

TRUTH AND RECONCILIATION COMMISSIONSECTION 29 HEARINGS"IN CAMERA"

DATE: 24 APRIL 1997 NAME: ADRIAAN PIETER VAN NIEKERK  
HELD AT: JOHANNESBURG

DAY 2

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CHAIRPERSON: Good morning everybody. Welcome to these proceedings. As you know we have subpoenaed you in terms of Section 29 to appear at this hearing. I will ask you to state your full names for the record please. When you speak please press the red button. I would also ask that you just put these headphones on to test whether or not you can listen to the interpretation clearly. Could you do that for me, please? Are you able to hear the interpretation services? Thank you. Colonel van Niekerk, I presume you are Afrikaans speaking.

COL VAN NIEKERK: Afrikaans speaking.

CHAIRPERSON: Will you put your full names on the record, please.

COL VAN NIEKERK: Adriaan Pieter van Niekerk.

CHAIRPERSON: Thank you. Will you confirm that the two persons sitting next to you are your legal representatives?

COL VAN NIEKERK: That is correct.

CHAIRPERSON: Will you stand so that Dr Randera may administer the oath please.

DR RANDERA: Mr van Niekerk, good morning to you. If you will just repeat after me.

ADRIAAN PIETER VAN NIEKERK: (Duly sworn in, states).

DR RANDERA: Thank you very much.

CHAIRPERSON: I would like to introduce you to members of the panel. It is something I omitted to do yesterday, but I think that many, the other witnesses were quite familiar with the people who sat here. On my right-hand side I have Dr Russell Ally, a committee member belonging to the Human Rights Violations Committee. On my extreme right is Mr Piers Pigou, an investigator employed in the Gauteng Investigation Unit. On my left-hand side I have Mr Kobus Swart, an investigator employed in the Gauteng Investigation Unit. Mr Andre Steenkamp, the Head of the Gauteng Investigation Unit and Colonel Fanie Killian, an investigator in the employ of the Investigation Unit. I have Mr Hugh Lewin, Dr Randera, members of the Human Rights Violations Committee, Fekile, a briefer in our employ, Johannes Mohema, an investigator in the employ of the Gauteng Investigation Unit, Mr Mike Bopape, the brother of the deceased Stanza Bopape, the cameraman, Andre, his assistants, the camera-lady and the cameraman behind him, Gerald, a member of our Information Management Unit, Anna, a member of the Research Team and Vanessa Verovsky, a member of our Research team as well.

The other people whom we have are the interpreters in the booth who are interpreting from English to Afrikaans and into Sotho in the second booth and then we have the people who man the sound equipment, the recording devices. So, I hope that satisfies.

I would remind you, Colonel van Niekerk, that you are here to answer questions relating to the matter of Stanza Bopape, the subpoena is, I think, completely detailed in terms of the information that we require from you. You are warned that this process is meant to be one at which we try

to get the full picture from you which allows us, at the end of the day, to report to the Commission more fully than we have before on this particular matter. You are warned that you are not to influence any other witnesses and that if you yourself commit perjury, you may be prosecuted in terms of the Act for perjury. With that sort of warning, I am going to ask you if you wish to add or change anything in the statement that has already been submitted to us from yourself?

COL VAN NIEKERK: Not at this stage.

CHAIRPERSON: Thank you. I will ask Colonel Killian to begin the questioning today.

MR KILLIAN: Mr van Niekerk, we welcome you here.

INTERPRETER: The speaker's mike is not on.

MR KILLIAN: I hope our attitudes will not be soured because of the investigation of this day. In the first place, I want to ask you to confirm that you were the head of the Interrogation during the death of Bopape.

COL VAN NIEKERK: At that time I was one of the heads of the Investigative Unit at the Security Branch in Johannesburg. The interrogation of Bopape was handled by Mostert and Engelbrecht which would indicate to me that it was a task given to them. I was not necessarily present throughout the interrogation. I do accept responsibility for the occurrences, if that would answer your question.

MR KILLIAN: I do not think that answers my question. In terms of your office, your official position at that time, you were in charge of the investigation with regard or subsequent to the arrest of Bopape.

COL VAN NIEKERK: Yes and no, in this sense that the interrogation had been given to us to manage in Johannesburg

whilst the investigation was on a different terrain. As the Commanding Officer, I was in command.

MR KILLIAN: That is the point that I want to make that at the time of the interrogation at John Vorster Square on the tenth floor, whether in the office immediately next to your office or in the passage, you were in charge of the number of members who had the task of interrogation.

COL VAN NIEKERK: Yes, I was in charge of them.

MR KILLIAN: So you were in command of them?

COL VAN NIEKERK: Yes, I was in command of them.

MR KILLIAN: During the investigation you say that Engelbrecht and Mostert were in charge, they actually did the interrogation?

COL VAN NIEKERK: That is correct.

MR KILLIAN: Were there other members involved at the interrogation?

COL VAN NIEKERK: No.

MR KILLIAN: Just these two members?

COL VAN NIEKERK: I assigned them the task of interrogating Bopape.

MR KILLIAN: Where does Zeelie come into the picture?

COL VAN NIEKERK: Zeelie became involved in the initial arrest of Bopape and thereafter he accompanied me to the West Rand, Roodepoort after the arrest at a later date where he sat in during discussions and on the day in question, when Bopape died, he was present in his office which was next door to mine on the other side, but not involved in the interrogation.

MR KILLIAN: No, he was not involved in the interrogation as such, but he was there from time to time.

COL VAN NIEKERK: He was present at intervals, yes, that is

correct.

MR KILLIAN: How did it come to be that you, being in Johannesburg, became involved in this interrogation which was actually a West Rand matter?

COL VAN NIEKERK: At some stage there was a request made to us, I am now relating hearsay.

MR KILLIAN: No, we have to qualify that. We cannot go on hearsay evidence. My question is very direct, how did it happen that your unit became assigned with the task of investigating Bopape?

COL VAN NIEKERK: At some stage we were asked that some of our members assist in the arrest of Bopape and Nkosi.

MR KILLIAN: Very well then.

COL VAN NIEKERK: I just want to answer your question. The following day my Commanding Officer, then the retired Brigadier-General Erasmus, said that an agreement had been entered into amongst the Commanding Officers of the various divisions that we would assist in the interrogation of Bopape and Nkosi and I was then requested to go to the West Rand and go and join them there and received further instructions.

MR KILLIAN: And that was where they would have given you the background of the deeds which were being investigated against Bopape in order to inform your team what the instruction was?

COL VAN NIEKERK: Yes, the information was conveyed to me.

MR KILLIAN: That was basically the objective of the excursion so that they could inform you about the method or the background of this Bopape's dealings so that your people, you could alert your people as to what vein the interrogation could follow.

COL VAN NIEKERK: Yes, and also so that they could decide how much to get involved.

MR KILLIAN: At that stage was your unit one of the busiest units in the Republic of South Africa with regard, in regard to investigations against so called terrorists?

COL VAN NIEKERK: I cannot say we were the busiest, but we were busy.

MR KILLIAN: Were you busier than the West Rand?

COL VAN NIEKERK: I would not be able to confirm or deny that, because at that stage we had "x" amount of staff and West Rand had, possibly, "x" amount of staff which were either more or less than our staff.

MR KILLIAN: These activities of Bopape's, Bopape's address where he resided at the time were provided to you by the West Rand. They did not come from your own information and knowledge. Is that correct?

COL VAN NIEKERK: West Rand came to us and said that we should assist them. They wanted to go and arrest Bopape in our area.

MR KILLIAN: I appreciate that, but the address where he resided at the time was provided to you by them.

COL VAN NIEKERK: He was arrested at an address in Hillbrow. I cannot say with absolute certainty today whether he was residing there or whether it was a temporary residence or what.

MR KILLIAN: But that address was provided to you by the West Rand?

COL VAN NIEKERK: That is correct.

MR KILLIAN: If they had the address where he was residing and it was available, why did they not arrest him themselves?

COL VAN NIEKERK: There was the unwritten rule in the Security Branch that any operation which fell under the jurisdiction of another unit, should not be done without the knowledge or the accompaniment of a member of that unit for various reasons.

MR KILLIAN: I accept that it was an unspoken rule that one Security Branch member was not to go into another Security Branches member's area without that persons knowledge and in such a case someone was to be assigned to accompany that person, but not to take over the investigation.

COL VAN NIEKERK: At that stage, when we were doing the arrest, we had not taken over the investigation, we never took over the investigation. As I understood it a group of guys from my unit went to go and assist with the arrest.

MR KILLIAN: That was the initial arrangement which later changed.

COL VAN NIEKERK: As I told you the following day I was told to go to the West Rand where we were to become more involved in the interrogation of Bopape and Nkosi.

MR KILLIAN: And that is where you were briefed and as a result of that briefing you went back and you became involved in the interrogation of Bopape.

COL VAN NIEKERK: That is correct.

MR KILLIAN: During the interrogation did you ever move in and out of the venue where the interrogation was taking place?

COL VAN NIEKERK: Are you referring to the Sunday?

MR KILLIAN: Was an interrogation conducted on Bopape before the Sunday?

COL VAN NIEKERK: If I remember correctly, he was interrogated the Friday afternoon.

MR KILLIAN: Who did that interrogation?

COL VAN NIEKERK: If I recall correctly, it was Engelbrecht and Mostert.

MR KILLIAN: Then we could appreciate that they were the two main delegates who were assigned with manning the interrogation?

COL VAN NIEKERK: Yes, I told Mostert and Engelbrecht that they were to interrogate Bopape.

MR KILLIAN: Immediately after his arrest you rarely, if ever, had any information with regards to the activities in regards to which he was to be interrogated.

COL VAN NIEKERK: During the arrest on Thursday.

MR KILLIAN: That was the Thursday night?

COL VAN NIEKERK: Yes, that is correct. I was not involved yet. Only the following day, in Roodepoort, was I briefed on his activities.

MR KILLIAN: But at that stage, before and during his arrest, you were involved to such an extent that you gave instruction that certain people accompany you in Krugersdorp or the West Rand or at least to go and do it on their behalf?

COL VAN NIEKERK: That is correct, but there were no details or information made available to me in regards to why the person was being sought.

MR KILLIAN: Very well. As my previous question went, these details were provided to you at a later stage?

COL VAN NIEKERK: Correct.

MR KILLIAN: And as a result of those details did you then instruct the people under your command to do their interrogation in that vein?

COL VAN NIEKERK: They were present.



MR KILLIAN: All of them?

COL VAN NIEKERK: Well, I cannot say Mostert and Engelbrecht were present, but if I remember correctly Engelbrecht was present the following day, which was the Friday.

MR KILLIAN: That was during the briefing at the West Rand.

COL VAN NIEKERK: Where Captain Kleynhans was briefing me.

MR KILLIAN: Was Zeelie present during the briefing?

COL VAN NIEKERK: Yes, he was.

MR KILLIAN: Mostert was not?

COL VAN NIEKERK: I cannot recall.

MR KILLIAN: We do not expect you to recall every single detail. At which stage did du Preez come into the picture?

COL VAN NIEKERK: Du Preez came into the picture during the interrogation on the Sunday or rather at the end of the interrogation he became involved.

MR KILLIAN: That is on the date of the demise or the death of Bopape?

COL VAN NIEKERK: That is correct.

MR KILLIAN: How did he come onto the picture?

COL VAN NIEKERK: After we decided that we were going to tackle Bopape and try and convince him to talk. We decided that we needed a shocking apparatus and then contact was made and he brought it on at John Vorster Square.

MR KILLIAN: This was a Sunday?

COL VAN NIEKERK: That is correct.

MR KILLIAN: Before he was asked to bring this shocking apparatus to John Vorster Square, he did not form any part of this interrogation or this exercise?

COL VAN NIEKERK: No, I cannot recall that he was involved in the interrogation or that he rode with us to the West Rand. That is why I would be inclined to say no.

MR KILLIAN: Whose instruction was it that use should be made of a shocking apparatus to elicit information from this detainee, Bopape?

COL VAN NIEKERK: The idea was played around with in the group and I said we should do it.

MR KILLIAN: Was it a general practise?

COL VAN NIEKERK: Yes.

MR KILLIAN: Where was John Vorster Square's shocking apparatus at that stage that one had to be obtained from Sandton?

COL VAN NIEKERK: I cannot say that there was such an apparatus at John Vorster Square.

MR KILLIAN: Zeelie says that there was one, but he does not know where it was at that stage.

COL VAN NIEKERK: That may, it may be that he was aware of the presence of one, but I was not aware of one. I was aware that there was an apparatus and that Sunday morning, whether it was at John Vorster Square or elsewhere, I was not aware, but the general discussion which took place in the group indicated that it was at Sandton which was another component of the unit.

MR KILLIAN: Sandton Security Branch basically fell under John Vorster as a sub-branch or unit and the overhead commands were issued from John Vorster Square?

COL VAN NIEKERK: That is correct.

MR KILLIAN: Then the decision was taken that this man was not willing to co-operate and that more drastic measures should be looked at?

COL VAN NIEKERK: Yes, it was a fact that at that stage he was not willing to co-operate.

MR KILLIAN: I just want you to tell us what you would

regard as him giving his co-operation. What would the difference have been between not co-operating and co-operating. Would it have been because he did not acknowledge or make certain admissions of facts which were in your possession, viz a vie, the denial of such. Was that, did that come down to him not co-operating?

COL VAN NIEKERK: He did not give us certain information.

MR KILLIAN: What information was that?

COL VAN NIEKERK: His involvement in the ANC activities, his involvement in the Maponya group, that he was involved in underground structures and so forth.

MR KILLIAN: In other words, in brief, you expected him to admit to these? What then?

COL VAN NIEKERK: For him to make known this information.

MR KILLIAN: What is the difference between making these admissions which would result in him being prosecuted and what you are saying?

COL VAN NIEKERK: In terms of the Act it was expected that he should provide this information. Acknowledgement I would regard as the process of asking the person whether that person is prepared to put those admissions down in black and white, but at that stage it was merely about eliciting the information.

MR KILLIAN: That, in a matter of saying, was the end of the story. You just, an admission of guilt before the Magistrate about what he already acknowledged before you. The fact that he acknowledged certain facts before you and was going to do an admission before a Magistrate.

COL VAN NIEKERK: That was not the point at the time.

MR KILLIAN: That was the objective.

COL VAN NIEKERK: No, it was not.

MR KILLIAN: Tell me what the objective was.

COL VAN NIEKERK: The objective was in terms of Section 29 that he was to make known the information which he had about his activities.

MR KILLIAN: That is the same is with an arrest in a murder or a rape case or anything, the same principle applies.

ADV PRINSLOO: I would like to interject here. The witness answered the question very clearly. He explained that in terms of Section 29 they are to elicit information and the, it was put to the witness that he was trying to get the person to make certain admissions. So I ask that the question be put clearer.

MR KILLIAN: The purpose of the interrogation had been to elicit an admission from the person that he was engaged in certain actions and that he was responsible for certain acts.

COL VAN NIEKERK: He has to provide information in terms of Section 29 which says very clearly that he must be fully, make a full information available with regard to his involvement. It is not an admission as known in Law. That is an entirely different notion. At the end of the day it might have the same intent. If he says to me that he is a member of the ANC and that he was trained locally, that he is involved in the Maponya group, that would have made the information available to me. We did not give him information with which, to which he had to admit.

MR KILLIAN: I am not saying that in any way you that you wanted him to simply corroborate certain facts. That is not what I am saying and if that is what you deduced from the way in which I am asking questions, then I must qualify it. That is not what I am trying to indicate. What I am saying

is only this, the purpose of the interrogation, and there is no Act which forces me to admit to being involved in any acts.

COL VAN NIEKERK: Yes, there is.

MR KILLIAN: What forces me to do that?

COL VAN NIEKERK: Section 29 places an onus on that person to make the information available. That is why the person is informed during the detention, in terms of Section 29, that there is a duty on his part to make the information known with regard to which he is being held.

CHAIRPERSON: I think that if I understand what the Colonel is saying is that even though you may have insisted that in terms of Section 29 someone is obliged to answer certain questions and give you information, there is no Law which really, in fact, obliges a person to actually give you that information. In fact, somebody can refuse and, hence, the reason why a number of people were kept under that section, until, in fact, they stayed there long enough or were beaten into giving the information. I think that is the distinction that the Colonel wants to draw. Even though you say that the person is obliged in terms of the Law, to give that information it did not mean that the person who was being questioned felt obliged to actually give that information that you were asking for. I think that is what he is referring to.

ADV PRINSLOO: Chair, the Section says very explicitly that a person is, has the duty to answer the questions sufficiently.

CHAIRPERSON: Yes, but people, I think there is a distinction between what the Law requires and what people say are legally obliged to do and if one had had a

Constitution in those days, possibly a number of cases would have ended up in the Constitutional Court because people can refuse, in fact, to incriminate themselves. Those were Laws in terms of extraordinary situations and I think that is the reference that Mr Killian wants to make.

ADV PRINSLOO: Had the Constitution existed at that time it would have been different, but it did not exist at that time and the problem is that the witness lived in that time and he has to answer in terms of the facts of that time.

MR KILLIAN: The deceased also lived in that time and he decided not to co-operate and not to answer questions and then more drastic measures were used to enforce him or to attempt to force him to co-operate. Is that correct?

COL VAN NIEKERK: That is correct.

MR KILLIAN: Were you familiar, at that time, with the use of the shocking device?

COL VAN NIEKERK: Yes.

MR KILLIAN: Was it general practise, was it used often?

COL VAN NIEKERK: Yes, it was used on several occasions.

MR KILLIAN: Were you involved on such occasions and if, yes, could you mention one or two or more?

COL VAN NIEKERK: I cannot mention particular incidents, but, yes, I was involved.

MR KILLIAN: Could you give us an indication on how many occasions you were involved in the use of the device?

COL VAN NIEKERK: Three, maybe four instances.

MR KILLIAN: Why?

COL VAN NIEKERK: Persons who were held in terms of Section 29 who refused to provide information where we knew that they had information available which was important to counter the onslaught of terror and because of that these

drastic measures were used.

MR KILLIAN: I hear exactly what you are saying to me and I return to my previous question. This was a method with which, in terms of Section 29, people detained in terms of Section 29, to convince persons to admit that information already available to you was, in fact, true.

COL VAN NIEKERK: It did not have to do with admission, it had to do with making information available.

MR KILLIAN: Making information available and admission to involvement. This is the same thing. This is just word play.

COL VAN NIEKERK: With all respect, there is a major difference. If I admit that I committed a certain act, that is an admission. If ever I say that Jan was involved with a particular act and that he did this in the following, that would be giving information.

MR KILLIAN: We will continue. At what stage were you informed that Bopape died, that he greeted us? At what time were you informed that Bopape died?

COL VAN NIEKERK: I was present at his death.

MR KILLIAN: Were you present during the shocks?

COL VAN NIEKERK: Yes.

MR KILLIAN: What happened during the administering of the electrical shocks?

COL VAN NIEKERK: He was tied to a chair.

MR KILLIAN: Was this a chair from your office?

COL VAN NIEKERK: Yes. The device was placed on him or pressed on him, the other side of the apparatus was turned and that sent a shock to the person and he received an electrical shock.

MR KILLIAN: In what way were the electrodes attached to the

body of the deceased?

COL VAN NIEKERK: It was pressed on his body. It was being held.

MR KILLIAN: With bare hands or?

COL VAN NIEKERK: I do not think that the person who was handling it was, had gloves on, I think it was with bare hands.

MR KILLIAN: Did he touch the electrodes and receive shocks himself or what did you do?

COL VAN NIEKERK: The electrode itself was closed with material of some kind.

MR KILLIAN: What kind of material would this have been?

COL VAN NIEKERK: I cannot recall. Some rags, cloth rags.

MR KILLIAN: Was the device set up upon your arrival, was it in the passage or in the office?

COL VAN NIEKERK: It was in the passage.

MR KILLIAN: When you arrived there was the device already set up or prepared or was this prepared after your arrival?

COL VAN NIEKERK: I was present all this time. The device arrived there while I was present.

MR KILLIAN: So the device appeared ready for use. You did not prepare it for use.

COL VAN NIEKERK: The preparation is not a complicated procedure. It is a device with electrical wires which might have had to be attached. I did not keep careful control of the whole thing, but it is a simple device with two electrical wires.

MR KILLIAN: Would this have been very similar to what you used on the other three occasions on which you were involved?

COL VAN NIEKERK: Which I saw being used. Not necessarily



exactly the same device.

MR KILLIAN: But a similar kind of device.

COL VAN NIEKERK: Not the exact same device, but a similar device, yes.

MR KILLIAN: Who realised first that this person had died?

COL VAN NIEKERK: I saw that the person's head fell forward and then I knew something was wrong.

MR KILLIAN: How many times had he been shocked and for how long?

COL VAN NIEKERK: This device is turned, it has a winch which you have to turn and it was turned twice or maybe thrice and then the persons head slumped forward.

MR KILLIAN: This device of which you are speaking, in simple terms, would be the old magneto of or the dynamo, possibly, of an old phone?

COL VAN NIEKERK: I do not know the technical detail. I cannot answer in technical terms.

MR KILLIAN: When his head slumped forward and when you realised something had gone wrong, did you detach the person from the chair?

COL VAN NIEKERK: Yes.

MR KILLIAN: What then happened to him after he was untied?

COL VAN NIEKERK: He was placed on the floor.

MR KILLIAN: Was this in the passage?

COL VAN NIEKERK: If I recall correctly, yes.

MR KILLIAN: What happened after he had been placed on the floor?

COL VAN NIEKERK: One of the guys tried mouth-to-mouth resuscitation. This failed. Personally, I believed the person was already dead.

MR KILLIAN: What was the state of the people around there?

COL VAN NIEKERK: I think surprise, maybe shock.

MR KILLIAN: It is suggested, that subsequent to the death of Bopape, it was determined or that information was obtained that at some stage he had received attention for a heart condition at the Princess Clinic in Hillbrow. Do you know about this?

COL VAN NIEKERK: Yes.

MR KILLIAN: Who determined this and from who?

COL VAN NIEKERK: Because of the sudden death of the deceased that morning and, subsequently, I asked one of the members involved in the investigation or rather what happened first, I went through his documentation, I found a slip where there was a sort of a invoice indicating that he had received treatment from the Princess Nursing Home. I asked the member, an entirely different member not involved with this particular event, to obtain for me in a clandestine manner, information whether this person was actually at this Princess Nursing Home. He returned to me at a later stage and told me the person had been there for heart problems. That member was not informed with regard to what had happened that morning. He truly believed that there was an actual escape.

MR KILLIAN: I hear what you are saying to me. If I were to state to you that Bopape had been treated at that institution for sinusitis and not for any heart condition, could you deny that?

COL VAN NIEKERK: I can deny it in terms of what I believed the information made available to me and what I had believed until my preparation for amnesty applications. I believed this very firmly and I had no other answer why he would have died so quickly.

DR ALLY: Sir, could you give us the name of this person who did this enquiry on your behalf?

COL VAN NIEKERK: The late Warrant Officer Johnny Farquhar.

CHAIRPERSON: You mention that you went through the documents belonging to Stanza, but we are also informed that a district surgeon examined Stanza Bopape. Did you consult with the district surgeon over Stanza's condition?

COL VAN NIEKERK: Not as far as I can recall.

CHAIRPERSON: Why not?

COL VAN NIEKERK: Can I just ask if you are asking prior or after the death?

CHAIRPERSON: After Stanza's death.

COL VAN NIEKERK: No, the reason for this was that after his death, there was the staged escape so that the world outside would believe that he had, in fact, escaped and that he had not died. I could not go to the doctor and ask the doctor what this persons problem was, because the doctor would have been under the, would have thought that he had not died, that he had escaped.

MR KILLIAN: I think there is a confusion here on the part of the Chair. There is evidence on record that subsequent to the arrest of Bopape, he was taken to the district surgeon as was common practise at that time with regard to Section 29 detainees. Briefly after arrest they would have been seen by a district surgeon.

COL VAN NIEKERK: That is correct.

MR KILLIAN: Then the district surgeon wrote a medical report with regards to his condition at that time.

COL VAN NIEKERK: It is always done, there is always such a report.

MR KILLIAN: And this report is then kept in the persons

file.

COL VAN NIEKERK: That is correct.

MR KILLIAN: As has been physically indicated to us on the inside, the left inside cover of the file?

COL VAN NIEKERK: That is correct.

MR KILLIAN: Then after the person dies, if information was obtained that he had been suffering from a heart ailment, why was the report from the district surgeon not consulted?

COL VAN NIEKERK: Do you mean after his death?

MR KILLIAN: Yes, after his death. Before his death you were in possession of a medical certificate from a medical practitioner who examined him. Now the person has died. Why was that report not consulted to establish why, according to your knowledge, this man would have died after two light electrical shocks? His head would just have slumped forward and he would have died.

COL VAN NIEKERK: I cannot remember exactly, but I seem to recall having gone through that report.

MR KILLIAN: Is it still available.?

COL VAN NIEKERK: I believe it would still be available.

MR KILLIAN: Unfortunately, this man died and now everyone was panic stricken among the ranks of the Commanding Officer and so forth, because they foresaw problems, because this man was a Section 29 detainee, it was going to get a lot of publicity and that it was very clear what the repercussions thereof would be for the persons that were involved in the death of this person.

COL VAN NIEKERK: Yes.

MR KILLIAN: Who then took a decision about the next plan of action?

COL VAN NIEKERK: We discussed it as a group, because

certain decisions had to be taken. It was either we had to let it go the, along the line of an inquest and the Investigative Unit was going to investigate if there was going to be an inquest or the, an alternative route would have been that the body had to be disposed of and those were the two options which were considered there and then it was decided that we could not follow the inquest route, that it was better to do what we did.

MR KILLIAN: Was it common practice, at that stage, where certain police officers would have done something which would have led to the death of a person during interrogation if it was not possible for them to follow the normal route and register the death of this person, to get rid of the body in an alternative manner?

COL VAN NIEKERK: I would just like to tell the honourable Commission that this is the first incident of this kind in which I was involved. I cannot speak about what happens in general, I can merely refer to what happened that day and what we did.

MR KILLIAN: We accept it then. What was the next step after you held discussions in the group? What would you have done then?

COL VAN NIEKERK: I would then have gone to my senior

MR KILLIAN: Who was Brigadier Erasmus?

COL VAN NIEKERK: Correct.

MR KILLIAN: You drove to his house?

COL VAN NIEKERK: No, I contacted him telephonically and told him that something had happened and that I was on my way to see him.

MR KILLIAN: You then went there? The discussions at his house where you briefed him about what happened?

COL VAN NIEKERK: That is correct.

MR KILLIAN: The same way you are telling, you are relating it to us now?

COL VAN NIEKERK: Possibly not in the same format. I would, possibly not have told him that the device was wound twice, and so forth, but I would have given him the facts. I accept that I would have told him that we used an electronic device and that the man died.

MR KILLIAN: And then he would have taken it further from there and you went back to the office in anticipation of further instruction from him?

COL VAN NIEKERK: That is correct.

MR KILLIAN: Where was a decision taken that Visser and van Loggerenberg were to get involved in the disposal or removal or hiding of this body?

COL VAN NIEKERK: I cannot tell the honourable Commission exactly what General Erasmus discussed and whom he discussed it with, but when he returned to John Vorster Square later that afternoon he informed me that the Eastern Transvaal unit would receive the body and dispose of it.

MR KILLIAN: After the body had been handed over outside Bronkhorstspuit to van Loggerenberg and Visser, did you ever enquire about how safely they disposed of the body?

COL VAN NIEKERK: No, no.

MR KILLIAN: Was it never a source of concern to you whether or not they disposed of it in an efficient manner?

COL VAN NIEKERK: Yes, it was a source of concern. I believed that if he was to have been found, what would have happened, but I believed that with the story that was fabricated about his escape, it would have made sense.

MR KILLIAN: In the, in drafting your amnesty application

certain persons were also involved in this process of the, of this persons interrogation, decease and disposal of his body.

COL VAN NIEKERK: The persons I was involved with at John Vorster Square, Mostert, Zeelie, Engelbrecht and so forth, we got together and so that we could decide whether we were going to apply for amnesty. At a later stage I went and told General Erasmus that this is the path we were going to follow and at a later stage we consulted with the advocates, if that answers your question.

MR KILLIAN: I just want to qualify that in a broader context. During the drafting of the amnesty application certainly the amnesty applicants consulted with each other with regard to the facts contained in the application and discussed that.

COL VAN NIEKERK: Are you saying that I consulted with Mostert and Engelbrecht?

MR KILLIAN: Yes, and van Loggerenberg and Visser.

COL VAN NIEKERK: No, we basically just decided to apply for amnesty and thereafter the question arose as to how we were going to deal with it, which advocates we were going to use and we decided to go to the advocates which are before the Committee today and we consulted with them.

MR KILLIAN: After you decided that you were going to apply for amnesty, did you or could it be that you asked van Loggerenberg, at that stage; listen brother, how did you dispose of Stanza Bopape's body?

COL VAN NIEKERK: No.

MR KILLIAN: So, up to this day you do not know.

COL VAN NIEKERK: Thereafter during consultation I heard from the advocate.

MR KILLIAN: So the advocate informed you how van Loggerenberg disposed of the body, but van Loggerenberg never told you himself?

COL VAN NIEKERK: No.

MR KILLIAN: Thank you very much. That was all.

DR ALLY: Mr van Niekerk, is it not the case that John Vorster Square had a reputation for getting the job done, would it be fair to say, to getting information from detainees, have a good reputation when it came to extracting information from detainees?

COL VAN NIEKERK: No.

DR ALLY: You did not, you were not successful in your job?

COL VAN NIEKERK: We were successful in our work.

DR ALLY: So was there not a reputation that John Vorster Square had that it got the job done? That when detainees got to John Vorster Square, more often than not, you got results, you got answers.

COL VAN NIEKERK: The, I interpret the question being put to me differently. Are you, do you mean that we did it by means of force, by applying force, is that the question?

DR ALLY: Whatever I am asking, did you have a reputation for getting the job done, for solving cases with regard to political detainees?

COL VAN NIEKERK: I would not say we had a reputation, we were successful, but I do not think we had a reputation, because when one talks about a reputation, you are talking about a general, national reputation and I do not think we had that.

DR ALLY: Well, you did have a national reputation and I put it to you, is that not the reason why West Rand decided to give over this case of Stanza Bopape to you? That they knew



that if any division was going to be able to get answers to questions, it would be John Vorster Square?

COL VAN NIEKERK: No, not at all. I can tell you here today that the one way to look at the national picture in South Africa at that time, in the Cape there were just as many interrogations and successes, in Durban the same situation prevailed as well as Pretoria and everywhere else and looking back, in retrospectively, there was a large investigation, large scale investigation of terrorist activities at the time and I think, at that stage, there was too much work for the West Rand and/or Pretoria and we were thus assigned to assist them, not because we had a reputation.

DR ALLY: Was it common practice to use force to get information from detainees?

COL VAN NIEKERK: They were used, but it was not a first step and it was not used on every person. As I told the honourable Commission this morning, I was involved on previous occasions where they were used, but I would also like to say to the Commission that I did many investigations of prominent figures where no violence was used. Where interrogation was done on a one-to-one basis and I obtained more information.

CHAIRPERSON: Sorry.

DR ALLY: Would you not agree that to use shock treatment is a fairly severe form of using force to extract information?

COL VAN NIEKERK: It is an extreme measure.

DR ALLY: And Stanza's case, was there any physical violence before you proceeded to use torture, before you proceeded to use electric shock, rather?

COL VAN NIEKERK: Not from my side and I am also not aware

of any other members who did the interrogation having assaulted him.

DR ALLY: So why do you then move from this form of questioning, man-to-man to electric shock? Are there not intermediate stages. I mean do you not, before you go to shock treatment use other methods, to go to this extreme form of force to try to extract information? Are you saying that between the questioning of Stanza Bopape and the administration of this shock treatment, there was no other physical force used, no assault, no beating, no smacking, nothing?

COL VAN NIEKERK: That is a very long statement, I may have lost some of it in the process, but I will try my best to answer you. The one person doing the interrogation, they have decided that when the person being interrogated did not want to co-operate, to slap him, to hit him with the fist or to kick him or something like that. Someone else doing the same interrogation could decide against doing that and, to come back to your question, why suddenly jumped to a more drastic measure. I do not think it was a more drastic measure, it was a measure which appears to be very cruel, because it shocks a person and then the person would realise that he, this is unpleasant and dangerous and it delivers results that much quicker, it does not leave any marks on the persons body and the person does not sustain any permanent injury or damage, if that answers your question.

DR ALLY: Sir, I will ask again, was Stanza Bopape ever tortured prior to the use of this shock treatment?

COL VAN NIEKERK: Not to my knowledge.

DR ALLY: Because it does seem odd that if, as you say, this death was accidental, that you actually discovered that

after the event that there was a heart problem, that you would not have gone through the normal procedures of recording that this was a death, why did you have to cover this up if it happened during an interrogation, you used this machine and he died because of this heart condition, not necessarily because of the severity of the shock that was administered, why cover it up? Why go to all this trouble of fabricating an escape, having the body disposed? Why not just come out and say this is what happened?

COL VAN NIEKERK: The Security Branch up until that time had a lot of flack because of persons who died in detention under the Act on Internal Security. Persons like Neil Agget, before my time, Timo, other persons who hung themselves in cells, people who jumped out of John Vorster and people in other parts of the country, this was, say, a very touchy point for the politicians, there can be no doubt about this. We were warned to be very careful and it was very clear to me that, politically, the Government of that day would not have been willing to take the pressure linked to such an event. Because of that it appeared to me a better option to fabricate the staged escape and to get rid of the body rather than to go, come out with the truth. I believed that with a legal inquest we might have come through to the other side with a couple of mixed up stories, that the person was not assaulted, there were no physical indications of any assault. It was a little shock given to him. There would, probably, not have been any way of determining that he had been given electrical shocks. The big reason in my view, behind all of this, was the implications of the occurrence and the fact that the deceased had a prominent position in the underground

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structures of the ANC. The 16th of June was at hand, I could imagine that there would have been return attacks, counter-attacks and all of these matters played a particular role in deciding which route to follow.

DR ALLY: But is it not the case that this so-called escape of Stanza Bopape was believed by nobody? Nobody believed it. Politically, it was not, no one believed it, it was questioned in Parliament, if you remember, by van Eck, the media did not believe it. There was a big campaign out, where is Stanza Bopape. I mean how did you think that anybody would want to believe this story, that one person escapes, the back seat of a car, when there are three other policemen present? What about, did you think through those consequences? In other words I am asking you did you really think that people were going to believe the story that he had escaped?

COL VAN NIEKERK: Yes, I did believe at that time, because when one makes a decision like this you cannot foresee what the consequences would be. When we made this decision we had not yet fabricated the exact detail of the so-called escape. Subsequently, it became very clear or let me put it in other words. In the case of an escape I could see that there would be a lengthy process and this occurred, not because of my contribution, but because of public relations on the part of the South African Police, the Minister's office, the statements that were made long after the event. I do not know why it took so long to make that statement, but there was a long process subsequent to the events. Looking back at the events today there were no real problems. No one could really show that this escape was not tenable. The story actually held up all these years. Only

when we came to the fore with our application for amnesty did the facts come out.

DR ALLY: During the time that Stanza was at John Vorster Square under your command, because you say you were overall in charge, even although you were not directly involved in the question all the time, was he ever taken out to point out arms caches or dead-letter boxes?

COL VAN NIEKERK: No.

DR ALLY: Do you know the, are you familiar with the person Piet Seifret?

COL VAN NIEKERK: I know this person.

DR ALLY: And if Piet Seifret is on record as having said to a detainee, Beki Nkosi, who was detained with Stanza Bopape, that he knows of Stanza having been taken out to point out dead-letter boxes, where would he get that information from and why would he want to reveal that information to Beki Nkosi?

COL VAN NIEKERK: Chair, could I ask a question? Is this stated as a fact that Seifret said this to Nkosi.

DR ALLY: This is backed in Nkosi's affidavit, that Seifret said it to him.

COL VAN NIEKERK: After the person died and after the plan of his escape was put on the table, in that plan we suggested that he was taken out to indicate a certain place. That plan of escape was realised as, virtually as the reality. I am convinced that Seifret and many other members thought that this was actually what had really happened and, certainly, Seifret could have said to Nkosi with those facts at his disposal, so-called facts, that Bopape had been taken out to a particular place to indicate this place and that might well be where that story comes from.

DR ALLY: Because in Beki Nkosi's affidavit he says not only did Piet Seifret say that to him, but Piet Seifret also indicated that Stanza Bopape had been shot while trying to escape and that he had been killed in, during this investigation.

COL VAN NIEKERK: Again, as part of the escape story, you must realise that this is a fictive story, and there were shooting, there was shooting and Bopape was already dead, but as part of the plan there were shots, we really shot. although Bopape was not present, already had been handed over to the Eastern Transvaal section. Later that night in the staging of the plan and the execution of this plan, there were shots fired by myself. That would have come out in the facts of the so-called escape as made known in the subsequent events.

MEMBER OF PANEL: Mr van Niekerk, could you tell me whether during that time you had been a marathon athlete?

COL VAN NIEKERK: That is correct.

MEMBER OF PANEL: Is it true that you played centre for a certain rugby team?

COL VAN NIEKERK: Yes, with Engelbrecht.

MEMBER OF PANEL: Was there not general joking amongst the members that how is it possible that Stanza could have run away with a provincial rugby player present?

COL VAN NIEKERK: Yes, there might have been comments like that.

CHAIRPERSON: Could you tell me why you did not dispose of the body yourself.

COL VAN NIEKERK: I saw this, as I have already explained, that the death and consequences had certain political implications. Whatever steps I would have taken, if I got

rid of him personally, I would have had to give report of that to my Commanding Officers which would have gone through to Parliament. I considered it necessary to give the information to my Commanding Officer. He might well have given me instructions to clear up my own mess. He did not do so. Rather he referred it to head office and returned with an instruction. I could have done this, but I went to him and received different instructions.

CHAIRPERSON: But surely you were more at risk with your fate in someone else's hands, because now there are more people who know about what you did?

COL VAN NIEKERK: I had complete trust in General Erasmus that he would have provided particular protection, that he would have protected me if I had to take an consequences.

CHAIRPERSON: Before Stanza was tortured why did you not check the medical records that the district surgeon had put in the file?

COL VAN NIEKERK: I cannot remember whether I checked the medical record. Normally the interrogators check the medical report, because if there is some sort of medical problem with a detainee, then it would have been the arrangement with the district surgeons that they had to indicate this. For instance, this person might have a particular ailment or whatever and that would have been an indication to us that this person could not be interrogated in this or that manner.

CHAIRPERSON: Is it not a fabrication on your part to say that he went to the Princess Nursing Clinic so that you can cover, in fact, the reason for the death? So that, because he did, in fact, die from the torture at your hands and not, in fact, from the heart condition.

COL VAN NIEKERK: I want to say again to the honourable Commission, we made this revelation and we said to one another we are going to tell the whole truth, and that is what happened.

CHAIRPERSON: You see you are giving us enough facts to get away in terms of amnesty, but you are not really giving us the details of what you did to Stanza during the interrogation. Now you are just giving us enough to make sure that you can perhaps get amnesty. Now tell us why we should believe you, when you don't give us any details about the torture?

ADV PRINSLOO OBJECTS: With respect, Madam Chair, that is not a fair question. The witness is saying what happened. Except if there is testimony to the contrary that something else happened, then the question is not fair.

CHAIRPERSON: With respect, Mr Prinsloo, the question is one which plagues all of us, so however "onbillik" it is, I think we want an answer to that.

ADV PRINSLOO: With respect, Chair, there was an answer, namely that the ... (intervention).

CHAIRPERSON: We have doubts, Mr Prinsloo, and we are putting that on record. Tell us why we should believe you?

COL VAN NIEKERK: All that I can say to the honourable Commission, as I already have said, this is the first occasion where a person died. It happened quickly and what we told you was a fact. I cannot give you any other information, because there is no additional information. The person had not been assaulted.

CHAIRPERSON: Then why dispose of his body in that particular fashion.

COL VAN NIEKERK: The fact is he died in detention and I



would not have been able to explain how he died in detention. Because at the time of his death I did not know that he had a heart problem. The fact is that he died in detention. How would I have explained? I could not have gone to say that he suddenly died with no reason. The political implications, I must tell you today, that there was no other sinister issue involved, except that he died so quickly.

CHAIRPERSON: Is it not true that you people have applied for amnesty because you were worried about what Mr Du Plessis might disclose?

COL VAN NIEKERK: I don't know a Du Plessis.

MR STEENKAMP: Do you know about the fact that Du Preez repeated or told this to Col Johan Pretorius, because of pressure from certain investigative units involved, you were then convinced to come to the fore because you had been under the impression that the matter had not been investigated?

COL VAN NIEKERK: The question had been the same all along. The person died in the manner we described. I am aware of the fact that Du Preez had told this to the previous colonel Johan Pretorius. Pretorius himself told me at a particular point that Du Preez had told him that the man died in detention and that we had given him electrical shocks. This is a fact, I am not running away from this, but neither Pretorius or anyone else has any other story, there is no other story.

CHAIRPERSON: Tell us about the torture Col Van Niekerk; in your affidavit you talk about torture being "algemeen". Tell us about what you knew about torture that was taking place in the police force at that time.

COL VAN NIEKERK: I can only speak as far as I am concerned. There were times where convincing tactics were used, shocking tactics. Some people would have assaulted their detainees. I believe that some were assaulted. This is what you hear, you know, in general. It was no secret.

CHAIRPERSON: Was it sanctioned by your superiors?

COL VAN NIEKERK: I think in time it became a culture, it's a method which was used and it was implicitly approved. There were commanding officers, senior commanding officers who did not condone it at all.

CHAIRPERSON: Would it be accurate to say that it was fairly widespread?

COL VAN NIEKERK: It was not general, it occurred often, but not every person who was detained was assaulted or was treated with the shocking devices. Most of them made admissions after man to man ...

CHAIRPERSON: "Man to man", but it can barely be "man to man" when the other person is in your custody in captivity. So what do you mean by "man to man"? I mean, right now we are having a man to woman conversation, but now tell me how a prisoner in your care can have a man to man discussion with you, where you are insisting in terms of the section that he must give you information? Explain that to me. I mean it was not a very polite procedure.

COL VAN NIEKERK: We made it a pleasant procedure in a lot of cases, but in most cases you have to realise that the person being detained would have been informed, or let me put it this way, in each case a person would have been told why they were being detained and certain facts would be provided to that person, and that person would be asked to talk about those facts, and told how important it was and in

most cases, or in many cases the person would realise that other persons were arrested who had made admissions and which would prejudice his position. At the end of the day this person was brought before Court, and then a man to man discussion would be held with this person. This person would be questioned about what was happening.

CHAIRPERSON: With respect, Colonel, I mean there has been enough evidence from what is coming out that really these were not polite conversations. What happened when people didn't talk? Tell us about those situations.

COL VAN NIEKERK: When somebody did not want to talk, they would be held, detained for longer periods or then force would be used.

CHAIRPERSON: Tell us about the methods other than the shock treatment.

COL VAN NIEKERK: Assault. That was basically it.

CHAIRPERSON: According to Mr Zeelie there were numerous methods and shock and "aanranding" was just a few, one or two examples of those. Tell us about other methods. Tell us where policemen learnt these methods, because apparently each person devolved their own kind of method. Tell us about where you learnt those things.

COL VAN NIEKERK: You are asking me different questions. I just want to say to you that these are the methods which I knew.

CHAIRPERSON: Where did you learn to do that?

COL VAN NIEKERK: This came with time, we saw that in the days when I was an investigator it happened. I did not learn it in the security branch, it was a general practice in the South African Police that where you were dealing with a criminal, methods were used to make that person talk. It

has been in practice for a long time. People who were involved in - police officers who were involved in the questioning or interrogation of criminals would make use of these methods. I assume that Murder and Robbery, although I never was a member of Murder and Robbery, made use of that.

CHAIRPERSON: Even though it is unlawful?

COL VAN NIEKERK: That is correct.

CHAIRPERSON: Thank you. Piers?

MR PIGOU: Thank you. Mr Van Niekerk, who did you delegate to interrogate Beki Nkosi?

COL VAN NIEKERK: Beki Nkosi and Simon Nkosi, is this the same person?

MR PIGOU: That's correct.

COL VAN NIEKERK: If I remember correctly, it was Warrant Officer Seifret and Warrant Officer Chris Wilken. I speak under correction, but I think I delegated the two of them.

MR PIGOU: Did you authorise or speak to these people at all about the use of electric shock torture, with regards to Mr Nkosi?

COL VAN NIEKERK: I would not give instruction that a person would go on their own per se and use shocking tactics or whatever. They would have done that on their own. Quite honestly, if the person were to come back to me afterwards and say that they had made use of such tactics I would probably have approved, as I did in Bopape's case. I agreed, because I was the senior officer and I allowed it.

MR PIGOU: So what you are telling me is that members and junior members of the unit that you commanded had autonomy to make decisions to shock people at will, whenever they wanted. It was their decision and on occasion they may

consult with you?

COL VAN NIEKERK: If he was prepared to do it, he could have done it. I personally, if the case warranted such methods, I would not have opposed that.

MR PIGO: So they could have actually been amongst the officers under your command, systemic use of torture, which you may not actually have been aware of? Is that correct?

COL VAN NIEKERK: There were cases where people were questioned, where force was used and where I only came to hear of that afterwards.

MR PIGO: But there was no set procedure in which the *modus operandi* of interrogation would be reported back to you on a case by case basis? You relied on your members' honesty and truthfully telling you what they had done, and perhaps if you were lucky, how they have done it.

COL VAN NIEKERK: If I understand your question correctly, I was not always told. I think in very few cases an investigating officer who did the interrogation would come to me and say I did an interrogation, the person did not want to talk and then I shocked the person and thereafter they disclosed. Not always. Sometimes I would come to know of that, but in most cases I was not aware.

MR PIGO: What I am trying to establish is, that by example, and by either commission or omission, you allowed for a reign of terror within your unit, to surface. You allowed these kinds of activities to go unchecked, these illegal, unlawful activities to continue and you had no control over that process. You didn't even know what was going on inside your unit with regards to that particular aspect.

COL VAN NIEKERK: I knew what was happening in my unit, most

of it was what I was told and I think that a person who at the end of the day would have become involved in the interrogation of a person and shocking of a person, would have done that with judgment. It would not have been a matter of just going to take a detainee at random, tying them down and shocking them. If that is the impression, that is not what happened.

MR PIGOU: How many people were you in charge of, Mr Van Niekerk, in your unit? And what was the unit, which section of the security branch were you actually directly working under?

COL VAN NIEKERK: For many years I was involved in the investigation unit at the security branch at John Vorster Square. At some stage we moved offices to Sandton because of accommodation and I was in charge there and there were approximately 20, between 20 and 30 people under my command.

MR PIGOU: Who did you report to at John Vorster Square? I mean, am I clear, Sandton was the headquarters but you were still using John Vorster Square as one of your offices, as an investigation unit. So you had two offices in the Witwatersrand area?

COL VAN NIEKERK: At some stage the investigation unit offices were at John Vorster Square and then we moved bit-by-bit and then we were at - we were at Sandton as a sub-branch and we were under the command of General Erasmus who was at John Vorster Square at the time of the deceased of Bopape.

MR PIGOU: And did you report directly to head office or did you always have to go through General Erasmus?

COL VAN NIEKERK: The procedure was that we would go to him and sometimes I was authorised to liaise with head office in

Pretoria directly.

MR PIGOU: Mr Van Niekerk, Lieutenant Zeelie or Captain Zeelie or Major Zeelie, I can't remember what his rank is, or was, was unable to tell us how many times he had been involved in the use of electric shock torture, although he was able to tell us that it was many times. Now Lieutenant Zeelie was one of the people under your command, is that correct?

COL VAN NIEKERK: Yes, he was under my command, that is correct.

MR PIGOU: You say that you were personally involved three or four times in incidents. Is that correct?

COL VAN NIEKERK: That is correct.

MR PIGOU: Can you tell us why you are not applying for amnesty for these incidents?

COL VAN NIEKERK: Because I cannot even recall the incidents.

MR PIGOU: We are obviously glad for the honesty that you have told us here today, but do you not think it would be appropriate to inform the Commission in more detail about these kinds of things, with regards to your involvement, in your sanctioning as the commanding officer of this form of torture?

COL VAN NIEKERK: There is not much I can tell you, because it is something which took place in a process, and I cannot provide any details in this regard.

MR PIGOU: I am sorry I am a little perplexed. For me, the actually being involved in the application of electric shock torture on another human being is something which I think however much I might dislike that human being or what that human being was doing, would be something that would remain

in my head. I find it hard to believe that you do not remember the three or four occasions that you were involved in this. Can you explain this to me, please?

COL VAN NIEKERK: I was involved for a period of 15 years in the investigation of acts of terror, and the interrogation of a hundred plus ANC trained people and in that process, interrogations were conducted where electrical shocks were administered. Not that I did it myself, but where I saw it taking place, and I cannot tell you today that it was the person X, Y or Z.

CHAIRPERSON: It could have been more than three times?

COL VAN NIEKERK: No, I don't think it will be much more than that. Thinking back, in thinking back, I can think of those cases where I was involved or present, but that was not my personal method of interrogation. Each person had their own methods of interrogation, but those were not necessarily my own.

MR PIGO: I would like, if I may, Chair, to prompt perhaps some memory. I have a copy here, which I am going to hand over to you, it is actually an unsigned affidavit, which I hope you will be able to tell us whether it is your affidavit, which was, I understand, presented to the Harms Commission. In this affidavit there are 12 so-called terrorist cases which you were involved in, and the names of individuals. I would like you to go through the list, first of all to confirm for us whether it is your affidavit, and to look through the list and to tell us if you can remember in any of these cases, where any form of illegal pressure, either assault, torture, sleep deprivation, any of these forms - sleep deprivation - any of these forms were used while you were the officer in command of the investigations.



You will find it on page 3.

CHAIRPERSON: Mr Prinsloo ...

ADV PRINSLOO: Maybe Mr Van Niekerk can be given the opportunity to read through it.

CHAIRPERSON: We will adjourn for 15 minutes.

ADV PRINSLOO: Thank you.

COMMITTEE ADJOURNS

ON RESUMPTION:

ADRIAAN PIETER VAN NIEKERK: (Duly sworn, states).

CHAIRPERSON: Piers, would you continue?

MR PIGOU: Thank you, Madam Chair. Mr Van Niekerk, would you confirm whether this is your affidavit, please?

COL VAN NIEKERK: I briefly went through the affidavit, there is no signature to it. It does look like an affidavit prepared by the advocates in the particular case, so for the purposes of the Commission this morning, I will accept that the information contained here is the information prepared by the advocates, but not signed by myself.

MR PIGOU: Do you remember whether you did sign an affidavit for submission to the Harms Commission?

COL VAN NIEKERK: I visited the advocates, I don't remember whether I signed the affidavit, but I do think so. I am not sure, however, and that's why it is strange that this is not a signed affidavit.

MR PIGOU: Thank you. With regards to page 3, paragraph 5 and the list of cases in which you say that you were involved in terms of investigations against so-called terrorists, can you tell me from your memory, how many of these matters the application of illegal matters of extracting information were used?

COL VAN NIEKERK: As per that paragraph, paragraph 5, I was

involved in investigations, in these investigations, and was involved in some instances to a lesser and in others to a greater extent. I can say to you that not in any of these instances did I personally use any means of force to convince people.

MR PIGOU: Could you perhaps in the light of saying that you were involved to a greater or lesser extent in these investigations, explain why you have not included matters referring to the Maponya or the subsequent Maponya investigation and subsequent Thoka investigations and prosecutions?

COL VAN NIEKERK: I couldn't follow the question. Would you just please restate the question?

MR PIGOU: In the light of what you have just said, with regards to these cases you were involved in, in these cases you were involved to a greater or lesser extent in the investigations, why there is no mention of your involvement in the investigations into the Maponya group and subsequent prosecution against Thoka and 11 others?

COL VAN NIEKERK: The cases here mentioned are cases for which I and other investigative officers took responsibility, where I could say that I was the investigative officer.

In the case of the Maponya group there was a different investigative officer. It was a Pretoria investigation where we assisted. These cases are cases where I personally was involved in investigations in certain instances, as the chief investigative officer, on other occasions as an investigative officer and not the chief investigative officer. That had not been the case with regard to the Maponya matter. I must add that this is not an exhaustive

list.

MR PIGOU: Thank you. As you were tasked by the West Rand unit to, in connection with investigations into the Maponya group and at that time you were aware of the number of arrests which led to the subsequent prosecution of Thoka and other matters of the so-called Maponya group, would you not expect there to be some reference to Stanza Bopape and/or Beki Nkosi, in the investigation docket into the Thoka matter?

COL VAN NIEKERK: The question that you are asking, is I am aware whether in the docket of the Maponya matter there is mention of Bopape, is that what you are asking?

MR PIGOU: No, I am not asking whether you are aware, I am asking if you would expect it to be in there since you have been tasked by the group that was investigating these matters, to look at that angle, the Bopape matter. Would you not expect there to be at least one reference to the fact that you had a suspect who was apparently or allegedly involved in terrorist activities which you have labelled in some detail in your amnesty application?

COL VAN NIEKERK: Yes, I believe that there must be in the Maponya docket some reference to Bopape. I have never seen this docket but I accept that such reference would have been made.

MR PIGOU: And how do you think it could be explained that there is no reference to Stanza Bopape in the light of you placing before the Commission the fact that the reason for picking the man up was in connection with the Maponya group and the Thoka people?

ADV PRINSLOO: Chairperson, it is stated as a fact that there is no mention on the docket of Bopape?

MR PIGOU: We have been informed by the investigating officer in the Thoka matter that there was no mention of Bopape. He is prepared to sign an affidavit to that effect.

ADV PRINSLOO: May I enquire who is the investigating officer? There is reference to Maponya and Thoka, are these two different matters?

MR STEENKAMP: I can inform you that *S v Thoka* is the well-known Thoka case. The investigating officer is someone else altogether. That was the case where *Thoka & Others* were accused to the best of our knowledge. The investigating officer is willing to make a sworn statement that there is no reference to Bopape in this particular matter.

ADV PRINSLOO: Who is the investigating officer, Chairperson?

MR STEENKAMP: The investigative officer at that time or one of the investigative officers, I don't know who the final investigative officer had been, was a Mr Strydom.

CHAIRPERSON: Can we have the gist of the question now, Mr Pigou?

COL VAN NIEKERK: With all of these questions, I think I have lost the particular question. Could it be repeated.

MR PIGOU: Perhaps let me phrase it this way. You - we have established that you would expect some reference to Bopape in these investigations, that's correct, yes?

COL VAN NIEKERK: Yes, I cannot imagine that there would not be any reference in the Maponya docket to Bopape.

MR PIGOU: So what inference would you draw if there was no such reference?

COL VAN NIEKERK: There must be reference, since West Rand approached us and requested assistance from us with regards to persons who had to be arrested, and they then made the

application to detain the person in terms of Section 29. This had to be motivated to head office and then to the Minister and it had to be contained in the docket. I can hardly imagine that it is not contained in the docket.

MR PIGOU: Thank you. I will move on from that point.

On the last paragraph of the affidavit which may or may not have been handed in to the Harms Commission, you indicate that you - page 10, paragraph 12 that you do not want the identities of Mr Mamasela, Mr Nqulunga to be identified, to be placed in front of the Commission. You will be aware that there have been widespread allegations that the Harms Commission was a cover-up or that there were allegations of the police involvement in the Harms Commission, being a cover-up of State-sponsored assassinations and other illegal activities. Are you aware of those allegations?

COL VAN NIEKERK: At this stage these suggestions are being made very strongly, also in the High Court in Durban in recent times. While I provided - at the time when I provided this information I knew Mamasela. I also knew Brian Nqulunga and I knew them as operatives, as askaris and in view of this, I provided this information and made the statement. At the time of the provision of the statement, immediately before or during the sitting of the Harms Commission, there had been no suggestions of the claims made at the moment. I had heard of these claims and I cannot make comment to the honourable Commission today, because I have no personal knowledge of it.

MR STEENKAMP: Chairperson, can I just ask one question. I do not know what you are saying to me, I don't understand what you are saying, are you trying to say to me that the

branch in which you worked also used askaris? That is the first question.

And secondly, were these people paid sources of the unit? And three, did you have a list of informers? And fourthly; what I cannot understand is as far as I know, is this head office source of Vlakplaas, did you use Vlakplaas askaris to make information available to you officially?

COL VAN NIEKERK: Madam Chairperson ...

MR STEENKAMP: Let me rephrase this from the beginning. Did you use Askaris as paid informants?

COL VAN NIEKERK: Let me tell the honourable Commission that from my side as an investigative officer, askaris were used to provide testimony in criminal cases, where they had information available with regard to certain people charged before the court, to come and say to the court these people were trained outside of the country, they trained with them, whatever knowledge they had with regard to these people. That is the purpose for which I had links with particular askaris and why we used particular askaris.

They were approached if they knew the person in a particular case and they then identified the person, the particular - the State Attorney involved with the particular case, the prosecutor would then have made the information available and the person would then have used the person interested or not. (INTERPRETER CANNOT KEEP UP WITH INTERPRETATION).

It is for that reason that myself as an investigative officer and other investigative officers worked with persons who had been askaris and most of these were people who were housed at Vlakplaas.

MR STEENKAMP: Would it be fair if I asked you or if I were

to deduce that you had direct links with the commanding officer of Vlakplaas?

COL VAN NIEKERK: Yes.

MR STEENKAMP: From what date was this the case?

COL VAN NIEKERK: I cannot give a date to the Commission. It would have been during the early 1980s, when we began to make use of askaris for testimony in courts. My first link with Vlakplaas would have been late Colonel Eugene de Kock and there would have been an arrangement and we would then have made appointments, and myself with or without the advocate would have approached the person and would have taken his testimony or a statement down.

MR STEENKAMP: Did you at any stage, in other words, directly liaise with Vlakplaas and exchange information with Vlakplaas between yourself and De Kock and the askaris?

COL VAN NIEKERK: I will answer the question by saying to you that I liaised with Col Eugene de Kock. I did answer that question.

The exchanging of information, that is possible, that information could have been exchanged where we, for example, would have arrested a trained person in Johannesburg and that person's details would then be forwarded to head office, where Vlakplaas was part of management and then those details were then forwarded to the askaris, to see if they knew the person who had just been arrested.

MR STEENKAMP: How long did you use Mamasela and Nqulunga as askaris?

COL VAN NIEKERK: I did not use them as informers.

MR STEENKAMP: How long did the unit make use of their services?

COL VAN NIEKERK: I made use of their services to give

testimony in court. There is a big difference and I would like the Committee to note this difference. I did not use them as informers for myself or for my operations. I used them as State witnesses. I, as the investigating officer would approach them as State witnesses.

MR STEENKAMP: Thank you.

MR PIGOU: As investigating officer in matters involving terrorists or alleged terrorist activities, would this not by implication have involved Vlakplaas as a counter-insurgency unit? Would this not have involved their participation with at least some of the interrogations, which you may or may not have been privy to?

COL VAN NIEKERK: If I understand the question correctly, you are asking if I was aware if Vlakplaas operatives, in other words, the policemen, were involved in acts of terror? Is that your question?

MR PIGOU: No, not yet. My question is that you were head of a unit that was investigating primarily acts of terror, allegedly committed by members and/or supporters of the ANC and their armed wing, and as such if you brought somebody into custody, that Vlakplaas C Section, the responsibilities that C Section had, they would have obviously had an interest in the individual that you have brought in, whether or not that was to turn them to work for the State or indeed to extract information which would have been useful for either yourself or for Vlakplaas itself.

What I am trying to establish, is whether Vlakplaas was involved in any of your investigations with regards to interrogation or any other form of eliciting information or obtaining information for the purposes of your investigations? You have indicated that you used askaris in



court, did you ever use C Section - and I am not just referring to Vlakplaas, I am referring to the other elements of C Section, Trevitts and other elements, in your investigations. Where did you get the intelligence, where did it come from?

COL VAN NIEKERK: That was a very long question and I will attempt to answer it to the best of my ability.

I was in the investigative unit, a component in the security branch where we were functioning. But not independent of the other units of the security branch. There were various structures within the security branch which were involved in the search for ANC infiltrators, inter alia, Vlakplaas, right across the land, the country. For example, John Vorster security branch there was an intelligence unit which worked exclusively with intelligence, and their task was also to identify underground structures.

When anyone was arrested and whether the uniform branch arrested a person coincidentally at a road block or so and it was a political incident, the person was channelled to the investigative unit and then we interrogated the person. The identity of that person and that person's involvement as far as it was known, would be reported to us by us to head office, which was part of the procedure at that level and nationally, so that where at national level they looked at the structures, and also where information was perhaps available about this person, it could be fed back to head office, so that they could tell us that this person has already focused on point A, B or C or whatever. That structure at head office was mainly the C components of which Trevitts was one and Vlakplaas another. So there was

the liaison. I do not know whether that answers your question.

MR PIGOU: Just one last specific point on your response. Did you make use of the Trevitts facility directly as commander of the unit operating out of John Vorster Square and Sandton? And perhaps you can explain to us, if you did use them, how you used them. Thank you.

COL VAN NIEKERK: I did make use of it. Trevitts was basically an office where members gathered information. Everyone who was arrested and focused on the political terrain, those persons detailed were channelled to us in the manner I just described to you and we would analyse it. For example, where the person moved around outside the country, within the country, which ANC cells existed, everything was co-ordinated by Trevitts to an extent and it functioned in such a way that it channelled into each security unit and each security unit, each smaller unit would have a smaller Trevitts component and others at John Vorster Square had a small component of Trevitts there which consisted of one or two members of the security branch where when one or two persons were arrested or reports were obtained from the informants, it would be analysed and they would try and put together a portfolio of the acts of terror or the person involved at the time.

MR PIGOU: Mr van Niekerk, did you ever attend a regional Trevitts meeting?

COL VAN NIEKERK: Several, yes.

MR PIGOU: At those meetings, did you discuss the individuals that were on the so-called structures which have been explained to the Commission? My understanding is that there were lists of individuals, as you have described,

information, intelligence would be processed and that the product at the end of the day would be a list on personalities, vehicles and facilities. This was the terminology used. Before we go further, can you confirm that that was the terminology that was being used? Those were the three main areas that you were looking at in terms of - and I put it in inverted commas, the target group or individuals?

COL VAN NIEKERK: Trevitts concentrated on the individual, the individual's movement, where the individual found himself, and inputs were given, contributions were made by the various units at national level, and then input was made and then it would be discussed. I can think of an example about Port Natal or Natal's Trevitts' representative would say to us he has found out that person A has moved from Botswana to Swaziland and then a component from the Eastern Transvaal would say, would pick it up, that person is there. What the movements of the individuals were, would be discussed.

You have spoken about targets. I am not sure whether I understood the question very well. But at these meetings, they were open meetings no reference was made to targets. In other words, if I understand you correctly, whether person A or property B was a target, should it be attacked, should it be eliminated? No, those kind of discussions were not held in these meetings.

CHAIRPERSON: So was the point of Trevitts then, simply to monitor these activists?

COL VAN NIEKERK: I couldn't follow that?

CHAIRPERSON: I said don't be coy with the Commission. Tell us what the function of Trevitts was.

COL VAN NIEKERK: Chairperson, I am not being coy in any way. I would just like to let you know that I am not being coy or shy in any way. I object to you referring to me as being coy. I have, I am being as open as I can, I am telling you what I know about Trevitts. I told you that Trevitts was there to monitor everything.

CHAIRPERSON: With what purpose, Mr Van Niekerk?

COL VAN NIEKERK: To be able to say exactly who was moving around where so that we could know whether that person was in a certain area, whether the person was busy infiltrating and whether we could get our informants to connect with that person, where the person had entered the country. That was another aspect which was dealt with by Trevitts. That was the ... (intervention).

CHAIRPERSON: In a recent amnesty application, security branch men have said that the function of Trevitts was to identify ANC activists with the express purpose of taking them out.

COL VAN NIEKERK: I do not agree with that. Trevitts' task was to co-ordinate the movements of all the terrorists and ... (intervention).

CHAIRPERSON: With what ultimate aim? How would you stop them once you received this information?

COL VAN NIEKERK: By police actions, if information was received that those persons were infiltrating, that information would be followed up that - we would receive information that a group of - a group was infiltrating in the region of Soweto, and when police action was successful, they would be arrested. There were various - I do not know whether there were various agendas within Trevitts.

MR PIGO: From your recollection, Mr Van Niekerk, was

Stanza Bopape ever discussed at a Trevitts' meeting?

COL VAN NIEKERK: As far as I know, no. I myself only came to know about this person and about his name at the time of his arrest.

MR PIGOU: So at the Trevitts meeting you - if for instance an activist had been killed in whatever way or had been detained, would that be discussed, would the structure be discussed? Would the individuals on those structures, the list that was entered at Trevitts, discussed?

So what I am trying to find out, in the context of that, do you have any recollection of Bopape ever being on a structure before or after? Did you report about Bopape, the alleged escape to a Trevitts' meeting?

COL VAN NIEKERK: Let me begin to say that at no meeting which I attended of Trevitts, and I must add to this, that I did not attend all of Trevitts' meetings, but at none of the meetings which I attended, was there reference to Bopape.

As I have already said earlier today, at the death of Bopape there was a report drafted and sent to police head office in which it was said that the person had escaped and the detail of the staged escape was mentioned.

CHAIRPERSON: Was Japie Maponya discussed at Trevitts?

COL VAN NIEKERK: You are asking me whether a particular person was discussed. Many different people were discussed at the meetings.

CHAIRPERSON: But Japie Maponya's name rings a bell in your head, was he discussed at Trevitts, yes or no?

COL VAN NIEKERK: I cannot recall that he had been discussed while I was at a meeting. The reason for this being that when I attended a Trevitts' meeting, and when I was

involved, it would have been about people of Johannesburg. During that meeting other security branches would then have mentioned names which do not ring a bell. Maybe at a later stage a name like Maponya's would which come to the fore. At an earlier stage if the name had been mentioned I would not have remembered it. Many names are thrown into the hat and discussed.

CHAIRPERSON: If somebody died, how was it then dealt with at Trevitts?

COL VAN NIEKERK: The persons involved with this would have said that this person has died and this person would have been taken off the structure sort of diagram, I suppose.

MR PIGOU: Just one last question on Trevitts, Mr Van Niekerk. Were the lists that were presented at the regional meetings that you attended, were they based on order of priority of importance of the individual in the eyes of the intelligence community, in terms of the perceived threats that that individual held to the security of the State?

COL VAN NIEKERK: No. If you were to look at the Trevitts' lists, they would have been drafted in terms of the security branches; Witwatersrand, Northern Cape, Cape, Pretoria, whatever, and these lists, if I can recall them, would have been in the form of structures inside the ANC cell groups. There would have been particular groups who came from Botswana. There would then have been a Botswana group. This would have been combined into groups. These groups would have come to do this or that to infiltrate or whatever. There would have been no indication that this is the main person to infiltrate. I never saw it in that form. I only ever saw it in terms of the provinces and in terms of their cell groupings and so forth.

CHAIRPERSON: Just one question on that. Whilst one accepts that you possibly may not have known what the purpose was at Trevitts of discussing these men, but do you accept in the light of what we know now, that in fact the lists compiled at Trevitts were really used to take people out?

COL VAN NIEKERK: I did not get that impression, in all honesty.

CHAIRPERSON: I am not asking you about your impression then. I am saying, in the light of what we know now is coming out, and I assume that you read newspapers and you are listening to television, that it is conceivable now that in fact when structures compiled these lists, in fact the lists were used to take people out? The lists were used as a means of identifying those people who were considered a threat to the State and who should be taken out.

COL VAN NIEKERK: No. The purpose behind these lists had been to keep us informed to see where we could expect infiltration ...(intervention)

CHAIRPERSON: You are misunderstanding me, Mr Van Niekerk. Let me try and make myself clearer. I accept the *bona fides* of what you say, that you thought that Trevitts was a place where you gathered intelligence about activists, and you used that to monitor them. But do you accept that in the light of what we know now, all the information that is coming through, that in fact you were identifying people who were either killed or taken out in different ways?

COL VAN NIEKERK: Chairman, if I understand the question, other persons used the lists from Trevitts to go and kill people, is that what you are saying?

CHAIRPERSON: Ja.

COL VAN NIEKERK: That may not have been the purpose of

Trevitts, but that is what the lists might have been used for? I don't think so, that is my honest opinion. I don't think that list was ever used for that purpose. That's all I can say to you.

CHAIRPERSON: I would be careful to be so categorical, Mr Van Niekerk. Thank you. Fanie?

MR PIGOU: Thank you. I would like to move on to something that you said earlier about the application of electric shocks. You said that it can cause no permanent damage, and if I recall correctly you said that in the context of a - again in inverted commas, "a light application". I am not quoting you, but a light application of electric shocks. Can you tell me what medical evidence or training or expertise do you have to make such a statement?

COL VAN NIEKERK: I am saying this out of my own experience. If a person had been shocked as lightly as Bopape, there would not have been any trace of such application.

MR PIGOU: Are you therefore saying that in the three to four times in your own experience that you were involved, there was only a light application?

Is that a broad enough spread for you to have this medical opinion or opinion on whether or not permanent damage can be caused? And I would ask you to consider not only physical damage but psychological damage.

COL VAN NIEKERK: This is my opinion in this matter. I believe that there might well have been psychic damage, this is my personal opinion.

MR PIGOU: Based on the three or four experiences that you had?

COL VAN NIEKERK: Correct.

MR PIGOU: You said that earlier this morning, that when



Bopape was tortured, the machine was turned two or three times before his head slumped. Is that correct?

COL VAN NIEKERK: That is as I remember it.

MR PIGOU: You also said that the electrodes were pressed against the individual. Can you give me some more detail about where they were pressed on the individual?

COL VAN NIEKERK: On his chest.

MR PIGOU: In testimony we heard yesterday, Mr Mostert informed us that the electric shocks continued for approximately one to two minutes, and that the wires were drawn across the chest. Can you possibly explain the contradiction?

ADV PRINSLOO OBJECTS: Is this a contradiction, with respect, I don't see what the contradiction is, if you could clarify the contradiction.

MR PIGOU: Madam Chair, two or three turns with an electric shock machine of the small generator handle that we saw yesterday, and I am sure Mr Van Niekerk has a clear recollection of what that looks like, would clearly take less than one minute, two or three turns may even take less than 10 seconds. I therefore - and also the contradiction that Mr Mostert said, the wires are drawn across the chest and Mr Van Niekerk is saying the wires are placed on the chest. There is a difference here. That is the contradiction.

CHAIRPERSON: Answer the question, please.

COL VAN NIEKERK: As I stated it in my document before you, you will see that I did speak of it being placed on his chest. When I say placed, I mean it was placed, it could have been moved or it was moved and that is what I say in my documents before you.

MR PIGOU: But you don't remember any deliberate action or drawing the electrodes across the chest? This is a distinction between placing it on the chest. Would you agree with me?

COL VAN NIEKERK: Yes, there had been movement of the electrodes. The poles or electrodes were pushed on the chest and then moved.

MR PIGOU: But would you also agree that there is a distinct contradiction in terms of the time period that is used here? Two or three turns of an electric shock machine which resulted in or allegedly resulted in the death of Mr Bopape, is substantially different to a minute or two minutes possibly, of torture of the same matter. I am at a loss here. Are you saying that there was a turn, then there was a stop and then there was another turn - can you explain this to me, please?

ADV PRINSLOO OBJECTS: With respect, Chair, I didn't understand the testimony yesterday to be of this kind. It was said approximately two or three minutes. It depends on the pauses. This is speculation. There had not been very intense cross-examination on this point.

CHAIRPERSON: Please answer the question, please. In fact, let me ask you, Mr Van Niekerk, could you tell us precisely what you saw happened during the torture?

COL VAN NIEKERK: In my statement I say that thereafter the device held by Sgt Du Preez was turned by him twice or thrice. It is not a continuous process. As I can recall - this happened quickly - it was a turn and then another turn and then another turn with some pause in-between, as indicated by the witness. It is not like an old telephone instrument where it was continuous turning, but that is as

I remember it. At that time, as I say, while Constable Engelbrecht drew the two points across Bopape's chest, as the person turned, you drew it, so you pressed it onto him, there had to be contact.

CHAIRPERSON: Did we hear you correctly. You were watching, Engelbrecht had the two electrodes on Mr Bopape's chest and I presume Mr Mostert was turning the handle or Du Preez was turning the handle?

COL VAN NIEKERK: It was Du Preez.

CHAIRPERSON: I think back to Mr Zeelie in his evidence talked about two pieces of rags being dipped in cold water, I think and wet rags being applied. But can you explain to me what the purpose of the wet rags was?

COL VAN NIEKERK: I cannot recall whether the rags were wet because the electrodes were covered in rags, to prevent the person from burning. If Zeelie says they were wet, I think the effect of it would have been, and I am talking under correction here, because I don't have technical knowledge, but that it would have shocked to a greater extent.

CHAIRPERSON: Because water is a conductor of electricity.

COL VAN NIEKERK: That would have been my deduction.

CHAIRPERSON: So in fact the mild shock that we are being told was administered, could have been exacerbated by the application of wet cloths?

COL VAN NIEKERK: Yes.

CHAIRPERSON: Thank you.

MR PIGO: During this brief period of electric shock, was Mr Bopape interrogated by yourself or anyone else in the group present?

COL VAN NIEKERK: The Sunday morning I did talk to Bopape myself at a certain stage. I explained his position to him

in terms of Section 29. It had previously been explained to him, but I made it my own duty that we wanted his co-operation. This was a very serious situation, that I wanted him to co-operate with us. It was just a brief conversation that I had with him.

MR PIGOU: Was Mr Bopape - when you decided to call for the machine from Sandton and so forth, was Mr Bopape informed that he was going to receive a different type of interrogation technique?

COL VAN NIEKERK: I did not say that to him, and I cannot recall that it had been said to him by anyone. It would not have been normal practice to do so.

MR PIGOU: When he was tied to the chair, were you present?

COL VAN NIEKERK: It was in my office. I was around. As I said previously, I did not put all my attention on the matter all the time, but I was there. The passage is immediately outside of my office.

CHAIRPERSON: Mr Zeelie in his evidence talked about - in fact, I was quite amused, he used the, I think he talked about the chair in fact, obviously moving around, jumping in fact, because at the time when the shocks were administered, obviously the person to whom it is being administered, starts moving around. Now can you describe for me what actually happened each time these electrodes were placed on Mr Bopape's chest?

COL VAN NIEKERK: There was a shaking in his body. A sort of vibration in his body.

CHAIRPERSON: And?

COL VAN NIEKERK: It is very quick. During the minute or two his head then slumped forward. But there was a vibration in his body, I assumed that was as the shock went

through him.

CHAIRPERSON: Did the chair move around?

COL VAN NIEKERK: Not as far as I can recall.

CHAIRPERSON: And what were you doing? Who in fact was asking the questions? Give me an example of the kind of questions that were asked?

COL VAN NIEKERK: At that time there weren't any questions, this was a minute or two. I don't think any particular questions were asked during that time. Maybe someone might have said are you going to talk, will you talk, but I cannot recall any other questions. I did not ask questions.

MR PIGOU: You said that he was tied to a chair, you were present, this was in your office. Is that correct?

COL VAN NIEKERK: The chair was taken out of the office to the passage and that is where he was tied onto the chair.

MR PIGOU: So he wasn't tied in your office, as you said just a moment ago?

ADV PRINSLOO OBJECTS: With respect, Madam Chairperson, he did not say that he was tied in his office.

CHAIRPERSON: Mr Pigou?

MR PIGOU: You said earlier this morning that you received information or you asked Warrant Officer Johnny Farquhar to covertly obtain information from the Princess Hospital about the treatment that Mr Bopape had received at the hospital, is that correct?

COL VAN NIEKERK: That is correct.

COL VAN NIEKERK: Did Mr Farquhar provide you with a verbal report or a written report? Did he bring you any copies of documentation or as I say, was this a verbal report?

COL VAN NIEKERK: It was a verbal report.

MR PIGOU: So it would be fair to say that the information

contained in your amnesty application whereby you state that the information, it was established that Stanza Bopape had a heart ailment and had received treatment at Princess Clinic, but in fact it had not been established. You had received a hearsay report from Warrant Officer Johnny Farquhar?

COL VAN NIEKERK: He established it for me, it was established, and I accepted it as such.

MR PIGOU: This was a verbal report, it was hearsay?

COL VAN NIEKERK: It is not hearsay, he established it himself.

MR PIGOU: But you are presenting this to the Commission as though it has been established. I am putting it to you that this has not been established. You are presenting a verbal report that was given to you. This is second-hand information.

COL VAN NIEKERK: It is not second-hand information. I requested him to investigate for me with regards to a specific incident and he came back and gave me first-hand information.

CHAIRPERSON: In your application, it is hearsay information.

COL VAN NIEKERK: I do not regard it as hearsay, because Farquhar made enquiries, I assume, and he came back and gave me that information and what I say in my application is that, is what Farquhar said to me, not what another person said to me on Farquhar's behalf. That is then hearsay.

MR PIGOU: Can you explain to me, why then, you did not include that detail that the information was provided by Johnny Farquhar in your amnesty application?

COL VAN NIEKERK: I think that my amnesty application is

very broad. Today you have put several questions to me which I have elaborated on and I think that was the idea, to just put down the crux of the matter and certain finer details, one can go much broader than that, but how broad one should go cannot be said. I am not hiding any facts, because then the Amnesty Committee would then have to come forward and put specific questions, but the fact that it was mentioned is important to me, not the fact that finer details were omitted.

DR ALLY: But where did this person obtain this information from?

COL VAN NIEKERK: I do not know. I merely told him that he was to do a clandestine enquiry for me at the hospital in question. He himself did not know that Bopape was dead. I told him to establish for me whether he had a heart attack or why he was admitted to hospital or what other information we could use.

DR ALLY: You did not bother to enquire from him how he had actually obtained that information, if he had spoken to a doctor, if there were medical records? You did not think that was important?

COL VAN NIEKERK: No, at that stage not. I did not ask how he obtained the information.

DR ALLY: And now, do you not think that is important?

COL VAN NIEKERK: I think it is important in the sense that one would have wanted to go back to that source that, where he obtained his information. I think that it would have been important to this Committee.

DR ALLY: I think it would help you more than the Commission because this is a critical issue. You are saying that there was no torture of Stanza Bopape, there was no physical

assault and that all you wanted to do was to frighten him and, as a result of that, there was an accidental death, it was not intentional. Do you not think that that is actually critical in an amnesty application to actually prove to us that the cause of death was the fact that he did have a heart problem and the shock treatment which you administered, light though it was, brought on that heart attack? Do you not think that that is actually pivotal and central to your amnesty application?

COL VAN NIEKERK: Yes, it was important. At that stage, I would like to say once again, the person was dead, we staged an escape and hence, you know, extreme enquiry would not have been of any assistance.

DR ALLY: I am speaking about now, not about then. I am saying now.

COL VAN NIEKERK: That is why I did not take the investigation any further at that stage. At this stage it has been put on the table and that has been included in the amnesty application. If I had a definite report saying that and could submit a report proving that he suffered from a heart condition it would have been that much better, but it was not available.

DR ALLY: And you did not think it was important to establish that, in your amnesty application?

COL VAN NIEKERK: No, I did not deem it important.

DR ALLY: Expect us to take that at face value and you expect the Amnesty Committee to take that at face value. You do not mention the name of the person who informed you about the fact that Stanza may have had a possible heart condition, you do not mention the way the person obtained that information, it is pivotal to your amnesty application,



but you expect us to believe it and to take that on face value and you expect the family to believe that and as far as the family is concerned, there is no history about a problem. If anybody should know whether Stanza Bopape had a heart problem, surely the family should know. As far as they are concerned there is no history and you put it in the amnesty application and we have to accept that.

ADV PRINSLOO: Chairperson, if I understand correctly, it is expected of this witness that he was to go and establish at the hospital and even get the proof and come and submit it before here.

DR ALLY: What do you think, Sir? What is your opinion on this issue? Something as critical as this to an amnesty application, do you not think that the applicants would have a responsibility, a duty, moral, if one wants to use that language, to actually establish that there is a basis for making that claim. What is your opinion on this matter? Do you think it is not important at all, if we must just accept somebody says I asked somebody to go and investigate this thing clandestinely, he came back to me and said there was a heart problem and that is included in the amnesty application with no proof whatsoever?

COL VAN NIEKERK: I mentioned the fact in my amnesty application and mention was made of the possibility of a heart attack. I cannot submit any documentary proof, but I accept that the application, in the application, the Amnesty Committee will come to the fore and, probably, on their own follow-up on certain information by way of questions.

DR ALLY: Would you assist us in trying to obtain such documentary evidence?

COL VAN NIEKERK: Enquiries can be made at the hospital.

There is an Investigative Unit. Can the investigators not get to the hospital and establish about those records?

DR ALLY: We are not applying for amnesty, you are, but we will investigate this.

CHAIRPERSON: Tell me, do you, I mean, for me what that indicates is it is the difference between whether or not he died of a heart attack and whether that could be considered an intervening action or whether, in fact, you would be guilty of murder if there was no amnesty and if they find the body. Would you concede that the heart condition would be a critical difference then?

COL VAN NIEKERK: Yes, it could made a difference, that is so, but you are asking me if I could go to the hospital and get the thing. I have no mandate to go to the hospital and say to them I want to go through their records. I do not have that authority.

CHAIRPERSON: But you did not think it important enough, really, you thought that you would just get by by mentioning it in passing. At the time when you asked this Johnny Farquhar to make the, to do the investigations surely you should have asked for some proof that he had, in fact, established correctly that Stanza had a heart attack.

COL VAN NIEKERK: Yes, one can probably raise that argument today.

CHAIRPERSON: But you could have been more critical then, Mr van Niekerk, because then it was more alive to you than it is now.

COL VAN NIEKERK: I cannot agree with that. Once again, I say that the revelation was made which lead to the persons death and we said a possible heart attack, we did not say it was a heart attack.

CHAIRPERSON: It is offered as an excuse for why the man died. It does not just enjoy a place in your application. According to the version of you and your colleagues, this was not torture, it was merely "om hom te skrik maak", but then you offer us an explanation that maybe he died because he had this heart condition and you did not think it was important enough to establish yourself.

COL VAN NIEKERK: We were saying what we had done. We are saying exactly what we did which led to the persons death and then we said that it was a possible heart attack and in addition to that we are exposing all our dealings.

DR ALLY: Let me put this to you another way. Given the degree of the electric shock which you applied, you said it was light, could there be any other explanation other than a possible heart attack for Mr Bopape's death, given the extent of the electric shock which was applied? In other words, if this, if there was a person who was in normal good health and you administered that kind of electric shock to that person, under normal circumstances would a person die simply from that electric shock, in your experience, having witnessed and having participated?

COL VAN NIEKERK: I think it is possible. I think one has to consult medical opinion about that. I do not know. All I can say is that he died as a result of the electrical shock. Whether the heart problem was true or not, we do not know whether he had the heart problem or not, we assume so, but he could have had a heart attack as a result of the electrical shocks we were administering.

DR ALLY: You said the purpose of applying electric shock was simply to scare him, that you had not yet gone over to full scale torture. In fact, yesterday when Mr Zeelie and

Mr Mostert were here, I read to them an extract from the affidavit of Beki Nkosi in which Beki Nkosi explains the electric shock that he was subjected to. According to both Mr Mostert and Mr Zeelie, that form of electric shock was applied, but was only applied in circumstances when they went over to a more serious form of interrogation and Mr Zeelie's words to me yesterday, to the Commission yesterday was that, and Mr Mostert as well, that if this initial "skrikmakery" had not had the desired effect, then it was possible that they would have gone over to the more extreme form of electric shock. Now, I ask you again, in your experience, the kinds of electric shock that you administered, and bear in mind everything that you said, it would leave no marks, you said there is no physical damage, maybe emotional damage, but you said it was very light. Now, a person in good health, would that kind of electric shock lead to the death of somebody?

COL VAN NIEKERK: That is the only deduction I can make.

MR PIGOU: Did you, perhaps you can just explain. You said that the information received from Farquhar was after the death of Bopape. At what point did you share this information with your colleagues, with the, with this, I am talking specially about Messrs du Preez, Mostert, Engelbrecht and Zeelie?

COL VAN NIEKERK: I cannot recall. I must be honest when I say that I do not know whether I shared this information at that time with them.

CHAIRPERSON: They all put the hearsay evidence in their amnesty applications?

COL VAN NIEKERK: That is why I am not sure. I am trying to tell the Commission that I told them about this at this or

that time, but I cannot recall in what manner or at what time.

MR PIGOU: Just for the moment, one other topical area which I would like to address is that you raised this morning that you were aware of the political sensitivities around deaths in custody and this was from your experience that you knew that there was a certain amount of fallout as a result of these deaths. Are we in the Commission expected to believe that having seen that the man in front of you was dead and that this was the first time you had this experience, someone had died in your custody, your primary concern was of the grander macro political fallout that this would have and was not actually, your primary concern was it not actually to save your own skin and those of your colleagues?

COL VAN NIEKERK: No, I must be honest when I say to you that at that time my primary thought was to, had to do with the political implications. That had the most weight at that time.

MR PIGOU: So, just to clarify, you were not concerned about your own career, the fact that you could be charged with murder, you could lose your job, your career could be plunged into the abyss, you were not concerned about these issues, you were concerned about issues of national political fallout?

COL VAN NIEKERK: At that time, as I have said earlier today, there were two sides. There was, on the one hand, the judicial inquest with the consequences and on the other hand the political consequences. Given the circumstances, one would, with reasonable comfort, have been able to get away with the situation as it was and because of that the political considerations played the far larger role.

MR PIGOU: So, just to confirm then, you were comfortable that someone could die in custody and you could get away with it. There was a sense that you could act with impunity. Is that correct?

COL VAN NIEKERK: There was a culture of that kind, yes.

MR PIGOU: Thank you. No further questions at this point.

MEMBER OF PANEL: Mr van Niekerk, was Eugene de Kock ever approached to assist with the getting rid of the body of Stanza Bopape?

COL VAN NIEKERK: No.

MEMBER OF PANEL: Would it be mistaken that during an argument between yourself and Colonel Pretorius he threatened you and said that he knows about Stanza Bopape. Would this be a mistaken statement that those words were said to you by Pretorius?

COL VAN NIEKERK: Let me put this in context. As I have said earlier this morning, at a certain point I heard from Mr Pretorius that he knew about the death of Bopape. He did say this to me personally.

MEMBER OF PANEL: Did he threaten you with this knowledge?

COL VAN NIEKERK: He said this to me. Whether he intended with that to threaten me at some later stage, that he would use it to blackmail me, then I did not have that sense at the time.

MEMBER OF PANEL: During July of 1988 you sent Brood van Heerden to one of your informants in Orlando East. Can you recall this event particularly with the purpose of gaining information with regard to Stanza Bopape?

COL VAN NIEKERK: I cannot recall this. Maybe if you can give me more detail. Let me put it to you in this way. He was working at the Investigative Unit before going to

Vlakplaas. I might have tasked him with certain actions, but I cannot recall this particular task that you are referring to.

MEMBER OF PANEL: On your instructions he went to see an informant in Orlando East, this was your informant, he took a photo album with and showed it to the person and this person identified two photographs which was one of Joe Sithole, the other of Stanza Bopape and the source indicated she had seen Stanza Bopape the previous Saturday. This instruction was given on the 28th of July 1988 by yourself to Brood van Heerden.

COL VAN NIEKERK: I cannot recall this incident, but I must say to the Commission that this person was supposed to have escaped. That was the staged information and because of that photographs were put and made available, because he was supposed to have escaped and if people indicated that they might have seen him, these people had to be approached and members of the Investigative Unit had to be sent to such a person. I cannot imagine that a, that I, I cannot imagine that I had an informant in Orlando East. It is possible that we might have sent out on the investigation to ask questions, whether people had seen Bopape. We would have shown people the photographs and taken statements from them.

MEMBER OF PANEL: Was there no particular effort to get statements from people who spoke to sources who might have seen Bopape subsequent to strengthen the staged effect of the so-called escape?

COL VAN NIEKERK: The photographs were circulated, there was a report to head office and all the security branches, it was in the media. It then happened that people came to the fore and said this person who was supposed to have escaped,

I saw this person. Then you would send someone to get a statement from such a source.

MEMBER OF PANEL: Do you know about a statement from Joe Mamasela which indicated that he had spoken to a source who had seen Stanza subsequent to his death.

COL VAN NIEKERK: Several persons came to the fore who claimed to have seen Stanza, but I cannot recall every instance and I cannot recall this particular instance.

MEMBER OF PANEL: Another matter that concerns me somewhat, while you were only provided support with the arrest, I cannot understand why Zeelie did the arrest, why did West Rand not do the arrest? Your branch were only there in a support function, why then did the Investigative Officer not do the arrest themselves?

COL VAN NIEKERK: I was not present on the day when the arrest was made so I cannot tell you with exactitude who, legally speaking, made the arrest. That I cannot say to you.

MEMBER OF PANEL: Would you agree that it is strange since normally in the presence of the Investigative Unit, they would do the arrest themselves rather than some other person who had no knowledge of the matter?

COL VAN NIEKERK: That depends on the arrangements. I do not know the detail of the circumstances, was this a house or a flat, were there several rooms, did people enter different rooms and arrest whomever they found. I cannot tell you anything about this.

MR KILLIAN: Mr van Niekerk, how did it happen that Trevitts was founded?

COL VAN NIEKERK: I do not know.

MR KILLIAN: Who all had, who all sat on Trevitts? It was



not only the Security Branch who made inputs, was it?

COL VAN NIEKERK: The meetings which I attended only included Security Branch members as far as I can recall.

MR KILLIAN: What about military intelligence, national intelligence, security branch, that this was together the component of Trevitts?

COL VAN NIEKERK: I suspect from my information, if my information is correct, it is a South African security branch, South Africa Police Security Branch managed Trevitts and that there was some other structure, maybe, another Trevitts related structure had such a committee, but I think it was called something else.

MR KILLIAN: So we have a variety of components of Trevitts. There is a regional component, there is a national component and that national component would be in Pretoria and they would make the eventual decisions and they would be linked to the State Security Council whom they provided with information and to whom they reported.

COL VAN NIEKERK: That there was a branch, a regional and national levels of Trevitts management, yes that was the case, but how it went from there further I cannot tell you.

MR KILLIAN: You are not able to confirm from the information that you put through from these lower units to the main body of Trevitts in Pretoria, you do not know what they eventually did with that information which you provided to them?

COL VAN NIEKERK: I cannot tell you what police head office did. What that Chief Trevitts office, what they did, I do not know what they did after they finalised the information.

MR KILLIAN: So you cannot deny that one of the goals had been to identify the persons who had held the greatest

threat for the Government of the day from this information from the various components and then to decide whether it was necessary to eliminate this person?

COL VAN NIEKERK: That is what we had previously discussed. The Trevitts goal or purpose was to gather information and I was not aware of it, that this information was going to be used in any further way. Up to the level in which I knew the Trevitts component, as far as I knew, they had no task to identify, to kill a persons for elimination.

MR KILLIAN: No, I am not presenting to you that you were aware of this ultimate goal which they sought. That is not what I am presenting to you, that you are supposed to know about this, but I am just trying to determine whether you knew anything about what they eventually did with the information deduced from all of these sources.

COL VAN NIEKERK: No, I do not know.

MR KILLIAN: Of these various people that you identified and with regard to whom you gave information through the normal changes to wherever it was eventually gathered, were any of these persons subsequently eliminated in a strange manner?

COL VAN NIEKERK: Not as far as I can recall.

MR KILLIAN: None of the persons identified by yourself as a threat to the State subsequently disappeared in a sinister manner or died?

COL VAN NIEKERK: All ANC trained persons, all of them were placed on this structure as far as we could identify them. Sometimes it was just a name, sometimes it included an address. All of this information was put into this structure. It was included as part of the trained underground structures of the ANC. That was the idea behind it.

MR KILLIAN: You kept a file on each of these individuals at your branch?

COL VAN NIEKERK: Yes.

MR KILLIAN: Was it a separate file with all the information with regard to this person?

COL VAN NIEKERK: If there was political attention with regard to a particular person we opened a file and paid attention to the person.

MR KILLIAN: If any of the people on whom you had a file, subsequent to your transferring information to Trevitts, if these people then disappeared in a sinister manner you should have made a note on the file that the person had died?

COL VAN NIEKERK: Yes, the person who worked with the file, not myself, would have done so.

MR KILLIAN: Surely you would have been informed by the person, listen, this chap who caused this particular problem, he has died, he is no longer a problem for us.

COL VAN NIEKERK: Not necessarily since at the Investigative Unit we worked primarily with particular instances and then, say for instance, a bombing and then we would have arrested people and focused on that matter. There was an information component that gathered information on the different levels of activists. Other persons involved with that carried the personal files. I would only have drawn a personal file if we had arrested the particular person. Then we would have worked with the file. I would not have paged through the files in general for any particular purpose.

MR KILLIAN: So in many cases the left hand did not know what the right hand did?

COL VAN NIEKERK: No, that was not the case. Each of us had

a terrain on which we worked. Some of us gathered information, others, like myself, investigated matters. Physical investigation of acts of terror, instances of terror, people who were arrested and so forth. That was my primary task.

MR KILLIAN: That was not controlled at the end of the day?

COL VAN NIEKERK: As I have said, every time when a person was arrested, the information he made available to us was put on file.

MR KILLIAN: And what if he died?

COL VAN NIEKERK: That would come through onto the file of the person and I would have had knowledge of this.

MR KILLIAN: So, not yourself, not the Commanding Officer, the person who worked with it?

COL VAN NIEKERK: The Commanding Officer might have known about it.

MR KILLIAN: Is this not essential?

COL VAN NIEKERK: If it is the task of the particular branch he would have been informed that this person died.

DR ALLY: Mr van Niekerk, you joined the police force, South African Police Force in 1969, is that correct?

COL VAN NIEKERK: That is correct.

DR ALLY: When did you join the Security Police?

COL VAN NIEKERK: I was transferred to the Security Police in December of 1976.

DR ALLY: December?

COL VAN NIEKERK: 1976.

DR ALLY: 76, 76. Do you have any knowledge of the detention of Ahmed Timor?

COL VAN NIEKERK: Not personally, but from what I have heard.

DR ALLY: You had no involvement at all, because we have a statement here from the mother and one of the people who she mentions, it does not give the initial so I am not necessarily saying it is you, I am just asking for your comment. She speaks about a van Niekerk, organisation the Special Branch, the place where was John Vorster Square. Were you involved in any way, at any stage in the questioning or torture of Ahmed Timor?

COL VAN NIEKERK: No, the van Niekerk being referred to is the late Captain Tiny van Niekerk. I knew him. Timor's matter was before I got to the Security Branch.

DR ALLY: Tiny?

COL VAN NIEKERK: Yes, it was a Tiny van Niekerk, if I have my facts correct.

DR ALLY: And then in the case of Khozi Kamavusa, who was detained in Protea Police Station. She mentions a van Niekerk of the Security Branch who was present during her interrogation and torture. Does that mean anything to you, in February 1977?

COL VAN NIEKERK: The same officer, Tiny van Niekerk, at some, was at the Protea Branch, Soweto Security Branch at some stage. He was stationed there so I am sure they are referring to him.

DR ALLY: Thanks, I just wanted to clear that up.

MR PIGOU: Mr van Niekerk, you said after Bopape had died you went to get a file on Bopape. You went and, on the process in looking through that file you found something like a prescription or something like that which related to the Princess Hospital and that led to the Johnny Farquhar story. Is that the way it happened in terms you got the file and where did you get the file from?

COL VAN NIEKERK: I did not say that I found a file.

MR PIGOU: Where did you get the information then that he had been at the Princess Hospital?

COL VAN NIEKERK: I had documents which I suspect were found in his possession at the time of his arrest and went through those documents and that is where I found something indicating that he was linked to the, that he was being treated at the Princess Clinic.

MR PIGOU: Thank you. You said earlier this morning that following the handing over of the body of Stanza Bopape to Brigadier Visser and Warrant Officer van Loggerenberg at the time, that you then did not make any ... (tape ends) ... the more recent months when we have been addressing the issue.

COL VAN NIEKERK: That is correct.

MR PIGOU: Can you explain to me, because I am a little bit perplexed by it, why you would want to go and find out why he died in terms of, possibly, the heart ailment and the rest of it, yet you were not interested in, probably, the most fundamentally important thing in your security which was where did the body go, was it dealt with satisfactorily? You seem to be interested in minor details of heart ailments and not, in actually, where the body gets disposed. Can you explain that to me?

COL VAN NIEKERK: I just did not think that it was the right decision to go and question someone about what he did with it. I thereafter heard that the body had been disposed of and I accepted it.

MR PIGOU: With respect, Mr van Niekerk, I was not asking you to go and question or interrogate, I mean just simply getting some feedback, some information from the right people or the people that you could trust that the matter

had been dealt with properly in the light, remember there was international uproar about this incident, there was domestic uproar about this incident. There was a great deal of concern about Bopape. The cover-up went up to the highest levels. I mean, in order, for you to feel secure, I am still trying to understand, you send someone to go and look for information on heart ailments or on what he was being treated, but you do not actually confirm, for yourself, that the body has been dealt with. I mean, I know we are different, but I would like to, I would have liked to have known where the body had been dumped. It would have made me feel a lot more skiff. It just seems a very unusual reaction to the situation.

COL VAN NIEKERK: Even the fact that the body was handed over to a third person was not part of the process should be an indication of the trust which existed amongst us. It should be an indication to the Commission. I did not deem it necessary to enquire about it thereafter.

MR PIGOU: Thank you. With regards to the West Rand Unit who had, sort of, a primary interest in Stanza Bopape because they were the people who had briefed your unit on matters relating to this in Roodepoort, how did you explain the escape to Captain Kleynhans and his people and, or did you take them into your confidence about what had actually happened?

COL VAN NIEKERK: The plan and also the way in which it was executed was that the evening after the alleged escape the Security Branch members from Vereeniging were called in, the Duty Officer, and they were told that someone had escaped and from what we told them they compiled a report from, for head office about the alleged escape. So the whole staged

escape as fabricated by us went through everyone like that. The only person that knew about it was our group and General Erasmus and whether or not he would have told the Commissioner, would have included him as well. I did not discuss it with Captain Kleynhans.

MR PIGOU: Did Captain Kleynhans not request feedback on what had happened to his suspect?

COL VAN NIEKERK: As I said a report was immediately which we called a telex report which went through to him. Yes, we said that he escaped. That is what we said to his own Commanding Officer, that was what was said.

MR PIGOU: You indicated earlier that the story stood up, the escape story stood up, but I put it to you that on inspection of the escape docket, it is farcical in the extreme for any Investigating Officer to accept the fabrication. On the outside people that were looking at this matter could not believe the version that was being put on. On further inspection of the escape docket, to an outsider, to a lay person it becomes self-evident that there is nothing right. How could it possibly have seemed coherent and an acceptable version by experienced investigators and police officers?

COL VAN NIEKERK: I did not investigate the escape docket and we approached by the Investigating Officer on several occasions about what happened. They tested much of what we said with regard to the escape. If there was such a perception in the, with the Investigating Officer that things did not seem right, then he did not tell me. He may have had that opinion, but I do not know.

DR ALLY: Do you believe that people actually believed your story or was it because of this culture, that you spoke



about, where things got done and you covered it up? Are you saying to us that people genuinely believed your story or did they know that this was a cover up, but they just went along with it. They may not have known the details of what happened, but are you trying to say to us that they took seriously this alleged escape or were they also playing along with you?

COL VAN NIEKERK: I believe that the members in the Security Branch who were closer to me suspected that the person did not really escape. The Investigating Officer who was the detective may have seen it from another perspective and it may not have seemed all that strange to him, because there were guys who made a joke of the fact that the guy never escaped.

CHAIRPERSON: So the culture, in fact, prevented any real story being bandied about? There was a culture of silence and conspiracy?

COL VAN NIEKERK: There was no conspiracy throughout, there was a culture within the Security Branch that it could have happened and did happen. The investigation was done by the Investigative Unit on the one side and I believe that they had another impression and that it why they investigated it so intensively.

CHAIRPERSON: Could you tell me and, you know, part of our function is to put recommendations forward to the new Government to ensure that human rights violations do not take place again. What was your perception in those days of activists and why were you so ready to do what was necessary, even though it may have been unlawful, to ensure that these activists, in a sense, were contained?

COL VAN NIEKERK: If I understand the question correctly, I

have to speak on my own behalf, not on other peoples behalf. I have been in the Security Branch for a long time. I was involved from the days where I joined the Security Branch in scenes where there were explosions in Johannesburg, all the car bombings where people were killed and injured. Many people were questioned, as I said, and it left a perception in my mind that we, things, we were in a very complex battle with the ANC guerrillas and many times we would look each other in the eye and there were times where we would have our conflicts and that is, within this milieu we operated. There were serious political comments made and people started operating in a certain direction where we realised that one side was against the other and we stood against each other man to man and fought each other. When an ANC terrorist came to me and I questioned him we spoke man to man and he knew what was expected of him, that he was to make a full disclosure of his activities and in many cases the guys spoke and in other, if not force was used. It came forth from that. I saw the pain and suffering on the one side and on the other side I was prepared to participate in this whole process. That is that. I do not know whether I am answering your question.

CHAIRPERSON: What, how do you feel about that situation now? In a sense, what is coming out is that you were also fed a big lie. What about the rights of all those people who died at the hands of the Security forces?

COL VAN NIEKERK: I believe that would have been wrong if you look at it from the one side. Today it would appear wrong. If, however, you asked me the same question five or ten years ago I would have told you look at the situation in which we find ourselves. Today I must say it was wrong, but

also I must say today that the manner of the onslaught of that time was also wrong. It was a guerrilla war. Whatever the ANC says today on the ground, at grassroots level that was the case. The ANC people had no difficulty with eliminating a policeman and on the other hand we used methods to do the same. I was not involved in the elimination of persons. I realised that I was the Investigator. I had to take the person who was arrested and detained in terms of Section 29, I had to explain to Parliament and to the Minister what happened to this person, I had to bring this person to court, I had to ensure that this person talked, that we obtained the cardinally important information. Certainly then, I allowed myself to be involved in this entire situation. To look back, as you have asked, in terms of human rights, yes, it was wrong, but not only that which the Security Branch did, also the other side. There was a culture that developed where there was a really intense conflict.

CHAIRPERSON: Well, how do you feel about the fact that people, like Mr Zeelie said yesterday, they, in fact, the politicians knew about the commission of gross human rights violations and that, in fact, whilst they use language, in the one hand, they communicated officially, it was people should not do these things, with the other eye they knew that people were, in fact, doing these things and they expected it to happen?

COL VAN NIEKERK: I cannot for a moment imagine that a politician could be as naive. As I have just said to the Committee, because of the war that this would have been a matter of clean hands. I knew they said the one thing and I assumed that there were other agendas, although I do not

have any personal knowledge of that, you cannot ask me about that, but that was what I assumed.

MR PIGOU: Just a couple of questions with regards to your involvement and your knowledge of the cover-up that followed the disposal of Stanza Bopape's body. At what stage and who made the decision around the, to make up the phoney escape story.

COL VAN NIEKERK: Initially General Erasmus or rather General Erasmus gave the instruction that there had to be an escape scenario generated. I assume that he discussed this with the Eastern Transvaal. He must have. He said to me that they were going to take care of the body. We had to give them the body and there would be some escape story. I recall that when I arrived at Brigadier Visser that evening when I mentioned to him, he said, no, he wants to have nothing to do with this escape story. He refuses to take part in that. We then realised on our way back that this was our problem, we had to take care of it. Myself and my guys, for about a hour or so, made a quick plan, this was nine or ten o' clock that evening and we then took the steps to effect this plan that night. We planned it ourselves.

MR PIGOU: Did you report, on the details of your escape plan, back to General Erasmus or anyone else?

COL VAN NIEKERK: I did not, if I remember correctly, before we actually staged the so-called escape phoned General Erasmus or in any other way told him what we were going to do, if I recall correctly. General du Toit arrived that evening at the door, he was the officer on duty, and earlier that day he had heard about the escape. He must have deduced what the plan was. I cannot recall, in detail, I am speaking under correction, but some of the smaller detail

might have been discussed with Generals' Erasmus and du Toit, but I cannot tell you that for a fact.

MR PIGOU: Thank you. To what extent, Mr van Niekerk, were you actually involved in the subsequent actions or the follow-up? You spoke about several people coming to the fore who identified Bopape. What I am trying to establish is were you the motor for getting this fabricated information into the escape docket or was that left in the hands of somebody else and if so, who?

COL VAN NIEKERK: Since this was a security suspect who was supposed to have escaped many of the sources, say someone claimed to have noticed the person somewhere, he was in one instance supposed to have been noticed in a taxi. Then the person would have contacted us. If they were far away from us we would have asked someone to take down a statement and, if I recall, then these statements would have been sent to the Investigative Officer and in some instances the Investigative Officer approached people. I think one of the Investigative Officers said that he obtained a statement from someone who said that he had seen the person. That is how it worked, broadly speaking. I know of some instances, I am not sure whether I know about all the instances.

MR PIGOU: So let me clarify. You say you did or you did not have involvement in the, not only your statement and the fabrication around the alleged escape scene, but the subsequent fabrications that went on regarding the pointing out of Bopape. I am trying to establish exactly what was your involvement there and how, were you kept in touch with the so-called investigation?

COL VAN NIEKERK: I do not think I was entirely kept up to date, but these were not fabricated in the real sense of the

word. These were people in the general populace who would come to the fore because of the mention in the newspaper that this person had escaped and people would come to the fore with full conviction that they had actually seen the person and they would then have made statements. That was not fabricated or I am not aware. Fabricated, certainly in the sense that I know that this person claiming to have seen Bopape, for instance, in a taxi could not possibly have seen him, but that person would have been convinced that he had seen him. So, I was aware of the fact that these people are making incorrect statements.

MR PIGOU: So this was actually extremely fortuitous for you that more than one person identified Stanza Bopape in particular places after he had actually died?

COL VAN NIEKERK: Correct.

MR PIGOU: Can you remember who was the first Investigating Officer of the escape story, the alleged escape, de Deur?

COL VAN NIEKERK: Colonel van Niekerk from Vereeniging.

MR PIGOU: Which Colonel van Niekerk is this?

COL VAN NIEKERK: There was a Colonel van Niekerk, the District CID Officer of Vereeniging.

MR PIGOU: Now, my understanding is that the investigation changed hands. Were you only ever questioned by Colonel van Niekerk or were you questioned by other investigating officers with regards to the Bopape escape?

COL VAN NIEKERK: Colonel van Niekerk spoke to me, he asked me questions. Subsequently, the escape docket was placed in the hands of Brigadier Peet Viljoen. We had to go and show him certain things and he approached me with certain questions and I think there was a General Steyn or someone else involved also, but I cannot exactly remember.

MR PIGOU: In June 1990 Jan van Eck, a Member of Parliament, asked Adriaan Vlok whether any progress had been made regarding the investigation into Bopape's disappearance. Vlok replied, quote, an investigation under Lieutenant-General Jaap Joubert has since continued and is still continuing unabatedly. Were you ever questioned by Lieutenant-General Jaap Joubert or anyone of or any member of his team who were looking into this matter?

COL VAN NIEKERK: Yes, I spoke to General Joubert, I told him the story in head office, but he was not the Investigative Officer, as far as I knew, of the escape docket. His position, as I recall it, was that he was the Liaison Officer between the Security Branch at head office and the Minister's office. I deduced that he wanted to make sure exactly what had occurred and he would then have told the Minister what had happened. What information he gave to the Minister, whether he told him the truth or not, that is another question.

MR PIGOU: And Lieutenant-General Jaap Joubert was satisfied with the version that had been presented by yourself and your colleagues and other information in the escape docket?

COL VAN NIEKERK: I told General Joubert in person that the person had died.

MR PIGOU: Let me confirm that. You told General Jaap Joubert what had actually happened then?

COL VAN NIEKERK: That is correct.

MR PIGOU: In January 1993, Johnny Mokoleng, former member of the South African Police, alleged that he participated and witnessed torture, death and the burial of several activists at Phokeng near Rustenberg. I am sure you will remember the incident. He alleged that he had seen a grave

in which Bopape, which was Bopape's. As you will be aware, excavations did not produce anything. However, Police Commissioner, General Johan van der Merwe, appointed General Piet du Toit and General Krappies Engelbrecht to investigate that matter. Now, we are aware from amnesty applications that both General van der Merwe and General Piet du Toit are applying for amnesty in connection with this matter. Is it your experience or, first of all, let me ask this question. Did you ever get questioned by either General Piet du Toit or General Krappies Engelbrecht in connection with the Bopape escape considering your central position with regards to it?

COL VAN NIEKERK: During the death and escape, General du Toit, he did not question me, he was not engaged in the questioning. General Krappies Engelbrecht did at a, on a certain instance question me with regard to this escape. At that time he was also stationed at Security head office, Security Branch head office. He asked me did this person escape and so forth. It was a couple of test questions. I do not know for what purpose he asked these questions. So, yes, General Engelbrecht did ask me questions in this regard.

MR PIGOU: So your impression, Mr van Niekerk, was that Krappies Engelbrecht and I would ask you to consider the fact that he had been head of a unit which had been involved in assassinations and he is alleged to have had knowledge of that, that General Krappies Engelbrecht, from your experience had not been informed or was not informed either by yourself or anyone else actually as to what had transpired?

COL VAN NIEKERK: I did not inform him, General Engelbrecht,



with regard to the true facts of the events. Not for him, personally. I do not know whether he had been told of the facts by some other General or not.

CHAIRPERSON: Was it your impression that he knew already?

COL VAN NIEKERK: That would have been very difficult to say. He asked me some strange questions as if he wanted to test whether our question was the truth, our version of the events. I must be honest with you, it was very quick. He came into my office one day, in half a hour he asked me a couple of questions and I do not know for what purpose this was. I cannot tell you. I did not get the impression that he really knew what had happened, but that he asked me the questions appeared strange.

CHAIRPERSON: General du Toit, did he know?

COL VAN NIEKERK: Yes, he knew. He was involved with the actual incident. He knew all about it.

MR PIGOU: Under whose advise or was it your own decision to tell Lieutenant-General Jaap Joubert actually what had happened? What made you actually tell him the truth in this particular matter?

COL VAN NIEKERK: I was asked to visit his office one day and he was told that he was informed about the whole story and that he just wanted some details and I trusted him and I told him.

MR PIGOU: So somebody at his level had informed him of actually what was going on. What was then the purpose of your meeting? If he actually, sorry, if he actually knew what had happened? Was he just trying to confirm certain details with you?

COL VAN NIEKERK: I got the impression that he knew. I do not believe that he would have taken the chance of calling

me in if he did not have a mandate to confront me with. I do not think that he would have done that. That would have been very unethical of him. I could have gone back to General Erasmus, for example, and have said that, look, I just told General Joubert everything and if there was no such sanction for that then the one would have been stepping on the other ones toes and I can just imagine what would have happened, but I got the impression that he was involved and he knew something.

MR PIGOU: You said that he was the liaison man into the Minister's office. Is that correct?

COL VAN NIEKERK: That was the impression which I got. I would like to say that it is, that I would be speaking under correction, because he said that it was about the escape story and the version they gave the Minister and sometimes he was quoted and wanting to know why the media would have said something like that.

MR PIGOU: So did Lieutenant-General Jaap Joubert indicate to you the Minister had not been informed about what had actually transpired, he had been fed the escape story and that alone?

COL VAN NIEKERK: I would say that I did not form any impression then. Let me say that he did not say to me whether the Minister knew or not and he did not say it by implication either. I know and I read newspaper reports that the Minister was asked many questions and sometimes he would fumble in the dark about the cars and what, who did what and things like that. Sometimes the impression which I got was that he did not know the real story. I do not know, I cannot say.

MR PIGOU: No further questions at this time.

MR KILLIAN: Mr van Niekerk, just a clarification of one point. You say that you were satisfied that Visser and his guys from the Eastern Transvaal would get rid of, dispose of Bopape's body in such a way that there would no trace of it.

COL VAN NIEKERK: Brigadier Visser is a senior person who I knew for years and I trusted and the instruction came from above. It is not that I am trying to put the blame on someone, shift the blame to someone else's shoulders, but there was that liaison and I believe that in such a case he would have done a good job. As I said, I trusted him. I would not have deemed it necessary to go back.

MR KILLIAN: Why would you then have gone thereafter and asked a subordinate to go and establish about the hospital records?

COL VAN NIEKERK: Because the problem I had was that this man died suddenly.

MR KILLIAN: But now this man was not available anymore. You said that Visser and company would have gotten rid of Bopape's body in such a way that there would have been no follow-up, but what would have made it necessary that enquiries be made into the sudden heart condition?

COL VAN NIEKERK: It is something that bothered us. We wanted, we were concerned as to why he died so suddenly.

MR KILLIAN: And you found peace of mind in the reason that he suffered from a heart ailment and that was why he died?

COL VAN NIEKERK: To an extent, yes.

MR KILLIAN: Are you satisfied today that that was the cause?

COL VAN NIEKERK: I cannot really say today why he died, but there has to be a medical reason for it and if it was to service later that he did not have any condition, we would

still be wondering about the reasons for that.

MEMBER OF PANEL: Do you know if Victor was involved in any way, be it in the investigation or the cover-up or the initial interrogation of Stanza?

COL VAN NIEKERK: At that stage he was a Colonel, if I remember correctly, he was the overhead Commander of several units at John Vorster Square. He was, when the man died he was not known to me. I knew General Erasmus, Brigadier du Toit was there at the discussions which we had thereafter and before his death, the Saturday, at Krugersdorp there was a large delegation of people from Pretoria and the other areas and us as well and, if I remember correctly, Victor was there, but he was not present the Sunday and whether or not he came to hear more at a later stage, it was not from me. So, I would be inclined to say that he does not know or he did not know.

DR ALLY: I just want to just repeat what the Chairperson said earlier on. That this is actually a Section 29 hearing as opposed to a Section 20 enquiry which is why we have ... (tape ends) the brother of Stanza Bopape present, because at a Section 29 hearing the Commission does have the discretion to, for people to be present as opposed to an enquiry.

With that in mind, I just want to read into the record a statement from the brother of Stanza Bopape and I would like the, Mr van Niekerk, if he wants to just to comment on it. This is a statement from Mike Bopape.

"The story of the disposal of a body to the Eastern Transvaal does not ring true to us and we do not believe it. Paul Erasmus told the media that a friend, who I believe might be amongst you, claims that the

body was disposed of in an old mine shaft in the Witwatersrand. How do you feel if you caused double murder in my family? Because my dad died because of serious concern caused by you. You left a gap which nobody can bridge.

My main worry in this hearing is that you are lying to the panel and I please ask you to come clean on this matter. What you are telling the panel is part of your cover-up, part of a blindfold.

Mike Bopape".

CHAIRPERSON: Mr van Niekerk, do you want to respond to that?

COL VAN NIEKERK: I note the content of the statement and I share the concern of the family member and I can understand that it is perplexing for them and I just want to say that I have heard in the media about the allegations made by Paul Erasmus. I know Paul Erasmus. He was at, on one of the information gathering legs within the unit and I heard him make the allegation on TV one night that he, on the day in question, he heard certain things and thereafter he came to hear that the body was disposed of in an old mine shaft. Today I would like to tell the honourable Commission that that is a bunch of nonsense, he was not there. I do not want to elaborate about Paul Erasmus any further, he has got his own problems and his own case, but that is not so. What we have said to this Committee is, as it is, these are the facts.

MR PIGO: Madam Chair, with respect, Mr van Niekerk, it is impossible for you to say with complete certainty where Mr Bopape's body was dumped. You handed the body over to the Eastern Transvaal Security Branch. You do not know where

they took it. All you have is a version presented to you by Brigadier Visser and Captain van Loggerenberg and, with respect, I will submit that you do not know whether that is the correct version and you do not know whether that is the truth.

COL VAN NIEKERK: You are correct. That is not what I meant. Perhaps I did not make myself very clear, but in, after what he said Paul Erasmus says, he said he heard screams and he saw people throw Bopape down a mine shaft referring to us and that is why I am saying that is incorrect. That is what I meant. If he was to have heard from Eastern Transvaal what happened, then that is correct, but what I am saying is that my perception of what he said is incorrect.

MR PIGOU: Mr van Niekerk, you now know or have been informed that the body was dumped at a particular spot on the Komati River and you also now know from revelations in the de Kock trial and other revelations by former askaris and so forth that bodies were disposed of in a particular way. Now, the manner in which the body was disposed of, allegedly by Captain van Loggerenberg, I would like you to comment on, in the light of the other information that has now surfaced, do you not find it strange that Captain van Loggerenberg would dump a body at a picnic stop without having it weighted down or anything? Do you not find that that is a most unsatisfactory manner in which to actually get rid of a body?

Is there not a chance that it would surface, would pop up somewhere along the bank of the river? Remember the Komati River does not go into Mozambique at that point, it stays inside South Africa. I would just like your comment

on that, please.

COL VAN NIEKERK: I heard that the body was disposed of in the Komati River. I was not aware. You are now telling me that it was done at a picnic spot. I do not know. I assume that it would have been safe, although I cannot question that, I never did question it and that is my comment.

CHAIRPERSON: No further questions. Thank you Mr van Niekerk. I again caution you against communicating with any of the other people who have been subpoenaed to these hearings. I remind you that you will still remain under oath and we will, perhaps, re-issue a subpoena if we are required to do that again. Thank you for coming in today. This session is over.

