

INQUIRY IN TERMS OF SECTION 29

HELD AT

DURBAN

ON

MONDAY, 21 JULY 1997

ANDRIES PETRUS PUTTER

[PAGES 1 - 127]

1A ON 1997/07/21IN CAMERA

CHAIRMAN: Before we start, we have to swear in the sound technician and the interpreters.

SOUND TECHNICIAN AND INTERPRETERS SWORN IN

MR H DE VOS AND MR E M COETZEE APPEAR ON BEHALF OF ADMIRAL PUTTER

ANDRIES PETRUS PUTTER (Sworn, states) (Through Interpreter)

CHAIRMAN: There is simultaneous translation into Afrikaans and vice-versa. If you use the earphone as provided and put it on to channel 1. Also, for the record, the panel today is Mr R Lyster, Commissioner for KwaZulu/Natal Region, and Mr I Lax, Committee Member for the KwaZulu/Natal Region. This is an inquiry in terms of section 29 of the Promotion of National Unity and Reconciliation Act of 1995. This is not a hearing, it is an investigative inquiry and is held in camera. The duties and obligations of the parties today are as follows. The person subpoenaed, Admiral Putter, has the right to legal representation and he is represented here today by Mr H de Vos and Mr E M Coetzee of ... (inaudible). Secondly, in terms of section 31 of the Act, any person subpoenaed to give evidence may be compelled to answer any question put to him, notwithstanding the fact that the answer to that question may incriminate him. There are conditions applicable to this section as follows. There must have been consultation with the Regional Attorney-General. The Chairperson of the inquiry must be satisfied that the request for information is reasonably necessary and justifiable in an open and

/democratic society,

1A democratic society and the witness must have refused to answer that question. The Act also provides that any incriminating evidence obtained at an inquiry of this nature is not admissible against the person concerned in a criminal court or any other institution established by law. There is one proviso to that, and that is that any evidence obtained at such a hearing may be used against the person giving information arising out of his giving false or misleading evidence and being charged with perjury. Finally, the offences section in the Act, the section 39 of the Promotion of National Unity and Reconciliation Act provides that it is a criminal offence to hinder the Commission or any staff member of the Commission in the exercise or performance of their duties under the Act and it is a criminal offence to wilfully furnish the Commission or staff members of the Commission with information which is false or misleading. Those are my introductory duties. Is there anything that you wish to say before we start, Mr de Vos?

MR DE VOS: No, there is nothing we want to add.

CHAIRMAN: Thank you. Now, I understand from discussions we had before the hearing started that it was suggested that Admiral Putter would start by giving us a brief CV, if you like, or a pen picture of his ... (intervention)

MR DE VOS: He's prepared to do that.

CHAIRMAN: Is that in terms of a written document or just something that he will ... (intervention)

MR DE VOS: No, he's got notes on that and he will just read it into the record.

CHAIRMAN: Good. Admiral Putter, then, if you would like to start just by making a short statement as to who you

/are and where

1A are an where you've been, if you take my point, just by way of introduction. --- Mr Commissioner, I was born at Brits - that's 50 kilometres north-west of Pretoria - on the 2nd December 1935. I also matriculated there at the end of 1953. After that I applied for a year for voluntary military service at Saldanha, at the Navy Academy. I also applied to join the Navy Permanent Force and to be trained as an officer in the Navy. My application was successful and during that time the Military Academy of the Pretoria University moved to the Stellenbosch University. In 1955 I went to Stellenbosch, where I obtained the B Sc Degree at the end of 1957. After 1957 I served on various ships at sea for practical training and I also completed other courses. At the beginning of 1961 I was sent to England, where I completed an underwater specialist war course. After the year course I went to sea in one of the British frigates for practical training for four months and while I was still busy with the practical sea training I was appointed to a frigate that was being built in Glasgow in Scotland for the South African Navy. That was the first of the three frigates that were built for South Africa under the Simonstown Accord. After completion of my training, we came back to South Africa in March 1963. In October 1963 I got married and at the end of October I was sent back to England to join the third of the three frigates that was being built. In November 1964 we came back to South Africa and I

served as an officer of the frigate squadron. I became the commanding officer of the frigate at sea and I also served as staff officer, underwater combat, in Simonstown. At the beginning of 1974 I was appointed in

/Pretoria with

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Pretoria with the Defence Staff College, where senior officers completed their final officer course. I was the Navy controlling officer there and I was responsible for the strategy phase of the course, which I taught, together with the Faculty of Strategic Studies of Unisa.

While I was at the Defence College I had to go for six months and observe the desk of the Navy and I was transferred to Military Intelligence and I ran the desk of the Navy at Military Intelligence. After completion of my term at the Defence College I, at the beginning of 1977, was appointed to Military Intelligence as senior staff officer, where all the information of all the desks is finally brought together and finally evaluated and interpreted and where final documents are drafted then. I was then promoted to Commander at Military Intelligence. At the end of 1979 I was transferred back to the Navy and I was appointed as Navy Commanding Officer in Durban at the Island. It was, however, for only one year, because then the post of Director, Military Intelligence, was promoted to Chief Director post. I then became Staff Admiral and I was appointed Chief Director, Military Intelligence. It was also a very brief appointment - approximately two years - and I returned to the Navy. I was then promoted to Vice-Admiral. In October 1982 I took over as Chief of the Navy. I served as Chief of the Navy from October 1982 until July 1985. I was then transferred back to

Military Intelligence as Chief of Staff, Military Intelligence. I served as Chief of Staff, Military Intelligence, until March 1989 and was transferred to the Navy as Chief of the Navy. In 1989 the Defence budget cuts were implemented and I had to rationalise the Navy. I had to let go

/approximately 2 000

1A approximately 2 000 people from the Navy to balance my budget and in June I myself - June of 1989 - retired from the Defence Force. Commissioner, the investigation here is about my post as Chief of Military Intelligence.

I drafted an organigram. It has unfortunately not been typed yet but I can give you a copy of the military organization if you need it to show you where my post as Chief of Staff, Military Intelligence, fits in in the structure, and I also have an organigram of the chief of staff organizations themselves, which I can also hand over to you if you want.

MR DE VOS: We've seen that document prepared by Mr Howard Varney and he prepared an organigram on page 47 of his report, but we differ from his outset of how the structure worked. --- If I may continue. If we look at the Defence Force organization, at the top there's the Minister of Defence Force, the political head of the Defence Force - in the centre, at the top. The Defence Force, if you look at the right-hand side, there's a matrix of a staff organization where you have horizontal staff organization and the chiefs of staff at the top. They had policy responsibilities vertically through the Defence Force to implement the command structure and policy. If we look at the staff division at the right-hand side, let's look at the line in the

centre. That was the SADF command structure. At the top you have the Chief of the South African Defence Force. Under him you have the commanding officers of the military, the Head of the Defence Force, Chief of the Air Force and the Navy, and the commanding officers general of medical forces. The Chief of Military has five fields of command - personnel,

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/information, operations, information, operations, logistics and finance. He had a chief of staff who had to manage each of these management tasks. We have the Chief of Staff, Personnel; Chief of Staff, Intelligence; Chief of Staff, Operations; Chief of Staff, Logistics; and Chief of Staff, Finance. You can see my post. It is the second one underneath Chief of the Military, then there's Chief of the Air Force, Navy, and Medical Services. They had ~~exactly the same~~ structures. On the left-hand side of the line is the executive units of the South African Defence Force. On the left-hand side under the Chief of Military is Commanding General, Special Forces. Under Chief of the Military, the Air Force, you have the Air Force squadrons, Fleet bases and ships and submarines, and then the medical services. They also had executive medical command structures. On the right-hand side I made little arrows and underneath I wrote, "Managing Directives". The staff divisions based their authority on a directive issued by the Chief of the Defence Force. Mine, if I could put it very broadly, consisted of determining the nature and scope of the military threat against the Republic. I had to operate counter-intelligence and counter-espionage and maintain these services throughout the Defence Force. I

had to mount - implement certain strategic intelligence operations, which would be of strategic importance for the country. I was also responsible for the image of the Defence Force in the outside world and I was also responsible for communication operations as far as the morale - our own population's morale was concerned. Communication operations also in respect of the morale of our troops and communication operations aimed against the

/enemy. That

enemy. That was my executive or managing directive. The commanding officers under Chief of the Defence Force also received command directives, from which they then formulated their operational responsibilities and derived their responsibilities from and, in turn, they would give directives to their subordinate officers. I don't know if there's anything else you want to ask about the Defence Force.. Perhaps we can look at Chief of Staff, Intelligence now. If we look at the organization which I served at the top, there was the Chief of Staff, Military Intelligence, and under or below me I had eight sub-divisions that reported directly to me - Chief Director, Military Intelligence, on the extreme left; Chief Director, Counter-intelligence; Chief Director, Intelligence Operations; Director, Covert Collection; Director, Foreign Liaison. We were responsible for foreign military relationships, to maintain good relationship with as many foreign defence forces as possible. Then I had the normal managing directorates under me - personnel, logistics and finances. The division in which we are interested here at this hearing is the third one from

the left, Chief Directorate, Intelligence Operations. I set out in very concise form the organization thereof.

There were two directors - DST1 and DST2. It was Director, Special Tasks 1, and Director, Special Tasks 2. There was also a Director, Communications Operations, below him. Just to give you an idea of the breadth of the operation and the team, I give a little bit more information under Director, Foreign Liaison.

If you look at DBB, you'll see there that we had 16 attachés in South Africa representing other countries,

/foreign countries,

1A foreign countries, and I was responsible for the management of that - of these foreign attachés in the RSA. We then had 32 South African military attachés abroad, 8 in Africa, 9 in European countries, 2 in the United States, 5 in South America, 2 in the Middle East, 2 in the Far East and also 1 each in the former TBVC states. My organization ranged from between 2 000 and 2500 people. People were often seconded to me and then seconded back to the Defence Force, depending on the need at the time, and I also mention what I've already said that the Division Military Intelligence also had managing authority over the Naval, Air and Military sections, vertically speaking. Thank you.

CHAIRMAN: Who was the person that was responsible for DST1? Who filled that post? --- Brigadier van Niekerk.

And DST2? --- I think it was Brigadier Thackeray. No, it was the other way around. Thackeray was 1 and Van Niekerk was DST2.

That's Cor van Niekerk? --- That's Cor van Niekerk, yes.

And HDIO was Van Tonder, is that right? ---

Yes, that was General van Tonder.

HDMI, Military Intelligence, that was General?

--- Groenewald.

Groenewald? --- Dis reg.

MR DE VOS: Mr Commissioner, if I may draw your attention to the fact, Exhibit C5 and C6 in the KwaMakutha trial also sets out the organigram, but this is much more detailed than was put before the Court.

CHAIRMAN: And just to complete the organigram, under /DST2, should

1A DST2, should there be another block there, special operations? --- Yes, he had a number of staff officers, Colonel and Commandant Lebel under him and they had various denominations depending on the task that they were doing at the time.

And would Special Operations have been one of the areas or operations or projects which would have fallen under DST2? --- That's right.

So we have under DST2 - I'm just going to make a little insert there, if that's correct. I don't want to have two organigrams. This is yours, but can we say then that under DST2 we have Special Ops? --- He would be responsible for two or three projects, ja.

Such as Katzen, Marion? --- Marion, etcetera.

Can you - and we may come back to this at a later stage - but during the period that you served as HSI - Hoofstaf, Militêre Inligting - what were these special operations, which were conducted under that block, shall we say? --- Under DST2. When I took over there were two projects which had been completed or where the process had been completed, and the one was the Nkomati

Accord, 1984. So that had been closed off, and I think that also fell under DST2. Then there was also a project, which was in the process of being terminated. That was support to the MLA in Lesotho, and then there was Project Marion, which commenced a couple of months after I took over as Chief of Staff, Intelligence, and later also Project Katzen.

DST1, what were the projects under that umbrella?

--- He was responsible for the South West African theatre and mainly support to Unita.

/Okay, we'll

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Okay, we'll later on come back to some more details about some of those other issues, but this is just to get an overview, thank you.

MR DE VOS: Mr Commissioner, if I may assist. Certain questions were put to Admiral Putter. He's prepared a draft and, in order to assist you he can maybe - those questions can be read into the record that he can give his replies, unless you want to do it on another basis, but he has certain answers prepared, which he can read into the record.

CHAIRMAN: As and when those answers come up during the course of our questioning and if they coincide with the questions that appear in the subpoena or if they coincide with questions that he believed that we might ask at this thing, then certainly he can read prepared answers into the record, but I think we'll just start off with some general questions which relate either to the issues raised in the notice itself or which arise out of the various documents which are annexures to the notice. Those are the items which we will focus on. Just to give us some idea of the relationship between

the State Security Council and your post. Were you an ex officio member? Did you address the State Security Council on ad hoc occasions? How was information from that forum passed on to your office? What was the relationship between your office and that forum? ---

If we work up from there then I will perhaps be able to explain the structure. I only reported to the Chief of the Army. The Chief of the Defence Force obviously reported to the Minister and he was also a co-opted member, the Chief of the Army or the Defence Force was a co-opted member of the State Security

/Council. The

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Council. The Minister obviously had full sitting on the State Security Council and the Chairperson was the State President. The information process of Military Intelligence upwards to the State Security Council worked as follows. In the Secretariat of the State Security Council there was a branch, National Interpretation. It was an intelligence organ. All three national chief components who operated intelligence on behalf of National Intelligence - South African Police, the Security Branch and Military Intelligence - seconded members to this National Interpretation Division or branch. The chief functionaries there were National Intelligence and all the final interpretation or the information which had been finally interpreted and processed, which came from these organs was then jointly interpreted at national level - at this branch of National Interpretation and the product which they came up with was the basis on which the State Security Council operated. I never had a seat in the State Security Council. I may perhaps

mention that before General Groenewald became Chief Director of Military Intelligence he also served in this branch of National Interpretation.

So under Nasionale Vertolking you had National Intelligence - that's Dr Barnard's NIS, was it? ---
That's correct.

Security Branch. Who would have been the person sitting in the Secretariat from Security Branch? ---
Ek kan nie onthou nie.

And Military Intelligence? --- Ek kan nie onthou watter lede van my staf - ek weet nie dat voor ek by Militêre - before I went to Military Intelligence, General

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/Groenewald was
Groenewald was also at the branch of National Interpretation, I cannot remember.

Admiral, we are going to proceed now to ask some questions. They won't necessarily be in chronological order. It's going to cover the period 1985 to 1990, thereabouts, but we will move around during that period and we won't necessarily do things in chronological order. MR LAX: Admiral, just by way of introduction to this next section, when you took over as HSI, let's call it that, that was in 1985, how did you see the situation in the country from a military point of view, from a political point of view, and so on? What was your general impression? An analysis, if you like.

--- May I use this opportunity to also sketch the different responsibilities as regards the operating of intelligence structures, and then I can perhaps get to the answer of this particular question? The question you've now asked me. The division, Military

Intelligence, was not authorised to collect information covertly in South Africa. Our exclusive responsibility was to collect information abroad. The police, Security Branch, was mainly responsible for internal security information gathering and I think there was always a little bit of a dispute between them and National Intelligence, but I think National Intelligence was also authorised to gather information internally but more on the political, economic level, but I think they also gathered security type of information. The Army commands spread throughout the country had an Army intelligence organ and usually in this command there was a joint information staff between the Army, the Security Branch and I'm not sure whether

1A National Intelligence was also represented. I think they also had a representative at that level. How I usually obtained my domestic information is that from these Army commands situation reports were sent to the Chief of the Army. The Chief of the Army's intelligence personnel would then consolidate these situation reports and report it to us. So, apart from so-called open sources, which we also studied, such as magazines, newspapers, etcetera, that was mainly how internal information - information about the country itself - reached us. In one of these documents there's a typical example of how we at our level, at the Defence Force level, evaluated and processed and interpreted the information. Perhaps we can look at that a little bit later. We worked at the Departmental level and our information was mostly of a strategic nature. That was the first input for the entire Defence Force planning

process. On an annual basis we had to compile a threat information document, which was used as the Defence Force's first step in its strategical planning process.

From this followed the Defence Force's departmental strategy and this strategy determined the levels of power and this was then also converted into our budget, which was then tabled in Parliament, and that's how it worked. That was mainly our function at strategic departmental level, and then we also contributed input at a higher level, at the National Intelligence level.

I didn't specifically prepare myself for this question.

I can just let my mind go a bit, back to that time. I can't sketch the internal situation in the country in isolation. The whole of the Southern African conflict situation was interwoven, as a result of ANC support in Angola, Zambia,



Zimbabwe, Mozambique
1A Zimbabwe, Mozambique and SWAPO presence in Southern Angola and attacks which they launched against South West Africa, so the whole Southern African situation was interwoven and interlinked, so I would like to sketch the situation in Southern Africa and then, more specifically, within the borders of this country. Within a couple of days in the beginning of August, after I took over, the whole of the South West African situation was plunged into crisis in the sense that we at that stage knew exactly what the Cuban involvement in Angola was, what the Russian involvement in Angola was and they were stationed in bigger centres, where they offered blanket protection to the Angolan forces against attacks from Unita. They also offered protection to the ANC and SWAPO, who were present in South Angola, and

they also obviously assisted with the logistical matters of the ANC and SWAPO. So they were not involved with the Angolan forces against Unita, but at the beginning of August we received confirmed information that Cuban and Russian troops had integrated with the MPLA forces and they were marching with five brigades into South-Eastern Angola, which was, of course, the area controlled by Unita at that stage. It was clear that this was a well-considered and purposeful attempt to destroy Unita militarily. The Cubans manned strategic posts, right down to company level. They were captains of the tanks, they flew MIG-23s and other aircraft. They also had very modern anti-aircraft guns. So they were completely integrated into the forces. A brigade is about 5 000 men strong. Now, in these brigades there were about 350 tanks, many armoured vehicles, artillery, land to land missiles and then also land to air missiles - very modern

/missiles. Now,

missiles. Now, if you take the situation back to the Southern African situation and then South Africa itself at that stage Unita controlled about half of the southwestern border. In other words, it was against SWAPO attacks. If this march was successful and they managed to destroy Unita then if you then project that picture into the future it would mean that Unita would have to revert back to phase 1 of guerilla warfare, that negotiations in Angola would have to be postponed for a very long time and that the border from the Caprivi down to the Atlantic Ocean would be reopened for SWAPO attacks into South West Africa. The distance, by the way, is about the same as from Pretoria to Cape Town.

The result was that the implementing of Resolution 435, the United Nations controlled election in South West Africa would only ... (end of tape) ... [break in recording] ... the Republic of South Africa would then be in direct conflict with a super power, a nuclear power, because the Russians also had troops and officers within these brigades. A plan was made and submitted to the Government and they approved this plan. We then succeeded in halting the march of these brigades and to turn them back. As a result of the substantial extent and impact of the situation in South West Africa it took up a lot of my personal time and attention. I, for instance, had to travel abroad a lot because, when it became known that Russian and Cuban troops were directly involved in the situation in Southern Africa, all the foreign services wanted to know exactly what was going on in Southern Africa ~~and what the developments were and~~ what were our views of the further development of the situation. It was so serious that, as

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/you know, the you know, the United States also then gave anti-aircraft equipment to Unita to try to avert this onslaught and march. At the same time - now I'm starting to remember the detail - SWAPO stepped up their incursions into South West Africa. The level of their attacks increased, were intensified and within the Republic itself it was the start of a new phase of ANC action internally, and it became clear to us from 1985 onwards that the conflict - the internal conflict - could no longer be typified as a black/white conflict, but that all the black government organs such as city councils, town councils, councillors, Inkatha and other black

organizations had also become targets of the ANC and this, of course, caused a major escalation of violence internally and, if I remember correctly, in 1985 or 1986 a state of emergency was declared in the country and I can't remember exactly how long it lasted, but the situation of threat in the whole Southern Africa context and internally in the country escalated drastically at that time. I can also mention perhaps that this attack on Unita was repeated in 1987 and they came back with more advanced weaponry and after we resisted in 1985 we had more confidence that Russia would not escalate the attack beyond our abilities and especially the fact that they didn't bring in more troops. They did bring in more weaponry - some more MI25s and tanks, etcetera, artillery and of the most modern missiles ever deployed outside of the Soviet Union was deployed in South-Eastern Angola. That resulted in quite a large war. There were more tanks involved in that war than ever since the Second World War, except for Desert Storm. We then had more confidence. I gave the information. The

/operational people

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operational people made the plans and made recommendations and it boiled down to larger or increased South African involvement to stop these attacks. Round about 1988 we received information that there was the possibility that negotiations could be started to resolve the conflict, by way of negotiations. We realised that the Cubans were quite eager to withdraw from Angola. When the USA gave the missiles to Unita, the MPLA Government cut off all contact with the USA, but I think round about mid-1988 they indicated that they were willing to talk to the Americans again.

That was an indication for us that there was a possibility to resolve the conflict by way of negotiations.

(Inaudible) ... way in the Angolan situation. I want to bring you back to the original purpose of my question, which was to say that at the time that you came into office in 1985 in this position, what was your perception of the security situation? You've spoken about in general terms now and given us a fairly detailed idea of what was going on in South West and in Angola. You haven't really spoken much about Mozambique and so on or about Zimbabwe at that stage, although some of that is historical. We know all of that already. We are more interested in the extent to which - your understanding of what was going on particularly internally, and you've indicated that you didn't have a great deal of information specifically internally, although you would have had some sources, as you've said, through sitreps and so on. What we're really interested in is what was your personal understanding of the situation in the country? --- The intelligence in front of me at the time indicated the

1B /following facts, following facts, (a) that the ANC was escalating the threat and that it was not only focused on attacks against the Government but that it was also aimed at other organizations, like black town councils, Inkatha, etcetera. That was basically the crux of the development at that stage.

(Inaudible) ... turn to some of the strategic understandings that were being developed at that time and from that point of view some of the documents that

you received - I'm not entirely sure whether you received all of them - related to the whole process of developing a strategy of counter-revolutionary warfare or counter-insurgency warfare and so on. It operated both internally and externally, and how did that analysis that you've just spoken about, how did you set about organizing to deal with that? --- I was not involved in strategy planning or in operational planning concerning the executive. My task in my management directive was to stipulate the threat. I was not involved in the formulation of strategy or planning.

CHAIRMAN: I'm not quite sure whether you do have this document. It doesn't relate to you and that's why you may not have been sent it, but it's a document dated April 1986 on the letterhead of the Secretariat of the State Security Council and it is headed, "Riglyne vir 'n strategie teen die rewolusionêre ..." - "Guidelines for a strategy for the revolutionary onslaught against the RSA", and in that document ... (intervention)

MR LAX: Document 7, I think it is of your ... (intervention) --- At the bottom of the page?

CHAIRMAN: It should be document 7 ... (inaudible) ... /notice.

1B notice. (Inaudible). That was summarised in a document ... (inaudible). No 7. --- Thank you, we have found it.

If you can just look at page 2 of that document ... (inaudible). The document sets out there what appears to be a sort of a brief summary of how the Secretariat of the State Security Council saw the security situation in South Africa at the time. In paragraph 3 ... (inaudible) ... "Steigende bedreigings"

... (inaudible). Sorry, my mike was off there. Just for the record I will just repeat that. "In the final analysis of the strategic situation two aspects are clear. In the first place that South Africa is internally caught up in a spiral of threat which cannot be brought under control by the security forces". Turn then to paragraph 9, and this is 9.1 and the heading on the page before, "Strategic aims. Aim 1. The freedom, property of all South African inhabitants must be protected while the revolutionary people had to be neutralised with full force of the Forces". (Inaudible) ... Security Council documents to what was perceived as the internal threat. You've talked at length about the external threat, about the fact that there were Cuban and Russian forces posing an obvious threat, as you saw it at the time, to South Africa's territorial integrity, but these documents deal with the internal threat to the country and if you look again on page 1 of that same document (a) to (f), there's another summarised description thereof how the internal security situation was seen at the time, starting with, "The testing of international support and the isolation of the RSA. On (f). Gaining control of the masses." (Inaudible) ... in

/these documents

1B these documents is that, as well as facing what was perceived as a critical threat externally, MPLA, Russians, Cubans, etcetera, as well as the security situation in other parts of Southern Africa, Mozambique, elsewhere, that there was - the Government found itself in a critical situation internally with a revolutionary onslaught which, as you said earlier on, the targets

were no longer Government or military, they were much more widespread than that. So would you say that these documents correctly summarise the thinking of the State Security Council and your department of what was happening at the time in South Africa? --- Yes, these factors from (a) to (f) are typical factors that would describe the threat at that stage. I agree with them.

Your own personal view, I'm asking - to get back to the original question - I mean did your personal view accord with that analysis? --- Can I put it like this? I didn't really develop personal perceptions. I operated strictly objectively with the information in front of me. That would have been the knowledge at my disposal, as summarised in this information.

It seems as though this information - this is information which had filtered up to the State Security Council through the various intelligence departments which you earlier described, that they would report then to yourself who would report to the Minister, who would then, in his own way, communicate as he saw the security situation to the country at large. I mean that was his job. He would either communicate it to the country unless it was something which he felt would endanger or jeopardise the situation within the country, but the flow

/would come from

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would come from the intelligence departments through you to the Minister and then he would report to the Cabinet or to Parliament or whatever. I'm reading here briefly from a Hansard report. I don't think you have it, but it quotes Minister Malan in Parliament at that time

saying,

"It is the policy of the Republic of South Africa to put its case and defend and safeguard itself offensively with all the might at its disposal against any form of foreign oppression or internal revolution."

Those are words which he used in Parliament and he distinguishes between foreign oppression and internal revolution and he emphasises the need of the Republic to defend and safeguard itself offensively with all its might at its disposal. So the picture which we obtained from these various documents - State Security Council and otherwise and public documents such as this, which was a Parliamentary report, was that South Africa was in a critical situation externally and internally and the thinking at the time ~~was that the~~ Government would have to take offensive action externally and internally to protect its territorial integrity or sovereignty from an external point of view and to protect the Government of the day from an internal point of view. Am I right? Is that a fair analysis or summary of how the security establishment and the Minister would have perceived the threat at the time? That there was external threat. There was internal revolution and that, in the words of the document, document 7, which I referred to earlier on ... (intervention)

/MR DE VOS:

1B MR DE VOS: Mr Chairman - sorry, Mr Commissioner, may we request - we haven't got the original. This is obviously a document attached to an agenda or something, and we don't know whether or what was decided at the

meeting. Whether this document was accepted for - what is said in the document. We are not quite clear on the point.

CHAIRMAN: Right, you're talking about document 7?

MR DE VOS: Document 7, yes.

CHAIRMAN: I don't think we have documents here with us today which would indicate what the further progress of this document was or what it was and perhaps I should just rephrase the question. These documents convey a general view, whether they are the words of Minister Malan in Parliament or whether they are this report from the Secretariat. They seem to accord with what the Admiral said earlier on, some minutes, in the sense that South Africa was clearly facing external and internal threat of a very serious nature. Is that a fair - basically I merely used these documents to confirm the sorts of things that ~~you were saying~~. You painted for us a picture that there was clearly serious external threat and that at the time there was an aggressive drive by the ANC to target not only military targets but to include whatever it was - local authorities, Inkatha, etcetera, etcetera. I just want to establish that general view and that picture. --- Ja.

(Inaudible) ... security establishment saw the situation externally and internally. --- Yes, that was summarised in the information that we had.

MR LAX: Can I just take it one step further, if I may, a document such as this, no matter what happened to it at

/the end of

1B the end of the day, part of the analysis here would have been something that you would have contributed to. When

I say, "You", I mean your department or your structure.

You would have developed some of the understanding that would have gone into this document and it would have been fed into the Secretariat, which would have prepared a document like this. Is that a correct understanding?

--- As far as the intelligence input from my staff is concerned, my staff that were seconded to National Interpretation. There was also National Strategy Branch that would have produced the strategic documents. I do not believe my staff were represented at the Strategic Branch, but I cannot say that for sure.

It's a matter of plain logic that for strategic people to develop a plan they must base their understanding on something before they will move on to a strategy and so that your, "Vertolkingsseenheid" would at the very least have produced some analysis - some base of intelligence upon which strategies would then be developed. That's common sense, isn't it? ---

That's what I said. As far as they gave the information input for the strategy people they were involved.

CHAIRMAN: Now, you will be familiar with the thinking at the time with regard to counter-revolutionary warfare. You're familiar, I presume, with the so-called Botha Document, which was a document issued by the State President at the time, Mr P W Botha, which drew the attention of people within the military and the police to general principles of revolutionary warfare, as expounded by people like Fraser and McCuen. Were you aware of that document? I don't think you have it.

It's a document

/called, "Rewolusionêre

1B called, "Rewolusionêre oorlogvoering" - "Revolutionary warfare, principles of counter-insurgency" ... (inaudible) ... P W Botha, and it basically drew attention to the importance of principles of counter-revolutionary warfare as expounded by people who were regarded as experts at the time and experts of the day - Commandant Fraser and McCuen, who I believe was a British author and expert on military warfare, particular counter-insurgency. Are you aware of those documents which were circulated at the time - Fraser, McCuen? --- I was aware of the documents, but I never had a need to use it. I never used them. I never read them, but I was aware of their existence.

Were you aware of the principles which are formulated in those documents relating to counter-insurgency - counter-revolutionary warfare? --- Let me just explain. These doctrines in these books were basically principles for executive organizations, if a command had to secure the whole area. We had them for purely information purpose and we didn't have any interest in such documents.

The reason why I'm putting this question to you because again, you know, the documents speak in some sense for themselves and, for example, if one looks at an extract from Brigadier Fraser's document, he refers - and we can make a - if you haven't got a copy of this - you have, document 2. Document 2, page 3, where it refers to the use of terrorism by a government as an integral part of an established government's understanding of how to wage counter-revolutionary warfare. He refers quite openly to the use of terrorism by government forces must be decided upon at the highest

level and it must be so

/applied as to

1B applied as to avoid a boomerang. Do you see that reference to that? --- Yes, I remember seeing it, but it is once again ... (incomplete)

Do you want to read that? --- Can I just hear the question again, please?

I was merely drawing that document to your attention. It appears from the document which was distributed, and I can let you have a copy of this if you don't have one, by President Botha - State President Botha at the time. This was a document which he called on senior people within the military and the police to take note of and I'm trying to find out to what extent this became part of thinking at the time. For example, you had - DST2 had an operational capacity in, for example, support to Unita and it's ... (inaudible) ... develop the notion of counter-revolutionary warfare in order to assist ... (inaudible) ... Unita. I'm trying to understand to what extent those documents ... (inaudible) ... thinking of the time. ---

Mr Commissioner, DST did not have operational capabilities and also not operational executive responsibilities. To what extent my staff under me attended courses and gained knowledge of the Fraser and McCuen doctrines I cannot comment on, but those doctrines were specifically applicable to the countering of the revolutionary attack, which is typical of a Defence Force unit or a police unit's activities and specifically counter-insurgent activities. It was not applicable to me as an intelligence functionary.

MR DE VOS: May I assist? I think there's a misunderstanding, Mr Commissioner. If one looks at the Fraser document and the McCuen document, you will see they

/call them

1B call them, "Actions against insurgents". If one looks at the Varney report he doesn't refer to insurgents, he refers to State terrorism, and it's a huge difference, the two concepts. Now, we will deal with it on the 4th August, but unfortunately the question has come up now, but one should clearly identify what one is talking about and if I read the Varney report it says exactly the opposite from what your report actually says. The real report says, if you look at what McCuen and Fraser say, you shouldn't get down to the point where the State becomes part and parcel of like a terrorist organization - in other words state terrorism against its own people, and all the writers then say, if it comes to that point that decision should be taken at the highest political level. That's all that report says. It doesn't say any more. But I think the reports has interpreted it in some other way. Sorry for interrupting.

CHAIRMAN: When you say, "The report", do you mean the Varney report?

MR DE VOS: Ja. May I make the point, the document distributed by Botha doesn't refer to state terrorism. That is what is, I think, referred to as, "A threat document". So it doesn't say the State should conduct State terrorism. Not at all. It says exactly the opposite. Can my learned junior refer you to the Varney report just to clear up something?

MR COETZEE: If you look at page 34 of the Varney report, he refers to the Fraser principles and certain of Fraser's principles that were distributed by President P W Botha at the time. The document that was distributed at State Security Council level, the reference as a long-term

1B /policy, there policy, there was no mention to the word, "State terrorism" in that document distributed by P W Botha at that stage and, as far as it is relevant to this reference page 4 of the Varney report.

MR LAX: Frankly, I think we are playing semantics here. The fact that the State developed a counter-revolutionary structure is trite. There's no dispute about that. Other senior Generals in the SA Police, for example, have admitted that openly here in this very same forum and you're not going to deny that that, in fact, happened, surely? --- No, but I specifically mentioned that the Defence Force command and the police had their responsibilities.

I think we are getting bogged down in words here. Let's try and look at where my colleague is heading at, if I may, and maybe I can rephrase the question in a different way so that we can move on. In essence what we're saying is that it's crucial, and frankly I was a trooper and later an officer in the SADF at that very time. The unit I was in went into Angola. Fortunately I didn't have to go. I was involved in local counter-insurgency operations at that time, so I'm talking now as an average trooper on the ground at that time and then in 1985 - in August 1985 I was in Potchefstroom. I was a bombardier in an artillery unit and there was no

doubt in our minds that our unit was going into Angola and we were going in in a covert way and they went in and they came back and everybody knew what was going on, in spite of, for example, P W Botha denying that on public television at the time. --- When was that?

It was in September 1985, and there's no doubt in

/my mind that

1B my mind that that happened. My colleagues went. Some of them got injured. Some of my fellow NCOs came back with severe wounds. We know what happened and history shows what happened as a result and, in fact, at a later time Botha and others even publicly said that the United States sold us out in Angola and there's no question that that happened either. The simple proposition is that the thesis of these documents is that there is a capacity which the State needs to develop in terms of which it uses - to use an Afrikaans term, "Gestalties". It uses other organizations to achieve some of its purposes where it is not possible for the State necessarily or even advisable for the State necessarily to engage in terrorism of its own, and that's one of the bottom-line theses that come out McCuen, out of Fraser, and out of a general mentality that was developing at the time and hence, for example, some of the other operations - Renamo, LLA, Marion, Katzen and so on. That was part of the underlying philosophy. Is that not correct? It would seem to us at any rate that that is one interpretation one can put on it. I'm not saying that's the be all and end all of it. I certainly haven't made up my mind that that's the definitive answer, but it's certainly an interpretation that is being offered us of those documents.

CHAIRMAN: Let's get away from the notion of State sponsored terrorism and talk about counter-guerilla groups. Renamo, for example, wasn't State-sponsored terrorism. It was developing the capacity of a counter-guerilla group. Isn't that right? --- We were involved in Renamo only in a liaison capacity and limited logistical and financial support sense. It was an

an /organization which organization which already existed independently and continued with a struggle in Mozambique.

(Inaudible) ... the existence of a group like Renamo or let's say Renamo, isn't that the development of the capacity of that group is central to the notion of counter-revolutionary warfare? --- It's international custom that if you are being threatened by warfare based on insurgency that there are other groups, such as the Americans use the Contras - if it can support you, if it can help you in any way to counter the revolutionary onslaught then you make friend with those groups and you give them limited support.

MR LAX: Let's take it in another context. Take the Hamas movement in Palestine or in Israel. It's no secret that the Israelis developed Hamas and gave it - they gave it support and it backfired on them, as we see. The same with other organizations all round the world. It was part of a prevailing counter-guerilla strategy which was in currency at that time. Many people probably looking back realise there were probably shortcomings in that approach but the fact is that was the current thinking of the time, certainly in terms of military strategy and military techniques and so on

being developed. That was the prevailing mentality -
the conventional wisdom of the time, if you like. ---

May I just add that I want to warn against generalisation, to, for instance, compare Project Renamo, Unita, Marion and Katzen with each other. Each of these projects had its own unique intelligence base on which decision-making was based and in terms of which the project was operated.

Thanks for that caution. Obviously one has got to
/look at the
look at the specifics of each project, if one could call it that, but nothing happens - things happen within a broader context, even though they are individual projects, and that's really at this stage what the focus of these questions is - the broad context within which these decisions were taken. The atmosphere, if you like, that prevailed. That's why I asked you for your personal view. I accept that you were a professional doing your job, but as much as we're all professionals we still all have our own attitudes that inform the way we, "Vertolk", if you like, the professional. --- Is that a question?

Yes, again, just to summarise then, do you agree that this whole approach to counter-guerilla warfare, counter-insurgency and so on, this really was, as I said earlier, the conventional wisdom that was prevailing at the time? --- The State took certain decisions on which strategic intelligence operations were based to counter the threat.

You agree with that in a sense, because the whole concept of total onslaught, of total strategy to meet that total onslaught, it was prevailing currency at the

time. There's no question about that. I mean, it's trite. Everyone understands that now, looking back, and what underlay all of those ideas were the sorts of documentation we've referred to. Those were the things that underlay that whole concept and it's not really a matter for debate, it's common cause between all the parties involved in this sort of investigation. Do you agree? I see you're nodding your head. I'm just interested. --- Yes, the people who carried out certain things had certain doctrines on which they based /their operations their operations and those documents were part of that doctrine.

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CHAIRMAN: Now, I want to move on now to - I think it's document 13. Sorry, document 13, which basically deals with the sort of origins, if you like, the initial phases of what became Operation Marion. Do you have the document with you?

MR DE VOS: Mr Commissioner, sorry, could you just explain what document that is or what it is called. Our documents are not numbered. You call it document 13, we wouldn't know what document it is.

CHAIRMAN: When I say 13, I think it's 13 on the list of documents which we sent to you and which you confirm that you had received. We gave it to Mr Coetzee about half an hour ago. And it is dated 27th November 1985 and it's from Admiral Putter to the Head of the Army, and it relates to, "Information to Chief Minister Buthelezi".

MR DE VOS: We do have it, thank you.

CHAIRMAN: You have that, thanks. And the document refers to a meeting between General Groenewald and Chief

Minister Buthelezi on 25th November and in which certain requirements of the Chief Minister are set out. Now, can you tell us what was the background to that document? How did this meeting take place? On whose instructions was it set up? At whose request was it set up? --- As I said, General Groenewald served on the Branch of National Interpretation before he became Chief of Military Intelligence. Part of his responsibilities ... (end of tape) ... [break in recording] ... advise them, based on the information and documents which the National Interpretation Branch had drafted. After he became Chief

/Director of

2A Director of Military Intelligence, he was requested by National Interpretation to continue to give these information sessions on their behalf. Apparently the person who took over the post after him wasn't apparently very good at his job and General Groenewald then periodically continued with these briefing sessions. As you can see from the first sentence there, he says as a result of the weather the briefing to the Chief Minister of KwaZulu, which was planned for the end of October 1985 could not be presented, and there he refers specifically to the period information sessions which had to take place. He then did, in fact, go and present his briefing session and information was available at that stage which indicated that the Chief Minister's life was in danger and in this document the Chief Minister also confirmed that he'd received information to this effect, that the ANC wanted to eliminate him personally and the conversation or discussion took place after the briefing session and the

Chief Minister then expressed his needs and requirements as far as proper protection was concerned, better information services and also gave his views about the fact that he could not obtain his own defence force because he wasn't willing to accept independence. A discussion then took place about the requirements and need for a state security council for KwaZulu and the Chief Minister also then expressed his view about the Zulu Battalion - 121 Battalion - and indicated that it wouldn't have been politically expedient for him to associate himself with this battalion or with the Army and in paragraph 4 it mentions a discussion which took place about Dr van Zyl Slabbert and the Chief Minister's /relations at the

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relations at the time. Recommendations were then made as follows. From the information sketched, it is clear that there was a plan to activate the national states and that they wanted to neutralise Inkatha and the IFP in KwaZulu/Natal. This makes it imperative to neutralise this proposed ANC action, and the Chief Minister declared himself willing to talk to the Defence Force about this and the recommendation is that the Minister or the Chief of the Defence Force, that's the Minister of Defence, should utilise this opportunity as soon as possible to have discussions with Chief Minister Buthelezi to further develop his goodwill towards the South African Defence Force. A spokesperson or representative for Constitutional Development, Mr Hendrik Myburgh, was also in favour of such a meeting and would inform Mr Heunis accordingly. It's also recommended that the information about Dr Slabbert be conveyed to the State President. I then appended a note

to the bottom. I don't know whether it's visible on your document. I can't remember to whom I sent this document, whether to my deputy or whoever it was, just to keep him informed, because it was shortly before I went on leave. I there say, "Herewith the report on the above-mentioned visit. Please destroy after perusal. A copy of the document will be submitted to the State President and the Minister of Defence via Intelligence."

(Inaudible) ... note in a minute. Just to look at page 3 of that document, there's an, "Opmerking", and it refers there - it's under, "Zoeloe bataljon by Josini", and then, "Opermerking", where it refers to taking the struggle to Lusaka. "He would even consider taking up the

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/battle with the battle with the ANC in Lusaka although currently he doesn't have the necessary means at his disposal to do so". That certainly gives me an indication of what the thinking was at the time of the Chief Minister. How he perceived the threat against him and what he sought to do about it, and he talks there - just above that sentence I read, "Also able to act in a violent manner towards the ANC". If hypothetically he had attempted to do that, would such an action have been lawful at the time for the KwaZulu Government or Inkatha or the Zulus?

I'm not quite sure who the author of this note is referring to but he refers there to Zulus and KwaZulu. Would taking, "Die stryd", taking the struggle to Lusaka, would that have been lawful at the time by the KwaZulu Government, by the KwaZulu Police, by some form of para-military or police or state agency? Would it have been lawful at the time? --- No.

Now, why was it necessary for this note to be destroyed? --- You will see in paragraph 4 mention is made of the PFP leader, Dr van Zyl Slabbert. If I remember correctly, he was at the time the leader of the opposition. I never approved of the fact that politicians had to be addressed in political documents. My organization was manned by supporters of all political parties and consequently I didn't want unnecessary copies of the document to be available - documents which addressed problems with politicians, and therefore I gave the instructions that this specific copy should be destroyed after perusal, but I see that my staff actually disobeyed my orders.

MR LAX: In a sense, thank goodness they didn't listen to



/you.

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you.

CHAIRMAN: Now, the desire expressed by Chief Minister Buthelezi at the time, it appears from this document to be a desire to carry out a preemptive, offensive capacity or - ja, capacity against the ANC. Would you agree, just from that note. Sorry, you were the author of this document or was it General Groenewald? --- No, if you look at the top left of military documents in general you will see under, "Enquiries" is there a name there and that is the author of the document.

Then it was put together for you and then he, as your junior - and you would then send it on to the Head of the Army? Is that right? Because it appears to be from you to General Geldenhuys. --- He would immediately write this document from me to whoever the document had to go to and I would then draft an

information report as to what had happened and what was said and if it was necessary to bring it to the attention of higher authority, the document would then be sent through to whoever it was addressed to. In this case Chief of the South African Defence Force.

Does it then in your view indicate a desire to develop an offensive capacity to take the ANC on, would you say? Just from - I'm not saying you drew up the document, but that's what it appears to me to say. ---

If you read it literally, that is the impression which it creates. The author, General Groenewald, said that he put it in under a remark and he saw it more in the light of a political statement made by the Minister, because at that stage he had no practical capacity to tackle the ANC in Lusaka so his explanation for that is that it was actually



/just a political

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just a political statement which he wanted to make.

There are documents which certainly, prima facie, from the documents themselves, tend to show the thinking of the Chief Minister at the time, and I refer you to what is probably the next document in your bundle there or it's referred to as document 14, and that is dated 19th December 1985, and it's headed, "SAW Hulpverlening aan ..." - "South African Defence Force assistance to Chief Minister Buthelezi and Bishop Laganye". Do you have that document? --- Yes.

And then on page 3 of that document under, "Internal security in KwaZulu", it refers to his lack of offensive capacity to act against the ANC. He refers specifically to a need for a para-military task force. It seems to us, just on a reading of that document, to

indicate the desire of the Chief Minister to develop an offensive para-military force to be used against the ANC.

MR LAX: If I could just add in the, "Inleiding" in paragraph 3 on the first page of that thing, there's obviously a context which is sketched and I'll just read it into the record. "The intensity of action against Inkatha has necessitated to make a request to the South African authorities on behalf of Buthelezi that military support be given to Buthelezi to protect Inkatha against the ANC terrorists". --- That's correct. If you look at the Chief Minister's discussion with the Commissioner-General on the telex, 135 of 85, it reflects, as far as I'm concerned, the Chief Minister's attitude, which also held good in all the discussions which I had with him personally. I never gained the impression from him that he was interested in acting aggressively and pro-actively

/and to launch

2A and to launch attacks in that way, but he did have a need for proper protection, as referred to in the document of the 27th November. He says in this telex, "... Discussions about the steps I need to take to counter the actuality of violent onslaughts against me from ANC mission in exile about which you are aware. I set out my position in this letter", and he then continues to say, "... are having their homes destroyed and they are witness to schools, offices and vital KwaZulu installations being burnt down. Anger is rising against the ANC mission in exile. New demands are being made on me to react, which was not the case before. I must therefore review my stance towards Battalion 121".

Hy gaan verder deur te sê, "Now that the military threat from the ANC mission in exile is being directed specifically against me, KwaZulu and Inkatha, I need more than the authority to issue firearms". En dan gaan hy verder aan in die teleks deur te sê, "I claim the right to seek to bring about change through non-violent means".

CHAIRMAN: If I could simply respond, the other documents that are here and in particular the document that, in essence, is the Liebenberg report, which is dated March 1986, sets out a whole range of options which form part of what this is referring to, in essence. If one looks at that document one gets a broader picture, if you like, of all the different avenues that were being pursued at the time or that were intended to be pursued at the time, let's put it that way. So it wasn't just a single track exercise. There were a range of different options available and there were a range of different - the Afrikaans word comes to mind - "Behoeftes", requests.

/--- Yes, the

2A --- Yes, the Liebenberg report stipulates Buthelezi and the Defence Force's needs.

There were a range of different strategies. There was contra-mobilisation, there was intelligence, there was offensive capability, there was the expansion of Battalion 121 and the establishment of a KwaZulu Army, if you like. If one reads between the lines, that is really the end point, for example, in relation to Battalion 121 that was intended, and so. I mean there are a whole range of different things and your reference to this telex is just in relation to one aspect of it.

Clearly more than just plain non-violent action seems, if one reads the documents carefully, apart from the rhetoric, one spoke in terms of non-violent action but necessarily organized differently. That is the nature of politicians, frankly. Reading these documents, one can see a whole range of different agendas on the table and one can't be naive enough to simply say that was all there was, or are you suggesting that that is all there was? --- There was a whole planning process. This document of the 27th I took the Chief of the Defence Force - the telex to which I have referred, 135 of 85, of the 9th December, was sent by the General to his department, the Department of Constitutional Development. A whole lot of events took place. From the 4th December until the 10th January I was on leave. A whole lot of things happened in that time. The document of the 9th, to which you have referred - of the 14th December - last year at the hearing I heard about this, that is in a document that Brigadier van Niekerk in isolation with this letter of the 27th November and with information input received from the Division of Military Intelligence he put this

/together. It

2A together. It was a one-man think tank, basically, and he gave certain interpretations to the contents of the letter. When I returned in January there were various committees and sub-committees appointed to react to the State Security Council's decision. The Minister appointed the Liebenberg work group to research the matter for him further and see if such help or aid was given to the Chief Minister how it could be done. There were various points of view expressed in the Liebenberg

document and also various suggestions in the Liebenberg report and various interpretations were given about what the Chief Minister's needs were, but my impression throughout was, when I spoke to the Chief Minister, I never got the impression that he thought in terms of pro-active, aggressive help. Not as far as I know. Not in my time.

I'm not leaving 1985, 1986 period yet, but I specifically asked you that question, did your view ever change? --- Sorry? My view?

Yes, did your view of what Chief Minister wanted or expected, did it ever change? --- No.

Because I just want to briefly go - jump right ahead to document 35 of the bundle of documents. 2 May 1990.

MR DE VOS: We've got it.

CHAIRMAN: Thank you. Which is a document from Colonel van der Berg and is sent to DST2, Cor van Niekerk, and it refers to Operation Marion and it refers to your visit to the Chief Minister on the 9th May 1990, and paragraph 2(b) thereof, for the record, reads, "The Chief Minister was worried because he was losing the arm struggle and was worried that offensive action was still a need, meaning the use of hit squads". Now, I asked you whether your

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/view as to what view as to what you thought the Chief Minister wanted to intended or was looking for in a para-military force, did it ever change. Does that meeting with him on the 2nd May 1990, did it indicate to you that there was another agenda that was at work there? Or what is your commentary on that minute? --- Mr Commissioner, I

saw the staff officer wrote, meaning what he thought he heard the Chief Minister say. I have to add that in March 1989 I had already left Military Intelligence and I once again became Chief of the Navy.

Who was HSI at that time? --- General Badenhorst took over from me. Yes, he took over from me in March of 1989.

Have you seen this document before? --- Yes, we received it last year during the hearing.

(Inaudible) ... Chief Minister wanted or did you develop an understanding from that document as to what the Chief Minister intended or wanted? --- I could not agree with the interpretation of Colonel van der Berg and I understood that at a consequent meeting it seemed to be a misunderstanding. That was what I heard during the hearing last year.

(Inaudible) ... Van der Berg, which we will be doing shortly. --- Yes, and General van Coller also testified about it, just for record purposes. Maybe we can look it up what page and give you the page number.

You see, Admiral, what you've been telling us is totally at odds with what both Badenhorst himself has told us in an affidavit and what Niel Barnard has told us. Niel Barnard - and we'll give you these extracts from these documents during the tea break shortly - and we only

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/saw Barnard last week so we couldn't have given it to you before that, I'm afraid, but he's made it available to the media and so there's no problem in us giving you a copy of what he said. Barnard - let's deal with Barnard first. Barnard had no doubt in his mind that

this whole operation would result in the loss of life and that's why he objected to it in the first place.

You're aware that he objected to it? --- I saw what he told you in the press and it does not correspond with the minutes of the meeting, where he made his objection.

Just give me the reference, if you will, please.

--- Yes, I do not think the document is in the bundle you've sent me. It is a document drafted by Groenewald on the 7th January 1986, where he drafted the document to the Minister, but I signed the document, to give feedback to the Chief Committee's report to give feedback to the State Security Council. An inter-departmental committee was appointed in January. It was put together from Constitutional Development, National Intelligence, Military Intelligence and so on. They appointed a sub-committee to return to Chief Minister Buthelezi to determine ~~his needs~~. The sub-committee then reported on the 16th January 1985, reported to the Chief Committee. The Chief Committee was under Constitutional Development and Planning. Do you have the document of the 17th January? If you look at paragraph 2(b) - rather 2 - problems were experienced with the creation of a para-military unit. Dr Barnard had problems with the appointment of such a unit and he said that the political problems resulting therefrom, because of that he cannot support it. He said that it had to be postponed until the

/other suggestions

2A other suggestions could be implemented. That was his view at that stage, at the meeting.

At a later State Security Council meeting, where the matter was - it was decided to send it to the

highest level. --- That's correct. On the 3rd February there was a State Security Council meeting where this report of the committee was submitted, and the establishment of a para-military force was then referred to Minister Heunis and Minister Malan to investigate further and it was as a result of that appointment of the two Ministers - it was a result of that that General Malan or Minister Malan then appointed Mr Liebenberg to give him more information.

MR LAX: (Inaudible) ... saying is that - and I'm not sure he had one particular objection necessarily or that it necessarily entailed that, but what he said to us was - he says that at that stage, "In die eerste plek was daar reeds op daardie stadium geheime en ..." - "In the first place, at that stage there was confidential planning in place with the ANC leadership internally and abroad to resolve ~~the~~ conflict in South Africa peacefully. It was my view that a para-military force in KwaZulu/Natal would lead to an escalation of the conflict in KwaZulu/Natal and lead to an even greater loss of life and that it would bring about a further delay and an obstacle in the search for a peaceful solution". (Inaudible) ... the statement to us.

CHAIRMAN: And this was a written document which he handed in to the Commission, but we questioned him further on that specific point, because it seemed to us to be a very important point that there was from him and, I think, Mr van Wyk or Professor van Wyk, that there was an

/objection at

2A objection at that level and that the specific reason for the objection as he puts it in his words, "Dat daar meer

mense ..." - "That more lives would be lost because of that". (Inaudible) ... statement which Dr Barnard had made, that he opposed the implementation of a paramilitary force on that basis. --- Yes, the information I have differs from that.

MR DE VOS: I believe he also made a statement last year, which contradicts what is being told to us now.

CHAIRMAN: I haven't seen that, Mr de Vos. We'd certainly like to get hold of it, because this is the single document which he has given to us and we'll give it to you during a break which we'd like to have now, as well as ... (incomplete)

MR LAX: Just before we break, just to finish the point, because I didn't get to what Mr Badenhorst said.

CHAIRMAN: General Badenhorst has also made a statement available and he was, for the record, your successor in HSI, and he stated that ~~at he undertook~~ a - he accompanied you on a meeting to Ulundi in March 1989 with Brigadier van Niekerk and Colonel M van der Berg and that during the course of the journey from Pretoria to Ulundi he was briefed by Brigadier van Niekerk on Operation Marion, and he stated that by the end of the meeting, "I was not happy about the fact that my organization of which I was Chief of Staff had to be responsible for the guarding of a politician. This, in my view, was the responsibility of the South African Police". He then goes on. The meeting took place and they returned to Pretoria the following day. "I instructed Brigadier van Niekerk and Colonel van der Berg to get rid of the Caprivi trainees and to sell

/them to the

2A them to KwaZulu Police, as I realised that this was not a military operation but a political one". And it seems that within two days him taking over your position it was his view that this was something which should not be sanctioned by the military at that level and that it should be terminated, because it was clear to him it was a political operation and not a military one. And we will give you this document during the break. ---

Commissioner, can I just point out that on the 8th November - I think you have the cryptic notes of the meeting - on the 8th I ordered that the project had to be terminated and that the group had to be disbanded and that the individual members had to be seconded to the KwaZulu Police. That happened.

Is that the meeting at Liberty Life you're referring to? --- That's right, the 8th November 1988. That was also ~~the evidence of~~ General van Tonder and Van Niekerk that that was, in fact, the end of the whole project. We know Badenhorst said something else in his statement, but, knowing the personality - he's a different type of person.

Okay, we'll have a short break now for a cup of tea. We'll organize you some tea as well.

SHORT ADJOURNMENT

/ON RESUMPTION:



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ON RESUMPTION:ANDRIES PETRUS PUTTER (Still under former oath)

CHAIRMAN: Now, from what I understood you to say earlier on, you felt that Dr Barnard had made - that the minutes reflected Dr Barnard saying something slightly different to what he appears to be saying now in his statement dated last week. Is that correct? ---

Yes, it's a lot different. He says that he disapproved of it. According to the minutes he only asked for a postponement of the implementation of the State Security Council's decision. He didn't, in fact, turn it down, as it stands here, that the political sensitivities surrounding the matter were such that at this stage he could not support the establishment of such a force and that it should be delayed until such time as the other proposals were implemented.

Can I just say, ~~just so you don't~~ end up saying something you don't intend to say. That's a report at that level. It's not really a note of the State Security Council - it's not a minute of the State Security Council that you're reading from. That's a report on a discussion, if you like. The minute may well say something quite different. I just caution you not to put ... (intervention) --- No, you are misunderstanding me. I'm not referring to the minutes of the State Security Council. I am referring to a version of the minutes of a discussion of the sub-committee to the main committee - the chief committee.

In the discussion in the State Security Council there may well have been other matters that were discussed. I haven't seen that precise minute just yet.

/There may well

2A There may well be something else in the minute itself.

--- It's the 3rd February. That's the one. That's the minute of the State Security Council of that date, where the chief committee was reporting to the State Security Council after this discussion took place.

The statement which Dr Barnard makes at this stage appears to - well, does say that he - he says, "My standpoint was" - "My view was that the implementation of Operation Marion would lead to the loss of human life and would lead to the retarding - 'die vertraging in die soektog' - a delay in the search for a peaceful constitutional settlement." He said, (1) it would further escalate the military conflict in KwaZulu/Natal.

(2), that it would lead to the loss of human life and, (3) that it would retard the peaceful constitutional process. Do you have any understanding as to why he should say a thing like that now? It appears to be saying that this was a wrong action, an unlawful action, it would lead to the loss of life, retard the constitutional peace process and therefore I was against it. It certainly is very different to what other members of the State Security Council at the time seemed to understand about Operation Marion and what they said about Operation Marion. Would you agree? This says something different? --- Yes. It differs totally from the information base which was available at the time of the decisions made that protection should be given to the Chief Minister. I don't know, but I assume that he had the same information as I did, namely that the ANC was planning to kill the Chief Minister and that the Chief Minister was worried about his safety and that

he needed better protection. That is

/basically the

2A basically the information base which we had at the time of these decisions. Why he now brings in these factors, of which I obviously had no knowledge - I obviously would not have known that National Intelligence or whoever at that stage thought in terms of discussions with the ANC. I wasn't aware of that. So I can't explain to you why he now tells you what he has told you. I can't comment on that, apart from what I've already pointed out.

MR LAX: He said to the panel that he couldn't actually tell anyone at State Security Council level at that stage. There were highly secret meetings that he was involved in and therefore no one else would have known that those would have been additional reasons. So he may well have, for example, have said, "Postpone the implementation", not giving any specific reasons why, but having another agenda in mind, if you like. It's not inconceivable. I'm just suggesting that that's the possibility. You'd agree with that? --- It is possible, yes. I think it's a fact that he wouldn't have told us about his planned meeting and discussion with the ANC.

CHAIRMAN: Now the subsequent documents which were prepared for the State Security Council, for their meeting on 3rd February 1986 very clearly distinguished between the support element, the ceremonial element, the "Inligting" element and the para-military offensive element. Now, most people who have talked about Operation Marion have talked about it essentially being protective and defensive assistance to be given to the

Chief Minister. Why then should the documents be so specific in the sense that they distinguish between defensive, protective and para-military? You see, that's something

2A /that we are that we are grappling with and it appears from the documents that two entirely different processes were envisaged and that appears from the Liebenberg report as well as from the report which was prepared, I think, for Minister Malan to present to the State Security Council.

--- No, that was solely departmental.

Sorry. Ja, do you know why there should have been that very definite distinction between the para-military element as opposed to the other element, which included protective and defensive? I can try and reconstruct it for you. The crux of the problem was the direct involvement of the Defence Force in the Chief Minister's affairs, and the Chief Minister was extremely sensitive about this issue. He was very concerned that it shouldn't harm his political power base in any way. He mentions that the Defence Force's image was not so wonderful, despite the good work done in schools and hospitals, and he didn't want to openly associate with the Defence Force, because the Defence Force's image amongst the local population was of an instrument of the oppressor and, accordingly, he didn't want to be associated with it openly and publicly, so what the Department of Defence told the State Security Council to do related to para-military forces. The establishment of a state security council and of an intelligence organization - advisors to the Chief Minister, etcetera, that would have been done overtly, as something which

the State was prepared to do in any event for all the self-governing states and for that reason the distinction was made between those functions, which were politically acceptable, and this close co-operation between the Chief Minister and the

/Defence Force,

2A Defence Force, which was not politically acceptable to the Chief Minister, and that is why the project was highly secret and should be operated as such due to its highly political sensitivity.

Why was it necessary to provide the Minister with a VIP protection type unit from the rank of the Defence Force - or at least via the ranks of the Defence Force and training through the Defence Force, when this was, in reality, a police function, in any event? And the police had the capacity to do that. --- Once again I can only try and reconstruct in this regard, because I wasn't present during the discussion at the State Security Council and the Minister's discussion with the Chief Minister, but the impression which I get from the documentation is that the situation internally was such that the police were probably so totally occupied by it that they no longer had the manpower and the capacity to perform such a task to the Chief Minister's satisfaction, and the State Security Council - now, I'm guessing - possibly also saw it in that way and, therefore, tasked the Defence Force with providing the necessary protection. My legal adviser also indicates that, of course, KwaZulu had their own police force. I don't know what the situation was on the ground ... (end of tape) ... [break in recording] ... out of Durban, to go somewhere that he would presumably have had the

necessary VIP protection.

(Inaudible) ... Defence Force would have been involved in an operation of that kind which would have been perfectly legal, perfectly above board, if the police had done it, and the right channel to do it would have been the Police Force. You will concede that?

/Miskien ...

2B Miskien ... (intervention)

If I could just follow up on what you said. When we spoke to General van der Merwe his impression and attitude was that there was no reason why the police couldn't have done it at that time if that's all it entailed, because the issue would simply have been an expansion of their VIP protection, either through KwaZulu Police or through themselves directly. He felt that wasn't a totally impossible thing, that they didn't have resources or capacity to deal with it. That's why I put the question to you in that way. The issue wasn't one of capacity. There was something else at stake here. --- That's why I said that I don't have facts to confirm that, apart from the fact that I could point out to you that the Defence Force would have had a very limited involvement. We would have trained the people. We would have given them back to the Chief Minister. Our understanding was that they would then be incorporated into the KwaZulu Police and the VIP group of this Caprivi-trained group was indeed immediately incorporated into the KwaZulu Police and the rest of the group also had to be incorporated into the KwaZulu Police to be deployed as police guards to protect the Chief Minister. After the training, we would only have

served as liaison and also to give some financial assistance after the people were deployed back to KwaZulu to the police there. Unfortunately, it didn't happen like that. May I just add that immediately after they were back in KwaZulu, the Chief Minister tried to involve the group in the police of KwaZulu but the Department did not have the necessary funds to incorporate them in the police force. I might perhaps show you. The State witness, Luthuli's

/affidavit of affidavit of last year mentions - paragraph 9.7 of Luthuli's affidavit on page 22 - he said,

"Our effort to have the Caprivi trainees incorporated into the KwaZulu Police failed. M Z Khumalo told me that the KwaZulu Police did not have the financial means to absorb the trainees. He told me that it was also felt that if the Military Intelligence financed the KwaZulu Police for this purpose, this would expose the operation."

MR DE VOS: Mr Commissioner, just to assist you maybe when you read the record of the Marion trial. I just want to jump back to this 17th January document that you've referred to. General Groenewald testified about this on page 2956 and 2957. I can read it out from the computer if you want me to read it into the record at this stage, unless you are going to scrutinise it yourself.

CHAIRMAN: What specific aspect does it cover?

MR DE VOS: It covers the aspect of what Dr Barnard said at that meeting. General Groenewald also testified about this meeting that they had with Dr Barnard on the 17th or 16th January and he testified at page 2956 and 2957 of the KwaMakutha trial last year. Can I read it into the record?

CHAIRMAN: Please go ahead.

MR DE VOS: "You make the point in your letter that problems were experienced with the creation of the para-military unit. Mr Barnard had problems objective to such an implementation and he said that he cannot support the creation of such a unit. Also that it had to be postponed

2B /till other till other plans could be implemented. The Chairman, I expect it would be Van Wyk, also expressed his concern."

He continues to say, "Before I continue with the paragraph what political risks were addressed or what were the problems of these people, you have to stress the part where Dr Barnard says, 'It has to be postponed until the other suggestions were implemented'. In other words, the structures had to be created first before the rest of the suggestions concerning the para-military force could be implemented. The political risks were specifically that the structures did not exist, in the first place, and, secondly, we referred to the contra-mobilisation effect from the viewpoint of the Government was a very sensitive matter." Can you just give me a second. And then I ask a question to Groenewald, "Was that the only department who objected?", and he answers, "Yes, M'Lord." "From the side of the South African Police there were no objections?", and the answer was,

"There was no objections from their side". "You also put your point of view, as well as Coetzee. Is that correct?" "Yes, that's correct." "Would you please look at the point of view you expressed on the next page. It must be page 55 of the documentation. We hand it up. 'The SADF representative indicated that the sensitivity was of such a nature that such a suggestion could not be suggested. He furthermore indicated that the creation of a para-military unit would be insufficient and would not be able to maintain the security in KwaZulu.'" "The answer on the question of what did you mean by this is the order was a new order that the State Security Council at that stage gave to the military. It was very sensitive and, therefore, it was,



/of course,

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of course, also from the previous requests that the central thing that the Chief Minister needed was to be able to organize his people and to be able to put into place a believable counter-unit. The Liebenberg report also indicates later on that other departments didn't need to have larger insight into this." I can continue, but I don't think it would be necessary.

MR LAX: I think you can assume that we are familiar with the fact that the para-military component was pretty small - 25 to 30 people maximum - and one is fully aware of that.

CHAIRMAN: General, you'll be familiar with a document - sorry, Admiral - with a document which is, I think, 20 in your bundle of documents there, dated 16 April 1986, which is from yourself to General Geldenhuys. ---
Yes, I do have it, Commissioner.

Can you explain on page 2 of that document, it talks there of an obvious distinction between support to Inkatha and support to KwaZulu. --- Mr Commissioner, at that stage, as far as I can remember, I never myself drew a distinction between Inkatha and the KwaZulu Government. I never spoke of the Chief Minister as President of Inkatha. I can only tell you what the author of this document testified to last year as well.

It was the view that existed at that stage. In practice, however, it did not realise one could not distinguish between Inkatha and the KwaZulu Government.

It was basically the same organization.

You'll agree that the import of this document is that there are two very different sorts of assistance which is envisaged and one is assistance to a political

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/movement or a movement or a so-called cultural movement at the time, which envisaged protection or safety of the Chief Minister, safety of Inkatha leaders. (iii) The paramilitary element. (iv) Contra-mobilisation, which was propaganda. (v) Information. And, (vi), which was interim protection. And then it goes on, (b), and it talks about support to KwaZulu. It was very clear - whether this was a concept document or - I'm not quite sure what it is but it envisaged very, very different - or support in very different directions. Do you agree with that? --- I do agree. I might perhaps sketch the background to this document. On the 14th and 15th April I was, according to my movements, in the operational sector. Let me go back a bit further. I received an order from the Minister on the 8th April, I believe. The Minister was quite happy with the creation

of this para-military group and he ordered me to once again and finally go and determine what the Chief Minister's needs were. My staff made an appointment for me. I was away on the 14th and the 15th. On the morning of the 16th I met them at the aeroplane and I would have flown to the Chief Minister, whom I would have met that day for the first time in my life and it would also have been the first time I negotiated with him. My staff then gave me this document, which I must have paged through quite quickly, and from the document - you can see there's a paragraph, "Points for discussion with Chief Minister Buthelezi", paragraph 9, and from then on they gave me discussion notes from this document, and it basically concerned the working of this group. Whether or not the Minister was happy with that, he said he was happy with that. The



/group had to

2B group had to be trained as a whole - one group in toto, and the group had to operate as a group. The distinction was that this document didn't go any further. The contents of this document was already concluded at the meeting with the Chief Minister. He was quite happy with what I put before him about the group and on the 17th April we met Minister Malan. We reported back to him that the Chief Minister was happy and the project was approved in this format.

MR DE VOS: May I assist maybe? I'm not sure whether you have this document dated the 8th April 1986, because it wasn't sent to Admiral Putter. I made a note of the documents that we received, but that's a document preceding the meeting of the 16th April. Can I just show it to you? That was Exhibit E2, page 96, in the

KwaMakutha trial.

CHAIRMAN: Do you want to comment on that or draw it to our attention what that document says? I mean we see it in front of us and we can read it, but is there something specific that you want to draw to our attention?

MR DE VOS: No, the only thing is there was a specific instruction given by the Minister of Defence to Admiral Putter to go and sell the covert leg of this operation to Chief Minister Buthelezi, and that's why he went down on the 16th April to have the meeting with the Chief Minister.

CHAIRMAN: The author of that document which we've just been talking about, was that Colonel van Niekerk - Cor van Niekerk? --- Dit is korrek.

And you're saying that any distinction between Inkatha and the KwaZulu Government was, in fact, an
/artificial one?

2B artificial one? That it was - I mean, who was it - who was the support to? Because, you know, the document refers to a budget under support for Inkatha - we are talking about a budget of R2½ million, relating to salaries, equipment, guns, ammunition, vehicles, air transport. Who was it envisaged that that support was being given to? --- Mr Commissioner, in my view of the project, it was to the Government of KwaZulu. I cannot imagine that I ever thought that I spoke to the Chief Minister as the President of Inkatha or the Chief of Inkatha. I spoke to the leader of the self-governing state.

But the document envisages something extremely different and it goes on, on page 5, to say that the

funding for the para-military element will be done through Armscor and it will be paid through Armscor into an Inkatha account as if it had been an anonymous donation. (Inaudible) ... that this is a party political affair. That it's not support to the Government. The funding would not be traced back to Krygkor. This also goes for the purchasing of weapons and ammunition. The cardinal importance of security and the SADF's support to Inkatha had to be kept secret at all costs. (Inaudible) ... completely different things here. This is DST2, who reported directly to you, who has prepared a document which envisages something that's clearly unlawful. Do you agree with me? Support to a political party through payment through, you know, accounts which are not traceable back to the Army. Do you agree that this envisages something which was wholly unlawful?

MR LAX: Sorry, even if it wasn't a political party -

/let's not play

2B let's not play semantics - the fact is it was a cultural organization that had political support and was behaving like a political movement, if you like. There's no question about that. --- The reason why the support went via Inkatha was, in my view, purely for security reasons, because in practice the support for the KwaZulu Government and, as I've told you and it's confirmed on record, that the VIP protection group was immediately incorporated into the KwaZulu Police after their return and, according to the State witness, Luthuli, there was also an attempt to incorporate the entire group in the KwaZulu Police, so the support was clearly, in my view, support for the KwaZulu Government, and Minister

Buthelezi was, in fact, the Minister of Police.

You see all the documents therefore are then - if we are to take your version into account - totally misleading. --- I think you must distinguish between staff thinking processes and recommendations and what ultimately was decided upon.

If you could then point us in the direction of the final decision and show how it's worded differently, you'd be helping us quite a lot. --- Yes, it's unfortunate that I don't have documentation available about my discussion with the Chief Minister but, to the best of my ability, as far as I can remember, I spoke to him about the protection unit which would protect him and the other Ministers and also to protect the King and also for Inkatha leaders, and that they would be trained as one group and also deployed as one group to protect their lives, and that ~~is how the Chief Minister~~ accepted it and that is how I reported back to General Malan.

/Unfortunately, we
Unfortunately, we don't have all the necessary documents in front of us.

CHAIRMAN: Sorry, just to go back to your explanation, you're saying it was envisaged that the money would be routed through Inkatha for security reasons? Is that - it was, in fact, going to the government but for security reasons it should be routed through a political movement. I didn't really understand what you were saying there. --- What I said was - and that is an inference which I'm drawing, I can't actually put it as a fact - that for security reasons the money was routed via Inkatha - the Inkatha account, because only the first sum of money provided was handled by Armscor.

There was a lot of red tape involved and thereafter for security reasons the money was paid into the Inkatha bank account directly and the money was drawn from that account and people were paid like that until they were ultimately incorporated into the police.

MR LAX: (Inaudible) ... easy to trace, frankly. You know, if the money went straight into Inkatha's account it would have been very easy - the security aspect would have been very difficult. --- No, I can't agree with that. The explanation for the money, as Inkatha managed it, the explanation would have been that it came from overseas donors and this was to be done to break the link with the Defence Force.

CHAIRMAN: (Inaudible) ... report. Now you're familiar with that, are you? --- Ja.

You know that also very specifically refers to, in paragraph 26, "Military ~~power~~ LIVE JUSTICE The following is proposed." (Inaudible) ... to paragraph (c), 26(c), where

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/they talk they talk again about, "Approximately 200 members must be selected by the Chief Minister for training, in accordance with the structure and needs of Inkatha". You know, all sorts of people have told us that this was now the official - the Liebenberg document is how Operation Marion was finally envisaged. We were told that by people who have been subpoenaed here over the past two weeks, and it's very clear that it was - the training had to be undertaken according to the needs and the structure of Inkatha. If you see, "(ii) Offensive element, the objective of this group was to train a small group of highly-trained people for Inkatha, who

would act offensively against the ANC/UDF". (Inaudible)
... so clearly from the documents that to say, well, in fact, it wasn't to Inkatha, it was, in fact, to the KwaZulu Government seems very difficult for us to understand. --- Yes, I understand your problem but can I refer you to paragraph 13 of the Liebenberg report, regarding the objectives of the task group?

Yes. --- Paragraph 13, it's very clearly put there, "To establish a security structure for KwaZulu as a power base against the ANC, UDF and affiliated organizations".

I understand that, but then why should it go on further on in the document to talk about an ... (inaudible) ... which is created or initiated specifically according to the needs and the structure of a political movement? It doesn't refer to the KwaZulu Government.

MR LAX: Can I just suggest this as well to you, while we're at it? The establishment of a security structure is also envisaged within that document. There's a whole /intelligence process.

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intelligence process. There's a whole joint management structure that was intended in the document. In reality, that was the security structure. These were other aspects of it. --- That was the security management structure.

Precisely. There are a whole range of elements that constitute that structure. --- That's correct.

But there are two fundamental issues that aren't going to go away here and let's try and tackle them head on. The first is that all the documents, of whatever description, from the time this whole operation was

initiated and onwards, differentiate between the KwaZulu Government and the Chief Minister in that role. In many places it says, "In his capacity as such". Those words come up quite often and the distinction in his capacity as Chief Minister, as opposed to President of Inkatha, for example. Those words are used often, time and again, so, frankly, I find it very difficult to understand how you make this distinction between - or how you don't make this distinction, let's put it that way, between the structure and government of KwaZulu on the one hand and, frankly, if it was to be the structure and government of KwaZulu, there would have been nothing unlawful, nothing untoward in the police offering them this capability. It was perfectly legitimately within their means, and other people have told us that it was within their capacity and resources already. There would have been no need for this project if that's what - there would have been no need for a secret, covert project of this nature to have been established whatsoever, if it was going through the KwaZulu Government. The fact that it went through Inkatha is what necessitates the covert nature of the operation,

/apart from

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apart from anything else. It would have been the kiss of death for Inkatha if it was in any way known at that time that's that what they were up to. So your thing simply doesn't make any logical sense. --- It does make sense to me in the sense that Inkatha was the political power base of the KwaZulu Government and I never, whilst I was involved in the project, consciously made any distinction between Inkatha and the KwaZulu Government. For me they were synonymous. Naturally,

some of the support was given to Inkatha. The counter-mobilisation to canvass political support, that was support to Inkatha, as the political power base of the Chief Minister and as the Head of State of KwaZulu.

(Inaudible) ... in the KwaZulu Government who were not Inkatha supporters. There were members of the Legislative Assembly who weren't Inkatha people. There were - one mustn't forget that. --- I didn't know that, but if I accept that then it was probably also not necessary to protect them, but there were leaders within the government and Inkatha and outside of the government, which constituted the political power base of the government and who needed protection. It was commonly known that some of these leaders were killed and I think that the information that the Chief Minister would be killed is also not disputed. I think Deputy President Mbeki confirmed that. So you see, that is my problem. I'm not denying that there was support to Inkatha and a lot of the things were done via Inkatha but it was done because they were the political power base of the Chief Minister and of the government and I want to repeat I never, in my discussions with the Chief Minister, had any

/thought that

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thought that I was talking to the head of Inkatha. I was negotiating with the head of KwaZulu Government.

Why was it then necessary, if you were dealing with the government structure of KwaZulu, why was there such a sensitivity then around the issue? --- That is a requirement that was imposed by the Chief Minister. He did not want his involvement with the Defence Force to become known to his subordinates. That is why it

became such a difficult project to maintain this security and confidentiality, but it was because of the Chief Minister's demands that he should not be connected with the Defence Force, because he was convinced that that would damage his political power base, even within Inkatha.

I'm sure it would have. --- Ja.

I'm sure it would have. --- And that was why the State Security Council very pertinently said that the operation should be carried out in a very covert way.

CHAIRMAN: Mr de Vos, I want to go on to document 31 in your bundle, which is a memorandum from Directorate of Special Tasks dated October 1988.

MR DE VOS: Exhibit E8, if I remember correctly, in the KwaMakutha trial. Yes, we've got it.

CHAIRMAN: The picture that you've painted and that many other people have painted about the operation was a defensive and a protective and a lawful one. Now, why was it necessary then for the Minister to be approached and for a request to be put to him for protection or indemnity in terms of section 103 of the Defence Act? Why was that necessary? And you will know, but for the record I will read it, that that eliminates the possibility that HSI and

/the officers

2B the officers who were involved in Operation Marion could be guilty of a capital offence. The assurance is therefore required that such officers would enjoy protection in terms of section 103 of the Defence Act if they, in the execution of their operational duties under Operation Marion, be charged with those duties and acts.

(Inaudible) ... itself, it appears clearly to envisage that because of the nature of Marion, people could be charged with capital offences and that protection in terms of section 103 of the Defence Act is sought. Can you offer some comment on that? --- I'd like to point out that I didn't draft this document and I didn't sign it either. The document arose from a ministerial enquiry. It's a telex of the 31st August 1988, where the Minister mentions a whole number of problems which were brought to his attention - problems surrounding Operation Marion - and he then sent this telex to the Chief of the Defence Force and asked him - do you have the telex or do we need to give you a copy?

Yes. --- He then asked the Chief of the Defence Force to investigate these problems and then to report back to him. At the bottom of the document I wrote that the Director of Intelligence Operations should - wanted a written input to be able to discuss this matter with the Minister, and that gave rise to this document of October 1988. I did a little bit of research, because I found it very difficult last year to remember much about these documents, and I found that as from the 22nd September to the 2nd October I had to accompany a very senior guest from abroad. He was visiting the Republic. And, accordingly, what happened in those cases where I was not

/in my office,

2B in my office, and documentation would pile up on my desk, and on my return those documents that I had to refer to higher authority I would then take to the Chief of the Defence Force and this was clearly the answer to the ministerial enquiry and I had to take it to the

Chief of the Defence Force. I don't know whether it was shortly before my departure that I went through these documents and I saw that the answers in the document all related to the ministerial enquiry of the 31st August. I then found these two paragraphs which refer to amnesty in terms of section 103 ter and I then told the Chief of the Defence Force that I was not aware of any reason why my staff were requesting this and we could not apply it to anything that might still happen in the future in a pro-active way, and that's why it was disapproved and that is what I can remember of this whole incident. My staff gave further motivation largely during the trial of why they thought about this and that was connected with a case in South West Africa where a member exceeded the bounds of the law and a death was in issue and the commanding officer of this group was then charged as an accomplice. But we ~~didn't regard this~~ as necessary and that's why it was not approved.

MR DE VOS: May I refer you to the record? General Geldenhuys testified about it on page 4294, 4295 and 4296 of the KwaMakutha trial. I'm not going to read it ... (inaudible) ... it goes on 4304 and 4327. That deals with the most important - the aspect. I can assist you further. Brigadier van Niekerk was also an accused. He testified about the same document. The record, page 3949, 3951, 3952 and 3966. Also 3843, 3844, 3862. Thank you.

/CHAIRMAN:

2B CHAIRMAN: Sorry, who was that testifying?

MR DE VOS: Brigadier Cor van Niekerk.

CHAIRMAN: Thank you. Because again from a reading of the documents, and I refer to the document which refers

to the need for indemnity in terms of section 103, it appears to be that the author of the document envisaged that people involved in Operation Marion would be or could be charged with capital offences and therefore indemnity was being sought from the Minister. It seems from the document to envisage illegality. Is that correct? Certainly, if you're going to be charged with a capital offence there needs to be an unlawful action involved. --- There were fears expressed in this regard, namely that some of the individual members of the group would take the law into their own hands and become involved in illegal activities. That was also testified by members of my staff last year. That was one of the reasons why they thought that they needed to ask for this indemnity. What I've said earlier that one could not act pro-actively in this regard, one couldn't apply section 103 ter in a pro-active way.

Because if one looks at - I think it's document 25 of your bundle, dated 20th October 1986, and it refers to a minute or a memorandum from Brigadier More to Van Tonder I would think, and if you look at page 2 of that document, No 7, there seems to be an understanding or an appreciation by the Chief Minister himself that there would be unlawful action. I don't know whether you've got the document in front of you - paragraph 7 on page 2 of that document. --- Yes, I have the paragraph.

He seems in that paragraph to equate offensive

/action with

2B action with unlawful action. --- That is correct.

Brigadier More and Van Tonder confirm that the offensive actions would be unlawful actions. --- In this sense here, yes, but may I point out that these

members returned at the end of September from the Caprivi and during this period in which this discussion took place they were absent on leave so this paragraph has nothing to do with Inkatha members who were trained by us. These were fears which were expressed by the Chief Minister that some of these people had already acted illegally ... (end of tape) ... [break in recording]. This does not refer to the group trained by us in the Caprivi.

MR DE VOS: Maybe we can assist. Luthuli, in his statement, states that they were all on leave for October 1986. They only reported back in November. We'll try and find the relevant paragraph.

MR LAX: Sorry, it's a generally-accepted fact that they were on leave. One doesn't doubt that. We don't need to waste time on it.

CHAIRMAN: Just to go back to the document October 1988, document 31, which referred to the request for indemnity in terms of the Defence Act, it appears from that document that action was taken to temporarily remove a person. Now, we're talking about Mr Luthuli, the member who had to disappear temporarily and he was indeed removed. At that stage Mr Luthuli had been arrested and was being investigated with regard to specific criminal offences in Mpumalanga Township. On what basis did the Defence Force take steps to assist with his temporary removal? And he has made a statement since that he was indeed hidden for a lengthy period - I think up to one year - in various

/Defence Force

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Defence Force bases, or at least - I don't know if it's as long as that, but it's for a lengthy period of time.

--- There are two incidents involved here. According to everything that I could reconstruct last year, aided by the documents and information from my staff, the Luthuli case took place early in 1988, and I have no personal knowledge of what happened at that stage. I was overseas a lot of the time during those days, especially during the first half of 1988, so I have no independent recollection of exactly what happened regarding the Luthuli incident, but based on what I heard last year during the trial we offered accommodation at Ferntree Base to Luthuli, and as far as I know he then disappeared from there and we actually never saw him again. The case mentioned here in the October document I also learnt last year was when another member of the group who was in hospital started revealing certain things to the nursing staff - things regarding the project, and he had to be removed from there. He was not a fugitive from justice, and he was indeed removed from that place, because we then had the base at Mkuze and I think he was taken there, if I remember correctly.

So are you saying then that the reference in paragraph 5 of that document, "Person who should be withdrawn" ... (inaudible). --- No, that is the case which Mr Khumalo discussed with the Minister and the Minister then sent a telex on the 21st August, and the case referred to here I have no independent recollection of it - of this particular incident. The evidence in court was that the person was in hospital and he started committing breaches of security by talking about the

/project and

3A project and he was removed to a base in Venda and then, I think, to Mkuze, but in any event he was removed from hospital.

(Inaudible) ... anything about that that caused the Defence Force to remove him and place him secretly in a Defence Force camp? --- I don't have the necessary particulars, but I assume that he could have told them that he was a member of such a force trained by the Defence Force, etcetera, but, of course, I don't have the necessary particulars. There's no detail in the documentation to refresh my memory.

Mr Commissioner, could I also try to assist, if you look at Luthuli's statement, you will notice that he mentions January 1988 that he was actually transferred to Ferntree. I'm just trying to make a point. Later in his statement it appears that he went to Mkuze in about August - he was transferred there, but that was an entirely different case to the one which the telex refers to.

MR LAX: Just a different line - it's a general question - it was always the intention, you say, to include these people and for them to be included in the KwaZulu Police, that was how you put it. They would be taken up into the KwaZulu Police and you, in fact, referred to Luthuli saying that they wanted to try and do that but there wasn't enough budget allocation for salaries and so on and that's why it never happened at the earlier stage. One of the things that concerns us in a sense is why were people who were trained in an offensive capacity, which entails a whole lot of different considerations from police capacity, trained by you people when they were supposed to go into the

police? It just doesn't make sense. ---

/If you look

3A If you look at the earlier documents and discussion you'll see that Colonel Mathe was always present during those discussions. So there was a constant police representation at these discussions and at the planning taking place regarding this group. They had to be incorporated into a statutory organization otherwise they would not have been capable of being legally deployed, so that was the logical organization, to give them some kind of a command structure into which to incorporate them and the police could then decide how to deploy them, in the same way as they incorporated the VIP group. These other people were trained to act as guards and then they had the small offensive group which could act as a reaction unit in case of an attack.

(Inaudible) ... my question, with all due respect, and it's this, really. There's a great difference in the training that police people get to the training that Defence Force people get. Everyone acknowledges that. All the other police Generals we've spoken to have said the biggest difference between the police and the Defence Force is the one of outlook and training. Defence Force people are trained to use maximum force. That is the nature of their training. Police are trained to use minimum force. Okay. You acknowledge that, firstly? Let's just start off there. --- No.

In the counter-insurgency situation, Defence counter-insurgency action is very similar to police counter-insurgency action. You have guards. That happened at my own home, and in the command you also have a small reaction unit. The guards had basic military training

and should an emergency situation arise they could then activate the reaction

/group. Now,

3A group. Now, this basic guard - well, this is my opinion. I am a Naval man, so I don't have detailed knowledge of this but, as far as I know, the training is the same between the police and Defence Force ... (intervention)

(Inaudible) ... agree with you on that one, I assure you, and, in fact, none of them saw it the same way that you see it. They say that was the main difference. That was why these people were simply not suitable to be included in any Police Force without further training, because they didn't have the proper legal understanding that policemen are inculcated with, which is the whole approach to policing, as opposed to Defence Force-type approach, and that is why, for example, the Defence Act makes very strong provision that when military people are applied in a civilian capacity, for example, to assist police with road-blocks or search and seizure, all that sort of thing, they fall under the control, as opposed to command, of police members. There's a very logical reason, and that is the use of minimum force as opposed to maximum force - the training in maximum force. The orientation is different. You'll have to concede that, surely? ---

No, I agree with that, except that in the case of protection tasks I don't think the police would have carried these out in a very different way to what we envisaged it should be done and, because they were militarily trained, to perform these protection duties, it was also logical that they should fall under the

police to carry out these tasks legally.

It's not going to really get us any further, I don't think. --- My legal representative has just pointed out to me that we also made use of the Railway Police in

/the training

3A the training of these people.

(Inaudible) ... that. The fact remains though that the primary nature of the - we went through the nature of the training. It's contained in these documents. And it's primarily an offensive training. One looks at it and one accepts that. In a military definition of that word, I might add, as you people got bogged down in semantics during the trial, no one doubts that. That's common cause. So the simple issue is the nature of the training these people got was not a police training. It was ~~nothing~~ approximating a police training. --- I concede that. It wasn't training for policing purposes. It was training in order to protect people - VIP protection training.

All 200 of them who got that training. The people who went on to BBP got a separate training in BBP, the 30 or so that formed that unit. The issue is that all 206 of them got a very specific training at first instance. Those that went on to BBP got a different training. I'm just reminding you of that. It was a separate that they underwent that then put them in a position to do that. So my question remains. The nature of the training that the majority of them got made them very unsuitable to be police people. Why were they then incorporated into the police? --- The training consisted of two phases. There was a basic

training component and some of the groups then went on to specialise. One group specialised in intelligence, one in VIP protection and one received further military training to be able to form a reaction unit should there be attacks, and I agree this is not policing training, but the training is not so unadaptable

/vis-a-vis what

3A vis-a-vis what the police were doing.

(Inaudible) ... the nature of the training that the offensive group got, the additional training? ---

Apart from what I heard at court, I don't have any detailed information of what it entailed.

CHAIRMAN: Admiral, who is the person in the signal - the military signal of 31st August 1988, that is referred to in there in paragraph (d)? That is document 30 of your bundle? --- As I've explained, that was the second case, which I've learned about last year at court. That was the person who had to be removed from the hospital.

And it says in that paragraph that, "Dr B, extremely sensitive, in this regard as a result of political embarrassment which could be caused before 26 October phase if the person does not disappear".

(Inaudible) ... the local municipal elections which were --- and that he would be embarrassed if certain information was revealed to the public prior to the municipal elections. --- I did not receive

information about that last year, but we inferred that it was connected with some political event -an election of some nature, or something like that, which meant that if the information was revealed at that stage it could cause great political embarrassment for the Chief

Minister, so, yes, that is what we assumed it related to.

So your version is then that this was a person who was in hospital, as a result of some injury or other, who was beginning to talk about his training as a member of the so-called Caprivi group and that that could lead to political embarrassment and therefore the Defence Force took steps to hide him - or to remove him and hide him. Is that correct? --- That is correct. That is the

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/information which information which I have about this incident.

Why would it be necessary to hide a person in a - to make him temporarily disappear? Why would that be necessary? I mean this project was a lawful one, according to what everyone has told us, except for some people. Why was it necessary to hide the person? ---

It was a legal State-approved project, but the relationship, as I've explained to you, between the Defence Force and Chief Minister Buthelezi was a very sensitive political issue and I don't know why it's put like this in the Minister's telex. I wasn't present during the discussions between the Minister and Mr Khumalo, but we simply took the man and took him to a base where we could provide accommodation for him and, if I remember correctly, he also had to undergo further medical treatment.

What other, "Bewerings" were being referred to?

--- Ekskuus?

What other, "Bewerings" were being referred to in paragraph 3 of that telex? "Minister of Defence has undertaken that allegations should be urgently

investigated with a view to eliminating problems and that feedback in this regard would take place along the normal channels." (Inaudible) ... "Bewerings"? ---

I'm sorry, what paragraph is that?

(c), (d) and then it goes on to (3). The numbering changes. --- Yes, paragraph (2) has subparagraphs (a), (b), (c) and (d), and this would then be paragraph (3). I just want to have a look at it. Yes, I think that refers to the problems in paragraph 2(a), (b), (c) and (d). I have no other knowledge as to what these problems

/could be

3A could be referring to.

MR DE VOS: Maybe I can assist the Commission. You will remember there are certain other documents - other meetings that were held in January, February and March 1988, where Mr Khumalo expressed his concern about the lack of bases, problems with discipline, etcetera, etcetera, and some of these things is again a referral to his old problems that he mentioned from January until March of that same year. It's some of the documents that were given to us.

CHAIRMAN: You see, if we accept that, then it must be directly relevant to Caprivi. If we accept your suggestion that you've just made now, but the Admiral's suggestion is it's got nothing to do with Caprivi, this has got to do with other things, other people, and so on. You see the difference? --- No, no, you've misunderstood me. The man who was in hospital came from the Caprivi, but he was not a fugitive from justice.

It wasn't a question of his lack of discipline or anything else. So I just find it difficult to

understand. Here we're talking about people who are behaving badly, if I understand the point just made.

That's a completely different issue to the one you're making, the breach of security. --- You see, if you read the documentation, it's one of many problems. The one problem was this person that had to be taken somewhere because of the security risk and there were problems with the base. It's a whole bunch of numerous problems that they had at that stage with the so-called Caprivians or that Khumalo had with them, be it the base facility and various other aspects. A motor vehicle was one of the aspects. He

/spent a lot

3A spent a lot of kilos on his own motor vehicle, Khumalo.

So this was one aspect of many that had to be addressed, and that's what they did - and if you look at the telex, that's what they discussed with the Minister of Defence.

I see that here under (a), (b) and (c). ---

Ja.


One accepts that, but one would obviously need to go and read all the documentation and familiarise oneself. I'm just going on the general perception I've got from what was just said - the general perception of what was just said, which was that these were matters that went to other things as well and one could understand if people's discipline had broken down and they got involved in all sorts of other problems, that would be one thing, and that was the implication of what was being said. My concern was where did they have the opportunity to do all of that? They'd only just got back and then they went straight on leave. So at the

time you were talking it didn't have anything to do with their conduct. --- No, my apologies. This was a year later, in 1986. This was two years later, in fact.

CHAIRMAN: Yes.

MR DE VOS: If you look at the documents. It's the 28th January 1988 document and then you've got another one marked February 1988 document and then a third document which is dated March 1988 - the 23rd March 1988. Now, if we look at the February and January documents. Let us first have a look at the January document. Then you will see in paragraphs 7, 8 and 9 of the January document - 28th January document - it refers to further Marion training. He wanted more members to undergo training, emphasis on clandestine nature, base for Operation Marion,

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 /Chief Minister's
Chief Minister's representative, Mr Khumalo, sketched problems regarding discipline and control, etcetera, and he was of the view that a base from which Marion members could plan was the solution there and it was confirmed that a base should be found as a highest priority and, 9, Liaison, Mr Khumalo also recommended that a person be made available on a full time base to assist him in respect of the carrying out of Operation Marion. These three paragraphs are repeated in the February 1988 document, and that you will find in paragraphs 13, 14 and 15 of that document and it would ... (intervention)

CHAIRMAN: (Inaudible) ... that document ... (inaudible).

MR DE VOS: The first document is paragraph 7, 8 and 9. That's the January document. Sorry, I think you haven't got it or one of them you might not have.

CHAIRMAN: I don't have the March document.

MR DE VOS: Can I approach ... (intervention)

CHAIRMAN: The February.

MR DE VOS: Can I approach you, Mr Commissioner? Maybe we can just compare. This is the original exhibit documents that I have here.

INAUDIBLE DISCUSSION ENSUES REGARDING DOCUMENTS

CHAIRMAN: Just while we're talking, can you explain why it was decided, even two years later, they still hadn't incorporated these people - instead of incorporating them in, you now wanted - they now wanted to have their own base to operate from? I mean if these people were already deployed in the communities, why was it necessary for them to have their own base to work from? I don't understand it. --- As you know, there wasn't money to incorporate these people into the police and they had to be managed in

/the best possible

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the best possible way to collect intelligence and to do counter-mobilisation tasks. The base was planned right from the start in the Liebenberg report already and then there was a misunderstanding between Minister Buthelezi's people and us. They felt that we should provide a base. In other words a military piece of land on which a base could be erected and it was impossible to take the people and put them on military premises. So the idea was that they should actually look for land in KwaZulu or infrastructure to establish the base and it was only after this telex from the Minister in 1988 that we realised that there was a huge misunderstanding here. That they were expecting us to provide a base and we were waiting for them to provide a base all the time

and then this misunderstanding was cleared up and then a base was provided. Retraining was then done there and the training in counter-mobilisation, etcetera. But that is the reason why the base was only established at that stage.

(Inaudible) ... available exactly? --- No, I don't know. I can't give you an exact date, but it must have been after the August - 31st August 1988 telex from the Minister.

In other words, you would have had to jump around quite quickly then. It would have been in September, October, November, somewhere thereabouts that you would have found the place and set it up and so on. That doesn't happen overnight. --- That is correct, but I unfortunately can't give you a date. I don't think there is a specific date mentioned in the document in regard to this incident. Reference is made to it in the October document that a base was found - a place was found, but

/the base was
the base was not yet established at that stage.

By October you'd only just found a place. You hadn't even started the additional training or anything yet. --- That's correct.

What is the date in October that document is that you're referring to, just to help? --- That is the undated October document.

Is there a covering letter or something of that nature that might give us some indication? --- No. As I've explained to you, this document was conveyed by me personally by hand. If one looks at that telex dated the 31st August, there's a note on it stating that HSI

would see HSAW on the 4th October. So one can presume that this meeting took place round about the 4th October or that this document at least was handed to HSAW.

So, in reality, it was only in early October that things had started happening. Admiral, just to return to this question of indemnity for prosecutions, the memorandum from Colonel van den Berg to Captain Opperman of 31st October 1988, are you aware of that document? It could be document 32 of your bundle. --- Is that the telex of the 31st?

It's a memorandum drawn up from Colonel van den Berg. --- Oh, yes, dated 31 October, yes, I have that.

I just want your comment on paragraph 15 of that document, which refers to the selection of targets, under paragraph 15, "Offensive action must only be undertaken by selected and high-trained members under strict supervision. Authorization must be given beforehand by DST2, Cor van Niekerk. The targets must be approved by the Security Divisions of the SAP and criminal prosecution

/of people involved

3A of people involved must always be borne in mind. Highly professional conduct is the key to success".

(Inaudible) ... all that means? --- Unfortunately, I can't give you a lot of help here, apart from saying that I never saw the document in those days. I only saw it last year at the trial for the first time and my reaction to that paragraph is that I reject it out of hand. It is totally outside of the framework which I managed in an overarching way and that's all the comment that I can make on that. There's a great deal of

illogical argument contained in there, because Opperman wasn't a commanding officer who was able to command this type of operation, or the operation envisaged in this paragraph. He was a liaison officer, and he conceded that in court. He had no command authority over anybody. He was simply a liaison officer. So there are so many contradictions in this paragraph that I simply cannot draw it into the ambit of the structure that I managed overall.

MR LAX: If he was a liaison officer, he would have had to be mindful of those issues. That would have been his job. Not to issue commands but to be very careful and to make sure that he picks up on all the problems that happened and so to put something like this in, he would need to be alert that if he became aware that targets were being chosen, that the right people were being involved in those decisions. If there were criminal problems, that he made sure that he could cover that very quickly. So it's not at all illogical that it's part of his brief. With the greatest of respect. It's very much part of his duties as a liaison officer to keep an eye open for those things and if that sort of problem arises to deal with it.

/So I don't

3A So I don't necessarily adopt the same approach that you would. To me it makes perfect sense that a liaison officer would have those duties, to keep an eye open. Doesn't that make sense to you if I put it that way?
--- Yes, if you put it like that, but that's not what it says here.

CHAIRMAN: As liaison officer that would have been ...
(inaudible). Let me put it to you this way. In the

course of our work here we've spoken to lots of, "Skakel
offisiere" in all sorts of ways in relation to a hundred
other operations, not just this one. Some involving
ordinary police. Some involving Security Branch. The
whole range of activities, from the sort of stuff that
you would have heard about Eugene de Kock being involved
in, and other similar types of operations. The role of
somebody who was acting as a liaison officer was to make
sure that they got to the point of trouble early enough
to make sure that it was dealt with. For example, in an
ordinary police situation if somebody working with
askaris picked up problems with uniform branch that
person would have had to cover for them very quickly -
explain the nature of the operation and get those people
out of there fast. You understand, that's a liaison
officer's first job? --- Yes. I don't see it as
Opperman's duties in the context in which you've now put
it.

Well, what was his job then, as you see it? ---

Most of this document would be applicable to his work,
but what I cannot bring into the context of this
operation is this paragraph 15, which the Commissioner
asked me about.

(Inaudible) ... liaison officer, he would have
been interested in the whole range of things here -
welfare,

3A

/discipline, the
discipline, the whole thing, medical. So you're saying,
if I understand you correctly, you're saying that but
for paragraph 15, the rest of it is all within his job
description? --- Yes, I didn't find anything else
with which I had a big problem, but that paragraph

seemed to be entirely out of context.

Let me put it to you another way. Why should something like that find its way into the document if the rest of the document is correct? If that isn't also part of the project? --- You see, he was the instructor of the intelligence group and a large part of his liaison work was to get these people going to actually start gathering information. That was a very important component and it was not his duty, as liaison officer, to become involved in offensive actions. You've asked me how this paragraph found its way into this document. I really don't know.

There are two possible conclusions. Either he was part of that and what you say isn't, in fact, so, or it's an inexplicable mistake. You agree? --- I can't help you there. I don't know how this paragraph found its way into this document within the context of the project, as I understood it.

(Inaudible) ... giving Opperman an instruction. It wasn't some junior officer. It was someone who was very familiar with the details of this operation. Correct? --- That's correct.

It's highly unlikely that Van den Berg would have made such a mistake. Correct? --- If it is indeed a mistake, but perhaps he intended something different here. I don't know.

/(Inaudible) ...

3A

(Inaudible) ... to be? --- I don't want to speculate or philosophise about it. We're trying to attach certain interpretations to this paragraph, but as the paragraph stands here, factually, Van der Berg was a staff officer. He was not a commanding officer.

Opperman was a liaison officer. He also had no executive authority. So in that context this paragraph simply does not fit in here.

(Inaudible) ... conclusion one can draw is that what you're telling us about this whole operation doesn't marry with that paragraph at all. You must concede that? --- No, I would put it differently, that this paragraph does not fall within the ambit of the project.

Put it to us. However, if one was to adopt, say, an approach to the project that it did include all of those things, then this paragraph is perfectly logical where it is. That's another possibility, isn't it?

--- If you want to see it like that, yes.

I'm saying it's a possibility. I'm not saying I see it that way. I'm saying it's a possibility that if, for example, we adopt a different view, that this project did include those things, then this is consistent with that. You must concede that. --- If you take that approach, yes.

You see, then a whole lot of the other things that crop up made consistent sense too - all these things that you don't agree with. --- Mr Commissioner, I can only give you the facts as I recall them and I must say that it happened a long time ago and I can only explain what my views of the project were - on this project which I managed - and that does not include this paragraph.

/Let's turn then

3A

Let's turn then to - you said that was the first instance that was spoken of. You said there was a second instance at a later stage where you think Luthuli

was the person that was then removed, or did I misunderstand you? --- No, there were two cases. The first one was Luthuli. The second one was somebody else who was in hospital.

(Inaudible) ... the Luthuli story. Why was Luthuli removed? --- What I heard last year was that he committed some offence. I can't remember exactly what the nature of the charge was. He was released on bail and, according to what I heard last year, he was taken to Ferntree and detained there.

So you concede that Luthuli was, in essence, taken from the - while he was on bail he was basically removed in such a way that he was beyond the Courts? --- That is as I understood the position to be last year at the trial. Whether he had to be removed permanently, I don't know.

You've conceded that he was under prosecution. He was involved in some offence? --- That's correct.

That he was on bail. That much you remember. Correct? --- Yes, I remember it since last year's reconstruction.

And you've conceded that he then was taken to Ferntree? --- That's correct.

Where he spent quite a long period of time. You spoke about that earlier. You said it was about a year or so. You said it was a bit shorter than that, but you ... (intervention) --- Yes, as far as I can remember.

(Inaudible) ... time. Many months. And, clearly,
/that would

3B that would have been, amongst other things, a breach of his bail conditions, surely? You concede that? I see

you're nodding your head. --- Yes.

Surely that could not have been lawful? ---

That's correct.

What did you do about that when you heard about it? --- I say again that I have no independent recollection about this incident. I don't know whether I did anything about it or not. I saw in the documents now and in Luthuli's affidavit that it was at the beginning of 1988.

Was that matter ever discussed in any other way at various meetings that you may have been at? --- I can't remember that at all. I can't remember when and where it was discussed.

Sorry, you wanted to say something.

MR DE VOS: Yes, I think there's a misunderstanding, Mr Commissioner. Admiral Putter's evidence is this. "I have no recollection about this incident whatsoever. What I'm telling you about is what I heard last year in the trial here in Durban." He doesn't say that he gave any instructions, that it was reported to him or anything in that regard. All he says is, "That is what I heard last year". That's what he's putting on record and he's making his concessions on that basis as well, that if bail was granted then, of course, it was unlawful to remove the man. May I also draw your attention to Luthuli's own statement. He says that the police were looking for him or he was charged with illegal possession of firearms or something like that. Van der Berg's statement, on the other hand, that we had the opportunity to peruse also last year, alleges that he might have been involved in

/something like

3B something like robbery or murder, but I can't take it any further than that.

MR LAX: Let me put it to you in a different context. If all these allegations are true that Luthuli was involved in some sort of illegal activity that resulted in him being prosecuted in one way or another, what was the project's attitude and you, as the most senior person responsible, what was your attitude? How would you have dealt with it? What would have been your approach to such a situation? You see, at the end of the day you took responsibility for the project. What was your attitude to that? --- As I've said, I can't recollect this.

You keep saying that. We know you don't have that. The simple issue is this. In the planning and in the whole range of things, you were the responsible officer and at some point you would have, if you'd done your planning properly, would have had to accept that at some point this problem might have arisen. Correct?

--- No, I didn't foresee that, but I concede that one perhaps could have foreseen it.

If you didn't do it someone on your staff would have at least had the foresight to do that. It must have been discussed at some point. At some point in an operation of this nature someone's going to be found out. What provision did you make in case it was ever found out? What would you have done about it? ---

No, I'm sorry, I must correct myself here. It was initially, when we started planning the project, it was meant to be a very, very big project. There were the advisers on the one hand and the para-military force on

the other, and our understanding was that these people would be incorporated

/into the police,

3B into the police, so we couldn't have foreseen that we would be associated with them for such a length of time that these problems would arise and if they committed contraventions or offences whilst they were in the police, then they could no longer demand membership of the group. They were then Police Force members and if they committed offences then it would not jeopardise the security of the project, so we couldn't foresee such a problem.

(Inaudible) ... was that this thing dragged on for a lot longer and it involved all of you in constant bits and pieces of liaison and discussion and so on. So your original reason not to have planned this thing in any way must have changed and if you were carrying out, like any good military operation, you would have had to begun to anticipate that likelihood. --- No, we didn't foresee it, but here I can refer you to the January and February documents, which my legal team referred to. When, in 1988, we started realising that the other aspects of the project which the other departments had to establish, when we realised that those actions weren't, in fact, taken and processes weren't implemented and weren't about to be then my staff and I took several steps to try and address this problem. Some of my staff members spoke to Chief of the Army's people to try and get more senior advisers to support the Chief Minister and we had discussions with the commanding officer here in Natal, so we did whatever we could to manage the project in a lawful way, but we

couldn't do anything about an individual member committing an offence. Should he then stand trial he could no longer claim that what he did he did in the execution of his duties as a para-military force. There was nothing we

/could do about

3B could do about that.

(Inaudible) ... project in jeopardy? --- Of course.

Surely, you would have anticipated or planned how to deal with that. I just can't believe that you would have gone to all that expense, to all that trouble and not covered that very essential foreseeable reality.

--- We didn't foresee that specific problem and we didn't plan for that specific problem, but we did general planning to try and address that problem.

The person - by August the one person was already being removed so you immediately attended to that problem. Luthuli got into trouble in early 1988. You must have attended to his problem as well. Well, not you personally, but somebody would have attended to that and he says that happened and you've no reason to say it didn't happen. --- No, I can't deny that.

It's not a question of you denying it. Is it not consistent with the whole nature of the operation that what happened to him is what would have happened in any event? --- No.

Well, how did the Defence Force deal with people who got into problems during very secret operations? There must have been a standard modus operandi that would have been applicable, even to this operation?

--- I'm not aware of Defence Force procedures. I

wasn't involved in operations of this kind where there were security breaches, so I have no knowledge of such procedures.

Section 103 of the Defence Act was one way. A certificate by the Attorney-General was another way. There are a whole range of different methods that were

/used in reality

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used in reality by the Defence Force all the time. The classic case in Namibia of those people who got a certificate from the AG at that time was another one. It's a well-known case. Section 103 was even requested by some of your staff, as a possibility, and if we turn to other covert operations, the Vlakplaas people had their own methods. The Security Branch had their own methods. Everybody planned for this eventually except you guys. That seems totally and utterly unbelievable, to me anyway, certainly as someone who's been involved in the security system in my own time, it seems completely and utterly unbelievable. --- The only answer to that is that it should not have taken place.

You guys were properly-trained Defence Force officers. You yourself were head of an intelligence instance and hardly naive, it's pretty obvious to me. By the time these problems started surfacing you were 18 months into your project. They'd already returned from training. Over a year hence. --- That's correct.

You must have made some preparations for it. It would have been obvious to you that this thing wasn't going the way you wanted it to. You would have made contingencies and I still - I'm asking you again, what were those contingencies? --- No, I can't recall

that we discussed any such a scenario or planned for it.

We want to turn briefly to something you alluded to earlier. You spoke about the meeting on the 8th November and that minute of that meeting, and you were present at that meeting. --- At the first one on the 8th November, yes.

What was that meeting about and what did you discuss

/and so on?

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and so on? What is your recollection of it? --- If I remember correctly, General van der Merwe had just taken over as Commissioner of Police and General Basie Smit had taken over from him as Head of the Security Branch and we were asked to brief them about Project Marion, and that is why the meeting was arranged. We also wanted to convene such a meeting with them because the information potential of the group as a whole had never been utilised, because internal intelligence gathering had been a police responsibility. We also wanted to meet with them to discuss the intelligence potential of the group.

Who briefed them on the thing? You did, I think, if I remember that note correctly. --- No, General van Tonder did the overall presentation.

What did he actually tell them? --- I'm assuming that - I can't remember - he said that HDO. These are cryptic notes.

(Inaudible) ... the cryptic notes. I'm trying to get - you've been aware that this meeting was going to be part of the discussion. --- I just want to point you to the problem that I have. This cryptic note was only appended to the file a year later and I never saw

them until last year to be able to refresh my memory, so I can only go by what is revealed on this document. I have no independent recollection of the meeting.

What do you understand those documents to be saying then? --- Excuse me?

What are they saying there? Line by line. Van Tonder gives a review of Operation Marion. (Inaudible) ... the name. --- Ja.

And Van Niekerk supplements with information

/regarding problems regarding problems about offensive conduct and actions.

What, "Oorsig" was given, as far as you can recall?

--- It must have been the fact that the training had been completed. That the people were placed back in KwaZulu/Natal. That they were trained in intelligence, counter-mobilisation, VIP protection and offensive operations.

Were those four topics covered in the meeting, as far as you can recall? --- I accept that they were, because that is what the word, "Survey" refers to, as far as I'm concerned.

Was, for example, the name Marion used in the meeting? --- I accept that it was, because that's what it says in the first sentence.

Would you have referred to that? Wouldn't that have been a breach of security? --- The code name. It depends. Security works on a need to know basis. If we felt that they needed to know what the code name was, we could tell them what it was without committing a breach of security. I can't tell you, apart from what is written here ... (intervention)

(Inaudible) ... told them what the name was.

These are probably your two most senior policemen in the country. --- I really can't remember whether we used the code name or whether we only spoke about the Caprivians or the Zulus or the people who were being trained. I really can't remember.

And then what was the problems regarding offensive action? --- This was November 1988. At that stage we put the entire problem to the police. We said that here we have this group. They were trained in a specific way,

/and there's

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and there's also this offensive unit to act as a reaction unit in case of attacks on the Chief Minister or other leaders, but they were not incorporated into the police. Those were the problems regarding offensive actions.

(Inaudible). --- Yes, I will mention others. They couldn't be incorporated into the police. They could also not be incorporated into 121 Battalion, because that was also not acceptable to the Chief Minister. So they were not incorporated into any statutory body, which would have enabled them to act in an offensive capacity and also legally.

Just as an aside, were they ever members of the SADF? --- 120 of them were incorporated at some point into the police as special constables. They were retrained at Koeberg. I think it was ... (intervention)

Was 1988? --- Nee, dit was voor dit.

But then they weren't part of the Caprivians after that, so they stopped being your problem once they became special constables? --- That's correct.

You wouldn't have been talking about them at all?

--- No. If you look at the report of the meeting which General Malan had with Chief Minister Buthelezi in March, the special constables had already been raised as an issue in March 1988.

They wouldn't have been the problems you were talking about? --- No. I'm talking about the offensive group.

But the offensive group was only 30 people. ---

Correct.

So, again, in your whole meeting those weren't your problems. What were the other problems then? ---

It's

/unfortunately the

3B

unfortunately the only problem mentioned here.

(Inaudible) ... here. Not a single problem was actually noted there. 

CHAIRMAN: The only problem noted is that General Smit says that the involvement of the Detective Branch further complicates matters. --- Yes, if we can move on to that ... (intervention)

I'm just mentioning that as one problem that the involvement of the Detective Branch, who one would assume investigates crimes becomes a problem. Why is that a problem? Why is the police doing their duty, investigating crime a problem?

MR LAX: Was that one of the problems you spoke about with regard to the offensive conduct? --- If you project what is said here into the future, if these people acted as individuals and committed offences then we would have problems, and I infer from the second sentence that that was also mentioned to the police.

CHAIRMAN: If people, "Tree op offensief", why is it a problem? --- If they act as individuals and act illegally in that capacity. The problem which we foresaw was that they would then be arrested, appear before Court and they would then claim that their actions be seen in the context of the operation. They would then try and justify their illegal conduct by virtue of being involved in the project.

MR LAX: Could you never train them to deal with that situation? Most people involved in this sort of operation are trained to deal with that eventuality.

--- Whilst there was talk of the training last year I wasn't made aware of the fact that there was any specific training in

/this regard.

3B this regard. The training was aimed at the basic ... (intervention)

(Inaudible) ... expected that if you were training people in a clandestine operation the one thing you might train them is what to do in the event of them doing something wrong, but as you've said you didn't even anticipate that as a situation to cover. --- No, and in the training which we heard testimony about last year it was also not raised, so I assume it didn't happen.

The next is, "Generaal Smit vra uit oor ..." - "General Smit asks about liaison with Captain Botha from the Security Branch in Durban". --- I don't know. I can't read into that things that I don't know. He had taken over as Head of the Security Branch and I really don't know what he was enquiring about.

What was his role? What was his job? What was he doing? --- According to the evidence I heard last year he was part of the joint information staff, which consisted of the command structures intelligence component, National Intelligence and the Security Police. That was his post.

He was someone who had the ear of Buthelezi. That's common cause. He got on well with the man. He acted as the liaison in that respect. Surely you remember that? --- I can't remember whether this was revealed in the case last year, but I can't deny it.

You see, what - was there a problem with his liaison that needed Smit to ask about it? --- I was not aware of any problems in that regard.

So you don't really remember why Smit asked about him. Does line 3 then mean, "General Smit says the

ARCHIVE FOR JUSTICE

/Detective Branch

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Detective Branch involvement complicates matters. What must whom know or do. It does not help to make promises that cannot be kept". (Inaudible). --- This refers back to the problem that was mentioned that some of the members as individuals could act unlawfully and could run into problems with the law.

(Inaudible) ... that he's responding to here?

--- I think they asked whether or not there was anything one could do about that, and that was their reaction.

They had specifics in mind for him to respond in that way. What were the specifics? --- The specific problem was put that some of the members could, as individuals, act unlawfully and clash with the law and during the hearings they could then claim that they did

whatever they did in terms of the project, and the security of the project would have been threatened then.

What did your people want his people to do that he couldn't answer to? (Inaudible) ... possible. So what, "Beloftes" did your people want him to make? ---

They probably asked them whether or not they could help them in such a case.

(Inaudible) ... the point. He's responding to specifics. --- I cannot supply any more detail.

Did your people want detectives to interfere in the investigations? Did your people want there to be specific people to whom your people could call on to try and ensure that matters got dropped or things of that nature? (Inaudible) ... want there to be some liaison to which they could report and say, "Listen, this man must be removed", as happened with Luthuli? That's really - those seem logical, "Beloftes" that they might have been asking

/for. ---

3B for. --- One could speculate like that, Mr Commissioner, but I cannot, from my own memory, tell you what was discussed here.

Well, if someone said that that's what did you did speak about, would you be in a position to deny it?

--- No, if I cannot remember I can't deny or admit it.

(Inaudible) ... proposition be consistent with something that you might have wanted them to do in that situation? --- No, if you look at the last paragraph, I did not participate in this discussion, as you can see, and it is obvious to me or it was obvious to me that lawfully nothing could be done to such a problem. At the end of the meeting I gave order to my

staff that these guys had to be disbanded and, as individuals, had to be joined into the police, so that if later on they committed unlawful acts they could not claim any more that they were part of the Caprivi training group and that they were then rather members of the police. That was what actually happened. That whole discussion then was for me completely unacceptable.

CHAIRMAN: Wat was eintlik onaanvaarbaar? What was unacceptable? --- The idea that the police had to help in a case where somebody acted unlawfully.

But if it was, "Onaanvaarbaar", then was it suggested by somebody? By Van Niekerk or Smit or Van der Merwe or Van Tonder? Was it a suggestion, that if somebody was charged with an offence - murder or something in his individual capacity that the police should come in and try and take the person away or drop the charges or whatever? Was it suggested? What was unacceptable to you? --- What is said here is that we must find out if

/the Detective

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the Detective Branch could not help and it was obvious from the discussions that they could not help. It also says that where a member is in trouble he must be taken away. I cannot remember how I interpreted that, if he must be taken away permanently or whether he must be taken out of the area so that he doesn't get deeper into trouble and, as a result, it became clear to me that in any legal way there was no solution to the problem that was discussed here. I then said that we had to integrate these people into the police.

(Inaudible) ... says and he says, "Elke saak moet op meriete gehanteer", "Waar 'n lid in moeilikheid is kan borg gereël word". Now, and then the member must be taken away. What is he suggesting there? You've already said that people like Luthuli were - you can't deny that he was taken away and hidden in an army base. What was General van der Merwe suggesting there? ---

Mr Commissioner, I can only tell you what is written down there. I cannot confirm that it meant that somebody had to get bail or had to be permanently taken away or lose his bail. I cannot confirm that.


(Inaudible) ... whether one gives it a benign or a sinister interpretation it seems to us from this document General Smit says the involvement of the Detective Branch is a problem. General van der Merwe then goes on to say that where a member is in difficulty bail must be arranged and the person must be taken away.

Now, for me the inescapable interpretation of those two items there is that an attempt is being made to subvert the law. Bail must be arranged by the Defence Force or by the police for an accused person who is charged by - presumably by the

3B /Detective Branch,
Detective Branch, doing their duty. Whether the person has committed the crime in his individual capacity or his capacity as a - or in the course and scope of his employment of Project Marion. It supposes that a person has committed a crime and there's discussions here between the police and yourself, senior members of the army and the military, that if a person is in trouble bail must be arranged for them. Is that the job of the police and the army to decide that if someone is charged

with a common law crime that the army or the police must arrange bail for him and he must be taken away? Is it your job? --- No.

Why did you talk about it in that way? It seems to me, and I'm looking at the documents only, nothing else. We're looking at documents here, and I'm looking at possible interpretations of documents. It seems to me that what was discussed was patently unlawful. I don't know how else a lawful interpretation can be put on these things. --- Mr Commissioner, a problem was mentioned to the police. We were scared that the people could use their membership of the group as an excuse for their actions. That was the way the discussion was run.

At the end of the day nothing came of it. I did not condone it. I said there was no legal solution to such a problem. We had to get the people - incorporate these people in the police. 

MR LAX: (Inaudible) ... solution wouldn't have been a consideration for you at that stage anyway, because this project had already involved some other unlawful aspects. The nature of the payment of the money. A whole range of other things. You already conceded they were not lawful.

/So the lawfulness

3B

So the lawfulness or otherwise is not even a consideration at this level of this discussion. Why are you suddenly worried about it? --- The payment of the money was not unlawful. The money was lawfully approved and meant for the purpose it was used. There was therefore nothing unlawful there. Via Inkatha to the project. That was how it was approved.

CHAIRMAN: (Inaudible) ... unlawful for a State body like the police or the Defence Force to support Inkatha?

--- As I said, I never saw the help ...
(intervention)

Is it lawful for a State body to - it was a large amount of money and we're talking in millions of rands - was it lawful to pay it to Inkatha, because it was paid into an Inkatha account? These documents say exactly that. There's a minute here between M Z Khumalo and somebody else, where he confirms that the first payment was received by Inkatha. Is it lawful to pay money - State money via an Armscor account to Inkatha? Is that lawful? I mean, you must be quite frank here, is it lawful or is it not lawful? --- I was not under the impression that it was unlawful. I had ...
(intervention)

MR LAX: Never mind what your impression at the time was. Looking back now, was that lawful? --- No, if it was only paid to Inkatha it could not have been lawful.

And the fact of the matter is the disappearance of Luthuli, as you related to us, you've conceded that wasn't lawful either. So there were a whole range of issues that were not lawful and I'm putting to you again lawfulness wasn't the issue. This was a secret project.

It would have gone to unlawful extent if necessary, and as a Head of Intelligence you would have been aware of that, not so?

/--- As the

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--- As the project was planned and approved the intention was to keep everything within the confines of the law. That was my perception of the project and that

was how I saw my management thereof.

(Inaudible) ... able to see that it wasn't, in fact, so and you couldn't possibly have had that attitude really, if you think about it carefully. You weren't concerned about the lawfulness or otherwise of the project. You were concerned with dealing with the onslaught against the country - lawful or otherwise. Isn't that so? --- No, I cannot agree with you that I would have been involved in opposing the threat even in an unlawful way.

You were just doing your job. If you got an order to act unlawfully, would you have acted unlawfully?

--- No.

Well, you did. You've applied for amnesty. So how can you say, "No", when you, in fact, have applied for amnesty? That didn't stop you. --- It is because of problems ~~that occurred~~ that were not in my control.

If the problems were foreseeable in relation to Katzen they must have certainly been foreseeable in relation to Marion, and the whole point is that you guys didn't even anticipate it at all in relation to Marion.

How do you explain that? --- Because it was the way in which the project was seen and planned. I did not foresee these problems.

Why didn't you apply for amnesty in relation of Marion? --- Because of the hearing which was held last year.

CHAIRMAN: (Inaudible) ... prosecution. --- But if

I

/was found

3B was found not guilty.

Your legal advisers would have advised you that. Wouldn't that have been a prudent thing to do?

MR DE VOS: May I interject here? I think we've already advised our clients in relation to their further rights, also in relation to libel actions that might follow in future. I'm not going to say ... (inaudible).

MR LAX: The issue follows and I'll just put the question again. There is a possibility that you could be sued, even having been acquitted, but you decided it wasn't necessary to apply for amnesty. --- No, I felt that because we were acquitted during the KwaMakutha trial there was nothing else to be done.

(Inaudible) ... right and it probably is the right advice you got anyway, but I'm just asking the question.

CHAIRMAN: So, was it as a result of your discussion then with Van Niekerk, Van Tonder, Smit and Van der Merwe, where problems with involvement of the Detective Branch were discussed, General van der Merwe expressed his opinion about the fact that they could not take action pro-actively if a member was arrested, that every case had to be treated on its merits but where possible - where a member is in difficulty bail could be arranged and then the member could be taken away and then General Smit says that promises cannot be made which cannot be carried out, after that discussion did you decide then that you should put an end to the - what did you decide?

You decided that these people must be transferred to the KwaZulu Police? --- There were always attempts to resolve this problem. I saw the Chief Minister. It is in the documents. I saw him in March 1987. We only budgeted for the project until

/March 1987.

3B March 1987. I then saw him and spoke with him to finance these people themselves and incorporate these people into the police. Here I repeated it and I specifically ordered, but the problem was that we always thought that they had to be incorporated as a group into the police and that caused the budget problems. We then decided to disband them and then incorporate them as individuals into the police. That was the order I gave, that they had to disband and had to be incorporated as individuals into the police. That then happened over a period of time and by June 1989, I think, all of them who were left were incorporated into the police.

MR LAX: Wouldn't that have posed even more of a problem for you? You demobilise all these people and then one by one try and get them into the police. What would have happened in the meantime if they'd done other things? (Inaudible) ... the same defence. It would be even more problematic for you because they were no longer under your control at all. That could hardly have been a solution. --- I could, of course, not foresee how long it would have taken to incorporate them and whether or not there would be problems during the interim but my order was that they had to be incorporated.

CHAIRMAN: Did you see all these people as suitable candidates for the SAP? Bearing in mind that they were recruited specifically from the ranks of Inkatha, that they were trained in offensive actions, weapons training, a whole range of things, and they were deployed basically to - in its most general terms - to inhibit the activities of the ANC/UDF. No one dispute

that. That's very clear from the documents, whether one interprets their offensive

3B /capacity in a capacity in a pro-active way or the other way. They were recruited from the ranks of Inkatha, trained - not trained as policemen at all. They were trained offensively by the Defence Force and they were to be used to inhibit the capacity of the UDF/ANC in Natal. Did you regard those as suitable candidates for the police? --- Commissioner, I cannot say that I considered anything like that at that stage and I also never knew the people, but I must have accepted that with a short retraining in view of the training they have already received they could have been used constructively by the police as guards, etcetera.

So you regarded them as suitable candidates for the police. Let us ~~just assume now~~ that this present ANC Government trained ... (end of tape) ... [break in recording]

4A MR LAX: ... That the special constables were a terrible mistake. They contributed to the violence. They didn't prevent it. What is your attitude in the light of that? --- I, of course, did not have that knowledge when I gave this order in November of 1988.

(Inaudible) ... defence intelligence and you had some, as you've told us, to internal intelligence. You must have known otherwise. Was your intelligence so bad that that's all you knew? --- No, we do not understand each other. I was completely aware of the internal threat. I was also aware of the threat against the Chief Minister and other leaders in KwaZulu. It is what this project revolved around. That's why I also

saw that in spite of the fact that if we disband the group and incorporate them into the police they could still offer protection at that stage.

/CHAIRMAN:

4A CHAIRMAN: Were you present at the other meetings which followed on from the Liberty Life meeting? ---
Excuse me?

Sorry, just before we move - the question I asked was were you present at the other meetings which took place after the Liberty Life meeting on 8th November?

--- No.

Just to go back to the Liberty Life meeting, you said in paragraph 6 that, "We must have control over Operation Marion optrede - actions". --- Yes, I did.

What did you mean by that? --- You will see from paragraph No - excuse me - from paragraph 5, we start with the second heading, the second main reason of the meeting, the discussion of the information potential of the group. General van der Merwe is against the information system we've mentioned and General Smit ... (inaudible) ... that was to deploy the group in KwaZulu and to gather information - to put an information-gathering system in place. General van der Merwe was against it, because all the internal gathering was the priority task of intelligence. I expected opposition from Van der Merwe. We were of the same rank when he was still at the Security Branch. Because of General van der Merwe's opposition to the use of these people to gather information I then said, all right, we would try to manage the information tasks or intelligence tasks in such a way that if the Security Police did not approve of an intelligence task we would be able to use them to

stop it. As you can see, the rest of the discussion evolved around the intelligence or information question, except for the last paragraph, where I gave the order.

/Thereafter General

4A Thereafter General van Tonder and Van Niekerk then went on to meet, "Afdeling Bevelvoorders" in Pietermaritzburg and Wachthuis or they met, "Afdeling Bevelvoorders" in Pietermaritzburg on 28th November and they had discussions with General Smit at Wachthuis on 21st November. Is that right? Now, with regard to the meeting in Maritzburg with the divisional commanders of the Security Branch, that would have been Brigadier Buchner, Colonel Steyn - Bertus Steyn - and Burger in Newcastle. Is that right? Anyway, that's what Brigadier Buchner has told us. That is what I heard last year what happened.

There is a reference to this meeting and I want to take you to another document which you may not have got.

I can certainly show it to you. I think you have seen it though. It was a diary entry of Cor van Niekerk.

Are you familiar with that document? It was referred to at the trial. And in that document he refers to a meeting which he's going to hold on the 28th November with Brigadier Buchner, and on the opposite page of his diary entry he's made a note here regarding targets.

"Should we not rather go for low-level targets, which would cause fewer problems?" What was your understanding of that? Or did you ever develop an understanding of that? You didn't write that and presumably you didn't tell Cor van Niekerk to write that, but what is your understanding of that? --- I can only tell you what I heard last year during the

trial, how he explained it there. I have no other independent recollection of the matter.

(Inaudible) ... reference to targets, which was one which appeared in the memorandum from Colonel van den Berg

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/to Captain
to Captain Opperman, where he talks about targets and the selection of targets and well-trained cells and, "Onder streng beheer", etcetera, and you said that that reference there you reject it in its entirety. It didn't fit in with what you understood Operation Marion to be and you conceded that it was at odds with other - with the rest of that minute drawn up by Colonel van den Berg. Do you have any comment on this reference here to targets? "Should we not rather go for low-profile targets which would cause fewer ripples?" You don't have to give a comment, but do you have a comment? ---

What I could say is that that refers to the meeting of the 28th, at which information was discussed, and the Defence Force dictionary was handed in last year during the trial and in the Defence Force dictionary it was very clear that targets, as used in this context, were information and intelligence gathering targets.

MR LAX: What ripples could possibly be made in that regard? --- I can only speculate. If you gather intelligence against a senior man and it comes to light, then you'll have far greater problems than if you choose low-profile intelligence targets, but that is speculation on my part. I don't know.

How effective would this whole thing have been if you were just going for low targets? It would have been a pointless, useless exercise. What information will

you get from low-level targets of that nature? You're a senior intelligence officer or were, sorry. It would have been a worthless exercise, wouldn't you concede?

--- No, if it was widespread then quite a bit of information could have been gathered in that way and if you look at

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/the level of the level of training of the people who had to do the gathering of intelligence it was risky to aim their operations against high-profile people.

We're talking here about a very small group of people though. --- The intelligence group was bigger.

126. --- Hulle was groter, ja.

And by that time you had less than that, because the 126 had already gone to the "Kitskonstabels", so they were out of your way. So that leaves you with 64, 74, and of that 74, 30 were already your offensive group. You're talking about 30 people. That's all you are talking about. It's in the context of the offensive group here, isn't it? You're not talking about the rest of the trainees. You were only talking about the offensive group. --- No, I don't understand you properly. We're talking not only of the offensive group here, we're talking about all the people who were left at that stage, and talking about how to use them for intelligence-gathering.

(Inaudible) ... already gone to BBP. --- Disreg.

So that left you with 46 people. --- More or less, yes.

(Inaudible) ... you have achieved with 46 people?

Practically nothing. --- Well, if they could be deployed very widely we could have gathered information on the ground.

Okay. You were - you know, they weren't doing a hell of a lot. They already ... (inaudible) ... in terms of security risk at the least, so it doesn't make sense. --- It was specifically because they were not

/constructively

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constructively employed that we felt so strongly about the issue of employing them in the intelligence-gathering role then thereby we could at least gain something from them.

CHAIRMAN: The reference to, "Teikens" and being, "Inlightenteikens", you see, what causes a problem for us is because if one looks at other documents which bear the name of Operation ~~Marion~~ then it's difficult not to concede that the reference there to, "Teikens" or targets is capable of another meaning and that it's a sinister meaning. That it means targets for elimination. Do you concede that - that it's capable of another interpretation? --- All these discussions were only in the context of intelligence. So I can't concede that one could now attach a different interpretation to those words. These were information or intelligence people talking about intelligence issues.

(Inaudible) ... document that I'm talking about are the ones which I have already referred you to and it's document 35, which is the memorandum from Colonel van den Berg to DST2, Van Niekerk, and it relates to the visit of HSI, which I understand was not you at that

stage, to Ulundi on 9th May 1990. And the reference there which I have already pointed out to you is to., "Offensive action, meaning the employment of hit squads". And then a further reference in paragraph 4 thereof ... (inaudible) ... Khumalo. "Riva indicated that he has not yet abandoned his idea of an armed force or cells who could then take out undesirable members". (Inaudible) ... all sorts of things which give us - which make these documents problematic for us. It's a reference in the earlier document from Van den Berg to Opperman and the reference

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/there to the there to the selection of targets and the involvement of the police in the selection of targets and the reference in the meeting of the 28th November 1988 to selection of targets, the reference in Cor van Niekerk's diary to the selection of targets. It's difficult not to come to a conclusion. I'm not saying that I have come to a conclusion, but it's difficult not to come to a conclusion that targets in that context doesn't mean, "Inligtingsteiken", intelligence target. Do you concede that these documents are capable - do you see the ambiguity that's before us here? Do you concede that there's an ambiguity ex facie the documents? --- If we look at the information meeting then we should actually stick to the terms used within that discipline and in that context what it dealt with was intelligence-gathering.

(Inaudible) ... mean, "Offensiewe optrede bedoelende die ..." ... (inaudible). What does that mean? This is a difficult document. This is something which we must make sense of. It's our job in terms of

the Act which has appointed us. We have to make sense of things like this. These things were taken from State Archives and they say things which you say are capable of different interpretations. What is the interpretation of this? This is a document which was drawn up following a meeting with your successor, between him and the Chief Minister, where openly they talk about offensive actions meaning the application of hit squads. What does that mean? --- I didn't comment on that document. I told you I had already left by March 1989. What I heard last year during the trial was that during a follow-up meeting, and you will notice that there's no mention made of hit squads at

/the meeting

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the meeting, the minuting officer, Van der Berg, wrote, "Meaning hit squads". In other words, he thinks that what he heard the Chief Minister saying related to hit squads. No mention was made of hit squads at the meeting and at the court case last year I heard that at a follow-up meeting it was then clarified that that was simply a misunderstanding.

Now, attached as an annexure to that last document which was a minute of General Badenhorst's meeting in Ulundi there's annexure, which is document 36 in your bundle, "Offensive capability, cells of Inkatha". "In October 1989 C M Buthelezi asked that ..." I don't know what, "Int Div" means, "... that Int Div reconsider the training of offensive cells". Intelligence Division. "... reconsider the training of offensive cells for Inkatha, seeing that an urgent requirement for those exists." And then it goes on to say that, "After thorough investigation and in consultation with the SAP

no choice was left but to abide by the decision that Operation Marion be confined to liaison and training for mobilisation". Do you have any comment, as a military person, on that document? --- I see this as a concise summary or agenda for a follow-up meeting, and the points mentioned here would be topics for a discussion at a follow-up meeting - a meeting following the meeting at which these words were used. That's the way I see it. So this was simply a reiteration of points already spelled out in previous minutes.

MR LAX: Mr Lyster has asked you to give us your interpretation of those words as a military person. We know what the purpose of the document is. --- Which /words?

4A words?

CHAIRMAN: Well, it's paragraph 1. "Buthelezi asked that the Intelligence Division reconsider the training of offensive cells for Inkatha, seeing that an urgent requirement for these exists.", and then, "Suggested point of view. After consultation no choice was left but to abide by the decision that Operation Marion be confined to liaison and training". So presumably that would suggest that Intelligence Division could not reconsider the training for offensive cells, but that the decision, which presumably you had taken in November 1988 - or I don't know who - do you know which decision that was? "No choice was left but to abide by the decision that Operation Marion be confined to liaison".

Do you know what ... (intervention) --- No, I assume that these are discussions which took place after my time, when the people were being incorporated into the police. I suppose there was a reflection as to what

role should be played by the remaining people.

MR LAX: You see, in early November you did take a decision and it's evident from the outcome of the meeting, the last line, of the 8th November, and that was that these people must be, "Oorskakel".

CHAIRMAN: That was your decision. Is that not the decision being referred to here? --- No, this refers to a decision taken to do liaison work and also mobilisation training. So I think that's a further decision which took place after my time.

Admiral, do you know, or did you ever come across or have any dealings with a Kobus du Toit Bosman? ---

No, I never met him. He was involved in the initial stages of


4A /the discussion
the discussion relating to the project. I'd just like
to refresh my memory. ~~No, I was never involved in any~~
discussions with him and my knowledge of his involvement
is as appears from the documents provided to us last
year. That's as far as my knowledge of him goes. I
never met him, and perhaps we can refer the
Commissioners to General Groenewald's evidence in court
last year. He spoke about the Du Toit Bosman case.

So you don't have any idea of what problem was
being experienced with this member or why there's a -
I'm referring specifically to document 24, which is a -
it looks like a telex from SAW2 to SAW Kaap. --- I
can reconstruct what happened, based on what I heard
last year. He had apparently to do certain writing for
Chief Minister Buthelezi - certain correspondence in
Afrikaans -and he had certain systems installed. I
don't quite know the purpose of these systems and these

things cost thousands of rands and a problem arose regarding these expenses and a member of my staff was requested to talk to the Chief Minister about this and that telex was his feedback to the Military Secretary and Chief of the Defence Force regarding these problems.

Now, Admiral, do you have any idea where - one gap in these documents, Operation Marion documents, is 1987, which was the first year of deployment of Operation Marion members in Natal, and as I recall from the Malan trial, Brigadier van Niekerk testified - and it's on page 3865 of the record - testified that he, along with Colonel van der Berg were deeply concerned with how vulnerable Project Marion officers were to prosecution - to criminal prosecution. Do you have any knowledge of documents of

4A

 /the sort that the sort that we have been looking at today - minutes, you know, minutes, memorandums from your department, from Colonel van der Berg, Van Niekerk, etcetera, to other departments within Military Intelligence? Do you have any idea where those documents may be? --- No, Commissioner, when I left there - when I was transferred as Chief of the Navy, the project obviously had not yet been finalised and audited and, as far as I knew, all the documentation was still with Military Intelligence when I left there, so I'm not aware of what happened to any of those documents.

Do you know why Colonel van Niekerk expressed that view that he was deeply concerned about the vulnerability of Project Marion officers to criminal prosecution? Do you have any idea why he would have expressed that view? --- I don't remember that

testimony, but I wouldn't be able to say why he said that, if indeed he did.

Just for the record, it's page 3865 of the record of the matter of S v Msane and Others.

MR LAX: One of the bits and pieces we've picked up on in 1987 comes from a diary entry made by Van Niekerk on the 6th March 1987. The words, "Riva sit met 8", the number 8 is put there. (Inaudible) ... referred to and in the Msane case, when he was asked to explain this he couldn't remember what it was. However, according to Opperman, this related to 8 - the eight Directors. It was the code name for some of the trainees, as you will know. Did you ever hear about that incident? ---
No, I wasn't aware of the incident.

(Inaudible) ... people who had been charged with murder in 1987. You never heard of it? --- No.

/And Khumalo

4A

And Khumalo allegedly hid them. You don't know anything about that? --- No.

In fact, Khumalo's explanation of that was that he couldn't find accommodation for those people, although what that had to do with their being charged for murder one doesn't know, but anyway. So you wouldn't ever have -surely if any of those trainees had been charged with murder you would have heard about it? It would have been reported to you? You would have wanted to know about it? --- If my staff knew about it I'm assuming that they would have informed me, if I'd been available during those times, but if they didn't know they wouldn't have been able to inform me.

(Inaudible) ... find the 1987 documents you might be able to refresh your memory. It may come out that,

in fact, you were told about it, you just can't remember now. --- Well, if there is a document which could refresh my memory then that might be the case, but I can't remember such a thing. Not at all.

Is it conceivable that if these people were involved in something like that you would have been informed? --- If my staff were aware of this, then I accept that they would have informed me.

Van Niekerk would have been your junior staff, who would have informed you of that. They would have known about it. --- Yes.

CHAIRMAN: Admiral, just referring you to document 29 of your bundle, 23 March 1988. It records a meeting which took place between the Minister of Defence, General Malan, and Chief Minister Buthelezi, 21st March 1988. At the bottom of the page it says, "Samesprekings - Inkatha ..."

/"Discussions -

4A "Discussions - Inkatha's role. General Malan said that he was not of the opinion that Inkatha was doing enough regarding the situation in Natal and that more people should be trained. The circumstances are now favourable for doing something about this and we should tackle it. High-level training should receive priority." This is a meeting between the Minister of Defence and Chief Minister Buthelezi, talking about the role of Inkatha. Do you know what training he would have been referring to there? --- I haven't refreshed my memory as to Malan's evidence, but if I remember correctly he said that this was a political discussion and that he felt that Inkatha wasn't doing enough to strengthen the Chief Minister's political power base. He also apparently

felt that more people could be trained to perform counter-mobilisation functions and to further develop and enlarge the Chief Minister's power base. That's all I can say in this regard.

At the time was that regarded as the lawful and correct thing to do? I mean it's a Minister of Government giving advice, giving personal advice on how to - how a political party to should expand its power base. Was that regarded at the time as a proper thing for the Defence Force to be doing, would you say? ---

I don't know these legal aspects so well and I accepted that if the Minister had such a need and he wanted to help the Chief Minister that he could do so.

I'm not sure that it implies - even implies anything controversial or sinister. I don't know, but it just seems to be one of many documents where the Defence Force at an extremely high level is assisting, advising a political party. I mean it seems to me to be a scandalous

/thing, actually.

4A thing, actually. Can you imagine today if the Minister of Defence, Mr Modise, came down and gave advice to the ANC as to how to expand its political base. It would be a shocking thing. Do you think that this was a correct thing for the Defence Force to have been involved in? Advising a politician on how to expand his popular base.

--- The problem with an insurgency war is that it is 20% of a military nature and 80% politics, so to combat the threat posed at the time, it was necessary to act on all levels to try and de-escalate the threat, and if you see it in that context, in the context of those times, I'm sure it's understandable that the then Minister of

Defence could have acted in the way in which he did.

MR LAX: Admiral, at the end of the day, bases were actually obtained. --- That's correct.

There were two bases, weren't there? ---
That's correct.

Just for the record, one was at Port Durnford and the other one was at Mkuze. Is that right? ---
That's correct.

What differentiated the two different bases and what was the basis of that? --- I heard from the witnesses last year that the Port Durnford base was for the offensive group, who had to be retrained in communication and organization, and the other one was the base for all the other people, who had to move there and could come and go.

(Inaudible) ... those two bases set up? --- I cannot remember the dates, but the first reference to the base at Mkuze that was found was after the October document - October 1988 - and the other one was after

4A /that, but I that, but I cannot remember what the dates were. I don't know if it's available in documentation as well, but everything is from October 1988.

(Inaudible) ... but there was a very small amount of people left by then. What would such a small group have done at a base? --- According to what I heard, they were busy with retraining.

(Inaudible) ... at those bases? --- I have no idea. I never went there. I never visited them, so I didn't have any detailed knowledge.

(Inaudible) ... any reports of that? --- I might have received reports, but I can't remember.

Sorry, we are just going through our notes here.

Bear with us, please.

MR DE VOS REQUESTS SHORT ADJOURNMENT

CHAIRMAN: Ja, let's break for at least 15 minutes.

SHORT ADJOURNMENT

ON RESUMPTION:

ANDRIES PETRUS PUTTER

MR LAX: This whole issue of this particular project being passed at the highest level - that was the term that appears in the minutes, you've spoken about that. That meant a select Cabinet group. Is that right? What was it? What was the highest level? --- I interpret it as being the State Security Council or it could perhaps mean some different group, but I'm not aware of any other group which would have been able to approve it, other than the State Security Council.

The State Security Council referred it to another level and that was the Cabinet and it was a group within /the Cabinet.

4A the Cabinet. --- To investigate it further ...
(intervention)

Sorry, there wasn't unanimity at State Security Council level. --- Can I just refresh my memory on that point.

CHAIRMAN: Just to remind you that Dr Barnard at the meeting in February 1986 objected on the basis that we've discussed and there's some difference as to what his real reasons for objecting, but he says that he would only agree if - I think he says it was deferred at the highest political level. (Inaudible) ... that that meant the Cabinet. --- There's a document which I

assume is the report of the main committee, which was submitted to the meeting of the 3rd, of the State Security Council. I'd just like to refresh my memory about it. (Pause) If you have the document in front of you, it's the report of the Chief Committee to the State Security Council. It's dated the 3rd February. That is Annexure A to minute. It mentions the reference number in the right-hand top corner.

MR DE VOS: (Inaudible) ... the KwaMakutha trial and it's an addendum to that.

MR LAX: We have it already ... (inaudible). --- Paragraph 5, Commissioner. It seems as if that it was put to the Ministers that they should investigate it further and then in parenthesis it says, "Due to the sensitivity of the matter it should be clarified at the highest political level". So I don't see that they had to approve of it. The approval is actually in the minute of the State Security Council meeting. The minute of the State Security Council meeting reads, "The meeting takes note

/and approves

4A and approves of the ..." ... (end of tape) ... [break in recording.

4B Now, with relation to Katzen, which we touched on earlier, the same sort of wording was used to approve that project also, in terms of the highest level, the highest political level. You're familiar that that was also there? --- I haven't actually prepared for Katzen because I haven't yet received all the document, but I can accept that that would be the case. If I remember correctly, Katzen was also approved at a very high level.

With this particular project, Marion, if all that it entailed was this VIP protection and some other minor ancillary issues, why did it need to be approved at the highest level? --- I assume that it is because of the very serious political implications. If the State President and the Chief Minister - their relationship was not always of the best. If it had to be revealed that the State President, as Chairperson of the State Security Council, was supportive of Buthelezi in this way, it could lead to great political embarrassment for both parties, and it was as a result of this political sensitivity of the matter that it was referred to the highest political level, because they were the people who stood to be implicated if the matter came to light.

President Botha, as he was at that time, wouldn't have given two hoots about being associated in that way with Buthelezi. It ~~was Buthelezi~~ that would have had the problem and that's what appears from all the documentation. --- It was also a specific request from the Chief Minister and for that reason it went all the way to the highest political level. You see, nobody else in

/that line could

4B

that line could actually take that decision.

You see, the reality is that you guys actually approved that project at State Security Council level. Not you but the State Security Council approved the project - Marion. --- Dis korrek.

Now, with regard to Katzen, who actually approved that? --- I can't comment on Katzen. I have an entirely different legal team with whom I must still consult about that issue, and I haven't yet received all

the necessary documentation about Katzen. I can't tell you at this stage what the approval procedure would have been in that case.

We'll deal with that with you in due course on another occasion. How were you involved in TREWITS?

--- I didn't prepare myself for this topic, but I can try and reconstruct, simply relying on my recollection.

If my memory serves me, it was an information or intelligence co-ordinating organization between National Intelligence and the police and Military Intelligence.

That is at a much lower level than the TNV - that was the Branch National Interpretation that co-ordinated intelligence at State Security Council Secretariat level. This was a lower level co-ordinating body, specifically dealing with ANC-related matters and information which needed to be co-ordinated. It was only ANC information, if I remember correctly. I can perhaps give you more information about TREWITS later, but I haven't prepared myself on this subject, so that's all I can remember at the moment.

You see, evidence has been led in an amnesty application that TREWITS was used to identify certain targets. Would that be your understanding of what its /job was?

4B job was? --- No, not as I understood it. But, as I said, I would have to go and consult my staff who were really involved at that level to inform me as to exactly what TREWITS was about. I'm sorry, I can't help you with that at the moment.

CHAIRMAN: I think why the reference was made to TREWITS is because the amnesty application that we're referring to is one that has been made public by Cronje,

Hechter and others, who say that they drew up - are you familiar with those people's amnesty application?

Colonel Cronje, Captain Hechter, Brigadier Cronje, Hechter and others, who say that they used intelligence that was distributed via TREWITS - TREWITS, for the record is, "Teen Rewolusionêre Inligting Taakspan", Counter-revolutionary Intelligence Task Team or Unit.

That intelligence from TREWITS was used to draw up lists of people for elimination and that, using that intelligence, targets were identified and acted upon - eliminated. And the example which was given in the amnesty application was that of Dr Ribeiro and his wife, as well as the so-called, "Nietverdiend Tien" - the ten persons who were also murdered - allegedly - well, according to Cronje, Brigadier Jac Cronje, by him and his colleagues. There is also an amnesty application which has not yet been made public and, unfortunately, we are not at liberty to give you the name of the person but it's a senior military person, who states that in 1986 the thinking within the establishment was such that the external threat which we talked about earlier on - or the internal threat which we talked about earlier on was regarded as one with the internal threat. One could not distinguish between the two, that they were both part of

/the total onslaught

4B the total onslaught against South Africa and that, in accordance with that thinking at the time, internal targets could be identified in the same way as external targets so that a target such as the Matola raid in Mozambique could be seen in the same light as an internal target and that in terms of that directive,

which this person speaks of in his amnesty application - it's not a written directive - that targets locally were identified and that people were eliminated and these were people against which there was no sort of criminal action pending. These were ordinary civilians. They weren't insurgents or the like, they were ordinary South African citizens. Now, would that accord with your understanding of how - this is going back to something that was discussed earlier - but would that accord with your understanding of how the police and the military establishment saw the total onslaught? Did they see it as one? Did they see it as the internal and the external coming together to form a joint onslaught against the Republic? --- As I explained, the internal onslaught was supported from the neighbouring countries and that's also where their bases were, but that's as far as I can agree with that statement. I can't see that it was national policy or whomever's policy that action should be taken against internal targets in the same way as targets abroad, but, of course, I was not involved in the execution of operations. I'm just giving you my personal opinion. You asked me whether I can agree with it and I can agree with the first section of your statement, namely the interdependence of the internal and the external threat, but I can't agree with the rest of the statement.

/But it's clear

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But it's clear from the amnesty applications from senior people that have been received, including the Commissioner of Police, yourself, that it was regarded as part of how you saw your duties at the time to contravene the law. I mean, General van der Merwe has

made application for an incident which could at the time have earned him an extremely long prison sentence - the bombing of Khotso house, on the instructions from the - as he states in his amnesty application - on the instructions from the then President. The point I'm making is that it was regarded at some level as politically expedient to break the law internally. ---

I never saw it in those terms. The sub-division Katzen, and I don't really want to talk much about Katzen now, but I just want to mention it as an example, this sub-division fell entirely outside of my field of work and without any involvement of my staff members. I nevertheless decided that I didn't like it and that I was going to ask amnesty for it. So I never saw my work or my involvement as demanding from me as a given that we had to act illegally to counter the threat.

MR LAX: Just go back ~~one second~~. We referred to, for example, the allegation that - for example, the Ribeiros elimination was an operation of Defence Special Forces.

If that had been the case, would it not have come to your attention as Head of Intelligence? --- No, such a thing would never have come to my attention. If it had been an operation done by these people, it would have been necessary on a need to know basis.

(Inaudible) ... if TREWITS were preparing hit lists on a need to know basis you might not have known about it. That's not to say it didn't happen. --- I would have

/to go and make

4B to go and make some enquiries and I would have to stand by what my staff said.

If the need to know didn't include you, you wouldn't have known about it. --- Let me put it this way. TREWITS was an intelligence organ, not an executive organ. If some of the intelligence or information produced by them was borrowed by executive people to choose victims, TREWITS would not have known about it.

To the extent that people did things that, for example, you don't approve of, how would you characterise those things? Would you say that they were total aberrations and one-off incidents, or would you say - they may have been things you didn't approve of, but they were done possibly in good faith by people acting in accordance with what they understood their duty to be? --- I think there might have been circumstances where people acted bona fide, so that they could do what they ~~had to do and in~~ that process acted unlawfully, but I did not see it in the environment I lived in as a general, run of the mill type of action. It would have been highly irregular.

Mr de Klerk has said that anyone who did anything unlawful was a criminal - a total aberration on a mission of his or her own. How do you respond to that sort of statement? --- I would never say that of my staff. If something went wrong then it was absolutely a once-off incident where he thought that he acted to the best of his ability and in the best interests of the matter he served. So I don't see it in that light.

CHAIRMAN: Because you know we've had many senior - very senior people here who have also made application for amnesty, again, which haven't been made public, and they,

/to take one

4B to take one particular example of a person who was a divisional commander of the Security Branch, who regularly eliminated people or disposed of bodies which were passed on to him for disposal - bodies of people that were already dead - and he said that he did it - he understood it to be at all times within the course and scope of his employment. He didn't regard it as shocking. He knew it was technically against the law and took very clandestine steps to dispose of the bodies, but felt that at all times he was acting within what was expected of him, and we put the similar question to him, you know, that State President de Klerk had earlier this month at the Truth Commission's office in Cape Town said in public that he regarded anybody who did anything like that as a criminal, and the man was profoundly shocked at that. He was very emotional. He was shocked and he said that he did not regard himself in any sense as a criminal and that he had served the South African Police for - I don't know - 30 years and had done it for Volk and Vaderland and could not accept that he could be described as a criminal. --- I just want to say that I can only answer from my viewpoint, from my point of reference. My comments are only focused on that. I cannot comment any broader than that.

MR LAX: Admiral, as I said earlier, one of our jobs is to look at all of this evidence in due course and to try and make some sort of sense of it, but also to try and come up with some sort of recommendations as how to prevent human rights violations from taking place in the future. How do you see - what sort of safeguards would

you like to see applied to people in your position in
the

/future, so that

4B future, so that the sort of things that you may have
been party to and that you may have been obliged to do
as part of what you saw as your duty at that time could
possibly not be done again to people in this country in
one way or another? Say for example someone as Chief of
Staff, Head of Intelligence, and so on in your position,
what safeguards would you like to see today as an
ordinary citizen, to ensure that those sorts of things
don't happen or give rise to things that might result in
your rights being affected? --- Mr Commissioner,

there is a very short answer to that question. That is
we can just hope and pray that nobody ever decides again
to pursue political ends through the medium of violence.

That will solve the problem for everybody. If there
are going to be people who want to pursue their
political objectives through the medium of violence,
then for sure it might well give rise to exactly the
same problems as all the hearings that you are
conducting.

So do you not see any way in which one could put
in place certain safeguards? Make people in the
position that you may have been in accountable to
someone else at some point? --- I haven't thought,
obviously ... (intervention)

Maybe you'd like to think about it in the next
couple of weeks and if you can think of anything that
might ... (intervention) --- That I can help you
with.

Really, because we see ourselves as living under a different constitution if you like, where everyone's rights need to be protected in one way or another and the Constitution, as you will probably know, provides for mechanisms in which some of its application is suspended

/in certain

4B in certain circumstances, but at the same time one needs to put in place mechanisms that, for example, it's not unforeseeable that an ANC Government, having a major majority in Parliament, could find ways and means of suppressing the rest of the population. It's not a hypothetical improbability and we would want to put in place mechanisms to ensure that that didn't ever happen.

So maybe you could apply your mind and think of ways in which, had you and other of your colleagues been held accountable in some way, some of the decisions that got taken might have been prevented or would at least have been scrutinised in a different way. I mean ultimately the separation of powers doctrine failed South Africa at the end of the day - the classic separation of powers as we've - as a political institution, where the executive and the legislative and the judiciary in some ways through the doctrine of parliamentary sovereignty, if you like, all became enmeshed in one whole mechanism, and that's partly what led us to where we were. So one wants to look at another way of how you can structure society to avoid that. Maybe it's the lesson of history that people keep repeating the mistake of history. I don't know. Thanks. Thank you for your patience, gentlemen. We've worked you hard today, I'm sorry, but we've got most of it done.

CHAIRMAN: Admiral, we'll adjourn the matter now. If there's any need for us to put further questions to you, we'd like to deal with it on the basis that through your attorneys we make a written request, which you could respond to, because we don't want - there certainly wouldn't be a need to bring you back here for a whole day, but if we could do it on that basis, which is the basis

/which we've

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which we've agreed with many other persons who have been subpoenaed here, that we submit a request and then we will expect that you would treat it with the same sense of formality, etcetera, that this one has been conducted and that you would provide answers in writing or under oath or by way of a sworn statement. --- That is totally acceptable to us.

Thank you. Okay, thank you very much. The matter is then adjourned sine die. --- Thank you very much.

