

TRUTH AND RECONCILIATION COMMISSIONSECTION 29 INQUIRYHELD IN CAMERADATE: 4.12.1996NAME: BATHLAKAZE BUTLER TUNGATACASE:

EAST LONDON

DAY 2

CHAIRPERSON: Good morning Ladies and Gentlemen. We want to start the proceedings. It is Wednesday the 4th of 10 December 1996. This is an inquiry in terms of section 29 of the Promotion of National Unity and Reconciliation Act 34 of 1995. The witness appearing today is Mr Bathlakaze Butler Tungata. The proceedings are in camera. Mr Tungata is assisted by his attorney, Mr van der Merwe. The questioning will be led by the regional head of the Commission's Investigative Unit, Advocate Loyiso Mpumlwana, assisted by members of his unit. With me on the panel is 20 Reverend Xundu and Mr Sandi. I am Denzil Potgieter, presiding. The proceedings are in camera and only members of the Commission, as well as the witness and his representative are present. We will have a morning session until approximately 11 o'clock when we will adjourn for tea, and then have a late morning session until about one o'clock for lunch, whereafter we will have an uninterrupted afternoon session.

I have been requested by Mr van der Merwe to let the proceedings run in such a fashion that we are able to conclude not too late this afternoon in order to accommodate him with travel arrangements. I will bear that 30 in mind.

SECTION 29 HEARING

TRC/EAST LONDON

I will now get the witness to take the oath before I make some more opening remarks. The interpretation and the technical assistance is done by the same staff members who have attended to that yesterday. They are already duly sworn in. So it's only for the witness to take the oath before we proceed. Mr Tungata good morning and welcome to the proceedings. I would like you to take the oath before we start so for that purpose I am going to ask you to please stand.

10 BATHLAKAZE BUTLER TUNGATA: (sworn states)

CHAIRPERSON: Just briefly by way of introduction the proceedings are part of an on-going investigation which is being conducted by the Commission. No decision which may be to the detriment of the witness will be made at these inquiries, in these proceedings today. The matters on which the witness is required to answer questions are identified in the notice to appear in terms of section 29.

20 It is necessary for me to summarise certain rights and duties which attach to the witness in proceedings such as these. His first right is that of legal representation which he has exercised as I have indicated earlier. He is represented by his attorney Mr van der Merwe today.

However, you are under a duty to be honest with this inquiry and I should remind you that your testimony is under oath and should you commit perjury or intentionally mislead the Commission as it is set out in the Commission's Act, you would be guilty of a criminal offence and subject to prosecution.

In terms of the Commission Act, specifically section 31, you are compelled to answer all questions even if the answer to any question may incriminate you, however, before you are compelled to respond to an incriminating question there are certain procedures which must be followed by the panel which I won't spell out in detail at this stage.

I have had regard to the section 29 notice and I am satisfied that the notice has been duly served on you and I am satisfied that you are properly and lawfully before this
10 inquiry today, and under those circumstances we are able to proceed with the inquiry. But before we do that, before we ask Advocate Mpumwana to proceed with the questioning I will ask Reverend Xundu to make one or two further opening remarks.

REV XUNDU: Thank you Mr Chairperson. I want to enlighten you about this inquiry. This inquiry has been orchestrated by South Africa for reconciliation, for forgiveness. Our aim is to reveal the truth so that if the people who have offended you or that you have offended we
20 have a way to reconcile the two sides. I know that as a policeman, a Black policeman at that, you are between the devil and the deep blue sea in a dilemma, because you are Black you are from an oppressive country and you were an oppressor yourself, because your authorities were oppressors. So you were between the two, mediating for the oppressor, therefore the Black people saw you as a betrayer, the culprit, therefore you were in problems. So what we are endeavouring to do is for you to be taken out of that kind of trouble. We are endeavouring for you to
30 reveal the truth so that the people you have offended may

get a chance to forgive you. You are a policeman in the junior rank, you did not have much authority, a policeman who is related to the people in the townships, but because of your work you were separated from your own people. So we are trying to solve these problems so that true reconciliation and unity takes place in South Africa. We are trying to unravel the problems, the difficulties, the unforgiveness in people's hearts, therefore you can be instrumental in that. You are not here to be prosecuted, we are just trying to reveal the truth. Thank you Mr Chairperson.

CHAIRPERSON: Thank you. Advocate Mpumlwana please proceed.

ADV MPUMLWANA: Can I speak Xhosa to you and you will perfectly understand? I will ask you to just give us a summary of your police career, when did you start and where were you stationed. You can go ahead.

MR TUNGATA: I started in the police force in 1974 on the 29th of November. I worked at Zekele. In 1975 from June to December I was at the Police College in Hammanskraal. From there I went to work at New Brighton in December, from December to March 1976. I then, on the 26th of March, went to the Security Branch until such time that I was suspended in 1985, on the 19th of September. I was suspended and then sentenced.

CHAIRPERSON: Mr Tungata, sorry, how old were you when you joined the police in 1974?

MR TUNGATA: I was born on the 14th of March in 1953.

CHAIRPERSON: Thank you very much, you can proceed.

MR TUNGATA: I was then sentenced in 1986, I was sentenced to three years imprisonment for defeating the ends of justice. I had to serve a year in prison and then the rest of the year I was supposed to be on parole. I then applied for an appeal. As I was waiting for my appeal to come through on the 6th of July we had to go to jail at St Albans. After a month in St Albans my appeal then came through and I was acquitted. I then re-applied to the police force. I went back to the security as a security policeman. In 1995 on the 8th of March I was transferred to Kabeka Park in Port Elizabeth the police station there. This was in 1995 on the 8th of March. I am still working there.

ADV MPUMLWANA: At the security?

MR TUNGATA: No Uniform, Kabeka Park. That's how my police career goes.

ADV MPUMLWANA: Sir I realise that you worked for quite a while as a security policeman.

MR TUNGATA: A long time.

20 ADV MPUMLWANA: Especially when there was a lot of conflict in Port Elizabeth. Perhaps you can tell us, I will go from one point to another asking you questions. First of all I'd like to know about the knowledge you have about the arrest, the injury and the disappearance of Sipiwe Mtimkulu. Do you have any such knowledge?

MR TUNGATA: I do not remember the year Sipiwe Mtimkulu was arrested, but when he was arrested I was present.

ADV MPUMLWANA: Won't you please elaborate about what you know.

MR TUNGATA: Sipiwé Mtinkulu had distributed pamphlets in the township therefore we wanted to arrest him because he had distributed those pamphlets. It was difficult to find him especially at the time of the month that we were looking for him. We then found out that he's at Njoli. We then went as Black security policeman to Njoli to find him. He ran away and we ran after him. When he was running some of the people that were in the car got off. He then jumped and started running on a passageway. Then Danza shot him. He fell. We found him there and we called an ambulance. Also our authorities came. The ambulance delayed and we rushed him to Livingstone Hospital. He was treated at the Livingstone Hospital. Because it was not a deep wound it did not penetrate any bones he got out of hospital quickly. The same night we took him to jail.

The people that were investigating his case of distributing the pamphlets then took over. This is the time that we were working at the Sanlam Building. He was then interrogated. We were not involved in the interrogation. We were just responsible for gathering information and getting people. We had to go there regularly as he was questioned. Different people would interrogate him. The one time I was called in to be present whilst he was being interrogated through the night.

I cannot remember the date. He looked liked someone who was very drowsy, very sleepy and had no strength.

ADV MPUMLWANA: Was this in jail, in detention?

MR TUNGATA: It was in the Sanlam Building. He then requested that he should rest because he had not slept. The Colonel then said he can take a bath and sleep.

ADV MPUMLWANA: Who said that he must sleep?

MR TUNGATA: Colonel Roelofse. He said that he must sleep because he had said he had not slept for quite a few days.

Colonel Roelofse then said he can sleep. Whilst he was sleeping Colonel Roelofse said that I must go and buy milk and a pie for him. I brought the pie. I had bought the pie from the main street, I gave it to him, he ate and he slept again. And then the people that were interrogating him then arrived and I left. When he was acquitted I heard
10 that he was in hospital in Cape Town and then he had a party when he came back from Cape Town. I heard that he was crippled. And then we heard that he went to exile.

ADV MPUMLWANA: You said that he had not slept for quite a while until the Captain said that he must go to sleep. As different people would come and interrogate him.

MR TUNGATA: He requested that he sleeps because he was tired because a lot of people would come and interrogate him, almost like taking shifts, then Colonel Roelofse said that he can sleep. He also said that he is hungry which is
20 why I went to get the pie for him.

ADV MPUMLWANA: Did you get clothing for him, did you go to his home and get clothing for him to change?

MR TUNGATA: Mbabeno and myself were gathering information. We went to Sipiwe Mtimkulu's home because the people that were interrogating him had said that we must get him a change of clothing, take the dirty ones home and then get him a clean set.

ADV MPUMLWANA: Is that when you would see him?

MR TUNGATA: No we were not seeing him during that period.
30 He was being interrogated on the 6th Floor, our office was

on the 5th Floor. We would go to 6th Floor sometimes. But he was interrogated it was a special office of interrogation, you couldn't just go there.

ADV MPUMLWANA: Who was interrogating him?

MR TUNGATA: It is the people who were investigating the case about the pamphlets.

ADV MPUMLWANA: Who is it?

MR TUNGATA: I am not sure. When somebody is arrested sometimes new people would be brought in to investigate the particular case.

ADV MPUMLWANA: What I am trying to say is that it is people that you worked with because people know as well that you were doing a specific job, surely you should also know who was interrogating him? That's the information I would like please.

MR TUNGATA: People had different duties even within the same group. There was a group for collecting information, a group for finding people, also a group, a church group, so these different groups were not inter-related they would not interact. There was also a group that would get people from the township. There were field workers as well that would investigate riots, sometimes, and rallies. So I was always out in the field. I don't know much about the things that would happen in the office. Sometimes on Mondays I would go if there was a meeting or perhaps if I am taking a report to the office. If we'd arrest someone from the township we would take the person to the authorities in the office. We were not in the investigation group at all.

ADV MPUMLWANA: Please elaborate, tell us exactly what it is that you did?

MR TUNGATA: I was investigating in the township. I needed information about riots, schools, rallies, and certain meetings. These were the youth organisations mostly. I was also recruiting informers from the youth groups, that is all.

ADV MPUMLWANA: You therefore, sorry which group was questioning, which group was interrogating?

10 MR TUNGATA: It depends, sometimes there'd be a case about an explosion, sometimes there would be a case about someone who is distributing pamphlets depending which organisation the pamphlets are being distributed for, maybe it would be COSAS. Sometimes there would be a clash between churches and then somebody who specialises in that field would investigate. Sometimes it would be about labourers, workers and the person delegated for that would investigate.

ADV MPUMLWANA: Was Mtimkulu not a COSAS member?

20 MR TUNGATA: He was in the youth group. We were field workers, we were not working in the offices, we were not investigating the matter in the office. We would be out in the field and gather information and then we would hand the report over to people at the office.

ADV MPUMLWANA: The questions that Mtimkulu was asked, was it in the Sanlam that this happened?

MR TUNGATA: It was on the 6th floor, it was on the 6th floor in Sanlam that's where he was interrogated.

ADV MPUMLWANA: Was everybody that was interrogated on the
30 6th floor, Sanlam?

MR TUNGATA: Yes, it was only on the 6th floor. There was a specific office there.

ADV MPUMLWANA: Apparently Mtimkulu was poisoned in jail.

You cannot deny that, because even when you saw him you realised that something is really not right.

MR TUNGATA: Him being poisoned in jail I can't deny it, I can't dispute it because he was between jail and the Sanlam Centre. When I say when he was arrested, I don't necessarily mean in the cell in jail. What I am trying to
10 say is when somebody is arrested it is the security police that - no what I mean is when somebody has been arrested by the security police, only them guard him. They feed him, they look at his food whether it's been poisoned or not, and also if he has received food from outside of prison they address such matters.

MR VAN DER MERWE: Please give the Interpreter a chance to finish before you ask your questions.

ADV MPUMLWANA: What I am saying is, with Mtimkulu he would go to the Sanlam building to be interrogated but
20 where would he sleep?

MR TUNGATA: He was interrogated at the Sanlam building, he would also sleep there.

ADV MPUMLWANA: Where would he sleep, in the office, exactly where did he sleep?

MR TUNGATA: There was this specific office where people were being interrogated, that's where he would sleep. Therefore he never went elsewhere.

ADV MPUMLWANA: How long did he stay there?

MR TUNGATA: I can't remember, but he would sleep there
30 over the period when he was being interrogated, then he

would be taken to Algoa Park, that's where we brought him a new set of clothing.

ADV MPUMLWANA: Was it the security police still that were guarding him?

MR TUNGATA: He was in a cell at the police station. It is the Algoa Park police that were responsible for him at the time.

ADV MPUMLWANA: Would they then address his food and about his clothing?

10 MR TUNGATA: Yes, even when he needed newspapers or if he needed a new set of clothing he would tell the police at Algoa Park, they would phone the security police and then the security police would pass on his messages and also get his clothing and take all this to Algoa Park.

ADV MPUMLWANA: What I'd like to know is, which people do you think, if you are not sure, which police were responsible for this man?

MR TUNGATA: If I remember well the people that were there were Dunsta...

20 ADV MPUMLWANA: What's his name?

MR TUNGATA: Sizakele Dunsta, Xholiliswe, I can't remember the White men who were in charge, or who were investigating the matter, but Sizakele and Xholiliswe were also interrogating.

ADV MPUMLWANA: You don't remember who was in charge of interrogating this man? There is this man that you mentioned that you said he can rest.

MR TUNGATA: It was Colonel Roelofse, he was working with us. He was not interrogating or investigating. But he had
30 the authority to say that he can take a rest. It's not that

he had the authority, it's just that at the time it was him and myself who were requested to take responsibility of Mtimkulu at that particular night. We were releasing the others, the ones that were interrogating him and also investigating the whole case.

ADV MPUMLWANA: Was it you, therefore you were going to interrogate him that particular night, it was you that was going to interrogate him?

MR TUNGATA: I don't know whether he was going to be
10 interrogated or not, I was just going to be there for the night. If he was on duty I was supposed to be there with him as well.

ADV MPUMLWANA: Apparently then he went to Groote Schuur and he was poisoned with Thallium, well that made him crippled as you also saw him having come back from Cape Town.

MR TUNGATA: Well I can't be sure about what happened at
20 Groote Schuur, I can't dispute it because I don't even know when he was acquitted. I don't even know when he went to Groote Schuur but we heard he's in Groote Schuur hospital.

ADV MPUMLWANA: Did you see him in the township when he came back?

MR TUNGATA: Even though I did not see him in the township but I know that he had a party at Main Street in town. We went to observe as the security police because it was almost like a rally.

ADV MPUMLWANA: As a person who was in the field the whole time working there, gathering information, if Mtimkulu was one of the people who was supposed to be watched, so as a
30 person who was in the field when last had you seen him

before he disappeared?

MR TUNGATA: The last time I saw him is after he had come back from Cape Town there was a rally in a church next to the library.

ADV MPUMLWANA: What I am trying to say is that a week would not elapse, if I may put it this way perhaps, people who are your clients a week would not elapse without seeing those people, people that you were supposed to be watching. For example police who were in the branch of criminals, of stealing vehicles, a week would not elapse before they see those people. You cannot say that a few months had elapsed before you had seen him.

MR TUNGATA: After he had come back from Cape Town and he had a party and he was actually crippled therefore we did not have to watch him because he was not in the school field, he could no longer be an activist because he was ill of health at the time, therefore we were no longer responsible for him as such. It's when we heard that he went to exile.

20 ADV MPUMLWANA: So you heard that he was in exile?

MR TUNGATA: I heard that he'd left the country. This is the informers that we were using that informed us about this.

ADV MPUMLWANA: Certainly you know about the people who would go on exile, you would even go to the home of the person, is that so?

MR TUNGATA: Yes it is so.

ADV MPUMLWANA: Therefore your informers, weren't they doing anything about this, weren't they gathering information about him anymore?

MR TUNGATA: I can't remember exactly when he left the country but we got information, we received information that he'd left the country. After he leaves the country we have nothing to do with him because I was not in the group that was searching for information from people in exile. I was investigating the youth groups, that was my focus.

ADV MPUMLWANA: If it is true that he was poisoned, and as a result crippled whilst in police custody the police then
10 would not be inconvenienced if he would just disappear. I am not insinuating that they did - they are responsible for his disappearance.

MR TUNGATA: We heard that he'd disappeared, then we thought that he had just left the country. We just thought that it is - it was just a conversation amongst the security police that he had disappeared. It was also in the newspapers.

ADV MPUMLWANA: And him being poisoned, did you talk about it at the police?

20 MR TUNGATA: It was in the papers that he had been poisoned by the police whilst he was in police custody.

ADV MPUMLWANA: Tell me did the police ever deny this in the newspapers, in the media that they don't know anything about his poisoning?

MR TUNGATA: I can't remember, I can't even remember if it went to a court of law.

CHAIRPERSON: While you are looking at your notes there Mr Mpumlwana, Reverend Xundu?

REV XUNDU: Thank you Mr Chairman. There is something I
30 want to understand in your story. That you don't know who

the people who were responsible for interrogations, there were names who were mentioned before, names like Nieuwoudt and other people. You seem to be avoiding those and it seems that this is common knowledge to everybody and I want you to clarify this matter that you just brought these people to the police and you don't know who was interrogating them. You don't want to tell us who were responsible, because you could hear people crying from the office and you could know that who was responsible for
10 this, so we want you to clarify this matter.

MR TUNGATA: I have said that at the time we were looking for Sipiwe Mtimkulu for distributing pamphlets he was looked for by the people who were responsible for looking for people who were distributing pamphlets. We were not responsible for looking for him but we got a message that if we could see him we must arrest him. Nieuwoudt was the person responsible for ~~investigating~~ this matter. I think he is the one who has the information that who were the people who were interrogating him.

20 REV XUNDU: Secondly, thank you for trying to explain this because we wanted to know who was giving you instructions.

The reason why we are talking about this disappearance of Mr Mtimkulu, Mtimkulu's parents are looking for his bones, they want to know where his bones are because they do not know where he is, so we just need you to tell us maybe if you know where Mtimkulu was, that when he disappeared or did he really disappear, because he was crippled and where could he go because he could not even walk. So we want this thing to be understood, because the parents of Sipiwe
30 Mtimkulu are looking for his bones and they want to know

where exactly he is, because his family and his friends want to make a proper funeral arrangement for him because they do not know where he is and they are not sure whether he died or not. So we want clarity on this matter. Thank you.

MR TUNGATA: I read that Mtimkulu was poisoned, I read this in the newspapers. And even his disappearance was in the newspapers. No one came forward about this matter, we just read this in the newspapers, we did not know where he
10 went. Because after he disappeared a file was opened that he went for exile and we just assumed that he was in exile joining a political organisation there.

CHAIRPERSON: Let me just, just before you carry on Reverend Xundu and Mr Sandi just give me a minute, I'll come to you now. You see, let me just explain to you Mr Tungata, you see it was indicated to you when we started off that you are not on trial and that ideally we accept and we assume that you are here to assist as far as you can. Now you see this thing about the White colleagues or
20 ex colleagues of yours who were involved in this matter of Mr Mtimkulu was raised with you because you see halfway through your testimony you started mentioning names but peculiarly enough those were the names of Black colleagues.

You spoke about Dunsta, who was involved in the investigation and you speak about Xholiliswe, if I pronounce it correctly, and then you told us that the White colleagues who were involved you don't know, you can't remember or whatever, you couldn't give any information about that. And you see that is - that's unusual, let me
30 put it that way, because you seem to remember the Black

members who were involved but you don't remember the White members who were involved. And when Reverend Xundu referred you to that aspect then you disclosed that Mr Nieuwoudt was involved in the investigation and you then referred us to Mr Nieuwoudt and you say look we must ask Nieuwoudt who was involved in the interrogation of Mr Mtimkulu. Now the only reason why I highlight this is because it appears as if it's only when this is brought to your attention directly that you start making disclosure in regard to your White colleagues. You didn't tell us when you spoke about Dunsta and Xholiliswe that Nieuwoudt was also involved. You said well the White members, you can't tell us who were the White members. So I mention this to you, I bring this to your attention. We have noted this in your testimony. We assume that you are here to assist, and we assume that you are here to cooperate and to answer fully, and those are the remarks that I want to make before I hand back to my two colleagues on the panel to clarify other matters with you. Mr van der Merwe?

20 MR VAN DER MERWE: Thank you Mr Chairman. I would just like to mention that the question that was asked where the two Black colleagues was mentioned was with regards to the actual interrogation. And the answer when Nieuwoudt was given now was with reference to who was in charge of the investigation. I think we must just draw the distinction there. This is how I understood the evidence at this stage. So I am not sure whether there is anything to it, but that is how I read the evidence. I would just like to - maybe we can just clarify that aspect, through the
30 Chairman.

CHAIRPERSON: Ja.

MR VAN DER MERWE: Thank you.

CHAIRPERSON: Well I've got a note here that Zizakele Dunsta and Xholiliswe were - and some unidentified White men, were investigating the matter.

MR VAN DER MERWE: The words used was "people who were responsible for him" and the reference was at that stage to the Algoa Park police station. That is how I wrote the evidence down.

10 CHAIRPERSON: Well you see if there's a dispute about that it doesn't strike me at this stage as if anything dramatic revolves around it immediately, but if there's a dispute on this aspect then of course the testimony is available, the tapes are there. When we get the tea adjournment we can listen to the tapes and we can ascertain exactly what the testimony was in that regard.

MR VAN DER MERWE: Ja.

CHAIRPERSON: And then we can deal with this matter. Perhaps it can then stand over until that stage.

20 MR VAN DER MERWE: I am merely just trying to assist the panel here in that I think, at this stage, more is made of it than actually is in there. That's my personal opinion, but I will leave it at that.

CHAIRPERSON: No, no, but, no, no, but I must make it quite clear, that the remarks that I have made is specifically based on that bit of testimony as I have noted it here, that the witness only disclosed two names of Black members, and he tells us that he can't tell us who the White members are who were investigating the matter. And
30 then he discloses Nieuwoudt subsequently, and it's in that

context that I make this - the remarks that I have made. So it needs to be clarified, but I don't think we need to deal with it immediately. We can deal with it after tea and perhaps my colleagues can carry on. Reverend Xundu perhaps you must finish with the aspects that you want to deal with and then I'll come to Mr Sandi.

REV XUNDU: Thank you Mr Chairman. I don't know whether you are scared Sir. - You may know the people you were working with, Faku and Mapika disappeared. Maybe you think that you are going to be injured or maybe you are scared of disclosing the truth today. People have disappeared. We heard that Mamasela disappeared - Mamasele. We are trying to reveal the truth about Mtimkulu. Mtimkulu is just like the people who disappeared, is he like that, or are you serious that you sincerely think he went to exile? We are endeavouring to get to the truth. It is only the truth that can bring reconciliation and forgiveness between the people who think that you are a perpetrator of these things and also people from your side. If these people could put a bomb in a car, if they could take people and kill them next to Cradock, do you think perhaps they could not run him over with a car, this man, Mtimkulu? Do you put it past them to do that? Is it characteristic of them when their acts as (Xhosa not translated) do you put it past them that it could have been part of political activity?

MR TUNGATA: The person who took part in such things there is nothing that prevents him from killing Mtimkulu. It is that person's conscience is dulled and they can do such a thing.

CHAIRPERSON: Thank you Reverend Xundu. Mr Sandi?

MR SANDI: Thank you Mr Chairman. I am going to ask my questions in Xhosa. Mr Tungata, I notice that when you were telling your story about your career, when you started, where you started, what happened, the whole history of your police career, you were very specific and even the dates you remembered well, the month, the year, you did not hesitate. I am now disappointed because now you are hesitating a lot when we are talking about these factors. There are things that you don't remember. We have noticed that you have got a very good memory. Someone like you should remember these incidents. You said that you are one of the police that was present when Sipiwe Mtimkulu was arrested?

MR TUNGATA: It is so.

MR SANDI: Under which Act were you arresting him?

MR TUNGATA: There was no law or act as such. We arrested him because we had been ordered by Nieuwoudt to arrest him because he was distributing pamphlets in the township.

20 MR SANDI: You had said that whilst he was in detention you were asked to go and buy milk and a pie for him, who asked you to do this?

MR TUNGATA: It was Colonel Roelofse and myself who were responsible for Mtimkulu that particular night, because we were relieving the interrogators. The Colonel then gave me money, when Mtimkulu said he was hungry he gave me money to go and get the pie and milk for him.

MR SANDI: How much did he give you?

MR TUNGATA: I can't remember, it was coins, but I brought the slip back and I gave it back to him, even the change.

30

MR SANDI: How long was Sipiwe Mtimkulu in detention, how long had he been in detention when you went to buy the milk and the pie for him?

MR TUNGATA: I can't remember. When he had been - the day he was shot by Dunsta we took him to the hospital and then we took him to Algoa Park. I don't know how much time elapsed between the time he was in Algoa Park and when he was in Sanlam. It's difficult for me to remember right now.

10 MR SANDI: Was it the same day or the next day or a few days after he had been arrested?

MR TUNGATA: It was weeks if it was not months.

MR SANDI: Did he spend some of this time in Algoa Park?

MR TUNGATA: He was arrested and he was in Algoa Park for a while and then he went to the Sanlam building.

MR SANDI: Was it the first time that he had been bought food since he'd gotten to the Sanlam building?

MR TUNGATA: I don't think it was the first time, because everybody that had been arrested and that was at the Sanlam
20 building, if you requested food the police would go and buy food for you.

MR SANDI: So you bought this pie and this milk, who did you give it to?

MR TUNGATA: I gave it to Sipiwe.

MR SANDI: Did you give this milk and this pie to somebody else before it reached Sipiwe?

MR TUNGATA: No, no one.

MR SANDI: Is it possible that perhaps if one would buy food for somebody in detention perhaps that food would be
30 poisoned?

MR TUNGATA: No it's not possible, food that has been bought from a shop can't be poisoned.

MR SANDI: Are there precautions that are taken such that if somebody would buy food from a shop it would not be poisoned before it gets to the person who is detained?

MR TUNGATA: I don't remember anything that would prevent food being poisoned. ...(tape ends) What is important is that when somebody is in detention and somebody requested a pie, milk, cigarettes or cooldrink you go and buy for the person and then after that you give it to the person.

10 Things that were looked at, things that we would focus at is food that is brought from home. If we'd buy food from the shop you would just give it directly to the person. It would not be examined.

MR SANDI: According to your knowledge when Sipiwe was in detention in the Sanlam Building did he get any food after you had given him the pie and milk?

MR TUNGATA: Yes it's possible after we'd left, because I gave him these things and he ate. After that he slept.

20 He had said that days had elapsed and he had not slept and he was hungry and he slept after he had eaten. Colonel Roelofse then went to read his books, I went to another office because I didn't want to disturb him, I wanted him to sleep.

MR SANDI: Do you think that then it is possible that somebody else had brought him food?

MR TUNGATA: Definitely.

MR SANDI: And his clothes, when you took a new set of clothing from home who would you give the clothing to when you'd get to the Sanlam Building?

30

MR TUNGATA: Whilst he was in Sanlam we would give the clothing to someone who is responsible for him at the time.

MR SANDI: In this Mtimkulu case who would it be? Because I notice that you have a very good memory, you have a good memory concerning dates, months and years, could you tell us now who was responsible for him?

MR TUNGATA: Xholiliswe and Dunsta were the Black people that we would give the clothes to. Sometimes we would be radioed in the township that we should go to Sipiwe Mtimkulu's house and get a new set of clothing and we were supposed to give this clothing to Xholiliswe and Dunsta. Sometimes if they had a chance they would go themselves or they would request us to do it.

MR SANDI: Am I understanding you well that after you take the clothing from home and bring them to Sipiwe Mtimkulu the sets of clothing would go through somebody else's hands before they get to Mtimkulu? There is a chance then that this clothing could be poisoned before it gets to Mtimkulu, can you dispute that?

MR TUNGATA: Yes I dispute that.

MR SANDI: Elaborate.

MR TUNGATA: If I take a set of clothing from Sipiwe Mtimkulu's home and I give it to Dunsta, Dunsta takes the clothing, gives it to Sipiwe Mtimkulu and he puts it on. Then they take the dirty set of clothing and we in turn would take it to his home.

MR SANDI: All the time that you gave Dunsta clothing and he gives it to Sipiwe Mtimkulu was it ... (intervention)

MR TUNGATA: The minute that the new set of clothing is given to Sipiwe he has to change at that time and we take

the old set of clothing and we take it back to his home. That's the procedure. The detainees sometimes would request that he washes his own clothes and then we would leave the old set of clothing with the detainee.

MR SANDI: I am not satisfied with the way you answered my question, because I think it is clear that you can answer my questions without hesitation. I will, however, proceed with other questions. When you heard that Sipiwe Mtimkulu had left the country you said that you just read about this
10 in the newspaper.

MR TUNGATA: The informers told us that Sipiwe had left the country. There were also articles in the newspapers that Sipiwe had disappeared. It was also recorded in the files that Sipiwe was in exile.

MR SANDI: Did you believe that as the police that were always detecting his movements, did you believe that Sipiwe Mtimkulu had left the country?
ARCHIVE OF JUSTICE

MR TUNGATA: We believed it, because the informers told us.

20 MR SANDI: Would the informers not be deceptive or perhaps mistaken? Did you have ways of finding out whether your informers were being deceptive or not?

MR TUNGATA: We could only prove it if we would get a confirmation that Sipiwe was in a particular country in exile, however, we did not receive any confirmation that Sipiwe was in a particular country, it was just information that was left hovering in the air.

MR SANDI: Were you not shocked or surprised that Sipiwe - that you did not get any confirmation?

MR TUNGATA: No, a lot of people would leave the country and we would not get confirmation, but perhaps after a while we would get information that he had been arrested in another place. Sometimes people would move from city to city within the country.

MR SANDI: I am still not satisfied Mr Tungata, but because of time, we are trying to save time, we are also trying to get to all points and address all factors that.... I would like to ask one last question. Usually,
10 just generally who would question people or interrogate people when they were in the Sanlam Building?

MR TUNGATA: It's going to be difficult when you ask something that would happen "usually". There are different departments at play here. Some people would be responsible for the youth groups, some for the church groups, it is the different groups that would then question the person.

MR SANDI: So you do not know who was interrogating Sipiwe Mtimkulu?

MR TUNGATA: The people that were involved were Dunsta and
20 Xholiliswe, those were the people, Black people that were involved in investigating this case. It is then Nieuwoudt who was in charge of the whole process.

MR SANDI: And Roelofse what was his responsibility?

MR TUNGATA: He was not investigating the matter. We were just asked to relieve the people who were responsible for him because they had to take a break and go and sleep.

MR SANDI: Thank you Mr Tungata. I am still not satisfied, but because of the time factor I will hand over to Mr Chairperson.

CHAIRPERSON: Thank you Mr Sandi. Mr Tungata how credible did you think the information was that was given to you by the informers that Mr Mtimkulu had left the country in view of the fact that he was a cripple and we know that he was in a wheelchair after he came from the hospital in Cape Town?

MR TUNGATA: We would receive information about a particular person. We heard that Sipiwe had left the country but we never did really have proof that he'd left
10 the country. It is informers in exile that would confirm that Sipiwe was indeed in exile. We never got that confirmation.

CHAIRPERSON: Yes that's not the question. How credible did you think the information was that was given to you by these informers that Mr Mtimkulu is in exile in view of the fact that he was a cripple, as you put it, and in view of the fact that he was confined to a wheelchair after being discharged from the hospital in Cape Town?

MR TUNGATA: The fact that Mtimkulu was crippled would not
20 prevent him from going into exile. There would be people that would be crippled that would go into exile. There is nothing strange about that. But the problem is that we never got a confirmation that Mtimkulu was in exile. We had informers who were in exile. They never did give us a confirmation.

CHAIRPERSON: What conceivable purpose can be served by a cripple and a person confined to a wheelchair, who has just gone through a very serious poisoning incident, what purpose would that serve for that person to go into exile
30 away from his family?

MR TUNGATA: Sipiwe Mtimkulu would go into exile because he'd be running away from the police. Perhaps people from exile would have called him to go there if he was needed.

CHAIRPERSON: Now one other thing, is it correct to say that while Mr Mtimkulu was in the care of the security police they were, amongst other things, responsible for feeding him?

MR TUNGATA: When he was in Sanlam it was the responsibility of the security police to feed him. He
10 could not be fed with food coming from his home.

CHAIRPERSON: Was Mr Mtimkulu assaulted whilst he was in the care of your colleagues, security police, at Sanlam?

MR TUNGATA: When he said he was tired and he needed to sleep he said that he had been beaten up.

CHAIRPERSON: Did you see signs of that assault?

MR TUNGATA: He pointed at his leg and he said he was limping because he had been beaten up.

CHAIRPERSON: Did you see any blood?

MR TUNGATA: There was no blood but his legs were swollen
20 up.

CHAIRPERSON: What about the old clothing of Mr Mtimkulu, was there blood on that?

MR TUNGATA: There was no blood.

CHAIRPERSON: Are you sure about that, think carefully?

MR TUNGATA: He had been wearing a tracksuit, it had no blood on it. He just showed me his legs that were swollen up. He requested that he sleeps because he had not been allowed to sleep or rest. I then called Colonel Roelofse and he said the same thing to him. I could see that he was
30 swollen up, and then Colonel Roelofse said that he must

sleep.

CHAIRPERSON: Is it correct that you had an interview with members of the Investigative Unit of this Commission?

MR TUNGATA: They would go to my house frequently.

CHAIRPERSON: Have you discussed the question of blood on the dirty clothing of Mr Mtimkulu with our investigators?

MR TUNGATA: I have no knowledge of Mtimkulu's clothing being stained with blood.

CHAIRPERSON: Is that your final response on this question? Remember you are under oath and you are here to assist.

MR TUNGATA: I did not see any clothing belonging to Mtimkulu stained with blood even when he was at the office at Sanlam his clothing had no blood on it. I never saw any blood. I only saw his legs and feet being swollen because he'd said he'd been beaten up.

CHAIRPERSON: Just one final thing before I hand back to Adv Mpumlwana. In spite of all the trouble you had gone through to look up, locate Mr Mtimkulu, shoot him in an attempt to arrest him, or to facilitate the arrest, his arrest, the period that he spent in custody with your unit, your security branch, the questioning for, it seems, long periods of time without sleep, in spite of all that must we understand that Mr Mtimkulu was simply just released after all that effort to go back home?

MR TUNGATA: I don't understand your question well.

CHAIRPERSON: I will repeat it. Are we to understand that in spite of all the trouble that you had gone through to locate and to arrest Mr Mtimkulu by amongst other things, shooting him, and in spite of having kept him in your

custody for some time, weeks as you had put it, questioning him extensively, are we to understand that the security police then simply just left him to go back home?

MR TUNGATA: When we were looking for Mtimkulu to arrest him we were looking for him because he had distributed pamphlets. The investigatory unit was investigating about the pamphlets. The people that would have more knowledge than myself are the people that were investigating the whole matter. They know the contents. I can't give

10 clarity on the issue especially concerning his interrogation. I don't know what Mtimkulu had to do with the pamphlets. I was just told to go and arrest him.

CHAIRPERSON: Is the point that after all that Mr Mtimkulu was never charged with an offence, he was released.

MR TUNGATA: I don't remember about him going to court about him being charged about the pamphlets. He was just detained for interrogation. There are a lot of people who had been detained just for interrogation and then released, he was not the first one.

20 CHAIRPERSON: Yes, but this one you've gone to a lot of trouble for, he was released and then funnily enough he wasn't charged, funnily enough it turned out that he had a deadly poison in his system, a very scarce poison that was not readily available in this country.

MR TUNGATA: I can't be sure about the poisoning because I don't even know about the poison you are talking about. He was not the first one, Mtimkulu was not the first one that we had arrested, there were a lot of people that were arrested. We would arrest these people, hand them over to
30 the authorities and they would be released without going to

court. I don't follow this thing about the poisoning. I don't understand it.

CHAIRPERSON: We will adjourn for tea for 15 minutes.

HEARING ADJOURNS

ON RESUMPTION

CHAIRPERSON: To restart. Mr Tungata you are still under oath.

INSPECTOR TUNGATA: (s.u.o.)

CHAIRPERSON: Just before we proceed I wish to place on
10 record that Mr van der Merwe and I listened to the
recordings of the testimony in connection with the issue
that had arisen concerning the role of Mr Dunsta and
Xholiliswe and White members of the security branch and we
are in agreement that the proposition which I had put to
the witness in regard to the identity of the people who had
investigated Mr Mtimkulu is correct. Thank you. Mr
Mpumlwana do you want to proceed.

ADV MPUMLWANA: Thank you. Sir, you talked about people
20 who had been injured or crippled would leave the country
and go into exile, do you have an example perhaps, just one
person for example?

MR TUNGATA: There is a child that stayed in - he was not
crippled as such but he was limping, but he also left the
country for Angola.

ADV MPUMLWANA: Who is he?

MR TUNGATA: I don't remember his name. He was mentally
disturbed as well. He also was a COSAS member in Uitenhage
branch.

ADV MPUMLWANA: Do you know Topsy Madaka?

MR TUNGATA: Yes I know him.

ADV MPUMLWANA: Do you know that Mtimkulu had left with Topsy Madaka when he disappeared?

MR TUNGATA: Well I heard that, even in the newspapers.

ADV MPUMLWANA: When somebody leaves the country you know this the very same day or the next day that somebody has left the country.

MR TUNGATA: Yes that very same day most of the time, or sometimes after a few days we would find out that somebody
10 has left the country.

ADV MPUMLWANA: Do you realise that the doctor that was examining Sipiwe Mtimkulu said that they were shocked that he was still alive because the amount of poison that was in his body was a lot. He was supposed to have lost all his hair and not have been eating at all. If that is so, as we had suspected, as you also said that you cannot dispute that he was poisoned in jail, if it is so then the police really should be suspected in Mtimkulu's disappearance.

MR TUNGATA: I will not dispute that the police should be
20 suspected, but I cannot be sure about Mtimkulu being poisoned.

ADV MPUMLWANA: Did Topsy Madaka leave the country?

MR TUNGATA: We did not get any confirmation that he had gone to a specific country.

ADV MPUMLWANA: You had said that Mtimkulu had been beaten up quite a bit and his legs were also swollen up?

MR TUNGATA: Yes I did see that he had been swollen up because he said that he had been beaten up. He showed me his legs and I told Colonel Roelofse that Sipiwe said that
30 he was tired, he had not slept, he was being interrogated

and that he'd been beaten up.

ADV MPUMLWANA: This Colonel Roelofse, is he the one who took him home after he had been acquitted?

MR TUNGATA: I am not sure. I don't know when he was acquitted.

ADV MPUMLWANA: But you were always with Colonel Roelofse the whole time. You were working together.

MR TUNGATA: I was not working with Mene.

ADV MPUMLWANA: I am going to ask you about something that
10 you should be knowing about, about Mbele Maneli.

CHAIRPERSON: Mr Mpumlwana just a minute, just before we move off this. Mr Tungata how did the security police regard Mr Mtimkulu? Was he regarded as a threat or what was their view about him?

MR TUNGATA: As I know Sipiwe Mtimkulu he had no respect at all, no manners. He had beaten up a teacher at the Loyiso School because he wanted children to go to a rally at the church. When there was Robert Sobukwe's funeral there was a policeman that was in a bus that had gone to
20 the funeral with some people, when they were coming back from the funeral Sipiwe Mtimkulu took a gun from this policeman that was related to Robert Sobukwe, after he had taken the gun by force he threw the policeman out of the bus and shot this policeman.

CHAIRPERSON: So he was regarded as a radical person by the security police?

MR TUNGATA: He was - I perceived him as a hooligan.

CHAIRPERSON: And a troublesome person who was creating a lot of problems in the township?

MR TUNGATA: He was a hooligan, he was not a leader like Nkosele Jack.

CHAIRPERSON: And was that the general view that was held by your colleagues in the security branch, about Mr Mtimkulu?

MR TUNGATA: I don't know about the perceptions of the security police. I was investigating about the COSAS, PASC and PEGO. I saw him as a hooligan. He would not listen to other people. The people that were working with him in the youth organisations would avoid him.

CHAIRPERSON: And was the view that if he's not there, if he is out of Port Elizabeth there would be less trouble?

MR TUNGATA: I am not following you Sir, what do you mean, get out of Port Elizabeth?

CHAIRPERSON: If he was no longer in Port Elizabeth, was the view that if he was no longer in Port Elizabeth there would be less trouble in the townships, because one of the troublemakers would have been out of the community?

MR TUNGATA: With the schoolchildren he was not hated as such. ..(tape ends) ...would not accept him because he was very rough with everyone. He handles everybody very roughly. He was always in dispute with the people who were in the COSAS executive.

CHAIRPERSON: So if he was no longer in Port Elizabeth there would be less trouble?

MR TUNGATA: Perhaps.

CHAIRPERSON: Did you report to your superiors along these lines?

MR TUNGATA: There would always be reports about him, even the teacher at the Loyiso School that he had slapped there

was a report about that. People knew what kind of a man he was.

CHAIRPERSON: No, but I am talking about yourself. In your reporting to your superiors did you mention all of these views that you refer to now, that this man was a hooligan, he was a troublemaker, etc?

MR TUNGATA: Most of the reports about the COSAS people would be written down and then would hand them over. The informers would tell us as well in a written report about
10 how he was handling himself.

CHAIRPERSON: Yes, but I need a crisp answer. In your reports that you made to your superiors did you mention all these things about Mr Mtimkulu?

MR TUNGATA: I did because I had gotten a report that he had taken schoolchildren out of school. I also made comment that he handled the schoolchildren very roughly, forced them out of the classrooms, slapped the teacher. There were also reports from the informers that were confirming this.

20 CHAIRPERSON: Thank you. Who did you make your reports to? Which specific officer?

MR TUNGATA: It was in the security offices but at a desk that dealt with the COSAS organisation.

CHAIRPERSON: But which officer, I assume it's a White, one of your White colleagues, who did those reports go to specifically?

MR TUNGATA: I am not sure who was handling the COSAS group. I can't remember because people would exchange departments. The person who was in charge would compile
30 and collect all the reports together and there would be a

specific file.

CHAIRPERSON: Okay, now which were the people who were in charge of the security police at that stage, give us the names?

MR TUNGATA: The man that was in charge at the time was Colonel Verkuil.

CHAIRPERSON: Excuse me, Verkuil?

MR TUNGATA: Verkuil.

CHAIRPERSON: Verkuil - Sorry carry on.

10 MR TUNGATA: It's Colonel Verkuil that was in charge of the administration sector at the time. And then Colonel du Plessis was in charge of our group.

CHAIRPERSON: Thank you very much. Mr Mpumlwana.

ADV MPUMLWANA: What's the first name of Colonel du Plessis?

MR TUNGATA: I'm not sure who it is ...(intervention)

ADV MPUMLWANA: He was your superior?

MR TUNGATA: But it was Colonel du Plessis.

ADV MPUMLWANA: He was your superior?

20 MR TUNGATA: Yes.

ADV MPUMLWANA: So you would give your reports to him.

MR TUNGATA: They would go to him and he would compile the reports.

ADV MPUMLWANA: Before I proceed I want to revert back to Topsy Madaka. Was Topsy Madaka an activist or was he working for you?

MR TUNGATA: I am not sure because he was not a COSAS member, neither was he a schoolchild. He was working for an insurance company.

ADV MPUMLWANA: Was he not an informer?

MR TUNGATA: I can't be sure about that.

ADV MPUMLWANA: Who were your informers?

MR TUNGATA: According to the ethics of the police force I am not allowed to disclose the informers' names.

ADV MPUMLWANA: Even though you have left that section?

MR TUNGATA: Section 56 of the Police Act binds you to secrecy. It is the officer responsible. I have no right to disclose that information.

10 ADV MPUMLWANA: Even though you would know if Topsy Madaka is an informer you cannot disclose that?

MR TUNGATA: No I cannot because I would be breaking the law, the ethics of the Police Force.

ADV MPUMLWANA: There were rumours about Sipiwe Mtimkulu that you yourself do not dispute that the police had contributed in his disappearance had something to do with Topsy Madaka's disappearance as well, because it seemed that Topsy Madaka used to work for the police and then he lured Sipiwe Mtimkulu to go with him, therefore Topsy
20 Madaka must have been killed because Sipiwe Mtimkulu had been killed. Is it possible?

MR TUNGATA: I can't dispute it. I have no evidence of such. I can't say it happened or did not happen, but such things were happening. I would hear that they happened.

ADV MPUMLWANA: Let's go further to something that you should know something about.

CHAIRPERSON: Just before you move on to the other topic Mr Mpumlwana, Reverend Xundu?

REV XUNDU: We heard that Godolozzi was an informer though
30 that Section 56 was existing. One policeman told yesterday

that this person was an informer though this section 56 is still existing, why does this section 56 apply only to you.

Godolozzi was an informer, that information was verified and Topsy was an informer. Why are you the only one who seem to be bound by this section 56? Because all the people who are here are sworn in that they won't reveal any information as to what is happening here. Why are you the only one that is bound by this section 56 whereas the other policeman revealed that kind of information?

10 MR TUNGATA: I am a warrant officer, captain and lieutenant are offices, they do have that right, I don't have that right although I am also in the police force. It's only the officer who has the right to respond to that. Because I am not an officer I am not in a position to answer that question.

CHAIRPERSON: Mr Sandi?

MR SANDI: Mr Tungata have you heard anything about amnesty whereby people who have some knowledge about some of the things where they tell the world about everything
20 that they know so that they can be forgiven?

MR TUNGATA: Yes I know about that.

MR SANDI: Have you heard that in the applications for amnesty they mention the names of the people who were working with them and were giving them trouble?

MR TUNGATA: Yes I also know about that.

MR SANDI: That means that the police, the highest police officer can pretend as if he has sold out.

MR TUNGATA: It is not possible if it is a policeman, but if it is a civilian you are actually placing his life in
30 danger because you are breaking the law. Because if that

kind of information can be published that civilian who was an informer then his life would be in danger, because at the time you are recruiting that particular person you had promised that you won't reveal anything about him.

MR SANDI: I am not talking about a civilian. I am talking about a situation whereby the police officer who was in charge of the other policeman is saying something to the Commission privately because he is applying for amnesty. By so doing he is actually mentioning the names
10 of the other policemen that were working with him, people like you and people like Mr Mene.

MR TUNGATA: The policemen have a right to do that. I heard about that. That one has got the right to do so.

MR SANDI: Just before I ask this question let me say this. Some of the questions that we ask here we ask them, not because we don't know the answer, but we ask such questions because we want to be sure that how much that particular person is prepared to tell the truth and also involve himself in this kind of process of reconciliation
20 and to reveal the truth. Let me go on by saying, if we can let you know that there are policemen who were in high posts here in this area, who were the highest authority in the Eastern Cape who said something about this poisoning of Mr Mtimkulu and they also mentioned the names of their colleagues, especially in Port Elizabeth, can that surprise you?

MR TUNGATA: I cannot be surprised because first of all poisoning of a person is unlawful. A person is just doing his own thing. Recruiting a person to be an informer it is
30 lawful.

MR SANDI: Thank you Mr Tungata. Thank you Mr Chairman.

CHAIRPERSON: Thank you Mr Sandi. Mr Mpumlwana we interrupted you, you were going to another topic, please proceed.

ADV MPUMLWANA: I wanted to say the contribution of those people, the informers, is the same as those people who are assaulting and torturing people during detention, and you and yours as the person who will be gathering information and forwarding it to the office. An informer can say something, tell a story and then you can take that kind of information, you go and arrest that person because you are in the field, and that person after that will be tortured and harassed so that he can say what the informer has told them. People are dying, some of them are paralysed and injured because of that. Do you know that?

MR TUNGATA: Yes I know.

ADV MPUMLWANA: If you have assaulted a person and you admit that you have violated that particular person's rights just because of the information that you got from the informer. Secondly I wanted to clarify this to you. All what was trying to protect - all that was actually trying to protect the government that was oppressing the people. Now there is a change. That is why that all these people, including the informers and those that assaulted the people should come together and tell the truth so that they can be granted amnesty. That is why you are here today. I want to say I don't think you are in a position to say that the names of the informers mustn't be mentioned. I think their job is finished, but I am not sure. I don't know why you say that we must not talk about

them, but only the perpetrators, those who have killed, not only the informers. To me it looks like of you are prepared to tell us something just tell us freely because that can also help us to know that so-and-so was involved in this. Because they also have a contribution in violating the human rights. I therefore request you to think about that and after some time you let me know about your conclusion.

I want to know about the death of Mubele Manele.

10 MR TUNGATA: I have some knowledge. I made a statement, a docket was opened, but I am not in a position to tell about that because I am not sure of what happened, but I made a statement, there was an inquest, I went to court and I was called during the inquest to go and testify.

ADV MPUMLWANA: I want to know what happened.

MR TUNGATA: It was during the consumer boycott. I was driving a combi from Engo(?), I was coming from town to make my groceries, there were other cars who were parked there and people were being searched. This Mubele Jeffrey
20 Manele saw a gun on me and he wanted this gun. I struggled because I didn't want to give him this gun and some of them came and there were lots of people, people were being searched and they were forced to eat the item that they have bought, things like soap and they said to me I must also eat the same stuff because I had bought groceries. As we were struggling there he was - I shot him with the gun as we were struggling and he fell. And the police came from the Centenary Riot Squad, they took pictures, they took his body and some people who were witnesses there, I
30 took them into my combi to make statements at New Brighton.

All those statements are there in that docket.

ADV MPUMLWANA: You say you were fighting, you were struggling with this gun?

MR TUNGATA: Yes he wanted this gun. He wanted to know whose gun was this because he was not aware of the fact that I was a policeman. And I told him that I was a policeman but still he wanted this gun. It is during the time when the police were being burnt in Port Elizabeth during the consumer boycott where people were not allowed to buy from the shops. Even if you had bought petrol they would force you to drink that petrol.

ADV MPUMLWANA: Didn't you go to the car and take another gun?

MR TUNGATA: It was not in the car.

ADV MPUMLWANA: I am talking about a second gun.

MR TUNGATA: The second gun was in the briefcase but I didn't get a chance to go there and fetch it. I was trying to go back to the car but I couldn't get a chance to reach my car.

ADV MPUMLWANA: Where did you hit him with the bullet?

MR TUNGATA: I am not sure because he was coming to me and I was holding this gun, but I think it was in front though I don't know where did I actually hit him, where did the bullet actually hit him. There were people who were eye witnesses at the time and they made some statements, I think about 13, 20 to 13 of those people, even those statements are there in the same docket.

CHAIRPERSON: Sorry Mr Tungata, how many firearms do you carry with you at one time?

MR TUNGATA: During those times we used to have two to three or four guns it depends where are you going.

CHAIRPERSON: So you would, at some point you would move around with four firearms?

MR TUNGATA: Yes Sir.

CHAIRPERSON: Thank you. And normally, how many would you normally carry around with you?

MR TUNGATA: Only one gun.

CHAIRPERSON: Not two?

10 MR TUNGATA: No, I would use only one gun.

CHAIRPERSON: Why did you have two guns on that day?

MR TUNGATA: It was during the unrest, the riots.

CHAIRPERSON: So why do you have two guns, during the riots, but why?

MR TUNGATA: If you are being attacked in the township, especially in Port Elizabeth, if the people are chasing you, if you run off bullets the people will come to you because you shoot their warning shots and if you run short of bullets the people will come and attack you. The reason
20 is for protection.

CHAIRPERSON: So you would carry more than one firearm so that you can be ready to shoot. You didn't regard one firearm with one magazine and perhaps a spare magazine on you as sufficient. You wanted to have at least two firearms, sometimes even four.

MR TUNGATA: Yes, that's merely for protection.

CHAIRPERSON: Four firearms for protection?

MR TUNGATA: Yes even four guns so that you can protect yourself especially when you are alone.

CHAIRPERSON: Were you the only one who was carrying all these firearms with you, or was it standard practice amongst the police in Port Elizabeth at that time?

MR TUNGATA: Most of the policemen they used to have a lot of guns during those times. I was not the only one.

CHAIRPERSON: Mr Mpumlwana.

ADV MPUMLWANA: All in all you were armed to fight people?

MR TUNGATA: I was arming myself for protection but not to fight people.

10 ADV MPUMLWANA: Let me remind you, during the times of the consumer boycott where the people were not allowed to buy in the shops of the Whites, from the shops, do you call that a riot?

MR TUNGATA: It used to fall under the riots, consumer boycotts used to fall under riots because during consumer boycotts if a person happened to buy something in the shop he or she would be attacked. As police we must maintain law and order. If a person is being attacked or maybe a bus with people there we must go there as police to
20 maintain law and order.

ADV MPUMLWANA: But that was not your job to maintain law and order. You just told us that you were a security policeman. Does that fall under the scope of your duties because you are different from those policemen who maintain law and order?

MR TUNGATA: I am not sure whether there is anybody who knows that. A security policeman is the same as the other police ...(intervention)

ADV MPUMLWANA: But the cases of politics
30 ...(intervention)

MR TUNGATA: That doesn't necessarily mean that if you are a security police you are only concerned with politics, you also deal with crime. You fall under the very same category as ordinary police but your specific job is being a security policeman but if there is a crime, you happen to witness a crime you must do something as a policeman. That doesn't necessarily mean that if you are a security policeman you cannot attend to such problems. You must protect people and maintain law and order. If the people are burning properties you must also go there and arrest people. It doesn't mean that you are actually concerned with politics. That is the wrong information.

ADV MPUMLWANA: It is said that when this person was being shot he was shot from the back.

MR TUNGATA: That is not true.

ADV MPUMLWANA: Maybe as you were struggling you happened to turn and you drew your gun and shot accidentally.

MR TUNGATA: As we were struggling he didn't - we were facing each other. I had no chance of turning away because it was full, the people were full there and I was going to be attacked. And even while I was trying to go to the combi I was reversing.

ADV MPUMLWANA: Can I go on to something else?

CHAIRPERSON: Please proceed Mr Mpumlwana.

ADV MPUMLWANA: Can you please clarify this point to me, the killing of the schoolchildren at Pakamisa High School.

MR TUNGATA: The killing of the schoolchildren at Pakamisa, the unit there it was under Brigadier van Wyk who was coming from Pretoria. There was a unit that was under Brigadier van Wyk coming from Pretoria. This unit was

working specifically with violence and riots. I was told, it was me and Mr Mene, by Colonel du Plessis to take them and show around the dangerous places where the people were rioting and where the people were being necklaced in the township. As we were in charge of the Port Elizabeth and we were the people who were collecting the dead bodies of the necklace victims, so we were aware of the places and we showed them around where the people were being necklaced and the other bodies. We took them to the rural areas and to the other places. Even the toilets of Cripple Care (?) where the people were burnt, from there we took them to a dam to see what was happening there.

On the way to Zwede we were forced to go through the Soweto shacks to show them also the Soweto shacks where a pregnant woman was necklaced. We took them to Pakamisa, we wanted to show them the Pakamisa where the other people in cars were burnt down. While we were next to the school we stopped there. Mr Mene jumped the fence and Mr Xayiso, they got inside the school yard. Xayiso slashed one of the teachers across the face. Me and Gumedede we were in the car with the other people that we arrested at the time.

ADV MPUMLWANA: Without interrupting you, you say Mene was driving the combi?

MR TUNGATA: Ja, and he stopped next to Pakamisa.

ADV MPUMLWANA: What was the reason?

MR TUNGATA: There were children who were chanting songs there because it was during the class boycotts at the time and the teachers were standing next to the toilets. He parked the car there and they jumped the fence, I don't know their intention because he was the one who was

driving, maybe he saw a need because he was in charge. He got in and as they were passing the toilets they went inside and Xayiso insulted one of the teachers and the teachers ran away. They went to a square place there in the school yard but we don't know what happened.

We just heard the gunshot and the children were dispersed as there was a shooting in the school yard. But I don't know, I didn't get a chance to see what was happening inside because I couldn't see. From the position that I was in I couldn't see what was happening inside. We alighted from the combi, Zwane approached the direction of the shacks because he was also running away. I went up the street next to Pakamisa. When the noise had subsided I went through the school gates. I wanted to see what was happening there because I thought that Mene and the others are still there so that I can be able to see what was happening. I found a child that was lying next to flowers and the others was between the classes. While I looked through I could see that there were others who were injured who were trying to run away because they were afraid of me as I was having a gun. I went back to the combi and we left.

ADV MPUMLWANA: Meaning they just parked the car next to the school yard and only Xayiso and Mene went inside, you were still in the car?

MR TUNGATA: Yes.

ADV MPUMLWANA: And didn't even know the reason for that but you saw Xayiso beating a teacher, where was this teacher while he was slashing her? Was she far away from the gate or nearer?

MR TUNGATA: I think it was between the school yard, a distance between the school yard and the classes. I think it was about ten metres from the streets to the classes. He jumped the school fence.

ADV MPUMLWANA: Was the gate locked?

MR TUNGATA: Yes the gate was locked, and this one that was next to the caretaker was also locked.

ADV MPUMLWANA: You mean he jumped?

MR TUNGATA: Yes and Mene jumped following him.

10 ADV MPUMLWANA: They went straight to the teacher?

MR TUNGATA: No they didn't go to the teacher. Xaliso was in front, Xaliso slapped this teacher and some other teachers dispersed and they went straight to the classes. They went between the classes.

ADV MPUMLWANA: Where were the schoolchildren at the time?

MR TUNGATA: We couldn't see because we were outside in the combi, we couldn't see what was happening inside. You could only see when you went inside the classes.

ADV MPUMLWANA: You mean there was no provocation, you
20 think maybe they went there to investigate?

MR TUNGATA: As we left - the people were just hitting any car that they came across, they were just pelting stones.

ADV MPUMLWANA: But at the time nobody provoked you?

MR TUNGATA: No.

ADV MPUMLWANA: It was only in Soweto where we were provoked. So nobody pelted stones at Pakamisa.

MR TUNGATA: He just jumped the fenced, nobody threw stones. Maybe if it happened it was after he had parked the car. They were throwing stones at Maya, Maya is a T-
30 junction and Pakamisa is at the end of Maya and while they

○ were throwing stones they ran towards the school yard. I didn't see any need to go there because they were already inside the school yard and they were not students. They were not even schoolchildren those people.

ADV MPUMLWANA: You mean even the car was not pelted with stones?

MR TUNGATA: No. But because he was following this Xayiso I think that was the reason why he decided to go in there because he was following Xayiso.

10 ADV MPUMLWANA: Do you think the schoolchildren were shot by Mene and Xayiso?

MR TUNGATA: Yes it was, surely it was Mene and Xayiso. If Zwane shot he was from the other side of the school yard where the cars were being burnt.

ADV MPUMLWANA: All that time you mean you were in the car?

MR TUNGATA: No I alighted from the combi but I couldn't go in there because the children were coming to my direction and I was also going to be shot with those
20 bullets that were going to them. I couldn't go in there. I had to take that direction only if the children were going to another direction because I was also going to be affected.

ADV MPUMLWANA: You say you didn't even see any reason for Mene and Xayiso to go in there, in the school yard?

MR TUNGATA: According to the instructions that we had, we were told not to go in the school yard, under no circumstances that we should go there even if the schoolchildren were chanting, it's only the principals who
30 will see what to do - not unless the DET is phoning the

police and the riot squad could go there, not the security police, we were not allowed to go into the school yard during the riots and during the class boycotts. Even today we are not allowed, the police are not allowed to go into the school yard not unless their principal had called them. That is why I said I saw no reason for them to go in there.

ADV MPUMLWANA: Was Mene security police at the time?

MR TUNGATA: Yes.

10 ADV MPUMLWANA: Xayiso, the one that he was following, was not a security policeman. Was he one of those people who came specifically to control the riots?

MR TUNGATA: They came with Brigadier van Wyk from Pretoria.

ADV MPUMLWANA: How many were there?

MR TUNGATA: There were three of them in our branch, but we were told that there were also others but we didn't see them.

ADV MPUMLWANA: You and Mene, for how long had you been in
20 the security police?

MR TUNGATA: Mene went there in 1977 and I arrived in 1976, and Mene arrived in 1977 at the security police.

ADV MPUMLWANA: Are you sure?

MR TUNGATA: Yes.

ADV MPUMLWANA: Who is this Mene that you are referring to?

MR TUNGATA: It's Stanford Mene.

ADV MPUMLWANA: You started at the security police - oh Mene started in 1977?

MR TUNGATA: Yes I was there in 1976, he came after me.

ADV MPUMLWANA: As you were going there you didn't have a right to go inside the school as the security police?

MR TUNGATA: Not only the security police but all the policemen were not allowed, didn't have the permission to go there during the state of emergency. It's only the riot squad who were supposed to go in there, in the school yard. Even the police with uniform were not allowed, it's only the riot squad because they said we are provoking the situation, we must not go to the school yard. So that is why we were not allowed.

ADV MPUMLWANA: You were sentenced, what was the reason?

MR TUNGATA: Defeating the ends of justice.

ADV MPUMLWANA: What does that mean?

MR TUNGATA: It means that I tried to act against the law, and I didn't do that. The reason for that it is because even initially I was ordered to fake evidence against Mr Mene and I refused because I didn't see what happened. And then he said I was going to be charged because I refused to make evidence. Zwane and Gumede were made witnesses and Zwane, the one who shot, was not charged. Even Xayiso was not charged, it's only Mene who was charged. Xayiso and Zwane whereas they were the people directly involved.

ADV MPUMLWANA: This unit that was working with Xayiso for how long did you work with them?

MR TUNGATA: It was a matter of hours because when we arrived at Pakamisa there was a shooting and when we left Pakamisa. After that Colonel du Plessis ordered us to go back to the office because they had already had a report that there was a shooting at Pakamisa.

ADV MPUMLWANA: It took quite a long time. Can you tell us briefly about what this unit was doing there?

MR TUNGATA: We left from Barry's Corner with the roads that I have told you about, from the rural areas to Zekele to Dago, to Swaarkop and Pithole and Damxexe and Soweto. And then that was the end when we arrived at Pakamisa.

ADV MPUMLWANA: I am saying this unit was in Port Elizabeth for quite a long time, do you have any knowledge about their duties?

10 MR TUNGATA: I don't know because we didn't do work with them, they were working independently after that. We were not working with them.

ADV MPUMLWANA: Were they working independently?

MR TUNGATA: We were to show them where the areas were that were dangerous. After that they went to work independently. Because they said, even from the other places that they are coming from they are usually shown around the place and work independently.

ADV MPUMLWANA: Please just give us some clear information
20 Sir. You are showing these new people who would be working, you are saying here is the place where we find a certain kind of people, and then you just leave them like that and you don't even know the job that they are doing there. They just stay there for months and you don't even know what is it that they are doing. And now you assume that there is no more trouble in those affected areas after you have seen them. You mean there is no more troubles and problems in that place because there was a problem at first and now as you have shown them around the places you just
30 assume that there is no more trouble? And those people

spent months there?

MR TUNGATA: I am a little bit confused because I don't know where to answer now.

ADV MPUMLWANA: I want you to tell me about the activities. MR TUNGATA: I said initially this unit came and Colonel du Plessis said we must show them around the affected areas where the people were being necklaced and where these people usually work because these people were coming from Pretoria and other different areas. After that
10 they work independently. Their duty is to go to the places with riots and they deal with riots. They were not going to work with us. We were to show them the area and they would work independently.

ADV MPUMLWANA: A lot of people have died and they were killed by that unit. Do you have knowledge concerning that?

MR TUNGATA: The only incident that I know that they were involved is the one of Pakamisa. I don't know anything about other places. I cannot dispute what happened before and after because I never worked with them.

20 ADV MPUMLWANA: It's because Mene was not in that group. While Mene was killing he was in your own unit, he was not in their unit, it's only him and Xayiso who shot and killed the children.

MR TUNGATA: It's Mene, it's Xayiso and Zwane who were involved in the shooting at Pakamisa.

ADV MPUMLWANA: You were sentenced to how many years?

MR TUNGATA: Three years. The two were suspended and the one I was supposed to stay in jail. I then made an appeal because I did not shoot anyone, that is why I made an
30 appeal because I was innocent, and I was also supposed to

give evidence against Mene. I felt that it was victimisation, therefore I made an appeal.

ADV MPUMLWANA: You were sentenced for defeating the ends of justice, is that it?

MR TUNGATA: Yes.

ADV MPUMLWANA: According to my records here you were sentenced for grievous bodily harm, is that not true?

MR TUNGATA: No it's not true.

ADV MPUMLWANA: There were two charges running
10 concurrently.

MR TUNGATA: There were eight charges, two for murder, four for attempted murder, assault and malicious injury to property. When we got to the court of law it was two murders, four attempted murders, an assault and defeating the ends of justice. The malicious injury to property charge was turned to defeating the ends of justice at court. I did not assault anyone or murdered anyone or attempted murder.

CHAIRPERSON: Mr Tungata were you not sentenced by Mr
20 Justice Solomon in the Supreme Court in Port Elizabeth to three years, three years imprisonment on each of two counts of assault with intent to do grievous bodily harm and three years for attempting to defeat the ends of justice, or defeating the ends of justice? Did Judge Solomon not order that all those sentences should run concurrently except for one year on the sentence for defeating the ends of justice resulting in an effective imprisonment of four years?

MR TUNGATA: Not so.

CHAIRPERSON: What do you say, you were sentenced to three
30 years for defeating the ends of justice and that's all?

MR TUNGATA: That is all.

CHAIRPERSON: And then you appealed and what happened on the appeal?

MR TUNGATA: I was given a date, I was supposed to go to jail on the 6th of June to serve the year because the two were suspended, then a document came that said I must be acquitted.

CHAIRPERSON: So are you telling us that your appeal succeeded, you were found not guilty on appeal?

10 MR TUNGATA: Yes I've got the documentation.

CHAIRPERSON: But why were you in prison?

MR TUNGATA: I was sentenced for defeating the ends of justice. There were eight counts but I was only sentenced for defeating the ends of justice.

CHAIRPERSON: Did Judge Solomon give you bail after your conviction in the Supreme Court in Port Elizabeth?

MR TUNGATA: It was Mene and I that was convicted. After that we were given free bail and we were supposed to appeal during that time.

20 CHAIRPERSON: Ja, so you were released, you were not - you didn't start serving your sentence immediately after Judge Solomon convicted and sentenced you, you were released on bail pending the outcome of your appeal, correct?

MR TUNGATA: Yes it is so.

CHAIRPERSON: And then you tell us that your appeal was successful, you were acquitted on appeal?

MR TUNGATA: I appealed before I went to jail. Advocate Jansen, who is now a judge was defending us, he made an appeal on our behalf. Then we were given a date to go to
30 jail on the 6th of July, I then wrote a letter on the 6th

of July going to the Minister of Police and the Minister of Justice because I was victimised I was sent to jail because I was innocent. I had done nothing at Pakamisa.

CHAIRPERSON: Yes we'll come to that. What I can't understand is why were you serving a prison sentence for about a month, why were you serving that prison sentence if you were released on bail after your conviction and sentence by Judge Solomon, and if your appeal was successful why were you serving a sentence? Because your
10 bail is pending the finalisation of your appeal. And if your appeal was successful I can't understand why you must serve a sentence. Can you explain that?

MR TUNGATA: I was sentenced by Judge Solomon, three years for defeating the ends of justice. And Judge Solomon said that two of the three years would be suspended, I would only have to serve one year in jail. I made an appeal against those three years. When I introspected I realised that I was innocent, I would not serve even that year. That is why I made an appeal.

20 CHAIRPERSON: Yes, and then what happened?

MR TUNGATA: Jansen made an appeal on our behalf. After two and a half or three years we then got a report that we must go to jail. As I was given four years and Mene 11 years I was not satisfied with the conclusion that only three years would be suspended and the one year I had to serve. I then wrote the letter to the Minister of Justice and the Minister of Police. I went to jail having appealed to the Minister of Justice and the Minister of Police. I was in jail when I got the documentation that I must be
30 acquitted. I don't know whether it came from the Minister

of Police or the Minister of Justice.

CHAIRPERSON: Okay, alright, we'll talk about that now. How long did you have to serve in prison eventually after the appeal?

MR TUNGATA: I was only supposed to serve a year in prison.

CHAIRPERSON: And then you wrote to the Minister of Police?

MR TUNGATA: Yes the Minister of Police and Justice.

10 CHAIRPERSON: Police and Justice.

MR TUNGATA: Yes Sir.

CHAIRPERSON: That was in '86. Who was it Kobie Coetzee? The National Party Ministers?

MR TUNGATA: It is Kobie Coetzee.

CHAIRPERSON: And he then released you after you only served one month, a twelfth of your sentence.

MR TUNGATA: I was acquitted because my appeal was successful.

CHAIRPERSON: That's not acquitted, you mean released, is
20 that the better term for it?

MR TUNGATA: Yes I was released.

CHAIRPERSON: Good. So after the court was finished, the court said you must go to prison then Kobie Coetzee and whoever his colleague was in charge of the police then came and said no, no, no, that man must be released after you only spent one month in prison, is that correct?

MR TUNGATA: It is so.

CHAIRPERSON: So those Ministers they were overriding what the court was saying, they decided well they were going to
30 release you, that's what happened actually?

MR TUNGATA: It is so. The court of law was victimising me. I had done nothing. There was no reason for me to be sentenced.

CHAIRPERSON: Now what reason did the Minister give, why did he say why was he agreeing to release you after only a month?

MR TUNGATA: I don't know because the documentation was sent to St Albans Prison, I was just told that I must collect my things and be released.

10 CHAIRPERSON: Did you also speak to some of your White senior colleagues in the security police at the time when you were approaching those two Ministers?

MR TUNGATA: I did not talk to them because since we were suspended, until such time that we were sentenced everybody, nobody wanted to have anything to do with us.

CHAIRPERSON: Now did you write your letter that day when you had to go and report, when you had to go to prison, is that what you said? That's the letter to the Ministers.

MR TUNGATA: We'd heard on the 1st or 2nd of July that we
20 had to go to jail, it was a week before that that I wrote to the Ministers.

CHAIRPERSON: So within a matter of five weeks, you wrote a week before you had to report, and within a month you were released, so within a matter of five weeks those Ministers responded positively and they released you immediately, without any assistance from your White colleagues, your senior colleagues from du Plessis and Roelofse and all the rest of them?

MR TUNGATA: The minute the two were suspended, du Plessis
30 and the others, they didn't want to have anything to do

with us. When we were making statements even with the Murder and Robbery Unit nobody was there for us.

CHAIRPERSON: That's even more remarkable. So you say that in the face of du Plessis and the others' attitude of avoiding you now you were successful within five weeks of writing to the Minister, and you were released?

MR TUNGATA: Du Plessis was avoiding us. He was in charge of the security sector but he was avoiding us. He didn't help us. I went to jail and I was innocent. He was supposed to give evidence on my behalf but he avoided everything.

CHAIRPERSON: But du Plessis did give evidence in your favour. Du Plessis told the Court, he and Roelofse, he told the Court that you and Mene were dedicated members of a small special unit investigating treason, and terrorist activities and he told the Court you are going to get killed if you were to go to jail and he was asking for a light sentence to be given to you, not so?

MR TUNGATA: Du Plessis was supposed to go to court and say that I did not have anything to do with the murder. He was supposed to go to court and say that he gave orders for Mene and I to be at Pakamisa. I was not satisfied with the way they handled things from the time that we had been suspended.

CHAIRPERSON: And then to crown it all you get released by Kobie Coetzee and his colleague of Police, he might have held those two portfolios together, I am not sure, but he releases you ...(tape ends)

MR TUNGATA: It is so.

CHAIRPERSON: You must have been a very happy man?

MR TUNGATA: I am not happy.

CHAIRPERSON: What did you expect then, did you expect to be left in prison, to come out unemployed?

MR TUNGATA: I was not even supposed to go to jail. I had not killed anyone. I did nothing at Pakamisa. They did not investigate the case well. The people that were the actual perpetrators were not taken to jail. I had to go to jail. I was suspended for three years but I was innocent.

10 There were reports in the papers that were incorrect about me and I had done nothing.

CHAIRPERSON: What was the paper saying? What is that, is that a letter?

MR TUNGATA: It's some of the lies that were reported in the papers.

CHAIRPERSON: I see a headline, "The Cop they feared most", who were they referring to?

MR TUNGATA: It was - the media lied about me, they were talking about me.

20 CHAIRPERSON: Mr Mpumlwana or Mr Sandi.

MR SANDI: I thank you Mr Chairman. Mr Tungata when you appeared in court on charges, amongst the other charges of defeating the ends of justice, did you have a lawyer?

MR TUNGATA: I had a lawyer.

MR SANDI: Did you not have a chance to speak in court and give your own version of what happened?

MR TUNGATA: We did get a chance to testify in court, but nobody listened to us.

MR SANDI: Is the court not the place where such questions
30 are decided as to who is saying the truth and who is lying,

is the court not the place of justice?

MR TUNGATA: This question about the court, I don't understand it. There are a lot of people who would be convicted and sentenced but they would be innocent and then later people would find out that they are innocent. There are a lot of people who are falsely accused. Some people would be sentenced to death, sometimes the Court would rightfully sentence people, sometimes wrongfully so.

MR SANDI: I think that is completely besides the point.

10 The point here is that you were a police officer and you were found guilty and sentenced for a very serious offence, defeating the ends of justice, in other words frustrating the very process of the law. You were a law enforcement officer but you were found guilty by a court of law of frustrating that process and the Minister of Justice decided that you should be released in spite of the fact that the Court had found you guilty. Did you think the Minister of Justice, what he was doing was right?

MR TUNGATA: The problem with the Minister of Justice is 20 that he receives reports, he gets reports from people, he is never at the actual place where things happen, he hears from people. I was in Pakamisa. Judge Solomon was not in Pakamisa. The Minister was not there either. I was supposed to clarify things because I was at Pakamisa.

MR SANDI: You wrote the Minister of Justice a letter, what you were saying in that letter was it not just hearsay because he did not see what had happened, he had no personal knowledge. He depended on you. It was up to him to believe or not to believe what you were saying in your 30 letter. Was it not hearsay that you were telling the

Minister of Justice?

MR VAN DER MERWE: I beg your pardon Mr Chairman. At this stage I wonder if this is taking this any further. Surely the Minister of Justice should be answering these questions. I think this witness was too glad that the Minister of Justice was either incompetent or competent but I don't think he can be standing and answering the Minister of Justice's questions.

CHAIRPERSON: He might very well have to answer this
10 amongst many other questions.

MR VAN DER MERWE: That would be appreciated as well as my salary increases which he didn't give me.

CHAIRPERSON: Yes, so perhaps we can't take it any further with this witness, that issue. If you are done with that aspect then I will ask Mr Mpumlwana to proceed.

ADV MPUMLWANA: Sir I just want to seek clarity on two factors. Thank you for telling us about the time you arrived at Pakamisa. Thank you for telling us that your car was actually not stoned.

20 MR TUNGATA: The car was not stoned at Pakamisa. The schoolchildren did not stone the car.

ADV MPUMLWANA: Well I am thanking you for having clarified that aspect that your car was not stoned there. What I am trying to say to you is that Mr Mene lied to us here yesterday. He said that the reason why you stopped the car was that the car had been stoned and stoned again. Secondly, he said that ...(intervention)

MR VAN DER MERWE: Excuse me Mr Chairman I have to interrupt here. As far as I can recall the evidence of Mr
30 Mene, Captain Mene, the evidence was that one stone hit the

vehicle, not repeatedly. That is the reason why he said the car was stopped.

ADV MPUMLWANA: Yes.

MR VAN DER MERWE: And apart from that I am under the impression that the evidence given here is in camera. I will just leave it at that.

CHAIRPERSON: Yes. It seems if we agree that Captain Mene was speaking about the stoning and it happened, whether it was one or whatever. So if you are putting it as repeated
10 stoning Mr Mpumlwana then it's obviously not correct.

ADV MPUMLWANA: I did not.

CHAIRPERSON: Okay.

ADV MPUMLWANA: I did not say it was repeatedly stoned.

CHAIRPERSON: Ja. And in any case I don't think this witness can really take it much further on Mene's -
whatever Mene said, on Mene's version.

ADV MPUMLWANA: Was the combi stoned after that?

MR TUNGATA: Was this after Pakamisa?

ADV MPUMLWANA: It is said that it is the police that
20 stoned it.

MR TUNGATA: After the Pakamisa incident.

ADV MPUMLWANA: I don't whether it was a day or a few days after that where they tried to cover up so that it seems that it is at Pakamisa that the combi was stoned.

MR TUNGATA: It is so.

ADV MPUMLWANA: You said then you went back to the police force and there was no problem for you.

MR TUNGATA: What kind of problem?

ADV MPUMLWANA: You had a criminal record?

MR TUNGATA: Yes.

ADV MPUMLWANA: But you were accepted back easily. You went back to the same rank, same status, the salary was the same, there was no alteration.

MR TUNGATA: My salary changed because my service was then reverted back as if I was starting from over.

ADV MPUMLWANA: So Major Roelofse, was he on your side? Whilst you were having problems he was on your side because he spoke up for you in the court of law saying that you are trustworthy and you worked well.

10

MR TUNGATA: I was working with him.

ADV MPUMLWANA: Therefore he did not just neglect and avoid you, he was on your side. He did not just dump you.

MR TUNGATA: I can't say he dumped me or he did not dump me because they knew what happened and they knew that the evidence that we were given was true and for certain. If they had done something about that I would not have gone to jail. I didn't even know that the combi was going to be stoned. We were just shown that the combi was dented and when I left it, it did not have a single dent.

20

ADV MPUMLWANA: Thank you. I think on the Pakamisa issue I have completed my questions.

CHAIRPERSON: Thank you Mr Mpumlwana. Please proceed. You can proceed to the next incident that you want to deal with.

ADV MPUMLWANA: I want to revert back to the beating up of Richard Mona whilst in jail.

MR TUNGATA: I don't know anything about Richard Mona.

ADV MPUMLWANA: Don't you remember him?

- MR TUNGATA: No I know nothing about Richard Mona.
- ADV MPUMLWANA: Perhaps it was in June 1978.
- MR TUNGATA: No I don't know anything about Richard Mona at all.
- ADV MPUMLWANA: Do you know the late Sergeant Nel?
- MR TUNGATA: I know him.
- ADV MPUMLWANA: Have you worked with him?
- MR TUNGATA: I worked with Nel in the Investigation Unit, he did not work with me.
- 10 ADV MPUMLWANA: Do you know anything about Lungile Tabalaza? The reason why I mention him is because he says that you beat him up in jail after Lungile Tabalaza had passed away.
- MR TUNGATA: I heard about the Tabalaza issue.
- ADV MPUMLWANA: Could you tell us about it?
- MR TUNGATA: I heard that he was arrested by the Investigation Unit for sabotage for a Municipal truck. And after he was arrested he was questioned and during that time he leapt out of a window.
- 20 ADV MPUMLWANA: Who arrested him?
- MR TUNGATA: By the Investigation Unit of the security police that Sergeant Nel had been heading.
- ADV MPUMLWANA: It was Sergeant Nel and who?
- MR TUNGATA: It was him Azan Scheepers, he's on pension, Mene, Lokwe, they were part of the Investigation Unit.
- ADV MPUMLWANA: What do you mean when you say that it was an investigation unit in the security?
- (The witness is speaking too fast)
- CHAIRPERSON: Sorry, sorry, who is speaking too fast?
- 30 INTERPRETER: Could the witness wait just a bit to

interpret the questions.

CHAIRPERSON: Okay, you must just hold on a minute Mr Tungata because the question that Mr Mpumlwana asks must be translated and then your answer must also be translated, and there's only one person that does it. So the one person translates the question and translates the answer, so it's difficult to keep up with both. Thank you. Can you proceed? Was there a question that had to be answered, I am not sure now myself?

10 INTERPRETER: It's just the last question that he asked that I had not interpreted.

CHAIRPERSON: Okay so you need the question again?

INTERPRETER: Yes please.

CHAIRPERSON: Okay. Mr Mpumlwana would you please repeat that question?

ADV MPUMLWANA: I was asking, you gave us a number of names like Mr Mene and Mr Lokwe, I think it is Stanford Mene that you are talking about?

MR TUNGATA: Yes.

20 ADV MPUMLWANA: You said that Stanford Mene was with the security police, was he with the security police or the riot unit at that particular time, around the Tabalaza issue?

MR TUNGATA: During that time Mene was investigating the riot cases. He was not yet a security policeman. You must realise that these two departments were interlinked. We were in the same office, Security, Murder and Robbery Unit, Gold and Diamond Squad, it was in the same building, they were all from Despatch.

ADV MPUMLWANA: Therefore Tabalaza was being investigated by Sergeant Nel, Sergeant Stanford Mene, Mr Lokwe and Mr Scheepers?

MR TUNGATA: It is so, and others like Keti.

ADV MPUMLWANA: Keti?

MR TUNGATA: Keti, K-E-T-I. Busani....

ADV MPUMLWANA: Who else?

MR TUNGATA: Colonel Verkuil was in charge. He was in charge of the riot investigation unit from '76 to '78.

10 ADV MPUMLWANA: Whilst Mr Tabalaza was being interrogated he was in charge because it was his group that arrested him?

MR TUNGATA: Yes.

ADV MPUMLWANA: You say that Mr Mene at the time was not a security policeman, he was at the riot squad?

MR TUNGATA: We were in the same office. It was an investigation group investigating the riot cases. There was a link between the two. They would supply us with information and investigate the riot cases.

20 ADV MPUMLWANA: The reason why I am asking about this is that Mr Tabalaza died on the 21st of June 1978. You said here Mr Mene started with the security group in 1977. Then I get confused because you say that Mene was not with the security police but with the riot squad. Could you clarify this matter?

MR TUNGATA: The people that were investigating under the security police were not confined to it at the time. They came from Despatch with their cars, their equipment and they came and worked under the security police. The unit
30 that came with Brigadier van Zyl united with us even though

they were not the security police, they all came from Despatch.

ADV MPUMLWANA: On the 22nd of June 1978 Mr Tungata and Sergeant Nel took the late Mr Mona to the police station in New Brighton. He was arrested and taken there. Do you know anything about that? You and Sergeant Nel would then meet now and again.

MR TUNGATA: We did not meet - the Tungata that is being spoken of in this particular case is my brother not me. My
10 brother used to work with them and Mene.

ADV MPUMLWANA: Okay. When did you start working with Mene?

MR TUNGATA: It is around 1980, 1981 that Mene worked with me.

ADV MPUMLWANA: Stanford Mene?

MR TUNGATA: Yes. It was around 1980.

ADV MPUMLWANA: 1980.

MR TUNGATA: Yes.

ADV MPUMLWANA: So did he start being a member of the
20 security police in 1980?

MR TUNGATA: No he used to work with the investigation unit, this unit was under the security branch. This investigation unit was under the security branch.

CHAIRPERSON: Are you moving onto something else Mr Mpumlwana? Because if you have rounded off this issue and you want to move onto something else then I am going to take the adjournment. Are you done with this aspect?

ADV MPUMLWANA: Not, no, can I ask just two questions?

CHAIRPERSON: Very well, let's round it off and then I
30 will adjourn.

ADV MPUMLWANA: Okay, sure. Sir apparently Mr Tabalaza jumped off from a window, it is said that he jumped off from a window. According to your knowledge is there a period in time where there would no one responsible for the detainee such that he can jump from a window?

MR TUNGATA: During the period I was working for the security police he was not the first one who jumped from a window. There were three others. The one is still alive, he is in town.

10 ADV MPUMLWANA: You say that he also jumped?

MR TUNGATA: I am not saying that he said he jumped, I am saying he jumped. We had gone to make tea, he just jumped. Unfortunately he didn't die, he fell on a car.

ADV MPUMLWANA: You are saying "unfortunately he did not die"?

MR TUNGATA: Yes he is still alive.

ADV MPUMLWANA: Indeed there are a lot of people, some of them hang themselves, some of them would slip ... (intervention)

20 MR VAN DER MERWE: Excuse me Mr Chairman, maybe we should just get clarity on this, "unfortunately he did not die" because it does not sound good at this stage. I am not sure whether the interpretation was understood correctly there, please.

CHAIRPERSON: Alright. Just give me a minute.

ADV MPUMLWANA: He did say unfortunately, whether he meant it or not that is what he said "unfortunately".

CHAIRPERSON: Oh well I am sure that he used that term ... (intervention)

ADV MPUMLWANA: He did say unfortunately but....

CHAIRPERSON: Alright. Mr Mpumlwana do you want to....

ADV MPUMLWANA: What I am trying to say Sir is that it is said the Tungata gentleman got into Sergeant Nel's office having been handcuffed. He was handcuffed on the arms and the legs and he sat there. It is said yet again that Sergeant Nel stuck two of his fingers into his eyes. What I am trying to put forward to you is perhaps somebody helped him jump. As a person who worked there do you think
10 that is possible?

MR TUNGATA: It's not possible.

ADV MPUMLWANA: We'll leave it at that.

CHAIRPERSON: Is this a convenient stage to take the adjournment. We will adjourn for lunch. We will reconvene at two o'clock. Thank you.

HEARING ADJOURNS

ON RESUMPTION

BATHLAKAZE BUTLER TUNGATA: (s.u.o.)

CHAIRPERSON: Advocate Mpumlwana you can proceed.

20 ADV MPUMLWANA: Mr Tungata won't you please clarify the functioning, your work as a security policeman especially when the members of the council were being protected.

MR TUNGATA: The council members were not protected by us. There were Municipal police and also police from Johannesburg. They were responsible for guarding the council members' houses 24 hours a day. If we found out about something we would tell the councillors and also the police that were responsible for the councillors. Sometimes when we were patrolling we would go and check if
30 the councillors had not been attacked and also if the

police that were responsible for them were not drunk or asleep. That is all.

ADV MPUMLWANA: Is it the special unit that came from Johannesburg?

MR TUNGATA: The special police were responsible for looking after the houses of the police. Sometimes someone would request that he needs guards for 24 hours a day. These were groups that stayed in Motherwell and Willowdene.

They would look after policemen's houses or people who had been attacked, also shops that had been attacked and also the councillors' houses. That was their job. These were not the Municipal police.

ADV MPUMLWANA: These police you were referring to were they under General van Wyk?

MR TUNGATA: No, these were ordinary police. These were ordinary police.

ADV MPUMLWANA: Were they working together with the Municipal police that were called the Black Jack?

MR TUNGATA: It is so.

20 ADV MPUMLWANA: Do you know a councillor called Linda?

MR TUNGATA: Yes I know Thamsanxalinda.

ADV MPUMLWANA: Were you responsible for him, were you guarding him?

MR TUNGATA: I know police that guarded any councillor in Port Elizabeth.

ADV MPUMLWANA: Do you know Mzweliswa Gquma?

MR TUNGATA: I do not know him.

ADV MPUMLWANA: I thought you were working with the COSAS issue. Mzweliswa Gquma was one of the leaders of COSAS.

MR TUNGATA: The COSAS people, the executive members, the SATU executive and the open executive, I worked with those. First I was responsible for the PESC issue. This was the Port Elizabeth student council that was turned into COSAS. I don't remember this man that you are talking about, especially with the executive. I have never heard of that name.

ADV MPUMLWANA: In Port Elizabeth people's houses would get burnt, activists' houses, UDF members.

10 MR TUNGATA: It is so.

ADV MPUMLWANA: Also councillors houses were being burnt.

MR TUNGATA: It is so.

ADV MPUMLWANA: The police were helping in protecting the councillors' houses and also the police. The police were guarding the councillors' houses and then the councillor's would guard other policemen's houses, but the UDF activists' houses would get burnt by the police, according to my information.

MR TUNGATA: I do not remember the police burning down UDF members' houses, neither do I remember UDF members' houses being guarded by the police.

ADV MPUMLWANA: Do you know about Mpumelelo Bendu?

MR TUNGATA: I don't remember him.

ADV MPUMLWANA: He was Nkosele Jack's uncle, he was killed by Thamsa Naxlinda. According to the information that I got about Nkosele Jack's uncle through the informers of the area it was said that the person who killed Nkosele Jack's uncle are men who were wearing balaclavas pretending to be police. MR TUNGATA: Whether Linda was there or not I

30 would not know. But it was said that Patrick Hlongwana who

got there and spoke Afrikaans he said he was a policeman and when that man opened the door they axed him to death. Therefore according to the information that we received it's Patrick Hlongwane that killed him and others that we were not able to get. We took the case over to the Murder and Robbery Unit that was investigating such cases at the time.

ADV MPUMLWANA: Therefore you are saying that it's not Thamsa Nxalinda who killed him?

10 MR TUNGATA: I am not disputing it but I have never heard that it's Thamsa Nxalinda that killed him. The information that I got was that it is men who were Patrick Hlongwane who killed Nkosele Jack's uncle.

ADV MPUMLWANA: Did you ever work with the Municipal police about this issue? What functions would you perform together with the Municipal police?

MR TUNGATA: The Municipal police were patrolling in the township. They were guarding the councillor's houses and also other places that needed to be guarded, the library, 20 the town hall and places where the Municipality would use. The police would be called in if there was a specific problem and they called on us. If we had to assist them, for example if we had to call an ambulance or fire brigade because their radios were confined to areas that were delegated for the Municipality only.

ADV MPUMLWANA: The Municipal ambulances when a UDF members' house was being burnt they would take two hours from town to that house that is being burnt. If a councillors' house is being burnt they would go within 15 30 minutes, do you agree with that? The Fire Brigade not the

ambulance. They would delay if a community members' house was being burnt down, but if it was a councillor's house then the Fire Brigade would go quickly. If a UDF member's house is being burnt it would be a problem. The UDF members would not request help from the police.

INTERPRETER: The witness is going too fast....

CHAIRPERSON: Just hold on, just go a bit slower so that the Interpreter can keep up with you. It's been a long day. Must the witness repeat what he had said?

10 INTERPRETER: Just the last part when he lists who it was that burnt down the UDF members' houses.

CHAIRPERSON: Alright, so can he just repeat where he starts listing who was responsible for burning the UDF houses. Ask him to repeat that.

MR TUNGATA: The houses of the UDF members' when they were being burnt down the people would call the Fire Brigade and they would go there but they would be stoned, because there was this thing that the UDF members didn't like - they didn't like the Fire Brigade to be accompanied by the members of the Landrover or by the Caspers. The Fire Brigade used to come to the police station in New Bright and they had to be escorted by the riot police to the place where the house was burning. That was why they were delaying.

20 ADV MPUMLWANA: What was the role of the police in authorising the activities of the ambulances and the Fire Brigade in (...indistinct)?

MR TUNGATA: The Riot squad was stationed in Algoa Park and the Fire Brigade was in Dasie. The Fire Brigade were called in Dasie and they used to go to New Bright to wait

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there. And in New Bright they were waiting for the casper from Algoa Park and the casper would accompany the Fire Brigade to the place where the houses were burning. They couldn't go to the township without being escorted by the riot police.

ADV MPUMLWANA: Where they getting a right to go to the township from the police?

MR TUNGATA: If there is no police available from the Riot squad unit to accompany and escort the Fire Brigade they would not go to the township.

ADV MPUMLWANA: But the van was always there when the councillors' houses were being burnt and the Fire Brigade would go to the township when it was a councillor's houses that was burning.

MR TUNGATA: The Riot squad would accompany and escort the Fire Brigade whether it was a police house or UDF members' house that was burning down.

ADV MPUMLWANA: Who was in command at the time, who was giving instructions for the van to escort the Fire Brigade?

20 MR TUNGATA: If someone phoned, the person whose house is burning down, he would phone to the police station or phone the Fire Brigade and the Fire Brigade would go to the police station and the person who was in charge in the charge office at the time would call the riot van to accompany or escort the Fire Brigade to the township.

ADV MPUMLWANA: The reason why I am asking all this is that when UDF members' houses are burning down and the police houses are burning down, when there's chaos the police are favouring the councillor's side when there is chaos in the township. So when there is fire in the

township or when the UDF members' houses are burning down the Fire Brigade would be prevented to go to the township and the ambulances would also be prevented to go there. I just want you to confirm this, according to your knowledge.

MR TUNGATA: I can't confirm exactly this that the Fire Brigade didn't go to the township when Azapo or UDF members' houses are burnt down. Because when the councillors' houses were being burnt all the police radios would know that the councillor's house is being burnt down, and then there would be a Landrover escorting the Fire Brigade to help and assist in this house when it was a police or councillor's house. The problem if the UDF member's house that was burning down, there was a problem there because the UDF members didn't want anything to do with the police.

ADV MPUMLWANA: How was Mr Thamsa Nxalinda important in the security police branch?

MR TUNGATA: He was not important, he was just like anybody else, but the difference is that he was a mayor.

ADV MPUMLWANA: Was there anybody charged with the murder of Mpumelo Mpendu?

MR TUNGATA: The case was under the investigation of Murder and Robbery unit. I don't know where the case ended because it was under the Murder and Robbery Unit. We gave the information to Murder and Robbery Unit that Patrick Hlongwane was involved and that's all.

ADV MPUMLWANA: The reason why I am asking this question is because Thamsa Nxalinda when that particular person died they say you were present. Even if maybe you came after the incident but they say you were present at Thamsanxa's

place.

MR TUNGATA: That is not true.

ADV MPUMLWANA: You don't remember that?

MR TUNGATA: It's not that I don't remember but it's not true. The only day when I was present and it was when Mr Putu's son was necklaced. It's not at Linda's place, it's Mr Putu's place.

ADV MPUMLWANA: Who necklaced that person?

MR TUNGATA: It was the comrades.

10 ADV MPUMLWANA: This question is very different, the one that I am about to ask but anyway I am going to ask you to tell us and say while you were in the security police you can list things that have got something to do with the gross human rights violations.

MR TUNGATA: Concerning the human rights violations firstly, the law was not applied equally and the same way.

Being Black policemen we used to get problems there and some of the White policemen used to have problems to such an extent that they were given names, like Roelofse was accused because they used to refer to him as a "Kaffir Boetie" as he was assisting the Black people. He used to be transferred to different sections, because since the detention of Steve Biko, when the politicians are detained and they would ask for Roelofse at the Sanlam Building. They even gave him a name, Nxolisi, the people of Port Elizabeth used to call him Nxolisi. Because he didn't want to involve himself in politics, he just wanted us to do the job as police we must not take part in anything. That is how we used to get problems, because some of the people
20 used to take part, to take sides. Even if he could see
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that a Black person had a problem that has got nothing to do with police he would go out of his way and try to help that particular person who is in trouble. He used to tell us to do the same because if you're a security policeman you must secure people and properties, protect people and properties so that we can live in harmony, but we used to get problems in trying to do that.

ADV MPUMLWANA: Can I just interrupt you Sir. I don't think you are trying to say that the police from the security branch, especially Mr Roelofse are angels. What I want to get from you is, you didn't answer my question, can you mention incidents whereby yourself you were present when the human rights were being violated even if it was yourself or somebody else?

MR TUNGATA: I was once present in such incidents.

ADV MPUMLWANA: Can you go on please?

MR TUNGATA: It was at Veeplaas, it was in 1985, the comrades were burning a person. I stopped my combi and I tried to stop them. The combi that I was driving they surrounded the combi that I was driving because they said I cannot take this person away because he was an informer. I requested them, if they say he's an informer they must go with me to the police station at Zekele to say who this person - to really confirm that this person was an informer. I was once present in one of the rural areas where the human rights were violated. That was in 1977. I was guarding the house, Pumla Gobese's house which was going to be burnt down by the comrades because they said Pumla Gobese was a police informer. That took something like two weeks. When we left Pumla Gobese was raped and

necklaced and killed in the very same village. I was
...(intervention)

ADV MPUMLWANA: You say you were guarding Pumla Gobese's home, was Mr Gobese in the house?

MR TUNGATA: Pumla Gobese was at her home but they wanted to necklace him, they wanted to kill him.

ADV MPUMLWANA: When did this actually happen?

MR TUNGATA: We were told to go there to the house so that we can stop the people from burning the house. They wanted
10 to kill her and burn his home.

ADV MPUMLWANA: The third one.

MR TUNGATA: It was in Motherwell. When I arrived there the people were being necklaced in the police van, in the back of the police van. I called the Fire Brigade and the ambulance. They extinguished the fire and the hearse came to take them, they were dead.

ADV MPUMLWANA: Who were being burnt there?

MR TUNGATA: They said they were the people from the anti-crime section from Motherwell and ...(intervention)

20 ADV MPUMLWANA: Are you talking about the police?

MR TUNGATA: The took the police van and the police left the van and they didn't try to stop the people. We heard through the radio that one of the police van was taken by two people whereas there were five policemen in that van.

ADV MPUMLWANA: You say the van was taken, who were burnt there in that van?

MR TUNGATA: The people from the anti-crime division who were burnt down by the people from Motherwell.

ADV MPUMLWANA: Does this anti-crime belong to the police?

- MR TUNGATA: No it's from the community.
- ADV MPUMLWANA: In what year was that?
- MR TUNGATA: It was 1993 or '92 if I am not mistaken.
- ADV MPUMLWANA: Is there anything else, is there any other incident?
- MR TUNGATA: I once stopped the police in 1985, the police from the riot squad as they were administering teargas in Zwede so that our children could suffocate who didn't touch the police.
- 10 ADV MPUMLWANA: Is there anything else?
- MR TUNGATA: I once confronted Suzakele Dunsta because I came to the office at the Sanlam building while he was kicking Sipiwe Mtimkulu.
- ADV MPUMLWANA: Anything else?
- MR TUNGATA: While I was in Gauteng in 1977, if not 1978 we went there to fetch Kukeli Dhladhla at Protea. It was him and Easi Galuwe. Kukeli Dhladhla and Easi Galuwe were at Protea we went to fetch them. We wanted to arrest them because they left the country without permission. They
- 20 were tied up and they were being tortured at Protea police station.
- ADV MPUMLWANA: Who was assaulting them?
- MR TUNGATA: It was police.
- ADV MPUMLWANA: Who was that policeman.
- MR TUNGATA: I don't know their names, it was Sotho-speaking people. We brought Kukeli to Port Elizabeth. He was swollen all over the body. In 1985 there was a meeting at Denxlexle Stadium. I arrived, next to Lamane Garage there was a man lying there. He was being stoned and
- 30 assaulted by the UDF people saying that he was a member of

AZAPO organisation.

ADV MPUMLWANA: Sir if you heard my question clearly I said I want you to tell us about the incident whereby yourself or other people from the security branch where you were violating the human rights.

MR TUNGATA: By the police or by the community?

ADV MPUMLWANA: I am, can you listen carefully Sir, I want to make an example. It's raining and there's no one who can say there's nothing like that. The kraal is wet and
10 you are just inside, you are at the side of the police who are busy violating the human rights. You cannot dispute that one. I just want you to tell us where yourself and your colleagues, where you were violating the human rights.

I don't want you tell me that you saw somebody else who was violating the human rights, but I just want you to tell us about this part, about yourself.

MR TUNGATA: As police, as security police we were working with the riot squad, that was in 1976. We were told to disperse the children from KwaZekele High School who wanted
20 to attack Mr Nhlamo who was the secretary of Bantu Education then. We were given an instruction that we must sjambok them. They dispersed.

ADV MPUMLWANA: Who gave you that order?

MR TUNGATA: It was Colonel Goosen who gave us the order.

ADV MPUMLWANA: Do you know his first name?

MR TUNGATA: He is Colonel Goosen.

ADV MPUMLWANA: What injuries did they sustain?

MR TUNGATA: I can't remember because they were running away. It was during the day. I can't remember the others.

○ ADV MPUMLWANA: For how many years were you in the security police?

MR TUNGATA: I started in 1976, up to 1995.

ADV MPUMLWANA: That's quite a long time. Didn't the court say you must stop assaulting people Mr Tungata, wasn't there anything like that? Stop assaulting people in prisons, didn't you get any message like that?

MR TUNGATA: In 1985 there is an interdict that I received with a list of people who were detained under the state of
10 emergency. Each and every person who was working with the security branch got that copy.

ADV MPUMLWANA: There was an order that was saying, particularly you Mr Tungata, you must stop assaulting people.

MR TUNGATA: They said Tungata but they are not referring to me but to my brother. I still have that copy of the interdict.
S.A.M.A. ARCHIVE FOR JUSTICE

ADV MPUMLWANA: Just hold on Sir. You say that order didn't say Butler Tungata?

20 MR TUNGATA: It said Butler Tungata but the incident and events that were referred to was where my brother was involved, not me.

ADV MPUMLWANA: You are trying to say that the Court gave an order that you must stop assaulting people whereas you did not assault people, it was your brother, is that what you are trying to say?

MR TUNGATA: The places and the people that were referred to I had nothing to do with those places and people. It's only my brother and the other security members who were
30 involved in such places.

ADV MPUMLWANA: They were being assaulted by your brother?

MR TUNGATA: They were saying I am the one who assaulted them whereas I knew very well that it was my brother who was working in such places.

ADV MPUMLWANA: You only know that it was your brother that was involved, it was a mistake from the court?

MR TUNGATA: Yes.

ADV MPUMLWANA: All these people, they were actually referring to your brother not you? It was a mistake, they were supposed to tell your brother, is that what you are trying to say?

MR TUNGATA: Yes because I was never in Barry's Corner interrogation of people.

ADV MPUMLWANA: But you do have a knowledge that Mike Xlego - I am just making an example, Nedisi Changai, Lesley Manotja were assaulted by your brother, it's not you, meaning the court was making a mistake, they were supposed to mention your brother's name, not yours?

MR TUNGATA: I never assaulted Manotja and Xlego. This Changai I don't even know him, but it was said that they were assaulted at Barry's Corner or Willowdene. I never worked there. I never worked at Barry's Corner and Willowdene.

ADV MPUMLWANA: Vusumzi George was assaulted by Tungata, which Tungata is that? Is that your brother or yourself?

MR TUNGATA: Maybe it's my brother because I don't know anybody by the name of Vusumzi George.

ADV MPUMLWANA: In all you are saying you are holy, you never touched anybody since you were a security policeman? Even the court is accusing you, you are so holy, you are

so innocent. You never touched anybody and you haven't seen anything, anybody being tortured at the security branch at Port Elizabeth?

MR TUNGATA: Most of the times I was a field worker. I never worked inside the office. As a field worker I was working outside, not in the office. I was monitoring the meetings. I was in the rallies. I was recruiting informers in the Eastern Cape. I never questioned people.

I was never involved in any kind of questioning. I used
10 to arrest people, especially the members of COSAS and PECO.

I would leave them in the office at Louis Le Grange after moving from Sanlam and the investigators would take over and question them. Sometimes we would find them released.

ADV MPUMLWANA: Do you know Pumlane? I am not sure if it's Pumulani or Pumlane, but it's a girl that they say you knew her who was also killed in 1977.

MR TUNGATA: This is Pumla Kobesi the one that I have told you about.

ADV MPUMLWANA: Were you in love with her?

20 MR TUNGATA: She was just a little girl, we arrested her.

I was not in love with her, and they said she was an informer just because she pointed out some people, she identified some people.

ADV MPUMLWANA: Was she working with you?

MR TUNGATA: She was just a lady comrade who was arrested and while she was arrested she identified the other comrades that we were looking for.

ADV MPUMLWANA: It's Pumla?

MR TUNGATA: Gobese, Pumla Gobese.

10 ADV MPUMLWANA: This Pumla Gobese helped you by identifying other comrades that you were looking for?

MR TUNGATA: Yes that's correct.

ADV MPUMLWANA: Were you working with her, were you together? You were together when she identified the comrades?

MR TUNGATA: We booked her from the cell at New Brighton and she would go with us and point those people and we would arrest them if they were present.

10 ADV MPUMLWANA: And they said she was an informer?

MR TUNGATA: They said she was an informer because she was identifying people who were supposed to be arrested.

ADV MPUMLWANA: It is true that she was an informer as she was identifying people that you were looking for, so she was cooperating with you, isn't that so?

MR TUNGATA: An informer is not a person who is cooperating, but it's a person who is being recruited and being paid for the services that she's rendering as she is giving information. Not a person in the cells, not a
20 person who is in detention.

ADV MPUMLWANA: Who was arrested after her death? Whom did you arrest?

MR TUNGATA: There were seven people that we gave them to Murder and Robbery Unit. It was Patrick Filane, and Pedro, I cannot remember the others, but there are others also that were given to Murder and Robbery Unit. Some of them left the country, amongst them was Themba Msele, Victor Lewis and the others.

CHAIRPERSON: Mr Tungata how many times did Pumla point
30 people out to you?

MR TUNGATA: It was more than five times.

CHAIRPERSON: And was she at school still?

MR TUNGATA: Yes she was still at school.

CHAIRPERSON: And was she pointing out COSAS members to you?

MR TUNGATA: At the time there was no COSAS, the comrades called COBRA, those who were burning down the properties.

CHAIRPERSON: Was that one of your methods of getting information and arresting people to work through females, girlfriends and so on?

MR TUNGATA: We never arrested people because of the help that we were getting from the people that we were in love with.

CHAIRPERSON: No, not your own girlfriends, perhaps - but okay. As a way of getting information, like in this case of Pumla, was that one of the ways in which you went about getting information about people that you were interested in by working through girls, females, like in the case of Pumla?

MR TUNGATA: Pumla was detained. Pumla knew the people that she used to work with, where they used to stay, where they used to hide and where they used to sleep. That is why we were taking her because she was going to show us.

CHAIRPERSON: Now was that one of the methods that you used, you got people like Pumla, girls, you pick them up and you get them to point people out for you.

MR TUNGATA: If a person is willing to identify those people we would take him, even if it's a man or woman.

CHAIRPERSON: Well even if a person is not willing it seems to be the easiest or the easier way of getting the

information is to get to a girl like, or a person in the position of Pumla, a young girl at school, really a soft target in a way, very little resistance, it's very easy to -even if she's unwilling to get the information out of her, not so?

MR TUNGATA: That is not true because Pumla was detained for burning property. They had burnt down a bus and she was detained at New Brighton. We approached them because we wanted to know the people that they were working with
10 who also burnt down the bus. She was with the other one called Namonde, but Namonde was not so much cooperative because she would point some of the places and she would refuse to point some. Pumla was willing because she was still young. Namonde was older than Pumla.

CHAIRPERSON: That is the point that I am making. It's easier to get the information that you are looking for through young girls like Pumla, not so?

MR TUNGATA: That's correct.

CHAIRPERSON: And she was - she was eventually necklaced
20 for - after having pointed out people to you.

MR TUNGATA: She was not necklaced. They first raped her and she was killed and her breasts were cut off.

CHAIRPERSON: But it was as a result of the fact that she was pointing out people to you?

MR TUNGATA: That's correct.

CHAIRPERSON: Mr Mpumlwana?

ADV MPUMLWANA: Do you know Mqolisa Antony?

MR TUNGATA: No I can't remember Mqolisa.

ADV MPUMLWANA: Mqolisa Antony was arrested by you and Mr
30 Scheepers and Mr Roelofse. You assaulted him, you

assaulted him because of this incident of Pumla Gobese. He was sentenced to eight years, do you remember that?

MR TUNGATA: No I can't remember anybody.

ADV MPUMLWANA: Don't you know anybody who was arrested concerning the death of Pumla Gobese?

MR TUNGATA: No it's only the people that I have told you, the people who were coming from that village.

ADV MPUMLWANA: I don't even know whether he came from that village, but I want to know if you know him? You mean
10 there is nobody who was ever arrested?

MR TUNGATA: I don't remember the name Antony among the people who were arrested after Pumla's incident.

ADV MPUMLWANA: You don't know all these things. Mr Tungata I don't think you are giving enough information. You can't tell me that as you know that the security police are assaulting people, you say that you know nothing, I think you know this. You tell me now that you were never involved. Just to say at least I know this and that, at least I know something about that so that it can be helpful
20 because your name is implicated in many incidents. Mkululi Richmond Mona said something about you, you don't know him also? There is not even a single person that you know something about. This is not a court of law, do you know that, do you realise that?

MR TUNGATA: Mkululi Mona, what did he say when did I assault him?

ADV MPUMLWANA: It was in 1978.

MR TUNGATA: Where?

ADV MPUMLWANA: He said you were with Major Goosen,
30 Sergeant Nel and Gomane, your brother was not there in

1978. When did your brother start working with the security police?

MR TUNGATA: He was the first one before I started. He was there with Mr Mene. He arrived with Mr Mene.

ADV MPUMLWANA: What Mene are you referring to?

MR TUNGATA: Stanford Mene. They started together at the police force.

ADV MPUMLWANA: I am saying at the security branch.

MR TUNGATA: I can't remember when did he go back to the security branch, but in 1976 they left for Transkei with Giladela and the others to form the independent Transkei police. They were not satisfied, they came back after a year and applied again to go back to the security police.

ADV MPUMLWANA: So meaning the two of you were working at the security branch being Tungata's?

MR TUNGATA: Yes.

ADV MPUMLWANA: Were you at the same section?

MR TUNGATA: No. He was with the investigative unit, I was under the information unit.

ADV MPUMLWANA: Meaning he was the one who was interrogating people?

MR TUNGATA: No he was only working with investigation concerning violence and the unbanned organisation. I was never involved in such things. I never worked with terrorism. I was working - I was dealing with COSAS, PESC and SASM in those days.

ADV MPUMLWANA: These are the members of COSAS and SASM who were tortured. How can your brother torture them whereas he was not in the same group? Yourself you were in charge of SASM and COSAS, you say you don't know anything

about those people? That's why I am saying you are not telling the truth.

MR TUNGATA: I was working as a field worker, I was gathering information. He was in the investigative unit.

Anybody would arrest people but questioning and investigation I was never involved in those activities.

ADV MPUMLWANA: Let me ask this way. You are bringing the information that is taken from the informers and then you are taking it forward so that the people could be
10 interrogated, is that so?

MR TUNGATA: Yes.

ADV MPUMLWANA: And a person is assaulted severely because of the information that you brought forward?

MR TUNGATA: Yes that's correct.

ADV MPUMLWANA: Meaning now you are directly involved because if you have released information, even if you are not the one who is assaulting that particular person but he's being assaulted as a result of the information that you have brought forward, that you have got from the
20 informers, is that so?

MR TUNGATA: Yes that is correct.

ADV MPUMLWANA: We can put it like that. Can you tell us then briefly the people that you can say they were assaulted even if you were not there, but you heard something about them or the people that you caused them to be arrested, can you tell us about those people, because I don't want to say that each and every person who was arrested there in Port Elizabeth was arrested as a result of the information that you brought forward.

MR TUNGATA: People said they were assaulted because I was arrested. I used to meet them in the township and tell me that I was assaulted because you arrested me. I have heard that the people were assaulted during questioning because of the things that they were involved in.

ADV MPUMLWANA: Do you know Mubela Maneli?

MR TUNGATA: I know Mubela Maneli. I only heard about him, but I don't know him personally.

ADV MPUMLWANA: Who shot him?

10 MR TUNGATA: I am saying he is the one that we were struggling, who wanted my gun and the gun fired.

ADV MPUMLWANA: Oh you mean you killed him by mistake?

MR TUNGATA: He died in that process as we were struggling. He wanted my gun.

ADV MPUMLWANA: Thank you. I wanted to be sure if you remembered what you are talking about. Let me say it again that you are directly involved in the human rights violations who were injured, who died because you said they were like that, just because of the information that you got from your informers. So you were working together with your informers even though you didn't actually assault them?

MR TUNGATA: Yes I said so.

ADV MPUMLWANA: Secondly, these people, people like Mike Xlego and Neil Aba they know you, they know the difference between you and your brother. They said they were assaulted by you, do you dispute that?

MR TUNGATA: The Dennis Nyere is not telling the truth because I went to fetch him in Transkei, they were arrested by Transkei police and we took him to Port Elizabeth. He

was never assaulted. He was never assaulted during my presence. Mike Xlego we grew up together, he was at school with my sister. I arrested him in 1976 with a group called 43 of KwaZekele and he was taken to - he was sentenced to five years in Robben Island. I never assaulted him.

ADV MPUMLWANA: All these people are saying and those who brought the affidavits you say they are lying on top of their affidavits? Since you have been a security policeman, as you know that the security police used to violate the human rights you are also in trouble as Black policemen, you could see what they were doing, but on top of that still you cannot say that at least you have seen something, you have done something. You don't involve yourself - are you listening?

MR TUNGATA: Yes I am.

ADV MPUMLWANA: So you can't even think and say something because I am telling you about the things that the people said you did.

MR TUNGATA: This is a very painful situation that you are putting me in, because this has been happening here in Port Elizabeth saying that if there's something they used to accuse me of all the bad things. The police have, not only the security police, used to knock at people's houses and the people will say that they were Tungata. People were raped by people holding a gun and that person will say I am Tungata while raping that person. People were shot by SADAF, by riot squad and they will say that that person is shot by Tungata. There were investigative units, there was an information that Tungata formed that group whereas it's the people from exile who formed such groups. I have been

to court many a times and a person would say this is not the Tungata. Like in this Gideon Skap(?) incident in 1985, it is said I shot Gideon Skap and I didn't shoot Gideon Skap. In 1986 no.3, the torture of Nicolas Mangumele Vapi at Port Elizabeth in 1986. Even there, there is some contradiction because in those times, in 1986 I was still suspended. How would I touch a person in 1986 whereas I was in suspension? They once said that I can turn myself to a bed(?) that's lies, it's not true. There are a lot of things that people have said, painful things. My family was forced to relocate because of such talks. My house was burnt down into ashes in 1985 by the people who burnt down Linda's house. There is not even a single person who came forward and said sorry. My brother was killed on the 6th of September 1985, nobody was arrested. My brother Nqumbe was killed, when they were killing him they said the reason he was killed next to the police station, it's because - the reason is because he was Tungata, and nobody was convicted. He was owning a shop in Qumbu. It looks like the people are after me, even here. Each and everything that I am trying to explain here you dismiss it. I am telling you about things that took place and things that I know, it's no tales but you don't listen to me. People have been chasing me since 1976 in the police service. Mike Xlego and Dennis Nyere, if you can call them, Dennis Nyere will never point, identify, never point me. Mike Xlego is my friend. That is not the truth.

CHAIRPERSON: Mr Tungata, now all that persecution that you were suffering, that you have just listed, did you understand that that was linked to the fact that you were a

member of the security police?

MR TUNGATA: I am not the only member of the security police. Why are the others set free and their families?

CHAIRPERSON: But did you form the idea that it was as a result of the fact that you were a member of that branch of the police that you were persecuted like that?

MR TUNGATA: I grew up in Port Elizabeth, I went to school there from Transkei. I was working in the industries there in Port Elizabeth. I was a soccer player and rugby in Port Elizabeth. When I started working for the security police 10 it's when all these false stories about me came. Some of these people who are saying these things they know very well that there's nothing like that but there is no one who will ever come forward and say that that is not true. I am telling you right now they used to say that I changed. Even Mr Badela wrote things that were not true about me and the very same person can say that I tortured him whereas he had written such things about me.

CHAIRPERSON: How did the people in the community in Port Elizabeth feel about the security police? 20

MR TUNGATA: People who are not politicians used to like security police. Only politicians who were against security police, those were the people who are telling all these false stories.

CHAIRPERSON: So there was opposition in the community to the security police, but you say the opposition was amongst the politically active people?

MR TUNGATA: The reason for them to hate security it's because of the politicians in Port Elizabeth who used to tell stories that are not true, who would say that he's 30

been assaulted by the security police. And one will say being an informer he will go to the Centenary and say he was assaulted by security police, it's because the Boers had said he must go there to the community and try to tell lies about Tungata so that he can be accepted back in the community.

CHAIRPERSON: How did you regard your White colleagues and their attitude?

MR TUNGATA: When Mr Mandela came to Port Elizabeth at the
10 Standard House three gentlemen knocked at the back from the security, they said they were Tungata's and they wanted to kill Mandela. At that time I was just standing in front of the Standard House, standing with Bangani and the other COSAS members waiting for Mr Mandela. Bodyguards from inside the Standard House were looking for Tungata because they heard that Tungata was knocking at the back saying that he wanted to kill Mandela. Those were White people who were doing that thing.

CHAIRPERSON: So how would you describe your White
20 colleagues in the security police, were they good people or were they cruel people?

MR TUNGATA: Most of them were so cruel, they were not good at all.

CHAIRPERSON: Did you support the struggle against apartheid and what went before under the previous government?

MR TUNGATA: I never supported the struggle, I had nothing to do with the struggle. What was important to me was being a policeman. Even today I am not interested in
30 politics, I am a policeman. That is what is important to

me.

CHAIRPERSON: It's never occurred to you, given the fact that you are being placed under the command of a bunch of cruel White colleagues, as you describe them, and in view of the fact that there is this opposition in the community against the security police, it never occurred to you that perhaps you were in the wrong place, you should be getting out of the security police?

MR TUNGATA: People who are normal from the community they
10 never hated the security police. They don't hate the police, all of them. The only people who hate the security police are the people who were involved in politics. It's the very same people who were fighting the security police because they are being arrested by the security police, that's what I know. Not the whole community.

CHAIRPERSON: But what I don't understand is, why were you
20 prepared to work with those cruel or prepared to work under the command of those cruel White colleagues of yours in the security police for nine years until you were suspended and then for a few years again after you came out of prison, why were you prepared to work with them? Why were you prepared to stick out that situation?

MR TUNGATA: I didn't say they were cruel, I said some of them were cruel.

CHAIRPERSON: Ja, that's exactly, that's the point I am asking you. Why are you prepared to work under those people for so long, under those cruel people? Why don't you get out of there? Or were you enjoying what was happening in the security police?

MR TUNGATA: When I joined the security police I was working with Colonel Roelofse. He is not cruel, he was never cruel to anybody.

CHAIRPERSON: But why were you - you don't answer the question, why were you prepared to be associated with a branch of the police where you tell us as well, that there were these cruel White colleagues, why were you prepared to stay in a section of the police like that? Why didn't you get out?

10 MR TUNGATA: I joined the police force because I was looking for a job. I was working in the industries and even in the industries there were cruel Whites, but I got fed up with politics and being harassed.

CHAIRPERSON: But you were not persecuted because you were working in a factory where there are cruel Whites. Your house wasn't burned because you were working in a factory with cruel Whites. If I understand your evidence correctly you were persecuted because you were involved with this group of policemen, this branch, special branch. And let
20 me add to that, you didn't start off in the police as a member of the special branch, you worked elsewhere and then you landed up eventually in the security branch. So the question is, why didn't you get out?

MR TUNGATA: There was no reason for me to do so.

CHAIRPERSON: So you were happy with what was going on in the security branch?

MR TUNGATA: I was not happy, I was just working at the security branch so that I can be able to support my children.

CHAIRPERSON: Did you ever try to get out of the security branch in all those years knowing how cruel some of your White colleagues were?

MR TUNGATA: I never attempted to leave the police force, I was working there so that I can get money and I can be able to maintain my children. I was not interested in their cruelty. For me working there I never took any order that was unlawful. As police you don't take an unlawful order. You don't obey any unlawful command. That is the rule that you don't take any unlawful order, that is the rule of the police force.

CHAIRPERSON: Yes that may be so. That may be what is written in the books. I wasn't also suggesting you must get out of the police, I was asking you, in the light of what is put to you by Mr Mpumlwana that there appears to be a number of allegations of abuse, violations against you, that is why I was asking you, why didn't you get out of that branch. That's the sole reason why I am asking you this.

MR TUNGATA: I said the reason that I was abused by the community, it was just a small group of people who had their own missions of politics that they could use the security police by trying to say all the wrong things about their names.

CHAIRPERSON: And you suggest ...(intervention)

MR TUNGATA: Again there were other policemen from the townships who were using our own names when they were doing their things that were unlawful.

CHAIRPERSON: So - and what you are suggesting is that all of that is a pack of lies, those are stories that are made

up, malicious stories, false stories against you? Is that what you are suggesting?

MR TUNGATA: There are ten stories that are written here ... (intervention)

CHAIRPERSON: Ten stories, oh okay. Alright. Is that all that you want to say?

MR TUNGATA: I never tortured Mona Badela in 1980 in Port Elizabeth. I don't know Mkululu Richmond Mona who alleged that he was tortured by me in 1978 in Port Elizabeth. I
10 never tortured Nicolas Mongamele Vali, I don't even know him, and during the time I was suspended, I never tortured Sipiwe Mtimkulu though I had seen him while he was being assaulted, he told me that he was beaten up and I could see that he was swollen ... (intervention)

CHAIRPERSON: Can I stop you there. You saw Mr Mtimkulu being assaulted, correct, is that correct?

MR TUNGATA: I said so from the beginning.

CHAIRPERSON: Yes, yes, we are just confirming, you said that earlier in your testimony. Did you approve of that?

20 MR TUNGATA: I saw Mtimkulu being assaulted and he said he was assaulted by Dunsta and I could see that he was really beaten up because he was swollen and there was no reason ... (intervention)

CHAIRPERSON: Did you approve of that?

MR TUNGATA: Because at the same time he was still injured. I don't approve anything that has something to do with violence.

CHAIRPERSON: So the answer is you didn't approve of the assault on Mr Mtimkulu, correct?

MR TUNGATA: I don't like violence even to whom is that taking place.

CHAIRPERSON: That's not the question, that's not the question, it's got nothing to do with - that answer of yours has got nothing to do with the question. Is it correct that you did not approve of the assault which you witnessed on Mr Mtimkulu?

MR TUNGATA: I never approved because I do not like violence.

10 CHAIRPERSON: What did you do about that?

MR TUNGATA: I told Roelofse, the one that I was working with, because I was not working with Dunsta.

CHAIRPERSON: Did you lay a charge, did you go and lay a charge against Dunsta?

MR TUNGATA: I never did because Mtimkulu was still in the cell, there was nothing we could do because he was detained.

CHAIRPERSON: Did you try to stop the assault?

MR TUNGATA: I never attempted to stop, because I am
20 saying he told me that he was assaulted and I could see that he was really beaten up because I was not there while he was being assaulted.

CHAIRPERSON: Well that's what I thought you said, that you witnessed Mr Mtimkulu being assaulted, and that Dunsta was the perpetrator.

MR TUNGATA: Mtimkulu said he wanted to sleep, he was tired, he was assaulted by Dunsta, that was why his feet were swollen, he was assaulted by Dunsta. I called in
30 sleep. Because he cannot stay with him in that condition.

This is why I say that they were saying Colonel Roelofse was a Kaffir Boetie because he was protecting the Blacks and he allowed him to go and have a rest as he was swollen.

He was not supposed to sleep. That is why they used to refer to him as a Kaffir Boetie, because all the people who were arrested, the Black politicians that were arrested, they used to call him Xolise, meaning the peacemaker.

CHAIRPERSON: Good. Now let's forget about your testimony because to my mind you are contradicting yourself in that regard but that's not important. You didn't lay a charge against Dunsta did you?

MR TUNGATA: No I didn't.

CHAIRPERSON: Why not?

MR TUNGATA: When he assaulted Sipiwe Mtimkulu I was not present, so I was not in a position to give evidence.

CHAIRPERSON: Was that necessary, you're a policeman, you are an officer of the law, was it necessary for you to have been present when the assault happened for you to have laid a charge, in spite of what you had said earlier? You in fact said earlier you saw, you witnessed that, but let's leave that for a moment, let's accept what you are telling us now, was it necessary for you to have seen it in order to lay a charge?

MR TUNGATA: I can't say anything about laying a charge. A victim is the one who is supposed to open up a case. I am not in a position to lay charges on behalf of the victim. It is not like that, that is not the rule.

CHAIRPERSON: Did you assist Mr Mtimkulu in laying a charge then?

MR TUNGATA: There was - I did not discuss any thing further with him. He said he was tired, he wanted to sleep, it's painful, he was assaulted by Dunsta. I told Colonel Roelofse, Colonel Roelofse gave him permission to sleep and they said I must go and buy him a pie and milk so that he can sleep and he cannot stay with a person in that condition.

CHAIRPERSON: Mr Tungata you were not happy, that's what you told us, you were not happy with this cruelty that was being perpetrated by your White colleagues in this branch.

You did not approve of the assault on Mr Mtimkulu. Now under those circumstances, you are a policeman, under those circumstances why did you not take steps then, if you don't want to do it on your own, why didn't you take steps to assist Mr Mtimkulu to lay a charge pursuant to the assault?

MR TUNGATA: When a person is arrested the first question that is asked is that are you assaulted and then he will respond to that and then if he's assaulted then you can lay charges. If a person is detained the magistrate will view the case and he's the one who is going to report and tell the magistrate, and it's the magistrate who is going to lay charges and issue an interdict and after that an investigation. Even the magistrate that saw Mtimkulu should have seen that he was assaulted ...(intervention)

CHAIRPERSON: Let's forget about the magistrate ...(intervention)

MR TUNGATA: Because he could not just ...(intervention)

CHAIRPERSON: Sorry.

MR TUNGATA:be swollen.

CHAIRPERSON: Forget about the magistrate, forget about everybody else, you are the policeman, you are from the community, you are non-political, you are not happy with the cruelty of your White colleagues, you are not approving of the assault on Mr Mtimkulu, why didn't you assist him in laying a charge? Unless you did approve of the assault. Unless it was standard procedure to assault detainees and unless you were part of that.

MR TUNGATA: I was not in the investigation. I was not affected by anything that had something to do with Mtimkulu. I wasn't supposed to put my nose in Mtimkulu's issue whereas there were people that were busy with his matter. That is not the rule. You don't actually involve yourself in other people's business. You only deal with things that are coming your way.

CHAIRPERSON: Okay. So that was - was that the rule in respect of Black members of the security branch? You mind your own business, you don't stick your nose into other people's business.

MR TUNGATA: The procedure is this. You don't stick your nose in things that do not involve you. You don't involve yourself in anything that doesn't concern you.

CHAIRPERSON: And you were happy to stay under those circumstances as a policeman who is supposed to uphold the law, you were happy for many, many years to stay under those circumstances and not even thought at any one moment to get out of there, is that correct?

MR TUNGATA: It's not about happiness. You are not involved and you have nothing to do. You are not affected and you have nothing to do with such things.

CHAIRPERSON: Reverend Xundu.

REV XUNDU: Thank you Mr Chairperson. I want to ask two things. In the police force how many people who were disposed of as police, we know the Faku story and Mapipa story, is there any White man who was also disposed of similar incident? Mapipa as police organisations and their car was bombed, are there any Whites who were also involved in such things, White policemen who were involved in such things?

10 MR TUNGATA: I cannot remember, I never heard anything like that.

REV XUNDU: Do you have a fear that such a thing can happen to you if you can open up your heart and tell the truth as it is?

MR TUNGATA: There is nothing that I am afraid of, especially the truth.

REV XUNDU: You said initially the security police is the arm of the government that they be in control and that they maintain law even if there is ANC or UDF who is against the government, was that your aim that the Whites should remain in control and there should be no liberation in this country?

MR TUNGATA: I am not interested in politics. Whether who is the leader or not I have nothing to do with such things.

If I wake up early in the morning and go to work and do my own job, whether who is in charge that's not my business.

REV XUNDU: You said yourself you used to hate the politicians because they didn't like the security police. The first duty of the security police was that there should be no Black man that was liberated, the Whites should

always remain in control. They were using violent methods, assaulting, killing the Biko's and killing the Mapetla's, there is a consistent record concerning such incidents. So meaning your feeling was that the minority of Whites should remain in control, there should be no transformation as you are facing today?

MR TUNGATA: I didn't say who should be in control. It's just that I am not interested in politics. If the person has won votes and he can be a leader I cannot dispute that.

10 REV XUNDU: Lastly, perhaps the hatred that you had towards the comrades in politics it's because you were revenging because your brother was killed and your house was burnt down, was that the kind of revenge?

MR TUNGATA: The comrades and the politicians are two different things, that is not one and the same thing.

REV XUNDU: What's the difference?

MR TUNGATA: A politician is someone who is a political activist. A comrade is a person who is burning property, burning people, burning everything, that is a comrade.

20 REV XUNDU: Mandela is being addressed as a comrade and he even said to others, Comrade Steve, that is what he likes to be addressed in that manner. I think you are interpreting this according to the police version, according to the police information, that's the indoctrination that you got as policemen, because I was also a comrade. And Mr Finca who is sitting there was also a comrade but he never burnt anybody's house. Bishop Tutu was a comrade, he never burnt anybody's property. I think this is the indoctrination that you got because some of the
30 people were so cruel that they even said they were Tungata

while they were knocking, don't you want to see that difference, that there is a change, the change is really existing?

MR TUNGATA: Reverend there is a difference between a politician and a comrade. If you instruct a comrade to go and burn a property he won't ask questions, he will just do as he's told. A politician will sit down and discuss. As we are sitting here a lot of people are saying it's the ANC who said the people should be necklaced. I know that it's not ANC, it's comrades who said so.

REV XUNDU: The difference between a comrade and security police is not much because you are also told to go and arrest people, you didn't ask questions, you just bring that person and you assault that person without asking. So I mean there was no difference between a security policeman and a comrade because their behavioral patterns are the same.

MR TUNGATA: We Blacks and the people who do not have a security cause(?) who were working there I can say some of them were similar to comrades, especially a person who knows nothing about politics, because if you don't have a security cause you look like a comrade, because a comrade will just go there and do something without a reason. Even in the security force there were people like that because they did not have the security cause.

CHAIRPERSON: Mr Sandi.

MR SANDI: Thank you Chairperson. I would request you to be brief in answering questions. If you can in some others, if you can it's a matter of yes or no you do so.

Let me start by saying I notice that some of the people's

names who accused you of bad things here in the Eastern Cape, things that they said you have done, you don't remember those people, is that because the victims of the system that you have talked about that some of them were cruel, is it because there were a lot of victims to such an extent that you can't remember those people when we are asking you today here?

MR TUNGATA: Those that I know I can remember them.

MR SANDI: This large number of people who are saying
10 these things about you, involving you in bad actions, is it because there is a mission that they have, is it because they hate you? If it is so what is the reason for that?

MR TUNGATA: I can say they have their own mission.

MR SANDI: But doesn't this affect other colleagues the same way as it affected you because your name is always implicated in many things that took place here in the Eastern Cape?
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MR TUNGATA: I have said that some of them used to say that they were Tungata while assaulting people. We men
20 were chased away in a combi by one of the people who were from the security police who said he was Tungata. Unfortunately I happened to get that information. There is a lot of cases similar to that.

MR SANDI: You said Colonel Roelofse at least was not cruel to such an extent that he was given the name Kaffir Boetie?

MR TUNGATA: Yes that's correct.

MR SANDI: Can you please tell me about these two groups because if you are saying it means there were other bad
30 police who were not like Mr Roelofse, let's start with this

group who was like Mr Roelofse, who else you can say that he was more like Roelofse, can you just give us the name?

MR TUNGATA: It was Colonel Scheepers ..(tape ends)

MR SANDI: To which category was this Mr Scheepers when you tell us about the people whom you said were cruel?

MR TUNGATA: Roelofse used to respect a human being.

MR SANDI: I've got that one.

MR TUNGATA: He used to make sure that if a person is arrested he must know about his rights ...(intervention)

10 MR SANDI: Oh no, excuse Mr Tungata, who else was more like Mr Roelofse?

MR TUNGATA: I said it's Colonel Scheepers and Colonel Hattingh.

MR SANDI: Who was different from Colonel Hattingh and Colonel Roelofse those you said that they were not - they were cruel?

MR TUNGATA: It was Capt Marais(?) or (Murray) and Capt Du Preez.

MR SANDI: Were they cruel?

20 MR TUNGATA: Yes.

MR SANDI: Can you give us the examples that shows that they were really cruel?

MR TUNGATA: They would say to me I must go and arrest a person. Immediately when you bring that person you would hear the screams.

MR SANDI: You said you were working more with informers, to what degree did you trust these informers as you were working with them?

MR TUNGATA: Some of them were honest, some of them were
30 not.

MR SANDI: Do you mean that you would find out sometimes they have given you false information which would lead to a person being assaulted in the offices?

MR TUNGATA: There's a lot of people who were arrested because of the informers and later it would be found that the informer would be telling a lie or maybe he was an enemy of that particular person.

MR SANDI: Have you ever had any information saying that at a certain place there are people who were called
10 terrorists at the time who have arms and you get information from your informer telling you about such people, did that ever happen to you, and you discovered that it was not true after you had taken a further step?

MR TUNGATA: Yes that used to happen.

MR SANDI: If I hear you clearly you say there were a lot of victims who got injured in your hands, because of that?

MR TUNGATA: Not actually in my - nobody ever got injured because I had information about him.

MR SANDI: Can you tell us about the event or incident,
20 the remarkable incident when you were told that there were terrorists at a certain place and you went there with arms as you knew that they were terrorists?

MR TUNGATA: I was never involved in a group that used to deal with terrorists, because I was not in the terrorist squad.

MR SANDI: In conclusion Mr Tungata, as human beings we can think back and look back and say at least I made a mistake there. If I was in a position to turn back the clock I would do better and you start regretting. Is there
30 anything yourself that you could regret about in the police

force and start identifying your mistakes?

MR TUNGATA: Yes there are such things.

MR SANDI: Can you tell us briefly?

MR TUNGATA: I once recruited a person and thereafter he gave us wrong information. We went to that particular house in Mende, we discovered that this person was fighting - this person quarrelled with her boyfriend because he had another girlfriend and we had kicked the doors there and we later discovered that was not true.

10 MR SANDI: You said Mike Xlego is your friend though he says you assaulted him, can you tell us about this relationship?

MR TUNGATA: Mike Xlego is from Novatana, we grew up there. His sister was at school with my sister and one of my sisters was with Mike Xlego at school. I've known him since we were boys.

MR SANDI: Does that mean that you are friends?

MR TUNGATA: Yes.

MR SANDI: Do you call that friendship?

20 MR TUNGATA: Yes, because we never quarrelled. He was arrested many times but I never assaulted him and I never saw him being assaulted.

MR SANDI: As you know that in the workplace people develop some kind of friendship even if they are all out of that workplace they always socialise. In your workplace are there any people that you can call them friends, in that manner?

MR TUNGATA: It's Mr Mene only.

MR SANDI: Among the Whites, those who were seniors, are
30 there any people that you can call friends?

MR TUNGATA: The only person that I was on good terms with is no longer there. He passed away.

MR SANDI: Who is that person?

MR TUNGATA: It was Eldaan Zulu Vermaak who died after a heart attack.

MR SANDI: Thank you Mr Tungata. Thank you Mr Chairperson.

CHAIRPERSON: Thank you. We are trying to conclude the proceedings. In fact I am rather interested in having it
10 concluded and also as quickly as possible to accommodate Mr van der Merwe. Mr Mpumlwana have you got any other questions or have you left us? Are there any other questions that you have? We are trying to conclude the proceedings and also assist Mr van der Merwe who ... (intervention)

ADV MPUMLWANA: I was actually ... (intervention)

CHAIRPERSON: You are contemplating your next question....

ADV MPUMLWANA: I was praying for - and when you pray you concentrate. Mr Tungata while you were answering the
20 questions I just noticed one or two things. Do you remember that you were once referred to as "The Black Nieuwoudt", do you know that?

MR TUNGATA: That's correct.

ADV MPUMLWANA: What was the reason for that?

MR TUNGATA: They said it's because I like dismissing anything that came from Mr Nieuwoudt.

MR TUNGATA: Just tell me this, just tell me Colonel Harding's name, full name?

MR TUNGATA: It's Dick Harding.

- ADV MPUMLWANA: And Scheepers?
- MR TUNGATA: I am not sure but there's only one Scheepers who was a colonel in the Security Branch.
- ADV MPUMLWANA: And Captain Murray?
- MR TUNGATA: Captain Murray passed away.
- ADV MPUMLWANA: And Captain du Plessis?
- MR TUNGATA: He also passed away.
- ADV MPUMLWANA: All those who were cruel passed away?
- MR TUNGATA: Yes.
- 10 ADV MPUMLWANA: Interesting!! Those who are alive are the angels and Roelofse and the others are still alive.
- MR TUNGATA: It's not that they were the only one who were cruel. These were extremely cruel, because we would bring somebody and just within minutes we would hear a scream.
- ADV MPUMLWANA: All-in-all you were present when the people were assaulted because you heard the screams?
- MR TUNGATA: It's obvious that if you hear a scream a person here is feeling a pain.
- ADV MPUMLWANA: Meaning you can't remember who was doing
- 20 all this, who was torturing people?
- MR TUNGATA: I said we used to hand over to some other people, maybe the person who supposed for interrogation was not there. Black policemen were not allowed to interrogate, it's only the Whites who were therefore questioning.
- ADV MPUMLWANA: My last question is, you used to hear the screams?
- MR TUNGATA: Yes.
- ADV MPUMLWANA: Within minutes of arrival. You cannot
- 30 actually say that this person was taken by that one and

after that the person screamed.

MR TUNGATA: You would bring people there in the Sanlam building and when you come back you will hear them screaming because they are being tortured.

CHAIRPERSON: Is that it?

ADV MPUMLWANA: Thank you. I thank you so much. Perhaps even in future we can ask you to come back again.

CHAIRPERSON: Thank you very much. I would like to conclude the proceedings.

10 Before I do that, can I just place on record and remind those participating that the proceedings have been in camera and are confidential. Information which has been disclosed at these proceedings cannot be public until the Commission decides to do that or until the material is used at a public hearing of the Commission.

I would like to thank you Mr Tungata for having come and having attended and having assisted us today. I will excuse you for the moment, but if there's anything else that we need to clarify then we will, in all probability,
20 be in touch with you. Also we thank Mr van der Merwe for assisting you.

I thank the members of the panel, the Investigative Unit and the technical staff. Thank you very much. We will conclude the proceedings now.

HEARING ADJOURNS
