murders he was the Chief Coordinator of the SSC Secretariat. He testified for 2 days before the Zietsman Inquest. According to the TRC, Stratcom was responsible for misinformation campaigns and may have been behind the false claim made by the police that the Cradock Four had been murdered by AZAPO.

Members of the State Security Council

- 59 The SSC and its structures carry overall responsibility for the atrocities carried out against the Cradock Four and countless other victims. The abduction and murder of the Cradock Four and the ensuing cover-up could not have taken place without the direct or tacit approval of these persons.
- 60 There were at least two SSC meetings that had bearing on the Cradock Four. At the 19 March 1984 SSC meeting, a request was made for the "removal" of Goniwe and Calata. They were subsequently detained in 1984 and then murdered the following year. The SSC meeting on 10 June 1985, took place less than 3 days after the "*permanent removal*" recommendation was made to the Secretariat of the SSC. At this meeting Vlok called for the JMCs to be given the necessary orders or delegations to act on their own initiative. Just over 2 weeks later the Cradock Four were murdered in an official police operation.
- 61 In total we have identified 27 persons who attended one or both SSC meetings on 19 March 1984 and 10 June 1985. We have confirmed that:
- 61.1 12 have died
 - 61.2 6 are still alive.
 - 61.3 In respect of 9 persons we are not aware of their status.
- 62 Nine members attended both meetings. Four only attended the 19 March 1984 meeting, and 14 only attended the 10 June 1985 meeting.

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Attendees at the SSC meetings of 19 March 1984 and 10 June 1985

63 Attendees at these meetings included:

- 63.1 Pieter Willem Botha, State President, attended both SSC meetings – died on 31 October 2006.
- 63.2 Frederick Willem de Klerk, Minister of National Education and Chairman of the Minister's Council in the House of Assembly – attended both meetings.
- 63.3 Louis le Grange, Minister of Law & Order – attended both SSC meetings - died on 25 October 1991.
- 63.4 Roelf Fredrick "Pik" Botha, Minister of Foreign Affairs – attended both SSC meetings – died on 12 October 2018.
- 63.5 General Magnus Andre de Merindol Malan, Minister of Defence – attended both SSC meetings – died on 18 July 2011.
- 63.6 Barend Jacobus du Plessis, Minister of Black Education, and later Minister of Finance – attended both SSC meetings.
- 63.7 Adriaan Johannes Vlok, Deputy Minister of Defence and Law and Order – attended both SSC meetings.
- 63.8 Samuel Johannes de Beer, Deputy Minister of Education and Development Aid, attended 19 March 1984 meeting.
- 63.9 General Constand Laubscher Viljoen (Chief of the SADF) – attended both SSC meetings – died on 3 April 2020.

- 63.10 General Johan Velde van der Merwe, Commanding Officer of the Security Branch– attended 19 March 1984 meeting.
- 63.11 Lukas Daniel (Neil) Barnard (Director of the National Intelligence Service) – attended both meetings.
- 63.12 Secretariat General Van Der Merwe – attended 19 March 1984 meeting - status unknown.
- 63.13 Major General Frederick Johannes Rensburg, Deputy Secretary of the SSC Secretariat – attended 19 March 1984 meeting - status unknown.
- 63.14 Hendrick Stephanus Johan Schoeman, Minister of Transport, chairperson of the meeting on 10 June 1985, died on 12 February 1995.
- 63.15 Jan Christiaan "Chris" Heunis, Minister of Constitutional Development and Planning, attended meeting on 10 June 1985 – died on 27 January 2006.
- 63.16 Dr Gerrit Van Niekerk Viljoen, Minister of Co-operation and Development and Education, attended meeting on 10 June 1985 – died on 29 March 2009.
- 63.17 Piet T C Du Plessis, Minister of Labour, attended meeting on 10 June 1985 – died in March 2001.
- 63.18 Hendrik Jacobus Coetsee, Minister of Justice, attended meeting on 10 June 1985 – died on 29 July 2000.
- 63.19 Daniel Jacobus Louis Nel, Deputy Minister of Internal Affairs, attended meeting on 10 June 1985.

- 63.20 S S van der Merwe, Director General of Justice, attended meeting on 10 June 1985 – status unknown.
- 63.21 Dr J P “Jannie” Roux, Secretary General, Office of the President, attended meeting on 10 June 1985 – status unknown.
- 63.22 General Johann Petrus Coetzee, Commissioner of the SAP, attended meeting on 10 June 1985 – died on 27 April 2004.
- 63.23 Peter Rae Killen, Director General of Internal Affairs, attended meeting on 10 June 1985 – died on 17 September 1992.
- 63.24 Lieutenant General Andre J van Deventer, Secretary of the State Security Council, attended meeting on 10 June 1985. He was born in 1930 and was a SADF officer who served as the Chief of Staff Finance from 1976 to 1979 and was the Secretary of the State Security Council until 1985 – status unknown.
- 63.25 Lieutenant General Pieter W Van der Westhuizen, Chief of Staff Intelligence in the SADF (1978 – 1985) and Designated Secretary of the State Security Council, attended meeting on 10 June 1985. Born on 24 December 1937 – status unknown.
- 63.26 Major General Roelof Petrus Janse Van Vuuren – Secretariat of the State Security Council, attended meeting on 10 June 1985, with ID number 2809285005080 – died on 2 October 2013.
- 63.27 Mr P H Viljoen - Secretariat of the State Security Council, attended meeting on 10 June 1985 – status unknown.

64 The role of the SSC and its different structures is dealt with in detail below.

MY QUEST FOR JUSTICE

65 The State-sanctioned abduction, torture, murder, and desecration of my father's body has had a profound effect on me and the other family members.

66 While we had to endure killings of our family members during apartheid, the post-apartheid era of cover-ups, ineptitude and denial of justice stands as a deep betrayal of the ultimate sacrifices made by my father and his comrades. It adds insult to injury and bitterly exacerbates the emotional and psychological trauma, pain and suffering we have endured as families.

67 We are at our wits' end as to why our democratically elected government has turned its back, not only on us, but on our fathers, who paid the ultimate price for our freedom and our democracy.

68 The evidence discloses that specific decisions were taken at the highest political levels in government to undermine, and ultimately to block the investigation and prosecution of the cases referred by the TRC to NPA.

69 The long-standing silence of the government and ruling party on the question of the suppression of the TRC cases is deafening. The pretence of the ANC that cases like my father's case "*simply fell through the cracks*" is deeply insulting to our intelligence. It stands as an obvious and wilful attempt to mislead the public and protect themselves from scrutiny.

- 70 In many ways the brutal murder of my father has defined me. My choice of career as a journalist was motivated by the brutality and injustices visited on my family. I have made it my life's calling to search for the truth and to do justice to the lives of my father and his comrades, which were so brutally cut short. I will not rest until the last surviving killer faces justice.
- 71 In 2016 I produced a short film called *Unfinished Business* which details the Cradock Four story. It is available on YouTube.
- 72 During September 2017, more than 32 years after the murders of the Cradock Four, I interviewed Deputy Minister of Justice John Jeffery. I wanted him to explain why the ANC-led government had failed to prosecute those responsible for the deaths of my father and his comrades. He explained that this "*was the price that had to be paid for our negotiated settlement*". When I asked him whether the Cradock Four and the likes of Victoria Mxenge, the Pebco Three and Bantu Stephen Biko were used as pawns or tools during the negotiations for a democratic South Africa he replied that this "*was part of the price that had to be paid.*"
- 73 I was astounded at his response. Not only was it callous, but it displayed a profound misunderstanding of the nature of our negotiated transition. He appeared to lose sight of the fact that blanket impunity was never part of the settlement and only those granted amnesty were immunised against prosecution.
- 74 The Deputy Minister added that there were so many cases to deal with, and since government lacked resources, his main priority was to build "*a functioning justice system that can deal with present-day crimes.*" I was deeply insulted

that he would use lack of resources as an excuse when it was abundantly clear that it was lack of political will that explained the inaction. His explanation rung particularly hollow given the rampant looting of state coffers by senior government and party officials, and the annual reports of the Office of the Auditor-General which spoke of the squandering of billions through irregular, fruitless, and wasteful expenditure.

- 75 On 21 June 2018 I met with the then NDPP, Shaun Abrahams, in Cape Town. In this meeting I was briefed on the investigation into the Cradock Four case. He agreed to meet me again in a month, but that meeting failed to materialise, notwithstanding my communications to his office. Little did I know that by that time the Cradock Four Investigation Docket had already gone missing. I assume that Mr Abrahams must have known that the docket had disappeared and that there was no real investigation taking place.
- 76 I have also written a book together with my wife Abigail titled '*My Father Died for This*' which was published by Tafelberg in 2018. The book details my family's struggle for truth, justice, and closure.

THE CRADOCK FOUR

- 77 The Cradock Four were prominent anti-apartheid activists and outspoken critics of the apartheid regime. They were targeted by the regime because of their success in mobilising opposition to apartheid.

Matthew Goniwe

- 78 Matthew Goniwe was born on 27 December 1947 in Lingelihle Township on the outskirts of Cradock in the Eastern Cape. He came from a politically active family. Goniwe was a brilliant mathematics and science teacher. He completed his teaching degree at the University of Fort Hare and began teaching in the Transkei in the early 1970s before returning to the school he had attended as a child, Sam Xhallie Secondary School, to teach and later became principal.
- 79 In 1975, Goniwe married Nyameka and they had two children, a daughter, Nobuzwe, and a son, Nyaniso. Goniwe was a popular community leader in Cradock. In 1976 he was arrested for setting-up political discussion groups or "cells". He was convicted under the Suppression of Communism Act 44 of 1950 and sentenced to four years imprisonment in 1977. He served the sentence in Umtata prison and was released on 31 August 1981.
- 80 On 1 March 1982 Goniwe took up the post of deputy principal of Nqweba High School in Graaff-Reinet. In 1983 he was transferred to Cradock on his request and he became deputy principal of Sam Xhalie Secondary School. In July of that same year he was appointed principal. To punish him for his political activities the Department of Education transferred Goniwe out of Cradock, but he refused to go and was dismissed on 27 January 1984.
- 81 Goniwe and his nephew Mbulelo Goniwe were approached by Arnold Stofile, an ANC underground activist based at Fort Hare University, who asked them to build an organisation in Cradock and the Karoo towns. Goniwe and Sparrow Mkonto ("**Mkonto**") were instrumental in the forming of the Cradock Youth Association ("**CRADOYA**") and the Cradock Residents' Association

("CRADORA") in 1983. Goniwe became CRADORA's first chairman. Mkonto was elected as CRADOYA's first chairperson and served as the Rural Organiser for the United Democratic Front ("UDF") in the area. Goniwe had been the UDF Rural Organiser at the time of his death.

- 82 Nyameka Goniwe died on 30 August 2020 at the age of 69 before seeing justice done. At the time she was the speaker of the Inxuba Yethemba Municipality in Cradock.

Fort Calata

- 83 My father, Fort Calata, was born on 5 November 1956. He developed an early interest in politics as his grandfather, the Reverend Canon James Arthur Calata, had been the Secretary-General of the ANC from 1936 to 1949. My great-grandfather died in June 1983 and his funeral was one of the first signs of the public regeneration of ANC politics in the Eastern Cape.
- 84 In 1974, my father met my mother Nomonde. In October 1980 they married and together they had three children, my two sisters and me. At the time of his death my mother was heavily pregnant with my sister Tumani. Tumani turns thirty-six years old in August of 2021 and has a child of her own.
- 85 My father was a trained teacher. In 1979 he began teaching in Dimbaza, Ciskei, where he was detained for three weeks for speaking out against apartheid. In 1981, and on my father's request, he was transferred and returned to Cradock where he taught at Lingelihle High School, where he became a comrade and close friend of Goniwe.

86 When Goniwe, my father and their comrades founded CRADOYA, my father was elected as its first secretary. He was also an active member of the UDF.

Sicelo Mhlauli

87 Sicelo Mhlauli ("**Mhlauli**") was born on 25 May 1949 in Cradock. He and Goniwe were childhood friends. As adults, both men found themselves drawn to the same profession – teaching. Mhlauli began his teaching career at the Tembalabantu High School in Zwelitsha in 1970, and later became a school principal in Oudtshoorn.

88 In 1980, Mhlauli married Nombuyiselo Zonke and the couple had three children. While working as a teacher, Mhlauli had several encounters with the police over their abuse of the local community and its school children. He was an active member of the Oudtshoorn Youth Organisation and the UDF.

89 In June 1985, Mhlauli visited friends in Cradock while his wife was attending a course in Port Elizabeth. His old friend Goniwe invited him to join him on the trip to Port Elizabeth.

Sparrow Mkonto

90 Sparrow Mkonto was born on 24 December 1951 in Cradock. Having left school after Grade 10, he began working on the railways. In 1972, he married Sindiswa, and the couple had one child. Dissatisfied with the working and living conditions in his community, Mkonto joined the Railway Workers' Union.

91 Mkonto was instrumental in the formation of CRADORA and had been its chairman at the time of his death. His involvement in political associations

brought Mkonto to the attention of the police, and on more than one occasion, he was arrested and questioned about his activities in the various organisations.

SITUATION IN CRADOCK LEADING UP TO 1985

92 According to a summary provided in the TRC file of the Cradock Four (**"the TRC Dossier"**) (at A2 of the Dossier, which can be supplied on request) the following significant events preceded the murders.

92.1 The Cradock Residents Association (CRADORA) was formed on 4 October 1983, primarily to tackle the issue of rent increases in the new section of Lingelihle township. Activities included meetings and petitions.

92.2 On 29 November 1983, Matthew Goniwe was notified that he had been transferred to Graaff-Reinet. Assuming this to be a politically motivated transfer, he refused to accept the move, and the Department of Education and Training (**"DET"**) claimed that he had dismissed himself. When the DET refused to revoke the transfer, residents decided on 2 February 1984 to support a school boycott. The boycott began the next day which was supported by approximately 7 000 students at all seven Lingelihle schools. The students also demanded democratic Students Representative Councils, more textbooks, and more qualified teachers. This resulted in the longest schools' boycott in South Africa, running for over 15 months.

- 92.3 Towards the end of March 1984 all meetings of CRADORA and the youth organisation CRADOYA were banned by a magistrate. Subsequently a meeting of 2 000 pupils was dispersed by the police, who fired teargas into a packed church hall. Pupils responded by stoning the police.
- 92.4 On 28 March 1984, the head boy of Lingelihle High School, Madoda Jacobs, was detained under Section 28 of the Internal Security Act. On 30 March 1984, Matthew Goniwe, Mbulelo Goniwe and Fort Calata were detained under the same law. Matthew and Madoda were held for 8 months at Pollsmoor Prison in Cape Town while Fort and Mbulelo were held at Johannesburg's Diepkloof Prison.
- 92.5 On 31 March 1984, the Minister of Law and Order banned all meetings in Cradock for 3 months, extended for another three months at the end of June. On 27 May, police and SADF cordoned off Lingelihle township searching for public violence suspects. From 11 April, conflict in Lingelihle escalated, with houses of councillors being stoned. On 26 April the home of the CRADORA chairman, was petrol bombed.
- 92.6 In June 1984 Matthew Goniwe, Fort Calata, Mbulelo Goniwe and Madoda Jacobs were listed in terms of the Internal Security Act.
- 92.7 On 15 June 1984, police violence against school children galvanised residents of Lingelihle to take protest action. On 16 June 1984, CRADORA called a successful one-day consumer boycott of local shops. On the same day, a commemoration meeting was dispersed by the police with sjamboks and teargas, and school children stoned police

vehicles. Over 200 people were charged with arson and unlawful gathering.

- 92.8 On 23 July 1984, the trial of 5 scholars for intimidation relating to the schools' boycott began. At the end of July 1984, a successful seven-day consumer boycott of white shops in Cradock was called, protesting the detention of Goniwe, Calata and Mbulelo Goniwe. On 9 August 11 scholars were charged with public violence.
- 92.9 On 21 August 1984, Fort Calata, Chairman of CRADOYA, was dismissed from his teaching post while in detention.
- 92.10 Goniwe, Calata and Mbulelo Goniwe were released on 10 October 1984 to a hero's welcome in Cradock. By the end of November, all but nine of those charged with public violence and arson had been acquitted.
- 92.11 In December 1984 a boycott of a beerhall led to its closure after four months. In January 1985, the whole of the Lingelihle Village Council resigned, and were accepted back into the community. They were the first of the black local authorities in the Eastern Cape to resign.
- 92.12 By early 1985, Lingelihle township had been organised by CRADORA into street and area committees. CRADORA and CRADOYA ran several community programmes, including a literacy training programme and a creche. It also ran an advice centre and supervised the payment of pensions. From the perspective of the apartheid state, CRADORA had 'seized control of Cradock' and was governing the township of Lingelihle.

92.13 On 3 March 1985, at the UDF Eastern Cape's first AGM, Matthew Goniwe was elected to the UDF Eastern Cape regional executive in the newly created position of rural organiser. He then helped establish and greatly strengthened civic structures in Adelaide, Fort Beaufort, Cookhouse, Kirkwood, Hanover, Colesberg, Alexandria, Kenton-on-Sea, Steytlerville, Motherwell and Noupoort. In April 1985 the schools boycott was called off despite the failure of the DET to reinstate Goniwe and Calata.

ANTECEDENTS TO MURDER

- 93 According to the summary of facts supplied in the TRC Dossier (at A2), on Monday 24 June 1985 Matthew Goniwe made a telephone call to Derek Swartz, the UDF Eastern Cape Secretary in Port Elizabeth. He told Swartz that he was unable to attend the usual Wednesday executive meeting but would come to the city for a briefing on 27 June instead. He made another call on 27 June confirming that he was coming to Port Elizabeth from Cradock for the meeting.
- 94 Before leaving, he told Nyameka that he would not stop for anyone except an official roadblock on the way home. It transpired that both conversations were recorded by SB, and transcripts were subsequently produced as evidence during the second inquest conducted by Judge Zietsman. It was confirmed by Col Winter and Col Snyman under cross-examination that his movements were monitored on a 24-hour per day basis. Swartz indicated in his evidence that Goniwe had left Port Elizabeth for Cradock at around 9 pm on the night of the 27th, having attended the briefing.

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Motivation for murder

95 According to the testimony of the late Nyameka Goniwe before the TRC (contained in A3.1 of the TRC Dossier), her husband and the others were perceived to be a threat to the then regime. She testified that Goniwe was:

95.1 seen as a person who was responsible for the collapse of the community council system in Lingelihle,

95.2 held responsible for disrupting schools and for the resignation of all the schools' committees in Lingelihle,

95.3 accused of mobilising the people of Cradock of neighbouring towns under the banner of the ANC,

95.4 hated by the security police for raising the level of political awareness of people in rural areas,

95.5 seen as a communist and a dangerous person who was a threat to the state.

ABDUCTION, TORTURE AND MURDER OF THE CRADOCK FOUR

96 On 27 June 1985, while driving from Port Elizabeth to Cradock, after attending a UDF meeting, the Cradock Four were abducted at a roadblock set up by the Security Branch. They were then tortured and murdered. Their bodies were then set alight and burned to prevent them from being identified. Their burnt car and mutilated bodies were only discovered one week after their disappearance.

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97 After a series of searches by family members, Goniwe's burnt-out car was found near the Scribante Racing Course, outside Port Elizabeth on 2 July 1985. Goniwe's body was discovered on 2 July 1985. It had multiple stab wounds and had been burned almost beyond recognition. According to the autopsy reports of Dr Knobel dated 18 July 1985, (TRC Dossier, Vol 1, part A.5), the causes of death were as follows:

97.1 **Matthew Goniwe:** Multiple stab wounds and consequences thereof. A copy of the post-mortem report is annexed hereto marked "LC11"

97.2 **Fort Calata:** Stab wound in heart and consequences thereof. A copy of the post-mortem report is annexed hereto marked "LC12"

97.3 **Sparrow Mkonto:** Gunshot wound to head & stab wound to heart. A copy of the post-mortem report is annexed hereto marked "LC13"

97.4 **Sicelo Mhlauli:** Multiple stab wounds & consequences thereof. A copy of the post-mortem report is annexed hereto marked "LC14"

98 According to the summary of facts in the TRC Dossier, the next morning, 28 June 1985, Nyameka Goniwe began making enquiries. She went to Cookhouse, Bedford, and Paterson police stations, making enquiries without success. On her return home to Cradock she was informed that the police had found Matthew's burnt-out car near the Scribante Race Court outside of Port Elizabeth. The next day, Saturday 29 June 1985, the bodies of Sparrow Mkonto and Sicelo Mhlauli were found by fishermen at the coast. The bodies of Matthew Goniwe and Fort Calata were found on 2 July, in the bushes near Bluewater Bay, a coastal suburb of Port Elizabeth.

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- 99 All the bodies were seriously mutilated, with multiple stab wounds and burns; Sicelo Mhlauli 's body was missing the right hand. According to the testimony of Madoda Jacobs, who was detained at Louis le Grange Square, security police headquarters in Port Elizabeth, he saw this hand in a jar and was told it was a 'baboon's hand'.
- 100 On 20 July 1985, the 'Cradock Four' were buried at a massive funeral attended by thousands, who came from all over the country to pay their respects. The government became alarmed at the mass gathering, and a State of Emergency was declared at midnight, with hundreds of mourners arrested. Most of the local UDF leadership was detained under emergency regulations and many were tortured in detention. On 13 September 1985, 39 AZAPO leaders and supporters were arrested at a commemoration meeting for Steve Biko in Uitenhage. They were later charged with holding an illegal gathering and some were severely assaulted in custody.
- 101 Following the deaths of the Cradock Four, our families suffered considerable trauma and hardship, and were subjected to years of police surveillance and harassment.

ROLE OF THE POLICE

- 102 The role of the police emerged from the proceedings before the second inquest and the TRC (dealt with in more detail below). Since Goniwe's telephone in Cradock was tapped by the SB they were aware that the four left Cradock on 27 June 1985 in Goniwe's motor vehicle with registration no: CAT 8479, to attend a UDF meeting in Port Elizabeth.

- 103 A plan was devised to abduct and murder them. Major Johan Martin van Zyl, (also known as "Sakkie"), was placed in charge of the operation. His instructions were to make the murders appear to be the result of a vigilante attack, which was a common cover-up tactic of the SB at the time.
- 104 Van Zyl was assisted by Lieutenant Eric Alexander Taylor, Sergeant Gerhardus Johannes Lotz and Warrant Officer Mbalala Glen Mgoduka, Sergeant Amos Temba Faku and Mr. Xolile Shepard Sakati. According to Van Zyl, Taylor and Lotz, they acted on the instructions of the late Nicholas Jakobus Janse van Rensburg, second in command of the Security Branch Unit and Hermanus Du Plessis who authorised the murders. According to Janse van Rensburg, he received instructions in this regard from his immediate superior, the late Harold Snyman. Snyman in turn claimed that he was ordered by the former Minister of Law and Order, the late Mr Le Grange, to murder those in leadership positions who were directly responsible for the unrest in the Eastern Cape.
- 105 That night, Van Zyl, Taylor and Lotz waited somewhere along the Port Elizabeth National Road for the motor vehicle in which the deceased was travelling. The motor vehicle was stopped at the Oliphantshoek Pass, and the four were kidnapped, taken to different secluded places in the Port Elizabeth district where each was brutally murdered.
- 106 The post-mortem reports reflect particularly gruesome treatment of the four. The deceased were severely beaten and assaulted and stabbed multiple times while handcuffed. Apart from Sparrow Mkonto, who was shot, they died from stab wounds.

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- 107 Goniwe's vehicle was taken to a place on the road to Addo where it was set on fire and almost completely destroyed. This was done to prevent the car being identified as belonging to Goniwe. Both number plates were removed. A severely burnt false number plate, with the number CB 10627 was left lying in front of the vehicle. One of the original plates, not damaged or burnt was left in the grass behind the vehicle.
- 108 The mutilated bodies were found spread out over a wide area in the Redhouse and Bluewater Bay areas, on the outskirts of Port Elizabeth. The bodies, and especially the faces, were doused with petrol and set on fire with the intention of rendering them unrecognisable and therefore not identifiable. It was apparent that the SB went to great lengths to prevent identification of the bodies and to eliminate clues which would link the bodies to each other and to the burnt-out vehicle.
- 109 The security forces fabricated a story to make it look as though the four UDF activists had been killed by AZAPO members.
- 110 A case docket was opened under the reference: "Swartkops MR13/07/85" but the families were naturally aware that the SAP would collaborate in the cover up of the crimes and shield the killers from justice, as was the modus operandi of the time.

INQUESTS AND THE TRC FINDINGS

The First Inquest

111 An inquest into the deaths of the Cradock Four was scheduled for 2 January 1986 in Port Elizabeth under case number 626/87. The Magistrate, Mr M De Beer postponed the hearing for a few months. Despite evidence pointing to State involvement, the magistrate found that that the Cradock Four's:

"deaths were brought about by a person or persons or a group of persons unknown".

The Second Inquest

112 A report in the New Nation newspaper of 30 April 1992 revealed a top-secret military signal had called for the "*permanent removal from society*" of Goniwe, Calata and Mbulelo Goniwe. As a result, the Minister of Justice instructed the Judge President of the Eastern Cape Local Division, Neville Zietsman to re-open and preside over the inquest ("the second inquest").

113 The inquest was reopened on 1 March 1993 in the Port Elizabeth Supreme Court under case number CC 7/93 and lasted until May 1994. The families were represented by Adv Arthur Chaskalson SC, Adv George Bizos SC and Adv Mohamed Navsa instructed by Clive Plasket of the Legal Resources Centre.

114 Lourens Du Plessis of the SADF testified about the 'signal' calling for the permanent removal from society of Goniwe. Advocate Glenn' Goosen (now a judge of the High Court) acted for Lourens Du Plessis. Those implicated in

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sending the signal were Brigadier Van der Westhuizen and Colonel Van Rensburg.

115 Judge President Zietsman concluded in his judgment (1994 (3) SA 877 SECLD), a copy of which is annexed hereto marked "LC15", that the deaths of the Cradock Four:

"were brought about by deliberate acts committed by an unknown person or persons which acts constitute murder on the part of such person or persons."

116 But the learned judge was able to conclude that it had:

"been established prima facie that the murderers ... were members of the security forces".

117 Zietsman JP found at pages 78 – 79 of his judgment that it had been proven prima facie that the signal sent by Colonel du Plessis to Major General van Rensburg on 7 June 1985 on the instructions of Brigadier van der Westhuizen was a recommendation that Matthew Goniwe, Mbulelo Goniwe and Fort Calata be killed, and that this was the meaning Colonel du Plessis and Brigadier van der Westhuizen intended the signal to have.

118 He also found that the state considered Mathew Goniwe to be an enemy of the state whose activities had to be curtailed or terminated.

119 Zietsman JP made the following key findings at pages 19 – 20 in relation to the context within which the Cradock Four were abducted and murdered by the security forces:

"I start off with the police.

At the time of the murders the country was in a state of unrest and the Eastern Cape in particular was described as the centre or burning point of the unrest. The African National Congress (ANC) had been banned

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but the United Democratic Front (UDF) had not been banned even though it was considered to be a front for the ANC.

Matthew Goniwe was an organiser for the UDF. He played a leading role in organising school and trade boycotts, and it was felt that he was actively assisting in what was termed the revolutionary strategy. This included the setting up of alternative structures such as street committees. The security police and the army were engaged in what was regarded as a counter-revolutionary strategy. Matthew Goniwe was a thorn in the flesh of the security forces, and he was at times referred to as an enemy of the State."

120 In relation to the SADF, Judge Zietsman found:

"I come to deal with members of the South African Defence Force, and in particular with the signal sent to Major General van Rensburg on 7 June 1985, the disclosure of which in the New Nation newspaper was the main reason for the reopening of this Inquest.

. . .

At the time the signal was sent the county was in a turmoil of unrest, and the Eastern Cape in particular was referred to as the focus or burning point of the unrest and of the militancy directed against the local authorities who were seeking to maintain law and order. ...

Much evidence was led concerning the so-called anti-insurgency operations carried on by members of the South African Defence Force. It was stated in evidence that various books and articles were distributed and read by inter alia members of the defence force, the most important being that written by John J McCuen entitled 'The Art of Counter-Revolutionary War' and that written by Brigadier C. A. Fraser entitled 'Lessons Learnt from Past Revolutionary Wars'. It was argued that applying the principles set out in these books and articles the South African security forces accepted in principle the fact that political activists could in certain circumstances be legitimately killed. However, the decision to kill a political activist was a strategic decision which had to be taken at the highest level."

121 Judge Zietsman concluded:

"It has, in my opinion, been established prima facie that the murderers of Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli were members of the security forces. A case of suspicion has been made out against certain members of the police force including Colonel Snyman and Colonel Winter, and against certain members of the South African Defence Force including Brigadier van der Westhuizen, Colonel du Plessis and Major-General van Rensburg ..."

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122 Despite these findings, the SAPS and NPA made no attempt to follow up and further investigate the crimes or institute a prosecution. The families subsequently filed a claim for damages against the SADF and SAP with the assistance of the Legal Resources Centre, which was eventually settled out of court.

TRC inquiry and process

123 We as the families were hopeful that the TRC process would eventually get to the truth behind the murders of the Cradock Four.

124 The TRC final report concluded that the cases of the 'Cradock Four' and the related 'Motherwell bombing' illustrated the use of sophisticated covert operations by the security forces in the assassination of both political opponents and dissidents within their own ranks (para 294, Vol 3, Ch 2, Subsection 26).

125 Testimony was given in the first hearing of the Commission in East London in April 1996 by the wives of the four, Ms Nomonde Calata, Ms Nyameka Goniwe, Ms Sindiswa Mkonto and Ms Nombuyiselo Mhlauli, and by Mhlauli's daughter, Ms Babalwa Mhlauli.

126 The families also requested further investigation to ascertain who was responsible. Ms Mkonto requested that the perpetrators be brought to court so that justice could be done. Ms Mkonto, Ms Mhlauli and Ms Calata also requested assistance with the education of their children. Ms Mhlauli requested the return of her husband's hand, which was believed to have been kept in a jar by the SB at Louis le Grange Square in Port Elizabeth. Mr Madoda Jacobs, the

former head boy of Lingelihle High School, told the Commission that while he was in detention in Port Elizabeth in 1985, security police had shown him a hand in a bottle and told him it belonged to Mhlauli (Para 297, Vol 3, Ch 2, Subsection 26).

- 127 The TRC noted that an attempt was made by the state to suggest that the deaths of the four were the result of ongoing and violent conflict between the Azanian People's Organisation (AZAPO) and the UDF in the Eastern Cape. The Commission found evidence that this fabrication was formulated by the Strategic Communications Branch (Stratcom) of the SSC Secretariat. The Commission found that the attempt to lay the crime at the door of Azapo in the Eastern Cape was not only a case of disinformation, but a deliberate attempt to stoke conflict that had already claimed lives in the Eastern Cape (para 251, Vol 2 Ch 3).
- 128 The TRC noted that it was important to end the silences around the gendered nature of the atrocities under apartheid.

One of the silences was that of women who had themselves suffered gross human rights violations but spoke only as secondary victims — as relatives of men who had suffered. Hence, for example, in the first week of hearings in the Eastern Cape, the widows of the Cradock Four spoke about their murdered husbands. Each had herself been arrested and harassed, but their own stories did not become the subject of the hearings. Later in the hearings, Dr Liz Floyd and Ms Nyameka Goniwe spoke about the abuses suffered by their partners, Mr Neil Aggett and Mr Matthew Goniwe. They, too, mentioned their own roles and suffering only in passing.

Paras 36 - 37, Vol 4, Ch 10, Subsection 6

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Amnesty decisions

- 129 In January 1997, the Commission received amnesty applications from members of the Port Elizabeth SB for the killing of the 'Cradock Four'. Those who applied for amnesty were Mr Eric Alexander Taylor [AM3917/96], Mr Hermanus Du Plessis [AM4384/96], Mr Nicolaas Jacobus Janse van Rensburg [AM3919/96], Mr Harold Snyman [AM3918/96], Ms Gerhardus Johannes Lotz [AM3921/96] and Ms Johan Martin 'Sakkie' van Zyl [AM5637/97] (Para 298, Vol 3, Ch 2, Subsection 26).
- 130 The TRC Amnesty Committee ("**the Committee**"), in its ruling (Amnesty Committee Decision AC/99/0350) of 14 December 1999, which is annexed hereto marked **LC10** above, found that the foot soldiers "who actually perpetrated these deeds" acted on the instructions of Nicolaas Janse van Rensburg and Hermanus du Plessis who supported and approved the killings (page 2, lines 18 – 19 of amnesty decision AC/99/0350).
- 131 Van Rensburg in turn received instruction from Harold Snyman. In tracing the chain of command, the Committee found that the order from Snyman that "the best must be done for the country" meant that he approved of these assassinations. Minister Le Grange told Snyman in a conversation that a "plan" needed to be made regarding the unrest in the Eastern Cape. Snyman interpreted this as an order to assassinate those leaders directly responsible for the unrest.

It was testified that the order from Snyman was to the effect that "the best must be done for the country" in view of the unrest situation in the Eastern Cape which was "beyond control". This was interpreted, it was explained, to mean approval for these assassinations. In his written application, Snyman confirms that that is what he meant. Snyman in turn stated in his written application that it was the former Minister of

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Law and Order, the late Mr Le Grange, who, in a conversation with him about the unrest situation in the Eastern Cape, mentioned that a "plan" had to be made regarding unrest agitators in the Eastern Cape. This Snyman said, he interpreted as an order to assassinate those who were the leaders of those persons directly responsible for the said unrest.

Page 2, lines 20 - 27

132 In the amnesty application of Sakkie van Zyl, which is annexed hereto marked "LC16", the details of the order from Snyman and van Rensburg are expanded on. Van Zyl states that a few weeks before the murders, Van Rensburg informed van Zyl in Van Rensburg's office that a drastic plan had to be made with Goniwe and these comrades. Van Zyl later discussed this with Du Plessis. Du Plessis and Van Zyl then attended at Van Rensburg's office where Van Rensburg emphasized that Snyman, the commander of Security Branch, Eastern Province Division, had to first approve the elimination of Goniwe and the others. In seeking approval, Du Plessis and van Zyl thereafter went to Snyman's office where they briefly discussed the matter. It was at his office that Snyman said they should do what is in the interests of the country. They then considered this as official authorization of the operation. Du Plessis and van Zyl then returned to the office of Van Rensburg and informed him that Snyman had approved the operation (Van Zyl Amnesty Application dated May 1997, paragraph 8).

133 In Snyman's application for amnesty, which is annexed hereto marked "LC17", at a "safety and education meeting" held on approximately 14 February 1985, Minister Le Grange approached him during an adjournment and told him that he was expected to make a plan with the agitators in the Eastern Cape. He understood this to mean that Goniwe and others had to be killed. This was

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especially so since, according to Snyman's affidavit, it was discussed and recorded at this meeting that the normal legal options were no longer a solution for the problems faced in the Eastern Cape (Snyman Amnesty Application date unknown, paragraph 7)

- 134 The TRC Amnesty Committee made the following further findings in respect of the plan to murder the Cradock Four:

The plan devised by the applicants to murder [Goniwe] was then put into operation. Johan Martin van Zyl, (also known as "Sakkie"), was charged with handling the operation which included the execution [of Goniwe]. The murders [of the Cradock 4] would be made to look like the result of a vigilante attack. Indeed, it seems that the manner in which the murders were committed confirms that part of the plan. In order to execute the murder, he elicited the assistance of Eric Alexander Taylor, Gerhardus Johannes Lotz as well as the late Sergeant Faku, Goduka and Sakati.

Pages 1 - 2, lines 9 - 4

- 135 All the applicants (except for De Kock) were refused amnesty. None of the victims' families opposed De Kock's amnesty application. It appears from the findings that the Amnesty Committee had "*reservations as to whether the requirement related to political objectives*" was met and that it took the view that the applicants "*failed to disclose everything they know about the murders*".

- 136 As discussed in the paragraphs above, Jacob Jan Hendrick (Jaap) Van Jaarsveld was also granted amnesty. However, his amnesty application was considered separately [AC/2001/176] from the other applicants discussed above.

- 137 The TRC Amnesty Committee findings demonstrate that there is a *prima facie* case of kidnapping and murder against the perpetrators who were refused

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amnesty. Nonetheless, more than 20 years after the decision of the Amnesty Committee they have still not been prosecuted.

ROLE OF THE STATE SECURITY SYSTEM

138 I am advised that to demonstrate the chain of command in respect of how the murders of the Cradock Four were authorised it is necessary to closely examine the state security system that existed at the time.

139 This section of my affidavit is drawn largely from a report titled "*The apparatus of state-orchestrated violence in apartheid South Africa*" prepared during 1997 by the Civilian Support Component of the Investigation Task Unit. The report was provided to the TRC. In order not to burden these papers I have not attached the report, but it can be supplied on request.

State Security Council

140 The State Security Council was a special cabinet committee on security set up in 1972. In terms of the **Security Intelligence and State Security Council Act, Act 62 of 1972**, the SSC was composed of: the State President (as the Chairperson); senior Cabinet ministers and ministers of Foreign Affairs, Defence, Law and Order and Justice; the Chief of the SADF and Commissioner of Police; and the Director Generals of National Intelligence, Foreign Affairs and Justice. In addition, the SSC was empowered to co-opt ministers and officials of other departments on a permanent or ad hoc basis. In terms of Act 62 of 1972 the SSC was to play an advisory role to Cabinet regarding:

140.1 the formulation and implementation of national security policy.

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140.2 policy regarding the combating of any specific threat; and

140.3 intelligence priorities.

141 However, the SSC assumed decision-making powers far beyond the advisory powers conferred upon it in the Act. It was in the SSC and not Cabinet where matters of greatest sensitivity and importance were deliberated and agreed upon, with Cabinet merely provided a rubber-stamping role.

142 The SSC met fortnightly to discuss security issues and approve steps to be taken by the various arms of the state to turn back the tide of the revolutionary struggle. It was in the SSC meetings that decisions were taken to impose States of Emergency, to ban organisations, and to launch cross-border operations in neighbouring states, and sometimes to take actions against individuals. The first national strategy of the SSC was approved by cabinet in March 1980 and it set out the apartheid state's philosophy on total war and the total strategy.

143 The SSC was assisted by a working group which was chaired by the Deputy Minister of Law and Order and which included the secretary of the SSC and the heads of departments represented on the SSC.

144 In 1978, then Minister of Defence, P W Botha, took over as Prime Minister and set about with plans to increase the involvement of the security establishment in the governance of the country. Botha oversaw the setting up of a system to manage the total strategy and centralise decision-making under the security establishment.

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145 In August 1979, the establishment of a National Security Management System (**NSMS**) was officially announced. The NSMS was a vast bureaucracy intended to co-ordinate all the arms and departments of the government in a united and total effort to counter the perceived total war against South Africa. It was through the NSMS where the doctrine of the 'total strategy' was embraced and expounded, and where actions - both legal and illegal - were authorised.

Secretariat and its components

146 The setting up of the NSMS saw the strengthening of the SSC through the appointment of a permanent Secretary and the establishment of a full-time Secretariat and Working Group. The SADF, Police and Intelligence services were at the core of the system. The Secretariat of the State Security Council (SSSC) was tasked with working out the details of the practical implications and implementation of the broad policy and strategy guidelines decided upon by the SSC. The Secretariat was headed by Lt Gen A.J. van Deventer between 1979 and 1985 and by Lt Gen Pieter van der Westhuizen between 1985 and 1988.

147 The Secretariat had a total staff component of 100, although individual branches like Stratcom had much larger staff compliments. Staff were seconded to the Secretariat by the NIS (56%), SADF (16%), SAP (16%) and Foreign Affairs (11%). The Secretariat was structured into four branches, namely:

147.1 The Strategy Branch, which developed "total strategies" to counter the "total onslaught" through a Total Planning Cell made up of 13 interdepartmental committees.

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147.2 The National Intelligence Interpretation Branch (NIIB), which coordinated intelligence gathering of intelligence by the National Intelligence Service (NIS), Directorate Military Intelligence (DMI), Security Branch and Foreign Affairs intelligence committee. It also had to interpret all the intelligence and provide a national intelligence brief to government.

147.3 Strategic Communication (**Stratcom**)

147.3.1 Stratcom developed strategies to combat the "Total Onslaught". One of its aims was to discredit anti-apartheid organisations, neutralise anti-government publicity and promote a positive image of anti-communist groups by using the Bureau of Information to overtly sell the government message, and secondly, it employed covert propaganda through other entities.

147.3.2 Stratcom also had a more sinister component, which included the use of murder, intimidation, economic sabotage, character assassinations and front companies against anti-apartheid personalities and organisations. Stratcom was directly accountable to the SSC, while projects which focused on a specific sector of society had to be approved by the relevant minister.

147.4 The Administrative Branch supplied administrative staff to assist the secretariat.

148 Other SSC committees included the Co-ordinating Intelligence Committee, known as **KIK** from its Afrikaans name *Koördineer Inligting Komitee* and Counter-revolutionary Intelligence Task Team, known as **TREWITS** from its Afrikaans name, *Teen Rewolusionere Inligting Taakspan*.

148.1 KIK, also known as the "K" Committee, was established in early 1981 and was chaired by Neil Barnard. Its function was to co-ordinate activities and intelligence between all intelligence agencies and the non-security agencies. It had several sub-committees, including: Covert Collection (later called TREWITS), Open Information Gathering, Technical, Evaluation (later became NIIB) and Counter Espionage and Security Intelligence.

148.2 TREWITS, also known as Section J, was formed in 1985 to identify targets for action and elimination. It gathered intelligence for these operations. TREWITS was under the command of the Security Branch, but included members from the NIS, DMI and Special Forces. TREWITS interacted with the Joint Management Centres through the VEIKOM (Security) committees.

149 In translating SSC resolutions into inter-departmental action, the Secretariat was assisted by 13 Interdepartmental Committees (IDCs). These included Constitutional, Security, Security Forces, Manpower, and others.

NSMS and Joint Management Centres

150 The NSMS was divided into two arms - a Security Management System and a Welfare Management System. The former was headed by the State Security Council, while the latter was headed by the remaining three cabinet committees

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(Constitutional Affairs, Economic Affairs and Social Affairs). The Welfare arm of the NSMS was only fully developed and activated in August 1985, following the July 1985 declaration of a State of Emergency. The National Security Committee oversaw the SSC and the National Security Management System, and its decisions did not have to be ratified by the Cabinet, or even communicated to cabinet, unless instructed to do so by the Prime Minister.

- 151 The welfare arm of the NSMS focused on "winning the hearts and minds" of the population through programmes of economic upliftment, social welfare, upgrading of communities and constitutional reform. The SSC was the policy and decision-making body of the NSMS. It was assisted by a Work Group of some 15 Interdepartmental Committees (IDCs). Decisions taken at the fortnightly SSC meetings were sent to the heads of the respective departments for implementation.
- 152 Through a hierarchy of 500 regional, district and local Joint Management Centres (JMCs) these SSC directives were translated into practical actions on the ground. Representatives of the SAP, Security Branch, SADF, provincial and local government sat on these bodies, but they were dominated by the security sector.
- 153 The JMCs were the hands and feet as well as the eyes and ears of the SSC on the ground. They oversaw and co-ordinated the daily implementation of strategies flowing out from the SSC. The JMCs also continuously fed intelligence and situation reports back up to the SSC. The JMCs were structured as follows:
- 153.1 National Co-ordinating Committee (NCC),

- 153.2 11 JMCs (regional, which replicated the SADF command regions),
 - 153.3 60 sub-JMCs (district),
 - 153.4 350 mini-JMCs (municipality),
 - 153.5 numerous LMCS (local management centres at police station and commando level).
- 154 Coordinating the work of the JMCs was the National Co-ordinating Committee, known by its Afrikaans acronym NKK. Membership of the JMCs was drawn from the military, police, and civilian government departments. The JMCs interacted with communities through Community Liaison Forums, and with business through Joint Liaison Forums and Defence Manpower Liaison Committees.
- 155 Each JMC (including sub-JMCs and mini-JMCs) essentially replicated the SSC structure at local level and was divided into the following committees:
- 155.1 Executive Committee, which included the head of the individual JMC and the committee heads (supported by a secretariat),
 - 155.2 Security committee (Veikom) to plan, monitor and co-ordinate the security forces. The operational role was under the command of an SAP commander through a Joint Operations Centre. Members of this committee included the SAP, SADF, NIS, Security Police, Railway Police, Civil defence, Commandos and state and provincial officials.
 - 155.3 Constitutional, Economic and Social affairs Committee (Semkom), to implement the National Welfare Management strategy. Its members

included civil servants from government departments dealing with housing, finance, constitutional affairs, and pensions.

155.4 Communication Committee (Komkom), to compile and disseminate propaganda. Members of this committee consisted of the SAP, SADF and the Bureau of Information.

155.5 Joint Intelligence Committee (JIC/GIK) to provide daily intelligence to the other committees. The operational role was under the command of an Army Intelligence commander through a Joint Intelligence Centre. Members of this committee included the DMI, NIS, SB, Prisons Service, *Kitskonstabels*, private security firms and provincial, regional and local affairs.

156 The primary role of the JMCs was to collect intelligence on persons and groups who acted against the interests of the state. Information would be sent up the chain of command from the lowest levels to the JMC, then the SSC and its working committees and finally the prime minister or state president.

157 The JMCs reported on the activities and location of political activists to form an overall security profile to facilitate decisions on security actions to be taken. Such actions included the harassment, torture, abduction, and elimination of persons opposed to the government. A secondary and neglected role was the "hearts and minds" strategy involving socio-economic and political steps.

TRC findings against the SSC

- 158 The TRC concluded in its final report that the SSC played a central role in the regime's shift from a legal response to an extra-legal response to the growing threat to the apartheid state.

However, in the 1980s, when the state was in crisis, it became clear that the law had run its course; that it could no longer do the job. The law had become ineffective, an apparent obstruction to the restoration of what government leaders, seemingly oblivious to the irony, called 'law and order'. At this stage, real rule-making power shifted from Parliament and the Cabinet to a non-elected administrative body, the State Security Council (SSC) which operated beyond public scrutiny. Nominally a sub-organ of the Cabinet, in reality the SSC eclipsed it as the key locus of power and authority in matters relating to security.

Para 76, Vol 1, Ch 2

- 159 Former head of SB Intelligence, Craig Williamson explained to the TRC that this shift took place in the context of the apartheid state's embrace of counterinsurgency theory. According to Williamson:

"... a democratic state is often "limited by its laws, values and norms in the methods it can use to defeat an insurgent movement". Its solution is to resort to "extra-legal counter-revolutionary acts, as long as they are done secretly".

Para 77, Vol 1, Ch 2

- 160 According to the TRC, the SSC initially targeted members of 'terrorist' groups based outside of South Africa, but from the mid-1980s, it began focusing on its opponents inside South Africa. SSC documents never directly used the word 'murder' in its deliberations but resorted to euphemisms such as 'eliminatie', 'verwyder', 'neutraliseer' and 'uitwis', loosely translated as eliminate, remove, neutralize and wipe out (Para 79, Vol 1, Ch 2).

161 The TRC concluded in its final report that SSC members, particularly representatives of the security forces and ministers in charge of security portfolios, reasonably foresaw that such words could be interpreted by members of the security forces as authorisation to kill anti-apartheid activists (para 96, vol 5, ch6). Aside from the prevailing context which pointed to brazen illegality, the Commission reached this conclusion for the following reasons:

161.1 If the directives of the SSC and its structures were all lawful as alleged by members like Mr FW de Klerk, General Magnus Malan, and Dr L D (Neil) Barnard, these would have been explicitly spelt out. If the intention was to detain, restrict, arrest, ban or deport, these are the words that would have been used (para 97a, vol 5, ch6).

161.2 Since the military and the police operated on a basis of clear and precise instructions, the words must have been intended to convey their normal meaning (para 97c, vol 5, ch6).

161.3 There is no evidence of any attempt by the SSC to set in motion any independent, substantive or comprehensive investigation into the killing of political opponents once this began to happen, given that it was common knowledge that police investigations of such crimes generally took the form of cover-ups. Neither did the SSC at any stage issue any statement or directive clarifying its orders and strategies to the effect that they should under no circumstances be interpreted as authorisation for illegal activities (para 97d, vol 5, ch6).

162 Mr Johann Velde van der Merwe, former Commissioner of Police, said at the TRC's hearing on the State Security Council that "*we had to move outside the*

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boundaries of our law", leading to all sorts of blurred distinctions between acceptable and unacceptable methods. This point was also conceded by Mr FW de Klerk in the National Party's submission (para 31, p 266, vol 5, ch7).

- 163 At the SSC meeting of 12 May 1986, the chairperson, Mr PW Botha, said that the security forces must work together on the establishment of a 'third force'; that such a force must have a developed capacity to "effectively root out terrorists"; that it must be willing to be unpopular, even feared, and that the subversives must be dealt with using their own methods (TRC Report, para 52, p 177, Vol 2, Ch 3). This indicates the willingness of the SSC to act well outside the law.
- 164 The TRC found the SSC responsible for authorising the provision of a pre-emptive strike force capability in the form of an offensive paramilitary unit (hit squad) to Chief Minister Buthelezi and Inkatha in the mid-1980s (paras 234 – 249, p 463, Vol 2, Ch 5; paras 177 – 179, p 219, Vol 3, Ch 3).
- 165 According to the TRC, by mid-1985, the use of state-sanctioned murder to contain opposition was well established. General Johann van der Merwe, former SAP Commissioner, stated in his evidence before the Commission that "*the impression was created*" that the security forces should use any means necessary to halt the "*total onslaught*" facing the country (para 370, p 629, Vol 3, Ch 3).
- 166 Brigadier Jan Hattingh 'Jack' Cronje, former Divisional Commander of the Northern Transvaal SB was more explicit about the chain of command. In respect of an instruction to murder, he had been given this order:

... by General van der Merwe and during this instruction he specifically indicated to me that this came directly from Minister le Grange and that it had indeed been authorised by President PW Botha, as well as Commissioner Johan Coetzee, both of whom knew about this and authorised it ... If it should be claimed therefore by anyone that the State Security Council was not aware of the actions of the security forces and the security police or of any specific incidents this would not be true.

Para 370, p 629, Vol 3, Ch 3

167 Brigadier Cronje added:

All actions under my jurisdiction which happened in this manner were taken up in situation reports which were sent through on a daily basis to my head office. The procedure was that further reports with this information would then have been passed on to the State Security Council. Events which took place under my command in the Security Branch in Pretoria were, therefore, passed on to Head Office and must have been taken up in reports to the State Security Council ... I do not believe anyone in my Head Office could have been so naive as to believe that the ANC were killing and attacking their own people. They must have known what the true facts were. (Johannesburg hearing, 21 October 1996.)

Para 361, p 260 Vol 6, Section 3, Ch 1.

168 Amnesty applicant Craig Williamson, who had been a political appointee on the President's Council in the late 1980s, commented:

Once it got up to the NGBS (NJMC), it became the political control level where a deputy minister then received the information from the civil service below – and when I say civil service, I include the security forces – and this information was then fed up via the [Work Committee] and the State Security Council and on a political level I believed directly either to Cabinet or to the State President ... Once the information had arrived at the NGBS and then to the State Security Council, the information was in political hands. (Pretoria hearing, 14 September 1998.)

Para 361, p 260 Vol 6, Section 3, Ch 1.

169 In the light of this background I believe that it can be safely assumed that those serving on the SSC and its structures were either party to the issuing of instructions, such as the elimination of the Cradock Four and its cover-up, or

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were kept informed of such plans and what transpired in the aftermath. At no point did any SSC member:

169.1 object to the *systematic* killing of anti-apartheid activists, or

169.2 seek an independent *inquiry* into the ongoing murders, or

169.3 issue any clarifications *regarding* its directives and specifically order the halting of such illegal operations.

170 In the circumstances, even if SSC members were not directly involved in such operations, they must still be held to account for their roles in tacitly approving the operations and deliberately choosing not to take steps to stop them and punish the perpetrators.

HOW THE STATE SECURITY SYSTEM DEALT WITH THE CRADOCK FOUR

171 Considerable documentation unearthed from the National Archives points to the very close attention that the state security chain of command gave to the Cradock Four. Matthew Goniwe was brought to the attention of the upper echelons of the state security system because he was the chief organiser of the UDF in the Eastern Cape and as such was one of the most important political activists in that region.

172 The documentation was made available following a Promotion of Access to Information (PAIA) application brought by private investigator, Brigadier Clifford Marion (ret.). These documents include archival holdings relating to the Zietsman Inquest and the TRC. However, several documents remain to be

recovered. Annexed hereto marked "LC18" is a list of documents that have so far not been provided by the National Archives.

Developments in 1983 and 1984

173 A top-secret memorandum dated 25 June 1985 sent by the Commissioner of the South African Police, PJ Coetzee to the Minister of Law and Order, L Le Grange, titled "*Proposed Action Against Matthew Goniwe, Black man, Educator, Cradock*" provided background on Goniwe dating back to 1983 and 1984, in order to justify action against him. This memorandum is attached annexed hereto (together with its annexures "A" and "B") marked "LC19".

173.1 In annexure A, which is undated and unsigned, a request is made for action against Goniwe for his political involvement in the rental boycott and for fuelling the growing climate of unrest which had been building up as early as 1983. A decision was made to transfer him back to Graaff Reinet, which he rejected. This led to his dismissal in 1984.

173.2 According to annex A:

"Various teachers, learners and residents were involved in [activities such as rental boycotts] under [Goniwe's] influence (amongst others to collect funds for a possible legal matter) and with the growing climate of unrest which was building up in the area, concern was expressed at the GBS and VEIKOM-GIS level regarding the condition in the area and it was requested that GONIWE's removal should be considered.

The Security Head Office consequently informed the Departments of Education and Training, and Cooperation and Development in this regard on 18-10-1983 to consider such steps as deemed necessary.

Following from this, GONIWE was informed by [the Department of] Education and Training that he was transferred to Graaf Reinet and that he should report to the NGWEBA Senior

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Secondary School for duty in January 1984 with the reopening of schools. He however delayed reporting and was deemed to be dismissed in accordance with Article 21(2)(a) of the Education and Training Act, 1979 (Act 90 of 1979) and was officially dismissed on 27-01-1984."

(As translated, Annexure A, paras 10 - 13)

173.3 After surveying Goniwe's activities, and the build-up of student protests against his dismissal, Annexure A asks whether "now" "wasn't the time to take action against GONIWE" (para 33). The annexure noted that:

"an application has also already been directed to the Director-General, Cooperation and Development, on 19-03-1984 in consideration of possible action i.t.o Article 29bis of the City Areas Consolidation Act, 1945 (Act 25 of 1945) to have him removed or possibly have him declared as a Transkei/Ciskei citizen and to be deported. However, he was born in Cradock and the process to be issued may be unsuccessful."

173.4 Annex A concludes with the following recommendation:

"All things considered, it is therefore recommended that the undermentioned persons [who were Matthew Goniwe, Fort Calata, Mbulelo Goniwe and Madoda Jacobs] who can be singled out as the leading figures be removed from the community in terms of section 28 (1) of the Homeland Security Act, 1982 (Act 74 of 1982) and transferred to the Johannesburg Prison "
(As translated, Annexure A, para 36)

State Security Council Meeting of 19 March 1984

174 Goniwe and Calata were referred to in a meeting of the SSC held on 19 March 1984. Although we currently do not have a copy of the minutes of this meeting, the transcript of the application to reopen the Amnesty Hearing for the killers of the Cradock 4 on 25 October 1999 states that on 19 March 1984, the State Security Council, ordered the "removal" of Goniwe. This transcript is annexed hereto marked "LC20".

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- 175 The South African History Online website records that "former President FW de Klerk attended a State Security Council (SSC) meeting [of 19 March 1984] where former Finance Minister Barend du Plessis proposed the "removal" of Goniwe and Calata". A copy of this page is annexed hereto marked "LC21". Du Plessis said:

'In Cradock is daar twee oud-onderwysers wat as agitators optree. Dit sou goed wees as hulle verwyder kon word.' ("In Cradock there are two former teachers who act as agitators. It would be good if they could be removed.")

- 176 Adv Bizos SC described the minute as follows:

The minutes of the meeting record the fact that Gen D J Coetzee, the Commissioner of the South African Police at the time, was present. The close relationship between Maj Craig Williamson and Gen Coetzee ... has been confirmed by Williamson before the Amnesty Committee. ... The Minutes record the presence of F W de Klerk in the meeting and therefore contradict [Williamson's] evidence given before the Truth and Reconciliation Commission, that it was never the policy of the government or the National Party that people should be murdered and that such instruction would be in conflict with the policy of the government, as it had been at all times within his knowledge. (Application to Re-Open Cradock 4 Matter, page 6).

- 177 According to the amnesty decision (AC2001/76) of Van Jaarsveld (annex **LC10 above**), some 48 hours later on 21 March 1984, Craig Williamson, former head of SB Intelligence, sent Van Jaarsveld and Bassie Bouwer to assess the most appropriate way of killing Goniwe and Calata. Van Jaarsveld proposed that Goniwe be 'taken out' on deserted road:

"The relevant circumstances were that [van Jaarsveld] was approached during 1984 by his superior Major Craig Williamson and ordered to investigate the possibility to eliminate Mr Matthew Goniwe in Cradock. In execution of this order [van Jaarsveld] proceeded to the Eastern Cape and eventually visited Cradock on 21 March 1984. With the assistance of members of the local Security Police in Cradock, he visited the home of Mr Goniwe on some other pretext but in reality, to see how Mr Goniwe could be killed and specifically whether this would be possible in his house. After the visit, Applicant eventually returned to Pretoria and reported back to Major Williamson. Applicant's

recommendation was that Mr Goniwe could not be eliminated at his home, due to the fact that there were too many people present in the immediate vicinity. He recommended that Mr Goniwe should be followed and should be eliminated along the road or at some place other than his home. In Applicant's view, Major Williamson received his orders from their superiors within the Security Branch." (page 1)

Removal from the community

178 The top-secret memorandum titled "*Proposed Action Against Matthew Goniwe, Black man, Educator, Cradock*" dated 25 June 1985 (LC19 above), sets out background of Goniwe's activities from 31 March 1984 when Goniwe was detained at Pollsmoor Prison to his appointment as UDF rural organiser of the Eastern Cape region in March 1985. The memorandum then questions what needs to be done to restrict Goniwe's anti-authority actions (para 10) and sets out various recommendations on how to deal with him. The recommendations proposed possible reappointment as a teacher (back in Cradock, after he refused to be transferred to Graaff Reinet and as a result dismissed) or action to be taken through security legislation.

179 The annexure concludes with the following recommendation:

"All things considered, it is therefore recommended that the undermentioned persons [who were Matthew Goniwe, Fort Calata, Mbulelo Goniwe and Madoda Jacobs] who can be singled out as the leading figures be removed from the community in terms of section 28 (1) of the Homeland Security Act, 1982 (Act 74 of 1982) and transferred to the Johannesburg Prison "

(As translated, Annexure A, paragraph 36)

180 The names, dates of birth and ID numbers of Goniwe, Calata Mbulelo Goniwe and Madoda Jacobs were then listed. On 31 March 1984 the four men mentioned in the annex were rounded up and detained for 6 months. Goniwe

and Madoda Jacobs were held in Pollsmoor Prison and Mbulelo Goniwe and Fort Calata were detained in Diepkloof Prison in Johannesburg.

181 The words to "*be removed from the community*" are substantively different in meaning from the notorious signal of 7 June 1985 calling for their urgent "*permanent removal from society*". The former involves a removal from a particular community and indeed the destination or place of detention was specified. This happened and the four were removed from the community of Cradock for a period of 6 months.

182 Annexure B of this memorandum includes a list of Goniwe's activities, intercepted communications, and persons he met between 4 January to 6 May 1985. He is described as a "subject" and the activity sheet is an example of the close level of monitoring he was under.

Meetings of the Eastern Cape Joint Management Committee in 1985

183 On 28 March 1985, a meeting with the Eastern Cape Joint Management Committee (the Afrikaans acronym being "OP-GBS") was held. This meeting was chaired by Brigadier van der Westhuizen and attended by amongst others, Commander Lourens du Plessis. An apology was noted by Harold Snyman which means he was aware of the meeting. In this meeting, it was noted that the educators refused to be transferred from Cradock because of the influence of Goniwe on them. This minute, classified as confidential and compiled by Major MC Vermeulen, is annexed hereto marked "LC22".

184 On 23 May 1985 another OP-GBS meeting was held. This meeting was again chaired by Brigadier van der Westhuizen and attended by, amongst others,

Harold Snyman and Lourens du Plessis. At this meeting, the general climate of unrest was discussed. The meeting noted that the UDF was increasingly becoming interested in rural areas.

185 These minutes also noted that a vehicle was purchased for use by Goniwe, who was the regional organiser of the UDF, to liaise on a more frequent basis with affiliate organisations in Somerset East, Cookhouse, Bedford, and other areas. In reviewing the protests by learners, the meeting noted that classes at Lingelihle in Cradock were cancelled and that there were still demands that Goniwe and Calata be reappointed.

186 It was resolved at this meeting that a signal be sent to the State Security Council Secretariat (the Afrikaans acronym being "SSVR") that Goniwe and Calata must never be appointed as educators again. This minute, marked as confidential and compiled by Major MC Vermeulen, is annexed hereto marked "LC23".

187 In giving effect to this resolution, on the same day, 23 May 1985, a confidential signal was personally sent by Brigadier van der Westhuizen (as chair of the OP GBS) to Lieutenant General van Deventer and General Major van Rensburg of the SSVR in Pretoria. It stated that the "black schools situation" was discussed and that it was unanimously decided at the OP-GBS meeting that Goniwe and Calata should no longer, under any circumstance, ever be appointed in any post in the Department of Education and Training. This signal is annexed hereto and marked "LC24". Point 3 read:

"The meeting unanimously decided that the following recommendations regarding the above-mentioned matters should be brought to the attention of the SSVR urgently and also for implementation by the relevant ministers before 25 May 85"

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A. *That Goniwe and Calata must never be re-appointed under any circumstances in any position in the Department of Education and Training.*

(as translated)

188 On 6 June 1985, a sub-Committee known as the GBS-Aksiekomitee held a meeting at the SA Police headquarters in under the chairmanship of Deputy Minister Adrian Vlok to discuss, amongst other things, the fate of Matthew Goniwe. The attendees included General JFJ van Rensburg of the State Security Council, Mr AP Stemmet and Mr Strydom. It was considered whether reinstating him as a teacher would curb his political activities or lead to further school boycotts and unrest. A sub-committee was appointed under then Brigadier PJ Geldenhuys to make recommendations ("**the Geldenhuys Committee**"). The minutes of the Aksiekomitee were classified as secret and compiled by GM Smit are annexed hereto marked "**LC25**".

189 The Geldenhuys Committee commenced its deliberations on 7 June 1985. It was required to make its recommendation to Deputy Minister Vlok by no later than 12 June 1985. The committee duly met at 10 a.m. on 7 June 1985. A copy of the Geldenhuys Committee working document, marked confidential, (author unknown) is annexed hereto marked "**LC26**".

The "permanent removal from society" signal

190 In stark contrast to the Geldenhuys Committee recommendation and in an apparent parallel process, on 7 June 1985 the infamous signal was sent from Brigadier Van der Westhuizen to Major General Van Rensburg proposing the urgent permanent removal of Goniwe from society. Zietsman J details the sequence of events:

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Colonel du Plessis stated that at approximately 2 p.m. on 7 June 1985 Brigadier van der Westhuizen called him into his office and told him that he had just spoken to Major General van Rensburg and that Major General van Rensburg had told him, inter alia, that he could be of assistance in solving the Goniwe problem. Brigadier van der Westhuizen then instructed Colonel du Plessis to send a signal to Major General van Rensburg confirming their telephonic conversation. Colonel du Plessis stated that he in all probability made a rough note of the wording of the signal to be sent but he could not specifically remember having done so. He stated however that he was satisfied that he understood what message had to be sent and he then arranged for the signal to be sent in the form in which it was sent. Paragraph 3 of the signal which reads "Dit word voorgestel dat BG persone permanent uit die samelewing, as saak van dringendheid, verwyder word" was the essential part of the message. Colonel du Plessis stated that he was also instructed to refer to the telephonic conversation between Brigadier van der Westhuizen and Major General van Rensburg and to add to the name of Matthew Goniwe the names of his close associates. He was also told to spell out in the signal what the likely consequences would be if the recommended action was carried out and this he did in paragraph 4 of the signal." (Zietsman Inquest Judgment, pages 41 – 42)

191 This is the signal that led to the deaths of the Cradock 4. It was classified as a Top-Secret priority signal and was sent by the Eastern Cape Provincial Joint Management Committee to the SSSC. It was authored by Lourens du Plessis and sent under the authority of Brigadier Van der Westhuizen. This signal is annexed hereto and marked "LC27". I quote the complete translation of the signal below:

"Personal for General Van Rensburg.

1 Telephone conversation Gen Van Rensburg/Brig Van der Westhuizen of 7 June '85 refers

2 Names as follows

Matthew Goniwe

Mbulelo Goniwe (brother or nephew of above)

Fort Calata

3 It is proposed that the above-mentioned persons, as a matter of urgency, be permanently removed from society.

4 Wide reaction can be expected locally as well as nationally as a result of the importance of these persons, especially the first mentioned, for the enemy e.g.

a. Interdicts as recently with disappearance of Godolozzi, Hashe and Galela (Pebco officials)

b. Reaction from leftist politicians such as Molly Blackburn

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c. Protest as in the case of Oscar Mpetha in sympathy."

192 During the Zietsman inquest, Major General van Rensburg (whom the signal was addressed to) stated that he did not see this signal until 17 June 1985, that is, after the Geldenhuys Committee had forwarded its recommendation to Vlok. (Zietsman Judgment, page 49). However, Van Rensburg later changed his testimony. Zietsman J records in his judgment that:

"[Van Rensburg] stated [in oral evidence] that he in fact saw the [top-secret priority] signal [of 7 June 1985] on 12 June 1985, before the Geldenhuys committee report was sent to Cape Town. He stated further that the draft Geldenhuys committee report and the signal were handed to him by his secretary, Mrs Vorster, on the afternoon of 12 June 1985. He read the two documents, made alterations to the Geldenhuys report by adding to it certain facts and recommendations prompted by the wording of the signal, and then himself arranged for the completed, amended, report to be sent to Cape Town [where Vlok was situated]." (Zietsman Judgment, pages 49 – 53)

193 In my considered view, the words that they "*as a matter of urgency be permanently removed from society*" cannot be construed or interpreted to be a transfer or a reinstatement to a new post in a different town.

193.1 In the first place a reinstatement and transfer would hardly solicit a national reaction.

193.2 The reference to the disappearance of Godolozi, Hashe and Galela (Pebco Three) is most telling as they were also murdered by the Security Branch.

193.3 A reinstatement and transfer are not steps that could happen as a matter of urgency and had in any event been ruled out by the 23 May 1985 signal sent by Brig van der Westhuizen (as chair of the OP GBS) to Lieutenant General van Deventer and General Major van Rensburg

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of the SSSC in Pretoria that Goniwe and Calata never be re-appointed under any circumstances in any position.

193.4 In any event if it was intended to be a transfer or reinstatement, the signal would have used those words, as had been done in other communications.

193.5 The words stand in stark contradistinction to the earlier recommendation of 'removal from the community', which involved their removal from a specific community, namely Cradock, to another place, Johannesburg, and Pollsmoor Prisons.

193.6 I am advised that while 'community' denotes a specific place, 'society' denotes no place but refers to the wider social system in the country. If the author had intended a deportation from South Africa, then such a word would have been used and the relevant role players would have been so instructed.

193.7 In the circumstances it is difficult to see how such words could be interpreted to mean anything but a recommendation for extra-judicial executions, since death would indeed permanently remove them from society, with no prospect of return. Indeed, this is exactly how the soldiers and policemen involved understood the order.

194 Given that the murders were in fact carried out by the Security Branch it can be safely assumed that it was not a private frolic and that the recommendation in the signal was in fact accepted by the SSSC and approved directly or tacitly by the SSC.

195 In an interview in an Al Jazeera documentary titled "*My Father Died for This*" broadcast in early May 2021 Vlok admitted that the words "*permanent removal from society*" were probably an instruction to murder (at minute 13). An extract from the transcript of this documentary is annexed hereto marked "LC28". A confirmatory affidavit by Hamilton Wende, who interviewed Vlok and who is a producer of the aforesaid documentary, is annexed hereto marked "LC29". In response to a question posed by Wende on what these words meant, Vlok answered:

"You know, we in the Security Council, we were very careful not to tell, not to say and to make a note and to have in the minutes to kill anybody. So, we would say, uh, remove a person from the society, remove him. And, you know, never nobody said killing. But we I thought probably it was meant if you can't solve the problem by removing the guy, then you could kill him."

SSC Secretariat letter to GVS-Aksiekomitee

196 An unsigned letter titled "Matthew Goniwe" addressed to the Voorsitter - 'GVS-aksiekomitee' marked "*Uiters Geheim - Secretariat of the State Security Council*" dated 'June 1985' is annexed hereto marked "LC30". It was likely generated on 12 or 13 June 1985. This letter does not state whom it is from. However, at the top of the first page of this letter, enquiries are directed to Major General J F J van Rensburg.

197 Van Rensburg stated in his testimony before Zietsman J that the recommendations were handed to him on 12 June 1985. He further stated that he altered it by adding recommendations prompted by the permanent removal signal and sent it on to Cape Town (to the chair of the AksieKomitee: Adrian Vlok) (See above Zietsman Judgment at pages 40 – 53).

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- 198 The letter refers to the "*kort skriftelike inset*" gelewer deur die Oostelike Provinsie GBS (para 3, page 75). Translated as "short written input" provided by the Eastern Province GBS. On the last page a hand-written instruction is reflected: "*per distal na Kaapstad op 12 / 6 / 1985.*"
- 199 The letter details Goniwe's history and proposes a range of actions that can be taken against him. This document reflects the following deliberations:
- 199.1 Two options to *neutralise* Goniwe ("*Om Goniwe te neutraliseer*") were considered. The first was whether to act in terms of security legislation and the second was whether to bring him back into the system by reinstating him in a teaching post.
- 199.2 In considering security action, the steps proposed were either to detain Goniwe without a hearing in terms of section 28 of the Internal Security Act 74 of 1982 or restrict his membership of UDF and other political organisations in terms of section 18; or a banning order in terms of sections 19 – 21 of the same Act.
- 199.3 However, the implications of security action would be that the current unrest could escalate into large-scale riots causing leftist political interference and heightening the status of Goniwe. On the international front, it would offer additional ammunition to enemies of South Africa and lead to a greater status for Goniwe.
- 199.4 In considering the option of his re-appointment as a teacher, it was pointed out that this would restrict his current influence and eventually neutralise his impact. If he is appointed and placed outside of Cradock,

it will cause a political backlash. If he were kept in Cradock, he could be controlled and disciplined according to the relevant teaching codes.

199.5 After deliberation, it was recommended that he be reappointed in Cradock with no conditions attached to his appointment.

“Security action that can be handled in court”

200 In this same letter at point 40, under the heading "*Optrede teen Goniwe meelopers*" translated as "Steps against Goniwe followers", reads - "*dit kan oorweeg word om meelopers van Goniwe - Mbulelo Goniwe en Fort Calata na die Direkteur vir Staatsveiligheid te verwys vir moontlike aanhouding of inperking*", translated as "consideration can be given to referring followers of Goniwe - Mbulelo Goniwe and Fort Calata to the Director of State Security for possible detention or restriction".

201 Point 41 of the document is headed "*Beredenering van die opsies*" translated as "explaining the options" or providing the reasons for them. Under this heading the following appears

*The reappointment of Goniwe to a teaching post does not ultimately preclude security action against him. This option can still be exercised (if it appears that Goniwe is not staying in his lane). Such security action can then be taken in a considered manner and **must be of such a nature that the state's case can be successfully handled in court.***

(As translated, bold added)

202 This in my view is a most curious statement. Detentions or other actions taken under the Internal Security Act or Emergency Regulations do not involve court proceedings as no charges are preferred and no appearances are necessary in court. Only a limited number of possible scenarios emerge.

- 202.1 It may have been in anticipation of legal challenges to the detentions, but Goniwe and his colleagues never legally challenged their previous detentions and there was no reason to think they would do so in this instance.
- 202.2 It may have been in anticipation of a criminal trial, but the documents disclose no sign of the SB wishing to take this route. If this was the intention of the authorities it would have been spelt out in plain terms. Moreover, if there was evidence of criminal conduct, the SB would have wasted little time in prosecuting them to score a propaganda victory in the eyes of the public.
- 202.3 This then leaves the last option, and in my view the most likely scenario, namely the option of killing them and then dealing with the court proceedings that would follow, namely the inquest proceedings. Indeed, inquest proceedings in those days were mostly a charade and stage managed to engineer a favourable outcome for the security forces. This scenario is entirely consistent with the "permanently remove" signal.
- 202.4 So, the subsequent court proceedings would not have been of any concern to the planners. Indeed, this is precisely what happened. The police, presumably with the support of Stratcom, falsely claimed that AZAPO was behind the murders. The first inquest was successfully stage managed, and unknown persons were found to be responsible for the deaths.

State Security Council Meeting of 10 June 1985: Authority to the JMCs

203 On 10 June 1985 the State Security Council met in Cape Town. This meeting was chaired by the then Minister of Transport Barend Jacobus Schoeman, although the minutes were signed and approved by PW Botha. The person who compiled the minutes is unknown. The minutes of this meeting are annexed hereto marked "LC31".

203.1 This meeting was attended by, amongst others, FW de Klerk and Barend du Plessis.

203.2 Adriaan Vlok reported that he had talks with various GBS chairpersons about GBS representatives not having the necessary orders or delegations to act on their own initiatives. He advised that a meeting would be arranged with GBS chairpersons in which Vlok would be present to discuss and deliberate the best actions.

203.3 It appears that Vlok may have been obtaining authorisation from the SSC for the GBS level to act on their own initiative, and to do so with the general approval and authority of the SSC. This would have removed the need for a paper trail at the higher levels and permitted those at the top level to engage in plausible deniability of what happened at the lower levels.

Post SSC meeting developments: Developing a smokescreen

204 On 13 June 1985 a Top-Secret letter was sent from General Adamus Paulus Stemmet, Head of Branch Strategic Communication State Security of the SSVR

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to Brigadier Geldenhuys. This letter is annexed hereto and marked "LC32". The signal issued the following directives:

204.1 Goniwe's appointment must follow the normal procedure of advertisement, application, interview, and appointment.

204.2 It will be expected of Goniwe to undergo the necessary orientation courses to catch up for the time missed.

204.3 Goniwe must still be monitored regarding his UDF activities. The monitoring must be conducted with caution.

204.4 Covert, restrictive measures should be looked at to control his extramural activities more effectively or purposefully.

204.5 The national press may be made aware of the appointment but no liaison with the local press must happen.

204.6 All coordinating actions at local level must occur through the GBS.

205 Given that the recommendation to murder Calata and the two Goniwes had already been made, it appears that the above letter was a parallel process aimed at providing a more legitimate and respectable paper trail. Alternatively, the final decision to kill them was only made at a later stage.

206 Between 14 and 18 June 1985 an undated Secret memorandum was circulated by the Deputy Director of Community Communications to the Director: Personnel Management, Mr WA Smit, The Chief Director: Administrative Services, Mr JH Verwey, and the Deputy Director General, Mr J Nienaber of the Department of Education and Training. A copy of this memorandum is annexed

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hereto marked "LC33". In this document the Deputy Director of Community Communications made certain recommendations which were then sent for approval to senior officials in the Education and Training Department.

207 This memo deals with the reappointment of Goniwe. It does not disclose who the author was, but it was sent in the name of the Deputy Director of Community Communications of the Department of Education and Training to the Department of Education Personnel Service. Curiously at paragraph 5.2 it says, "*we as an education department are not a political instrument*". This memorandum disclosed the following:

207.1 Goniwe's reappointment was discussed at a GBS meeting chaired by Adriaan Vlok on 6 June 1985. An appointment was recommended on 13 June 1985. The person who recommended this re-appointment is not disclosed. An assurance was given to the Cradock community that Goniwe would be re-appointed and Goniwe expressed an interest in being reappointed.

207.2 The problem statement in this note was that Goniwe was a full-time Rural Organiser for the UDF and was able to devote his attention to political activities. It was necessary to re-channel his energy into activities which will not allow him to exercise his political activities on a large scale.

207.3 The proposed solution was to reappoint him as a teacher at a school that was in a chaotic condition which will force him to devote all his time to the school and his work. The benefit, it was recorded, would be that

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the community would see his reappointment as a correction of a previous injustice of him being requested to transfer to Graaff Reinet.

207.4 At the end of this memo, the following recommendations were made.

207.4.1 On 18 June 1985 the Director: Personnel Management, Mr

WA Smit, made the following recommendation:

"If we reappoint Mr Goniwe, we should prepare to also consider the reappointment of many others with leftist political tendencies favourably if they should apply. I have understanding for the current thoughts, especially with the aim of normalising the situation. If it is the only way, I would rather propose that he not be appointed on a trial basis but in a temporary capacity. He could maintain a low profile for 12 months and wait until his trial period is confirmed and could then start with his problems again which will severely complicate action against him." (Page 3)

207.4.2 On the same day, 18 June 1985, the memorandum together

with Mr WA Smit's recommendation was sent to the Chief

Director: Administrative Services, Mr J H Verwey. He made

the following recommendation:

"If it is decided to appoint Mr Goniwe, I am also of the opinion that it should rather happen in a temporary capacity and if it is possible also not in an acting capacity of principal." (Page 3)

207.4.3 The memorandum and Verwey's recommendation were then

sent to the Deputy Director General, Mr J Nienaber, who

recommended:

"That Mr Goniwe be appointed in a temporary capacity as acting principal of Sam Xhallie School with effect from a date as determined by the Chief Director, flowing from local circumstances." (Page 3)

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207.5 After these comments, the matter was referred to the Director General. However, by the time the recommendation was placed before the Director General of the Department of Education and Training, on 3 July 1985, it was noted that Goniwe was reported as dead:

"This matter is under consideration of Ministries; it was discussed again with the Deputy Minister on Friday 28.6.85. No finality at that stage was received. Received report of burnt out vehicle on Saturday 29.6.85. On 3.7.85 received a report of the death of Mr Goniwe and Calata." (Page 4)

207.6 It is quite apparent in my view that the aforesaid deliberations with the Department of Education and Training (DET) was a parallel process, aimed at going through the motions, for the purpose of masking the real and already decided action to be taken against the Cradock Four. It is possible that the DET officials were entirely in the dark as to the real plans in respect of Goniwe.

208 Finally, a top-secret memorandum was sent on 25 June 1985 from the Commissioner of the South African Police, PJ Coetzee, to the Minister of Law and Order, L Le Grange. The memorandum was titled "*Proposed Action Against Matthew Goniwe, Black man, Educator, Cradock*" (LC19 above). This top-secret memorandum was approved by Minister Le Grange (at the bottom of page 6) on 6 July 1985, some 10 days after the murders.

209 The purpose of this document was to consider how to restrict Goniwe's anti-authority actions (para 10) and considers the options between a conditional re-appointment as teacher and a group B-banning (para 21). This document explains the different levels of banning in paragraph 11.5. The options were spelled out as follows:

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209.1 A "C-banning" which will restrict him to a specified area but will provide him with reasonable freedom therein.

209.2 A "B-banning" which will restrict his movement in that he may not be absent from home between 19h00 and 06h00; and

209.3 An "A-banning" which basically entails round the clock house-arrest.

210 Finally, the document concludes in somewhat prophetic manner:

"In conclusion, it should also be pointed out that whatever the type of action against GONIWE, it will evoke huge criticism, foreign as well as domestic, in the light of his fame which he has already obtained."
(Paras 22 and 23)

211 It is likely that this document, amongst others, was produced as part of a smokescreen to suggest that the State was still deliberating what to do with Goniwe when AZAPO murdered him. In reality, the state security system had already taken a decision to murder him and the cover story concocted.

Unpacking the smokescreen

212 The transcript of the application for amnesty of Captain Jaap van Jaarsveld (application number AM3761/96 and decision number AC/2001/76) discloses how the apartheid state's security apparatus often used disinformation and propaganda to create smokescreens to mask what was really happening. Van Jaarsveld's testimony before the Amnesty Committee is annexed hereto marked "LC34", which is day two's hearing and "LC35" is day three's hearing.

213 it is apparent that there were two processes occurring at the same time:

213.1 The first being the official security meetings where the appointment, re-appointment, and dismissal of Goniwe were discussed.

213.2 The second being covert, off-the-record, meetings and discussions couched in ambiguous language or code. Indeed, van Jaarsveld made mention of such language in his testimony before the TRC:

MR BOOYENS: Thank you Mr Chairman. Mr Van Jaarsveld we've just talked about the general phraseology that was used. I've already said to you that the term "make a plan" as it appears in Snyman's Affidavit, is that also a term that was used. Did this "make a plan" in some instances mean to kill?

MR VAN JAARSVELD: Mr Chairman, yes like I've said it was a terminology, the language in which it was conveyed and the interpretation in the security society was what we are dealing with today.

(Page 5, Van Jaarsveld Testimony Transcript of Application for Amnesty, 3 June 1998, Day 3)

214 During the hearing for his application for amnesty at the TRC, van Jaarsveld was questioned by George Bizos SC, representing the families of the Cradock 4, about how the state security system worked. He replied:

MR VAN JAARSVELD: Chairperson, the communication structure of the National Security Council worked in a dual fashion. Firstly any action in terms of Government strategy within the [Joint Management Committee] and [the Joint Management Committees] organs or the joint operational centres and so forth would be controlled by State departments from which it would move via the structures of the [Joint Management Committee] to the State Security Council Branches, but those connected to the Management System on local level would also send this information to the other Security Offices. (Van Jaarsveld Testimony, Transcript of Application for Amnesty, 2 June 1998, Day 2 pages 4 and 5.)

215 Later in van Jaarsveld's testimony, Adv Denzil Potgieter, a member of the Amnesty Committee, enquired into the connection between this official process and the signal to eliminate Goniwe.

"ADV POTGIETER: You see the document we've got here that reports back from the work committee says that there was input from the [Eastern Cape Joint Management Structure/Committee] and then they made a recommendation, it was a recommendation that Mr Goniwe must not be killed but that the solution is that he must be reappointed.

MR VAN JAARSVELD: Yes Mr Chairperson where people said that he must be reappointed I can just come back to what we talked about earlier on and disinformation, governments, propaganda, it could have been the decision that to kill Goniwe had already been taken and that they went through the steps as a smoke screen, as a disinformation propaganda process saying that the government has got nothing to do with it.

ADV POTGIETER: Including Mr Vlok?

MR VAN JAARSVELD: I cannot say if Mr Vlok was there or not.

CHAIRPERSON: No he's on a committee here that appointed a work committee and your suggestion is that that whole operation to appoint this work team to decide on what must happen to Mr Goniwe regarding his work as a teacher and that it is a smoke screen. The suggestion is that Mr Vlok then was part of that smoke screen and he knew what was going to happen?

MR VAN JAARSVELD: Well then he knew what was going to happen, but you summed it up very well, it was a suggestion of mine and nothing else."

(Transcript of Application for Amnesty, 3 June 1998, Day 3 at page 14)

216 Earlier in his evidence, Van Jaarsveld expanded on the notion of disinformation and propaganda. He explained it as:

MR VAN JAARSVELD: Disinformation, depending upon what the objective of it would be, sometimes it would be operated to firstly create confusion in the public, to create a situation within which one could accomplish certain things. It could be used among your own peers in order to create certain impressions or misimpressions. It had a whole spectrum of uses.

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ADV BOSMAN: The question is actually what the appearance of it would be within the system. Was it used for the purposes of creating impressions within the public or within the system? Did you have any experience of that?

MR VAN JAARSVELD: In that case, within the branch of Strategic Communication it was aimed essentially outward, either to conceal or to camouflage that which the government was doing or to create a certain situation within which the government could do certain things.

(Van Jaarsveld Testimony, 3 June 1998, Day 3 at page 7)

217 My view that much of the correspondence described above constitutes a smokescreen is reinforced by the following:

217.1 Snyman, in his application for amnesty to the TRC (**annexure LC17 above**), at pages 6 – 7 of his affidavit, states that he was approached by Le Grange during an adjournment of a 1985 meeting in Cradock asking him to do what was in the best interests of his country in respect of Goniwe. He stated that he understood this to mean that Goniwe must be killed.

217.2 It is recorded in the judgment of the second inquest that Colonel Lourens du Plessis testified that the signal was a recommendation to murder. At pages 79 to 89 Judge Zietsman finds that the signal dated 7th June 1985 was sent with the intention to eliminate the persons mentioned in the signal. Judge Zietsman also found that the evidence of Colonel Lourens Du Plessis in the judgement was that he understood the instruction in the signal to mean "kill". Judge Zietsman noted at page 42 of his judgment:

"He stated that the words "kill" or "murder" were never used in such signals but that it was well understood in army circles that to propose that someone "permanent uit die samelewing

verwyder word" was a proposal that the person be "eliminated" i.e. killed."

- 217.3 Three days after the 'permanent removal' signal was sent to Major General Van Rensburg, Vlok sought authorisation from the SSC for the GBS level to act on their own initiative, and to do so with the general approval and authority of the SSC.
- 217.4 Snyman then authorised Van Zyl and Du Plessis, who then carried out the operation with their accomplices (Van Zyl's application for amnesty, para 8, **LC16 above**).
- 217.5 Perhaps most telling, was the release of a fabricated story by the police blaming the killings on AZAPO (para 9 of Van Zyl's application for amnesty) to deflect blame from the government and further promote Stratcom's black-on-black violence narrative. Nicolaas Janse van Rensburg stated the following in his testimony before the TRC at page 66, a copy of which is annexed hereto marked "**LC36**":

MR BIZOS: All people? But now this was touched upon by a member of the panel yesterday and I want to develop it with you.

You planned and committed these murders, correct?

MR JANSE VAN RENSBURG: yes.

MR BIZOS: You gave out and pretended that AZAPO was responsible for it?

MR JANSE VAN RENSBURG: Yes, people could have regarded it like that.

MR BIZOS: You said AZAPO did it?

MR JANSE VAN RENSBURG: Yes.

- 217.6 If the murders of the Cradock Four were not authorised at the highest level as part of a planned operation, then there would have been no need to fabricate a cover story involving AZAPO. Moreover, those who

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had brazenly defied superior orders would have been disciplined and held to account. This naturally did not happen because it was in fact an authorised operation which had been given direct or tacit approval from the very top, the SSC itself.

217.7 Not only was nobody disciplined or charged, but key role players behind the murders were handsomely rewarded. By way of example, Brigadier Joffel Van der Westhuizen was subsequently promoted to Major General and then to Lieutenant General, the second highest rank in the SADF. Lieutenant Colonel Nicholas Jacobus Janse Van Rensburg was promoted up the ranks and retired as a Major General, the third highest rank in the SAP.

THE UNCONSTITUTIONAL SUPPRESSION OF THE TRC CASES

218 The bulk of the evidence, information and leads set out above has been available since the early 1990s. Notwithstanding the findings of the Zietsman Inquest and the TRC, and the denial of amnesty to most of the perpetrators, the post-apartheid state has failed to pursue justice in the Cradock Four case, as well as hundreds of other cases referred by the TRC to the NPA. Thirty-six years after the murders and 27 years after the Zietsman Commission we are still waiting for justice.

219 Contrary to the claim by the African National Congress that the Cradock Four and other TRC cases "*simply fell through the cracks*" it is now apparent that the cases were deliberately suppressed following a plan hatched at the highest

levels of government and across multiple departments. This is the real explanation for the delay. It stands as a deep betrayal of those who laid down their lives for freedom in South Africa, including my father and his comrades.

220 The suppression of the TRC cases was mainly exposed in the matters of *Nkadimeng v. the National Director of Public Prosecutions and Others* (T.P.D. Case No. 3554/2015), Gauteng Division of the High Court of South Africa (“**Nkadimeng**”) and *Rodrigues v National Director of Public Prosecutions of South Africa and Others* [2019] 3 All SA 962 (GJ) (“**Rodrigues**”). The overview provided in this section is largely drawn from the papers filed in those matters. In order not to burden this application those papers are not annexed but can be supplied on request.

221 The statutory design of South Africa's transition anticipated that those perpetrators who were denied amnesty or did not apply for amnesty would face justice. Indeed, the TRC recommended that the NPA adopt a “bold prosecution policy” in relation to those not amnestied (TRC Final Report, Vol 6, Sect 5, Ch 1 at para 24). A list comprising several hundred such cases was handed by the TRC to the NPA for this purpose. Most of these cases dealt with murders and massacres.

222 In terms of a directive issued in 1999 by the then NDPP, the TRC cases were transferred from the then Directorate of Special Operations (**DSO**), and from the various offices of the Directors of Public Prosecutions (**DPP**) and the SAPS to the office of the NDPP.

223 In 1999, a working group called the Human Rights Investigative Unit (**HRIU**) was established within the NPA by the then NDPP, Adv Bulelani Ngcuka, on

the initiative of the then Minister of Justice, Dullah Omar. The head of the Unit was Adv Vincent Saldanha. It was mandated to review, investigate, and prosecute cases in which perpetrators had been denied amnesty or in which perpetrators had not applied for amnesty. The HRIU continued operations until 2000, however it instituted no prosecutions.

224 In 2000, the dockets held by the HRIU were transferred to the DSO, more widely known as the Scorpions. An entity was established within the DSO to handle the TRC cases known as the Special National Projects Unit (SNPU), which was headed by Adv Chris Macadam. The SNPU operated until 2003, but it too instituted no prosecutions.

225 On 24 March 2003, Adv Anton Ackermann SC was appointed under a presidential proclamation to head up the newly established Priority Crimes Litigation Unit (**PCLU**). In May 2003 NDPP Ngcuka, decided that all TRC-related cases, in which amnesty had not been awarded were 'priority crimes' in terms of the PCLU proclamation. This resulted in more than 400 investigation dockets being transferred to the PCLU.

226 To date I am only aware of 4 indictments that were issued in respect of the TRC cases in the last 20 years. Two of these indictments, in respect of the Nokuthula Simelane and Ahmed Timol cases, were only issued because of considerable efforts taken by the families and their legal representatives. Aside from a plea bargain in respect of the Rev. Frank Chikane poisoning case, I am not aware of any trial proceeding in relation to any of the TRC cases.

227 As early as 2004, the government took steps to shut down apartheid-era prosecutions. According to an undated secret 2004 report, an "Amnesty Task

Team", a multi-departmental team appointed was appointed in early 2004 by the government's Director-General's Forum to address "*the absence of any guarantee that alleged offenders will not be prosecuted*". A copy of this report is annexed hereto marked "LC37". It proposed certain measures to shield perpetrators from justice including the creation of a 'back door' amnesty through the amendment of the NPA's Prosecution Policy; and the setting up of a Special Dispensation for Political Pardons to assist those who did not benefit from the TRC's amnesty. Both initiatives were stopped in the courts. My mother and the other wives of the Cradock Four were applicants in the case to set aside amendments to the Prosecution Policy (*Nkadimeng and Others v National Director of Public Prosecutions and Others* (32709/07) [2008] ZAGPHC 422). The Special Dispensation for Political Pardons was declared unconstitutional in *Albutt v Centre for the Study of Violence and Reconciliation and Others* 2010 (3) SA 293 (CC).

228 The suppression of the prosecution of the TRC cases was brought into sharp light in 2015 in the Nkadimeng matter. In this case, the family of Nokuthula Simelane sought a court order compelling the NPA to decide whether to refer the disappearance and murder of Nokuthula Simelane in 1983 to a formal inquest before the High Court, alternatively compelling the NPA to take a prosecutorial decision. The filing of these papers resulted in an indictment being issued against former SB members in early 2016.

229 The supporting affidavits of Adv Vusumzi Pikoli, former NDPP ("**Pikoli**"), and Adv Anton Ackermann SC, former Special Director of Public Prosecutions in the Office of the NDPP and former head of the PCLU ("**Ackermann**"), disclosed considerable evidence of political interference in the prosecution of the TRC

cases by various cabinet ministers and senior officials in the SAPS. An example is a letter addressed to Pikoli from former Justice Minister Bridgit Mabandla ("**Mabandla**") dated 8 February 2007 in which she made it clear that she expected Pikoli not to proceed with apartheid-era prosecutions. A copy of this letter is annexed hereto marked "**LC38**". It also became clear that Pikoli was expected to clear his prosecutorial decisions in respect of the TRC cases with other government functionaries outside the NPA, before proceeding. In addition, the affidavits disclosed a possible reason for the interference, namely a desire to prevent the prosecution of ANC members.

- 230 Pikoli revealed how he was pressured by politicians and other functionaries to drop the TRC cases. His affidavit attached a secret memorandum which he addressed to Mabandla on 15 February 2007, a week after receiving her letter. A copy of this memorandum is annexed hereto marked "**LC39**". The memorandum speaks for itself. I emphasize, in particular, paragraphs 5.2 and 5.3 of the conclusion to the memorandum:

I have now reached a point, where I honestly believe that there is improper interference with my work and that I am hindered and/or obstructed from carrying out my functions on this particular matter. Legally I have reached a dead end.

It would appear that there is a general expectation on the part of the Department of Justice and Constitutional Development, SAPS and NIA that there will be no prosecutions and that I must play along. My conscience and oath of office that I took, does not allow that.

- 231 In September 2007, Pikoli was suspended from office by President Mbeki. One of the reasons for his suspension was his insistence on proceeding with some of the TRC cases. Shortly thereafter, Ackermann was relieved of his duties in

relation to the TRC cases with immediate effect by Adv. Mokotedi Mpshe, then acting NDPP.

232 The political interference was again highlighted as a reason for the long delay in initiating a prosecution against Joao Rodrigues for the murder of Ahmed Timol in 1971 in the Rodrigues matter. Rodrigues sought a permanent stay of prosecution in respect of this murder charge. The political interference was eventually admitted by the NPA in 2019 in a supplementary affidavit made by State Advocate Jacobus Pretorius in the Rodrigues matter. Adv Pretorius laid the blame for the political interference at the door of the Executive and claimed that the NPA could not be held responsible for succumbing to the political interference. Further details of the political interference were provided in a supporting affidavit by Adv Chris Macadam, Senior Deputy Director of Public Prosecutions in the PCLU.

233 In its judgment, the full bench of the High Court concluded that between “2003 and 2017 all investigations into TRC cases and other crimes of the past were stopped as a result of an executive decision taken at a high level that purported to interfere with the National Prosecuting Authority's prosecutorial decision making.” The Court expressed its dismay at the political interference and dismissed the NPA's attempt to portray itself as a victim and directed that those complicit should be brought to the NDPP's attention for action. The Court also directed that the Executive and NPA provide a public assurance that such interference will never occur again and called on them to specifically indicate what measures will be put in place to prevent such recurrence. In my respectful view, nothing less than a comprehensive, open and public inquiry is required to

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get to the bottom of the political interference that resulted in the suppression of hundreds of murder cases from the apartheid-era.

- 234 The Supreme Court of Appeal, which in *Rodrigues v The National Director of Public Prosecutions and Others* (1186/2019) [2021] ZASCA 87 (21 June 2021), dismissed Rodrigues's bid for a permanent stay of prosecution, said at paragraph 26 of its judgment that it was "*perplexing and inexplicable*" why these cases were suppressed:

"...the Executive adopted a policy position conceded by the State parties that TRC cases would not be prosecuted. It is perplexing and inexplicable why such a stance was taken both in the light of the work and report of the TRC advocating a bold prosecutions policy, the guarantee of the prosecutorial independence of the NPA, its constitutional obligation to prosecute crimes and the interests of the victims and survivors of those crimes."

- 235 Between 2019 and 2021 the former TRC Commissioners and families of apartheid-era crime victims have called on the President no less than 4 times to appoint a commission of inquiry into the mass denial of justice in several hundred murder cases. These pleas have been ignored.

- 236 Following the non-response from the President in 2019, I requested the Judicial Commission of Inquiry into Allegations of State Capture to inquire into the capture of state institutions meant to pursue justice in respect of the TRC cases. That commission questioned whether the issue fell within their terms of reference and was not able to take the matter further.

- 237 These machinations then explain the inaction of the SAPS and NPA in the decades that followed the winding up of the TRC. I am concerned that the SAPS and NPA may still be in the grip of past forces that suppressed the TRC cases. I cannot think of other reasons to explain the ongoing inability or

paralysis within the SAPS and NPA which prevents progress after so many years.

238 In this regard, I am advised that in the few cases that have been pursued by the NPA and SAPS so far, namely the issuing of an indictment in the murder case of Nokuthula Simelane and the decisions to reopen the inquests into the deaths of Ahmed Timol, Neil Aggett and Hoosen Haffejee, lawyers representing the families had to threaten litigation or file papers in court seeking to compel the authorities to do their jobs. In the circumstances, the applicants in this case also have little choice but to approach the courts in order to prompt action on the part of the NPA and SAPS.

239 I fear that an unofficial strategy may be in place to drag out cases like the Cradock Four for as long possible to permit as many key suspects and witnesses to die and escape justice.

240 I am advised that prosecutors are required to conduct themselves independently, objectively, and professionally. These requirements are imposed both by law and the Constitution:

240.1 Section 179(2) of the Constitution vests exclusive power in the NPA to institute criminal proceedings on behalf of the state. In other words, no other person or body may make decisions whether to prosecute or not.

240.2 Section 179(4) of the Constitution enjoins the prosecuting authority to exercise its functions without fear, favour or prejudice and requires the enactment of legislation to give effect to this requirement.

240.3 Section 32(1)(a) of the NPA Act requires that:

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"A member of the prosecuting authority shall serve impartially and exercise, carry out or perform his or her powers, duties and functions in good faith and without fear, favour or prejudice and subject only to the Constitution and the law."

240.4 Section 32(1)(b) of the NPA Act requires that:

"Subject to the Constitution and this Act, **no organ of state and no member or employee of an organ of state nor any other person shall improperly interfere with, hinder or obstruct the prosecuting authority** or any member thereof in the exercise, carrying out or performance of its, his or her powers, duties and functions." (*Emphasis added*)

240.5 Section 32(2)(a) of the NPA Act requires prosecutors to take an oath or make an affirmation that they will:

"...uphold and protect the Constitution and the fundamental rights entrenched therein and enforce the Law of the *Republic* without fear, favour or prejudice and, as the circumstances of any particular case may require, in accordance with the Constitution and the Law'.

241 These provisions provide constitutional and statutory guarantees of independence to the NPA. In allowing others to impose their will on the authority to stop prosecutions that otherwise would have been pursued, every constitutional and statutory requirement mentioned above was violated by the NPA and its senior staff members involved in the abandoning of the TRC cases.

242 The aforesaid conduct of prosecutors brazenly favoured political elites and perpetrators of apartheid era crimes and severely prejudiced the interests of victims, their families and communities.

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243 The suppression of the TRC cases also amounted to a grave violation of the rule of law itself, enshrined as a founding value in section 1(c) of our Constitution. It has done incalculable damage to the project of truth, reconciliation and justice that our democracy was predicated upon and denied closure and healing to the affected families and the nation.

244 But for the unconstitutional executive interference in the decision making processes of the NPA, it is safe to assume that a final decision as to what prosecutions to institute in relation to the murder of the Cradock Four could have been taken over a decade ago.

PRIVATE INVESTIGATIONS AND EFFORTS TO SECURE JUSTICE

245 Following the outcome of the Inquest into the death in detention of Ahmed Timol in late 2017, in which the Security Branch was held responsible for murdering Timol, I approached the Foundation for Human Rights (**FHR**) during 2018 to take up my father's case.

246 The FHR's TRC Unfinished Business Unit put together a team in involving attorneys from the Pro Bono and Human Rights Team at Cliffe Dekker Hofmeyr (**CDH**), pro bono advocates and a private investigator, Retired Brigadier Clifford Marion ("**Marion**").

247 Extensive investigations were carried out by Marion including the compiling of documentation, a project plan, task lists, and identification and tracing of witnesses and suspects. Through the research of Marion and tracing agents (instructed by FHR) the status of several potential suspects or those who have

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a legal interest in these proceedings were established. Fourteen living persons were traced. The deceased status of some 21 persons were confirmed. Fourteen persons could not be traced.

248 All this information was handed over to the assigned investigators and prosecutors. Notwithstanding this considerable support I am advised that the investigation is still not complete and that prosecutors are no closer to making a decision.

249 I will not disclose the substance of the investigations carried out or the substance of the interactions held with police detectives and prosecutors as I am advised this may prejudice a possible future prosecution. However, I will set out below an overview of these interactions and highlight certain developments.

250 I annex hereto marked "LC40" a chronology of interactions and correspondence between my attorneys and Brigadier Marion on the one hand and the prosecutors and police investigators on the other hand. This chronology reflects more than 140 interactions between 20 July 2019 and 2 July 2021. The vast bulk of these interactions consist of communications to the authorities from the FHR's private investigator providing information, documents and leads aimed at supporting and enabling the investigation. In this regard I attach the confirmatory affidavit of Clifford Marion annexed hereto marked "LC1", and the confirmatory affidavits of Timothy Smit ("**Smit**") and Timothy Fletcher ("**Fletcher**"), my instructing attorneys at CDH are annexed hereto marked "LC41" and "LC42" respectively.

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- 251 On 20 July 2019 Brig Marion was advised by Adv Chris Macadam (“**Adv Macadam**”) of the NPA that the Cradock Four docket Swartskop CR 13/07/1985 was missing. On 13 August 2019, the legal team comprising counsel, CDH attorneys, representatives of the FHR and Retired Brigadier Clifford Marion met with the NDPP Shamila Batohi, and members of her team, including Adv Macadam to discuss the progress with respect to the TRC cases. One of the cases discussed was the Cradock Four matter. When asked about the missing dockets in relation to TRC cases, Adv Macadam responded that he was in the process of reconstructing the Cradock Four docket and that there were no documents that were in the docket that could not be reconstructed.
- 252 On 15 August 2019 Brig Marion contacted Captain Masegela, the former investigating officer who was now retired. Masegela informed him that a fully investigated docket was handed over to Advocate Macadam. He said that some 11 years of investigation had gone into the docket when it was handed to Advocate Macadam.
- 253 On 30 August 2019, Marion shared with Macadam 12 parts of the TRC records which included the minute of a confession of the late Eric Taylor, one of the killers on the scene. Once we were advised that Colonel Makua was the new investigating officer Marion provided him with all the information and leads in his possession on 7 April 2020 to assist him to compile a new docket.
- 254 In response to queries made by my attorneys to Macadam he advised on 23 April 2020 that a decision in the Cradock Four matter could only be made once the investigations in other TRC cases such as the PEPCO 3, Motherwell bombing and Mthimkulu cases had been finalised.

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- 255 On 8 May 2020, my attorneys at CDH wrote to the NPA objecting to the need to finalize other investigations first and demanded that a prosecutorial decision be made in the Cradock Four case by 10 July 2020, failing which they would commence steps to launch legal proceedings to compel a decision. This letter is annexed hereto and marked "LC43".
- 256 On 2 June 2020 Brig Marion requested a meeting with Colonel Makua and the new investigation team to brief them and take them through the chronology and documentation, which meeting took place on 23 June 2020. On 18 June 2020 FHR created an electronic folder with all the evidence gathered in the matter to date and shared it with the SAPS and the NPA.
- 257 On 22 June 2020 CDH attorneys addressed a letter to the Deputy National Director of Public Prosecutions, Adv R De Kock and Acting DPP Adv Sakata requesting dates for a meeting and requesting a response regarding the decision to prosecute by 10 July 2020, failing which proceedings would be launched in the High Court to compel a decision. A copy of this letter is annexed hereto marked "LC44".
- 258 On 24 June 2020, Attorney Smit of CDH, received a call from Adv Livingstone Sakata (Acting DPP: Eastern Cape Division) who advised him that he personally wished to get involved in this case to expedite it. On 25 June 2020 Brig Marion emailed all evidence, and information in his possession to Adv Sakata and his team, as well as the new investigation team.
- 259 On 6 August 2020 a video conference was attended by me, my legal team, FHR representatives and Adv Sakata, Adv Ackerman, Brigadier Maqashalala, Colonel Makau, Colonel Ripa and the investigation team. During this meeting

my legal team presented an overview of the case in a PowerPoint presentation. Adv Sakata mentioned that would have to wait for a fully investigated docket before he and the NPA could apply their minds and make a decision.

260 On 11 August 2020 Colonel Ripa approached Brig Marion for further assistance in reconstructing the docket. Brigadier Marion advised him and the investigation team where original documents relating to the case could be uplifted and requested them to do so.

261 I am advised by my legal representatives that they did not approach the High Court following the 10 July 2020 deadline, as it appeared that the investigators and prosecutors were turning over a new leaf and it was decided to permit them more time. As appears from the Schedule of Interactions (LC40) my private investigator and attorneys have made huge efforts to facilitate the investigation, to no avail. More than a year later we appear to be no closer to finality.

262 On 3 and 4 June 2021, Brig Marion briefed the new DPCI investigative team led by Colonel Ripa on the Cradock 4 matter. Marion noted from the meeting that very little progress had been made in relation to the investigation

The Missing Docket Investigation

263 On 12 September 2019, my legal team, consisting of, *inter alia*, Smit and Fletcher of CDH, met with Adv Macadam and other NPA colleagues at the NPA's offices (VGM Building, 123 Westlake Avenue, Weavind Park, Silverton, South Africa). During this meeting, Adv Macadam advised that he did not know what the status of the docket was, but that it was the subject of an anti-

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corruption unit investigation as the docket had been removed from the NPA's offices and could not be located.

264 On the morning of 1 April 2020, the investigating officer, Colonel Makua, called my mother and shared some "bad news" in relation to the investigation. As my mother was emotional, I called Colonel Makua who confirmed that the original case docket was missing.

265 He advised me that he and Captain Hatton had approached Adv Macadam at the NPA who advised him that the docket had been handed over to someone who claimed to have been sent by Adv Nomgcobo Jiba (former acting head of the NPA). Macadam could not provide any further details on the person who collected the docket.

266 Colonel Makua indicated to me that he was deeply troubled at what was happening with the investigation. He said to me that he did not believe that the docket went missing accidentally and he was concerned that powerful forces were protecting the suspects, in particular the high-ranking suspects.

267 Colonel Makua advised me to take up the theft of the docket at the highest levels. The implications of what I heard left me furious. As I had suspected all along, there was no credible official investigation taking place and it was clear that elements with the criminal justice system were still taking steps to suppress truth and justice.

268 To further compound my suspicions, Adv Macadam disclosed in a letter dated 20 April 2020, a copy of which is attached marked "LC45". In this letter Adv Macadam stated that *"efforts were made through the Head of the Prosecution Service to locate the missing docket as it was called for by a previous*

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incumbent of this office", but that those efforts had "failed to locate the docket".

The previous incumbent referred to was Adv Nomgcobo Jiba.

269 In a letter to the NPA dated 23 April 2020, a copy of which is attached marked "LC46", Brigadier N Xaba, the Section Head: Crimes against the State of the Directorate for Priority Crimes, also recorded that the *"docket was reported missing in the offices of the National Prosecuting Authority"*.

270 On 1 June 2020 I called the former investigating officer, Captain Masegela. He was very angry about the missing docket as he believed he had compiled sufficient evidence for some prosecutions to proceed.

270.1 One statement he made struck me as particularly telling. He said that *"the prosecutors failed him"*. When I enquired what he meant by this, he said every time he sent dockets through to the NPA, for a decision or for guidance, they would take ages to come back to him, if they did at all.

270.2 Captain Masegela added that he never felt supported by the NPA or his own superiors in the Directorate for Priority Crime Investigation (DPCI) regarding the TRC cases. Indeed, he stated that the NPA has no interest at all in prosecuting the TRC cases.

270.3 He advised that he was sent by Adv Macadam to Cradock to update my mother, Nomonde, the late Mrs Goniwe and Alex Goniwe, Matthew's brother, about the state of the investigation a few years back. He said that that the encounter made him feel terrible as he was aware that the NPA and SAPS had little or no intention of fulfilling their promises to the families.

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271 Following several communications from CDH to the NDPP regarding the status of the original docket and the theft investigation without any meaningful response, I was left with no alternative but to open a criminal complaint of theft in relation to the disappearance of the Cradock Four docket. My attorneys' communications into the missing docket are contained in the attached letters dated 5 September 2019, 20 April 2020 and 13 August 2020. The CDH letter of 5 September 2019 is attached marked "LC47", the letter of 20 April 2020 is annexed marked "LC48" and the letter of 13 August 2020 is annexed marked "LC49".

272 On 11 September 2020 I attended the Cape Town Central police station to open a criminal complaint of theft in relation to the disappearance of the Cradock Four docket. I was told that I should report the case in Silverton, Pretoria as it would take two months to transfer the docket. This suggestion was made to me notwithstanding SAPS National Instructions 3 of 2011, which allows a complainant to report a criminal case anywhere in the RSA and that complainants must not be referred elsewhere or refuse to open a criminal case.

273 On 1 October 2020, Leigh Watson ("**Watson**") of CDH attended at the Silverton Police Station to open a criminal complaint of theft in relation to the disappearance of the Cradock Four docket. Watson was instructed by the officers on duty at the Silverton Police Station that –

273.1 a complaint must be lodged with the Independent Police Investigative Directorate of South Africa to investigate the missing docket because the docket had gone missing at the NPA offices; and

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- 273.2 correspondence must be addressed to the new NDPP in which reference must be made to the fact that the docket went missing after being called for by Adv Jiba, and that she should provide a case number where the NDPP had reported that the docket went missing.
- 274 Watson was not allowed to open a criminal complaint of theft in relation to the disappearance of the Cradock Four docket at the Silverton Police Station on 1 October 2020.
- 275 On 4 October 2020, my instructing attorneys wrote a letter to the Minister of Police and National Commissioner of the Police seeking intervention after the numerous attempts to initiate criminal investigations into the missing docket had failed. A copy of this letter is attached marked "LC50".
- 276 On 23 October 2020, the DPCI responded to CDH's letter of 4 October 2020 to confirm that –
- 276.1 a criminal case was opened for defeating the ends of justice and theft of a docket as per Silverton CAS 88/10/2020 on 1 October 2020; and
- 276.2 the case will be investigated by the Provincial Investigating Unit of Johannesburg.
- A copy of the letter is attached marked "LC51".
- 277 On 18 March 2021, Fletcher of CDH addressed an email to General Ledwaba to follow up the status of the investigation, as no response or update had been received following receipt of the DPCI's letter of 23 October 2020.

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278 On 26 March 2021, Major General N Xaba responded to CDH's email of 18 March 2021 to advise that –

278.1 the case number relating to the matter was reported as Silverton CAS 86/10/2020;

278.2 the matter was being investigated by the Gauteng Provincial Investigation Unit under the command of Brigadier CE Louw; and

278.3 CDH should follow up with Brigadier CE Louw for an update regarding the progress of the investigation.

A copy of this letter is attached marked "**LC52**".

279 On 18 May 2021, Fletcher addressed an email to Brigadier Louw to enquire as to the state of the investigation. A copy of Fletcher's email is attached as "**LC53**".

280 In response to Fletcher's email, on 19 May 2021, Brigadier Louw addressed an email to a Colonel De Jager requesting him to give the investigation some attention. The assumption to be drawn from this email is that the investigation was not receiving due attention. A copy of this email is attached marked "**LC54**".

281 CDH has yet to receive a further update from either Brigadier Louw or Colonel De Jager regarding the investigation of the missing docket.

282 It is quite apparent to me that unless the SAPS and NPA are compelled by a court to fulfil their legal responsibilities in relation to the missing docket they will simply drag their feet and persist with their pretence of an investigation.

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THE DELAY IS UNREASONABLE

283 More than 35 years have passed since the Cradock Four were abducted, tortured and murdered. Nearly 3 decades have elapsed since the Zietsman Inquest issued its findings and more than 2 decades since most suspects were denied amnesty and the TRC issued its final report.

284 Post-TRC, disgraceful conduct in the form of political interference by senior officials and politicians saw the deliberate abandoning of my father's case and hundreds of other TRC cases. Even in recent years when the SAPS and NPA claimed to have turned over a new leaf, both organisations appear to remain in the grip of forces working to suppress justice.

285 There can be no doubt that the delays have seriously undermined the prospects of a successful prosecution. While I accept that the Covid 19 pandemic has presented challenges I submit they do not justify the ongoing delay in finalising the investigation. In this regard my legal representatives provided considerable latitude and space to the investigators and prosecutors during 2020 and the first half of 2021. I am advised that the Cradock Four investigation was not unduly complex and should have been completed years ago.

286 The NPA appears to take the view that its hands are tied until it receives a completed case docket from the DPCI. However, it needs to be pointed out that the responsibility for the TRC cases were specifically assigned to the PCLU of the NPA and it was accordingly incumbent upon the authority to ensure and oversee expeditious investigations.

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287 The fact that this matter has been outstanding for more than three decades speaks to the gross neglect of the relevant authorities and the unreasonableness of the delay. A prolonged and ongoing failure to make a prosecutorial decision serves to defeat the objects and underlying rationale of the power to prosecute under the Constitution, the NPA Act, the NPA's Prosecution Policy and its Policy Directives.

288 Such delays reinforce the view held by the applicants, my family, and many communities that serious crimes of the past will never receive diligent attention from the authorities and indeed are singled out for neglect. It also reinforces the likely views of apartheid-era perpetrators that they have nothing to fear from law enforcement in South Africa.

289 The fact that many suspects, witnesses, and family members have already died, and that most are elderly only exacerbates the gross unreasonableness of the ongoing delays.

LEGAL FRAMEWORK GOVERNING PROSECUTIONS AND INVESTIGATIONS

290 This section briefly sets out the relevant legal framework governing prosecutions and police investigations in South Africa. I am advised that a legal duty rested upon the SAPS to finalize its investigations and a legal duty also rested upon the NPA to take a decision in my father's case within a reasonable period.

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Obligations of the SAPS

291 Section 205(3) of the Constitution states that the "*objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.*" Section 206(1) places responsibility for the police in the hands of a cabinet member, while section 207(1) makes provision for a National Commissioner to control and manage the police service, and subsection (2) requires that the appointee do so in accordance with the national policing policy and the directions of the Cabinet member responsible for policing.

292 I am advised that the police are required to investigate serious crimes, such as the kidnapping and murder of my father and his comrades. I am advised that these crimes never prescribe. In my respectful view, the National Commissioner of Police and the Minister of Police have not complied with their constitutional duties in respect of my father's case. The National Commissioner has failed to ensure that the murders of the Cradock Four were adequately and timeously investigated and the Minister of Police failed to exercise adequate responsibility over policing with respect to my father's case, and indeed the TRC cases more generally.

293 The DPCI neglected to ensure a multi-disciplinary and integrated investigative approach in respect of the Cradock Four case, as required by the SAPS Amendment Act No. 57 of 2008.

294 In particular, the SAPS, has failed to uphold and safeguard our fundamental rights as guaranteed by Chapter 3 of the Constitution; and it has failed to

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respect us as victims of crime and understand our needs as it is required to do in terms of paragraphs (b) and (c) of the preamble of the South African Police Service Act 68 of 1995.

Obligations of the NPA

295 Section 179(1) of the Constitution establishes a single national prosecuting authority in the Republic. Subsection (2) provides that "*The prosecuting authority has the power to institute criminal proceedings on behalf of the state, and to carry out any necessary functions incidental to instituting criminal proceedings.*"

296 The power to institute and institute and conduct criminal proceedings, and carry out functions incidental to this power, vests in the NPA as per section 20(1) of the NPA Act. Reference to the NPA's obligations in terms of section 32 has already been made above.

297 Section 33(1) of NPA Act provides that the Minister of Justice exercises "*final responsibility over the prosecuting authority*". The balance of section 33 provides the legal mechanisms by which the Minister may exercise such final responsibility.

298 The Prosecution Policy issued in terms of section 179(5)(a) and (b) of the Constitution read with section 21(1) of the NPA Act must be observed in the prosecution process. The preface to the Prosecution Policy asserts, *inter alia*:

Effective and swift prosecution is essential to the maintenance of law and order within a human rights culture.

Offenders must know that they will be arrested, charged, detained where necessary, prosecuted, convicted and sentenced.

- 299 As mentioned above, the NPA exercised direct control over the TRC cases, which ironically, were classified as "priority cases". The failure of the NPA to pursue justice in the Cradock Four case has destroyed our confidence in the institution and in the criminal justice system in South Africa.
- 300 It is more than apparent that the NPA has failed to conduct itself impartially. In collaborating and acquiescing in the political suppression of the TRC cases, its members failed to serve impartially and exercise their duties in good faith. In short, they have disgraced themselves.
- 301 The TRC cases have been specifically excluded from the NPA's mantra of "*effective and swift prosecution*" being "*essential to the maintenance of law and order within a human rights culture.*"
- 302 In addition, the Minister of Justice and his predecessors failed to exercise "*final responsibility over the prosecuting authority*" in relation to the TRC cases. A previous holder of this office, Bridgit Mabandla, led the charge on behalf of the political establishment to kill off the TRC cases. The holders of this office have also disgraced themselves and failed me and my family and all families waiting for closure and justice.

GROUNDS FOR RELIEF

- 303 I submit that the families of the Cradock Four have a right to have the criminal cases of our loved ones finalised by the authorities within a reasonable time.

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304 In this regard I am advised that the superior courts of South Africa have certain inherent powers to be exercised in the interests of the proper administration of justice. This includes when it may be necessary to act to prevent a grave injustice.

305 My rights are premised upon the following grounds:

305.1 The constitutional obligation to act without delay.

305.2 The rule of law, incorporating the principle of legality.

305.3 My entitlement under the Constitution to have various rights respected, including our rights to human dignity and equality.

305.4 The special responsibility to pursue cases arising from the TRC process.

305.5 South Africa's international law obligations.

Constitutional obligation to act without delay

306 I am advised that there is a constitutional obligation on the NPA and the SAPS to perform their duties without delay. Section 237 of the Constitution provides that "*All constitutional obligations must be performed diligently and without delay.*" Both the decision to institute a prosecution and the decision to not prosecute involve the exercise of constitutional powers and therefore constitute constitutional obligations.

307 I submit that accountable governance and social trust are built upon decision making by public officials which are reasonable and responsive. The failure to

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afford me and my family a basic investigative process followed by a reasonable prosecutorial decision-making process has denied us our substantive rights, which are set out below.

Rule of law

308 The fact that serious crimes from the past, such as the kidnapping, torture and murder of the Cradock Four have not been treated with any seriousness, implicates the rule of law, upheld in section 1 of the Constitution.

309 Crime, particularly serious crime, undermines the fabric of our society and violates, amongst other rights, the right to life, the right to freedom and security and the right to dignity. I am advised that the State has a constitutional duty to address crime which arises from its duty to 'respect, protect, promote and fulfil the rights in the Bill of Rights.

310 Serious crime committed by agents of the State should be viewed in a particularly serious light. The perpetrators of such crime are often shielded from justice. During apartheid the perpetrators of state sponsored crime enjoyed almost total impunity. The failure of the new South African State to timeously investigate such cases, particularly those cases in which amnesty was denied or not applied for, gives rise to an appearance of political deal making or tolerance of such crimes.

311 The rule of law requires that the laws creating crimes must be obeyed; and that there cannot be favouritism exercised for the prosecution or non-prosecution for any breach of the law.

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312 I submit that in light of the fact that virtually no victims of apartheid-era crimes have seen justice done through the courts, it is essential that on those occasions when such crimes can be prosecuted, that they must be pursued effectively and expeditiously.

Principle of Legality

313 I am advised that the failure by the NPA to take a decision is subject to the principle of legality. The constitutional principle of legality requires that a decision-maker exercises the powers conferred on him lawfully, rationally and in good faith. Such decisions may not be arbitrary and must be rationally related to the purpose for which the power was given.

314 I submit that the past conduct of the SAPS and NPA in the shameful colluding or acquiescing in the political suppression of the TRC cases, including my father's case, is not only irrational but also an act of bad faith.

315 The Cradock Four case was not pursued by the SAPS and NPA notwithstanding repeated demands, requests, and pleas over many years. Such conduct is not rationally connected to the purpose for which investigative and prosecutorial powers have been granted under law, namely the combating of crime, particularly the most serious crimes. There can be little doubt that the ongoing delay is both excessive and irrational.

316 There are extremely important policy reasons for taking a decision to prosecute or not within a reasonable time. This obligation is not only inferred as part of rational decision-making but is required in terms of the NPA's own Prosecution Policy which states that the maintenance of law and order within a human rights culture requires "*effective and swift prosecution*". In the circumstances the

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gross delay in making a prosecutorial decision constitutes an improper exercise of the NPA's discretion.

Prosecutorial Independence

317 I refer to paragraphs 227 to 244 above and repeat my submission that the failure of the NPA to take a prosecutorial decision in relation to the crime committed in respect of the Cradock Four has been caused by a clear violation of section 179 of the Constitution and section 32 of the NPA Act.

Bill of Rights Infringements

Human Dignity

318 The unreasonable delay in investigating the Cradock Four case and the prolonged delay in taking a prosecutorial decision has violated my right to dignity and the rights to dignity of all the families of the Cradock Four. These lapses have denied me, our families and our wider community acknowledgement of our intrinsic worth as human beings.

319 The conduct of the responsible officials has denied us a prosecutorial decision within a reasonable time. In so doing they have prolonged our pain and trauma. They have denied us the possibility of closure of a most painful past. This conduct has breached our rights to human dignity.

320 The inordinate delay in taking steps to investigate the known suspects behind the abduction, torture, and murder of the Cradock Four has disrespected our rights as victims. The conduct of the NPA and SAPS has demonstrated no urgency. No adequate explanation has been provided for these lapses.

321 Ultimately, the prolonged delay infringes upon our rights to dignity in that it:

321.1 protects the perpetrators responsible for the kidnapping, torture, and murder of the Cradock Four,

321.2 causes suffering to me and the families by denying us justice without undue delay,

321.3 prevents us from reaching closure,

321.4 dishonours the respect, dignity, and value of my family in the wider community

321.5 demeans South African society as a whole by betraying the constitutional compact made with victims as enshrined in the epilogue to the Constitution of the Republic of South Africa Act 200 of 1993 ("**the Interim Constitution**") and by undermining the purpose and spirit behind the TRC amnesty process.

Right to life

322 The right to life as protected in section 11 of the Constitution is infringed as the prolonged delay has severely undermined the prospects of a successful investigation and prosecution of the perpetrators who murdered the Cradock Four and desecrated their bodies. The delay and failure to pursue justice has also devalued the lives of my father Fort Calata, Matthew Goniwe, Sicele Mhlauli and Sparrow Mkonto.

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Right to freedom and security of the person

323 The prolonged delay violates the right to freedom and security of the person enshrined in section 12 of the Constitution by undermining the investigation of the perpetrators who violated the bodily integrity of the Cradock Four by committing acts of torture, assault and other cruel and inhuman treatment against them.

Right to equality

324 The prolonged delay, and failure to take forward the so-called political cases of the past, including Nokuthula's case, violates the right to equal protection and benefit of the law enshrined in Section 9 of the Constitution by unjustifiably discriminating against the victims of this class of crimes.

Obligations arising from the TRC process

325 Initially, my family and I were very positive about the TRC process and its implications for reconciliation in South Africa. We were confident that the new democratic South Africa would live up to its promises to victims and take steps to investigate and prosecute those who did not apply for amnesty or who were refused amnesty.

326 The historic compromises that gave birth to our democracy with its enshrined freedoms required certain sacrifices, particularly on the part of victims. These sacrifices were demanded to advance national unity and reconciliation. Perpetrators were given an opportunity to escape justice, both criminal justice and civil liability, if they came clean and disclosed the truth. Victims would have

to accept these outcomes. This compact was reflected in the postscript to the Interim Constitution as well as the TRC Act. However, where perpetrators offered lies, deceit, half-truths or a wall of silence they were meant to face consequences. Accordingly, both a moral and legal obligation arose to follow up such cases.

327 My family and I accepted the necessary and harsh compromises that had to be made to cross the historic bridge from apartheid to democracy. We did so on the basis that there would be a genuine follow-up of those offenders who spurned the process and those who did not qualify for amnesty. This part of South Africa's historic pledge with victims has not been kept in the case of the Cradock Four and indeed in virtually all the cases arising from the conflicts of the past. This failure has served to defeat the purpose behind South Africa's historic compromises and has rendered meaningless the entire truth for amnesty program. It has become an effective or *de facto* blanket amnesty. It stands as a betrayal of all who participated in good faith in the TRC process.

Violation of South Africa's international law obligations

328 I am advised that the failure to finalize the investigations and take a prosecutorial decision is substantively unconstitutional and invalid in that it constitutes an infringement of South Africa's international law obligations as set out in sections 231 to 233, read with section 39(b), of the Constitution, to uphold the right to justice and to investigate, prosecute and punish violations of human rights under the following treaties ratified by South Africa:

328.1 Article 2(3), read with article 2(1), of the International Covenant for Civil and Political Rights (“**ICCPR**”) by denying victims and their families an effective criminal justice remedy,

328.2 Article 6(1), of the ICCPR by permitting those who have violated the right to life to escape justice and punishment,

328.3 Article 7 of the ICCPR by contravening the duty to hold the perpetrators



Confirmatory
Affidavit - H Wende 2

of torture or cruel, inhuman or degrading treatment or punishment responsible for their actions,

328.4 Article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“**CAT**”) by failing to give effect to the requirement that all acts of torture must be punishable by appropriate penalties,

328.5 Article 7 of CAT by failing to give effect to the requirement that all acts of torture must be submitted to the competent authorities for the purposes of prosecution,

328.6 Article 12 of CAT by failing to ensure that competent authorities promptly investigate, wherever there are reasonable grounds to believe that an act of torture has been committed.

329 The conduct of the authorities described above is also inconsistent with:

329.1 Article 3(g) of the Constitutive Act of the African Union by failing to promote and protect human and peoples' rights in accordance with the

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African Charter on Human and Peoples' Rights; and articles 4(m) and (o) of the said Constitutive Act by failing to reject impunity and uphold the rule of law.

329.2 Article 11 of the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, G.A. Res. 60/147, U.N. Doc. A/Res/60/147 (Dec. 16, 2005) by not affording me and our families "*equal and effective access to justice*"; as well as article 4 by not investigating the Cradock Four case and prosecuting those responsible.

GROUNDS FOR A MANDAMUS

330 I submit that I have demonstrated the unlawfulness of the delays and the ongoing failure to make a prosecutorial decision. I have also demonstrated the serious undermining of the prospects of justice and the reaching of the truth with every day that goes by. In the circumstances, I have established a clear right for an order compelling the finalizing of the investigations and the making of a prosecutorial decision in the Cradock Four case.

331 I submit that I have demonstrated that the delays and the failure to take a prosecutorial decision have infringed our constitutional rights and that further delay will seriously prejudice my rights and that of the families. I have accordingly established a reasonable apprehension of injury.

332 The stress and trauma that we have endured for decades will be considerably magnified by any further delays. Already family members, key accused, and witnesses have died. My mother is elderly and is troubled by ill-health. Witnesses and potential accused are getting elderly and some may not live for much longer. Already one of the suspects, Eric Winter, is in hospital and is not expected to live much longer. In the circumstances, I submit that I have amply demonstrated that the balance of convenience favours me and our families and that we will suffer irreversible harm by any further delays.

333 I submit that that I have no other viable or alternative remedy. I have exhausted all avenues of persuasion. Many years of knocking on doors and pleading for action has fallen on deaf ears. No civil remedies can deliver the justice and the truth that our families and I seek.

A SPEEDY HEARING

334 The applicants will seek case management of this application designed to obtain a special allocation for the hearing of the application at the earliest date convenient to the above Honourable Court.

335 Our families and I have exercised considerable patience and restraint over more than three decades. Once the amnesty applications of the perpetrators had been finalized, and the matter handed over to the NPA, we expected action to be taken. We lived in hope that the next week or the next month, or failing that the next year, would yield some resolute action on the part of the authorities. Year after year passed without progress. We can wait no more.

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336 If the responsible agencies cannot or will not make a prosecutorial decision after such a long effluxion of time, then this Honourable Court should exercise its inherent powers to prevent a grave injustice from unfolding.

337 With every day that goes by the prospects of justice and reaching the full truth are receding. Several family members, witnesses and accused have entered their twilight years. This ground alone justifies shortened time periods for the early hearing of this matter.

CONCLUSION

338 In the circumstances, I submit that a proper case has been made for the relief sought and I pray for an order as set out in the notice of motion.



LUKHANYO BRUCE MATTHEWS CALATA

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Cape Town on this the 15th day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES: Guisli Petersen

LC
GP

DESIGNATION: Practising Attorney RSA
ADDRESS: Law Practice Brian h Segal.
Pichel Parkade.
Strand Street.
Cape Town

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant

SINDISWA ELIZABETH MKONTO Second Applicant

MBULELO TERENCE GONIWE Third Applicant

NOMBUYISELO NOLITHA MHLAULI Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE Third Respondent

MINISTER OF POLICE Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN Fifth Respondent

HERMANUS BAREND DU PLESSIS Sixth Respondent

LOURENS DU PLESSIS Seventh Respondent

ERIC WINTER Eighth Respondent

CRAIG WILLIAMSON Ninth Respondent

ADRIAAN JOHANNES VLOK Tenth Respondent



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| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

CHRISTOPHER REGINALD CLIFFORD MARION

do hereby make oath and state that:

- 1 I am an adult male professional investigator residing in Pietermaritzburg in KwaZulu-Natal. I am currently contracted by the Foundation of Human Rights (FHR) to investigate serious crimes committed during the apartheid era.



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- 2 The facts stated herein are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.
- 3 I am a policing investigation expert with some 40 years' experience. I retired from the SA Police Service with the rank of Brigadier. I provide expertise on a consultancy basis locally as well as internationally.

PROFESSIONAL CAREER

- 4 Selected highlights from my career include:
 - 4.1 Between 1985 and 1991 I focussed on serious political violence crimes. Some of these cases exposed the hidden hand of the then South African Government and its security forces in instigating and fuelling political violence.
 - 4.2 In March 1994 after the Goldstone Commission had published its report on "State Sponsored Violence" I was appointed to serve on one of the Special Investigation Teams headed by the then Attorney General of the Transvaal, Dr De Oliveira.
 - 4.3 In August 1994 I was appointed by then Minister of Safety and Security, Sydney Mufamadi, to be second in command of the Investigation Task Unit (ITU) to investigate hit squads within the KwaZulu Police.
 - 4.4 In January 1999 the then Minister of Safety and Security and National Commissioner deployed me to set up the Investigative Directorate Organised Crime (IDOC) to investigate violence in the Richmond area and KwaZulu Natal Midlands.



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- 4.5 In the latter part of 1999 I was approached to help set up the Directorate of Special Operation (DSO) (Scorpions) within the NPA. I was appointed Chief Investigating Officer and Regional Head of Investigations in KwaZulu Natal.
- 4.6 In 2011 I was appointed Provincial Head Detective Services Kwa Zulu Natal. As Provincial Head Detective Services I managed all aspects of investigations in the province.
- 4.7 In 2017 I was appointed by the Premier KZN to investigate and gather evidence for the Moerane Commission into ongoing political violence in KZN. I became the Chief Investigator of the Moerane Commission of Inquiry.

CONFIRMATION

- 5 I have read the affidavit deposed to by LUKHANYO BRUCE MATTHEWS CALATA and confirm the contents in so far as they relate to me. In particular, I confirm that I investigated the Cradock Four case on behalf of the families, as instructed by the FHR.
- 6 I confirm searching for relevant documents, tracing possible witnesses, preparing plans and task lists, and handing over all information uncovered to the DPCI. My attempts to liaise with and support the DPCI are set out in the schedule of interactions annexed to the founding affidavit marked "LC41".
- 7 I conclude that there was no justification for the long delay in finalising this investigation. In my considered view there is no acceptable reason why a prosecutorial decision cannot be made in relation to the known suspects.



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- 8 In my view, had the investigative and prosecutorial authorities acted with reasonable diligence, an appropriate decision could have been made as far back as the late 1990s when the TRC Amnesty Committee delivered its findings on various applications for amnesty related to the Cradock Four murders.
- 9 I consequently support the relief sought by the applicants in the notice of motion.



CHRISTOPHER REGINALD CLIFFORD MARION

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Pietermaritzburg on this the 15 day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

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COMMISSIONER OF OATHS

FULL NAMES: *Allen Alutham*

DESIGNATION: *u10*

ADDRESS: *5005 Alexandra Road
101 Alexandra Road
SiqNsithe.*

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2021-07-15
ALEXANDRA ROAD
KWAZULU-NATAL

*LC
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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

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|--|---------------------------|
| LUKHANYO BRUCE MATTHEWS CALATA | First Applicant |
| SINDISWA ELIZABETH MKONTO | Second Applicant |
| MBULELO TERENCE GONIWE | Third Applicant |
| NOMBUYISELO NOLITHA MHLAULI | Fourth Applicant |
| and | |
| NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS | First Respondent |
| MINISTER OF JUSTICE AND CORRECTIONAL SERVICES | Second Respondent |
| NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE | Third Respondent |
| MINISTER OF POLICE | Fourth Respondent |
| CHRISTOFFEL PIERRE VAN DER WESTHUIZEN | Fifth Respondent |
| HERMANUS BAREND DU PLESSIS | Sixth Respondent |
| LOURENS DU PLESSIS | Seventh Respondent |
| ERIC WINTER | Eighth Respondent |
| CRAIG WILLIAMSON | Ninth Respondent |
| ADRIAAN JOHANNES VLOK | Tenth Respondent |



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| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
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| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

DUMISA BUHLE NTSEBEZA

do hereby make oath and state that:

- 1 I am an adult male former Commissioner of the Truth and Reconciliation Commission and Senior Counsel practicing as such as a member of the Pan African Bar Association of South Africa ("PABASA") Group of Advocates, situated at 1st Floor, PABASA Sandton Chambers, 82 Maude St, Sandton, Johannesburg.



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- 2 The facts stated herein are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.

PROFESSIONAL CAREER

- 3 I was formerly the Head of the Investigation Unit of the Truth and Reconciliation Commission ("TRC" or "the Commission") constituted in terms of the Promotion of National Unity and Reconciliation Act 34 of 1995 ("the Act" or "the TRC Act").
- 4 I have practiced law for more than 30 years. I was admitted as an attorney in 1984, practicing in the Eastern Cape mainly in human rights. I represented many political prisoners throughout the 1980s and early 1990s. Between 1993 and 1996 I taught law at the University of the Transkei (now the Walter Sisulu University). I was called to the Bar in 2000 and took Silk in 2005. I have been an acting judge in three divisions of the High Court of South Africa, as well as in the Labour Court.
- 5 In 2004 I was appointed by the Secretary-General of the United Nations as a member of the International Commission of Inquiry on Darfur, which was established pursuant to a UN Security Council Resolution passed under Chapter VII of the United Nations Charter to investigate violations of international humanitarian law and human rights law in Darfur.
- 6 I am a founder of South African National Association of Democratic Lawyers and served as its President. I also served as president of South Africa's Black Lawyers Association. I was a member of the Judicial Service Commission (JSC) and a visiting professor of Political Science and Law at the University of Connecticut in the United States. I am a former Chairperson of the Desmond Tutu Peace Trust and I was a trustee of the Nelson Mandela Foundation.



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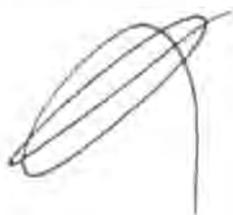
- 7 Earlier this year I was appointed by the 34th African Union Heads of State and Government Ordinary Summit as a judge of the African Court on Human and Peoples' Rights.

CONFIRMATION

- 8 I have read the affidavit deposed to by **LUKHANYO BRUCE MATTHEWS CALATA** and confirm the contents in so far as they relate to me. I specifically confirm the findings made by the TRC in relation to the Cradock Four as well as the findings made in respect of the State Security Council.
- 9 I confirm that the Cradock Four case was investigated by the TRC's Investigation Unit. The case was also considered as part of the TRC's investigations into abductions, interrogations, and killings. I confirm further that the Cradock Four case was one of the cases that the TRC recommended that the NPA and SAPS investigate further with a view to prosecution.

CONCLUSION

- 10 I have frequently gone on record as stating that there has been a shameful lack of political will to deal with the issue of accountability for the apartheid-era victims of gross human rights violations. I fully endorse Archbishop Desmond Tutu's statement made in 2013 that the failure to prosecute those who failed to apply for amnesty undermined those who did.
- 11 The Cradock Four story is rooted in South Africa's bitter and divided past. They paid the ultimate price for their uncompromising resistance to apartheid. They were abducted by all-powerful State forces meant to uphold law and order, and



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then brutally tortured, murdered and their bodies desecrated. Their sacrifices helped to lay the basis for South Africa's democracy with its enshrined freedoms.

- 12 More than 36 years after the atrocities that forever changed the lives of the Cradock Four families, they continue to be denied truth, justice and closure. Even if a prosecution does eventually take place, the many years of delay have severely compromised the interests of justice. This is, in my view, unforgivable. The shameful political machinations that effectively stopped this investigation and others, are contemptuous of the sacrifices made for the liberation of South Africa.
- 13 I accordingly endorse this application, and respectfully urge this honourable court to grant the order in the terms set out in the notice of motion.



DUMISA BUHLE NTSEBEZA

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Melrose Estate on this the 14th day of July 2021, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES: Dumisa Khanyisile Ngqale

LC
G.P.

DESIGNATION: Advocate

ADDRESS: 82 Maude Street

Sandown

Sandton

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant

SINDISWA ELIZABETH MKONTO Second Applicant

MBULELO TERENCE GONIWE Third Applicant

NOMBUYISELO NOLITHA MHLAULI Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE Third Respondent

MINISTER OF POLICE Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN Fifth Respondent

HERMANUS BAREND DU PLESSIS Sixth Respondent

LOURENS DU PLESSIS Seventh Respondent

ERIC WINTER Eighth Respondent

CRAIG WILLIAMSON Ninth Respondent

ADRIAAN JOHANNES VLOK Tenth Respondent

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| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

VUSUMZI PATRICK PIKOLI

do hereby make oath and state that:

INTRODUCTION

- 1 I am an advocate of the High Court of South Africa and a former National Director of Public Prosecutions. I am currently the Special Adviser to the Minister of Public Service and Administration.

V.P.

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GP

- 2 Save where appears from the context, the facts contained in this affidavit are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.
- 3 I depose to this affidavit at the request of the applicants' legal representatives.

PROFESSIONAL EXPERIENCE

- 4 Prior to 1990 I was a member of Umkhonto weSizwe and I worked for the ANC's legal and constitutional affairs department in exile.
- 5 Between 1991 and 1994 I worked as a legal adviser with the Munich Reinsurance Company of Africa Limited Group. From 1994 until 1997 I was the Special Advisor to the then Minister of Justice, Mr. Abdullah Omar. My specific mandate was to help restructure the Department of Justice.
- 6 From 1997 to 1999, I served as Deputy-Director General of the Department of Justice. In 1999, I was appointed Director General of the Department of Justice and Constitutional Development and worked in that role until 2005.
- 7 On 1 February 2005, I was appointed the National Director of Public Prosecutions ("NDPP") by the President for a 10-year term.
- 8 As a result of my decision to authorize the prosecution of former Commissioner of Police, Jacob Sello Selebi, on corruption charges I was suspended from duty by the then President, Mr. T. Mbeki on 23 September 2007. I was also suspended because of my decision to pursue prosecutions of apartheid-era perpetrators who had not applied for amnesty or had been denied amnesty by the Truth and Reconciliation Commission ("TRC").

V.P.

LC
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- 9 The President suspended me from office in terms of section 12(6) of the NPA Act and ordered an enquiry into my fitness to hold office as the NDPP. One of the charges I faced at the enquiry (known as the Ginwala Commission) was my handling of the TRC cases. During 2008, the commission of enquiry into my fitness to hold office led Dr F. Ginwala found that the Government had failed to substantiate the reasons for my suspension and that I was a fit and proper person to hold the position of NDPP.
- 10 Notwithstanding this finding, acting President Mr. K Monthlanthe dismissed me from my post. In 2009 I obtained an order from the High Court restraining President Zuma from appointing a successor to my position. Later that year I accepted an out-of-court settlement from the government.
- 11 Between 2010 and 2012 I was a partner at SizweNtsalubaGobodo and the director of its Forensic Investigations department.
- 12 Between 2012 and 2014 I served as a commissioner of the Khayelitsha Commission, which investigated allegations of police inefficiency in Khayelitsha. In December 2014 I was appointed as the Western Cape's first police ombudsman.
- 13 I served as Special Adviser to the Minister of State Security from April 2018 to January 2019 and thereafter served as the Chief Legal, Risk and Compliance Officer of South African Airways until April 2019.
- 14 I am a former trustee of the Constitutional Court Trust, a former member of the Magistrate's Commission and a founding member of the International Association of Anti-Corruption Authorities. I was an independent director on the board of Cricket South Africa, where I chaired the social and ethics committee.

v.e.


LC
GP

Amongst my awards, I was conferred the International Association of Prosecutors Award in 2008.

- 15 I am an adjunct professor at the Nelson Mandela School of Public Governance at the University of Cape Town. I also serve on the Board of the Southern and East African regional office of the Global Initiative Against Transnational Organized Crime and I am a senior advisor for its global operations.

CONFIRMATION

- 16 I have read the affidavit deposed to by the first applicant, Lukhanyo Bruce Matthews Calata, and confirm the contents in so far as they relate to me.
- 17 In particular, I confirm the contents of the applicant's affidavit under the heading "Suppression of the TRC Cases". I confirm that there was political interference that effectively barred or delayed the investigation and possible prosecution of the cases recommended for prosecution by the TRC, including the kidnapping, torture and murder of the Cradock Four.

CONCLUSION

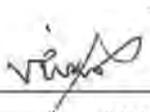
- 18 It is no coincidence that until the application brought by the family of the late Nokuthula Simelane to compel the NPA to make a decision in that case in 2015, there has not been a single prosecution of any TRC matter since my suspension, and the removal of the TRC cases from Advocate Ackermann SC in 2007.
- 19 The political interference visited upon the NPA is deeply offensive to the rule of law and any notion of independent prosecutions under the Constitution. It explains why the TRC cases have not been pursued. It also explains why the

V.P.

LC
GP

murders of the Cradock Four were never investigated with any vigour and why the pleas of her family and her representatives were ignored.

20 I consequently support the relief sought by the applicants in the notice of motion.



VUSUMZI PATRICK PIKOLI

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Pretoria on this the 13th day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES: PETRUS JOHANNES VAN DER WALT
KOMMISSARIS VAN EDE / COMMISSIONER OF OATHS
VDT PROKUREURS ING. / VDT ATTORNEYS INC.

DESIGNATION: Brooklyn Place
Hv/Cnr. Bronkhorst & Dey Strate / Streets
Brooklyn

ADDRESS: Praktiserende Prokureur / Practising Attorney

LC.
GP

"LC 4"

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant**SINDISWA ELIZABETH MKONTO** Second Applicant**MBULELO TERENCE GONIWE** Third Applicant**NOMBUYISELO NOLITHA MHLAULI** Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent**MINISTER OF JUSTICE AND CORRECTIONAL SERVICES** Second Respondent**NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE** Third Respondent**MINISTER OF POLICE** Fourth Respondent**CHRISTOFFEL PIERRE VAN DER WESTHUIZEN** Fifth Respondent**HERMANUS BAREND DU PLESSIS** Sixth Respondent**LOURENS DU PLESSIS** Seventh Respondent**ERIC WINTER** Eighth Respondent**CRAIG WILLIAMSON** Ninth Respondent

NLC
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|----------------------------------|------------------------|
| ADRIAAN JOHANNES VLOK | Tenth Respondent |
| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

NOMONDE LIZA CALATA

do hereby make oath and state that:

- 1 I am an adult female, unemployed, and I reside at 12 Derrick Street, Michausdal, Cradock, Eastern Cape, 048.
- 2 I am the wife of the late Fort Calata and the mother of Lukhanyo Bruce Matthews Calata, the first applicant herein.

NLC-
GP

- 3 The facts deposed to in this affidavit are within my personal knowledge and belief and I confirm them to be both true and correct.
- 4 I have read the affidavit deposed to by **LUKHANYO BRUCE MATTHEWS CALATA** and confirm the contents in so far as they relate to me.
- 5 I accordingly endorse this application, and respectfully urge this Honourable Court to grant the order in the terms set out in the notice of motion.



NOMONDE LIZA CALATA

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Cape Town on this the 15th day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES: Gaiel Petesen.

DESIGNATION: Practising Attorney RSA

ADDRESS: Law Practice Brian L. Segal
 Pichel Parkade
 Strand Street
 Cape Town

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA

First Applicant

SINDISWA ELIZABETH MKONTO

Second Applicant

MBULELO TERENCE GONIWE

Third Applicant

NOMBUYISELO NOLITHA MHLAULI

Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE

Third Respondent

MINISTER OF POLICE

Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN

Fifth Respondent

HERMANUS BAREND DU PLESSIS

Sixth Respondent

LOURENS DU PLESSIS

Seventh Respondent

ERIC WINTER

Eighth Respondent

CRAIG WILLIAMSON

Ninth Respondent

ADRIAAN JOHANNES VLOK

Tenth Respondent

DC-LC
ANM
GP

GERRIT NICHOLAS ERASMUS

Eleventh Respondent

IZAK JOHANNES ENGELBRECHT

Twelfth Respondent

BAREND JACOBUS DU PLESSIS

Thirteenth Respondent

FREDERIK WILLEM DE KLERK

Fourteenth Respondent

JOHAN VELDE VAN DER MERWE

Fifteenth Respondent

LUKAS DANIEL BARNARD

Sixteenth Respondent

DANIEL JACOBUS LOUIS NEL

Seventeenth Respondent

SAMUEL JOHANNES DE BEER

Eighteenth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

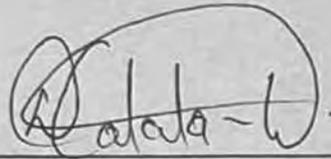
DOROTHY CALATA

do hereby make oath and state that:

- 1 I am an adult female full-time student pursuing my PhD degree who resides at 1267 Ha-Madodonga, Makhado, 0920.
- 2 I am the daughter of the late Fort Calata and the sister of Lukhanyo Bruce Matthews Calata, the first applicant herein.

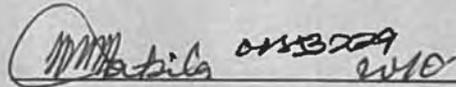
D.C. le
ANM.
GP

- 3 The facts deposed to in this affidavit are within my personal knowledge and belief and I confirm them to be both true and correct.
- 4 I have read the affidavit deposed to by LUKHANYO BRUCE MATTHEWS CALATA and confirm the contents in so far as they relate to me.
- 5 I accordingly endorse this application, and respectfully urge this honourable court to grant the order in the terms set out in the notice of motion.



DOROTHY CALATA

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Tshilwawhusiku SAPS on this the 13 day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES: MAATSIKA Azwibeteni Norman

DESIGNATION: Warrant-officer

ADDRESS: Tshilwawhusiku SAPS.

SOUTH AFRICAN POLICE SERVICE
 COMMUNITY SERVICE CENTRE
 2021 -07- 13
 PRIVATE BAG X706
 TSHILWAVHUSIKU 0938
 SUID-AFRIKAANSE POLISIEDIENS

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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant

SINDISWA ELIZABETH MKONTO Second Applicant

MBULELO TERENCE GONIWE Third Applicant

NOMBUYISELO NOLITHA MHLAULI Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE Third Respondent

MINISTER OF POLICE Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN Fifth Respondent

HERMANUS BAREND DU PLESSIS Sixth Respondent

LOURENS DU PLESSIS Seventh Respondent

ERIC WINTER Eighth Respondent

CRAIG WILLIAMSON Ninth Respondent

ADRIAAN JOHANNES VLOK Tenth Respondent

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|---|------------------------|
| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK Respondent | Fourteenth |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

TUMANI PAULINE CALATA

do hereby make oath and state that:

- 1 I am an adult female Prepaid System Operator at Inxuba Yethemba Municipality and I reside at 12 Derrick Street, Michausdal, Cradock, 5880.

Kh T.C Le GP

- 2 I am the daughter of the late Fort Calata and the brother of Lukhanyo Bruce Matthews Calata, the first applicant herein.
- 3 The facts deposed to in this affidavit are within my personal knowledge and belief and I confirm them to be both true and correct.
- 4 I have read the affidavit deposed to by **LUKHANYO BRUCE MATTHEWS CALATA** and confirm the contents in so far as they relate to me.
- 5 I accordingly endorse this application, and respectfully urge this honourable court to grant the order in the terms set out in the notice of motion.



TUMANI PAULINE CALATA

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at CRADDOCK on this the 14th day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES:

DESIGNATION:

ADDRESS:

M WYK
 COMMISSIONER OF OATHS
 11 WITTINGTON AT TORNEY RSA
 50 TEREERE STREET
 CRADDOCK

LC
GP

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant

SINDISWA ELIZABETH MKONTO Second Applicant

MBULELO TERENCE GONIWE Third Applicant

NOMBUYISELO NOLITHA MHLAULI Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE Third Respondent

MINISTER OF POLICE Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN Fifth Respondent

HERMANUS BAREND DU PLESSIS Sixth Respondent

LOURENS DU PLESSIS Seventh Respondent

ERIC WINTER Eighth Respondent

CRAIG WILLIAMSON Ninth Respondent

ADRIAAN JOHANNES VLOK Tenth Respondent

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K.W. ... GP*

| | |
|---|------------------------|
| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK Respondent | Fourteenth |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

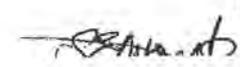
CONFIRMATORY AFFIDAVIT

I, the undersigned,

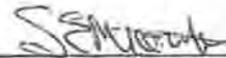
SINDISWA ELIZABETH MKONTO

do hereby make oath and state that:

- 1 I am a retired adult female who resides at 91 Ntenetyana Street, Lingelihle, Cradock, 5880.



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- 2 I the second applicant in this matter and the wife of the late Sparrow Mkhonto. I am retired and was a teacher at the Masizame Creche in Lingelihle.
- 3 The facts deposed to in this affidavit are within my personal knowledge and belief and I confirm them to be both true and correct.
- 4 I have read the affidavit deposed to by **LUKHANYO BRUCE MATTHEWS CALATA** and confirm the contents in so far as they relate to me.
- 5 I respectfully urge this Honourable Court to grant the order in the terms set out in the notice of motion.



SINDISWA ELIZABETH MKHONTO

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at CRADOCK on this the 14th day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES:

DESIGNATION:

ADDRESS:

RIAAN VAN WYK
COMMISSIONER OF OATHS
PRACTISING ATTORNEY RSA
80 FRERE STREET
CRADOCK

LC
of

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA

First Applicant

SINDISWA ELIZABETH MKONTO

Second Applicant

MBULELO TERENCE GONIWE

Third Applicant

NOMBUYISELO NOLITHA MHLAULI

Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Second Respondent

**NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE
SERVICE**

Third Respondent

MINISTER OF POLICE

Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN

Fifth Respondent

HERMANUS BAREND DU PLESSIS

Sixth Respondent

LOURENS DU PLESSIS

Seventh Respondent

ERIC WINTER

Eighth Respondent

CRAIG WILLIAMSON

Ninth Respondent

ADRIAAN JOHANNES VLOK

Tenth Respondent

ANM  LC
GP

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|----------------------------------|------------------------|
| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

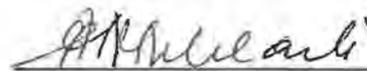
NOMBUYISELO NOLITHA MHLAULI

do hereby make oath and state that:

- 1 I am an adult female who resides at A206 Westlodge, Aintree Avenue, Claremont, 7708. I am retired and was a manager at the South African Social Security Agency.

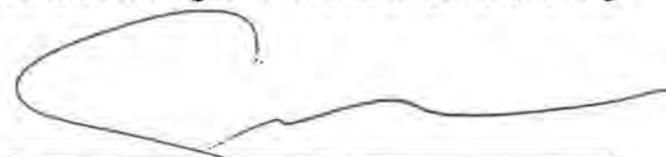
ANM  Lc
AP

- 2 I am the fourth applicant in this matter and the wife of the late Sicelo Stanely Mhlauli.
- 3 The facts deposed to in this affidavit are within my personal knowledge and belief and I confirm them to be both true and correct.
- 4 I have read the affidavit deposed to by **LUKHANYO BRUCE MATTHEWS CALATA** and confirm the contents in so far as they relate to me.
- 5 I respectfully urge this Honourable Court to grant the order in the terms set out in the notice of motion.



NOMBUYISELO NOLITHA MHLAULI

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Claremont on this the 14th day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES:

DESIGNATION:

ADDRESS:

STEFANUS JOHANNES HOUGAARD
2nd Floor, Cnr Warwick Str & Pearce Rd
Claremont
Commissioner of Oaths
Practising Attorney R.S.A.

LC
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5/5/2021

<https://www.justice.gov.za/trc/decisions/2001/ac21176.htm>**"LC9"**

AC/2001/176

TRUTH AND RECONCILIATION COMMISSION

AMNESTY COMMITTEE

APPLICATION IN TERMS OF SECTION 18 OF THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, NO.34 OF 1995.

JACOB JAN HENDRICK VAN JAARSVELD APPLICANT

(AM3761/96)

DECISION

The Applicant applied for amnesty in respect of a number of incidents which had been dealt with at public hearings where his background and personal circumstances were fully canvassed. The remaining incidents in respect whereof amnesty is being sought are dealt with in chambers and will be set out separately in this decision.

At all material times, Applicant was a Lieutenant in the Intelligence Division of the Security Police stationed at Security Headquarters in Pretoria. In the course and scope of his employment and in the execution of orders received from his superiors, Applicant participated in the incidents set out below.

INVESTIGATIONS CONCERNING MATTHEW GONIWE (INCIDENT 1)

Applicant testified about his incident as a witness at the amnesty application into what has become known as the Cradock 4 incident. His testimony basically coincided with the contents of his written amnesty application dealing with this incident. The relevant circumstances were that Applicant was approached during 1984 by his superior Major Craig Williamson and ordered to investigate the possibility to eliminate Mr Matthew Goniwe in Cradock. In execution of this order Applicant proceeded to the Eastern Cape and eventually visited Cradock on 21 March 1984. With the assistance of members of the local Security Police in Cradock, he visited the home of Mr Goniwe on some other pretext but in reality to see how Mr Goniwe could be killed and specifically whether this would be possible in his house. After the visit, Applicant eventually returned to Pretoria and reported back to Major Williamson. Applicant's recommendation was that Mr Goniwe could not be eliminated at his home, due to the fact that there were too many people present in the immediate vicinity. He recommended that Mr Goniwe should be followed and should be eliminated along the road or at some place other than his home. In Applicant's view, Major Williamson received his orders from their superiors within the Security Branch.

Having considered the matter, we are satisfied that Applicant acted in execution of the orders of his superior officer and within the course and scope of his employment. It is, moreover, clear that the investigation was directly associated with the political conflict involving the then government and the liberation movements of which Mr Goniwe was a prominent member. In the circumstances we are satisfied that the application complies with all of the requirements of the Promotion of National Unity and Reconciliation Act, No. 23 of 1995 and amnesty is accordingly GRANTED to the Applicant in respect of all offences arising from the investigations referred to above, including conspiracy to murder.

INVESTIGATION INTO LANDMINE EXPLOSION (INCIDENT 2)

This incident occurred during or about 1986 or 1987. Applicant was telephoned by a member of the Bophutatswana police and informed that a landmine explosion had occurred and that Applicant's assistance was needed in regard thereto. Applicant and a colleague proceeded to the scene of the explosion where they conducted an investigation which disclosed that it was a limpet mine and not a landmine that had exploded. After the completion of their

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5/5/2021

<https://www.justice.gov.za/trc/decisions/2001/ac21176.htm>

investigation on the scene, they returned to their office and filed a report. Applicant was subsequently chastised by his commander for having visited the scene of the explosion and disclosing that the explosion was actually caused by a limpet mine. Applicant heard nothing further in regard to the report, but later learnt that the victim of the explosion was a person who was in the custody of the police and whose body was disposed of by means of the explosion.

Having considered the matter, it is clear that the application discloses no offence in regard to this incident. In the circumstances the application is REFUSED.

DATED AT CAPE TOWN ON THIS 17TH DAY OF MAY 2001

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GP

AC/99/0350

TRUTH AND RECONCILIATION COMMISSION

AMNESTY COMMITTEE

APPLICATION IN TERMS OF SECTION 18 OF THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, NO. 34 OF 1995.

ERIC ALEXANDER TAYLOR 1ST APPLICANT

(AM 3917/96)

GERHARDUS JOHANNES LOTZ 2ND APPLICANT

(AM 3921/96)

NICHOLAS JAKOBUS JANSE VAN RENSBURG

(AM3919/96) 3RD APPLICANT

HAROLD SNYMAN 4TH APPLICANT

(AM3918/96)

JOHAN MARTIN VAN ZYL ("Sakkie") 5TH APPLICANT

(AM3751/96)

HERMANUS BAREND DU PLESSIS 6TH APPLICANT

(AM4384/96)

EUGENE ALEXANDER DE KOCK 7TH APPLICANT

(AM0066/96)

DECISION

The applicants make application in terms of Act 34 of 1995 as amended ("the Act") for amnesty in respect of the murders of Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauli respectively ("the deceased"). The first mentioned three deceased were residents of Cradock while Mr Mhlauli was a permanent resident of Oudtshoorn at the time of the incident. He was a friend of Goniwe and formerly a resident of Cradock. The murders were committed at or near Port Elizabeth on or about the 27th June 1985.

On the morning of the 27th June 1985 some of the applicants, who were all members of the Security Branch, South African Police station at Port Elizabeth at the material time, received information that Goniwe was scheduled to attend a meeting with Professor Swartz at Port Elizabeth later that day and was scheduled to return to Cradock thereafter. The plan devised by the applicants to murder him was then put into operation. Johan Martin van Zyl, (also known as "Sakkie"), was charged with handling the operation which included the execution thereof. The

murders would be made to look like the result of a vigilante attack. Indeed it seems that the manner in which the murders were committed confirms that part of the plan. In order to execute the murder, he elicited the assistance of Eric Alexander Taylor, Gerhardus Johannes Lotz as well as the late Sergeant Faku, Goduka and Sakati (the last three were subsequently murdered in another incident).

That night, Van Zyl, Taylor and Lotz waited somewhere along the Port Elizabeth National Road for the motor vehicle in which the deceased was travelling. The motor vehicle was stopped and the four deceased were kidnapped, taken to different secluded places in the Port Elizabeth district where each was killed and their bodies burnt to varying degrees. The motor vehicle in which the deceased were travelling was also burnt.

The applicants' evidence broadly suggests that the whole event occurred as a result of an order in terms of which they acted.

The four victims were reported missing and the ordinary police unit investigated the disappearance. The bodies were discovered after a few days and not surprisingly, none of the applicants revealed the truth either during investigations into the murder or

at any time during two inquests into the deaths of the four victims. According to the applicants who actually perpetrated

these deeds, Van Zyl acted on the instructions of Nicholas Jakobus Janse van Rensburg (third applicant), second in command of the Security Police Unit and Hermanus Du Plessis who supported and approved the killings. According to Janse van Rensburg, he received instructions in this regard from his immediate superior and fellow applicant, Harold Snyman who did not testify at all in this hearing.

It was testified that the order from Snyman was to the effect that "the best must be done for the country" in view of the unrest situation in the Eastern Cape which was "beyond control". This was interpreted, it was explained, to mean approval for these assassinations. In his written application, Snyman confirms that that is what he meant. Snyman in turn stated in his written application that it was the former Minister of Law and Order, the late Mr Le Grange, who, in a conversation with him about the unrest situation in the Eastern Cape, mentioned that a "plan" had to be made regarding unrest agitators in the Eastern Cape. This Snyman said, he interpreted as an order to assassinate those who were the leaders of those persons directly responsible for the said unrest.

Van Zyl said that it was the view of his unit that the United Democratic Front (UDF) was responsible for politicising the people and consequently for the unrest experienced in the various Eastern Cape areas including Cradock where the Cradock Residents Association ("CRADORA") was established and had played a prominent role in this regard. The whole unrest situation worsened and was totally politically motivated. The deceased were regarded as pivotal to the causes of the unrest as it occurred in the Eastern Cape which unrest was considered to be based on the "G" plan attributed to Goniwe.

The applicants believed that Goniwe, Calata and Mkhonto were members of CRADORA which was in turn affiliated to the UDF of which Goniwe was the Regional Organiser. The rest of the executive committee of the UDF, (Eastern Cape) consisted of other well-known and high profiled political personalities of the area.

Goniwe was a teacher who was at some stage in his career relieved of his teaching duties at the high school in Cradock. The consequences thereof together with his activities as a member of the UDF gave rise to discussions in various government circles

including some high-ranking committees which dealt with the security of the country. These discussions, it seems, led to decisions ranging from reinstatement to his teaching post on the one hand to cryptic commands interpreted to relate to neutralising (including assassinating) Goniwe and others and thereby quelling the unrest. Significantly the highest decision making body of this kind (the State Security Council), decided that the feasibility of Goniwe's reinstatement at the Cradock school should be investigated. This occurred shortly before his death. There were also other conflicting "decisions" which came to light and occurred immediately prior to the deaths of the deceased. One of these was the notorious "permanent removal from society" order which formed the subject matter of an inquest into the deaths.

All the applicants who testified claim not to have had any knowledge of the proposed reinstatement and say that even if they did, it would not have affected their political decision to assassinate all the deceased because it was the only way to curb or stop the violence. It was also suggested that that "decision" to consider reinstatement, was possibly a smoke-screen never intended to be implemented in any event. Significantly there is no

allegation that any of the other UDF executive committee members holding office at the time were considered candidates

for assassination either separately or as part of this plan in order to end the violence. The matter of those decisions will be returned to presently.

What is clear is that Van Rensburg relies on Snyman's statement to "do what is best for the country". This he conveyed to Du Plessis and Van Zyl who in turn conveyed it down the line structure on a need to know basis.

Similarly, it is alleged, that the original statement to "make a plan with leaders" by Le Grange was interpreted by Snyman as an order to assassinate. Consequently, this led to the murders of Goniwe and the other deceased.

The idea of killing Goniwe, it transpired, was first mooted about a year before his actual murder. Jacobus Jan Hendrik Van Jaarsveld was attached to the Intelligence Unit at the Security Branch of the South African Police at Head Office in Pretoria during 1984.

He testified that he was ordered by Craig Williamson, head of intelligence at Security Police Head Office at Pretoria, to investigate the possibility of killing Goniwe. He went to the

home of Goniwe on some other pretext but specifically to see how Goniwe could be killed and to see if he could perhaps be killed in his house. He testified that when he did so he was in the company of Van Zyl and others and that it was highly unlikely that Van Zyl did not know the actual reason for the journey. What is more, he remembers the date as being the 21st March 1984 (being the day on which the traditional commemoration of the "Sharpeville Massacre" takes place) when he was party to damaging the motor vehicle of Miss Janet Cherry. It is common cause that her car was in fact damaged on that day. When he testified, Van Jaarsveld identified Van Zyl by way of a photograph because the latter was not present at the hearing at the time. The reason for this was that Van Zyl had earlier indicated that he did not remember going on this journey with Van Jaarsveld. This raised the question as to whether Van Jaarsveld in fact knew Van Zyl. It seems that he would only have known Van Zyl if they had met on this trip. It should be added that the identification by way of the photograph could not have been rehearsed because of a lack of time and opportunity prior to the availability of a photograph of Van Zyl. Neither was it

apparent long beforehand that the question of Van Jaarsveld being able to identify Van Zyl would become relevant.

Furthermore, one is hardly like to forget such a trip to a prominent politician's or activist's house especially if that person had attracted the attention of the very unit in which one was employed.

Either he did go to the house or did not do so. The prominence of the individual and the subsequent enquiries into his death do not allow one to forget the journey especially because it was not a routine matter. It was a specific trip in preparation for an action which was, foreseeably, going to be the centre of high level and widespread scrutiny. The non-committal approach of Van Zyl in regard to his possibly accompanying Van Jaarsveld on this trip is nothing more than a matter of convenience and a strategy to provide an opportunity for him and his co-applicants to leave the impact this might have on their application open-ended, in the hope that an acceptance of Van Jaarsveld's evidence would not dent their credibility. Van Jaarsveld also testified that after assessing the situation, he advised that Goniwe could not be

killed in Cradock but that he should be killed at a secluded spot. The killings in fact occurred in that way.

Van Jaarsveld made a good impression as a witness. His version did not relate to the actual murders of the deceased. He did not

exaggerate his version nor did he shy away from issues that may have embarrassed him. He also made concessions when necessary and his version fits in with what generally occurred before Goniwe's death.

There is nothing that can be said to detract from the evidence of Van Jaarsveld and for these reasons his evidence is accordingly accepted as the truth.

It follows therefore that Van Zyl did not hear of the idea of killing Goniwe for the first time only about three weeks before the actual murders were committed as he alleged.

This casts serious doubt on the actual operation which led to the eventual death of the four deceased. The whole plan, as it was envisaged in 1984, was to assassinate Goniwe only.

At best for the applicants, even on their own versions, the involvement of Calata, Mkhonto and Mhlauli in the political situation at the time and which was the ostensible reason for their deaths, was peripheral. Indeed there was no evidence of specific activities, by any of the deceased which could have led the applicants to conclude that they were able to influence the flow

of events related to the unrest situation in the Eastern Cape. It is difficult to understand how the conclusion, which is sought to justify the murders, was reached.

Mhlauli's position must have had the least impact, if any at all on the political situation in the Eastern Cape. It is difficult to understand how the conclusion, which is sought to justify the murders, was reached.

Mhlauli's position must have had the least impact, if any at all, on the political situation in the Eastern Cape. He could hardly have been regarded as a threat to the law and order in the Eastern Cape and could not have been held responsible in any way for the situation as it existed at the time of the murders. The allegation that he was a leader whose demise would have led to or helped to reach a solution of the unrest in the area is flimsy to say the least. He was not even a member of CRADORA. The applicants failed to provide any convincing factual basis for concluding that he was a leader required to be assassinated. His elevation to political leadership and therefore a candidate for assassination seems to us to be a mendacious, convenient and opportunistic way of explaining his murder.

If the leadership positions of the deceased formed the basis for the justification of all these murders, the same argument relating to Mhlauli's murder applies to the murders of Calata and Mkhonto.

Van Zyl also denied that he contacted De Kock in order to establish a way to retain possession of the firearm used in the murders rather than dispose of it, because he regarded it as a collector's item which he was reluctant to dispose of. This was confirmed by De Kock who testified that he advised Van Zyl to throw it into the sea. It seems that the gun was in fact then disposed of.

De Kock makes application for amnesty in respect of defeating the ends of justice in that he advised Van Zyl what to do with the firearm.

De Kock was an impressive witness who seemed to be committed to speaking the truth. He was questioned about other crimes with which he is somehow connected. He dealt with these satisfactorily and did not try to conceal his role therein. Indeed, he stated that he associated himself with these crimes, insofar as

he did because he understood and accepted, in good faith, that they were committed for political reasons.

All the applicants testified that all the deceased were in fact primarily responsible for the unrest situation existing in the Eastern Cape at the time. It follows then that their demise would substantially, if not totally, have ended the unrest. It is noteworthy that none of the applicants' applications was based on a version which incorporated or accounted for the murder of any one for the deceased because it was circumstantially

convenient to do so at the time or that it was committed to facilitate the primary objective of solving the unrest problems in that area.

The applicants, who were actually responsible for these murderous deeds, explained that their actions in executing these murders, such as burning of the bodies and the motor vehicle was intended to create the impression that the incident was the result of vigilante action. Indeed what was found thereafter resembled a picture normally associated with the results of vigilante attacks at that time.

Significantly, no consideration was given to the possible abandonment of the operation for any reason such as avoiding the

commission of an offence which was unnecessary for the attainment of their primary goal or the commission of an offence against a person not connected to any great degree or at all to the cases of the said unrest.

It is common cause that at the time there were a number of legal mechanisms through which the movements and freedom of citizens could be curtailed or indeed substantially controlled. At the discretion of certain ranked members of the South African Police and to which ranks some of the applicants had already been promoted, citizens could be and indeed many were incarcerated without trial for reasons related to alleged political activities. At the time most of the executive members of the UDF in the area were incarcerated for long periods.

It was also common cause that none of the deceased were detained for questioning or under any of the special legal mechanisms already mentioned. Any of the deceased could have been removed from their position of perceived power to cause the unrest, by invoking the appropriate laws or regulations which were available.

The whole operation was well planned. Its success was a result of a well orchestrated team effort by each of the participants.

The smooth execution of the operation makes it difficult to accept that the details thereof and the motivation for it was something that was concealed from those involved in the commission of these offences. What is more, the allegation that the gathering of weapons and other materials required for the execution of these crimes was kept from some of the participants and that they were therefore ignorant of the plan is so improbable that it falls to be rejected.

Consequently, all the perpetrators must be treated on the same basis. It is common cause that a decision concerning Goniwe's future was taken at the highest government level (the State Security Council). The decision entailed an investigation to assess the feasibility of reinstating Goniwe as an educator. Clearly at that level Goniwe's death was not contemplated and his continued participation in education was central to the discussions about resolving the disruption of schooling in Cradock.

While the applicants deny knowledge thereof or of any of the decisions, all of them testified that the murders would in any event have been committed despite the said decision. This is a remarkable proposition in the light of their allegation that their actions in this incident were the result of an order from superiors. The existence of the alleged order they rely on is effectively excluded by their own decision to kill the four deceased, including Goniwe, in any event. So their reliance on and respect for orders on the one hand and their decision to kill (despite the existence of a decision on a higher level that did not contemplate the death of Goniwe) on the other, is self-destructive. Again the operation they describe becomes tainted.

The level at which the aforementioned decision was made coupled with the fact that the idea of killing Goniwe existed approximately a year prior to his actual assassination places the existence of the order relied upon in this application, in serious doubt. This is even more so given the difficulty to understand the reasoning that the four deceased (who were in fact locals connected to Cradock in one way or another) were leading figures in causing or manipulating the unrest in the Eastern Cape for which organisationally, the UDF in the Eastern Cape was held responsible.

The allegation that the killings would effectively quell the unrest applicants complain of is capable of being further criticised. It is also common cause that of the four deceased, only Goniwe was an official of the Executive-Committee of the UDF in the Eastern Cape. The others had at best, indirect membership, through their own organizations. Goniwe was in a position to possibly influence the UDF in that regard assuming that the UDF was in fact responsible for the violence. However, the decisions of the UDF cannot be attributed to him only. In the absence of credible evidence, it is doubtful whether Goniwe carried so much sway within the UDF that his demise would effectively have ended the said violence as alleged.

In the circumstances, the killing of the four deceased does not make sense at all because if it was the UDF that was responsible for the unrest, then the deaths of the deceased would only have fuelled the flames rather than douse it, especially if the applicants succeeded in making the community believe that it was the work of a vigilante group. The plan itself then becomes counter productive and in fact its existence as described by the applicants again becomes doubtful.

In the absence of any attempt to remove any of the deceased from a position on alleged influence, the decision to kill one or all of them must also be questioned. It cannot be said that these assassinations were the only route to a possible solution to the unrest problems. Indeed it cannot be said that the reasonably foreseeable consequences of killing the four deceased, in particular Goniwe, could in any way have been the appropriate action to ensure calm and peace between two opposing political factions or to serve the political interests (as submitted by the applicants) of the applicants and of those they supported. This is even more so given the fact that the fires that raged between the two groupings were being stoked by the applicants themselves. There is little doubt that these events would have had a worsening effect upon the situation which the applicants say they were trying to avoid.

Consequently even the motive for the killings takes on a sinister complexion.

Save for De Kock, none of the applicants made a good impression as witnesses. The evidence of each of the applicants falls to be criticised in similar ways as already set out above. Their forgetfulness on crucial issues regarding the events so often referred to over the years and their lack of explanation surrounding the order, planning and execution of these offences does not lend itself to a favourable credibility finding.

As a result we do not believe the versions of the applicants (aside from De Kock).

An objective view of the whole set of circumstances related to when the idea of assassinating Goniwe was first considered as well as the effects such an assassination would have had in an already volatile situation leaves us with the inescapable conclusion that not all that should have been disclosed has in fact been told.

In the case of Harold Snyman, who did not testify, it was argued that his matter could be determined on his written application. Section 18 of the Act clearly, in our view, contemplates an open public hearing in applications involving a gross violation of human rights. Snyman's application is one such matter.

The failure to testify would ordinarily have been fatal. However, for the purposes of this decision, we have conveniently dealt with the applicants globularly because they rely on the same version in support of their respective applications. The circumstances of these applications as alleged by the applicants as well as the conclusion we have reached in each application justify, in our view, this approach and is not intended to create a deviation from the clear requirements of the Act. Certainly it is not to be regarded as a precedent for any perceived deviation.

But for De Kock, all the applicants rely on the same set of circumstances in support of these applications. Hence the merits of Snyman's application should follow the result of the applications of the other applicants with whom he associates in this matter.

The Act requires that amnesty shall be granted if the Committee is satisfied that:

- (a) the application complies with the requirements of the Act;
- (b) the act, omission or offence to which the application relates is an act associated with a political objective committed in the course of the conflicts of the past in accordance with the provisions of sub-sections (2) and (3) of Section 20 of the Act;

GP
LC

(c) the applicant(s) has made a full disclosure of all relevant facts.

Just before this decision was about to be delivered, the Committee was informed of an intended application by the families of the deceased to lead further evidence and consequently to re-open the hearing. We heard argument on behalf of the families of the deceased as well as the applicants and reserved our decision on the application. We will furnish reasons for our decision thereon if necessary and upon request. Suffice it to indicate that we rule that the application to lead further evidence is refused.

Because of the lacunas in the applicants' version (except De Kock) and the lack of details referred to above, we have reservations as to whether the requirement related to political objectives have been complied with. On the other hand, apart from De Kock, they have failed to disclose everything they know about the murders.

In the result we are not satisfied that the applicants, but for De Kock, have complied with the requirements of the Act.

Consequently the applications of Taylor, Lotz, Van Rensburg, Snyman, Van Zyl and Du Plessis for amnesty in respect of the murders of Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Secelo Mhlauli together with all the other offences incidental to the commission of those offences are **REFUSED**.

The application of De Kock in respect of defeating the ends of justice and any offence incidental there to is **GRANTED**.

SIGNED AT THIS DAY OF 19...

JUDGE R PILLAY

ACTING JUDGE D POTGIETER

DR T TSOTSI

ADV F BOSMAN

ADV S SIGODI

SUID-AFRIKAANSE POLISIE

Staatslykhuys... New Brighton, Port Elizabeth Reeks No.....DR. NB. PM. 1065../ 85.

BEËDIGDE VERKLARING INGEVOLGE ARTIKEL 212 (4), WET 51 VAN 1977

Ek, Gideon Jacobus Knobel (volle voorname en van)

MB ChB, D Geregt Gen SA, MMed Path (kwalifikasies)

*verklaar onder eed/bevestiging:

Ek is in diens van die Staat as 'n *disseksiegeneesheer/patoloog te Kaapstad.

Op 3 Julie 1985 is die lyk van 'n *Blacks/Swart/Kleurling/

*man/*vrou met hang-etiket genommer DR. NB. PM. 1065/85 aan my uitgewys deur

S/A/O S J Els

en uitgeken as die lyk van gemark 1065/85.

Op 3 Julie 1985 het ek 'n lykskouing op die genoemde lyk uitgevoer en my bevindings op aangehegte vorm (Gesondheid I) aangeteken, welke feite ek vasgestel het deur 'n ondersoek wat bedrewendheid in *bloedige/*wondwond/ en patologic vereis.

- 1. Ek is vertrouwd met die inhoud van die verklaring en begryp dit.
2. Ek het *geen beswaar/*beswaars teen die aflegging van die voorgeskrewe eed.
3. Ek beskou die voorgeskrewe eed *as bindend/*as verbindend vir my gewete.

Plek... KAAPSTAD.

Datum... 18/7/85.

Handwritten signature and title: HOOF SPESIALIS/PROFESSOR

Ek sertifiseer dat die verklaarder erken dat hy/sy vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Hierdie verklaring is beëdig/bevestig voor my en verklaarder se handtekening/duimafdruk/merk is in my teenwoordigheid daarop aangebring.

Datum 1985-07-18 om 12h30

Plek Kaapstad.

Handwritten signature and title: Kommissaris van Ede

Volle naam (In drukskrif) PAUL PETER COETZER

Besigheidsadres (In drukskrif) STAATS LYKHUIS, DURBAN LAAN

Rang... Komstaal. Suid-Afrikaanse Polisie

* Skrap woorde nie van toepassing nie. N.B.—Skrapings moet skuur gedeel en veranderings moet geparafeer word.

Handwritten initials: GP LC

REPUBLIEK VAN SUID-AFRIKA · REPUBLIC OF SOUTH AFRICA

GW 7/13

DEPARTEMENT VAN GESONDHEID EN WELSYN · DEPARTMENT OF HEALTH AND WELFARE

VERSLAG OOR 'N REGSGENEESKUNDIGE LYKSKOUING
REPORT ON A MEDICO-LEGAL POST-MORTEM EXAMINATION

Doodregister No. NB PM 1065/85
Death register

Aan die Landdros van Port Elizabeth
To the Magistrate of

Ek, Gideon Jacobus Knobel sertifiseer hiermee
do hereby certify—

(i) dat ek op New Brighton Dodehuis, Port Elizabeth
that at
op die 3de dag van Julie, 1985 beginnende om 10 15
on the day of commencing at h.

die liggaam van Swart manlike volwassene
I examined the body of
onderseek het;

(ii) dat die liggaam vir my geldentifiseer is—
that this body was identified to me—

(a) deur S/A/O S J Els van Moord en Roof Eenheid, Port Elizabeth, and
by of

(b) deur van
by of

as die van liggaam gemerk NB PM 1065/85
as being that of

wie se ouderdom na bewering/voorgesêde was 38 jaar
whose reputed/estimated age was

(iii) dat die dood plaasgevind het—
that death took place—

(a) soos medegedeel op Vermoedelik die aand om
as informed on van 27/6/85. at h.

(b) soos bepaal met ondersoek ure voor my ondersoek;
as determined at examination hours prior to my examination;

Na bewering was liggaam gevind om 15h00 op 2/7/85 by
St. George's Strand, Port Elizabeth.

(iv) dat die vernaamste lykskouingstevindings in verband met hierdie liggaam die volgende was
that the chief post-mortem findings made by me on this body were

Sien Aanhangsel I.

(v) dat, as gevolg van my waarnemings waarvan 'n lys hieronder volg ek besluit het—
that, as a result of my observations a schedule of which follows, I concluded—

(a) dat die dood voor my ondersoek plaasgevind het; en
that death had occurred prior to my examination; and

(b) dat die oorsaak/oorsake van die dood Veelvuldige steekwonde en die
that the cause/causes of death was/were gevolge daarvan.

Gedateer te Kaapstad op hierdie dag van 18de Julie, 1985.
Dated at this day of

Handtekening van Gideon Jacobus Knobel, Kwalifikasie MB ChB, F Gereg Gen S.
Signature Qualifications MMed Path.

Amptitel ROOF SPECIALIS / PROFESSOR

Vir instruksies betreffende die voltooiing van individuele paragrawe van hierdie verslag moet afdeling 2A.10 van vorm Ges. I (a) geraadpleeg word.
For instructions as to the completion of individual paragraphs of this report, section 2A.10 of form (Health) I (a) should be consulted.

GP
LC

Autopsie NR 13/7/85

AS.1

~~HR~~

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GW 7/15

Lys Waarnemings | Schedule of Observations

Doodregister No. NB PM 1065/85
Death register

ALGEMEEN/GENERAL

- 1. Lengte 1.60 m Massa ⁺ 60 kg Liggaamsbou gemiddeld Voedingstoestand redelik.
Height Mass Physique Nutrition
- 2. Spesiale identifiserende kenmerke
Special identifying features: Geen van belang.
- 3. Sekondêre nadoodsse veranderinge
Secondary post-mortem changes: Daar is reeds ontbindingsveranderinge met gasvorming. Die ledemate toon hitteverstywing van spiere. Die liggaam is in 'n algemene posisie van die vetershouding.
- 4. Uitwendige voorkoms van liggaam en toestand van ledemate
External appearance of body and condition of limbs: Sien bladsy 1, Bylae A en Anhangsel II.

KOP EN NEK/HEAD AND NECK

- 5. Skedel
Skull: Niks abnormaals gevind nie.
- 6. Skedelinhoud
Intracranial contents: Die brein toon gevorderde ontbindingsveranderinge.
- 7. Oog-, neus- en oorholtes
Orbital, nasal and aural cavities: Nie oopgemaak nie.
- 8. Mond, tong en farinks
Mouth, tongue and pharynx: Die voorpunt van die tong toon verbranding. Die slymvliese van die mond, tong en farinks toon geen verdere verbranding, rookverkleuring of roetdeeltjies nie.
- 9. Nekstrukture
Neck structure: Niks abnormaals gevind nie.

[Handwritten signature]

GP
LC

Autopsie nr 13/7/85

AS.1
GW 7/15

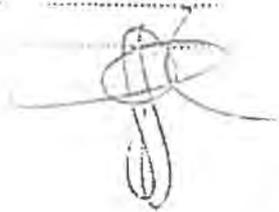
Doodregister No. NB PM 1065/85
Death register

BORS/CHEST

- 10. Borskas en diafragma
Thoracic cage and diaphragm. Sien bladsy 1 en paragraaf 4.
- 11. Mediastinum en slukderm
Mediastinum and oesophagus. Niks abnormaals gevind nie.
- 12. Tragea en brongi
Trachea and bronchi. Bevat slym, maar geen bloed of roet nie.
- 13. Pleurac en longe:
Pleurae and lungs:
 - Reger
Right. 200ks vrybloed in die borsholte. 'n Steekwond strek deur die regter long se onderkwab. Long massa
Lung mass.g
 - Linker
Left. 1300ks vrybloed in die linker borsholte. Long massa
Lung mass.g
- 14. Hart en perikardium
Heart and pericardium. Steekwond deur die regter ventrikel van die hart. Hart massa
Heart mass.g
- 15. Groot bloedvate
Large blood vessels. Niks abnormaals gevind nie.

BUIK/ABDOMEN

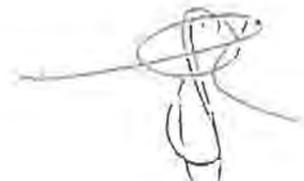
- 16. Buikholte
Peritoneal cavity. Steekwond strek deur die anterior buikwand tot in die buikholte. Geen vrybloed in die buikholte nie.
- 17. Maag en inhoud
Stomach and contents. Bevat enkele fragmente half-verteerde voedselreste.
- 18. Derms en mesenterium
Intestines and mesentery. Steekwond strek tot in die duodenum.
- 19. Lewer, galblaas en galbuis
Liver, gall-bladder and biliary passages. Steekwond strek deur die lewer. Uitgebreide ontbindingsveranderinge van die lewer, pankreas en milt.
 - Lewer massa
Liver mass.g
- 20. Pankreas
Pancreas. Sien item 19.
- 21. Milt
Spleen. Milt massa
Spleen mass.g



GP
LC

Bladsy 1, item (iv)

- a) Die liggaam toon uitgebreide verbranding.
- b) Daar is 9 steekwonde voor op die liggaam, met een steekwond wat deur strek dwarsdeur die hart, een steekwond deur die linker diafragma koepel, tot in die buikholte, wat dwarsdeur die regter kwab van die lewer strek tot in die duodenum met 1300ks vry bloed in die linker borsholte en 200ks bloed in die regter borsholte. Daar is ook 'n steekwond agter regs tussen ribbes 10 en 11 deur in die area waar daar erge verbranding van oorliggende sagte weefsel is sodat die ingang steekwond nie bepaal kon word nie.



GP
LC

Bladsy 2, item 4

A5.1

A. Verbranding

Uitgebreide verbranding van die liggaam. 'n Gedeelte van die vel van die agterkop, van die skouerblaaie en albei boud en lendegebiede agter, sowel as van die onderbroek area voor, 'n dwarsband voor oor die borskas op tepelhoogte, en albei voete toon min of geen verbranding. Die skoene was nog aan die voete toe hierdie liggaam ondersoek was.

B. Steekwonde

Nege steekwonde voor aan die liggaam.

(1) is 1,0cm lank, 2,0cm links van die middellyn in die nek en strek slegs oppervlakkig deur die vel.

(2) is 2,0cm lank, 6,0cm links van die middellyn en 15,0cm onderkant die skouerlyn. 'n Wondgang strek deur tussen ribbes 3 en 4 links voor.

(3) is 1,5cm lank, 4,0cm links van die middellyn en 17,0cm onderkant die skouerlyn. Wondgang strek mediaal en agterwaarts en sny die 5de rib kraakbeen deur.

(4) is 1,5cm lank, 7,0cm links van die middellyn en 21,0cm van die skouerlyn. 'n Wondgang strek na agter en effens mediaal en sny die 3de rib links lateraal voor dwarsdeur.

(5) is 1,5cm lank, 2,0cm links van die middellyn en 24,0cm onderkant skouerhoogte. Wondgang strek deur tussen ribbes 5 en 6 met deursnyding van die 6de rib kraakbeen en 'n totale lengte van hierdie wond in die borskaswand van 6,5cm.

(6) is 1,5cm lank, 4,0cm links van die middellyn en 27,0cm onderkant skouerhoogte. Wondgang strek na agter deur die borskaswand, en deur die linker diafragma, tot in die buikholte.



GP
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B Bladsy 2, item 4 (vervolg)

(7) is 1,0cm in die middellyn, 31,0cm onderkant skouerhoogte.

(8) is 1,7cm lank, 7,0cm regs van die middellyn en 37,0cm onderkant skouerhoogte. Wondgang strek na agter en afwaarts tussen ribbes 7 en 8 deur, deur die regter diafragma koepel tot in en deur die regter lewerkwab en strek tot in die duodenum se voorwand.

(9) is 2,0cm lank, 3,0cm regs van die middellyn en 41,0cm onderkant die skouerlyn. 'n Wondgang strek deur die anterior buik wand tot in die buikholte. Geen vry bloed is in die buikholte teenwoordig nie.

Aan die agterkant van die liggaam is 'n horisontale steekwond 2,5cm lank in die middellyn van die nek geleë vanwaar 'n wondgang na voor en effens links strek vir 5,0cm diep in die nekspiere in.

Lateraal aan die nek links is 'n oppervlakkige snywond in die nekvel 7,0cm lank wat slegs deur die oppervlakkige vel laag strek. Geen onderliggende nekstrukture is raakgesny nie.



GP
LC

NB PM 1065/85

AANHANGSEL III.

MONSTERS GEHOU

- 1 Bloed van oorledene is met 'n spuit uit die femorale vena getrek en in 'n botteltjie gespuit wat uit 'n houtkissie verwyder was na die seël van die Gesondheidskeikunde Laboratorium nr 7 verwyder is. Beide botteltjie en houtkissie is gemerk NBPM1065/85. Na terugplasing van die botteltjie in die houtkissie is laasgenoemde oorhandig aan S/A/O S J Els. *Spindel*
- 2 Bloed was geneem vir koolstofmonoksiedbepaling en oorhandig aan S/A/O S J Els.
- 3 Bloed geneem vir bloedgroepering is van hierdie liggaam gehou, gemerk NB PM 1065/85 en oorhandig aan S/A/O S J Els van die Moord en Roof Eenheid, Port Elizabeth.

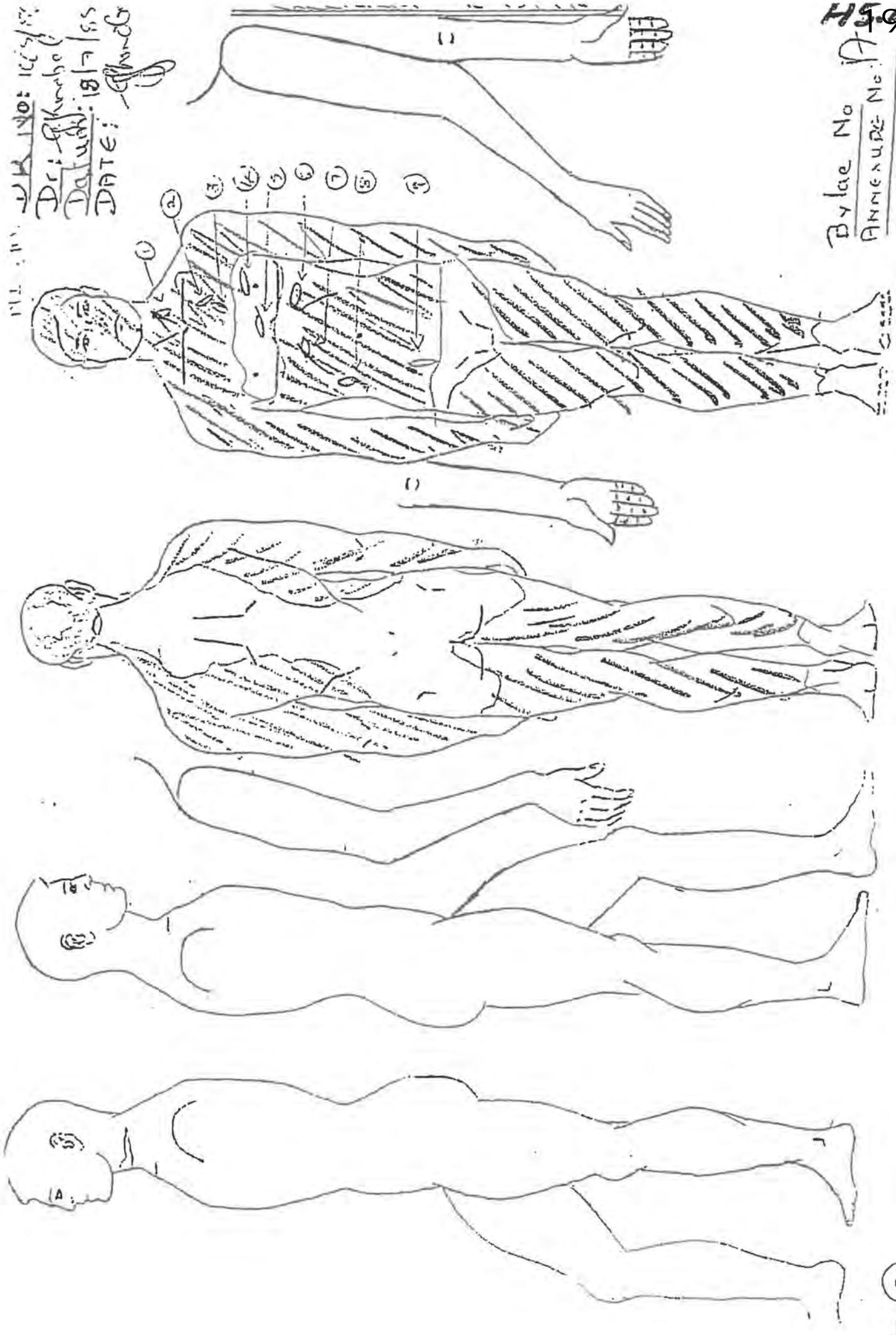
VERDERE WAARNEMINGS

- 1 Fotos van die oorledene is in my teenwoordigheid geneem deur die amptelike polisie fotograaf van die plaaslike vingerafdruk afdeling.
- 2 Die lykskouing is uitgevoer in teenwoordigheid van Dr J Botha, spesialis patoloog van Johannesburg.

GP
LC

PL: 111
WR NO: 105/17
Dr: Kumbho
Date: 18/1/85
DATE: 18/1/85

45.91
Bylae No. A
ANNEXURE No. 1



68



SUID-AFRIKAANSE POLISIE

Staatslykhuis... New Brighton, Port Elizabeth Reeks No. DR NB PM 1064 / 85

BEËDIGDE VERKLARING INGEVOLGE ARTIKEL 212 (4), WET 51 VAN 1977

Ek, Gideon Jacobus Knobel (volle voorname en van)

MB ChB, D Geregt Gen SA, Med Path (kwalifikasies)

*verklaar onder eed/bevestiging:

Ek is in diens van die Staat as 'n *distrikspatoloog te Kaapstad

Op 3 Julie 1985 is die lyk van 'n *Blanke/Swart Afslouing/visser* man/voos met hang-etiket genommer DR 1064/85 aan my uitgewys deur

Speurder Adjutant Offisier S J Els

en uitgeken as die lyk van gemerk 1064/85

Op 3 Julie 1985 het ek 'n lykskouing op die genoemde lyk uitgevoer en my bevindings op aangehegte vorm (Gesondheid I) aangeteken, welke feite ek vasgestel het deur 'n ondersoek wat bedrewendheid in *histologie/morfologie/patologie vereis.

- 1. Ek is vertrouwd met die inhoud van die verklaring en begryp dit.
- 2. Ek het *geen beswaar/het beswaar teen die aflegging van die voorgeskrewe eed.
- 3. Ek beskou die voorgeskrewe eed *as bindend/niet bindend vir my gewete.

Plek: KAAPSTAD

Datum: 15/7/85 : 15/7/85

Distrikspatoloog

HOOF STAATSPATOLOOG / PROFESSOR

Ek sertifiseer dat die verklaarder erken dat hy/sy vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Hierdie verklaring is beëdig/bevestig voor my en verklaarder se handtekening/duimafdruk/merk is in my teenwoordigheid daarop aangebring.

Datum: 55-07-18 om 12h30

Plek: Kaapstad

Kommissaris van Ede

Volle naam (In drukskrif): PAUL PETER COETZEE

Besigheidsadres (In drukskrif): STAATSLYKHUIS DURHAMLAN

Rang: Kommissaris Suid-Afrikaanse Polisie

* Skrap woorde nie van toepassing nie
N.B.—Skrap 235 moet sekur gedoen en veranderinge moet geparafeer woe!

GP
LC

REPUBLIEK VAN SUID-AFRIKA · REPUBLIC OF SOUTH AFRICA
DEPARTENENT VAN GESONDHEID EN WELSYN · DEPARTMENT OF HEALTH AND WELFARE
VERSLAG OOR 'N REGSGENEESKUNDIGE LYKSKOUING
REPORT ON A MEDICO-LEGAL POST-MORTEM EXAMINATION

Doodregister No. NB PM 1064/85
Death register

Aan die Landdros van Port Elizabeth
To the Magistrate of

Ek, Gideon Jacobus Knobel, sertifiseer hiermee—
do hereby certify—

(i) dat ek op New Brighton Polisie Dodehuis, Port Elizabeth
that at
op die 3de dag van Julie, 1985 beginnende om 10 h. 15
on the day of commencing at

die liggaam van Swart manlike volwassene
I examined the body of
ondersoek het;

(ii) dat die liggaam vir my geïdentifiseer is—
that this body was identified to me—

(a) deur S/A/O S J Els van Noord en Roof Afdeling, Port Elizabeth, en
by of ; and

(b) deur van
by of

as die van Fort Calata
as being that of

wie se ouderdom na bewering 29 jaar was,
whose reputed/estimated age was

(iii) dat die dood plaasgevind het—
that death took place—

(a) soos medegedeel op Vermoedelik op die aand van om 27/6/85
as informed on at

(b) soos bepaal met ondersoek 15 ure voor my ondersoek;
as determined at examination hours prior to my examination;

Liggaam St George's Strand op 2/7/85, 15h00 uur.

(iv) dat die vernaamste lykskouingsbevindings in verband met hierdie liggaam die volgende was
that the chief post-mortem findings made by me on this body were

Sien Aanhangsel I.

(v) dat, as gevolg van my waarnemings waarvan 'n lys hieronder volg ek besluit het—
that, as a result of my observations a schedule of which follows, I concluded—

(a) dat die dood voor my ondersoek plaasgevind het; en
that death had occurred prior to my examination; and

(b) dat die oorsaak van die dood Steekwonde in die hart en die
that the cause/causes of death was/were
gevolge daarvan.

Gedateer te Kaapstad, hierdie 18de dag van Julie, 1985.
Dated at this day of

Handtekening van Gideon J. Knobel, Kwalifikasies MB, ChB, D Gerect Gen, MNed Path.

Amptelike Designasie HOOF STAATSPATOLOGOOG/PROFESSOR

Vir instruksies betreffende die voltooiing van individuele paragrafe van hierdie verslag moet afdeling 2A.19 van vorm Ges. 1 van 1984 gelees word.
For instructions as to the completion of individual paragraphs of this report, section 2A.19 of form (Health) I (a) should be consulted.

GP
LC

Arundin NW 12/7/85

47194

GW 7/15 **As.3**

Lys Waarnemings | Schedule of Observations

Doodregister No. NB PM 1064/85
Death register

ALGEMEEN/GENERAL

- 1. Lengte Height..... 1.57.....m Massa Mass..... - 55.....kg Liggaamsbou Physique..... gemiddeld Voedingstoestand Nutrition..... redelik
- 2. Spesiale identifiserende kenmerke Special identifying features..... Geen van belang. Daar is 'n volle stel onreëlmatige Lande met geen teken van frakture van die tande of kakebeen nie.
- 3. Sekondêre nadoodse veranderinge Secondary post-mortem changes..... Onbepaalbaar weens uitgebreide verbranding.
- 4. Uitwendige voorkoms van liggaam en toestand van ledemate External appearance of body and condition of limbs..... Sien Aanhangsel 2 en Bylae A vir skelpe.

KOP EN NEK/HEAD AND NECK

- 5. Skedel Skull..... Geen frakture.
- 6. Skedelinhoud Intracranial contents..... Niks abnormaals gevind nie. Daar is geen tekens van gevorderde ontbinding van hierdie brein nie.
- 7. Oog-, nous- en oorholtes Orbital, nasal and aural cavities..... Nie oopgemaak nie.
- 8. Mond, tong en farinks Mouth, tongue and pharynx..... Die punt van die tong is verbrand. Daar is egter geen verbranding van die res van die tong, mond of farinks slymliës nie. Daar is geen tekens van rookverkleuring of roetdeeltjie.
- 9. Nekstrukture Neck structures..... Niks abnormaals gevind nie, teenwoordig nie.

GP
LC

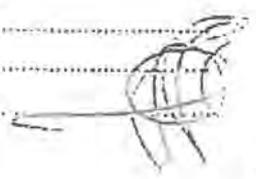
Doodregister
Death register No. NB PM 1064/85

BORS/CHEST

- 10. Borskas en diafragma
Thoracic cage and diaphragm. Steekwonde strek deur die borskaswand voor. Van agter strek ook twee steekwonde deur die borskas wand. Die een sny die 6de rib dwarsdeur net links van die werwelkolom agter en strek tot in die linkerlong se bokwab. Tweede sny die 8ste rib dwarsdeur net links van die werwel (sien agter bladsy 3)
- 11. Mediastinum en slukderm
Mediastinum and oesophagus. Steekwonde strek deur die anterior mediastinum tot in die hart.
- 12. Tragea en brongi
Trachea and bronchi. Bevat slym, maar geen roet of bloed nie.
- 13. Pleurae en longe
Pleurae and lungs:
 - Reger
Right. Daar is twee oppervlakkige snywonde in die regter bokwab voor.
 - Long massa
Lung mass. 5
 - Linker
Left. Twee steekwonde strek tot in die linker long agter. Daar is 'n ou area van verkaasde tuberkulose 1,0 cm in deursnee in die linkerlong se onderkwab. Die linker long is saamgeval. Daar is 300ks bloed en bloedstolsels in die linker borsholte.
 - Long massa
Lung mass.
- 14. Hart en perikardium
Heart and pericardium. Daar is 5 steekwonde wat tot in die regter ventrikel van die hart en 1 deur die agterwand van die regter ventrikel van die hart strek sowel as 'n sny aan die onderwand van die regter ventrikel.
 - Hart massa
Heart mass.
- 15. Groot bloedvate
Large blood vessels. Linker pulmonale vene is raakgesteek.

BUIK/ABDOMEN

- 16. Buikholte
Peritoneal cavity. Daar is bloed en gekookte bloedstolsels teenwoordig in die buikholte. Daar is twee steekwonde elk 3,5cm lank wat deur die anterior verkoolde buikwand strek tot in die buikholte, onderskeidelik 6,0cm en 3,0cm links van die middellyn, op die hoogte van die naeltjie. Daar is 'n snywond in die mesenterium 4,0cm lank en enkele kleinderm lusse wat deur een van hierdie buikwonde hang, toon verkoling. Daar is 'n steekwond wat in die maag deur sy voorkand strek
- 17. Maag en inhoud
Stomach and contents.
- 18. Dors en mesenterium
Intestines and mesentery.
- 19. Lewer, galblaas en galbuis
Liver, gall-bladder and biliary passages. Die lewer toon erge vervetting met 'n ronde lewer rand.
 - Lewer massa
Liver mass.
- 20. Pankreas
Pancreas. Niks abnormaals gevind nie.



 GP
 LC

22. Niere
Adrenals: Niks abnormaals gevind nie.
Reger Right
Linker Left

23. Niere en ureters:
Kidneys and ureters:
Reger Right: Nier massa Kidney mass
Linker Left: Nier massa Kidney mass

24. Urieblaas en uretra
Urinary bladder and urethra: Niks abnormaals gevind nie.

25. Bekkenwande
Pelvic walls

26. Geslagsorgane
Genital organs: Die uitwendige geslagsorgane toon erse verbranding.

RUGGRAAT/SPINE

27. Ruggraat
Spinal column: Nie oongemaak nie, maar geen uitwendige tekens van besering nie.

26. Rugmurg
Spinal cord

MONSTERS GEHOU/SPECTMENS RETAINED

| Aard van monster Nature of specimens | Aard van ondersoek vereis Nature of investigation required | Beskikking oer monsters Disposal of specimens |
|---|---|--|
| Sien Aanhangsel III. | | |
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| | | |

VERDERE WAARNEMINGS/ADDITIONAL OBSERVATIONS

Sien aanhangsel III

Handwritten initials/signature

NB PM 1064/85

AANHANGSEL I

Bladsy 1, item (iv)

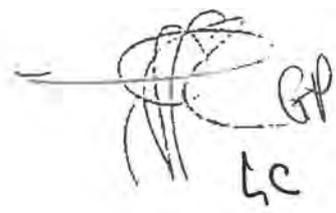
VERBRANDING

Die liggaam toon uitgebreide verbranding en verkoling met vier steekwonde voor en vier steekwonde agter op die rug.

STEEKWONDE

Die steekwonde (1) tot (3) voor op die borskas strek deur die borskaswand, en deur die voorwand van die hart tot in die regter ventrikel. Twee verdere wondgange afkomstig van wond no. (4) strek ook tot in die regter ventrikel en 'n derde wondgang afkomstig van wond no (4) sny die onderwand van die regter ventrikel raak. Daar is ook 'n wondgang wat dwarsdeur die agterwand van die ventrikel strek. Daar is ook twee steekwonde deur die verkoalde anterior wand van die buik met 'n snywond in die mesenterium, en 'n wond tot in die maag.

Twee van die steekwonde links agter op die rug strek deur die borskaswand tot in die linkerlong.



DR NB PM 1064/85

AANHANGSEL II (I)

AS.3

Bladsy 2, item 4

Sien Bylae A vir sketse.

VERBRANDING

Die liggaam toon uitgebreide verbranding van die kop, romp en ledemate. Die vingerpunte van albei hande is weggebrand. 'n Gedeelte van die kopvel aan die agterkop sowel as 'n groot gedeelte van die vel oor die skouerblaaie agter en 'n kleiner gedeelte van die vel oor die boud area toon minder ernstige verbranding. Daar is uitgebreide verkoling van die sagte weefsel van die grootste gedeelte van die borskas, buik en bobene voor sowel as groot gedeeltes van die midromp en bobeen weefsel agter. Groot hoeveelhede van die sagte weefsel van die linkerbeen bo en onder voor sowel as agter, sowel as gedeeltes van die sagte weefsel van die regterbeen is afwesig (moontlik nadoodse beskadiging deur diere). Die voet en enkel areas sowel as gedeeltes van albei onderbene agter en 'n groot gedeelte van die regter onderbeen voor toon minder ernstige verbranding.

STEEKWONDE

Drie parallelle skuins vertikale steekwonde voor op die borskas elk \pm 3,0cm lank: (1) is 5,0cm links en (2), 2,0cm links van die middellyn, terwyl (3) net regs van die middellyn geleë is. Wonde (1) en (2) strek deur tussen ribbes 3 en 4 links deur, strek mediaal af en agterwaarts. (3) strek deur tussen ribbes 3 en 4 regs, en sny die rand van die borsbeen deur. Al drie hierdie wonde (1), (2) en (3) strek deur die hartsak, tot in die regter ventrikel van die hart. (4) is geleë op die onder rand van die borskas links van die middellyn, skuins vertikaal verlopend met 'n onreëlmatige borant, terwyl die onder rand in die verkoolde vel en sagte weefsel gebied lê. Onderliggend tot hierdie lengteverlopende wond is daar drie aparte penetrerende wonde deur die borskaswand: (a) is 3,0cm lank aan die regter punt van hierdie lang velwond en strek deur tussen ribbes 4 en 5 regs, (b) sny di



GP
LC

Bladsy 2, item 4.
Steekwonde, vervolg:

vierde ribkraakbeen en gedeelte van die sternum aan die linkerkant dwarsdeur en is 5cm lank, (c) is 3,5cm lank en sny die vyfde rib kraakbeen links dwarsdeur. Wonde (1) (a) en (b) strek deur tot in die regter ventrikel van die hart en wond (4) (c) sny die onderwand van die regter ventrikel raak. Daar is ook 'n steekwond wat deur die agterwand van die regter ventrikel strok.

Daar is vier steekwonde teenwoordig agter op die rug. (1) is vertikaal 2,5cm lank, in die middellyn op die skof van die laer nek gebied agter, vanwaar wondgang na voor en effens links en opwaarts strek vir 6,0cm in die linker nekspiere. (2) is 3,0cm lank, 4,0cm links van die middellyn en 16,0cm onderkant die skouerlyn. 'n Wondgang strek van hier na voor en mediaalwaarts, effens opwaarts en sny die sesde rib net links van die werwelkolom dwarsdeur. (3) is 4,0cm lank, 6,0cm van die middellyn en 18,0cm onderkant die middellyn. 'n Wondgang strek mediaal na voor en effens opwaarts en sny die agtste rib links van die werwelkolom dwarsdeur. (4) is 'n snywond 3,0cm lank op die verkoalde rand van die vel regs posterolateraal aan die borskas.

'n Vertikale steekwond 1,5cm lank is geleë 4,0cm links van die middellyn en 4,0cm bokant die skouerlyn agter op die nek en strek slegs enkele sentimeter in die nekspiere in.



MONSTERS GEHOU

1. Bloed van die oorledene is met 'n spuit uit die femorale vena getrek en in 'n botteltjie gespuit wat uit 'n houtkissie verwyder was na die seël van die Gesondheidskeikunde Laboratorium Nr. 7 gebreek is. Beide botteltjie en houtkissie is gemerk DR NB PM 1064/85. Na terugplasing van die botteltjie in die houtkissie is laasgenoemde oorhandig aan S/A/O Els.
2. ^{Bloed vir} Koolstofmonoksied-bepaling, ~~sowel as bloed vir~~ ~~groeperingsdoeleindes~~ is van hierdie liggaam geneem, gemerk NB PM 1064/85 en oorhandig aan S/A/O S J Els van Moord en Roof, Port Elizabeth.
3. Bloed vir groeperingsdoeleindes is oorhandig aan S/A/O S J Els van Moord en Roof, Port Elizabeth.

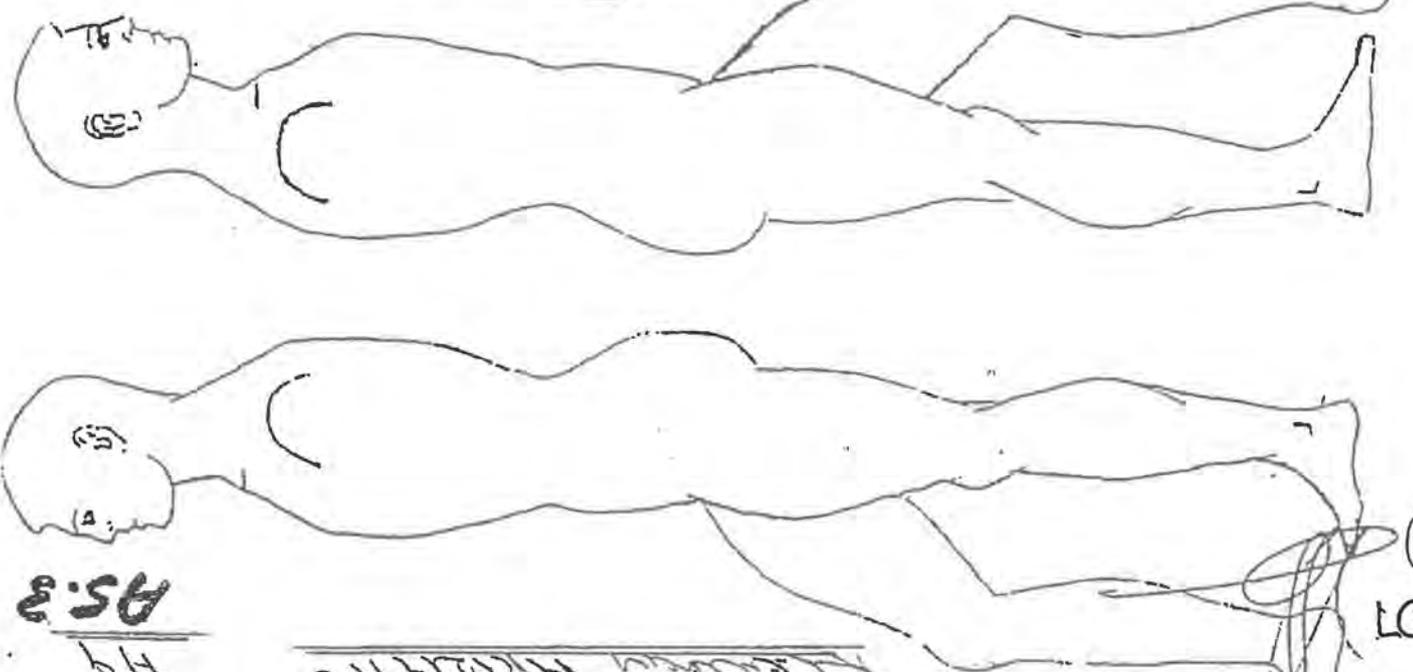
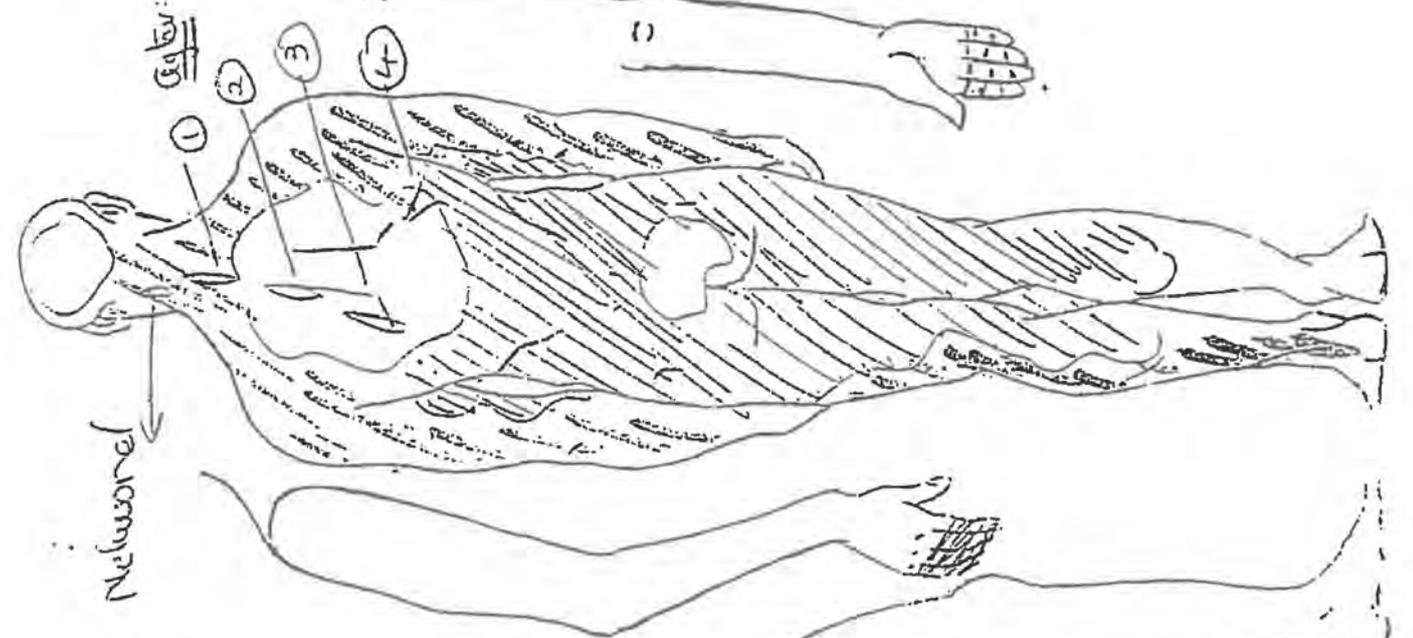
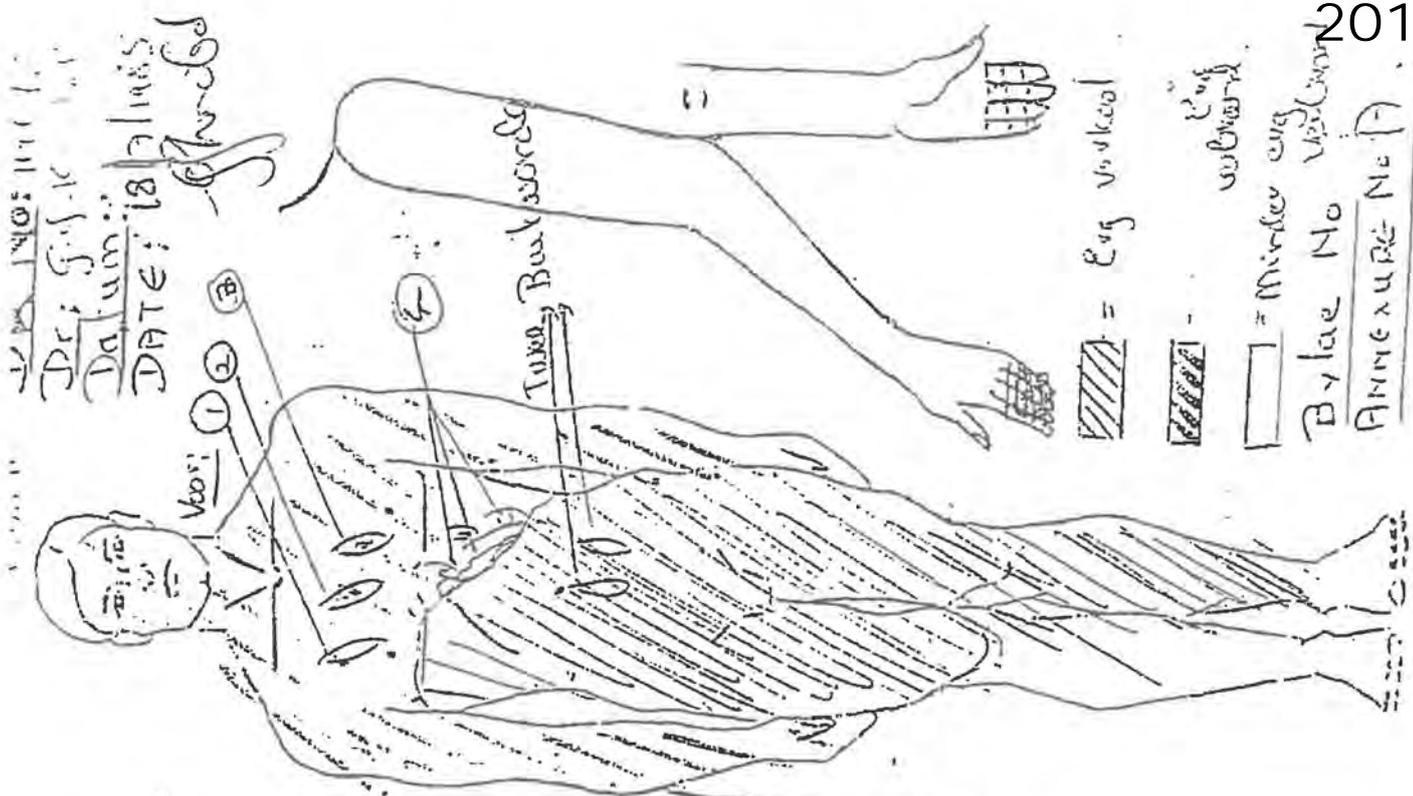
VERDERE WAARNEMINGS

1. Fotos van die oorledene is in my teenwoordigheid geneem deur die amptelike polisie fotograaf van die plaaslike vingerafdruk afdeling.
2. Die lykskouing is uitgevoer in die teenwoordigheid van Dr J Botha, Spésialis Patoloog van Johannesburg.



Handwritten signature and initials, possibly 'GP' and 'LC'.

Dr. J. K. K.
 Datum: 18/11/18
 DATE: 18/11/18
 Shubod



AS:3
 79

= Egg vascular
 = Mirror egg vascular
 Bylae No
 Annexure No. A



SUID-AFRIKAANSE POLISIE

Staatslykhuis... New Brighton, Port Elizabeth Reeks No... DR NB 1018/85

BEËDIGDE VERKLARING INGEVOLGE ARTIKEL 212 (4), WET 51 VAN 1977

Ek, Gideon Jacobus Knobel (volle voornam en van)

MD ChD, D Gerogt Gen SA, MMed Path (kwalifikasies)

*verklaar onder eed/bevestiging: Ek is in diens van die Staat as 'n *Historiese/antropoloog/patoloog te Kaapstad Op 3 Julie 1985 is die lyk van 'n *Blanke/Swar/Afneuring/Asiër *man/ysk met hang-etiket genommer DR 1018/B5 aan my uitgewys deur S/A/O Els en uitgeken as die lyk ~~van~~ gemerk 1018/85

Op 3 Julie 1985 het ek 'n lykskouing op die genoemde lyk uitgevoer en my bevindings op aangehegte vorm (Gesondheid I) aangeteken, welke feite ek vasgestel het deur 'n ondersoek wat bedrewendheid in 'n bledingio/antropologie/patologie vereis.

- 1. Ek is vertrouwd met die inhoud van die verklaring en begryp dit.
2. Ek het *geen beswaar/beskeuring teen die aflegging van die voorgeskrewe eed.
3. Ek beskou die voorgeskrewe eed *as bindend/als verbindend vir my gewete.

Plek KAAPSTAD Datum 18/7/85 HOOFT STAATSPATOLOOG/PROFESSOR

Handwritten signature and title of the State Pathologist/Professor

Ek sertifiseer dat die verklaarder erken dat hy/sy vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Hierdie verklaring is beëdig/bevestig voor my en verklaarder se handtekening/dienseker/merk is in my teenwoordigheid daarop aangebring.

Datum 1985-07-18 om 12h00 Kommissaris van Ede

Handwritten signature of the Commissioner of Police

Plek KAAPSTAD Volle naam (In drukskrif) PAUL PETER COETZER Besighedsadres (In drukskrif) Staatslykhuis, DURHAM LAAN, KAAPSTAD Rang Konvotabel Suid-Afrikaanse Polisie

* Skrap woord/nie van toepassing nie. A.A. - Skrapplings nader sekuer gedoen en veranderings moet geparafeer word.

GP LC

28/11/85 NB 1018/85

203

G.P.S.

GW 7/15 AS.2

REPUBLIEK VAN SUID-AFRIKA • REPUBLIC OF SOUTH AFRICA
DEPARTEMENT VAN GESONDHEID EN WELSYN • DEPARTMENT OF HEALTH AND WELFARE
VERSLAG OOR 'N REGSGENEESKUNDIGE LYKSKOUING
REPORT ON A MEDICO-LEGAL POST-MORTEM EXAMINATION

Daadregister No. NB PM 1018/85
Death register

Aan die Landdros van Port Elizabeth
To the Magistrate of

Ek, Gideon Jacobus Knobel, skryfseer hiermee—
do hereby certify—

(i) dat ek op S. A. Polisie Dodehuis, New Brighton, Port Elizabeth
that at op die 3de dag van Julie, 1985 beginnende om 10 h 15
on the day of commencing at

die liggaam van Swart manlike volwassene
I examined the body of
ondersoek het;

(ii) dat die liggaam vir my geïdentifiseer is—
that this body was identified to me— Moord en Roof Eenheid

(a) deur S/A/O S J Els van Port Elizabeth; en
by of

(b) deur van
by of

as die van Sparrow Mkonto
as being that of
wie se ouderdom ~~toeskat~~ volgens skatting + 32 jaar was,
whose reputed/estimated age was

(iii) dat die dood plaasgevind het—
that death took place—

(a) soos mededeel op waarskynlik die aand van 27/6/85
as informed on

(b) soos bepaal met ondersoek ure voor my ondersoek;
as determined at examination hours prior to my examination;

Dat die liggaam na bewering gevind was om 12h00 op 28/6/85
langs die Redhouse pad buite Port Elizabeth.

(iv) dat die voornaamste lykskouingsbevindings in verband met hierdie liggaam die volgende was
that the chief post-mortem findings made by me on this body were

1. Daar is uitgebreide verbranding van die liggaam. 2. Daar is 'n skietwond deur die skedel en brein met intrakraniale bloeding
3. 'n Tweede loodkoesel is in die verkoelde spiere van die borskaswand links anterolateraal gevind. 4. Daar is drie steekwonde voor en drie steekwonde agter op die borskas sigbaar, No (2) voor op die borskas strek deur tot in die borsholte en dwarsdeur die hart. 'n Steekwond strek dwarsdeur die laer kopvel agter oppervlakig onder die vel deur.

(*) dat as gevolg van my waarnemings waarvan 'n lys hieronder volg ek besluit het—
that as a result of my observations a schedule of which follows, I concluded—

(a) dat die dood voor my ondersoek plaasgevind het; en
that death had occurred prior to my examination; and

(b) dat die oorsaak/oorsoeke van die dood 'n Skietwond deur die kop en 'n steekwond tot in die hart.

Gedateer te Kaapstad op hede die 3de dag van Julie, 1985.
Dated at this day of
Handtekening Kwalifikasies MB ChB, D Geragt Gen. SA
Signature Qualifications MMed Path.
Amptitel HOOFT STAATSPATOLOOG/PROFESSOR
Designation

Vir instruksies betreffende die voltooiing van individuele paragrawe van hierdie verslag moet afdeling 2A.10 van vorm Ges. 1 (a) geraadpleeg word.
For instructions as to the completion of individual paragraphs of this report, section 2A.10 of form (Health) 1 (a) should be consulted.

GP LC

Wagstaff MR 3734/85

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GW7/15

Lys Waarnemings

Schedule of Observations

Doodregister
Death register: NQNB PM 1018/85

As2

ALGEMEEN/GENERAL

1. Lengte 1.63 m Massa 55 kg Liggaamsbou klein Voedingstoestand gemiddeld
Height 1.63 m Mass 55 kg Physique klein Nutrition gemiddeld

2. Spesiale identifiserende kenmerke Enkele van die ondertande was afwesig, maar daar
Special identifying features is geen tekens van vars tandfrakture nie. Verder was daar oorblyfsels van 'n snor en 'n wangbaard aan die linkerkant teenwoordig.

3. Sekondêre nadoodse veranderinge Liggaam was afgekoel en toon verstywing en
Secondary post-mortem changes verkoling van spiere.

4. Litwendige voorkoms van liggaam en toestand van ledemate Sien Bylae A en Aanhangsel I.
External appearance of body and condition of limbs

KOP EN NEK/HEAD AND NECK

5. Skedel Sien beskrywing van in- en uitgangskietwonde in die skedel. Daar
Skull is ook 'n liniêre skedelfraktuur wat vanaf die ingangswond strek voorwaarts deur die linker posterior skedelholte, tot in die linker petrosale been. Daar is veelvuldige ingedrewe frakture van albei neusdak- en oogkasdakplate.

6. Skedelinhoud Skietwondgang strek dwarsdeur die serebellum, die agterste
Intracranial contents gedeelte van die pons en die regter temporale pool. Uitgebreide sub-arahnoidale bloeding aan die basis en bo-oor albei hemisfere.

7. Oog-, neus- en oorholtes Veelvuldige ingedrewe frakture van die oog en neusdak
Orbital, nasal and aural cavities plate. Die oog, neus en oorholtes is egter nie oopgemaak nie.

8. Mond, tong en farinks Die punt van die tong, waar dit tussen die tande
Mouth, tongue and pharynx deursteek, toon verbranding. Daar is geen verdere verbranding van die tong, of farinks slymvlies nie, en daar is geen rookverkleuring of roet-

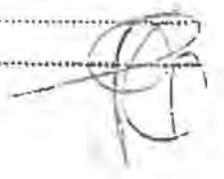
9. Nekstrukture deeltjies in die mond, farinks of lugweë nie.
Neck structures Niks abnormaals gevind nie.

BORS/CHEST

- 10. Borskas en diafragma
Thoracic cage and diaphragm... Sien bladsy 1. Al drie die wonde voor op die
borskas strek dwarsdeur die borskaswand. Die ribbes aan albei
kante...toon verkolings- en wegbranding van die laer ribbes.
- 11. Mediastinum en slukderm
Mediastinum and oesophagus... Steekwond (2) strek deur die anterior mediastinum.
- 12. Tragea en brongie
Trachea and bronchi... Geen rookverkleuring of roetdeeltjies in die tragea
of brongie nie.
- 13. Pleuraa en longe:
Pleuraa and lungs:
Reger
Right... Daar is 100ks bloedstolsels met 'n gekookte voorkoms
in die regter, en Long massa
Lung mass
Linker
Left... 200ks bloedstolsels met 'n gekookte voorkoms in die
linker borsholte. Long massa
Lung mass
- 14. Har en perikardium
Heart and pericardium... Die buikwand aan albei kante agter is dwarsdeur verbrand
met verkolings van die opstygende gedeelte van die kolon regs en die
afdalende gedeelte van die kolon links Har massa sowel as 'n aantal
kleinderm lusse wat deur die lendewand uithang. Heart mass
- 15. Groot bloedvate
Large blood vessels... Niks abnormaals gevind nie.

BUIK/ABDOMEN

- 16. Buikholte
Peritoneal cavity... Niks abnormaals gevind nie.
- 17. Mags en inhoud
Stomach and contents... Bevat enkele fragmente half verteerde voedselreste.
- 18. Derms en mesenterium
Intestines and mesentery... Verbranding van opstygende en afdalende kolon,
sowel as enkele kleinderm lusse.
- 19. Lewer, galblaas en galbuis
Liver, gall-bladder and biliary passages... Die lewer het 'n bruin-geel voorkoms, maar
kom nie vergroot of vervat voor nie en toon 'n gekookte voorkoms
van die regter lewerkwab. Liver massa
Liver mass
- 20. Pankreas
Pancreas... Niks abnormaals gevind nie.
- 21. Milt
Spleen... Kom klein voor met 'n gekookte voorkoms. Milt massa
Spleen mass

 GP
LC

Doodregister
Death register No. NB PM 1018/85

As.2

- 22. Byniere
Adrenals
Right..... Niks abnormaals gevind nie.
Linker
Left.....
- 23. Niere en ureters:
Kidneys and ureters:
Right..... Albei niere het 'n gekookte
en verkrimpte voorkoms. Nier massa
Kidney mass.....g
Linker
Left..... Nier massa
Kidney mass.....g
- 24. Urienblaas en uretra
Urinary bladder and urethra..... Niks abnormaals gevind nie.
- 25. Bekkenwande
Pelvic walls.....
- 26. Geslugsorgane
Genital organs..... Die uitwendige geslugsorgane toon erge verbranding.

RUGGRAAT/SPINE

- 27. Ruggraat
Spinal column..... Nie oopgemaak nie, maar geen uitwendige tekens
van besering nie.
- 28. Rugmurg
Spinal cord.....

MONSTERS GEHOU/SPECIMENS RETAINED

| Aard van monster Nature of specimens | Aard van ondersoek vereis Nature of investigation required | Beskikking oor monsters Disposal of specimens |
|---|---|--|
| Sien Aanhangsel 2. | | |
| | | |
| | | |
| | | |

VERDERE WAARNEMINGS/ADDITIONAL OBSERVATIONS

Sien Aanhangsel 2.

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DR NB PM 1018/85
Bladsy 2, item 4 (vervolg)

AANHANGSEL 1

AS.2

A. VERBRANDING

Die liggaam toon uitgebreide verbranding van die hele liggaam voor met diep verkoling van die spiere voor aan albei bobene, maar minder ernstige verbranding van albei voete waaraan gedeeltelike verbrande sokkies nog teenwoordig is.

'n Groot gedeelte van die kopvel agter, 'n gedeelte van die vel oor die skouerblaaie agter, sowel as 'n gedeelte van die vel oor die boud area toon minder ernstige verbranding.

Daar is diep verbranding en verkoling van die laer rug en lendespiere agter met deurbranding dwarsdeur die ribbes aan albei kante agter tot in die borsholte regs en tot in die buikholte links agter waardeur dermlusse uithang.

Die spiere van die bobene agter en lateraal agter toon diep verkoling tot op die hoogte van die kniebuiging agter.

B. STEEKWONDE

Drie steekwonde voor op die borskas. (1) is 3,0cm lank, 10,0cm regs van die middellyn en 10,0cm onderkant skouerhoogte. 'n Wondgang strek van hieraf mediaal-, af- en gering agterwaarts skuins onder die borsvel en borsspiere in en drink die borskas binne tussen ribbes 2 en 3 net regs van die middellyn tot in die anterior mediastinum se sagte weefsel

(2) is 4,0cm lank, skuins horisontaal geleë in die middellyn voor 20,0cm onderkant skouerhoogte. 'n Wondgang strek na agter afwaarts en effens na links, sny die linker rand van die borsbeen deur op die hoogte tussen ribbes 4 en 5, strek tot in die linker borsholte, deur die anterior mediastinum se sagte weefsel, dwarsdeur die regter ventrikel, die intraventrikulêre septum en agterwan van die linker ventrikel van die hart deur.

(3) is 'n steekwond wat op die laer borskas links voor geleë is op die rand van die verkoalde vel area, sodat die uitwendige mate van hierdie wond nie gemeet kan word nie. 'n Wondgang strek na agter en afwaarts deur tussen ribbes 6 en 7, deur die linker diafragma koepel tot in die buikholte.

Daar is drie steekwonde agter op die rug geleë:

(1) is 3,0cm lank, vertikaal geleë, 4,0cm van die middellyn en 6,0cm onderkant die skouerlyn.

(2) is 3,0cm lank vertikaal geleë, 2,0cm links van die middellyn en 14,0cm onderkant die skouerhoogte. (3) is 1,5cm lank vertikaal geleë regs agter 4,0cm van die middellyn en 16,0cm onderkant skouerhoogte. Daar is 'n steekwond wat net onder die vel van die agterkop laag af deur strek met 'n wond wat 2,0cm lank is aan die linkerkant van waar 'n wondgang onder die vel deur strek na regs en afwaarts met 'n uitgangswond van 1,0cm. Sien skets.

C. SKIETWOND

(1) 'n ingangswond is geleë in die kopvel links, 6,0cm agter die linker oor en het 'n onreëlmatige ovaal voorkoms met 'n horisontale ligging, 2,0cm lank en 1,0cm breed. 'n Wondgang strek van hier skuins na voor, na regs, en effens opwaarts deur die skedel. Die skedel ingangswond is 1,5cm in deursnee met beenrande wat na binne ingebreek is in die linker posteriorholte van die skedel, en is geleë 4,0cm links agter die foramen magnum. Die wondgang strek van hier deur die serebellum, deur die posterior helfte van die pons, deur die regter temporale breinkwab se onderste helfte, en deur die laterale wand van die skedelbasis regs net onder en agter die vryrand van die sfenoïed been. Die uitgangswond deur die skedelbeen hier, is 0,7cm in deursnee met beenrande wat na buite uitgebreek is. 'n Vervrommelde

loodkoeëlpunt is net buitekant die skedelbeen en onder die regter temporale spiere gevind. Daar is uitgebreide subaragnoëdale bloeding aan die basis, en bilateraal oor die bo-oppervlaktes van albei breinhemisfere. (Koeëlpunt (1) is aan sy basis gemerk K1.)

(2): 'n Tweede loodkoeëlpunt is gevind in die laterale borskasspiere links voor op die hoogte van \pm die tiende rib, in die area van die borskas waar die vel en onderliggende spiere verkoling toon sodat geen vel ingangswond of rigting van die wondgang bepaal kon word nie. Hierdie koeël toon slegs geringe afplatting van sy voerpunt en is aan sy basis gemerk K2.



MONSTERS GEHOU

1. Bloed van die oorledene is met 'n spuit uit die femorale vena getrek en in 'n botteltjie gespuit wat uit 'n houtkissie verwyder was na die seël van die Gesondheidskeikunde Laboratorium Nr 7 gebreek is. Beide botteltjie en houtkissie is gemerk DR NB PM 1018/85. Na terugplasing van die botteltjie in die houtkissie, is laasgenoemde oorhandig aan S/A/O S J Els.
2. ^{Bloed vir} Koolstofmonoksiedbepaling oorhandig aan S/A/O S J Els.
3. Bloed vir groeperingsdoeleindes is van hierdie liggaam geneem, die monsters is gemerk NB PM 1018/85 en oorhandig aan Speurder Adjutant-Offisier Els van die Moord en Roof Afdeling van Port Elizabeth.
4. Die koeëlpunte is as gevolg gemerk: (1) wat deur die skedel gestrek het, is aan die basis gemerk K1 en (2) wat links in die borskas spiere gevind is, is aan sy basis gemerk K2, en albei koeëlpunte is oorhandig aan S/A/O S J Els van die Moord en Roof Afdeling, Port Elizabeth.

VERDERE WAARNEMINGS

1. Fotos van hierdie oorledene is in my teenwoordigheid geneem deur die amptelike polisie fotograaf van die plaaslike vingerafdruk afdeling.
2. Die lykskouing is uitgevoer in teenwoordig van Dr Jan Botha, Spesialis Patoloog van Johannesburg.


 SP
 LC

140/16/85


SUID-AFRIKAANSE POLISIE

Staatslykhuis New Brighton, Port Elizabeth Reeks No. DR NB PM 1022 / 85

BEËDIGDE VERKLARING INGEVOLGE ARTIKEL 212 (4), WET 51 VAN 1977

Ek, Gideon Jacobus Knobel
(volle voorname en van)

MB ChB, D Geregt Gen SA, MMed Path
(kwalifikasies)

*verklaar onder eed/~~bevestig~~:

Ek is in diens van die Staat as 'n ~~distrikspesialist~~/patoloog te Kaapstad.

Op 3 Julie 1985 is die lyk van 'n ~~Bantoe~~/Swart/~~Kaapstad~~

~~Asic~~ *man/~~xxx~~ met hang-etiket genommer DR NB PM 1022/85 aan my uitgewys deur
S/A/O S J Els

en uitgeken as die lyk van gemerk 1022/85

Op 3 Julie 1985 het ek 'n lykskouing op die genoemde lyk uitgevoer en my bevindings op aangehegte vorm (Gesondheid 1) aangeteken, welke feite ek vasgestel het deur 'n ondersoek wat bedrewendheid in ~~biologiese/chemiese~~/~~anatomie~~/ ~~an~~patologie vereis.

- 1. Ek is vertrouwd met die inhoud van die verklaring en begryp dit.
- 2. Ek het ~~geen~~ ~~beswaar~~/~~geen~~ ~~beswaar~~ teen die aflegging van die voorgeskrewe eed.
- 3. Ek beskou die voorgeskrewe eed ~~as~~ bindend/~~niet~~ bindend vir my gewete.

Plek KAAPSTAD

Datum 18/7/85


HOOF SPESIALIS/PROFESSOR

Ek sertifiseer dat die verklaarder erken dat hy/sy vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Hierdie verklaring is beëdig/~~bevestig~~ voor my en verklaarder se handtekening/~~of~~ ~~af~~druk/~~merk~~ is in my teenwoordigheid daarop aangebring.

Datum 8507-18 om 12h00

Plek Kaapstad

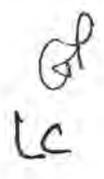

Kommissaris van Ede

Volle naam (In drukskrif) PAUL PETER COETZER

Besigheidsadres (In drukskrif) STAATSLYKHUIS, DURHAM WAT

Soutreivier
Rang Konstabel Suid-Afrikaanse Polisie

* Skrap woorde nie van toepassing nie.
A.P.—Skappings moet skuur gedoen en veranderings moet gefarmer word.


LC

Handwritten: 14/6/85

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G.P.S.

REPUBLIEK VAN SUID-AFRIKA • REPUBLIC OF SOUTH AFRICA
DEPARTEMENT VAN GESONDHEID EN WELSYN • DEPARTMENT OF HEALTH AND WELFARE
VERSLAG OOR 'N REGSGENEESKUNDIGE LYKSKOUING
REPORT ON A MEDICO-LEGAL POST-MORTEM EXAMINATION

Death register No NB PN 1022/85

Aan die Landdros van Port Elizabeth
To the Magistrate of

Eks. Gideon Jacobus Knobel sertifiseer hiermee—
do hereby certify—

(i) dat ek op S. A. Polisie Dodehuis, New Brighton, Port Elizabeth
that at
op die 1de dag van Julie, 1985 beginnende om 10 h 15
on the day of commencing at
die liggaam van Swart manlike volwassene
I examined the body of
ondersoek het:

(ii) dat die liggaam vir my geïdentifiseer is—
that this body was identified to me—
(a) deur Speurder A/O S J Els van Moord en Roof Afdeling, Port Elizabeth
by of
(b) deur Sicelo Mhlauli van
by of
as die van Sicelo Mhlauli
as being that of
wie se ouderdom na bewering / ~~90 jaar~~ ± 36 jaar was,
whose reputed / estimated age was

(iii) dat die dood plaasgevind het—
that death took place—
(a) soos medegedeel op Vermoedelik 27/6/85 om Onbekende
as informed on at tyd in die aand
(b) soos bepaal met ondersoek ure voor my ondersoek;
as determined at examination hours prior to my examination;
Die liggaam was gevind na bewering op 13h00 te Blue Water
Bay, Port Elizabeth op 29/6/85.
A) Die liggaam toon ook uitgebreide verbranding met verkoling
van groot areas van die liggaam. (Vervolg op aanhangsel I)

(iv) dat die vernaaiste lykskouingsbevindings in verband met hierdie liggaam die volgende was
that the chief post-mortem findings made by me on this body were
B) Daar was veelvuldige steekwonde aan die liggaam, nl 25 steek-
wonde aan die voorkant van die borskas en arms, 7 steekwonde agter op die r
en 'n groot snywond voor en regs aan die nek.
Die regterhand was net bokant die pols totaal afwesig, met 'n
steekwond deur die vel bokant die regter pols, en 'n steekwond dwarsdeur die
vel van die linkerhand palm.

(v) dat, as gevolg van my waarnemings waarvan 'n lys hieronder volg ek besluit het—
that, as a result of my observations a schedule of which follows, I concluded—
(a) dat die dood voor my ondersoek plaasgevind het; en
that death had occurred prior to my examination; and
(b) dat die oorsaak/oorseke van die dood
that the cause/causes of death was/were
Meelvuldige steekwonde en die gevolge daarvan.

Gedeeser te Knaarstad op hede 1ste dag van Julie 1985
Dated at this day of
Handtekening NB CHB, D Geregt Gen SA
Signature Qualifications Med Path.
Ampstif HOOFSPESIALIS, PROFESSOR
Designation

Vir instruksies betreffend die voltooiing van individuele paragrafe van hierdie verslag moet afdeling 2A.10 van vorm Ges. I (a) geraadpleeg word.
For instructions as to the completion of individual paragraphs of this report, section 2A.10 of form (Health) I (a) should be consulted.

Handwritten initials: GP, LC

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177 **AS. 14**

GW 7/15

Lys Waarnemings

Schedule of Observations

Doodregister No. NB PM 1022/85
Death register

ALGEMEEN/GENERAL

- 1 Lengte 1.75 m Massa ± 90 kg Liggaamsbou groot en fris Voedingstoestand Daar is vetsu teenwoordig.
Height.....m Mass.....kg Physique..... Nutrition.....
- 2 Spesiale identifiserende kenmerke Geen van belang.
Special identifying features.....
- 3 Sekondêre nadoodse veranderinge Weens verbranding van die liggaam kon gewone
Secondary post-mortem changes..... nadoodse veranderinge nie waargeneem word nie. Daar is hitte
verstywing van die spiere. Die liggaam was afgekoel.
- 4 Uitwendige voorkoms van liggaam en toestand van ledemate Sien Bylae A vir sketse en
External appearance of body and condition of limbs..... Aanhangsel 2.

KOP EN NEK/HEAD AND NECK

- 5 Skedel Niks abnormaals gevind nie.
Skull.....
- 6 Skedelinhoud Daar is geringe subaragnoïedale bloedbevlekking oor
Intracranial contents..... beide breinhemisfere se superior aspekte. Geen skedelbasis
frakture is teenwoordig nie.
- 7 Oog-, neus- en oorholtes Nie oopgemaak nie. Geen uitwendige tekens van
Orbital, nasal and aural cavities..... neusbeen frakture nie. Die oorskulpe is feitlik weggebrand.
- 8 Mond, tong en farinks Die voerpunt van die tong steek tussen die tande
Mouth, tongue and pharynx..... uit en toon verbranding. Die slymkliese van die nes van die tong, d
mond en farinks toon geen tekens van verbranding of roet of rookbevl
- 9 Nekstrukture Sien bladsy 1. King

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Doodregister
Death register No. NB PM 1022/85

A5.4

BORS/CHEST

- 10. Borskas en diafragma
Thoracic cage and diaphragm..... Sien Aanhangsel III.....
- 11. Mediastinum en slukderm
Mediastinum and oesophagus..... Daar is bloeding in die anterior mediastinum.....
Die slukderm is normaal.....
- 12. Tragea en brongi
Trachea and bronchi..... Bevat bloederige slym, maar geen rookverkleuring of
roet deeltjies nie.....
- 13. Pleurae en longe:
Pleurae and lungs: Sien Aanhangsel IV.
 - Reger
Right..... Long massa
Lung mass.....g
 - Linker
Left..... Long massa
Lung mass.....g
- 14. Hart en perikardium
Heart and pericardium..... Daar is ~ 50ks bloed in die hartsek..... Een wond
strek deur tot in die regter ventrikel van die hart soos reeds
beskryf (wond nr 3).
Hart massa
Heart mass.....g
- 15. Groot bloedvate
Large blood vessels..... Die regter jugulare vena in die nek is raakgesny.
Verder, niks abnormaals gevind nie.....

BUIK/ABDOMEN

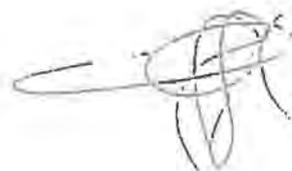
- 16. Buikholte
Peritoneal cavity..... Geringe hoeveelheid vry bloed teenwoordig wat die
dermlusse bevlek.....
- 17. Maag en inhoud
Stomach and contents..... Steekwond strek dwarsdeur maag. Die maag bevat n
klein hoeveelheid bloederige slym.....
- 18. Darme en mesenterium
Intestines and mesentery..... Die transvers kolon toon 'n snywond deur die
wand van die gedeelte wat deur 'n steekwond van die linker
diafragma koepel gegly het tot in die linker borshalte.....
- 19. Lewer, galblaas en galbuis
Liver, gall-bladder and biliary passages..... Die lewer is erg vergroot, toon uitgesproke
lewer vervetting met 'n ronde rant.
 - Lever massa 2350g
Liver mass.....
- 20. Pankreas
Pancreas..... Toon 'n steekwond.....
- 21. Mil
Spleen..... Normaal.
 - Mil massa
Spleen mass.....

Handwritten signature and initials (GP, E)

Bladsy 1, item (iii) vervolg:

A. Verbranding.

Hierdie verbranding strek aan die voorkant van die liggaam en die gesig afwaarts oor die borskas en buik en al vier die ledemate. 'n Groot deel van die buik en boonste gedeelte van albei bobene toon erge verkoling en is weggebrand tot diep in die spiere. Daar is geen verbranding van die slymvliese van die mond, die farinks of die tragea nie. Daar is ook geen teken van rookverkleuring, roet of koolstof deeltjies in die mond, farinks, tragea of lugpype nie. (Vir gedetailleerde beskrywing van die beserings, sien Bylae A vir sketse.



GP
LC

(1) *A5.4*

Bladsy 2, item (4) vervolg:

A. Verbranding.

Uitgebreide verbranding van die liggaam. 'n Gedeelte van die agterkop sowel as 'n groot area agter op die rug oor die skouerblaaie en mid rug gebied toon min tekens van verbranding. Die sagte weefsel van die buik en lies area en die boonste gedeelte van albei bene voor is diep weggebrand met verkoling van die onderliggende spiere. Die voete en enkel areas toon minder tekens van verbranding, soos gesien sou word indien hierdie gedeeltes deur skoene en sokkies bedek sou gewees het.

B. Snywond .

'n Groot horisontale snywond, 14,0cm lank strek voor oor die nek van net links van die middellyn na regs en effens opwaarts aan die regter laterale aspek van die nek tot net onderkant die oorskulp en net agter die kaakhoek. Hierdie wond strek diep deur die nekspiere, dwarsdeur die tragea na agter, tussen die tiroïed-kraakbeen en die hioïed-been deur, strek dwarsdeur die posterior wand van die hipofarinks, tot teen die nekwerwel kolom. Die linker sterno-mastoïedspier is gedeeltelik raakgesny. Die linker arterie karotis en jugulare vene is nie raakgesny nie. Die regter sterno-mastoïed spier is feitlik dwarsdeur gesny. Die regter jugulare vene is raakgesny, maar die karotis arteri is normaal.

C. Steekwonde.

Vooraan die liggaam en arms: 25 steekwonde: (1) is 2,5cm lank horisontaal geleë voor op die borskas, 5,0cm van die middellyn, en 12,0cm onderkant die skouerlyn. 'n Wondgang strek van hier lateraal en skuins opwaarts onder die vel in, vir 'n diepte van 8,0cm in die borskas spiere.

(2) is 4,0cm lank horisontaal geleë net regs van die middellyn, 15,0cm onderkant skouerhoogte. 'n Wondgang strek mediaal agter- en afwaarts tussen ribbes 2 en 3 deur.

(3) is 'n skuins-vertikaal geleë wond, 2,0cm lank, 8,0cm

Handwritten sketches and initials: 'ep', 'lc', and other illegible marks.

Aanhangsel II, vervolg:

(2)

links van die middellyn en 15,0cm onderkant skouerhoogte. Wondgang strek mediaal af en agterwaarts tussen ribbes 2 en 3 links deur tot in die regter ventrikel van die hart.

(4) is 7,0cm lank skuins geleë links voor op die borskas, 10,0cm van die middellyn en 20,0cm onderkant skouerhoogte. 'n Wondgang strek mediaal af en agterwaarts tussen ribbes 4 en 5 links deur.

(5) is 2,0cm lank, 12,0cm links van die middellyn en 22,0cm onderkant skouerhoogte. Hierdie wond strek na agter lateraal en afwaarts slegs in die spiere en nie deur die borskaswand nie.

(6) is 3,0cm lank vertikaal geleë 8,0cm links van die middellyn en 26,0cm onderkant skouerhoogte.

(7) is 2,0cm horisontaal geleë 9,0cm van die middellyn en 28,0cm onderkant skouerhoogte. Albei wonde(6) en (7) strek mediaal af en agterwaarts tussen ribbes 6 en 7 deur.

(8) is 6,0cm lank horisontaal geleë, 11,0cm links van die middellyn en 29,0cm onderkant skouerhoogte. 'n Wondgang strek na agter deur tussen ribbes 6 en 7 en veroorsaak 'n snywond 7,0cm lank in die tussenribspiere. 'n Wond strek ook van hieraf dwarsdeur die diafragma.

(9) is 2,0cm lank, 13,0cm van die middellyn en 30,0cm onderkant skouerhoogte. 'n Wondgang strek mediaal af en agterwaarts tussen ribbes 7 en 8 deur, deur die diafragma tot in die pankreas.

(10) is 1,5cm, 17,0cm van die middellyn en 28,0cm onderkant skouerhoogte.

(11) is 2,0cm lank, 10,0cm van die middellyn en 25,0cm onderkant skouerhoogte.



Aanhangsel II, vervolg:

(3)

(12) is 2,5cm lank, 19,0cm van die middellyn en 28,0cm onderkant skouerhoogte. Wonde (10,) (11) en (12) strek almal slegs deur spiere en nie tot in die borskaswand nie. Wonde (13) (14) en (15) is naby mekaar geleë links voor en lateraal op die borskas;

(13) is 2,0cm lank en 24,0cm onderkant skouerhoogte.

(14) is 2,5cm lank en 23,0cm onderkant skouerhoogte. Albei hierdie wonde is 23,0cm links van die middellyn.

(15) is 3,0cm lank, 24,0cm van die middellyn en 23,0cm onderkant skouerhoogte. Onderliggend tot hierdie wonde toon die tussenribspier tussen ribbes 5 en 6 'n skeur snywond 12,0cm lank.

(16) en (17) is elk 2,0cm lank, 20,0cm onderkant skouerhoogte en onderskeidelik 20 en 21,0cm links van die middellyn.

(18) is 3,0cm lank, 19,0cm van die middellyn en 17,0cm onderkant die skouerhoogte.

(19) is 2,5cm lank, 23,0cm van die middellyn, 15,0cm onderkant skouerhoogte en in die anterior okselvou geleë.

(20) is 2,3cm lank, 22,0cm links van die middellyn en 9,0cm onderkant skouerhoogte.

(21) is 4,0cm lank bo-op die linker skouerknop geleë 16,0cm van die middellyn met 'n los vel flap soos die vel losgesny is.

(22) is 4,0cm lank voor op die linker bo-arm net onderkant die oksel en strek slegs enkele sentimeter in die spiere in.



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Aanhangsel II, vervolg:
(4)

(23) is 5,0cm lank voor op die middel van die linker bo-arm geleë en strek slegs enkele sentimeter in die spiere.

(24) is 2,0cm lank, vertikaal geleë lateraal op die borskas links, in die mid-okseler lyn, 4,0cm onderkant die oksel.

(25) is \pm 2,0cm lank geleë reg bo-op die linker skouergebied net links van die nek.

Agter-op die rug:

(1) is 4,0cm lank vertikaal geleë 22,0cm links van die middellyn, 20,0cm onderkant die skouerlyn en 2,0cm onderkant die oksel hoogtepunt.

(2) is 2,5cm lank horisontaal geleë op die linker skouerblad, 23,0cm van die middellyn en 9,0cm onderkant die skouerlyn.

(3) is 4,0cm lank regs agter op die rug, 2,0cm van die middellyn en 8,0cm onderkant die skouerhoogte.

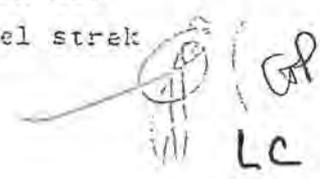
(4) is 'n skuins geleë oppervlakkige snywond \pm 7,0cm lank, regs van die middellyn en \pm 21,0cm onderkant skouerhoogte.

(5) is 'n oppervlakkige snywond in die vel net bokant (4).

(6) en (7) is albei horisontaal en parallel tot mekaar geleë 8,0cm van die middellyn en is onderskeidelik 2,5cm en 2,0cm lank, geleë aan die bokant van die rug regs agter, net onderkant die skouerlyn.

Voor op die linker pols:

- Daar is 'n winkelhaakvormige snywond 3,5cm lank in die duimkussing, vanwaar 'n wondgang net onder die vel strak



Aanhangsel II, vervolg:
(5)

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met 'n uitgangswond van 3,0cm lank aan die ulnare aspek van die polsgebied, in die kussing van die handpalm aan die pinkie se kant, net onderkant die pols.

Die reexter pols:

Die hand is by die polsgewrig totaal afgesny van die arm. Net bokant die pols is daar ook weer 'n steekwond wat dwarsdeur strek net onder die vel, met die in- en uitgangswonde 3,0cm en 3,5cm lank.



Hand-drawn diagram of a hand, possibly illustrating the location of the wounds mentioned in the text. The diagram shows a hand with a vertical line through the wrist area, possibly indicating the location of the wounds.

NB PM 1022/85

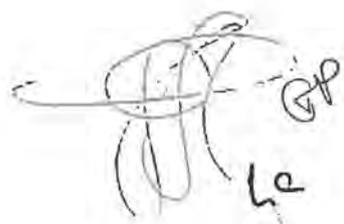
AANHANGSEL III

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Bladsy 3, item 10

Daar is veelvuldige steekwonde wat deur die borskaswand strek soos reeds beskryf. Daar is drie steekwonde wat deur die diafragma strek, die een is 7,0cm lank, die ander twee elk 3,0cm en 3,0cm. Daar is omentumvet en gedeeltes van die transvers kolon wat in die linker borsholte geleë is. Daar is 'n snywond deur die wand van hierdie gedeelte van die transvers kolon, wat 3,0cm lank is. Regs agter tussen ribbes 3 en 4 deur strek twee wonde: (1) is 2,5cm lank net regs van die werwelkolom; (2) is 5,0cm lank net regs van wond (1).

Links agter tussen ribbes 7 en 8 deur strek 'n vertikale steekwond 1,5cm lank op die posterolaterale aspek, en tussen ribbes 5 en 6 'n steekwond 1,5cm lank van agteraf deur net links van die werwelkolom.



Bladsy 3, item 13

(P) PLURAE EN LONGE

Daar is veelvuldige steekwonde in albei longe.

Regter: Drie wonde, elk 1,5cm lank strek tot in die regter bokwab. Een wond 2,0cm lank strek van die superolaterale aspek van die regter middelkwab mediaal af en voorwaarts dwarsdeur die middelkwab. Bloederige slym strek tot laag af in die brongiale vertakkinge.

Linker: Een steekwond deur die posterior rand van die bokwab tot in die onderkwab. ^{Voor:} Twee wonde elk deur die inferior rand van die linker onderkwab. Drie wonde bymekaar geleë, elk 1,0cm op die laer anterior aspek van die linker bokwab. Een wond 1,5cm lank deur die inferomediale rand van die linker bokwab. Een wond 1,0cm lank op die inferomediale rand van die bokwab. Die linkerlong kom gedeeltelik saamgeval voor. Daar is \pm 50ks vrybloed in elke borsholte.



NB PM 1022/85

AANHANGSEL V

AS.4.

MONSTERS GEHOU

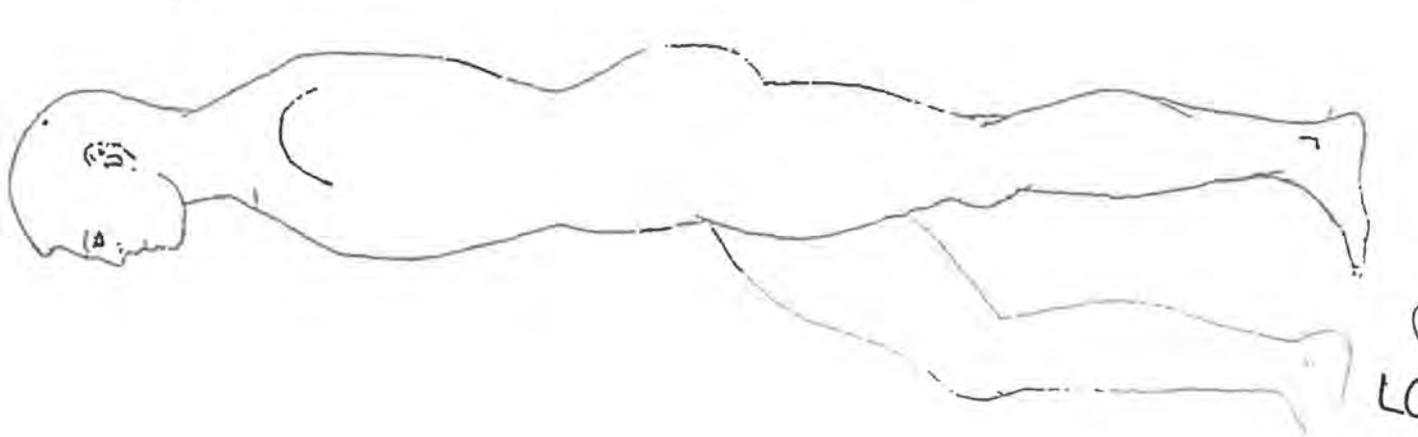
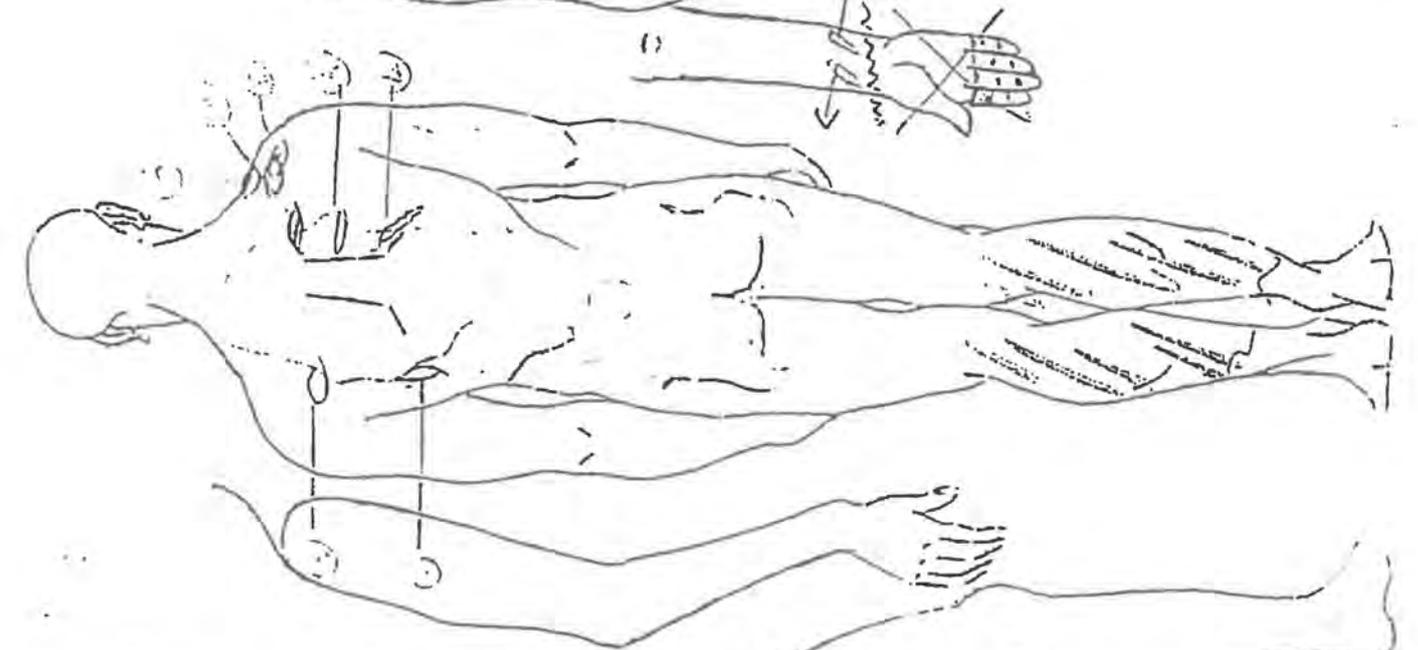
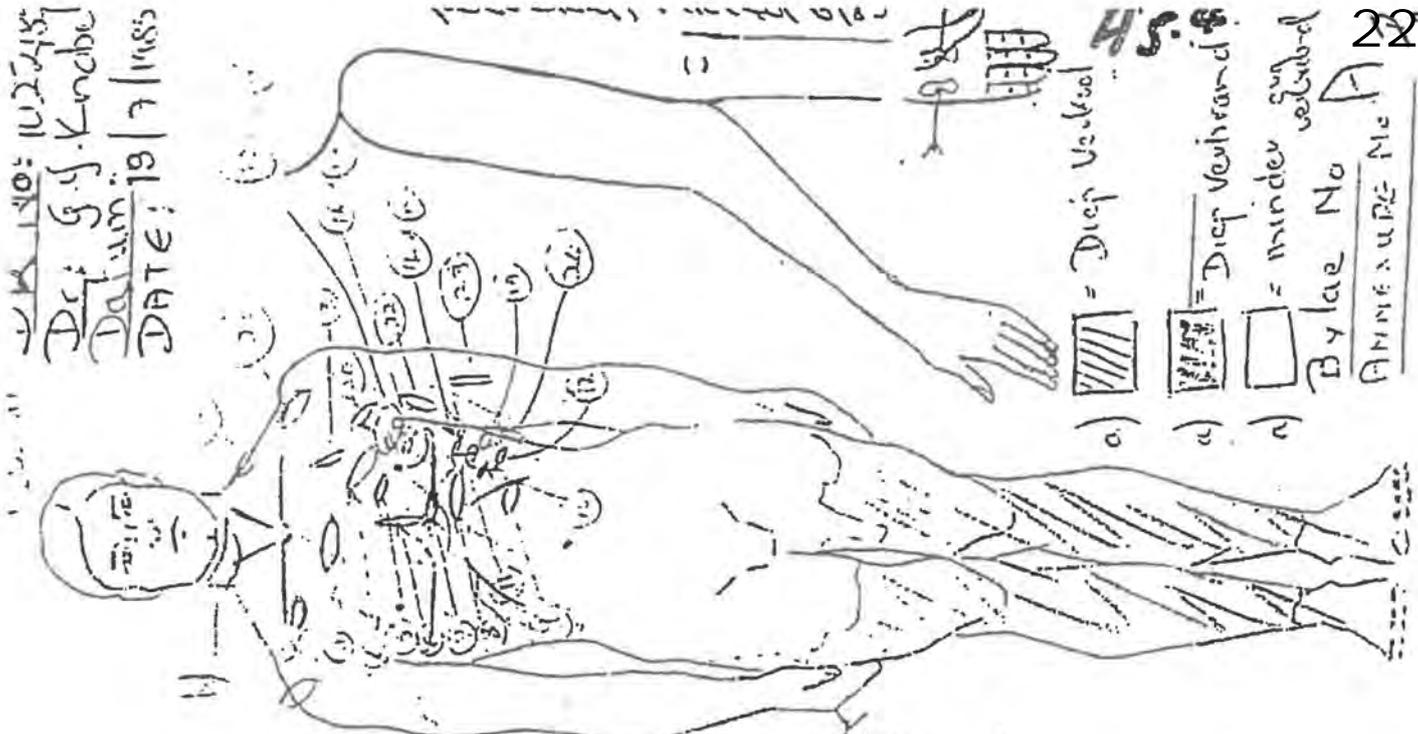
1. Bloed van die oorledene is met 'n spuit uit die femorale vena getrek en in 'n botteltjie gespuit wat uit 'n houtkissie verwyder was na die seël van die Gesondheidskeikunde Laboratorium nr. 7 gebreek is. Beide botteltjie en houtkissie is gemerk DR NB PM 1022/85. Na terugplasing van die botteltjie in die houtkissie is laasgenoemde oorhandig aan S/Adjutant-Offisier S J Els.
2. Bloed vir koolstofmonoksiedbepaling is oorhandig aan S/Adjutant-Offisier S J Els.
3. Bloed is ook geneem vir bloedgroeperingsdoeleindes en oorhandig aan S/Adjutant-Offisier S J Els.

VERDERE WAARNENINGS

1. Fotos van die oorledene is in my teenwoordigheid geneem deur die amptelike polisie fotograaf van die plaaslike vingerafdruk afdeling.
2. Die lykskouing is uitgevoer in teenwoordigheid van Dr J Botha, Spesialis Patoloog van Pretoria.



No: 10245
 Dr: G.Y. Kocabu
 Datum: 19/7/1985
 DATE: 19/7/1985



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Deceased Nam MA. 13/7/85

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IN THE SUPREME COURT OF SOUTH AFRICA
(SOUTH - EASTERN CAPE LOCAL DIVISION)

INQUEST NO. CC 7/93

Deceased:

MATTHEW GONIWE

SPARROW MKONTO

FORT CALATA

SICELO MHLAULI

FINDING

It has been proved that Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli were murdered near Port Elizabeth on 27 June 1985.

In February 1989 an inquest into their deaths was held at New Brighton, Port Elizabeth, by regional magistrate M. de Beer (Inquest No.626/87). In terms of the Inquest Act, No. 58 of 1959, he was required to endeavour to establish -

- (1) The identity of the deceased persons;
- (2) The cause, or likely cause, of their deaths;
- (3) The date of their deaths; and
- (4) Whether their deaths were brought about by

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any act or omission prima facie involving or amounting to an offence on the part of any person.

The magistrate was able to identify the four persons and to establish the date of their deaths as being 27 June 1985. He came to the conclusion, further, that they had been deliberately killed. He was however not able to establish the identity of the killer or killers.

During May 1992 a report appeared in the New Nation newspaper containing a photo copy of a signal allegedly sent from Port Elizabeth by Colonel (then Commandant) du Plessis, acting on the instructions of General (then Brigadier) van der Westhuizen, to General van Rensburg in Pretoria with the proposal that Matthew Goniwe, Mbolelo Goniwe and Fort Calata be permanently removed from society. The actual wording of the signal will be dealt with in due course. The newspaper referred to this signal as a death order, or death warrant, and suggested that the sender and receiver thereof might be responsible for the deaths of Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli.

It was then decided that the inquest into their deaths

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should be reopened, and I was requested by the Minister of Justice to preside at the re-opened inquest which started on 1 March 1993.

Exhaustive investigations were done and several affidavits taken by Adv. Hodgen, Adv. Henning and Adv. Marais of the Grahamstown Attorney-General's staff and at my request most of the evidence at this re-opened inquest was led by Adv. Hodgen and Adv. Henning. The South African Army, the South African Police and the Department of National Intelligence were represented by Counsel as were the families of the deceased persons. The aforementioned Colonel du Plessis also had his own counsel to represent him.

The proceedings at this re-opening of the inquest were long and protracted - the record runs to over 4500 pages - and I am greatly indebted to the various counsel involved for their thorough examination and cross-examination of the witnesses called to testify and for their very considerable assistance in the matter.

It soon became clear from the documents and evidence taken at the initial inquest, and from the documents and evidence taken at this re-opened inquest, that regional

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magistrate de Beer was justified in finding:

- (1) That the identity of the bodies of the deceased persons had been established as being those of Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli;
- (2) That the cause of their deaths was a deliberate killing. It can safely be said that they were deliberately murdered; and
- (3) That the date of their deaths was 27 June 1985.

These findings of the magistrate have not been questioned or doubted, and the purpose of re-opening the inquest was to see whether the perpetrator or perpetrators of the murders could be identified.

Matthew Goniwe was quite clearly the most important of the four deceased. The evidence strongly suggests that he was the person, or the main person, whom the perpetrators intended to murder. The other three, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli were travelling in a motor vehicle with Matthew Goniwe when

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they were attacked and this could be a reason, or the reason, why they were also murdered.

Matthew Goniwe was a prominent member of the United Democratic Front (UDF) in Cradock at the time of his murder. The UDF and the Azanian Peoples Organization (AZAPO) were at loggerheads at the time and it was initially thought that members of AZAPO may have been responsible for the murders. This was considered to be a possibility at the time of the initial inquest and this possibility was investigated as fully as was possible. No evidence of AZAPO involvement was forthcoming, and at this re-opening of the inquest it was stated by some of the witnesses that it is unlikely that the murders could have been committed by AZAPO members because of the way the murders were planned and executed.

The facts, briefly, are the following:

- (1) Matthew Goniwe's telephone in Cradock was tapped by the security police.
- (2) Matthew Goniwe was in the habit of going to Port Elizabeth on Wednesdays to attend meetings at the

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UDF office in Port Elizabeth

- (3) The usual Wednesday meeting was not held on Wednesday 26 June 1985. On 24 June 1985 Matthew Goniwe telephoned Derrick Swarts, a fellow UDF member in Port Elizabeth, and told him that he would be travelling to Port Elizabeth on Thursday 27 June 1985 and a meeting was arranged for that night. On Thursday morning 27 June 1985 Matthew Goniwe again telephonically confirmed the arrangement.
- (4) Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli travelled to Port Elizabeth in Matthew Goniwe's car where they met Derrick Swarts and other persons. At approximately 9.10 p.m. that night the four of them, i.e. Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli left Port Elizabeth for Cradock in Matthew Goniwe's motor vehicle. Before leaving Port Elizabeth Matthew Goniwe told Derrick Swarts that they would not stop on the way for anyone except the South African Police or the traffic police.
- (5) The evidence suggests that they did in fact stop,

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or were stopped, at or near Bluewater Bay, a short distance from Port Elizabeth, and the occupants of the car were then all murdered.

- (6) The car was taken to a place on the road to Addo where it was set on fire and almost completely destroyed. It seems to be clear that this was done in order to try to prevent the car from being identified as being that of Matthew Goniwe.
- (7) Both numberplates of the car were apparently removed. A severely burnt false numberplate, with the number CB. 10627, was left lying in front of the vehicle. Apparently due to a slip-up by the murderers, one of the original numberplates removed from the car, apparently not damaged or burnt, was left in the grass behind the burnt-out car, and it was this numberplate that led to the car being identified as that of Matthew Goniwe.
- (8) The mutilated bodies of the four deceased persons were left scattered over a wide area.
- The first body to be found was that of Sparrow Mkonto and his body was found on 28 June 1985 by certain Makwetlas in a remote area at Stones Hill,

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Redhouse. Sicelo Mhlauli's body was found the next day, on 29 June 1985, by a fisherman at Bluewater Bay. The bodies of Matthew Goniwe and Fort Calata were found three days later in the bushes alongside the Port Elizabeth/Grahamstown road, approximately 7 kms from where the car was found. These bodies were deliberately set on fire and one is forced to the conclusion that the intention was to render them unrecognisable and therefore not identifiable.

The overall impression one gets is that the murders were carefully planned and that great lengths were gone to to try to prevent any identification of the bodies and of the motor vehicle, and to try to eliminate clues which would link the bodies to each other and to the burnt-out vehicle.

Whoever planned and carried out the murders had to have the ability to formulate such a plan and the resources to carry it out. The South African security forces, which included the police, the security police and the army, had the necessary ability and resources.

Mr. de Bruyn, who appears for the South African Police,

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has submitted that members of AZAPO also had the ability and resources to carry out the murders. There is no evidence to support this submission which is in conflict with opinions expressed by certain of the witnesses including General van der Westhuizen who gave it as his opinion that the murders could only have been carried out by the security forces. The probabilities support this opinion. Apart from the unlikelihood that members of AZAPO would have been able to carry out the murders, and to then take the steps that were in fact taken to try to prevent any identification of the murdered persons or of the vehicle in which they travelled, it is improbable that members of AZAPO would have considered it necessary to go to such lengths to try to avoid an identification of their victims.

Because the probabilities point to members of the security forces as being the murderers suspicion centred on the army and the security police, and a considerable amount of evidence was led to try to prove their complicity or non-complicity therein.

It will be convenient at this stage to deal with the standard of proof required for a positive finding to be made in terms of section 16 (2)(d) of the Inquest Act,

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No. 58 of 1959.

An inquest is held where it appears that a death has occurred, that such death was not due to natural causes and where criminal proceedings have not been instituted in connection with the death. In the case of Marais NO v Tiley 1990 (2) S.A. 899 (A) Smalberger JA stated, at page 901 E-G:

"The function of an inquest is to determine the identity of the deceased person; the cause or likely cause of death; the date of death; and whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person (s 16 (2)). (The latter determination would include, insofar as this is possible, a finding as to who the responsible offender is or offenders are.) The underlying purpose of an inquest is to promote public confidence and satisfaction; to reassure the public that all deaths from unnatural causes will receive proper attention and investigation so that, where necessary, appropriate measures can be taken to prevent similar occurrences, and so that persons responsible for such deaths may, as far as

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possible, be brought to justice."

Smalberger JA also expressed his approval of the following passage in the judgment of Cillié JP and Marais J in the case of Timol and Another v Magistrate, Johannesburg 1972 (2) S.A. 281 (T) at pages 287 - 8;

"...for the administration of justice to be complete and to instil confidence, it is necessary that, amongst other things, there should be an official investigation in every case where a person has died of unnatural causes, and the results of such investigation should be made known".

In the case of De'ath (substituted by Tiley) v Additional Magistrate, Cape Town. 1988 (4) S.A. 769 (A) van den Heever J states at page 775 G :

"The predecessors of the Act show clearly that the purpose of all inquests is to investigate whether, when someone has died or is suspected of having died otherwise than of natural causes, his death has been the result of a criminal offence, and , if so, who the offender is. An inquest is not aimed at proving anyone's guilt, but is most certainly aimed at ensuring that, if possible, where guilt

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exists it will not remain hidden."

At the time when the cases quoted above were decided section 16 (2)(d) of the Inquest Act read as follows:

"16(2) The judicial officer holding an inquest shall record a finding upon the inquest -

(d) as to whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person."

De Villiers J. in the case of Claassens en 'n Ander v. Landdros, Bloemfontein en 'n Ander 1964 (4) S.A. 4 (0) stated, at page 11C"

"Art.16(2)(d) dui nie aan watter maatstaf eerste verweerder moes gebruik het om tot 'n bevinding te geraak nie. Vir doeleindes van hierdie uitspraak sal dit aanvaar word - aangesien daar geen ander voor die hand liggende maatstaf is nie - dat eerste verweerder geroepe was om op 'n oorwig van waarskynlikhede te beslis."

It was thus not clear what test was envisaged by the legislature.

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Section 16(2)(d) of the Act was then amended by section 16 of Act 45 of 1990. The amendment simply added the words "prima facie" between the words "omission" and "involving" so that the section now reads:

"16(2) The judicial officer holding an inquest shall record a finding upon the inquest -

(d) as to whether the death was brought about by any act or omission prima facie involving or amounting to an offence on the part of any person."

This amendment, and the interpretation of the section generally, was considered by Stegmann J. in the unreported case of the Inquest Into The Death of Dr. David Joseph Webster, a judgment of the Witwatersrand Local Division delivered on 22 January 1993. Stegmann J came to the conclusion that the test to be applied is the same test that is used at a criminal trial, namely proof beyond a reasonable doubt. He concluded further that the introduction by the legislature of the words "prima-facie" to section 16 (2)(d) in 1990 was merely intended to show that a finding made at an inquest is not a final and binding determination that immediately

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affects the legal rights and obligations of the interested parties. Such rights and obligations remain to be determined in subsequent civil or criminal proceedings.

With due respect I am unable to agree with the conclusion reached by Stegmann J. When the amendment to the section was introduced it was known and accepted that inquest findings did not finally determine the rights and obligations of parties. This acceptance did not require any further clarification and no amendment to the section was necessary for this purpose. What was not clear, as can be seen from Claassen's case quoted above, was the test to be applied by the magistrate or judge presiding at the inquest in order to arrive at his findings, and it was to clarify this uncertainty, in my opinion, that the amendment was introduced. The section, as I read it, now provides that the presiding officer must record a finding in terms of section 16(2)(d) if in his opinion the evidence establishes prima facie that an offence causing the death of the deceased has been committed by any person. This conclusion is, in my view, supported by the fact that section 16(1) of the Act specifically requires proof

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beyond a reasonable doubt for a positive finding that a death has occurred in a case where no body is found. When section 16(2)(d) was amended the legislature, in my opinion, provided for a different standard of proof.

This conclusion still does not determine what exactly is meant by the words prima facie. It has been suggested that the test is to be the test applied at the end of the state case in a criminal trial where an application is made for the discharge of the accused, or the test applied at the end of the plaintiff's case in a civil trial where absolution from the instance is sought. The problem is that we are dealing here with an inquisitorial and not an adversarial proceeding and it is difficult in the former type of proceeding to apply the test that is used in the latter type of proceeding.

The officer presiding at an inquest does not always have all of the available evidence at his disposal. He submits his report to the attorney-general who then has to decide whether or not a prosecution should follow. If a prosecution does follow it will be for the trial court to decide whether the case against the accused has been proved beyond a reasonable doubt. The presiding officer at the inquest need go no further than to ask

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himself whether a prima facie case has been established against any particular person.

In deciding whether a prima facie case has been established some regard must, in my opinion, be had to the reliability and credibility of witnesses if they have given evidence at the inquest. The fact that evidence has been produced which, if accepted, would prove that some person has committed an offence which brought about the deceased's death will, in my opinion, not be sufficient to justify a positive finding if it is obvious to the officer presiding at the inquest that there is no prospect of such evidence being believed at a subsequent criminal trial.

Bearing in mind the object of an inquest it is my opinion that the test to be applied is not the "beyond reasonable doubt" test but something less stringent. In my opinion the test envisaged by the Inquest Act is whether the judicial officer holding the inquest is of the opinion that there is evidence available which may at a subsequent criminal trial be held to be credible and acceptable and which, if accepted, could prove that the death of the deceased was brought about by an act or omission which involves or amounts to the commission of

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a criminal offence on the part of some person or persons.

Mr. Bizos has submitted that the person referred to in the section need not be a natural person but could be an artificial person since artificial persons can be held liable for criminal acts or omissions. See e.g. section 332 of Act 51 of 1977. This is no doubt correct but in my opinion it will only apply where one is dealing with a corporate body or association which can be correctly described as an artificial person.

Mr. Bizos has submitted further that the evidence establishes prima facie that members of the South African police and members of the South African defence force planned and carried out the murders of Matthew Goniwe and the others. He submits that I should find that there is prima facie proof that General van der Westhuizen, Colonel du Plessis, Major General van Rensburg, Colonel Snyman and Colonel Winter were all involved in the murders. He submits, in the alternative, that I should find that General van der Westhuizen and Major General van Rensburg conspired to commit the murders, or that General van der Westhuizen is guilty of incitement to murder.

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As regards the allegation of incitement I must bear in mind the fact that I cannot make a positive finding in terms of section 16(2)(d) unless the evidence prima facie establishes an offence which "brought about" the deaths of the murdered persons. If the evidence establishes an incitement to murder which in fact did not cause or contribute to the deaths of the murdered persons this will not justify a finding in terms of the section. The same applies to conspiracy to murder. If, for example, there is evidence which prima facie proves that General van der Westhuizen and Major General van Rensburg conspired to murder the said persons, but if the murderers who carried out the murders were unaware of that conspiracy, it cannot be said that the deaths "were brought about by" the conspiracy. In such a case again no finding in terms of section 16(2)(d) would be justified. In the case of an alleged conspiracy it would of course also have to be proved that there was a meeting of minds amounting to an agreement between the conspirators that the persons in question be murdered.

Mr. Bizos submits that the only inference to be drawn from the proven facts is that the murders were planned and committed by members of the South African defence force, including General van der Westhuizen, Major

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General van Rensburg and Colonel du Plessis, and that the murders were committed with the help and assistance of members of the police force, including Colonel Snyman and Colonel Winter. There is no direct evidence suggesting a common purpose to murder or an agreement between the defence force and the police to commit the murders and I intend at this stage to deal separately with the allegations against members of the police and the allegations against members of the South African defence force.

I start off with the police.

At the time of the murders the country was in a state of unrest and the Eastern Cape in particular was described as the centre or burning-point of the unrest. The African National Congress (ANC) had been banned but the United Democratic Front (UDF) had not been banned even though it was considered to be a front for the ANC.

Matthew Goniwe was an organiser for the UDF. He played a leading role in organising school and trade boycotts, and it was felt that he was actively assisting in what

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was termed the revolutionary strategy. This included the setting up of alternative structures such as street committees. The security police and the army were engaged in what was regarded as a counter-revolutionary strategy. Matthew Goniwe was a thorn in the flesh of the security forces and he was at times referred to as an enemy of the State.

Colonel Harold Snyman was in 1985 head of the Eastern Cape branch of the security police and was stationed in Port Elizabeth. The head of the local security branch in Cradock was Colonel Winter. The commanding officer of the Commando Unit in Cradock was Commandant Botha Marais.

Matthew Goniwe was on 1 September 1977 convicted in Umtata of furthering the aims of Communism in the Transkei and was sentenced to four years' imprisonment. He then left the Transkei. In 1984 he was detained in South Africa for a period of six months in terms of the security legislation then in force but on his release he continued with his anti-establishment protests. He lost his position as a teacher when he refused a transfer from Cradock to a school in Graaff-Reinet. He then became the main organiser of the UDF in the Eastern Cape

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and he devoted most of his time to his political activities. It was felt that something had to be done to curb his activities.

The Department of Education and Training felt that Matthew Goniwe should be reinstated as a teacher in Cradock in an attempt to end the school boycotts and to curb his political activities. The security forces in general were opposed to his reinstatement.

Col. Snyman was against Matthew Goniwe's reinstatement as a teacher. He would have preferred to see him convicted of a crime and given a long prison sentence. He felt in any case that Matthew Goniwe's further detention in terms of the security legislation was warranted. Commandant Botha Marais was also opposed to Matthew Goniwe's reinstatement as a teacher. Colonel Winter, on the other hand, stated in evidence that he favoured Matthew Goniwe's reinstatement. However it is clear that on 3 April 1985 there was a request from the security branch of the South African police that Matthew Goniwe be detained in terms of the security legislation.

Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli were murdered on the night of 27 June 1985. It

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is clear from the evidence that the murders were carefully planned and that the murderers went to great lengths to try to prevent any identification of the murdered persons and of the vehicle in which they travelled.

When the inquest was held by regional magistrate de Beer it was thought that members of AZAPO might have been the murderers. However, in the evidence given before me it was conceded by most witnesses that this was unlikely. A further fact is that before leaving Port Elizabeth Matthew Goniwe told Derrick Swarts that on their return journey to Cradock they would not stop for anyone other than the police or the traffic police. It is unlikely that they would have stopped for members of AZAPO, and there were no signs to indicate that the vehicle in which they travelled had been forced off the road or forced to stop.

The evidence suggests that Matthew Goniwe and his fellow travellers voluntarily stopped their vehicle, and the evidence suggests further that their deaths were then caused by members of the security forces. I use this term to include the police, the security police and the army. The question I am now dealing with is whether

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there is prima facie proof that the murderers were members of the South African police or of the security police.

It is clear from the evidence that at the time of his death Matthew Goniwe's telephone was being tapped by the Cradock security police and his movements were being carefully monitored. In a telephone conversation on Monday 24 June 1985 Matthew Goniwe let it be known that he would be travelling to Port Elizabeth for a meeting there on Thursday 27 June 1985. On the morning of 27 June 1985 he telephonically confirmed this arrangement. These conversations were tapped by the Cradock security police, and it is probable on the evidence that this information was passed on to the security police in Port Elizabeth.

The security police in both Cradock and Port Elizabeth would thus have known that Matthew Goniwe would be travelling to Port Elizabeth on 27 June 1985.

The witness Sgt. Koni, a member of the security police in Cradock, whose main task was to listen into and to record the telephone conversations on Matthew Goniwe's telephone, stated that shortly before his death

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Matthew Goniwe's surveillance was stepped up and that wherever he went in his vehicle he was followed by members of the security police or by persons appointed by them. If his evidence is correct a member or members of the security police, or a person or persons appointed by the security police, would have been following Matthew Goniwe's motor vehicle when it was stopped and would have known what happened to Matthew Goniwe and to the others. There is evidence also from Colonel Snyman that Matthew Goniwe's movements were closely monitored up to the time of his death but no other evidence was led to support Sgt. Koni's statement that Matthew Goniwe's motor vehicle was actually followed wherever it went.

Sgt. Koni was in many respects an unsatisfactory witness and it would not be possible on the evidence given by him to make a positive finding that Matthew Goniwe's vehicle was being followed at the time when it was stopped, immediately prior to the murders.

A worrying factor is that records pertaining to the monitoring of Matthew Goniwe's movements on the days immediately preceding his death have disappeared or have been deliberately destroyed. If they were deliberately destroyed the suspicion is that this was done by a member or members of the security police.

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There was no evidence to prove how and by whom Matthew Goniwe's vehicle was stopped. According to police records there was no police or army roadblock near Bluewater Bay on 27 June 1985. There was such a roadblock a week earlier. Evidence was given by Mrs Butters and her driver Vusani that they encountered a huge roadblock near Bluewater Bay, manned by police supported by members of the army, during the evening of 27 June 1985. Vusani said it was there that morning as well. Both Mrs Butters and Vusani impressed me as being honest and truthful witnesses but their failure to report this fact earlier, and their need to rely on their memories of what happened several years ago, creates the possibility that they could be mistaken as to the date upon which they encountered the roadblock, even though they themselves were convinced that they were not mistaken. The probabilities suggest that Matthew Goniwe and his fellow passengers voluntarily stopped their vehicle on that fatal night and this suggests a roadblock as described by Mrs Butters and Vusani. There is, however, in my opinion, insufficient evidence to make a positive finding to this effect.

A pointer to the possibility that the security police were at least involved in the murders is the fact that

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the registration number on the false numberplate found near Matthew Goniwe's vehicle had been used on vehicles parked near the security police offices in Strand street in Port Elizabeth. At least seven parking tickets were issued in respect of vehicles bearing this number but no prosecutions or fines followed. The evidence was that where police vehicles, used on official business, received parking tickets these were subsequently withdrawn by the public prosecutor. This is apparently what happened to the seven parking tickets referred to and this suggests that the false numberplate found near Matthew Goniwe's car carried a registration number formerly used by the security police in Port Elizabeth. This evidence is however not conclusive. Some of the tickets were withdrawn at the instance of the former civilian owner of the number and there is evidence that other persons, including members of the South African Defence Force, also on occasions used false numberplates.

On 14 December 1989 three policemen, Detective Sergeant Mgoduka, Sergeant Faku, Constable Mapipa and a black man, Xolile Sakati, described as an askari, were killed when the car in which they were travelling was totally destroyed by a bomb. Detective Sergeant Mgoduka and

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Sergeant Faku were members of the security branch and were stationed in Port Elizabeth in 1985 at the time when Matthew Goniwe and the others were murdered. The suggestion was that the four persons were deliberately killed because one or more of them knew who had caused the deaths of Matthew Goniwe and the others, and were about to spill the beans. A considerable amount of evidence was led concerning this bomb incident and several suspicious and unexplained facts emerged. It was suggested that Major Nieuwoudt planned and carried out the murders of the four men.

The evidence, briefly, was that Major Nieuwoudt alleged that he had received information on 14 December 1989 that a terrorist was in hiding in a house in Hintsa street, Motherwell, and he decided to send members of the police force into Motherwell to keep the house under observation. He arranged for the policemen concerned to meet him at a certain cross-road. He said it was necessary that they use a vehicle not easily identified as a police vehicle so he arranged with Captain Lotz that the latter would drive a Volkswagen Jetta vehicle from Louis Le Grange Square police station to the cross-road from where it would then be used by the policemen. Captain Lotz would then return to Louis Le

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Grange Square in the policemen's Kombi. This was done. The three policemen and the askari got into the Jetta and after they had driven a short distance there was a massive explosion that blew the Jetta and its occupants to pieces.

The evidence given in connection with the explosion uncovered many strange facts and left many questions not satisfactorily answered.

The Volkswagen Jetta used by the police had false numberplates. It was parked under some trees opposite the entrance to the police station at Louis Le Grange Square. It was kept locked where it was parked, and it was used for different purposes by different policemen. It was not used continuously for regular trips. The police suggested that members of the ANC must have secured the bomb underneath the vehicle while it was parked under the trees. The type of detonator allegedly used would have caused the bomb to explode at any time from five minutes to one hundred and ninety nine hours after it had been planted underneath the vehicle. If the bomb had been planted by the ANC one wonders when and how it was done, why a vehicle that was not used for regular police duties was chosen, and why the ANC would

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have planted such a bomb if there could be no guarantee that anyone would be in the vehicle when the bomb went off.

Major Nieuwoudt, who it was suggested planned the bomb blast, was the man who investigated the incident. He subsequently signed documents suggesting that the explosion was caused by a limpet mine of the type commonly used by the ANC. He claimed to have picked up a detonator of a type used for such limpet mines approximately ten meters forward of the huge crater caused by the explosion. The detonator was virtually undamaged. It is made of a relatively soft alloy and the question arises how it managed to remain virtually undamaged in an explosion that completely wrecked everything else. His explanation was that explosives are unpredictable and can produce surprising results.

It was suggested to Major Nieuwoudt, and denied by him, that he had activated the bomb using a radio apparatus. This would be one way of ensuring that the bomb would go off at the right moment. There was however no other concrete evidence to support this suggestion.

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The arrangements allegedly made by Major Nieuwoudt also raised questions. He said he had first spoken to the policemen and the askari, other than Detective Sergeant Mgoduka, at the New Brighton police station. There they were told what to do. He then went to Detective Sergeant Mgoduka's house and spoke personally to him there. The arrangement was that the other policemen would fetch Detective Sergeant Mgoduka at his house later on and take him with them to the cross-road. The first question posed was why it was necessary for major Nieuwoudt to himself go to the cross-road. He said it was just to check and co-ordinate the carrying out of the instructions he had already given to the policemen. The next question was why the parties all had to meet at the cross-road. Major Nieuwoudt said it was so that the policemen and the askari could change vehicles there. It was clearly established that this change of vehicles could have taken place at either the Louis Le Grange Square police station or the New Brighton police station in which case everyone concerned would have had a shorter distance to travel. To get to the cross-road the policemen had to virtually pass Motherwell, the place where the terrorist was supposed to be in hiding. The suggestion put to Major Nieuwoudt, and denied by him, was that the cross-road was chosen because he knew

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that an explosion would take place and he wanted to ensure that this would happen in a comparatively isolated place where other persons or property would not be affected.

Another strange fact is that after the explosion apparently nothing was done to complete the unfinished business of looking for the alleged terrorist.

Major Nieuwoudt himself investigated the explosion and it was suggested, with some justification, that the investigation was not as thorough as it could have been. The explosion was caused by a bomb containing probably more than six kgs. of explosive, yet written statements, signed by Major Nieuwoudt, suggested that the explosion was caused by a limpet mine which would have contained only about 300 grams of explosive. These written statements misled the press, the attorney-general, the district surgeon and the magistrate who carried out the inquest into the deaths of the four men, yet no attempt was made by Major Nieuwoudt to correct the wrong impression he had created. His explanation in evidence, namely that he had signed the written statements without reading them, was unconvincing.

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The evidence concerning Major Nieuwoudt's instruction to Captain Lotz to drive the Jetta to the cross-road was also contradictory and unsatisfactory. In an affidavit Captain Lotz stated that Major Nieuwoudt told him to take the white Jetta to the cross-road and told him also where he would find the keys of the vehicle. This did not fit in with Major Nieuwoudt's evidence and both Major Nieuwoudt and Captain Lotz had difficulty in explaining the allegation in Captain Lotz' affidavit, but both stated that it was incorrect.

The unsatisfactory evidence to which I have referred raises a suspicion that the truth has not been told and that Detective Sergeant Mgoduka, Sergeant Faku, Constable Mapipa and Xolile Sakati might have been deliberately killed by their own colleagues. There is however no definite proof of this, nor is there proof that either of them had information about the death of Matthew Goniwe and the others.

Despite the suspicions raised, there is, in my opinion, no direct proof that any specific member of the police force or of the security police plotted or carried out the murders of Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli.

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Mr. Bizos has submitted that the murders could not have been carried out in the way they were carried out by other members of the security forces without the knowledge and co-operation of the police because in the absence of such knowledge and co-operation the danger existed that the police might come upon the scene and prevent the murders from being carried out, or arrest the perpetrators thereof. Mr. Bizos points out further that it was the police who monitored Matthew Goniwe's movements and who knew that he would be travelling to Port Elizabeth on 27 June 1985. There is some force in Mr. Bizos' submission but in my view this does not constitute prima facie proof that the police were involved in the murders. In particular the evidence falls short of proving Colonel Snyman's and Colonel Winter's co-operation or support for the murderers.

The witness Sergeant Koni testified that shortly before the murders the monitoring of Matthew Goniwe was stepped up and he stated that on the day of the murders Colonel Winter left the police station early in the day and did not return until the next morning. He stated further that when he did return Colonel Winter appeared to be unusually nervous and he anxiously and frequently enquired whether any conversations had taken place, or

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were taking place, on Matthew Goniwe's telephone. I have already stated that Sergeant Koni was in many respects not a reliable witness and, as Mr. du Bruyn pointed out, his evidence concerning the telephone calls and his reports to Colonel Winter in connection therewith is contradictory and unsatisfactory. It would accordingly not be possible to make any positive finding on Sergeant Koni's evidence or to draw any inference therefrom.

The evidence raises a suspicion that Colonel Snyman and Colonel Winter knew that Matthew Goniwe and the others were to be murdered and that they could have taken part in the planning of the murders. The acceptable evidence however falls short of establishing a prima facie case against them.

I come now to deal with the members of the South African Defence Force, and in particular with the signal sent to Major General van Rensburg on 7 June 1985, the disclosure of which in the New Nation newspaper was the main reason for the reopening of this Inquest.

The author of the signal was Colonel Lourens du Plessis. He stated however that he sent the signal on the instructions of his superior officer in Port Elizabeth,

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Brigadier (as he then was) van der Westhuizen. For the sake of convenience I will now refer to him as Brigadier van der Westhuizen. The signal was sent to Major-General van Rensburg in Pretoria.

At the time the signal was sent the country was in a turmoil of unrest, and the Eastern Cape in particular was referred to as the focus or burning point of the unrest and of the militancy directed against the local authorities who were seeking to maintain law and order. A body known as the Joint Management Centre, in Afrikaans the Gesamentlike Bestuursentrum or GBS, had been formed with branches in various centres and the branch in the Eastern Cape was known, in Afrikaans, as the OPGBS. I shall for the sake of convenience, and for ease of reference to the relevant portions of the evidence which was given in Afrikaans, use the Afrikaans abbreviation and refer to it as the OPGBS. A State Security Council, or Staatsveiligheidsraad, had also been formed to deal with the unrest situation in the country, with a full-time secretariat known in Afrikaans as the Sekretariaat van die Staatsveiligheidsraad, or SSVR. Again I intend using the Afrikaans abbreviation and will refer to it as the SSVR.

Matthew Goniwe was an active member and organiser of the United Democratic Front (UDF) and was regarded as one of

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the most important political activists in the Eastern Cape. He was alleged to be the prime instigator of the school and business boycotts that were widespread in the Eastern Cape and he was commonly referred to as a thorn in the flesh of the authorities who were trying to deal with the unrest situation. Brigadier van der Westhuizen was under extreme pressure from senior members of the government because of his apparent inability to put an end to the chaotic situation which was developing from the boycotts and general unrest in the area. Matthew Goniwe was a particular problem for him since the UDF was not a banned organisation even though it was considered to be a front for the banned ANC, and Matthew Goniwe was therefore entitled to the rights and the freedom enjoyed by any other citizen.

Much evidence was led concerning the so-called anti-insurgency operations carried on by members of the South African defence force. It was stated in evidence that various books and articles were distributed and read by inter alia members of the defence force, the most important being that written by John J. McCuen entitled "The Art of Counter-Revolutionary War" and that written by Brigadier C.A. Fraser entitled "Lessons Learnt from

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Past Revolutionary Wars". It was argued that in applying the principles set out in these books and articles the South African security forces accepted in principle the fact that political activists could in certain circumstances be legitimately killed. However the decision to kill a political activist was a strategic decision which had to be taken at the highest level.

Matthew Goniwe had been imprisoned in the Transkei on 1 September 1977 for allegedly furthering the aims of Communism, and in 1984 he was detained for approximately six months in terms of the South African security legislation. This did not deter him from his political activities or from his support for the various boycott actions being undertaken. He became one of the most prominent members of the UDF in the Eastern Cape and he was given a motor vehicle by the UDF so that he could more easily attend political meetings in various centres in the country.

Because of his activities and his importance as a member of the UDF his telephone was tapped by the security police and his movements were closely watched.

Matthew Goniwe had lost his position as a teacher at the

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Cradock school and he then devoted his time to his political activities. The classes at the school were boycotted and demands were made that he be reinstated as a teacher. The authorities decided that something would have to be done to curb his activities and various possibilities were considered. The Department of Education and Training were of the view that he should be reinstated as a teacher in the hope that this would end the school boycotts and also limit the time he would be able to spend on his political activities. The authorities involved with state security, on the other hand, were of the opinion that Matthew Goniwe was too dangerous a person to be reinstated as a teacher.

On 6 June 1985 a body known as the GVS-Aksiekomitee held a meeting under the chairmanship of Deputy Minister Vlok and among other things the position of Matthew Goniwe was discussed. It was decided that a committee under the chairmanship of Brigadier Geldenhuys, which I will refer to as the Geldenhuys committee, would be formed to go into the question and to make a recommendation concerning the fate of Matthew Goniwe and in particular the possibility of his being reinstated as a teacher at the Cradock school. The committee would commence its deliberations on 7 June 1985 and its recommendation had to be forwarded to Deputy Minister Vlok by not later

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than 12 June 1985. The committee duly met at 10 a.m. on 7 June 1985 and its recommendation, submitted on 12 June 1985, was that Matthew Goniwe be reinstated as a teacher in Cradock.

The signal sent on behalf of Brigadier van der Westhuizen to Major General van Rensburg was sent at 2.30 p.m. on 7 June 1985, the day the committee started its deliberations. At the time the signal was sent Brigadier van der Westhuizen was the commanding officer of the Eastern Province command and he was also chairman of the OPGBS. Colonel du Plessis, a commandant in the army, was acting senior staff officer, Information, and he was also in charge of the OPGBS's secretariat. Major General van Rensburg had been seconded to the secretariat of the State Security Council and he was in charge of the strategy branch of the council.

The signal marked "PRIORITEIT" and "UITERS GEHEIM", purports to be a signal sent from the OPGBS to the Secretariat of the State Security Council. It reads as follows:

"PERSOONLIK VIR GENL VAN RENSBURG

1. TELEGESPREK GENL VAN RENSBURG/ BRIG V D
WESTHUIZEN OP 7 JUN 85 VERWYS
2. NAME AS VOLG

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MATTHEW GONIWE

MBOLELO GONIWE (BROER OF NEEF VAN BG)

FORT CALATA

3. DIT WORD VOORGESTEL DAT BG PERSONE PERMANENT
UIT DIE SAMELEWING, AS SAAK VAN DRINGENDHEID,
VERWYDER WORD.
4. WYE REAKSIE KAN PLAASLIK SOWEL AS NASIONAAL
VERWAG WORD AGV BELANGRIKHEID VAN HIERDIE
PERSONE, VERAL EERSGENOEMDE, VIR DIE VYAND BV
 - A. INTERDIKTE SOOS ONLANGS MET VERDWYNING VAN
GODOLOZI, HASHE EN GALELA (PEBCO
AMPSDRAERS)
 - B. REAKSIE VAN LINKSE POLITICI SOOS MOLLY
BLACKBURN
 - C. PROTES SOOS GEVAL OSCAR MPETHA IN
SIMPATIE."

At the top of the signal is a figure 5 inside a circle.
I was told in evidence that the form, which is
apparently the only one available, is not the original
signal form but is a copy thereof, and the figure 5
indicates that it was the fifth document placed in a
file of documents.

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Much evidence was led concerning the intention and the meaning of the signal, and the reason why it was sent to Major General van Rensburg.

Colonel du Plessis stated that at approximately 2 p.m. on 7 June 1985 Brigadier van der Westhuizen called him into his office and told him that he had just spoken to Major General van Rensburg and that Major General van Rensburg had told him, inter alia, that he could be of assistance in solving the Goniwe problem. Brigadier van der Westhuizen then instructed Colonel du Plessis to send a signal to Major General van Rensburg confirming their telephonic conversation. Colonel du Plessis stated that he in all probability made a rough note of the wording of the signal to be sent but he could not specifically remember having done so. He stated however that he was satisfied that he understood what message had to be sent and he then arranged for the signal to be sent in the form in which it was sent. Paragraph 3 of the signal which reads "Dit word voorgestel dat BG persone permanent uit die samelewing, as saak van dringendheid, verwyder word" was the essential part of the message. Colonel du Plessis stated that he was also instructed to refer to the telephonic conversation between Brigadier van der Westhuizen and Major General

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van Rensburg and to add to the name of Matthew Goniwe the names of his close associates. He was also told to spell out in the signal what the likely consequences would be if the recommended action was carried out, and this he did in paragraph 4 of the signal.

Colonel du Plessis could not remember Brigadier van der Westhuizen's exact words to him but he stated that he clearly understood from Brigadier van der Westhuizen that the proposal was that Matthew Goniwe and his associates should be murdered. This was the message he intended to convey in the signal. He stated that the words "kill" or "murder" were never used in such signals but that it was well understood in army circles that to propose that someone "permanent uit die samelewing verwyder word" was a proposal that the person be "eliminated" i.e. killed. Twenty days after the signal was sent Matthew Goniwe and the three other persons in his motor vehicle were in fact murdered.

Brigadier van der Westhuizen gave evidence and stated that he could remember nothing at all of the incident. He did not deny the telephone conversation or the sending of the signal, but he stated that he had no recollection at all of the incident. He denied that

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he would ever have sent a signal proposing the unlawful killing of anyone. He stated that the words "permanent uit die samelewing verwyder", if used, would probably have meant a lengthy detention in terms of the security legislation, but he denied in any case that he would have used such words in giving instructions to Colonel du Plessis. He described Colonel du Plessis as a conscientious and dedicated military officer but added that he was at times forgetful and scatter-brained.

In an affidavit given by Brigadier van der Westhuizen, and filed before the first oral evidence was led at this re-opened inquest, Brigadier van der Westhuizen stated, in paragraphs 19 and 20, the following:

- "19. Ek ontken ten sterkste dat ek ooit voorgestel het, soos wat die media beweer, dat Goniwe, Mbolelo Goniwe en Ford (of enigiemand anders) doodgemaak moet word.
20. Indien die sein wel deur die OPGBS aan Generaal van Rensburg gestuur is, kan die woorde "...permanent uit die samelewing verwyder.....", in die konteks van die OPGBS se funksie en die omstandighede wat op daardie stadium aldaar geheers het, slegs beteken dat

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die persone vir 'n lang tyd deur middel van aanhouding uit die gemeenskap verwyder moes word. Nōg ek, nōg die OPGBS het ooit die moord van enige persoon beplan of goedgekeur."

After his affidavit had been filed, but before he was called as a witness to give further evidence, documents came to light giving details of a plan referred to in the evidence as the Katzen plan. The plan had as its object the overthrow of the government of President Lennox Sebe in the Ciskei. Colonel du Plessis gave evidence that an active participant in the formulation of the plan was Brigadier van der Westhuizen, and documents signed by Brigadier van der Westhuizen relevant to the plan support this statement. Reference is made in the documents to President Lennox Sebe as being a major stumbling block and to the need that he be "eliminated". Colonel du Plessis stated in evidence that what was meant by such words was that Lennox Sebe should be killed. The effect of Colonel du Plessis' evidence was that Brigadier van der Westhuizen was an active participant in a plan which included the possible murder of Lennox Sebe.

When he gave his evidence Brigadier van der Westhuizen

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declined to confirm the words "of enigiemand anders" in paragraph 19 of his affidavit and the last sentence in paragraph 20 which reads "Nog ek, nog die OPGBS het ooit die moord van enige persoon beplan of goedgekeur". He also refused to answer questions in connection with the Katzen plan and documents on the grounds that he might by his answers incriminate himself.

Mr. Mostert has submitted that the documents in question, which I shall refer to as the Katzen documents, do not prove that Brigadier van der Westhuizen was party to a plan that included the possible killing of Lennox Sebe and others. He submits that the documents can and should be given an innocent interpretation. Such an interpretation will however be contrary to the direct evidence given by Colonel du Plessis, and in my opinion the wording used in various passages in the documents provides strong support for Colonel du Plessis' statements. The Katzen documents are not all in Brigadier van der Westhuizen's handwriting and are not all signed by him, but he was clearly an important party to the whole plan. Statements in the documents include the following:

"Die groot struikelblok is Lennox Sebe en daaroor

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moet hy as 'n stap van hierdie fase - of selfs vroeër - "uit die weg geruim" word. Dit kan deur enige, of deur 'n kombinasie, van die volgende metodes bewerkstellig word:

- (a) Magoma verslaan Lennox in 'n verkiesing.
- (b) Charles bedreig en "verwyder" hom.
- (c) Matanzimas raak van hom ontslae.
- (d) RSA VM (Veiligheidsmagte) kovert optrede.
- (e) Lennox word deur RSA "op pension geplaas".

In my opinion more than one of these options contemplate the possibility of Lennox Sebe being murdered.

One of the documents is a report of a meeting held at Mzikaba on 10 November 1986 at which Brigadier van der Westhuizen was present. The document contains the following statements:

"Kwane Sebe "uithaal". Hy is gevaarlik en sal by Lennox Sebe oorneem.
Lennox S moet permanent "uitgehaal" word."

In another document the following appears:

"Kol Zibi moet verdwyn (Permanent)."

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Apart from the documentary evidence there was further evidence from Colonel du Plessis that part of the Katzen plan was implemented, and this included a violent attack launched on Lennox Sebe's home.

The documents and the direct and uncontradicted evidence given by Colonel du Plessis constitute, in my opinion, prima facie proof that Brigadier van der Westhuizen was party to a plan that included, as a possibility, the killing of Lennox Sebe and others, and that the statements originally made by Brigadier van der Westhuizen in paragraphs 19 and 20 of his affidavit are not the truth.

Major General van Rensburg also gave evidence. He stated that he could remember telephoning Brigadier van der Westhuizen on 7 June 1985. He stated that the purpose of the call was to ascertain from Brigadier van der Westhuizen what the attitude of the OPGBS was to the suggested re-instatement of Matthew Goniwe as a teacher so that he could advise the Geldenhuys committee accordingly. He stated that he asked Brigadier van der Westhuizen to confirm his attitude by sending a signal to him and to spell out in the signal what the probable consequences of his suggested action would be, something

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which he said could not be discussed over the telephone. Major General van Rensburg stated that the conversation took place before 10 a.m. on 7 June 1985, and that he passed on to the Geldenhuys committee Brigadier van der Westhuizen's verbal recommendation. This evidence is in conflict with the evidence given by Brigadier van der Westhuizen and by Colonel du Plessis. Brigadier van der Westhuizen stated that immediately after the telephone call he called in Colonel du Plessis and instructed him to send the signal, and Colonel du Plessis stated that he carried out the instruction immediately. It is clear from the signal itself that it was sent at 2.30 p.m. and Colonel du Plessis stated that it was just after 2.00 p.m. that Brigadier van der Westhuizen called him in and told him that he had just spoken to Major General van Rensburg.

It seems from the evidence of Brigadier van der Westhuizen and Colonel du Plessis that the telephonic conversation between Major General van Rensburg and Brigadier van der Westhuizen must have taken place in the afternoon of 7 June 1985, and not before 10.00 a.m. as stated by Major General van Rensburg.

A further difficulty is the fact that the signal was

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never shown to the members of the Geldenhuys committee despite Major General van Rensburg's evidence that it was important that the committee be advised what the implications would be if the recommendation made by the OPGBS was adopted. Major General van Rensburg's initial explanation was that he did not himself see the signal until 17 June, i.e. after the committee had forwarded its recommendation to Deputy Minister Vlok. Why the signal would have taken so long to reach Major General van Rensburg, or to be seen and read by him, was not satisfactorily explained. Major General van Rensburg stated that the only use he made of the signal at that stage was to show it to Brigadier Verster and to the witness Stemmet as an example of the exaggerated and unacceptable language used by high ranking officers of the army.

After the witnesses had completed their testimony the advocates commenced making their submissions. Mr. Mostert submitted that I should make a positive finding that the signal of 7 June 1985 was in fact placed before the members of the Geldenhuys committee and considered by them before they completed their report. Such a finding would have run contrary to the express evidence given by Major General van Rensburg who had said in

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evidence that he saw the signal for the first time on 17 June 1985, five days after the Geldenhuys committee report had been completed and sent to Cape Town. Such a finding would also amount to a rejection of the evidence given by committee members Brigadier Geldenhuys and J.N. Vermaak who both stated that the signal was not placed before the committee.

Before the completion of counsels' submissions Major General van Rensburg indicated in writing to his counsel that he wished to change some of the evidence he had already given. Advocate Mostert decided that he could in the circumstances no longer continue to represent Major General van Rensburg who then instructed a different attorney and counsel to represent him. In due course he furnished a further affidavit and was called to give further evidence, and in the light of the evidence that he then gave I decided that a further witness, Mrs Vorster, should be called and that Brigadier Geldenhuys should be re-called for further testimony.

In his further evidence Major General van Rensburg stated that his earlier evidence that he had seen the signal for the first time on 17 June 1985 was incorrect.

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He stated that he in fact saw the signal on 12 June 1985, before the Geldenhuys committee report was sent to Cape Town. He stated further that the draft Geldenhuys committee report and the signal were handed to him by his secretary, Mrs Vorster, on the afternoon of 12 June 1985. He read the two documents, made alterations to the Geldenhuys report by adding to it certain facts and recommendations prompted by the wording of the signal, and then himself arranged for the completed, amended, report to be sent to Cape Town. He stated that the alterations and amendments he made to the report were inserted therein by Mrs Vorster.

This new evidence drastically altered Major General van Rensburg's earlier evidence, and if accepted it might support the allegation that the recommendation made in the signal of 7 June 1985 was in fact intended for consideration by the members of the Geldenhuys committee. It would also explain why the signal was not seen by the members of the Geldenhuys committee.

Major General van Rensburg was asked how it was that he now suddenly remembered receiving the signal on 12 June 1985, reading it, altering and adding to the report of the Geldenhuys committee and then himself arranging for the report to be sent to Cape Town when he could remember none of these details when he first testified.

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He stated that it all came back to him when he by chance discovered that his staff officer, Colonel Le Clus, was away on study leave during June 1985. He stated that he then realised that Colonel Le Clus could not have sent the Geldenhuys committee report to Cape Town and that he himself must have done so. He then remembered all the details to which I have referred.

I have difficulty with the further evidence given by Major General van Rensburg. Colonel Le Clus' name did not feature at all in his earlier evidence. If he had thought Colonel Le Clus was doing duty as his staff officer during June 1985 it is strange that he did not initially mention him as being one of the people who might know what happened to the signal document after it had served its purpose.

Major General van Rensburg was asked whether he would have been entitled to refer to a document which had not been seen by any of the members of the Geldenhuys committee and to then alter and add to their report information and suggestions obtained from that document. His answer was that this was perfectly in order provided that he did not alter the final recommendation agreed upon by the committee members. He stated inter alia

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that he was fully entitled to add paragraph 40 which reads:

"Dit kan oorweeg word om meelopers van Goniwe, soos sy neef Mbolelo Goniwe en Fort Calata na die Direkteur van Staatsveiligheid te verwys vir moontlike aanhouding of inperking. Dit moet egter nie onmiddelik saamval met Goniwe se aanstelling nie aangesien dit weereens 'n moontlike uitkomst vir Goniwe kan bied. 'n Geskikte tyd en omstandigheid moet hiervoor afgewag word"

even though this was not a matter up for consideration by the members of the Geldenhuys committee and was not considered or even referred to by them. He stated further that he himself added under the heading "OPDRAG" the words "Oostelike Provinsie GBS het ook 'n kort skriftelike inset gelewer" and admitted that if this is so it created a wrong impression, namely that the "kort skriftelike inset", which he said was in fact the signal of 7 June 1985, had been placed before the members of the Geldenhuys committee and had been considered by them. Nowhere in the report itself is it stated; or does it appear, that Major General van Rensburg added his own thoughts and comments to the report which on the face of it appears to be a report

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drawn up and agreed to in its entirety by the members of the committee.

A further conflict between Major General van Rensburg's earlier evidence and his later evidence is the fact that he originally stated that the chairman of the committee, Brigadier Geldenhuys, had himself arranged for the signal to be sent to Cape Town and that he, Major General van Rensburg, was given a copy thereof to pass on to Mr. Jaap Strydom. In his later evidence he stated that he had sent the report, and that Brigadier Geldenhuys was not even on duty when this was done.

Major General van Rensburg was asked why, if his later evidence was true, he did not first discuss the signal and his proposed alterations to the report with Brigadier Geldenhuys or with other members of the committee. His answer was that it was a Wednesday, that it was already in the afternoon, that the report had to be sent to Cape Town that day, and that Brigadier Geldenhuys had taken the afternoon off to take part in sports activities. He added that he did speak to a Mr. Strydom, now deceased, but that he did not attempt to speak to any of the other members of the committee. Brigadier Geldenhuys, when he was recalled, stated that

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he did not take an active part in sports activities, and that if he had for some reason not been on duty that Wednesday afternoon it would definitely not have been on account of sports activities. He said that he was not told at any time that Major General van Rensburg had seen fit to alter and to add to his committee's report. Major General van Rensburg stated that he furnished Brigadier Geldenhuys with a copy of the completed report together with a memorandum containing the words "Sorg dat jy dit verder afhandel". Brigadier Geldenhuys had no recollection of this, and he said that there was in any case nothing else that he could have done with the copy of the report other than hand it to the correct person for filing purposes.

When he was asked how he could remember that it was during the afternoon that the report was sent to Cape Town Major General van Rensburg stated that he specifically telephoned the Cape Town office with the request that they remain open after 4 p.m. to receive the report. He stated further that the next day Deputy Minister Vlok told him telephonically that he had received the report. None of these details were remembered by him when he first testified.

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In his original evidence Major General van Rensburg stated that the words "Oostelike Provinsie GBS het ook 'n kort skriftelike inset gelewer" were included in their report by the members of the Geldenhuys committee themselves, and he then presumed that what was referred to was a signal dated 23 May 1985. If in fact he had himself added those words after he had seen the signal of 7 June 1985, and if it was the signal of 7 June 1985 that was referred to, it is remarkable that he did not remember that fact when he was questioned in some detail about the matter during his initial evidence. The same applies to paragraph 40 of the Geldenhuys committee report. In his earlier evidence he stated that paragraph 40, relating to Mbolelo Goniwe and Fort Calata, was included in the report drawn up by the members of the Geldenhuys committee. If he himself added that paragraph later, as he stated in his later evidence, it is remarkable that he did not remember having done so when his attention was directed specifically to the paragraph during his earlier evidence.

What is even more remarkable from Major General van Rensburg's later evidence is his statement that on 17 June 1985 he had already forgotten that he had five

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days earlier amended the Geldenhuys committee report by adding to it information obtained from the signal of 7 June 1985. He stated further that he was on 17 June 1985 under the impression that Colonel Le Clus, his staff officer, had been with him on duty the previous week whereas Colonel Le Clus was in fact away on study leave for the month of June 1985.

A further change from his earlier evidence made by Major General van Rensburg in his later evidence concerned what happened to the copy of the signal after it had been sent to Cape Town. He originally stated that he had shown it to Brigadier Verster and had later shown it to the witness Stemmet, and he stated that he had probably left it with Stemmet. In his later evidence he said that he first showed it to Stemmet on 13 June 1985 and that he thereafter received it back from Stemmet and handed it to Brigadier Verster on 17 June 1985. He also gave different reasons for having shown the signal to Stemmet and to Brigadier Verster. He went on to say, in his later evidence, that he might have left the signal with Brigadier Verster. This was in conflict with his earlier evidence that he had probably left it with Stemmet. The fact that he might have left it with Brigadier Verster was also not mentioned in paragraph 16

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of his latest affidavit which deals with what could possibly have happened to the signal. In paragraph 16 he alleges that he might have left the signal with his secretary. When asked why he did not include the possibility that he might have left it with Brigadier Vorster he said that he had omitted to include it in the final draft of his affidavit on the advice of his legal representatives who advised him to keep his affidavit short and to the point.

In his later evidence Major General van Rensburg stated that the original report, as well as the alterations thereto, would have been typed by his secretary, Mrs Vorster. Mrs Vorster however denied this and said that the style of typing was not the style she used.

Mrs Vorster, in an affidavit signed by her on 1 March 1994 stated, with reference to the signal of 7 June 1985, "Ek kan kategoriees verklaar dat ek daardie seinberug nooit gesien het of dit hanteer het nie". In her evidence she did not fully support this allegation. She stated that she did not always read the documents she received and handed to Major General van Rensburg and that it was possible that she might have handed him the signal without knowing what it was. She stated however that if she had received the signal marked "uiters

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geheim" in a sealed envelope, she would have handed it in that form to Major General van Rensburg. Major General van Rensburg, on the other hand, stated that the signal and the draft report were handed to him by Mrs Vorster as two loose documents, not in envelopes and not even in a folder. Mrs Vorster stated that she could not recall having seen the Geldenhuys committee report at all, nor could she recall having been given instructions by Major General van Rensburg to alter or to add words or paragraphs thereto. She stated also that she normally did not alter or amend documents typed by someone else, but might have done so if that person was not available when the alterations or amendments had to be made. However she had no recollection at all of having seen the signal or the Geldenhuys committee report.

Brigadier Geldenhuys in his original evidence stated that he had arranged for the committee report to be sent to Cape Town on 12 June 1985. When he was recalled to give further evidence he repeated that this is probably what happened because on the copy of the report handed in he had himself written the words "Per disket na Kaapstad op 12/6/85" and had then signed the document. He said he was reasonably sure this had happened but he could not be 100% sure about it.

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As can be seen from what I have already stated the changes Major General van Rensburg sought to make to his original evidence were substantial changes, and they concern matters about which he was closely questioned when he first gave evidence. His latest evidence is given no positive support by the further evidence of the witnesses Mrs Vorster and Brigadier Geldenhuys and I find his latest evidence to be unconvincing and unacceptable.

The witness Stemmet was questioned about the meaning of the signal of 7 June 1985. He stated that in his opinion the words "permanent uit die samelewing verwyder word" could have meant that Matthew Goniwe be transferred out of Cradock and given a permanent teacher's post somewhere else. When it was pointed out to him that the signal went on to state "Wye reaksie kan plaaslik sowel as nasionaal verweg word" if the recommendation was adopted, he stated that he still thought the signal could have meant that a simple transfer to another school was recommended. When asked why a simple transfer would be likely to cause such widespread reaction he altered his opinion and said that the signal perhaps meant that Matthew Goniwe and the others should be restricted or detained. It was then pointed out to Stemmet that the signal goes on to draw a comparison

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with the Pebco three who disappeared and were not heard of again, and he was asked whether this did not suggest that a more sinister meaning should be given to the words "permanent uit die samelewing verwyder". His answer was that he had not considered the matter in that light and that paragraph 4 of the signal was inappropriate and should not have been included in a signal sent to the secretariat of the State Security Council.

The evidence surrounding the signal is in practically every important respect unsatisfactory.

Major General van Rensburg stated that the signal was intended to convey to the Geldenhuys committee the attitude of the OPGBS to Goniwe's reinstatement as a teacher. Mr. Mostert has submitted that this evidence should be accepted, and he has submitted that I should accept also the latest evidence given by Major General van Rensburg to the effect that he first saw the signal on the afternoon of 12 June 1985 when it was too late to place it before the members of the Geldenhuys committee. In support of his submission that the signal was intended for the Geldenhuys committee Mr. Mostert points to the following facts:

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1. The Geldenhuys committee started its deliberations on 7 June 1985 and it was on that same date that the signal was sent. Further, the report furnished by the Geldenhuys committee contains the statement "Oostelike Provinsie GBS het ook 'n kort skriftelike inset gelewer."
2. In the signal, in addition to Matthew Goniwe, reference is made to Mbolelo Goniwe (as Matthew's brother or nephew) and to Fort Calata. The report also refers to Mbolelo Goniwe (as Matthew's nephew) and to Fort Calata.
3. The signal uses the words "permanent uit die samelewingverwyder" and paragraph 35(a) of the report, in listing the possible consequences of a transfer of Matthew Goniwe to another school, uses similar wording, namely, "Hy word uit die gemeenskap waar hy 'n leidende rol speel verwyder".

The submission by Mr. Mostert overlooks the following facts:

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1. The signal does not refer at all to Matthew Goniwe's reinstatement as a teacher or to the likely implications of such a reinstatement.
2. Major General van Rensburg stated that he telephoned Brigadier van der Westhuizen before 10 a.m. on 7 June 1985 and passed his recommendation on to the Geldenhuys committee at the start of their meeting at 10 a.m. As stated above, this evidence is in conflict with the evidence given by Colonel du Plessis and Brigadier van der Westhuizen, and by the fact that the signal was in fact despatched only at 2.30 p.m. Brigadier Geldenhuys also stated that he could not remember Major General van Rensburg ever telling the committee that the OPGBS recommended that Matthew Goniwe be detained.
3. The signal was given the classification "Prioriteit" which, according to W/O Wybenga, was the third highest and second lowest speed delivery classification. If Major General van Rensburg telephoned Brigadier van der Westhuizen immediately before the Geldenhuys

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committee was due to start its deliberations, and if the signal was required for the attention of the committee members, one would have expected it to be marked either "Operasioneel Dadelik" in which case, according to Major General van Rensburg, it would have reached him approximately one hour after it had been despatched, or "Flits" which, according to W/O Wybenga, was the highest speed delivery classification.

4. On the assumption that the reference to the "kort skriftelike inset" was included in their draft report by the members of the committee, the witnesses Vermaak and Geldenhuys could not say what was referred to, but they were adamant that it was not the signal of 7 June 1985. It could however have been the signal sent on 23 May 1985.
5. Major General van Rensburg initially stated that he did not receive the signal until 17 June 1985. He could not satisfactorily explain the delay but he assumed that it was delivered late or that it lay around in his office awaiting his attention. Stemmet stated in his

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evidence that if the signal, which was marked "Prioriteit", "Uiters geheim" and "Persoonlik vir Genl. van Rensburg" lay around for ten days before it was seen by Major General van Rensburg this would have shown gross irresponsibility on the part of those concerned with its delivery or receipt. The same considerations would, I believe, apply if it took five days for Major General van Rensburg to see the signal. If the signal was intended to confirm the attitude of the OPGBS and to spell out what the implications would be if its recommendation was adopted, it is more than a little strange that no attempt was made to get hold of the signal in time to submit it to the members of the Geldenhuys committee for their consideration.

6. The signal was apparently the fifth document in a file of documents but the whole file has simply disappeared. No copy of the signal could be found in any of the official files either in Pretoria or in Port Elizabeth. Staff Sergeant Groenewald explains in her affidavit where the signal should have been filed. The signal sent

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on 23 May 1985 was properly filed but not the important signal of 7 June 1985. Brigadier Coetzee states in his affidavit that the copy of the signal was in fact never filed in the normal filing system that was in use because, as can be seen from the photocopy thereof, it was never given the punch-holes required for that filing system.

7. Conflicting evidence was given as to what might have happened to the copy of the signal received by Major General van Rensburg. He initially stated that he thought he had left it with Stemmet but Stemmet denied this. In his later evidence he stated that he could not have left it with Stemmet but might have left it with Brigadier Verster. Whatever happened to it, it could not be found for the purposes of this inquest.
8. A further major conflict concerning the signal was Major General van Rensburg's statement that it would have been within his rights to destroy the signal. This conflicts with Stemmet's evidence that to have done so would have

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constituted a criminal offence. Major General van Rensburg's further evidence that he might have destroyed the signal and have then forgotten to complete the required certificate indicating its destruction, is equally unsatisfactory.

9. The signal of 7 June 1985, if it was intended to be a proposal that Matthew Goniwe and the others be detained in terms of security legislation, went much further than the signal of 23 May which merely recommended that Matthew Goniwe not be reinstated as a teacher. Yet it is clear that Brigadier van der Westhuizen did not consult any of the other members of the OPGBS before sending the signal, and he did not tell them about it afterwards. This suggests that the fact that he had sent the signal was deliberately withheld by Brigadier van der Westhuizen from the other members of the OPGBS and that he did not want them to know about it.
10. In paragraph 18 of his affidavit Brigadier van der Westhuizen suggested that the purpose of

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the signal might have been to identify certain persons for lengthy detention in terms of the emergency regulations that would soon come into force. This does not explain the word "permanent" in the signal, nor does it explain why this purpose was not stated quite simply in the signal itself. At the time when the signal was sent detention without trial for a period of six months only was possible. The contemplated amendments to the emergency regulations were expected to provide for a longer period of detention. But however one looks at it, the word "permanent" in the signal did not fit in with any of the existing or contemplated emergency regulations. In his evidence Brigadier van der Westhuizen stated emphatically that the purpose of the signal was not to identify persons for detention in terms of the emergency regulations.

11. If it was the intention in the signal to recommend that Matthew Goniwe and the others be detained, it is strange that Colonel Winter, who was head of the security branch of the police in Cradock, was not consulted or told

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about the signal despite the fact that detention was essentially a matter for the security police and was not a matter normally dealt with by the GBS.

- 12 Brigadier van der Westhuizen's evidence as to whether he himself favoured Matthew Goniwe's detention was inconsequential and conflicting. He stated at one stage that he was against his detention but said later that he might have told Colonel du Plessis to send a signal recommending Matthew Goniwe's detention. He then went on to say that detention would not have solved the problem. Why then would he have arranged for the sending of a signal recommending Matthew Goniwe's detention?

The facts to which I have just referred support the submission made by certain of the counsel appearing at this inquest that this was not the innocent signal suggested by Mr. Mostert, and by Major General van Rensburg in his evidence.

Colonel du Plessis stated in evidence that when Brigadier van der Westhuizen called him into his office

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on 7 June 1985 he told him that Major General van Rensburg had said to him that he could assist him with the Goniwe problem, or words to that effect. He did not mention the Geldenhuys committee to Colonel du Plessis. If this evidence is to be accepted it is a further pointer to the fact that the signal had nothing to do with the deliberations of the Geldenhuys committee. It is interesting to note also that Brigadier van der Westhuizen could not explain why the signal, if it was an innocent one, had been given the high security classification of "Uiters Geheim". His explanation was simply that it was not his, but Colonel du Plessis' decision.

Colonel du Plessis evidence was severely criticised by Advocate Mostert. Reference was made to a possible drinking problem that he has and to the fact that he was not happy with the gratuity and pension that he received when he retired from the army. It seems likely from the evidence that it was du Plessis who gave a copy of the signal of 7 June 1985 and of the Katzen documents to Major General Holomisa, chairman of the military council of the Republic of Transkei, who in turn furnished a copy to the New Nation newspaper. Colonel du Plessis was shown to have serious financial problems,

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and Mr. Mostert pointed out that he kept quiet about the signal for seven years and then produced it, not to the police, but to the people for whom it would be of considerable value. It was established that he had meetings with Major General Holomisa and members of the New Nation newspaper before the signal was published, and before he made his first affidavit for the purposes of this inquest. In that first affidavit he states, inter alia,

"Ek is egter baie seker daarvan dat Brigadier van der Westhuizen nooit teenoor my te kenne gegee het dat sy voorstel behels dat enige persone doodgemaak moes word nie".

In a later affidavit he states the opposite, namely:

"In elk geval was dit vir ons albei duidelik dat wat voorgestel word, die doodmaak van Goniwe behels het".

Colonel du Plessis explains the discrepancy by stating that considerable pressure was brought to bear upon him not to state or admit, in his first affidavit, that the signal suggested that Matthew Goniwe and the others be

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killed.

Mr. Mostert submits that Colonel du Plessis stole the documents he gave to Major General Holomisa and that he is therefore a thief as well as a perjurer. He submits further that he fraudulently withheld from his legal advisers, when his first affidavit was taken, the fact that he had already spoken to the representatives of the New Nation newspaper and had told them that the signal was a death threat.

Mr. Mostert submits in the circumstances that Colonel du Plessis has no credibility at all and that nothing he says can be accepted as being true.

I have considered Colonel du Plessis' evidence and Mr. Mostert's criticism thereof. I have looked carefully at the wording of the signal and I have also considered the evidence given by General van der Westhuizen, by Major General van Rensburg and by the other witnesses who testified. Much of the criticism levelled against Colonel du Plessis' evidence I find to be valid criticism. It has however, in my opinion, been prima facie established on the evidence as a whole that the meaning Colonel du Plessis intended the words used by

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him in the signal to have is that Matthew Goniwe, Mbolelo Goniwe and Fort Calata should be killed.

The next question to be determined is whether Colonel du Plessis correctly understood the instruction given to him by Brigadier van der Westhuizen, and whether it has been proved prima facie that Brigadier van der Westhuizen intended the signal to contain a recommendation that the three men be killed.

Mr. Mostert has argued that if Brigadier van der Westhuizen had intended that Matthew Goniwe and the others be killed he would not have reduced his recommendation to writing in the form of a signal that would be noted and filed in various files and registers. Against this there is the fact that the signal was marked "Uiters Geheim", and the Katzen documents are proof of the fact that Brigadier van der Westhuizen was quite happy that such recommendations be included in highly secret written documents.

Colonel du Plessis stated that there could have been a misunderstanding between them. He went so far as to say that the possibility of a misunderstanding could have been as high as 50% . He said it was possible that

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Brigadier van der Westhuizen could have used the words "permanent uit die samelewing verwyder", that Brigadier van der Westhuizen may have meant by these words that Matthew Goniwe should be detained for a lengthy period in terms of security legislation and that he, Colonel du Plessis, thought he meant that Matthew Goniwe and the others should be killed. There are many facts which throw doubt upon the possibility of such a misunderstanding. Brigadier van der Westhuizen and Colonel du Plessis had worked together for many years. They understood each other and there had never before been a major misunderstanding between them, and Brigadier van der Westhuizen denied in any case that he would have used the words "permanent uit die samelewing verwyder" if he had intended to convey to Colonel du Plessis the suggestion that Matthew Goniwe and the others be detained. It would have been a simple matter for him to have told Colonel du Plessis that the recommendation was that Matthew Goniwe and the others be detained in terms of security legislation, and Colonel du Plessis said in his evidence that if this had been his instructions he would have used similar terminology in the signal.

In my opinion it has been established prima facie that

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the signal was intended by Colonel du Plessis to mean that Matthew Goniwe and the others should be killed and also that this is the meaning that Brigadier van der Westhuizen intended should be conveyed in the signal.

Mr. Bizos in his argument outlined the National Security Management System set up in about 1979 in order to show where Major General van Rensburg, General van der Westhuizen, Colonel du Plessis and the witness Stemmet fitted into the system. At the apex of the system was the State Security Council (in Afrikaans the Staatsveiligheidsraad or SVR). It was supported by its secretariat known as the Secretariat of the State Security Council (in Afrikaans die Sekretariaat van die Staatsveiligheidsraad or SSVR). I will again use the Afrikaans abbreviations SVR and SSVR.

The function of the SSVR is described by Stemmet in annexure B to his affidavit as follows:

1. Die verskaffing van vertolkte inligting aan die nasionale veiligheidsbestuurstelsel.
2. Die koördinering van formulering van strategieë, strategiese adviese en vermoënsplan

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en koördineer die uitvoering daarvan.

3. Die koördinering van die bedryf van strategiese kommunikasie.
4. Die opstel en byhou van administratiewe funksies wat deur departemente gekoördineerd uitgevoer moet word.
5. Die lewering van administratiewe dienste.

The SSVR comprised five branches. Major General van Rensburg was the head of the strategy branch; Stemmet was the head of the strategic communications branch and he was also in overall control of the administrative branch.

On a regional level were the Joint Management Centres (in Afrikaans Gesamentlike Bestuursentra or GBS's). Brigadier van der Westhuizen was the chairperson of the Eastern Province Joint Management Centre (OPGBS). Du Plessis was the secretary of the OPGBS.

There were also mini GBS's in smaller centres. The chairman of the Cradock mini GBS was Commandant Botha

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Marais who was also the officer commanding the Cradock Commando.

Mr. Bizos has submitted that bearing in mind the positions occupied by the persons concerned it is logical that the signal, if it was a death proposal, would have been sent by Brigadier van der Westhuizen (through his secretary Du Plessis) to Major General van Rensburg, the head of the strategy branch of the SSVR, who would then presumably send it on to the State Security Council so that the recommendation to carry out the murders could be considered at the highest level.

The problem is that we do not know what happened to the signal after it had been received by Major General van Rensburg. The evidence of Major General van Rensburg is contradictory and unsatisfactory, but a rejection of his evidence does not justify a finding that the signal was sent on to higher authority and was then acted upon. There is no evidence to prove that the recommendation in the signal was adopted and carried out. There is no evidence to prove that the person or persons who murdered Matthew Goniwe and the others knew of the signal or its content. Evidence to link the signal with the murders is lacking and the set-up of the National

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Security Management System does not in itself justify the assumptions and inferences I have been urged to make.

What must also be borne in mind is the fact that the signal was a proposal (voorstel) and not an order given to any person or persons.

To sum up, the evidence shows that it is extremely unlikely that members of AZAPO could have murdered Matthew Goniwe, Sparrow Mkonto, Sicela Mhlauli and Fort Calata.

It was conceded in evidence, particularly by Colonel Winter, Brigadier van der Westhuizen and Commandant Botha Marais, that probably only the security forces had the necessary information and means to have carried out the murders, and in my opinion there is prima facie proof that it was members of the security forces that in fact carried out the murders.

It was proved further that Matthew Goniwe, in particular, was a thorn in the flesh of the security forces and he was, at times, and by certain members of the security forces, referred to as an enemy of the

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State whose activities had to be curtailed or terminated.

It has also been proved prima facie, in my opinion, that the signal sent by Colonel du Plessis on the instructions of Brigadier van der Westhuizen to Major General van Rensburg was a recommendation that Matthew Goniwe, Mbolelo Goniwe and Fort Calata should be killed, and that this was the meaning Colonel du Plessis and Brigadier van der Westhuizen intended the signal to have.

As I have stated above, it is not my task to speculate on possible offences which may have been committed where there is no prima facie proof that any of those offences brought about the death of any of the persons whose deaths are here being investigated. I accordingly decline to comment upon whether there is prima facie proof that an offence such as conspiracy to murder or incitement to murder has been committed, in the absence of evidence to show a link between such possible offence and the death or deaths of one or more of the four deceased persons.

It has, in my opinion, been established prima facie that the murderers of Matthew Goniwe, Sparrow Mkonto, Fort

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Calata and Sicelo Mhlauli were members of the security forces. A case of suspicion has been made out against certain members of the police force including Colonel Snyman and Colonel Winter, and against certain members of the South African Defence Force including Brigadier van der Westhuizen, Colonel du Plessis and Major General van Rensburg, but suspicion does not constitute prima facie proof. Prima facie proof requires at least some evidence directly linking the deaths of the deceased persons to the acts committed by the persons under suspicion. The evidence led at this inquest does not, in my opinion, provide the necessary link, and I am accordingly not able to bring in a positive prima facie finding against any particular person or persons.

My findings are:

1. That the deceased have been identified as being Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli.
2. The causes of their deaths are
 - (a) In the case of Matthew Goniwe multiple stab wounds which include a stab wound

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through the heart;

(b) In the case of Sparrow Mkonto a bullet wound to the head and a stab wound into the heart;

(c) In the case of Fort Calata stab wounds into the heart; and

(d) In the case of Sicelo Mhlauli multiple stab wounds.

3. The date of death in respect of all four of the deceased is 27 June 1985.

4. Their deaths were brought about by deliberate acts committed by an unknown person or persons which acts constitute murder on the part of such person or persons. I am however not able, on the evidence placed before me, to identify the murder^r or murderers. I am accordingly unable to find prima facie that an offence has been committed by any specific person or

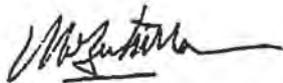
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persons which offence contributed to or brought about the death of any of the aforementioned four deceased persons.

This report on my findings will be submitted to the Attorney - General in Grahamstown.

Dated at Port Elizabeth this 28th day of May 1994.



N.W. ZIETSMAN.
JUDGE PRESIDENT
EASTERN CAPE DIVISION
OF THE SUPREME COURT
OF SOUTH AFRICA.

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ANHANGSEL

VORM 1

AANSOEK OM AMNESTIE INGEVOLGE ARTIKEL 13 VAN DIE WET OP DIE BEVORDERING VAN NASIONALE EENHEID EN VERSOENING , 1995 (WET NO. 34 VAN 1995)

- 1. Van : Van Zyl
- 2. Volle voorname : Johan Martin
- 3. Adres : P/a Adv C. McAdam, Getuiebeskermingsprogram
- 4. Identiteitsnommer/Paspoortnommer : 5002075016080
- 5. Geboortedatum: 7 Februarie 1950
- 6. Geboorteplek : Otjiwarongo, Namibie
- 7. (a) Indien u 'n beampte/ampsdraer/lid/ondersteuner is/was van enige politieke organisasie/instelling/liggaam of bevrydingsbeweging, meld naam daarvan :
 - Nasionale Party
- (b) Meld hoedanigheid waarin u in die betrokke organisasie/instelling/liggaam of bevrydingsbeweging gedien het, indien van toepassing en lidmaatskapnommer, indien enige :
 - Slegs ondersteuner
- 8. (a) Indien u 'n beampte/ampsdraer/werknemer is/was in diens van die Staat of enige voormalige staat of indien u 'n lid is/was van die veiligheidsmagte van die Staat of enige voormalige staat, meld die departement/afdeling/divisie :
 - S.A. POLISIE VEILIGHEIDSTAK
 - S.A. WEERMAG SPESIALE MAGTE
- (b) Meld hoedanigheid en tydperk waarin u in diens van die Staat of voormalige staat was of in die veiligheidsmagte gedien het, indien van toepassing en magsnommer, indien enige :
 - 1968 : Magsnommer 66317108 : Dienspligtige : Leergimnasium
 - 1969 : Magsnommer 54276P : Student : Kirkwood en Polisiekollege

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- Konstabel : Spesiale Waageenheid
- 1971 : Konstabel : Graaff Reinet
- Wapensmidkursus
- Teen-insurgensiekursus
- Grensdienst
- 1972 : Sersant : Opruikteenheid, Umtata
- Grensdienst
- 1973 : Veiligheidstak Umtata
- Grensdienst
- 1974 : Adjudant Offisier
- Grensdienst
- 1975 : Grensdienst en verdere teen-insurgensie kursusse
- 1976 : Adj Off : Pietermaritzburg Veiligheidstak
- 1978 : Offisierskursus
- 1979 : Luitenant, Takbevelvoerder, Ladysmith
- 1980 : Oshakati : Operasie Koëvost, Gevegspanleier
- 1981 : Kaptein
- 1984 : Veiligheidstak Port Elizabeth
- 1986 : Bedank uit Polisie, sluit aan by S.A.W. Spesiale Magte
- 1991 : Bedank uit S.A.W. toe eenheid ontbind.

Kort persoonlike oorsia :

Ek is op 7 Februarie 1950 op Otjiwarongo in die destydse Suidwes-Afrika gebore. My pa was 'n bankamptenaar en het daarin geglo om 'n neutrale politieke beeld uit te dra. Hoewel ek geweet het dat my ouers die gewese Verenigde Party ondersteun het, was hulle nooit aktief in enige politiek betrokke nie en het ons selde politieke gesprekke in die huis gehoor. Ek was egter 'n ywerige leser van koerante en boeke met 'n politieke strekking en het 'n studie van die Wereldoorlog en die konflik in Korea en later Vietnam, gemaak. My ouers het dus nie 'n groot rol gespeel in die vorming van my eie politieke oortuigings nie.

Deur middel van boeke en koerante het ek my eie menings begin vorm en dit was veral na afloop van die Rivonia verhoor en met verwysing na sabotasie-aanslae en die berugte Johannesburgse stasiebom in die vroeë sestigs dat ek 'n afkeur in Kommunisme en terrorisme gekry het en geglo het dat dit ten alle koste beveg moes word. Ek het geglo dat Afrika-leiers deur die Kommuniste om die bos geleid word en dat dit tot my land se ondergang sou lei indien 'n Kommunisties-gesinde meerderheidsregering hier aan die bewind sou kom. Ek het met verloop van tyd 'n sterk weersin in terrorisme opgebou en het gevolglik my Nasionale Diensplig met ywer aangepak.

Gedurende my dienspligjaar is my ma na 'n jarelange siekbed oorlede op 'n jong ouderdom en het ek, om nie 'n finansiële las op my pa se skouers te wees nie, by die Polisie aangesluit. Vele lesings en toesprake deur politici tydens parades en in koerantonderhoude het my motivering ten opsigte van die bevegting van Kommunisme en terrorisme versterk. Ek het 'n studie van die bestryding van terrorisme in lande soos Malaya, Kenia, Angola, Mosambiek en die destydse

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Rhodesie gemaak en vrywilliglik soveel as moontlik grensdiens gedoen omdat ek dit as my plig geag het. Lesings tydens kursusse het die gevare van Kommunistiese oorheersing beklemtoon en my verder gemotiveer om die staatkundige bestel ten alle koste te beskerm en wet en orde te help handhaaf. Die ernstigste insident waarmee ek gemoed was tydens my grensdiens was 'n operasie naby Victoria Valle waar ek een van die lede was wat eerste op die toneel afgekom het waar vier van my kollegas elk met 'n skoot deur die kop deur guerillas doodgeskiet is nadat hulle deur die guerillas aangehou is (8 Maart 1974). Ek het die opvolgoperasie gelei, maar die guerillas het reeds oor die Zambesi rivier na Zambia ontsnap met 'n vyfde kollega as gevangene, van wie daar nooit weer gehoor is nie.

Gedurende die jare wat ek op permanente diens op Operasie Koevoet was, was ek noodwendig in 'n groot aantal skietgevegte met SWAPO guerillas betrokke, waartydens honderde guerillas gedood is en ek ook etlike van my vriende en kollegas in gevegte verloor het. By vier geleenthede het ek anti-tenkmyntontploffings op my voertuig oorleef en enkele ander noue ontkomings gehad. Ek het egter deurentheid gevoel dat ek my lewe vir 'n regverdige saak op die spel plaas en het my ondergeskiktes na die beste van my vermoë gelei. Die oorwegende meerderheid van my span was swart en van Angola afkomstig waar hulle eerste-handse kennis opgedoen het van die lewe onder 'n Marxistiese regering en hul gemotiveerde optrede was vir my bevestiging van my filosofie en politieke oortuiging.

My verplasing na Port Elizabeth het ek hoofsaaklik uitgevoer om vir my familie 'n meer normale lewe te verskaf as wat die operasionele gebied hulle gebied het. Ek het vroeg in 1985 (Februarie tot April) na Owamboland teruggekeer om te help om 'n besonder hewige reenseisoen-infiltrasie deur SWAPO te help stuit.

Ek het nooit vir enige voordeel of geldelike gewin opgetree of 'n ander motief gehad tydens enige van die operasies of ander diens tydens my loopbaan in die Polisie en die Weermag nie.

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2 (a) Verskaf voldoende besonderhede van die daad/dade, versuim/e of misdryf/misdrywe wat met 'n politieke oogmerk in verband staan ten opsigte waarvan amnestie verlang word, insluitende datum/s, plek/ke aard daarvan en die naam/namse van enige ander persone betrokke :

(i) Daad/dade, versuim/e of misdryf/misdrywe :

- a. Die ontvoering en dood van M Goniwe, F Calata, S Mkhonto en S Mhlawuli
- b. Kwaadwillige saakbeskadiging (uitbrand van motor)
- c. Besit van onwettige wapen
- d. Regsverydeling (vernietiging van wapen)
- e. Enige ander strafregtelike of siviele aanspreeklikheid wat uit die voorvalle hierin beskryf, mag voortvloei.

(ii) Datum/s

27 Junie 1985

(iii) Plek/ke

Port Elizabeth

(iv) Aard en besonderhede

1.

Gedurende 1985 was ek 'n kaptein in die S.A. Polisie, gestasioneer by die Veiligheidstak, Port Elizabeth. Ek het onder die direkte bevel van Majoor Herman du Plessis gedien. Hy was in bevel van die eenheid wat gemoeid was met Swart Politieke Aangeleenthede. Ons werk was hoofsaaklik toegespits op die bedrywighede van die ANC, UDF en ander bevrydingsorganisasies. Ek was in bevel van die lessenaar wat op die infiltrasie en bedrywighede van buitelandse opgeleide terroriste toegespits was.

2.

Gedurende 1984 en die eerste helfte van 1985 het die aanslag van die ANC/SAKP Alliansie om die regering van die dag met geweld omver te werp en die staatkundige bestel te vernietig, momentum gekry. Dit was hoofsaaklik a.g.v. die stigting van die United Democratic Front (UDF), wat verantwoordelik daarvoor was om die gemeenskap in die Oos-Kaap en omliggende plattelandse gebiede te verpolitiseer. In hierdie verband het die Cradock Residents Association (CRADORA) 'n baie prominente rol gespeel. Die beginfase van hierdie aanslag was aanvanklik beperk tot politieke opswepery van die massa en die hou van politieke vergaderings.

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Gedurende 1984 is daar onder die vaandel van die UDF begin met die skepping en uitbouing van alternatiewe strukture in die Oos-Kaap. Die strukture was veral gemik op die opvoedkundige en sosiale terreine. Die doelwit van hierdie alternatiewe strukture was om 'n algehele onregeerbaarheid van die massas te bevorder wat die instandhouding van die Regering en staatkundige bestel ingevaar sou stel en uiteidelik totaal onmoontlik moes maak. In hierdie klimaat sou die aanslag van die ANC/SAKP Alliansie om die Regering met geweld omver te werp en die staatkundige bestel te vernietig aansienlik makliker kon plaasvind. Die skepping van hierdie alternatiewe strukture het gedurende 1984 reeds daartoe gelei dat die streek in anargie gedompel is. Intimidasie en geweld, waarby ingesluit die dood van lede van die gemeenskap en polisie, sowel as die afbrand van amptenare en polisiebeamptes se woonhuise, was aan die orde van die dag. Ook beriggewers en selfs persone wat foutiewelik as beriggewers gebrandmerk is, is in hierdie tyd om die lewe gebring.

4.

Hierdie stand van sake het teen die einde van 1984 aansienlike aandag geniet tydens die Gesamentlike Bestuursentrum (GBS) vergaderings. Dit het duidelik geword dat die normale regsopsies soos inperking, beperking en aanhouding van politieke aktiviste nie die gewenste resultate sou gehad het nie. Die proses was veral aan bande gelei deur die feit dat vrees onder die gemeenskap en selfs polisiebeamptes sodanig was dat niemand bereid was om na vore te tree om getuies af te le nie. Getuies het vir hul lewens gevrees, wat verstaanbaar was aangesien talle burgerlikes, wat regtens of verkeerdelik aangesien is as "collaborators" deur middel van die halssnoermetode en ander wrede wyses vermoor is. Dit was op daardie stadium duidelik dat die sogenaamde G-plan, waarvan Matthews Goniwe die argitek was, besig was om vrugte te werp vir die ANC/SAKP Alliansie en dat die bedreiging wat dit ingehou het vir die Regering en die staatkundige bestel, wesenlik en baie ernstig was. A.g.v. hierdie bedreiging het die Veiligheidstak in oorleg met die GBS hul werksaamhede aansienlik verskerp deur :

- 4.1 Alle organisasies wat verantwoordelik was vir die destabilisasie in die Oos-Kaap se doelwitte en optrede volledig te dokumenteer;
- 4.2 Alle persone en politieke aktiviste se bedrywighede volledig te monitor;
- 4.3 Inligting insake hulpverlening aan militêr-opgeleide terroriste en die identifikasie van persone en fasiliteite hierby betrokke, op datum te hou;
- 4.4 Skakeling met ANC-lede in die buiteland, insluitende opdragte van die ANC en SACTU met spesifieke verwysing na die Oos-Kaap, intensief te monitor.

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Voortspruitend uit bovermelde databasis kon 'n goeie geheelbeeld gevorm word van wie verantwoordelik was vir die onrus en openbare geweld in die Oos-Kaap. Politieke aktiviste is hiermee geïdentifiseer asook geprioritiseer. Die oorweging was aanvanklik om hierdie geprioritiseerde aktiviste op wettige wyse aan bande te lê en te beperk tot die beste van die Veiligheidstak se vermoë. Dit het egter duidelik geword dat, om die redes hierbo genoem, dit teen-produktief sou wees en dat die mate van geweld slegs sou toeneem. Dit was dus gemeensaak in die Veiligheidsgemeenskap dat die situasie dringende en drastiese aksie vereis het. Veiligheidstaklede, wat goed beseft het dat hulle, en slegs hulle, tussen anargie en ordelikheid gestaan het, moes magteloos toekyk hoe anargie en wanorde in die Oos-Kaap heers en toeneem.

6.

Op hierdie stadium is geweldige druk deur middel van die GBS en politieke leiers op die Veiligheidsmagte geplaas om stabiliteit in die streek te herstel en die situasie onder beheer te kry. In hierdie verband word verwys na uitsprake deur o.a. oud-President PW Botha en Genl Magnus Malan, asook ander politieke leiers dat ons "ons in 'n guerilla-oorlogssituasie bevind" en dat "vuur met vuur" beveg moet word; dat ons besig was om die "totale aanslag" in die gesig te staar, ens.

7.

My werk het ingesluit veldwerk (fisiese insameling van inligting), sowel as die evaluering en vertolking van inligting wat vanoor die hele Veiligheidsafdeling Oostelike Provinsie en die res van die land ingesamel is. Ek was dus, soos die meeste ander senior lede, bewus van die aktiwiteite van die meeste prominente aktiviste in die Oos-Kaap. M Goniwe, F Calata en S Mkhonto was almal van die Cradock-omgewing en het prominente rolle vervul in die UDF en van die alternatiewe strukture. S Mhlawuli was van die Oudtshoorn-omgewing en het op 'n gereelde basis met Goniwe geskakel. Ons inligting het aangedui dat Mhlawuli onder leiding van Goniwe besig was om die oogmerke en rol van die UDF in die SWD te bevorder en uit te brei. Dit was duidelik dat Goniwe beplan het, of opdrag gekry het, om die alternatiewe strukture wat hy in Cradock geïmplimenteer het, uit te brei na ander streke in die platteland, waaronder die SWD. Daaglikse vergaderings by Veiligheidstak, Port Elizabeth gehou waartydens terugvoering gegee is oor die situasie t.o.v. persoonlikhede en aktiwiteite. Moontlike optredes is daagliks op alle vlakke bespreek.

8.

Enkele weke voor 27 Junie 1985 het Lt Kol van Rensburg, tweede in bevel van die Veiligheidstak, Afdeling Oostelike Provinsie, my in sy kantoor meegedeel dat daar 'n drastiese plan met Matthews Goniwe en sy grootste trawante gemaak moes word, omdat hulle besig was om die situasie op die Oos-Kaapse platteland in totale anargie te omskep. Ek het aangeneem dat hy bedoel dat die aktiviste elimineer moes word, aangesien hy dit uitdruklik sou stel indien hy bedoel het dat hulle

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aangehou moes word. Ek het dit net later met Maj du Plessis bespreek, met spesifieke verwysing na Goniwe, Calata en Mkhonto. Maj du Plessis het my op 'n stadium na Lt Kol van Rensburg se kantoor vergesel waar Kol van Rensburg dit benadruk het dat Kolonel Snyman, die bevelvoerder van Veiligheidstak, Afdeling Oostelike Provinsie, die eliminasië van die aktiviste moes goedkeur. Ek en Maj du Plessis is na Kol Snyman se kantoor waar ons die aangeleentheid kortliks bespreek het, aangesien Kol Snyman op hoogte was van die bedrywighede van al die betrokke aktiviste. Kol Snyman, wie ek nog altyd as 'n sagmoedige persoon beskou het, het gese dat ons moet doen wat in belang van die RSA is. Ons het dit as die amptelike magtiging van die operasie beskou. Ek en Maj du Plessis het daarop na die kantoor van Lt Kol van Rensburg teruggekeer en aan hom meegedeel dat Kol Snyman die operasie goedgekeur het.

9.

Lt Kol van Rensburg het gevolglik in gesprek getree met Maj du Plessis en myself ten einde die beplanning te doen rondom die wyse waarop die operasie uitgevoer moes word. Lt Kol van Rensburg het opdrag gegee dat die operasie moes voorkom soos 'n roof of 'n vigilante aanval. Hy het waarskynlik daarop gemik dat daar 'n redelike hewige stryd tussen sekere faksies van die UDF en AZAPO was wat reeds tot bloedvergieting gelei het.

10.

Ek het gevolglik vir Lt Eric Taylor en Sers Gerhard Lotz, wat albei op die Swart Aangeleenthede tak gewerk het, afsonderlik opdrag gegee om my te help om die drie aktiviste vanaf Cradock se bedrywighede en bewegings intensief te monitor ten einde ons in staat te stel om 'n operasionele plan te finaliseer. Gedurende hierdie proses, waartydens Goniwe, Calata en Mkhonto baie aktief was, het die noue skakeling en samewerking tussen Goniwe en Mhlawuli pertinent na vore getree. Ek het hul bedrywighede gereeld met Maj du Plessis bespreek en dit is besluit dat Mhlawuli dieselfde prioriteit as teiken vir eliminasië sou he aangesien sy permanente verwydering waarskynlik die uitwerking sou he dat die situasie in die Oudtshoorn-omgewing sou stabiliseer. Die doel van hierdie intensiewe moniteringsproses was dan ook om 'n geleentheid te identifiseer waartydens hierdie aktiviste om die lewe gebring kon word in omstandighede waar die Veiligheidstak nie verdink sou word nie. Aangesien dit bekend was dat die aktiviste baie rondbeweeg het, was 'n ooglopende plan om hulle op 'n afgelee pad voor te keer en te ontvoer. Ek het Maj du Plessis meegedeel dat ek van Lt Taylor en Sers Lotz se hulp sou gebruik maak en hy het geen beswaar gehad nie.

11.

Inligting is gevolglik op 27 Junie 1985 ontvang dat die betrokke vier aktiviste in Port Elizabeth was en dat hulle die aand na Cradock sou terugkeer. Ek kan nie onthou wie die inligting aan my oorgedra het nie, maar dit kon enige van Lt Taylor, Sers Lotz of Maj du Plessis gewees het. Ek kan onthou dat verskeie bronne van lede van die tak gereeld oor die betrokke aktiviste gerapporteer het, maar ek herinner my dat die spesifieke inligting vanaf 'n telefoononderskepping bekom is. Ek het aan Lt

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Taylor en Sers Lotz opdrag gegee om hulle garses te hou en om my om 1700 by die Algoapark Polisiestasie te ontmoet en het voorts vir Sers Faku opdrag gegee om die aand op 'n spesifieke plek naby die New Brighton Polisiestasie te wag en in radioverbinding te bly. Ek het aan hom gese dat hy enige van Sers Moguduka of Shepherd Sakati met hom kan saambring. Hy het op daardie stadium nie geweet wat beplan word nie en ek het die opdrag gegee ingeval iets verkeerd loop en ons hulle hulp om een of ander rede nodig sou he. Ek kan nie onthou presies waar ons moes ontmoet nie aangesien ons verskeie ontmoetingsplekke in verskillende dele van die woonbuurte gehad het wat by normale diensstye gebruik is.

12.

Na ons ontmoeting by Algoapark het ek, Lt Taylor en Sers Lotz met twee motors in die rigting van die Olifantshoekpas gery. Ek het alleen gery. By 'n geskikte plek het ons stilgehou sodat ons verkeer wat vanaf Port Elizabeth aangekom het, kon waarneem. Teen ongeveer 23h00 het ons die verwagte voertuig, 'n beige kleurige Honda, met vier insittendes, waargeneem wat in die rigting van Grahamstad ry. Ons het hulle agtervolg tot waar daar duidelik geen ander verkeer was nie, waarop Lt Taylor en Sers Lotz hulle motor verbygesteek het en hulle van die pad afgetrek het. Ek het agter die aktiviste se motor gestop en nadat ons hulle geïdentifiseer het, het ons hulle laat uitklim en hul hande vasgeboel. Ons het hulle meegedeel dat ons hulle wou ondervra. Sers Lotz het 'n stel vals nommerplate aan die aktiviste se motor geheg. Ek kan die doel daarvan nie meer onthou nie. Twee aktiviste het saam met my gery en een elk saam met Lt Taylor en Sers Lotz. Sers Lotz het die aktiviste se motor bestuur. Ons het teruggery na die omgewing van St George Strand waar ons van die hoofpad afgedraai het en 'n ent met 'n grondpad tussen die bosse naby die kus gery voordat ons stilgehou het. Ons het al vier aktiviste laat uitklim en Lt Taylor is deur my opdrag gegee om hulle op te pas.

13.

Ek en Sers Lotz het met die aktiviste se motor en my voertuig na 'n punt naby die Aldo Scribanti renbaan gery waar ons petrol oor die motor gegooi en dit aan die brand gesteek het. Ons is daarop terug na die punt waar Lt Taylor met die aktiviste gewag het en ek het een van die aktiviste, S Mkhonto, agter in my motor laat klim. Ek het alleen met hom weggery met die doel om hom met 'n mes om die lewe te bring. Ek het ook 'n rubberknuppel by my gehad waarmee ek hom bewusteloos wou slaan. Terwyl ek stadig deur 'n verlate area gery het op soek na 'n geskikte plek om hom om die lewe te bring, het hy my skielik van agter om die nek beetgekry. Ek moes stilhou en het hom oor my skouer met 'n ongelisensiseerde 22 kaliber wapen wat ek uit die destydse Rhodesie (Zimbabwe) gebring het en wat onder my sitplek gele het, geskiet. Ek weet nie waar ek hom getref het nie. Ek het hom uit die motor getrek en weer een keer in die kop geskiet en ek het vasgestel dat hy dood is. Ek het hom daar gelos en na die ontmoetingsplek gery, waar ek vir Sers Faku, Sers Moguduka en Shepherd Sakati aangetref het. Ek het hulle vertel wat gebeur het en het hulle versoek om my te help. Ons het hulle motor, 'n minibas, na die New Brighton Polisiestasie geneem. Hulle het daarna saam met my gery na die plek waar die aktivis se lyk was en gehelp om petrol daaroor te gooi en aan die brand te steek. Voor dit het Sers Faku hom verskeie kere met 'n mes gesteek, hoewel hy reeds

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dood was. Ek het die genoemde vuurwapen later opgesaag en in die see naby Port Elizabeth gegooi.

14.

Ons het daarna gery na die plek waar Lt Taylor en Sers Lotz met die ander aktiviste gewag het. Ek en Sersante Faku en Moguduka het daarop vir S Mhlawuli in my motor gelaai en na 'n punt sowat een kilometer van die plek gery waar Lt Taylor-hulle was, waar ons hom uitgelaai het. Sers Faku het hom met 'n rubberknuppel oor die kop geslaan en hy het bewusteloos neergeval. Die twee swart polisiemanne het hom daarop met 'n mes (of messe) gesteek en uiteindelik aan my gese dat hy dood is. Ons het daarna teruggekeer na die plek waar die ander gewag het.

15.

Sers Lotz en een of twee van die swart lede het daarna met een van die oorblywende aktiviste weggestap terwyl ek en Lt Taylor by die motors gewag het. Hy (Lotz) het kort daarna teruggekeer en aan my gerapporteer dat die swart lede die aktivis met messe doodgesteek het nadat hy hom bewusteloos geslaan het. Lt Taylor het die laaste aktivis weggeneem en na 'n paar minute teruggekeer en gerapporteer dat hy self die aktivis oor die kop geslaan het, maar dat hy deur die swart lede met messe gesteek is en dat hy dood is. Ek weet nie wie van die aktiviste is eerste om die lewe gebring nie.

16.

Ek het opdrag gegee dat die boeie verwyder moes word en dat Lt Taylor en Sers Lotz moes wag totdat ek en die swart lede by die ander punt was voordat hulle die lyke van die aktiviste aan die brand steek. Ons was per radio in verbinding en het op 'n frekwensie gekommunikeer wat vir die Veiligheidstak gereserveer was. By die lyk van Mhlawuli het ek 'n kan petrol uit die bagasiebak van my motor gehaal terwyl die swart lede die boeie moes afhaal. Faku het later aan my gese dat hulle die een hand van die lyk moes afsny omdat hulle nie die boeie kon afkry nie. Ek het vir Lt Taylor per radio laat weet dat ons gereed was en ons het die lyke op die twee punte gelyktydig aan die brand gesteek. Ek het opdrag gegee dat Lt Taylor en Sers Lotz moes onttrek, waarna ek en die swart lede na New Brighton is om hul voertuig te gaan haal. Daar het ons die agterste sitplek van my motor gewas omdat daar enkele bloedspatsels was wat verwyder moes word.

17.

Ek is nie huis toe nie en het vroeg die oggend persoonlik op kantoor aan Maj du Plessis gerapporteer dat die operasie afgehandel is. Ek en Maj du Plessis het later persoonlik aan Kol Snyman gerapporteer. Ek kan nie onthou of ek dit ooit weer met Lt Kol van Rensburg bespreek het nie.

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- (b) Meld indien enige persoon beseer is, gedood is of enige skade aan eiendom gelyk het as gevolg van sodanige daad/dade, versuim / versuime of misdryf/misdrywe :

Ja

- (c) Indien wel, meld :

- (i) Die naam/name van die slagoffer/s

M Goniwe, F Calata, S Mkhonto, S Mhlawuli

- (ii) Die beroep/e en adres/se van die slagoffer/s

Onderwysers/aktiviste sover bekend

- (iii) Die name en adresse van die slagoffer/s se naasbestaendes

Onbekend aan my

- (iv) Enige ander inligting wat met die identifisering en opsporing van die slagoffer/s behulpsaam kan wees

Geen

10. (a) Meld politieke oogmerke wat bereik wou word :

1. Die doelstellings van die Veiligheidstak, as magsbasis van die vorige regering was die handhawing van binnelandse veiligheid deur die bekamping van terrorisme en die beskerming van die Staatsbestel en -strukture teen Kommunistiese ekspansionisme, soos geïdentifiseer in die sogenaamde bevrydingsorganisasies (ANC/SAKP Alliansie, PAC ens) en hulle gewapende vleuels (Umkhonto we Sizwe, APLA ens) wat met geweld die regering van die dag omver wou werp en oorneem. Hierdie doelstellings, as sulks, was die politieke oogmerke van die Veiligheidstak

Die oogmerke kan verder omskryf word soos volg :

- 1.1 Die beskerming en instandhouding van die Regering en die wettige instellings wat deur hom daargestel was;
- 1.2 Die beskerming van die integriteit van die vorige regering om sodoende te verseker dat die gemeenskap nie verlore in die regerende party verloor nie, as gevolg van terreurdade en propaganda deur Kommunistiese gesinde organisasies;

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3. Suid-Afrika en sy Westerse kapitalistiese gemeenskap te beskerm teen 'n gewelddadige oorname deur Kommunistiese gesinde bevrydingsbewegings wie se doelstellings dit was om die land onregeerbaar te maak.

- 1.4 Deur bovermelde oogmerke die bestaan van 'n Westerse demokrasie soos ek dit geken het, in stand te hou en te verseker.

Soos vermeld, was al vier persone prominente aktiviste wat direk of indirek 'n groot aandeel aan die anargie en openbare onrus gehad het wat voor hul dood in die streek geheers het. Hul eliminerings was die enigste manier om die leidingsrol wat hulle in die aanslag gespeel het, uit te skakel.

- (b) U motivering waarom u sodanige daad/dade, versuim/e of misdryf / misdrywe as daad/dade, versuim/e of misdryf/misdrywe wat met 'n politieke oogmerk in verband staan, beskou :

Deur hulle te elimineer kon hulle nie met hul opruiende bedrywighede voortgaan nie. My seniors en ekself het oortuig gevoel dat daar 'n afname in geweld en doodslag sou wees. Let asseblief daarop dat slegs die geprioritiseerde teikens geelimineer is en nie 'n massa onbetrokke burgerlikes soos die geval sou wees as daar bv. 'n bom gestel was nie.

- (c) Is u op enige wyse bevoordeel, finansiële of andersins ?

GEENSINS.

- (d) Indien wel, verduidelik die aard en omvang daarvan :

N.V.T.

11. (a) Is die daad/dade, versuim/e of misdryf/misdrywe verrig in die uitvoering van 'n bevel van, of ten behoeve van, of met die goedkeuring van die betrokke organisasie, instelling, liggaam, bevrydingsbeweging, staatsdepartement of veiligheidsmag ?

JA

- (b) Indien wel, meld besonderhede met betrekking tot sodanige bevel of goedkeuring en die datum daarvan en, indien bekend, die naam en adres van die persoon/persone wat sodanige bevel gegee of goedkeuring verleen het :

Kol Snyman, Lt Kol Van Rensburg, Maj du Plessis
Huidige adresse onbekend

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12. Indien vervolging gevolg het, meld
- (a) In welke hof...N.V.T
 - (b) Saaknommer...N.V.T.
 - (c) Op welke aanklag...N.V.T.
 - (d) Datum van volgende verskyning in hof (indien enige) ...N.V.T.
 - (e) Misdryf ten opsigte waarvan skuldig bevind en gevonniss is (indien van toepassing)...N.V.T.
 - (f) Datum van vonnis (indien van toepassing)...N.V.T.
 - (g) Vonnis opgele (indien van toepassing)...N.V.T.
 - (h) Gevangenisnommer (indien van toepassing)...N.V.T.
13. (a) Is siviele verrigtinge hangende of word dit beoog na aanleiding van die daad/dade, versuim/e of misdrywe ten opsigte waarvan amnestie verlang word ?
- Onbekend
- (b) Indien wel, meld :
- (i) Die identiteit en adresse van die partye en hulle regsadviseurs, indien enige :

Onbekend
 - (ii) Die saaknommer en die hof waarin die verrigtinge hangend is :

Onbekend



VERKLAARDER

Die verklaarder erken dat hy/sy vertrou is met die inhoud van die verklaring en dit begryp. Hierdie verklaring is behoorlik voor my beedig/bevestig op hede die 6de dag van Mei 1997 te Pretoria.

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KOMMISSARIS VAN EDE

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AANHANGSEL

VORM 1

**AANSOEK OM AMNESTIE INGEVOLGE ARTIKEL 18 VAN DIE
WET OP DIE BEVORDERING VAN NASIONALE EENHEID EN
VERSOENING, 1995 (WET NO.34 VAN 1995)**

1. Van : SNYMAN
2. Volle voorname : HAROLD
3. Adres : p/a VAN DER MERWE & BESTER PROKUREURS, POSBUS 2306,
NOORDEINDE, PORT ELIZABETH
Poskode : 6056
4. Identiteitsnommer/Paspoortnommer : 280423 5032 08 6
5. Geboortedatum : 23 April 1928
6. Geboorteplek : Uitenhage
7. (a) Indien u 'n beamppte/ampsdraer/lid/ondersteuner is/was van enige politieke organisasie/instelling/liggaam of bevrydingsbeweging, meld naam daarvan:

Nasionale Party
- (b) Meld hoedanigheid waarin u in die betrokke organisasie/instelling/liggaam of bevrydingsbeweging gedien het, indien van toepassing, en lidmaatskap nommer, indien enige :

Ondersteuner
8. (a) Indien u 'n beamppte/ampsdraer/werknemer is/was in diens van die Staat of enige voormalige staat of indien u 'n lid is/was van die veiligheidsmagte van die Staat of enige voormalige staat, meld die departement/afdeling/divisie :

SAP Streeksbevelvoerder van die Veiligheidstak in die Oos-Kaap
- (b) Meld hoedanigheid en tydperk waarin u in diens van die Staat of voormalige staat was of in die veiligheidsmagte gedien het, indien van toepassing, en magsnommer, indien enige :

Magsnommer :

25.02.47 - Datum van Attestasie
1947 - Konstabel, Eaakensstraat Polisiestasie, Port Elizabeth

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1947 - Distrikskommissaris, Port Elizabeth Noord
 1949 - Alexanderbaal
 1950 - Louis Le Grange Plein
 1951 - Distrikskommissaris, Port Elizabeth Noord
 1953 - Louis Le Grange Plein
 1953 - New Brighton
 1955 - Baakensstraat Polisieestasie, Port Elizabeth
 1955 - Sersant
 1955 - Louis Le Grange Plein
 1960 - D K, Grahamstad
 1961 - S K, Oos-Kaap
 1964 - Adjudant-Offisier
 1965 - M I D
 1967 - Louis Le Grange Plein M I D
 1968 - Luitenant
 1971 - Kaptein
 1976 - Majoor
 1981 - Luitenant-Kolonel
 1985 - Kolonel

KURSUSSE BYGEWOON

1947 - Eerstehulp
 1967 - Identifisering van ontplofbare stowwe en toestelle

KORT PERSOONLIKE OORSIG

Ek, Harold Snyman, is 68 jaar oud en gebore te Uitenhage in die Oos-Kaap. Ek het groot geword in Uitenhage waar my pa 'n boer was. Ek is die enigste kind en het groot geword in 'n streng konserwatiewe en Afrikaanse huis. Ons was almal lede van die Nederduits Gereformeerde Kerk. Ek het aanvanklik op 'n plaasskool skool gegaan, maar het my hoërskoolloopbaan aan die Hoërskool Humansdorp voltooi. Ek het by die Suid-Afrikaanse Polisie aangesluit direk na voltooiing van my skoolloopbaan. Gedurende my vormingsjare het ek onbewustelik deel geword van die Apartheidsera en was oortuig aan die einde van my skoolloopbaan dat Apartheid noodsaaklik was vir die verdere voortbestaan van die Afrikaanssprekende Blanke aan die suidelike punt van Afrika.

Ek het egter te alle tye tydens my diens in die Suid-Afrikaanse Polisie opgetree op 'n bona fide wyse ter uitvoering van my roeping as lid van die Suid-Afrikaanse Polisie. Ek was in diens van die Regering van die dag en lojale en verplig om die staatkundige bestel van die tyd te beskerm en wet en orde te handhaaf. My persoonlike oortuiginge is verder ook ondersteun deur die feit dat my kerk die beleid en optrede van die Nasionale Party Regering goedgekeur en ondersteun het.

Ek het te alle tye in my hoedanigheid as lid van die Suid-Afrikaanse Polisie nooit enige daad of versuim verrig vir persoonlike gewin nie. My betrokkenheid in hierdie voorval was ook nie weens persoonlike kwaadwilligheid, kwaadgesindheid of nydigheid gerig teen die slagoffer van die daad nie.

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9. (a) Verskaf voldoende besonderhede van die daad/dade, versuim/e of misdryf/misdrywe wat met 'n politieke oogmerk in verband staan ten opsigte waarvan amnestie verlang word, insluitende datum/s, plek/ke en aard daarvan en die naam/name van enige ander persoon/persone betrokke:

(i) Daad/dade, versuim/e of misdryf/misdrywe

Ontvoering en dood van M Goniwe, F Galata, S Mkhonto en S Mhlawull

(ii) Datum/s

27 Junie 1985

(iii) Plek/ke

Port Elizabeth

(iv) Aard en besonderhede

Gedurende 1985 was ek die Afdelingsbevelvoerder van die Veiligheidstak in die Oostelike Provinsie. Ek was gestasioneer te Louis Le Grange in Port Elizabeth.

Op hierdie stadium was Brigadier C A Swart die Afdelings Kommissaris van die Suid-Afrikaanse Polisie in die Oostelike Provinsie.

As Afdelingsbevelvoerder van die Veiligheidstak moes ek elke oggend verslag doen aan Brigadier C A Swart oor die veiligheidsituasie in die Oos-Kaap. Hierdie verslae was voorberei uit die inligting sisteem van die Veiligheidstak soos ingesamel deur fisiese en nie-fisiese bronne.

As Bevelvoerder van die Veiligheidstak was dit my plig om deel te neem aan alle sittings van die GBS (Gesamentlike Veiligheids Bestuursentrum) wat normaalweg een keer per maand plaasgevind het. Dringende sittings het egter ook dikwels plaasgevind afhange van die veiligheidsituasie.

Die doel van hierdie GBS-sittings was om veiligheidsmag optrede te koördineer en te inisieer. Die rolspelers op hierdie vergaderings was onder andere die Suid-Afrikaanse Polisie (SAP), die Suid-Afrikaanse Weermag (SAW), die Administrasieraad, Nasionale Intelligensie, Binne- of Buitelandse Sake, die Postkantoor en die Suid-Afrikaanse Uitsaaikorporasie (SAUK).

Tydens hierdie vergaderings het die Weermag leiding geneem en gewoonlik was Brigadier Joffel van der Westhuizen die voorsitter. Ek kan egter ook onthou dat Brigadier Swart van die Suid-Afrikaanse Polisie egter ook per gansheid as voorsitter waargeneem het. Op hierdie vergaderings is regeringsbeleid en besluite ten opsigte van

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veiligheidsaangeleenthede soos ontvang via die Staatsveiligheidsraad deurgevoer na Provinsiale- en Streeksvlak en verder gekoördineer. Ek moes as bevelvoerder van die Veiligheidstak verslag doen en insette lewer met betrekking tot die algehele veiligheidssituasie in die Afdeling. In hierdie verband is daar verwag van die Veiligheidstak om leiding te gee en oplossings te bied vir die hantering van probleemsituasies.

Daar is deur middel van die Staatsveiligheidsraad op 'n gereelde basis reëlings getref dat alle rolspelers by die GBS toegesprek en besoek word deur politieke leiers en lede van die regering sowel as die topstruktuur van die Veiligheidsmagte. Ek kan onthou dat ons by die GBS by verskillende geleenthede gedurende hierdie era besoek en toegesprek was deur onder andere P W Botha, Louis Le Grange, Magnus Malan en Adriaan Vlok.

Daar was tydens hierdie besoeke geweldig klem gelê daarop dat die heersende veiligheidsituasie genormaliseer moes word en wet en orde moes ten alle koste dringend herstel word. Drastiese optrede deur die Veiligheidsmagte is op hierdie vergaderings bepleit om die onluste en anargie onder beheer te kry.

Geweldige druk is op hierdie manier van regeringskant uitgeoefen op die Veiligheidsmagte om drasties op te tree om aktiviste aan bande te lê en te neutraliseer en sodoende die veiligheidsituasie te beheer. 'n Groot mate van speling is gelaat waarbinne ek byvoorbeeld as bevelvoerder van die Veiligheidstak moes en kon optree om te help om die regering van die dag en staatkundige bestel te beskerm en in stand te hou en te voorkom dat die gemeenskap as gevolg van intimidasie en vrees vertroue in die regering verloor.

Dit was duidelik dat die regering deur die Veiligheidsmagte op hierdie stadium gewikkel was in 'n onverklaarde oorlog teen die bevrydingsorganisasies en hulle totale aanslag. Ons was gevolglik aan die voorpunt van die stryd om te voorkom dat die ANC/SACP-Alliansie die regering met geweld omver werp en die staatkundige bestel vernietig. Die GBS se doel was myns insiens verder om Suid-Afrika te beskerm teen 'n kommunistiese oorname, of alternatiewelik om te verhoed dat die land en sy mense deur 'n reeks aanvalle, beide militêr of polities van aard soos byvoorbeeld internasionale sanksies, boikotte, isolasie, onluste en intimidasie oorval word. Ek het hierdie aanvalle beskou as gemik daarop om die land en regering oor te neem. Ek het die werklike vrees gehad dat alles wat op Suid-Afrikaanse bodem tot stand gebring was, hoofsaaklik deur die blanke gemeenskap, verlore kon gaan en dus gepoog om hierdie status quo te laat voortbestaan in wat ons in die Veiligheidstak as 'n normale Suid-Afrikaanse leefwyse beskou het.

Gedurende 1984 en die eerste helfte van 1985 as gevolg van die stigting van die United Democratic Front het die aanslag van die ANC/SACP-Alliansie om die regering van die dag met geweld omver

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te werp en die staatkundige bestel te vernietig momentum gekry. Die gemeenskap van die Oos-Kaap en omliggende plattelandse gebiede, insluitende die SWD, het aansienlik meer verpolitiseer. In hierdie verband het die Cradock Residents Association (CRADORA) 'n baie prominente rol vervul. Die begin fase van hierdie aanslag was aanvanklik beperk tot politieke opswepery van die massa en die hou van politieke vergaderings. Gedurende 1984 is daar begin met die skepping en uitbouing van alternatiewe strukture in die Oos-Kaap. Die strukture was gemik veral op die opvoedkundige en sosiale terreine. Die doelwit van hierdie alternatiewe strukture was om 'n algehele onregeerbaarheid van die breë massa te bevorder wat die instandhouding van die regering en staatkundige bestel in gevaar sou stel en uiteindelik totaal onmoontlik maak. In hierdie klimaat sou die aanslag van die ANC/SAKP-Alliansie om die regering met geweld omver te werp en die staatkundige bestel te vernietig aansienlik makliker en doelgerig kon plaasvind. Die skepping van hierdie alternatiewe strukture het gedurende 1984 gelei daartoe dat die staat in anargie gedompel was. Intimidasie en geweld waarby ingesluit die dood van lede van die gemeenskap en die polisie was aan die orde van die dag. Selfs beriggewers sook persone wat foutiewelik as beriggewers gebrandmerk is het in hierdie omstandighede gesterf.

Hierdie stand van sake het teen die einde van 1984 aansienlike aanlag geniet tydens die GBS-vergaderings. Dit het weereens duidelik geword dat die normale regsopsies soos inperking, beperking en aanhouding van politieke aktiviste nie die gewenste uitwerking of resultate gehad het nie. Dit was duidelik dat die politieke klimaat steeds totaal onstabiel was ten spyte van bogenoemde stappe. Die proses was veral aan bande gelê en geneutraliseer weens die feit dat vrees onder die gemeenskap en polisiebeamptes sodanig was dat niemand bereid was om na vore te kom om getuie te lê nie as gevolg van die feit dat hulle vir hul lewens gevrees het.

Dit was duidelik dat hierdie vrese gegrond was aangesien verskeie persone, regtens of verkeerdelik, in hierdie stryd gedood is aangesien hulle aangesien was as persone wat saamwerk met die Suid-Afrikaanse Polisie en uiteindelik die regerings bestel. Dit was op hierdie stadium duidelik dat die sogenaamde G-Plan in die Oos-Kaap besig was om vrugte af te werp vir die ANC/SAKP-Alliansie en dat die bedreiging wat dit ingehou het vir die regering en staatkundige bestel wesenlik en baie ernstig was. As gevolg van hierdie bedreiging het die Veiligheidstak in oorlegplëging met die GBS hul werksaamhede aansienlik verskerp ten einde:

1. Alle organisasies wat verantwoordelik was vir die destabilisasie in die Oos-Kaap se opeelwette en optrede volledig te dokumenteer;
2. Alle persone en politieke aktiviste se aktiwiteite is volledig gemonitor;
3. Hulpoortering van opgeleide terriste en die inwagtinge van persone wat te wette hierby betrokke was by.

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4. Skakeling met ANC persone in die buiteland insluitende opdragte van die ANC en SACTU met spesifieke verwysing na die Oos-Kaap is intensief gemonitor.

Voortspruitend uit bovermelde databasis kon 'n goeie geheelbeeld gevorm word van wie verantwoordelik was vir die onrus en openbare geweld in die Oos-Kaap. Politieke aktiviste is hierna geïdentifiseer asook geprioritiseer.

Die doelwit aanvanklik was om hierdie geïdentifiseerde geprioritiseerde aktiviste op wettige wyse aan bande te lê en te beperk tot die beste van die Veiligheidstak se vermoë. Dit het egter duidelik geword om die redes hierbo genoem dat die mate van anargie en geweld slegs toegeneem het en dit was gemeensaak dat die situasie dringende en drastiese aksie verels het. Veiligheidstaklede moes magteloos toekyk hoe anargie en wanorde in die Oos-Kaap heers en toeneem.

Op hierdie stadium is geweldige druk deur middel van die GBS en politieke leiers op die Veiligheidsmagte geplaas om stabiliteit in die streek te herstel en die situasie onder beheer te kry. In hierdie verband word verwys na uitsprake deur onder andere P W Botha en Magnus Malan asook ander politieke leiers waar terme soos "Vuur moet met vuur beveg word", "Ons bevind ons in 'n Guerilla-oorlog situasie", en verwysing na "Die totale aanslag" en "Die bedreiging van die kommunistiese ekspansionisme en oorname wat ons in die gesig gestaar het met die gepaardgaande vernietiging van die normale westerse demokratiese leefstyl" asook die welbekende "swartgevaar" uitsprake was aan die orde van die dag.

Ek het deur middel van die verskerpte GBS optrede inligting rondom die geïdentifiseerde geprioritiseerde leiers ingewin wat daarop gedui het dat die politieke aktiviste van CRADORA by name van M Goniwe, F Galata, S Mkhonto asook 'n verdere aktivis by name van S Mhlawuli 'n baie ernstige bedreiging vir die staatkundige bestel inhou aangesien hulle opruiende bedrywighede besig was om die swart woongebiede in die Oos-Kaap insluitende die platteland sowel as die SWD in totale chaos te dompel. Mnr Goniwe was verantwoordelik vir die organisering en politisering van die massas in die plattelandse gemeenskap insluitende areas soos die SWD. In hierdie verband was hy in gereelde skakeling en verbinding met Mnr Mhlawuli in die Suidwestelike distrikte wie daar as aktivis en leiersfiguur opgetree het en met Mnr Goniwe moes skakel op gereelde basis.

Alle normale prosesse wat aangewend was om hierdie geïdentifiseerde aktiviste te beperk, aan te hou en te neutraliseer was onsuksesvol. Ek het opdrag ontvang gedurende 1985 om 'n veiligheidsvoorligtings vergadering by te woon te Cradock. Die vergadering sou handel sover my geheue strek slags oor die bedrywighede van Matthew Goniwe en CRADORA, insluitende die aktiviteite van hierdie vier geïdentifiseerde aktiviste. Dit was duidelik dat hulle op daardie stadium onder andere ook die funksionering van Swart Plaaslike Rade heeltemal aan bande gelê het en aldus veroorsaak het dat talle Swart Burgermeesters en raadslede bedank het. Die geweldspiraal, onluste en selfs totale anargie wat volgens ons inligting direk te wete aan die aktiviteite en opswaery van hierdie vier aktiviste. Dit was nóg intensier

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duidelik dat wet en orde nooit herstel sou kon word in die Swart woongebiede nie, tensy daar met hierdie vier aktiviste gehandel word nie.

Persone teenwoordig op hierdie vergadering was onder andere die Minister van Polisie, Mnr L Le Grange; die Minister van Samewerking en Ontwikkeling, Mnr Barnd du Plessis; Adjunk-Minister Dr Morrison; die Kommissaris van die Suid-Afrikaanse Polisie, Generaal Johan Coetzee; die Afdelings Kommissaris van die Oostelike Provinsie, Brigadier C A Swart en verskeie ander persone uit die Cradock-gemeenskap wie betrokke was by die GBS-stelsel.

Volledige verslag is gedoen deur myself van die bedrywighede van Goniwe en die ander aktiviste en hul betrokkenheid in die onrus en anargie wat op daardie stadium geheers het in die Oos-Kaap by veral skole, Swart rade en die Swart woongebiede.

Dit was duidelik op hierdie vergaderings dat daar verwag was van die Veiligheidstak in die Oostelike Provinsie om "vuur met vuur te beveg" en die situasie deur middel van drastiese stappe dringend onder beheer te bring en sodoende wet en orde te herstel.

Op 'n sekere datum wat ek nie meer kan onthou nie het Majoor du Plessis en Kaptein van Zyl my in my kantoor kom spreek. Hulle het my voorsien van die jongste inligting rondom die bedrywighede van bovermelde vier aktiviste en daarop gewys dat die veiligheidsituasie in die Oos-Kaap besig was om totaal hande uit te ruk as gevolg van hierdie persone se aktiwiteite. Verskeie opsies was bespreek maar het na daeglike oorweging nie enige permanente oplossing gebied nie. Ek het geweldige druk ervaar van die Suid-Afrikaanse Polisie Hoofkantoor sowel as die GBS om drasties op te tree om hierdie situasie onmiddellik onder beheer te kry. Dit was duidelik na die voorlegging dat hierdie vier persone dringend geneutraliseer moes word ten einde die organisasie (CRADORA) van sy leierselement te ontnem en ander oorblywende leiers af te skrik om in so 'n groot mate polities aktief op te tree.

Hierdie besluit kon nie ligtelik geneem word nie maar teen die agtergrond van al die omringende politieke faktore in die Oos-Kaap en gepaardgaande georganiseerde geweld op lede van die gemeenskap en die Suid-Afrikaanse Polisie was daar geen ander keuse as om oorweging te skenk aan die moontlikheid om hierdie vier aktiviste te dood nie. Hierdie opsie was by vorige geleenthede reeds geopper deur verskeie mense op GBS vergaderings en alhoewel ek nie die detail kan onthou nie was daar volgens my nooit werklik 'n besluit geneem dat hierdie vier aktiviste gedood sou word nie.

Ek is nou bewus van die bestaan van 'n Vleermagsein gedateer 07/06/1985 wat aangedui het dat sekere van hierdie persone "permanent uit die samelewing verwyder moes word". Ek het egter nie hiervan kennis gedra op daardie tydstip nie.

Ek het na enige gewatenswagings toestemming verleen dat 'n operasie

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van stapel gestuur moes word om hierdie vier aktiviste te dood ten einde die onrus en geweldpleging in die Oos-Kaap te probeer stabiliseer. Op hierdie stadium het daar geen rede bestaan vir my om die voorlegging en motivering van Majoor du Plessis te bevraagteken nie aangesien Majoor du Plessis 'n bewese veiligheidsrekord gehad het en daar geen rede bestaan het om sy opsomming en beoordeling van die onluste en geweld situasie in die Oos-Kaap en wie daarvoor verantwoordelik was te bevraagteken nie.

Ek het daarna niks verder met die operasie te doen gehad nie en het later in die pers gesien dat die persone gedood is. Ek kan nie onthou of daar wel deur enige persoon spesifiek terugvoring aan my gegee was nie.

- (b) Meld indien enige persoon beseer is, gedood is of enige skade aan eiendom gely het as gevolg van sodanige daad/dade, versuim/e of misdryf/misdrywe:

Ja.

- (c) Indien wel, meld;

- (i) Die naam/name van die slagoffer/s

M Goniwe, F Galata, S Mkhonto en S Mhlawuli.

- (ii) Die beroep/e en adres/se van die slagoffer/s

Reeds bekend aan W.V.K.

- (iii) Die name en adresse van die slagoffer/s se naasbestaendes

Reeds bekend aan W.V.K.

- (iv) Enige ander inligting wat met die identifisering en opsporing van die slagoffer/s behulpsaam kan wees

Geen

10. (a) Meld politieke oogmerk wat bereik wou word:

1. Die doelstelling van die Veiligheidstak, as deel van die magsbasis van die Nasionale Party Regering, was die handhawing van binnelandse veiligheid deur die bekamping van terrorisme en die beskerming van die staatsbestel (Nasionale Party Regering) en -strukture teen Kommunistiese ekspansionisme, soos geïdentifiseer in die sogenaamde bevrydingsorganisasies (ANC/SAKP-Alliansie, PAC) en Swartmagbewussynsorganisasies (BPC en SASO) en hulle gewapende vleuels (Umkhonto-we-Sizwe, APLA en BCM) wat met geweld die regering van die dag omver wou werp en oorneem.

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- 1.1 Die bereiking van sodanige doelstellings het behels:
- 1.1.1 die beskerming en instandhouding van die Nasionale Party Regering en die wettige Instellings wat deur hom daar gestel was;
 - 1.1.2 die beskerming van die integriteit van die vorige Regering om sodoende te verseker dat die gemeenskap nie vertrou in die Regerende Party (Nasionale Party) sou verloor nie, as gevolg van terreurdade en propaganda deur kommunisties geöriënteerde organisasies;
 - 1.1.3 Suid-Afrika en sy westerse, kapitalistiese gemeenskap te beskerm teen 'n geweldadige oorname deur kommunisties geöriënteerde sogenaamde bevrydings bewegings wie se doelstellings was om die land onregeerbaar te maak.
- 1.3 Deur bovermelde doelstellings is gepoog om die voortbestaan van 'n normale westerse demokrasie soos wat ek dit ken, in stand te hou en te verseker.
- 1.4 Om te veg vir die voortbestaan van wat ek en ander lede van die Suid-Afrikaanse Polisie as 'n normale westerse demokratiese leefstyl beskou het.
- 1.5 Om lewe en eiendom te beskerm en verdere anargie te voorkom.

- (b) U motivering waarom u sodanige daad/dade, versuim/e of misdryf/misdrywe as daad/dade, versuim/e of misdryf/misdrywe wat met 'n politieke oogmerk in verband staan, beskou:

Vir verwysing sien paragraaf 9(a)(iv) hierbo.

As gevolg van feite soos vermeld in bogenoemde paragraaf was dit noodsaaklik om die persone te elimineer om die anargie en geweld wat aan die toeneem was te neutraliseer en onder beheer te bring.

- (c) Is u op enige wyse bevoordeel, finansieël of andersins?

Geensins.

- (d) Indien wel, verduidelik die aard en omvang daarvan:

N.V.T.

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11. (a) Is die daad/dade, versuim/e of misdryf/misdrywe verrig in die uitvoering van 'n bevel van, of ten behoewe van, of met die goedkeuring van die betrokke organisasie, instelling, liggaam, bevrydingsbeweging, staatsdepartement of veiligheidsmag?

JA, ten behoewe van die Veiligheidstak en die Regering van die dag.

- (b) Indien wel, meld besonderhede met betrekking tot sodanige bevel of goedkeuring en die datum daarvan en, indien bekend, die naam en adres van die persoon/persone wat sodanige bevel gegee of goedkeuring verleen het:

Self.

12. Indien vervolging gevolg het, meld:

- (a) In welke hof N.V.T.
 (b) Saaknommer N.V.T.
 (c) Op welke aanklag N.V.T.
 (d) Datum van volgende verskyning in hof (indien enige) N.V.T.
 (e) Misdryf ten opsigte waarvan skuldig bevind en gevonnissen is (indien van toepassing) N.V.T.
 (f) Datum van vonnis (indien van toepassing) N.V.T.
 (g) Vonnis opgelê (indien van toepassing) N.V.T.
 (h) Gevangenisnommer (indien van toepassing) N.V.T.

13. (a) Is siviele verrigtinge hangende of word dit beoog na aanleiding van die daad/dade, versuim/e of misdryf/misdrywe ten opsigte waarvan amnestie verlang word?

Ek dra nie kennis van enige verrigtinge nie.

- (b) Indien wel, me'd:

(i) Die identiteit en adresse van die partye en hulle regsadviseurs, indien enige:

N.V.T.

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(ii) Die saaknommer en die hof waarin die verrigtinge hangend is:

N.V.T.

VERKLAARDER

Die verklaarder erken dat hy/sy vertrouwd is met die inhoud van die verklaring en dit begryp.
Hierdie verklaring is behoorlik voor my beëdig/bevestig op hede die dag van
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Annex L18

List of Documents not supplied by the National Archives

Removed because of privileged contents

"LC19"

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UITERS GEHEIM

85/07/09

Leer No. S.4/43680
Tite

Suid-Afrikaanse Polisie



South African Police

AS1

Die Kommissaris / Minister
The Commissioner

1985-06-25

MINISTRY OF LAW AND ORDER

1985-06-27

VOORGESTELDE OP TREDE TEEN MATEWU MATTHEW GONIWE, SWARTMAN, OUD-ONDERWYSER, CRADOCK

1. In Kort agtergrond op bogenoemde en gebeure in Cradock op die voorsand van sy afdanking as onderwyser en aanhouding ingevolge artikel 28(1) van die Wet op Binnelandse Veiligheid, 1982 (Wet 74 van 1982) word ter inligting aangeheg - kyk bylae A.

2. GONIWE en sy drie makkers is op 31 Maart 1984 ingevolge bovermelde wetgeving gearresteer en aangehou tot 9 Oktober 1984. (Madoda JACOBS, 'n skolier en een van die aangehoudenes is egter vroeër, op 1984.07.18, vrygelaat om op 'n kriminele aanklag terug te staan).

3. Gepaard met die aanhouding van die voormelde persone is daar, benewens die verbod op opelughyeenkomste wat reeds van krag was, ook 'n verbod op alle binnehuise byeenkomste ingevolge artikel 46 van die Wet op Binnelandse Veiligheid vanaf 31 Maart tot 30 September 1984 teen opsigte van die inddroesdistrik, Cradock, geplaan.

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4. Terwyl in a.nhouding in Pollsmoor-gevangenis, Kaapstad, is hy dikwels deur led van die PFP besoek, oa mev Helen SUZMAN, mnr A. SAVAGE en in besonder mev Molly BLACKBURN, met wie hy goed bevriend is. Hy is ook deur lede van die Internasionale Komitee van die Rooikruis besoek.

5. Na GONIWE se ontslag uit die gevangenis en die opheffing van die verbod, het hy onmiddellik voortgegaan en byeenkomste gereël ter uithouing van sy organisasies (CRADORA en CRADOYA).

6. Hy het oa bekende aktiviste, insluitende Oscar MPETHA, 'n bekende ANC- en SACTU-aanhanger, as sprekers na Cradock genooi waartydens opruiende toesprake voor groot skares gedoen is. GONIWE het self te verskeie geleenthede as spreker opgetree en die geskiedenis van die ANC aan die aanwesiges geskets met die klem daarop dat die Blankes die land van die Swartman "gesteel" het, die ANC dit op vreedsame wyse met die Blanke wou deel maar dat die regering die vreedsame pogings met geweld beantwoord het.

Oscar MPETHA het hom oa soos volg op 1984.10.20 (kort na die opheffing van die binneshuise verbod) tydens 'n CRADORA-vergadering belê deur GONIWE, uitgelaat:

"This is my message, the councillors and all their members must get out of our wa:..."

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"I don't say that you must kill them but I've something on my mind. If you travel down a road and you see an obstacle, such as a stone, you first try to remove the stone and if the stone doesn't budge, you take a hammer and break it. There are people singing around here today 'this wagon has no wheels'. To them I say, take this wagon off the road. This is my message, the councillors and all their members must get out of our way, this wagon will crush them. If their father BOTHA is run over by a car, he must not come to us and ask what we've done to his people, because it is they that got in the way of this car, not the car in front of them. Come gentlemen today it is not good to be a policeman or a councillor, it's not good to be a helper of the oppressor".

Matthew GONIWE het op dieselfde vergadering die volgende beroep op die sanwesiges gedoen:

"You heard the last speaker, please do not associate with the puppets" Doris BERMAANS, Boyce RALWE and Nomavuka NOWI" (raadslede).

7. Hy en sy organisasies het hul veldtog teen die verkose Swart dorpsraad voortgesit en verskerp tot so 'n mate dat al die lede begin 1985 bedank het. Hoewel die veldtog aanvanklik openlike intimidasie ingesluit het, is dit later, na polisie-optrede, tot en met die lede se bedanking, meer beperk tot subtile intimidasie soos die sing van vryheidsliedere voor hul huise, ens.

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In Maart 1985 is GONIWE deur die UDF aangestel as die organisasie se plattelands organiseerder van die Oos-Kaapse strack - verantwoordelik vir die volgende dorpe:

Cradock, Graaf-Reinet, Somerset-Oos, Bedford, Adelaide, Middelburg (Kaap), Hanover, Hofmeyer, Pearston, Steynsburg, Cookhouse, Noupoort, Port Alfred en Fort Beaufort.

Hy het reeds hierdie dorpe besoek en byeenkomste van Swartes toegesprek waartydens hy die ontstaan van die ANC geskets en die inwoners aangeroedig het om jeugorganisasies en "civic organisations" na die voorbeeld van CRADORA en CRADOYA in Cradock, tot stand te bring. Opvallend is dit dat daar in die meeste van hierdie dorpies na GONIWE se besoeke, protes- en versetaksies teen die owerheid geloods is - in etlike gevalle gepaard met geweld wat aanleiding gegee het tot polisie-optrede.

9. Vir 'n kort opsomming van GONIWE se onlangse bedrywighede kyk bylae B.

10. Die vraag wat nou ontstaan is, wat moet gedoen word om GONIWE se anti-owerheidsoprede aan bande te lê?

11. Na die informele samesprekings tussen GONIWE en mnr Jaap STRYDOM van die Departement Onderwys en Opleiding op 24 Mei 1985, kan die volgende mondelike optredes ten opsigte van GONIWE oorweeg word.

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11.1 sy onvoorwaardelike heraanstelling in sy pos as onderwyser op Cradock;

11.2 sy onvoorwaardelike heraanstelling as onderwyser elders;

11.3 sy voorwaardelike heraanstelling as onderwyser op Cradock of elders;

11.4 sy aanhouding ingevolge artikel 28(1) van die Wet op Binnelandse Veiligheid;

11.5 sy inperking ingevolge artikel 19 - 21 van die Wet op Binnelandse Veiligheid waarvan daar drie kategorieë is nl.:

- C-inperking wat hom sal beperk tot 'n sekere gebied maar redelike vryheid daarbinne sal gee;
- B-inperking wat sy beweging meer beperk - bv. hy mag nie tussen 15h00 saans en 06h00 soggens van sy huis afwesig wees nie; en
- A-inperking wat feitlik huisarres behels.

12. Ten opsigte van die opsie om hom onvoorwaardelik aan te stel op Cradock of elders, kan argumenteer word dat sy energie moontlik absorbeer kan word binne skoolverband. Dit is 'n moontlikheid maar as daar gekyk word na sy bedrywighede juis toe hy nog as

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onderwyser geëmplojeer was, voor sy afdanking, wil dit voorkom asof hierdie moontlikheid uiters vaag is en 'n ernstige risiko inhou.

13. Sou hy elders geplaas word, bestaan die verdere moontlikheid dat hy daar, afhangende waar hy geplaas word, 'n moontlik rustige gemeenskap gaan politiseer.

14. GONIWE is reeds so diep betrokke by UDF en UDF-filiaalaktiwiteite dat hy hom nie summier daarvan sal distansieer nie en steeds tyd daarvoor benewens skoolverpligtinge, sal inruim.

15. Hierdie twee opsies - dws die onvoorwaardelike heraanstelling as onderwyser kan as gevolg van die risiko daaraan verbonde, derhalwe nie as wenslik aanbeveel word nie.

16. Ten opsigte van die voorwaardelike heraanstelling van GONIWE in sy pos as onderwyser word die mening gehuldig dat hierdie opsie definitiewe meriete inhou mits die voorwaardes die volgende insluit:

- GONIWE skriftelik onderneem om uit CRADORA, CRADOYA en die UDF te bedank en hom daarvan en ander soortgelyke organisasies distansieer; en

- hy onderneem om hom aan die onderwyskodes en regulasies te onderwerp.

(Die vraag is egter of die Departement hom so 'n keuse mag stel).

17. Sover dit moontlike optrede ingevolge Veiligheidswetgewing betref, dws aanhouding ingevolge art 28(1) en inperking ingevolge art 19 - 21, moet dit geskied na aanbeveling na die Direkteur, Veiligheidswetgewing, wat na bestudering van alle tersaaklike feite 'n voorlegging aan die Minister van Wet en Orde maak.

18. Dit kan egter genoem word dat art 28-aanhouding meestal as 'n kort termynoplossing aangewend word en aangesien sodanige stappe reeds teen hom aangewend is, dit op die huidige nie aanbeveel word nie.

19. Die ander alternatief is die moontlikheid van 'n inperking ingevolge art 19 - 21 op Cradock of elders. In hierdie verband veroorsaak 'n inperking elders meestal die spreekwoordelike vrot appel resultaat -- maw 'n ander gebied word aktiveer.

20. 'n Inperking in Cradock, en dan ook 'n B-inperking, blyk onder die omstandighede die aangewese stap te wees, indien sy optrede voldoen aan die vereistes van die Wet -- wat bepaal sal moet word deur die Direkteur van Veiligheidswetgewing.

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21. Dit wil erhalwe voorkom asof die keuse lê tussen 'n voorwaardelike heraanstelling as onderwyser en 'n groep B-inperking.

22. Dit moet dan ook in gedagte gehou word dat indien GONIWE die voorwaardelike aanbod van die hand wys, of selfs 'n onvoorwaardelike, dit enige owerheidsoptrede daarna onder verdenking sal plaas en bemoeilik. Hierdie aspek is ook reeds aan die Minister van Wet en Orde deur die SA Polisie, uitgewys.

23. Ten slotte kan dit ook uitgewys word dat op watter wyse daar ook al teen GONIWE opgetree word, dit in die lig van die bekendheid wat hy reeds verwerf het, buitelands sowel as binnelands, hewige kritiek sal ontlok.

P.J. Coetzee
KOMMISSARIS
P.J. COETZEE
GENERAAL
GENERAL

~~GOEDGEKEUR/APPROVED~~
~~NIE GOEDGEKEUR NIET/NOT APPROVED~~
MINISTER VAN WET EN ORDE
MINISTER OF LAW AND ORDER.

Op K's: Afgehandel - by is oortrek.

[Signature]
UITERS GEHEIM

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MEMORANDUM

1.7.84

AANHOUDING IN 'N GEVANGENIS INGEVOLGE ARTIKEL 28(1) VAN DIE WET OP
 BINNELANDSE VEILIGHEID, 1962 (WET 74 VAN 1982)
 SWARTMAN MATEWU MATTHEW GONIWE EN ANDER

1. Bogenoemde, 'n Xhosa, gebore in Cradock, is op 1976-07-19, terwyl die Transkei nog deel van die RSA was, in die Transkei gearresteer weens sy betrokkenheid by die bedrywighede van 'n Marxistiese organisasie, later geïdentifiseer as die PEOPLE UNITED FOR THE LIBERATION OF SOUTH AFRICA (PUFLSA).
2. Hierdie organisasie, waarvan hy een van die stigterslede was, het op 'n selfsisteem gefunksioneer in die Transkei sowel as verskeie sentrums in die RSA. Die moeds operandi van die organisasie was om diskussiegroepe te stig waarheen veral jong intellektuele Swart studente en skoliere uitgenooi is en kommunistiese leesstof dan bestudeer en lede gewerf is.
3. GONIWE was tydens sy arrestasie 'n onderwyser aan die MQANDULI-skool in die Transkei en leier van die PUFLSA-sel aldaar. Hy het by vele geleenthede Kommunistiese boeke soos

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8. Kort na sy terugkeer na Cradock het GONIWE hom egter met buite-departementele aangeleenthede begin bemoei en binne enkele maande (in Augustus 1983) is die CRADOCK YOUTH ASSOCIATION (CRADOYA), die CRADOCK RESIDENTS ASSOCIATION (CRADORA) en die PRINCIPALS ASSOCIATION grotendeels op sy inisiatief gestig. Hy dien as voorsitter op die bestuursliggama van al drie organisasies met verskeie onderwysers en skoliere as mede-ampsdraers.
9. Op die voorwand van die gemeenskapsraadverkiesings einde November 1983 en onder aanvoering van GONIWE het CRADORA en CRADOYA 'n anti-gemeenskapsraadveldtog geloods om dié rade en sy raadslede in diskrediet by die inwoners te bring. Die huur- en dienstarief knelpunt is aangegryp en 'n reeks vergaderings is rondom hierdie aangeleentheid aangebied. Hierdie vergaderings het groot skare getrek en met verloop van tyd 'n klimaat van verset teen die owerheid en owerheidsinstellings by 'n groot gedeelte van die inwoners laat posvat.
10. GONIWE het met verloop van tyd as die selfaangestelde spreekbuis van die Cradock Swart inwoners begin optree en sy organisasies aan verskeie instansies bekendgestel, so die OOS-KAAPSE RAAD VAN KERKE, Engelstalige Oos-Kaapse koerante, die PORT ELIZABETH BLACK CIVIC ORGANISATION (PEBCO), mev NOLLY BLACKBURN (PFP-lid van die Provinsiale Raad, Walmer, Port Elizabeth), die CONGRESS OF SA STUDENTS (COSAS) en die UNITED DEMOCRATIC FRONT (UDF) by wie CRADORA en CRADOYA ook later

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geaffilieer het. GONIWE het ook met lede van die LEGAL RESOURCES CENTRE in aanraking gekom ten einde advies te bekom rakende 'n regsgeding wat hy teen die gemeenskapsrade ten opsigte van huuigelde oorweeg het.

11. Verskeie onderwysers, skoliere en inwoners is onder sy invloed by hierdie aktiwiteite betrek (so om fondse in te samel vir 'n maontlike regsgeding) en met die uitkringende onrusklimaat wat in die gebied aan die opbou was, is daar op GBS- en VEIKOM-GIS-vlak kommer uitgespreek oor die toestand in die gebied en is versoek dat GONIWE se verwydering oorweeg word.
12. Veiligheidshoofkantoor het gevolglik op 1983-10-18 die departemente Onderwys en Opleiding en Samewerking en Ontwikkeling in die verband geken vir sulke stappe as wat nodig geag mag word.
13. Voortspruitend hieruit is GONIWE deur Onderwys en Opleiding in kennis gestel dat hy na Graaff-Reinet verpluas is en hom daar met die heropening van die skole in Januarie 1984 by die NGWEBA senior sekondêre skool vir diens moes aanmeld. Hy het egter versuim om aan te meld en is ingevolge artikel 21(2)(a) van die Wet op Onderwys en Opleiding, 1979 (Wet 90 van 1979) geag ontslaan te wees en op 1984-01-27 amptelik afgedank.

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14. GONIWE het hierdie verwickeling egter nie aanvaar nie en met behulp van sy organisasies, 'n hewige agitatieveldtog teen sy verplasing en afanking geloods.
15. 'n Reeks vergaderings is sedertdien deur CRADORA en CRADOYA asgebied waartydens 'n skoleboikot bepleit is indien GONIWE nie in sy amp heraan gestel sou word nie.
16. Een van GONIWE se mede-komiteeleders op die bestuur van CRADORA en onderwyser by die ILINGELIHLE sekondêre skool in Cradock, FORT DANIEL CALATA, bygestaan deur MADODO JACOBS, 'n 21-jarige leerling by dieselfde skool, het in hierdie verband die leiding geneem in die agitatieveldtog.
17. Op 1984-02-03 het leerlinge van die ILINGELIHLE skool, onder leiding van MADODO JACOBS, dan ook met 'n klasseboikot begin en geëis dat 'n STUDENTE VERTEENWOORDIGENDE RAAD in die plek van die bestaande Prefekte-stelsel ingestel word. As gevolg van 'n volgehoue boikotaksie is klasse op 1984-02-07 opgeskort.
18. Op 1984-02-08 het 'n groep leerlinge by die SAM KHALLIE skool (waar GONIWE onderwyser was) klasse begin boikot, GONIWE se heraanstelling geëis en nie-deelnemers aan die boikot geïntimideer om klasbywoning te staak. Op 1984-02-10 is klasse ook hier as gevolg van 'n volgehoue boikot opgeskort.

19. Die boikot het spoedig verder uitgekring en op 1984-02-14 het leerlinge van die NXUBA hoër primêre skool ook by die boikotters aangesluit.
20. Pogings deur ouer- en skoolkomitees om met die Streeksdirekteur van Onderwys en Opleiding te onderhandel is veryd deur lede van CRADORA en CRADOYA by wyse van dreigemente en die aanspraak dat hulle (CRADORA), as die enigste verteenwoordigers van die inwoners, self die Streeksdirekteur sal spreek.
21. Op 1984-02-24 het die Streeksdirekteur, Nnr MERBOLDT, dan ook h CRADORA-afvaardiging in Port Elizabeth te woord gestaan waar hy hul meegedeel het dat daar nie aan hul eise om die heraanstelling van GONIWE en die vervanging van die Prefekte-stelsel deur VERTEENWOORDIGENDE RADE toegegee kan word nie.
22. Tydens h CRADOYA-vergadering op 1984-03-08 wat deur ongeveer 1 000 leerlinge bygewoon en deur MATTHEW GONIWE en FORT CALATA... toegespreek is, is besluit dat alle skole op Cradock die boikot moet ondersteun en dat die wat nie deelneem nie, uit die klasse gedryf moet word. GONIWE self het dit egter nie bepleit nie maar sy toespraak het die bywoners beïnvloed tot so h besluit.
23. Die volgende dag (1984-03-09) het h groep van ongeveer 500 boikotters die skoolgaande leerlinge uit die NCACA laer primêre skool gejaag waar toe hul hierdie optrede by die SOLOMON AKENA

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en MACEMBE skole wou herhaal, was die polisie reeds op die toneel en is daar by twee geleenthede van traanrook gebruik gemaak om die opstandiges (+ 800 in getal) uiteen te dryf. Vyf intimideerders is ook gearresteer.

24. Op 1984-03-10 het CRADORA/CRADOYA weer 'n vergadering gehou wat deur verteenwoordigers van 'n reeks organisasies in Port Elizabeth en omliggende gebiede bygewoon is, soos die UDF, UNITED WOMEN'S ORGANISATION (UWO), STUDENTS FOR CHRISTIAN ACTION (SUCA), UITENHAGE YOUTH CONGRESS (UYCO), PORT ELIZABETH YOUTH CONGRESS (PEYCO), PORT ELIZABETH BLACK CIVIC ORGANISATION (PEBCO) en die GENERAL WORKERS UNION OF SA (GWUSA). MATTHEW GONIWE het as spreker opgetree en 'n beroep op die skoliere gedoen om met die boikot voort te gaan totdat hy weer in sy amp heraanstel word. FORT CALATA het 'n soortgelyke beroep gedoen en versoek dat leerlinge van sy skool (ILINGELIHLE) op 1984-03-12 na die skool moes gaan en GONIWE se heraanstelling eis alvorens hul skoolbywoning hervat. Hierdie oproep het tot gevolg gehad dat ongeveer 200 leerlinge op 1984-03-12 by die skool opgedaag het. GONIWE se heraanstelling geëis het en daarna met baniere met die bewoording "WE DEMAND GONIWE. THEY WON'T SILENCE US UNTIL WE GET GONIWE" in die straat voor die skool betoog.
25. Op 1984-03-13 het 'n algehele boikot by al sewe skole in Cradock waarby 4 236 leerlinge betrokke is, gevolg.

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26. Op 1984-03-14 het die Streeksdirekteur, Mr MERBOLDT, besoek aan Cradock afgelê en samesprekings met die skoolhoofde gevoer. Daar is besluit dat briewe aan die ouers van leerlinge gerig word om toe te sien dat hul kinders met die heropening na die skoolvakansie (16-27 Maart 1984) klasse hervat, so nie sal die skole gesluit word.
27. Op 1984-03-19 moes die polisie weer van traanrook gebruik maak toe leerlinge oproerig gersak het tydens die verhoor van vyf beskuldigdes genoem in paragraaf 23.
28. Op die sogenaamde Sharpevilledag op 21 Maart 1984 is twee vergaderings deur CRADORA/CRADOYA aangebied. MATTHEW GONIWE, asook sy neef MBULELE GONIWE, FORT CALATA en MADODA JACOBS het as sprekers opgetree. Vooraf is winkeliers in die Swart woonbuurt gedreig om hul besighede te sluit en 'n Kleurling wat besig was om kragdrade te span is geïntimideer om sy wêrk stop te sit. (n Dossier is in dié verband aangelê.) Doyermelde sprekers het almal opruiende toesprake gelewer en MATTHEW GONIWE het die gemeenskapsraadslede gemaan om te onttrek en dat dinge (sonder om uit te brei) die komende week sal gebeur. Hy het ook genoem dat vele nog in die stryd om vryheid sal sterf.
29. n Sogenaamde "COMRADES-DAY" saamtrek vir 1984-03-23 is ook tydens die vergadering gereël en alle Swart sake-ondernemings is versoek om dit te eerbiedig en hul besighede te sluit. As gevolg van die heersende klimaat in die gebied is die saamtrek

wat die vorm van 'n vergadering deur CRADORA/CRADOYA sou aanneem, ingevolge artikel 46 van die Wet op Binnelandse Veiligheid deur die landdros verbied - van 12h00 op 23 Maart tot 12h00 op 25 Maart 1984.

30. In reaksie tot die verbod het sporadiese gevalle van klipgooiery deur groepe jeugdiges in die Swart woonbuurt van Cradock gedurende die naweek van 23 - 25 Maart 1984 voorgekom en is 'n verdere verbod vir 48 uur op vergaderings geplaas nadat die polisie verskeie kere van traanrook gebruik moes maak om oproeriges uiteen te dryf.
31. Op 25 Maart om 15h00, net na die verstryking van die eerste verbod, het 'n groot groep Swartes, sommige geklee in CRADORA/CRADOYA T-hemde by die Ascension kerksaal in die Swart woongebied vergader. 'n Swart skolier, MADODA JACOBS, het op die toneel arriveer en beweer dat hy toestemming van die betrokke predikant verkry het om 'n skolierversameling in die saal te hou. Nadat etlike honderde die saal binnegegaan en versuim het om op 'n polisiebevel uiteen te gaan, is 141 traanrookgranate en 15 rubberkoeëls gebruik om 'n skare van ongeveer 2 000 Swartes uiteen te dryf. Die polisie is ook met klippe bestook en twee Blanke lede lig beseer. Verskeie polisievoertuie is ook beskadig. Niemand is gedood of ernstig beseer nie.

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32. Daarna moes die polisie verskeie kere klippgoeiende jeugdige uiteen jaag en ook padversperrings in paniek verwyder, in die Swart woongebied sowel as die nabygeleë hoofpad na Port Elizabeth. Een Blanke motoris se voertuig is ook erg beskadig nadat hy 'n padversperring moes vermy. Inligting is ook ter hand dat skoliere op 1984-03-27 by die heropening klasse sal bywoon en weer MATTHEW GONIWE se heraanstelling sal eis. Indien daar nie gehoor gegee word nie, sal skole weer geboikot word.

33. In die lig van die verwickelinge in Cradock ontstaan die vraag of die tyd nie aangebreek het dat daar teen GONIWE en sy travante opgetree word nie. Ter oorweging van enige moontlike optrede word dit aanbeveel dat die volgende aspekte in aanmerking geneem word:

33.1 GONIWE se verlede, as sy skuldigbevinding ingevolge Veiligheidswetgewing (kyk par 4) en sy vermoë as 'n marxisties-georiënteerde om sy leerlinge onder sy invloed in te trek.

33.2 Die onwilligheid van moontlike getuies om die polisie behulpzaam te wees in gevalle van wetsoortredings uit vrees vir vergeldingmaatreëls van die kant van GONIWE-aanhangers.

33.3 Wetsgehoorsame Swart inwoners (oo- oewerverenigings, gemeenskapraadslede, handelaars en skollere) word geïmpedeer om volgens CRADORA/CRADOYA voorskrifte te handel en die gevaar bestaan dat hul vertroue in die owerheid verloor.

33.4 'n Vaas indruk word by GONIWE en sy trawante geskep dat die owerheid magteloos teenoor hulle staan.

33.5 'n Hele gemeenskap word ontwrig by wyse van skoolboikotte en 4 236 kinders en hul ouers se belange word opgeoffer en kinders loop gevaar om verdere skole-onderrig te verbeur.

33.6 Oënskynlike suksesse deur GONIWE en sy trawante kan uitkring na aangrensende gebiede, veral na die Port Elizabethse en Graaff-Reinet omgewing waar daar reeds 'n onrustige klimaat heers.

34. Die bovermelde aspekte moet egter ook opgeweeg word teen op die volgende moontlike gevolge van owerheidsoptriede teen die betrokkenes:

34.1 GONIWE het reeds 'n wye publisiteitsveldtog geloods om sy organisasies bekend te stel en hy het op die simpatie van etlike organisasies in Port Elizabeth en omgewing (sien par 24). Mev MOLLY BLACKBURN

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(Progressiewe Party LPR-lid) het ook reeds by GONIWE besoek afgelê. Dit kan derhalwe verwag word dat opreede solidariteitsaksies elders veral onder skollere, kan ontketen en ook hewige kritiek van politieke partye kan uitlok.

34.2 Skole en staatsgeboue en ook individue (veral gemeenskapsraadslede en getuies) mag die skyf word van vergeldingsmaatreëls wat brandstigting en aanrandings mag insluit.

35. Aansoek is ook reeds op 1984-03-19 aan die Direkteur-generaal, Samewerking en Ontwikkeling gerig ter oorweging van moontlike optrede ingevolge artikel 29bis van die Stadsgebiede Konsolidasiewet, 1945 (Wet 25 van 1945) om hom te laat verwyder of die moontlikheid om hom as Transkei/Ciskei burger te laat verklaar en te deporteer. Hy is egter in Cradock gebore en die proses wat in ieder geval uitgereek sal wees, mag onsuksesvol wees.

36. Alles in ag geneem word dit derhalwe aanbeveel dat die ondervermelde persone wat as die leiersfigure uitgesonder kan word, ingevolge artikel 28(1) van die Wet op Binnelandse Veiligheid, 1982 (Wet 74 van 1982) uit die gemeenskap verwyder en tot die Johannesburgse Gevangenis ingeperk word:

36.1 MATEWU MATTHEW GONIWE, S/M

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Gebore 1946, Cradock

PN 4077507

Gewese onderwyser.

36.2 FORT DANIEL CALATA, S/M

Gebore 1956-11-05, Cradock

PN 5887355

Onderwyser.

36.3 MBULELO TERENCE GONIWE, S/M

Gebore 1958-10-24, Cradock

PN 6406476

Klerk, Cradock Hotel

Hy is 'n neef van MATTHEW GONIWE.

36.4 MADODA FEZILE JACOBS, S/M

Gebore 1962-10-20, Cradock

Geen persoonsnommer

Skolier.

BYLAE BMATEWI MATTHEW GONIWE: JONGSTE BEDRYWIGHEDE1985-01-04:

Danny O'GRADY van die Amerikaanse Ambassade Pretoria besoek onderwerp te Cradock. Weens tegniese probleme kon samesprekings nie gedek word nie.

1985-01-15:

Onderwerp nooi Sheera DUNCAN (Black Sash) na Cradock om behulpsaam te wees met die stigting van 'n Black Sash advieskantoor te Cradock.

1985-01-13:

Onderwerp woon 'n huisvergadering te 4de Laan 108, Somerset-Oos lokasie by waartydens die stigting van die Somerset-Oos Youth Congress (SEYCO) bespreek is.

1985-01-11:

Onderwerp reis na Kaapstad om Senator Edward KENNEDY te ontmoet.

1985-02-11:

Tydens die begrafnis van 'n eklus-slagoffer te Cradock beskuldig hy die polisie as versteurders van vrede en dat die oorledene onskuldig doodgeskiet is. Hy spreek sy begeerte uit dat die RSA-regering tot 'n val moet kom en versoek die gehoor om voort te gaan met die stryd vir die totstandkoming van 'n vrye Suid-Afrika. Hy neem sterk standpunt in teen die Tuisland-beleid en beskou die Tuisland-burgers as slawe in

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hule eie Tuisland. Hy beskou die huidige Swart Onderwysstelsel as 'n onderdrukmakende wapen van die kant van die regering. Die Swart skole word opgesweep teenoor Blanke skole met die nodige intimidasie daaraan verbonde teenoor die gehoor en laat hom as volg uit:

"The subsidy granted by government to White children differs from that of the Black child. What I cannot understand is why should they give the White child who already has money, more money and a Black child who is having no money, almost nothing. The schools of the Whites are like palaces with swimming pools, while we have to teach in shacks."

Onderwerp versoek alle onderwysers verbonde aan Swart skole om te verenig en voort te gaan met die stryd.

1985-03-06:

Onderwerp deel Bongelizwe SOLO mee dat hy, onderwerp, as organiseerder tot die uitvoerende bestuur van die UDF in die Oos-Kaap-streek verkies is en dat die volgende dorpe in die streek onder hom sorteer, nl. Cradock, Graaff-Reinet, Somerset-Oos, Bedford, Adelaide, Middelburg (Kaap), Hanover, Hofneyer, Pearston en Steynsburg.

1985-03-11/22:

Onderwerp woon 'n oriëntasie week te Rhodes Universiteit, Grahamstad, by. Hy het 'n kort toespraak gelewer wat oor Swart onderwys gehandel het. (Niks van belang nie.)

1985-03-12:

Onderwerp word aan huis besoek deur die volgende drie (3) onbekende:

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persone:

A COWELL

M PETERS

J W GUSTON

Onderwerp het genoemde 3 persone later die dag vergesel na die punt waar Swart pensionarise uitbetaal is asook na ou verweerde kledkamers in die Ilingilishle Swartwoonbuurt te Cradock waar foto's geneem is.

1985-03-16:

Onderwerp tree as spreker op by die begrafnis van 'n motorongeluk-slagoffer te Somerset-Oos Swartwoonbuurt. Sy toespraak het oor die geskiedenis van die ANC gehandel en onder andere gesê dat die ANC gedurende 1960 in die ban gedoen is omdat die ANC al besig was met die stryd na vryheid en om die land wat deur die Blankes van "ons" afgeneem is, terug te kry.

1985-03-18:

Onderwerp ontmoet die volgende onbekende buitelandse joernaliste by die Cradock Inn Hotel, Michausdal, Cradock:

M J HANNA

C BESTALL

M BRINK

A SUSAN

'n Televisie-opname is later die dag van onderwerp gemaak.

1985-03-21:

Onderwerp tesame met Fort CALATA en Sparo MKHONTO (mede CRADORA-

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ampsdraers) besoek die naburige dorpe van Cradock om 10h30. Dieselfde dag besoek onderwerp vir Mzukizi MBANZANA te Somerset-Oos waar 'n geslote vergadering plaasvind. Vanaf 16h00 tot 20h00 besoek onderwerp Adelaide en voer 'n onderhoud met die volgende persone te Adelaide:

Linda MANGILI alias Bonani

Zola MANGOLI

Bhabha TOTYI

Mgcimeni Lorence GAZI

Om 22h00 dieselfde dag het onderwerp tesame met sy 2 metgeselle Bedford Swartwoongebied aangehoen. Volgens gerugte sou onderwerp die kinders van die woonbuurt aanspoor het om die twee Swartskole, gemeenskapsaal en die biersaal af te brand. Onderwerp besoek ook vir Zola MANGALI te Adelaide en versoek MANGALI om 'n paar jeugdige wat as leiers gebruik kan word na MANGALI se woning te laat kom vir die hou van 'n vergadering met die oog op die stigting van 'n Adelaide Youth Congress. Versoek was toegestaan en onderwerp het 'n vergadering gehou met nege jeugdige dieselfde dag. Op 85-04-11 om 20h00 het 'n groep van ongeveer 500 jeugdige na die gemeenskapsaal beweeg te Adelaide vir die hou van die eerste Adelaide Youth Congress-vergadering te Adelaide. Tydens die opmars is 'n lid van die SA Polisie se huis met klippe bestook.

1985-03-26:

Onderwerp woon die begrafnis van twee onlus-slagoffers te Somerset-Oos by en laat hom tydens sy toespraak onder andere soos volg uit:

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"Dit is duidelik dat hulle die regering dus R4-biljoen spandeer het om goedere 'wapens' aan te koop om ons kinders in Suid-Afrika mee te dood. Meise dit is 'n bewys dat ons tans besig is met 'n burgeroorlog en dit is waarom jongmense die land verlaat. Uitgewekenes het gesê dat indien die boere nie bereid is om ons ons vryheid te gee nie hulle sal terugkom om te veg. Daar is wel vrouens wat ook hulle mans keer maar hulle wil ook vryheid hê, maar is nie bereid om op te offer dat van hul familieledede tronk toe gaan of dat so 'n familielid selfs gedood word nie."

Onderwerp verwys ook na die "vryheidsoorlog" wat in Angola en Mosambiek plaasgevind het en dat daardie lande vandag "vry" is.

1985-03-27:

Onderwerp woon die begrafnis van 'n onlus-slagoffer te Cradock by. Tydens sy toespraak het hy groot lof aan persone soos Nelson MANDELA, Oliver TAMBO, Joe SLOVO, asook die ANC toegeswaai. Onderwerp verwys na die terroristestryd en laat hom o.a. soos volg uit:

"Angola today is free. In Mocambique they had the same persecution - their children used to be shot dead by the soldiers so as to fight them not to fight for their land. There were also people there who thought that the liberation would never come, but the freedom fighters were certain that freedom was coming - they continued with the freedom war. This in all means that is why we also must be sure that freedom will come."

Onderwerp se toespraak was grootliks gemik met die oog op die opsweping

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van die massas teen die regering en onwikkelingsrade. Hy verwys weer na die terrorisestryd en laat hom soos volg uit:

"Secondly, young men no freedom ... thousands of them go to various countries where they receive training so that they may come back to free their country."

1985-04-05:

Onderwerp woon 'n nasionale uitvoerende bestuursvergadering van die UDF te Johannesburg by.

Inklynas ...

1985-04-08:

Onderwerp tree as spreker op tydens 'n Cradock-vergadering te Iingelishle Swartwoudbuurt te Cradock, waartydens hy na die skoleboikot as geskiedenismaakend verwys aangesien dit die langste skoleboikot van alle Swartskole in die RSA is.

1985-04-10:

Onderwerp word deur Roland WHITE (NUSAS - Rhodes Universiteit) na Port-Elizabeth genooi vir samesprekings wat vermoedelik verband hou met die begrafnisse van onlus-slagoffers te Uitenhage wat op 1985-04-13 begrawe word.

1985-04-18:

Onderwerp ontvang besoek te Cradock van Jo-Ann BEKKER en mnr C B URGGUHART.

1985-04-23:

Onderwerp en Roland WHITE besoek mekaar ongeveer 2 km vanaf cradock op

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die Port Elizabeth-Cradock nasionale pad. Samespreking het gehandl oor die stigting van 'n Administration Skills Workshop Package te Cradock.

1985-04-28:

Onderwerp ontvang besoek van Michael ROBINSON verbonde aan die BBC. Dit is onbekend waarom die samesprekings gegaan het.

1985-05-03:

Onderwerp rig 'n telegram aan die UDF per adres Saamstaan Publikasies, Posbus 2033, Oudtshoorn namens CRADORA waarin onderwerp die volgende verklaring ter herdenking van Mei-dag uitreik:

Verbatim: "May Day, May Day. The workers are the backbone struggle under the leadership of the working class. The democratic effort is assured of total liberation."

1985-05-04:

Word 'n dokument by Swartman Mzukisi MEYANA gevind waarin die name van die uitvoerende bestuur van die East Cape Youth Congress en die South African Youth Congress voorkom. Die voorsitter van die eersgenoemde organisasie en die verslaggewende sekretaris van die tweede organisasie word aangedui as M GONIWE, wat waarskynlik onderwerp is.

1985-05-06:

Het onderwerp saam met 'n groep Kleurlinge na die huis van Kleurlingman Eddie MINORS gegaan waar hulle vir ongeveer 'n halfuur vertoef het.

Die naam van die persoon is onder verhoed.

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1985-05-07:

Was die HOFMEYER YOUTH ORGANISATION gestig as uitvloeisel van sy besoek aan Hofmeyer waar hy die inwoners toegesprek het en hulle meegedeel het dat hulle 'n gemeenskapsorganisasie moet stig. Hy het hulle voorts meegedeel dat hy die doel van die organisasie later aan hulle sal verduidelik. Hy het ook gemeld dat hy alreeds soortgelyke organisasies op Somerset-Oos en Cookhouse gestig het.

1985-05-08:

Voorsien Molly BLACKBURN onderwerp van 'n artikel onder die opskrif DEFIANCE IN SA wat deur Allan POWELL, wat verbonde is aan die New York Times, Johannesburg, geskryf is. Die artikel handel oor gebeure in die Lingelihle Swartwoonbuurt, Cradock, sedert Februarie 1984, toe die skoleboikot te Cradock begin het, sowel as onderwerp se betrokkenheid by die gebeure. Volgens bron se verslag is dit ook duidelik dat onderwerp saam met Fort CALATA en Sparrow MKHONTO op 1985-05-08 'n besoek aan Molly BLACKBURN te Port Elizabeth gebring het.

1985-05-10:

Tydens die deursoeking van Swartman P A PUWANI se huis te Cradock is 'n notule van 'n UDF (Oos-Kaap) Jaarlikse Algemene Raadsvergadering wat op 1985-03-03 gehou is, gevind. Op bladsy 5 van die notule word dit aangewys dat onderwerp die plattelandse organisasie van die UDF is.

1985-05-14:

Tydens 'n gesprek tussen 'n suster RAMNCWANA en onderwerp is inligting bekom dat onderwerp die Swart inwoners van Noupoort behulpsaam is met die stigting van jeugorganisasies asook 'n inwonersvereniging en dat onderwerp hulle ook met die onderskeie grondwette van die organisasies voorsien.

1985-05-14:

Word inligting ontvang dat op 1985-04-21 tydens 'n vergadering wat deur onderwerp te Adelaide gehou was, is die ADELAIDE YOUTH CONGRESS gestig en die grondwet van die organisasie opgestel.

1985-05-14:

Het hy 'n massavergadering te Rhodes Universiteit toegesprek oor die rol van onderwysers in die Swart onderwysstelsel. In sy toespraak het hy gemeld dat die onderwysers gemanipuleer word deur die Regering en dat die inisiatief van die onderwysers gesmoor word. Hy het voorts gemeld dat onderwysers nie toegelaat word om politiek te bespreek of vrae oor politiek te beantwoord nie. Hy het voorts 'n Progressiewe Onderwysersvereniging bepleit en gemeld dat hy glo dat politiek in die klaskamer bespreek behoort te word. Volgens hom moet die 'stryd' gefinansier en beheer word deur diegene wat gelukkig genoeg is om onderrig te ontvang. Hy het by herhaling 'n aanval op die onderwysers en hoofde gedoen wat apaties is teenoor die politieke toestand in die RSA.

1985-05-16:

Onderwerp neem 'n voertuig in ontvangs wat deur die UDF (Oos-Kaap streek) verskaf is vir gebruik in sy hoedanigheid as plattelandse UDF-organiseerder. Besonderhede van voertuig soos volg: Volkswagen-bakkie registrasie no CB 248887, geregistreer in die naam van D I SWARTZ, Bob Pricestraat, Hillside, Port Elizabeth, die organiserende sekretaris van die Oos-Kaap streek van die UDF.

1985-05-22:

Tydens 'n gesprek tussen suster RAMNCWANA en onderwerp het suster RAMNCWANA onderwerp meegedeel dat die jeug onaktief is en nou self met die onderwysers bevriend is. Onderwerp het hierop geantwoord dat CHIBALD die ondervinding het en dat hy hulle aan die gang moet hou. Onderwerp het hom ook soos volg uitgelaat:

Verbatim: "You must now start with the Residents Association".

1985-05-22:

Tree Molly BLACKBURN het onderwerp in verbinding 'en nooi hom na h vergadering op 1985-05-26 te Port Elizabeth waar mnr Frederid V Z SLABBERT, Andrew SAVACE en MOORCROFT van die PFP, teenwoordig sal wees. Onderwerp het reeds besoek aan die volgende dorpe gebring: Adelaide, Bedford, Cookhouse, Somerset-Oos, Middelburg (Kaap), Steynsburg, Hofmeyer, Manover, Noupoot, Fort Beaufort, Pearston en Graaff-Reinet.

Na sy besoek aan die volgende dorpe is jeugorganisasies op die dorpe gestig en het onrus daarna op die dorpe uitgebreek, nl. Adelaide, Bedford, Cookhouse, Somerset-Oos, Middelburg (Kaap), Hofmeyer, Noupoot en Pearston. Geen stawende getuienis kan op hierdie stadium bekom word dat onderwerp die inwoners daar geaktiveer het nie. Verklaring volg.

1985-06-05:

Het hy h CRADORA-byeenkoms in Cradock gereël sodat dr A BOESAK wat op h blitsbesoek aan die Oos-Kaap was ter propagering van sy veldtog vir die BID VIR VAL VAN DIE REGERING OP 16 JUNIE, hul kon toespreek. Tydens die byeenkoms wat die vorm van h biddiens aangeneem en middernag plaasgevind het en deur ± 2400 persone bygewoon is, het dr BOESAK sy groete van Oliver TAMBO aan die aanwesiges oorgedra en hul versoek om op 16 Junie vir die val van die Regering te bid.

Na die byeenkoms het BOESAK by GONIWE oornag en op 5 Junie het hy BOESAK in sy voertuig na Cookhouse en Somerset-Oos vervoer waar soortgelyke dienste gehou is.

Terloops, voor BOESAK se besoek aan Cradock het hy op dieselfde dag (4 Junie) eers op Jansenville en Graaff-Reinet biddienste aangebied. Kort na afloop van die Graaff-Reinet diens het die aanwesiges na die huis van h Swart lid van die SA Polisie gegaan, dit aan brand gesteek en hom vermoor.

Hy, vergesel van Allan BOESAK doen Cookhouse aan op 1985-06-05, waar BOESAK h diens wou hou in die N G Sendingkerk van Afrika. Die Swart

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predikant van die gemeente het geweier dat sy kerk gebruik word vir 'n diens. BOESAK het 'n lang gebed gedoen voor die kerk in die straat waartydens hy vir die bevrydingstryd gebid het.

1985-06-16:

Het hy tydens die begrafnisdiens van Nutusi Booi MANTYI in De Aar die aanwesiges toegesprek en begin deur die begrafnisgangers te groet deur 'Comrades' te sê waarop hulle dieselfde geantwoord het. Sy toespraak wat in Xhosa gehou was kom in kort daarop neer dat die tuislande sowel as die buiteland saam met die Swartmense staan en hulle nie bang moet word nie, daar hulle op die regte pad is. Hy het gewag gemaak van die sogenaamde swak toestande waaronder hulle in De Aar moet lewe en verwys dan na hoë huishuur, swak wonings en passie.

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TRUTH AND RECONCILIATION COMMISSIONAMNESTY HEARINGDATE: 25TH OCTOBER 1999MATTER: APPLICATION TO RE-OPEN CRADOCK 4 MATTERHELD AT: PORT ELIZABETH

-----CHAIRPERSON: Good morning everybody. For the purpose of the record again, we gather today to inquire into the application to re-open the application for amnesty in respect of the deaths of Mr Goniwe and three others. I am Judge Pillay. I'm going to ask my colleagues and all those who represent the different parties, just to announce their names for the purposes of the record.

JUDGE POTGIETER: I am Denzil Potgieter.ADV SIGODI: I am Sibongile Sigodi.ADV BOSMAN: I'm Francis Bosman.DR TSOTSI: Whitcliffe Tsotsi.MR BOOYENS: Mr Chairman, Members of the Committee, I presume for purposes hereof I must say I appear on behalf of the respondents.JUDGE PILLAY: Are you...?MR BOOYENS: We are opposing the application Mr Chairman.

You have been handed Heads of Argument.

JUDGE PILLAY: For the purposes of the record you are Mr?MR BOOYENS: Oh, I beg your pardon Mr Chairman, Kobus Booyens.MR BIZOS: May it please you Mr Chairman and Members of the Committee. We appear on behalf of the widows of the deceased as we have done previously. My name is G Bizos, I am assisted by Mr P Mutshoalana and Ms Wheeldon of the Legal Resources Centre in Johannesburg.JUDGE PILLAY: Thank you Mr Bizos.MS PATEL: Ramula Patel, Leader of Evidence. If I may place on record at this stage, Mr Hugo, who appears on behalf of Mr de Kock has advised that he will not be present today and that he does not oppose the application. Thank you.JUDGE PILLAY: Yes, Mr Bizos.MR BIZOS IN ARGUMENT: Mr Chairman, we were not expecting any opposition to this application and for the sake of completeness, I wish to put certain matters on record before addressing you on the merits of the application. It would be remembered Mr Chairman and Members of the Committee, that a letter was written to Adv Ramula Patel on the 19th of May 1999, enclosing an application for the re-opening. I do not propose handing the letter in, it's in the records of the Commission, but I would like to have certainly a summary of the facts and how we came to be here, as part of the record.

Our letter was acknowledged on the 1st June 1999 and I want to read what I consider to be the relevant portion of it. Copies are available, if they're wanted, but I don't want to burden the record. We were told that on the 1st of June that our application will be forwarded to the interested parties with a request to submit

their written answering statements within 14 days. We have been handed the letter, signed by Adv M Coetzee on the 14th of July 1999 to the following effect.

"The application will now be forwarded to all the other parties concerned with a request to submit their written responses thereto within 14 days. Upon receipt thereof, the Committee will then consider the written submissions and will decide on further steps to be taken."

True to the Commission's word, we have been handed a letter dated the 16th of July written to van der Merwe and Bester Attorneys for the applicant.

"We refer to the above matter and enclose herewith a copy of the application for the re-opening of this hearing. You are hereby invited to submit your written response hereto, if any, within 14 days of the date hereof to enable the Committee to make a decision thereon."

We certainly did not receive any objections and I'm informed by counsel for the Commission that none have been submitted, either within 14 days or thereafter, save that this morning we were handed a document called Heads of Argument. I want to deal in due course with some of the submissions. May I make it clear that I'm not saying that they have no right to appear because they didn't give notice, Mr Chairman, I merely put this on record in order that we may argue the merits of the application properly. We never expected any opposition, but mindful of what Cromwell said to his troops, that they must put their faith in God and keep their powder dry, for some reason or other in the last couple of days, we procured an affidavit without knowing anything about these Heads of Argument, Mr Chairman, by Mr Matthew Mungo Soggot, which I ask for leave to hand in, dealing with some of the points that are raised in these Heads of Argument, that the document has not been properly identified or authenticated or that there is no evidence as to precisely when it came into our possession. I will deal with those arguments, but may I hand in the affidavit, Mr Chairman, of Mr Soggot who wrote an article and who had a telephonic interview with Mr de Klerk. He reports what Mr de Klerk said about this minute and that he remembered it and that there was a discussion between Mr Soggot and Mr de Klerk, one of the persons that is on the first page of the minute said to have been present, Mr Chairman.

We are really surprised by the attitude taken by the applicants in view of the manner in which these proceedings have been conducted and particularly what has been admitted on its face value, particularly in relation to secret documents, such as this appears to be. And right at the outset, before getting into any further matter, we would merely want to refer you to the following documents in the bundle, which are in similar format, minutes or memoranda, I will merely give you the page number, Mr Chairman, the Exhibit No. H, a memorandum from the Head of the Security Police, Exhibit I, also, we refer you to only the documents that are in the similar format which were admitted in evidence, to which no objection was taken and which we ourselves did not produce - I haven't had time to check precisely who produced what, but they were received in evidence without authentication.

What I am really saying to you Mr Chairman and the Members of the Committee is this, in view of what is contained in these Heads of Argument, as they are called, that you are not called upon to make any findings of fact at this stage. The question is, is there *prima facie* evidence, if properly proved, if the matter is re-opened, which will establish facts which are relevant to the issues before you?

The next one is Exhibit I, which is in the same format and it's a memorandum in relation to the appointment of Mr Goniwe by the Director of "Personeelbestuur" and the annexure attached to it which is from the Secretariat of the State Security Council. I didn't hear the applicant's counsel saying that these were not properly authenticated and therefore they were not to be used.

Exhibit K, from the Commission of the Police and "uiters geheim", dealing with "proposed actions against Matthew Goniwe, a black man and he is a teacher at Cradock". The other document that was handed in is Exhibit S, also headed confidential and it is a minute of the meeting of the STB, 385, held at Commandment.

JUDGE PILLAY: Well Mr Bizos, what struck me when I browsed through the Heads of Argument of the Respondent in his application is how valid is this Secret Act today? This Secret Act that they rely on, to keep that document away from public scrutiny, one would have to rely on the circumstances of the apartheid

government that time. The question to be answered today is, that government is no longer in power, can the applicants or the respondents in this instance rely on the secret of the time?

MR BIZOS: No there are various answers to it. Firstly there can be no secrets in relation to murder. It doesn't matter whether the President or subsequent President or the Minister of Defence or the Minister of Justice or the Minister of Foreign Affairs was present, no system of law will ever tolerate the suppression of documents which are a *prima facie* document showing that there was either incitement or conspiracy to murder. There are other grounds Mr Chairman, but I submit that that is enough.

The other document Mr Chairman, is the Exhibit S, the "Kommandament" of the Eastern Province Head Quarters and Exhibit U, a document of the National Security Management System. That would be enough, I submit, to say that there is no substance in relation to that argument, but what Mr Soggot said, Mr Chairman, is he wrote an article based upon this Minute and he says that:

"At approximately 8 a.m. on the 27th of May 1991, I telephoned Mr F W de Klerk at the Hampton Court, London home of his new wife, Elita Georgiadis and referred to the contents of item 5(f) on page 3 of the attached Security Council Minute of March 1994, annexure B (which he annexes). F W de Klerk did not dispute the authenticity of the minutes and discussed the meeting."

Mr Chairman, the article also says that he discussed it, or attempted to discuss it, with the person who made the proposal that the two teachers should be removed and we know what that meant from the evidence of Mr Jaap van Jaarsveld, because the then Minister of Education, Mr du Plessis, claimed to have suffered from amnesia in relation to these matter, to the particular matter. But that of course will be, if there is a re-opening, that will be canvassed, as to whether he in fact is suffering from amnesia or not.

DR TSOTSI: Mr Bizos, excuse me a moment. Mr Soggot doesn't share that he asked Mr de Klerk to vouch for the veracity of the minute, nor does he - all that he says is that he just referred to it and the fact that he did not dispute the authenticity. Do you think there is sufficient evidence for us to accept that in fact this matter is true and correct?

MR BIZOS: ...(indistinct - mike not on) First of all a document Mr Chairman, a document of this nature speaks for itself in the sense that *prima facie* you are entitled to assume that it is genuine unless someone of the 12 top people in South Africa at the time, came along and said "No, it's false, it's a perjury", you are entitled to assume because of this silence, to assume that if anybody were to forge the document, he is not likely to have put the President, 5 or 6 Ministers, the Head of the Police and other people present, which could be so easily denied. We are not asking you to make a finding of fact that this is a genuine document, what we are saying is, it's a *prima facie* document. If there had been any suggestion whatsoever within the 14 days that the authenticity of it is being put in issues by the persons who employed their clients, we can hardly go to these gentlemen and say "Give us an affidavit that this is a correct copy".

JUDGE PILLAY: Mr Bizos, in fairness to them, the applicants, none of them were present at that meeting, so they were not in a position to question the accuracy of that Minute.

MR BIZOS: ...that if there is any serious dispute that this is not a genuine minute, one would have expected the respondents to this application, to phone their erstwhile employers and say: "Won't you please tell us whether this is a forgery or a correct minute?" and you are only to act on a *prima facie* basis on this issue. It's a document which purports to be what it is and it's authenticity could very well have been put in issue during the period that they were given an opportunity to respond to it.

JUDGE PILLAY: Something interesting that I haven't considered myself, but I'd like to raise the issue with you, is this a State document where the erstwhile approaches were that it is what it purports to be, unless otherwise proved?

MR BIZOS: I can't really in view of this - this is a matter of - without any notice and as a matter of, taking us by surprise. I am mindful of the learning in relation as to what is a State document or not and whether it's mere production proves itself, or whether the presumption of validity, I think that that is where you have in mind that, I don't remember the Latin for it, it's never been - something about ...(indistinct) I'm sure that others on the Committee remember it. I don't know whether that principle applies in the particular

circumstances and I can't make any meaningful submission to it, but we do not have to rely on any presumption because we actually have on oath what you will see on the second page, the last paragraph, what Mr Soggot confirms as correct, under oath. Speaking from - have you got the second page of the Weekly Mail's report? It's right at the end of Mr Soggot's affidavit, yes, the second page of that. Is it the first page? Oh yes, it's the first page there, it's on the right instead of being on the left, but what he says:

"Speaking from the London home of his new wife, Elita Georgiadis, de Klerk said this week he remembered the meeting clearly"

Now surely that is *prima facie* evidence.

"He remembered the meeting clearly but insisted that du Plessis had proposed redeploying Goniwe. I distinctly remember du Plessis was the then Minister of Black Education and that he said if he's appointed elsewhere, he should be re-routed, because Goniwe was a teacher, if I remember correctly and du Plessis wanted to offer a solution that Goniwe should be taken away from the school in Cradock or wherever he was and taken to another, be displaced from Cradock and the area and given appointment elsewhere. I remember that."

Now this was the then Minister of Home Affairs, later a President, who says he remembers this meeting when the minute is read to him. How much more evidence does one have to prove on a *prima facie* basis, that this is that the prominence and authenticity of this document is to be accepted on that *prima facie* basis. Correct, it is open to the applicants if they want to, to call these gentlemen, Mr Chairman, and say "No, it's not a correct Minute". We look forward to that with considerable interest and we'll have to do some preparation, but the bringing up the authenticity of this document is a red herring which will not be given, in relation to this application, any serious consideration, in our respectful submission.

Now, what I want to submit is this about these Heads of Argument, let me dispose of this before we come to others. The cases that are quoted have no relevance to the nature of this application. There is a difference between a Judgment having been given and wanting to re-open a case and there is a difference between civil disputes or even criminal cases. Where a case has been closed, then you may have to show that you could probably have found this evidence beforehand and why do you come with it so late and these are the considerations, because of the nature of reaching finality in matters. Now those principles in those cases have no application to an inquiry where you are called upon to decide whether full disclosure has been made and whether or not the other requirements for the granting of amnesty exist or not.

The other complaint that is made that we have not disclosed precisely when we got it and where it came from. Well Mr Chairman, there are people who are perhaps public spirited enough when they come across evidence which *prima facie* shows a conspiracy or an incitement to murder, that they make it available. This document was made available to us, as our letter to the Committee says, shortly before that letter was written, that is shortly before the 19th of May 1999. I don't know what other information, if this information had been available to us during the course of the proceedings or earlier, we would most certainly have made use of it.

JUDGE PILLAY: ...(indistinct - mike not on)

MR BIZOS: Thank you Mr Chairman. We wouldn't have forgotten about it in our files. So, I think that that disposes of that argument. I only - I haven't had a full opportunity of studying the document because it was handed to me this morning when I had other things to attend to, but I will reserve my right, once that argument is presented, to deal with it in reply, Mr Chairman.

Let me deal with the application and why we submit it is necessary for the Committee to re-open the proceedings. First of all I think that being a statutory body, that you would want to be satisfied that on the statute you have this power to do it and I am sure that you are all more familiar than we are with the provisions of the Act, but we submit that you do have the power and I merely want to refer to the sections, Mr Chairman, and that is I refer to sub-section (ii) of the definitions section, that is Section 1. This is where the Committee and Sub-Committee is included in the Commission so that the powers of the Commission are the powers of the Committee. I want to refer to Section 5 (m) (M for Mary). On its own initiative all that we

request of any interested person, inquire or investigate into any matter in terms of this Act, so that investigate any matter. Then I want to refer to paragraph 19 (v) (a) which deals:

"The Committee shall, for the purposes of considering and deciding upon an application referred to in sub-section (i), have the same powers as those conferred upon the Commission in terms of 5 (l) and (m)."

L doesn't really apply, but (m) does, Mr Chairman. (M) is the one that I have read to you and Chapters 6 and 7 and you will find in Section 30, which is in Chapter 6, Mr Chairman, you will find:

"The procedure to be followed at investigations and hearings of the Commission, Committees and Sub-Committees, the Commission and any Committee or Sub-Committee shall in any investigation or hearing follow the prescribed procedure or if no procedure has been prescribed, the procedure determined by the Commission, for which you're entitled to substitute Committee, or in the absence of such determination in the case of the Committee or Sub-Committee, the procedure determined by the Committee or Sub-Committee, as the case may be."

Now the power to recall, it's not really to re-open in the true sense of the case having been solved, of hearing further evidence before Judgment, is clearly covered by the sections that I have referred to, so there is no reason whatsoever for the Committee to have any doubts about its power to call further evidence. I now want to deal with the application, Mr Chairman.

JUDGE PILLAY: Mr Bizos, I just thought I'd mention to you, you are referring to an application before Judgment. For what it's worth, I may as well inform you that we are dealing with a matter, an application, in which Judgment was not published yet. It doesn't affect your submission though.

MR BIZOS: ...(indistinct - mike not on)

JUDGE PILLAY: Yes, but not published.

MR BIZOS: Well, Mr Chairman, I'd like to consider that. I'd like to consider that but confronted as I am with a matter of that nature, on principle I would think it depends what the decision is. If the decision is to refuse amnesty, then our interest in the further pursuance of the matter may be less cogent. If ...(intervention)

JUDGE PILLAY: I'm prepared to give you a couple of minutes, or as long as you need, to consider that submission. I don't want you to rely on what I've just said, I'd certainly like you to give your argument a full go.

MR BIZOS: May I just complete my submission in relation to it? If the decision that was arrived at was to refuse amnesty, as I said, then our application is less cogent. If on the other hand, amnesty was to be granted in terms of the decision arrived at, then the question that arises is, is there *prima facie* evidence before you, which, if you were to hear it and believe it, the decision may be, the unpublished decision may be varied. I think that that is - but of course a judgement isn't a judgment, speaking off the top of my head, until it is delivered. I don't know what the position is, if it has been signed. I'm not sure about that. I do remember that in one instance where there were two judges and one of the judges passed away, the judgement was delivered as the judgment of the full court, but again I'm speaking from memory and I haven't really worked out precisely whether this is an analogous situation, but this is what I would submit, Mr Chairman, unless different counsels occurred to us as time passes. But either way, it cannot be said that the information that is placed before you on affidavit, on a *prima facie* basis, is irrelevant to the issues that you have to decide.

The grounds which we give in paragraph 6.1 of the application, the Minutes corroborate the evidence of Mr Jaap van Jaarsveld, Volume 2, Annexure A, here in record, 204 to 291.

"It was the evidence of van Jaarsveld that in March 1984, he was serving as a Lieutenant in the Intelligence Unit of the Security Police in Pretoria under the instructions of Maj Craig Williamson. He spent the day in Port Elizabeth and Cradock in the company of Azail in order to investigate the possibility of assassinating Goniwe. At the hearing it was reported as common cause that the date

of van Jaarsveld's visit was the 21st of March 1984 and we give the reference to the amnesty record. As a result of an objectively verifiable incident in which van Jaarsveld threw a stone through the windscreen of Janet Cherry's car."

The Minutes refer to the State Security Council meeting on the 19th of March 1984, two days prior to van Jaarsveld's visit to the Eastern Cape. The Minutes accordingly confirm the date and timing of van Jaarsveld's version and establish that, in as early as 1984, the State Security Council, ordered the assassination of Matthew Goniwe. This is the first documentary proof of the fact that the removal of Mrs Goniwe and Calata was discussed as at State Security Branch Council level in as early as March 1984. It is the only conclusive documentary proof before the Committee that links a decision taken at the highest level of the government to the actions of the applicants. It contradicts the contents of the written applications of all the applicants to the effect that the decision to kill Goniwe was only taken two or three weeks prior to his death, by the applicants themselves, as a result of information that they had gathered. The oral evidence of the applicants was contradictory and vague as to the source of the order. The minutes are clear evidence that their versions, as to the timing of the order, are not true. It establishes that Johan Martin van Zyl at least, has not complied with the requirements stipulated in Section 20 of the Promotion of National Security Act for the granting of amnesty in that he did not disclose the fact that he had accompanied a member of the Head Office Intelligence Unit of the Security Branch to Cradock in order to assist him in his task of assessing the most suitable way of assassinating Goniwe. The minutes of the meeting record the fact that Gen D J Coetzee, the Commissioner of the South African Police at the time, was present. The close relationship between Maj Craig Williamson and Gen Coetzee is not the matter of public record and has been confirmed by Williamson before the Amnesty Committee. His amnesty application for the deaths of Ruth First and Jeanette Schoon and we give you the page numbers. The Minutes record the presence of F W de Klerk in the meeting and therefore contradict his evidence given before the Truth and Reconciliation Commission, that it was never the policy of the government or the National Party that people should be murdered and that such instruction would be in conflict with the policy of the government, as it had been at all times within his knowledge.

We submit further that the submission that the Minutes are sufficient evidence to warrant the subpoenaing of Maj Craig Williamson and Gen P J Coetzee at least to give evidence before the Committee.

What I want to do in addition, Mr Chairman, is to give you the references to the record, which in some way, contradict the summaries given by counsel for the applicants in the main application. The first is that van Zyl does not directly repudiate the evidence of van Jaarsveld, claiming instead that it may be possible but that he does not recall the incident.

Now let me pause there for the moment on the question of relevance as to whether amnesty should be granted to van Zyl because he has made full disclosure. A finding of fact on the credibility of van Jaarsveld of necessity, must have been made and should be made, with respect, if the matter is re-opened, as to whether van Zyl can be believed that he does not remember what van Jaarsveld says, but a person of his intelligence, of his seniority in an elite police force branch with such considerable successes against its enemies, can be heard to say that he does not remember that he spent a whole day with van Jaarsveld and whether or not, and he was asked questions by the Committee about it, did Sakkie van Zyl know when he would come down. I said, "Yes, we discussed it in order to reconnoitre Goniwe's ..." - now how can anybody forget that? But what we have here is this, just in case it was seriously suggested, which it wasn't in fairness to our learned friends, that it may be that van Jaarsveld, for purposes of his own, decided to say this. There has never been greater corroboration of a witness's evidence, than that of van Jaarsveld by this Minute. Let us just analyse. You will recall that he did not remember the day. It was only by reference to an event in which he says he took part, the throwing of the stone that broke a windscreen, that the date is fixed by the person whose windscreen was broken as the 21st of March, for a very good reason, that it was Sharpeville Day and that she remembered it and she had been to a meeting, when coming away from that meeting, an unknown person threw a stone and broke her windscreen. What it turns out to be, that two days before that the head of the Intelligence of the Security Police, a close associate of his mentor Gen Coetzee, the Commissioner of Police, who was present at the meeting, according to the minute, according to van Jaarsveld the Head of the Security Police go and reconnoitre the house of Goniwe for the purposes of murdering him, eliminating him, removing him, whatever, there was no doubt in van Jaarsveld's mind what was meant.

And, there is one other very important corroborating factor and that is van Jaarsveld says, "Don't do it in Cradock, it's difficult, he's surrounded by people, waylay him somewhere along the way and kill him then"

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and we know that that is precisely how Matthew Goniwe, Calata, Mkhonto and Mhlauli were killed. How much more corroboration does one need of the evidence of a person in the Security Council's Secretariat, as van Jaarsveld was, to come to Port Elizabeth to speak to Gen Erasmus and it's inconceivable that, albeit a Lieutenant but in the Security Council Secretariat, would have come to Port Elizabeth and going directly to Sakkie van Zyl and if this is so, it doesn't avail Mr van Zyl, nor his Council, to say that he didn't really contradict the evidence. He's lying when he says he doesn't remember and the reason why he is lying is that he is protecting others. The others that headed his unit, like Col Erasmus, to whom van Jaarsveld said he went to and let us assume theoretically that van Jaarsveld may be incorrect in relation to the identity of the Head Officer, it may have been one of the other two applicants that were senior to him, or someone else, but he doesn't speak about it.

In his evidence in chief in his application he makes out a case without any mention whatsoever of what happened one year and a couple of months before. He doesn't mention anything about the advice that it should not be done in Cradock but that he should be waylaid along the road somewhere. Now, as I say, it may well be that if the completed judgement was in favour of our clients, it would be a factor in weighing whether or not to re-open the proceedings or not. If they are not re-opened, there may be other places where the matter can be dealt with and investigated, but under no circumstances, we submit, that van Zyl and the others who have made common cause with him, how did that, that this troop of van Jaarsveld, with the advice given, have been kept a secret for a year and a couple of months, when there was this charade which they put up that Col Snyman said something which may have indicated that the people above may have been in favour, all those evasions that you heard. Wouldn't van Zyl have said: "Look there's no problem about killing them. A Lieutenant from the Security Council Secretariat came and reconnoitred and he told us the best way to do it." It doesn't make sense. What does make sense is that these euphemisms were used in the Security Council, "verwyder". We heard the evidence of van Jaarsveld himself about the euphemisms, we've heard the judgment of His Lordship Mr Justice Zietsman about the euphemisms, we had the portion of the judgment of dealing with the evidence of the then Brigadier in charge of the Port Elizabeth command in the army, we've heard the evidence of du Plessis ... (intervention).

JUDGE PILLAY: Mr Bizos, whatever interpretation certain people want to attach to the word "verwyder", it could only have meant transferral of posts, if Mr Goniwe was a teacher at the time. He's an "oud onderwyser" meaning an ex-teacher and therefore the question of transferral doesn't arise.

MR BIZOS: ...(indistinct - mike not on) We adopt it, with respect. He was an "oud onderwyser" which means that he was already out. Well, these things, if the matter is re-opened, will have to be explained, but the word "verwyder", you will recall what the signal was that was sent, from the Port Elizabeth Regional Command to Gen van Rensburg, at van Rensburg's request. It's true that the word "permanent" is introduced, which makes it obviously very much stronger and "uit die samelewing" but is it just a coincidence that the same word is used and what Mr de Klerk and Mr du Plessis and Mr Coetzee may say that "verwyder" meant, to remove him - I remove this glass from here to here, yes, it's "verwyder" perhaps, but who interpreted as "eliminate them" or "kill them" in the manner in which Williamson gave an instruction to the Lieutenant in the Secretariat of the Security Council? The most likely person is the Commissioner of Police who was there, Williamson's ...(indistinct) and mentor. Of course Williamson may deny it if he's called here but a finding will have to be made as against the evidence of van Jaarsveld, corroborated by the signal. I would submit that this piece of evidence is not only significant for the purposes of this hearing of these applicants, but it is also a matter of tremendous national interest because it is the most cogent bit of evidence that has seeped through from the conspiracy of silence of the highly placed Presidents and Ministers, that they were discussing the fate of individuals in the Security Council and that this, taken together with the signal sent later, that "hy moet verwyder word, permanent verwyder word uit die gemeenskap" are related. It is important, for the purposes of reconciliation, that the truth be told and that is the purpose of amnesty. This is why people who don't tell the whole truth are denied amnesty and it isn't only van Zyl. Murder is discussed, the manner in which they commit murder with their co-conspirators, who ordered this murder, was absolutely vital. Why would van Zyl keep a secret from his fellow-murderers the fact that there was this man from the Secretariat of the Security Council who advised that he should not be killed in Cradock but waylaid again somewhere along the road?

Are the dates a coincidence? It would be a far-fetched submission to be made and of course the fact that van Jaarsveld didn't give evidence of the date and that these two facts dovetail, like a perfectly fitting glove, is, we submit, of the utmost importance.

I want to give you some references in relation to van Zyl's evidence. We deal with this in 9.2 to pages 9.2 to 9.10 in our Heads of Argument and I don't want to read them out, you have them Mr Chairman, but the evidence of van Zyl is to this effect. The Heads of Argument in the main application when we argue for the refusal, this is where we deal with the improbabilities, but what we say is, and the credibility of van Jaarsveld, but we say that the Minute puts it beyond any doubt. On page 203 to 207, there is no admission by van Zyl, van Zyl wanted - knew that the evidence of van Jaarsveld was likely to be believed. He didn't want to contradict it directly or strongly. The judicial experience of all of us, I beg your pardon, the judicial experience of some of us and the practice by some of us, clearly shows that witnesses are circumspect about denying strong evidence against them. Let me read you merely a portion, Mr Chairman, merely a sample of what appears on page 203 to 207.

"I cannot remember that. I do not recall such a person or such a meeting or driving to Cradock with him. It looks a bit vague to me and if I remembered it, I would definitely have mentioned it because it cannot change anything in my case as far as I can remember."

Of course that's been what he considers smart lying. He didn't know when he made his application that the order came 3 weeks before, that there would be evidence from van Jaarsveld, but once that evidence was there, he says "I cannot remember". He says:

"I really cannot remember this incident."

Question:

"But it also tends to show a number of things. Firstly, that it might have happened and you don't remember?"

"There is a remote possibility Mr Chairman."

"Although remote, there is a possibility. There was talk about it before?"

"That's correct, but the operation started after the conversation with Col van Rensburg."

"The planning of the specific operation?"

"That's right."

Suggestion: "As early as March 1984?"

"I cannot remember, that's possible"

"And you cannot deny under oath the statement by van Jaarsveld as to what happened that he was down here for a purpose."

An argumentative answer, not a denial, but an argument:

"Col Erasmus was not here in 1984, I only arrived in 1984, but I cannot recollect and I don't know if Col Erasmus can recollect that."

That's not an answer to the question. That's clutching on the straw that Col Erasmus was not here. We've already made submissions in the main argument, but their superior, one would have expected if you didn't know anything about this, to have taken the stand and say: "I was not there. I didn't know anything about it. This was not reported to me in 1984, as van Jaarsveld says." Relying on computer information as to where he might have been, or where he should have been, doesn't help the applicants.

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"Col Erasmus aware of the purpose of our visit. He can remember that, but he cannot remember that he actually met me. He suspects that it was one Sakkie van

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Zyl and I cannot remember that, that I met him. I think that is much more likely that he's confusing Col Erasmus, it would seem to me."

Now why these answers? And also, at one stage the cross-examination seemed to suggest that the identity of Sakkie van Zyl was put in issue, but I submit that what happened during cross-examination and re-examination and in answer to members of the Committee, with the good offices of one of the newspaper people here that had a very good photograph of Mr Sakkie van Zyl, the identity of Sakkie van Zyl was proved beyond any doubt whatsoever, so that, we would submit that this Minute corroborates van Jaarsveld to such an extent.

JUDGE PILLAY: Van Zyl in his evidence, put it at best, as far as he was concerned, that van Jaarsveld may have seen him before and that's the best he could do, that is van Zyl. I said, in van Zyl's evidence he puts it at best that it is possible that van Jaarsveld had seen him once before. That's all he can say. The identification of van Zyl through the photograph is in contradiction to that really, isn't it? It negates van Zyl's evidence.

MR BIZOS: Also the inherent probabilities. How can an intelligent man, van Jaarsveld must have impressed you as an intelligent witness, how does he substitute van Zyl for someone else and the evasive evidence of attempted denial speaks volumes. What would you do with an accused person before you, Mr Chairman, if the evidence of the State witness is: "I was with this man, I identify him" and his evidence is that:

"We went out on a murder expedition which didn't take place on that particular day. We spent the whole day together. We went to watch the UDF people and others marking Sharpeville Day. In his presence I broke a windscreen out of a wanton..."

How does one forget that? How does one make a mistake about that? And of course, to crown it all, two days before there was a call for the "verwydering" of Goniwe. None of the applicants could have remained ignorant of the happening of this event. On the basis that van Zyl would never, never, if there was a debate about this charade of having a discussion with their superior officer and collecting material as to whether he was to be a target for assassination or not, all that is humbug, Mr Chairman, because an employee of the Security Council Secretariat had come down to reconnoitre Goniwe's house, as to whether he should be killed and he then reports "Don't do it that way, waylay him" and we know that that was precisely how he was waylaid and killed.

Subject to any questions, Mr Chairman, that the Committee may have, this is all that we have to say except that if it is re-opened, the absolutely necessary witnesses, in our submission, are Gen Coetzee, Maj Williamson and despite Mr du Plessis' denial to Soggot that he did not remember, he is the one who made the proposal, he should be called. The other is that at the end of the Minute you will see that this arose as a result of a report of a General Groenewald. Now what is it that he reported? What information did he have? It's either that paragraph that arising out of his report to the Security Council, where is that report? If it was destroyed, why was it destroyed? By whom? All these are questions which we submit the families of the deceased are entitled to answers, if there is any prospect whatsoever of granting amnesty to these applicants, Mr Chairman.

There would be others of course, Mr Chairman, the Presidents or others, but let's have those that are immediately connected with the Minute and the report.

JUDGE PILLAY: Mr Bizos, if we should find on a *prima facie* basis that this document is relevant and admissible on a *prima facie* basis, that would mean that at some time in the future, the inquiry has to be re-opened. In terms of the Act, the Truth and Reconciliation Act, all those present at that meeting become implicated people and they would have to be notified.

MR BIZOS: The whole Act was passed for the purposes of trying to ascertain the truth. If it is re-opened Mr Chairman, the high office or the number or the amount of time that it may take is not a serious consideration. It may be inconvenient for members of the Committee, it may be hard on the resources of the Legal Resources Centre where the three of us work, it may be embarrassing for the people who were present.

JUDGE PILLAY: I asked the question merely to find out whether you agree with my assessment of what should happen in the event of us making a finding.

MR BIZOS: Mr Chairman, that they should be given notice, but we do not, at this stage, ask that everybody should be here for the first hearing, but arrangements can be made, but I do take the point, with respect Mr Chairman, that each one of those persons present has something to answer. I will telegraph the question to them. What, who and why did - one of them there present must have told Williamson: "Send somebody to find out how we can kill Goniwe". That that happened by a person who was present at the meeting, is as certain as the sun will rise tomorrow morning, otherwise how did it get there? That the person in the employ of the Secretariat of the Security Council is told by the Chief of Intelligence "Go and reconnoitre Goniwe's house". Who told Williamson? The probabilities are that his boss told him, Gen Coetzee. The question then will arise, what was the code between Mr du Plessis and Gen Coetzee? And it also, Mr Chairman, and this is not the first time "verwydering" was used. van der Westhuizen's language in the Ciskei matter, the signal of the 7th of June.

JUDGE PILLAY: The Eastern Cape Command.

MR BIZOS: ...Command and whatever, Mr Chairman, the consequences may be, if there is a reasonable possibility that the truth will out, so let it be. What will the judgment, with the greatest respect, Mr Chairman, be on all of us if this opportunity is missed?

JUDGE PILLAY: Mr Bizos, you are seeking the admission of this Minute together with the declaration that those people whose names you mentioned be declared necessary witnesses?

MR BIZOS: ...(indistinct - mike not on)

JUDGE PILLAY: Yes, Mr Booyens.

MR BOOYENS: Are we not going to take a short adjournment?

JUDGE PILLAY: We could, for 15 minutes. We'll adjourn for 15 minutes.

COMMITTEE ADJOURNS

ON RESUMPTION

JUDGE PILLAY: Yes, Mr Booyens.

MR BOOYENS IN ARGUMENT: Thank you. Mr Chairman, the first issue I want to deal with is simply the following, that it is indeed correct, as my learned friend has pointed out, that this Committee applies its own rules in so far as procedure is concerned. That, I think, is wide enough for the Committee to decide what evidence it would allow and under what circumstances it would allow it, or not. However, the basis for my argument, where I question whether the way in which an attempt is made to hand this document in, is based on the principle that what is good for the goose is good for the gander.

This Committee, with objections by my learned friend and I quoted the relevant passages, made it fairly clear to me that I would not be allowed to hand in an affidavit by Gen Erasmus. The question, this only is and that is the whole purpose of this initial argument, is can it then in the circumstances be fair administratively to allow what would be indeed a different procedure as far as this document is concerned? That is really as far as that argument goes. I do not want to repeat it unnecessarily.

The question that you, Mr Chairman, raised about a State document, I think you in fact referred to a public document, in the sense that it's a document that was kept by a public official in the execution of his duties, etc, etc. The only point that we are making there is:

1. At the stage when these documents were made, they were classed secret, which meant that the public does not have access to it. That being so, it does not meet one of the legs for the admissibility of a public document, which can be authenticated, being handed in merely as proof of its content. That's the point I'm making.

JUDGE PILLAY: Mr Booyens what I was really referring to is, I can understand under that apartheid government that those rules applied and the Public Secrets Act applied etc, specifically for this type of

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document. The question I ask, is that applicable today in the new order? And Mr Bizos answered that question and rather pre-empted my following question as to whether any protection could be afforded to any document if it involved the commission of a crime.

MR BOOYENS: Mr Chairman, I'm dealing purely with the question as to whether or not it is a public document and as far as the laws of that government are concerned, it was the previous government, those laws stayed in terms of the Constitution and up until such time - and even if a top secret document is declassified, it still does not mean that the public had access to it at the time when it was made, so that is the basis on which I say it would not be admissible on the basis that it's a public document, but that's a legal argument. Like I say, that is good and with respect, that will still be good because that's a principle of common law, it's got nothing to do with the Act. It's a common law principle, so this document can for that reason, never be admitted on the basis that it's a public document.

Mr Chairman, my learned friend made a lot and I think repeated it four or five times ...(intervention)

JUDGE PILLAY: Why does it still enjoy protection?

MR BOOYENS: Is there any evidence that's been declassified Mr Chairman?

JUDGE PILLAY: It was classified in terms of a previous order.

MR BOOYENS: No, it was classified in terms of an Official Secrets Act and that ...(intervention)

JUDGE PILLAY: Under an apartheid government.

MR BOOYENS: It doesn't matter, Mr Chairman. The apartheid government made the Criminal Procedure Act, that's still applicable. The official, this country now, this government, has got an Act dealing with official secrets. There are still official secrets, the public is still not entitled to see everything. There are certain - I'm pretty certain that minutes of a Cabinet Meeting, for example, are not accessible in this country to the public, for that reason it will not be a public document and unless somebody can show us that this document has been declassified and then even I would say that it does not meet the common law criteria for being a public document.

JUDGE PILLAY: In the present day, if someone in the street has an interest and needs some administrative relief and has to resort to a Cabinet Minute, is he not entitled to ask or apply to court for the production of that minutes?

MR BOOYENS: The legislation in that regard, you're referring to the section in the Constitution that talks about freedom of information. As far as I know that Freedom of Information Act has not been passed yet, but assuming it will be passed, Mr Chairman, it will be ridiculous. Remember all those human rights are also qualified subject to Section - I didn't know we were going to get into a constitutional argument, but the section that says human rights are subject to the qualification of what is in the common good, basically, I'm not putting this exactly.

JUDGE PILLAY: Section 33 or something.

MR BOOYENS: If you say it's in my interest to know the secret details of the South African Defence Force and they say: "But it's protected under the Official Secrets Act, or whatever, you'll not be entitled." It is not an absolute and unqualified right, it's a right always subject to Section 33. But Mr Chairman, what I'm saying here is simply, on the basis that what I've said earlier on, is that the Commission should just warn itself that it cannot be said that it applied different norms as far as the applicants are concerned and as far as the respondents are concerned.

My learned friend has made a lot of the fact that my learned friend says that Mr van Jaarsveld has been an employee of the State Security Council. At page 210, that statement, let me preface this by saying, by stating that that statement of my learned friend is incorrect in so far as this is concerned. At page 210 van Jaarsveld, the witness called by my learned friend, no sorry, I'm first going to quote page 205, van Jaarsveld gives the following answer:

"Chairperson during 1984 I was connected to the Intelligence Unit of the Security Branch in Pretoria. I was a Lieutenant. Approximately during the middle of 84 I received an order from Williamson etc."

Now maybe that doesn't answer you, doesn't supply the final answer but then page 210 certainly does. At the bottom of the page:

"From 1989 I was involved with the Secretariat of the State Security Council. I'm aware of what the procedures were."

He only joined the State Security Council in 1989, Mr Chairman, he was not an employee of the State Security Council in 1984. He was working directly under Craig Williamson in fact.

Now let us try and get clarity.

JUDGE PILLAY: But was Craig Williamson in the Security Council at the relevant time?

MR BOOYENS: No, he wasn't. Craig Williamson was Chief of the Intelligence Section of the Security Police.

"Chairperson, during 1984 I was connected to the Intelligence Unit of the Security Branch in Pretoria."

No, Craig Williamson was with the Intelligence Section, Mr Chairman.

So it wasn't a case of an employee of the State Security Council being sent down here, but Mr Chairman, let us just attempt here to see what this is really about. It is not, and in fact you can read my cross-examination of van Jaarsveld, you can look at our approach to van Jaarsveld's evidence. I challenged van Jaarsveld basically on two things. I said to him, Gerhard Erasmus wasn't here, if you came here in 1984 and I said to him "You are mistaken that you went out with Sakkie van Zyl." I never said that van Jaarsveld did not come down to Port Elizabeth. I didn't even go so far as to say that he didn't come down on the date when he claimed he did, because you would recall that the fact that it was not necessary to call Cherry was due directly to an admission made by us, so the whole issue and if we call the whole cabinet from PW Botha, the then State President, down to Johan Coetzee, they cannot answer the material question and that is "Was Sakkie van Zyl the man who accompanied him?"

Mr Chairman, and that is a credibility finding you will have to make. If the Committee were to decide that van Zyl is lying if he says that he had contact with van Jaarsveld, then it's a credibility finding and none of the persons mentioned by my learned friend, not even Craig Williamson, can help you in that regard, because that is van Jaarsveld's word against van Zyl's word and it will stay that way. I do not know why Craig Williamson gave van Jaarsveld the orders. I do not know whether or not Craig Williamson was even aware of the decision, the discussion, I should qualify, by the State Security Council in this regard. What I do know is that ...(intervention)

JUDGE PILLAY: If he didn't know, then the plan and the plot to kill Mr Goniwe must have been Craig Williamson's idea himself, isn't it?

MR BOOYENS: The evidence was, it's either in van Jaarsveld's application or somewhere in his evidence, as a matter of fact I think it's in his application, I do not think Williamson was the Commanding Officer of the Intelligence Unit at that stage. I think he said it was either Oosthuizen, or he mentioned another name.

JUDGE PILLAY: Mr Booyens, whatever the case may be, if you submit that we don't know whether Williamson acted on the instructions, or as a result of the decision of that meeting now under discussion, if it weren't so, if he didn't act as a result of that decision, then he must have acted of his own accord,

MR BOOYENS: My reaction to that is, it may indeed be so. It matters not one bit whether it came directly from the State President, or whether Craig Williamson sitting in the Intelligence Section decided on his own, to kill Goniwe, what does it matter for purposes of this inquire? It may go a lot wider, but Mr Chairman, this is not an inquiry into the murder of Mr Goniwe and the three others. My learned friend may be extremely

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enthusiastic about cross-examining Mr Williamson, Gen Coetzee and a number of other people that he mentions. That may indeed be so and if this was a Commission of Inquiry established for that purpose, by all means. This is a Committee that's got to decide whether or not the amnesty applicants that appear here and Williamson is not one, Coetzee is not one, Barend du Plessis is not one, whether those who appeared here told you the full story or lied to you. That is what you've got to decide.

What you've got to look at, Mr Chairman, with respect, is not what could have happened in the portals of power at that stage, because this document will not help you in that regard. The only evidence you are likely to find ever as far as this Security Branch is concerned, is the evidence, first of all the affidavit of Mr Snyman and his evidence in the Pebco 3 application, where he gave evidence under oath, when his state of health was still such that he could do it, about the discussion that he had with Louis Le Grange. Now, whether or not the discussion with Louis Le Grange can be drawn back to the State Security Council meeting a year earlier or so, once again I don't know and it doesn't matter. But Mr Chairman, it is for that reason that, in our submission, that this document does not take the matter any further and you do not need it to make the decision, or to review the decision that you have already made.

What we do say, however, is one should be perhaps cautious, also if we then have got to look just at this document and look at its relevance. This document lists the then Minister of Education, Barend du Plessis, just bear with me Mr Chairman, as stating that the whole situation and that is at, well it's on the second - these secret things don't seem to have page numbers, but in any ...(intervention)

JUDGE PILLAY: There's a lot of things that it doesn't have.

MR BOOYENS: Including full details. It's on the second page of the document, item 5, Agenda item 4, they deal with the question of the unrest in the black schools and there's a reference to certain information that Groenewald gave and then there's the reference that my learned friend's been referred to, but at the end of the day, the decision of the State Security Council in this regard and now we must look at the document as it stands, the decision of the State Security Council makes no mention of Mr Goniwe or the suggestion, call it what you like, by Mr du Plessis that they should be removed.

In the evidence of Gen van Rensburg and let me make it clear here, Mr Chairman, I do not represent in this matter the members of the former Cabinet, but I think this Commission should also perhaps be aware of all the facts before it makes a decision. In the evidence of van Rensburg, there is evidence that Mr Biko was detained and I'm not sure whether it was in terms of the emergency regulations, because I think that was when the state of emergency had been announced, or whether he was detained in terms of the Security legislation, but he was detained in date sometime during 1984, in any case. Perhaps the Committee should be cautious before we decide that the "verwyder" and stretch it to the "permanent uit die samelewing verwyder" that we have heard on an earlier, another occasion, once again we now just have to look at the document. We can't go beyond it. So Mr Chairman, in all the circumstances and in light, in any case of the fact that the Committee has already made its decision, the question is simply this, can this information in any way influence the decision that this Committee must make? That decision is simply, do they get amnesty or not? I submit he doesn't. For that reason I submit that the suggestion by my learned friend would be an unnecessary exercise and would bring this Committee not one bit closer to the truth. You've got as close to the truth, or the untruth, as you will ever get. I do not know what happened in the portals of power, but there is no direct evidence and no indication that if what we read in this Minute is a decision by the State Security and I say it's not, whether it was in fact communicated to the Security Branch or to Craig Williamson, because what we do know also from the record, is that van Jaarsveld says that he reported that to Craig Williamson, that the man cannot be killed in Cradock and I don't know - have I given you that passage, Mr Chairman? I don't think I have. That appears at page 210 of the record:

"So the following morning we drove back to Pretoria and gave feedback. I think Boucher was present. They gave this feedback to Williamson. I recommended that Goniwe could not be taken out at

this house because there were too many people in the vicinity. It made the process problematic, etcetera, etcetera"

It appears at page 210.

Mr Chairman, Members of the Committee, those are my submissions. I think the time has arrived to draw a line under the amnesty application in the death of Mr Goniwe. I think the time has arrived for this Committee to take its decision. I do not think that, interesting as the exercise might be, to find out who were the hawks and who were the doves in the previous Cabinet and what did they really decide, if anything, it's not going to help this Committee one bit. Unless there is something specific which the Committee would like to hear me on, those are my submissions.

JUDGE PILLAY: Thank you, Mr Booyens, Mr Bizos have you got any reply?

MR BIZOS IN REPLY: Yes, ...(indistinct - mike not on) those that I must raise in reply, Mr Chairman. My learned friend says that I was wrong in referring to Mr van Jaarsveld as having been an employee of the State Security Council. May I read the last sentence of his application for amnesty, which reads as follows:

"I was from 1/9/81 involved with the SSVA and I

know how the procedures worked. Gen van Rensburg was a member of the State Security Council. Although he was a retired military General, he was in service of the South African Police. A P Stemmet was second in Command of the State Security Council."

JUDGE PILLAY: What page of the record is that?

MR BIZOS: ...(indistinct - mike not on) Page 214 of the record he said the following:

"An operation such as this would be sent to the highest level of the structure. That would be the Cabinet and State Security Council level. It had to be cleared out there. It would then be the members of the State Security Council who knew about it."

As far as my learned friend's query as to what the position of Maj Craig Williamson was, there is clear evidence at page 205 of the record, where it is stated that Mr Craig Williamson was the head of the South African Police Security Branch Intelligence Unit, stationed at the Security Head Quarters in Pretoria. The question of the submissions that I made to the Committee in relation to an attempt to put in an affidavit by Col Erasmus, which is quoted on page 2 of the Heads of Argument, fails to take an account of a number of factors.

Firstly the issue before the Committee at the time was not a *prima facie* situation. It was an order to make a decision on the facts and the objection, I submit, was well-founded because you cannot rely on an affidavit on disputed evidence by affidavit an order to contradict direct *viva voce* evidence when the witness is available to give evidence. It's an elementary rule of evidence. In relation to *prima facie* matters, the practice is invariable, that you start off with an affidavit, you do not if you want to re-open a case say hear the evidence, the *viva voce* evidence, you say I have information that so and so will give evidence to this effect and you then have to prove that it is correct. If you only have to say that if it is credible on paper, it may well be accepted after the person has given *viva voce* evidence, so the parallel, we submit, is completely misplaced.

In so far as the case of, in his Heads of Argument is concerned, referred to on page 4, there is a difference between the re-opening of a case in which a decision has been given and an application to re-open a case before a Judgment has been given. There is an even further consideration and that is that this is an investigative tribunal which seeks information relying on the rules of evidence, in so far as it is possible, in order to ascertain what happened. The Appellate Division Case in Wymer's case, has no application in this situation whatsoever.

I have not understood counsel for the person seeking amnesty to even suggest that the minute of the Security Council is not a genuine document. He has not answered the submission that we have made that documents in a similar format were put in by him and were put in by us because they were being put to witnesses that were called. This is what we are seeking to do here. We are seeking the witnesses to be brought here so that we can put the document to them. I may say, with respect Mr Chairman, that the fact that there has been a change of government, that does not necessarily mean that any privilege that may attach to a document loses

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its nature, but that sort of document privilege has got to be claimed by the present State functionary in charge of the Department. Practically I wish my learned friend the best of British luck if he approaches anyone, the present head of government, to embargo this document from any court.

Secondly the fact that it is marked "geheim" has no bearing on the matter. The document speaks for itself. If its prominence and authenticity are not challenged, we are entitled to put it to witnesses who, on the fact of it, on the evidence of Mr van Jaarsveld, the decision would of necessity have been taken at the highest level. The persons concerned are at the highest level. There is a minute which suggests that they had made the decision. We are entitled, Mr Chairman, to the re-opening of this subject only to the qualification that we have mentioned, that our case is only partly affected by the fact that, if there was a decision in our favour, then it may be allowed to stand, but certainly we submit that if it was adverse to us, we should be given an opportunity to lead this further evidence in order to persuade you that the applicants have not made full disclosure and we ask that the persons mentioned, particularly those four or five that we have identified in this first instance, it may well be that at the hearing other things may transpire in which there may be a limitation or an expansion, who knows? So that it doesn't have to be a final decision in relation to those matters. We ask for an order accordingly, Mr Chairman.

JUDGE PILLAY: I'm going to take the unusual step, this being an unusual application, of allowing the Members of my Panel to direct questions to both of you as the case may be. Is that okay Mr Booyens, if they do? Dr Tsotsi, have you got any questions? It seems none of us have any questions. We will reserve decision in this application and hopefully we will be able to render one in the near future and then we can take things from there. This hearing is adjourned.

HEARING ADJOURNED

Fort Calata



(/people/fort-calata)

Fort Calata. Source: thecradockfour.co.za/

Synopsis:

Teacher, community leader, political activist and member of the UDF. One of the 'Cradock Four' murdered by the South African security forces in the Eastern Cape.

First Name:

Fort

Last Name:

Calata

Date of Birth:

05-November-1956

Location of Birth:

Cradock, Eastern Cape, South Africa

Date of Death:

27-June-1985

Location of Death:

Cradock, Eastern Cape, South Africa

Gender:

Male

Fort Calata was born on 5 November 1956. Fort's grandfather, the Reverend Canon James Arthur Calata (calata-j.htm), was the Secretary General of the African National Congress (../governance-projects/organisations/anc-history/anc-frameset.htm) (ANC) from 1936 to 1949. In 1956, when Fort was born, Canon Calata was one of the accused in the Treason Trial (../governance-projects/treason-trial/menu.htm). Fort Calata and his wife Nomonde met in 1974 in Cradock. In 1979, the couple lived in Dimbaza, where Calata worked as a teacher. Fort and Nomonde had three children.

According to his wife, Nomonde, while Fort Calata was still at school in 1976 he wrote a letter to the municipality in Cradock, informing them about the dirty streets and the bucket system. Despite writing the letter anonymously, the police traced it and identified him as the author of the letter. Subsequently, he was detained and questioned. In October 1980, he was detained again in Dimbaza for three weeks as a result of his political views. Calata was then transferred to work in Cradock.

In 1983, Calata worked as a teacher under a newly appointed acting headmaster, Matthew Goniwe. Goniwe and Calata became friends and shared similar political views. In January 1984 students commenced a school boycott after discovering the expulsion of Goniwe by the Department of Education and Training (DET). Goniwe's strong influence as a community leader and political activists precipitated his expulsion.

The students demanded that Goniwe be reinstated. Close cooperation between Calata and Goniwe brought them to the attention of the state security apparatus who then set in motion plans to reduce their influence or eliminate them.

On 19 March 1984, former President FW de Klerk ([deKlerk,fw.htm](#)) attended a State Security Council (SSC) meeting where former Finance Minister Barend du Plessis ([duplessis-bj.htm](#)) proposed the "removal" of Goniwe and Calata. Du Plessis said: "In Cradock is *daar twee oud-onderwysers wat as agitators optree. Dit sou goed wees as hulle verwyder kon word.*" (In Cradock there are two ex-teachers who are acting as agitators. It would be good if they could be removed.)

On the 31 March 1984, at 10 o'clock in the evening the police arrested and detained Calata under the Internal Security Act. Calata's comrades Mathew Goniwe, Mbulelo Goniwe, head prefect Fezile Donald Madoda Jacobs were also detained. Calata was detained at a secret location and his wife Nomonde fruitlessly sought to locate him the following day.

On 12 April 1984 Nomonde who worked at the Provincial Hospital in Cradock was summarily dismissed by the Matron and the Superintendent. Subsequent to her dismissal, the police informed her that Calata was detained in Diepkloof Prison in Johannesburg. Nomonde visited Calata in May 1984 and a second visit was denied because the police claimed Nomonde was late. Calata remained in detention for six months. In June he was informed that he had been "listed" which meant that he could not be quoted. On 21 August Calata was dismissed from his teaching post.

Meanwhile during his detention, Calata's wife suffered harassment from the security police and she was threatened with eviction from their home. The little shop that she set up to support the family was vandalised. In August 1984 the community launched a boycott of white owned shops for a week in protest against the detention of their leaders. As a result the government buckled under pressure and released Calata and others in October 1984.

Calata assisted Goniwe in fighting against rent increases in Cradock through the Cradock Residents Association (CRADORA) and the Cradock Youth Association (CRADOYA). Both organisations were later affiliated to the United Democratic Front ([../governance-projects/organisations/udf/menu.htm](#)) (UDF).

In January 1985, the entire community council in Lingelihle resigned the first to do so in the country. The school boycott, boycott of white owned shops and the resignation of the council sparked a raging debate within the state security apparatus and between the latter and DET on whether to reinstate Calata and Goniwe or not ensued. In April 1985 the school boycott was called off. Calata and Goniwe were detained at the Security Police offices at Sanlam in Port Elizabeth.

Around this time the police set in motion plans to eliminate Calata and his friends. He was monitored, followed by vehicles and his home was visited by the head of the Cradock Security Police, Major Eric Winter. The Deputy Minister of Defence, Adriaan Vlok ([vlok-aj.htm](#)), also visited the township and was shown Calata's home.

On 27 June 1985, Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicelo Mhlauli (known as the Cradock Four) drove to Port Elizabeth to attend a UDF meeting. All of them did not return to Cradock.

The police set up a road block where they identified the cars carrying the Calata, Goniwe, Mkonto and Mhlauli. On 27 June 1985 the Cradock four were executed by the security police and their bodies burnt. After Calata and his comrades disappeared news broke out that his body and that of Goniwe had been found stabbed and burnt, near Bluewater Bay. Mhlauli and Mkonto's bodies were also found in the scrub in the same area but far apart from each other.

Calata, Goniwe, Mhlauli and Mkonto were buried in Cradock on 20 July 1985, at a massive political funeral attended by thousands of people and people from all over the country. Speakers included the Rev. Beyers Naude ([naude-cfb.htm](#)) and Rev. Alan Boesak ([boesak-a.htm](#)). At the time of his death, the Calata family

were expecting a child as Nomonde was six months pregnant with Thamani. On the day of the funeral the government declared a State of Emergency in the Eastern Cape and arrested scores of activists returning from the funeral. After the funeral the security continued to harass Calata's wife.

A two-year inquest into the death of the Cradock four began in 1987 (Inquest No. 626/87) under the Inquests Act No. 58 of 1959, headed by Magistrate E de Beer. At the end of the inquest on 22 February 1989, the Magistrate found that the four had been killed by "unknown persons" and that "no-one was to blame". In 1992 President FW de Klerk called for a second inquest after the disclosure on 22 May 1992 by the *New Nation* newspaper of a Top Secret military signal calling for the "permanent removal from society" of Goniwe, Calata and Goniwe's cousin, Mbulelo. The second inquest began on 29 March 1993 and ran for 18 months in terms of the Inquests Amendment. Judge Neville Zietsman, in delivering his verdict, found that the security forces were responsible for their deaths, although no individual was named as responsible.

A monument commemorating the lives of three generations of Cradock activists, who died during the struggle, including the Cradock Four, was unveiled by then-Deputy President Jacob Zuma and Eastern Cape Premier Makhenkesi Stofile. On April 2006, the South African Government honoured Calata by conferring him with the Order of Luthuli in Bronze (<http://www.thepresidency.gov.za/pebble.asp?relid=774>).

References

- Anon, (2010), Fort Calata (<http://www.thecradockfour.co.za/fortcalata.html>) from *The Cradock Four*, [online], Available at www.thecradockfour.co.za (<http://www.thecradockfour.co.za/index.html>) [Accessed 7 April 2011]
- Anon, (1996), N. Calata (<http://www.justice.gov.za/trc/hrvtrans/hrvel1/calata.htm>), from the TRC Hearings, East London, 16 April 1996 [online] Available at <http://www.justice.gov.za/trc/hrvtrans/hrvel1/calata.htm> (<http://www.justice.gov.za/trc/hrvtrans/hrvel1/calata.htm>) [Accessed 7 April 2011]
- Anon, (2006), Fort Calata 1956 - 1985 (<http://www.thepresidency.gov.za/pebble.asp?relid=1482>), from *The Presidency*, [online] Available at www.thepresidency.gov.za (<http://www.thepresidency.gov.za/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/1SF14VYK/>) [Accessed 8 April 2011]
- Carlin, J. (1993), SA general gave 'order to kill' (<http://www.independent.co.uk/news/world/sa-general-gave-order-to-kill-1496969.html>) from the *UK Independent*, 11 March, [online] Available at www.independent.co.uk (<http://www.independent.co.uk/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/1SF14VYK/>) [Accessed: 8 April 2011] Anon, Adriaan Johannes Vlok - Former Law and Order minister (<http://www.whoswhosa.co.za/adriaan-vlok-5623>), from *Who's Who Southern Africa*, [online] Available at www.whoswhosa.co.za (<http://www.whoswhosa.co.za/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/1SF14VYK/>) [Accessed 8 April 2011]

Further reading list

Films about the Cradock Four available at [thecradockfour.co.za](http://www.thecradockfour.co.za) (<http://www.thecradockfour.co.za/thefilms.html>)

Sources in Our Archive

1. TRC Cradock Four Amnesty Hearings (</archive/trc-cradock-four-amnesty-hearings>)

Collections in the Archives

Fort Calata (</collections/64862>)
 Matthew Goniwe (</collections/64852>)
 Sicelo Mhlauli (</collections/64864>)

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Fort Calata | South African History Online

[Sparrow Mkonto \(/collections/64863\)](/collections/64863)[TRC Cradock Four Amnesty Hearings \(/collections/94808\)](/collections/94808)**People****Archive**

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22/7/82

NOTULE VAN OP GBS VERGADERING 2/85 GEHOUD TE KOMMANDEMENT
 OORSTELIKE PROVINSIE HOOFKWARTIER OP 28 MAART 1985

A41

TEENWOORDIG

VERTEENWOORDIG

| | |
|---|--|
| Brig C.P. van der Westhuizen (Voorsitter) | SAW |
| Brig J. Bothma | Dept Gevangenis |
| Brig D.P. Lamprecht | SSVR |
| Brig C. van Rocyen | SK GBS |
| Kol J. Botha | SASP |
| Kol J.H. Steyn | SAP - OL |
| Kol G.A. Lamont | SAW (Med Kmdmt) |
| Lt Kol J. Sydow | SASP - OL |
| Kmdt C.A. Buchanan | SAW (SALM) |
| Kmdt R.D.J. Penhall | SAW (SALM) |
| Kmdt L. du Plessis | SAW |
| Maj M.C. Vermeulen (Sekretaris) | SAW |
| Kapt J.C. Scheepers | SAP(V) |
| Lt G. Barnard | SASP(V) |
| Lt J.J. Mostert | SASP(V) - OL |
| Mnr D.J. Bezuidenhout | OKOR |
| Mnr B.R. Buys | Dept Binnelandse Sake |
| Mnr T.E. Claasen | Nasionale Intelligensiediens - Grahamstad |
| Mnr J.D. Fourie | Sportbevordering |
| Mnr L.M. Francis | Direktoraat Boswese |
| Mnr J. Galvin | Nasionale Intelligensiediens |
| Mnr J.C. Greyling | Dept Mannekrag |
| Mnr H. Gerber | Dept Openbare Werke |
| Mnr D.J. Hattingh | Dept Onderwys en Kultuur |
| Mnr C.H.P. Jacobs | Dept Vervoer |
| Mnr L. Koch | OKOR |
| Dr J.D. Krynaauw | Dept Gesondheid en Welsyn |
| Mnr T.N.B. Liebenberg | Dept Buitelandse Sake |
| Mnr C.E. Littlefield | KPA - PE Streek |
| Mnr G.W. Merbold | Dept Onderwys en Opleiding |
| Mnr N.W. Oosthuizen | SA Vervoerdienste |
| Mnr G.P. Reynolds | Dept Samewerking & Ontwikkeling |
| Mnr H.C.C. Scholtz | Dept Samewerking & Ontwikkeling |
| Mnr D.S. Smith | Dept Buitelandse Sake |
| Mnr W.P.J. Schmidt | SAUK |
| Mnr J.N. Sounes | Dept Handel & Nywerheid |
| Mnr J.M. van Tonder | Dept Buitelandse Sake - OL |

VERSKONINGS

| | |
|-------------------------|--------------------------------|
| Brig C.A. Swart | SAP |
| Brig P.A. van der Merwe | SAP |
| Brig A.P. van der Merwe | SAP(V) - OL |
| Brig E.S. Schnetler | SAP - OL |
| Kapt K.M. Woolley | SAW (SAV) |
| Lt Kol J. Neethling | SASP(V) |
| Lt Kol H. Snyman | SAP(V) |
| Maj F.M.C. Potgieter | SASP(V) - OL |
| Mnr J.J. Botha | Dept Staatkundige Ontwikkeling |
| Mnr A. Burr-Dixon | KPA - PE Streek |
| Mnr J.A. Kapp | Dept Finansies |
| Mnr M.M. Kozak | KPA - PE Streek |
| Mnr C.M. Schoombee | Nasionale Intelligensiediens |

VERTROULIK

GP
 LC

VERTROULIK

Mnr. R. Verster
Mnr. A.P. Vorster
Mnr. J.L. Vosloo

SAUR
Dept. Pos en Telekom
Dept. Landbou

INLEIDING

ITEM 1 : OPENING EN VERWELKOMING

- 1. Die vergadering word met skriflesing en gebed geopen.
- 2. Die voorsitter heet alle lede welkom. In spesiale woord van welkom aan die volgende persone :
 - a. Brig D.P. Lamprecht - SSVR
 - b. Brig J. Bothma - Dept. Gevangenis
 - c. Brig C. van Rooyen - SK GBS
 - d. Kol J.H. Steyn - SAP - Oos-Londen
 - e. Mnr H. Gerber - Dept. Openbare Werke
 - f. Mnr C.H.P. Jacobs - Dept. Vervoer

BESPREKING

ITEM 2 : VORIGE NOTULE(V)

3. Die notule van OP GBS vergadering 1/75 word bevestig en aanvaar.

ITEM 3 : PUNTE VOORTSPRUITEND

Situasie te Llingelihle (V). Twee aksies word geneem :

- a. Verandering gemaak aan hiërargie van amptenary.
- b. Om kontinuiteit te verkry sal in 'skimmiraad' aan die gang gehou word om beslissings te neem. Wanneer daar weer 'n Swart Dorpsraad ingestel word kan hul dan sodanige beslissings bekragtig.

Opgradering sal binnekort begin. Daar sal 'n skakel word met Sakekamer en die Mini-GDS Craddock in dié verband.

Eie Wetstoepassingsbeampies vir Swart Plaaslike Owerhede (V)

- a. Die wetstoepassingsbeampies toegeken aan Craddock is van 19 na 40 verhoog.
- b. Aansoek is 'gedoen dat akademiese kwalifikasies vir applikante verlang word. Departement Samewerking en Ontwikkeling sal die saak verder bedryf.

Optrede deur

OKOR
Mini-GBS Craddock

Dept. Samewerking
en Ontwikkeling.

GP
LC

Optrede deur

6. Besoek van die voorsitter van Kommissie vir Samewerking en Ontwikkeling. Mnr Tempel besoek die OP GES gedurende die OP GBS vergadering op 25 Julie 1985. Enige vrae en aangeleenthede wat deur Mnr Tempel opgeklaar kan word, moet so spoedig moontlik aan die sekretariaat verskaf word. Dit sal dan via die Departement Samewerking en Ontwikkeling na mnr Tempel deurgevoer word.

Sekretariaat
Dept Samewerking
en Ontwikkeling

7. Skole Situasië (V).

- a. Daar heers nog 'n totale skoolboikot te Cradock, Somerset-Oos, Cookhouse en Fort Beaufort.
- b. Intimidasië vind steeds plaas.
- c. Die verplasing van die onderwysers van Cradock vind plaas. Aanvanklik was die onderwysers tevrede, maar hulle weier nou om die nuwe poste te aanvaar. Dit is blykbaar agv die invloed van Matthew Goniwe.
- d. By die Kaaplandse Onderwyskollege het die getal verminder na 212 studente (vooreen 450). Die ander studente is geskors.
- e. By Thubaletho Sekondêre Skool in Fort Beaufort kan leerlinge weer registreer aan die begin van die tweede kwartaal. Leerlinge wat weer probleme veroorsaak, sal permanent weggevoer word.
- f. By Qaqaba Sekondêre Skool te Don-Londen heers steeds 'n totale boikot.
- g. In Queenstown is daar nie 'n boikot nie, maar daar bestaan 'n plofbare situasie. Vir die nuwe boekjaar word 'n sekondêre en primêre skool teplan.
- h. Die Departement van Gesondheid en Welsyn (Ontwikkelingsprogram) en OKOR het same-sprekings gevoer. Wanneer opgraderingsprojekte (Rive) 'n aanvang neem, sal geld na die Swart Plaaslike Owerheid kanaliseer word. Voormelde projekte sal ook heelwat werkseleenthede skep.

Dept Onderwys en
Opleiding

OKOR
Dept Gesondheid en
Welsyn.

ITEM 4 : VEILIGHEIDSOORSIG (V)

18. Lt Kol Snyman wat ook die voorsitter van GIS is, kon ongelukkig nie die vergadering bywoon nie agv die onrusituasie. Die voorsitter skets kortliks die huidige situasie.

SAP(V)
GIS

GP
LC

9. Daar heers n verhoogde onrusituasie. Daar word verwag dat die situasie sal eskalere gedurende die week en die naweek meer afplat. Die hoogtepunt sal moontlik gedurende die pasnaweek bereik word.

10. Daar sal n aankondiging vandag (28 Maart 1985) deur die Kabinet gemaak word ivm verhoogde SAW optrede by die hantering van die onrusituasie. Die afgelope twee weke het die SAW n ondersteunende rol vervul.

11. Daar is n poging aangewend om die SASP koshuise af te brand. n Swart SASP lid se huis is afgebrand.

12. GOS is aktiveer te Uitenhage, Algon Park en Oos-Londen. Dit word 24 uur beman. Daar sal ook n GOS aktiveer word in Grahamstad en Queens-town. Die GOS is toegerus vir gesamentlike hantering van veiligheidsmagte sodat daar vinnige optrede en aksies beplan kan word.

13. Dept Samewerking en Ontwikkeling en OKOR versoek om vroegtydig van inligting voorsien te word. Die volgende reëlings sal getref word.

- a. Daar is elke oggend n vergadering by die SAP. Inligting sal deurgestuur word.
- b. Voormelde departemente kan verteenwoordiging by GOS verkry.
- c. Hulle kan betrek word by GIS.

14. Departement Gevangenis vra of hul ook betrokke kan wees by GOS. Daar sal talle arrestasies wees en voormelde departement sal betyds moet weet om sodanige aanpassings te maak.

15. Oos-Londen. Op 28 Maart 1985 het n STAYAWAY ontwikkel in n optog. SAP is in beheer van die situasie.

ITEM 5 : KOMKOM-VERSLAG (1)

KOMKOM

16. Port Elizabeth :

- a. Die afgelope twee vergaderings het KOMKOM aandag gegee aan metodes hoe om die gemeenskapsdiens wat die polisie verrig meer pertinent onder die aandag van die publiek te bring en veral onder die swart bevolking. Moontlikhede word ondersoek vir die uitskryf van kompetisies by swart skole en onder die swart jeug vir toepaslike liedjies en ander stukke.

GP
Le

VERTROULIK

Optrede deur

- b. Jeugaksies onder blank en nie-blank deur OKOR, Onderwys en Opleiding en Onderwys en Kultuursake. Jeugaksies is in hierdie streek een aspek wat deurlopend aan die dag kry. Die Jaar van die Jeug bring met 'n verskerping.
- c. 'n Aspek wat ook vandag geniet, is die bymekaar bring van blank en swart skooliere om beter verhoudinge te skep veral na aanleiding van die Jaar van die Jeug.
- d. Tydens 'n vergadering op 26 Maart 1985 wat deur vooraanstaande swart sakemanne in samewerking met die Stedelike Stigting belê is, is 'n komitee verties onder voorsitterskap van mnr W. Ximias wat as teenvoeter sal dien vir die Crisis in Education beweging. Indien enige probleme by skole opduik, is hulle die mense met wie geskakel moet word omdat hulle die werklike verteenwoordigers van die ouers is en nie Crisis in Education of UDF ondersteuners nie.
- e. Persmonitor. Verskeie berigte wat die afgelope maand in plaaslike koerante verskyn het, is bespreek.
- f. Die Spanbou wat op 7 en 8 Maart 1985 gehou is, het suksesvol verloop en was van groot nut vir almal wat dit kon bywoon.

17. Oos-Londen.

- a. 'n Byeenkoms van Gemeenskapsleiers in Queenstown vind plaas op 1 Mei 1985 op uitnodiging van die Stadsraad te Queenstown.
- b. 'n Kursus in Plaaslike Bestuursaangeleenthede is in 'n gevorderde stadium van implementering. Dit sal aangebied word deur die Stadsraad te Queenstown.
- c. 'n Kursus tov Bevolkingsontwikkeling word in Oos-Londen aangebied op 23 en 24 April 1985. Beambtes van die Departement Gesondheid en Welsyn (Pretoria en Port Elizabeth) sal ook optree.
- d. Twee toere vir jeugleiers na Oiskai en Transkei vind gedurende die week van 1 tot 5 April plaas olv Radio Shosa.

VERTROULIK



 Gf
 LC

VERTROULIK

Optrede deur

e. Die busboikot is iets van die verlede. Projekte is aan die gang om die swart pendelaars in te lig oor die verhoogde bustariewe wat die einde van April in werking tree. Radio Xhosa speel veral 'n sleutelrol.

CTC busmaatskappy het onderneem om sekere jeugprojekte (lang termyn) te borg in die lig van die Jeugjaar 1985. Hulle sal o.a. vroe van die jeugjaar en 'n bokskryt in Mdantsane verskaf.

Die busmaatskappy se topbestuur is op gekoöpteerde basis by die KOMKOM betrek.

ITEM 6 : REWOLUSIONÊRE KLIMAATSMETING (V)

18. Die meting word aangebied. Die klimaat het vanaf September 1984 heelwat versleg. Die resultaat sal deurgevoer word na die SSVR.

Sekretariaat

ITEM 7 : SEMINARE IN STRATEGIE FORMULERING

19. Die datums vir voormelde word aangekondig. Lede moet hul departementeel. nomineer vir voormelde seminare.

Sekretariaat

ITEM 8 : RIGLYNE VIR JEUGJAAR (V)

20. Bovermelde riglyne sal nog aan die departemente uitgereik word. Dit is egter reeds op 'n KOMKOM vergadering behandel en daar sal volgens die riglyne beplan word.

Sekretariaat
KOMKOM

ITEM 9 : STIGTING VAN SUB-GISA (V)

21. Daar het 'n behoefte bestaan, wat ook deur die SSVR identifiseer is, dat 'n Sub GIS in Port Elizabeth en Oos-Londen gestig moet word. Op 21 Maart 1985 is die voorsitters verkies :

GIS

- a. Port Elizabeth : Lt Kol H. Snyman (SAP(V))
- b. Oos-Londen : Brig Rossouw (SAP(V))

22. Die GIS sal nog 'n maandelikse gesamentlike vergadering hou of meer indien nodig. Die Sub GISA sal daagliks vergader vir solank as wat dit nodig is.

VERTROULIK

GP
LC

Optrede deur

Item 10 : AANVULLENDE ITEMS

Dept Gevangenis

Kennisname

23. Vrylating van Aangehoudenes. Departement Gevangenis verduidelik dat hulle nie vooraf bewus is van n vrylating nie. Wanneer n gevangene vrygelaat word uit aanhouding, word hy volgens die Wet op Binnelandse Veiligheid, aan die SAP(V) oorhandig. Volgens Artikel 28 van die Veiligheidswet mag geen inligting ivm aangehoudene na buite beskikbaar gestel word nie.

24. Algemene SSVR Sake (Brig Lamprecht) (V)

a. Nasionale vlak.

- i. Die owerheid is bekommerd oor die situasie in die land. Op 23 Feb 85 is n vergadering gehou waar fermer optrede bepleit is. n Taakgroep is aangestel om sekere aspekte te ondersoek, oa Crossroads.
- ii. SSVR het reeds n aantal strategieë geskryf wat goedgekeur is. Hul is nou besig met n oorkoepelende strategie. Dit sal moontlik n samevatting van baie van voormelde strategieë wees.
- iii. Strategiese kommunikasie vind ook op nasionale vlak plaas.

b. Streeksvlak.

- i. Die vyand kry baie publisiteit. Daar word misbruik gemaak van enige persoon of organisasie om hul politieke doelstellings te verwesenlik.
- ii. Die Rewolusionêre Klimaatsmeting is nou deur die GBSa gedoen en n strategie moet saamgestel word om die klimaat te verbeter.
- iii. Al die terreine moet beveilig word. Veral die SEMKOM behoort meer betrek te word.
- iv. Vlakte van deelname. Die vyand is op alle vlakke verteenwoordig. Die kollektiewe breinkrag moet op verskeie vlakke teen die vyand ontplooi word. Die stelsel behoort die swart gemeenskap ook betrokke te kry.

GP
LE

Optrede deur

v. KOMKOM. Houdingsverandering moet spesiale aandag kry. Kommunikasiekanale moet maksimaal ontrein word.

25. Genl van Rensburg wens die OP GBS sterkte toe vir die taak wat hulle verrig in moeilike omstandighede.

ITEM 11 : ALGEMEEN

26. Die voorsitter vra verskoning dat die vergadering nie by Slagboom gehou kon word nie agv verhoogde onrussituasie. Hy vra dat SASP die uitnodiging asseblief op 'n later stadium herhaal.

SASP

27. SK GBS sal Departement Samewerking en Ontwikkeling en OKOR gereeld ingelig hou ivm die situasie in hulle gebied.

SK GBS

28. Daar is R59,7 miljoen begroot vir ontwikkeling, die Rive-dorpe ingesluit. Daar is twee komponente nl R13,7 miljoen vir die Rive-dorpe en die res vir normale projekte. Die Rive-projekte word met oorsese lenings bedryf. Die ander projekte kan egter 'n tekort aan fondse ondervind. Indien beloftes nie realiseer nie, kan daar reaksie van die mense verwag word. Die radikalisme van swartes in platelandse dorpe verskil nie van dié van die stede.

OKOR

29. Die voorsitter SK GBS herinner lede aan die SK GBS vergadering wat gehou sal word op 2 April 1985.

Betrokke departementê

30. Die volgende vergadering vind plaas op 23 Mei 1985 te Hoofkwartier, Kommandement Oostelike Provinsie.

- a. Van 09h00 tot 09h30 sal koffie en tee beskikbaar wees.
- b. Die sekretariaat sal vanaf 09h00 beskikbaar wees.
- c. Die vergadering sal om 09h30 'n aanvang neem.

(BRIG C.P. VAN DER WESTHUIZEN)
VOORSITTER OP GBS

(MAJ M.C. VERMEULEN)
SEKRETARIS OP GBS

PORT ELIZABETH APRIL 1985.

GP
Le

7 "LC23" 5

VERTROULIK

NOTULE VAN OP GBS VERGADERING 3/85 GEHOUD TE KOMMANDEMENT OOSTELIKE
PROVINSIE HOOFKWARTIER OP 23 MEI 1985

TEENWOORDIG

Brig. C.P. van der Westhuizen (Voorsitter)
Brig J. Botha
Brig G.J. Rossouw
Brig E.S. Schnetler
Kol J.J. Botha
Kol G.A. Lamont
Kapt K.M. Woolley
Lt Kol H. Snyman
Kmdt E. du Plessis
Lt Kol J. Sydow
Maj J. Krynauw
Maj L.F. van der Merwe
Maj M.C. Vermeulen (Sekretaris)
Lt G. Barnard
Lt J.J. Mostert
Mnr J.S. Bekker

Mnr J.J. Botha
Mnr A.P. van S. Burr-Dixon
Mnr J.D. Fourie
Mnr L.M. Francis

Mnr J. Galvin
Mnr C.H.P. Jacobs
Mnr J.A. Kapp
Mnr G.W. Merbold
Mnr S.P. Naudé
Mnr N.W. Oosthuizen
Mnr W.J.J. Oosthuizen
Mnr H.C.C. Scholtz

Mnr D.S. Smith
Mnr J.N. Sounes
Mnr J.M. van Tonder
Mnr R. Verster

VERSKONINGS

Brig C.A. Swart
Brig A.P. van der Merwe
Lt Kol Neethling
Maj F.M.C. Potgieter
Mnr J.C. Greyling
Mnr D.J. Hattingh
Mnr L. Koch
Mnr G.D. Engelbrecht
Mnr G.P. Reynolds
Mnr C.M. Schoombie
Mnr T.E. Claasen

Mnr A.P. Vorster
Mnr J.L. Vosloo
Er J.D. Krynauw

VERTEENWOORDIG

SAW
Dept Gevangenisse
SAP(V) Oos-Londen
SAP Oos-Londen
SASP
SAW (SAGD)
SAW (SAV)
SAP(V)
SAW
SASP Oos-Londen
Dept Gevangenisse
SAP(V) Oos-Londen
SAW
SASP(V)
SASP(V) Oos-Londen
Dept Openbare Werke en
Grondsake
Dept Staatkundige Ontwikkelin;
KPA Port Elizabeth
Sportbevordering
Dept Omgewing sake :
Direktoraat B'swese
Nasionale Intelligensiediens
Dept Vervoer
Dept Finansies
Dept Onderwys & Opleiding
OKOR
SA Vervoerdienste
OKOR
Dept Samewerking & Ontwik-
keling
Dept Buitelandse Sake
Dept Handel & Nywerheid
Dept Buitelandse Sake (OL)
SAUK

A40

SAP
SAP
SASP(V)
SASP(V) Oos-Londen
Dept Mannekrag
Dept Onderwys en Kultuur
OKOR
SA Vervoerdienste
Dept Samewerking & Ontwikkelin
Nasionale Intelligensiediens
Nasionale Intelligensiediens
- Grahamstad
Dept Pos en Telekom
Dept Landbou
Dept Gesondheid en Welsyn

GP LG

Optrede deur

INLEIDING

ITEM 1 : OPENING EN VERWELKOMING

- 1. Die vergadering word deur skriflesing en gebed geopen.
- 2. Die voorsitter heet alle lede welkom. In spesiale woord van welkom aan die volgende persone :
 - a. Brig G.J. Rossouw - SAP(V)
 - b. Maj J. Krynauw - Dept Gevangnisse.

Kapelaan
Voorsitter

BESPREKING

ITEM 2 : VORIGE NOTULE(V)

- 3. Die notule van OP GBS vergadering 2/85 word bevestig en aanvaar.

Lede

ITEM 3 : PUNTE VOORTSPRUITEND

- 4. Jeugjaar. Sien KOMKOM-verslag.
- 5. Aangeleenthede tov die besoek van die Voorsitter van Kommissie vir Samewerking en Ontwikkeling.
 - a. Enige vrae wat na mnr Tempel deurgevoer moet word, moet op skrif gestel word en die sekretariaat nie later as 25 Junie 1985 bereik nie.
 - b. Mnr H.C.C. Scholtz verduidelik weereens aan die vergadering watter spektrum mnr Tempel dek, na wat beplan word sover konsolidasie betref tov gebiede aangrensend aan die OP GBS gebied.

KOMKOM

Sekretariaat
Dept Samewerking
en Ontwikkeling

ITEM 4 : VEILIGHEIDSOORSIG (V)

6. Skoolsituasie.

SAP(V)

- a. Skoleboikot. Totale of gedeeltelike skoolboikotte kom tans by die volgende plekke voor :
 - i. Port Elizabeth
 - Fort Beaufort
 - Grahamstad
 - Port Alfred
 - Kirkwood
 - Cookhouse
 - Bedford
 - Cradock

GP LC

- b. Te Port Elizabeth is daar reeds oorgegaan tot die verkiesing van 'n "Port Elizabeth Student Committee" (PESCO) bestuur. Hierdie organisasie is verteenwoordigend van alle Swart skole in Port Elizabeth en is geskoei op COSAS se beleid. PESCO sal COSAS se funksies grootliks oorneem weens taktiese redes. Daar heers tans 'n verbod op COSAS vergaderings in die Oos-Kaap en PESCO se formele loodsing is om hierdie rede verhaas. Dit word voorsien dat die skoleboikot in Port Elizabeth nog 'n aansienlike tydperk sal duur, in elk geval totdat aandag aan die skoliere se griewe geskenk word. Die volgende griewe eise is deur die PESCO bestuur geïdentifiseer:
 - i. Die instelling van SRC's soos voorgestel deur COSAS.
 - ii. Gratis handboeke.
 - iii. Eenvormige skoolfooi soos volg:
 - (1) Hoërskole : R6,00
 - (2) Primêre skole : R2,50
 - iv. Die staking van viktimisasie teen leerlinge deur onderwysers.
 - v. Ontslag van onderwysers wat direk of indirek betrokke is by enige aktiwiteite van die SAW (by klublede).
 - vi. Die ontbinding van alle bestaande skoolkomitees.
 - vii. Staking van intimidasie van studente-leiers deur die Veiligheidsstok.
 - viii. Onttrekking van die SAW uit die Swartwoongebied.
 - ix. Die saak van Openbare Geweld teen 9 COSAS lede moet teruggetrek word.
- c. Daar is besluit dat prominente COSAS-lede, weens taktiese redes, aanvanklik 'n lae profiel op die PESCO-bestuur sal handhaaf. Die ledigheid en gereelde groeppvorming wat gepaardgaan met die skoleboikot, dra by tot die skepping van 'n gespanne klimaat. Die leerlinge hou daaglik informele samesprekings op die skoolgronde.

GP LC

Optrede deur

- d. Soos in die verlede, word dit verwag dat die huidige griewe en eise maar net voortdurend vervang sal word deur bykomende eise en griewe.
- e. PESCO is bloot gestig om vergaderings voort te sit in die lig van die verbod op COSAS. Besluit is deur PESCO geneem dat die Minister van Onderwys voor 16 Junie 1985 standpunt oor SRC's moet verneem voordat boikot afgelas word. Verwachting is dat die boikot nie vanjaar opgehef sal word nie.
- f. Uitenhage. Parents Committee Vergadering te Uitenhage op 22 Mei 1985. Besluite :
- i. Leerlinge kla hulle het nie geld vir boeke nie. Komitee verwerp dit.
 - ii. Komitee ontmoet COSAS op Vrydag 24 Mei 1985 met die versoek dat die boikot afgelas moet word.
 - iii. Die komitee sal aan die ouers terugrapporteer in Kwanobuhle stadium.
 - iv. 'n Afvaardiging van vier word na die SAP gestuur om te pleit vir die vrylating van Sithoto. Hy word aangehou onder artikel 50.

7. Arbeidsvlak. By Kirkwood Sitrus Koöperasie is alles weer normaal sedert 20 Mei 1985. By die Hermitage Koöperasie te Addo is samesprekings met die bestuur gevoer op 22 Mei 1985. 'n Verhoorde looneis van 100% is gestel. Onderhandelings duur steeds voort op 23 Mei 1985.

8. Begrafnisse. Die persone (slagoffers van onluste) word op Vrydag 24 Mei 1985 te Kwanobuhle begrawe.

9. Onrus-klimaat.

- a. Die afgelope twee weke het die fokus grotelijks verskuif vanaf owerheids-gerigte optrede na 'n faksie-stryd tussen AZAPO en UDF geaffilieërde organisasie. Hierdie twee groepe het aanvalle geloods op die persoon en eiendom van teenstanders van die onderskeie organisasies. UDF-organisasies het 'n wagstelsel by prominente aansdraers se huise ingestel en is gevolg deur AZAPO. Organisasies soos PEBCO, PEYCO en COSAS het van huis tot huis gegaan om persone op te kommandeer vir hierdie waggienste.

VERTROULIK

GP LC

- b. In een geval is 65 jeudiges gearresteer aan huis van Siphon Mashe, bestuurslid van PEBCO. Die arrestasie het gevolg na h aanval op h polisievoertuig vanuit die perseel. Petrolbomme is ook op die perseel gevind. h Saak van Openbare geweld word ondersoek. Die verdagtes voer aan dat hulle wagdiens verrig het uit vrees teen aanvalle deur AZAPO.
- c. In h ander geval is h kombi vol jeugdiges aangetref waar hulle na bewering op pad was om die huis van h AZAPO ondersteuner aan te val. Petrolbomme is in hulle besit gevind. Dit wil voorkom asof ene Dlali in bevel van die groep was. Hy dien op die uitvoerende bestuur van PEYCO en het in die verlede talle besoeke aan Lesotho gebring.
- d. Hy word tans ingevolge Art 29 aangehou. Hy ontken dat PEYCO of enige ander organisasie verantwoordelik is vir die onluste. Die ondersoek duur voort.
- e. Met die ondervraging van talle gearresteerdes blyk die volgende :
 - i. Die jeugdige operer wel in georganiseerde groepe, byna op h bendestelsel.
 - ii. Hulle ontken die betrokkenheid van enige organisasie. In enkele gevalle word beweer dat opdragte van prominente bestuurslede van PEBCO en PEYCO ontvang is. Hierdie bewerings kan egter nie gekwalifiseer word nie en is gevolglik van min waarde. Intensiewe ondervraging duur voort.
- f. Die kriminele element moet weereens in ag geneem word. Die chaos wat soms gedurende die onrusituasie heers word deur misdadigers en bendes gebruik om hulle motiewe te verbloem. Hierdie feit is deur ondervraging bevestig.
- g. AZAPO en die UDF het die afgelope tyd week op h melodramatiese wyse vrede gemaak, maar spanning tussen die twee groepe laai reeds weer op. Op 1985-05-15 het die Transport and Allied Workers Union (TAWU) alle UDF-geaffilieerde organisasies en vakbonde bymekaar geroep na aanleiding van klagtes deur busbestuurders.

GP
LD

AZAPO en FOSATU was ook genooi maar is gevra om die vergadering te verlaat na dat die PERCO afgevaardigdes beswaar aangeteken het. Op hierdie vergadering is besluit dat busse nie meer die swartwoongebied sal binnegaan nie. Daar word onder andere beswaar gemaak teen polisie-teenwoordigheid waar hulle soms begeleidingsdienste doen. Volledige inligting word nog ingewin.

h. FOSATU en UDF Samesprekings.

i. FOSATU en UDF het op 1985-05-21 om 19h00 by FOSATU kantore, ABCOS gebou vergader. Die doel van die vergadering was om te poog om die konflik wat tussen die twee organisasies bestaan, uit die weg te ruim, asook om die onrusituasie wat in die swartwoongebiede heers te normaliseer.

ii. FOSATU het 'n beroep op UDF gedoen om met hulle volgelinge te praat sodat hulle 'n einde kan bring aan die onluste en toe te sien dat UDF lede aan geen geweldplaging deelneem nie. UDF moet ook poog om die busdienste in die swartwoongebiede te normaliseer. UDF het FOSATU die versekering gegee dat hulle alles in die stryd sal werp om die onluste te probeer oplos en om die busdienste te normaliseer.
Opmerking: FOSATU is nie by UDF affilieer nie. Voormelde bevestiging is kommerwekkend.

i. AZAPO. Inligting dat 'n nasionale kongres die komende naweek te PE gehou gaan word. Plek en tyd nog onbekend.

j. Algemeen. Dit wil voorkom asof die UDF al hoe meer belangstelling in die platteland toon. 'n Voertuig is nou aangekoop vir gebruik deur Matthew Goniwe (Streeksorganiseerder - UDF) sodat hy op 'n meer gereelde grondslag kan skakel met filiaal organisasies te Somerset-Oos, Cookhouse, Bedford ens.

k. Behalwe vir die sporadiese voorvalle wat voorgekom het tussen AZAPO en UDF aanhangers, wil dit voorkom asof daar 'n afplating in die onrusituasie is.

GP
L/C

Optrede deur

10. Grensgebied.

a. Boikotte.

- i. Rooivleis word geboikot. Dit het 'n aanvang geneem nadat stakers by die abatoir afgedank is.
- ii. UDF kondig 'n boikot teen die koerant Dispatch aan. Hul rede is dat voormelde koerant nie genoeg publisiteit verskaf aan UDF sake nie.

b. Eustariefverhogings is aangekondig en sonder probleme aanvaar.

c. Drie-en-dertig persone het in Lesotho aansoek gedoen vir asiel. Hulle sê hulle is ANC lede.

d. Kennis word geneem van datums waarop ANC aksies beplan op 25 Mei - African National Day 16 Junie - SAKP is verban - Sowetodag.

11. Departement Gevangenisse.

- a. Voormelde departement beveel aan dat pro-aktiewe optredes in plattelandse gebiede moet plaasvind.
- b. Die voorsitter meld dat sodanige aksies reeds plaasvind.

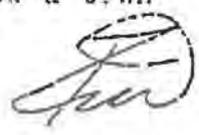
ITEM 5 : KOMKOM-VERSLAG (V)

KOMKOM

12. Port Elizabeth.

a. 'n Artikel is in UMBO (Mei 1985) gepubliseer op die werking en die noodsaaklikheid van 'n plaaslike bestuur uiteen te sit. Dit sluit 'n skematiese voorstelling van verdeidelikende notas onder op die volgende opskrifte in.

- i. "What does a town council do?"
- ii. "The town councillor doing a thankless job".
- iii. "Why does a town need a town Council?"



GP
LC

14

Optrede deur

- b. Daar word beoog om bogenoemde in pamfletvorm na elke Xhosa-sprekende woning in Kaapland te versprei. Die hulp van Departement Onderwys en Opleiding is gevra om die inhoud van die artikel in UMSO by die skole as deel van burgerleer te behandel sodat leerlinge weer op hul beurt die pamflet aan hul ouers kan verskikbaar maak.
- c. Jeugaksies. Die volgende blanke jeugprojekte is/word deur die Direkteur van Kultuursake van die Departement van Onderwys en Kultuur in medewerking met organisasies aangebied gedurende die tydperk 12 April tot 14 Junie 1985.
- i. 12-14 April - 'n Voortrekker Kommandokamp is aangebied vir 60 Penkoppe/Drawwertjies/Verkenners van die Kruggakamma Voortrekker Kommando by die Humewood Kampterrein.
 - ii. 17, 18, 19 Apr - 'n Landsdiensnaweekkamp is aangebied met 80 laerskoolleerlinge van Laerskool Swartkopsrivier by die Zuurbergkampterrein te Addo met die tema "Sultelugopvoeding".
 - iii. 23-27 April - 'n Kunswedstryd te Port Elizabeth waarby 700 leerlinge betrek is, is aangebied deur die PE Afrikaanse Kunswedstrydvereniging.
 - iv. 26-28 April - 'n Landsdiensnaweekkamp met 80 laerskoolleerlinge van 5 Laerskole van PE en Uitenhage is aangebied by die Eersterivierkampterrein te Humansdorp met die tema, "Besbou".
 - v. 3-5 Mei - 'n Landsdiensnaweekstaptoeg is aangebied met 20 hoërskoolleerlinge van Hoërskool Mc Lachlan in die Tsitsikamma Beswandelingspad met die tema, "Bewandel en Bewaar".
 - vi. 3-11 Mei - Die Salters Cup One Act Play Festival te Port Elizabeth met PEUADS die aanbiedende organisasie waarby 790 skoolgaande en nasionale jeug betrek is, is aangebied.
 - vii. 22-24 Mei - 'n Landsdiensnaweekkamp word aangebied vir 50 laerskoolleerlinge van Laerskool Mōrevaag by die Zuurbergkampterrein met die tema "Natuurlewering".
 - viii. 30 Mei - 2 Jun - 'n Landsdiensnaweekkamp word aangebied vir 40 hoërskoolleerlinge van Hoërskool David Ross van Lady Grey by die C.C. Clansens Landsdiensterrein te Oos-Londen met die tema, "Natuurlewe ter land en see".

af
LC

VERHOOR

- ix. 8 Junie - 'n Projek "The human tragedy of drug abuse" word te Port Elizabeth in medewerking met SANCA aangebied en daar word beoog om 100 naskoolse jeugdige te betrek.
- x. 12 - 14 Junie - 'n Projek, "Biblioteek Jeugfees 1985" word in medewerking met Friends of the East London Library te Oos-Londen aangebied en daar word verwag om 750 skoolgaande- en naskoolse jeugdige by dié projek te betrek.

Optrede deur

- d. Daar is gerapporteer dat 'n neiging tot wegbeweging van SACOS duidelik waarneembaar is by veral kleurlingsport.
- e. Sportbedrywighede van swartes word gestrem - Radio Xhosa se Rugbyweek is by afgelas.
- f. Radio Xhosa in samewerking met Departement Onderwys en Opleiding reël koorkompetisies. Eerste fase - komponistekompetisie Tweede fase - koorkompetisie.

13. KOMKOM-Grens.

- a. KOMKOM versoek die CTC Busmaatskappy om die verhoging in bustariewe uit te stel na Meidagvieringe en bevredig die tydperk na 6 Mei aan wat ook so aanvaar is.
- b. Jeugjaar 1985.
- i. Die CTC Busmaatskappy skenk R250 vir die maak van die vandeels met die Jeugjaarembleem daarop vir skenking aan die twee kringe (Onderwys en Opleiding) Oos-Londen en Durbanston, asook aan die Kleurlingskole in Oos-Londen.
 - ii. Dit word ook beplan om 500 lapelknopies met die Jeugjaarembleem te laat maak en aan uitgesoekte sport persoonlikhede te skenk.
- c. 'n Welwillendheidsdag gerig op beter verhoudinge tussen alle volksgroepe is op 1 Mei in Queenstown se stadsaal op uitnodiging van die Stadsraad van Queenstown aangebied. Doodskaappe van Welwillendheid is deur verskeie leiers van die plaaslike gemeenskappe voorgedra en is wye publisiteit op TV 2 en Radio Xhosa hieraan verleen.



- d. n Welwillendheidsdag is op kleiner skaal ook in Oos-Londen van stapel gestuur op 7 Mei, gefinisieer deur Groep B in Oos-Londen. Goeie publisiteit is verleen in die Daily Dispatch en het die voorsitter se boodskap (U/S van OP GDS) tot in die hoofartikel van die koerant is positiewe weerklank gevind.
- e. Samesprekings is reeds met die Burgermeester van Oos-Londen gevoer met die oog op n Welwillendheidsdag vir die stad en terugvoering is belowend.
- f. n Welwillendheidsdag word ook op Cathcart gehou op 28 Mei op uitnodiging van die betrokke stadsraad.
- g. Junior Gemeenskapsraad : Oos-Londen.
Aanvoerwerk in die verband het reeds ver gevorder en is met die Gemeenskapsraad se aanvoerwerk reeds n "Workshop" gevorm wat konstruktiewe samesprekings in die verband op 29 April kan voer. Verdere terugvoering van die Gemeenskapsraad word afgewag. Die Stadsraad van Oos-Londen het hier volle samewerking beloof en sal kanale na die Junior Stadsraad in die verband vasstel.
- h. n Jeugtoer van Blanke hoërskoolleerlinge (Queens Girls High) na Ciskei vind op 28 Mei plaas in volle samewerking met die Ciskeise dept van Buitelandse Sake. Dit is die eerste poging in die verband en is goeie publisiteitsdekking reeds beloof.
- i. Die afloop van twee swart jeugtoere deur Radic Xhosa gereël na onderskeidelik Transkei en Ciskei het suksesvol afge-loop gedurende die April skoolvakansie.
- j. Daar word tans gewerk aan n kursus in Protokol en Diplomatie vir Swart Gemeenskapslede in die Grensgebied in samewerking met die Ontwikkelingsraad.
- k. n Geslaagde netbalkursus vir belangstelendes uit alle bevolkingsgroepe tot einde April in Oos-Londen plaasgevind gefinisieer deur die afdeling Sportbevordering in samewerking met KOMKOM (Grens).

Optrede deur

- l. 'n Geslaagde seminaar betreffende die Bevolkings Ontwikkelings Program is op 23 April in samewerking met die Departement Gesondheid en Welsyn in Oos-Londen gehou as nog 'n uitvloeisel van KOMKOM beplanning.
- m. In samewerking met die Stadsraad van Oos-Londen en die Oos-Londen Skakelkomitee waarop ook sake belange verteenwoordig is, word tans gewerk aan 'n aksieplan om die disinvesteringsprogram in die VSA teen SA teen te werk. Verskeie idees en voorstelle dien tans ter oorweging en sal op 28 Mei by die maandelikse vergadering, ter sprake kom. Dit word beoog om omliggende dorpe hierby te betrek as 'n aksie komende van die Grensgebied as geheel.

ITEM 6 : SEMKOM-VERSLAG (V)

14. Daar is twee vergaderings gehou ondersteunend op 10 April 1985 en 9 Mei 1985. Verskeie aanbevelings is gemaak.

- a. Swart Plaaslike Owerhede. Die Owerheid moet 'n beleidsaanwysing gee van hoe die Swart Plaaslike Owerhede in staat gestel moet word om voort te gaan met noodsaaklike dienste en pligte nadat die SAU en SAP ontroek het. Daar word ook aanbeveel dat oorleefingskapitaal van hulle beskikbaar gestel word. Die versoek is na die SSVR deurgevoer.
- b. Vakante Swart Plaaslike Owerhede. SEMKOM het aanbeveel dat 'n komitee aangestel word om besluite te neem wat versoenbaar is met die wetgewing. Daar is eerder besluit om administrators aan te stel in Middelburg, Cradock en KwaZulu Uitenhage.
- c. Herstel van Openbare Geboue. Daar is 'n versoek deurgevoer na die SSVR tot 'n vormige beleid vir die herstel en herbou van openbare geboue.
- d. Gesprekvoering : Doel: Om inligting oor te dra en 'n beter verstandhouding op te bou tussen bevolkingsgroepe. SOAK sal gesprekvoering koördineer.
- e. Aanbevelings aan die KOMKOM.
 - i. Meer programme behoort op TV aan gebied te word waarin daar gespreksvoering plaasvind oor sake wat swartes raak.

SOAK

KOMKOM

GP
LC

Opgedrae deur

- ii. Die media moet genader word vir die aktivering van h oop gesprek en meningskolom. KOMKOM
- iii. Daar is h beroep gedoen op alle departemente en instansies vir groter steun aan Departement Suidelike Sake te gee tov hul kerantjie UMSO. Alle Departemente
- iv. Senior politici moet genader word om samesprekings te voer met Swart Plaaslike Owerhede. Dit sal aan laasgenoemde geleentheid verskaf om hul probleme op hoe vinnig te bespreek. KOMKOM
- f. Kontak word steeds behou met swart stadsraadslede wat bedank het vir ALBOHAKA. OKOR
ALBOHAKA
- g. Meer gesprekskanale moet geskep word tussen die werheid en die swart gemeenskap. Departement Samewerking en OKOR sal die inisiatief neem om gemeenskappe te identifiseer. Dept Samewerking
en Ontwikkeling
OKOR
- h. Opvolgaksies is deur SEMKOM koördineer en gemonitor na optredes deur veiligheidsmagte. Normaliseringsaksies vind plaas op Kwanon buhle en Langa te Uitenhage, Port Beaufort en Adelaide. SEMKOM
- i. h Streeksaksiegroep is deur die minister van Samewerking, Ontwikkeling en Onderwys in die lewensgroepe. Hul sal as die verlengstuk van SEMKOM optree. SEMKOM
Streeksaksiegroep
- j. Uitenhagefonds. Die stadsklerk van Uitenhage, mnr Barry Erasmus, is gekontak ivm voorreelde fonds. Fondse sal aan welsynsorganisasies beskikbaar gestel word om hulp te verleen agv onluste. Eise kan nie by hul ingedien word nie. Kennisname
- k. Presidentsfonds. Daar is met mnr Mouton geskakel. Daar is besluit dat onlusgevalle wel aanvaar sal word as dade van terrorisme. Daar sal dus oorweging geskenk word aan eise. Die SAP word eers geraadpleeg voordat h besluit geneem word tov vergoeding. Mnr Schelte sal mnr Mouton skakel om vas te stel hoe bovermelde situasie teen die publiek bekend gestel gaan word. Dept Samewerking
en Ontwikkeling

GP
LC

VERTROULIK

Optrede deur

e. In Cradock beheer die leerlinge nou die skole. Die leerlinge keur on die aanstelling van onderwysers goed of af.

26. OP GBS aanbeveling. n Seinberig sal aan die SSVR gestuur word om ook deurgevoer te word na die betrokke ministers.

a. Matthew Goniwe en Fort Calata moet nie ooit weer aangestel word nie.

b. Die 248 vorige studente van die Kaaplandse Onderwyskollege moet nie weer oorweeg word vir hertoelating gedurende 1985 nie.

Sekretariaat
Waarom heidie Seinberig.

ITEM 8 : ALGEMEEN

27. Die voorsitter van die KOMKOM versoek dat positiewe of negatiewe reaksie op pamflette van hom teruggevoer word. Die voorsitter meld dat die SAW behulpsaam kan wees tov n meningsoeiling tussen swartes.

Alle departemente

28. Mnr Smith versoek dat daar vasgestel moet word of oorsese TV spanne gekrediteerd is. Die finale produk moet eers gemonitor word voor n aanbieding gedoen word.

Dept. Buitelandse Sake
Betrokke Departemente

29. Vanaf 9 tot 11 Julie sal drie Taiwanese skepe aan Port Elizabeth n besoek bring. Daar sal geleenthede wees vir welwillendheidsbesoeke. Departemente en instansies wat belangstel kan kapt Woolley skakel by: 22527.

Kennisname
Alle Departemente
SAW

30. Waarskynlikheidsgraad van terroriste-optredes(V) Elke maand word daar voorspellings gedoen tov terroriste-optredes. Die voorsitter lees die voorspelling vir Mei/Junie aan die vergadering voor. Die Natalgebied het die hoogste- en die PR gebied die tweede hoogste waarskynlikheidsgraad in die land.

Kennisname

| | | |
|----------------------|---|----------|
| Natalgebied | - | 51 - 80% |
| Port Elizabethgebied | - | 41 - 50% |
| Oos-Londen | - | 0 - 20%. |

31. Die volgende vergadering vind plaas op 25 Jul 85 te Hoofkwartier, Kommandement Oostelike Provinsie.

a. Van 09h00 tot 09h30 sal koffie en tee beskikbaar wees.

b. Die sekretariaat sal vanaf 09h00 beskikbaar wees.

GP
LC

VERTROULIK

15

c. Die vergadering sal om 09h30 h aanvang neem.

(BRIG C.P. VAN DER WESTHUIZEN)
VOORSITTER OP GBS

M.C. Vermeulen

(MAJ M.C. VERMEULEN)
SEKRETARIS OP GBS

PORT ELIZABETH

MEI 1985

VERTROULIK

GP

LC

"LC25" 53
Brig Wandrag
A47

~~SVS/GOS~~

GEHEIM

VERKORTE NOTULE - GVS AKSIEKOMITEE VERGADERING GEHOU TE
S A POLISIE HOOFKANTJOR OP 6 JUNIE 1985 OM 09H00.

TEENWOORDIG

- ADJ. MINISTER A. VLOK
- LUIT GENL J.B. STEVENS
- LUIT GENL I.R. GLEESON
- GENL MAJ M.J. DU PLESSIS
- GENL MAJ S.H. SCHUTTE
- GENL MAJ D.K. GENIS
- GENL MAJ C.M. DU P. ROBBERTZE
- GENL MAJ J.F.J. VAN RENSBURG
- GENL MAJ J.F. HUYSER
- BRIG M.S. VERSTER
- BRIG G. GREYLING
- BRIG G.Z. ERLANK
- BRIG A.S. JACOBS
- BRIG A.J. WANDRAG
- BRIG D.S. HAMMAN
- BRIG B.A. FERREIRA
- BRIG J.A. KLOPPER
- BRIG W.S. VAN DER WAALS
- KOL J.J. VENTER
- LT KOL G.M. SMIT
- MNR. A.P. STEMMIT
- MNR W.J. VAN VUUREN
- MNR J.L.C. STRYDOM
- MNR P.J. WILKEN
- MNR H.J.R. MYBURGH
- MNR H.J. KOEKEMOER
- MNR P.K. GOUGH
- MNR J.S. CLASSEN
- MNR M.J.M. LOUW
- MNR A.A.N. KNOETZE
- MNR J.C. LÖTTER

VERTEENWOORDIG

- VERDEDIGING EN POLISIE -VOORSITTER
- S A POLISIE
- S A WEERMAG
- S A LEëR (IIS OPS)
- S A POLISIE (V)
- S A POLISIE
- S A S POLISIE
- S S V R
- S A WEERMAG
- S S V R
- S S V R
- S A S POLISIE
- S A S POLISIE (V)
- S A POLISIE TIN HK
- S A LEëR (GS2)
- S A LEëR (DS OPS)
- S A WEERMAG
- S A WEERMAG
- S A POLISIE (DOB)
- S A POLISIE (V) - SEKRETARIS
- S S V R
- O + OPLEIDING
- O + OPLEIDING
- S + ONTWIKKELING
- S + ONTWIKKELING
- S + ONTWIKKELING
- N/INTELLIGENSIEDIENS
- N/INTELLIGENSIEDIENS
- N/INTELLIGENSIEDIENS
- N/INTELLIGENSIEDIENS
- BUITELANDSE SAKE

GP
LC

GEHEIM1. OPENING

Die voorsitter open die vergadering met gebed en heet almal welkom.

2. GOEDKEURING VORIGE NOTULES

Notules van vergaderings gehou op 8 en 23 Mei 1985 word goedgekeur.

3. SITUASIESKETS : ONLUSTE

Brig WANDRAG skets die onlusituasie soos tot op die huidige datum nl 6 Junie 1985. Die afgelope twee weke was daar 'n afplatting in onlusinsidente. Brandgevalle wek egter kommer.

4. SITUASIESKETS : SKOLEBOIKOTTE

Genl. SCHUTTE lig die vergadering in dat daar ook 'n afplatting van skoolboikotte is. Hy behandel die moord op A/O JAMES te Graaf Reinett. Daar word op amptelike vlak gekyk na die beveiliging van swart SAP lede.

5. SITUASIE IN CRADOCK

Mnr STRYDOM doen verslag oor sy besoek daar en onderhoud met MATHEW GONIWE. 'n Besluit oor die heraanstelling in die onderwys aldan nie van GONIWE. Die situasie in Cradock is redelik stil.

BESLUIT 1:

Na bespreking van die GONIWE geval word besluit dat 'n komitee onder leiding van die S S V K oor GONIWE sae lot sal beslis en voorlegging maak aan die voorsitter op 12 Junie 1985.

6. BEPLANDE BEDRYWIGHED 16 JUNIE 1985

Genl SCHUTTE - daar is baie berigte oor herdenkings - en biddienste. Azapo en UDF kompteer met mekaar om sale te huur vir dienste. Probleme word nie tydens dienste verwag nie, Na dienste kan onluste egter verwag word.

Brig WANDRAG - Veiligheidsmagte is landswyd opgeskerp en gereed vir enige gebeurlikheid. Ons sal op 14/6 'n volledige prentjie hê van wat die vyand beplan. Hy wag vir inligting van Veiligheidstak en die GIS op 14/6.

SS

GEHEIM

7. BESKERMING BLANKE AMPTENARE IN SOWETO EN ANDER SWART GEBIED:

Genl GENIS, Brig WANDRAG, en Mnr STRYDOM doen verslag oor stappe wat in hierdie opsig geneem is. Genl VAN RENSBURG se instruksies is ook uit na GBSa.

8. SKRYFTELIKE VERSLAE NOG UITSTAANDE

- (1) Mediawerkgroep se verslag - Kol VENTER.
- (2) Voorkomende stappe tot op laagste vlak - Brig WANDRAG.

9. BEPALING VAN PRIORITEITSGEBIEDE VIR MOONTLIKE AFKONDIGING VAN 'n NOODTOESTAND:

Departemente Nasionale Intelligensiediens en Buitelandse Sake maak beswaar teen 'n beslissing deur hierdie vergadering. Hulle is nie voorberei om 'n inset te lewer nie en voel dat hulle belange het by so 'n besluit.

BESLUIT:

Na bespreking besluit die vergadering dat 'n werkgroep bestaande uit al die verteenwoordigende departemente onder voorsitterskap van die S S V R moet besin oor die gebiede en oor die wenslikheid aldan nie van 'n noodtoestand en 'n verslag gereed moet hê op 13 Junie 1985.

10. TOTALE STRATEGIE VIR DIE BEKAMPING VAN DIE REWOLUSIONÊRE AANSLAG:

Die voorsitter stel dit dat hierdie onderwerp 'n aparte bespreking verg en opper die moontlikheid van 'n spanbou oor 'n naweek. 'n Datum en plek is egter nie vasgestel nie.

11. VOLGENDE VERGADERING

Sal op 14 Junie 1985 om 09h00 wees en sal grootliks handel oor voorbereiding vir 16 tot 26 Junie 1985.

12. AFSLUITING

Die vergadering sluit om 12h00.

G.M. Smit
 Lt Kol.
 SEKRETARIS
 (G.M. SMIT)

.....
 VOORSITTER
 (A. VLOK)

GP
LC

"LC26" 412

GEHEIM
VERTROULIK

WERKKOMITEE:

MATTHEW GONIWE

7 JUNIE 1985

GEHEIM.
VERTROULIK

GP
LC

VERTROULIK

A48

WERKSDOKUMENT

I N H O U D

1. OPDRAG
2. AGTERGROND
3. PROBLEEM
4. OPSIES EN MOONTLIKE GEVOLGE
5. AANBEVELING VAN KOMITEE
6. KEERDATUM

VERTROULIK

GAP
LC

VERTROULIK

1. OPDRAG

Onder voorsitterskap van Adjunk-minister A. Vlok is 'n werkskomitee tydens 'n vergadering van die GVS-GOS op 6 Junie 1985 aangewys om te besin oor moontlike optredes teen Matthew Goniwe, Cradock, en aanbevelings daarvoor te maak.

Die SSVR is aangewys as sameroeper van die komitee, wat inisiatief moet neem.

2. AGTERGROND

2.1 M. Goniwe was per brief deur die Departement van Onderwys en Opleiding in kennis gestel dat hy met ingang van 1984 as waarnemende hoof van Sam Xhallie Junior Sekondêre Skool te Cradock sal aanbly.

2.2 Op versoek van die Veiligheidsgemeenskap (om veiligheidsredes) is hy op 1983-11-26 per telegram verwittig dat hy met ingang van 1984-01-01 oorgeplaas word na Graaff-Reinet as onderwyser vir Wiskunde/Wetenskap.

2.3 Goniwe sien dit as 'n strafmaatregel: 'n Onderwysdepartement word nou gebruik om hom te straf oor sy leidende rol in CRADORA. (Op daardie stadium was CRADORA nie geaffilieer by die UDF nie.) Hy verklaar dat hy nie persoonlik in die saak geken is nie en dat niemand met hom 'n persoonlike onderhoud gevoer het om die saak aan hom te verduidelik nie.

2.4 Goniwe is vooraf glad nie geken oor die oorpasing nie; sy skoolkomitee is nie geken nie; hy het die ondersteuning van die hele gemeenskap, leerlinge en skoolkomitee gehad.

2.5 Die skoolkomitee was nog in 'n onderhandelingsproses met Onderwys en Opleiding toe die 14 dae waarbinne hy op Graaff-Reinet moes diens aanvaar, verstryk het. Toe hy die telegram ontvang, reageer die skoolkomitee deur te bedank, omdat hulle hulself nou bloot as 'n "dummy"-liggaam beskou het wie se aanbevelings geen gewig dra by die owerhede nie.

VERTROULIK

-2-

- 2.6 Na verloop van 3 maande waarin daar nie suksesvol onderhandel kon word oor sy heraanstelling nie, is daar deur CRADORA besluit om ocr te gaan tot 'n skoolboikot.
- 2.7 Geen gesprekvoering met Goniwe was in daardie stadium moontlik nie aangesien hy 'n pistool teen Onderwys en Opleiding se kop gehou het. Die SAP was dit eens hiermee. Ook is die destydse Minister van Onderwys en Opleiding afgeraai om met hom te praat.
- 2.8 Intussen het nou 'n kettingreaksie (wat aan ons almal bekend is) plaasgevind wat letterlik die Oos-Kaap aan die brand gestee het; skoleboikot van 15 maande volg, wat gesien is as afpersingsaksie (CRADORA) om Onderwys en Opleiding te dwing om Goniwe weer in sy arpe te herstel.
- 2.9 Verskeie pogings is aangewend om Goniwe heraangestel te kry:
- 2.9.1 CRADORA met die Adjunk-minister.
- 2.9.2 ATASA (op versoek van CATU) met die Minister.
- 2.10 Die Wenslikheid van gesprekvoering deur iemand met Goniwe:
- 2.10.1 Adjunk-minister Morrison spreek tydens samesprekings met die Aksiekomitee (Cradock) die mening uit dat iemand met Goniwe behoort te praat.
- 2.10.2 Nuwe benadering in die volkshuishouding: Praat met mense.
- 2.10.3 Dit is met die Direkteur-generaal en Adjunk-minister uitgeklaar dat mnr. Jaap Strydom met Goniwe sal praat, wat toe op 24 Mei 1985 gebeur het - 'n kollegiale gesprek en nie 'n amptelike onderhoud nie. Dit was die eerste geleentheid vir Goniwe om sy saak aan 'n heel senior amptenaar te kon stel. Die kringinspekteur het sy oorplasing eers na ontvangs van die telegram en kort voor sy veronderstelde diensaanvaarding op Graaff-Reinet met hom bespreek.

VERTROULIK

GP
LC

VERTROULIK
-3-

- 2.11 Doel van gesprek met Goniwe op 24 Mei 1985:
- 2.11.1 Was te stel wat sy denkrigting is:
- * Militant of vreedzaam?
 - * Sal hy geweld openlik goedpraat?
 - * Is hy arrogant?
- 2.11.2 Het hy 'n begeerte om na die onderwys terug te keer? Waar?
Hy is van Cradock en wil nie graag daar weg nie.
- 2.11.3 Is hy werklik die geslepe planmaker wat agter alles sit, of is hy
- * slegs 'n instrument
 - * reisende agent wat gekontroleer word.
- 2.11.4 Watter soort spreker is hy? Dinamies? Vurig?
- 2.11.5 Beskik hy oor die vermoë om logies te dink en te redeneer?
Indruk: Nie super-intelligent nie - nie eers baie bo gemiddeld nie

VERTROULIK

GP
LC

Goniwe

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11.6. Is hy in besluitnemer? Kan hy winning besluite neem?

Ons indruk: Hy neem nie winning besluite nie... Hy wou oor verskeie vroe. wat aan hom gestel is hieret dink... sy toestaanstelling as ondt wysw' lv.

Vraag: Was hy in 'n moeilike situasie waar hy nie kon besluit sonder om met U.D.F., CRADORA, ANDERE ootlyg te pleeg nie

Onthou:

* Hy is tans Struktuurorganiseerder van die U.D.F. - Oos-Kaap nl. Ladock, Boekhouse, Somerset-Oos, Bedford en Fort Beaufort.

* Is hy reeds te diep betrokke in U.D.F. (Bousak s'oop hy hom 5 Junie 1985)

* Hy is baie diep in die skuld by kinders, ouers en gemeenskap van Doringelike - hulle het vir 15 maande om sy onthelwe opoffering gemaak - skool gebokot.

Wetenskap
12/10

11.7. Sy professionele siening van dissipline en politiek (in die skool).

* Tydens die onthelwe het mnt. Strayden aan hom verdt dat hy slegs deur die Minister betoangestel kan wot'. In son gewal son die minister seker ondernemings van hom hom verwag. in Mens son kon saai dat die Minister lv. son wil weet of:

* Hy besaw het oor sy optrede.

* Of hy hom distansiet van alle geweld en politiek in skole.

* Of hy hom son hom by die professionele kode van die onderwys profesie.

Hy verklaar slegs dat hy teen geweld en politiek in die skool is.

Voorts:

* Hy sien die U.D.F. nie as 'n politieke organisasie nie.

* Hy sien die U.D.F. as 'n onwattende organisasie wat Cradora kon sterk in sy stryd en daarom is besluit tot affiasie (hou hier in gedagte sy uitsprake op verskeie bysentronste en begrafnisse).

Wetenskap
12/10

LC

2.11.8. Is hy val selfvertroue en het hy in sterk selfleedid?

- * Hy skep nie die indruk nie - buigbaar - nie in dinamiese persoonlikheid nie - skep indruk van in game sagte kiel.

2.11.9. Sou dit moontlik wees om hom van sy siening te laat verander?

- * O+D meen dit kan gedoen word, want hy se sy eerste liefde le? hy onderwyf - daarop kan gebou word.
- * Baie ander is al omgehaal om anders te dink bv. Swaps - terrorist.
- * Breinspoeling: As hy weer in O+D se kluis is en gedisiplineer kan word.

WAT IS ONS PROBLEEM?

3.1. * Hy het die hele dag en nag tyf om al sy energie aan bedrywighede teen die Regering te wyf.

3.2. Oplossing:

Heterkanaliseer sy energie. Vraag: Hoe?

Voer dit besprek. kan word, moet na sy geskiedenis/agtergrond gekyk word.

A. Sy GESKIEDENIS:

- * Hy was vir 4 jr in die tronk weens politieke bedrywighede in die Transkei.
- * Marxistiese/kommunistiese lektuur is by hom gevind en is deur hom versprei.
- * Na vyglating terug in Cradock - oesthuis - S.A.P.(V) kan nie met sekerheid verklaar dat hy die hele tyf wel by oesthuis was nie.
- * Teen hierdie agtergrond en teen die agtergrond van omstandighede in Shingelile die volgende:

- Die Nonparaad funksioneer nie doeltreffend nie - in woneer ongelukkig.
- Khushur in groot Kwaesi: In Shingelile is hure vir

Overigens
is hy baie
aan die
kommunistiese

GP
LC

die selfde huis waarvoor in die kleinsig woonbuurt Michausdal, sodoek die pad ± R28 betaal word ± R84.

- Groot ontevredeheid oor toepassing van gelyskale t.o.v. huishuur. Nie behoorlik aan gemeenskap verteenwoordelik nie.
- Die paase in ry dorp is onbegaanbaar.
- Watervoorsiening is gebrekkig.
- Riolering is nie op die peil van Michausdal nie.

* Hy begin omv. aktief te raak: Stig CRADOYA, CRADORA, CRAWO en begin om gemeenskap te mobiliseer.

VRAAG: IS DIT POLITIEKE/ONDERMYNENDE BEDRYWIGHED?

- Het hy nie dalk in saak gehad nie? Ons moet objektief luister & kyk.
- Kyk na CRADORA GRONDWET.

* Is daar in elke opsig ontevrede jens kom opgetree.

- Hy oorsprong:

Hy verklaar dat as in persoonlike gesprek met hom sou gewoos gewees het, hy bereid sou gewees het om te gaan. Kieg hy dalk?

- Die skoolkomitee is nie geken nie. Dis baie belangrik. Hul bedank. Ander skoolkomitees funksioneer nie.

Beheerraad v. kringelike Set Skool kan nie saamgestel word nie.

* GROOT VRAAG:

Het ons kom nie in die arms van sy vorige meesters korregedryf nie?

5. Opsies:

Wat doen ons nou met hom?

5.1. Raat hom waar hy is.

- Wat is die gevolge?

GAP

LC

TV

5.2. Arresteer hom en kler hom aan:

* Het ons in wettelijke saak?

* Gevolge:

5.3. Sluit hom tydelik op — bestaande wetgewing.

* Nis al gedoen: Wat is besik?

* Wat besik ons daarmee: Argumente vir en teen.

5.4. Peek hom elders in:

* Wat besik ons (Positief en negatief).

5.5. Kry vir hom ander werk?

Waar?

Hoe?

Gevolge?

5.6. Bring hom terug in onderwys.

* Gevolge positief en negatief.

V

6. Aanbevelings van die Kerkkomitee:

7. Kerddatums:

GP
LC

Onderhoud met mees M. J. Goniwe.

op Vrydag 24 Mei 1985 om 15hoo.

Masonic Hotel, Bradock.

Teweeswoordig: Mees Jaap Strydom, Hoofdirekteur, Sber; mees J.M. Nkomo, Lid; Mees M. Goniwe.

1. Doel:
- 1.) Om van mees Goniwe self te oeneem wat aanleiding tot sy ontevreidenheid gegee het.
 - 2.) Om te probeer om sy huidige gesindheid te bepal.
 - 3.) Om vas te stel of hy nog belangstel om na die endemys terug te keer - indien wel - of hy enige bespreking woorkeure het oor waar hy sou pos/wil aanvaar.

2. Verloop van onderhoud:

2.1. Op mees Strydom se vraag wat aanleiding gegee het tot mees Goniwe se weiding om 'n oopslasing na Graaf Seibel te aanvaar, het hy verklaar dat dit die manier was waarop die saak gehanteer is. Hy het verklaar dat hy nie persoonlik in die saak gekem was nie. Niemand het met hom 'n persoonlike onderhoud gevoer en die saak aan hom verduidelik nie. Hy het bloot 'n telegram ontvang waarin hy van die oopslasing verwittig is en hy het was van mening dat dit 'n strafmaatregel was omdat hy betrokke gevaar het in gemenskapsake - veral in sy aksies teen die doopsmaak.

Die skoolkomitee van die skool waaraan hy verbonde was, m. l. Sam Khallie, is ook nouit genader i.v.m. die aangelyentheid. Die komitee beswaar gemaak het, is hulle geignoreer en gevolglik het hulle 'n protes teen die optrede bedank.

Mees Goniwe is ontvryg dat die hele aangelyentheid van sy oopslasing ~~onprofessioneel~~ op professionele professioneel nie verantwoorbaar is nie. Hy het verklaar dat indien daar 'n persoonlike gesprek met hom gevoer sou gewes het - soortgelyk aan die gesprek wat tans met hom gevoer word - hy besid sou gewes het om die oopslasing te aanvaar.

- 2.2. Op myn Strydom se vraag waarom hy by die U. D. F. betrokke gewaak het in CRADORA daarmee laat affiliasie het, het hy verklar dat:
- 2.2.1. Hy die U. D. F. nie as in politieke organisasie sien nie en
- 2.2.2. dat hy die U. D. F. as in omvattende organisasie sien wat CRADORA kon steun in sy stryd en daarom is besluit tot affiliasie.
- 2.3. Op myn Strydom se vraag was sy eerste liefde te - by die onderwys of die politiek - het hy verklar dat dit by die onderwys te.
- 2.4. Op myn Strydom se vraag of hy sou belangstel om terug te keer na die onderwys, het hy verklar dat hy dit graag sou wou doen.
- 2.5. Myn Strydom het die omstandighede oos hulle was toe hy verplaas is getels en wou toe weet of hy dit nou sou oornag om indien hy as onderwyser heraan gestel word, beid sou wou om in aanstelling op Graaff-Reinet te aanvaar. Hierop was hy nie in bestelste antwoord gee nie en het hy verklar dat hy destyds juis aansoek gedoen het om in pos in Bradock, omdat:
- 2.5.1. Hy in Bradock gebore is en graag daarheen wou terugkeer en
- 2.5.2. dat sy vrou destyds in Pont Elizabeth werk saam was en hulle as gesin dus geskei was. Hulle het toe saam besluit om beide vir poste in Bradock aansoek te doen sodat hulle as gesin bymekaar kon wou.
- 2.6. Op myn Strydom se vraag of hy beid sou wou - indien sy heraanstelling bemoestellig kan word - om op enige plek in aanstelling te aanvaar met die moontlikheid van in aanstelling op Bradock op in latere stadium, wou hy nie in bestelste

antwoord gee nie. Na oorsyning het hy egter verklaar dat hy kien op Bradock sou wou aangestel word. - al was dit dan ook by 'n primêre skool.

3. Mnr. Strydom het aan hom onduidelik dat hy slegs deur die minister ~~as~~ bevoeg aangestel kan word. In sin geval sou die minister sekere onderneemings kon verwag, in Miers sou kon raai dat die minister sou wil weet of:

- 3.1. Hy besou het oor sy optrede en
- 3.2. Of hy hom diskursie van alle geweld en politiek in skole;
- 3.3. Of hy hom sou hou by die professionele kere van die onderwys profesie,

Hierop was sy antwoord dat hy teen geweld en politiek in die skool is.

4. Mnr. Strydom wou van hom weet of hy besid sou wees en mnr. Som de Beer te ontmoet en self met hom te praat. Mnr. Goniwe wou nie hierop 'n bevestigende antwoord gee nie; hy wou kien tyd hi om oor alles na te dink.

5. Mnr. Nelmark wou van mnr. Goniwe weet wat sy presiese kwalifikasies in Natuur en Skeikunde ~~is~~ en Wiskunde is, waarop hy geantwoord het dat hy 2 jaar opleiding in die vakke gehad het vir sy onderwysdiploma. Hy het self bygevoeg dat hy weet dat sy kwalifikasies in die vakke nie kien opweeg teen die van die huidige bekende onderwysers by Lingelule Sekondêre Skool ~~is~~ onderig in die vakke ge. nie.

6. Mnr. Strydom het daarop ge. dat mnr. Goniwe nou maar deeglik oor alles moet nadink en dat hy hom weer sou skat om te vernem wat sy besluit is.

3. 4.

(Z. 15.)
31/142289

7. Slotopmerking:

Ons is van mening dat nunt Gonius nie die "brein" agter alles is nie - vandaa sy knuwing om die besliste antwoorde op siese vrae te gee en om onmiddellik besluite te neem. Hy het ook nie by ons die indruk gestep dat hy intelligenter as die gemiddelde persoon is nie.

GP

LC

| | | | |
|--|----------------------------------|----------------------------------|---|
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| PRIORITEIT | Routine—Roetine | 07 14 30 B | 0 |

om/Van: OPGBS PTA
 /Aan: SSVR

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| Security classification veiligheidsklas | Originator's Number Opstellersnommer |
| UITERLIK GEHEIM | OPGBS / 101 / 7 JUN 85 |

1. PERSOONLIK VIR GENL VAN REITSBURG,
 2. TELEGESPREK GENL VAN REITSBURG / BRIG V D
 3. BESLUITEN OP 7 JUN 85 VERWYS

4. NAME AS VOLG
 MATHEW GONIWE
 MBOEKLO GONIWE (BROER OF NYET VAN BG)
 FORT CHANTA

5. DIT WORD VOORGESTEL DAT BG PERSONE MERKRIANT
 UIT DIE SAMLEWING, AS SAAK VAN DRINGENDHEID,
 VERWYDER WORD

6. WYE REAKSIE VAN PLAASLIK SOEWEL AS NATIONAAL
 VERWAG WORD AGV BELANGRIKHEID VAN HIERDIE
 PERSONE, VERAAK EERSGETOENDE, VIR DIE VYAND BV

7. INTERDIKTE SOOS ONLANGS MET VERDUYNING VAN
 GOODLOZI, HASHE EN GAZELA (DEBU AMPSDRAERS)

8. REAKSIE VAN LINKSE POLITICI SOOS MORLY BECKERBUN
 9. PROTIES SOOS GEVAL OSCAR MPETHA IN SIMPATIE

| | | | | | | |
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GTP
LC

COMM:

We interviewed Adriaan Vlok who is now in his 80's. We asked him if he was involved in planning the killings of the Cradock Four.

[Adriaan Vlok] sync

I really had no authority to do these sort of things I, [00:09:40] I went to do to these areas. I asked the security forces to give me a briefing, what is going on, what is the situation? But I could not give them instructions to kill people. [13.6s]

My authority stretched. As far as I said, to lock them up.

COMM:

But later in the interview Vlok made a startling admission.

[Hamilton Wende] sync

There was definitely an order ... that found its way into the state Security Council saying they must be permanently removed from society.

What did that mean?

[Adriaan Vlok] sync

You know, we in the Security Council, we were very careful not to tell, not to say and to to make a note and to have in the minutes to kill anybody. So we would say, uh, remove a person from the society, remove him. And, you know, never nobody said killing. But we I thought probably it was meant if you can't solve the problem by removing the guy, then you could kill him.

You thought that then.

Not not consciously, but afterwards, thinking back, I must admit that I realised this was a possibility.

"LC29"

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA First Applicant

SINDISWA ELIZABETH MKONTO Second Applicant

MBULELO TERENCE GONIWE Third Applicant

NOMBUYISELO NOLITHA MHLAULI Fourth Applicant

and

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE Third Respondent

MINISTER OF POLICE Fourth Respondent

CHRISTOFFEL PIERRE VAN DER WESTHUIZEN Fifth Respondent

HERMANUS BAREND DU PLESSIS Sixth Respondent

LOURENS DU PLESSIS Seventh Respondent

ERIC WINTER Eighth Respondent

CRAIG WILLIAMSON Ninth Respondent

ADRIAAN JOHANNES VLOK Tenth Respondent

*SJ
HW GAP
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|----------------------------------|------------------------|
| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

HAMILTON HEATH WENDE

do hereby make oath and state that:

- 1 I am an adult male freelance author, journalist and producer and based in Johannesburg.
- 2 I have worked throughout Africa, the Middle East and Afghanistan for most of the major international networks including CNN, BBC, Al Jazeera and others.

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- 3 The facts deposed to in this affidavit are within my personal knowledge and belief and I confirm them to be both true and correct.
- 4 I have read the affidavit deposed to by **LUKHANYO BRUCE MATTHEWS CALATA** and confirm the contents in so far as they relate to me.
- 5 I specifically confirm that I co-produced an Al Jazeera documentary titled "*My Father Died for This*" which was broadcast in early May 2021. The film includes an interview I conducted with Adriaan Vlok. The extract from the film reflects that he mentioned the following:

COMM:

We interviewed Adriaan Vlok who is now in his 80's. We asked him if he was involved in planning the killings of the Cradock Four.

[Adriaan Vlok] **sync**

I really had no authority to do these sort of things. I went to do to these areas. I asked the security forces to give me a briefing, what is going on, what is the situation? But I could not give them instructions to kill people. [13.6s]

My authority stretched. As far as I said, to lock them up.

COMM:

But later in the interview Vlok made a startling admission.

[Hamilton Wende] **sync**

There was definitely an order ... that found its way into the state Security Council saying they must be permanently removed from society

What did that mean?

[Adriaan Vlok] **sync**

You know, we in the Security Council, we were very careful not to tell, not to say and to make a note and to have in the minutes to kill anybody. So we would say, uh, remove a person from the society, remove him. And, you know, never nobody said killing. But we I thought probably it was meant if you can't solve the problem by removing the guy, then you could kill him.

You thought that then.

Not consciously, but afterwards, thinking back, I must admit that I realised this was a possibility

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- 6 I confirm that this extract from the transcript of this documentary which is annexed marked "LC29" to the founding affidavit is an accurate reflection of what was said in that interview.
- 7 I also confirm that I interviewed ANC Legal Adviser Mr Krish Naidoo, which interview is reflected at approximately minute 23 into the film. I confirm that I asked Mr Naidoo, representing the ANC, why there had been no prosecutions of the TRC cases and in his response, he indicated that "*some matters would have slipped through the cracks*".



HAMILTON HEATH WENDE

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at PARKVIEW on this the 14TH day of **July 2021**, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES:

DESIGNATION:

ADDRESS:

SHANE CAVIN JOHNSON
 Commissioner of Oaths
 Practising Attorney R.S.A.
 90 Rivonia Road
 Sandton
 2146

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UITERS GEHEIM

Kopie ... van 3.

Sekretariaat van die Staatsveiligheidsraad
Secretariate of the State Security Council

VERWYSING:
REFERENCE:

22/3/2/61

NAWAE:
ENQUIRIES:

Genl-maj JFJ van Rensburg

TELEFOON:
TELEPHONE:

21-2120

BYRON PLACE
Schubartstraat/Street 320
Privaatsak/Private Bag x284
0001 PRETORIA

? Junie 1985

A48

Die Voorsitter
GVS-aksiekomitee

MATTHEW GONIWE

INLEIDING

1. Tydens die GVS-aksiekomitee op 6 Junie 1985 onder leiding van Adjunk-minister A Vlok is besin oor moontlike optredes teen Matthew Goniwe.

OPDRAG

2. Die SSVR moet 'n werkkomitee saamroep om aanbevelings tov optredes teen Matthew Goniwe te maak en om die implikasies van enige sodanige optredes uit te spel.

3. Die werkkomitee onder leiding van die SSVR is uit lede van departement Onderwys en Opleiding, Samewerking en Ontwikkeling, Buitelandse Sake, Direktoraat van Veiligheidswetgewing, SAP (Veiligheidstak) en Nasionale Intelligensiediens saamgestel. Oostelike Provinsie GBS het ook 'n kort skriftelike inset gelewer.

AGTERGROND

4. Bq, 'n Xhosa, is in 1946 in Cradock gebore. Op 19/07/1976 is hy as onderwyser aan die Mqanduli-skool in die Transkei ge-arrester weens sy betrokkenheid by die bedrywighede van 'n Marxisties-georiënteerde organisasie, later geïdentifiseer as die People United for the Liberation of South Africa (PUFLSA).

5. Hierdie organisasie waarvan hy een van die stigterslede was, het op 'n selsisteem in die Transkei sowel as in verskeie sentrums in die RSA gefunksioneer. Die modus operandi van die organisasie was om diskussiegroepe te stig waarheen veral jong intellektuele Swart studente en skoliere uitgenooi is waar kommunistiese leesstof dan bestudeer en lede gewerf is.

6. Op 01/09/1977 is Goniwe in die Hooggereeshof, Umtata, skuldig bevind weens 'n oortreding van artikel 11(a) van die destydse Wet op Binnelandse Veiligheid, 1950 (Wet 44 van 1950) en tot vier jaar gevangenisstraf gevonniss.

UITERS GEHEIM

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7. Met sy ontslag uit die gevangenis op 31/08/1981 het Goniwe hom by sy ouerhuis in Cradock gevestig waar hy hom aanvanklik stil gedra en nie veiligheidsaandag op hom gevestig het nie.

8. Op 01/03/1982 is hy deur die Departement van Onderwys en Opleiding as onderwyser by die Ngweba Hoërskool in Graaff-Reinet aangestel.

9. Op 11/01/1983 is hy op eie versoek as onderhoof na die Sam Xhallie Swart junior sekondêre skool in Cradock verplaas. As redes het Goniwe aangevoer dat hy in Cradock gebore is en graag daarheen wou terugkeer en dat sy vrou in Port Elizabeth werksaam was en hulle as gesin geskei was. Deur beide vir poste in Cradock aansoek te doen, kan hulle as gesin verenig word. (Sy vrou het dan ook 'n pos by Samewerking en Ontwikkeling gekry waarin sy steeds dien.)

10. Kort na sy terugkeer het Goniwe hom egter met buite-departementele aangeleenthede begin bemoei en binne enkele maande (in Augustus 1983) is die Cradock Youth Association (CRADOYA), die Cradock Residents Association (CRADORA) en die Principals Association grotendeels op sy inisiatief gestig en dien hy as voorsitter op die bestuursliqqame van al drie organisasies met verskeie onderwysers en skoliere as mede-ampsdraers.

11. Op die vooraand van die gemeenskapsraadverkiesings teen die einde van November 1983 het CRADORA en CRADOYA onder aanvoering van Goniwe 'n anti-gemeenskapsraadveldtog geloods om dié raad en sy raadslede in diskrediet te bring.

12. Goniwe het met verloop van tyd as die selfaangestelde spreekbuis van Cradock se Swart inwoners begin optree en sy organisasies aan verskeie instansies bekendgestel, oa die Oos-Kaapse Raad van Kerke, Engelstalige Oos-Kaapse koerante, die Port Elizabeth Black Civic Organisation (PEBCO), mev Molly Blackburn (PFP-lid van die Provinsiale Raad, Walmer, Port Elizabeth), die Congress of SA Students (COSAS) en die United Democratic Front (UDF) by wie CRADORA en CRADOYA ook later geaffilieer het. Hy het ook met die Legal Resources Centre in verbinding getree.

13. Verskeie onderwysers, skoliere en inwoners is deur Goniwe beïnvloed en met die uitkringende onrusklimaat wat veral in Cradock aan die opbou was is daar op GBS- en VEIKOM-GIS-vlak kommer oor die toestand uitgespreek en is versoek dat Goniwe se verwydering oorweeg moet word. Veiligheidshoofkantoor het gevolglik op 18/10/1983 die Departemente van Onderwys en Opleiding en Samewerking en Ontwikkeling in die verband genader.

14. Hier dien vermeld te word dat Goniwe op hierdie stadium egter reeds per brief deur die Departement van Onderwys en Opleiding in kennis gestel was dat hy met ingang van 1984 as waarnemende hoof van Sam Xhallie Junior Sekondêre Skool te Cradock sal aanbly. Hy is egter op 26/11/1983 per telegram deur die Departement van Onderwys en Opleiding verwittig dat hy met ingang van 01/01/1984 na Graaff-Reinet as onderwyser vir Wiskunde/Wetenskap oorgeplaas word. Goniwe het egter versuim om vir diens aan te meld en is ingevolgt artikel 21(2)(a) van

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die Wet op Onderwys en Opleiding, 1979 (Wet 90 van 1979) geag ontslaan te wees en is op 27/01/1984 amptelik afgedank.

15. Goniwe het hierdie verwikkeling egter nie aanvaar nie en het 'n hewige agitatieveldtog teen sy verplasing en afdanking geloods. Volgens hom was sy verplasing 'n strafmaatreeël oor sy leidende rol in Cradock. Hy het ook verklaar dat hy nie persoonlik in die saak geken is nie en dat niemand met hom 'n persoonlike onderhoud gevoer het om die saak aan hom te verduidelik nie en is nie alleen hy nie vooraf oor die oorplasing geken nie, maar sy skoolkomitee is ook nie geken nie. Volgens hom het hy die ondersteuning van die hele gemeenskap, leerlinge en skoolkomitee in sy weiering om die pos in Graaff-Reinet te aanvaar.

16. Die Sam Xhallie-skoolkomitee was nog in 'n onderhandelingsproses met die Departement van Onderwys en Opleiding toe die 14 dae waarbinne Goniwe op Graaff Reinet diens moes aanvaar, verstryk. In reaksie op die telegram waarin Goniwe deur die Departement van Onderwys en Opleiding van sy afdanking verwittig word, bedank by skoolkomitee omdat hulle hulself nou bloot as 'n "dummy"-liggaam beskou het wie se aanbevelings geen gewig by die owerhede dra nie.

17. Na herhaalde onsuksesvolle onderhandelinge ivm Goniwe se heraanstelling waarin veral twee persone Fort Daniel Calata 'n mede-onderwyser en 'n leerling Madodo Jacobs 'n leidende rol gespeel het, is daar tot 'n skoolboikot oorgegaan. Op 13/03/1984 het 'n algehele boikot in Cradock, waarby 4 236 leerlinge betrokke is, gevolg.

18. Agv die volgehoue en toenemende onrus en sy betrokkenheid daarby word Goniwe en drie ander persone op 31/03/1984 ingevolge artikel 28 van die Wet op Binnelande Veiligheid gearresteer en tot 09/10/1984 aangehou.

19. Terwyl in aanhouding in Pollsmoor-gevangenis, Kaapstad is Goniwe dikwels deur lede van die PFP besoek oa mev Helen Suzman, Mnr A Savage, en in besonder mev Molly Blackburn, laasgenoemde met wie hy goed bevriend is. Hy is ook deur lede van die Internasionale komitee van die Rooikruis besoek.

20. Na sy ontslag uit die gevangenis en die opheffing van die verbod wat op hom betrekking gehad het, het Goniwe onmiddellik sy aktiwiteite hervat. Dit sluit oa in die uitnodiging van bekende aktiviste (waaronder Oscar Mpetha, 'n bekende ANC en SACTU-aanhanger) as sprekers na Cradock in veldtogte om die verkose Swart dorpsraadslede in Cradock te laat bedank. Gedurende Januarie 1985 word ontmoetings met 'n amptenaar van die Amerikaanse ambassade in Pretoria, Sheena Duncan van die Black Sash en Senator Edward Kennedy gereël. Op 13/01/1985 woon Goniwe ook 'n huisvergadering in Somerset-Oos by waartydens die stigting van 'n UDP-geaffilieerde jeugorganisasie bespreek is.

21. In Februarie 1985 het Goniwe tydens die begrafnis van 'n onluslagoffer te Cradock oa die SAP as die versteurders van die vrede beskuldig, sy begeerte uitgespreek dat die RSA-rege-

ring tot 'n val moet kom, die tuislandbeleid gekritiseer en die huidige Swart onderwysstelsel as 'n onderdrukkende maatreël van die RSA-regering.

22. Op 6 Maart 1985 word Goniwe deur die UDF as plattelandse organiseerder van die Oos-Kaapse streek aangestel met Cradock, Graaff-Reinet, Somerset-Oos, Bedford, Adelaide, Middelburg (Kaap), Hanover, Hofmeyer, Pearson, Steynsburg, Cookhouse, Noupoort, Port Alfred en Fort Beaufort as sy verantwoordelike gebied. Hy het reeds hierdie dorpe besoek en byeenkomste toegesprek waartydens hy die ontstaan van die ANC geskets het, ('n onderwerp wat hy gereeld behandel) en die inwoners aangemoedig het om jeugorganisasies en "civic organisations" volgens die voorbeeld van CRADORA en CRADOYA tot stand te bring. Dit is insiggewend dat daar reeds in die meeste van bg dorpe protes- en versetaksies teen die owerhede geloods is wat in etlike gevalle met geweld gepaard gegaan het wat polisie-optrede genoodsaak het.

23. Gedurende Maart 1985 het Goniwe ook 'n oriëntasie-week by die Rhodes-universiteit bygewoon waartydens hy hom by geleentheid oor die Swart onderwys uitgelaat het. In dieselfde maand het vier buitelandse joernaliste hom ook in Cradock besoek en oa 'n televisieopname van Goniwe gemaak.

24. Tydens dr A Boesak se besoek aan die Oos-Kaap ter bevordering van sy veldtog vir 'n biddag op 16 Junie om die RSA-regering tot 'n val te bring, reël Goniwe 'n CRADORA-byeenkoms in Cradock op 5 Junie 1985 waartydens eg optree. Na die byeenkoms oornag Boesak by Goniwe waarna hy Boesak na Cookhouse en Somerset-Oos vergesel.

25. Goniwe is soos aangedui besig om baie effektief as die plattelandse organiseerder van die UDF op te tree. Die greep wat Cradock op Cradock se Swart woongebiede uitoefen is ook nog nie gebreek nie. In die lig hiervan word die opsie om maar net die status quo te handhaaf dws om nie enige optrede tov Goniwe tans te oorweeg nie, as onaanvaarbaar beskou.

MOONTLIKE OPSIES

26. Om Goniwe te neutraliseer kan basies twee opsies onderskei word nl, optrede in terme van veiligheidswetgewing, of om hom terug te bring in die stelsel deur hom weer in 'n onderwyspos aan te stel.

OPTREDE IN TERME VAN VEILIGHEIDSWETGEWING

27. Daar kan teen Goniwe opgetree word deur hom onder Artikel 28 van die Wet op Binnelandse Veiligheid sonder verhoor aan te hou. Hierdie soort aanhouding lok groot kritiek uit en stel die probleem net uit en word onder die gegewe omstandighede nie as prakties beskou nie.

28. Artikel 18 van die Wet op Binnelandse Veiligheid maak voorsiening vir die beperking van lidmaatskap van sekere organisasies en openbare liggame. Hierdie wet is nog baie selde

toegepas.

29. Artikel 19 en 20 maak voorsiening vir die inperking van persone en beperking tot bywoning van byeenkomste. Tipies sou dit die inperking tot 'n bepaalde landdrosgebied wees, gepaardgaande met die vereiste dat die ingeperkte tussen 18h00 en 07h00 tuis moet wees. Die verwagting is dat 'n inperkingsbevel in die meerderheid van gevalle tans aanleiding tot 'n dringende aansoek by die Hooggeregshof sal gee waarkragtens die Minister van Wet en Orde binne 'n bepaalde tyd aanvaarbare redes vir die inperkings moet verstrekk anders moet die bevel opgehef word.

IMPLIKASIES VAN VEILIGHEIDSOPTREDE

30. Voorgenoemde veiligheidsopptrede kan op streeks- en nasionale vlak die volgende voor- en nadele tot gevolg hê:

- a. Ferme optrede van die regering kan bydra om veral die Blankes gerus te stel.
- b. Die huidige onrusituasie kan weer oorgaan tot 'n grootskaalse onrusituasie.
- c. Cradock sal nie geneutraliseer word nie.
- d. Linkse politieke inmening en verhoogde status vir Goniwe.

31. Op die internasionale terrein sal wetsopptrede teen Goniwe in die huidige situasie allermins tot ons saak se voordeel strek. Dit sal bykomende skietgoed aan die RSA se vyande bied en tot groter status vir Goniwe lei.

HERAANSTELLING AS ONDERWYSER

32. Departement Onderwys en Opleiding was nie bereid om met Goniwe te onderhandel solank die skoleboikot voortduur, dws terwyl hy besig was om die departement te probeer afdreig nie. Sedertdien is die skoleboikot deur Cradock afgelas en het mnr J. Strydom van Onderwys en Opleiding 'n nie-amptelike gesprek met Goniwe op 24 Mei 1985 gehad. Volgens Goniwe lê sy eerste belangstelling nog steeds in die onderwys.

33. Deur Goniwe in 'n onderwyspos terug te bring kan sy energie in 'n rigting gekanaliseer word wat sy huidige negatiewe invloed kan beperk en uiteindelik selfs kan neutraliseer.

34. Die eerste vraag is of Goniwe so 'n aanstelling sal aanvaar. Dit is die oorwoë mening dat hy moeilik kan weier. Hy is naamlik diep in die skuld by die ouers en kinders van Cradock wat terwille van sy saak 15 maande nie skole bygewoon het nie. As hy weier sal hy 'n groot mate van sy kredietwaardigheid verloor en kan verwag word dat die plaaslike gemeenskap baie omgekrap sal wees.

35. Die tweede vraag is of Goniwe 'n pos by Cradock of elders aangebied moet word. Die voor- en nadele van 'n aanstelling

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elders kan kortliks as volg opgesom word:

- a. Hy word uit die gemeenskap waar hy 'n leidende rol speel verwyder - dit sal Cradock en andere egter nie tot stilstand bring nie.
- b. 'n Pos elders sal beteken dat hy die geleentheid gebied sal word om te weier (waarskynlik onder druk van die UDF) sonder om sy kredietwaardigheid in te boet. Hy kan naamlik aanvoer dat dit presies die rede vir sy oorspronklike weiering was.
- c. Die agitatie dat hy 'n pos in Cradock moet kry sal voortduur, want die gemeenskap sal glo dat die onreg nie reggemaak is nie. Dit sal steeds as 'n strafmaatreeël gesien word.
- d. Sy vrou se werk by Samewerking en Ontwikkeling in Cradock kom in gedrang. As dit enigsins lyk of die gesin skade ly, materieel of andersins, sal dit onaanvaarbaar wees en skietgoed aan die vyand voorsien.
- e. Van linkse politieke kant en ook internasionaal sal daar steeds vertoë en kritiek wees.

36. Voordele van heraanstelling in Cradock

- a. Hy word teruggebring in die stelsel en kan beheer en gedissiplineer word volgens die professionele kode van die onderwysprofessie. Hy moet naamlik binne die onderwyswet en regulasies optree. In hierdie geval sou hy onder die Wet op Onderwys en Opleiding no 90 van 1979 val, wat dan vir die Departement van Onderwys en Opleiding die geleentheid sou gee om sy bedrywighede te moniteer en indien nodig, dissiplinêre stappe teen hom neem. Die betrokke wetsbepalings lui soos volg:

"22. 'n Onderwyser in diens by 'n staatskool of 'n gemeenskapskool is skuldig aan wangedrag en kan daar dienoreenkomstig die bepalinge van Artikel 23 met hom gehandel word as hy

- (b) 'n daad wat nadelig is vir die administrasie dissipline of doeltreffendheid van 'n skool, departement, kantoor of inrigting van die Regering doen of laat doen of toelaat, of oogluikend toelaat dat dit gedoen word; ...
- (f) in die openbaar, behalwe op 'n vergadering behê deur 'n vereniging van onderwysers wat kragtens Artikel 30 erken is, neerhalende kritiek uitoefen op die administrasie van die Departement...
- (o) 'n misdryf pleeg (dws enige kriminele oortreding begaan".

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Artikel 23 maak voorsiening vir 'n departementele verhoor wat tot die ontslag van 'n onderwyser kan lei.

- b. Sy groot grief dat heraanstelling hom geweier word, verval en hy kan dit nie meer gebruik om die skool-situasie te destabiliseer nie.
- c. Die gemeenskap en die kinders het nie meer rede om negatief met betrekking tot skoolsituasie op te tree nie, want reg het aan hom geskied. Die Minister kan nie meer afgedreig word oor hierdie aangeleentheid nie.
- d. Hy het baie minder tyd om aan politieke (UDF) bedrywighede te wy. Hy kan nie meer heeltydse Plattelandse Organiseerder van die UDF wees nie - hy sal in 'n groot mate met hul moet breek. Sy invloed in omliggende gebiede sal in 'n groot mate geneutraliseer word.
- e. Hy kan gedwing word om spesiale motiveringskursusse (departementeel) te deurloop wat hom kan beïnvloed en van sienswyse kan laat verander.
- f. Dis binne sy gemeenskap waar hulle hom wil hê; hulle sal sielkundig beter tot toekomstige samewerking ingestel wees.
- g. Behuising en skeiding van gesin lewer nie probleme nie - hy voel sterk hieroor.
- h. Sy vrou behou haar werk by Samewerking en Ontwikkeling - materieel verloor hy nie.
- j. Professioneel kan hy goed gebruik word as hoof by Sam Xhallie-skool. Dis waar hy sou gewees het as hy nie verplaas was nie. Dis ook waar die gemeenskap hom wil hê.
- k. Op internasionale vlak sal kennis geneem word maar dit sal nie noodwendig groot impak maak nie. Dit kan egter die RSA se vriende van skietgoed voorsien.

37. Nadele van aanstelling op Cradock

- a. Hy kan kinders binne die skoolsituasie beïnvloed - dog dit sal moeilik gaan om dit openlik soos nou te doen.
- b. Die gemeenskap en hyself sal dit as 'n oorwinning of die Regering sien - so ook linkse elemente en die opposisiepers. Dit sal egter net 'n tydelike wins wees.

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17/6

NOTULE NR SVR 10/85

VERGADERING VAN DIE STAATSVEILIGHEIDSRaad IN TUYNHUIS, KAAPSTAD, OP 10 JUNIE 1985 OM 10h00.

Teenwoordig

- | | |
|--------------------------------|---|
| Mnr B Schoeman | Minister van Vervoerwes (voorsitter) |
| Mnr J C Reunis | Minister van Staatkundige Ontwikkeling en Beplanning |
| Mnr R F Botha | Minister van Buitelandse Sake |
| Mr F W de Klerk | Minister van Binnelandse Sake en van Nasione |
| Mnr L le Grange | Minister van Wet en Orde |
| Dr G van N Viljoen | Minister van Samewerking en Ontwikkeling en van Onderwy |
| Genl M A de M Malan | Minister van Verdediging |
| Mnr P T C du Plessis | Minister van Mannekrag |
| Mnr B J Coetsee | Minister van Justisie |
| Mnr B J du Plessis | Minister van Finansies |
| Mnr D J L Nel | Adjunk-minister van Buitelandse Sake |
| Mnr A J Vlok | Adjunk-minister van Verdediging en van Wet en Orde |
| Genl C L Viljoen | Hoof van die Suid-Afrikaanse Weermag |
| Dr L D Barnard | Direkteur-generaal van die Nasionale Intelligensiedien |
| Mnr S S van der Merwe | Direkteur-generaal van Justisie |
| Dr J P Roux | Sekretaris-generaal: Kantoor van die Staatspresident |
| Genl P J Coetzee | Kommissaris van die Suid-Afrikaanse Polisie |
| Mnr P R Killen | Direkteur-generaal van Buitelandse Sake |
| Lt-genl A J van Deventer | Sekretaris van die Staatsveiligheidsraad |
| Lt-genl P W van der Westhuizen | Aangewese Sekretaris van die Staatsveiligheidsraad |
| Genl-maj R P J van Vuuren | Sekretariaat van die Staatsveiligheidsraad |
| Mnr P H Viljoen | Sekretariaat van die Staatsveiligheidsraad |

NOTA Hierdie dokument mag gedupliseer word slegs met die toestemming van die opsteller

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UITERS GEHEIM

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OPTREDE DEURVERWELKOMING

Die vergadering vind plaas onder die voorsitterskap van Minister Schoeman wat die aanwesiges verwelkom.

ITEM 1 AGENDA-ITEM 1 : INLIGTINGSVOORLIGTING

Genl-maj Van Vuuren van die Sekretariaat gee voorligting oor die aktuele aspekte van die bedreiging teen die RSA soos op 7 Junie 1985. Hy bring die bestaan van die handleiding oor die maak van petrolbomme en plofstowwe wat onder vals omslae die land binnegebring word, onder die aandag. Op 'n vraag bevestig hy dat die Doeane bewus is van die publikasie en van die metodes om dit die land in te bring.

Minister Le Grange maak ook melding van die studente-dagboekies met die sogenaamde "Swart kalender". Hy sal besonderhede daarvan aan Minister De Klerk beskikbaar stel.

MINISTER LE GRANGEITEM 2 AGENDA-ITEM 2 : NOTULE NR SVR 9/85

Die notule van die vorige vergadering van 27 Mei 1985 word ter tafel gelê, goedgekeur en deur die Voorsitter onderteken.

ITEM 3 AGENDA-ITEM 3 : SAKE VOORTSPRUITEND UIT DIE NOTULEa. ITEM 1 : INLIGTINGSVOORLIGTING (GESPREK MET GBS-VOORSITTERS)

Adjunk-minister Vlok doen verslag dat hy met die GBS-voorsitters gesels het en dat dit duidelik was dat hulle soms probleme het dat departementele verteenwoordigers nie die nodige opdragte of delegasies het om op eie inisiatief op te tree nie. Die Sekretariaat het nou gereël dat waar sulke optredes dringend noodsaaklik is, die GBS-voorsitters hulle planne direk aan die betrokke Departemente voorlê by 'n vergadering waar Adjunk-minister Vlok ook teenwoordig is en waar departemente dan saam besin oor die beste optrede. Hy spreek die vertroue uit dat die metode sneller optrede deur betrokke departemente sal bewerkstellig.

b. ITEM 9 : ALGEMEEN (DIE VERSLAG VAN DIE KANNEMEYER-KOMMISSIE)

Na 'n uitvoerige bespreking besluit die vergadering om die volgende aan die Staatspresident voor te lê vir goedkeuring:

- i. Dat die Kannemeyer-verslag bespreek sal word by al drie Huisse. Nie meer as 2½ uur sal in elke geval afgestaan word nie.
- ii. Dat die Verslag op Dinsdag 11 Junie 1985 om 14h15 tesame met 'n memorandum van die Ministerie van Wet en Orde ter tafel gelê sal word.

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UITERS GEHEIM

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OPTREDE DEUR

- iii. Dat afskrifte van die stukke voor die ter tafel legging so gou moontlik aan die pers, sekere lede van die Regering, en lede van die opposisie onder die verstandhouding van die embargo beskikbaar gestel sal word.
- iv. Dat die Staatspresident nie aan die debat self behoort deel te neem nie maar dat hy wel in die loop van 'n "Stand van die Republiek"-toespraak by 'n gesamentlike sitting van die drie Huise waar hy onder andere die Veiligheidsituasie aanraak, na die Kannemeyer-verslag kan verwys.

MINISTER LE
GRANGE
MINISTER COET

Die memorandum wat oor die Kannemeyer-verslag opgestel word, moet vooraf egter deur die Ministeriële Komitee wat deur die Staatspresident aangestel is, uitgeklaar word.

DIE VOORSITT

MINISTER LE
GRANGE
MINISTER COE

Adjunk-minister Nel sal die persaangeleenthede hanteer.

ADJUNK-MINIS
NEL

ITEM 4 AGENDA-ITEM 4 : SUIDWES-APRIKA

Minister Botha lig die vergadering in oor die jongste stand van die gesprekke met die VSA en vra die Staatsveiligheidsraad se aanbeveling om met die volgende riglyne vir 'n antwoord aan die VSA na die Staatspresident te gaan:

- a. dat ons nie tevrede is met die nuwe voorstelle wat die VSA aan ons gemaak het nie. In ons opinie is dit 'n afwyking van die oorspronklike ooreenkoms,
- b. dat die Kubane in Angola teen die tyd dat verkiesings in Suidwes-Afrika moet plaasvind, nie meer as 6000 moet wees nie,
- c. dat hierdie 6000 verder Noord as die 10° breedtegraad moet wees,
- d. dat die Kubane twaalf maande nadat die proses begin het nie meer as 3000 sal tel nie en dat ons bereid is om die 3000 twee jaar lank bokant die 10° Noord te aanvaar,
- e. dat wat betref die Angolese versoek dat ons moet onderneem om nie van ons eie of grondgebied onder ons beheer gebruik moet maak om optredes teen Angola te loods nie, 'n soortgelyke onderneming van Angola moet eis.

MINISTER B

Die vergadering magtig Minister Botha soos aangedui, om die aangeleentheid met die Staatspresident te gaan bespreek.

Wat betref die Proklamasie van die tussentydse regering magtig die vergadering ook Minister Botha om die volgende aangeleenthede met die Staatspresident uit te klaar:

1. Die ampstitel van Administrateur-generaal moet onveranderd bly.

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- ii. Die vergadering het nie wesenlike beswaar teen die gebruik van die term "kabinet" deur die tussentydse regering nie.
- iii. Die begrip "tussentydse regering" sal in die Proklamasie gebruik word.
- iv. Wat die teken van wette betref, moet ons dit aan hulle stel dat die Administrateur-generaal die verteenwoordiger van die Regering is. Hy sal nie sake onnodig moeilik maak vir die tussentydse Regering nie, maar hulle moet ook ons posisie beseef. Die Administrateur-generaal sal dus wel 'n mate van diskresie kan toepas wanneer hy wette onderteken. Ons sal met hulle ooreen kan kom dat die Administrateur-generaal nie wette sal afkeur tensy die belange van die RSA nie daardeur geraak word nie.

MINISTER BOTHITEM 5 AGENDA-ITEM 5 : VERANTWOORDELIKHEID VIR BRANDWEERDIENSTE OP NATIONALE VLAK

Die vergadering besluit dat die aangeleentheid liefers moet oortaan tot die volgende vergadering aangesien die Staatspresident persoonlike belangstelling daaraan het.

ITEM 6 AGENDA-ITEM 6 : ALGEMEENa. KRUISPAD

Nadat Minister Le Grange verslag gedoen het oor sy besoek aan Ciskei, kom Kruispad en die instroming in die Wes-Kaap ter sprake. Die vergadering besluit dat die saak dringende aandag moet geniet en om die aangeleentheid oor te dra na die vergadering van die Kabinet op Woensdag 12 Junie 1985.

b. AFTREDE : LT-GENL A J VAN DEVENTER

Die Voorsitter sê dat die Sekretaris van die Staatsveiligheidsraad lt-genl Van Deventer na 'n dienstermyn van ses-en-dertig jaar uittree. Hy het 'n mooi loopbaan gehad en daar sal met lc^e en dank aan hom teruggedink word.

ITEM 7 ADDISIONELE ITEM : MEDIESE DIENSTE WAT DEUR DIE GENEESHEER-GENERAAL AAN DIE OWAMBO-ADMINISTRASIE GELEWER WORD

Die vergadering keur goed dat die mediese dienste wat ingevolge 'n beslissing van die Staatsveiligheidsraad (SVR 20/83, item 9) aan die Owambo's gelewer word en wat, ingevolge 'n verdere beslissing van die Raad (SVR 19/84, item 10), op 30 Junie 1985 verval, vanaf 1 Julie 1985 tot 31 Desember 1985 verleng word.

UITERS GEHEIMGP
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UITERS GEHEIM

OPTREDE DEUR

ITEM 8 Die vergadering verdaag om 12h45.

ITEM 9 Die volgensds vergadering vind op Maandag 29 Julie 1985 in die Uniegebou plaas.

GOEDGEKEUR

SEKRETARIS
11 Junie 1985

VOORSITTER
29 Julie 1985

OPSTELLER

UITERS GEHEIM

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UITERS GEHEIM

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Sekretariaat van die Staatsveiligheidsraad
Secretariate of the State Security Council

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VERWYSING: 22/5/2/7
 REFERENCE:

NAVRAE: Brig G Greyling/Kol L J Roothman/Kol D C van Heyningen

ENQUIRIES:
 TELEFOON:
 TELEPHONE:

Bylyn 249, 250, 246

BYRON PLACE
 Schubartstraat/Street 320
 Private Bag/Private Bag x28
 0001 PRETORIA

13 Junie 1985

A49 A50

AAN : BRIG P J GELDENHUYS
 VAN : HTSK

STRATKOM-RIGLYNE : AANSTELLING VAN MNR M GONIWE AS SKOOLHOOF BY SAM XHALLID HOËRSKOOL TE CRADOCK

1. In lyn met die SSVR-werkkomitee rakende die aanstelling van mnr GONIWE as skoolhoof te Cradock, word die volgende Stratkom-riglyne voorgelê:

a. Aanstelling

Die aanstelling van mnr GONIWE moet geskied ingevolge Onderwys en Opleiding voorskrifte.

- i. Die pos sal derhalwe geadverteer word.
- ii. Aansoeke moet volgens normale prosedure ingedien word.
- iii. Indien nodig, kan 'n persoonlike onderhoud met kandidate aangevra word.
- iv. Aanstellings sal op meriete geskied.

b. Departementele Kursusse

- i. Aangesien mnr GONIWE geruime tyd uit die aktiewe onderwys afwesig was, sal dit van hom verwag word om die nodige voorgeskrewe departementele oriënteringskursusse te deurloop.
- ii. Die datum van aanstelling sal in ooreenstemming met die aanvangsdatum van die "motiveringskursus" geskied.

c. Monitering

- i. Normale moniteringsaksies tov mnr GONIWE se UDF-bedrywighede moet voortgaan, maar moet met omsigtigheid hanteer word.

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- ii. Daar moet gekyk word na beperkende maatreëls (kovert) om sy buitewurste aktiwiteite doeltreffend/sinvol te beheer.

d. Gemeenskapsbetrokkenheid

Indien mnr GONIWE na 'n redelike tyd 'n positiewe gesindheid dmv sy aksies openbaar, word dit beoog om in 'n toenemende mate sy gemeenskapsbetrokkenheid te bevorder. (Gesamentlike moniteringsaksies deur Onderwys en Opleiding en Samewerking en Ontwikkeling).

e. Hantering van die Media

i. Nasionaal

- (1) Alle persverklarings moet deur Onderwys en Opleiding se skakelafdeling uitgereik word. Die TSK sal die nodige insette in oorleg met Onderwys en Opleiding lewer.
- (2) Daar moet gewaak word teen:
 - (a) Opspraakwekkende verklarings.
 - (b) Teenstrydighede.
- (3) Die spesifieke aankondiging moet in oorleg met OPGBS gekoördineer word aangesien KOMKOM-aksies tans beplan word teen die UDF en plaaslik geaffilieerde organisasies en persone.

ii. Plaaslik

- (1) Amptenary van Onderwys en Opleiding en Samewerking en Ontwikkeling moet volledig ingelig word tov die aanstelling van mnr GONIWE.
- (2) Geen skakeling met die pers moet op plaaslike vlak geskied nie.

- iii. Alle berigte in die media rakende mnr GONIWE se aanstelling moet gemonitor word met die oog op doeltreffende teenreaksie.

f. Betrokkenheid van OPGBS

Alle koördineringsaksies op plaaslike vlak moet deur die GBS geskied.

HOOF :  TAK STRATEGIESE KOMMUNIKASIE

UITERS GEHEIM

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MEMO

Lêer No.
File No.

9/1/5

GEHEIM

ASD

DIE DIREKTEUR : PERSONNELBESTUUR
 DIE HOOFDIREKTEUR : ADMINISTRATIEWE DIENS
 DIE HOOFDIREKTEUR : BEHEER
 DIE ADJUNK-DIREKTEUR-GENERAAL
 DIE DIREKTEUR-GENERAAL

HERAANSTELLING IN 'N ONDERWYSPOS : MNR. M.T. GONIWE

1. DOEL:

- 1.1 Om u in te lig oor verwikkelinge met betrekking tot heraanstelling van mnr. M.T. Goniwe, en
- 1.2 goedkeuring vir heraanstelling te verkry.

2. AGTERGROND:

- 2.1 Die saak is op 'n GVS-vergadering onder voorsitterskap van mnr. A. Vlok, Adjunk-minister van Verdediging en Wet en Orde bespreek op 6 Junie 1985 en op aandrang van die Hoofdirekteur : Beheer is 'n spesiale komitee onder voorsitterskap van die Sekretariaat van die Staatsveiligheidsraad benoem om die aangeleentheid van heraanstelling te ondersoek en aanbevelings hieromtrent te doen.
- 2.2 In 'n skrywe gedateer 13 Junie 1985, waarvan 'n afskrif in die besit is van die Adjunk-minister, mnr. S.J. de Beer, word heraanstelling aanbeveel.
- 2.3 Uit vorige sameprekings met leiers uit die gemeenskap en tydens vergaderings met oerafgevaardigdes op 24 Mei 1985 en 14 Junie 1985, is die versekering gegee dat die skooltoestand heeltemal sal normaliseer indien mnr. Goniwe weer in 'n onderwyspos aangestel sou word.
- 2.4 Tydens 'n kollegiale onderhoud tussen die Hoofdirekteur : Beheer en die Adjunk-direkteur : Gemeenskapskommunikasie, op 24 Mei 1985, het mnr. Goniwe te kenne gegee dat hy nog steeds begerig is om na die onderwys terug te keer.
- 2.5 Die plaaslike veiligheidsgemeenskap te Cradock is voortdurend ingelig en steun die strategie van heraanstelling.

3. PROBLEEM:

Mnr. Goniwe is tans healtydse Plattelandse Organiseerder van die U.D.F. vir die gebied Cradock en omgewing. Hy kan dus al sy aandag aan politieke bedrywighede wy en die negatiewe invloed van sy bedrywighede in dorpe soos Cradock, Somerset-Oos, Bedford, Adelaide, Fort Beaufort en elders, is reeds goed bekend. Dit is gebiedend noodsaaklik dat sy energie herkanaliseer moet word in aktiwiteite wat hom nie die tyd sal laat om sy politieke bedrywighede op so 'n wye terrein te beoefen nie.

*Nota: Verreken met lra: 58091.
 op verskeie van Adm. Nominasie*

*De Beer 21...
 24/1/85*

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GEHEIM

4. OPLOSSING:

Herkanaliseer mnr. Goniwe se energie en tyd terug in die onderwys - verkieslik by 'n skool wat in chaotiese toestand is, Sam Xhallie te Cradock, byvoorbeeld, en dwing hom om al sy aandag van 7h00 to minstens 17h00 aan die onderwys te wy.

5. VOORDELE VERBONDE AAN HERAANSTELLING:

- 5.1 Die skoolsituasie te Lingelihle (Cradock) sal totaal normaliseer - die gemeenskap het hierdie versekering al by herhaling gegee.
- 5.2 Indien hy by Sam Xhallie (waar hy sou gewees het) aangestel word, sal hy en die gemeenskap voel dat die "onregverdigheid" van sy destydse verplasing na Graaff-Reinet reggemaak is en kan daar positiewe reaksie verwag word, want vertroue in die Departement sal dan herstel word. Dit sal bewys dat ons 'n onderwysdepartement is, nie 'n polisie-instrument nie.
- 5.3 Mnr. Goniwe se gedrag sal elke minuut van die dag deeglik deur beide die Departement en die Veiligheidsgemeenskap gemoniteer kan word.
- 5.4 Alle ander opsies met betrekking tot veiligheidsoptrede verval nie.
- 5.5 Deur bywoning van verpligte kursusse kan sy gesindheid van negatief na positief verander word.

6. PROSEDURE:

Daar word voorgestel dat indien heraanstelling goedgekeur word, die volgende prosedure gevolg word:

Dat die Hoofdirekteur : Beheer op 1 of 2 Julie 1985 wanneer hy op Cradock, sal wees in verband met onderhoude met studente met betrekking tot hertoelating tot die Kaapse Kollege, weer 'n onderhoud met mnr. Goniwe sal voer ten einde die saak met hom te bespreek en hom 'n aanbod van aanstelling, op ons voorwaardes te maak. (So'n aanstelling sal in elk geval op 12 maande proef wees).

7. AANBEVELINGS:

- 7.1 Dat heraanstelling van mnr. Goniwe goedgekeur word.
- 7.2 Dat die prosedure soos in par. 6 uiteengesit gevolg word.

ADJUNK-DIREKTEUR : GEMEENSKAPSKOMMUNIKASIE

DATUM:

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NIE AANBEVEEL NIE/KOMMENTAAR

Indien ons mnr Goniwe heraanstel, moet ons bereid wees om die vele ander met linkse politieke neigings se heraanstelling ook gunstig te oorweeg indien hulle sou aansoek doen. Ek het begrip vir die huidige gedagtes, veral met die oog op normalisering van die situasie. Indien dit die enigste uitweg is, wil ek egter voorstel dat hy nie op proef aangestel word nie, maar in 'n tydelike hoedanigheid. Hy kan vir 12 maande 'n lae profiel handhaaf en wag tot sy proef bekragtig is en dan weer met sy probleme begin wat optrede teen hom geweldig sal bemoeilik.

(get) W A Smit
 DIREKTEUR : PERSONEELBESTUJR
 DATUM: 18/6/1985

AANBEVEEL/NIE AANBEVEEL NIE/KOMMENTAAR

Indien besluit word om mnr Goniwe aan te stel, is ek ook van oordeel dat dit liefs in 'n tydelike hoedanigheid moet geskied en as dit moontlik is, ook nie in 'n waarnemende hoedanigheid as hoof nie.

(get) J H Verwey
 HOOFDIREKTEUR : ADMIN. DIENSTE
 DATUM: 18/6/85

AANBEVEEL/NIE AANBEVEEL NIE/KOMMENTAAR

Afwesig

HOOFDIREKTEUR : BEHEER
 DATUM:

AANBEVEEL

Dat mnr Goniwe in 'n tydelike hoedanigheid as waarnemende hoof van Sam Khallie-skool aangestel word met ingang van 'n datum soos deur die Hoofdirekteur na aanleiding van plaaslike omstandighede bepaal sal word.

(get) J Nienaber
 ADJUNK-DIREKTEUR-GENERAAL
 DATUM: 18/6/1985

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GEHEIM

HERAANSTELLING : M.T. GOHIWE

GOEDGEKEUR/NIE GOEDGEKEUR NIE/KOMMENTAAR

Die' seak onder oorsig by Ministeries. Op Vrydag 28.6.85
weer met Adjunk. Minister bespreek. Nag geen uitsluitel op
deurde stadium nie. Op Saterdag 29.6.85 belang ontvang van
uitgebrande motor. Op 3.7.85 belang ontvang van dood van
mure Gouwe on Calata.

[Handwritten signature]
DIREKTEUR-GENERAAL

DATUM:3.7.85.....

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Bevinding : Personeel.

Ben est. die lees be
[Handwritten signature] sekies est.

ADV POTGIETER: I don't understand, why can't you just walk away? I'm not working for the Security Forces.

MR DU PLESSIS: It is a culture that I cannot describe in words, it just does not happen. If you're approached to do something, you are approached in a poised situation, and you just do it.

ADV POTGIETER: Thank you. Mr Booyens have you got any questions?

MR BOOYENS: No, none.

MS BOSMAN: Mr du Plessis, I would just like to clear up of the issues in something that you've just mentioned, did you in 1985 realise that the problem that you as a Security Policeman wanted to solve had to be felt by the politicians?

MR DU PLESSIS: That is correct, yes.

MS BOSMAN: At that stage you did realise that, that the solution lies on a political level, and that what you are doing now is not the true solution or the real solution?

MR DU PLESSIS: That is correct, yes.

MS BOSMAN: Thank you.

MR NOLTE: ...(inaudible) which may, it's coming from Uitenhage, it's an affidavit of Mr Snyman's doctor as to his present state of health and so on. They were supposed to fax it to my attorney yesterday, but apparently they had some difficulty in getting the doctor to sign it, we have been told that the affidavit will be signed, or has been signed, but we haven't received it yet, it was sent to my attorney's office. Subject to that, but I understand there is some other witness here, sorry I forget the surname now, the man that was involved in the Craig Williamson incident, ...(intervention)

MR VAN DER MERWE: Van Jaarsveld, he is here.

MR NOLTE: But subject to the handing in of that affidavit, that's the evidence I would propose to call.

CHAIRPERSON: I'll bear that in mind, and I'll allow the affidavit in as soon as it's available. Mr Bizos, can we break for lunch?

HEARING ADJOURNS

TRUTH AND RECONCILIATION COMMISSION

AMNESTY HEARINGS

DATE: 2 JUNE 1998

HELD AT: PORT ELIZABETH

NAME: JACOB JAN HENDRIK VAN JAARVELD

ON RESUMPTION

MR BIZOS: In the evidence of the next witness, the Committee will require the volume 2, which is the application of Mr van Jaarsveld, and you will also need the applicant's bundle, and I would ask you to turn to page 101 of the applicant's bundle, which is a portion of the judgement of His Lordship Mr Justice Zietsman, but at the bottom of page 101, the signal of June 1985 is reproduced.

Mr Chairman, we call to give evidence Mr Jakob Jan Hendrik van Jaarsveld.

JACOB JAN HENDRIK VAN JAARSVELD: (sworn states):

EXAMINATION BY MR BIZOS: You have applied for amnesty, and the documents, or at least a portion thereof has been placed before the Committee as volume 2. Do you confirm that this forms part of your application?

MR VAN JAARSVELD: That's correct.

MR BIZOS: And there was an Annexure A which is attached, it is a statement of the facts relevant to this application. That has

also been placed before the Committee. Would you please read out the statement and if there is anything which you wish to add, would you then do so. Will you please read it.

MR VAN JAARSVELD: "Chairperson, during 1984 I was connected to the Intelligence Unit of the Security Branch in Pretoria. I was a Lieutenant. Approximately during the middle of 1984 I received an order from Mr Craig Williamson to investigate whether it would be possible to take out Matthew Goniwe, that means kill ...(intervention)

MR BIZOS: Can you stop there for a moment. Who is Major Craig Williamson and where is he stationed, what was his job during 1984?

MR VAN JAARSVELD: Mr Craig Williamson was the Head of the South African Police Security Branch's Intelligence Unit stationed at the Security Head Quarters in Pretoria.

MR BIZOS: What were you asked to do?

MR VAN JAARSVELD: I was asked by Craig Williamson to investigate whether it would be possible to take out Matthew Goniwe.

MR BIZOS: What did that mean?

MR VAN JAARSVELD: It meant to kill.

MR BIZOS: Continue, will you read the next paragraph.

MR VAN JAARSVELD: "At that stage due to my work obligations Matthew Goniwe was familiar to me. I had read a number of reports regarding him. He was the father of the G plan, that was about Ground structure's street committees, ...(intervention)

MR BIZOS: Where did you get the information of reports?

MR VAN JAARSVELD: It was made available to us at Head Office.

MS BOSMAN: Who sent those reports to the Head Office?

MR VAN JAARSVELD: According to the activities of the Security Branch at that stage, it would have been reports gathered or compiled on local level and the sent via the Security Branch in PE in the Eastern Province to Head Quarters.

MR BIZOS: You describe the so-called G plan and what it entailed, what was it about?

MR VAN JAARSVELD: The G plan was a revolutionary document compiled by Matthew Goniwe which described the activities of those occupying positions in the ground level structures at street committees.

MR BIZOS: Did you go to Port Elizabeth?

MR VAN JAARSVELD: Yes. I will continue,

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"Captain Bassie Bouwer and I drove down to Port Elizabeth in a blue Sierra 2L. We reported to Colonel Gerrit Erasmus at the Security Branch of PE who was at that point the head of the branch. Their offices were in Strand Street in Port Elizabeth. Colonel Erasmus was aware of the purpose of our visit."

MR BIZOS: Can we just pause for a moment there. It is alleged that you may be wrong in connection with the identity of Colonel Erasmus. It is alleged that he was transferred and was not here in Port Elizabeth during 1984. What do you have to say about that?

MR VAN JAARSVELD: That is the first time that I journeyed to Port Elizabeth and it was the first time that I met Colonel Erasmus. I remember him very well, we still sat in his office chatting about things like Rugby. If I'm not mistaken, I don't know exactly what his position was, he was either the Vice-President or the President of the Eastern Province Rugby Union.

MR BIZOS: Do you have any doubt at all that that was Colonel Erasmus?

MR VAN JAARSVELD: Not at all.

MR BIZOS: What did you discuss with him apart from Rugby and his position on the Rugby Board?

MR VAN JAARSVELD: We discussed what was happening in the country and amongst others at that stage he jokingly told me, I don't think we should attach too much value to this, if things in the country were to change, if things were to happen, he would see to it that the Policemen would receive their pensions, he would ensure that well-organised and executed bank robberies would take place in order to do that.

MR BIZOS: But that was a joke?

MR VAN JAARSVELD: Yes, that's correct.

MR BIZOS: But that is the level of detail which you can remember?

MR VAN JAARSVELD: Yes, that's correct.

MR BIZOS: Did you stay in Port Elizabeth or did you go to Cradock?

MR VAN JAARSVELD: Later that morning we went to Cradock. One of the members of the PE Security Branch accompanied us. He went in his own car. He had come from Koevoet and I assumed that it was - that Sakkie van Zyl at that stage was a Captain. In Cradock we went to Henry Fouche who was the Security Branch Commander there. The meeting was held at his offices. Fouche showed us their VIP room, that is where all the tapping devices were monitored, and according to him the Goniwe house was very well covered with tapping devices. After that we went to Goniwe's home, in Henry Fouche's motor vehicle. The road to the house was very bad, but the house itself looked very different to those in its environment. As I remember it was painted white. Mrs Goniwe was at home when we arrived there. We greeted here and walked through the house. Fouche pointed out a double-adaptor for the radio to me and told me that there was a tapping device inside it. After a while we left the house and went back to the Cradock Security Branch. From there we went back to Port Elizabeth. That evening, along with members of the Security Branch in Port Elizabeth we monitored a meeting and later on I threw a stone through one Janet Cherry's motor vehicle window.

MR BIZOS: Why did you do that?

MR VAN JAARSVELD: That was purely mischief.

ADV POTGIETER: Could it have been anybody's car window, or was it specifically hers?

MR VAN JAARSVELD: Could you repeat that.

ADV POTGIETER: The mischief, was it aimed specifically at Janet Cherry's car, or would it have been aimed at anybody's car?

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MR VAN JAARSVELD: No, it was aimed specifically at her car.

ADV POTGIETER: Janet Cherry's car?

MR VAN JAARSVELD: That's correct.

ADV POTGIETER: How did you know it was her car?

MR VAN JAARSVELD: The vehicle was pointed out to us by other passengers in our vehicle.

MR BIZOS: We can determine the date and if the owner was Janet Cherry, because that was the 21st of March. It was Sharpeville day. Can you remember whether that was the date or not?

MR VAN JAARSVELD: No.

MR BIZOS: But was it approximately during that period of time?

MR VAN JAARSVELD: If the evidence says that it was the 21st of March then I will accept that, because the two incidents are directly connected to one another.

MR BIZOS: What did you do the next morning?

MR VAN JAARSVELD: The following morning we drove back to Pretoria. I gave feedback, I think that Captain Bouwer was present, so I gave this feedback to Captain Williamson. I recommended that Goniwe could not be taken out at his house because there were too many people in the vicinity and it would make the process problematic. I recommended that he be followed and taken out alongside the road somewhere. I cannot say with surety who took the recommendations. I found out later that Mr Goniwe was dead. A telex was sent, which recommended the permanent removal of Goniwe and others. According to my opinion it was possible that the State Security Council would approve such an operation.

From 1989 I was involved with the Secretariat of the State Security Council and I'm aware of what the procedures were. Van Rensburg was a member of the Secretariat of the State Security Council, even though he had retired he was still in service of the Police. Mr Stemmet was second in command of the SSSC.

MR BIZOS: There are a number of questions which we'd like to put to you. You mention a telex which was that signal sent on the 7th of June from Port Elizabeth to General van Rensburg. Could you please look at page 101 to 102. Did you read the signal?

MR VAN JAARSVELD: I have read it after you showed it to me.

MR BIZOS: Very well. It was a common fact that during the post mortem this signal was sent by Du Plessis from the Army on behalf of the then Brigadier and later General van der Westhuizen to General van Rensburg. When you worked at the Head Office, did you know how the system operated?

MR VAN JAARSVELD: If you're referring to the system within the SSSC and the JMS, yes.

MR BIZOS: How did it happen that you came to acquire that knowledge?

MR VAN JAARSVELD: As a Police Deputy Officer, I had been devolved to the Secretariat of the Security Council from 1981 until 1982 and later on from the late 80's for a short while.

MR BIZOS: We are aware of the EP JMS here in Port Elizabeth, and that Brigadier van der Westhuizen was the Chairperson thereof, and that Colonel Snyman represented the Security Police in the EP JMS, and if he was not available then Mr van Rensburg would represent him. What according to the procedures had to happen at the EP JMS before the signal could be sent, whose decision would it be to make such a proposal?

MR VAN JAARSVELD: Chairperson, the communication structure of the National Security Council worked in a dual fashion. Firstly any action in terms of Government strategy within the JMS and JMS organs or the joint operational centres and so forth would be controlled by State departments from which it would move

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via the structures of the JMS to the State Security Council Branches, but those connected to the Management System on local level would also send this information to the other Security Offices.

MR BIZOS: Could the Chairperson of the EP JMS here in PE have sent such a signal without the permission of Mr Snyman or one or other person who represented the Security Police here in Port Elizabeth?

MR VAN JAARSVELD: It would have been very difficult for him to do so without the permission, because an operation such as this would have to be planned within the JMC of the JMS and this was a very important aspect of that system. The JMC worked along with the Co-ordinating Committee of the JMS. It consisted of members of the Security Branch, Military Intelligence, National Intelligence representatives and in cases where other departments who were also there, such as Education and Training in certain respects, they would be co-ordinated as such within that Committee.

MR BIZOS: You'll see in paragraph 3 on page 102 that it is a proposal to remove the three mentioned persons from the community. Did you have any difficulty in interpreting the meaning of paragraph 3?

MR VAN JAARSVELD: No.

MR BIZOS: What does it mean?

MR VAN JAARSVELD: It is very clear that it is a proposal to initiate the operation, but one has to look at it in a broader perspective as well, in terms of the Government's counter-revolutionary strategy which had begun at that stage, had gotten off the ground at that stage. The proposal for action was referred to Secretariat of the State Security Council and then also Trevits, in order to ensure that it was co-ordinated, that it would take place, and that people would take note thereof.

MR BIZOS: Will you please explain what Trevits is.

MR VAN JAARSVELD: I have the documents before me, it is the documents with the number TNV2 from 1985, it's confidential. It is inscribed "The strategy of the ANC". It was compiled by National Interpretation of the Secretariat of the Security Council and was distributed in 1985 in March as a Security document. The introduction and interpretation of this document includes the name of the Organ Trevits as a foundation. I will read to you,

"For the purposes of continuity and co-ordination in a comprehensive counter-revolutionary strategy, a monitoring centre which will include strategic information gathering, the Counselling Centre for monitoring."

It would not be feasible to have such an organ.

MR BIZOS: Who would have taken the decision to allow the proposal made by the EP JMS to continue or not?

MR VAN JAARSVELD: If one observes the structures of the National Security Management Structure, I have previously provided a document to the Amnesty Committee which was handed in to them on the 6th of March 1997. In this document it is clearly set out how the National Management Structure functions. An operation such as this would be sent to the highest level of this structure, that would be the Cabinet and State Security Council level. It had to be cleared out there.

MR BIZOS: If the proposal was permitted, who would have known about it?

MR VAN JAARSVELD: It would then be the members of the State Security Council who knew about it.

MR BIZOS: And if it had been permitted, which steps would be taken to execute it?

MR VAN JAARSVELD: Once again a dual function via the National Management Structure back to the JMS, the local EP JMS, and secondly with the departmental representatives, the Ministers and senior officials within the State Security Council.

MR BIZOS: And if the proposal was not adhered to, what would have happened?

MR VAN JAARSVELD: In the same way the negative would have been communicated back.

MR BIZOS: Would this proposal be studied?

MR VAN JAARSVELD: Yes.

MR BIZOS: The Security Police here in Port Elizabeth was not involved?

MR VAN JAARSVELD: Mr Chairperson it is difficult for me to say, I did refer earlier to Trevits, an order like the permanent removal of Goniwe group could also have come from Trevits, so one has to look very carefully at this, in that it could have been a dualistic function.

MR BIZOS: Now, paragraph 4, there is an explanation of what the writer considers as a reaction on the local level and national level that must be taken into consideration. Why is that so, do you know?

MR VAN JAARSVELD: Mr Chairperson, any revolutionary warfare like we had in the country at that stage has got one main goal and that is that the war cannot be fought without the support of the masses and if such a reaction occurs, it is counter-revolutionary warfare and you also have to control the masses, and that is why paragraph 4 is important.

MR BIZOS: Who will have considered these circumstances?

MR VAN JAARSVELD: Mr Chairperson the circumstances would have been considered by all the organs of the State, all the departments would have the order to monitor the situation and would have acted with the necessary means. Other officials as well as reaction from the politicians on the left, as well as protest actions will have to be monitored and would have acted on that.

CROSS-EXAMINATION BY MR BOOYENS: Mr Chairman, I will be able to start with my cross-examination of this witness. This witness, however, referred to certain documentation, things referring to Trevits as so on, so I'll get as far as I can and then I'm afraid I'll have to ask for an adjournment, because, my eyesight is not that good, but if I can see I think this document is from here it's a voluminous document, so perhaps I'll find myself in a position to study that.

Just in passing, Mr van Jaarsveld, it seems as if the two documents are very thick, is that correct?

ADV POTGIETER: No, Mr Chairperson, this document is not applicable, it's just these two.

MR BOOYENS: Yes, I'm talking about them, but it seems as if it's almost 80 - 100 pages. Okay, fine, thank you. Mr van Jaarsveld, I'm asking you a general question and I don't expect from you to go into detail, the order that you got from Craig Williamson, was that a strange order, the order to go and see if this person can be killed or not?

MR VAN JAARSVELD: Mr Chairperson, no, at that stage we - a lot of that type of actions did occur in our country. These things started from as early as in the 70's ...(intervention)

MR BOOYENS: What I actually want to know from you is where that type of order was initiated there in the Intelligence Service, or maybe higher up, is that not true? It was also not unique, is that true?

MR VAN JAARSVELD: No.

MR BOOYENS: You refer to Herman Studdler and Piet Goosen. It - I'm talking about your knowledge, it would not have been initiated by them, it would have been above them, they would have only been the people who carried the message down, is that true?

MR VAN JAARSVELD: Yes, that would have been the case.

MR BOOYENS: And, seemingly, already in '84 Mr Goniwe was seen as a problem for then Government of the day, and that it was seen as a viable option to kill him? Mr van Jaarsveld, where would the Head Office get that idea?

LC GP

ON RESUMPTION ON 3 JUNE 1998 - DAY 3

CHAIRPERSON: Good morning Mr Van Jaarsveld, you are still under oath.

MR VAN JAARSVELD: (s.u.o.)

CROSS-EXAMINATION BY MR BOOYENS: (cont)

Thank you very much Mr Chairperson. Mr Van Jaarsveld once again thank you very much for the fact that you made these documents available to me. I would just like to ask you, because I think it would be good to hand it in as an exhibit. I've got a document here which was attached to your Affidavit and it's about the National Management Services. Is that correct?

MR VAN JAARSVELD: What are you referring to?

MR BOOYENS: I will just show it to you. I will hand it in as an exhibit. It's the two documents that I got from you or received from you. Mr Van Jaarsveld I cannot see what you just showed me. If I can just show it to you it will be **Exhibit Q** or QQ. Can you just look at the document, it's there at Mr Bizos, you have got the original?

MR VAN JAARSVELD: That is correct, yes.

MR BOOYENS: There are just a few aspects, or before I begin with this, yesterday I heard from my colleague Mr Hugo that you have got tertiary education. Is that correct?

MR VAN JAARSVELD: Yes.

MR BOOYENS: Could you just tell us what qualifications you've got.

MR VAN JAARSVELD: I've got a BA Degree, a Honours Degree, a Masters Degree and an MBA Degree.

MR BOOYENS: The MBA is that a Business Degree?

MR VAN JAARSVELD: That is correct, yes.

MR BOOYENS: Your specialised field in the Masters Degree, what was that?

MR VAN JAARSVELD: It was for strategic studies. It was specific research regarding the ANC and PAC's strategies.

MR BOOYENS: While studying the revolutionary strategies you also gained a lot of knowledge in the counter revolutionary strategies?

MR VAN JAARSVELD: That is correct, yes.

MR BOOYENS: Now the National or NSMS and, you'll have to correct me if I'm wrong, the National Security Management Structure was a para-military organisation compared to the civil organisations. I don't know if I have just described it correctly?

MR VAN JAARSVELD: You have, that's correct yes.

MR BOOYENS: You explain here that there are enormous amounts of sub structures that fell under this management system or NSMS system and it seems as if the securocrats in the Botha era jointly managed the system?

MR VAN JAARSVELD: That's true, yes.

MR BOOYENS: Specifically on page 9 of **Exhibit Q**, this State War Book that later became the Administration War, could you just in short say to us and I know it is probably a lot to ask from you, but could you just tell the committee in short what this is about?

LC GP

MR VAN JAARSVELD: Mr Chairperson the State War Book is a government document that was drawn up to manage the government in a war situation.

MR BOOYENS: And this war that was talked about in this National War Book or the State War Book, was this now the revolutionary struggle that was apparently going on?

MR VAN JAARSVELD: It was for conventional warfare, but as you can see, that the main components was used in the revolutionary warfare.

MR BOOYENS: I see, and I would just like to mention a few aspects of the evidence. You've said what your background was and the way in which they operated, the instructions they received etc. If one would for example now - or there's an Affidavit from Colonel Snyman who is unfortunately terminally ill, but at a previous opportunity he said and he gave evidence under oath and I'm going to try and summarise - that before him and others he was at a meeting in Cradock, this is now Snyman, in his capacity as Head of Security, where certain ministers were also present. There was a discussion between him and Louis Le Grange, the then Minister of Law and Order, after he said the normal security options had been exhausted and that Louis Le Grange said that they must make a plan with the activists in the Eastern Cape. Snyman said that he interpreted that Le Grange in essence or as said, that if legal methods do not work, then they must take these people out, to use this euphemism that was used during that time. This type of action or this man to man conversation, was that something that - did this work like this in this security community.

MR VAN JAARSVELD: It's difficult to say that it always worked like this, there were various informal discussions and the securocrats worked like this.

MR BOOYENS: Yes, and the securocrats were also very careful talking about the orders that they gave. They were very careful in that there were never any documents or paper records of it, is that no true? (Transcribers translation).

MR VAN JAARSVELD: That's very true, yes. (Transcribers translation)

CHAIRPERSON: Is that the same reason why they gave such unclear orders and never gave direct orders?

MR VAN JAARSVELD: That's right.

CHAIRPERSON: They were scared?

MR VAN JAARSVELD: Yes. I won't say they were scared, but they tried to cover various things up.

MR BOOYENS: At various opportunities discussion were held and someone is told to take another person out instead of killing him, using simple language. Why would that be?

MR VAN JAARSVELD: I think it's part of the human factor that you don't want to use the words just to kill someone, I think it's part of the human factor, a euphemism, it's another way of saying it.

MR BOOYENS: Wasn't it rather a question that someone didn't like the idea of death and he couldn't bring himself to say "kill the man" and so used other language. Is that no so?

MR VAN JAARSVELD: Sorry Mr Chairman I didn't quite understand?

CHAIRPERSON: Isn't it a question that certain of these people who gave orders disliked the idea of death so much that they couldn't even talk about it. Is that not so? (Transcribers translation).

MR VAN JAARSVELD: Mr Chairman I would speculate if I say how people thought or what they thought about death.

CHAIRPERSON: Well there was evidence given here that the person who possibly gave the orders in this case never had it in his heart to say "kill Mr Goniwe", but rather said "do what is right for the country" and that was interpreted as "kill Mr Goniwe". (Transcribers translation).

LC GP

MR VAN JAARSVELD: Mr Chairperson yes, our earlier discussion or interaction this morning it is a fact that it indicated that the people did not directly say kill, so by implication various things were said and that people could have interpreted it in a different way and that was the style of speech or the way they conveyed things.

MR BOOYENS: Let us talk about your own situation. Your order from Craig Williams was to go and see if you can take out Goniwe?

MR VAN JAARSVELD: That is correct.

MR BOOYENS: Now the word "take out" in the neutral sense -in Afrikaans it means to take out this glass between the other two objects?

MR VAN JAARSVELD: That is correct.

MR BOOYENS: But it ... (intervention)

MR BIZOS: ... (inaudible) an attempt was made to do that with an Affidavit from a Professor from the University of the Orange Free State, where under examination I think that the matter disappeared, so I merely want clarity as to what is being put, that "uithaal" from a top security officer to a junior security officer in relation to a person who is considered an enemy of the State, is to take him from one place to put him another. Is that what is being put?

CHAIRPERSON: No, I think it's common cause that it was intended to mean that someone should be killed and I think that what Mr Booyens wants to illustrate now is the strange type of language, in the strict sense, meant something else but was understood in the fraternity as meaning to kill.

ADV BIZOS: We would accept that veiled language was used, but it's meaning was clear both to the speaker and to the recipient.

MR BOOYENS: I'm indebted to my learned friend Mr Chairman. Another possibility that one cannot lose from sight is that especially the politicians, who one knows regularly speak with forked tongues, deliberately used terminology like to take out, elimination etc because it gives you a back door to retreat and say if someone confronts you, you can say well I did not mean that, I never said that you must kill someone and that is also a possibility why that terminology was used.

ADV BIZOS: Mr Chairman, there's a matter that I want to raise. I want to refer to page 40 of Mr Snyman's application for amnesty, because if my learned friend wants to change the basis of his application without leading any evidence to support it, because Mr Snyman is ill, then he must please explain to the committee before he continues with this line of cross examination. 11(a) The question is whether the deed was performed as a result of an order of any organisation and; 11(b) The particulars concerning the order and approval and the date of it, and it is known the name and address of the person or persons who gave such an order and gave approval for it. Answer: self. Are we now going to hear an application for amnesty that this was ordered by Mr Le Grange. Now Mr Chairman my learned friend has served an Affidavit on us that Mr Snyman can't give evidence, at the same time he's putting to him - he's suggesting to the witness that the deaths came about as a result of a conversation between Mr Le Grange and Mr Snyman at Cradock. Something that Mr Snyman has not said in his application, we know that he is not going to give evidence. On what basis is this hypothesis being put to the witness Mr Chairman?

MR BOOYENS: Mr Chairman maybe I should make a copy of what I've got of Mr Snyman's application available. My learned friend obviously has not got it, because at page 37: During adjournment in a discussion with the Minister of Law and Order it was expected to make a plan with the activists in the Eastern Cape. I understood and interpreted that these people were activists etc.

ADV BIZOS: This may be but (indistinct) to the direct question on the basis of the application, we are told that he did this not as a result of the order or suggestion of anyone, but on his own account.

MR BOOYENS: Mr Chairman really, if my learned friend reads that then maybe that answer should have been, but one cannot read that in isolation. Snyman's whole Affidavit tells us that Le Grange told him that

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they must make a plan with these people and how he interpreted it. That question obviously it's never been suggested, not in Snyman's order or anywhere that he received a direct order in respect of Goniwe, a direct one on the day before or something like that, but certainly his application goes wide enough to say that he received an instruction from Louis Le Grange even if it were regarded as a general instruction and that's the basis on which I'm putting these questions. Perhaps the committee should make a ruling.

CHAIRPERSON: To do that Mr Booyens perhaps you should deal then with the answer as it appears in question 11(b) on page 40 of the record. I don't quite follow your argument in view of the direct question and answer at 11(b).

MR BOOYENS: Mr Chairman, my argument is very simply the following: let's say for arguments sake Snyman has not answered that question, he's left it blank. I know he said "I gave it myself", he gave the order himself, now that is the evidence that Snyman himself gave the order for the specific carrying out of the operation. That's what the applicants say, that's what Snyman says but if you go back and you read what Snyman says, what the run up to this was, it's clear that throughout and in fact the other applicants testified that Snyman in fact reported that to them, that what Le Grange said.

CHAIRPERSON: You are arguing that he gave this order, which he accepts that he gave himself, as a result of an order given to him in general terms by Le Grange?

MR BOOYENS: He's gone under oath as far as that is concerned. It may be a question of how you interpret that question or so but it's certainly not improper to suggest that what Le Grange said to him and what is relevant in this regard. It's specifically once again one of those vague word "make a plan" and that's why I'm asking these questions of the witness.

CHAIRPERSON: That's precisely the question that Mr Bizos raises. On what is Mr Snyman going to rely, on the instruction that he says he got from Le Grange in general terms or is his application based on an order that was embroiled by himself and that he gave to other underlings.

MR BOOYENS: Mr Chairman if you read Snyman's application ... (intervention)

CHAIRPERSON: At the end of the day I, or this committee is going to have to decide on what basis does Snyman make this application and on what basis are we going to grant it or refuse it. Here I think what Mr Bizos wants to know at this stage is on what basis is going to be argued that Snyman makes this application at the end of the day.

MR BOOYENS: Mr Chairman Snyman makes the application ... (intervention)

CHAIRPERSON: No, no you carry on.

MR BOOYENS: Snyman makes the application on the basis that Le Grange gave me an order to make a plan. I then in execution of that general order, gave an order after certain submissions were made to me, that to kill the (indistinct) as he ... (intervention)

CHAIRPERSON: As he interpreted general instructions?

MR BOOYENS: Well he certainly says so in his application Mr Chairman. That second small paragraph that I've just quoted to you ... (intervention)

ADV BIZOS: Mr Chairman we're in the middle of the cross examination of a witness. We have a situation that Mr Le Grange is dead and according to the Affidavit, the committee will not have the opportunity to hear the evidence of Mr Snyman. Let my learned friend finish his cross examination of the witness and we can deal with this question, but in putting hypothetical questions to this witness ... (intervention)

CHAIRPERSON: Of which has no prospect of any certainty?

ADV BIZOS: Yes, that he must put to him at least that in answer to the direct question Mr Snyman said that he took the decision himself, so that we can proceed and complete the cross examination of the witness and we obviously cannot hear Mr Le Grange and it looks as if we will not hear Mr Snyman. We can leave the rest

to argument, but in putting the hypothetical questions my learned friend must please put them on the facts as they appear on the documents.

CHAIRPERSON: There's this sort of double edged application here, firstly that Snyman took the decision as a result of a general order that he received and then possibly made a decision - specific decision on his own - I'm not too sure at this stage upon which line he's basing his application.

ADV BIZOS: Can we leave that for argument Mr Chairman because these are not the only factors that really muddle the waters for my learned friend.

CHAIRPERSON: Mr Booyens then proceed.

MR BOOYENS: Thank you Mr Chairman. Mr Van Jaarsveld we've just talked about the general phraseology that was used. I've already said to you that the term "make a plan" as it appears in Snyman's Affidavit, is that also a term that was used. Did this "make a plan" in some instances mean to kill?

MR VAN JAARSVELD: Mr Chairman, yes like I've said it was a terminology, the language in which it was conveyed and the interpretation in the security society was what we are dealing with today.

MR BOOYENS: Can you just deal with one aspect. I would like to deal with the attitude that was conveyed after the police acted in a counter revolutionary fashion. You mention here officials who were sent to Taiwan for training in I think, psychological warfare. I do not exactly remember in which document you mentioned it. Is that correct?

MR VAN JAARSVELD: That's correct, it's in the document in front of you.

MR BOOYENS: Do you have any knowledge of what the training in Taiwan entailed and what the purpose of it was?

MR VAN JAARSVELD: Yes it was large number of officials, I cannot exactly say to you how many, they were sent to Taiwan but I was one of them who did the training as well and was trained there in political warfare and that entails the following, and I quote from the following books that we received from the Taiwanese and it is about ideological warfare, intelligence warfare, strategic warfare, psychological warfare and mass warfare and that was the training, how to understand it and how to counter it.

MR BOOYENS: I see. In that training - I'm trying to put it as short as possible - in that training did the idea appear that in certain circumstances, although there has not been a declared war, that you could kill the enemy. I'm not talking about the type of things that form the topic of so many of these amnesty applications.

MR VAN JAARSVELD: Mr Chairperson yes and if I go back to the documents that I mentioned yesterday and that is the report from the ANC. There's a quote there once again in the document from Sarcescian (?) an author who is internationally acclaimed for his revolutionary, counter revolutionary writings and I quote: "Defence against revolution requires an effective, efficient and understanding government but the very existence of a revolutionary environment is a manifestation of political, social and psychological weakness and effective counter revolutionary action must derive from the same vulnerable environment". I hope that answers your question. (Transcribers translation).

MR BOOYENS: This is my interpretation, or is it correct that it fits in with what you said happened to Colonel Victor and where he then gave the commands to Jacques Hechter, on page 10, in that you must act and where he basically said that you must fight fire with fire and that you must fight the acts of terror.

MR VAN JAARSVELD: That is correct, yes.

MR BOOYENS: And that is how you understood it during your training in Taiwan or the course you did in Taiwan?

MR VAN JAARSVELD: It was not only the course in Taiwan, we also in our training in South Africa, we also conveyed that, we also gave them the message for counter revolutionary actions.

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CHAIRPERSON: Was this all in defense of apartheid?

MR VAN JAARSVELD: That's correct Mr Chairman.

MR BOOYENS: And was that what was conveyed to the policeman. In other words, something that created a culture that people - or that there was a culture in the security branch that in some instances it was justified to kill someone if you couldn't do anything else, that a mindset was created.

MR VAN JAARSVELD: Mr Chairperson it was the situation, one could actually call it a sub culture within a culture and it did exist.

MR BOOYENS: Might I just have a moment to take instructions Chairperson? With all this strategic planning, smoke screens and so forth, evidence was given here that approximately at the same stage, I think I did touch upon that yesterday, I would just like to return to that briefly. At the same time that this signal was sent a committee in Pretoria was busy discussing or considering the reappointment of Mr Goniwe as a teacher. By nature of the fact that your knowledge wouldn't be specific but rather general regarding this point, but was there anything like that which was actually a smoke screen so that they could wash their hands in innocence afterwards ... (intervention)

MR BIZOS: Mr Chairman this is a finding of fact which the committee is called upon to make, it is not a matter for the witness's opinion without all the facts being set up in front of him. It would depend on the personnel, there were nine of them there from different disciplines including the Air Force and the navy. There are too many factors I submit for a witness who knows the system to answer a specific question for the committee Mr Chairman.

MR BOOYENS: Mr Chairman I hadn't even completed my question when my learned friend objected. The question was specifically aimed at - and I said I know you would not have specific knowledge of this - the question was aimed specifically within the structures that he had intimate knowledge of and that's obvious whether this could have been nothing else but a smoke screen or the left hand not knowing what the right hand is doing or a deliberate effort to hide the real intention. We must remember that also emanating from my learned friend we've got a signal at round about the same time which tells us exactly the opposite of what's being planned.

ADV POTGIETER: For example was that signal fed into the process of this GVS Committee for example. So I think that the point that Mr Bizos makes is that you know it's inappropriate unless you put the entire picture to this witness to elicit the kind of comment that you want, that this could possibly have been a smoke screen.

CHAIRPERSON: In other words is he able to give us a proper opinion upon which we can rely. Given his inability to appreciate the broad picture?

MR BOOYENS: His opinion will only be on the very broad picture Mr Chairman. Perhaps I should rephrase the question and just ask him were things sometimes done to appear to be the one thing whereas the true intention was the other?

CHAIRPERSON: You rephrase your question, we'll see what the ... (inaudible)

MR BOOYENS: Let me ask you a general question. An aspect of this entire strategic warfare with which people were busy in the counter revolutionary warfare, was the use of misinformation, the creation of misimpression that they pretended to be doing one thing and then in actuality were busy with something else. Is that part of the general tactic?

MR VAN JAARSVELD: Yes Chairperson, the National Security Management System made specific provision to give the government a very strong propaganda arm and the name of this was the branch of Strategic Communication which was seated within the National Security Management System and it was so effective that it established it's own committees on the local JMS level by name of CONCOM Communication Committees, that's what they did, that was the propaganda wing of the National Security Management System.

LC GP

MR BOOYENS: Did that propaganda wing include the use of misinformation, faulty information, the creation of misimpressions?

MR VAN JAARSVELD: Yes, if one takes into consideration the propaganda, the things that Mr Booyens has mentioned, all those aspects fall within the term of propaganda.

ADV BOSMAN: I beg your pardon. Could you tell us about this disinformation. Was it aimed at creating confusion for the public out there or was it aimed at creating confusion within the system itself.

MR VAN JAARSVELD: Disinformation, depending upon what the objective of it would be, sometimes it would be operated to firstly create confusion in the public, to create a situation within which one could accomplish certain things. It could be used among your own peers in order to create certain impressions or misimpressions. It had a whole spectrum of uses.

ADV BOSMAN: The question is actually what the appearance of it would be within the system. Was it used for the purposes of creating impressions within the public or within the system. Did you have any experience of that?

MR VAN JAARSVELD: In that case, within the branch of Strategic Communication it was aimed essentially outward, either to conceal or to camouflage that which the government was doing or to create a certain situation within which the government could do certain things. Internally I would say at certain occasions misinformation would be fed back.

ADV BOSMAN: There has been evidence here that persons who knew each other relatively well within the same division communicated with each other and at times fed misinformation through. What would the purpose of this kind of strategy or action have been?

MR VAN JAARSVELD: A typical example of this would be where certain actions had taken place and there might have been certain errors or faults during that action and another division of the police would be investigating the case, then misinformation would be sent from the security branch to the other divisions so that the investigation could be hindered and therefore not completed.

MR BOOYENS: Thank you Chairperson. Just another aspect which I would like to discuss with you. There is an Affidavit which arrived at my attorney's offices this morning from General Erasmus, Gerhard Erasmus, from his attorney. According to this Affidavit - and I will submit copies of this Affidavit - according to the Affidavit Erasmus says essentially the following: he discusses three aspects ... (intervention)

MR BIZOS: Is he going to be called? Well on what basis, on what basis has a contrary version been put if you are not told that he is going to be called?

MR BOOYENS: Mr Chairman, Mr Van Zyl testified that he never worked with Erasmus, that Erasmus wasn't here at the beginning of 84 when he came here. I am surely entitled to ask the witness for his comments if Erasmus makes a certain statement?

MR BIZOS: Mr Chairman I object to the inclusion of an Affidavit of a person who is apparently available and you are not given an assurance that he is going to be called.

If General Erasmus wants to deny this there is the stand and I would now suggest that the Affidavit be returned to my learned friend.

CHAIRPERSON: Isn't Mr Bizos correct?

MR BOOYENS: Mr Chairman I've received an Affidavit, I don't know why it was - I haven't even asked leave to hand it in yet.

CHAIRPERSON: Well it's been handed in.

MR BIZOS: Well you must take responsibility for your side.

CHAIRPERSON: What's the purpose of relying on an Affidavit purportedly made by a person who is available and able to come and testify.

MR BOOYENS: Mr Chairman is the committee ruling that I cannot ask him about information that I've got. I'm not suggesting that because Van Zyl testified it and I've received additional information from Erasmus know, I'm not saying - I've got no brief for Erasmus.

CHAIRPERSON: Well Mr Booyens the simple question is that are unable to put that version to the witness without the Affidavit?

MR BOOYENS: Mr Chairman if I spoke to Erasmus on the telephone last night, I haven't got an Affidavit and he said to me no that's not the way it happened, that is the way it happened, would I be entitled to ask the witness for his comment about that or not?

CHAIRPERSON: And then you stop with his answer, unless you call Erasmus to testify.

MR BOOYENS: Yes, I'm ... (intervention)

MR BIZOS: Mr Chairman could I clarify. I have no objection to a version being put to a witness, but we must be told whether it is in - and he can cross examine on it if he so desires - I object to the Affidavit going in in the absence of an assurance that General Erasmus is going to be called and I would ask that the Affidavit that was handed in by a member of my learned friend's team be returned to them until such an assurance can be given.

CHAIRPERSON: Well Mr Booyens, is Mr Erasmus going to be called?

MR BOOYENS: Mr Chairman we received this from Mr Wagner which went on record, Wagner is an attorney, I think there's ... (intervention)

CHAIRPERSON: No, but the point of the matter is Mr Booyens, is Mr Erasmus going to be called to testify?

MR BOOYENS: I'm not going to call Erasmus, he's not my client.

CHAIRPERSON: Then on what basis can we then receive this Affidavit?

MR BOOYENS: I didn't ask you to receive the Affidavit Mr Chairman. I've never asked you to receive that.

CHAIRPERSON: Mr Booyens I have a document here before me that purports to be an Affidavit from Gerhard Nicholaas Erasmus.

MR BOOYENS: Quite true Mr Chairman, people ... (intervention)

CHAIRPERSON: I'm not too sure how it landed here.

MR BOOYENS: People jump the gun, that's all I'm trying to say to you. I haven't even asked you whether I can hand it in and the record will show nowhere ... (intervention)

CHAIRPERSON: I agree, but I found it in front of me and you started asking questions.

MR BOOYENS: Mr Chairman I full well realise. The committee can call Erasmus after what I've put. Mr Van Zyl who testified here testified that he and General Erasmus never worked together, in other word that Erasmus was away before he arrived here in the beginning of 1984. Just to complete the picture a little further, I received an Affidavit wherein which it is stated and it apparently comes from Erasmus, that he confirms that he was transferred from Port Elizabeth in January 1984 and he took over as the Commander of the Security Branch in Johannesburg. All that I want to know from you and please don't misunderstand me Mr Van Jaarsveld, I'm putting this on the level that you might make an error and that you are not purposefully lying, but all I want to know from you is whether it is possible that if indeed it is so, that either in 1983 that you were either here in 1983 when Erasmus was still here, that you spoke to him then or that a member other than Van Zyl accompanied you - that is one possible connotation - the other possible alternative is that you are confusing somebody with Erasmus who was here in 1984 because Erasmus was no

longer the Commander here in 1984 and because of that you are making an error. That's the basic idea. Just for the sake of background it is also - this has been said to me and it can be double checked - that it was said to me that Erasmus never had anything to do with Eastern Province Rugby. Later when he was in Transvaal he became involved with that provinces rugby affairs, but in the Eastern Province he had nothing to do with rugby so therefore my question is simply the following: is it possible that you were here earlier when Erasmus was the Commander or is it possible that when you say that it was Erasmus, you are confusing him with somebody else or the third alternative naturally is to say no, I don't accept that Erasmus was away, he was still here and as a result I spoke to both Erasmus and Van Zyl. I'm asking you to think very clearly before you give an answer because it is possible that you might have made a mistake?

MR VAN JAARVELD: I have submitted my Affidavit, I have read my Affidavit and that which appears in it is exactly how I remember it clearly.

MR BOOYENS: No that's why I asked you or told to you that you were not purposefully lying to the committee. I'm just asking whether it's possible for you to make a mistake regarding the identities of one or the other, that means Van Zyl or Erasmus. In other words you are remember incorrectly?

MR VAN JAARVELD: Yes, well it is humanly possible to make mistakes. In the discussion which I had with Erasmus - I said yesterday that we spoke about rugby. When I said that I knew I was one hundred percent sure that he was involved in rugby, we'd spoke about rugby. At that point I'd only met him twice in my life, once was here and later in Pretoria.

MR BOOYENS: Is this the same person?

MR VAN JAARVELD: Definitely the same person. That which appears in my Affidavit is that which I remember which I have said. If there is some kind of argument regarding dates and times, I would not be able to comment about that.

ADV BOSMAN: Mr Van Jaarsveld is there any manner in which you could narrow it down in terms of the fact that you were here in 1984. Is there any specific reason or any specific connection that you can make which leads you to say that you were here in 1984?

MR VAN JAARVELD: Yes, Mr Bizos said yesterday that the date had been confirmed because of an action of mind when I threw a stone through Janet Cherry's car window.

MR BOOYENS: Did I understand you correctly that you conceded that there would be a possibility that you could be remembering incorrectly regarding the two actors in the drama, Erasmus and Van Zyl, that not both of them may have been present, either one or the other?

MR VAN JAARVELD: I have conceded that I could make an error, but what I remember is what I remember. I might have made a mistake during the process, but that's what I remember.

MR BOOYENS: I am satisfied, thank you. Thank you Chairperson, no further questions.

NO FURTHER QUESTIONS BY MR BOOYENS

CHAIRPERSON: Do you think you're making a mistake?

MR VAN JAARVELD: No Chairperson.

ADV BIZOS: Yes, firstly Mr Chainman we were supposed to receive a photograph in relation to the identity of Mr Van Zyl or the presence of ... (indistinct). What is my learned friend's attitude?

MR BOOYENS: I indicated Mr Van Zyl is not available Mr Chairman, I can't get - as I said in chambers yesterday, I've got no objection if we make use of the photograph. I also said yesterday that I do not normally keep photographs of my clients, I haven't got one.

CHAIRPERSON: I now you don,t, but perhaps your clients do?

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MR BOOYENS: Ja, but my client's not here to give it to me. I wonder if we cannot perhaps - I'm sure we should be able to find a photograph of Van Zyl somewhere, lots of photographs were taken. Perhaps - I know my friend who's standing just down here takes lots of photographs, maybe he's got one of Van Zyl?

MR BIZOS: We could have a rerun, I understand that the proceedings are being videoed Mr Chairman. If we can rerun a couple of seconds of Mr Van Zyl's appearance here? We live in an electronic age and these difficulties can be so easily solved.

CHAIRPERSON: ... (inaudible) adjourn for that purpose?

MR BIZOS: I'd rather re-examine Mr Chairman and leave just that issue over because we may do it informally and then during an adjournment the witness can be excused. Let me just re-examine the witness.

CHAIRPERSON: Yes.

RE-EXAMINATION BY MR BIZOS: Mr Van Jaarsveld on the 21st of March 1984 or on the day that you were here, how long were you in the company of Mr Van Zyl, approximately?

MR VAN JAARSVELD: It's very difficult to say. How long is the drive from Port Elizabeth to Cradock? And then the hour, two hours, perhaps three hours that we spent at Cradock.

MR BIZOS: And after that you returned?

MR VAN JAARSVELD: Yes, that's correct.

MR BIZOS: In the same car?

MR VAN JAARSVELD: Yes.

MR BIZOS: And when you came to Port Elizabeth you went to a place where the meeting was being held, that's where the stone throwing took place.

MR VAN JAARSVELD: I wasn't present at that point, there were other members of the security branch who I didn't know.

MR BIZOS: While you were in the company of Mr Van Zyl did you tell him what the objective of your visit to the Eastern Province was?

MR VAN JAARSVELD: Chairperson in truth, I'm trying very hard to remember. It wasn't unknown, we spoke about his Koevoet days, the fact that he had just come down from Koevoet and all such issues. I am sure that we would have discussed it.

MR BIZOS: Now you had a job to do here. Your job was to determine whether Mr Goniwe could be eliminated. Did you tell this to Mr Van Zyl?

MR VAN JAARSVELD: Truthfully, in all honesty I must tell you that I believe we discussed it, because I can't think of any other reason why he would have been with us. I can't think of any other reason why he would have driven with us.

MR BIZOS: Didn't he want to know why you wanted to visit Mr Goniwe's home?

MR VAN JAARSVELD: I think it's quite obvious why we visited Mr Goniwe's home. We wouldn't have come all the way down from Pretoria just to come and see how Matthew Goniwe's home looked, to see whether or not he had a TV or a radio.

MR BIZOS: When he told you that the house was being monitored in any manner, did you and he both know why you were interested in the tapping devices which existed?

MR VAN JAARSVELD: Regarding the tapping devices, Henry Fouche who was the Commander, wanted to boast about how well he was functioning in the Eastern Cape.

MR BIZOS: Was it for your purposes, was it important for your purposes to know how well Mr Goniwe was being monitored?

MR VAN JAARSVELD: Yes and no. Yes in the regard that at all times, when such an operation was being planned, we had to be aware of the person's movements and know in the sense that for this specific situation the assumption wasn't was that the information was available and that it would arrive timeously at the right place.

MR BIZOS: Did you and Mr Fouche, in the presence of Mr Van Zyl, ask about the habits of Mr Goniwe, how early he got up, what time he would arrive at home, who his friends were, whether there were people who walked with him if he went to the cafe, whether he went to a club or a shebeen who would accompany him. All those aspects?

MR VAN JAARSVELD: Mr Chairman that type of information was already at the disposal of the security branch at head office and we did not discuss it on a local level with Henry Fouche. I don't think at any point did we give an indication to Henry Fouche what the reason for our visit was.

MR BIZOS: Pertinently Mr Fouche, but you did indicate to Mr Van Zyl?

MR VAN JAARSVELD: Yes, that's correct.

MR BIZOS: Thank you Mr Chairman, I have no further questions.

NO FURTHER QUESTIONS BY MR BIZOS

CHAIRPERSON: Mr ... (inaudible)

DR TSOTSI: I always thought that misinformation operated among the enemies of the State. It appears from the evidence that it did operate also within the reigns of the police, that you regularly misinformed one another as police officer?

MR VAN JAARSVELD: That's correct.

DR TSOTSI: How is one to know where the truth really lay?

MR VAN JAARSVELD: That's why we're sitting here today in order to determine the truth, so I can't tell you where the truth lies.

DR TSOTSI: Are you saying that there has to be a sitting of the Amnesty Committee to determine what the truth is among the police officers?

MR VAN JAARSVELD: That would be a very interesting issue, but I think that you should begin your search with the politicians and not the police.

DR TSOTSI: It's just that we are dealing with the police at the present time. You say that the expression "to make a plan" meant to kill. Is that what I understand correctly to be that?

MR VAN JAARSVELD: Yes Chairperson, we debated that, it has been discussed here. The methods of communication, the use of words and phrases in the security forces among the securocrats indicates that that's what it meant.

DR TSOTSI: Supposing there was no Goniwe to kill, somebody came to you and said lets make a plan. What would that convey to you?

MR VAN JAARSVELD: If someone said to me "make a plan", the first question I would ask is with who or with what. Make a plan could mean let's have a braai, but if a person's name was connected to it, then that would be the interpretation which would be connected to it.

DR TSOTSI: We are surprised to learn that in this case there was no question put to Mr Snyman as to the wherefores and the why's, it was just said "make a plan" and something in the best interest of the country,

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State. But surely the expression of "make a plan" could mean something else other than to kill in the circumstances, wouldn't it? Couldn't it mean for instance that have the banned or banished from the country or that kind of thing?

MR VAN JAARSVELD: Yes Chairperson it is very difficult for me to comment what the circumstances where under which Louis Le Grange spoke to Mr Snyman. I can't specifically tell you what they meant in that case.

DR TSOTSI: Yes I appreciate that, I don't expect you to do that but I mean this question of a meaning of words. If I say "make a plan" can you say without other information that that definitely meant that you must kill.

MR VAN JAARSVELD: Depending upon who had the discussion, if it was a discussion amongst legal persons it could mean something about restriction, the available methods of restriction and so forth. I think we're actually speculating here regarding a discussion of which I have no knowledge.

ADV BOSMAN: Mr Van Jaarsveld can you remember who the Minister of Police was at the stage when you were in Port Elizabeth?

MR VAN JAARSVELD: When did Mr Vlok take over?

I think it was still Louis Le Grange.

ADV BOSMAN: And your own responsible Minister, you did not resort under the police?

MR VAN JAARSVELD: No I did.

ADV BOSMAN: Okay, thank you. When you were sent to Port Elizabeth, and my impression is that you were sent here to go and look at the logistics of the process of killing Mr Goniwe.

MR VAN JAARSVELD: That is correct.

ADV BOSMAN: Well if you came then to observe or think about or recommend the logistics, did you not at that stage think who will do it in the end?

MR VAN JAARSVELD: Mr Chairperson, no it did not always work like that. If you can remember we talked - I was part of the planning, the logistics - logistics means support, it was more planning and the planning group said that or had to say if it can happen or not happen and my feedback to Major Williams said that we cannot do it here in Port Elizabeth at his house.

ADV BOSMAN: But if you must now decide if it can happen or not happen then you must also decide then who can do it.

MR VAN JAARSVELD: No it was not my decision, it would be senior officers who decide who will actually carry out this.

ADV BOSMAN: Would it be senior officers in Pretoria or senior officers here in Port Elizabeth?

MR VAN JAARSVELD: It would be senior officers in Pretoria in consultation with officers here.

ADV BOSMAN: Why do you think that would Pretoria then be involved in such a case?

MR VAN JAARSVELD: Well I said earlier on in my evidence, I talked about the structures of the Security Council and the MSM and who were the decision makers and that they sat in Pretoria.

ADV BOSMAN: Are you saying in other words that if you had a Brigadier here in Port Elizabeth then the Brigadier in Pretoria would have the edge or was ... (intervention)

MR VAN JAARSVELD: It resulted in a lot of tension because the people in - the Brigadiers in Pretoria thought that they were better Brigadiers than the Brigadiers in PE.

ADV BOSMAN: So the practical work was done here and those in Pretoria had the edge?

ADV SIGODI: You say that when you looked at the planning you came down to see if Mr Goniwe could be killed, or how he could be killed. Is that correct?

MR VAN JAARSVELD: We decided if he could be eliminated or not. The responsibility was not mine.

ADV SIGODI: And your conclusion was that it could not be done at his house?

MR VAN JAARSVELD: That's correct.

ADV SIGODI: And to whom did you communicate that?

MR VAN JAARSVELD: To Major Williamson.

ADV SIGODI: What made you come to that decision that he could not be eliminated at his house?

MR VAN JAARSVELD: It is in my statement where I said that there were too many people around him - can I just read it to you - my recommendation was that there were too many people and it would have made the operation very difficult.

ADV SIGODI: And did you make any suggestion as to how he should be killed?

MR VAN JAARSVELD: No.

ADV POTGIETER: Mr Van Jaarsveld can I come back to the signal that was showed to you yesterday. The signal, according to the documents here, was addressed to General Van Rensburg and it seems - I'm not sure if it was one of the short pants or trouser Brigadiers, but anyway Van Rensburg - it seems as if it was general knowledge that he as an important person in the secretariat of the Security Council - it was addressed to him and it contained suggestions from the EPJMS - I think it was also general knowledge - if it was addressed to this General would it then have been fed into the system, the National Council System?

MR VAN JAARSVELD: Yes Mr Chairperson, I cannot tell you what General Van Rensburg's position was exactly at that stage, but securocrats also had an illness where there names and post descriptions varied and changed a lot, but yes he was senior enough where such a message would be received by him, it could also have been discussed on a Cabinet level. I cannot say that in this specific case that was the case.

MR BIZOS: May I be of assistance Mr Chairman. It was common cause at the inquest that General Van Rensburg was the secretary of the secretariat of the Security Council.

ADV POTGIETER: Thank you, thank you Mr Bizos. There our problem has been solved, so he was definitely a long trouser person. This signal was dated 17th of June 1998 and we know that according to the information that we have, that the previous day there was a type of action committee under the Chair of the Deputy Minister, Mr Vlok, they were appointed to consider the whole Goniwe issue and that action committee again appointed a work committee or asked the secretariat to appoint a work committee who will consider this matter further and then make recommendations concerning the fate of Mr Goniwe and it seems as if around the 7th, during that time when that committee sat and the piece that was sent back to Mr Vlok's action committee, with certain recommendations, how they must act on Mr Goniwe or on this matter - would that be probable that it was fed in that process of consideration concerning Mr Goniwe?

MR VAN JAARSVELD: That is very difficult to say Mr Chairperson. What is important there is it depended on who sat on that committee or if that signal would have been fed in.

ADV POTGIETER: You see the signal is addressed to General Van Rensburg, the secretary of this secretariat and the secretariat appointed a work committee in answer of the Vlok's committee who reported back to this action committee. Why would this signal not have been fed in into this work committee, in their workings and activities?

MR VAN JAARSVELD: Mr Chairperson if it was purely a committee which was appointed to decide about the action or the killing of Goniwe it would have been fed in.

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ADV POTGIETER: Well it considers Mr Goniwe's fate, what was going to happen about him. There were different ideas, but the goal was to decide what would ultimately happen to him.

MR VAN JAARSVELD: Then I doubt if that signal would have been fed in.

ADV POTGIETER: Why do you doubt that?

MR VAN JAARSVELD: If it was purely about the social aspects the signal would not have been fed in there.

ADV POTGIETER: There is a work committee who considered all the inputs. There were seemingly, or in the document in front of us, a difference on how people decided how to act upon Mr Goniwe and this action committee of Vlok had to finally decide what to do. We've got a whole list of about thirty two high ranking officials, safety or security police ... (intervention)

MR VAN JAARSVELD: Was that committee thirty two big?

ADV POTGIETER: Yes and we've got it here in our minutes, it was from the Deputy Minister to Lieutenant Generals, National Security, Intelligence etc.

MR VAN JAARSVELD: No Mr Chairperson it is just too big to decide on elimination of one person, it was just too big. Things like this was done on a need-to-know basis. Thirty two people would have been too big.

ADV POTGIETER: I'm not saying that, I'm not talking about the action committee, I'm talking about the work committee.

MR VAN JAARSVELD: How big was the work committee?

ADV POTGIETER: We've got the pieces here.

MR BIZOS: If I can help, there were eight of them.

ADV POTGIETER: It was a committee of eight.

MR VAN JAARSVELD: Depending on how it was compiled and who were in it, what was their level of decision making. I think there's various questions one can ask with a signal like this that it would have been fed into a committee of eight. The signal would have been dealt with on a level where the secretary of the secretariat would have sat, where the Ministers or Attorney Generals or police, Defence Force etc, it would have been the people who made such a decision. That group would have been very small.

ADV POTGIETER: You see the document we've got here that reports back from the work committee says that there was input from the EPJMS and then they made a recommendation, it was a recommendation that Mr Goniwe must not be killed but that the solution is that he must be reappointed.

MR VAN JAARSVELD: Yes Mr Chairperson where people said that he must be reappointed I can just come back to what we talked about earlier on and disinformation, governments, propaganda, it could have been the decision that to kill Goniwe had already been taken and that they went through the steps as a smoke screen, as a disinformation propaganda process saying that the government has got nothing to do with it.

ADV POTGIETER: Including Mr Vlok?

MR VAN JAARSVELD: I cannot say if Mr Vlok was there or not.

CHAIRPERSON: No he's on a committee here that appointed a work committee and your suggestion is that that whole operation to appoint this work team to decide on what must happen to Mr Goniwe regarding his work as a teacher and that it is a smoke screen. The suggestion is that Mr Vlok then was part of that smoke screen and he knew what was going to happen?

MR VAN JAARSVELD: Well then he knew what was going to happen, but you summed it up very well, it was a suggestion of mine and nothing else.

ADV POTGIETER: Yes but certainly it is a suggestion that you make, but the other possibility is also that the sincere or attitude was that Mr Goniwe must be reappointed but that this murder or killing was not agreed to or that their attitude did not agree with what was spelt out here.

MR VAN JAARSVELD: Yes Mr Chairperson but you must remember that there's always been a large struggle between the doubts or the do's and the don'ts, the securocrats and the politicians they were very strong at that stage, they only lost their power later on.

ADV POTGIETER: So there could have been another scenario in that the official attitude was indeed that it would have been the best thing to reappoint Mr Goniwe but that another group or that the other group disagreed with that and decided that he must be killed?

MR VAN JAARSVELD: Mr Chairperson it is the closest that we can get to it and I think very close to the truth.

ADV POTGIETER: I would just lastly like to ask you - I just need clarity - at various times yesterday you were asked about the revolution and the whole warfare issue. If I heard you correctly, you quoted from a piece in front of you and you said and the quote that you read was that the goal of this revolution was to replace apartheid and not to reform it. Is that correct?

MR VAN JAARSVELD: I think the word was to destroy apartheid.

ADV POTGIETER: In other words - I am just trying to understand the concept of revolution. Is it revolution in a sense that it implies the destruction of a certain system?

MR VAN JAARSVELD: If we talk about destruction of a system through election, it is a normal democratic way but if it's a military struggle or infiltrate a country and there's sabotage and terrorism then it's a revolutionary warfare.

ADV POTGIETER: So you are you saying that it was in the modus operandi in the action of the ANC was revolutionary, but not in their viewpoints. In other words it is not revolutionary in that it wants to replace apartheid with a democracy, it's not a revolution for that reason, it's a revolution because of the methods, the **modus operandi**. Is that your position?

MR VAN JAARSVELD: Yes, if I can just say to you that Mr Thambo himself said in '84, on the 8th of January in the annual remembrance of the ANC, that all revolutions - he himself talked about a revolution. If you go further in the ANC piece, he talks about a struggle ... (intervention)

ADV POTGIETER: Could you just read that quote for us again please, that that you read yesterday?

MR VAN JAARSVELD: If I can just find it. ... (indistinct) power, ours is no exception. The slogan "power to the people" means one thing and one thing only, it means we seek to destroy the power of apartheid tyranny and replace it with popular power from the government whose authority derives from the will of all our people, both Black and White. We do not fight to reform apartheid, but to abolish it in its entirety.

ADV POTGIETER: You see that is what - is the point there not the viewpoint that it's a revolution in that it wants to destroy or replace apartheid, whatever the concept is that we want to use, but is it not focused on the viewpoint?

MR VAN JAARSVELD: Mr Chairperson yes, I think we can discuss this for a very long time or debate for a very long time but the viewpoint of a revolutionary is, if it is as they call it a justified struggle because they want to replace such an evil system like apartheid. I do not know. I know what you're asking and yes revolution as it is done and - it always, violence was always part of it and that was to destroy an evil system like apartheid and it was to place democracy in its place and I think if there's been no violent - I don't know if it will be justified if people died in the process. For the revolutionary and the counter revolutioner it would have been the same, so if we talk about this we would have to go into the principle of revolution and counter revolution.

ADV POTGIETER: You see one of the applicants in this matter who was a very senior officer, he gave evidence before you and he said to us that the solution for the problem that the security police fought on a political level, it was a political solution. That is what he said. So what I'm trying to understand is what did you do, if you can comment on that. I know you may not be involved on the same level as that applicant, but the struggle of the security police, was it to prevent a system that is today in South Africa from being put in place. In other words the viewpoint of that revolution that is mentioned in that quote of yours?

MR VAN JAARSVELD: Mr Chairperson yes, at that stage the National Party was the governing party and their policy was based on the apartheid system and we can now with hindsight think of it, discuss it and dissect it and to think or to say that if it was justifiable for the police to then support the government, it was the police force of that government as the same police force, or the great percentage of it, of who then support the government of that day, now support today's government. It was a police force which supported the government of the day. If you can now, a few years later, say that the police force were wrong or that they were right or that they were wrong because they supported an evil system, I think those are things that you could write books about at a later stage. ADV POTGIETER: You see our task is not a philosophical task, but our task is to, in this case as unsavoury as it is, to decide if it was justifiable in these circumstances. In other words the point I would like to make or that I'm struggling with is the question if to kill people, as in this case, would that have been justified? If one considers the viewpoint of the revolutionary which was fought according to the security police, if it was wrong or right and we accept it that way, if it was justifiable to act in such a manner to stop that revolutionary goal.

MR VAN JAARSVELD: Mr Chairperson, although it was the viewpoint of the revolutionaries to replace the government, they did it by means of violence, mass action, sabotage and it was an acceptable norm and practice and if you read about it, it was counter revolutionary that you fight him in the same way that he fights his own revolution and the policemen did the same things. I think if one reads up on what the revolutionaries, the PAC and ANC did when they were still a liberation movement, they also committed violence and it is internationally acceptable that a revolution or counter revolution is committed in the same way and I mentioned it yesterday - it's about the winning of the hearts and minds of people, it's a mass warfare, a mass movement and you must get the support of the masses and to quote counter revolution is to remove the leadership from the revolution in order to intimidate them in such a way that they would follow you.

ADV POTGIETER: You are right yes, we can debate about it for a very long time. This is a more concrete case but thank you very much for your input.

ADV BOSMAN: Mr Van Jaarsveld you mentioned that it was, or would have been a possibility, on a question from my colleague here, that it is a possibility that this decision to reappoint Mr Goniwe could have been a smoke screen. Let us consider or say that it was a smoke screen. Who would you suspect would have known that it was a smoke screen?

MR VAN JAARSVELD: To call it a smoke screen there would have been very few people who knew about it.

ADV BOSMAN: So the people who were part of the elimination of Goniwe, would they have been informed about it?

MR VAN JAARSVELD: Not on local level, no but if we make this assumption that it was a top level decision to kill Mr Goniwe, it would have been on that level but on local level they would not have known about it.

CHAIRPERSON: Mr Van Jaarsveld do you know why Mr Van Zyl was sent with you to Cradock?

MR VAN JAARSVELD: Yes Sakkie van Zyl, we drove with him in the car. In the second place he was a person who came from the local security branch in Port Elizabeth who had to support us and give us assistance.

CHAIRPERSON: But I assume that he must had to know something about the visit and that is the reason why he was sent with you?

MR VAN JAARSVELD: That is correct.

CHAIRPERSON: Yesterday you gave evidence or if you remember that he knew something about your visit, why do you say that?

MR VAN JAARSVELD: Mr Chairperson I think here in my statement - I just want to read it if you could excuse me. In my statement I say that Colonel Erasmus was here for the purpose of our visit and that Sakkie Van Zyl accompanied us ... (intervention)

CHAIRPERSON: Yes, we talked about this. Are you sure about that?

MR VAN JAARSVELD: I cannot for certainty remember, one drives from Port Elizabeth to Cradock and back and the whole day you're in each other's company. I believe that we would not have discussed it for the whole day, that for today I cannot remember completely what was said that day, but I am convinced that we would have discussed it.

CHAIRPERSON: So he knew from '84 of the plan to kill Mr Goniwe?

MR VAN JAARSVELD: In '84 there was the plan to do it. That plan was only realised in '85, but that's not to say that during that period it was daily said that he will be killed.

CHAIRPERSON: But at that stage he would have known that it was being considered to kill Goniwe? But according to your evidence I get the impression that the decision was already made and it was just and where he would be killed that had to be decided on. That is why you were asked to go and look if it would be possible to go and kill him at his house?

MR VAN JAARSVELD: Yes Mr Chairperson I would say that the decision has already been made.

CHAIRPERSON: Tell me also, and it's something that bothers me, policemen who at that stage worked at the security police, did they have to have certain qualifications apart from what the ordinary policeman had?

MR VAN JAARSVELD: Mr Chairperson, no not really. What did happen was that we were selected and the form of selection I cannot really tell. They had to be trustworthy, they had to be good policeman - if you can then say that people who killed people later - they had to be good policemen, they had to investigate, had to be a policeman who could see a case through.

CHAIRPERSON: But someone who was properly trained or people who didn't have a loose mouth and talk about it in bottle stores?

MR VAN JAARSVELD: Yes that is debatable because many of those policemen did become alcoholics because of the pressure and stress that they lived in and some of the people who were called the operators.

CHAIRPERSON: To find a person in that system in the security branch, he must be one of the brothers?

MR VAN JAARSVELD: No, I do not think that is correct. Any person could have worked there, if you were a policeman who was trustworthy and a person who could see the case through - maybe later he could have become an inner circle brother, but when he started there it was just not the case.

CHAIRPERSON: Did you have the potential to become a brother?

MR VAN JAARSVELD: Yes Mr Chairperson, if you talk about brother you talk about the "Broederbond".

CHAIRPERSON: No, I'm talking about the community in the security police.

MR VAN JAARSVELD: What did happen and Adv Booyens did discuss it with us earlier on, sub cultures developed within the security forces and to fit into this sub culture you had to be taken in and it brought people closer to each other and you could have talked about a brother relationship, but if you looked at the groups it was always the same type of groups. They were always brought together, it was not a secret situation or a secret group it was situations that brought them together or circumstances that brought them together and there then a brotherly relationship would evolve.

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CHAIRPERSON: These people who then decided to go and work in the security forces, you probably knew what dangers there were and what type of work you had to do?

MR VAN JAARSVELD: Mr Chairperson it was very interesting and I will tell you how I ended up at the security forces and you will then see. I went from University to the police ... (intervention)

CHAIRPERSON: Oh I see you have a degree.

MR VAN JAARSVELD: And directly to the security forces.

CHAIRPERSON: When that happened, did you know what dangers there were?

MR VAN JAARSVELD: No, not at all. No, you do not know anything because you haven't been there. Only when you are there you see that it's very different and policemen who have been in the force for years knew that these people worked in a different way.

CHAIRPERSON: And these people would not have known that the so-called terrorists had to be faced or will come face to face with these terrorists. They did not know it?

MR VAN JAARSVELD: Yes they would have, definitely.

CHAIRPERSON: Do you know whether the policemen in the security police received any psychological training in order to manage these problems?

MR VAN JAARSVELD: You're touching upon an issue which in my opinion is one of the greatest issues which should be presented to those who were in charge back then. This war was the war of the captains, most of those who were applying for amnesty had the rank of captain, they were the commanders of units and they have been thrown to the wolves. They were never given any kind of psychological treatment.

CHAIRPERSON: The reason why I asked this question is because of one of the other cases which I have heard and in this case a person was shot dead and burnt out and right next to the hole which they dug in order to burn this person out, a braai was held and beer was consumed and it boggles me to think how people could do this?

MR VAN JAARSVELD: That's one of the strangest things that one could find in a war situation. If you consult the reference books you'll see that wars were fought in South America, revolutionary wars where corpses were draped over cars, placed in streets and so forth. Policemen, the men who were specifically involved in these affairs lost a lot and the most serious thing that they lost was their own sense of humanity, that's what they lost and that is why things like that happened because there was absolutely no psychological counselling, no structures to help these people who worked on ground level and that's why they did things like that.

CHAIRPERSON: That's why I initially asked the question as to what kind of person would be selected to work in the security police. Did this person have to possess a certain type of character in order to work there and do that type of work.

MR VAN JAARSVELD: No, not at all. The work gave them a specific character.

CHAIRPERSON: You said that your proposal in 1984 was that Mr Goniwe should not be killed at his home for certain reasons but that it would be preferable to kill him along the road, I suppose in the still of the night and that's exactly what happened, he was found by the roadside. He was killed very far away from his home.

MR VAN JAARSVELD: I only ... (end of tape)

CHAIRPERSON: Mr Booyens are there any questions you would like to ... (intervention)

MR BOOYENS: No thank you Mr Chairman.

NO QUESTIONS BY MR BOOYENS

MR BIZOS: No, no questions arising from the committees questions Mr Chairman but my learned friend has apparently been favoured with a photograph from some member of the press corp.

CHAIRPERSON: You do have a photograph?

MR BIZOS: ...[indistinct] Mr Chairman for the purposes of ... (indistinct).

MR VAN JAARSVELD: That is definitely Sakkie van Zyl.

MR BIZOS: Yes I think that members of the committee would remember the image of Mr Van Zyl. If we can hand it in as an exhibit or the members can, we can record it as a fact ... (inaudible) identified him as Mr Van Zyl from a photograph produced by his own counsel.

CHAIRPERSON: Everybody's in agreement that that is correct.

MR BIZOS: Now Mr Chairman there's just something that I want in fairness to put on record as a result of some of the questions asked by Adv Potgieter because I know the record, because I was in the inquest. The inset that is referred to in Exhibit H - the report to the Minister of the works committee, was said in evidence not to have been the signal, but probably was the document of the 23rd of May - the "Nooit-ooit" inset. None of the members that sat on the committee admitted that the signal was placed before them Mr Chairman. The evidence of Mr Van Rensburg of what he did with it was a ping-pong game Mr Chairman on the finding of his Lordship Mr Justice Zietsman, he couldn't really decide what he did with it, but the members of the committee, in fairness to them, all said that they did not have that signal before them. I thought that I would place that on record in order to ...(intervention)

CHAIRPERSON: ... (inaudible).

MR BIZOS: Yes, we are ready to call another witness. I don't know if you want to take an adjournment.

CHAIRPERSON: ... (inaudible)

MR BIZOS: Yes. Well for the next witness Mr Chairman, this may be an appropriate time. Thank you.

COMMITTEE ADJOURNS

WITNESS EXCUSED

MR BOOYENS: ... (inaudible) witness, I would like to place on record that it is common cause that - and my learned friend must help me to tell me if I don't say exactly what he wants to hear, that on the night of the 21st of March 1984 somebody threw a stone or a brick or something through the windscreen of the car of one Janet Cherry.

MR BIZOS: It will make it unnecessary to call the witness ... (indistinct). The next witness Mr Chairman is Mr Derek Swartz. He'll speak in English.

CHAIRPERSON: Mr Swartz have you got any objection to the taking of the oath?

DEREK SWARTZ: So help me God.

CHAIRPERSON: Be seated.

EXAMINATION BY MR BIZOS: Mr Swartz what is your

occupation?

PROF SWARTZ: I am presently a University Professor at the University of Fort Hare.

MR BIZOS: So we'll call you Professor Swartz now?

PROF SWARTZ: Well, if you wish.

DATE: 25-02-1998

NAME: N.J. JANSE VAN RENSBURG

CASE NO : 3919/96

DAY: 4

NICOLAAS JAKOBUS JANSE VAN RENSBURG: (sworn states)

MR BOOYENS: The witness' application appears on page 20 of the record, Mr Chairman. Mr Van Rensburg - Mr Chairman, just before dealing with this, there is just a formal aspect, although I do not know whether it is strictly speaking necessary, but in paragraph 9(a)(1) I would just ask for an amendment to add to abduction and killing of the four mentioned persons, and any other offence of delict arising from that.

I do this ex abundanti because I do not really think it is necessary. My impression is if you get amnesty, you get amnesty irrespective, but I know in some instances some of your colleagues have said, was of the view that one should actually specify it wider than it has been specified in this.

CHAIRPERSON: Sorry, you are asking for an amendment to include any other possible crime that may flow out of the same action?

MR BOOYENS: Yes, well, crime or delict.

CHAIRPERSON: Yes.

EXAMINATION BY MR BOOYENS: Thank you Mr Chairman. Mr Van Rensburg, in front of you you have your application for amnesty, is that correct?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Do you confirm what is stated on page 20?

MR JANSE VAN RENSBURG: I confirm it.

MR BOOYENS: Page 21? Is it correct, do you confirm that?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: And page 22, to where paragraph 9 starts, do you confirm that?

MR JANSE VAN RENSBURG: Yes.

CHAIRPERSON: Mr Van Rensburg, the acts for which you are applying for amnesty, that includes murder is that correct?

MR JANSE VAN RENSBURG: Yes.

CHAIRPERSON: I can't hear?

MR JANSE VAN RENSBURG: Yes, that is correct.

CHAIRPERSON: I see on the top paragraph on page 22, you allege that you had never at any stage acted for your own personal gain or with any mala fide motives. What exactly do you mean by that? Especially the mala fide part?

MR JANSE VAN RENSBURG: That I didn't commit the acts with any criminal intent or objective. I did it because at that stage I believed it was in the interests of the country and the State.

CHAIRPERSON: How can murder be a bona fide act?

MR JANSE VAN RENSBURG: No, it can never be bona fide, but I am saying that there was a reason for acting in such a way. In my view there can never be any justification, legal justification for what I did. If there was, I wouldn't be sitting here today, but I did it based on the very firm convictions which I had at the time.

CHAIRPERSON: Thank you.

MR BOOYENS: Mr Chairman, just in fact if the Committee would be so kind to look at Section 20(2)(b), that any offence must be committed with bona fide, so this is as opposed to mala fide.

CHAIRPERSON: Is it as a result of that Section?

MR BOOYENS: I beg your pardon Mr Van Rensburg. In paragraph 9 it says that during 1984, what happened in that period, I will come back to this, but I would just like to deal with this provisionally, I am dealing here with pages 22, 23, 24 and 25 as far as the paragraph which starts with the words "Major Du Plessis", do you confirm all of that?

MR JANSE VAN RENSBURG: Yes, I do.

MR BOOYENS: At this stage you were second in command of the Security Branch in Port Elizabeth, is that correct?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Please describe your functions and duties very briefly?

MR JANSE VAN RENSBURG: My function was about 80 percent administrative and virtually all correspondence or post, came to my desk. Depending on the contents of the correspondence, I would then decide where to channel that particular correspondence or letters for further attention.

Documents or correspondence which I thought was of importance to the Commanding Officer, I would refer it to him first and he could then issue further issues based on that. Orders which went further than the orders which I could have given.

I also sometimes wrote instructions or orders on the documents for the attention of the particular Section Commander, or I perhaps penned a question to him, something that required clarification.

Some of the reports which went from PE to Security Headquarters in Pretoria or any other section anywhere else in the country, I would check these as far as the content was concerned, and I would decide whether that would also first have to go to the Commanding Officer before it was sent, so that he could possibly comment on it.

That was in the main my task, the distribution of information and receipt thereof. And the taking of certain decisions in respect of that.

MR BOOYENS: So, by virtue of that you had quite a broad overview of what was going on because I am assuming that before you could make any decisions, you would have to make the documents?

MR JANSE VAN RENSBURG: Correct.

MR BOOYENS: So you had a broad overview of the local security situation in Port Elizabeth and vicinity and over the provincial security situation, in the region as a whole and also to some extent you had an overview of the national security situation, because all this documentation came to your desk?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: And your knowledge also enabled you to make a reasonable evaluation of people and organisations and threats that they posed, is that correct?

MR JANSE VAN RENSBURG: Yes, broadly speaking.

MR BOOYENS: Your Security Police experience at that stage had gone as far back as 1968?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: That is when you started in the Durban Security Branch?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: During the 1980's, and I want you to specifically testify on this point because the members of this panel have perhaps not heard this particular evidence so it is important that we deal with it, during the 1980's there was a system which devolved from the State Security Council which is known as the Joint Management System or Centre, the so-called JMC, is that correct?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Die State Security Council was based on the legislation but the State Security Council, I think Mr Bizos also referred to that, the SCR consisted of virtually all members of the National Cabinet and certain departmental heads, senior Defence Force Officers and other important officials, State officials, is that correct?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Now this was devolved down to a local JMC, which actually would have been a provincial JMC? I am not talking about provincial in the sense of the whole of the Cape Province, but provincial in the sense of the Eastern Cape or Natal or that kind of situation, is that correct?

MR JANSE VAN RENSBURG: Yes, I don't want to split hairs on that, but my recollection of it is that Eastern Province Division, the Police Division was a sub-JMC and border was also a sub-JMC, and once or twice a month these two would meet as a JMC.

I may be wrong, but that is more or less how I can remember it. Maybe Eastern Province had its own JMC, I can't recall exactly.

MR BOOYENS: One can understand that, it is a long time ago. Let's just talk about the EP JMC, whether it is a sub-JMC or not, I don't think anything turns on that.

Now, the JMC normally functioned under the Chairmanship of the local Commanding Officer of the Defence Force, is that correct?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: And at the JMC there were representatives from the Police, which included the Security Branch and several other important or interested parties from State departments?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: In this respect one thinks of departments such as Education, several State departments which have an interest in the governing of the country?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Were there also some sub-Committees of the JMC who acted in a more specialised way?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: In this respect, was there a JIC, Joint Intelligence Centre?

MR JANSE VAN RENSBURG: That is correct.

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MR BOOYENS: There was a JOC, Joint Operational Centre?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: There was "Veikom", Security Committee?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: And there were also a number of other committees, I don't think it is necessary to list them all. These committees or meetings of the committees were attended by heads of certain departments, sometimes there were different permutations of people who would attend these meetings?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Did you on occasion also attend these meetings when the Commanding Officer wasn't present?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: These smaller committees, I have for instance referred to the JOC, the Joint Operational Centre, JOC, representatives on that committee - did that include the non-uniform people, I am talking about the Police and Defence Force?

MR JANSE VAN RENSBURG: No, not normally.

MR BOOYENS: So some of these sub-committees only consisted of the uniform Police or Defence Force?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: So apart from the JMC meetings to be attended, there were also some of these joint sub-committees that had to be attended?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Mr Van Rensburg, during the period that Colonel Harold Snyman was the Commanding Officer, that is from 1984 onwards, he in his capacity as Security Branch Commander, did he attend the JMC meetings?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Did you sometimes attend with him or if he wasn't available, did you attend on his behalf?

MR JANSE VAN RENSBURG: When he wasn't available, yes.

MR BOOYENS: The Chairmanship of the JMC in the Eastern Province at that time - that resorted under the Defence Force, the Commanding Officer of the Defence Force or the command in the Eastern Province?

MR JANSE VAN RENSBURG: Yes, as far as I can recall.

MR BOOYENS: Colonel Snyman, did he attend any of these other meetings of these other committees?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Colonel Snyman when attending these meetings, did he give any feedback to you as members, did he give you any feedback as to what happened?

MR JANSE VAN RENSBURG: Yes, he did sometimes. Sometimes he didn't.

MR BOOYENS: Let us bring the matter a bit closer to home. The security situation in the Eastern Cape as far as you were personally aware in 1984, 1985, what exactly was it like?

MR JANSE VAN RENSBURG: I would say that the security situation in the Eastern Province was in a very bad way. There were areas where there was absolutely no law and order.

There were areas that were known as liberated zones. There were places where alternative structures had been established to supplant the legal governmental structures.

And there were necklace murders. People had been actually driven out of the townships. The policemen and here I am specifically referring to black policemen at the time, some of them had also been driven out of their communities and they had to find homes elsewhere.

Some of them had to live in tents for long periods of time. So undoubtedly in my opinion and in the opinions of other people at the time, there was a revolutionary onslaught or conflict and activities, these were the order of the day during this period in the province, or in certain parts any way.

MR BOOYENS: This revolutionary battle that was being waged, I think it is common knowledge that it was waged by the so-called liberation movements?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: And drawing on your knowledge and experience of security matters, was it so that the purpose and objective of the liberation movements was to overthrow the government and to supplant it with another government?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: As far as the methods were concerned, as far as you knew, were the methods used always of a peaceful nature or was there sometimes violence?

MR JANSE VAN RENSBURG: No, there was definitely use made of violence at times.

MR BOOYENS: The violence begot further violence. There would be cases of arson, riots, unrest and there would be shooting incidents between the Police and the communities, is that correct?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: The task of the Security Police in this context, what was your task?

MR JANSE VAN RENSBURG: We had to gather information and intelligence regarding the activities of the activists and persons who were busy orchestrating the violence or inciting it or fermenting it as well as the organisations within which this took place.

MR BOOYENS: Once you had gathered the information, very wide powers were granted to the Security Police under the then existing legislation to prosecute people, to place them under banning orders and restriction orders, detain them without trial, there were many different methods?

MR JANSE VAN RENSBURG: Correct.

MR BOOYENS: You have already mentioned the fact that there were alternative structures established. Were there certain areas where the normal governmental functions had ceased to exist? I am here referring to for instance police patrols and that kind of thing, did it collapse?

MR JANSE VAN RENSBURG: Yes, especially in respect of normal policing duties, there were certain areas that were only accessible by means of armed vehicles, such as Caspirs and at times obstructions were placed and ditches made in certain areas, so that even those armed vehicles had problems to enter certain areas.

MR BOOYENS: The Bobby on the Beat, to call it that, that simply disappeared, it was no longer there?

MR JANSE VAN RENSBURG: Not at all. That is so, not in the black areas.

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MR BOOYENS: When we refer to normal policing, we are talking about your ordinary Detective, uniformed Detective who would go and investigate housebreaking and things like that?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Or simply to do crime prevention patrol?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: It was your task as the Security Forces to gather this intelligence?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Reference has already been made to the alternative structures and so on that had been established in certain places.

Now, according to your information, who were the architects and who advocated these alternative structures?

MR JANSE VAN RENSBURG: The information which came to my notice was that Mr Matthew Goniwe had been instrumental in the establishment of alternative structures and his plan was known as the so-called G-Plan.

MR BOOYENS: The G-Plan, was that primarily aimed at the rural areas?

MR JANSE VAN RENSBURG: No, I wouldn't say only in the rural areas, but here definitely yes - in some of our rural areas.

MR BOOYENS: During this period, there were certain rural areas that found themselves in the situation as you have already sketched?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Obviously these structures led to the Security Forces having to give more and more urgent attention to that?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Based on what Colonel Snyman informed you, was there from the JMC side, and when I talk about the JMC, the JMC with all its sub-committees, did the JMC also attend to these matters?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: You said that Snyman sometimes gave you feedback, let us draw the focus closer to the current situation. In respect of the security situation in the Eastern Cape generally, in respect of the implementation of the G-Plan and so-called alternative structures, what kind of feedback did you receive if any from Snyman?

MR JANSE VAN RENSBURG: That more attention should be given to obtaining more information as far as who the ring leaders were, who were the people directly responsible for this.

MR BOOYENS: Is that what you referred to if you look at page 24 - you say that as a result of this, there was increased activities and consultation and liaison between the JMC and the Security Branch?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: You talk about a data base that was then established and that from this emerged a more complete picture as to the ring leaders and the people responsible for the situation?

MR JANSE VAN RENSBURG: Yes.

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MR BOOYENS: Mr Van Rensburg, the situation in Cradock specifically, as far as that is concerned, were you aware that there was a meeting in February 1985 which was attended by the Minister of Law and Order, Minister Louis le Grange? Barend du Plessis was at that stage the Minister of Black Education and there was a Morrison who was also the local MEC or MP for Cradock, Johan Coetzee the Commissioner of Police and a couple of other interested parties?

And Colonel Snyman was also told to attend the meeting?

MR JANSE VAN RENSBURG: Yes, I can recall such a meeting. The people that you have now mentioned, but I can't recall them all, can't remember whether I knew that they were present, maybe I had forgotten some of their names. I can recall that the Minister was there, that is Minister le Grange, or I was told that Minister le Grange was there.

MR BOOYENS: Told to you by whom?

MR JANSE VAN RENSBURG: By Colonel Snyman.

MR BOOYENS: After Colonel Snyman attended this meeting, did he give you any feedback as to a private conversation he had with le Grange?

MR JANSE VAN RENSBURG: That is correct. He gave me that feedback.

MR BOOYENS: To you? Please tell the Commission what Mr Snyman told you in essence about that conversation.

MR JANSE VAN RENSBURG: Mr Snyman told me that he had a private conversation with Minister le Grange and that le Grange had told him that the situation in the Eastern Province needed attention and should be addressed.

He wanted to know why these people weren't being prosecuted, what the problem was and why people responsible for the violence, could not be brought to court.

Mr Snyman apparently answered that lawful actions simply had no effect any longer, and that witnesses was simply not obtainable as a result of the intimidation and that the other options such as detention etc, were no longer effective because it simply led to an escalation in the violence.

MR BOOYENS: We are talking about restriction orders, detention with trial, bannings, etc?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: What else did he say?

MR JANSE VAN RENSBURG: Well, he told me that Minister le Grange told him that well, then you should make some other drastic plan.

MR BOOYENS: Can you recall whether he told you what le Grange's exact words were?

MR JANSE VAN RENSBURG: No, I can't remember exactly but what it amounted to was that some other drastic plan should be made to counter the problem posed by the activists, to neutralise them.

MR BOOYENS: To neutralise or something to that effect?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BOOYENS: You and Mr Snyman talked about this, what was Mr Snyman's conclusion as to what the Minister had actually told him?

MR JANSE VAN RENSBURG: Snyman told me he had gained the impression or it was clear to him that the Minister had meant to say that we should actually get rid of these people in an unlawful way.

MR BOOYENS: In other words eliminate them?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Now, what were your inferences as to that conversation, did you agree with that conclusion of his?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: This was in February 1985?

MR JANSE VAN RENSBURG: Yes, I assume it was that time.

MR BOOYENS: Let's come back to the pressure from the JMC - what happened after this? What kind of feedback did you receive from Mr Snyman?

Let's talk in general. The relationship between you and the Defence Force, was it a tugging of war who did not do his work? The Army told you you didn't do your work and the reverse?

MR JANSE VAN RENSBURG: Yes, this happened.

MR BOOYENS: And on the JMC, what was the feedback that Colonel Snyman gave you about the attitude of the Defence Force in that situation?

MR JANSE VAN RENSBURG: Well, he told me sometimes that when he came from such a meeting, that the Security Branch received a slap on the wrist because of our inability to deal with these violence situation and the alternative structure situation.

MR BOOYENS: In other words, to let the violence situation cool down?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Can you recall - you heard Mr Van Zyl's evidence, that round about the 6th, 7th of June you called him in and you gave him an order.

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Tell the Commission what led to this?

MR JANSE VAN RENSBURG: It was where Colonel Snyman returned from a JMC meeting and mentioned to me that there was in discussion with the Defence Force in the JMC that the Security Branch was being put under pressure and it was said that the Security Police are unable to stabilise the position.

And that during the discussions it was said by Army personnel that the only manner to save the situation, was to eliminate the hooligans amongst the activists.

MR BOOYENS: What did Colonel Snyman tell you?

MR JANSE VAN RENSBURG: He said he cannot see any other solution and he asked me if I could speak to Mr Van Zyl and Colonel Du Plessis about the possibility of elimination of Goniwe and his hangers on, or his Lieutenants around him.

MR BOOYENS: The name of Mr Goniwe was specifically mentioned? At that stage it was his name and his co-warts that was named?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BOOYENS: How did you interpret what Colonel Snyman told you? Was it an instruction that you should look at it, or what was the situation?

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MR JANSE VAN RENSBURG: Yes, definitely it was an instruction.

MR BOOYENS: You have told us already that at that stage, you were up to date with the security situation in the Eastern Cape.

CHAIRPERSON: Before you continue Mr Van Rensburg, how many times before this incident, before this discussion with Snyman, was Goniwe arrested?

MR JANSE VAN RENSBURG: Mr Chairman, it is a long time ago and I could be wrong, but I imagine, I just remember once. But if somebody tells me that there was more, I couldn't argue this point.

I am not sure. I know he was detained once from April 1984 to approximately September 1984, he was detained for sixth months. I cannot remember any other incident where he was detained. I cannot say that my memory is so good that I can remember everything.

MR BOOYENS: The Chairperson asked you about the arrest of Goniwe. Do you remember whether he was picked up for questioning and then let go again?

MR JANSE VAN RENSBURG: This is possible. I just cannot remember a specific incident where I can remember it, it is possible.

MR BOOYENS: It seems from the Judge Zietsman's judgement that during approximately March and April there was a request from you that under the provisions of the Security Act, he should be picked up again and detained?

MR JANSE VAN RENSBURG: I cannot remember this specifically, but I won't argue the point.

MR BOOYENS: Just to explain briefly. Detention without trial, is not something you could decide on?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: You had to motivate this and it had to be authorised by the Minister?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Just to continue, you said you received the instruction from Mr Snyman. Relevant at this stage, it is something that my learned colleague Mr Bizos pointed out to us, it seems that at this stage there was a signal from Defence Force that concerned Mr Goniwe and some other names, I cannot remember them, this was put to Mr Van Zyl?

MR JANSE VAN RENSBURG: Yes, I heard this.

MR BOOYENS: Do you know of this Defence Force signal?

MR JANSE VAN RENSBURG: No, not at all.

MR BOOYENS: With the type of operation that followed this, would you and the soldiers have worked together with such a type of operation?

MR JANSE VAN RENSBURG: No, I don't think so.

MR BOOYENS: There was not good cooperation between the two Forces?

MR JANSE VAN RENSBURG: On certain levels there was good cooperation, but maybe when I look back now, there was somewhat professional jealousy amongst us.

But I think in this field, we had much more information than them.

MR BOOYENS: Colonel Snyman gave you a directive that you had to look at the elimination of these people, what was your personal feeling?

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CHAIRPERSON: What were his actual words, the directive?

MR JANSE VAN RENSBURG: He told me that I should speak to Mr Du Plessis and Mr Van Zyl that they looked at the possibility to look at Goniwe and his co-warts or the people who were responsible for this revolutionary onslaught, violence - to eliminate them in a manner that would not point the finger at the Security Police.

MR BOOYENS: I know you can only talk about the impression you got, was this the impression that came from Mr Snyman, did you form any impression over where this came from?

MR JANSE VAN RENSBURG: I got the impression that he received this instruction from elsewhere, because at that time I believed that he would not act on his own and give these instructions.

And because of what he told me about his discussion with Mr le Grange and the Defence Force personnel at the JMC, I got the impression that he got it from higher up.

MR BOOYENS: I think you have mentioned previously that the discussion between the two of you was just after he came from a meeting?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: What I just asked you earlier, you personally told us that you had a broad insight to the security situation at ground level, not that you were a field worker, but you have seen all the reports. Is that correct?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Mr Van Rensburg, what was your feeling, your personal feeling when Colonel Snyman gave you this instruction in respect to the necessity of such a directive? Did you agree, did you differ?

MR JANSE VAN RENSBURG: I agreed.

MR BOOYENS: Explain to the Commission why?

MR JANSE VAN RENSBURG: I agreed on the condition that the right persons were identified, and at that time I agreed because in my opinion this country was in an inexplicable war situation.

People died all over, on both sides. Both sides were involved in illegal activities. We killed each other. We did not act according to the rules on both sides. Legal acts was in my opinion just not sufficient enough.

There were continuous attacks on police stations and on members and their houses. Structures collapsed and I believed that by doing this, this revolutionary violent onslaught against the State could be stopped.

MR BOOYENS: And to bring it closer to home, concerning this application - you have spoken broadly, can you just come back to what you have said now specifically. What role of Mr Goniwe and the people who were active with him, did they also fall into this category?

MR JANSE VAN RENSBURG: Yes, definitely.

CHAIRPERSON: Mr Van Rensburg, tell me you talk about a directive and what you did and at the same time you say you agreed with what was meant.

In this light, this directive, does it matter?

MR JANSE VAN RENSBURG: Yes, it does matter.

CHAIRPERSON: How so?

MR JANSE VAN RENSBURG: Well, it matters that an authorised instruction as I saw it.

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CHAIRPERSON: If you were willing to participate in these murders, how does the fact that there was a directive, affect it?

MR JANSE VAN RENSBURG: Probably not in the doing, but in the context I don't believe that I felt at that stage that I could give such authorization myself.

MR BOOYENS: Would you have taken the steps to initiate this operation without having received this instruction?

MR JANSE VAN RENSBURG: No, I wouldn't have.

MR BOOYENS: So, you said you did not have a - and you agreed that - let me put it in another way, it is something that we asked Mr Van Zyl - if the information that you had in your possession was that the people who were identified as targets, were totally innocent or that they were to be killed because of another motive that had nothing to do with the safety of the State, would you have had anything to do in this process?

MR JANSE VAN RENSBURG: No.

MR BOOYENS: So you say in this context that you did not have any problem with this directive and you agreed to it?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: After the discussion between yourself and Colonel Snyman, what happened then?

MR JANSE VAN RENSBURG: The same day I went to Mr Du Plessis but he was not available and I called in Mr Van Zyl, and informed him of what Colonel Snyman's instruction was.

MR BOOYENS: Just to get a clear picture, Mr Du Plessis was then in command of the black situation and he had the rank of Major?

MR JANSE VAN RENSBURG: No, Mr Du Plessis I think he was a Major or Lieutenant Colonel.

MR BOOYENS: And Mr Van Zyl?

MR JANSE VAN RENSBURG: I think he was a Captain.

MR BOOYENS: Both of them were junior in rank in relation to you, were you a Lieutenant Colonel or a full Colonel?

MR JANSE VAN RENSBURG: I think I was a Lieutenant Colonel.

MR BOOYENS: I see you became a full Colonel in 1986?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BOOYENS: What did you tell Mr Van Zyl?

MR JANSE VAN RENSBURG: I told Mr Van Zyl what Mr Snyman told me. I told him that Colonel Snyman expressed his opinion that the only way to save the situation, was the elimination of Goniwe and his immediate ring leaders who moved with him.

And that Colonel Snyman requested the possibility to do this was to be investigated and the right persons had to be identified who acted with Goniwe.

And also that we should not act before it was discussed with Colonel Snyman.

MR BOOYENS: It was your order that they didn't have to do anything?

MR JANSE VAN RENSBURG: No, this was his instruction.

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MR BOOYENS: Now, did you discuss this matter later with Mr Du Plessis, why was he brought into the picture?

MR JANSE VAN RENSBURG: Because he was the Head of that unit in which Mr Van Zyl was and he was Mr Van Zyl's senior.

MR BOOYENS: You give the order and did Van Zyl indicate that he would carry out the instruction?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: If we can just take what happened in the meantime. During this stage, let me put it to you as such, at some stage him and Du Plessis came back to you?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Was there also liaison between yourself and Mr Du Plessis and or yourself and Van Zyl and or between all three of you to identify the final members?

MR JANSE VAN RENSBURG: Yes, there was.

MR BOOYENS: Tell us about this.

MR JANSE VAN RENSBURG: It was mostly that they acknowledged to me that Mr Goniwe travelled a lot in this division.

That he usually met with people like Mr Mkonto and Mr Calata and sometimes others or that others travelled with him, and visited other places with him.

They acknowledged that certain persons were important persons who were part of Goniwe's activities, and helped realise his objectives and that they felt it was possible to intercept them without being seen and to eliminate them.

MR BOOYENS: You have mentioned, that is feedback while the investigation was ongoing?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Eventually did they come with a final decision or let's call it a final group of persons, did they come back to you with that?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Can you remember this group, how many people were in this group?

MR JANSE VAN RENSBURG: The people I can remember was Mr Fort Calata, Mr Goniwe, Mr Mkonto and then they had a cousin or a brother of Mr Goniwe, and there was Mr Jacobs and then they spoke about a man from Oudtshoorn - afterwards we knew it was Mr Mhlawuli.

I would guess it was about seven or eight in total.

MR BOOYENS: Did you receive feedback why in their opinion these persons qualified as cohorts of Mr Goniwe?

MR JANSE VAN RENSBURG: Yes. They told me that these persons were responsible especially in the rural area of the Eastern Province, for the unrest and the collapse of the council's or the local management level law system, that was replaced in some places by people's courts. Policing was not possible by the driving out of police members and they caused that normal flow of the government could not continue.

CHAIRPERSON: Mr Booyens, when you get to a convenient stage?

MR BOOYENS: I was actually going to suggest that this might be Mr Chairman.

COMMISSION ADJOURNSON RESUMPTION:NICOLAAS JAKOBUS JANSE VAN RENSBURG: (s.u.o)EXAMINATION BY MR BOOYENS: (cont)

Mr Van Rensburg, just before we adjourned to a man from Oudtshoorn, can you expand on that?

MR JANSE VAN RENSBURG: The information that was given to me with regard to Mr Mhlawuli, is that he was a person from Oudtshoorn and that he sometimes was seen with Mr Goniwe and others in Cradock among other places, and that he had played a pivotal role in Oudtshoorn with regard to organisations similar, youth organisations and community organisations and alternative structure organisations, which he would have established and maintained in Oudtshoorn in order to increase or elevate the revolutionary climate in Oudtshoorn to such a degree that it would transgress to an ungovernable situation.

MR BOOYENS: Can you remember - would you like to add something?

MR JANSE VAN RENSBURG: It was also communicated to me that he apparently would also recruit some youths for training in other countries.

MR BOOYENS: Can you recall whether they possessed certain documents or papers, that is Mr Van Zyl and Mr Du Plessis?

MR JANSE VAN RENSBURG: No, I cannot remember that. It was communicated to me by Mr Du Plessis. I cannot recall which documentation they had.

MR BOOYENS: Mr Van Rensburg, at this stage when they approached you with the final group, what did you tell them to do?

MR JANSE VAN RENSBURG: I told them that they should go to Colonel Snyman for his authorization, for his further instructions.

MR BOOYENS: And you did not accompany them?

MR JANSE VAN RENSBURG: No, I did not.

MR BOOYENS: Did they return to you?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: What did they tell you, anything about Colonel Snyman?

MR JANSE VAN RENSBURG: They told me that Colonel Snyman had approved an operation whereby Mr Goniwe and some of his cohorts would be eliminated.

MR BOOYENS: Did you engage in further discussion regarding - now it is about the how, the when and the where?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: If you would refer to page 27, at the top. You state here that you engaged in discussion with the two and this concerned the modus operandi of the operation. Can you tell us what was said and what occurred?

MR JANSE VAN RENSBURG: Yes, the modus operandi which would be used, was discussed. The modus operandi regarding the execution of the instructions, that the Security Police could not be pointed out.

My opinion was that it should be considered that the operation appear as a robbery or a vigilante attack.

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MR BOOYENS: You also state the AZAPO UDF situation in your statement, what is that?

MR JANSE VAN RENSBURG: At that stage, there was conflict between the AZAPO group and the UDF group which had already led to bloodshed in the black townships of that time in Port Elizabeth.

CHAIRPERSON: What did you think would happen if the operation was a success and the people believed in the situation that you created, that Mr Goniwe and his colleagues were killed by an opposing organisation?

MR JANSE VAN RENSBURG: Mr Chairman, I cannot imagine that we actually considered that. The objective was to divert it away from us.

CHAIRPERSON: But the point is that some of the problems which you considered, were the attacks in the areas where there was unrest.

MR JANSE VAN RENSBURG: That is correct.

CHAIRPERSON: So these murders or would these murders not have aggravated the situation?

MR JANSE VAN RENSBURG: It could possibly have done so.

CHAIRPERSON: Isn't the probability that it would have worsened if the people thought that it was an opposing organisation who carried out these activities?

MR JANSE VAN RENSBURG: It is probable.

MR BOOYENS: Was it considered at that stage?

MR JANSE VAN RENSBURG: No, it was not.

MR BOOYENS: And did it play any kind of role in your discussions, in other words did you want the situation to escalate?

MR JANSE VAN RENSBURG: No, we did not want that. If I recall correctly, the other group, the AZAPO group was by far the minority at that stage, that is my recollection.

MR BOOYENS: So, the planning was undertaken regarding how the operation would be executed and the where and when would have to be a reaction to information received, is that correct?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Can you recall whether you again had contact with them or received any kind of communication with regard to the specific planning for the time and place of the operation?

I beg your pardon, that is a weak question. Did you know beforehand whether they would carry out the operation on the 27th of June?

MR JANSE VAN RENSBURG: No, I did not know that.

MR BOOYENS: When did you hear of that?

MR JANSE VAN RENSBURG: The following morning.

MR BOOYENS: From whom?

MR JANSE VAN RENSBURG: Colonel Snyman and Mr Van Zyl came to tell me that the operation had been executed.

MR BOOYENS: Did they give any particulars regarding who was killed and so forth?

MR JANSE VAN RENSBURG: Yes, they told me who had been killed.

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MR BOOYENS: Did they mention the names of the four deceased?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: Just for clarity sake, I understood that there were more people who were identified in this group?

MR JANSE VAN RENSBURG: That is correct.

MR BOOYENS: This took place in June, and is it correct that during July it was a partial state of emergency that was happening in the Eastern Cape?

MR JANSE VAN RENSBURG: Yes, I can remember something like that?

MR BOOYENS: In so far as your knowledge reaches, was anything or was any action taken to eliminate any other members of the initial group?

MR JANSE VAN RENSBURG: No, there was not.

MR BOOYENS: You discuss the political objectives and motivations on page 28 of your application?

MR JANSE VAN RENSBURG: Yes.

MR BOOYENS: Do you confirm everything that is stated in the application?

MR JANSE VAN RENSBURG: Yes, I confirm this.

MR BOOYENS: If you would return to page 26. The situation as sketched by you in the second paragraph that Major Du Plessis and Captain Van Zyl approached you and that they approached Colonel Snyman after that, is that how you remember the situation?

MR JANSE VAN RENSBURG: Yes. I provided a broader basis of what occurred. My legal counsel said that I would have to provide oral testimony at a later stage where I would provide full details of the events.

MR BOOYENS: So your summary as contained in the second paragraph on page 26 is not entirely complete, is that so?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BOOYENS: Would the Commission grant me a moment? That is the testimony, thank you very much.

CROSS-EXAMINATION BY MR BIZOS: General Van Rensburg, you told the Committee that Colonel Snyman would not have done this unless it was ordered from above?

MR JANSE VAN RENSBURG: Yes, that is how I believe it.

MR BIZOS: Can I take it that you yourself would not have taken part in this unless orders came from above?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: At the time that Mr Snyman told you that Goniwe and his colleagues were to be killed, an order from above, did you ask Colonel Snyman who gave him the order?

MR JANSE VAN RENSBURG: Colonel Snyman did not tell me that he received orders from above. I made the assumption and I did not ask Colonel Snyman who had issued the orders.

MR BIZOS: Now, you see I can understand that he would not have told you the names at the time, but from your knowledge of Colonel Snyman and the sort of person that he is and the way that he behaved, you assumed that somebody had told him. I can understand that at the time, you would not have wanted to ask

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him the name because I assume like all highly illegal activity, the rule of need to know applied. Would you agree with that?

MR JANSE VAN RENSBURG: I would agree.

MR BIZOS: But now, General I want to ask you this. The time of the need to know has passed us, hasn't it?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: And we are now at a stage where we have to in the interests of these proceedings and general reconciliation and for the success of your own application, to be completely open and not protect anyone, would you agree with that?

MR JANSE VAN RENSBURG: Yes, I agree.

MR BIZOS: Now, at the time that you were preparing your applications, and Colonel Snyman is a co-applicant, did you ask him who were the Army people that said that these, what is the word you used, I have it here, these gangsters or words to that effect, should be killed? I will find the word used by the interpreter.

MR JANSE VAN RENSBURG: I think it could have been cohorts.

MR BIZOS: Cohorts, yes, Goniwe and his cohorts. I think that another word was used, but it doesn't matter.

Whilst you were preparing these applications, surely you would have gone to Colonel Snyman and say Harold, we are at the end of the road, we've got to make public admissions that our children and grandchildren have got to hear, let's tell the whole truth, who was it that told you.

Did you go and ask him that?

MR JANSE VAN RENSBURG: Mr Chairman, after I decided to apply for amnesty for these murders, I went to my legal counsel and we prepared a preliminary application.

I then went to Colonel Snyman and I informed him of my intent to apply for amnesty. At that stage, Colonel Snyman did not wish to discuss the matter with me. It was clear to me that he had not yet reconciled the matter with himself to apply for amnesty and he would not discuss it with me at all.

I later was notified through my legal counsel that Colonel Snyman had also applied for amnesty. I initially on a very recent date, heard or saw what his application involved.

MR BIZOS: You have the same Attorney, the same counsel?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: You have a common interest in the outcome of these proceedings?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: Do you realise how important it is for the purposes of full disclosure, that Colonel Snyman and you should not keep anything back?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: When you knew all that and you had the same Attorney and the same counsel, did you go back to Mr Snyman and say it is in the interest of all of us that the identity of the Army people that said at the GBS that Goniwe and his cohorts must be killed, and the person that gave you the order to do this, should become known, did you do that?

MR JANSE VAN RENSBURG: No, I did not do this. As I have already stated I went to see him and he read my preliminary application.

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I asked him if there was any commentary or anything that he wished to add and at that stage he did not wish to discuss it with me at all.

MR BIZOS: Did he specifically say that he did not want to discuss it with you?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Did you ask him why?

MR JANSE VAN RENSBURG: No, it was a difficult situation. The man wouldn't speak to me regarding the matter and I felt that I was unwelcome at that stage.

MR BIZOS: Your applications for amnesty have consecutive numbers, they were handed in at the same time?

MR JANSE VAN RENSBURG: Sir, that may be so but I do not know how my legal counsel handled this. I can only say what happened.

MR BIZOS: Counsel usually do what their clients ask them to do General Van Rensburg, but of your own in order to satisfy your own conscience, in order to come to terms with the full truth, why didn't you ask Mr Snyman from whom did these orders come?

MR JANSE VAN RENSBURG: I did not ask him that.

MR BIZOS: The question is didn't you want to know?

MR JANSE VAN RENSBURG: Yes, I would probably want to know. It could help us all with this application.

MR BIZOS: I would have thought that you would have visited him because we hear he is not well. Did you visit him recently?

MR JANSE VAN RENSBURG: No, I did not.

MR BIZOS: Wouldn't that have been a collegial duty to do, one senior officer to the other when one of them has become apparently terminally ill?

MR JANSE VAN RENSBURG: Sir, the information that I have is that the family of Mr Snyman requested that we respect their privacy and on the basis of that and his condition, I felt that at this stage I should not visit him.

CHAIRPERSON: Mr Van Rensburg, if that is the case, and we all understand how important it was to find out who it was that was actually responsible for this order, didn't you ask your Attorney to ask Snyman if he would not be prepared to disclose the name of the person who issued the order?

MR JANSE VAN RENSBURG: No, I didn't.

CHAIRPERSON: But it is the same Attorney?

MR JANSE VAN RENSBURG: Yes, that is so.

CHAIRPERSON: And it is important to know who this person is?

MR JANSE VAN RENSBURG: It is important sir, but I didn't do it Mr Chairman.

CHAIRPERSON: Why not?

MR JANSE VAN RENSBURG: Mr Chairman, I feel that if Mr Snyman wishes to come forward and disclose the names, that would be what I would want.

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But I did visit him and the impression that I received was that he didn't wish to speak to me regarding the matter, and the choice now lies with him whether he would like to disclose who the person was.

CHAIRPERSON: But if your Attorney had asked him, he wouldn't necessarily be discussing it with you? It appears as if the Attorney would have been welcome there?

MR JANSE VAN RENSBURG: Well, he must have an opinion on that.

CHAIRPERSON: In either event, you didn't do so?

MR JANSE VAN RENSBURG: No, I did not.

MR BIZOS: Mr Chairman, I wish to make known an application at this stage, that I would ask and I suppose our learned friend's consent is necessary and I hope will be forthcoming, we may have to look at the statute in order to see the perimeters of the powers of the Commission if we do not get the cooperation, but I believe that this fact is of such vital importance in relation to these applications, that I am going to ask Mr Chairman, that this witness' evidence should be interrupted by calling Mr Snyman to come and tell us just that.

I do not intend subjecting him to a lengthy cross-examination as I am sure that no one else would want to subject him to any lengthy questioning if his state of health does not permit it, but Mr Chairman, I would suggest that we be given permission to employ a Doctor from a panel of two or three practising here in Port Elizabeth at our request, in cooperation with the Doctor attending to Mr Snyman, to visit him, to determine whether he is in a condition to come to the Committee for a short period and if not, what steps ought to be taken in order that alternative arrangements should be made for the Committee to obtain this vital information from him.

It is so vital Mr Chairman, however ill he may be and however inconvenient it may be for Colonel Snyman in his unfortunate condition, from the point of view of his health, I believe that this is a matter in which this is a vital piece of information that should not be lost Mr Chairman, in the interests of truth and justice.

CHAIRPERSON: Mr Bizos, I want to suggest that the parties get together to determine two things.

(1), whether there is agreement that the evidence of the present witness can be interrupted and -

(2) whether an agreement can be obtained to secure the presence or otherwise of Mr Snyman.

If the parties cannot agree on it, then the Committee will have to make the ruling on the issue.

MR BIZOS: Yes, Mr Chairman, I am in your hands as to whether I proceed now or whether we take a short adjournment.

CHAIRPERSON: I am going to suggest we take a short adjournment to facilitate ...

MR BIZOS: Because there are a number of Doctors on standby, one of whom will have to interrupt his or her practice and I understand that Mr Snyman is not in Port Elizabeth, but in Uitenhage, which is not very far away, but nevertheless it will be an interruption.

The sooner we know, the sooner we know, the better.

CHAIRPERSON: I am going to suggest that you take the next 15 to 20 minutes to see if we can get an agreement. If not, then maybe you can come see me.

MR BOOYENS: Mr Chairman, I think speaking for myself, I think my Attorney's difficulty in this is that he will have to take instructions. We haven't got the client here to take instructions from him in this regard.

I think the 15 to 20 minutes may be a bit short, I don't know. May I suggest that we see what we can sort out and then...

CHAIRPERSON: Mr Booyens, the client that you are referring to is in fact an applicant here, isn't he?

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MR BOOYENS: Yes, that is correct.

CHAIRPERSON: He has then made himself open to giving evidence, isn't it?

MR JANSE VAN RENSBURG: Not necessarily Mr Chairman. As I understand the Act, any person who is an applicant has got the option whether he wants to give evidence, he is not obliged.

CHAIRPERSON: Let us adjourn - you people can discuss it in an attempt to come to some kind of agreement.

MR BOOYENS: No, we will certainly try to come to some type of agreement.

HEARING ADJOURNS

ON RESUMPTION:

CHAIRPERSON: I have been informed by the relevant representatives that attempts are going to be made to secure the attendance of one of the applicants.

I am informed further that he is extremely ill and certain logistical issues need to be attended to. In the circumstances I am going to adjourn his hearing, so as to give them an opportunity to put this into operation and we will reconvene at half past nine tomorrow morning. Thank you.

COMMISSION ADJOURNS

ON RESUMPTION ON 26-02-1998:

MR BOOYENS: Mr Chairman, just before my learned friend starts, I think it should come from my side because I've got the first hand information, we took an early adjournment yesterday to ascertain what the situation is with the applicant, Colonel Snyman.

We have succeeded in speaking to one of the Specialists who is treating him, as well as his General Practitioner. We set out the proposals to the General Practitioner *inter alia* the possibility that evidence in this sort of a Commission like situation can be taken. The General Practitioner then said that he would revert to us and he spoke to two other Specialists who were involved also in the treatment of Mr Snyman, his diagnosis and exploratory operation done on him and the sum total and I am not suggesting that I am putting it in the correct medical terms, the sum total of what we have been told boils down to the following, that his condition of health is so bad at the moment that to subject him to any sort of stressful situation, can cause the disease that he is suffering from, to get more virulent and probably - there is a reasonable possibility that he could accelerate, or decrease his life expectancy.

According to the Doctors we have spoken to, their medical advice is that he should not be subjected to any stressful situation. We have spoken to Snyman, he is very weak, but we have spoken to him as well, and he has indicated that he intends following the advice of his medical personnel.

We have invited my learned friend to, in arrangement with Snyman's own Doctor, arrangements that can be made through the Attorneys, to have Mr Snyman examined if they feel they want to do so on a time that is mutually convenient to all parties. The Doctors would obviously have to arrange, we are not going to be present at a medical examination.

So the situation at this stage is that my learned friend and I then spoke to each other yesterday afternoon, and we were in fact advised this morning that they are considering the possibility of doing that tomorrow morning. That is so far as the situation was yesterday.

MR BIZOS: Mr Chairman, we have made attempts to obtain the services of a duly qualified medical practitioner to visit Mr Snyman. Arrangements have been made I understand for it to take place at eight o'clock tomorrow morning.

I would suggest that we leave the matter over until we have had a report from the medical practitioner of our clients' choice and we proceed today with the examination of the witness that is now being examined.

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CHAIRPERSON: I don't suppose we've got much choice in the circumstances, so let us proceed on the basis you suggest.

MR BIZOS: I may indicate that we are also in the process of examining alternative solutions such as for instance a statement being taken from Mr Snyman. The information that we are seeking is important and I do not believe that we should lose it because it is absolutely vital to this whole process.

We are not unmindful, nor lacking in consideration for his health, but on the other hand, we will make if agreement is not reached, specific proposals if we are advised by our own medical practitioner that it would be unwise for him to come here, we will make specific proposals to get the information which we consider to be vital, even if he does not attend the hearing.

NICOLAAS JAKOBUS JANSE VAN RENSBURG: (s.u.o)

CROSS-EXAMINATION BY MR BIZOS: (cont)

Mr Van Rensburg, you told us that as Mr Snyman's deputy from time to time, you attended the meetings of the Joint Management Centre. I will refer to the Afrikaans abbreviation GBS throughout my - is that correct?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: There were not only plenary sessions of GBS, there were also sub-committees of GBS to deal with different aspects?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: Was there a special committee from which the Department of Education and the SABC and other representatives which did not emanate from the security apparatus, were excluded, were there such meetings?

MR JANSE VAN RENSBURG: Yes, there were.

MR BIZOS: What was the name of that sub-committee?

MR JANSE VAN RENSBURG: That was the JIC, the Joint Information Centre.

MR BIZOS: And did you attend any of those meetings?

MR JANSE VAN RENSBURG: Yes, I did.

MR BIZOS: Who were represented at these meetings, the Information Centre meetings?

MR JANSE VAN RENSBURG: As far as I can recall it was only the Police and when I say the Police I think it was only the Security Branch and the Defence Force.

MR BIZOS: And on vital questions of security, it was this sub-committee of the GBS that really had the serious discussions and the serious decisions were made?

MR JANSE VAN RENSBURG: Yes. You are correct. I can't recall serious or important decisions taken as such. I suppose one could say there were decisions but these decisions were then referred to Pretoria.

How can I put it, these were proposals.

MR BIZOS: Proposals?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: The proposals from this Information Centre would go through to Pretoria for their information and their advice and direction in relation to what may happen later?

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MR JANSE VAN RENSBURG: That is correct.

ADV BOSMAN: Mr Bizos, may I just come in here for a second please. May I just interrupt you for a moment?

MR BIZOS: Yes, of course.

ADV BOSMAN: Thank you. Mr Van Rensburg, this information or intelligence proposal emanating from the JIC, did you get any feedback lower down the chain of command in the PE Security Branch?

MR JANSE VAN RENSBURG: If instructions were received from above, yes, then feedback would be given.

ADV BOSMAN: I am not talking about instructions. I am talking about the whole import of what was discussed at these meetings, was that communicated lower down the levels or was it privileged information?

MR JANSE VAN RENSBURG: It was reported lower down the levels where it was relevant. If a particular section of the Security Police or some other component of the Police, if they had to attend to a particular matter, then it would be reported to them.

CHAIRPERSON: What about policy Mr Van Rensburg? The policy emanating from the JIC, was that conveyed to the people below you?

MR JANSE VAN RENSBURG: Mr Chairman, I can't say that policy was formulated there as such. The Police had its own policy and at these meetings certain information was discussed and what the problems were at that time and possible solutions to these problems, and that was reported back to Pretoria and Pretoria from time to time gave their feedback as to how they saw the matter and perhaps they also gave instructions in regard to certain matters.

The men lower down, the footsoldiers, did not receive all the information which was discussed there at that level. What was important and relevant to them, was given to them, but not everything.

MR BIZOS: The question of how to put an end to the unrest and the unsatisfactorily security situation, would this be discussed in the JMC or in the Information sub-committee or both?

MR JANSE VAN RENSBURG: Sir, the problems surrounding for instance school boycotts and the like, that would have been dealt with by the person representing that government department or he would have been present as well.

The JIC concentrated more specifically on how to actually stop the rioting and the unrest on the ground, in other words the physical unrest situation, how to deal with that.

MR BIZOS: Let us just take a concrete example. Your evidence was that Colonel Snyman reported that there was discussion at the JMC in which the Defence Force people in the JMC put the Security Police under pressure and suggested that the Security Police were unable to stabilise the position. Do you recall that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Now, would that have been a discussion at the JMC or the JIC?

MR JANSE VAN RENSBURG: I don't know.

MR BIZOS: Where would it have been suggested that the Army personnel only appeared to be able to possibly eliminate the hooligans amongst them, where would that discussion have taken place?

MR JANSE VAN RENSBURG: I don't know about that.

MR BIZOS: This is what you said.

MR JANSE VAN RENSBURG: I can't recall that.

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MR BIZOS: The record will speak for itself, but I ...

MR JANSE VAN RENSBURG: Perhaps I am misunderstanding you, I am not quite sure.

MR BIZOS: Well, let me repeat the effect of it. The effect of it was that the Army personnel at this meeting suggested that because of the inability of the Security Police to eliminate the "trawante", if you don't like the word hooligans, the word hooligans was used by the interpreter and it made an impression on me, but don't let's argue about words, where would that have been discussed?

MR JANSE VAN RENSBURG: My recollection of that is that Mr Snyman told me that that took place during private discussions of the Force.

MR BIZOS: With members of the Force?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Not at a meeting?

MR JANSE VAN RENSBURG: No.

MR BIZOS: Now, who were the members of the Force in JMC? Who were the regular people that attended the JMC meetings who came from the Defence Force?

MR JANSE VAN RENSBURG: The people that I can remember were Brigadier van der Westhuizen, there was a person Van Aswegen was his surname, and Du Plessis.

MR BIZOS: Let us just take that in a little more detail. The top Army man was Brigadier van der Westhuizen?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: He was the Chairman of the JMC?

MR JANSE VAN RENSBURG: Correct.

MR BIZOS: And one would have expected him as Chairman, to yield influence at least on the other members of the Army that may have been present at any given time, at the JMC or the sub-committee relating to information?

MR JANSE VAN RENSBURG: Yes, that is true.

MR BIZOS: When Colonel Snyman told you that this is what the soldiers were saying, did you understand him to mean Mr Van der Westhuizen and his junior officers involved in JIC?

MR JANSE VAN RENSBURG: I can't recall what I understood that to mean, but I wasn't quite sure whether it was said at the JIC and what Colonel Snyman meant exactly or whether there was a private discussion with JIC members.

He referred to Defence Force members, I don't know who they were.

MR BIZOS: Well, this was a very important accusation that was made against the Security Police of whom you were the number 2 person.

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: Didn't you ask Mr Snyman who are these people from the South African Defence Force accusing us of incompetence and claiming the right to be in a better position to eliminate people better than we can, did you ask him that?

MR JANSE VAN RENSBURG: No, I did not ask him that.

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MR BIZOS: Why not?

MR JANSE VAN RENSBURG: I just didn't ask him that.

MR BIZOS: Wasn't your professional pride hurt by this accusation?

MR JANSE VAN RENSBURG: No, I would not put it that way.

MR BIZOS: How would you put it?

MR JANSE VAN RENSBURG: I can't comment on that. I ...

MR BIZOS: Wouldn't the natural thing by a professional person such as yourself be, when you were being insulted in your professional capacity, that you would want to know who is it that made such a serious accusation against us?

MR JANSE VAN RENSBURG: I didn't even ask who these people were.

MR BIZOS: Yes, you have told us that and one of the issues here General Van Rensburg, is whether you can be believed or not.

It will help the Committee to believe you or not to believe you I would submit, if you told them why you did not ask Mr Snyman the obvious question.

MR JANSE VAN RENSBURG: I can't tell you, I didn't ask him that.

MR BIZOS: Could you try and put a date on when Mr Snyman said this to you?

MR JANSE VAN RENSBURG: I can't give you an exact date. If I have to make certain inferences, I would say it had to be approximately two to three weeks before Mr Goniwe and his colleagues were eliminated.

MR BIZOS: Yes, and that would have been the time when you asked for Mr Du Plessis and Mr Van Zyl to come to you and make a plan?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Now three weeks would have been the week during the 6th of June 1985.

MR JANSE VAN RENSBURG: I will accept that.

MR BIZOS: It would have been the day or certainly during the week when the signal asking for a death warrant for Goniwe, Calata and Mkonto?

MR JANSE VAN RENSBURG: Yes, I will accept that. I wasn't aware of such a signal, but I will assume or I will accept that there was such a signal as a result of what I learnt later.

MR BIZOS: Yes, well let us just get the date sequence correctly and then we can carry on.

MR BOOYENS: Mr Chairman, just a matter of record. I don't think my learned friend did that deliberately, the copy of the signal appearing at page 101, 102, actually doesn't talk about Mkonto, it talks about the two Goniwe's and Calata.

MR BIZOS: I beg your pardon, yes, I beg your pardon. Calata and Mbolelo Goniwe. I am sorry it was a mistake, but it is not relevant to the issue, but thank you for correcting me.

You see here is - Mr Van der Westhuizen, will you turn to page 101 of your application. We know that it is the 7th of June, and it is at or about the time that two other things happened.

When Mr Snyman told you that the soldiers were saying that the Security Police can't be trusted any more to eliminate people, and when you said make a plan in order to eliminate Goniwe and his cohorts. Do you agree

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with that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: It is more or less the same time?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Now, listen to what this says. "Personally" - have a look at the bottom of page 101 - "personally for General Van Rensburg, telephone conversation General Van Rensburg, Brigadier van der Westhuizen on the 7th of June 1985, refers."

Now, that speaks for itself that there was a telephone discussion between General Van Rensburg of the Secretariat of the Security Council and the Chairman of GOS in Port Elizabeth, do you accept that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: This happened at or about the same time as the other two things happened?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And names as follows: Matthew Goniwe, Mbolelo Goniwe, brother or cousin of the abovementioned, and Fort Calata.

Now these three persons had been identified by you, your Security Police in Port Elizabeth and recommended for a banning order in 1984, which was in fact issued?

MR JANSE VAN RENSBURG: Yes, Mr Chairman I know of the order as far as Mr Matthew Goniwe is concerned, but I am not sure whether Mr Mbolelo Goniwe and Mr Fort Calata whether they, whether these orders were served on them.

MR BIZOS: Well, any way the document shows that they were identified and placed together for this purpose?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Now, the Chairman of GOS at about the time that you were told that you were incompetent to eliminate people and at the time more or less when you told your people to make a plan, the Chairman of GOS then Brigadier Van der Westhuizen says to General Van Rensburg of the Security Council Secretariat in Pretoria, "it is proposed that the abovementioned persons be removed from society permanently as a matter of urgency."

I want you to please put your hat on as an Investigating Officer, and you were looking for the murderers of Goniwe after the event, and you had this three bits of information that I gave you. Who would you say requested the murder of Goniwe, his brother Goniwe and Calata?

MR JANSE VAN RENSBURG: Sir, I would have to suspect Brigadier Van der Westhuizen, I would have to seriously suspect him.

MR BIZOS: Seriously suspect him, yes?

MR JANSE VAN RENSBURG: If, of course, if the report is interpreted correctly.

MR BIZOS: If the information is correct?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And if General Van der Westhuizen admitted that although he may have meant something else, which Judge Zietsman rejected, he did send the signal. Would you be satisfied that there was at least a take for you to take before the Attorney-General for the arrest of General Van der Westhuizen?

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MR JANSE VAN RENSBURG: Yes, I would obviously have wanted to send more proof to the Attorney-General, but I would have consulted with him.

MR BIZOS: Your job as a good Detective would have pointed at General Van der Westhuizen's guilt for inciting or initiating the procedure of murdering the two Goniwe's and Mr Calata?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: If you had evidence that General Van Rensburg, not you, the other Van Rensburg at the Secretariat of the State Security Council, that he gave contradictory evidence as to what he did with this signal, would you add him into the list of prime suspects?

MR JANSE VAN RENSBURG: Yes, I would have.

MR BIZOS: And presumably those working in close cooperation with these two Generals at the time that these facts became known, would also be suspects and possibly approached as witnesses to give evidence against their Generals?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Is it not clear to you now that these facts have become known that if there was an order from above, it was most certainly ...

CHAIRPERSON: Mr Bizos, you mean Pretoria?

MR BIZOS: Pretoria?

CHAIRPERSON: Not above?

MR BIZOS: No, these are acts of men, not of the gods Mr Chairman.

It is clear that you were in effect used as nothing more than the doers of the act that must of necessity have been authorised by the Secretariat of the Security Council?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Yes. Mr Vlok was in Port Elizabeth or was concerned with this matter, attended a meeting - could I just check where it was, whether it was in Port Elizabeth or Pretoria, one moment please - in Pretoria.

Mr Vlok was in a meeting in Pretoria. I want to refer to the Exhibit number. We will just get the exact words, but we needn't delay.

Mr Vlok was at a meeting on the 6th, now which is also round about this time, this vital period around the 6th and 7th of June 1985. It would appear that there were telephone calls from Pretoria, the signal makes it clear does it not, that there were telephone calls before the signal was sent, because it says the telephone conversation refers, do you remember that at the bottom of 101?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BIZOS: Here we have a situation which I would like your comment on, that Mr Van Rensburg of the Secretariat of the Security Council suggests - well refers to a conversation and in response he gets a request for a death warrant and at the meeting attended by Mr Vlok, a decision is made in order to appoint a committee to investigate whether or not Mr Goniwe should be reappointed to his post.

Now, what did you know about the steps to reappoint him to his post?

MR JANSE VAN RENSBURG: All that I know regarding that is that the Security Branch in Port Elizabeth was opposed to it.

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MR BIZOS: Yes, because you must know the document dated the 23rd of May which is before the Committee, as Exhibit what was referred to during the inquest as the "nooit ooit" document, that never must be - our list of Exhibits and Exhibits have been left in a car Mr Chairman.

MR BOOYENS: I think it is Exhibit C, that Goniwe and Calata would never again be reappointed?

MR BIZOS: That was the attitude of the Security Police, Exhibit C. Yes, and then here we have deputy Minister Vlok where I told you with many Generals and Brigadiers, I didn't tell you I referred it to Mr Van Zyl, and the proposal is that decision (1) after discussion of the Goniwe case, it is decided that a committee under leadership of the SCR regarding the fate of Goniwe would make a decision and would make a submission on the 12th of June 1985.

We are told that this was a committee appointed the next day or the day after in order to decide whether Mr Goniwe should be reappointed or not. You must agree with me obvious General Van Rensburg, that the signal on the one hand to which the Secretary of the Secretariat of the Security Council was present and a committee should be appointed in order to investigate whether he should be reinstated or not, are as far apart as Cape Town to Messina?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Now, if you had been given these facts would you have requested or ordered or suggested to Mr Du Plessis and Mr Van Zyl, that they should put a plan into motion to eliminate Mr Goniwe and one or other of his cohorts?

MR JANSE VAN RENSBURG: Sir, I have no knowledge of that meeting in Pretoria.

MR BIZOS: Well, then let me accept your answer General, that you didn't know about it.

Would it not follow that either the left hand didn't know what the right hand was doing, which is unlikely in view of the fact that General Van Rensburg of the State Security Council that was responsible for the detail putting together the committee and the same Van Rensburg having received a signal that should be killed, that somebody or a number of people were playing a double game?

MR JANSE VAN RENSBURG: I cannot comment on that. I do not know what occurred there. I could agree with you yes, it appears to be a double game that creates the impression, but personally I do not know anything about it.

MR BIZOS: Yes. You see, we would have a situation would we not if there is any truth in the suggestion that there was a serious attempt to decide whether Mr Goniwe should be reappointed or not, that General Van Rensburg of the Secretariat of the Security Council, would not have disclosed the fact of the signal to Mr Vlok who attended the meeting of the 6th about a burning issue which the Deputy Minister was concerned about, the Security Council was concerned about, the Secretariat of the Security Council was concerned about and the Chairman of GOS in Port Elizabeth was concerned about.

How could there be these two contradictory processes going on?

MR JANSE VAN RENSBURG: That I cannot explain.

MR BIZOS: Well, let me ask you you cannot explain it because you do not know the facts, but assume that the facts are that I have given you, clearly appear from the documents that were produced at the inquest, and now that we know that Goniwe and his friends were killed, put on your cap as an Investigating Officer again, looking to find the truth.

Would you not say that either the Security Council including the Deputy Minister knew about this and had authorised it or the Secretariat of the Security Council in the name of General Van Rensburg was playing a double game?

MR JANSE VAN RENSBURG: That is possible.

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MR BIZOS: Yes. But now let us take into consideration what you did General. Do I understand that as a result of your discussion with Mr Snyman, it was decided to make a plan to kill Mr Goniwe, plus how many others, you tell me please?

MR JANSE VAN RENSBURG: It was never said how many others apart from Mr Goniwe. It was said that it would be Mr Goniwe and the persons surrounding him who along with him, created the situation.

MR BIZOS: Well, and no other names were mentioned either by you or Mr Snyman?

MR JANSE VAN RENSBURG: No, I cannot recall. Mr Snyman as far as I can remember did not mention any other names. I can't recall whether I mentioned other names.

My recollection is that we spoke of Goniwe and his confidants.

MR BIZOS: His confidants, very well. And this was an open mandate given to Mr Du Plessis and Mr Van Zyl?

MR JANSE VAN RENSBURG: I don't believe that it was at that stage with regard to who, apart from Mr Goniwe, it was said that they should investigate who else would have to be removed or eliminated.

CHAIRPERSON: Did they ever report to you sir, we have done what you asked us to do, here are the names?

MR JANSE VAN RENSBURG: Yes, they did.

CHAIRPERSON: When would that have been?

MR JANSE VAN RENSBURG: That was approximately a week before the elimination was carried out. I can really not remember with certainty when I issued Colonel Snyman's order, whether the names of Fort Calata and Sparrow Mkonto emerged, I cannot recall that specifically.

MR BIZOS: Yes. Now, from the moment that you told them to make a plan, do you say that Du Plessis and Van Zyl had authority if the occasion arose, to put the plan into operation and execute it?

MR JANSE VAN RENSBURG: No. Colonel Snyman said that I should tell the members that they shouldn't go over into action before they had cleared it with him finally.

MR BIZOS: Did they have to go to Snyman more than once?

MR JANSE VAN RENSBURG: They could surely have gone to him. I do not know whether or not they visited him more than once.

CHAIRPERSON: But Mr Van Rensburg, did you tell them before the operation was put into operation, that they should come into contact with Colonel Snyman?

MR JANSE VAN RENSBURG: That is correct.

CHAIRPERSON: Do you know whether or not they did so?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: When do you say that they did so, because I do not recall Mr Van Zyl telling us that they went to Mr Snyman more than once?

MR BOOYENS: No, but this witness doesn't say they went to him more than once either, Mr Chairman.

CHAIRPERSON: Excuse me, Mr Booyens?

MR BOOYENS: I am saying, this witness didn't testify that they went to Colonel Snyman more than once either, I think there is a misunderstanding here.

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MR BIZOS: Well, let's clarify it. I thought it was so. What do you say, did Du Plessis and Van Zyl go to Snyman once only when they were told do what is best for South Africa, or do you say that they went back to him thereafter as well?

MR JANSE VAN RENSBURG: Sir, I know of the one case. I am saying that it is possible that they were there more than once, but I only know of the one case.

MR BIZOS: And if Mr Van Zyl didn't tell us about another case, we can assume that they only went to Mr Snyman once for the purposes of getting authorization, correct?

MR JANSE VAN RENSBURG: That is as far as I know.

MR BIZOS: And the authorization was do the best, what you think is best for South Africa, is that correct?

MR JANSE VAN RENSBURG: Well, I accept it as that.

MR BIZOS: Because presumably that was what was reported back to you if we are to believe Mr Van Zyl?

MR JANSE VAN RENSBURG: Yes, I cannot recall what his exact words were when he reported back to me. What I can remember is that it was reported back to me that Colonel Snyman had given the final approval for the operation or the final order.

MR BIZOS: Yes. The operation was to put the plan into operation in relation to Mr Goniwe if it was in the best interest of South Africa.

There was no mandate as to precisely who was going to be killed from Mr Snyman?

MR JANSE VAN RENSBURG: No, that I cannot say. When Mr Van Zyl and Mr Du Plessis returned to me, they told me that Mr Snyman had given the final approval for the operation with regard to any of those persons that they had suggested to him for elimination.

MR BIZOS: But, I do not recall Mr Van Zyl telling us that a list of persons was given to Colonel Snyman?

MR JANSE VAN RENSBURG: I can't recall whether a list of names was supplied to Colonel Snyman or whether the names were orally or verbally communicated to him.

CHAIRPERSON: Mr Van Rensburg, why would they have returned to you with the names during that week?

MR JANSE VAN RENSBURG: Sir, because originally the instruction was to determine who the persons were that should be eliminated with Goniwe.

CHAIRPERSON: That was your instruction?

MR JANSE VAN RENSBURG: From Colonel Snyman to them.

CHAIRPERSON: Through you?

MR JANSE VAN RENSBURG: Yes, I told this to them.

CHAIRPERSON: And they returned to you with names?

MR JANSE VAN RENSBURG: That is correct.

CHAIRPERSON: What did you say regarding these names?

MR JANSE VAN RENSBURG: Well, I said that - I can't recall how many names there were - they broadly explained to me that these were the persons who were causing problems and who they deemed it necessary to be eliminated.

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Names were mentioned to me and I was satisfied that they had identified the correct individuals, I was satisfied with the information and I told them to go to Colonel Snyman in order to get the final approval for the operation.

CHAIRPERSON: That is a week before the incident?

MR JANSE VAN RENSBURG: Approximately a week before the incident.

CHAIRPERSON: Did they go?

MR JANSE VAN RENSBURG: Yes.

CHAIRPERSON: Is that the first time that they went to Colonel Snyman?

MR JANSE VAN RENSBURG: To my knowledge.

CHAIRPERSON: Thank you.

MR BIZOS: But wouldn't they have gone to Colonel Snyman at the time that you told them to make the plan?

MR JANSE VAN RENSBURG: Sir, I don't know if they went. I simply communicated to them what Colonel Snyman had said and to my knowledge, they accepted it as such.

MR BIZOS: The mandate that you gave them, and the mandate that they got from Snyman, if Van Zyl's evidence is to be believed, was an open-ended one. Would you agree with that?

MR JANSE VAN RENSBURG: Sir, I don't know about an open mandate, what was communicated to me was that persons had to be identified who were involved. Not simply any person.

MR BIZOS: Yes. Was there anything as formal as the signal which apparently seems to have required specific identification of the people that had to be eliminated. Did that not apply to the Security Police in Port Elizabeth?

MR JANSE VAN RENSBURG: Sir, I am not following you.

MR BIZOS: Have a look at the signal, there it seems to suggest, you know when they wanted people eliminated, they named them.

MR JANSE VAN RENSBURG: Yes, I can see it.

MR BIZOS: Now was there no similar, was there no similar procedure in your department so that people were not condemned to death on a loose and untidy way so to speak, but properly identified after due consideration?

MR JANSE VAN RENSBURG: Sir, I do not know about that. The names that appear here, are also names which were mentioned at the Security Branch, Colonel Snyman and Colonel Du Plessis and there were other names as well.

CHAIRPERSON: Mr Van Rensburg, tell me, what was the point of your juniors coming to report to you about what they had discovered as a result of your instruction to them, in respect of those people who were friends of Mr Goniwe?

MR JANSE VAN RENSBURG: I do not follow.

CHAIRPERSON: Why did they come to report back to you and Snyman?

MR JANSE VAN RENSBURG: To ensure that they would eliminate identified individuals, not just anybody.

And to determine whether or not they would be able to execute such an operation as desired.

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CHAIRPERSON: So specific names must have been approved with them?

MR JANSE VAN RENSBURG: Yes.

CHAIRPERSON: Did you approve specific people?

MR JANSE VAN RENSBURG: No, I did not approve specific individuals as such. As I have already mentioned, names were given and if any combination of those individuals would be found at a given point in time, they would be eliminated.

CHAIRPERSON: So, you are saying you never approved of the elimination of these specific people?

MR JANSE VAN RENSBURG: Yes, through Colonel Snyman.

CHAIRPERSON: I don't follow you.

MR JANSE VAN RENSBURG: When they came to me with their information and with the information that we already had regarding these individuals and determined that these were the activists who were causing problems, and that they should be eliminated.

CHAIRPERSON: So in so far as you could authorise those killings, you did?

MR JANSE VAN RENSBURG: Yes, I suppose one could put it that way with the condition that the Commanding Officer first had to place his seal there on.

MR BIZOS: Is that Snyman?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: Now, let me just get clarity. When Du Plessis, when you called Du Plessis and Van Zyl in, they mentioned Goniwe and his cohorts?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And you didn't identify any one other than Goniwe?

MR JANSE VAN RENSBURG: Myself?

MR BIZOS: Yourself?

MR JANSE VAN RENSBURG: Not that I can recall.

MR BIZOS: And there was no instruction from you to go and get authorization for Goniwe and other specific persons, but merely general authorization of his cohorts?

MR JANSE VAN RENSBURG: No, when they returned to me with certain names ...

MR BIZOS: I see this is what you are saying, so that they had to go to Snyman to obtain permission for the operation, Goniwe and others?

MR JANSE VAN RENSBURG: No.

MR BIZOS: What did they have to ask Snyman for?

MR JANSE VAN RENSBURG: Okay, perhaps I did not understand you correctly. In this regard Goniwe and six or seven other names ...

MR BIZOS: That is what you said, you say Goniwe and six or seven other names.

MR JANSE VAN RENSBURG: I didn't say that, six or seven other names were put to me.

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MR BIZOS: Was this three weeks before the death?

MR JANSE VAN RENSBURG: No, approximately a week before the death.

MR BIZOS: Now, originally when you called them in, what did you tell them?

MR JANSE VAN RENSBURG: I told them that Colonel Snyman had requested that they determine exactly who the cohorts of Goniwe were, who were creating the situation of unrest and that they should identify the correct individuals and monitor their movements and try to eliminate these individuals in an unobtrusive manner.

MR BIZOS: Did you ever ...

CHAIRPERSON: At that stage, was there any talk that they should contact Colonel Snyman with regards to this operation?

MR JANSE VAN RENSBURG: Mr Snyman had stated it ...

CHAIRPERSON: At that stage when you told them to monitor these people in order to determine who should be eliminated, that conversation, did you tell them that they should go and see Colonel Snyman regarding this operation?

MR JANSE VAN RENSBURG: I cannot recall that I told them that specifically, but I told them that the final approval had to be obtained from Colonel Snyman personally.

CHAIRPERSON: Is this when you told them about monitoring the individuals?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Let us try and get you to answer the question in another way, put it another way in the hope of getting clarity.

As to who was going to be killed, as to precisely who was going to be killed, did that have to be approved by Snyman or not?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Yes. And without Snyman's approval, nobody could be killed?

MR JANSE VAN RENSBURG: That is so.

MR BIZOS: And if anybody killed anyone other than persons identified to Snyman, that killing would not have been authorised?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BIZOS: In order that there should have been specific authorization from Snyman, there would have had to have been more than one visit by Van Zyl and Du Plessis to Snyman?

MR JANSE VAN RENSBURG: That is possible, I don't know.

MR BIZOS: It follows from the versions that we have heard.

MR BOOYENS: With respect Mr Chairman, not necessarily.

MR BIZOS: Well, we will argue it, we will argue it. It was an argumentative question.

But now, let me read to you what the application of Mr Van Zyl says in paragraph 8 of page 47.

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"Several weeks before the 27th of June 1985, Lieutenant Colonel Van Rensburg, second in command of the Security Branch, Division Eastern Province told me in his office that a drastic plan had to be devised with Matthew Goniwe and his most prominent cohorts."

Do you agree with that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Further -

"Because they were creating a situation of total anarchy in the rural Eastern Cape. I assumed that he indicated that the activists should be eliminated, seeing as he would express it clearly if he meant that they should be detained. I discussed this later with Major Du Plessis specifically referring to Goniwe, Calata and Mkonto. Major Du Plessis accompanied me to Lieutenant Colonel Van Rensburg's office at one stage, where Colonel Van Rensburg emphasised it that Colonel Snyman the Commander of the Security Branch, Division Eastern Province, had to approve the elimination of the activists. Myself and Major Du Plessis went to the Colonel Snyman's office, where we briefly discussed the matter, seeing as Colonel Snyman was up to date regarding the activities of all the relevant activists. Colonel Snyman, who I had always regarded as a soft-hearted person, said that we should do what would be in the interests of the Republic of South Africa. We regarded this as the official authorization of the operation. Myself and Major Du Plessis subsequently returned to the office of Lieutenant Colonel Van Rensburg and informed him that Colonel Snyman had approved the operation".

Do you agree with the contents of that paragraph?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Do you agree that he only speaks of one visit to Colonel Snyman?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Do you agree that this only date that they mentioned there, is a few weeks before the 27th and that the agreement of Mr Snyman was obtained at that time to the operation?

MR JANSE VAN RENSBURG: I cannot argue what is contained in this paragraph, but my recollection is that they visited me approximately a week before the operation was executed, and then went to Colonel Snyman.

MR BIZOS: But you see there that they say that three names were specified right at the beginning.

MR JANSE VAN RENSBURG: Sir, it is possible that they had those three names in mind after they had spoken to me, or after I had spoken to Colonel Snyman and that he then went to Mr Du Plessis and that those were the two names, apart from Goniwe's, which immediately came to mind.

MR BIZOS: Surely, you are not going to tell the Committee, General Van Rensburg, that a mandate would have been given by Colonel Snyman to kill unnamed persons?

MR JANSE VAN RENSBURG: I don't believe that Colonel Snyman had it in mind to eliminate unidentified or unnamed persons. He wanted to make dead sure that the persons who had been creating the problems, be eliminated.

I am convinced that Colonel Snyman within himself, as a result of information which he possessed, had certain people in mind.

MR BIZOS: But you see, have a look at page 59, in the application of Mr Du Plessis. Have you got it?

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MR JANSE VAN RENSBURG: yes.

MR BIZOS: How does your evidence square up with the second paragraph on page 59? "On an unknown date before the 27th of June, 1985, General Van Rensburg informed me that he had discussed the possible elimination of Goniwe and other activists, with Captain Van Zyl. He did emphasise however, that Colonel Snyman would have to approve it. Myself and Captain van Zyl discussed the matter fully with Colonel Snyman for a number of days after this, and informed him that the only manner in which the Eastern Cape and surrounding areas could be stabilised, would be to go to the extreme and eliminate the above-mentioned activists. He said that we should continue and do what would be in the interest of the RSA. We regarded this as the official authorization for the operation. Myself and Captain Van Zyl, after our visit to Colonel Snyman, returned to the office of Lieutenant Colonel Van Rensburg, and informed him that the proposed operation for the elimination of the Cradock 4 had been approved by the Commanding Officer." How do you reconcile your evidence with the contents of this paragraph?

MR JANSE VAN RENSBURG: In what regard do you mean?

MR BIZOS: Well, let us take the obvious for a man of your standing and experience.

Although a specific date is not mentioned, the unknown date must be round about the 7th of June, according to your evidence, according to the evidence of Van Zyl, can we accept that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And they went to Colonel Snyman "a few days thereafter", does that make sense to you?

MR JANSE VAN RENSBURG: That could have been that way.

MR BIZOS: Yes, but then he says that after their visit, they returned to you. He doesn't speak about a second visit to Snyman.

So the visit to Snyman must have been a couple of days after the 7th of June, before the investigation had been done?

MR JANSE VAN RENSBURG: Sir, I know nothing of this. It is possible, but I don't know anything about it.

MR BIZOS: Do you agree that this does not square up with your evidence that there was a second visit to Mr Snyman for him to authorise specific names?

MR JANSE VAN RENSBURG: I do not mention it in my application, because I didn't know that such a visit had taken place.

MR BIZOS: And this is in accordance, and I don't want to read it out, that there was no second visit, on page 37 to 38 of your own evidence.

MR JANSE VAN RENSBURG: Yes, that is what I said.

MR BIZOS: Why did you in answer to my questions as to whether Snyman had authorised unspecified persons, say no, they were authorised after the investigation and that you were informed of this about a week before the killing? Why did you make that up?

MR JANSE VAN RENSBURG: No, I didn't fabricate anything. All I said is that I issued the instructions to Du Plessis and Van Zyl, as it had been communicated to me by Colonel Snyman.

After that, they satisfied themselves by finding those who had to be eliminated. They returned to me with the information and I advised them to go to Colonel Snyman to determine the final decision regarding this elimination.

MR BIZOS: You know why you tried to give that impression that there was a second, you made the statement that there was a second visit to Mr Snyman, General?

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MR BOOYENS: Mr Chairman, he never said there was a second visit. He said he knows only about one, there might have been another visit. To say to the witness that he said there was a second meeting, visit, is not correct, that was never his evidence.

It doesn't even appear in his application.

MR BIZOS: Well, let us assume that you did not say it or you did not imply it, which I do not agree with on your previous evidence, but if you say that you don't know whether it happened or not.

Was it not necessary for Mr Snyman to authorise the death of specific persons and not persons that may have fallen into a particular class, in accordance with the opinion of his juniors?

MR JANSE VAN RENSBURG: Mr Snyman, as I have already said, asked that these people come and tell him specifically who was responsible for that current situation. That is what they did and on the basis of that, Colonel Snyman granted approval and that is as far as my knowledge goes.

CHAIRPERSON: Mr Van Rensburg, according to Mr Du Plessis' statement, the matter was discussed with him and you discussed it with him. He also says in his application that when you discussed it with him, you indicated that Colonel Snyman would have to grant approval for the operation.

MR JANSE VAN RENSBURG: I said so?

CHAIRPERSON: He said that you indicated this. In his statement he continues to say that him and Van Zyl, although he doesn't have a date, went to Colonel Snyman at some stage, where they were granted the official approval.

And it was then that they returned to you and informed you that the Commanding Officer had approved the elimination of the Cradock 4.

Then there can only be one discussion with Snyman?

MR JANSE VAN RENSBURG: That is what I know.

CHAIRPERSON: Then when did that occur?

MR JANSE VAN RENSBURG: According to my knowledge, that was approximately a week before the elimination was carried out.

CHAIRPERSON: But did they not return to you with the names?

MR JANSE VAN RENSBURG: Yes, they did.

CHAIRPERSON: Are you certain, because that is not the impression which was created by Mr Du Plessis' statements?

MR JANSE VAN RENSBURG: Well, I cannot speak for Mr Du Plessis, but that is how I have the facts.

CHAIRPERSON: Very well. Mr Bizos, can we - or do you want to carry on?

MR BIZOS: It is in order Mr Chairman.

COMMISSION ADJOURNS

ON RESUMPTION:

NICOLAAS JAKOBUS JANSE VAN RENSBURG: (sworn states)

CROSS-EXAMINATION BY MR BIZOS: (cont)

Did you know anything about Mr Mhlawuli a day or two after the 7th of June?

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MR JANSE VAN RENSBURG: I can't recall.

MR BIZOS: During June 1985, did you communicate with Mr Eric Winter in Cradock at all, either on the telephone, or personally or any other manner?

MR JANSE VAN RENSBURG: No, I can't recall anything like that.

MR BIZOS: During June 1985, and before the killing of the four people in that motor car, did you speak to the Head or any other person in the Security Police in the Southwest Districts, and more particularly Oudtshoorn?

MR JANSE VAN RENSBURG: Not as far as I can recall.

MR BIZOS: Did any file relating to Mr Mhlawuli appear on your desk containing information about him?

MR JANSE VAN RENSBURG: Not, that as far as I can recall.

CHAIRPERSON: Mr Van Rensburg, what do you mean ...

MR BIZOS: Did anybody show you a photograph ...

CHAIRPERSON: What do you mean when you say not as far as you can recall? Is it possible that that could have happened?

MR JANSE VAN RENSBURG: It is possible, but I can't remember it.

CHAIRPERSON: But, if you had spoken to the people in Oudtshoorn, regarding Mr Mhlawuli, then surely there would have been a formal file on him at that time?

MR JANSE VAN RENSBURG: No, perhaps a formal file, but not what is referred to as a personal file. I can't recall speaking to them about Mr Mhlawuli. I can't recall it, it is possible, I just can't remember.

MR BIZOS: Was any photographs shown to you or any scraps of paper on anybody's desk shown to you, relating to Mr Mhlawuli?

MR JANSE VAN RENSBURG: No.

MR BIZOS: You said some things about Mr Mhlawuli in your evidence in chief that I want to come to. I am going to suggest to you that it is easy to speak about people that were killed by you, who cannot speak for themselves to say things about them after they are dead.

But let us see what the objective evidence is about Mr Mhlawuli's activities. In Exhibit K, the information available to the Police in relation to Mr Goniwe up to and including the 17th of June 1985 as contained in Exhibit K and Exhibit K2 shows that Mr Goniwe, if you have a look at page 4 of Exhibit K with 87, page number relating to the inquest proceedings, sets out where he was active in 1985, Cradock, Graaff-Reinet, Somerset East, Bedford, Adelaide, Middelburg Cape, Hanover, Hofmeyr, Pearson, Steynsburg, Cookhouse, Newport, Port Alfred and Fort Beaufort. There is nothing there about Oudtshoorn.

MR JANSE VAN RENSBURG: No, I don't see Oudtshoorn listed here.

MR BIZOS: Yes, and have all those towns for the benefit of all of us who are not acquainted with local geography, did all those towns have something in common?

MR JANSE VAN RENSBURG: Those are towns in the Eastern Cape.

MR BIZOS: Yes, and within your area of jurisdiction?

MR JANSE VAN RENSBURG: No. They were not all in our jurisdiction.

MR BIZOS: Was not the whole of Eastern Province in your jurisdiction?

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MR JANSE VAN RENSBURG: No.

MR BIZOS: Well, any way, it is the Eastern Province. Which portion of the Eastern Province was not under your jurisdiction?

MR JANSE VAN RENSBURG: I can only tell you that the towns listed here, well Cradock fell under our jurisdiction, Somerset-East was under our jurisdiction, Bedford, Adelaide, Cookhouse, Port Alfred and Fort Beaufort, as far as I can recall, those were under our jurisdiction.

MR BIZOS: Was not Hanover and Hofmeyr?

MR JANSE VAN RENSBURG: No.

MR BIZOS: Well, let's leave them out for a moment.

Does not the absence of anything relating to Oudtshoorn, not suggest to you that as at the 17th of June, there was nothing that Mr Goniwe was doing in Oudtshoorn?

MR JANSE VAN RENSBURG: No, I don't see anything.

MR BOOYENS: Mr Chairman, I think in all fairness to the witness, one must read the very preceding paragraph, and it says that Mr Goniwe was appointed as UDF organiser for the following towns, and then the next paragraph where these towns follows.

So, from there to jump to say that a man was never in Oudtshoorn, is not really justified under argument. One cannot read this paragraph only, you must read the previous paragraph as you will see.

MR BIZOS: Well, it goes on Mr Chairman. "He had visited these towns and addressed meetings of black people", etc. It deals with his activities during that period. He apparently kept within his jurisdiction outside, unlike if they are telling the truth, the Security Police, that they had things to do with people from Oudtshoorn.

But be that as it may. Do you agree that there is nothing in Exhibit K and Exhibit K1 and K2, there is nothing to indicate that he did anything which was noted by the Security Police in Oudtshoorn?

MR JANSE VAN RENSBURG: Exhibit K2, page 111 there is a reference to paragraph dated the 5th of March 1985, in that reference it mentions Mr Goniwe had sent a telegram to the UDF in Oudtshoorn on behalf of Cradora, in respect of the commemoration of May day.

That is all that I can see in this document, where there is a reference to Oudtshoorn.

MR BIZOS: Yes, is the sending of a telegram of solidarity of May day, underground subversive activity?

MR JANSE VAN RENSBURG: Yes, it was a May day commemoration. Subject wrote a telegram to the UDF in Oudtshoorn on behalf of Cradora, in which Mr Goniwe makes the following statement to the commemoration of May day and then there is a verbatim quote.

MR BIZOS: Yes, thank you for drawing that to our attention. Is there anything else, or any other activity that Mr Goniwe did in Oudtshoorn?

MR JANSE VAN RENSBURG: Not in this document.

MR BIZOS: And one would have expected that if there was any information, that there was any contact with Mr Goniwe and Mr Mhlawuli in relation to the recruitment of people to join the liberation movements outside the country, or whether there was any conspiratorial conduct between Mr Mhlawuli and Mr Goniwe, having regard to the minutiae that are reported in these documents for security purposes, one would have expected if there was any truth at all in your assertions about Mr Mhlawuli, to have found something in these documents?

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MR JANSE VAN RENSBURG: Sir, I cannot comment on that. There are no such indications in these documents, and I can't dispute that.

But I can't say that there wasn't any other information made available in any other way, or which came to our knowledge in any other way.

MR BIZOS: Well, you can't refer us to any other information and we can't find any facts in the information that we have.

MR JANSE VAN RENSBURG: Yes, I told you what had been told to me in respect of Mr Mhlawuli.

MR BIZOS: The question that we are concerned with here sir, is whether you can be believed or not.

If you were given that information, why was that information not furnished to the Commissioner of Police who had to decide, who had the responsibility in relation to the Security of the Country, that there was the dangerous conspiracy between the two of them?

MR JANSE VAN RENSBURG: I can't answer you on that.

MR BIZOS: And the information came from the Security Police to the Commissioner, couldn't have come from anyone else? In fact a member of the Committee pointed it out to Mr Van Zyl, that this information was furnished by your Branch?

MR JANSE VAN RENSBURG: The information regarding Mr Mhlawuli that was conveyed to me, that I told you. I don't know about any other information.

I don't know what information Pretoria used to based its decisions on, I can't comment on that.

MR BIZOS: Try and come to terms with my question sir.

The information that you say you had, is not in Exhibit K or Exhibit K1 or Exhibit K2, which was sent to the Commissioner of Police. Leave out what Pretoria may have sent him. The question is, if you had that information, why is it not contained in Exhibits K, K1 or K2?

MR JANSE VAN RENSBURG: I don't know.

MR BIZOS: You said that you didn't have any comment. Will you please deal with the suggestion that I am going to make to you as to the submission we are going to make to this Committee, that this evidence that Mr Mhlawuli was involved in subversive activities with Mr Goniwe, was a fabrication in order to justify his death, because he happened to be in the car with Mr Goniwe at the same time?

MR JANSE VAN RENSBURG: I am not party to such a fabrication. I told you what was conveyed to me about Mr Mhlawuli. I told you - you and the Committee.

MR BIZOS: But now, when Du Plessis and Van Zyl came to you and you put your stamp of approval on the elimination of the persons that they were to kill, did you apply your mind as to whether Mr Mhlawuli was one of the persons to be killed if found?

MR JANSE VAN RENSBURG: Yes, according to what Mr Du Plessis told me.

MR BIZOS: And you were the person who initiated this operation to your subordinate officers?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: You didn't bother ...

MR BOOYENS: Not really Mr Chairman. I think if I understood the evidence correctly, the initiation certainly didn't come from him, he might have conveyed it.

But I think one cannot really say that he initiated it because he said he acted on certain instructions.

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MR BIZOS: Well, you conveyed it to your men in the Branch?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: Did you feel any responsibility in helping that even with in the parameters in which the Security Police were acting as murderers, that care should be taken that persons even within their own definition, were not killed?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Did you not think that before acquiescing in the murder of Mr Mhlawuli, that a reasonable precaution would have been to phone Mr Winter in Cradock?

MR JANSE VAN RENSBURG: No, that is not how I thought.

MR BIZOS: Did you not consider it a reasonable precaution to telephone the Police in Oudtshoorn to ask, to verify any information that may have been put before you?

MR JANSE VAN RENSBURG: No, I did not.

MR BIZOS: Did you not consider it a reasonable precaution to ask for reports in order to, written reports, and whence they came, in order to ascertain their authenticity or the reliability of the information they contained?

MR JANSE VAN RENSBURG: No, I didn't do that. I didn't doubt Mr Du Plessis or the information of his subordinates.

The information was usually confirmed in some way or corroborated in some way, it was normal practice, and I accepted that it was correct.

I accepted that this was correct and that these were the people causing all the trouble.

MR BIZOS: You know, you consider trouble receiving the Ambassador of the United States by the looks of things, or speaking with Mrs Molly Blackburn, sending telegrams wishing people well on May day. That was trouble making?

Was it within your understanding of the instructions and authority that you had, to act illegally, that you could just put to death people that you suspected of trouble making without making any, or taking any reasonable steps to verify the correctness or nature of the information that had been given to you?

MR JANSE VAN RENSBURG: No. The information that was available, I didn't doubt. I had no doubt that the people who had collected the intelligence had done so in a proper way, that the information was correct and that they had corroborated it and that they were quite sure that these were the people who were responsible for the situation.

MR BIZOS: Now, we have an affidavit from Mr Winter who says that the name Mhlawuli didn't mean anything to him until after his death. Will you accept that as a correct statement?

MR JANSE VAN RENSBURG: I don't know if the contents is correct.

MR BIZOS: On the assumption that it is correct, if he is called, he is going to verify that information, it would appear that neither you, nor Van Zyl, nor Du Plessis, nor Taylor, nor Lotz bothered to speak to the one person that was nearest to the problem in Cradock and who would have been likely to know something about Mr Mhlawuli.

MR JANSE VAN RENSBURG: I didn't speak to Mr Winter.

MR BIZOS: No, it would appear that none of your men whom you trusted, took the trouble to verify any information about Mr Mhlawuli, with Mr Winter. Would you accept that?

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MR JANSE VAN RENSBURG: Yes, if you say so. If you say so, then it probably is the way it is.

MR BIZOS: No, I say so on the basis of the affidavit made by Mr Winter, that Mr Mhlawuli's name meant nothing to him.

MR JANSE VAN RENSBURG: I can't speak on Mr Winter's behalf.

MR BIZOS: No, but you can speak on your own account, that you took no reasonable step or no steps whatsoever to find out what sort of man you authorised the killing of, if in fact you did it.

MR JANSE VAN RENSBURG: Mr Du Plessis and Mr Van Zyl had to ascertain who the correct people were.

CHAIRPERSON: What would have been the position if they had lied to you?

MR JANSE VAN RENSBURG: Mr Chairman, I wouldn't have necessarily even have known that they were lying to me, although some of the people that were eliminated, I think there was a lot of information in respect of some of these people, which had been confirmed through and through, which confirmed what they were busy doing.

CHAIRPERSON: Isn't that the reason why they had to report to you regarding information which they had, so that you could verify it?

MR JANSE VAN RENSBURG: No. I wasn't really in a position to verify, they were in a position to do that.

CHAIRPERSON: What would you have done if Mr Winter had told you that he didn't know Mr Mhlawuli at all?

MR JANSE VAN RENSBURG: Then I would have said well, then we would have to look at this person again.

CHAIRPERSON: Then he wouldn't have been killed, isn't that so?

MR JANSE VAN RENSBURG: I don't know. Maybe there was other information that Mr Winter had at his disposal.

CHAIRPERSON: Yes, but you knew that there was no file on him, those are the facts at this stage. There is no file, I don't know what will appear later in the application, but at this stage it seems that there was absolutely no information regarding Mr Mhlawuli's activities.

MR JANSE VAN RENSBURG: Yes, I don't know. I can only tell you what I know regarding Mr Mhlawuli.

ADV BOSMAN: Major General, did you discuss any of these names individually when Du Plessis and Van Zyl came to you or did you just refer to them in general?

MR JANSE VAN RENSBURG: No, when they came back to me, they discussed the names with me, individually.

ADV BOSMAN: Was the name of Mhlawuli significant in the sense that you didn't know much about him?

MR JANSE VAN RENSBURG: My recollection is that I had already become aware of him in respect of allegations that he was sometimes seen in the presence of Mr Goniwe, that he moved around with Mr Goniwe and that Mr Goniwe was actually showing him the ropes as far as the establishment of similar organisations in Oudtshoorn was concerned.

ADV BOSMAN: So you actually asked questions regarding Mr Mhlawuli?

MR JANSE VAN RENSBURG: Yes.

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DR TSOTSI: Did you know these people, these four people who were assassinated before the deed of assassination? Did you know them personally?

MR JANSE VAN RENSBURG: I didn't know them personally, I knew about them.

DR TSOTSI: You knew about them?

MR JANSE VAN RENSBURG: Yes.

DR TSOTSI: Did you know that they would be in Port Elizabeth at the time, at the date of their assassination?

MR JANSE VAN RENSBURG: No, I didn't.

DR TSOTSI: You didn't know?

MR JANSE VAN RENSBURG: No.

DR TSOTSI: Was it a coincidence that they were all travelling together at the time of the assassination? We have heard that Mr Mhlawuli for instance didn't live in Cradock, he lived somewhere else?

MR JANSE VAN RENSBURG: No, I don't know.

DR TSOTSI: You yourself don't know anything about the execution of the plan to assassinate these men? You personally do not know of the precise arrangements for the assassination of these men?

MR JANSE VAN RENSBURG: No, not the exact elimination.

DR TSOTSI: What did you know actually about the execution of the plan, what actually did you know apart from the fact that Mr Du Plessis and Mr Van Zyl reported the matter to Mr Snyman.

Apart from that, what do you know personally about the execution of the plan to assassinate the four men?

MR JANSE VAN RENSBURG: Only that after Mr Van Zyl and Mr Du Plessis had been to Mr Snyman and they had come back to me, I knew about the method, the modus operandi of the elimination.

There was some discussion regarding that, but I didn't take part to any further extent than that.

DR TSOTSI: What was the modus operandi?

MR JANSE VAN RENSBURG: What was discussed was that the elimination should be carried out in such a way that no finger should point in the direction of the Police. That was discussed and it was decided that the murders should be made to look as if it had been carried out by vigilantes or be made to look like a robbery.

DR TSOTSI: Were there in fact any vigilantes operating in the area where these men were killed?

MR JANSE VAN RENSBURG: I don't know. I am not sure of the actual scene where they were killed.

I wasn't then and I am not today, familiar with that area.

DR TSOTSI: Wouldn't vigilantes be operating probably in the (indistinct) area of Port Elizabeth or Cradock or some other place, would they be operating right in the bush somewhere near Port Elizabeth?

MR JANSE VAN RENSBURG: I really didn't know where they operated and where these incidents took place. Geographically speaking, I didn't know.

DR TSOTSI: Would it not have been easier for those men, for your people to carry out their assassination in Cradock, sort of near Port Elizabeth? There was urgency in this desire to have them eliminated and apparently you had to wait for a time when they would all be together in the same car before you could carry out the assassination?

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But if there was that urgency, wouldn't it have been easier for you to have these men eliminated somewhere in Cradock or in the vicinity of Cradock?

MR JANSE VAN RENSBURG: No, I was not party to that decision as to where exactly it would be done, and I don't know why that was decided. I don't know why that specific place was decided on.

DR TSOTSI: Do you know who of the men who carried out the assassination, actually knew these Cradock 4 men?

MR JANSE VAN RENSBURG: I am assuming that they all knew about them, I don't know.

DR TSOTSI: But you can't assume that, I mean it was an important operation, wasn't it where the lives of men were at stake, and you authorised these men to go out and carry out the operation?

And you didn't know whether or not they knew the persons who they were due to assassinate?

MR JANSE VAN RENSBURG: I can't speak for all of them, but I know that Mr Van Zyl and Mr Du Plessis knew who these persons were.

DR TSOTSI: Are you satisfied in your own mind that the correct people were assassinated?

MR JANSE VAN RENSBURG: Yes, I am.

DR TSOTSI: What makes you so sure that they were the correct men, if you didn't know them personally and the men that you sent out to assassinate them, apparently you didn't know whether they knew them or not. What makes you so sure that the correct people were assassinated?

MR JANSE VAN RENSBURG: That was as a result of information, it was confirmed over and over again that three of these persons in any event, the three Cradock people, that they were responsible for the situation of violence which existed there in Cradock and the vicinity.

DR TSOTSI: Was this confirmed to you?

MR JANSE VAN RENSBURG: Yes, by information.

DR TSOTSI: Through information?

MR JANSE VAN RENSBURG: Yes.

DR TSOTSI: Which you got from whom precisely?

MR JANSE VAN RENSBURG: I didn't deal with the informers, there were people who actually dealt with the informers who gave certain information. There was also some monitoring of conversations and of certain meetings which these people held, etc.

DR TSOTSI: Isn't it a fact that you didn't consider it your business to know whether or not the correct people were assassinated?

MR JANSE VAN RENSBURG: No, I think I have already told this Committee earlier, that that is not the case.

DR TSOTSI: Thank you.

MR BIZOS: Let us see how objective and reasonable your characterisation of Mr Goniwe as a person responsible for the violence in this area, was and what sort of open mind you had.

Would you please have a look at Exhibit I. I want to read paragraph 2.1 "the matter was at a JMC meeting under the Chairmanship of Minister Adriaan Vlok, the Deputy Minister of Defence and Law and Order, the matter was discussed at this meeting, on the 6th of June 1985. And on instructions of the Chief Director, a

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special committee was established under the Chairmanship of the Secretariat of the State Security Council to look into the matter of the reappointment and to make recommendations in this regard."

Now, were you aware of the fact that such a committee was recommended on the 6th?

MR JANSE VAN RENSBURG: No, I can't recall that.

MR BIZOS: But how could you who were responsible for the receipt of documentation, for the study in in, for making it known to your colleagues could have been concerned with Mr Goniwe and yet, this very efficient Security Police that we were hearing about, could miss a directive from their Minister?

He was your Deputy Minister?

MR JANSE VAN RENSBURG: I don't know what directive you are referring to. I don't know this document.

MR BIZOS: You know what directive I am referring to, a directive by your Minister to establish a committee in order to decide the fate of Mr Goniwe.

How could the person responsible for the receiving of information at the Security Police Headquarters in Port Elizabeth, be ignorant of a recommendation by his Minister in relation to one of the burning issues in the province and the person who was thought by you, to be responsible for violence? How could you have missed it?

MR BOOYENS: Mr Chairman, I think there is a misunderstanding here. That meeting where Vlok presided, if you look at the very top page, you will see it was at Police Headquarters, that is in Pretoria.

MR BIZOS: I am not unmindful of that Mr Chairman, I am asking whether this Security Department was such that a recommendation of their Minister could not come to their notice on a burning issue with which they were concerned. That is the question and I submit that it should go through to the witness and that he should be asked to answer it.

MR JANSE VAN RENSBURG: That there was such a committee and that these decisions were made, that I don't dispute, but I can't remember - what I can remember is that the reappointment of Mr Goniwe was dealt with by the JMC and it was in fact opposed by them, they were not in favour of that.

MR BIZOS: I can understand that.

CHAIRPERSON: Was that before the decision or after the decision?

MR JANSE VAN RENSBURG: What decision?

CHAIRPERSON: The decision taken at this meeting where Vlok was the Chairman?

MR JANSE VAN RENSBURG: I would have to check that. If I can find a date.

MR BIZOS: I can help you with a date. Your "nooit ooit" document was dated the 23rd of May and it is an Exhibit before the Court.

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: The question, I am sorry Mr Chairman, may I? The question is - no I think it is your question.

CHAIRPERSON: In relation to that meeting, the opposition, was that before or after the decision taken at that meeting regarding Mr Goniwe?

MR JANSE VAN RENSBURG: According to this document I read it was discussed on the 6th of June 1985, that would mean that it was after the JMC discussion if I can put it that way.

Because that was in May.

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CHAIRPERSON: What did the Eastern Cape oppose?

MR JANSE VAN RENSBURG: The appointment of Mr Goniwe.

CHAIRPERSON: So the Eastern Cape knew about it that Mr Goniwe's reappointment was being considered?

MR JANSE VAN RENSBURG: I can't personally recall whether I knew about it or not.

CHAIRPERSON: What would they then have been opposed to?

MR JANSE VAN RENSBURG: Please give me a moment. Yes, it is so they were opposed to his reappointment, so it was definitely discussed on certain levels.

CHAIRPERSON: And the Eastern Cape was aware of that, that there was consideration given to his reappointment and that the matter was discussed?

MR JANSE VAN RENSBURG: Yes, that must have been the case.

MR BIZOS: Document dated 13 June 1985, of which a copy was in the possession of the Deputy Minister S.J. de Beer, reappointment is recommended.

Please have a look at page 3 at the bottom in order to establish the date of this document, 18th of June. Please look at paragraph 2.5. "The local security community in Cradock was continually informed and supported the strategy of reappointment."

How could it be possible that the security establishment in Cradock, which fell under your jurisdiction, which supported the policy of reinstatement, have failed to inform you about its support for it and the information that it received continually in this regard?

MR JANSE VAN RENSBURG: Yes, I see what is contained here. I cannot comment on it. I don't know anything about it. I can see it here in front of me.

MR BIZOS: How often did you see Mr Winter from the beginning of June to the 27th of June 1985?

MR JANSE VAN RENSBURG: No, I would not be able to respond to that. I can't give an answer.

MR BIZOS: Were you in regular contact with him?

MR JANSE VAN RENSBURG: No, not that I can recall.

MR BIZOS: But if you were so concerned about the question of life and death of a number of people, and the epicentre was Cradock, how could you not have been in contact with the Head of the Security Police in Cradock almost on a daily basis?

MR JANSE VAN RENSBURG: I was not in regular contact with him.

CHAIRPERSON: We are aware of that, but the question is why?

MR JANSE VAN RENSBURG: It surely part of my task to be in daily contact with him.

ADV BOSMAN: Mr Bizos, can I just pick up here. With whom as a matter of routine, would Major Winter have liaised? One would think that there would have been regular liaison between the Branch and the Headquarters.

With whom according to your office practice, would Major Winter have been in regular liaison?

MR JANSE VAN RENSBURG: With the Commanding Officer.

ADV BOSMAN: Mr Snyman?

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MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And if he was not available?

MR JANSE VAN RENSBURG: He would have contacted me.

MR BIZOS: And we were told by Mr Van Zyl that they were in contact with Mr Winter?

MR JANSE VAN RENSBURG: Yes, that is so. That could have happened.

MR BIZOS: You were the second in command and central to this decision to kill people from Cradock. They earned the name Cradock 4 - how could the matters of his reinstatement being recommended, and you remained in ignorance of it?

MR JANSE VAN RENSBURG: I cannot remember that I ever had any knowledge of this. I accept that he would have discussed this with Mr Snyman, but I cannot confirm anything.

MR BIZOS: If the facts contained in Exhibit H were communicated to you, would you have carried on with the plan of killing the people that you had decided to kill?

MR JANSE VAN RENSBURG: If any instruction was given ...

MR BIZOS: It is Exhibit I, it was Exhibit H and I scratched it out. The document headed "the Director General personally", is that the document that you have Exhibit I.

If you had the information on Exhibit I, would you have decided to kill them or would you have allowed the decision to kill them, to be carried out, if this had been brought to your attention?

MR JANSE VAN RENSBURG: If it had reached me, that the operation to eliminate Mr Goniwe, had to be stopped as a result of the facts here, then I would have ceased it.

MR BIZOS: Would you agree that if any reasonable steps were taken to keep up with what was happening in relation to the fate of Mr Goniwe, you and your fellow officers would have found out?

MR JANSE VAN RENSBURG: No, no instructions were issued that we should cease this operation.

MR BIZOS: You see, if you have a look at page 2 that part and parcel of this reappointment in terms of paragraph 5.3,

"Mr Goniwe's behaviour would be thoroughly monitored at all times by the members of the Security community."

So your own Security police office was envisaged as having a special task to perform in this reinstatement.

MR BOOYENS: Mr Chairman, is that really a fair question. We don't know which Department's memo this is. What we do know, it is apparently not Police because it is Directors and Chief Directors, and in those days the Police had Generals and Brigadiers and those kind of things.

CHAIRPERSON: Who would the security community be?

MR BOOYENS: The security community would in all probability be the Army and the Police Force.

CHAIRPERSON: Including the Security Police?

MR BOOYENS: Yes. The point is this security community which will monitor him at all times, this is some departmental memo between the Director of something and I presume it is Education. But it is between, it is an inter- departmental memo passed around between the members of that department.

Surely it is stretching it a bit to expect that apart from the absolute absurdity of somebody being monitored for every minute of the day, I think it is stretching it a bit in expecting the Police to answer on that one.

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CHAIRPERSON: Has been done before?

MR BOOYENS: I don't know.

MR BIZOS: Mr Chairman, I don't know what to do with that objection, other than to say that it has to be read together with Exhibit H, which is from the Secretariat of the State Security Council.

I would have thought that the Security Police of Port Elizabeth would consider themselves as a body subordinate to that body, Mr Chairman.

CHAIRPERSON: Mr Booyens, Exhibit I is after all referred to in Exhibit H.

MR BOOYENS: Yes, exactly Mr Chairman, but at this stage we cannot forget that what appears on page 4 of Exhibit I. This was not a foregone conclusion, this is at the stage when this is doing the rounds, it is an inter-departmental memo to a committee who still made a recommendation to a Minister that hasn't even been approved.

So this is still paper work flowing around in those portals of power up in Pretoria.

ADV POTGIETER: And it seems as if even before the Minister could actually decide, the issue was settled?

The subject of the enquiry ...

MR BOOYENS: I was just going to say I wouldn't like to put it like that, but I get your drift. I agree with Mr Potgieter.

ADV POTGIETER: So it looks as if the Minister did not have time to apply his mind to this?

MR BOOYENS: Yes, well, that is apparently what it says. My objection is to my learned friend is going a bit too far. If you are monitoring somebody, if they are monitoring somebody with the intention of assassinating him, you are not in all probability going to ask the Department of Education and find out what is written in their inter-departmental memos, really Mr Chairman.

MR BIZOS: Well, let's deal if I may with the witness Mr Chairman. Let's deal with this argumentative objection General.

Doesn't it amount to this that you had decided to sentence Mr Goniwe to death and was busy making preparations to carry it out, whilst an appeal process was going on in order that the warrant should be set aside? Isn't that what it amounts to if my learned friend wants to argue it, that steps were taken to reinstate him as a teacher and we know that corpses don't teach.

MR JANSE VAN RENSBURG: Sir, all that I can say in response to that is that I was given certain instructions by Mr Snyman and evidently he had received instructions from elsewhere to launch such an operation.

This is what we initiated and up until the elimination of these persons, no instruction was issued to cease this operation.

MR BIZOS: But you see the other aspect of this objection, this argumentative objection is that whilst you, Snyman, Van Zyl, Du Plessis and two others were busy preparing to carry out the death sentence, your Commissioner, the Commissioner of Police, suggests that Goniwe be reappointed in an educational position in Cradock.

That is on page 8 of Exhibit H Mr Chairman. And no conditions apart from the basic conditions of employment in Education, be applied.

So on the assumption that there may be something in your counsel's objection in relation to departmental matters ...

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MR BOOYENS: Mr Chairman, sorry, I must object again. Exhibit H, unless it is a mistaken reference, Exhibit H does not appear to be a letter by the Commissioner of Police.

MR BIZOS: I am sorry it is from the Secretariat.

MR BOOYENS: The Secretariat of the Security Council.

MR BIZOS: From the Secretariat, I am sorry I said from the Commission, yes, I am sorry. But the Secretariat suggests that - and if we have a look at Exhibit K, paragraph 16 -

"Conditional reappointment of Goniwe in his position as teacher, the opinion is that this option definitely holds certain merits, provided that the conditions include the following: Goniwe would undertake in writing to resign from the UDF and Cradock"

and so on and then again an alternative on page 7 and in paragraph 20 -

"A restriction in Cradock would appear under the circumstances to be the desirable step. If his behaviour complies with the requirements of the law, which would be determined by the Director of Security Legislation ..."

MR BOOYENS: Mr Chairman, with respect to my learned friend once again, none of these paragraphs are recommendations, they are discussion.

The one, the closest we get to anything, and that is not even put as strong as a recommendation, is paragraph 21, that says it looks between conditional reappointment and the conditional reappointment has already been qualified in the previous paragraph or a restriction, group (b) restriction in terms of the Security Legislation, but nowhere, the Commissioner doesn't get so far as to make a recommendation really.

CHAIRPERSON: In reality I think what Mr Bizos is asking about, is the awareness of those who were party to arranging the death of the deceased, rather than whether this was an order or a discussion or a decision. Unless, I've lost Mr Bizos.

MR BIZOS: Whether or not these are recommendations or conditional recommendations, if it had come to your notice that the process was being conducted in order to reappoint him as a teacher by your superiors, would you have continued with the plans to kill him?

MR JANSE VAN RENSBURG: If I understand you correctly, then you mean that if my superiors had informed me of these decisions which still had to be made, and that we had to cease the operation, I would have ceased the operation.

CHAIRPERSON: Let us put it this way, if it had come to your attention that a possibility existed that Mr Goniwe would have been reappointed, what would your position have been regarding the execution of the plan?

MR JANSE VAN RENSBURG: It is difficult to say because an instruction had been received from Colonel Snyman, I had received this instruction.

If Colonel Snyman had at any stage returned to me and said that this operation had to be ceased because negotiations were underway regarding the reappointment of Mr Goniwe and so forth, and that we should cease the operation, I would have ceased it.

ADV POTGIETER: Or would you have returned to Mr Snyman if that information came to your attention?

MR JANSE VAN RENSBURG: Yes, I would probably have.

MR BIZOS: Do you say that the statement, Exhibit I.2.5, the "local security community in Cradock has been continually informed, and supports the strategy for reappointment", is that correct or incorrect statement?

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MR JANSE VAN RENSBURG: Sir, I do not know whether or not it is correct. I cannot recall any knowledge of this.

MR BIZOS: If you had kept proper communication with Cradock, or had asked them like you ask the Governor before a sentence is executed, the Governor or the President at the last minute, if you had asked Cradock who were likely to know what was happening, these lives would have been saved?

MR JANSE VAN RENSBURG: I cannot speculate on that.

CHAIRPERSON: Why can you not speculate on that, if Mr Winter had told you Mr Van Rensburg, I, Winter have received information regarding the reappointment of Goniwe in his position, what would you have then done?

MR JANSE VAN RENSBURG: I would have consulted Mr Snyman with regard to this.

ADV BOSMAN: Might I ask it in this manner. Would you have expected from Winter, if he had received information regarding Goniwe's reappointment, would you have expected of him to hand over this information to Port Elizabeth, because Goniwe was the thorn in the side of the security community.

Surely you would have wanted him to tell you that they were thinking of reappointing Goniwe.

MR JANSE VAN RENSBURG: Well, I would have expected that he would have discussed this with Colonel Snyman.

MR BIZOS: Now, the Exhibit of the 23rd of June, Exhibit C, which expresses this very strong view of the GBS, that "never ever" must Goniwe be reappointed, shows that there was discussion at the GBS, was there not?

MR JANSE VAN RENSBURG: Yes, it indicates that.

MR BIZOS: And for it to be so strongly expressed, somebody at the GBS must have expressed the view that serious consideration is being given to reappointing Mr Goniwe?

MR JANSE VAN RENSBURG: It may be so.

MR BIZOS: Well, otherwise it wouldn't have been a subject matter at the GBS?

MR JANSE VAN RENSBURG: I can only speculate that that could have been a possibility.

MR BIZOS: Yes, well there is a difference between speculation and inference. Isn't the inference very clear that somebody was pushing for Mr Goniwe's reappointment?

MR JANSE VAN RENSBURG: That impression was created.

MR BIZOS: Right, now you received the minutes of the GBS, didn't you?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And you would have been the one responsible, even if you were not at the meeting, to read them, take notice of their contents?

MR JANSE VAN RENSBURG: Sir the minutes of the JMC were kept by Mr Snyman in his office, as far as I can recall, in the steel cabinets.

MR BIZOS: But you had access to them, and you had to keep yourself informed of their contents, because you were a sort of alternative delegate to the JMC?

MR JANSE VAN RENSBURG: Yes, if it was necessary, that would have been the case.

MR BIZOS: Did you bother to find out who were the people who were moving for his reinstatement?

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MR JANSE VAN RENSBURG: As far as I can deduce, it had to have been the Department of Education and Training.

MR BIZOS: Yes. And were you aware that the Department of Education and Training considered it so important a matter, that it sent its Director-General to Cradock in order to try and investigate the feasibility of the proposal?

Was that reported to you?

MR JANSE VAN RENSBURG: I cannot remember that.

MR BIZOS: You know, would it not be strange if such an important step in relation to the future of Cradock, the safety of the country, the fate of Mr Goniwe, was going on at such a high level that the Director-General of the Department of Education take the trouble to go to Cradock, and the all powerful and so well informed Security Police in Port Elizabeth, under whose jurisdiction was, remained ignorant of the fact?

MR JANSE VAN RENSBURG: I do not argue that Mr Strydom was there and that a meeting was held, but I cannot call this up from memory.

MR BIZOS: Well, if I were to put to you that one can infer despite your lack of memory, that you must have known about it, would you quarrel with that?

MR JANSE VAN RENSBURG: It is possible that I knew of this, but I cannot recall.

MR BIZOS: And did you know right up to the time of the fateful day of the 27th of June, as far as Mr Goniwe and his colleagues were concerned, that this process of trying to have him reinstated, was still going on?

MR JANSE VAN RENSBURG: All that I can clearly recall is that Mr Snyman at more than one occasion told me that there was a lack of decision regarding those who wanted to reappoint this man and those who were opposed to his reappointment, and that is basically all that I have knowledge I have of this matter.

CHAIRPERSON: But you knew that the Eastern Cape opposed this?

MR JANSE VAN RENSBURG: Yes, that is so.

MR BIZOS: Well, if I may qualify your answer in answer to the Chairman's question, the Security Police in the Eastern Cape, we are not suggesting that the people of the Eastern Cape were against it?

MR JANSE VAN RENSBURG: Let us say rather the JMC, not the people of the Eastern Cape.

MR BIZOS: Yes. But now from your answer, can we infer that you were not - you had no knowledge that the people pushing for his reinstatement, had given up? You thought that that was still going on at a high level?

MR JANSE VAN RENSBURG: Yes, I would not be able to deny this. As far as I know it was an on going matter which as far as I was concerned, the parties concerned could not reach a decision.

MR BIZOS: Who were the parties who could not reach a decision?

MR JANSE VAN RENSBURG: I am assuming that it was the authorities in Pretoria.

MR BIZOS: And the authorities in Pretoria consisted of the Minister of Police, the Minister of Law and Order and the Minister of Education, and there was a debate going on at the very high level as to whether he should be reinstated or not?

MR JANSE VAN RENSBURG: That is the impression that I received, I did not know exactly what they were occupied with or who would take the decision.

But there was just - no decision ever reached us.

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MR BIZOS: But what we do know, is that it reached what the proposal, that there was serious proposal reached the office of the Commissioner of Police?

MR JANSE VAN RENSBURG: Sir, if you are referring to a document which I have seen, then yes.

MR BIZOS: Yes, it was shown to you a short while ago.

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: It received, now and he made certain proposals if not recommendations. I am only interested that it establishes the fact that he knew about these proposals made that he should be reinstated?

MR JANSE VAN RENSBURG: The Commissioner?

MR BIZOS: The Commissioner yes.

How did it happen that the Commissioner had knowledge of this and that the Chief of the Security Police in the Eastern Cape did not know about this?

MR JANSE VAN RENSBURG: I have absolutely no knowledge of that.

MR BIZOS: But how could the Commissioner of Police deal with the matter in the manner in which he did, in Exhibit K without an input from the Security Police from Port Elizabeth?

MR JANSE VAN RENSBURG: Sir, I do not know whether or not he received input from the Security Police Branch in Port Elizabeth, I cannot say whether or not it was like that.

MR BIZOS: Now, you see again what we are busy with is whether you can be believed when you say that you did not know. Can you explain how it might have got to the Commissioner of Police who was so derelict in his duty, that in not asking the Security Police in Port Elizabeth where the "brandpunt" was, men what do you think of this situation"

MR JANSE VAN RENSBURG: I am sorry but I cannot answer your question.

MR BIZOS: Yes, well the answer must of necessity be that it was so improbable that all these decisions and recommendations and expectations of the Security Police in Port Elizabeth, would have taken place without you being made aware of what was going on. Any comment from you?

MR JANSE VAN RENSBURG: No sir, I have already told you that I have no knowledge regarding the meeting in Pretoria. I do not know whether or not input was delivered from Port Elizabeth, I do not know.

ADV POTGIETER: Mr Van Rensburg, if an input was sent from Port Elizabeth, then that correspondence would have travelled through your office?

MR JANSE VAN RENSBURG: Not necessarily.

ADV POTGIETER: Unless I heard you incorrectly, when you explained what your tasks were, is it not true that all correspondence which reached your division, actually was delivered to you and that you distributed it to the other persons in the division.

MR JANSE VAN RENSBURG: Well, that was the normal procedure, but there were many instances where there were pieces which came from Head Office which was delivered personally or addressed personally to Colonel Snyman as the Commanding Officer.

There were times when I wasn't in my office, where people took post to Colonel Snyman if he was available. There were other instances where the person who opened the post, had to use his discretion to decide whether or not a piece had to go directly to Colonel Snyman.

I have already explained what my position was, but there were many other instances where the post did not necessarily reach my hands.

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MR BIZOS: I thought that you were primarily responsible for opening the post as you told us, and classifying it and handing it over. How could it possibly have happened on this issue, that you didn't open any post relating to this matter for the whole month of June or practically the whole of the month of June?

MR JANSE VAN RENSBURG: No sir, I did not say that. What I am saying is that I didn't open the post myself. There was another member who dealt with that, he opened it and stamped a date onto it, and he could use his discretion and send certain things directly the Commanding Officer.

Other items he would place on my desk and I would make decisions regarding those items. There were also other items which were addressed only to Mr Snyman, which he opened privately.

That is how the system worked.

CHAIRPERSON: Mr Van Rensburg, if you could tell me, you were second in command, is that correct?

MR JANSE VAN RENSBURG: Yes.

CHAIRPERSON: Under Colonel Snyman?

MR JANSE VAN RENSBURG: That is correct.

CHAIRPERSON: What would have happened if there was an issue or an item to be dealt with and he was not available? Would it not then have been deferred to you?

MR JANSE VAN RENSBURG: Yes, that is correct.

CHAIRPERSON: I assume, correct me if I am wrong, that everything that occurred in the office had to be communicated to you by him, so that you could be updated regarding what the situation was if he was not available.

MR JANSE VAN RENSBURG: It was not the most perfect manner, but it simply wasn't possible. He accepted that if something arrived, that I would have to refer to the file and determine what had happened beforehand, especially regarding JMC matters.

CHAIRPERSON: You see what concerns me Mr Van Rensburg, is that on this whole issue of Goniwe, it seems that the Port Elizabeth Branch of the Security Police, were completely left out on all the other possibilities other than killing him. Do you agree with me?

MR JANSE VAN RENSBURG: No, I would not agree with that.

CHAIRPERSON: Because nobody can tell us about their knowledge of the possibility of his reappointment as a teacher or a principal?

MR JANSE VAN RENSBURG: I would not say that. I stated that no final decisions or instructions were issued. Mr Snyman told me that decisions had to be made about a number of factors, and that options were being considered, but no feedback had been received, no decision had been made.

CHAIRPERSON: Regardless of whether or not there had been a decision, did you not deem it necessary to find out what the position was before the decision was taken to kill these people?

MR JANSE VAN RENSBURG: Sir, Colonel Snyman stated expressly that this operation had to not be continued with, before it had been cleared up with him finally.

I accepted that if there was anything that would deter the planning, he would have informed us thereof.

MR BIZOS: You have already told us that if you knew that the steps were going on, you would have stopped the planning and the killing would not have taken place.

MR JANSE VAN RENSBURG: I have stated that if Mr Snyman had informed me otherwise, I would have ceased the operation.

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MR BIZOS: If you knew that the weight of opinion was against your "nooit ooit" opinion expressed on the 23rd of May, how would you have felt about these people sitting in Pretoria, not giving sufficient weight to your opinion?

MR JANSE VAN RENSBURG: I was not in a position to veto the decisions of the higher authority or express my opinion, or to do something about it.

MR BIZOS: Yes, you couldn't do it by passing a resolution, but you could do it with bullets, surreptitiously and put the blame on others and you would have achieved the same result? Isn't that what happened?

MR JANSE VAN RENSBURG: Sir, I told you that a order was issued and that it was executed.

MR BIZOS: What did you think what do you think in your frame of mind in 1985, would have happened if Goniwe was appointed to teach at Cradock as suggested by the Geldenhuys Committee?

MR JANSE VAN RENSBURG: What would have happened in Cradock?

MR BIZOS: Yes, about the security of the people of the Eastern Province that you were supposed to protect? What did you think would happen?

Well, let me give you two options, would the security situation have improved or would the matter have become worse?

MR JANSE VAN RENSBURG: You are asking me to speculate. In as far as the security activities were concerned, I don't think he would have stopped it. If I had to speculate on that.

CHAIRPERSON: But is that not the reason why these people were killed in an attempt to improve the situation?

MR JANSE VAN RENSBURG: That is so.

CHAIRPERSON: So how could you provide your previous answer, it doesn't make sense?

MR JANSE VAN RENSBURG: Well, I also don't understand what Mr Bizos is trying to ask me.

MR BIZOS: If I may, what I am asking you to say is if you had been informed of the Geldenhuys Commission recommendation which was unanimous and you thought that the Ministers would approve of it, how would you have felt - you don't have to speculate - how would you have felt the security of the area you were to protect, would be affected?

MR JANSE VAN RENSBURG: As far as the education field is concerned, he was appointed as a teacher, and I would have expected that it would then function normally again.

But as far as his other activities were concerned, I can only speculate on that, but I believed he would not have ceased those activities.

MR BIZOS: So, you thought that death was an answer, reinstatement was not an answer to the problems of the Eastern Cape?

MR JANSE VAN RENSBURG: I didn't see it in those terms, or in that context, I didn't make my decision in that context. What I was concerned with was what he was busy doing on the security level, not so much the educational area.

ADV BOSMAN: May I just come in here again. Put a little more simply Mr Van Rensburg - if there had been a meeting and you were asked to vote to say whether Goniwe should be reappointed or should we eliminate Goniwe, with all the information at that time, what option would you have voted for in 1985?

MR JANSE VAN RENSBURG: I would have voted for elimination.

CHAIRPERSON: Mr Bizos, can we take the adjournment on that note?

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MR BIZOS: Thank you.

COMMISSION ADJOURNS

ON RESUMPTION

NICOLAAS JAKOBUS JANSE VAN RENSBURG: (s.u.o)

CROSS-EXAMINATION BY MR BIZOS: (conts)

Major General, would you please turn to page 25 of your own application, page 25 the last paragraph on that page. "Major Du Plessis, who was the Unit Commanding Officer concerned with black affairs, by means of the intensified JMC action, gathered intelligence surrounding the identified and prioritised leaders which indicated that the political activists of Cradock, namely M. Goniwe, F. Calata, S. Mkonto as well as a further activist whose name was S. Mhlawuli posed a very serious threat to the constitutional dispensation since they were engaged in inflammatory activities which brought about total chaos in the Eastern Cape including the rural areas and the Southwestern districts, which would also lead to an unnecessary loss of life and damaging of property."

Do you confirm that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And particularly the first part that this information came from the sharpened JMC action in relation to information?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And this is repeated in a sense by the applicant Du Plessis, would you please turn to page 59 of the application volume?

"He says by means of the intensified JMC conduct regarding the identified and prioritised leaders, I gathered information which indicated that the political activists of Cradock, namely Goniwe, Calata, Mkonto as well as a further activist by the name of Mhlawuli, posed a very serious threat for the constitutional dispensation, etc, etc".

Do you agree that that is how you understood that the information came from the sharpened JMC information?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BIZOS: And if you have a look at the bottom of page 59 "the operation and possible elimination of the Cradock 4 had already been discussed at previous occasions in the so-called security community, but the particulars and dates of these discussions are not known at this stage.

I was part of the overall planning of the operation, as a result of the fact that I in cooperation with Lieutenant Colonel Van Rensburg, had coordinated information in respect of the political activists and I was familiar with the total threat in the Eastern Cape at that stage."

Now I want to ask you as a result of this information that was furnished to the Committee under oath, whether that clearly indicates that the persons that you referred to as "Cradock 4", the question was discussed at JMC meetings, and the information available to the JMC was made available to you when you decided to recommend the elimination of these persons?

MR JANSE VAN RENSBURG: I don't know about any information which the JMC gave to us and that we reacted on information coming from the JMC.

MR BIZOS: Well, but your own statement at the bottom of page 25 "by means of the intensified JMC actions to gather intelligence relating to these identified leaders", doesn't that mean anything that it came from the JMC?

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MR JANSE VAN RENSBURG: I think what I tried to convey here was that as a result of the JMC, their concern regarding the situation, there was a request that there be an intensified or stepped up action as far as the gathering of information was concerned, to see if more information couldn't be obtained.

MR BIZOS: No, don't write an editorial on your statement, just read what you said. And read if you want to, if you have any difficulty and you want clarity, what Du Plessis said, that this was as a result of information received from the JMC. That is what it says.

MR BOOYENS: With respect, it is not what it says. He refers to "sharpened JMC actions." If my learned friend would look back at page 24, you would see what the sharpened JMC actions are.

MR BIZOS: I submit that the question should go to the witness. This is an explanation that the witness can give as to what he meant, I am putting what I suggest he meant and I want from the witness what he says, he meant Mr Chairman.

The witness can give any explanation that my learned friend thinks that he may give.

CHAIRPERSON: Yes, Mr Van Rensburg?

MR JANSE VAN RENSBURG: As I said, as a result of the concern which existed in JMC circles regarding this threat, there was the request that actions and activities be stepped up as far as intelligence gathering was concerned so that certain things could be ascertained, such as those listed from 1 to 4.

And from this information, a total picture could be formed of who was responsible for the unrest and political violence in the Eastern Cape. Political activists were identified as well as prioritised after this.

The objective at this stage was in respect of these identified and prioritised activists, to restrict them using legal means and to restrict them to the best of the Security Branch's abilities.

It however, became clear for the reasons mentioned, that the anarchy, violence only escalated and it was common cause that the situation required urgent and drastic actions.

MR BIZOS: Please turn to page 59. "I by means of the stepped up JMC activities obtained information regarding the identified and prioritised leaders. By means of this intensified JMC conduct or action", what does that mean?

MR JANSE VAN RENSBURG: This is not my statement, but I am interpreting that to mean that as a result of the request from the JMC, Mr Du Plessis and his men, obtained further information regarding these leaders, they identified and prioritised them and that they came to certain conclusions.

MR BIZOS: Was the question of Goniwe and his cohorts discussed at JMC meetings months before they were killed?

MR JANSE VAN RENSBURG: Yes, as far as I remember yes.

MR BIZOS: Were they discussed as a result of reports - did you learn about that discussion as a result of reports given to you by Mr Snyman?

MR JANSE VAN RENSBURG: Yes, and perhaps I also attended one or two of these meetings myself.

MR BIZOS: Were the four persons discussed at the meetings that you were at or which were reported on to you by Mr Snyman?

MR JANSE VAN RENSBURG: I can't remember which persons - I can remember that Goniwe, Calata and Mkonto, that these gentlemen were discussed. I can't recall Mr Mhlawuli's name from that period.

I can't remember whether he was discussed or not.

MR BIZOS: But you see, I am going to suggest to you that these applications were prepared without having strict regard to the truth, because you talk about the Cradock 4 in a loose sort of a way.

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You say you had not heard of Mr Mhlawuli. But what about Mr Mkonto, was he discussed at the JMC?

MR JANSE VAN RENSBURG: Yes. It is difficult to remember whether he was specifically discussed, it is very possible. Whether he was mentioned by name, I can't recall, I am not sure. I can't state something if I am not sure about it. It may have been the case that Goniwe and his cohorts were referred to, referring to these people.

MR BIZOS: And to be branded as a coward, was enough to be killed without actually identifying the people.

MR JANSE VAN RENSBURG: No, I don't think that is what I said.

MR BIZOS: But now, Mr Mhlawuli was apparently in terms of your affidavits - once you found out that he was not a Cradock person, a newcomer, but would Mr Mkonto be one of the permanent people in Cradock and would he have been discussed at the JMC meetings?

MR JANSE VAN RENSBURG: Yes, I would expect that to have been the case.

MR BIZOS: Because he was one of the top Lieutenants of Mr Goniwe?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And one would have expected that his name and Calata's name, as the top Lieutenants', would have been well known to everyone concerned with the security of the State at JMC meetings?

MR JANSE VAN RENSBURG: Yes, I would expect so.

MR BIZOS: Now, according to an affidavit by Christopher Pierre van der Westhuizen, the Chairman of the Eastern Province JMC, the person who signed that signal, I ask for leave to hand that in as an Exhibit Mr Chairman, it will be Exhibit R.

Before referring you to this document, can you please tell us how often did the JMC meet?

MR JANSE VAN RENSBURG: I think, and I am not very sure, I would say about once a week.

MR BIZOS: I am sorry, I was distracted, did you say once a week?

MR JANSE VAN RENSBURG: I think so, but I am not sure.

MR BIZOS: Yes. And the Joint Operation Centres, how often did they meet?

MR JANSE VAN RENSBURG: As far as I remember or understand the JOC, JOC was put into operation when there was rioting or unrest and the JOC actually functioned along the lines of an operational room, ops room, which was constantly manned by certain people.

MR BIZOS: And the mini-JMC's, how often did they meet?

MR JANSE VAN RENSBURG: I am not sure. I think that would depend on circumstances in the various mini-JMC areas.

MR BIZOS: When according to you Mr Mhlawuli came into the area and he was identified as a result of the sharpened gathering of information, if he was the dangerous person that deserved to be sentenced to death, surely his name would have come forward in one or other of the JMC meetings or sub-committees?

MR JANSE VAN RENSBURG: I don't know, I suppose that would have been the case.

MR BIZOS: Yes, if in fact his name does not appear anywhere in any of those meetings, the likelihood of you telling the truth as to what you believed him to be, becomes even more remote?

MR JANSE VAN RENSBURG: No, I wouldn't say that. All information regarding these matters wasn't always conveyed to the Security Branch by the JMC.

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MR BIZOS: But there was a heavy responsibility was there not, on Brigadier van der Westhuizen, for the safety of the area and any newcomer into the area and any spreading of the unrest, would have been a matter of serious concern to him?

MR JANSE VAN RENSBURG: Yes, I suppose so. I don't think that was always the case with names, I think information about activities broadly speaking, or by any intensified onslaughts, yes.

But we didn't always give information in respect of all persons involved.

MR BIZOS: Yes, but you know, this EP JMC was a body containing so many persons, surely if a dangerous person found himself in your area, you would mention his name for the purposes of one or other of the people there supplying information and coordinating the information and getting even more information?

MR JANSE VAN RENSBURG: It didn't always worked that way as far as I can remember.

MR BIZOS: Well, if you turn to the last page of Exhibit R, you will see the last four lines of his statement -

"In summary I deny categorically that I had anything whatsoever to do with the death of Goniwe, Fort - He didn't even know his name properly, but Sparrow Mkonto and Cicelo Mhlawuli. The last-mentioned two persons were unknown to me."

Would you accept the correctness of that statement, that is that it was unknown, not the first part that he had anything to do with it? That the two persons were unknown to him, would you accept that as a correct statement?

MR JANSE VAN RENSBURG: I can't vouch for the correctness or otherwise of this statement.

MR BIZOS: But you have no reason to doubt it? Have you any reason to doubt it?

MR JANSE VAN RENSBURG: No, I don't know whether the statement is actually telling the truth or not.

MR BIZOS: Well, on the assumption that he is telling the truth, and your counsel may consider calling him if he challenges it, on the assumption that he is telling the truth, it would appear that Sparrow Mkonto was not of such a high profile to be known by the Chairman of the JMC, the body that was responsible for the safety of this area?

MR JANSE VAN RENSBURG: I don't know whether he knew or didn't, or whether he simply forgot. I really can't comment on this statement of Brigadier Van der Westhuizen, and on the knowledge or otherwise that he had.

MR BIZOS: He was not even on the signal that was sent, his name was not even on the signal that he was sent?

MR JANSE VAN RENSBURG: I did not know anything about that signal.

MR BIZOS: Has it occurred to you that your subjective opinion about the danger that Mr Mkonto held for the security of the State was exaggerated and that only you and your small group of Security Policemen were concerned, if the Chairman of the JMC did not know anything about him?

MR JANSE VAN RENSBURG: We would never have killed people simply for the sake of killing. We were in a situation of war and we had to try to the best of our ability, to prevent this war or revolution escalating to a violent overthrow of the government by the communists and their allies.

And to be able to do that in certain areas, that is why this decision was taken. That is why the decision was taken to actually execute this plan.

MR BIZOS: That was your subjective opinion, what I am asking you in relation to Mr Mkonto is that he was not even known to the Chairman of the EP JMC, how dangerous could he have been?

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MR JANSE VAN RENSBURG: I can't speculate on that as to whether he was known to the JMC or not or whether his name had been mentioned or not.

But for us in the then Security Branch, he was a prominent figure.

MR BIZOS: Was this the period during which Security Policemen thought that they knew better than anyone else and they would decide for themselves what was good for the country irrespective of the views of others?

MR JANSE VAN RENSBURG: No.

MR BIZOS: In relation to your knowledge of whether or not this question was pending, the question as to whether Mr Goniwe was to be reinstated or not, I would like to hand in the minutes, Mr Chairman, we made reference to it before, but haven't handed it in.

The meeting of the 23rd of May 1985. It will be Exhibit S, and will you note that on the first page, Colonel H. Snyman, representing the South African Police - does "V" stand for "Veiligheid"? Just have a look at it.

MR BOOYENS: Let's just have the document first please.

MR BIZOS: Mr Snyman's name, do you see it there?

MR JANSE VAN RENSBURG: Yes, I see his name.

MR BIZOS: Please have a look at page 13, "there would still be demanded that Matthew Goniwe and Fort Calata be reappointed."

MR BOOYENS: Sorry, I think our pages are different, which paragraph Mr Chairman?

MR BIZOS: It is paragraph 16, it is a thick 19 on the Exhibit. Does that accord with your information?

MR JANSE VAN RENSBURG: Yes, I see that.

MR BIZOS: Please turn over the page - 20, paragraph 26.

"EP JMC recommendation, a signal. I am sorry I can't make the word out on my copy - will be sent to the SCR to be sent through as well to the relevant Ministers. Matthew Goniwe and Fort Calata should never ever again be reappointed".

Now, did you ever, was this reported to you that this was resolved by the EP JMC?

MR JANSE VAN RENSBURG: Yes, I think so.

MR BIZOS: Did you ever receive a response from either the Minister or the SSVR or anyone in higher authority to say that this matter had been decided one way or the other?

MR JANSE VAN RENSBURG: No, not that I can remember today.

MR BIZOS: So for anybody that kept the record in mind, the matter of the reappointment or not, was still pending?

MR JANSE VAN RENSBURG: As far as I can remember, yes.

MR BIZOS: Yes. And then in relation to what the purpose of the SSVR was, I want to put in as an Exhibit, the affidavit of Adamus Paulos Stemmet as Exhibit T. This too, Mr Chairman, comes from the inquest file.

I am going to read this into the record and ask you to comment on it.

"During 1985, I was the Head of the Strategic Communication Branch of the Secretariat of the Security Branch. As a result of this position, I was asked to

explain the various minutes and other documents of the National Security Management System, a list of the minutes and documents is included.

During 1985, there was a situation of unrest in the country, especially in the Eastern Cape, which resulted in the announcement of a state of emergency.

The gravity of the situation can be seen in the documents which will be discussed in this. The school unrest was especially alarming. Of all the areas, it was probably the worst in the Eastern Cape. Minutes taken from the EP JMC indicates the regional management of the system.

The major body on regional level was the JMC, Joint Management Centre. Under the JMC, there were various sub-committees such as the JOC which coordinated security actions and dealt with urgent matters or matters which could not wait for JMC meetings.

In the case of the meetings of the EP JMC, the school situation was a matter of great concern, and as a result there were frequent discussions held regarding this".

Paragraph 6 of Exhibit T,

"The JMC was a coordinating body among various departments. Departments had to liaise directly with their Head Offices in cases where more than one department was involved or where there were differences between departments which could not be clarified on JMC level, the SCR would also be informed and the assistance of the SCR could also be enlisted in order to help solve problems, or provide advice.

In such cases the SSC fulfilled a role of facilitation between departments. The decision to send a signal to the SSC, as contained in paragraph 26 of the EP JMC meeting of the 23rd of May 1989, was thus an example of the usual practice and communication channels."

Mr Chairman, that is the document we would suggest which is referred to as Exhibit C. It refers to a document, the never ever, we would suggest that that is what it refers to.

"At the meeting of the action committee on 6th of June 1985, Mr Strydom from Education and Training, submitted a report regarding his interview with Matthew Goniwe and the situation in Cradock, and as a result thereof, the matter was referred to a committee under the leadership of the SSC. The JMC was developing at that stage from a pure planning committee to one which eventually would coordinate security action on the lowest level. There was close cooperation between the JMC and the SSC because the same persons would frequently participate in both.

The latter body had a chiefly planning role. The Goniwe matter was discussed in a working group under the SSC. Such a working group normally did not take minutes, but dealt with inputs and concept documents. This working group's recommendation were sent to the Chairperson of the JMC for channelling probably to the interested or relevant departments.

It is confirmed by the fact that both Education and Training and South African Police officials completed documents or assignments regarding the document for the attention of their Ministers. Copies of the documents are also contained in these pieces referred to Education and Training documents of the 9th of the 1st, 915, which was set out during June 1985, and the South African Police documents, S.4/43680, dated 25 June 1985 entitled the recommended action taken against Matthew Goniwe, both documents sketched possible options from departmental viewpoints.

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The above indicates channels which were followed to achieve the documents which were set out for the Ministers. Before final decisions were taken, Goniwe had passed away."

This was nothing new, this was a formal procedure that was to be adopted whenever there were departmental differences?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: You knew from towards the end of May that there were departmental differences which were sent to this SSVR, in order to facilitate the differences of opinion in the two departments?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And once you knew that and you knew that this conflict had not been resolved, why did you not postpone or abort the plan that you had hatched in order to kill Goniwe and his friends?

MR JANSE VAN RENSBURG: Mr Chairman, these recommendations and the decisions which had to be taken, had to do with Educational matters and not necessarily with national security.

We carried out an instruction in terms of a decision which was taken on the basis of national security.

CHAIRPERSON: Mr Van Rensburg, that cannot be correct. Exhibit S is the minutes of a meeting at which mostly Security Officials were present and it was decided during that meeting to take action regarding Mr Goniwe.

Or at least no decision was taken, but he was discussed? Is this not so, and I also see on page 20 number 26(b), a decision was taken regarding 248 former students. So it is not actually correct that the Goniwe matter was or could be referred to as strictly an Educational matter?

MR JANSE VAN RENSBURG: No, I am not saying that it was restricted to the Department of Education and that it was their duty to attend to it, but the appointments or reappointment or non-appointment had to do with his capacity as a teacher and not as an individual who posed a serious threat to the dispensation.

MR BIZOS: You know, General, the logic of that answer is not worthy of a standard 2 child.

Are you suggesting that the Secretariat of the Security Council should appoint a committee consisting of Generals, Brigadiers and top Educationists as to what should happen to Goniwe, and that you could solve their problem by killing him without any reference to them? That is what you said?

MR JANSE VAN RENSBURG: No.

MR BIZOS: Well, what did you mean by this answer that you gave?

MR JANSE VAN RENSBURG: Sir, I stated that that body and those people who were taking decisions, did so surrounding Mr Goniwe as a teacher. That is the only inference that I can make.

They were not taking decisions regarding him as a threat to the State.

MR BIZOS: But your own Commissioner of Police made recommendations in relation to the circumstances under which he should be reappointed and what steps should be taken in order to avoid any security dangers, General?

MR JANSE VAN RENSBURG: I cannot make a statement regarding what the Commissioner decided, that is how I understood the situation.

MR BIZOS: But you say that this Committee had nothing to do or rather, your decision to kill Goniwe was something quite apart about the top, the Secretariat of the Security Council deciding that the security of the State may be better served by reappointing him as a school teacher, and thereby stopping the school boycotts and thereby creating a climate of peace in the area.

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You say that the one had nothing to do with the other. That you could act from the security point of view and whilst they were debating whether he was a good teacher or not?

MR JANSE VAN RENSBURG: No, that is not what I am saying.

MR BIZOS: But that is what it means.

MR JANSE VAN RENSBURG: Just allow me to answer. I am saying that is what was decided there. If I look at the documents, I understand that the decision was about his appointment, or reappointment in order to rectify the situation regarding education.

Whether he would have been appointed or not, to me was a matter which had not achieved finality and the serious point which must be addressed here, the point whether he would be appointed or reappointed, would not have put an end to his political activities.

CHAIRPERSON: Are you saying that his reappointment as a teacher, had nothing to do with his political activities?

MR JANSE VAN RENSBURG: Yes, basically that is so.

MR BIZOS: Look at Exhibit G. Major General of the Air Force, who was in the Security Council Secretariat, says paragraph 4 -

"Surrounding Mr Goniwe, there was a potential clash of interests" between the department of Education and Training on the one hand, and the security community on the other hand.

Mr Goniwe was dismissed from his teaching post and the Department of Education and Training, wanted to reappoint him to his position in order to defuse the situation of unrest.

The security community's viewpoint was that the same objective could be achieved by detaining Mr Goniwe for an indefinite time."

We will assume that the later General of the Air Force didn't know of the option being prepared by you to kill him, but how can you say that they were separate issues?

We are waiting for an answer General.

MR JANSE VAN RENSBURG: As far as I am concerned, and as far as I understood it, they were two different issues which did connect with one another.

But the matter that was of importance to us was that the actions that these people were taking to topple the government of the day.

MR BIZOS: Oh, now let me just see. If you consider their conduct and what they were trying to do, irrelevant, does it follow that you would have allowed the plan to be carried into effect and have them killed, even though you had detailed information as to what they were busy doing at the offices of the Secretariat of the Security Council?

MR JANSE VAN RENSBURG: Sir, could you repeat the question. I do not have clarity regarding the question.

MR BIZOS: If what you tell us is true, that the two were separate issues, you would have continued with the plan to kill Goniwe and his friends, even if you knew in detail what they were discussing in Pretoria?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: So that you took it upon yourself in Port Elizabeth to decide for yourselves what was good for the country and it didn't matter what the Secretariat of the Security Council said?

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MR JANSE VAN RENSBURG: Sir, with regard to the instruction that I received, I agreed with it and I participated in the planning and execution thereof, and I would have taken this action regardless what had been decided, unless I had received an instruction to cease the operation.

CHAIRPERSON: So even though you didn't agree with it, you would have executed it, because it was an instruction?

MR JANSE VAN RENSBURG: Correct. And also in my opinion, it offered a possible solution to the situation which had been created.

CHAIRPERSON: Yes, that I understand, but even if you hadn't agreed with it, would you have carried it out because it was an instruction?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: If you knew that the matter was pending before the Secretariat of the Security Council, would you not have considered that process as countermanding any order that may have come from some person that Mr Snyman hadn't told you about?

MR JANSE VAN RENSBURG: I can only say that I would have expected him to have informed me if there was any change in the plans.

MR BIZOS: You didn't get the - you are not coming to terms with the question. You thought that Mr Snyman had got an order from somewhere?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Didn't you consider as a then Colonel and now General, that this process if you knew about it, this process would have been a countermanding of any order that may have been given to Mr Snyman to be transmitted to you?

MR JANSE VAN RENSBURG: I am still not clear on what you are asking of me.

CHAIRPERSON: Let me put it this way, if you had to choose between an order from the Secretariat and an order from Colonel Snyman, which one would you follow?

MR JANSE VAN RENSBURG: Between the Secretariat and who?

CHAIRPERSON: Snyman. Is that right?

MR BIZOS: That is bringing it down to its basic elements, thank you Mr Chairman.

MR JANSE VAN RENSBURG: Sir, I would have followed the order from Mr Snyman.

MR BIZOS: Why?

MR JANSE VAN RENSBURG: Because I accepted that he had received this order from some upper level and that it was an order which had to do with security activities, and that it had to be carried out.

MR BIZOS: But did you consider murder as something so light that you would take the suggestion of your immediate superior officer on the basis that he may have got authority from someone else, even though you had information that some higher organ of State, was doing something inconsistent with that order that you thought had been given?

MR JANSE VAN RENSBURG: Yes, during that war situation that we found ourselves in, we were placed in a position by politicians from all sides, where we had to win the struggle at all sides, so therefore my answer is yes.

MR BIZOS: I can understand that in the field conditions of the war that you may have to immediately obey an order, but you had been on Mr Goniwe's tail as far back as 1984, had you not?

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MR JANSE VAN RENSBURG: Yes.

MR BIZOS: If you knew that this process was going on, why would you have followed Snyman's order and not delay for clarification once you knew that a process going up to higher authority, had been started on the 23rd of May and you did not know whether or not it had been completed?

MR JANSE VAN RENSBURG: Sir, in my opinion the decision as to whether it would be an appointment or no appointment, would not have solved the problem.

CHAIRPERSON: Mr Bizos, would it be a convenient time to take a ten minute break?

MR BIZOS: Yes.

COMMISSION ADJOURNS

ON RESUMPTION

NICOLAAS JAKOBUS JANSE VAN RENSBURG: (s.o.u.)

CROSS-EXAMINATION BY MR BIZOS: (conts)

You told us that the name Mkonto was well known to you?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: As one of the close Lieutenants of Mr Goniwe?

MR JANSE VAN RENSBURG: Correct.

MR BIZOS: And that this was known to you way from the start when you started paying attention to Mr Goniwe from the beginning of 1984?

MR JANSE VAN RENSBURG: Yes, I think so. I think so, I can't remember specifically as from what date, but I will accept that.

MR BIZOS: Yes. And you considered him one of the close Lieutenants?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: And Mr Mhlawuli, when did his name come to your notice for the first time?

MR JANSE VAN RENSBURG: I can't say for certain when I became of him.

MR BIZOS: Would that also have been in 1984?

MR JANSE VAN RENSBURG: It is possible, but I can't say that with certainty.

MR BIZOS: When you made this momentous decision to sentence him to death, you were satisfied that he was a high profile activist who had been a Lieutenant of Mr Goniwe for some time?

MR JANSE VAN RENSBURG: Yes, that was the information conveyed to me.

MR BIZOS: And a high powered UDF affiliated activists really started from August 1983 when the UDF was formed?

MR JANSE VAN RENSBURG: Yes, I will accept that. I am not exactly sure of the dates.

MR BIZOS: You assumed when you made the decision that Mr Mkonto and Mr Mhlawuli should die, you assumed that they had been Lieutenants of long standing?

MR JANSE VAN RENSBURG: Yes.

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MR BIZOS: And dangerous Lieutenants at that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And that information would of necessity have come in various ways, but more particularly as a result of the monitoring that was done in Cradock?

MR JANSE VAN RENSBURG: Yes, will accept that, Cradock and elsewhere.

MR BIZOS: Yes, elsewhere as well, but there was not better place, because there it was a small area, it had its mini-JMC, it had the technical means of surveillance and people to transcribe what was said on the telephone, it was properly equipped investigation centre in stead of the rather - because it was Cradock because the thorn in your flesh, Mr high powered Goniwe, agitator and activist in your words, came from there?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BIZOS: But now you see I am going to suggest to you that both in relation to Mr Mkonto and Mr Mhlawuli, an exaggerated case of their importance has been made in the case of Mr Mkonto - completely exaggerated case, and a false case in the case of Mr Mhlawuli, and I will tell you why.

Mr Chairman, I want to hand in what purports to be a comprehensive report of the National Security Management System of the Cradock mini-JMC, which deals for the period 1983 to February 1985.

Let me at the outset put to you the importance of this document for what it does not contain. Firstly that I am assured by Mr Clive Plasket of the Legal Resources Centre up to the beginning of this year, and the University of Rhodes as from the beginning of this year, who studied this document, and he assures me that the names of Mr Mkonto and Mr Mhlawuli don't appear at all in this document drawn by Commandant Marais of the Cradock JMC.

You can satisfy yourself whether this is so or not, you can accept my assurance if you want to, because I want to ask you a couple of questions on the assumption that that proposition is correct.

MR BOOYENS: Mr Chairman, it is a pity my learned friend didn't give this to us before the adjournment, because this is some 20 pages I guess, 15.

MR BIZOS: Again, Mr Chairman, I didn't pull it out of my sleeve, it is part of the official record which has been filed with the Commission.

CHAIRPERSON: Mr Bizos, the nature of the questions that you intend dealing with out of this document, are you going to refer to specific paragraphs?

MR BIZOS: I am sorry, I can't hear Mr Chairman.

CHAIRPERSON: The questions you intend to ask in regard to this document, are you going to refer the witness to certain paragraphs or pages when asking?

MR BIZOS: No, because of the negative nature of the putting, it is not possible to do that.

CHAIRPERSON: Well, then you would have to give him a chance to ...

MR BIZOS: But I will deal with certain aspects of the overall contents once he has glanced over it.

CHAIRPERSON: Well, let us bear with him then, he is acquainting himself with that.

MR BIZOS: Yes, thank you for the indulgence Mr Chairman.

MR JANSE VAN RENSBURG: I would just like to know Mr Chairman, if I have to read this entire document now?

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CHAIRPERSON: If you don't want to accept Mr Bizos' word, then it is better for you to actually read it.

MR BOOYENS: I think the problem is Mr Chairman, that it is not - I doubt whether my learned friend would tell us that the name is here, but my learned friend said he would also like to deal with the contents in general, and I think that is where the problem is.

It is no problem, I for one, will accept my learned friend for it without qualification, that the name of Mkonto doesn't appear here, or the name of Mhlawuli, but the moment my learned friend starts talking about the general contents, and it may be so that it is part of the 4 000 or 5 000 pages of inquest record, that is neither here nor there, because quite frankly nobody even if he did make a study of it, can be expected to remember 4 000 or 5 000 pages. Maybe not nobody, but I am certainly not one of those lucky persons who would be able to do that.

I think it is a funny situation to sit here, while the witness is reading through it.

CHAIRPERSON: Well, I was going to suggest subject to your objection ...

MR BOOYENS: Or my agreement Mr Chairman perhaps.

CHAIRPERSON: That Mr Bizos be allowed to ask the question. If the need arises for us to adjourn because of the specific nature of the question, then we will do so.

MR BOOYENS: Yes, yes Mr Chairman, I think that is fair.

CHAIRPERSON: Proceed Mr Bizos.

MR BIZOS: Yes. You see, if Mr Mkonto and Mr Mhlawuli were the high profile activists that you say that they were, their names would have been in this, what appears to be a comprehensive statement of, compilation of the activities of the people there?

MR JANSE VAN RENSBURG: No Security Branch as far as I am aware at the time, conveyed all information to a mini-JMC. That would undoubtedly never have happened.

There was some information which would never have been discussed at a mini-JMC as a result of the composition of the mini-JMC. I see that the person who compiled the document, a Commandant Marais, well I remember him vaguely and I think, I could go as far as saying, he was a farmer.

CHAIRPERSON: What concerns me Mr Van Rensburg, is that if the three other deceased were the ring leaders along with Mr Goniwe in the Cradock area, don't you think one would ordinarily expect their names to be mentioned in minutes of a meeting regarding the unrest situation in Cradock?

MR JANSE VAN RENSBURG: If they had been involved in that particular situation, yes then I would say so.

MR BIZOS: You see, you may be correct that he was a farmer, but he was no ordinary farmer because he was a Commandant.

MR JANSE VAN RENSBURG: Yes, he was a Commandant.

MR BIZOS: And a Commandant under whose Chairmanship Mr Fouche, the top Security Policeman was sitting in Cradock during 1983, 1984 and Mr Winter in 1985?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And he had the full cooperation presumably of the full Security Police staff in order to assist him in the task of collecting the information?

MR JANSE VAN RENSBURG: Yes, as I said I am not doubting the contents of this document. All I said was that all the information wouldn't necessarily be contained herein.

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MR BIZOS: I am merely dealing with one of your answers that he was a farmer in a - as a reason to suggest that this cannot be a comprehensive document, and if he was a farmer and he was the Chairman, he had a Lieutenant, Captain and a Major as his Chief Executive Officers, General?

MR JANSE VAN RENSBURG: Yes, I hear what you say.

MR BIZOS: Yes. And you see, let me just mention to you what your counsel can check afterwards, that the names that occur are Fort Calata. In order to test your knowledge about the people that you sentenced to death and who were executed.

What was the occupation of Mr Calata?

MR JANSE VAN RENSBURG: I think he was a teacher.

MR BIZOS: And what was his background?

MR JANSE VAN RENSBURG: No, I couldn't tell you that off the cuff.

MR BIZOS: Was he a religious person or was he not a religious person?

MR JANSE VAN RENSBURG: I am guessing but I think his father was a minister? But I am guessing.

MR BIZOS: Yes, it was actually his grandfather who was a historical figure.

MR JANSE VAN RENSBURG: Okay, fine.

MR BIZOS: Well, any way, you had picked up something about that, yes. And what was his position in Cradora?

MR JANSE VAN RENSBURG: I am once again guessing, but I think he was the Chairperson at some stage.

MR BIZOS: Well, you got that wrong.

MR JANSE VAN RENSBURG: Okay.

MR BIZOS: There was Mr Mbolelo Goniwe, did you know whether he was the brother or cousin of Matthew Goniwe?

MR JANSE VAN RENSBURG: Once again I am guessing, I think he was a cousin, but he could have been a brother.

MR BIZOS: And Mr Madolla Jacobs, he was also a prominent person there. What was his occupation?

MR JANSE VAN RENSBURG: I think he was a pupil, a scholar.

MR BIZOS: That is what you think? The other names mentioned there as visitors are Oscar Mpeta, when the UDF was founded, Molly Blackburn, who was she?

MR JANSE VAN RENSBURG: I know she was a lady here in Port Elizabeth, and I think she was involved in the Black Sash.

MR BIZOS: And Di Bishop?

MR JANSE VAN RENSBURG: I can't recall. I don't know exactly.

MR BIZOS: And a person by the name of Vuysani who is mentioned there, did you know anything about him?

MR JANSE VAN RENSBURG: On what page is that?

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MR BIZOS: It doesn't matter, it is Vuysani?

MR JANSE VAN RENSBURG: No sir, I can't remember him.

MR BIZOS: And Dave O'Grady?

MR JANSE VAN RENSBURG: I don't remember him either.

MR BIZOS: And Mr Mkalipi?

MR JANSE VAN RENSBURG: I don't remember him.

MR BIZOS: Yes, and ...

MR BOOYENS: Mr Chairman, I don't know whether this exercise is taking us anywhere.

MR BIZOS: Can we leave that to argument Mr Chairman?

MR BOOYENS: I want to object to this line of questioning really.

CHAIRPERSON: Why?

MR BOOYENS: For the simple reason we are moving way out of the scope of this application in any case now. We are hearing names that nobody has mentioned here. It is Cradock activists, what we are really testing is how good is his memory, and if he fails, is he a liar?

CHAIRPERSON: You know Mr Booyens, I think the crux of Mr Bizos' argument as I can follow it, is that four people were killed as a result of an opinion that they were the cause of wide spread unrest.

MR BOOYENS: Quite true.

CHAIRPERSON: And in being able to structure this unrest they belonged to certain organisations etc, and I think what the exercise is designed to do is to find out whether that decision made in so far as the present witness is concerned, was based on sufficient knowledge of the situation, and whether the proper people, if indeed it can be condoned, people had to be killed, if indeed the proper people were killed.

MR BOOYENS: Very well, Mr Chairman.

MR BIZOS: And Gladwill Makahula?

MR JANSE VAN RENSBURG: I have heard the name before.

MR BIZOS: Do you know anything about him?

MR JANSE VAN RENSBURG: As I said I have heard the name, but I can't place him exactly.

MR BIZOS: How many members were there on Cradora's committee?

MR JANSE VAN RENSBURG: I don't know.

MR BIZOS: Do you know who the office bearers of this organisation were other than Mr Goniwe and Mr Calata?

MR JANSE VAN RENSBURG: I can't remember that today.

MR BIZOS: Well, did you ever know it?

MR JANSE VAN RENSBURG: Yes, I am sure I would have known that at some stage. Maybe I wouldn't have known all the names.

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MR BIZOS: Yes. You see what I want to put to you in general terms is, that this document drawn obviously by the Security Police, despite the occupation of the Chairman, shows no evidence of the activities that you say induced you to order their death, but that there was activity either not against any law or other activity indulged in by other UDF affiliates, which may have been contraventions of certain laws, but which was done by way of protest for the purposes of showing dissatisfaction with the undemocratic nature of the State at that time.

MR BOOYENS: Mr Chairman, before my client answers this question, now we are getting to a situation where he cannot answer it unless he has read the document, because just for example, at page 6 and I have just scanned through this, I see there is talk about what the purpose was of the street committees.

Then there is a long list in Annexure A, I have just seen something at page 9 for example, opposite 30, SAP vehicles pelted with stones, and other incidents involving the Police.

With all due respect, I think we are now getting to a situation where it will be unfair to expect the witness to answer a question as wide as that.

CHAIRPERSON: Unless he has read the document?

MR BOOYENS: Unless he has, yes.

MR BIZOS: Well, may I just generalise it and come back to it after the witness and his counsel have read it and we can come back to it if the - what I am going to put to you that there is nothing in here that carries the death sentence?

MR JANSE VAN RENSBURG: I don't know. I haven't yet read the document. As Mr Bizos puts it, it could perhaps indicate that, but the decision to kill these people was not made based on this document.

MR BIZOS: Again I must put to you that you and your Security Police Department in Port Elizabeth, decided that because if you detained people and tortured them, and died like Biko had, or complained to tortured them, and they didn't keep to the statements that you extracted from them, decided from 1980 onwards, to eliminate people who were involved in politics that were not in support of the government that you were prepared to support by committing torture, murder and other very serious offences in order to prevent democracy taking root in this country.

MR JANSE VAN RENSBURG: I deny that.

MR BIZOS: And you know, there is, I am going to submit to the Committee a hypocrisy in your applications for amnesty.

You speak of you are doing it because of the sufferings of the black people who were the victims of people's courts and other wrongs done against them. Have I put the position correctly, that you owed a duty to the black people of the country to protect them?

MR JANSE VAN RENSBURG: All people.

MR BIZOS: All people? But now this was touched upon by a member of the panel yesterday and I want to develop it with you.

You planned and committed these murders, correct?

MR JANSE VAN RENSBURG: yes.

MR BIZOS: You gave out and pretended that AZAPO was responsible for it?

MR JANSE VAN RENSBURG: Yes, people could have regarded it like that.

MR BIZOS: You said AZAPO did it?

MR JANSE VAN RENSBURG: Yes.

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MR BIZOS: Yes, and it was usually either that the ANC did it or that another black group, and in this case it was AZAPO?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BIZOS: You described AZAPO as a minority movement here in Port Elizabeth?

MR JANSE VAN RENSBURG: Correct.

MR BIZOS: If the people, the black people in Port Elizabeth, were as stupid as you might have thought them to be, as a result of your killing Goniwe and others, and giving out a false story that AZAPO had done it, you might have succeeded in having unbridled violence by supporters of the UDF against AZAPO?

How would that have brought peace to the country?

MR JANSE VAN RENSBURG: Sir, once again that is speculation. I can't say it would have happened like this or like that. We acted in the way that we thought best at the time.

If we made a mistake, then we made a mistake.

MR BIZOS: No, it is not as simple as that General. Did you foresee the possibility that if your murder and false propaganda achieved its proper result, there would have been unbridled violence, or there could have been unbridled violence by the supporters of the UDF against the supporters of AZAPO and as you said, violence begets violence?

MR JANSE VAN RENSBURG: That was not a consideration amongst us.

MR BIZOS: Why not?

MR JANSE VAN RENSBURG: As I have said, it was made to look like a robbery or like a vigilante attack. It wasn't a consideration to actually put these two groups against each other, and if we made some mistake in the process, well then that is the way it is, and I will concede that.

MR BIZOS: You actually don't want to admit that you made any mistakes?

MR JANSE VAN RENSBURG: That is not what I said. Nobody can say that he never makes any mistakes.

MR BIZOS: Well, what mistakes did you make in relation to this matter?

MR JANSE VAN RENSBURG: Well, if you cast your mind back, I would say that we should never have acted in this way.

I am talking about the situation today, not 1985, if I reflect upon it today, then in retrospect or with hindsight, I probably would have acted differently.

I once again want to say that, and I have said it before, that on both sides namely the Police and the ANC, Umkonto We Sizwe people, we were actually caught between two political factions, or parties, and we killed each other, we tackled each other and that is the result we see today.

If the politicians on both sides could have negotiated it in time and addressed the situation and saved the situation, it would have been so much the better, it wouldn't have been necessary to actually land up in such a pressurised situation.

MR BIZOS: In relation to the manner in which the four victims were killed and were burnt, was it your instruction that they should be killed and burnt and their bodies disposed in a manner in which the identity of the deceased should not become known?

MR JANSE VAN RENSBURG: No, that was not my instruction.

MR BIZOS: Why was the car burnt?

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MR JANSE VAN RENSBURG: To this day I still don't know why. I can only accept that it was to conceal the ownership of the vehicle or to render it untraceable for as long as possible.

CHAIRPERSON: Mr Van Rensburg, a report was given regarding the incident, a day after it took place, or shortly after the incident?

MR JANSE VAN RENSBURG: Yes, there must have been some kind of report.

CHAIRPERSON: And at that stage you knew that the vehicle had been burnt?

MR JANSE VAN RENSBURG: Well, I cannot recall whether Mr Snyman or Mr Van Zyl mentioned that to me.

CHAIRPERSON: Well, let me put it this way, at some or other time after the incident, months or years, did you determine yourself who burnt the vehicle?

MR JANSE VAN RENSBURG: Yes, I knew it was Mr Van Zyl.

CHAIRPERSON: Did you ask them?

MR JANSE VAN RENSBURG: No, I didn't.

MR BIZOS: Yes, well and the bodies were not left in one place, but at four different places and in one instance, some 15 kilometres away from the other? And another yet at another place, and the other two at another place, but fairly near? Why was that so much trouble taken to spread the bodies?

MR JANSE VAN RENSBURG: I don't know.

MR BIZOS: And the bodies were burnt?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Why were the bodies burnt?

MR JANSE VAN RENSBURG: I cannot tell you why.

MR BIZOS: Well, haven't you thought about it, why did your underlings take so much trouble to remove the number plates off the car, put false number plates on, separate the bodies and not leave them in a group of four, burn them and in some instances, put clothing on top of the face obviously saturated with petrol in order, presumably to burn the face beyond recognition? Did you ask any of your underlings why all those things were done?

MR JANSE VAN RENSBURG: No, I did not ask them. I suspected that that was done in order to make it appear like a vigilante attack, but I did not elaborate or investigate any further.

MR BIZOS: Not only to make it look like a vigilante attack, but in order to conceal the fact that Goniwe and his colleagues had been killed?

MR JANSE VAN RENSBURG: Yes, one could assume that, but if that was the objective, then I doubt whether it was successful, but I could accept that that was the objective.

MR BIZOS: Yes, well, those who investigated the case, who were not attached to the Security Police, and tried in the beginning to do an honest investigation before General Krappies Engelbrecht came into the picture to try and sweep the place clean, the correct number plate of Mr Goniwe's car that had been taken off, had obviously accidentally been dropped within a very near the burnt car, did you know that?

MR JANSE VAN RENSBURG: Yes, I am not certain, but I accept that that is so.

MR BIZOS: And had it not been for that - from the point of view of the investigation - fortunate circumstance, nobody would have suspected that to be Goniwe's car, nor particularly as there was no four

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bodies in its immediate vicinity?

MR JANSE VAN RENSBURG: Yes, it could have looked like that. I would just like to add that if the engine number and chassis number had been available, it would not have been difficult to determine whose vehicle it was.

MR BIZOS: That would have depended of course on the will of a proper investigation being done to that extent and maybe that is why Mr Krappies Engelbrecht took over.

But be that as it may. The disappearance of Mr Goniwe and his companions, if the plan had worked, would have been hidden without inquests being held, without the Security Police or anyone else having to give any account, because if their bodies were not identified, you would have given out another story.

We did not arrest them, they must have escaped and joined the ANC in exile. Isn't that what you said in relation to the Pebco 3?

MR JANSE VAN RENSBURG: I never made any statement regarding the Pebco 3.

MR BIZOS: I know that you didn't, but isn't that what happened when the Security Police of Port Elizabeth killed the Pebco 3?

MR JANSE VAN RENSBURG: Yes, I no longer am certain as to what the Police's version was at the time. I cannot remember it.

CHAIRPERSON: Well, wasn't that the version in respect of Condile?

MR JANSE VAN RENSBURG: If it was that way, it must have been. I have no reason to tell you that it wasn't that way, but I cannot recall it.

CHAIRPERSON: Mr Van Rensburg, about two to three weeks ago you testified to that in Cape Town?

MR JANSE VAN RENSBURG: Regarding what sir.

CHAIRPERSON: Mr Condile's murder.

MR JANSE VAN RENSBURG: Yes?

CHAIRPERSON: Near the border of Mozambique?

MR JANSE VAN RENSBURG: That is correct.

CHAIRPERSON: And the story there was officially that they probably escaped and joined an organisation outside, it was intended to look like that, and then he was killed there, is that not so?

MR JANSE VAN RENSBURG: You are completely correct Chairperson.

CHAIRPERSON: Isn't that what counsel is suggesting to you that that was the modus operandi?

MR JANSE VAN RENSBURG: That is possible yes, but I can't remember. I agree, I can't remember whether that was the official version made or provided by the Police. If it was that way, then it was that way, I won't argue it.

MR BIZOS: General Van Rensburg, Mr Van Zyl in answering one of Mr Hugo's questions yesterday said that he and Mr De Kock were trading in misinformation.

MR JANSE VAN RENSBURG: Yes, I heard that.

MR BIZOS: Wasn't that the modus operandi of the Security Police here in Port Elizabeth?

MR JANSE VAN RENSBURG: Yes, it was.

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MR BIZOS: And now, could you please tell the Committee in view of this experience in pedalling misinformation, what yardstick they might use in order to determine when you are telling the truth and when you are not?

MR BOOYENS: That is not a proper question Mr Chairman.

CHAIRPERSON: I didn't hear.

MR BOOYENS: That is not a proper question to ask really. That is a matter - that is argumentative what my learned friend is putting now.

MR BIZOS: I will not insist on an answer Mr Chairman because I won't know whether it is true or not.

General, when did you learn that the operation was a success?

MR JANSE VAN RENSBURG: That morning, or at least the following morning.

MR BIZOS: At what time?

MR JANSE VAN RENSBURG: Eight o'clock, half past eight perhaps, in that vicinity. Perhaps nine o'clock, I am not dead sure.

MR BIZOS: And did General Krappies Engelbrecht come down here?

MR JANSE VAN RENSBURG: I don't know. Not after the incident, not after the murders, I do not know whether he was here.

MR BIZOS: During the course of investigation?

MR JANSE VAN RENSBURG: No sir. Not to my knowledge.

MR BIZOS: The three members of the Security Police, were they under your command? The three members of the Security Police that took part in the killing, were they part of your - under your command?

MR JANSE VAN RENSBURG: Yes, I was second in command of the Branch, so automatically they fell beneath my command.

MR BIZOS: Who were they?

MR JANSE VAN RENSBURG: You are speaking of Mr Van Zyl ...

MR BIZOS: No, no, no, the black members?

MR JANSE VAN RENSBURG: Oh, no, they were not, structurally yes, but they were not directly under my command.

MR BIZOS: Were you told that they participated in this killings?

MR JANSE VAN RENSBURG: No.

MR BIZOS: When did you for the first time learn that they participated in the killings?

MR JANSE VAN RENSBURG: I think that it was - no, I am not completely certain, I think it was during the early 1990's, but I am not sure.

MR BIZOS: Why would that be kept a secret from you?

MR JANSE VAN RENSBURG: That I cannot explain.

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MR BIZOS: When the plan was being discussed, were you asked for an opinion as to whether or not persons other than Van Zyl, Du Plessis, Taylor and Lotz should take part?

MR JANSE VAN RENSBURG: No. I did not know who the other members would be who would participate in the operation.

MR BIZOS: And are you saying that that was kept, that black police officers took part in this operation was kept a secret from you, right up to the years 1990?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Did you ask Du Plessis or Van Zyl or Taylor or Lotz why did you keep this a secret from me?

MR JANSE VAN RENSBURG: No, I did not.

MR BIZOS: Why not?

MR JANSE VAN RENSBURG: Because it was something that had happened, and it was in the past, one didn't wish to discuss it. I didn't wish to know anything further regarding the matter.

MR BIZOS: Were you ever told that one of the persons that participated was an ascari?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Would you agree that a person who had changed loyalties once, may present dangers that he may change loyalties again?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Would you have authorised the use of the black members of the Security Police if you had been asked before the murders had been committed?

MR JANSE VAN RENSBURG: Sir, if these members who would execute the operation, in this case Mr Van Zyl, who was in charge of the ground execution of the operation, I would have left the choice to him as to who would be participating in the operation along with him.

MR BIZOS: Were you involved in any way with the killing of the Pebco 3?

MR JANSE VAN RENSBURG: No.

MR BIZOS: Did you know about it?

MR JANSE VAN RENSBURG: No.

MR BIZOS: Do you know who the order came from?

MR JANSE VAN RENSBURG: No. I know now subsequent to the trial I received certain information.

MR BIZOS: Were the Pebco 3 discussed at JMC meetings?

MR BOOYENS: Mr Chairman, with respect, we are going a bit wide now. That is the subject matter of completely another application I think. It is a collateral issue, the witness has answered that he doesn't know about it. In the circumstances I think this is really going too wide, it is not relevant.

CHAIRPERSON: Mr Bizos, perhaps that being a part-heard matter, may give rise to a bit of discomfort in legal terms.

MR BIZOS: I will respect that. I didn't know that it was part-heard Mr Chairman, I am not involved in that.

CHAIRPERSON: No fair enough.

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MR BIZOS: And let me say that I don't intend to embarrass anybody in relation to any other application, I was merely going to investigate whether it had gone through the JMC system or not.

CHAIRPERSON: No, I understand that.

MR BIZOS: But I will not. You said, I will use the words in Afrikaans "an order was issued, and we carried it out", did you say that?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: What order were you referring to there?

MR JANSE VAN RENSBURG: The order from Colonel Snyman.

MR BIZOS: And you said "no order was issued for us to cease the operation"?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: What order might you have expected in order to cease the operation?

MR JANSE VAN RENSBURG: I said that in connection with the fact that I received no order from Colonel Snyman to cease the operation at any stage, after he issued the initial order.

MR BIZOS: The words reported to you were they that you must do what is in the best interest of South Africa?

MR JANSE VAN RENSBURG: Today I cannot say under oath that those were the words that Du Plessis and Van Zyl communicated to me.

And to the best of my memory they said that Mr Snyman had approved the elimination.

MR BIZOS: That may have been a question of interpretation, he didn't say to you what we have heard from others, that he said you do what is in the best interest of South Africa?

MR JANSE VAN RENSBURG: Once again I cannot recall those words which you have quoted, but I cannot give you the precise words.

MR BIZOS: Do you agree with Mr Van Zyl, that Mr Snyman is the sort of person who would not have given that order unless he had an order from above?

MR JANSE VAN RENSBURG: Yes, it is very difficult to summarise a person correctly all the time. But personally I would have doubted whether Colonel Snyman would have taken such a decision on his own.

MR BIZOS: Mr Chairman, there are certain other documents that we have to have copied in order to put to the witness. It may be a convenient stage.

In order to - it is ready Mr Chairman, it is the record of Mr Snyman's evidence, and we might facilitate the smoother running of the proceedings, if we hand those portions in at this stage. Shall we do that?

CHAIRPERSON: Yes, you can hand it in and pass copies to all who need copies, and we can adjourn.

MR BIZOS: Yes, it will be Exhibit V. Shall we then incorporate it then as Exhibit V now and we will bring them to your office Mr Chairman.

CHAIRPERSON: Yes, this hearing will adjourn till half past nine tomorrow morning.

COMMISSION ADJOURNS

ON RESUMPTION ON 27-02-1998 - DAY 5

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DATE: 25-02-1998

NICOLAAS JAKOBUS JANSE VAN RENSBURG: (s.u.o)

CROSS-EXAMINATION BY MR BIZOS: (conts)

Mr Van Rensburg, you were given a copy of Exhibit V yesterday, which consists of extracts from the evidence of Colonel Snyman?

MR JANSE VAN RENSBURG: That is correct.

MR BIZOS: May I make it clear Mr Chairman, that the record as a whole is before the Committee, and has been made available. In so far as this is a portion, either party is entitled during the course of argument or at any other time to refer to any other portion of the record, this is merely for the Committee's convenience.

Have you had an opportunity of reading this?

MR JANSE VAN RENSBURG: Yes.

CHAIRPERSON: What Exhibit are you talking about?

MR BIZOS: Exhibit V, the one that we handed in yesterday afternoon. You see that it consists of portions of the affidavit of Mr Snyman led by Mr Hargin who was the acting Attorney General at the time, and portion of questions asked by me in the inquest before Justice Zietsman?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Now, could you please turn to page 959 of this extract, 959? Have you got it?

MR JANSE VAN RENSBURG: Yes, I've got it.

MR BIZOS: Paragraph 3 -

"At the request of the Attorney General leading the evidence, I have issued two telegrams, one dated the 23rd of the 5th 1985, from the Divisional Commander of the Security Branch, SVD Lieutenant Colonel Rolands, and the other dated 22nd of the 5th 1985, sent by myself to the Commanding Officer of the Security Office in Pretoria.

I attach copies of these telegrams to this as Annexures A and B respectively. The relevant telegrams or telexes were sent to the Head Office. I confirm that the branches in my region, the Eastern Province, collected information and would send it through to the Divisional Head Office in Port Elizabeth of which I was the Head.

Subsequently it would be sent from my office in Port Elizabeth to the Security Head Office in Pretoria."

I just want to arrange for a copy to go to the interpreters, other wise they will be under stress to follow. If I may just have a ...

Let's take it paragraph by paragraph. Is paragraph 4 that I have read out in accordance with the procedure followed by Port Elizabeth as you knew it?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Let's go on to paragraph 5.

The fact that Annexure A was also sent by Colonel Rolands to the Commanding Officer in Pretoria, and the division just as the Eastern Province had direct contact with Security Headquarters in Pretoria, Annexures A and B are therefore good examples of how this line function operated? Do you agree with that?

MR JANSE VAN RENSBURG: Yes.

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MR BIZOS: Again -

"Insofar as it involved the identity of informants, any references to informants in Annexures A and B were removed. The reason for this is obvious. I was also shown Annexures A and B to the affidavit of the then Commissioner of Police, General Coetzee. These appear in the second volume, page 92 and 105 respectively.

Although I cannot remember precisely from whence this information was derived, I accept that this is information which was handled by our office and sent to the Security Head Office in Pretoria. As mentioned already in the above, input was given by all branches in my then region, the Eastern Province, but also from other divisions, such as the Southwestern District and the Northern Cape. Do you accept that that is a correct description of the procedures followed?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Would you please turn to page 993. The second line, "yes, and if there was any proposal that Goniwe, Calata and other persons should be detained, whose line function was it to request this from Head Office? It would have come from the division, Your Honour. From the Security Police? That is correct Your Honour. Of which you were the Head? Correct Your Honour. So no recommendation for the detention of Mr Goniwe could have been made without your permission? That is correct, we would have made a recommendation Your Honour. Without your personal approval? It would still have been up to the Head Office to decide whether or not they would have detained him, Your Honour. Do you accept that as correct?

MR JANSE VAN RENSBURG: Yes, sir.

MR BIZOS: I want to ask you why would Head Office reserve for itself to decide whether a person should be restricted or not and is there any doubt in your mind, that he couldn't be killed without the authority of the Head Office?

MR JANSE VAN RENSBURG: No, I don't know.

MR BIZOS: Well, let's take it, one of the reasons presumably why Head Office had to decide whether a person should be recommended to be restricted is because it had consequences, we see it in the documents. Sometimes a restriction was counter productive because of the public outcry about it?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And this is why even Mr Snyman couldn't recommend or rather there could not be a restriction on the recommendation of Mr Snyman, the Head Office had to accept it and recommend it to the Minister?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: Why should anything less have to be done in order to eliminate a person?

MR JANSE VAN RENSBURG: No, I cannot believe that anything less could have been done to eliminate a person.

MR BIZOS: Well, was your understanding that if you couldn't, if your recommendation to detain people was not sufficient and it had to be approved by Head Office, that all the more that would be the case if a much more drastic punishment was to be imposed?

MR JANSE VAN RENSBURG: Yes, that is correct.

MR BIZOS: So can we then take it from you that you who were - that you had the knowledge of how things were happening, that these killings could not have taken place without the authority of the Security Police Head Office in Pretoria?

MR JANSE VAN RENSBURG: That is what I believed.

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MR BIZOS: And who was the Head of the Security Police of the country at that time?

MR JANSE VAN RENSBURG: I think it was, I am not sure, it could have been Mr Coetzee or possibly Mr Schutte.

MR BIZOS: Yes, Mr Coetzee was the Commissioner, he had been the Chief of the Security Police before becoming the Commissioner.

MR JANSE VAN RENSBURG: I think it was Mr Schutte, I am not certain.

MR BIZOS: Yes, so would you say that being in the system that at the time that Mr Snyman authorised this killing and you were strongly of the view that he had authority from above, the line function would indicate that the head of the Security Police must have been responsible for the approval of the plan?

MR JANSE VAN RENSBURG: Yes. One could have speculated at that, but I am not certain.

MR BIZOS: But surely at the time that you took this awesome responsibility upon yourself, you would have wanted to know on whose orders you were taking this responsibility?

MR JANSE VAN RENSBURG: No, I received the request or order from Colonel Snyman, or I believed that he received it from higher authority and I responded on that.

I cannot comment on who was the final upper authority which gave the permission for the order.

CHAIRPERSON: Do I understand you correctly, if an order had not come from anyone, you would not have proceeded with the approval of the death of Mr Goniwe and the other three?

MR JANSE VAN RENSBURG: No sir.

MR BIZOS: And did you take any steps to verify that the order came from the appropriate person who had the necessary authority to do this?

MR JANSE VAN RENSBURG: No, I didn't.

MR BIZOS: Do you agree that a reasonable step would have been to ask Mr Snyman, who authorised this act?

MR JANSE VAN RENSBURG: No, is not the way that we responded or acted.

MR BIZOS: Why not?

MR JANSE VAN RENSBURG: He was my senior, he issued an order to me and I believed that he received the order from a higher level.

MR BIZOS: Well, but there must have been complete trust. What were you afraid of, why would you not have asked who authorised this?

MR JANSE VAN RENSBURG: As you have said, there was trust. I believed that he would not have given me such an order if he hadn't received it from a higher level of authority, and that was all that I had to know, and that is all that I do know of the operation.

MR BIZOS: It was not because there was any lack of trust between you and Mr Snyman?

MR JANSE VAN RENSBURG: No sir.

MR BIZOS: Did you know Mr McDonald at the time at the Head Office?

MR JANSE VAN RENSBURG: Yes, I think I had known him at that stage, by then.

MR BIZOS: What was his rank?

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MR JANSE VAN RENSBURG: I don't know, I can't remember any more what his rank was at that time, he may have been a Colonel more or less.

MR BIZOS: Was he in the Security Police?

MR JANSE VAN RENSBURG: Yes.

MR BIZOS: And was he responsible for coordinating documents and transmitting requests to the Commissioner and to the Minister?

MR JANSE VAN RENSBURG: Sir, I am not certain. If it was so, then I wouldn't argue it.

MR BIZOS: Did you not speak to him on the telephone or have contact with him in relation to security business?

MR JANSE VAN RENSBURG: Sir, I cannot recall whether I had telephonic discussions with him.

MR BIZOS: Can we please turn to - I just want to get it in complete context Mr Chairman - I just want to identify a document that is referred to in this passage - the document of the 23rd of May 1985, if you have a look at page 1010 ...

MR BOOYENS: Sorry, you've lost us now Mr Chairman, what document of the 23rd of May. We know of only one document of the 23rd of May, that is Exhibit C. We've just lost you now.

MR BIZOS: I think that it will become apparent from the context in the document, if you could turn to 1010.

"You refer to Annexure B?

Yes, that is correct Your Honour.

Until F6, is that so?

That is correct. Mr Bizos, please read it out loud. This information was communicated on 1985/05/23 during a visit by the Minister of Law and Order to PE, verbally by the Divisional Commander. The Minister immediately contacted the office of the Minister of Cooperation, Development and Education in Cape Town with the request that the reappointment of Goniwe be delayed until such time that Minister Le Grange had discussed the matter on 24th of May with the Minister. The Minister had requested that the content of this report be handed over personally by Major General Schutte to him on the 27th of May where he would be attending a Cabinet Committee Meeting in Pretoria."

I might as well read on.

"Now did you receive the answer to the question there, did the Minister express any opinion in connection with the proposal that he, Goniwe be reappointed or not?

It would probably have been so Your Honour.

By inference of what stands here, what is probable? That the Minister would have stated that he would want to discuss the matter himself with the Minister when he arrived in Pretoria.

But did he express any opinion to you?

Yes, I cannot remember what he told me Your Honour.

So you do not find the answer in the document, is that correct?

No.

That is why I am asking you to please try to remember what the Minister said to you.

I would only have communicated to the Minister the activities as it was at that time at Cradock. And also that decision regarding the reappointment and on the basis thereof.

You should - sorry, are you finished - and on the basis thereof, the Minister stated those words. I want to put it to you that someone in your position would have said to his Minister, look, the people from Education and Training are interfering with issues or matters which are not a matter of their decision, Goniwe is a dangerous person, which according to my recommendation, should be detained, and he should never ever be appointed. Did you say this?

It is possible on the basis of his activities Your Honour.

Yes, that would have been the natural thing that while the Minister was interested in a matter, it would not have been necessary for the bureaucracy of the Head Office in Pretoria to wait. You had your Minister there and you tried to convince that the problem could be solved if Goniwe were to be detained. Is that not so?

No, I did not intercept the Head Office Your Honour, I sent that telefax in which it was clearly stated.

And now we know that the deceased Minister Louis le Grange is no longer with us, but we know that he probably reported to Dr Viljoen or Professor Viljoen, is that not so?

Correct Your Honour.

And we could determine what the Minister of Police would have said to Minister/Professor Viljoen? Correct Your Honour.

Did someone return after the discussion with your Minister and said look, as a result of your discussion with the Minister, the decision is this or that. Did any person return to you?

I cannot remember Your Honour.

Well, Cradock was a burning point for the country, you saw your Minister. Surely the reason why he would have gone to Minister Viljoen would have been to explain to him how dangerous Goniwe was. Are you asking His Honour to accept that no one informed you as the Chief of the Security Police in Port Elizabeth, regarding what the Ministers had decided after their discussion on the matter?

Well Your Honour, I cannot remember whether or not there was feedback.

Did you contact the office or the Head Office and who was it? Brigadier Schutte. Who was the interloper, is that an incorrect word, sorry intermediary between the two Ministers, did you ask him but Brigadier, what is going on here? The matter is so important that two Ministers would have to consult over it and no one is giving me an answer, what is going on?

I am saying that I cannot remember whether or not there was feedback Your Honour.

After the discussion with the Minister when you were at the meeting of the EP JMC on the 23rd of May, did you inform the people there that you had discussed the matter with the Minister of Police?

It is possible, but I cannot remember it Your Honour. Very well, didn't you want to convince the meeting that it was now an important matter and the Minister and Police and the Minister of National Education, Dr Viljoen, would discuss the matter? Why would you not have reported that discussion with the Minister to the EP JMC?

As I have said Your Honour, it maybe possible that I reported it, I cannot recall it, it is too long ago. Well, did anything occur between the 23rd of May when you recommended that Goniwe never ever again be reappointed, did anything happen after that to change your opinion that he, Goniwe, could be reappointed and that he should not be detained, according to the stipulations of Section 28? Did your opinion change or not?

I would have maintained my recommendation Your Honour."

Now, I think that I have read enough to you to apprise you of what was going on behind the scenes about Mr Goniwe. What I want to ask you is did Mr Snyman report to you that he had a discussion with the Minister and the Minister apparently, this is the Minister of Police, Mr le Grange, and it would appear that Mr le Grange did not want to leave it for the discussion to take place between him and Mr de Beer, but wanted to discuss it with Professor Viljoen? Did Mr Snyman mention to you that this Goniwe matter was a matter which was enjoying the attention of the highest placed politicians?

MR JANSE VAN RENSBURG: Sir, I can not remember at all that he ever mentioned that to me.

MR BIZOS: Would you not agree that for people involved in a conspiracy to kill Goniwe, and rely on the authority of the State for their actions, for you not to be informed by Mr Snyman, of the Ministerial interventions in the matter, would have been most unusual?

MR JANSE VAN RENSBURG: I can't comment on that. I don't know why, if he didn't mention it to me, why he didn't do so. I really can't remember that.

MR BIZOS: Well, is it such a matter of little detail that one would - that this sort of thing would escape one's memory or be pushed back into oblivion if in fact it was said to you?

MR JANSE VAN RENSBURG: Sir, if I could remember it, I would say so, I can't remember it.

MR BIZOS: Now, it appears that the person on whom you relied on as authority and having come up from higher authority, if he didn't say it to you, was deliberately keeping vital information back which he had in his possession, would you agree with that?

MR JANSE VAN RENSBURG: Yes, that is possible. I just want to add that what I can recall is that Mr Snyman on some occasion, I can't recall exactly when, said that agreement could not be reached as to whether the man should be reappointed in his teaching post or not, that I can recall that he told me.

MR BIZOS: Yes. May I at this stage for the sake of clarity, you recall Mr Chairman, that I was reading with reference to a document, that my learned friend correctly raised the question, what documents I was referring to. May I hand in an Exhibit, the affidavit of Mr Snyman E6 in the inquest, if we can give it an Exhibit number here, together with the two telegrams. One from him and the one from the South-Western Districts, Mr Chairman, would that be Exhibit ...

They are annexures to one, do you want to, yes, perhaps we should do that Exhibit W, and the telegrams are Exhibits X and Y. We are just trying to clarify which is from Western Districts and which is from ... X is from Port Elizabeth Mr Chairman, and Y is from the South Western Districts. It is not very clear, but I am now told that it is the other way round. Any way, I think they speak for themselves.

We have now established that X is from Southwest Districts, and Y is from Port Elizabeth, Mr Chairman.

CHAIRPERSON: Mr Bizos, let us just rearrange it properly.

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MR BIZOS: Yes.

CHAIRPERSON: The first page originally marked F6, would be the first page of Exhibit W, and the obvious page 2 ...

MR BIZOS: Which has an A on it on top ...

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**REPORT
AMNESTY TASK TEAM**

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REPORT: AMNESTY TASK TEAM

1. Background

1.1 A Director-General's Forum, under the chairpersonship of the Director-General: Justice and Constitutional Development on 23 February 2004, appointed a Task Team to consider and report on the following:

- "1. Consideration of the nature of the 'arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation' that the NPA and intelligence agencies may come up with in assisting persons who divulge information relating to offences committed during the conflicts of the past.
- 2 Consideration of a process of amnesty on the basis of full disclosure of the offence committed during the conflicts of the past.
3. Bearing the above-mentioned in mind, whether legislative enactments are required."

1.2 The Task Team comprises the following members:

| | |
|----------------------------|--|
| Deon Rudman (Chairperson): | Department of Justice and Constitutional Development |
| Yvonne Mabule | : National Intelligence Agency |
| Vincent Mogotloane | : National Intelligence Agency |
| Gerhard Nel | : National Prosecuting Authority |
| Lungisa Dyosi | : National Prosecuting Authority |
| Ray Lalla | : South African Police Service |
| Joy Rathebe | : Department of Defence |

1.3 The Task Team was requested to submit its report to the Director-General's Forum by close of business on 1 March 2004. The Task Team met for the first time on 26 February 2004 and again on 1 March

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2004. Commissioner Ray Lalla could unfortunately not attend the first meeting. He did, however, submit his proposals to the Task Team for its consideration.

2. Terms of reference

2.1 At the outset the Task Team discussed its terms of reference in detail. It came to the conclusion that it had to perform its task within the framework laid down by the President in his statement to the National Houses of Parliament and the Nation on the occasion of the Tabling of the Report of the Truth and Reconciliation Commission on 15 April 2003. The President provided the following guidelines:

- (a) There shall be no general amnesty, because it would fly in the face of the TRC process and detract from the principle of accountability which is vital, not only in dealing with the past, but also in the creation of a new ethos within our society.
- (b) Yet we also have to deal with the reality that many of the participants in the conflicts of the past did not take part in the TRC process. Among these are—
- individuals who were misled by their leadership to treat the process with disdain,
 - others who calculated that they would not be found out, either due to poor TRC investigations or what they believed and still believe is too complex a web of concealment for anyone to unravel,
 - others who expected the political leadership of the state institutions to which they belonged to provide the overall context against which they could present their cases, which did not happen.

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- (c) "Government is of the firm conviction that we cannot resolve this matter by setting up yet another amnesty process, which in effect would mean suspending constitutional rights of those who were at the receiving end of gross human right violations."
- (d) "We have therefore left this matter in the hands of the National Directorate of Public Prosecutions, for it to pursue any cases that, as is normal practice, it believes deserve prosecution and can be prosecuted. This work is continuing."
- (e) "However, as part of this process and in the national interest, the National Directorate of Public Prosecutions, working with our intelligence agencies, will leave its doors open for those who are prepared to divulge information at their disposal and to co-operate in unearthing the truth, for them to enter into arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation."
- (f) "This is not a desire for vengeance; nor would it compromise the rights of citizens who may wish to seek justice in our courts."
- (g) "It is critically important that, as a government, we should continue to establish the truth about networks that operated against the people. This is an obligation that attaches to the nation's security today; for, some of these networks still pose a real or latent danger against our democracy. In some instances, caches of arms have been retained which lend themselves to employment in criminal activity."
- (h) "This approach leaves open the possibility for individual citizens to take up any grievance related to human rights violations with the courts."

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- (i) "Thirdly, in each instance where any legal arrangements are entered into between the NDPP and particular perpetrators as proposed above, the involvement of the victims will be crucial in determining the appropriate course of action."
- (j) "Relevant Departments are examining the practical modalities of dealing with this matter; and they will also establish whether specific legislation is required in this regard."
- (k) "The National Directorate of Public Prosecutions and relevant Departments will be requested to deal with matters relating to people who were unaccounted for, post mortem records and policy with regard to burials of unidentified persons. We would like to encourage all persons who might have any knowledge of people still unaccounted for to approach the National Directorate of Public Prosecutions, the South African Police Service and other relevant departments."

2.2 Paragraph 1 of the Task Team's terms of reference relates directly to the abovementioned framework determined by the President. Paragraphs 2 and 3 were added to the Task Team's terms of reference in order to enable it to pursue alternative routes in order to address the concerns expressed by the President should the Task Team deem it necessary.

3. Discussion

3.1 In its deliberations the Task Team also took cognisance of the following factors:

- (a) In terms of section 179(1) and (2) of the Constitution the National Prosecuting Authority (NPA) is an independent constitutional institution and the National Director of Public Prosecutions (NDPP) has full discretion on whether a particular

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prosecution should or should not be instituted. The Task Team's recommendations should therefore be consistent with this constitutional requirement

- (b) Any recommendations relating to the granting or refusing of amnesty should be in line with the TRC process which was constitutionally entrenched as a trade-off between the individual's right to seek justice in a court of law, on the one hand, and the imperatives of reconciliation and reparation, on the other.

3.2 Ad paragraph 1 of terms of reference

3.2.1 In order to give effect to the "arrangements" contemplated in the President's statement as reflected in paragraph 1 of the Task Team's terms of reference, it is recommended that a Departmental Task Team be appointed comprising members of the following Departments or institutions:

- The Department of Justice and Constitutional Development
- The Intelligence Agencies
- The South African National Defence Force
- The South African Police Service
- Correctional Services
- The National Prosecuting Authority
- Office of the President

3.2.2 The functions of the proposed Task Team should be the following:

- (a) Before the institution of any criminal proceedings for an offence committed during the conflicts of the past, to consider the advisability of the institution of such criminal proceedings and make recommendations to the National Director of Public Prosecutions in this regard

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- (b) To consider applications received from convicted persons alleging that they had been convicted of political offences committed during the conflicts of the past and to make recommendations to—
 - (i) the President, through the Minister for Justice and Constitutional Development, to pardon the alleged offender in terms of section 84(1)(k) of the Constitution;
 - (ii) the Commissioner of Correctional Services regarding the possible release of the applicant on parole or the conversion of the sentence to correctional supervision.

- (c) To—
 - receive information or representations from victims, perpetrators, legal representatives or any other person or institution regarding any specific matter;
 - gather intelligence information;
 - investigate the matter;
 - consult victims.

- (d) To consider the following factors when carrying out its mandate:
 - (i) The general criteria governing a decision to prosecute as determined by the NDPP in the Policy Manual attached hereto as Annexure "A".
 - (ii) The following specific criteria:
 - o Whether the alleged offence is associated with a political objective committed in the course of the conflicts of the past

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- o Whether a prosecution can be instituted on the strength of adequate evidence.
- o Whether the case, geographically and politically, reflects the aims and objectives set out in the Promotion of National Unity and Reconciliation, 1995(Act 34 of 1995), and is not in conflict with the requirements of objectivity in prosecutions specified in the Constitution.
- o Whether the offence in question is serious.
- o Whether the ill health of or other humanitarian consideration relating to the accused may justify the non-prosecution of the case.
- o Whether the prosecution will lead to the traumatising of victims and conflicts in areas where reconciliation has already taken place.
- o The degree of co-operation on the part of the alleged offender.
- o The credibility of the alleged offender.
- o The alleged offender's sensitivity to the need for restitution.
- o The alleged offender's further endeavours to expose possible further clandestine operations during the past years of conflict
- o The degree of remorse shown by the alleged offender and his or her attitude towards reconciliation
- The degree of indoctrination to which the alleged offender was subjected
- o The extent to which the alleged offender carried out instructions or perceived instructions.
- o The disclosure of organisations/individuals, if any, under whose instructions the alleged offender operated.

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- o The alleged offender's role during the TRC process – co-operation, full disclosure and assisting the process in general (if relevant).
 - o Renunciation of violence and willingness to abide by the Constitution on the part of the alleged offender
 - o Whether the alleged offender fully disclosed the alleged offences.
 - o The views of the NPA.
 - o If the accused is in custody, the views of the presiding judge or magistrate.
 - o Any other criteria for deciding whether a political offence was committed as set out in the TRC Act.
 - o Any further criteria, which the Task Team might deem necessary.
- (e) To consider—
- (i) the provisions of section 105A of the Criminal Procedure Act, 1977(Act 51 of 1977), relating to plea and sentence agreements and the directives issued by the NDPP in terms of section 105A(11) of the said Act;
 - (ii) the provisions of sections 7 of the Criminal Procedure Act relating to the issuing of a *nolle prosequi* certificate and the right of a private person to institute criminal proceedings in terms of the section 8 of the said Act;
 - (iii) the provisions of section 18 of the Criminal Procedure Act relating to the lapsing of the right to institute a prosecution for any offence after the expiration of a period of 20 years from the time when the offence was committed, other than the offences of murder; treason committed when the Republic is in a state of war; robbery, if aggravating circumstances were present; kidnapping; child-stealing; rape; or the crime of genocide, crimes

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against humanity and war crimes, as contemplated in section 4 of the Implementation of the Rome Statute of the International Criminal Court Act, 2002;

- (iv) the possibility of diversion in the case of juvenile offenders;
- (v) possible arrangements settling the matter out of court;
- (vi) the provisions of section 204(2) of the Criminal Procedure Act relating to the discharge of the alleged offender from prosecution for the alleged offence if such offender testified as a state witness and answered all questions frankly and honestly.

3.2.3 If the above proposals are acceptable, it is recommended that the President announces the proposed process and invites full participation by those who may benefit from the process.

3.2.4 The Task Team realises that the proposed process will have the following shortcomings/concerns:

- (a) A possible negation of the constitutional rights of victims, the public at large and alleged offenders
- (b) The possibility of the institution of private prosecutions.
- (c) The absence of any guarantee that alleged offenders will not be prosecuted. This might mean that they will be reluctant to approach the Task Team and make full disclosure. The concerns relating to persons who have disappeared, the arms caches that have not yet been discovered and the KwaZulu-Natal problem will not be solved.

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- (d) Public perception regarding the participation in a further amnesty process by the security services as the public may regard them as perpetrators in the conflicts of the past.

3.3 Ad paragraph 2 of terms of reference

3.3.1 The Task Team is of the view that the only way to address the above concerns adequately would be to provide for a further amnesty process similar to that of the TRC process. This possibility elicited much debate within the Task Team. On the one hand, there were those who rejected this possibility out of hand. They argued that such a process would undermine and discredit the TRC process, further undermine the reconciliation process and not necessarily achieve the desired objectives. They argued that there is no reason why offenders who previously refused to participate in the TRC process will now all of a sudden decide otherwise. Some members of the Task Team, however, placed emphasis on the need to create a further effective opportunity for full disclosure in order to address the concerns referred to in paragraph 3.2.4(c) above. They argued that a substantial number of those individuals who were in the past misled by their leadership and others who expected their political leadership to provide the overall context against which they could present their cases, may make use of a further amnesty process.

3.3.2 In the light of the views expressed by the President regarding a further amnesty process, the Task Team decided not to make a recommendation in this regard and to leave this decision in the hands of Government. Should Government, however, decide to proceed with such a further process, a draft Indemnity Bill is attached as Annexure "B" for consideration.

3.4 Ad paragraph 3 of terms of reference

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The recommendations under paragraph 1 of the terms of reference do not require any legislation. Should Government, however, decide on a further amnesty process as discussed in paragraph 3.3, legislation will be required since the mechanisms and procedures of the TRC Act have run their course and can no longer be applied. If it is decided to follow the latter route, an amendment of the Constitution is also proposed in order to enable such legislation being adopted and to pass muster in the Constitutional Court.

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MINISTRY OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

Private Bag 1278, Private Bag, Tel: (012) 818 1791/2/3 Fax: (012) 813 1743
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Adv Vusi Pikoli
National Director of Public Prosecutions
Private Bag X752
PRETORIA
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8 February 2007

Dear Adv Pikoli

RE: TRC MATTERS

Our discussion in the above matter on Tuesday 6 February 2007 refers.

I must advise you at the outset that the media articles alleging that the National Prosecuting Authority will go ahead with prosecutions have caught me by surprise. In our discussions you briefly mentioned to me that the NPA will not be going ahead with the prosecutions. As you had undertaken to advise me in writing, I will appreciate it if you could advise me urgently on the matter so that there can be certainty.

I trust that you find the above in order.

With warm regards

MRS B S MABANDLA
MINISTER

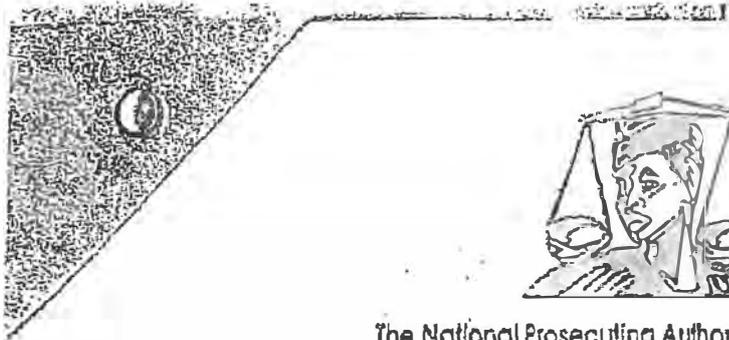


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The National Prosecuting Authority of South Africa
Igunya Jikelele Labetshutshisi Bo Mzantsi Afrika
Die Nasionale Vervolgingsgesag van Suid-Afrika

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| SECRET INTERNAL MEMORANDUM | |
| TO | MS BS MABANDLA, MP MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT |
| FROM | ADV VP PIKOLI NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS |
| SUBJECT | PROSECUTION OF OFFENCES EMANATING FROM CONFLICTS OF THE PAST; INTERPRETATION OF PROSECUTION POLICY AND GUIDELINES |
| REF NO. | 3/2P (TCLU) |
| DATE | 15 FEBRUARY 2007 |

1. PURPOSE OF MEMORANDUM

The purpose of this memorandum is to—

- (a) inform the Minister about the National Prosecuting Authority's (NPA) understanding and interpretation of the policy and guidelines relating to the prosecution of offences emanating from conflicts of the past which were committed on or before 11 May 1994;
- (b) inform the Minister about the problems the NPA is experiencing in the implementation of this policy and guidelines; and

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(b) propose a way forward.

2. BACKGROUND INFORMATION

2.1 Background relating to initial proposals

2.1.1 On 23 February 2004, a Director-General's Forum, under the chairpersonship of the former Director-General: Justice and Constitutional Development (Adv Vusi Pikoli) appointed a Task Team to consider and report on, *"the nature of the 'arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation' that the NPA and intelligence agencies may come up with in assisting persons who divulge information relating to offences committed during the conflicts of the past."*

2.1.2 In its deliberations, the Task Team took cognisance of the fact that in terms of section 179(1) and (2) of the Constitution, the NPA is an independent constitutional institution and the National Director has full discretion on whether a particular prosecution should or should not be instituted. The Task Team's recommendations should therefore be consistent with this constitutional requirement.

2.1.3 In its Report, the Task Team recommended the establishment of a Departmental Task Team comprising members of the following Departments or institutions:

- The Department of Justice and Constitutional Development
- The Intelligence Agencies (NIA)
- The South African National Defence Force
- The South African Police Service (SAPS)
- Correctional Services
- The National Prosecuting Authority
- Office of the President

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2.1.4 It was proposed that the functions of the proposed Task Team should, among others, be the following:

"(a) *Before the institution of any criminal proceedings for an offence committed during the conflicts of the past, to consider the advisability of the institution of such criminal proceedings and make recommendations to the National Director of Public Prosecutions in this regard.*

(b) *To consider applications received from convicted persons alleging that they had been convicted of political offences committed during the conflicts of the past and to make recommendations to—*

(i) *the President, through the Minister for Justice and Constitutional Development, to pardon the alleged offender in terms of section 84(1)(c) of the Constitution;*

(ii) *the Commissioner of Correctional Services regarding the possible release of the applicant on parole or the conversion of the sentence to correctional supervision." (Emphasis added)*

2.2 Background relating to Amended Prosecution Policy

2.2.1 As the Minister is aware, the abovementioned recommendations were not implemented, since many held the view that the proposed functions of the Task Team could be unconstitutional in view of the provisions of section 179 of the Constitution. Subsequently, Government decided that it was important to deal with these matters on a uniform basis in terms of a specifically defined prosecutorial policy and directives.

2.2.2 Therefore, it was proposed that the National Director, with the concurrence of the Minister, should issue amended Prosecutorial Policy and Directives in terms of section 179(5)(a) of the Constitution, read with section 21 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act), and that such

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Policy and Directives should be submitted to Parliament in terms of section 21(2) of the NPA Act.

2.2.3 Following discussions with all the relevant stakeholders and a submission to Cabinet, the Prosecution Policy and Directives relating to the prosecution of offences emanating from conflicts of the past which were committed on or before 11 May 1994 (hereinafter referred to as the "Amended Prosecution Policy"), were approved and came into operation on 1 December 2005. The Amended Prosecution Policy was also duly tabled in Parliament and is binding on the prosecuting authority.

3. IMPORTANT FEATURES OF AMENDED PROSECUTION POLICY

3.1 For purposes of this memorandum, it is important to refer the Minister to the under-mentioned features of the Amended Prosecution Policy:¹

- (a) The Amended Prosecution Policy emanates from and is based on the statement of President Thabo Mbeki to the National Houses of Parliament and the Nation, on 15 April 2003, when he gave Government's response to the final report of the Truth and Reconciliation Commission (TRC).
- (b) The President, among others, stated that the question as to the prosecution or not of persons, who did not take part in the TRC process, is left in the hands of the National Prosecuting Authority (NPA) as is normal practice.²
- (c) The President further stated that as part of the normal legal processes and in the national interest, the NPA, working with the Intelligence Agencies, will be accessible to those persons who are prepared to unearth the truth of the conflicts of the past and who wish to enter into agreements that are standard in the normal execution of justice and the prosecuting mandate, and are accommodated in our legislation.³
- (d) It is important to note that the President made it clear that—

¹ Attached hereto as Annexure "A".

² See paragraph A.1(b) of Appendix A to Amended Prosecution Policy.

³ See paragraph A.1(c) and (d) of Appendix A.

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- (i) the decision to be taken by the NPA (whether to prosecute or not) should be in accordance with the normal legal process;
- (ii) in order to reach a well-considered decision, the NPA should work together with the Intelligence Agencies, which include the NIA and the SAPS;
- (iii) the agreements entered into between the NPA and those persons who are prepared to unearth the truth of the conflicts of the past, should be in accordance with standard and normal execution of justice;
- (iv) such agreements should be in accordance with the NPA's prosecution mandate; and
- (v) such agreements should be in accordance with existing legislation.

3.2 Furthermore, it is important to note that the Amended Prosecution Policy expressly states that the prosecuting policy, directives and guidelines are required to reflect and attach due weight to, among others, the following:

- (a) The *dicta* of the Constitutional Court to the effect that the NPA represents the community and is under an international obligation to prosecute crimes of apartheid. (See *The State v Wouter Basson CCT 30/03*).⁴
- (b) The constitutional obligation on the NPA to exercise its functions without fear, favour or prejudice (section 179 of the Constitution).
- (c) The legal obligations placed on the NPA in terms of its enabling legislation, in particular the provisions relating to the formulation of prosecuting criteria and the right of persons affected by decisions of the NPA to make representations, and for them to be dealt with.
- (d) The existing prosecuting policy and general directives or guidelines issued by the National Director to assist prosecutors in arriving at a decision to prosecute or not.

⁴ See paragraph A.2 (h) to (k) of Appendix A.

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3.3 In respect of procedural arrangements, which must be adhered to in the prosecution process, the Amended Prosecution Policy provides, among others, in particular that—

- (a) the Priority Crimes Litigation Unit (PCLU) in the Office of the National Director shall be responsible for overseeing investigations and instituting prosecutions in all such matters;
- (b) the PCLU "shall be assisted in the execution of its duties" by a senior designated official from the following State departments or other components of the NPA:
 - (i) The National Intelligence Agency.
 - (ii) The Detective Division of the South African Police Service.
 - (iii) The Department of Justice & Constitutional Development.
 - (iv) The Directorate of Special Operations.

3.4 From the above, it is clear that in relation to the relevant offences—

- (a) the decision whether to prosecute or not vests in the prosecuting authority and in terms of the Amended Prosecution Policy, in particular, the National Director;
- (b) such decision must be exercised in accordance with the Constitution and existing legislation;
- (c) the abovementioned State Departments only have a role to play insofar as they must assist the NPA in the investigation process and the gathering of information so as to assist the NPA in reaching a well-considered decision whether to prosecute or not.

4. PROBLEMS RELATING TO IMPLEMENTATION OF AMENDED PROSECUTION POLICY

4.1 Since the coming into operation of the Amended Prosecution Policy, the NPA has experienced various problems relating to the implementation thereof. These problems are hindering and obstructing the NPA in fulfilling its constitutional

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mandate, namely, to institute criminal proceedings without fear, favour or prejudice. On the one hand, the NPA is experiencing problems investigating cases to ascertain whether there is sufficient and admissible evidence to provide a reasonable prospect of a successful prosecution, since the SAPS and NIA had not made dedicated members available to assist the NPA in this regard. This was subsequently dealt with by the setting up of a "Task Team". On the other, the NPA is now experiencing problems relating to the interpretation of the role of the other State Departments in the process. As indicated hereunder, it seems as if the SAPS and NIA hold the view that the proposals relating to the original proposed Task Team (that were rejected by Government), must be implemented and that such Task Team should play a role in the decision-making process.

- 4.2 During the middle of 2006, a meeting was held at the Office of the Presidency to attend to the abovementioned problems. The National Commissioner, the National Director, the Directors-General of Justice and NIA, and Mr Jafta of the Presidency, attended this meeting. It was agreed that a Working Committee should be established. This recommendation was taken to the Ministers in the Cluster. At a subsequent meeting attended by the Minister for Safety and Security, the Minister of Social Development and Minister Thoko Didiza (as Acting Minister for Justice and Constitutional Development), it was agreed that such Working Committee (now referred to as a Task Team), should be established to assist the NPA.
- 4.3 Following the above agreement, the National Director called a meeting at the Office of the NPA. The Heads of Department as well as representatives of all relevant State Departments to serve on the Task Team were invited. All Departments were represented at this meeting. At this meeting—
- (a) the terms of reference of the Task Team were explained and agreed to;
 - (b) it was agreed that Dr Silas Ramaite (Deputy National Director of Public Prosecutions) would chair the meetings of the Task Team.

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Furthermore, on an issue raised by the representative of NIA, the National Director was explicit in explaining that the mandate of the Task Team would not entail making any recommendations on a decision whether to prosecute or not to prosecute and that the National Director would not be dependent on receiving such a recommendation before he could make a decision. The Task Team should be responsible for overseeing that the NPA obtain the necessary information or to give inputs so as to assist and enable the National Director to reach a well-considered decision whether to institute criminal proceedings or not. Furthermore, the Task Team should deal with all relevant matters identified by the PCLU and the SAPS.

- 4.4.1 Subsequently, on 6 December 2006, the Office of the PCIU received the e-mail marked "B" from Dr PC Jacobs of the SAPS. Furthermore, the National Director received letters from the National Commissioner and the Director-General: NIA, dated 6 February 2007 and 8 February 2007, respectively (Attached hereto as Annexures "C" and "D", respectively)
- 4.4.2 According to Dr Jacobs, his understanding is that the Task Team must submit a final recommendation to a Committee of Directors-General in respect of each case. He also points out that the National Commissioner is of the view that this procedure should be followed in respect of each investigation that has been finalised. However, he does not elaborate on the role of the Committee of Directors-General.
- 4.4.3 In his letter dated 6 February 2007, the National Commissioner points out that he has been briefed regarding the meeting of the "Task Team set up in terms of the Cabinet guidelines on the outstanding Truth and Reconciliation Commission (TRC) matters". According to the National Commissioner his understanding is that the officials designated on the Task Team "will provide recommendations to the Directors-General who will, as a collective, advise the National Prosecuting Authority as the decision maker of prosecutions". The Director-General: NIA

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indicates that he had a discussion with his representative on the Task Team and he received a copy of the National Commissioner's letter. He concurs with the views of the National Commissioner.

- 4.5 In the first instance, it is important to note that as far as the NPA is concerned, this Task Team was not set up in terms of the Amended Prosecution Policy, which include the guidelines on TRC matters, but in terms of internal agreement between the relevant stakeholders. Furthermore, the NPA is not aware of any agreement or arrangement in terms of which the Task Team must submit a report to a Committee of Directors-General and which Committee must advise the NPA regarding prosecution decisions. Reading the e-mail of Dr Jacobs and the letter of the National Commissioner in context, it seems as if the above process is a proposal by the National Commissioner and not an agreement reached by the Task Team. For example, Dr Jacobs points out that

- the National Commissioner is of the opinion that it must be established what disclosures were made...";
- "the National Commissioner is of the opinion that such process need to be followed in each case...";

In the same vein, the National Commissioner writes as follows:

- "I have insisted that the complainant be consulted ...on the basis that the Directors-General will have a opportunity to provide input before a decision on prosecution is taken."
- "In my view a comprehensive report...should be discussed by the Directors-General".

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- Although I do not insist on a meeting of the Directors-General after each meeting of our officials, I deem it necessary that the substantive reports and recommendations of the officials should be discussed by the Directors-General before a decision is made. (Emphasis added)

4.6 The NPA cannot agree to the above proposal. The effect thereof might be that the National Director would be obliged (as is suggested by the National Commissioner) to wait for the finalisation of the proposed process before he may make a decision whether to prosecute or not. If the Task Team or the Committee of Directors-General, in spite of a 'reasonable prospect of a successful prosecution', unnecessarily delays the process, the National Director would be prevented from complying with the prosecuting authority's constitutional obligation. Therefore, such a process would be unconstitutional.

5. CONCLUSION AND WAY FORWARD

- 5.1 There is clearly a misunderstanding regarding the role of the Task Team and the role of the relevant State Departments referred to in the Amended Prosecution Policy. In accordance with the approved Amended Prosecution Policy⁵, the NPA is of the view that the duty of the Task Team or the relevant State Departments is to assist the NPA "in the execution of its duties". However, nothing prevents such a Task Team or Departments (whether individually or collectively) to make recommendations to the National Director, provided that the National Director should never be in a position where his constitutional duty is dependent on the recommendation of such a Task Team or relevant Department. Such a procedure would be unconstitutional.

⁵ See paragraph B.6 of Appendix A.

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5.2 I have now reached a point where I honestly believe that there is improper interference with my work and that I am hindered and/or obstructed from carrying out my functions on this particular matter. Legally I have reached a dead end.

5.3 It would appear that there is a general expectation on the part of the Department of Justice and Constitutional Development, SAPS and NIA that there will be no prosecutions and that I must play along. My conscience and oath of office that I took, does not allow that.

5.4 Based on the above, I cannot proceed further with these TRC matters in accordance with the "normal legal processes" and "prosecuting mandate" of the NPA, as originally envisaged by Government. Therefore, and in view of the fact that the NPA prosecutes on behalf of the State, I am awaiting Government's direction on this matter.

VP 16.02.2007
Adv VP Pikoli
National Director of
Public Prosecutions

Ms BS Mabandla, MP
Minister for Justice and
Constitutional Development

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Chronology of interactions with the NPA and SAPS

| No. | Date | Nature of interaction | Substance of interaction |
|-----|------------|-----------------------|--|
| 1. | 20 July 19 | Email | Email to State Advocate Chris Adv Macadam (" Adv Macadam ") - requested the Cradock 4 docket from Advocate Adv Macadam to conduct an audit on the investigation and to establish what has been done and what was outstanding. Informed that the Cradock 4 docket Swartskop CR 13/07/1985 was missing. |
| 2. | 13 Aug 19 | Meeting | Meeting held at the National Prosecuting Authority's (" NPA ") offices – Advocate Howard Varney (" Varney "), Allan Dodson SC, Advocate Bonita Meyersfeld, Prof Christopher Gevers (UKZN Law School) (" Gevers "), Yasmin Sooka and Ahmed Mayet of the Foundation for Human Rights (" FHR "), Retired Brigadier Clifford Marion, private investigator (" Marion "), attorneys Moray Hawthorn and Samantha Robb, NDPP Shamila Batohi (" Batohi "), prosecutors Sibongile Mzinyathu, Chris Macadam, Raymond Mathenjwa and Adele Barnard attending. During this meeting the NDPP set out the decentralisation policy for the first time and it was confirmed that the Cradock 4 docket was missing. |
| 3. | 15 Aug 19 | WhatsApp exchange | Marion communicated with former Investigating Officer Captain Masegela (" Masegela ") of the SAPS Directorate for Priority Crime Investigation (DPCI) who had taken pension. Masegela informed Marion that he had handed a fully investigated docket to Adv Macadam. During exchange of communications, Masegela said that 11 years of investigation had gone into the docket when it was handed to Adv Macadam. |
| 4. | 01 Sep 19 | Email and letter | Letter to the NPA and exhibit list compiled by private investigator, Marion. The letter requests Adv Macadam to advise which investigative steps have been completed and it also requests a meeting with Adv Macadam and the DPCI investigating officer. |
| 5. | 05 Sep 19 | Email and letter | Letter from Cliffe Decker Hofmeyr (CDH) to Adv Macadam and Batohi at the NPA to request a meeting with the NPA and the investigating officer to discuss the investigation. |
| 6. | 12 Sep 19 | Meeting | Meeting held at the NPA's offices – CDH attorneys Tim Fletcher (" Fletcher "), Tim Smit (" Smit "), FHR, Varney, Marion, Adv Macadam, Marthi Alberts (" Alberts ") and Zelda de |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|-----------------------------|---|
| | | | Bruyn (" De Bruyn ") attending. Outstanding investigative issues relating to the Cradock 4 matter were communicated to Adv Macadam. |
| 7. | 12 Sep 19 | Email and Excel spreadsheet | Email from CDH to Alberts and De Bruyn with a spreadsheet summarizing amnesty decisions. |
| 8. | 13 Sep 19 | Email | Email from Marion to Alberts with an activity sheet setting out a table of events. |
| 9. | 13 Sep 19 | Email | Email from Varney to Alberts and De Bruyn regarding State Security Council meeting minutes. |
| 10. | 13 Sep 19 | Email | Email from Varney to Alberts and De Bruyn regarding CR numbers. |
| 11. | 17 Sep 19 | Email | Email from Marion to Alberts regarding SAPS Crime Register numbers for the incidents pertaining to the Cradock 4. |
| 12. | 18 Sep 19 | Email and minutes | Email from Marion to Alberts, De Bruyn and Adv Macadam with minutes of a meeting held on 21 April 1997 where Eric Alexander Taylor confessed in the presence of the Cradock 4 family members and clergy of his involvement in the killing of the Cradock 4. |
| 13. | 18 Sep 19 | Email | Email from Marion to De Bruyn, Alberts and Adv Macadam regarding the response from Dr Thomas, Head of the Cory Library at Rhodes University. |
| 14. | 18 Sep 19 | Email | Email from Varney to De Bruyn, Alberts and Adv Macadam regarding the full Zietsman Inquest Record. |
| 15. | 23 Sep 19 | Email | Email from Marion to the NPA regarding CR numbers that were registered against the incidents as they were discovered. |
| 16. | 24 Sep 19 | Email | Email from Marion to the NPA referring to the email sent on 13 September 2019 checking on the status of individuals highlighted in red in the email. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|-----------------------|---|
| 17. | 26 Sep 19 | Email | Email from the NPA to Marion advising that they are in the process of establishing full names as well as date of births of the persons referred to in the list. |
| 18. | 03 Oct 19 | Email | Email from Marion to the NPA requesting copies of the dockets. |
| 19. | 03 Oct 19 | Email | Email from Marion to the NPA requesting whether we were able to determine the status of the subjects marked in red in the email of 13 September 2019. |
| 20. | 11 Oct 19 | Workshop | A Workshop was held at the NPA's offices, with a number of prosecutors attending. Although the Cradock 4 matter was not specifically discussed as the workshop dealt with the pursuit International crimes in respect of Apartheid-era crims. Adv Batohi reiterated her commitment to fast-track the TRC cases. |
| 21. | 15 Nov 19 | Email and Memo | Email from Katarzyna Zduriczuk of the FHR to the NPA with a memo by Prof Gevers on the inclusion of charges for international crimes in the indictments for apartheid-era crimes. |
| 22. | 20 Apr 20 | Email with letter | Letter from CDH to NPA Adv MacAdam requesting an update on the progress that has been made in the investigation of the murders of the Cradock 4 and pointing out that should a response not be received by 24 April 2020 the matter would be escalated to the NDPP. |
| 23. | 20 Apr 20 | Email with attachment | Email from Alberts to Adv Macadam regarding the 31 October 2019 email from De Bruyn and the list of persons. |
| 24. | 20 Apr 20 | Email with letter | Email from the NPA to CDH with a letter providing an update on the investigation. |
| 25. | 23 Apr 20 | Email with letter | Email from Adv Macadam to CDH with a letter from the commander of the unit responsible for the investigation (Brigadier N Xaba of the DPCI). |
| 26. | 23 Apr 20 | Email | Email from Adv Macadam to CDH advising that he will follow-up with the state attorney regarding a directive. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|------------------------|---|
| 1. | 08 May 20 | Email with letter | Letter of demand to the NPA seeking a decision on the Cradock Four case by no later than 10 July 2020 |
| 2. | 08 May 20 | Email | Email from the NPA to CDH acknowledging receipt of the CDH letter. |
| 3. | 19 May 20 | Email with attachments | Email from Marion to Lt Col Makua ("Makua") of the DPCI regarding the bullet projectile evidence, with attachments of exhibits and a proposed project plan. |
| 4. | 27 May 20 | Email with letter | Email from the NPA to CDH with a letter advising that the matter should be dealt with by the DPP Eastern Cape. |
| 5. | 02 Jun 20 | Email with attachments | Email from Marion to Makua requesting an urgent meeting with the colonel and his team; with exhibits and project plan. |
| 6. | 22 Jun 20 | Email with letter | Email from CDH to the NPA with a letter regarding the missing docket. |
| 7. | 22 Jun 20 | Email with letter | Email from State Advocate Livingstone Sakata (" Sakata ") of the NPA to CDH with a letter dated 19 June 2020 regarding the DPP Eastern Cape attending to the matter and requesting a meeting. |
| 8. | 22 Jun 20 | Email with letter | Letter from CDH to DNDPP Advocate R De Kock and DPP Adv Sakata requesting dates for the meeting, together with a letter regarding the missing docket and requesting a response regarding the decision to prosecute by 10 July 2020, failing which proceedings would be launched in the High Court to compel a decision. |
| 9. | 23 Jun 20 | Meeting | Meeting held between Marion and the DPCI investigative team in respect of the Cradock 4 matter. Marion met with Makau and a team of three investigators from the SAPS Eastern Cape DPCI, viz, Warrant Officer V Sityoshwana (" Sityoshwana "), Warrant Officer N Ngcanya and Sergeant Mkulis. Marion explained the evidence that had been collected. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|------------------------|---|
| 10. | 24 Jun 20 | Email | Email from CDH to Advocate Gounden ("Adv Gounden") of the NPA requesting a meeting with the team. |
| 11. | 24 Jun 20 | Email | Email from Sakata to CDH advising that Adv Gounden is on leave and that they will revert in a week with dates when Adv Gounden will be available. |
| 12. | 25 Jun 20 | Email with attachments | Email from Marion to the SAPS with the exhibits, project plan and further aspects that require investigation. |
| 13. | 25 Jun 20 | Email | Email from Albert Maqashalala (DPCI) to Marion advising that they intend to study the material and revert where necessary. |
| 14. | 30 Jun 20 | Email | Email from Varney to the SAPS with general background resources on the Cradock 4 case. |
| 15. | 30 Jun 20 | Email | Email from Varney to the SAPS with a link to a TRC folder which includes documents relevant to the Cradock 4 case. |
| 16. | 02 Jul 20 | Email | Email from Marion to the SAPS with intelligence for investigation. |
| 17. | 09 Jul 20 | Email | Email from Marion to Makua requesting a complete electronic copy of the Zietsman Inquest. |
| 18. | 16 Jul 20 | Email | Email from Marion to Makua requesting a copy of the original full record of the Zietsman Inquest. |
| 19. | 22 Jul 20 | Email | Email from CDH to Sakata regarding proposed dates for a meeting. |
| 20. | 23 Jul 20 | Email | Email from CDH to Sakata regarding the telephone call between Fletcher (CDH attorney) and Sakata that took place on 23 July 2020. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|--------------------------|--|
| 21. | 24 Jul 20 | Email with letter | Email from Sakata to CDH with a letter regarding the delay in receiving the docket and requesting a meeting on 06 August 2020. |
| 22. | 28 Jul 20 | Email | Email from Marion to Makua to request an update on the copy of the Zietsman Inquest. |
| 23. | 29 Jul 20 | Email | Email from Marion to Makua requesting whether the DPCI has received any other documents from the DOJ (SAHA). |
| 24. | 29 Jul 20 | Email with letter | Email from CDH to Sakata requesting detail regarding the " <i>certain issues about the docket and documentation</i> " with letter from Sakata dated 23 July 2020. |
| 25. | 29 Jul 20 | Email | Emails between Sakata and CDH regarding the meeting on 06 August 2020. |
| 26. | 06 Aug 20 | Meeting and Presentation | Meeting held between CDH, Counsel, FHR, Lukhanyo Calata, son of the late Fort Calata (" Calata "), and the DPCI Investigative team, as well as Sakata. A presentation was made by the Varney, Zak Suleman (" Suleman ") and Marion to the DPCI and Sakata. |
| 27. | 06 Aug 20 | Email | Email from Varney to DPCI, Sakata and Advocate Henke Ackermann (" Adv Ackermann ") attaching the presentation. |
| 28. | 06 Aug 20 | Email | Email from Sakata advising that he will engage the DPCI and NPA team. |
| 29. | 06 Aug 20 | Email | Email from Marion to the SAPS advising that the first issue that needs to be addressed is acquiring the list of outstanding documents from the DOJ archives. |
| 30. | 07 Aug 20 | Email | Email from Marion to Makua regarding the docket. |
| 31. | 13 Aug 20 | Email with letter | Email from CDH to Sakata with letter regarding the disappearance of the original docket. |
| 32. | 13 Aug 20 | Email | Email from Marion to the SAPS regarding the reconstruction of the docket. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|------------------------|--|
| 33. | 14 Aug 20 | Email | Email from Marion to Makua requesting that in relation to missing docket, the charges of "defeating or obstruction course of justice" and "theft of the docket" be registered. |
| 34. | 14 Aug 20 | Email with attachments | Email from Marion to the SAPS and Sakata with translations of documents for intelligence and investigation purposes. |
| 35. | 16 Aug 20 | Email | Email from Sakata to CDH and the SAPS advising that he has been in contact with the office of the Deputy NDPP and will revert in due course. |
| 36. | 21 Aug 20 | Email | Email from Marion to Makua and Sakata regarding the original Zietsman Inquest documents. |
| 37. | 26 Aug 20 | Email | Emails between Marion and Makua regarding information on persons of interest. |
| 38. | 27 Aug 20 | Email | Email from Marion to Makua following-up on the request to register charges for the missing docket. |
| 39. | 28 Aug 20 | Email | Email from Marion to the SAPS and NPA regarding the reconstruction of the original Zietsman Inquest. |
| 40. | 08 Sep 20 | Email | Email from Marion to DPCI Colonel Ripa (" Ripa ") regarding their discussion on 8 September 2020 and requesting a full copy of all the material to assist the DPCI with investigative issues that needed to be followed up. |
| 41. | 11 Sep 20 | Attendance | Calata attended at the Cape Town Central police station to open a criminal complaint of theft in relation to the disappearance of the Cradock Four docket. Calata was told that he should report the case in Silverton, Pretoria as it would take two months to transfer the docket. |
| 42. | 15 Sep 20 | Email | Email from Marion to the SAPS regarding information and intelligence for investigation purposes. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|-----------------------|--|
| 43. | 16 Sep 20 | Email | Email from Marion to the SAPS regarding the Zietsman Inquest. |
| 44. | 16 Sep 20 | Email | Email from Marion to Ripa requesting an update on the copying of the whole Zietsman Inquest. |
| 45. | 17 Sep 20 | Short Message | Marion received a message from Ripa that the DPCI managed to get a copy of the Zietsman Inquest from the Rhodes University Cory library. Ripa also shared an electronic copy with Marion to assist in the investigation. Ripa also reported that they compiled a copy of the docket from the Cory Library. |
| 46. | 18 Sep 20 | Email | Email from Marion to Ripa requesting a date to meet and finalise the duplicate docket. |
| 47. | 21 Sep 20 | Email | Email from Marion to Ripa regarding information and intelligence. |
| 48. | 1 Oct 20 | Attendance | Leigh Watson (" Watson ") of CDH attended at the Silverton Police Station in order to open a criminal complaint of theft in relation to the disappearance of the Cradock Four docket. SAPS refused accept the complaint and Watson was advised to report the matter to IPID and the NDPP. |
| 49. | 04 Oct 20 | Email with letter | Email from CDH to the SAPS with a letter to the Minister of Police and the National Commissioner of the Police regarding the refusal by the SAPS to open a criminal case into the missing docket. |
| 50. | 05 Oct 20 | Email | Email from the SAPS Western Cape Provincial Commissioner to CDH advising that Cradock Four case falls under the Eastern Cape Province. |
| 51. | 05 Oct 20 | Email with letter | Email from Lt Col Jafta Mpho to CDH and the Complaints Nodal Point regarding the letter to the Minister of Police and National Commissioner of the Police. |

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| No. | Date | Nature of interaction | Substance of interaction |
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| 52. | 05 Oct 20 | Email | Email from Lt Gen Mawela to CDH and Col Swanepoel (" Swanepoel ") advising Swanepoel to assist with opening and registering a case docket. |
| 53. | 08 Oct 20 | Email | Email from Complaints Nodal Point to CDH advising that the matter will be registered and sent to the relevant Business Unit to address. |
| 54. | 08 Oct 20 | Email | Email from Marion to the SAPS regarding information and intelligence. |
| 55. | 09 Oct 20 | Email | Email from Marion to Ripa requesting the status on the investigation and status of the reconstructed docket. |
| 56. | 09 Oct 20 | Email | Email from Marion to Brigadier Gops Govender (" Govender ") requesting a meeting to brief him on the status of the investigation. |
| 57. | 16 Oct 20 | Meeting | Meeting between Marion and Govender in Pietermaritzburg regarding the downloading of the Zietsman Inquest onto a flash drive. |
| 58. | 19 Oct 20 | Email | Email from Govender to Marion advising that the Hawks will donate an electronic copy of the Zietsman Inquest documents to Rhodes University. |
| 59. | 19 Oct 20 | Email | Email from Marion to Govender referring to their meeting and the electronic copy of the Zietsman Inquest. |
| 60. | 20 Oct 20 | Short message | Marion received a message from Ripa that the docket was submitted to Adv Ackerman DPP Eastern Cape. |
| 61. | 23 Oct 20 | Letter | DPCI letter to CDH regarding the investigation of the missing docket. |
| 62. | 29 Oct 20 | Email | Email from Marion to Govender requesting confirmation that the docket was handed over to the DPP on 20 October 2020. |

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| No. | Date | Nature of interaction | Substance of interaction |
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| 63. | 29 Oct 20 | Email | Response from Govender to Marion advising that arrangements are being made for the meeting |
| 64. | 5 Nov 20 | Email | Email from Marion to Govender and Ripa requesting progress and submitted more information for investigation. |
| 65. | 16 Nov 20 | Email with annexures | Email from Marion to Govender and Ripa requesting progress on identified documents. Marion also shared further information and intelligence on whereabouts of persons of interest and whether they have been approached for their versions. |
| 66. | 16 Nov 20 | Email | Email from Marion to Govender and Ripa to follow up with Alberts and De Bruyn on the status of the persons of interest. |
| 67. | 17 Nov 20 | Email and annexures | Email from Marion to Adv Ackerman and Adv Gounden EC DPP Office. Shared with them information and evidence at our disposal including the PowerPoint presentation. Also inquired whether the SAPS had made the digitized copy of the Zietsman Inquest. No response. |
| 68. | 17 Nov 20 | Email | Email from Marion to Govender and Ripa. Shared further positive Information and intelligence gathered. Govender responded that he will follow up and investigate. He requested a list of the persons that were deceased. |
| 69. | 20 Nov 20 | Email | Email from Marion to Govender and Ripa referring him to Mr Sebelemetja Tsietsi of Home Affairs to request the status of the Persons of interest. |
| 70. | 01 Dec 20 | Cell Phone call | Call from Govender to Marion. Investigation team had experienced challenges with Covid. |
| 71. | 02 Dec 20 | Email | Email from Marion to Govender and Ripa requesting progress. |

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| No. | Date | Nature of interaction | Substance of interaction |
|-----|-----------|-----------------------|--|
| 72. | 17 Dec 20 | Email | Email from Marion to Govender and Ripa – requesting progress on the status of the Persons of interest. |
| 73. | 17 Dec 20 | Email | Email from Marion to Govender and Ripa – requesting progress on the investigation. |
| 74. | 19 Dec 20 | Email | Email from Marion to Govender and Ripa – requesting whether Home Affairs have responded to their request. |
| 75. | 11 Jan 21 | Email and annexures | Email for Marion to Govender and Ripa requesting progress on the investigation on Cradock 4 matter. |
| 76. | 13 Jan 21 | Email | Email from Govender to Marion – no progress made as he reports that the EC DPCI has been affected by the Covid 19 pandemic. They are in isolation. Will report after isolation the next week. |
| 77. | 14 Jan 21 | Email | Email from Marion to Govender acknowledging the above email. |
| 78. | 19 Jan 21 | Email and annexures | Email from Ripa - Invitation to attend a meeting and advise the DPCI on the way forward as they had received investigations instructions from the prosecutor Adv Ackermann dated 11 th November 2020. |
| 79. | 19 Jan 21 | Email | Email from Marion to Ripa and Govender– acknowledging Ripa's email of 19 January 2021. |
| 80. | 19 Jan 21 | Email | Email from Ripa to Marion – Planning meeting to take place in East London |
| 81. | 31 Jan 21 | Email and annexures | Email from Marion to Ripa, Govender and Sityoshwana – response to DPP's email of 11 November 2020 (received by Marion on 19 January 2021) and DPCI's email of 19 January 2021 and confirmation that the meeting of 2 February 2021 will be Virtual Zoom meeting. |

| No. | Date | Nature of interaction | Substance of interaction |
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| 82. | 02 Feb 21 | Virtual Meeting | The meeting did not take place as the DPCI had connectivity challenges. The meeting was rescheduled for 4 February 2021. |
| 83. | 02 Feb 21 | Email and annexures | Marion resent above email to Ripa and Govender. |
| 84. | 02 Feb 21 | Email and annexures | Email from Marion to Govender and Ripa with further information and evidence. |
| 85. | 04 Feb 21 | Virtual Meeting via WhatsApp video conference. | Virtual meeting – CDH, Calata, Suleman Marion, FHR and the DPCI team of Ripa, Govender and Sityoshwana attending. DPCI stated that they had submitted the documents to DPP and were now following up on the DPP instructions. Only the documents we sent to the DPCI were submitted. Further guidance and leads given to the police. The DPCI promised that the outstanding investigation will be completed by 25 th February 2021. |
| 86. | 04 Feb 21 | Email | Email from Marion to Govender and Ripa – further guidance on the investigation and DPP instructions dated 11 th November 2020. Target date for completion of the investigation set for 25 th February 2021. |
| 87. | 04 Feb 21 | Email | Email received from Ripa to Marion acknowledging the above email. |
| 88. | 11 Feb 21 | Email | Email from Marion to Ripa and Govender and sharing further information on his request. |
| 89. | 11 Feb 21 | Email | Email from Marion to Govender and Ripa – shared the translated Zietsman Inquest documents with them. |
| 90. | 16 Feb 21 | Email | Email from Ripa to Marion regarding the email response that Ripa had received from Gerrit Wagener (Head of Sensitive Records at the National Archives and Records Service of South Africa) advising that the documentation and information that Ripa had requested from |

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| No. | Date | Nature of interaction | Substance of interaction |
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| | | | Wagener was with the State Security Agency and the "Operation Katzen" file should be with the SANDF. |
| 91. | 16 Feb 21 | Email | Email from Marion to Govender and Ripa – further information given on the investigation. |
| 92. | 19 Feb 21 | Email | Email from Marion to Govender and Ripa – assisted with further intelligence and where to search for the required documents. |
| 93. | 19 Feb 21 | Email | Email from Ripa to Marion acknowledging the above email. |
| 94. | 24 Feb 21 | Cell Phone call | From Ripa on progress on the investigation. Ripa reported that he managed to secure certain interview and documents. |
| 95. | 01 Mar 21 | Email | Email from Marion to Govender and Ripa requesting a meeting to conduct an audit on the investigation. |
| 96. | 10 Mar 21 | Email | Email from Marion to Govender and Ripa requesting progress. |
| 97. | 10 Mar 21 | Email | Email from Ripa to Marion acknowledging the above and promised to submit progress. |
| 98. | 11 Mar 21 | Email | Email from Marion to Govender and Ripa requesting progress on intelligence and information given to them. |
| 99. | 16 Mar 21 | Email | Email from Marion to Govender and Ripa requesting a meeting to conduct an audit of the investigation |
| 100. | 18 Mar 21 | Email | Attorney Tim Fletcher email to General Ledwaba re: status of the investigation in relation to the missing docket. |
| 101. | 22 Mar 21 | Email and annexures | Email from Marion to Govender and Ripa –Forwarded further information and evidence. |

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| No. | Date | Nature of interaction | Substance of interaction |
|------|-------------|-----------------------|--|
| 102. | 26 Mar 21 | Letter | Letter from Major General N Xaba to CDH – Regarding the investigation of the missing docket. |
| 103. | 06 Apr 21 | Email and annexures | Email from Marion to Govender and Ripa – shared further information. |
| 104. | 07 Apr 21 | Email | Email from Marion to Govender and Ripa requesting progress. |
| 105. | 08 Apr | Email | Email from Marion to Govender and Ripa – whether the DPCI had followed up on information shared with them. |
| 106. | 12 Apr 21 | Email | Email from Marion to Govender and Ripa requesting progress |
| 107. | 21 Apr 21 | Letter | CDH letter to Adv Ackermann (Director of Public Prosecutions: Eastern Cape) requesting an update regarding a decision in the case. |
| 108. | 22 Apr 21 | Letter | Adv Ackermann to CDH advising that the matter is still being investigated. |
| 109. | 23 Apr 21 | Email | Email from Marion to Govender and Ripa requesting progress. |
| 110. | 23 April 21 | Cell Phone call | Marion received a cell phone call from Ripa. He reported progress but not much has been done as the DPCI again had challenges with regard to Covid and investigators being affected. |
| 111. | 26 Apr 21 | Email | Email from Marion to Sityoshwana requesting progress as it was reported that Ripa's email was down and his IT equipment stolen. |
| 112. | 28 Apr 21 | Email | Email from Marion to Govender and Ripa – requesting progress on information given to them. |

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| No. | Date | Nature of interaction | Substance of interaction |
|------|---------------|-------------------------|--|
| 113. | 29 Apr 21 | Email | Email from Marion to Govender and Ripa – request to conduct audit on the investigations. |
| 114. | 03 May 21 | Email | Email from Ripa to Marion in reply to the audit of the investigation and to again bring the newly appointed investigators up to speed with the investigations. Ripa informed that a new set of investigators have been appointed by SAPS Head Office to solely concentrate on TRC cases. Meeting set for 13 and 14 th May 2021. |
| 115. | 10 May 21 | Email | Email from Marion to Govender and Ripa requesting progress on investigations on information given to them to follow up. |
| 116. | 10 May 21 | Email | Email from Marion to Ripa and Govender – shared further information and evidence. |
| 117. | 13 May 21 | Cell Phone Call | Call from Ripa to Marion – Investigations were experiencing challenges and meeting postponed to 3 rd and 4 th June 2021. |
| 118. | 15 May 21 | Email | Email from CDH to Govender and Ripa – shared further information and evidence. |
| 119. | 18 May 21 | Email | Fletcher's email to Brigadier Louw re: investigation of the missing docket |
| 120. | 19 May 21 | Email | Brigadier Louw's email to Colonel De Jager re: investigating the missing docket. |
| 121. | 02 June 21 | Email | Email from Marion to Govender and Ripa confirming meeting of 3 and 4 th June 2021 |
| 122. | 02 June 21 | Email | Email from Govender to Marion acknowledging the above email. Sends his apologies that he would not make the meeting, but the team will attend. |
| 123. | 3 / 4 June 21 | Meeting held in Kokstad | Marion briefed the new DPCI investigative team on the Cradock 4 matter. SAPS team led by Ripa in attendance with Marion. Also conducted an audit of documents. Marion noted from the meeting that very little progress had been made in relation to the investigation. |

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| No. | Date | Nature of interaction | Substance of interaction |
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| 124. | 04 June 21 | Email | Email from Marion to Lt Colonel van Zyl of the South African Police Department requesting access to SAPS records for the investigation. |
| 125. | 04 June 21 | Email | Email from Advocate Ndou to CDH confirming that the requested documents should be transferred to various departments (State Security Agency, Department of Defense and Department of Basic Education). |
| 126. | 07 June 21 | Email | Email from Marion to Ripa – further information and evidence shared with the new team. |
| 127. | 07 June 21 | Email | Email from Lt Colonel van Zyl to Marion enclosing SAPS 512 Request form. |
| 128. | 09 June 21 | Email | Email from CDH to Lt Colonel van Zyl enclosing completed SAPS 512 Request form. |
| 129. | 11 June 21 | Email | Email from Ripa to Marion – requesting further information. |
| 130. | 11 June 21 | Email | Email from Marion to Steve De Agrela of the Department of Defence (" De Agrela ") following up on the requested outstanding documents for the investigation from the Department of Defence. |
| 131. | 14 June 21 | Email | Email from Marion to Ripa requesting the outstanding documents for the investigation held by the State Security Agency and Military Archives. |
| 132. | 15 June 21 | Email | Email from Marion to Advocate Ndou requesting minutes from State Security Council meeting dated 19 March 2019. |
| 133. | 17 June 21 | Email | Email from CDH to Lt Colonel van Zyl following up on SAPS requested documents. |
| 134. | 21 June 21 | Email | Email from Marion to Ripa, Dweba and Govender requesting any evidence gathered from the investigation thus far. |

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| 135. | 22 June 21 | Email | Email from Brigadier Xaba to Marion informing that the dockets had not yet been handed over due to a delay caused by Covid-19. |
| 136. | 23 June 21 | Email | Email from Lt Colonel van Zyl to CDH stating that the SAPS 512 request is being processed. |
| 137. | 25 June 21 | Email | Email from Marion to Advocate Ndou following up on the State Security Council documents. |
| 138. | 02 July 21 | Email | Email from CDH to Lt Colonel van Zyl requesting an updated on the SAPS requested documents. |
| 139. | 02 July 21 | Email | Email from Lt Colonel van Zyl to CDH stating that there is no further feedback on the request yet. |
| 140. | 02 July 21 | Email | Email from CDH to Selebaleng Mashike of the State Security Agency requesting documents for the investigation. |
| 141. | 02 July 21 | Email | Email from CDH to the Department of Basic Education requesting documents for the investigation. |
| 142. | 02 July 21 | Email | Email from CDH to De Agrela following up on the documents requested by Marion for the investigation. |
| 143. | 02 July 21 | Cell Phone Call | Cell phone call by Marion to Ripa, Colonel Dweba and Captain Bobi in which the DPCI confirmed receiving the tracing reports commissioned by the FHR and had approached certain persons of interests as recommended by Marion. |

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number:

In the matter between:

| | |
|--|--------------------|
| LUKHANYO BRUCE MATTHEWS CALATA | First Applicant |
| SINDISWA ELIZABETH MKONTO | Second Applicant |
| MBULELO TERENCE GONIWE | Third Applicant |
| NOMBUYISELO NOLITHA MHLAULI | Fourth Applicant |
| and | |
| NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS | First Respondent |
| MINISTER OF JUSTICE AND CORRECTIONAL SERVICES | Second Respondent |
| NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE | Third Respondent |
| MINISTER OF POLICE | Fourth Respondent |
| CHRISTOFFEL PIERRE VAN DER WESTHUIZEN | Fifth Respondent |
| HERMANUS BAREND DU PLESSIS | Sixth Respondent |
| LOURENS DU PLESSIS | Seventh Respondent |
| ERIC WINTER | Eighth Respondent |
| CRAIG WILLIAMSON | Ninth Respondent |
| ADRIAAN JOHANNES VLOK | Tenth Respondent |

Handwritten signature and initials
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| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

TIMOTHY SEAN FLETCHER

do hereby make oath and state that:

- 1 I am an adult male attorney practicing at Cliffe Dekker Hofmeyr Inc at 1 Protea Place, Sandown, Sandton.



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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

| | |
|--|--------------------|
| LUKHANYO BRUCE MATTHEWS CALATA | First Applicant |
| SINDISWA ELIZABETH MKONTO | Second Applicant |
| MBULELO TERENCE GONIWE | Third Applicant |
| NOMBUYISELO NOLITHA MHLAULI | Fourth Applicant |
| and | |
| NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS | First Respondent |
| MINISTER OF JUSTICE AND CORRECTIONAL SERVICES | Second Respondent |
| NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE | Third Respondent |
| MINISTER OF POLICE | Fourth Respondent |
| CHRISTOFFEL PIERRE VAN DER WESTHUIZEN | Fifth Respondent |
| HERMANUS BAREND DU PLESSIS | Sixth Respondent |
| LOURENS DU PLESSIS | Seventh Respondent |
| ERIC WINTER | Eighth Respondent |
| CRAIG WILLIAMSON | Ninth Respondent |
| ADRIAAN JOHANNES VLOK | Tenth Respondent |

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|----------------------------------|------------------------|
| GERRIT NICHOLAS ERASMUS | Eleventh Respondent |
| IZAK JOHANNES ENGELBRECHT | Twelfth Respondent |
| BAREND JACOBUS DU PLESSIS | Thirteenth Respondent |
| FREDERIK WILLEM DE KLERK | Fourteenth Respondent |
| JOHAN VELDE VAN DER MERWE | Fifteenth Respondent |
| LUKAS DANIEL BARNARD | Sixteenth Respondent |
| DANIEL JACOBUS LOUIS NEL | Seventeenth Respondent |
| SAMUEL JOHANNES DE BEER | Eighteenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned,

TIMOTHY PATRICK SMIT

do hereby make oath and state that:

- 1 I am an adult male attorney practicing as such as a director of Cliffe Dekker Hofmeyr situated at 1 Protea Place, Sandown, Sandton.
- 2 The facts stated herein are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.



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- 3 I have read the founding affidavit deposed to by LUKHANYO BRUCE MATTHEWS CALATA, together with the annexures thereto and confirm the contents thereof in so far as they relate to me.



TIMOTHY PATRICK SMIT

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at Benoni on this the 14th day of July 2021, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS
BRENDAN ANGUS MICHIE
Attorney and Commissioner
of Oaths R.S.A
Hammond Pole Majola Inc
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|----------------|--|
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| Direct Line | +27 11 562 1085 |
| Direct Telefax | +27 11 562 1329 |
| Direct Email | tim.fletcher@cdhlegal.com / tim.smit@cdhlegal.com |
| Date | 8 May 2020 |

Attention: Ms Shamila Batohi; Mr. Chris Macadam

By Email: sbatohi@npa.gov.za;
CMacadam@npa.gov.za; and
NMonageng@npa.gov.za.

Dear Ms Batohi and Mr. Macadam,

MURDER OF THE CRADOCK 4

- 1 We thank you, Mr. Macadam, for your letter of 20 April 2020. In light of the fact that we –
 - 1.1 have been instructed to place the NPA on terms in this matter, this letter is also addressed to the National Director of Public Prosecutions; and
 - 1.2 will be obliged to join the South African Police Service in any such proceedings, the National Head of the Directorate for Priority Crime Investigation, General S G Lebeja, is copied.
- 2 For ease of reference, we attach our letter to Mr Macadam dated 20 April 2020, Mr Macadam's letter in response of 20 April 2020 and Brigadier Xaba's letter of 23 April 2020.
- 3 We have been instructed to respond to certain paragraphs of Mr Macadam's letter. Our failure to respond to any assertion should not be construed as our acceptance thereof.
- 4 In response to Mr Macadam's letter, we are instructed as follows –
 - 4.1 in respect of paragraph 2, the suggestion by Mr Macadam that a decision in relation to the Craddock 4 matter can only be made once the Mthimkulu, Motherwell and PEPCO 3 cases have been fully investigated, is not acceptable. In the first place, there is no prospect of a joinder of trials, and secondly it is evident that those cases have not been given the priority and attention that they deserved over the last two decades. If we were to wait until all the investigations are complete, we are likely to have to wait several more years, if past practice is anything to go by. In the intervening period, suspects and

CHAIRPERSON TG Fuhrmann CHIEF EXECUTIVE OFFICER B Williams CHIEF FINANCIAL OFFICER ES Burger

DIRECTORS: JOHANNESBURG F Ameer-Mia M Aphiri JA Aukema G Barkhuizen-Barbosa R Beerman E Bester P Bhegattjee BSS Bolkanoy R Bonnet TE Brincker JJ Brink B Brown N Cara HLE Chang CWJ Charter CJ Daniel J Darling EF Dempster W de Weal S Dickson L Erasmus P Erasmus JJ Feris TS Fletcher L Franca TG Fuhrmann F Gatto MZ Gatto J Govender L Granville AJ Hofmeyr Q Honey WH Jacobs T Jordaan R Kelly BL King J King Y Kietman AM le Grange FE Leppan# CJ Lewis HJ Louw G Masina NN Mchunu B Meyer WJ Midgley R Moodley A Moolman MB Mphahlela MG Mphahudi J Naidoo KT Nkaiseng BP O'Connor H Parak A Patel, GH Pienaar V Pillay DB Pinnock TZ Rapuleng AG Reid M Serfontein P Singh-Dhulani TP Smit L Smith S Spamer FP Swart T Tosen R Valayathum HR van der Merwe JG Webber JG Whittle DA Wilken B Williams MP Yeates

DIRECTORS: CAPE TOWN TN Baker TJ Brewis MR Collins A de Lange S Franks DF Fyfer J Gilmer JW Green AJ Hannie AM Heiberg PB Hesseling S Immelman JAD Jorge A Karim KJ Kearny JA Kinge IJ Lessing GC Lumb RE Marcus NS Mbambisa Si Meyer A Mhlongo T Moodley G Orrie[§] CH Pienaar[¶] L Rhoadie MB Rodgers BJ Scriba BPA Strauss DM Thompson CW Williams

EXECUTIVE CONSULTANTS: AC Alexander RD Barendse VMM Cadman M Chenia HS Coetzee PJ Conradie N Hancock J Latsky NW Muller J Neser FT Newham JM Wills-Hawinson

CONSULTANTS: A Abercrombie JMA Evenhulst[†] Prof A Govindjee JH Jacobs EJ Kingdon FF Kolbe M Kraus Q Moelets[‡] S Naidoo S Parbhoo C Pepermans J Sweet H Vrey

SENIOR ASSOCIATES: RS Alho KF Anderson A Bezuidenhout KA Biddulph C Bodenstein JL Botha CF Brockman JC Cameron LY Coffee E Comelius BP Cripps N Dhana DV Durand C Dutilleul T Erasmus NK Fletcher RA Geswindt AJ Gilliam A Govuza B Hayath GT Howard SJ Jamieson TC Jegels SM Kelly N Loopoo AW MacPherson MP Manaka B Mangale V Manku S Mceetywa V Moodaley W Murray Z Ngakane VT Ngcobo BS Nhlapho AL Pereira J Roberts J Strydom KB Tihabanelo YA van Leeve M Werner ER West K Weyers CA Wood

CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS: GC Badenhorst ES Burger JA Cassette AB Hoek MW Lington R Mouton B Williams

[†]British [‡]Dutch [§]Cape Town Managing Partner

Cliffe Dekker Hofmeyr Inc. Reg No 2008/018923/21

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- witnesses are likely to die by the time any decision is made. This will naturally defeat the interests of justice. In the circumstances, our clients regard this approach as a further delaying tactic;
- 4.2 we have reviewed all of the information that we have provided to the NPA and SAPS, which was utilized to reconstruct the missing docket, and we are of the respectful view that there is sufficient evidence on hand to make a decision whether or not to prosecute the remaining suspects;
- 4.3 we note from paragraphs 4 and 12 of Mr Macadam's letter, that the new nodal point in the Eastern Cape is Advocate Nico Henning. Please advise who was the previous nodal point in the Eastern Cape who decided to leave the NPA at short notice at the end of March because the DPCI did not commence the Cradock 4 investigation;
- 4.4 with regard to paragraph 5, we do not see any reason why the investigation of the Cradock 4 matter should be delayed pending the appointment of a former TRC researcher, especially when we have already provided the available archived material (bar that which is contained in the National Archives) to you and your team;
- 4.5 in respect of the missing docket, which is dealt with in paragraphs 6 and 7, we point out that the losing, removal or concealing of a docket is a very serious matter, if not a serious criminal offence. Our client is of the view that a docket in a case of this national significance that disappears is indication of an ongoing cover-up and obstruction of justice. Please advise whether a formal investigation has been opened regarding the missing docket, and if so, please advise of any progress. Please also provide the case or reference number of such investigation. If no investigation has been launched please advise why not;
- 4.6 we agree that the disappearance of the docket is no excuse for not continuing the investigation, but it appears that is precisely what happened. It appears from paragraph 7 of Mr Macadam's letter that the docket has still not been reconstructed. If the docket contained nothing more than extracts from the inquest/amnesty proceedings, why is it only now being reconstructed, given that it was known, at least by our September meeting of last year, that it was missing? Indeed, it appears that the docket may have gone missing as far back as 2018. In our respectful view, this is further evidence of wilful delay or obstruction in this matter;
- 4.7 in relation to paragraph 8, we point out that the Legal Resources Centre's copy of the full record of the Zietsman Inquest is located at the [Wits University Historical Papers in Johannesburg](#);
- 4.8 regarding paragraphs 13 and 14, we respectfully cannot accept that any delays in this matter are attributable to the lockdown and associated restrictions. There was no progress in this matter prior to the lockdown and indeed no discernible progress since the winding up of the Zietsman inquest in 1994, some 26 years ago; and
- 4.9 we respectfully take exception to the excuse set out in paragraph 15 that more pressing matters are at hand and that the DPCI is also extremely constrained. There will always be matters that are perceived to be more important and indeed Mr Macadam and his office have advised of such pressing cases over many years. Indeed, we have come to the regrettable conclusion that it will always be claimed that there are more important cases in the files of the PCLU and DPCI that must take precedence over cases such as the Cradock 4. If this claim was acceptable it would justify an *ad infinitum* delay – notwithstanding the fact that this crime is 35 years old and suspects, witnesses and families are elderly and dying.
- 5 Turning to Brigadier Xaba's letter of 23 April 2020, more specifically the final paragraph of that letter, read together with paragraph 12 of Mr Macadam's letter, it is unclear why Advocate Nico Henning cannot be briefed electronically with the documents, especially since all of the documents that we have provided are in electronic format. Further, it is unclear why Mr Macadam cannot discuss the matter with Advocate Henning via telephone or videoconference. Given the technology available, there is no reason why Advocate Henning cannot be briefed immediately. The only possible conclusion that can be drawn from the list of rationalisations in your letter is that the NPA does not regard the prosecution of Apartheid crimes for which no amnesty was granted as either pressing or urgent .

8 May 2020
Murder of the Cradock 4

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- 6 The opportunity to hold anyone accountable for one of the most notorious crimes committed in South Africa's history fades with each passing day. In the circumstances, we are instructed to demand that a decision be made whether to prosecute the known suspects in the murder of the Cradock 4. Should we not receive your decision by close of business on **Friday, 10 July 2020**, we will have no realistic alternative but to launch proceedings in the High Court to compel a decision.

Yours sincerely

TIM FLETCHER / TIM SMIT
CLIFFE DEKKER HOFMEYR INC

Copied to:

Adv. Nico Henning – nhenning@npa.gov.za

General S G Lebeya – LebeyaSG@saps.gov.za

Brigadier N Xaba – XabaN@saps.gov.za

Colonel Makua – MakuaJ@saps.gov.za

¹ <http://historicalpapers-atoms.wits.ac.za/inquest-into-the-death-of-matthew-gontwe-fort-calata-s-arrow-mkhonto-and-sicelo-mhlali-the-cradock-four-ca-high-court-case-no-626-87>

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| | |
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| Account Number | 02020934 |
| Your Reference | 10/2/12/3-395/2020 |
| Direct Line | +27 11 562 1085 |
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| Direct Email | tim.fletcher@cdhlegal.com / tim.smit@cdhlegal.com |
| Date | 22 June 2020 |

Attention: Advocate R De Kock
By Email: ematzke@npa.gov.za

Copied to: Acting Director of Public Prosecutions (Grahamstown): imsakata@npa.gov.za
Colonel Makua: MakuaJ@saps.gov.za

Dear Sirs

RE: THE INVESTIGATION & PROSECUTION OF THE MURDERERS OF THE CRADOCK FOUR

- 1 Thank you for your letter of 22 May 2020 and your confirmation that the reconstructed case docket has been electronically forwarded to the Acting Director of Public Prosecutions, Grahamstown for "*further management and decision*".
- 2 We are now fast approaching the 35th anniversary of the murder of the Cradock Four; which date, we fear, is likely to be remembered as yet another anniversary of impunity for the killers of these four young activists.
- 3 We have yet to hear from the NPA and/or its anti-corruption investigation unit as to what happened to the missing docket in this matter. It appears that the original docket somehow vanished while in the hands of some of the highest office bearers at the NPA. Please would you revert to us in this regard as it appears that nothing has been done in relation to the disappearance of the original docket between September 2019 and June 2020.
- 4 We are grateful that you have requested General Lebeya of the DPCI to prioritise and urgently investigate the matter. Given that Brigadier Marion ("**Marion**") has already done considerable work on this case (as well as the Pebco 3) we suggest that he meets with the investigating officer and the assigned prosecutor in order to take them through the chronologies and relevant documentation in these cases. In this regard, we are pleased to hear that on Friday afternoon Colonel Makua contacted

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CONSULTANTS: A Abercrombie JMA Evenhuis* Prof A Govindjee JH Jacobs EJ Kingdon FF Kolbe M Kraus Q Moeletsi S Naidoo S Parbhoo C Papemans J Sweet H Vrey

SENIOR ASSOCIATES: RS Alho KF Anderson A Bezuidenhout KA Biddulph C Bodenstern JL Bolha CF Brockman JC Cameron LY Coffee E Comellius BP Cripps N Dhana DV Durand C Duilleux T Erasmus NK Fletcher RA Geswindt AJ Gilliam K Govindsamy A Govuze B Hayath GT Howard SJ Jamieson TC Jegels SM Kelly N Loopoo AW MacPherson MP Manaka B Mangale V Manko S Mceltywa V Moodaley W Murray Z Ngakané VT Ngoobo BS Nhlapho AL Pereira J Roberts J Strydom KB Thabanelo YA van Leeve M Wemer ER West K Weyers CA Wood

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*British →Dutch §Cape Town Managing Partner

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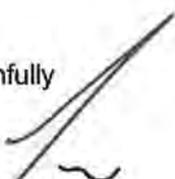
National Prosecution Service
22 June 2020

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Marion and they are due to meet this coming week. Please advise when we can arrange a similar meeting with assigned prosecutor.

- 5 We still do not know which prosecutor has been assigned this case and we would be grateful if you would provide us his or her details as soon as possible.
- 6 We must advise that our client, Lukhanyo Calata, has reached the end of his tether. He was 3 years old when his father was murdered and almost 35 years later, notwithstanding admissions made by various perpetrators and damning documentary evidence, there has been absolutely no progress in this case. We are constrained to remind you that we placed the NDPP on terms in this matter on 8 May and our client's instructions stand that should the NPA not make a decision by **Friday, 10 July 2020**, we will proceed to institute legal proceedings to compel a decision.

Yours faithfully


TIM SMIT
CLIFFE DEKKER HOFMEYR INC

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Priority Crimes Litigation Unit



The National Prosecuting Authority
South Africa

Cliffe Dekker Hofmeyr
JOHANNESBURG

20 April 2020

ATTENTION: Tim Smit
E-mail: Tim.smith@cdhlegal.com

INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

1. I acknowledge receipt of your letter with reference T S Fletcher/T P Smit dated 20 April 2020 and respond as follows.
2. At our meeting of September 2019, I indicated that the Mthimkulu, PEPCO 3 and Cradock 4 matters should be investigated collectively as they involve essentially the same group of perpetrators. I also referred to the fact that the Motherwell bombing case was also relevant in that the deceased were killed to prevent them revealing their involvement in the Cradock 4 matter. In the Mthimkulu matter all the perpetrators have been granted amnesty but no inquest had been held, nor a prosecution instituted. In the PEPCO 3 matter, the investigation had yet to be concluded, but the indications were that the persons who refused amnesty were all deceased. My view was that the decision in the Cradock 4 matter should be made once everything had been investigated.
3. Subsequent to that meeting Ms de Bruyn did provide feedback to Cliff Marion on the issues raised by him. I have been copied on the email which her supervisor forwarded to you today.

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INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

4. After our meeting the matter was brought to the attention of our nodal point in the Eastern Cape, who indicated that he would personally attend to the matter as he had appeared as counsel in both the Cradock 4 and Motherwell cases.
5. Meetings were held with the researchers to identify all the outstanding material located in public and private archives. At our last meeting we decided to offer a contract employment to a former TRC researcher who had extensively worked on the State Security Council and was ideally based to do the dedicated research which was necessary. She had indicated her willingness to work for us, but due to the lockdown activities, her appointment has not been able to be taken further through our strict procurement processes.
6. Further efforts were made through the Head of our Prosecution Service to locate the missing docket as it was called for by a previous incumbent of his office. This failed to locate the docket. The disappearance of this docket is in fact no excuse for not continuing with the investigation. I am extremely concerned about the remarks attributed to the investigator in paragraph 4 of your letter and am taking this matter up with his commanding officer.
7. The docket contained nothing more than the relevant extracts of the last Goniwe inquest as well as the amnesty proceedings. These records are easily re-obtainable. In fact, I personally handed the investigating officer the judgment of the amnesty committee as well as the heads of argument which were filed in the Goniwe inquest and other relevant documentation (these documents identified the relevant role players and could easily be used to reconstruct the docket).
8. My office contacted Rhodes University in order to purchase an electronic copy of the inquest record in its possession. The University raised an issue regarding compliance with our procurement policies. We were in the process of resolving this issue. In addition we established that certain records were available in a provincial archive, but only in hard copy form. The archive lacks the capacity to convert the documents to an electronic format which would have necessitated one of our researchers having to travel to the Eastern Cape to physically peruse the documents and make copies of those deemed to be relevant. Our researcher

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INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

also obtained a copy of the book published by Chris Nichol森 to extract relevant information.

9. Unfortunately a major stumbling block was encountered due to a lack of buy-in from the DPCI which is responsible for the investigation of the case. This is not limited to this case, but relates to all the numerous other TRC matters.
10. Attempts at my level to get a proper buy-in failed to produce positive outcomes, resulting in the escalating the matter to the NDPP and then Head NPS.
11. This resulted in a meeting between us and the Head DPCI on the 31st of January 2020 where I tabled my concerns. The Head DPCI undertook to seek approval to appoint former members who had TRC experience on a contract basis. He was provided by myself with a list of ex-police officers who were willing to do the work. I also wrote to the commanding officer expressing my concerns about TRC cases and requesting him to consider having investigators working full time on these matters and not having to accommodate them in between their other investigations. I had no response to this letter which was preceded by a lengthy meeting between myself and him.
12. I would have again escalated the position with the DPCI had it not been for the lockdown. A consequence of the DPCI not having commenced the investigation was that our nodal point decided at short notice to leave the NPA at the end of March 2020. A new nodal point has been appointed, but due to the lockdown I have not been able to brief him fully on the matters that he must take over. There are several matters over and above those mentioned here.
13. Unfortunately it is extremely difficult to give proper attention to these matters at the present time. Although I am every day at the office, because I have to attend to state security and management issues the majority of role players are not able to report for duty complicating engagements with them. I have been advised that the DPCI are also extremely constrained in what investigations they can currently conduct.

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INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

14. I am taking the issue of investigations up with the Unit Commander and will revert to you as soon as I receive a response. However, it is anticipated that proper attention to the cases will only be able to commence once the current restrictions are lifted.

15. I apologise for being amiss in not communicating further with you after our meeting. I did however have telephonic discussions with Cliff Marion and was unfortunately from October 2019 to January 2020 fully occupied with addressing extremely serious international matters as well as having to take urgent action regarding a terrorist organization that was on the point of carrying out a terrorist attack on the country.

Regards



ADV CHRIS MACADAM
ACTING SPECIAL DIRECTOR OF PUBLIC PROSECUTIONS
HEAD: PRIORITY CRIMES LITIGATION UNIT

DATE: 20 April 2020

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Privaatsak/Private Bag X 1500, SILVERTON

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|-----------|--|
| Reference | CATS 05/06/2016 |
| Enquiries | Brig N Xaba Col MS Mahlangu |
| Tel | 079 889 9582 082 778 2835 |
| E mail | XabaN@saps.gov.za |

**SECTION HEAD
CRIMES AGAINST THE STATE AND TOMS
SERIOUS ORGANISED CRIME
DIRECTORATE FOR PRIORITY CRIME
INVESTIGATION
SILVERTON**

The Acting Special Director
Priority Crime Litigation Unit
National Prosecuting Authority
HEAD OFFICE

INVESTIGATION INTO THE MURDER OF CRADOCK 4: CATS CAS 05/06/2016

Your email dated 20 April 2020 refers.

The Investigating Officer visited the families of Cradock 4 in Eastern Cape to appraise them about the investigation on the 19 to 22 March 2019.

The investigator also visited the King Williamstown State archives to look for Inquest transcripts and other documentation that could further the investigation.

Hence the docket was reported missing in the offices of the National Prosecuting Authority, Silverton, the Investigator reconstructed the new docket.

The docket is fully reconstructed with the help of former Brigadier Marion who is employed by the Human Rights Foundation.

All the relevant information has been gathered and the docket file will be presented before Advocate Nico Henning of Grahamstown DPP's office for perusal and guidance after the lockdown.

**BRIGADIER
SECTION HEAD: CRIMES AGAINST THE STATE AND TOMS
SERIOUS ORGANISED CRIME
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
N XABA**

Date: 2020/04/23

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"LC47"

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NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

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Attention: Mr Chris Macadam and Ms Sharnila Batohi
By Email: cmacadam@npa.gov.za
SBatohi@npa.gov.za

| | |
|----------------|--|
| Our Reference | TS Fletcher / T Smit |
| Account Number | 02020934 |
| Your Reference | |
| Direct Line | 011 562 1085/1467 |
| Direct Telefax | 011 562 1329 |
| Direct Email | tim.smit@rdhlegal.com tim.fletcher@cdhlegal.com |
| Date | 5 September 2019 |

Dear Mr Macadam and Ms Batohi

INVESTIGATION INTO THE MURDER OF THE CRADOCK 4: SWARTSKOP CR 13/07/1985: FOUNDATION FOR HUMAN RIGHTS PROJECT 10698

- 1 We act for Mr. Lukhanyo Calata and the Calata family.
- 2 Our clients have instructed us to investigate the deaths of Fort Calata, Matthew Goniwe, Sparrow Mkhonto and Sicelo Mhlauli ("**the Cradock 4**").
- 3 We have conducted a preliminary investigation and perused the TRC Amnesty applications. From that investigation, we have established that the aspects listed in the below activity sheet ought to be investigated.
- 4 We have not yet been able to meet with the Directorate for Priority Crime Investigation ("**DPCI**") to discuss the investigation and would be grateful if you could arrange a meeting with the investigating officer, yourselves and our team as soon as possible (preferably within the next 2 weeks).
- 5 Whilst we await your response regarding the requested meeting, please would you consider the activity sheet below and advise which aspects have already been investigated and addressed, as we would like to avoid duplicating investigative efforts.
- 6 We also enclose a list of exhibits required for the investigation and would be grateful if you could assist us in obtaining these.

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SENIOR ASSOCIATES: S Adams RS Alho ME Badenhorst A Bezuidenhout KA Bidulph JJ Brink CF Brockman JC Cameron L Chance LY Coffee E Cornelius BP Cripps C Dutilleul F Eckleton T Erasmus NK Fletcher V Govender GT Howard TG Jegels SM Kelly N Loopoo MM Mailula B Mangale V Manku N Mia V Moodley V Moodley W Murray J Naidoo Z Ngakane VT Ngcobo AL Pereira J Roberts J Strydom KB Thabane D van der Westhuizen YA van Leeve R Webster K Weyers CA Wood

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National Director of Public Prosecutions – Mr Chris Macadam and Ms Sharmila Batohi
5 September 2019

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- 7 We would be grateful to receive your feedback by as soon as possible, preferably by 9 September 2019, so that we can report back to our clients.
- 8 Your assistance is greatly appreciated.

Yours sincerely



TIM FLETCHER / TIM SMIT
CLIFFE DEKKER HOFMEYR INC

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Attachments to Annex LC47
Activity sheet supplied to DPCI / NPA
Proposed exhibits supplied to DPCI / NPA

Removed because of privileged contents



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| | |
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| Account Number | 02020934 |
| Your Reference | Craddock 4 |
| Direct Line | +27 11 562 1085 |
| Direct Telefax | +27 11 562 1329 |
| Direct Email | tim.fletcher@cdhlegal.com / tim.smit@cdhlegal.com |
| Date | 20 April 2020 |

Attention: **Mr. Chris Macadam**
By Email: CMacadam@npa.gov.za
SBatohi@npa.gov.za

Dear Mr. Macadam

INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

- 1 As you know, we act for Mr. Lukhanyo Calata ("Mr. Calata") and the Calata family. We are also in the process of engaging Mrs. Mhauri and Mrs. Mrs Mkhonto as our clients.
- 2 For the purposes of this letter, we need to first set out the relevant chronology of events that has led to us being compelled to address this letter to you –
 - 2.1 On 5 September 2019, we addressed a letter to both you and Ms. Batohi, in which letter we recorded, *inter alia*, that we –
 - 2.1.1 had conducted a preliminary investigation (including a review of the relevant TRC applications) in regard to the deaths of Fort Calata, Matthew Goniwe, Sparrow Mkhonto and Sicelo Mhauri ("the Craddock 4"); and
 - 2.1.2 were of the view that further investigations were required in relation to the murders of the Craddock 4.
 - 2.2 Pursuant to that letter, you invited us to meet with you at your offices at 123 Westlake Street, Weavind Park, Pretoria on 12 September 2019.
 - 2.3 We met with you and your team (Marthi Alberts ("Alberts") and Zelda de Bruyn ("de Bruyn")) on 12 September 2020, during which meeting you advised us that –

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EXECUTIVE CONSULTANTS: AC Alexander RD Barendse VMM Cadman M Chena HS Coetzee PJ Conradia N Hancock WH Janse van Rensburg J Latsky NW Muller J Neer JM Wits-Hewinson

CONSULTANTS: A Abercrombie JMA Evenhuis* Prof A Govindjee JH Jacobs EJ Kingdon FF Kolbe M Kraus Q Moelatsi S Naidoo S Parbhoo C Pepermans J Sweet H Vrey

SENIOR ASSOCIATES: S Adams RS Alho KF Anderson A Bezuidenhout KA Biddulph C Bodenstern JL Botha JJ Brink CF Brockman JC Cameron LY Coffee E Cornelius BP Cripps N Dhana DV Durand C Dutilleul T Erasmus NK Fletcher RA Geswindt AJ Gilliam A Govuzo B Hayath GT Howard SJ Jamieson TC Jegels SM Kelly N Loopoo AW MacPherson MP Manaka B Mangale V Manku S Mcelwya N Mia V Moodley W Murray J Naidoo Z Ngakane VT Ngcobo BS Nhlapho AL Pereira J Roberts J Straydom KB Thabanelo YA van Leeve M Werner ER West K Weyers CA Wood

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*British =Dutch *Cape Town Managing Partner

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- 2.3.1 you had invited the investigating officer ("the IO") from the Directorate for Priority Crime Investigation ("DPCI") to the meeting but that your invitation had been declined as the IO was too busy to attend;
- 2.3.2 you had raised your concerns with the DPCI in regard to their approach of wanting to investigate murders that had occurred in other provinces (such as the Eastern Cape in the case of the Cradock 4) from a unit based in Pretoria, but that you had been assured that a local investigator from the relevant region would be appointed to investigate with oversight being maintained by the DPCI;
- 2.3.3 the dockets of the apartheid era murders would be sent to the relevant regions and that you had been provided with an undertaking from the DPCI that you would be provided with a list of people who had been assigned to investigate matters, including the Cradock 4 matter;
- 2.3.4 the original docket in the Cradock 4 matter had been "removed" and could not be located and that the anti-corruption unit was investigating the disappearance of the original docket; and
- 2.3.5 between our team, which included retired Brigadier Clifford Marion ("Marion"), and your team of researchers, we could put the entire picture together for the DPCI and put the ball back into their court.
- 2.4 It was agreed at the aforementioned meeting that we (particularly Marion) would share all of the documentation and evidence that had been collected with you and your team in order to put together a new docket for the DPCI.
- 2.5 Following on from that meeting, on 13 September 2019, Marion sent an email to Alberts and de Bruyn in which, *inter alia*, Marion had requested information as to which of the individuals referred to in the email were alive or dead.
- 2.6 On 18 September 2019, Marion provided you, Alberts and de Bruyn with a copy of the confession made by Eric Taylor in relation to the murder of the Cradock 4.
- 2.7 On 3 October 2019, Marion requested an update from Alberts and de Bruyn in relation to his email of 13 September 2019, to which, to date, he has not received a response.
- 2.8 Marion provided you and your research team (in a 12-part email chain) with all of the information and documentation referenced in the attached "Exhibits List", which information and documentation had been sourced from various sources in relation to the murders of the Cradock 4.
- 3 Notwithstanding all of the aforementioned efforts on our part, particularly those of Marion, which efforts included providing you with the necessary documents to continue the investigation and a recommendation to prosecute certain individuals, we have yet to hear from you as to whether you will be instituting prosecutions into the murders of the Cradock 4.
- 4 In addition to your silence and the delays experienced in the investigation and prosecution, and most concerningly, our client, Mr. Calata, recently received a telephone call from the investigating officer, Colonel Joe Makua, who advised our client that despite the fact that he wanted to continue with the investigation of the murders of the Cradock 4, he could not do so because you had advised him that the docket had been taken by an unidentified individual and could not be located.
- 5 Given the extent of our efforts, we do hope that the statements made by the investigating officer are nothing more than a misunderstanding, but given the continued extensive delays experienced by our clients in attempting to have justice served, we must demand answers to our below questions as a matter of urgency –
- 5.1 What progress has been made in the investigation of the murders of the Cradock 4 since our meeting of 12 September 2019?
- 5.2 What is the status of the original docket?
- 5.3 To the extent that the position remains that the original docket cannot be located, what is the status of the reconstructed docket?

LC GP

Mr. Chris Macadam – Public Prosecutions
20 April 2020

3

5.4 Are you in possession of any of the original signed statements and/or documents?

6 We hope to maintain the excellent working relationship that we have established with you and we remain hopeful that we can advance the matter of the investigation and prosecution of those responsible for the murders of the Cradock 4 as a matter of urgency, but with each passing day, the opportunity to hold anyone accountable fades, especially when considering the age of those implicated. Accordingly, to the extent that we do not hear from you on or before the close of business on **Friday, 24 April 2020**, we will have no alternative but to address urgent correspondence to Ms. Batohi in regard to this matter.

Yours sincerely

TIM SMIT
CLIFFE DEKKER HOFMEYR INC

le GP



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| Account Number | 02020934 |
| Your Reference | 0/2/12/3-395/2020 |
| Direct Line | +27 11 562 1085 / 1061 |
| Direct Telefax | +27 11 562 1329 / 1661 |
| Direct Email | tim.fletcher@cdhlegal.com / tim.smit@cdhlegal.com |
| Date | 13 August 2020 |

Attention: Mr. LM Sakata
By Email: imsakata@npa.gov.za

Dear Mr Sakata

THE INVESTIGATION AND PROSECUTION OF THE MURDERERS OF THE CRADOCK FOUR

- 1 Thank you for meeting with us (albeit virtually) on 6 August 2020.
- 2 The discussions held during the meeting are very promising and we look forward to working with you, the National Prosecution Authority ("NPA") and the investigative team of the Directorate for Priority Crime Investigation to advance the investigation and ultimately pursue the prosecution of the murderers of the Cradock Four.
- 3 During our meeting, one of the items that was discussed was the investigation in regard to the inexplicable disappearance of the original docket. You indicated to us that you intend to send correspondence to the NPA to demand a response as to whether there has been an investigation into the missing docket and if so, to determine what the outcome of that investigation was.
- 4 In the spirit of our newly formed collaborative efforts to seek justice for the families of the Cradock Four, we kindly request that you provide us with a copy of the correspondence that you have sent or intend to send to the NPA, as well as with a copy of the response that is received.
- 5 We look forward to hearing from you.

Yours sincerely,

TIM FLETCHER / TIM SMIT
CLIFFE DEKKER HOFMEYR INC

CHAIRPERSON TG Fuhrmann CHIEF EXECUTIVE OFFICER B Williams CHIEF FINANCIAL OFFICER ES Burger

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SENIOR ASSOCIATES: RS Aho KF Anderson A Bezuidenhout KA Biddulph C Bodenstern JL Botha CF Brockman JC Cameron LY Coffee E Cornelius BP Cripps N Dhana DV Durand C Dutilleul T Erasmus NK Fletcher RA Geswindt AJ Giliam K Govindsamy A Govuza N Hancock B Hayath GT Howard SJ Jamieson TC Jegels SM Kelly N Loopoo AWW MacPherson MP Manaka B Mangala V Manika S Mcetywa V Moodalely W Murray Z Ngakane VT Ngcobo BS Nhlapho AL Pereira J Roberts J Strydom KB Thabanelo YA van Leeve M Werner ER West K Weyers CA Wood

CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS: GC Badenhorst ES Burger JA Cassette AB Hoek MW Linington R Mouton B Williams

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Minister of Police
756 - 7th Floor, Wachthuis Building
231 Pretorius Street
Pretoria

National Commissioner of the Police
Lieutenant General Khehla John Sithole

Attention: General Bheki Cele
Lieutenant General Khehla John Sithole

By Email: GaehlerSMK@saps.gov.za
sitholek@saps.gov.za

| | |
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| Our Reference | T S Fletcher / T P Smit / 02020934 |
| Account Number | 02020934 |
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| Direct Line | +27 11 562 1085 |
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| Direct Email | tim.smit@cdhlegal.com |
| Date | 4 October 2020 |

Dear Sirs

REFUSAL BY SAPS TO OPEN A CRIMINAL CASE INTO THE MISSING CRADOCK FOUR DOCKET

- 1 We act for Mr. Lukhanyo Calata. Our client is the son of the late Fort Calata, who was brutally murdered, along with Matthew Goniwe, Sparrow Mkhonto and Sicelo Mhlauli (the "Cradock 4") by members of the Security Branch of the erstwhile South African Police on 27 June 1985.
- 2 We have on record the following Crime Register (CR) numbers pertaining to the Cradock 4:
 - 2.1 KwaZakele CR 373/06/1985 – Body of Mathew Goniwe – Murder;
 - 2.2 KwaZakele CR 212/06/1985 – Suspected to be the burnt-out Honda Ballard;
 - 2.3 Swartkops CR 12/07/1985 – Body of Sicelo Mhlauli – Murder;
 - 2.4 Swartkops CR 13/07/1985 - Body of Sparrow Mkhonto – Murder; and
 - 2.5 Swartkops CR 140/06/1985 – Body of Fort Calata- Murder.
- 3 Notwithstanding that two inquests were held in 1987 and 1992, the making of findings by the Truth and Reconciliation Commission ("TRC"), and the denial of amnesty to most of the perpetrators, nobody has been held criminally accountable for the murders of the Cradock 4 – more than 35 years after their murder.
- 4 We are aware that a criminal docket was previously opened in relation to the murders of the Cradock 4, but that the original docket has "gone missing" perhaps as far back as 2018, or earlier.

CHAIRPERSON TG Fuhrmann CHIEF EXECUTIVE OFFICER B Williams CHIEF FINANCIAL OFFICER ES Burger

DIRECTORS: JOHANNESBURG F Armeer-Mia M Aphiri JA Aukema G Barkhuizen-Barbosa R Beerman E Bester P Bhagattjee BSS Bolkanyo R Bonnet TE Brncker JJ Brink B Brown N Cara HLE Chang V Chaplin CWJ Charter CJ Daniel J Darling EF Dempster W de Waal L Erasmus P Erasmus JJ Feris TS Fletcher L Franca TG Fuhrmann F Gattoo MZ Gattoo SB Gore J Govender L Granville AJ Hofmeyr Q Honey WH Jacobs T Jordaan R Kelly BL King Y Kleitman AM le Grange FE Leppan# CJ Lewis HJ Louw I Mahmood G Masina B Masuku NN Mohunu B Meyer WJ Midgley Z Mohamed R Moodley A Moolman MB Mpahwiwa MG Mphahudi J Naidoo KT Nkaiseng P Nkuna BP O'Connor H Parak A Patel GH Pienaar V Pillay DB Pinnock TZ Rapuleng AG Reid H Schensema M Serfontein P Singh-Dhulam TP Smit L Smith S Spamer FP Swart T Tosen R Valayathum HR van der Merwe JG Webber JG Whittle DA Wilken B Williams MP Yeates

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SENIOR ASSOCIATES: RS Alho KF Anderson A Bezuidenhout KA Biddulph C Bodenstern JL Botha CF Brockman JC Cameron LY Coffee E Comelius BP Cripps N Dhana DV Durand C Dutilleul T Erasmus NK Fletcher RA Geswindt AJ Gilliam K Govindsamy A Govuza N Hancock B Hayath GT Howard SJ Jamieson TC Jegels SM Kelly N Loopoo AW MacPherson B Mangale V Manko S Moetywa V Moodaley W Murray Z Ngakane VT Ngcobo BS Nhlapho AL Pereira J Roberts J Strydom KB Tihabanelo YA van Leeve M Werner ER West K Weyers CA Wood

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*British #Dutch #Cape Town Managing Partner

Cliffe Dekker Hofmeyr Inc. Reg No 2008/018923/21

GP
LC

- 5 During a meeting held at the head office of the National Prosecuting Authority ("NPA") on 12 September 2019 to discuss the status of the investigation, Advocate Chris Macadam ("**Adv. Macadam**") (the Acting Special Director of Public Prosecutions) advised us that the original investigation docket had been removed from the offices of the NPA and could not be located.
- 6 In a letter sent by Adv. Macadam of the Priority Crimes Litigation Unit of the NPA dated 20 April 2020 (a copy of which is attached marked "**A**"), Adv. Macadam stated in paragraph 6 thereof that "*efforts were made through the Head of the Prosecution Service to locate the missing docket as it was called for by a previous incumbent of this office*" but that those efforts had "*failed to locate the docket*".
- 7 The fact that the original docket had gone missing was also recorded in a letter sent by Brigadier N Xaba, the Section Head: Crimes against the State of the Directorate for Priority Crimes to the NPA on 23 April 2020. In that letter (a copy of which is attached marked "**B**"), Brigadier Xaba states in the fourth paragraph thereof that the "*docket was reported missing in the offices of the National Prosecuting Authority*".
- 8 On the instructions of our client, we made multiple requests for an official investigation to be opened into the circumstances surrounding the disappearance of the docket and the original documents contained therein. All attempts to persuade the NPA and South African Police Service ("**SAPS**") to open an official investigation have fallen on deaf ears.
- 9 Our client is understandably concerned that the removal of the docket may amount to a cover-up. Particularly so when considering that this case has been delayed for more than 3 decades and that the NPA has admitted under oath that political interference suppressed the cases referred by the TRC to the NPA, including the Cradock 4 case. In this regard see the supplementary affidavits of Advocates T P Pretorius SC and C R Macadam filed in *Rodrigues v NDPP & Others* [2019] 3 All SA 962 (GJ).
- 10 Accordingly, an investigation was required into the possible concealing or destruction of the original police docket. The potential criminal charges would be theft of a police docket, as well as attempting to defeat or obstruct the administration of justice.
- 11 Since there were no discernible efforts to investigate the disappearance of the original docket, on 11 September 2020, our client, who lives in Cape Town, attended at the Central Police Station in Buitenkant Street in order to lay a complaint in relation to the missing docket. At the police stations, Captains Wyderman and Van Niekerk declined to process the complaint advising Mr Calata, *inter alia*, that –
- 11.1 the case should be opened at the Silverton Police Station in Pretoria, as Pretoria is the most likely area in which the docket went missing; and
- 11.2 that if the case was opened at the Central Police Station, Cape Town, the matter would be transferred to the Silverton Police Station, which transfer process "could take months".
- 12 We were perplexed by the response of the SAPS since it is our understanding that a complainant can register a case anywhere in the Republic. We are of the view that the SAPS ought to have assisted Mr Calata by registering the case, giving him a CAS number and then transferring the docket to the station in the area where the crime was committed. We fail to understand why this would have taken months.
- 13 Nonetheless, on 1 October 2020, Mr. Leigh Watson ("**Mr. Watson**") from our Sandton office attended at the Silverton Police Station in Pretoria to lay the complaint on our client's behalf in accordance with the advice received from Captains Wyderman and Van Niekerk. He attempted to hand over an affidavit made by Mr. Calata, a copy of which is annexed hereto marked "**C**".

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- 14 At the Silverton Police Station, Mr. Watson was informed by Colonel Everson and Captain Damon that our client could not open a case with the SAPS regarding the missing docket, as only the Independent Police Investigative Directorate ("IPID") could investigate such a case. This is notwithstanding the advice offered by Mr Watson that the docket went missing while in the possession of the NPA not the SAPS.
- 15 The Independent Police Investigative Directorate Act 1 of 2011 authorises IPID to investigate criminal offences allegedly committed by members of the SAPS and the Metro Police Services. The IPID has no authority to investigate the NPA. We are of the respectful view that the SAPS acted unlawfully in refusing to open a case of theft and defeating the administration of justice in respect of the missing Cradock 4 docket.
- 16 The prosecution of those responsible for the brutal murders of the Cradock 4 is a matter of national importance. The removal, disposal, destruction or concealment of the original docket amounts to a serious offence. It has considerably inhibited and delayed the murder investigations. We accordingly seek the intervention of your good offices to ensure that a criminal investigation ensues without further delay.
- 17 We look forward to receiving your urgent response.

Yours faithfully

TIM FLETCHER / TIM SMIT
CLIFFE DEKKER HOFMEYR INC

Copied to:

Minister of Justice: Minister Ronald Lamola
By Email: ZaneNdlovu@justice.gov.za

Provincial Commissioner of Police (Western Cape): Lt Gen Y Matakata
By Email: MatakataY@saps.gov.za

National Director of Public Prosecutions: Adv Shamila Batohi
By Email: SBathoi@npa.gov.za

Provincial Commissioner of Police (Western Cape): Lt Gen Y Matakata
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Provincial Commissioner of Police (Gauteng): Lt Gen E Mawela
By Email: Mawelae@saps.gov.za

Director of Public Prosecutions (Eastern Cape): Adv L M Sakata
Email: lmsakata@npa.gov.za

Provincial Commissioner of Police (Western Cape): Lt Gen Y Matakata
By Email: MatakataY@saps.gov.za

Investigating Officer (DPCI): Colonel Joe Makua
By Email: MakuaJ@saps.gov.za

Station Commander: Central Cape Town Police Station
By Email: CT-CENTRAL-SAPS@saps.gov.za

Station Commander: Silverton Police Station
By Email: GPPtaSilvertonSAPS@saps.gov.za

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Priority Crimes Litigation Unit



The National Prosecuting Authority
South Africa

Cliffe Dekker Hofmeyr
JOHANNESBURG

20 April 2020

ATTENTION: Tim Smit
E-mail: Tim.smith@cdhlegal.com

INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

1. I acknowledge receipt of your letter with reference T S Fletcher/T P Smit dated 20 April 2020 and respond as follows.
2. At our meeting of September 2019, I indicated that the Mthimkulu, PEPCO 3 and Cradock 4 matters should be investigated collectively as they involve essentially the same group of perpetrators. I also referred to the fact that the Motherwell bombing case was also relevant in that the deceased were killed to prevent them revealing their involvement in the Cradock 4 matter. In the Mthimkulu matter all the perpetrators have been granted amnesty but no inquest had been held, nor a prosecution instituted. In the PEPCO 3 matter, the investigation had yet to be concluded, but the indications were that the persons who refused amnesty were all deceased. My view was that the decision in the Cradock 4 matter should be made once everything had been investigated.
3. Subsequent to that meeting Ms de Bruyn did provide feedback to Cliff Marion on the issues raised by him. I have been copied on the email which her supervisor forwarded to you today.

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INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

4. After our meeting the matter was brought to the attention of our nodal point in the Eastern Cape, who indicated that he would personally attend to the matter as he had appeared as counsel in both the Cradock 4 and Motherwell cases.
5. Meetings were held with the researchers to identify all the outstanding material located in public and private archives. At our last meeting we decided to offer a contract employment to a former TRC researcher who had extensively worked on the State Security Council and was ideally based to do the dedicated research which was necessary. She had indicated her willingness to work for us, but due to the lockdown activities, her appointment has not been able to be taken further through our strict procurement processes.
6. Further efforts were made through the Head of our Prosecution Service to locate the missing docket as it was called for by a previous incumbent of his office. This failed to locate the docket. The disappearance of this docket is in fact no excuse for not continuing with the investigation. I am extremely concerned about the remarks attributed to the investigator in paragraph 4 of your letter and am taking this matter up with his commanding officer.
7. The docket contained nothing more than the relevant extracts of the last Goniwe inquest as well as the amnesty proceedings. These records are easily re-obtainable. In fact, I personally handed the investigating officer the judgment of the amnesty committee as well as the heads of argument which were filed in the Goniwe inquest and other relevant documentation (these documents identified the relevant role players and could easily be used to reconstruct the docket).
8. My office contacted Rhodes University in order to purchase an electronic copy of the inquest record in its possession. The University raised an issue regarding compliance with our procurement policies. We were in the process of resolving this issue. In addition we established that certain records were available in a provincial archive, but only in hard copy form. The archive lacks the capacity to convert the documents to an electronic format which would have necessitated one of our researchers having to travel to the Eastern Cape to physically peruse the documents and make copies of those deemed to be relevant. Our researcher

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INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

also obtained a copy of the book published by Chris Nichol森 to extract relevant information.

9. Unfortunately a major stumbling block was encountered due to a lack of buy-in from the DPCI which is responsible for the investigation of the case. This is not limited to this case, but relates to all the numerous other TRC matters.
10. Attempts at my level to get a proper buy-in failed to produce positive outcomes, resulting in the escalating the matter to the NDPP and then Head NPS.
11. This resulted in a meeting between us and the Head DPCI on the 31st of January 2020 where I tabled my concerns. The Head DPCI undertook to seek approval to appoint former members who had TRC experience on a contract basis. He was provided by myself with a list of ex-police officers who were willing to do the work. I also wrote to the commanding officer expressing my concerns about TRC cases and requesting him to consider having investigators working full time on these matters and not having to accommodate them in between their other investigations. I had no response to this letter which was preceded by a lengthy meeting between myself and him.
12. I would have again escalated the position with the DPCI had it not been for the lockdown. A consequence of the DPCI not having commenced the investigation was that our nodal point decided at short notice to leave the NPA at the end of March 2020. A new nodal point has been appointed, but due to the lockdown I have not been able to brief him fully on the matters that he must take over. There are several matters over and above those mentioned here.
13. Unfortunately it is extremely difficult to give proper attention to these matters at the present time. Although I am every day at the office, because I have to attend to state security and management issues the majority of role players are not able to report for duty complicating engagements with them. I have been advised that the DPCI are also extremely constrained in what investigations they can currently conduct.

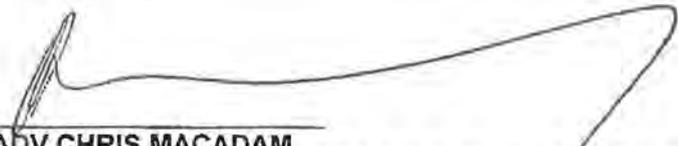
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INVESTIGATION INTO THE MURDER OF THE CRADOCK 4

14. I am taking the issue of investigations up with the Unit Commander and will revert to you as soon as I receive a response. However, it is anticipated that proper attention to the cases will only be able to commence once the current restrictions are lifted.

15. I apologise for being amiss in not communicating further with you after our meeting. I did however have telephonic discussions with Cliff Marion and was unfortunately from October 2019 to January 2020 fully occupied with addressing extremely serious international matters as well as having to take urgent action regarding a terrorist organization that was on the point of carrying out a terrorist attack on the country.

Regards



ADV CHRIS MACADAM
ACTING SPECIAL DIRECTOR OF PUBLIC PROSECUTIONS
HEAD: PRIORITY CRIMES LITIGATION UNIT

DATE: 20 April 2020

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"B"

Privaatsak/Private Bag X 1500, SILVERTON

| | |
|-----------|--|
| Reference | CATS 05/06/2016 |
| Enquiries | Brig N Xaba Col MS Mahlangu |
| Tel | 079 889 9582 082 778 2835 |
| E mail | XabaN@saps.gov.za |

**SECTION HEAD
CRIMES AGAINST THE STATE AND TOMS
SERIOUS ORGANISED CRIME
DIRECTORATE FOR PRIORITY CRIME
INVESTIGATION
SILVERTON**

The Acting Special Director
Priority Crime Litigation Unit
National Prosecuting Authority
HEAD OFFICE

INVESTIGATION INTO THE MURDER OF CRADOCK 4: CATS CAS 05/06/2016

Your email dated 20 April 2020 refers.

The Investigating Officer visited the families of Cradock 4 in Eastern Cape to appraise them about the investigation on the 19 to 22 March 2019.

The investigator also visited the King Williamstown State archives to look for Inquest transcripts and other documentation that could further the investigation.

Hence the docket was reported missing in the offices of the National Prosecuting Authority, Silverton, the Investigator reconstructed the new docket.

The docket is fully reconstructed with the help of former Brigadier Marion who is employed by the Human Rights Foundation.

All the relevant information has been gathered and the docket file will be presented before Advocate Nico Henning of Grahamstown DPP's office for perusal and guidance after the lockdown.

**BRIGADIER
SECTION HEAD: CRIMES AGAINST THE STATE AND TOMS
SERIOUS ORGANISED CRIME
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
N XABA**

Date: 2020/04/23

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STATEMENT OF LUKHANYO CALATA

Statement of Mr. Lukhanyo Calata, South African identity number 811118 5457 08 9 employed at 4 Stirling Street, District Six, Cape Town, 8001.

1. I hereby make oath and state as set out below. Where the information in this statement is not within my personal knowledge, that will either be clear from the context or I will make an express reference.
2. I am the son of the late Fort Calata. My father was murdered, along with his colleagues, Matthew Goniwe, Sparrow Mkhonto and Sicelo Mhlauli (who became known as the "Cradock 4") by members of the security branch of the South African Police Force, namely Eric Taylor, Johann van Zyl, Gerhardus Lot and Nic Janse van Rensburg on 27 June 1985.
3. Notwithstanding the fact that two separate inquests have been held (in 1987 and 1992) in relation to the murders of the Cradock 4, no one has yet to be as responsible for the murders of the Cradock 4 – some 35 years after their murder.
4. I am aware that a criminal docket has previously opened in relation to the murders of the Cradock 4, but that the docket has "gone missing".
5. During a meeting held at the offices of the National Prosecuting Authority ("NPA") (located at VGM Building, 123 Westlake Avenue, Weavind Park, Silverton, South Africa) on 12 September 2019 to discuss the status of the investigation in relation to the murder of the Cradock 4, Advocate Chris Macadam ("Adv. Macadam") (the Acting Special Director of Public Prosecutions) advised that he did not know the status of the docket, but that the docket in relation to the Cradock 4 murders was the subject of an anti-corruption unit investigation as it had been removed from the office of the NPA and had not been located since.
6. In a letter sent by Adv. Macadam for the Priority Crimes Litigation Unit of the NPA dated 20 April 2020 (a copy of which is attached marked "A"), Adv. Macadam stated in paragraph 6 thereof that "efforts were made through the Head of the Prosecution Service to locate the missing docket as it was called for by a previous incumbent of this office" but that those efforts had "failed to locate the docket".
7. The fact that the docket had gone missing was also recorded in a letter sent by Brigadier N Xaba, the Section Head: Crimes against the State of the Directorate for Priority Crimes to the NPA on 23 April 2020. In that letter (a copy of which is attached marked "B"), Brigadier Xaba states in the fourth paragraph thereof that the "docket was reported missing in the offices of the National Prosecuting Authority".
8. The fact that the missing docket was called for by the previous incumbent of the office of the NPA, Advocate Nomgcobo Jiba, and thereafter went missing without a trace must be investigated.

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DEPONENT

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at LAKE TOWN on the 22 day of **SEPTEMBER 2020**, the regulations contained in Government Notice No. R 1258 of 21 July 1972, as amended, and Government Notice No. R 1648 of 19 August 1977, as amended, having been complied with.





COMMISSIONER OF OATHS

Full Names: S. SOLO
Business Address: 28 Duntour Street
Office: Lake Town Constable

GP
LC

South African Police Service*South African Police Service*

Private Bag X1500, Silverton

Fax No: 012 846 4442

My reference: 26/30/1
Enquiries: Maj Gen Ledwaba
Brig Xaba
Tel no: 082 319 9489
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THE NATIONAL HEAD
DIRECTORATE FOR PRIORITY CRIME
INVESTIGATION
SILVERTON
0127

2020-10-23

Cliffe Dekker Hofmeyr Inc
1 Protea Place
SANDTON
2196

Dear Mr Tim Fletcher

ALLEGED REFUSAL BY SAPS TO OPEN CRIMINAL CASE FOR INVESTIGATION OF MISSING CRADOCK FOUR

Your letter dated 4 October 2020 to the offices of the Minister of Police and the National Commissioner of Police respectively, has bearing on this matter.

The docket on the alleged missing Cradock four, was reconstructed and transferred to the Director of Priority Crime Investigation (DPCI) in the Eastern Cape (EC), for investigation.

The Eastern Cape DPCI registered the following cases:

- KwaZakhele CAS 39/07/2020 Matthew Goniwe
- Swartkops CAS 60/07/2020 Sparrow Mkhonto
- Swartkops CAS 61/07/2020 Sicelo Mhlauli
- Swartkops CAS 62/07/2020 Fort Calata

The abovementioned cases are receiving the necessary attention from the team of investigators from the DPCI EC.

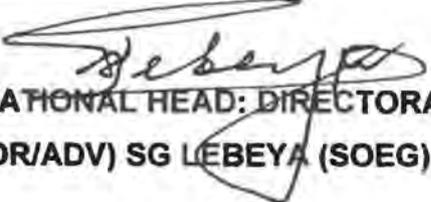
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ALLEGED REFUSAL BY SAPS TO OPEN CRIMINAL CASE FOR INVESTIGATION OF MISSING CRADOCK FOUR

Regarding the original missing docket on the Cradock four, the South African Police Service (SAPS) has opened a criminal case for defeating the ends of justice and theft of a docket, as per Silverton CAS 88/10/2020 on 1 October 2020. The complainant is Mr Lukhayo Calata, who is the son of the late Fort Calata.

This case is being investigated by the Provincial Investigating Unit (PIU) of Johannesburg, which falls under the SAPS's Gauteng Provincial Office.

Yours sincerely


LIEUTENANT GENERAL
NATIONAL HEAD: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
(DR/ADV) SG LEBEYA (SOEG)

Date: 2020 -10- 23

2 GP
LC



SUID-AFRIKAANSE POLISIEDIENS

SOUTH AFRICAN POLICE SERVICE

Privaatsak/Private Bag x1500 Silverton 0127

| | |
|------------------------|--------------------------------------|
| Verwysing Reference | 26/30/1 |
| Navrae Enquiries | Brigadier N Xaba Colonel JN Makua |
| Telefoon Telephone | 0823199489 |
| Faksnommer | 012 401 3235 |

THE COMPONENT HEAD
SERIOUS ORGANISED CRIME
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
SILVERTON
0127

Cliffe Dekker Hofmeyr Inc
1 Protea Place
SANDTON
2196

Dear Tim Fletcher

RE: REFUSAL BY SAPS TO OPEN A CRIMINAL CASE INTO THE MISSING CRADOCK FOUR, OUR DOCKET: SILVERTON CAS 86/10/2020

The matter was first reported as Silverton CAS 88/10/2020 which was later rectified as Silverton CAS 86/10/2020.

The case is investigated by Gauteng Provincial Investigation Unit (PIU) under the command of Brigadier .CE Louw: contact number 082 778 7806 with the email address: LouwCE@saps.gov.za. The investigating officer is Sergeant HP Mojapelo with the contact number 073 261 8784.

You are therefore advised to directly communicate with Brigadier Louw for an update on the progress of this investigation.

Kind regards


MAJOR GENERAL
COMPONENT HEAD: SERIOUS ORGANISED CRIME
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
MS-LEDWABA N. Xaba

Date: 2021-03-26

GP
LC

From: Tim Fletcher <Tim.Fletcher@cdhlegal.com>
Sent: Tuesday, 18 May 2021 11:47
To: GP:Specific Crimes Prov Head - Brig Louw <LouwCE@saps.gov.za>
Cc: Tim Smit <Tim.Smit@cdhlegal.com>
Subject: REFUSAL BY SAPS TO OPEN A CRIMINAL CASE INTO THE MISSING CRADOCK FOUR, OUR DOCKET: SILVETON CAS 86/10/2020 [CDH-JHBDocs.FID4634116]

Dear Brigadier Louw

I enclose a letter received from Major General Ledwaba and Brigadier Xaba and ask that you arrange as soon as possible for us to have the following information so that we know how far the investigation has progressed and we are then in a position to report to and advise our clients.

In regard to the investigation

1. Was an affidavit was taken from Advocate Chris Macadam as it seems that the docket was taken from his custody in the offices of VGM(PCLU);
2. Was an affidavit was taken from the former Investigating Officer Captain Masegela;
3. Does Captain Masegela have a receipt as to who he handed the docket to at VGM Building (NPA Head Office);
4. Was the video footage for the day on which the docket was taken, viewed to establish who took possession of the docket. We understand that interaction and visits to VGM Building are tightly controlled under considerable security;
5. Was former DNDPP Nomgcobo Jiba interviewed? This in regards to the report from Mr Macadam that suggests that Adv Jiba called for the docket;
6. Was the document trail - with regard to the docket – investigated? Our understanding is that there is a standard operating procedure (SOP) that no document, docket or file can be taken or received without a signature. If this was not done was it investigated why this happened and who was responsible for this? If so were any departmental steps instituted against the responsible person? We suggest in this context that if the Cradock 4 docket was taken against a signature, it would not be difficult to trace the last person who took responsibility for the docket.
7. Was a physical search for the document performed in the offices and filing facilities at VGM Building and all occupants made aware that the docket was missing and being sought?
8. Was a check and search conducted at the SAPS Offices of origin where the cases were registered (SAPS Swartskop and KwaZakele - Eastern Cape). In this regard the original Crime Registers were:
 - a. KwaZakele CR 373/06/1985;
 - b. KwaZakele CR 212/06/1985;
 - c. Swartskop CR 12/07/1985;
 - d. Swartskop CR 13/07/1985;
 - e. Swartskop CR 140/06/1985;

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9. We understand that when the Scorpions were disbanded all their material, files, dockets and other material were handed over to the DPCI against a receipt and all of those materials were stored in containers on Promat Building DPCI Head Office in Silverton. Were these containers searched for the docket?
10. Did the investigating Officer interview Colonel Makua of the DPCI Pretoria?

By posing these questions we do not suggest that we know better than the SAPS how to conduct an investigation. We also do not propose that the questions we have raised are the only questions that might be asked or lines of investigation that might be followed in an enquiry of this nature. But you will understand that the investigation of the missing docket has been delayed for so long and that it forms part of the greater matter, which is a stain on the history of our country and a stain on the history of the police, that we must push for answers.

Your assistance is appreciated.

Sincerely

Tim Fletcher

Director - Dispute Resolution
 Cliffe Dekker Hofmeyr Inc
 Reg No: 2008/018923/21
 1 Protea Place, Cnr of Fredman and Protea Place, Sandton, Johannesburg, 2196
 Tel. +27 11 562 1061 Mobile. +27 83 325 0731 Fax. +27 11 562 1661
tim.fletcher@cdhlegal.com | www.cliffedekkerhofmeyr.com

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suleman@ubunyechambers.co.za

From: GP:Specific Crimes Prov Head - Brig Louw <LouwCE@saps.gov.za>
Sent: Wednesday, 19 May 2021 07:05
To: GP:Detect PIU - Lt Col Manganyi
Cc: Tim Fletcher
Subject: FW: REFUSAL BY SAPS TO OPEN A CRIMINAL CASE INTO THE MISSING CRADOCK FOUR, OUR DOCKET: SILVETON CAS 86/10/2020 [CDH-JHBDocs.FID4634116]
Attachments: CCE20201023_0002.pdf

[CAUTION] This email originated from outside of CDH. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Col Manganyi

The trailing E mail and attachment has bearing on the matter.

Kindly obtain Silverton CAS 86/10/202 and bring to Midrand 10111 on 2021-05-20, as I will be attending a two day Bi lateral meeting.

Cc Good morning Mr Fletcher

Case docket will be obtained and perused.

Feedback will be submitted, or alternatively a meeting, where the subject can be discussed.

Thank you.

FH#0123 BRIGADIER

PROVINCIAL HEAD:SPECIFIC CRIME INVESTIGATION:
DETECTIVE SERVICE GAUTENG
CE LOUW

 082 778 7906

Email: LouwCE@saps.gov.za

From: Tim Fletcher <Tim.Fletcher@cdhlegal.com>
Sent: Tuesday, 18 May 2021 11:47
To: GP:Specific Crimes Prov Head - Brig Louw <LouwCE@saps.gov.za>
Cc: Tim Smit <Tim.Smit@cdhlegal.com>
Subject: REFUSAL BY SAPS TO OPEN A CRIMINAL CASE INTO THE MISSING CRADOCK FOUR, OUR DOCKET: SILVETON CAS 86/10/2020 [CDH-JHBDocs.FID4634116]

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Your assistance is appreciated.

Sincerely

Tim Fletcher

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