

**TRUTH AND RECONCILIATION COMMISSION****SECTION 29 INQUIRY**

**DATE:** 23.01.1998

**NAME:** LUCAS CHRISTOFFEL JANSE VAN VUUREN

**HELD AT:** JOHANNESBURG

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**CHAIRPERSON:** Mr van Vuuren are you going to have any problem with speaking in English, if that ... (intervention)

**ADV VAN VUUREN:** I won't have a problem, my mother tongue is Afrikaans but I'm comfortable with English. Perhaps if it will assist the Commission I will be willing to give evidence in English. I would have preferred in Afrikaans but it's not a problem.

**CHAIRPERSON:** I should actually have arranged for an Afrikaans interpreter and I must apologise for that oversight, we should have asked your language preference.

**ADV VAN VUUREN:** Right, oh well I'll do so.

**CHAIRPERSON:** Because we normally do provide that but somehow that seems to have gone wrong today.

**MR PAULSEN:** Sorry may I come on record to say that my name is JRG Graham Paulsen of the firm Ruth and Wessels in Pretoria, I'm an attorney and I act on behalf of Adv van Vuuren in this matter. We have taken the opportunity of drafting a

statement which we think covers the area of inquiry, the statement was drafted in Afrikaans because of the fact that it is Adv van Vuuren's mother tongue and because the distinctions which one has to make in taking certain decisions could be better expressed in his mother tongue. So while I don't have any objection to him speaking in English, if I find that because of the language differences, the meaning of what he is trying to say is not correct I will have to revert to Afrikaans and try and explain it in English if that's okay with you and with the Commission.

CHAIRPERSON: That's fine with me. Let me just say for the records that this is an *in camera* inquiry in terms of Section 29 of the Act. The recordings remain confidential until the Commission actually decides that the contents of this inquiry will be made public. In the event of that happening the Commission will notify you accordingly. I'd like to thank you for coming here. I appreciate the trouble you've taken to give us a statement. Before we begin I'm ask you whether you have any objections to taking the oath?

ADV VAN VUUREN: None whatsoever.

CHAIRPERSON: Okay if you could please stand.

LUCAS CHRISTOFFEL JANSE VAN VUUREN: (sworn states)

MR PAULSEN: Madam Chair may I ask a question? Would it not be appropriate to read this statement into the record first and

then to allow questions on this and whatever other questions there may be afterwards?

CHAIRPERSON: That's fine.

MR PAULSEN: Thank you. May I proceed Madam Chair?

CHAIRPERSON: Yes.

MR PAULSEN: Thank you.

"Ek die ondergetekende Lucas Christoffel Janse van Vuuren verklaar soos volg:

Gedurende Julie 1989 was ek in diens van die Staat in die kantoor van die Prokureurgeneraal van die Witwatersrandse afdeling. Daaruit het 'n doseer op my weggekome wat gelees en bestudeer moes word met die oog daarop om 'n beslissing deur die Prokureurgeneraal te kry met betrekking tot 'n moontlike vervolging. Daar is 'n versoek aan my gerig om deur my nasiener in die kantoor Adv Chris Human",

I may just add Madam Chair he was the deputy Attorney General at the time,

"om die dossier met daardie doel vooroor te bestudeer. Daar was veral drie sleutel getuies behalwe die ander getuies wat ek gekonfronteer het, naamlik Kenneth Kgase, Thabiso Mono en Pelo Mekgwe. Hierdie drie persone is verteenwoordig destyds deur Jeff Budlander wat hulle regsverdediger was by die Legal Resources Centre en

vandag 'n Staatsamptenaar is. Ek het met verskeie ander persone ook gekonsulteer onder ander eerwaarde Paul Verryn wat tans 'n Biskop is. Die feite wat na vore gekom het is kortliks die volgende:

Eerwaarde Paul Verryn het sy Methodistepastorie gebruik as 'n refuge of 'n toevlug vir hawelose getuisterde mense. Hierdie mense is na bewering deur die veiligheidspolisie of die Suid-Afrikaansepolisie geteister. Hy het hulle onder sy vlerk geneem. Die mense wat by hom was was onder andere Xoliswa Falati, Katiza Cebekhulu, en Xoliswa Falati se dogter Nomphumulelo. Die volgende persone is uit eerwaarde Paul Verryn se huis verwyder",

they obviously all first stayed there,

"Gabriel Pelo Mekgwe, Barent Thabiso Mono, Kenneth Kgase en James Moketsi Seipei",

also known as **Stompie**,

'en na Winnie Mandela se huis in Soweto geneem. In Winnie Mandela se agterplaas is twee kamers waar sekere persone gewoon het. In een van hierdie kamers het onder andere 'n persoon met die naam Jerry Richardson gewoon wat na bewering die afrigter van die Mandela Football Club was. Daar is

beweer dat Winnie Mandela en ander persone in die agterplaas vir James Moketsi Seipei of Stompie aangerand het. Die ander persone, Gabriel Pelo Mekgwe, Barend Thabiso Mono en Kenneth Kgase is ook by hierdie geleentheid aangerand. Bewerings teen hierdie persone was dat hulle geslaap het by eerwaarde Paul Verryn, uitgesonder Stompie wat na bewering 'n **impimpi** of **informer** was. Die feit dat hierdie persone ernstig aangerand was ly geen twyfel nie, daar was voldoende getuienis tot daardie effek. Die drie getuienis wat kerngetuienis kon gee rakende die aanranding deur Winnie Mandela van Stompie Seipei was Mekgwe, Mono en Kgase. Hulle het ook getuig dat hulle dure Winnie Mandela aangerand is. Dit was ook 'n feit dat Stompie erger aangerand was as die ander drie persone. 'n Dag of twee later is Stompie weereens aangerand deur Guybon Kubheka. Die bewering was ook dat daar by die aanvanklike aanranding op 29 Desember 1988 ook die volgende persone betrokke was: Jabu Sithole, John Morgan wat teenwoordig was maar nie fisies aan die aanranding deelgeneem het nie, Katiza Cebekhulu, Nompumulelo Falati, Sibusiso Brian Mabuza"

also known as Scar,

" Mpo Gift Mabelani",

I think he was also known as Bosmond or Desmond,

" Xoliswa Falati en Winnie Mandela en Jerry Richardson. 'n Dag of twee later is Stompie Seipei van uit die agterplaas weggeneem en hy is nooit daarna lewend gesien nie. Na aanleiding van die inligting wat in die dossier gevind is, is daar 'n besluit op die Prokureergeneraal geneem op my aanbeveling dat daar 'n vervolging moes wees van die volgende persone. Jerry Richardson moes aangekla word van moord, menseroof"

which is kidnapping Madam Chair,

"aanranding met die opset om ernstig te beseer, afsonderlik van die ander persone. Jabu Sithole, John Morgan, Katiza Cebekhulu, Nompumulelo Falati, Sibusiso Brian Mabuza, Guybon Kubheka, Mpo Gift Mabelani, Xoliswa Falati en Winnie Mandela sou aangekla word van aanranding met die opset om ernstig te beseer en menseroof. Van die laaste groep persone moes Guybon Kubheka afsonderlik aangekla word omdat hy Stompie Seipei 'n tweede keer aangerand het. Jerry Richardson is aangekla van menseroof, vier aanklagte, aanranding met die opset om ernstig te beseer, vyf aanklagte,

moord en poging tot moord. Hierdie saak is in die Hoofregshof van Suid Afrika Witwatersrand se plaaslikeafdeling soos dit destyds genoem is, vervoer onder saaknommer 184 van '89. Guybon Kubheka sou ook afsonderlik vervolg word maar voordat dit kon plaasvind het hy verdwyn. Jerry Richardson is skuldig bevind soos aangekla. Daarna so die verhoor volg van die ander persone, Jabu Sithole, John Morgan, Katiza Cebekhulu, Nompumulelo Falati, Sibusiso Brian Mabuza, Mpo Gift Mabelani, Xoliswa Falati en die naam van Winnie Mandela is ook bygevoeg. Volgens my Geheue sou hierdie vervolging in 1990 plaasvind, dit is aanvanklik uitgestel en het 'n aanvang geneem in 1991. By aanvang van die verhoor het dit geblyk dat daar 'n sekere aantal van hierdie beskuldigdes verdwyn het en nie hulle verhoorte gestaan het nie, naamlik, Jabu Sithole, Katiza Cebekhulu, Sibusiso Brian Mabuza en Mpo Gift Mabelani. Daar het net oorgebly John Morgan, Xoliswa Falati, Winnie Mandela en Nompumulelo Falati. Ek was een van die aanklaers in bogenoemde saak en aan die voorbereiding van die getuienis wat aangebied moes word ten einde die elemente van die aanklagde behoorlik te kon bewys

het ek met 'n aantal getuies gekonsulteer. Omdat ek op daardie stadium reeds voor die datum van die neem van die beslissing deur die Prokureurgeneraal om te vervolg gekonsulteer het met Johannes Mabota ook genaamd Temba, het ek hom nie oorweeg as 'n getuie nie en wel om die volgende redes:"

And I might add Madam Chair that consultation took place on the 30th of August 1989.

"1. Temba beweer dat hy geen aanranding gesien het nie. Dat hy na die aanranding op die toneel gekom het en dat hy van geen aanranding weet nie. Daar is deur ander getuies beweer dat hy deelgeneem het aan die aanranding, dit is aan hom gestel tydens die konsultasie en hy het dit ontken. Temba het gesê dat hy gesien het dat die aangerande persone beseer is maar hy kon net die oorsaak van die beserings beskryf. Nie net die drie getuies, naamlik Mekgwe, Mono en Kgase het gesê dat hy deelgeneem het aan die aanrandings nie maar ook van die ander beskuldigdes het hom daarvan beskuldig. Dit sou dus nie in die lig van daardie implikasies raadsaam wees om hom as 'n getuie te roep om die aanrandings te bewys nie want hy sou in alle waarskynlikheid teen die Staat getuig en hy sal 'n onbetroubare getuie



wees. 4. Temba het getuig dat hy waargeneem het dat Winnie Mandela geskok was by die aanhoor van die mededeling deur Jerry Richardson dat Stompie Seipei dood was en dat sy woorde geuiter het, 'I told you not to do it', of soortgelyke woorde tot daardie effek geuiter het. Hy was dus nie 'n goei getuie om te gebruik aan die bewering van 'n moontlike aanklag van moord teen Winnie Mandela nie. Die teendeel was waar. Dit hier bewys te word dat die aanklag van moord teenoor Jerry Richardson bewys deur middel van omstandighedsgetuienis waaruit die enigste redelike afleiding geregverdig was dat hy wel die moord gepleeg het. Daar was nie dieselfde omstandighede wat verdoemend genoeg was wat 'n afleiding kon regverdig dat Winnie Mandela haarself met die moord van Stompie Seipei vereenselwig het of dit aangehelp het of dit gepleeg het nie. Temba het getuig dat hy deur Winnie gesê is om saam met Jerry Richardson te gaan na die plek waar Stompie Seipei begrawwe is, maar dit is nog nie getuienis teen Winnie Mandela dat sy deelgeneem het of die moord gefasiliteer het nie.

6. Temba het is sy Artikel 29 verklaring.."

Madam Chair that's in terms of the old security legislation,

"..getuig dat hy opdrag ontvang het van Winnie Mandela om no Botswana te gaan en van daar die pers te laat weet dat Stompie Seipei nog aan die lewe is. Hy het nie Botswana to gegaan nie maar na Groblersdal gegaan van waar hy die oproep uitgevoer het. In sy verklaring aan my.."

that is in the consultation,

"..het hy hierdie optrede ontken. Dit het hom in my oë 'n ongeloofwaardige getuie gemaak omdat hy twee botsinde verklarings omtrent hierdie gebeure gemaak het. In hierdie verband heg ek aan 'n afskrif van sy Artikel 29 verklaring sowel as die notas wat ek geneem het en gemaak het as 'n aid memoire van die meganies destyds toe ek met hom gekonsulter het met die oog daarop dat 'n beslissing uit die saak geneem te kry of daar vervolg sou word of nie.

7. ~~Ek so my beslissing om Temba nie as getuie to~~ roep nie as gevolg van bogenoemde redes bespreek het met my kollega en my nasiener, Advokaat Chris Human as ook die ondersoekbeampte omdat ons as 'n span nou saamgewerk het en hierdie beslissing saam geneem het.

8. Ek is meegedeel deur Temba dat hy in ander sake vir die polisie getuig het en dat dit hom in hierdie

saak aan 'n moeilike posisie sou plaas omdat die regstenwoordiger wat in daardie sake opgetree het ook in hierdie saak sou optree en dat hulle weet wat hy daar gesê het sal 'n kruisverhoor nie 'n goeie getuie wees nie. Daarom was hy ook 'n onwillige getuie. Na my oordeel sal dit nie raadsaam wees om 'n onwillige getuie in 'n saak te gebruik waar hy in ieder geval nie van neet af sterk getuienis kon gee teen een of ander of almal van dit beskuldigdes nie, veral omdat daar genoeg ander sterk getuienis was om te bewys wat nodig was om die aanklagte te bewys. Dit moet onthou word dat hy nie by die aanranding teenwoordig was nie, ook nie by die menseroof teenwoordig was nie en ook nie by die moord nie. As 'n getuie om omstandighedsgetuienis daartestel was hy na my oordeel onbetroubaar en ongeloofwaardig. ~~Ek wil dit duidelik stel dat~~ bogenoemde my oorwegings was in my besluit om Temba nie as getuie te roep nie. Dit was op regsgronde geneem en het niks te maak met die politiek van die dag of enige versoek of wens van die ondersoekbeampes.."

which I could also refer as the police,

"..nie.

That is my statement Madam Chair.

CHAIRPERSON: Thank you, will you just tell us on record, I see there are annexures to this document.

ADV VAN VUUREN: Yes certainly. The first one Madame Chair is my handwritten notes of this consultation and I thought long and hard about it and I think if I remember correctly, I made these notes during the consultation. I also made a recording of the consultation and I've got the tape available if necessary. What I might have done is afterwards I would have listened to the tape and I made some notes in the margin about where on the tape this was stated in the statement was on the tape. I might also have and I can't say for sure, I might have made additional notes on the same document after I've listened to the tape while I was listening to the tape.

The second annexure Madame Chair is the so-called Section 29 statement, that is the old Section 29 of the Internal Security Act 74 of 1982. That consists of nine pages and the relevant part of this statement seems to me from paragraph 27 onwards, page 7 of that statement and the third annexure Madame Chair is a copy of an affidavit by Mr Mabota, a one-page statement which it seems to me was an affidavit. Yes those are the annexures Madame Chair.

CHAIRPERSON: Thank you I think the first thing that I will say is obviously the recording that you made during the consultation.

ADV VAN VUUREN: Yes.

CHAIRPERSON: We would like that made available to us.

ADV VAN VUUREN: Yes I've got it with me. Madam Chair, if it will assist I personally made that recording, I personally made a copy of that recording, I would like to retain the original but if the Commission wants the original obviously it is available.

CHAIRPERSON: I think that just in terms of authenticity and the problems that one has around this we will try and have this, the tape, you know make a copy of the original, but do it in circumstances which allow us to validly do that. And then secondly we will have it transcribed and then the original can be returned to you.

ADV VAN VUUREN: Yes that is in order Madam Chair. I might just mention that there are other consultations on this tape as well. The tape starts with the last part of my consultation with Mr Mekgwe, but the majority of this tape is the consultation with Mr Mabota. The last part of the tape relates to the start of one of my consultations with Mr Kgase.

CHAIRPERSON: I would then be right if I say that you probably recorded the interviews that you had with all the witnesses regarding that matter, would that be correct?

ADV VAN VUUREN: Yes Madam Chair, not all the witnesses but I certainly recorded the consultations with Mr Kgase, Mr Mono, Mr Mekgwe and also, if I remember correctly, the consultation with Mr Verryn.

CHAIRPERSON: I think we'd like to get, you know, whilst you have brought along the one tape, we would like to have copies of all those tapes, so if you wouldn't mind handing the originals over we will make some provision for ensuring that we sign for that but also enable you to get the originals back. But it will assist us in our work because as you will appreciate that there are a number of statements floating around and clearly interviews that you yourself handled would be of considerable importance to us in making a final finding on this matter.

ADV VAN VUUREN: Yes certainly Madam Chair I have got the tapes with me.

MR PAULSEN: Madam Chair may I - (not speaking into mike), here, that the subpoena says that we must bring information with regards to Sizwe Sithole, Lolo Sono, Stompie Seipei, which we have dealt with, Dr Asvat and the killing of Sergeant Pretorius and two MK members. I would like to give Advocate van Vuuren a chance to make his comments with regard to those because they are not covered in this statement.

CHAIRPERSON: Alright.

ADV VAN VUUREN: Madam Chair as regards Mr Sizwe Sithole all I know is that he was killed. I was not involved in any investigation, any decision whether to prosecute anybody, all I know that he was killed. That might have come up during the preparations for the trial or the evidence or whatever, I can't recall. But so basically I know not much about that.

About Lolo Sono the following. During the trial of the four remaining accused, let me call it for convenience sake, the "Winnie Mandela trial", this matter arose, as the Commission is probably aware, my colleague Mr Swanepoel and I brought an application to the trial court to lead similar fact evidence and the case of Mr Sono was one of those. The trial court granted the application. However, we had a serious problem in that the witnesses refused to testify. They said their lives will be in danger if they testify. Further the problem we had was that Mr Kgase was not a good witness. His evidence was actually, I think it will be fair to say, "destroyed" in cross-examination. The similar fact evidence we could not use to strengthen our case in the light of that so it wouldn't have helped us. So in the light thereof, and we also discussed it personally with Mr von Lieres the Attorney General at the time, the decision was made not to lead that evidence.

There were two dockets which I read, they were not thick dockets, actually very thin dockets, and those were the dockets of

Mr Sono, Mr Sono's disappearance and also Mr Sibuniso Shabalala's disappearance. I made some notes of the contents of the dockets. I also faxed a copy of my notes, of my consultation notes with Mr Siyakamela to Mr Pigou at the previous hearing. So that is basically what I know.

From my memory I can just say that I know that Mr Sono's father saw him in a kombi in the company of some alleged Football Club members and Mrs Mandela. He was obviously assaulted and that's the last time that he saw him. I can't really recall the facts of Mr Shabalala. But these are what I know about that.

I heard later on that those dockets disappeared.

As regards Dr Asvat's murder, I was not involved in the trial, I was not involved in the decision-making process. I know there was talk about a statement which was not used in court.

That's only hearsay. I might have discussed it with Advocate Jannie van der Merwe who was the prosecutor in that case. I heard that that statement was not used, it was an alleged confession by one of the accused. I heard that that statement wasn't used because it was in conflict with his other evidence. But he will probably be the one who could answer that question.

Dr Asvat's brother was a witness, as far as I can recall, in the Richardson trial. He also handed in the medical card of



Katiza Cebekhulu's examination in at that trial. So that exhibit should be available. That is all I know about that matter.

The killing of Sergeant Pretorius and two MK members I saw in the papers kindly provided to me by the Commission that there was an inquest held into that affair. I was not involved in that at all. These facts were mentioned, if I remember correctly, during the Richardson trial. But that's all I know. I know that this policeman was killed as well as the two MK members.

I did not have the time to go through the whole Richardson record again but if I remember correctly I cross-examined Richardson on a statement that he made in that inquest during cross-examination which was in total conflict with his evidence-in-chief. That's all I know about that.

MR PAULSEN: Madam Chair, sorry lastly, may I just for the sake of neatness refer to the statement and then on page - just check with you, but on page 3 in paragraph 6.2 the spelling of the name Cebekhulu is incorrect. There's a "g", it should be a "c".

And then in paragraph 10.7 on page 6 I'd just like to check that your copy also says, "Advocate" or "my kollega Chris Human", and this is "Niemand" and.....

CHAIRPERSON: (...indistinct).

MR PAULSEN: Yes, thank you. And then on the first annexure the notes made by Advocate you will see there towards the bottom end of the page there is a line, a black line drawn through

one page, now that's a mistake. It was actually my attempt last night to underline it and I had a very inefficient pen so that must not be ascribed to Advocate van Vuuren, it's my markings and I am sorry it came before you.

ADV VAN VUUREN: I may just say Madam Chair that I have got the original note with me, if that will be of assistance.

CHAIRPERSON: Thank you very much. Obviously there are quite a number of issues that have been raised in your statement.

The members of my team, and I've actually forgotten to introduce them. I have Melanie Lew(?) on my right-hand side; Piers Pigou, who has been assisting in this investigation and Jan Akker, a Swedish investigator who works for the Commission, they will in fact be dealing with most of the questions. Piers!

MR PIGOU: I should first say Advocate van Vuuren that there's a possibility that I won't have picked up everything that you have said inside your statement. I am what you call an "uitlander" so my knowledge of Afrikaans is extremely limited. I have tried to follow through, but you will forgive me if I am asking you things that you have already referred to in here.

I'd first like to take this whole issue through in some form of chronology and I am going to deal with the Lolo Sono incident first. I have made a copy of the notes that you sent to me. I don't know if you have a copy available to yourself there or whether I can just pass this to you. These are the notes that

you sent to me during the public hearing of your conversation with Michael Siyakamela on the 8th of February 1991. It's extremely important for us that I think you take us through these notes and I was hoping that we could start on the Siyakamela issue by you taking us through exactly what was said. Perhaps I could just ask whether or not you recall whether this consultation was recorded and whether a copy of this recording might be available.

ADV VAN VUUREN: It was unfortunately not recorded. It was actually, if I remember correctly, these consultations took place while the Winnie Mandela trial was in progress, with a view to bringing the application to submit similar fact evidence. So this was not recorded.

MR PIGOU: Well I think for the record it will be extremely useful for us if you could take us through then on a line by line basis. I think if possible, Advocate van Vuuren, in terms of saving time so we don't go over things again and again, there may be a couple of times which I may want to interject and request some clarification on a particular issue if that's okay with you.

ADV VAN VUUREN: That's fine. The heading is the name Michael Siyakamela. That is in Mr Swanepoel's handwriting. The date 8 February 1991. My first note there is -

"Afraid - won't give evidence"

Second line, "Verklaring is gelees is korrek". In other words he read his statement and he said it was correct.

My note then says -

"Think murdered Lolo. ID Lolo on photo, don't ID Sibuniso Shabalala".

Now that note "think murdered Lolo" - I can't say now what I meant by writing that but it might have been that he thinks Lolo has been murdered.

Then on the next line it says -

"To Lolo 13 November 1989 - (my note is) MW, (which obviously is Winnie Mandela) Winnie Mandela's kombi, Volkswagen, powder blue - P Blue, Powder Blue/white, KZS - (and that was the registration number) only one kombi. Evening."

Then on the next line it says -

"With me in kombi Guybon - Shoes".

and it's crossed through, and it says "Correction", and it says in brackets "my uie fout", in other words it was my mistake.

"Eerste soek Lolo", in other words they searched for Lolo. He wasn't there - "nie daar". "Toe" - in other words thereafter - "boodskap Lolo by Winnie Mandela". So Lolo was with Winnie Mandela.

"Went to Winnie Mandela's place. Photo 585 Diepkloof Extension. See; boys hanging around as

always, think they were guarding. I in - (in other words he went inside) a couple of minutes Winnie Mandela, Lolo, Guybon, Shoes and others, don't remember. Lolo face swollen. Blood on face. To his place. I drive kombi and spokes. Arrive. They wanted T's clothes...."

and I can't recall that - I see in the margin I said -

"Not Trepo, Tebogo".

The inference I make from that is that they wanted Tebogo's clothes.

"Met Lolo's mother. Told to wait minutes, father came. Winnie Mandela sent me to call him. She asked for Tebogo's things. Lolo, Guybon went to fetch. Was told father suspected Lolo is informer. Lolo's father asked if she is sure".

Oh I am sorry there's a mistake. It was -

"Winnie Mandela told the father that Lolo was suspected to be an informer. Lolo's father said if she was sure. Winnie Mandela says she was sure. Lolo's father and Lolo spoke in Shangaan and he did not understand that. Then they drove to Winnie Mandela's place to the garage. In brackets (They are - Winnie Mandela, Lolo, Shoes, Guybon and the rest)

I waited at the kitchen door and lit a cigarette. I am not inside. I not MFC - (that's Mandela Football Club) team member. Others are team members. They are always together. Wear tracksuits.

Cigarette - (in other words he had his cigarette).

Winnie Mandela came out. Told to get inside the house and to watch TV. I in 20 minutes. She in - sent me home.

Cigarette. (And that must have meant that while he was smoking his cigarette) he heard Lolo screaming.

They were making noises inside. At Winnie Mandela's house before to Lolo's house".

In other words he described certain events that took place there at the time.

"Winnie Mandela told me she suspected Lolo being an informer and she wanted to go and fetch Tebogo's things. In the kombi they still questioned him. "You sold out brothers" in inverted commas - he denied. Slash and Scar also in this group.

Next day went back, still questioning Lolo, severely injured. Saw through a small door, see inside. Fetch Winnie Mandela, Zinzi, children at Wits School near Halfway House. Lolo gone (underlined).

Remained driver a week and four days. Shakes returned. Sometimes look for him at Thokoza. There were other vehicles...(with an asterisk in the margin)"

and then he talks about Thokoza.

"Searching for Shakes. Winnie Mandela knew relative of Shakes or girlfriend of Shakes. Shakes knew a lot about her and the organisation".

it seems to me.

"Went to place in Thokoza, think relative of Shakes.

Arrived. Guybon and Shoes in and asked one - in brackets (man) came, showed us where Shakes was (girlfriend) went there. Showed. Shakes came, in brackets (they inside and we back). Don't remember of anyone we fetched from Thokoza and took to Winnie Mandela's place. Older man was also the driver, in brackets (Mutu?) and Mutu...?

the Commission obviously, or probably knows that's the other name of John Morgan.

"End 15:07".

And then I listed his address, 1516 Dube Village, with a telephone number and also his work address. Robertville, Plastic Chrome in the West Rand.

MR PIGOU: Thank you. Could you tell me where this consultation took place?

ADV VAN VUUREN: In Mr Swanepoel's office if I remember correctly.

MR PIGOU: Sorry we've got (...indistinct) I think pressed together and then we can go for the rest of the ....

ADV VAN VUUREN: (...indistinct)

MR PIGOU: Super, thanks, okay.

ADV VAN VUUREN: If I remember correctly this consultation took place in Mr Swanepoel's office at the Attorney General's office.

MR PIGOU: So was Mr Swanepoel present during this consultation?

ADV VAN VUUREN: I don't think so. I think he was carrying on with the trial in the court at the time.

MR PIGOU: Okay. You've indicated during your previous testimony that you made notes on the Lolo Sono docket, I wonder whether you may still have those notes available?

ADV VAN VUUREN: I do.

MR PIGOU: You do. And would you make those available for the Commission?

ADV VAN VUUREN: Yes I will, certainly.

MR PIGOU: Thank you. These notes were taken during the consultation, that's correct?



ADV VAN VUUREN: These notes that I've read out now?

MR PIGOU: Yes that's it ja, ja.

ADV VAN VUUREN: Yes.

MR PIGOU: Ja, okay. Was this the first time that you had met Siyakamela?

ADV VAN VUUREN: Yes I think so, yes.

MR PIGOU: Could you tell the Commission at what stage you became aware of the information which Mr Siyakamela had in relation to the Lolo Sono incident?

ADV VAN VUUREN: I can't really remember. I think it was just before or perhaps during the Winnie Mandela trial that I got hold of those dockets, but when exactly I really can't say.

MR PIGOU: Did Senior Superintendent Dempsey, as he is now, ever bring the Lolo Sono abduction to your attention during the early days of your involvement in the Stompie Seipei case when the cases were not separated into a Richardson prosecution and a State versus Sithole prosecution?

ADV VAN VUUREN: In other words during the decision-making process phase?

MR PIGOU: Well even prior to that, during early 1989 after a number of people have been charged in connection, - not Mrs Winnie Mandela, we understand she wasn't charged until September 1990, but during the 1989 period while Mr Dempsey was investigating this matter.

ADV VAN VUUREN: I first had knowledge of this matter in July '89 when we received the docket at the Attorney General's office. I can't say whether I then had knowledge, whether Mr Dempsey told me then about Lolo Sono. It's possible. I can perhaps try and establish that by going through some more notes but I can't give a positive answer now.

MR PIGOU: Okay. The reason I am going down this line is that I am interested to see that in the notes of your consultation with Mr Siyakamela in 1991 he makes reference to other people in the kombi with Mrs Mandela, namely Guybon and Shoes on one occasion and then he makes reference, according to your notes, to a later occasion to Slash and to Scar. Now in July 1989 - well first of all let me ask this question, was that detail contained in Mr Siyakamela's statement that you had had the opportunity to peruse and that he had confirmed was an accurate statement?

ADV VAN VUUREN: I can't say. I will have to check my notes of that statement. I think, if I remember correctly, I made a summary of the statement in the docket so I can have a look at that.

MR PIGOU: Well let me go on. You may, in the light of your answer, not be able to answer this question but I think I need to put it to you anyway.

In July 1989, if you are saying to us that that is about the time that the Sono incident was brought to your attention, and we

know that Mr Dempsey was investigating both the Stompie Seipei case and the Lolo Sono abduction, my understanding is, and you may correct me, is that at that time Mr Guybon Kubheka and Mr Brian Mabuza, also known as Scar, was in custody at that stage, and I am trying to find out whether either of these two gentlemen had been approached in connection with the Lolo Sono matter having been named, possibly been named by Siyakamela in his statement to Dempsey in early '89?

ADV VAN VUUREN: I can't answer that question - I don't know. But if - my memory seems to tell me that the accused in the matter were on bail weren't they? But you say that Scar and Mr Kubheka were in custody.

MR PIGOU: My understanding is that they were released on bail after several months but during July they were in custody. I am just trying to find out whether you have any memory of the connection being made or whether Mr Dempsey brought this to your attention at all that these gentlemen were sitting in prison and had been implicated by Mr Siyakamela. We know from Mr Dempsey's evidence in-chief during the public hearing that he said he tried to overturn every stone in connection with the Lolo Sono incident. We have seen some of the custody statements that have been taken from the likes of Jabu Sithole and so forth, and certainly Lolo Sono is mentioned in those statements in terms of

the questioning by Mr Dempsey. I am wondering whether the connection was made for your benefit by Mr Dempsey.

ADV VAN VUUREN: I can't recall no, I am sorry.

MR PIGOU: Okay.

ADV VAN VUUREN: It's possible but I can't be positive.

MR PIGOU: Okay. Were you aware, or at what stage did you become aware about the context in which Lolo Sono and Sibuniso Shabalala had disappeared? Now I am referring to the fact that the accusation of "impimpi" refers to the incident at Mr J A Richardson's house which you questioned him on under cross-examination, or the statement at least that he made following his arrest after that incident, where two MK cadres were killed and Sergeant Pretorius was killed. There is reference in the Siyakamela notes to, if you look in that margin on the first page, "Tebogo". "Tebogo" we assumed to be the same Tebogo who was a relative of Lolo Sono and was one of the cadres that was killed.

ADV VAN VUUREN: That's my recollection as well, yes.

MR PIGOU: Do you recall at what stage you became aware of this context that Sono and Shabalala had been effectively accused, or allegedly accused of being responsible for the death of these two cadres and their disappearance had something to do with that incident at Richardson's house?

ADV VAN VUUREN: I can't really remember and I can't really say that I ever made that connection, that their disappearance was

in any way relevant or had a connection with the death of the two cadres.

MR PIGOU: Okay, well let me ask this then. Would - did you have any suspicions or any concerns and did you make any follow-up in connection with the incident at Jerry Richardson's house? This happened on the 9th of November 1988, he made a statement in custody, we understand it was in custody on the 24th of November 1988, and he was released. He had spent effectively 15 days in custody, that is our understanding and also according to his own testimony, and his release, despite the fact that he could well have been accused of harbouring trained guerillas in an incident in which a security policeman died. Did you make any attempts to elicit any information about how that could have happened?

ADV VAN VUUREN: I must make one point very clear and that is one thing that is unfortunate about this, Madam Chair, is that these events took place eight, nine years ago, so to the best of my recollection I became aware of Jerry Richardson's statement during the course of the Richardson trial, and I seem to remember that that statement that he made at the inquest was provided to me by Dempsey during the course of that trial specifically for the purposes of Richardson's cross-examination. So at that stage only, that must have been during May 1990, that I became aware of that statement and I used that in cross-examination.

MR PIGOU: Would you agree, I mean subsequently having spoken to Siyakamela and got Siyakamela's version of events in 1991, obviously that's in relation - you were looking at the similar fact, or the possibilities of using similar fact evidence in the State versus Sithole case, or Mr Swanepoel was, did you not think that, and again we are relying on your memory from a number of years back, that this whole issue around Richardson's release and the incident at Richardson's house was crucial information in terms of trying to piece together Sono's mysterious disappearance that there was a connection? (A) - whether you made that connection and (B), whether Mr Dempsey had brought this connection to your attention.

ADV VAN VUUREN: I can't recall that I made such a connection, no. You must remember that cross-examination of Richardson was say in May 1990. Then we prepared for the Sithole case. This consultation was a long time after that, it's close to a year after that. I might have made such a connection but I have no recollection of it.

MR PIGOU: Okay.

ADV VAN VUUREN: I must also say, if I may, that I was not involved in the decision-making process as regards prosecution or not regarding the Sono and the Shabalala dockets.

MR PIGOU: Well we will come back to that. Did you ever - again in the notes there's reference to a man by the name of

"Shoes", do you recall whether his name, real name, was ever provided by Mr Dempsey or....

ADV VAN VUUREN: It must have been and I seem to remember that that might have been Maxwell Madondo. I don't know whether I am correct.

MR PIGOU: Okay. That's fine thank you. I've put a question down here but you may or may not remember, but let me start with this. Do you recall when you first became involved in the Stompie case? You've indicated that you - possibly about July 1989?

ADV VAN VUUREN: Yes.

MR PIGOU: That was when you first had dealings with the police officer in charge of that?

ADV VAN VUUREN: Yes. Mr Human approached me and asked me whether I would be willing to study this docket, yes. My recollection is that it was July 1989.

MR PIGOU: And at that stage were you briefed by Mr Dempsey?

ADV VAN VUUREN: Obviously I must have been, yes.

MR PIGOU: Okay. And we understand that he may well have presented you with certain information about the Sono case at that time.

ADV VAN VUUREN: I don't know, I don't know.

MR PIGOU: Alright. Let me just confirm - in your notes is written, one of the people mentioned in, I think on the second page, the second page is with Slash is a gentleman by the name of Scar ...(tape side A ends) ...this is SGAR - is this the same gentleman who I think you refer to as Scar in your own ...(intervention)

ADV VAN VUUREN: Yes, yes that's correct ...(intervention)

MR PIGOU: Brian Mabuza.

ADV VAN VUUREN: That's correct.

MR PIGOU: Okay fine. Are you aware at all whether he was questioned or Mr Kubheka were questioned in connection with the Sono matter?

ADV VAN VUUREN: No, no I am not aware no.

MR PIGOU: Or whether statements were taken in connection with that.

ADV VAN VUUREN: No I am not aware.

MR PIGOU: Okay. Right. I would just like to move on to Temba Mabota and I believe that what you have written in your statement effectively takes us through the consultation. That's to a large extent. I am wondering if there's anything that you want to add from the consultation notes that have been raised in your statement ...(intervention)

CHAIRPERSON: Sorry just before we pass on from the Jerry Richardson issue, were you ever informed by Sergeant Dempsey



that Jerry Richardson was a police informer at any time during the trial?

ADV VAN VUUREN: Madam Chair if I remember correctly it might have been mentioned during the trial only, and that might have been the reason why I was provided with his statement at the inquest on which I cross-examined him. I am talking from memory but I seem to remember that I was told that, yes.

CHAIRPERSON: Thank you.

MR PIGOU: Just with regards to your consultation notes of your meeting with Mr Mabota on the 30th of August 1989 in De Duur, is there anything in these notes which you would like to add to in terms of what you have already said in your statement?

ADV VAN VUUREN: If I might make a suggestion  
...(intervention)

MR PIGOU: Would you like to go through them again?

ADV VAN VUUREN: I can go through it with you.

MR PIGOU: Okay that will be useful for us, thank you.

ADV VAN VUUREN: It starts at the top and it states the date - 30 August 1989. "Consultation with Temba". At De Duur". Mechanical recording. My first note there "Bly by verklaring", in other words I must have asked him whether he's aware of the contents of his statement, and he agreed that he sticks to it.

"Ekstra", in other words, "in addition to that statement".

"Winnie's reaction when Jerry made a confession to her.

The second note there - "in other words that refers to the problems he had in testifying in this matter, in that he previously gave evidence in other cases before the SAP, and that the fact was that he was in detention".

MR PIGOU: He was - sorry?

ADV VAN VUUREN: Mabota was in detention.

MR PIGOU: Thank you.

ADV VAN VUUREN: Then it goes on - "Remember no.8". Now I must tell you that these numbers of the accused refer to the numbers they had originally and No. 8 refers to Xoliswa Falati. "Child", in other words "Xoliswa's child - Stompie, Kenny and another two at Verryn's house. John Morgan and the boys went to fetch boys from Verryn's house. Underlined "Heard". In other words that was my note to say that this was hearsay evidence.

"Heard and told by No.8", in other words "Xoliswa" in brackets (Winnie Mandela) Verryn abusing boys. Winnie Mandela say must take them and take them to school. I came to Winnie's house after they were beaten."

And then with an asterisk in the margin to indicate the importance of this -

"\* I put to him the boys allege you were present at the assault". And when I listened to the tape I also heard that I said that, they also said that he even partook in the assault. This his answer was "it's a blatant lie".

"I arrived the same night. I saw them assaulted".

In other words I saw that they were assaulted.

"Finished with assault. Stompie there just like the others. They were bruised, faces swollen. Did see blood. All three beaten. In brackets (punched badly). Heard Kenny and Stompie missing. In brackets (told), so he was told that "later". Winnie Mandela called Jerry, asked Jerry - where is Stompie?..... Jerry started crying. Told Winnie Mandela, "Mama we have finished him". With Sledge took at night, kill and bury".

Winnie Mandela shocked to hear that. People from Church came. Jerry called, they asked Jerry - no reply. Frank Chikane and Sister...."

on the tape you will hear that he says "Sister Who?". In other words he didn't know what the Sister's name was. It obviously must have referred to Sister Bernard Ncube. And he said she was well known. He also added Peter Storey.

"Jerry couldn't answer. I said I know nothing. Jerry said I don't want to talk to them".

In the margin you will see that I made a note and you will see on the original that it's in red ink and I said there -

"Winnie Mandela getuie?"

In other words it must have crossed my mind whether to use Mrs Mandela as a witness against Richardson.

"Winnie Mandela in office asks me and Jerry -  
"Mama Stompie is dead". There is no way to find him. Winnie Mandela asked me to accompany Jerry to where Stompie is buried. The rain and sand came down. Full of water. Nothing visible."

And I don't know whether the next is on the copy. It's on the bottom of the page, right at the bottom.

"Report to Winnie Mandela, Stompie not discovered".

Then on the back of the original -

"Winnie Mandela wrote down - 'Go to Botswana to give false information - Stompie was in Botswana'. I went to Groblersdal to visit wife. Didn't phone newspapers".

There's a note at the end with a "W" which means \*"weersprekend", which means "contradiction" with an asterisk.

What I meant there is that he contradicts his Section 29 statement.

Then I showed him the notes which were found in his possession at the time of his arrest and you will hear on the tape that we discussed that and he identified Winnie Mandela's handwriting on one or more of the notes. Then he said -

"He was not in contact with Winnie Mandela thereafter at all".

Oh yes, and just for clarification Madam Chair you will see there next to "Didn't phone newspapers" - in other words that's Side B of the tape. In the margin it says " Cassette 4 side A at the end and the beginning of Side B".

"That refers to Mr Krish Naidoo. In other words he talked to him on his position. He didn't tell him he worked for the police."

"Ken nr een". That referred to Jerry Richardson, number 1. No.5 referred to Nompulelo Falati. No.8 Xoliswa Falati. No.3 referred to John Morgan. Sledge or Slash I think he was also called. No.2 referred to Mr Joseph Jabu Sithole. Bosmond (no.7) and that's Mr Gift Mpo Mabelane, or Mpo Gift Mabelane. No.4 Katiza Cebekhulu. No.6 Guybon Kubheka (coming there also). Sonwabu no.9. No.9 was Sibusiso Brian Mabuza.

"ID hulle almal". In other words he identified them all. He identified them from photographs. That night all of them were there, there were many people

including Winnie Mandela. He didn't see anybody assaulting them.

Next sentence. Winnie Mandela to number 1 - "How can you do that when I told you not to do that?".

That was Mrs Mandela's reaction to Richardson's confession.

The next - "Winnie Mandela beveil my, nr 3, nr 7 om nr 4 and nr 8 na Lusaka te neem via Botswana". In other words Winnie Mandela ordered him, instructed him and no.3, that's Mr Morgan and no.7 which was Mr Mabelane to take no 4 and 8, that is Katiza Cebekhulu and no.6, Xoliswa Falati to Lusaka via Botswana. They hired a car from Maponya's garage and went to the Northern Transvaal."

Those are my notes.

MR PIGOU: Thank you. That was extremely useful.

CHAIRPERSON: Just before you go on, what is that plus/minus 55 with a little ...(intervention)

ADV VAN VUUREN: Madam Chair that refers to the position of the tape. I think the tape recorder that I used had the indication of the position of the tape, that refers to that.

MR PIGOU: I think we have to press again, thanks. Just the one contradiction, the one major contradiction that sticks out there in your consultation with Mabota denying that he made these phone calls to the newspapers, maybe the tape will show us this but did you pursue that line? Not only did it contradict the

Section 29 statement, they would appear to contradict newspaper reports at the time which quoted a Johannes Mabota as making the phone call saying that Stompie Seipei was alive and well in Dukwe.

ADV VAN VUUREN: Look I had to accept what Mr Mabota told me. I know that some newspaper reports appeared. He simply denied it when I asked him the question. I don't think I pursued it. I can't remember whether I pursued it on the tape, I don't think so. What I, in other words should have done, if I understand you correctly, I should have told him but look there were newspaper reports and they quoted you, what do you say about that? Now I didn't do that as far as I can recall.

At that stage, it was a month after I received the docket and I remember in the days before, and I think the in the days after I consulted with Mabota, I consulted at length with Kgase, Mono and Mekgwe and I don't know whether I was aware at the time of the newspaper reports that I could put it to him.

MR PIGOU: Did Mr Mabota indicate to you whether or not he was prepared to testify?

ADV VAN VUUREN: You will hear on that tape that he said if it was not for that difficulty of his, in other words that he testified in previous cases, and Mrs Mandela's lawyers know him, they know what he said during the trials, they could confront him with that because that was, if I understood him correctly, he

didn't tell the exact truth in the other cases. He might have said I think he worked for the Police in Pretoria while he was in detention, something to that effect. He said to me that if it was not for that difficulty he would be willing to testify against Winnie and Richardson and all the rest. So besides that difficulty he had no other problems.

MR PIGOU: And what was your position regarding this particular problem that Mr Mabota was raising, did you consider that to be a potential problem?

ADV VAN VUUREN: Certainly, certainly. If you call a witness and he is destroyed in cross-examination he is worth nothing. That's one of the aspects that one should consider, but I think there were other more important factors to consider. Those are the contradictions in his statements; the fact that he wasn't present at the assaults, the kidnapping, the murder, that I had other strong evidence to prove that.

MR PIGOU: During the course of your own preparation and investigation regarding the whole Seipei matter, not only your direct involvement as the chief prosecutor in the Richardson trial but the supporting role that you played in the Sithole trial, was Mabota's evidence not considered to be crucial particularly with reference to Mrs Mandela's knowledge of the demise of Mr Seipei and the assaults?



ADV VAN VUUREN: You know I can't recall what evidence we all discussed. We discussed a lot of evidence, and we discussed obviously a lot of witnesses that we should consider. I can't say now offhand, or I can't independently remember whether we discussed whether to call Mabota or not. But even in that case the problems that I raised in my statement and now, it would have been a very serious problem and I wouldn't have called him, speaking for myself.

MR PIGOU: Was that your opinion at the time after this consultation?

ADV VAN VUUREN: Yes.

MR PIGOU: Okay. Do you recall what Mr Dempsey's opinion was about Mr Mabota's evidence? I believe you went with him. That is what Mr Dempsey has testified, that he went with you to De Duur during this consultation. Well first of all was he present during this consultation?

ADV VAN VUUREN: I see that I did not place it on record on the tape that he was present. I also did not note it on my notes but I think he was present.

MR PIGOU: Do you recall whether Mr Dempsey was pleased with this find, so to speak? I believe he must have brought this man to your attention ...(intervention)

ADV VAN VUUREN: Yes he did and ...(intervention)

MR PIGOU: And made available the Section 29 statement and so forth?

ADV VAN VUUREN: That's right. I actually went with him to De Duur where I consulted with him. The Section 29 statement and the other statement attached to my statement here today was in the docket. You will see there is a reference to it. I don't make decisions to call witnesses or not to call witnesses only by myself. I would have discussed it with him. And as far as I can recall, and I would have recalled if he was disappointed or whatever. I would have told him look - or we would have discussed it in a normal course of events, we would have discussed the problems with calling him, and I am sure that he was not disappointed at all. I am sure that he agreed with me, with my problems calling him.

CHAIRPERSON: Your essential problem of course was the fact that Mabota was saying that he had not been part of the assaults.

ADV VAN VUUREN: That is correct Madam Chair. He was not present during the assaults and my witnesses implicated him as a participant in the assaults. And not only that the other accused also said that he partook in the assaults. It might be interesting to say that Kenny, if I remember correctly, referred to him as "Senior", he called him "Senior", in other words he was a very important man in the set-up.

CHAIRPERSON: To follow that up I also notice on the notes that you have made that section relating to where Mrs Mandela expresses her shock at Jerry Richardson's statement, her reaction to the confession by Jerry, do you think that Temba, in your opinion, was that something new that Temba was adding to his version at the consultation?

ADV VAN VUUREN: Madam Chair in his Section 29 statement Mabota says - if I can refer to that. It is page 7, paragraph 30 at the bottom of page 7. The paragraph says -

"After the Stompie affair received media coverage Jerry Richardson, soccer coach, reported to W Mandela that he and a man called Sledge had killed and buried Stompie. At the time of this report I was present myself, Jerry, Sledge and W Mandela was in the study of her house when Jerry reported this to Winnie. Winnie Mandela was upset and wanted to know from Jerry why he had not told it before and after she had told him not to take Stompie away".

So that more-or-less corresponds with that. So it seems to me that he did not add it during the consultation but he said it in the statement as well, yes.

MS LEW: I wonder if you could clarify something for me. I've gone through the reasons as to why you thought Tim Mabota shouldn't be used as a witness in the matter, do you recall if Mr

Dempsey ever informed you of other reasons as to why he shouldn't be used?

ADV VAN VUUREN: During the course of preparation for this hearing I had sight of a statement of Mr Jan Potgieter, or a question was put to Mr Dempsey by Mr Pigou about what Mr Potgieter said, and that was a request, alleged request by Potgieter to Dempsey not to use him because he wanted to use Mabota in a trial or whatever or a case against Mrs Mandela. I have thought long and hard about it whether that was a factor or whether Dempsey told me something about that. I can't independently recollect that, but it is possible that Dempsey told me, look the Security police requests us, if at all possible, not to use this man. But I can say this, that I do not remember an instruction or something to that effect from the Security police not to use him at all. And in any event if they did so I would not have decided not to call him because of that. If I wanted to call him I would have called him as a witness.

MS LEW: Did you have sight of that docket or were you informed about any of the charges that were being brought or proposed to be brought against Mrs Mandela? I believe there were something like 32 counts of treason or sabotage.

ADV VAN VUUREN: Only during the course of the preparation yesterday I heard about that treason, proposed treason case against her. Further I know nothing about it. I haven't had sight

of it. I was, as far as I can recall, not informed at the time of the proposed case against her, no.

MS LEW: Thank you.

CHAIRPERSON: Sorry, just to follow it up. But surely as you were working on a matter that was, I would think, quite widely discussed probably in the AG's office, that had such a docket been, or had there been the possibility of such charges being prepared that that would have come to your attention, it was unlikely that you would not have heard about it?

ADV VAN VUUREN: Madam Chair I can't really say positively.

It is unlikely, but you know at the AG's office at the time we didn't know what everybody else was doing and we did not discuss all the cases of everybody with each other. I definitely don't recall such a case against her. That's all I can say. I must say it is probably unlikely that it would not have been discussed with me, yes.

MR PIGOU: Could you tell us who you reported to in the Attorney General's office? I mean you've referred to Chris Human in your statement. Was this matter taken up with Advocate Swanepoel or the Attorney General himself, Mr von Lieres?

ADV VAN VUUREN: Mr AC Human, Chris Human, Deputy Attorney General was my checking officer in this matter, so I would have discussed the case with him at length and to my

consultations and so on, the preparation. I know that obviously in this case the Attorney General himself was also consulted. Mr Swanepoel, as regards this case, only came into the picture much later when Mr von Lieres requested him to lead the prosecution against - in the Sithole case. So he only came into the picture much later. Definitely not during the decision-making phase, and the Richardson trial. But his office was next to mine and I often asked him for advice on a number of issues, so I might have asked him for advice on some of the issues, yes. But as a definite participant in the matter, no, only shortly before the Sithole prosecution.

MR PIGOU: You don't recall yourself directly having conversations with any of the gentlemen and particularly Mr von Lieres about Mr Mabota? I mean I am trying to put this in context. Here we have probably the case of your career sitting in front of you dealing with one of the most prominent people in South African society, albeit the wife of a jailed ANC leader and so forth, and to maybe to put it in layman's terms, surely the adrenalin was running on this particular case, it is one which you would presumably have been looking under every stone and trying to make sure you did as professional a job as possible. Do you recall taking this matter - because here we have someone who witnessed, was in the presence of Mrs Mandela and Jerry Richardson when he confessed the crime to her and it would seem

was part and parcel of a cover-up in which Mrs Mandela had instigated or herself had just been part of it herself?

I am just wondering, this is a matter which maybe seven years back you wouldn't recall so well, but at the time it would have been extremely poignant to you all these particular points, and I am wondering whether you recall at all any specific conversations with Mr von Lieres about Mr Mabota and about the nature of his evidence?

ADV VAN VUUREN: I don't, I don't recall a conversation with Mr von Lieres about Mabota. We might have discussed it but I can't recall such a conversation. I would assume that it was natural for me to discuss it with Mr Human. I would have thought that that is natural, I would have discussed that with him. But I must say I can't independently recollect such a conversation, but it's natural to me that we would have discussed it.

MR PIGOU: Did Mr Mabota tell you that he had been assaulted after his arrest? Did he refer at all to any assaults at the hands of the Security Branch?

ADV VAN VUUREN: I can't recall and I again listened to the tape last night. I can't recall him saying that he was assaulted, no.

MR PIGOU: You didn't note any physical injuries or anything of that nature on Mr Mabota?

ADV VAN VUUREN: No, no I don't think I did. I don't even know when he was arrested - oh wait a minute no sorry, correction, he told me he was arrested on the 23rd of February '89. It's on the tape as well and I consulted him 30th of August '89. So if he was - I mean if he was assaulted shortly after his arrest it was about six months later.

MR PIGOU: Were you aware of the circumstances which had led to his arrest, how he had actually been arrested, did you make any enquiries in that regard?

ADV VAN VUUREN: No, no, he told me that I think he was in Groblersdal and he was arrested there. What I was interested in is how did it come about that they went to Mrs Mandela's house, and he told me that Sonwabu and somebody else, I can't recall the name, captured him on his way to work - it is on the tape, at a taxi rank I think, and their aim was to kill him he said, I think. But they took him instead to Mrs Mandela's home.

MR PIGOU: Did you make any further enquiries after this meeting with Mr Mabota about his whereabouts?

ADV VAN VUUREN: No.

MR PIGOU: Was any consideration given during the crisis period in the beginning of the Sithole trial when Pelo Mekgwe disappeared to try and locate Mabota again as a possible back-up witness in connection with the trial?



ADV VAN VUUREN: Not that I can recall, no. You must remember that I might have excluded him from my mind in view of the problems with his evidence, in view of the fact that he would have totally contradicted our star witnesses or our strongest witnesses. I might have excluded him from my mind as a witness and I might have not considered him at all later. I think that's more likely.

MR PIGOU: But you are saying that his original statement for instance, and one presumes copies of your notes were sitting in the possession of the Attorney General's office, Jan Swanepoel was leading that prosecution, he would have had sight of that material?

ADV VAN VUUREN: He, well if he read the docket he would have seen the statement because it was in the docket, yes.

MR PIGOU: Okay, but you don't recall him raising the issue of Mabota ...(intervention)

ADV VAN VUUREN: I don't recall it, no.

MR PIGOU: Okay, thank you.

I just want to move on, I might slip back to Mabota because it's obviously so closely linked into the Stompie matter, to speak about the Stompie investigation. I want to start with the whole issue of the alibi of Mrs Mandela that she was in Brandfort on the 29th of December and her claim that she had taken Cebekhulu to the doctor on the 28th and not the 29th. When we

had a consultation with you, myself and Mr Shelberg a few weeks ago, a couple of weeks ago, you referred to a certain Colonel Coetzee from the Security Branch going to Brandfort and also checking on the alibi at the same time as Mr Dempsey was doing that. Could you perhaps provide us with the context of how you came about that information and what, if anything, you were able to do about it to find out what the Security Branch were doing on this case?

ADV VAN VUUREN: Mr Swanepoel and myself requested Captain, as he then was, Dempsey, to further look into the alibi before the Sithole trial. I might be mistaken as regards dates but anyway, there was a witness in the Richardson trial which said that Mrs Mandela was in Brandfort at the time. Her name was Nora Mohahlole, and the trial court in the Richardson case rejected her evidence. So if I remember correctly this Sergeant, or Captain Coetzee or Colonel Coetzee took a statement from Mrs Mohahlole, he went to Brandfort and took a statement from her. He took an interpreter with him. In the end I think Colonel Coetzee had to give evidence himself and the Interpreter. I am talking from memory now because I didn't go through the whole Sithole record again.

MR PIGOU: Ja.

ADV VAN VUUREN: And it was funny to us why a Colonel in the Security Police, or the Security Branch had to go to Brandfort

to take statements I mean about this alibi. We couldn't understand that, and I don't know where that order came from, I don't know who arranged it. Perhaps Mr Dempsey knows.

MR PIGOU: So despite his testimony in the court case you are still none the wiser as to what the Security Branch were really up to?

ADV VAN VUUREN: No.

MR PIGOU: Now ...(intervention)

CHAIRPERSON: Sorry, how did it come to your attention that this man had taken a statement? Where did you get the information from?

ADV VAN VUUREN: Well obviously what must have happened Mr Dempsey would have given us the statement of Mrs Mohahlole taken by this man and he attested the statement and his name was at the bottom of the statement stating - I don't know whether it stated "Security Branch" , but that must have come out during his evidence in court that he was from the Security Branch.

CHAIRPERSON: And Captain Dempsey as he then was, was quite clear that he had in fact not asked him to do that?

ADV VAN VUUREN: Madam Chair I am not sure about that.

CHAIRPERSON: But the fact that it was strange would mean that that was an investigation which was happening independently of the existing investigation officer?

ADV VAN VUUREN: It might have been that they sent Colonel Coetzee after the request to further investigate the alibi. Why it was from the Security Branch we couldn't understand, because I mean Captain Dempsey was from the Murder and Robbery unit in Soweto. We didn't know why. I know that Captain Dempsey himself also went to Brandfort, he also took some statements, that is also true.

MR PIGOU: Perhaps I can go on to that. I am just reading from, I think it's page 1599 of the public hearing transcript and I am just going to cut into Mr Dempsey, I am not going to read the whole part of his particular response here. He is saying -

"I took sworn statements and I obtained in which minutes were formerly taken. This is still available.

According to the witnesses, the one was her previous manager, he was called Shakes, I think his surname was Tau, and other people who served in the community, or who still serve or used to serve there, informed me that Mrs Mandela was not in Brandfort and had not been in Brandfort. This was also given through to the Attorney General and the advocate for the prosecution, Mr van Vuuren."

I then ask Mr Dempsey -

"Just so to clarify, there were statements in the docket which, from one name you remember, Shakes,

Mr Tau, that Mrs Mandela was not in Brandfort at the time, is that correct? Yes that is so."

First of all, from your recollection of that docket do you recall seeing statements in the docket that refuted Nora Mohahlole's own statements and her subsequent testimony in the Richardson trial that Mrs Mandela had not been in Brandfort on the 29th?

Secondly did you consult with those witnesses?

ADV VAN VUUREN: In other words are you referring to statements ...(intervention)

MR PIGOU: From Mr Tau and we believe others ...(intervention)

ADV VAN VUUREN: Refuting the alibi?

MR PIGOU: Yes, that's correct.

ADV VAN VUUREN: I am sorry I can't be of much help there, I will have to go back and check. I seem to remember a statement of Tau. I don't know when those statements were taken, I will have to have a look if it was taken before the Richardson trial or just before the Sithole trial. I think more was done about the alibi before the Sithole trial, so it's probable that it was taken before the Sithole trial. I can't recall whether I consulted with Tau, but as I said I will have to go back. My memory is not very good about this issue. I would like to have some time to check up on that, all those details.

MR PIGOU: We would appreciate it if you could come back to us on that, that would be extremely useful.

Just in terms of Security Branch information and requests for Security Branch information, we know that you had sight of information which Mr Dempsey had made available to you, this was the Mabota material, the Section 29 material. In fact during the public hearing Mr Dempsey painted a picture of a cooperative relationship with the Security Branch. When it was pointed out what Mr Jan Potgieter was saying that there was almost a parallel investigation going on into the Stompie incident he denied any knowledge of this which would seem to undermine any semblance of a cooperative relationship between the Murder and Robbery unit and Security Branch. Apart from the Mabota material which you had in your possession was any other material directly requested from the Security Branch?

ADV VAN VUUREN: I think I must make one point clear here and that is that as far as I was concerned the Security Branch had nothing to do with this case. It was simply a Murder and Robbery case, investigated by the Murder and Robbery unit Soweto. Mr Dempsey was the investigating officer. I had nothing to do with the Security Branch. I never even met Mr Potgieter, I don't think I've met him up to this day. If they had a parallel investigation we certainly didn't know about it, so I did not request anything specifically from the Security Branch.

MR PIGOU: With respect Mr van Vuuren we have a situation here where we are dealing with a case involving, albeit a straightforward criminal case, but involving a very prominent political leader and one who had been of considerable interest to the State Security police for a number of years. Now I find it difficult to understand why you would not have pursued all avenues of information, possible information sources, including the Security Branch in this regard, because I am sure you must have known who Mrs Mandela was and the interest that she held in the eyes of the political establishment and therefore the Security Police. Perhaps if you could respond to that first.

ADV VAN VUUREN: Well Mr Dempsey could have requested further information from the Security Branch. I can't remember requesting him specifically, go to the Security Branch and request if they've got information. But nothing prevented the Security Branch from consulting with us, or giving us information.

And I think it's relevant here to say that about the alibi, we were certain that the Security Branch must have known that Mrs Mandela was not in Brandfort on the 29th of December '88, because they must have watched her all the time. That was our view, mine and Mr Swanepoel's view. Therefore Mr Swanepoel phoned a friend of his or somebody that he knew at the Security Branch, if I remember correctly his name was Kobus Reyneke. I

don't know what his rank is or was. He requested him, look, surely you must have evidence which could destroy her alibi, won't you assist us and give us that evidence? And he said he would go into it. If I remember well nothing happened. He didn't return the call, he didn't give us information. Mr Swanepoel phoned him again, again no reaction. So that led us to believe an opinion which we hold to this day, that there might have been another agenda somewhere along the line, either to sabotage the case or to not to give us vital evidence which they had at their disposal.

MR PIGOU: And this would have been backed up by the fact that the Security Branch produced the witness that provides the alibi I presume, or they take the statement? Did you not - maybe I've misunderstood you, but my understanding was that you said that Colonel Coetzee from the Security Branch signed Nora's ... (intervention)

ADV VAN VUUREN: Yes, yes....

MR PIGOU: ...Mohahlole's statement.

ADV VAN VUUREN: That is correct, no, they did not provide the witness who could substantiate the alibi. That statement was taken after her evidence in the Richardson trial.

MR PIGOU: I see.



ADV VAN VUUREN: In other words it was an attempt to establish what her knowledge really was about the matter and we knew that her evidence was rejected in the Richardson trial.

MR PIGOU: So Nora hadn't actually provided any of the policing authorities with a statement prior to giving evidence in the Richardson trial?

ADV VAN VUUREN: No, no, when she testified in the Richardson trial I think it was the first time that we became aware of her.

MR PIGOU: So it would be fair to say that the statement taken by the Security Branch was the first time that anything in writing was put down and it actually corroborated what she had said, albeit that it was rejected, but it corroborated what she had said in the trial?

ADV VAN VUUREN: I can't recall now what she said in the statement. I will have to have a look at that first.

MR PIGOU: Can I ask this question. It is my understanding that in the Attorney General's office during the previous government that there were specific individuals in the Attorney General's office, not always a formal relationship but often because of knowledge and certain cases that they pursued they took on Security Branch cases. We have received information about these kind of things that particular State advocates would take particular cases from the Attorney General's office and they

would work Security Branch cases, terrorism cases, those kinds of matters, could you tell us who these people were, who were the prime people in the Witwatersrand Attorney General's office during our time there and during this period who were dealing with Security Branch matters?

ADV VAN VUUREN: That is not an easy question. I know that some of the advocates did security matter cases. One of the deputies there is Mr Jan Henning. I think he did some of these cases. I also know that Mr Swanepoel himself did security cases, but other names I can't remember now. There might have been others as well.

MR PIGOU: I presume that in terms of your own jurisdiction in the Attorney General's office you could have, in theory, I am not saying you individual, I am talking about the Attorney General's office as a collective, and the Attorney General himself, it could have been pushed, this issue of access in Security Branch information. Tables could have been thumped, in other words. That a couple of telephone calls to Kobus Reyneke and a sort of a silence at the end of the line and no response could have actually been pursued further. Would you agree that that is the case, that the matter could have gone to a higher authority?

ADV VAN VUUREN: Yes certainly it could have.

MR PIGOU: Do you know whether that happened or not?

ADV VAN VUUREN: No I don't, I don't think so.

MR PIGOU: Okay. Did you receive any information during the course of your preparations or investigations that Stompie Seipei had in any way been an informer?

ADV VAN VUUREN: Yes the allegations were made during, well in the evidence.

MR PIGOU: I am talking specifically any information corroborating that from the side of either the Security Police or Mr Dempsey's investigations.

ADV VAN VUUREN: None whatsoever, no.

MR PIGOU: There was no police linkage there?

ADV VAN VUUREN: No.

MR PIGOU: Do you know whether that line was pursued at all to determine whether there was possibly any registration of Mr Seipei being an informer?

ADV VAN VUUREN: I can't recall no, but I remember now I did speak to, I might have consulted with him as well, I think he was in the Security Branch at Parys and he gave me some background knowledge on, background information about Stompie. He was in detention there as well, but that's for that information only. I seem to remember clearly that there was no doubt whatsoever that Stompie was not an informer.

MR PIGOU: Okay. I just want to move on. Were you still in the Witwatersrand Attorney General's office in 1994?

ADV VAN VUUREN: No, I left in April 1992.

MR PIGOU: 1992. You may therefore not be able to answer me at all on this particular question but you may have knowledge of it. During the indemnity process which was initiated by former President F W de Klerk, was it, and you would have still been there when that process initially began in 1990, was it standard practice, do you have any recollection of any incidents where the Attorney General's office was consulted in connection with indemnity applications?

ADV VAN VUUREN: Are you referring to specific indemnity applications?

MR PIGOU: Well I am talking ...(intervention)

ADV VAN VUUREN: ...or in general.

MR PIGOU: I am talking in general at the moment, if there were any incidents where that happened or whether it was a standard practice for them to check with either yourselves or possibly if you have knowledge of this the policing authorities?

If there were for instance outstanding warrants and so forth?

ADV VAN VUUREN: No, I don't recall anything like that. I remember though, that didn't the Commission considering the applications also sit in Pretoria, because I remember I also had to go and make a presentation to was it Judge van der Walt in one of those cases, but I can't recall now. I will have to refresh my memory from something about what application it was specifically about. But I know that advocates had to go and make

presentations to the Committee considering such applications in Pretoria, obviously cases they were involved in and the accused made applications for amnesty or whatever. They had to go there and make presentations on such matters.

MR PIGOU: The reason for pursuing this line of questioning is that I am trying to find out whether there was a process because we do now know that Mr Guybon Kubheka who was, I think, accused number, I can't remember exactly, number 7 or ... (intervention)

ADV VAN VUUREN: Six.

MR PIGOU: Six, excuse me. But Mr Kubheka received indemnity for the attempted murder of Stompie Seipei in 1994 ... (intervention)

ADV VAN VUUREN: Yes, correct.

MR PIGOU: And we're particularly interested in knowing whether the Attorney General's office was consulted about that because our understanding of the indemnity process was there at least had to be some sort of political context to the granting of indemnity. Do you have any knowledge from your subsequent conversations with Mr Swanepoel or any of your other former colleagues in the Attorney General's office whether they were consulted on this matter?

ADV VAN VUUREN: As far as I know nobody was consulted. I was quite surprised one day when I opened the Government

Gazette and I saw that he got indemnity and I even, I faxed a copy to the Attorney General who was then Mr von Lieres still at the time, and a copy of that Government Gazette, and I said look this is the man, he was accused so and so and he got indemnity. That was the first word that I heard about it. ... (tape side B ends)

And obviously you know the facts about Kubheka's assault on Stompie, that they described him as a dangerous man, a strongly built man and assaulted him severely after he was already severely beaten, specifically as regards the allegations that Stompie was an informer.

MR PIGOU: And although you may not have remembered it at the time, and we've had our memory refreshed, he was also named in the abduction of Lolo Sono.

ADV VAN VUUREN: Ja, I can't recall whether I made that connection, but certainly that's true.

MR PIGOU: Do you know whether ... (intervention)

CHAIRPERSON: Is it possible that either Advocate Swanepoel or Mr von Lieres at that stage could have been consulted on that?

ADV VAN VUUREN: Whether Mr von Lieres was consulted I don't think so. As far as I know Mr Swanepoel was definitely not consulted. Because if I remember correctly I also informed Mr Swanepoel about this indemnity of Kubheka and it seems to me that he was also surprised.

MR PIGOU: Thanks. Just lastly on the issue of Stompie Seipei, do you know whether there are still, well perhaps you can only answer up to the time that you left the Attorney General's office, that whether there are still outstanding warrants for the arrest of Mrs Sithole Mabelane and Mabuza for their role in the abduction and assaults of Stompie Seipei and the other three young men?

ADV VAN VUUREN: There would have been warrants for their arrest as a result of their not appearing at court, not standing their trial. As far as I know these warrants are still outstanding.

MR PIGOU: Okay. I just want to ask about whether there was some form of liaison within the Attorney General's office in relation to other related investigations or prosecutions, for instance we have spoken about the Asvat matter and you informed Mr Shelberg and myself how Jannie van der Merwe was the prosecutor in that matter and we know that certain individuals around the Mandela household were allegedly involved or had knowledge of this particular case. I want to refer you to the testimony of Mr Hesslinga, director Henk Hesslinga in the case of Dr Asvat, and I asked him a question which was - I haven't got the exact wording in front of me but the gist of it was that by the 23rd I think, or the 24th of February 1989, he had in his possession a statement from Nicholas Dlamini, who was one of the - subsequently one of the people convicted for Asvat's murder in which he implicated Mrs

Mandela as having offered him and his co-accused Mr Mbatha R20 000 to kill Asvat. the body of Stompie Seipei had been identified by this stage, and there was also a statement taken on the 19th of February by Mr Dempsey from Katiza Cebekhulu in which a connection was made between Stompie and Asvat, that Asvat had treated a very badly injured Stompie Seipei and had said that this boy would die. We subsequently know that there was information, maybe not by the 24th, but there was information in the hands of the Murder and Robbery Unit in the form of Mr Dempsey from Themba Mabota as well, which doesn't talk about Asvat but again makes the stronger connection between Richardson and Stompie's death. I asked Mr Hesslinga when did he make this connection, or possible connection between the two cases.

You must recall also that the Sunday Times on the 29th of January carried a blazing headline linking the Asvat death to Stompie's disappearance, attributed to Mrs Mandela who has subsequently denied that she may have made those statements but still, nevertheless, put into the public arena that there was a possible connection.

Mr Hesslinga informed us that he didn't make a connection between the two cases for a year or so after this incident. I am wondering whether you made any connection, not necessarily in this matter but I am talking now about liaison with other



members of staff in the Attorney General's office? I know in February you weren't even on the case, but by July you were, Jannie van der Merwe was prosecuting in I think in August or September of that year, and those men were convicted in November. Subsequently investigations were going on into the death of Maxwell Madondo. Mr van Zyl, another of your colleagues was prosecuting that.

During that trial, before Richardson's trial, in fact a few weeks before Richardson's trial Cebekhulu had turned up in the court and given a statement which had effectively kept Mr Chili, who was the only person found guilty, Sibusiso Chili, the only person found guilty in the Madondo murder trial, he effectively gave evidence which contributed to a sentence of I think six years for murder of which he only served 18 months. Were connections made of that nature? Did you pick up at that time on the fact that Cebekhulu had given information which Mr van Zyl accepted as believable information? The State accepted that information.

And as a result of inter-connections like this did you ever consider attempting to use Cebekhulu as a witness against Mrs Mandela? He had made a statement, I must remind you, he had made a statement which was read into the court record in which he implicated Mrs Mandela and her daughter and various other people in planning and ordering the assassination of Lerothodi

Ikaneng, who was one of your characters that you were dealing with, one of your State witnesses and Sibusiso Chili.

ADV VAN VUUREN: Can I just ask ... (intervention)

MR PIGOU: It's a lot of talking I know I've given you there, but what I am trying to hone in on is the nature of the relationship between yourselves and other members of the Attorney General's staff on related investigations, to give us some insight into that.

Secondly a very specific question around whether you considered using Cebekhulu.

ADV VAN VUUREN: Obviously it's just natural that colleagues involved in similar cases, or where facts are similar or where there's connections in evidence that we would have discussed it.

What we discussed I can't remember now. What I do know is that as regards Mr van Zyl's case, the Maxwell Madondo case, Lerothodi Ikaneng was an accused in that case and I went into the court and I listened to his evidence and made notes of his evidence, because he was a witness in my case. Jerry Richardson was also convicted of his attempted murder. I cannot independently recall that Cebekhulu, well that he gave evidence in the Maxwell Madonda case.

MR PIGOU: No he didn't. He provided a - it's a set of rather unusual circumstances and your opinion about it would be quite useful to us because it has been the source of some controversy during the course of these hearings. What effectively happened

is that Mr Norman Kades, who was representing the accused, and Mr van Zyl prosecuting, Mr Kades was holding out I think for his star witness to turn up and eventually on the last day he did turn up but a statement was taken outside of the court proceedings themselves, and then a consultation ensued between Mr Kades and Mr van Zyl in which they looked at the statement and possibly, we do not know, Mr van Zyl spoke with Cebekhulu. But when they came back into the court Mr Kades read the statement into the record and when asked by the Judge, Mr van Zyl said that he had no objections to this being accepted and it was accepted by the State.

Now Mr Semenya, representing Mrs Madikizela-Mandela has raised his eyebrows at this unusual, what he considers to be a very unusual set of circumstances in which the State effectively chopped the legs off their own case in terms of pursuing a murder one charge, and this is why I referred to the fact that Cebekhulu's testimony contributed to a much more lenient sentence for - I mean it gave a whole set of mitigating circumstances which previously hadn't been there. Or it backed-up a version that had been presented by I believe Lerothodi and Sibusiso that Mrs Mandela and her Football Club had been out to get them.

First of all have you ever heard of that kind of decision being taken, from your experience in the Attorney General's office?

Secondly, would you be surprised that an admission by the State of that nature there wouldn't be some form of recommendation to follow-up or investigate the allegation of sending out a hit squad to kill these people?

I mean it seems - but Cebekhulu did not give evidence, that is quite clear.

ADV VAN VUUREN: It is rather unusual but there is provision in the Criminal Procedure Act to prove statements by consent.

So I mean there is provision for such a thing. I cannot, it's funny, I cannot independently recollect that, the contents of the statement of Cebekhulu, I really can't. It is obviously unusual for the State to admit to a statement being admitted into evidence which is negative to their own case, but the man who should answer this is Mr van Zyl. I was not part of those negotiations at all. I know that Mr Kades appeared for the accused in the Madondo case, that I remember. But that a statement of Cebekhulu was admitted I really can't recall.

MR PIGOU: As I say it was not handed in as an exhibit, it was read into the record and accepted in that nature, but I am not putting you on the spot on that, we were just simply asking for your opinion whether this was common practice or not, and really whether this gave you any feeling that you could use Cebekhulu yourself possibly as a witness.

ADV VAN VUUREN: Ja. Well I must say that that question has been posed numerous times to us, why did you not use Cebekhulu as a witness? But I think that opinion not to use him and rather to charge him was vindicated by all the different versions that he has given over the years. I mean for instance he comes now with a version that he saw Mrs Madikizela-Mandela stabbing Stompie, and that was the first word that I heard about that. He has come up with numerous versions and he is, in my view, in my opinion, a totally untrustworthy witness. He would have been totally untrustworthy, not credible at all.

If you - I presume that you had access to his warning statement. In that statement he also refers to, and he makes the connection with Dr Asvat. He said Dr Asvat visited them. He had a look at Stompie, he shook his head, he talked about a hospital, something to that effect, and he went away. That is what I can recall now. So he did give some information about that.

But my view, after considering all the evidence, was that he should be charged because he also participated in the assault on Kgase, Mono and Mekgwe. He was one of the participants of the assault and that is why he was charged as well. I mean and he was also going with the group to the manse of Mr Verryn to go and collect the people from the manse, to abduct them, so he was

part of that as well. So there was evidence against him both on the assaults and the kidnapping.

MR PIGOU: But, I don't want to pursue this too far, but I am just interested in the issue that because there was no real clarity in terms of, well you had your three key witnesses I suppose in the Sithole case, but perhaps maybe it would be something that you could look at in retrospect, that would Cebekhulu have been useful for the prosecution against Mrs Mandela in terms of even just his evidence around being taken to Dr Asvat's surgery?

ADV VAN VUUREN: Yes certainly it could have been, and you know in retrospect it's always easier in hindsight. We did not know that Kenny would have lied on certain issues in his evidence and he would have been destroyed by Mr Bizos. That we didn't know beforehand. If we knew that, that he was going to be a bad witness then we could have considered that. But I mean that's speculating now. Kenny was, in our view, was an excellent witness and Kenny and Thabiso and Pelo, the evidence stood like rocks in the Richardson trial, they were not moved during cross-examination, but you know now what happened during the Sithole case. I mean Pelo disappeared, Kenny was destroyed and Thabiso also was not a very good witness. So but that you don't know beforehand.

MR PIGOU: Let me just ask you a couple of questions because I just feel we need to get this on record, that Mr Cebekhulu refers

in the book **Katiza's Journey** and I believe he testified about this as well that he attempted to come and speak with yourself at the Attorney General's office, and he says in the book, that, I believe I'm reporting this accurately, that you refused to speak to him and that he infers that you chased him away. I wonder whether you could tell us whether indeed he did come to the office and from your memory what transpired.

ADV VAN VUUREN: Yes certainly. He did come to my office.

I've got my notes here and I will provide it to you if you need it.

On the 31st of October 1990 at 11:30 he came to me. I could not understand him fully. I discussed the matter with Advocate Human and I arranged an interpreter which was Mr Moletsane, and we agreed that I would hear what he has to say. A lengthy conversation followed. I even made a note, three, four, six pages of my notes. The conversation lasted from 11:30 to five minutes past one. So certainly it's a lie to suggest that I didn't want to speak to him and I chased him away.

His basic complaint was, and if it might assist you I will - if you want clarity on my notes and what it means because it's in Afrikaans I will certainly do so. The main complaint was that he was afraid; that he was threatened by the other accused; he was afraid that if he gives evidence against Mrs Mandela he would be killed and his main concern was that he wanted to go to school the following year and he wanted the trial to proceed in 1990,

because he wanted to go to school in 1991. I said I would refer his representations to the Attorney General. But he had legal representation. I am just making a very short summary of it.

Then on the 8th of November of 1990 at about 9 o'clock he came to my office again and he was quite aggressive. I said to him look, you've got legal representation, I can't really speak to you, we have cleared the matters, I've listened to you, I can't do anything about it really. The court date has been set. I actually phoned Kathy Satchwell, who was his attorney at the time, I couldn't get hold of her. I then phoned Advocate Hentie Joubert, who was his advocate at the time, and he also came to my office but Mr Cebekhulu didn't want to speak to us. He talked about going to Zimbabwe and so on and then he stormed out of my office. So certainly I did not chase him away.

MR PIGOU: Let me just quickly follow that up. From the first section of the first meeting on the 31st of October 1990 he said he was afraid and felt threatened by the other accused. Was the subject of your conversation therefore the possibility of him testifying for the State?

ADV VAN VUUREN: No, not at that stage no. I merely wanted to know what he had to say. I wanted to give him a hearing and see what he has to say and see whether anything can be done about it.



MR PIGOU: Did he provide you with any insight as to why the other accused may be threatening him? I mean he ... (intervention)

ADV VAN VUUREN: Yes uh.....

MR PIGOU: Was he indicating to you that he could provide evidence against Mrs Mandela?

ADV VAN VUUREN: Yes he did. On the first page of my notes, at the bottom of the page, it says here that he - I'm translating, "that he did appear in Court 8. That I was aware of his evidence that he revealed in court that Winnie Mandela and Jerry murdered Stompie, and that he cannot go against that evidence now. Thereafter he was told that he was crazy. He was referred to Sterkfontein Hospital. The same doctor who examined him there testified in the Richardson trial, which was Dr Meryl Vorster". I think that's the gist of that.

CHAIRPERSON: Were these interviews recorded?

ADV VAN VUUREN: Sorry, no.

MR PIGOU: Just briefly. In the - first of all, did you appear as the prosecutor in the preliminary rounds of the Sithole case when Mrs Mandela had been added to the list of accused?

ADV VAN VUUREN: Correct, that was September 1990 I think.

MR PIGOU: That's correct. Mrs Mandela has told this Commission that when she appeared in court she appeared on her

own and that she did not appear with the other co-accused, can you confirm or deny that?

ADV VAN VUUREN: No, she must have appeared with the other accused. She was added as an accused and on that date - she was added as an accused and the other accused were served with the notice that they would have to appear in the Supreme Court on the trial date which was, I think, there stated as in October 1990, but the court adjourned the matter to February 1991. So certainly the accused were there.

MR PIGOU: One last question, and I don't think you're going to have specific knowledge of the allegation that is made but perhaps you could give us as your experiences as a prosecutor your insight into this. In the light of the numerous allegations and confessions that have come forward in front of this Commission about the fabrication of evidence and prosecutions and so forth and statement-taking, confessions taken under duress, statements taken under duress and so forth. I'd like you to put that in the back of your mind which this Commission has heard quite a lot about. Is it possible - or maybe let me put it another way, Mr Cebekhulu has referred to that custody statement which Mr Dempsey took and you referred to a few moments ago and he says to us that he gave that statement speaking his native tongue, Zulu which was translated but the statement was written down by Mr Dempsey in Afrikaans, read back in Afrikaans by Mr

Dempsey, translated into Zulu in a similar version to what he was saying. He says when presented with a statement, this is not what he said to Dempsey. In your experience the room for error or the room for manipulation of statements by people speaking different tongues and the reading back of statements by the people who don't know the language at all that can't read it, have you come across, have you had any experience of people fabricating, when I say people, policemen fabricating information for the purposes of their own cases to the benefit of their own cases and actually not reflecting what the accused have said, either fabricating information or extracting information by illegal means, ie torture?

ADV VAN VUUREN: No. I don't have knowledge of such fabrications. What I do know and that is true, that there were a lot of problems experienced in taking down the evidence of witnesses by the long hand, you know writing down statements because of the language differences and what happened in courts is that you know if there are discrepancies in the evidence of a witness and his statements, if there are serious discrepancies they have to be disclosed and often the witness say but this is not such a serious discrepancy or I was misunderstood because of the language difference. That happened yes, that is a reality but what you're referring to as extraction of information or fabrication for their own ends, no.

MR PIGOU: Thank you I've got no further questions.

MS LEW: Yes I have a question, it was question that was put by Mr Semenya during the public hearing to Mr Dempsey concerning similar fact evidence which you intended to lead at the trial as to why the Attorney General's office of the prosecution didn't consider clearing the courts and holding it **in camera** if these witnesses feared for their lives given the fact that it was so relevant and so important. Could you respond to that?

ADV VAN VUUREN: Yes, whether we discussed that possibility I can't say but obviously it is a possibility and if I remember correctly some of the witnesses said that if they testify **in camera** they will be willing; but even if that were so we still had the difficulty that our case was basically down the drains so to speak. Similar fact evidence would not have helped to bolster the case or to repair the damage to Kgase's evidence, that was a fact so that is I think perhaps the main reason, even if we led this similar fact evidence that would not have strengthened our case. And you must remember you cannot prove the deed alleged by similar fact evidence, it's just proving of a **modus operandi** or whatever, you cannot prove the **actus reus**, the deed you're charging the accused with by similar fact evidence.

MS LEW: I would just have a question around the decision-making process around the charges, you were involved with that?

ADV VAN VUUREN: Correct.

MS LEW: And it goes back to a question about your consideration of Mabota as a witness. As a witness he could really incriminate Mrs Mandela as an accessory after the fact, correct?

ADV VAN VUUREN: That's a possibility, yes.

MS LEW: And surely that would have been a stronger charge than the charge of kidnapping?

ADV VAN VUUREN: Again I could say you're referring to accessory after the fact to murder?

MS LEW: Yes.

ADV VAN VUUREN: That is a possibility.

MS LEW: And that was considered even after deciding and you've given us the reason as to why he was an unreliable witness, it would not be worth pursuing.

ADV VAN VUUREN: I can't independently recall that but it might have been considered, but I must also say that, well perhaps this was the reason, I can't say now but in my mind to charge Mrs Mandela on the strength of that sentence alone, no prosecutor in his right mind would have done that. You must remember you have to prove a case beyond reasonable doubt and to rely on that evidence of an unreliable witness who contradicted himself to charge her with accessory after the fact to murder, I think, that is my opinion, would have been a grave mistake.

MS LEW: And yet, according to Mr Potgieter your senior attorney von Lieres was prepared to consider him as a witness for the other charges, the treason charges. Surely the considerations which you have put forward as to why he would be an unreliable witness would apply to that case as well?

ADV VAN VUUREN: Certainly it would apply, I don't know at all about the facts of the other case and what his statements there were. I know that in the statement that I had in my possession, he contradicted my star witnesses. Okay that has got nothing to do with the so-called treason case, I could not have called Mr Mabota in my case at all, there's no question about it. I cannot call a witness who will say I was not on the scene when my star witnesses, the complainants say you were there and you also participated. It's as easy as that.

MS LEW: Was it brought to your attention or when was it brought to your attention as to what actually happened to Mr Mabota?

ADV VAN VUUREN: I read it in the newspapers at the previous TRC hearing, I didn't know it at all, I was quite surprised.

MS LEW: Were you, you were surprised hey?

ADV VAN VUUREN: Very surprised, yes.

MS LEW: I just have one question in relation to the investigation. Were you satisfied with the court or the investigation conducted by Supt Dempsey?

ADV VAN VUUREN: Yes we were...(intervention)

MS LEW: And with hindsight now, do you think there are leads he could have followed up on, which you didn't?

ADV VAN VUUREN: Yes. We were quite satisfied with the work Mr Dempsey did, I think he did his best and I think he's a very good investigating officer. If I may give an example, on the attempted murder of Lerothodi Ikaneng, he searched the scene where he was left for dead and he picked up a bolt and washer which he sent to forensics and they connected that, albeit not positively, to the blades of the shears found, if I remember well, in Mrs Mandela's garage. That is indicative of the type of detective that he was, or that he is.

But I think I should add, and I referred to it previously, we up to this day are of the opinion that people, institutions, we don't know who, might have had an agenda to sabotage this case.

That is why the accused disappeared, that is why Pelo disappeared, that is why we did not get evidence to destroy the alibi as we are sure there must have been such evidence. But that I will not attribute to Mr Dempsey, that must have been other people, maybe the security police, I don't know but that is our honest opinion.

MS LEW: I have two concerns though. During the cross-examination by Mr Bizos of Mr Dempsey, one thing which sticks in my mind was his inability to find Mrs Mandela in order to take

a statement from her. Now that's very strange indeed and he tried to give an explanation which in my view wasn't sufficient, that he couldn't find her, he would call her and he couldn't locate her. She is a very public figure, she could have been easily located.

ADV VAN VUUREN: Yes.

MS LEW: That was the first one example, the other example is around the relationship with the Security Branch. According to us Mr Dempsey, I'm not sure if you're aware of as to how he came to know about Temba Mabota.

ADV VAN VUUREN: No I don't know.

MS LEW: That he was informed by a member of the Security Branch because there was a telephone tap on the phone and that is how he come to know Mr Mabota was in Groblersdal, where he proceeded with you to have a consultation with him and so on. Given the fact also that it was within the ambit of his investigation he also was unable to explain or inform us as to why he didn't follow up or he was uninformed about subsequent events relating to Mr Mabota. Now that seems to be, they're just two examples but quite sloppy on his part. I don't know if you wish to comment on that?

ADV VAN VUUREN: As regards Mr Mabota, as I said previously, I, and maybe Mr Dempsey as well, might have excluded him from our minds as a witness because of what I said



and that is why he didn't follow up on him, I don't know, that is just something I'm thinking about. As regards Mrs Madikizela-Mandela, was the purpose to find him and was he questioned on that only to take a statement? Was that what he was questioned about, why couldn't you find her to take a statement?

MS LEW: It was generally in terms of follow up ways to what avenues he proceeded upon to get information in relation to either the alibi or to her whereabouts and those circumstances.

ADV VAN VUUREN: I see. Well as regards the statement that I can say is she was not arrested like the other accused so she did not make a warning statement at an early stage, we knew that in all probability she would not say anything. so we didn't go to any trouble to really try and go to her and see what she has to say. Because I know, it's logical to me that she would have exercised her right to silence and wouldn't have said anything. So that is not a serious problem for me that he couldn't find her to take a statement, I think we, I'm not sure about this but I think we found Mr Ayob who was her attorney or Mr Dempsey phoned him and asked him whether she would like to make a statement and Mr Ayob informed him that she would make use of her right to silence. But as regards other leads and follow-up, I can't say why he couldn't trace her because it is true that she's a public figure.

MS LEW: But you regard him as a competent investigator who was committed to this investigation.

ADV VAN VUUREN: Yes definitely, no doubt about that.

CHAIRPERSON: Mr van Vuuren, you see what for me is very strange in this whole matter is that here you have somebody whom I would have thought in 1988 and '89, the State would have loved to have brought some kind of conclusive action against her, you find that with other figureheads of this kind, the Security Branch and information they had at their disposal was certainly used to beef up evidence and particularly in this matter where she was the constant subject of surveillance, phone tapping, the works, it's absolutely clear to me that they must have had an enormous amount of information relating to Mrs Mandela and her movements, and yet in terms of the cases which in fact various members of her Football Club were involved in, no evidence is actually brought forward from their side, and I am sure that they did know that she was not in Brandfort that night.

They also would have placed her conclusively through the wire-tapping as having been involved in the assaults, and yet your case is not assisted in any way despite your telephoning the - your getting Mr Swanepoel to phone van Reyneke about the matter. Did you not find that strange?

ADV VAN VUUREN: Yes certainly we did and that is why up to this day we are of the opinion that somebody tried to sabotage

the case or would some people or institutions, whether it be the Security Police or whoever did not give us, well in this case obviously the Security police obviously did not give us the evidence that should have been available to destroy her alibi. I agree with you fully that those facts taken together as you've put it, they are strange, yes.

CHAIRPERSON: You see because for me there are two periods around the Mandela issue, there's the '88/'89 period where I would have expected the State to go full guns blazing against her. Obviously in the '94 period things are rather delicate and there I think the political consideration on the part of the State would certainly be not unexpected but why in '88?

ADV VAN VUUREN: Alright. Madam Chair I only came on to the scene July '89. The prosecution against Mrs Madikizela-Mandela was conducted in '91. Our attempts to really investigate the alibi was just before that trial, so that was the period end 1990, beginning 1991. Now the constitutional negotiations if I remember correctly started in 1990 already.

CHAIRPERSON: Ja it was really late in '92 that things really begin to happen.

ADV VAN VUUREN: Yes so well we're just speculating now, maybe it was, I don't know, it's funny to me as well that in the previous dispensation it was logical that everybody would go as you put it, guns blazing against her. Why there would have been

an agenda to protect her or to not assist the prosecution or not to give us evidence that was available, I can't say. Well she was the wife of Mr Nelson Mandela at the time. There might have been talks behind the scenes about the coming negotiations or whatever, but that's just reasons that I'm thinking about now. Maybe they had their own agenda, I don't know.

CHAIRPERSON: Did you ever discuss this matter with Mr von Lieres and other colleagues in terms of your perceptions?

ADV VAN VUUREN: Yes certainly we would have and I know that Mr Swanepoel wrote a letter to Mr von Lieres setting out in detail the problems that he experienced in the preparation of this trial and the problems with the evidence and so on, I think after the trial.

CHAIRPERSON: You know I'm not quite sure and I've been trying to find the clipping where I actually saw this. At the time there was a lot of criticism around the office of the Attorney General and I think both you and Mr Swanepoel came in for a fair amount as well, did you or Mr Swanepoel at any stage appear before any professional body to answer questions relating to this matter?

ADV VAN VUUREN: No.

CHAIRPERSON: Not.

ADV VAN VUUREN: Not at all and I think I should say that we did the best we could in our professional ability to prosecute this

matter to the best of our ability, certainly we did the best we could with the evidence at our disposal.

CHAIRPERSON: Thank you.

MR PIGOU: Advocate van Vuuren I just have one more question, I apologise I didn't bring this up before. You recall, I believe it was in May last year, I came with Advocate Steenkamp from this office to see yourself and Advocate Swanepoel at the Office for Serious Economic Offences.

ADV VAN VUUREN: Correct.

MR PIGOU: During the course of that conversation Advocate Swanepoel related an incident during the Richardson trial where he received a telephone call from the former Justice Minister Mr Kobie Coetzee, I wonder whether you could tell us a little bit about that and what he told you at the time?

ADV VAN VUUREN: Certainly. As I said Mr Swanepoel's office was next to mine, he was deputy Attorney General at the time. I was just starting the trial and I think it was after the first day of Kgase's evidence. I think late that afternoon he implicated Mrs Mandela in the assaults. Apparently Mr Swanepoel had a call from Mr Kobie Coetzee who complained gravely about this prosecutor who did not know what he was doing. Whether he called him at home I don't know but that's not important, he called him and complained about this and I think he suggested that we should keep Mrs Mandela's name out of his

evidence. Now I don't know how he thought that is possible, I mean you cannot tell a witness to give his evidence as to what happened to him and to leave out the name of one of the persons who assaulted him, so - but Mr Coetzee's complaint was I think, that she's now not an accused in the dock but there's allegations against her which in his view are untested allegations. But I mean that was it. Mr Swanepoel told him that no I was not one of the worst prosecutors that they have and he trusts my ability and I should continue with the matter.

What did happen was that I brought an application to Mr Justice O'Donovan who heard the case then, to hear the rest of the evidence of the complainants *in camera* and that was partly as a result of that call of the Minister. And another reason for it was that the witnesses told me that they are scared, not so much of Mrs Mandela, but because of her supporters. I brought the application, it was rejected and we continued in open court.

MR PIGOU: Thanks. I wonder just for the record whether we could ask you for a copy of your notes with your consultation with Mr Cebekhulu in October 1990.

ADV VAN VUUREN: Certainly.

MR PIGOU: Thank you.

CHAIRPERSON: Perhaps it would assist if you could just give us a sort of register of all those consultations which were

recorded and where you do have notes, that would assist us as well I think. (...indistinct)

ADV VAN VUUREN: Madam Chair if I may suggest I will go outside when we're finished, I'll make a list of the notes that I supplied and I will supply as well as I'll include the tapes as well then.

CHAIRPERSON: Thank you very much for your cooperation in this matter. We will of course, once the Commission makes a decision on how to handle the evidence that you have given here, inform your attorneys accordingly and advise you of what in fact will be publicly disclosed. You can address us then on that issue if there is anything you would want, not actually made public.

We will of course reserve our rights to recall you should the situation arise. Thank you for coming and this hearing is now over.

MR PAULSEN: I see that the subpoena calls on Advocate van Vuuren be available on the 29th, does that fall away now?

CHAIRPERSON: Yes he's excused from appearing at the hearing which takes place in the coming week. Thank you.

MR PAULSEN: Thank you.

ADV VAN VUUREN: Thank you.

HEARING ADJOURNS