

PUBLIC SECTOR GOVT. — JUSTICE

1998 FEB.

Sex, lies and telephoney taps at the TRC

(252)

CP 1/2/98

SAW NOTHING, heard nothing, did nothing - this was the thrust of replies by a string of former Soweto security policemen testifying under oath at the Truth and Reconciliation Commission's hearing on the Mandela United Football Club (MUFC) this week.

The assumption was that Madikizela-Mandela and her household were under virtually constant surveillance by the security police. Surely they would be able to fill in the gaps and explain just what was going on in the MUFC and why they seem not to have acted to prevent the spiral of violence.

But after two gruelling days' evidence by the kingpins of the feared Soweto branch, the TRC was left with testimony involving sex, lies and telephone taps - but precious few new facts.

It might defy belief and plain common sense that senior Soweto security police had no information about alleged criminal activities of MUFC members and no interest in besmirching the name of Madikizela-Mandela, but that's what they told an openly disbelieving TRC panel and an audience of relatives of human rights abuse victims and lawyers and media.

The only credible moment was when the man dubbed Prime Evil, former Vlakplaas commander Eugene de Kock, took the stand.

Turned out, De Kock did not have any startling revelations - he just repeated his version of fault and murder of runaway askari Johannes

annes Themba Mabothe.

The TRC ended the week little closer to finding answers to its extraordinarily vigorous probe into the events involving the MUFC, Winnie Madikizela-Mandela and the police who were supposed to have been watching Soweto's most famous political figure.

There have been many allegations that the MUFC was riddled with informers and *agents provocateurs*. Those variously alleged at different times to have been impimpi include the murdered teenage activist Stompie Seipei, and Madikizela-Mandela's key accusers, fugitive Katiza Cebekulu and manse housekeeper Xoliswa Falati.

Former security policeman Paul Erasmus previously told the TRC that Soweto security police had confided that the MUFC was full of informers who were easily recruited because they were penniless and used drugs. However, this week the only informer police could name was former MUFC coach and self-confessed informer Jerry Richardson.

Police tried to convince the commission that they had great difficulty penetrating the Mandela household and had to rely on ad hoc information and statements made by youths arrested for offences involving violence. The robot-like responses of agent trainer, Wilhelm Johannes Coetzee, was little help. Coetzee, who continued to monitor Soweto on a voluntary basis after he was transferred to Pretoria, said he had been responsible for the west of Soweto and the Mandela household did not fall in his area.

Former investigations and later intelligence head for the area, Jan Potgieter, said a secret project named Operation Jackal, which aimed at setting up counter-youth movements, did not really get off the ground in Soweto and did not involve the MUFC.

Was there a plot to discredit Madikizela-Mandela? Whatever the machinations of Stratcom Witwaters-

CHIARA CARTER reports on the TRC's continuing probe into the Mandela United Football Club.



ONLY CREDIBLE WITNESS... Eugene 'Prime Evil' de Kock told the TRC how he killed a former askari

rand and head office, the Soweto security police say they knew nothing. Lodewyk de Jager, the man previously named as Stratcom head in Soweto, denied there was a Stratcom unit in the area.

Police denied that they deliberately did not intervene in the MUFC - saying that the security branch was not interested in the MUFC criminal activities but only in political matters. They did, however, pass on information to Murder and Robbery detectives.

The TRC heard that Madikizela-Mandela's phone was tapped like those of some 80 other Soweto activists whose privacy was similarly invaded. The man in charge of the tapping operation, Daniel Bosman, said Madikizela-Mandela's voice was taped over the weekend beginning on December 29, the night of the kidnapping.

The TRC heard that this evidence - which contradicted Madikizela-Mandela's alibi that she was in Brandfort at the time - was suppressed as it was considered "too sensitive".

In any event the evidence on closer examination is shaky. Bosman said the time of the conversations could not be established.

It was also not clear whether police could establish that she was speaking from Soweto and not from Brandfort.

The TRC heard that police did not move to rescue the kidnapped youths because they did not get information about the abduction "timeously".

They did not investigate the disappearance of Lolo Sono and Siboniso Tshabalala because they thought the youths had been sent for military training.

The TRC also explored the reasons for the murder of Johannes Themba Mabothe. Mabothe was a trained ANC guerilla turned askari who went awol from Vlakplaas and found his way to Madikizela-Mandela's household, where he allegedly became Madikizela-Mandela's lover. He was captured by a team of police from Vlakplaas.

Eugene de Kock told the TRC Mabothe was viciously assaulted for the better part of the day during which time he maintained he had been kidnapped and had been a "sex slave" of Madikizela-Mandela - a claim De Kock said was ridiculous.

Mabothe apparently co-operated with police, confessing that he had been sent by Madikizela-Mandela to Botswana from where he was supposed to contact the media and say Seipei was in a refuge camp.

He apparently provided information about Seipei's murder as well as other information about Madikizela-Mandela but this was never used in criminal proceedings against her.

According to De Kock he was implicitly instructed to murder the former askari. De Kock told the TRC he shot the bound Mabothe twice in the heart and that his body was blown up with explosives.

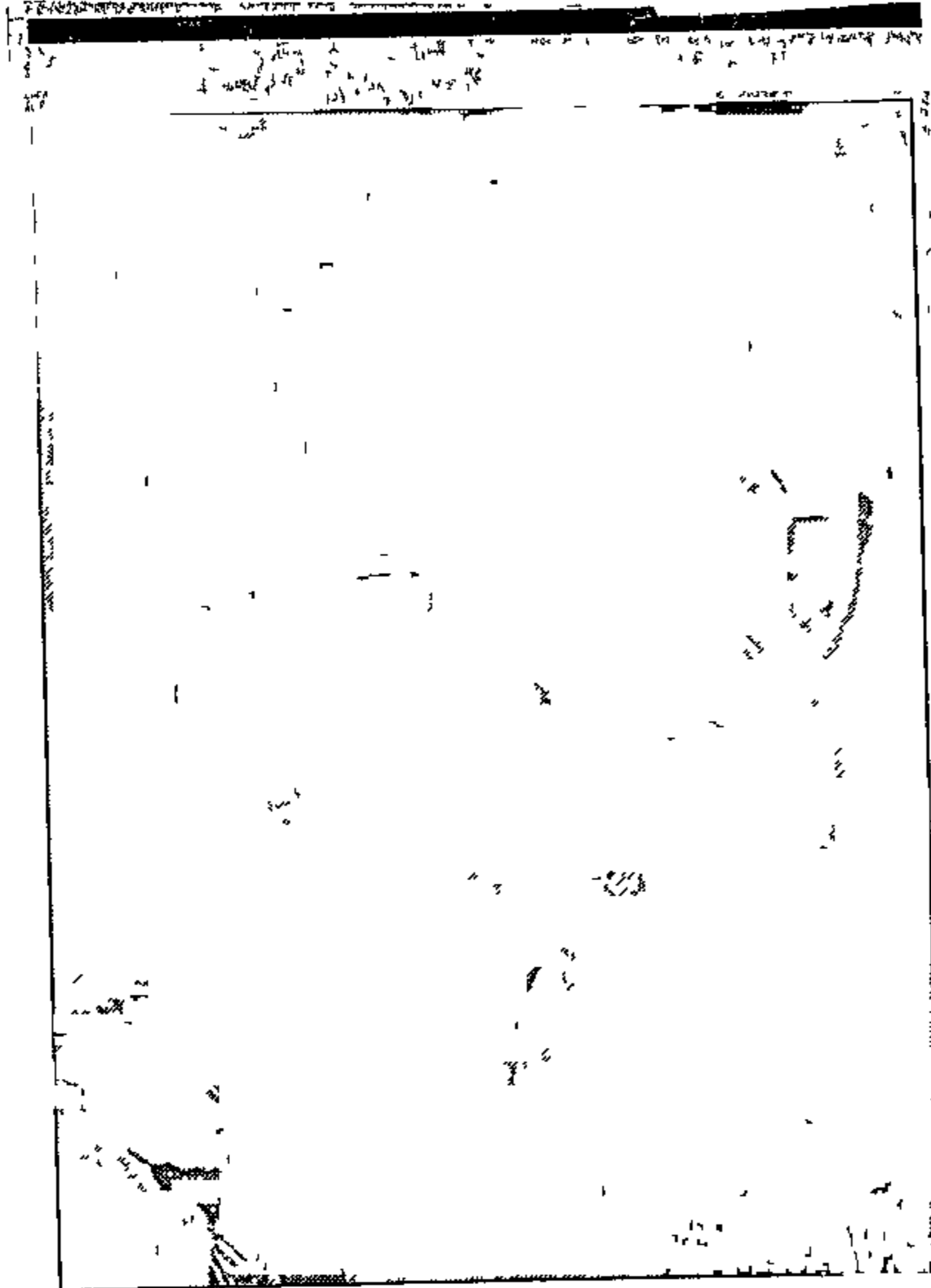
Less information was provided on the mysterious death in detention of Zinzi Mandela's boyfriend, ANC cadre Sizwe Sithole, or about Richardson's handler, Fanie Pretorius, who it has been claimed was about to spill the beans about a "Winnie cover-up".

A range of witnesses said Madikizela-Mandela was "untouchable" because of her high profile and political sensitivities. Some said they were afraid of her.

Others said that after a high treason dossier was left to gather dust by Witwatersrand Attorney General Klaus von Lieres they understood her to be outside the law.

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OUTSIDE THE LAW? ... No new revelations about Winnie Madikizela-Mandela and her football club from security police who appeared at the TRC this week

Ferdi and friend sentenced to ⁽²⁵²⁾ ten years in jail ^{CP 1/2/98}

Former CCB operative is convicted of R10 million diamond theft

By DAN DHLAMINI

EVEN though the whereabouts of R10 million worth of diamonds remains a mystery, former policeman and notorious CCB operative Ferdie Barnard and his friend learnt this week that they would each spend 10 years of their lives in jail.

This was after a Klerksdorp regional Court magistrate found that Barnard (39) and his friend Vivian Beukes (31) a businessman from George in the Eastern Cape, robbed three North-West digger and prospector brothers, the Nels, of the diamonds in 1995.

Co-accused Corrie Goosen, who was described by magistrate Louis Vertue as the mastermind and perpetrator of the robbery, died in a motorbike accident last year. Apparently he went to his grave with the secret of the missing diamonds.

The magistrate said the robbery was premeditated by the trio. He lashed out at the police who arrested Goosen and Beukes, and at the court that got them released on bail the next day despite the fact that the diamonds were still missing.

Vertue criticised the police, following evidence that Goosen had, in the presence of two Brixton Murder and Robbery Unit members, attempted to extort R300 000 from Marius Nel in exchange for the missing diamonds.

Barnard and Beukes were alleged to have robbed the three brothers - Marius, Deon and Fanie - of the diamonds at gunpoint at Klerksdorp's Kemonate Hotel.

The court heard that while the diamond transaction was in progress, Beukes pulled out a gun and fired a shot while Goosen grabbed the trunk of diamonds. Beukes and Goosen then sped away in a car.

The Nel brothers gave chase and fired a number of shots at the car but it got away.

Barnard is said to have accompanied the Nel brothers to the police station to get help.

CAUGHT. . Former policeman and CCB operative Ferdi Barnard was convicted of the robbery of R10 million worth of diamonds

New turn in TRC hearing into Pebco Three (252)

By ANDILE NOGANTA

THE Truth and Reconciliation Commission (TRC) hearing into the deaths of three prominent Eastern Province political activists, took a dramatic turn this week

An East London lawyer claims that the remains of activists Matthew Gonwe, Sipho Hashe and Champion Galela were not scattered into the Fish River as was previously claimed at a TRC hearing by eight former Security Policemen

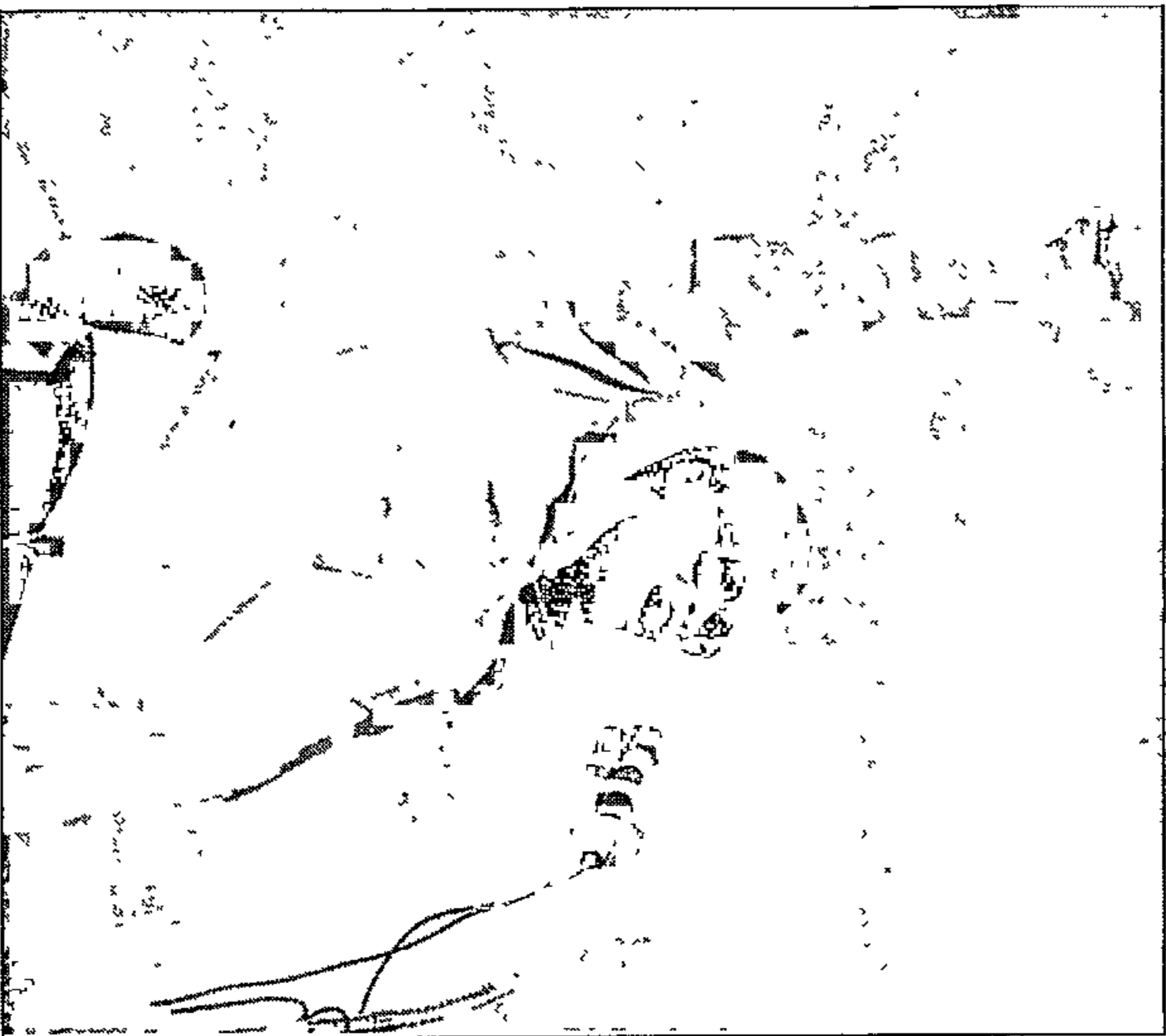
The three activists - prominent members of the anti-apartheid Port Elizabeth Black Civic Organisation (Pebco) - have been dubbed "The Pebco Three" since their mysterious deaths in the 1980s

Lawyer Belinda Hartle told City Press that she was told by an informant last year that the remains of the three activists had been taken by a hit squad known as "the Hammer Unit" to the heavily-guarded Swartkop Power Station in Kwazakhele outside Port Elizabeth where they are believed to have been incinerated

Hartle's claim comes after a source within the TRC's Amnesty Committee told City Press that she intends to call expert witnesses soon to dispute the Security Police version that the ashes of the three activists were scattered in the Fish river

She said it would take longer to burn a human body than the security police had testified it would

"We are going to make it look less probable that the ashes were dumped into the river," said Hartle who says she has spoken to an expert on



cremations and another on Hindu burial ceremonies. She would also not reveal the identity of the experts

These experts would also back up Hartle's theory that the Pebco

Three's bodies were not burned to ashes and put in plastic bags as the security police claim and may therefore not have been dumped in the river

Hartle would also not reveal the



THEIR DEATH IS A MYSTERY .. Matthew Gonwe (left) and Sipho Hashe (above) were part of the Pebco Three

identity of her informant save to say he was a journalist. Hartley said she had not formally taken her claims to the TRC's Amnesty Committee

The three former Security Police men who have asked for amnesty are Gerhardus Beeslar, Gerhardus Lotz, Harold snyman, Johannes Kooole, Hermannus Du Plessis, Johan van Zyl, convicted killer Gideon Niewoudt and askari Peter Mogoal

Truth commission in talks on urgent interim relief payments

Wyndham Hartley

60 2/2/98
CAPE TOWN — The truth commission will meet Justice Minister Dullah Omar and representatives of the finance ministry tomorrow to finalise the provision of R100m for the payment of urgent interim relief to victims of gross human rights abuses

The meeting follows last week's discussions between Omar and the commission at which ways of getting urgent relief to deserving victims was discussed. The meetings come amid rising frustration within the commission over government's failure to respond either to its recommendations for interim relief or to the final reparations package.

Hlengiwe Mkhize, chairman of the commissions reparations committee, said yesterday that the second meeting would include Finance Minister Trevor Manuel or his representative

It followed Omar's assurance that he could assist in "short-circuiting" delays in the granting of interim relief for victims, as provided for in the

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Promotion of National Unity and Reconciliation Act.

A justice ministry spokesman confirmed that there would be money available for interim relief from the President's Fund and foreign donations for reparations.

Mkhize said the hope was that R100m would be allocated by finance for this purpose. She said the creation of an interministerial committee for the allocation of interim relief was also on the table.

It was hoped that the committee would assist victims by giving them easier access to education and health services, helping to shift the emphasis away from simple monetary grants.

Mkhize said it had been recommended that senior officials be put in charge of applications to the President's Fund for money for those who qualified.

The meeting would also finalise a draft application form which would verify the status of victims and their dependants and screen out fraudulent claims

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EX-GIRLFRIEND TESTIFIES ON CCB AGENT

Ferdi Barnard shot Webster, court told

CT 3/2/98

(25R)

PRETORIA: A total of 118 witnesses, including Justice Minister Dullah Omar, are due to testify on behalf of the state in the murder trial of CCB member Ferdi Barnard.

FERDI BARNARD killed Wits Academic David Webster as part of a Civil Co-operation Bureau (CCB) project and later showed his girlfriend — who made the allegation in the Pretoria High Court yesterday — where he had thrown the shotgun used in the killing.

Dramatic evidence of the killing, which took place on May 1, 1993, was given by Ms Amore Badenhorst, a 29-year-old former brothel-keeper and mother of Barnard's two-year-old daughter.

Badenhorst told Mr Justice Johan Els that Barnard had first blamed the murder on fellow-CCB operative Carl Casteing (Callie) Botha, but later admitted to her that he had done it and had disposed of the weapon in a dam between Nylstroom and Vaalwater.

In court to hear the evidence was Webster's girlfriend, Ms Maggie Friedman, who sat with eyes focused on Badenhorst as she gave her evidence.

Webster was shot outside his home in Troyeville, Johannesburg. No motive was found during the inquest and a subsequent inquiry into his death.



MURDERED: David Webster

tence for diamond smuggling and is now facing two murder charges, three of attempted murder or conspiracy to murder, seven under the Arms and Ammunition Act, seven of fraud, and various others, including possession of explosives and teargas and of defeating the ends of justice.

A total of 118 witnesses, including Justice Minister Mr Dullah Omar, are due to testify on behalf of the state.

The allegation made by Baden-

horst is the first she has made in court. She has previously been quoted on her relationship with Barnard in newspaper reports — for which she was paid R50 000 by a Sunday newspaper — and which resulted in her being placed in a government witness protection programme.

She said Barnard — who had been her lover since 1992 and for whom she had once had the greatest respect, because he had saved her from a life of drugs and alcohol — had told her in 1993 that the Webster inquiry "had drained him to such an extent that he told her to stay with her parents, because the media could be looking for her".

She admitted to the court that she snorted cocaine and took other drugs, including crack, while with Barnard.

She said "I asked him if he was involved in the murder and he said he had not been involved, but said that Webster was a CCB project and that Botha was the project leader."

He admitted that another former girlfriend, Ms Brenda Milne, had been with him when he and other members of the CCB had kept Webster's house under observation, Badenhorst said.

Over the following months, the killing had been discussed at home while Botha had been present, as well as Mr Joe Verster, CCB general



'DRAINED': Barnard told his girlfriend that he shot David Webster

manager, Badenhorst said. It was only when Badenhorst and Barnard went to Nylstroom in 1996 to visit his parents, that the alleged truth came out.

"We climbed a hill near the town and looked down at a dam. Ferdi told me that this is where he had thrown the gun with which he had shot Webster," Badenhorst said.

Badenhorst, who initially wept frequently during her evidence, gave a graphic account of life with Barnard, other CCB members and

operatives of Military Intelligence's Directorate of Covert Collection.

"Some of these people did not do 'normal work', she said. "I do not know what they did."

However, they were involved in establishing brothels to compromise political figures, diamond smuggling in Angola, precious metals smuggling in Swaziland, illegal currency deals, swindling and deals with policemen.

The hearing continues today — Own Correspondent

Guguletu 7 probe resumes

THE hearing of applications for amnesty by two former Vlakplaas security police operatives for their roles in the 1986 Guguletu Seven shootings is to resume today

The hearing was postponed in November by the Truth and Reconciliation Commission's amnesty committee to give one of the witnesses — former Vlakplaas operative Mr Jimmy Mbane — a chance to get legal representation before being asked to answer questions

The amnesty applicants are a former sergeant, Mr Wilhelm Riaan Bellingan, and Constable Thapelo Johannes Mbelo — Sapa

TRC should seek review of ANC amnesties — DP

(252) OT 3/2/98
THE Democratic Party has urged the Truth and Reconciliation Commission to exercise caution in choosing its legal route in challenging the amnesties granted to 37 ANC members

The TRC said last month that it would ask the High Court to rule on the validity of the amnesties

Mr Peter Leon, a DP member of the Gauteng legislature and a lawyer, said yesterday this would be "little more than a legal opinion"

The TRC should seek a judicial review, which could lead to the quashing of the amnesties, he said

He and DP MP Ms Dene Smuts discussed these concerns with the TRC's chief legal adviser, Mr Hanif Vally, yesterday

Leon said afterwards it was not clear what form the TRC's application would take. If it was limited to a declaratory order, the DP would seek a judicial review

TRC deputy chairman Dr Alex Boraine said later it was envisaged the TRC would ask for a declaratory order on the amnesties' validity. If they were found to be invalid, the court should refer the matter to another amnesty panel — Sapa

Webster eliminated to 'stop him from blowing up a bus'

Stephané Bothma

BD 5/2/98
PRETORIA — Wits University anthropologist David Webster had to be eliminated because he was "an ANC activist planning to blow up a bus full of people", his alleged assassin, Ferdi Barnard, told his mistress

Testifying against Barnard, Amore Badenhorst yesterday offered the Pretoria High Court the first possible motive for Webster's 1989 murder

Barnard, a former Civil Co-operation Bureau (CCB) and Military Intelligence agent, has pleaded not guilty to 34 charges, including Webster's murder.

Badenhorst, who was Barnard's mistress from 1991 to 1996, earlier told Judge Johan Els that Barnard had confessed to shooting Webster, an anti-apartheid activist, who was a "thorn in the flesh of the government". The confession was made a few hours after a judicial inquest in 1993 failed to find enough proof to charge Barnard with the murder.

"Until the finding, Ferdi always denied any involvement," she said.

After repeatedly taking responsibility for the assassination over a long period of time, Badenhorst said she eventually started believing Barnard's claim

Badenhorst said the orders for the "elimination" had been given to Barnard by telephone by former CCB chief Joe Verster.

The car from which Webster was shot with a shotgun was driven by another former CCB agent, Calla Botha, she testified, but he and Barnard "switched cars" a few blocks from Webster's house in the Johannesburg suburb of Troyeville

Earlier, she said Botha had been "so shocked" by the shooting that Barnard had to threaten him with a firearm to get him to drive away from the murder scene

Badenhorst — a former prostitute and drug addict — said she had first mentioned Barnard's involvement in the killing when she overdosed on cocaine and was rushed to the Flora clinic on the West Rand.

"When I regained consciousness, I kept on shouting 'he (Barnard) raped me and killed Dr David Webster'" She said it had been a reaction to the overdose and Barnard had not raped her.

In cross-examination by defence advocate Fanie Coetzee, Badenhorst admitted that she had used her knowledge about Barnard's involvement as a "trump card".

In 1996, when Barnard failed to keep a promise that he would support Badenhorst and their two-year-old child financially, Badenhorst sold her knowledge of Barnard's life of crime to a newspaper for R50 000.

"I never thought my action would result in him being prosecuted," she said.

Her cross-examination continues today.

Banks to tighten criteria for home loans

BD 5/2/98 (252)

Robyn Chalmers

THE number of houses built each year could be reduced by up to 18 000, with the loss of about 40 000 potential jobs, when financial institutions phase in new criteria for granting bonds next month, developers warn.

The more stringent criteria bring SA into line with international lending norms and raised a storm of protest when mooted two years ago.

Employees receiving housing subsidies will be affected by the change, which substantially reduces the size of bond for which they qualify. Public servants make up the bulk of this market.

Council of Southern African Bankers housing GM Lance Edmunds said that with the downsizing of the public service banks believed it prudent to revise lending criteria. Many retrenched employees would not be able to pay

their bonds, particularly as the current lending criteria allowed borrowers access to homes they struggled to afford.

Banks calculate the bond amount to be granted by taking 25% of the base salary and adding the housing subsidy. The new method will be to take 25% of the combined salary and subsidy.

This means someone earning R1 600 a month and qualifying for a R63 400 bond previously, will now be offered a bond of about R33 000.

SA Residential Developers' Association executive director Hendrick Kekana said the new criteria would kill the much-needed secondary housing market and have an adverse effect on sectors of the residential market, notably houses priced between R60 000 and R100 000.

Kekana said about 21 250 houses a year were being built for individuals with a subsidy. With the new criteria,

it was estimated that only about 15% of these would be built each year.

Building Industries' Federation of SA executive director Ian Robinson said the change would have a negative effect initially on public residential investment, which is about R1,1bn a year. "However, in the longer run it will control consumer spending and debt obligations and there will be less repossessions, which should have a positive effect on the economy."

Edmunds said banks were aware that the new criteria would have a "serious impact" on the amount an individual could borrow, and had attempted to lessen its effect. "We have done what we can by imposing a one-year moratorium on the criteria last year, and we will phase the criteria in over an eight-month period. But ultimately we believe it irresponsible to continue lending as we are."

Lesbian ruling expected to set precedent

BD 5/2/98 (252)

Taryn Lamberti

THE refusal of the police medical aid scheme, Polmed, to allow a lesbian police officer to register a female partner of 11 years as a dependant on her medical aid was declared unconstitutional by the Pretoria High Court yesterday.

An SA Police Service regulation, which defines a dependant as a "legal spouse, widow, widower or dependent child", was struck down by Judge JP Roux on the grounds that it violated a constitutional right to equality.

Roux directed Polmed to reconsider Capt Jolanda Langemaat's request.

Langemaat and Beverley-Anne Myburgh, who had lived together as a married couple since June 1986, had a

"committed, exclusive, loyal and continuous relationship". They had joint finances, were financially co-dependent, made joint decisions and were listed beneficiaries of each other's policies, Roux said.

The stability of same-sex relationships was no different from that of married couples and "it was time the law recognised such unions".

Polmed's argument that it feared a flood of unmarried people attempting to register their partners as dependants on the medical aid had no merit.

Josey Ballenger reports that medical scheme administrators believe the case will set a precedent not only for medical aids but also for pension and other funds with beneficiaries.

However, they pointed out that several medical aids already extended benefits to homosexual partners. In those cases a member supplied a legal document verifying the couple's long-term cohabiting status.

Subject to certain conditions, "special dependants" such as parents, grandparents or other relatives were also accommodated.

Alex van den Heever, senior researcher at Wits University Centre for Health Policy, said the case meant medical aids would have to decide how to differentiate between unmarried heterosexual couples and same-sex couples. This could be resolved by a change in law to recognise same-sex marriages, he said.

Key Market Movements — 3/2 to 4/2

Gold		Currencies	
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SUBSCRIPTION INFORMATION



Ferdi confessed, says ex-lover

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BD 3/2/98

Stephané Bothma

PRETORIA — On the day an inquest court ruled that not enough evidence existed to prove Civil Co-operation Bureau (CCB) operative Ferdi Barnard had killed David Webster, the former policeman and convicted killer confessed to his mistress that he had assassinated the Wits university lecturer on May 1 1989.

This evidence was given by Amore Badenhorst in the Pretoria High Court trial of Barnard, who yesterday pleaded not guilty to 34 charges ranging from the murder of Webster to attempted murder of Justice Minister Dullah Omar, fraud, theft, robbery, housebreaking and the illegal possession of firearms.

The case comes at a time when the truth commission still has to decide whether Barnard should receive amnesty for the attempted murder of Omar, for hanging a monkey foetus outside the home of commission chairman Archbishop Desmond Tutu and for conspiracy to murder Eastern Cape activist Bruce White.

Barnard has not applied for amnesty for Webster's murder. He has denied being involved in it.

A new charge in Barnard's High Court trial concerns an explosion which destroyed the police vehicle of former Brixton Murder and Robbery chief Charlie Landman. According to the state, Landman had requested Barnard and others to place a limpet mine under his vehicle at his home because "Landman needed to boost his image in order to secure a promotion". At the time, the

explosion was blamed on Apla

Badenhorst, a former escort and the mother of Barnard's two-year-old daughter, told Judge Johan Els that Barnard had said CCB director Joe Verster had ordered Webster's death and that CCB operative Calla Botha had driven the car from which the political activist was gunned down.

She testified that Barnard had also shown her a dam outside Nylstroom where he dumped the murder weapon

An inquest into the Webster murder in 1993 ruled that not enough evidence existed to link either Barnard or the CCB to the killing.

Deputy Transvaal attorney-general Anton Ackermann SC told the court in his opening address that Barnard's crimes ranged from what appeared to be "political crimes" to blatant criminal acts

Ackermann said the death of Webster, "a thorn in the flesh of the former government", was the cold-blooded assassination of a well-known political activist

However, he said, the state had no eye-witness linking Barnard to the killing.

He also warned the court about the character of some of the 119 witnesses the state planned to call. "The prosecution cannot choose its witnesses and is forced to use people who associated with the likes of Barnard"

Badenhorst told the court she was terrified of Barnard and his friends.

She admitted that the love and admiration she had felt for Barnard during their five-year relationship from 1991 to 1996 had turned to bitterness.

"He was the one who introduced me to drugs and because of him I now have an alcohol problem. I want to hurt him as much as he had hurt me," the self-confessed cocaine user said.

Badenhorst had sold the story of her life with Barnard to Rapport newspaper for R50 000 in 1996 "purely for financial reasons", she said.

Throughout their relationship, during which Barnard gave her "many thousands of rands in cash", cars, and about 10 diamond rings, Barnard lived with another woman, Brenda Milne, whom he said he could not leave "because she knew too much about the Webster murder".

But, despite the fear she now claimed she felt for Barnard, Badenhorst admitted that several times while in a witness protection programme she had gone back to Barnard who had promised her a home, a car and jewellery.

Early in their relationship, Barnard introduced her to former Vlakplaas commander Eugene de Kock. Together the three had established a brothel which was to be used to "get a hold over people".

"I would arrange women for the visitors who could later be blackmailed," she explained. The brothel was situated in Waverley in Johannesburg.

The court also heard that Barnard had told Badenhorst that he had killed former friend Mark Francis with a baseball bat to prevent him from testifying against Barnard in a court case.

Badenhorst will be cross-examined today.

Amnesties for 37 'will be reviewed if invalid'

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Linda Ensor

CAPE TOWN — The truth commission planned to seek a court order which would determine the validity of the amnesty granted to 37 African National Congress (ANC) leaders and set in motion a new process if the decision was invalid, acting chairman Alex Boraine said yesterday.

Boraine was responding to concerns expressed by Democratic Party (DP) justice spokesman Dene Smuts that the commission intended to apply for a declaratory order on the legal correctness of the process of granting the amnesties, rather than a judicial review of the decision made.

The commission would apply to have the decision referred back to another panel of the amnesty committee for reconsideration if it was found to be invalid. The DP appeared satisfied with this, Boraine said.

"The commission hopes to finalise its papers as soon as it has completed consultations with the senior counsel it has retained, advocate Wim Trengove. In the meantime, it is making arrangements to expedite the service of legal papers on each of the 37 ANC members, some of whom live abroad."

Smuts and DP lawyer Peter Leon

met the commission's legal advisers yesterday to discuss its court application. She said the commission had undertaken to give the DP sight of its court papers when it brought its application in the next few weeks.

If the commission sought only a declaratory order, the DP would intervene in the court application on behalf of victims of ANC human rights violations. This would ensure that the amnesties were set aside and reconsidered by an amnesty committee. However, there were encouraging signs that a more effective remedy would be sought.

"A declaratory order is not appropriate. The decisions will not be invalidated by a declaratory order; even one which states that the decisions to grant amnesty were procedurally defective. The decisions will remain valid. Thus the high court is simply being asked for a legal opinion," Smuts said.

"We must ensure that these ANC amnesties are not allowed to stand in the way of a fuller understanding of what happened in the past," said Smuts.

Leon feared the commission might be seeking the less offensive declaratory order in a bid to rescue the amnesty committee's reputation.

Vlakplaas amnesty bid delayed

Kahn to be consulted on evidence in 'Guguletu Seven' case

JOHN YELD
ON THE TRUTH COMMISSION

The amnesty application by two former Vlakplaas security policemen over their involvement in the killing in March 1986 of the "Guguletu Seven" resumed today - but was almost immediately delayed for several hours.

This was to enable the Truth Commission's amnesty committee staff to consult Attorney-General

Frank Kahn about self-incriminating evidence due to be given by Askari (turned African National Congress guerrilla) Jimmy Mbane

Mr Mbane, who was subpoenaed to appear at the amnesty application by former sergeant Wilhelm Riaan Bellingan and constable Thapelo Johannes Mbelo, was also sent from Vlakplaas to take part in the police operation against the seven

At the start of today's hearings, Mr Mbane's lawyer, advocate Joey Moses, asked the amnesty commit-

tee headed by Mr Justice Andrew Wilson to issue an order in terms of the commission's founding Act compelling Mr Mbane to answer questions about the incident even though they were self-incriminating

If the committee did not give such an order, Mr Mbane would not answer the questions as any answers could be used by prosecuting authorities in a criminal trial, Mr Moses said

If such an order was given, Mr Mbane's answers might not be used

as direct evidence against him in a criminal trial

Another member of the amnesty committee, Mr Justice Selwyn Miller, pointed out that the commission's founding Act required the attorney-general before making such an order

When it appeared that this requirement had not been met, Judge Wilson postponed the hearing to allow committee staff time to consult Mr Kahn's office

The hearing had been postponed in November to allow Mr Mbane to obtain legal representation before being questioned by the amnesty committee

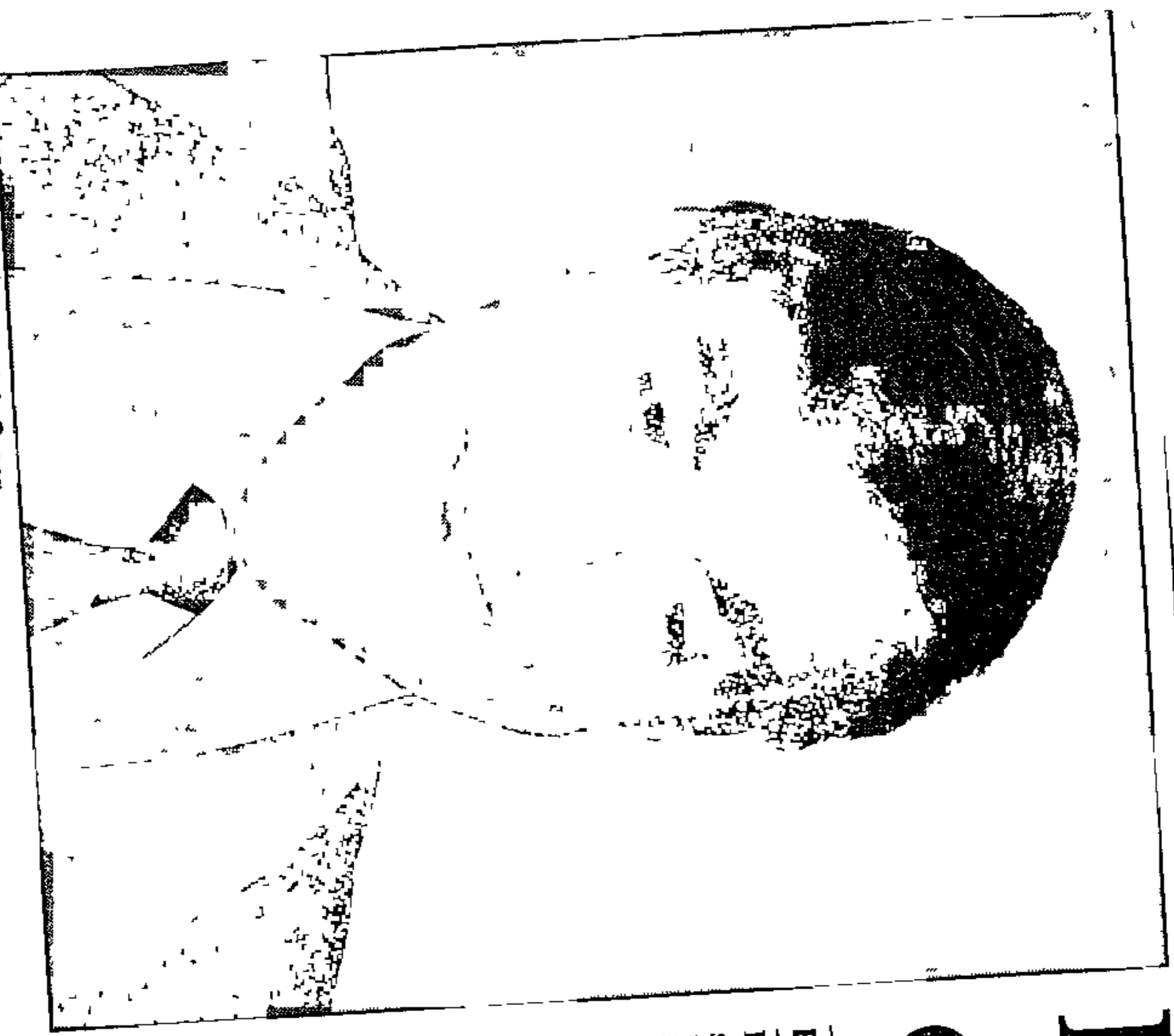
Previous evidence to the committee was that Constable Mbelo and Constable Mbane were instructed to infiltrate a group of ANC guerrillas operating in the Western Cape

Police later claimed that seven of the group were shot because they planned to ambush a bus carrying police personnel

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Prosecutors lose out on salary increases

Source from 2/12/98 (252)



Minister of Justice Dullah Omar.

By Abdul Milazi

PROSECUTORS who have been on strike for more than two months now lost their pay increase when the Department of Justice decided to give increases to magistrates, judges and attorneys general instead.

In a statement Minister of Justice Dullah Omar explained that pay increases were not given to prosecutors because they had received a 7.5 per cent increment together with the rest of public service employees last year.

"A salary increase for 1997 for judges, magistrates and attorneys general were withheld, while prosecutors and other public service personnel received increases of up to 7.5 per cent," said Omar.

Judges and attorneys general will get a five percent increase while magistrates will get a 7.5 percent raise.

back-dated to July 1 1997

An additional R5 million was allocated for overtime pay from April 1 this year until new salary scales have been agreed upon later in the year.

"While it must be clearly understood that overtime payment is of a temporary nature it is clear, however, that the amount of R5 million will only be adequate if overtime payment is limited to the categories mentioned above and if the maximum amount claimed is fixed," Omar said.

Adequate salaries

Omar explained that his department also agreed that adequate salaries for professionals and other personnel need to be addressed by the mandate committee at its next meeting.

"I have in the meanwhile investigated overtime claims. Many state advocates, prosecutors and other legal

personnel often work overtime for no additional remuneration.

"Others submitted reasonable claims. There have been excessive claims," Omar said.

He conceded that in terms of the law no employee could be compelled to work overtime without pay. At the same time, no employee could insist on working overtime for pay.

Omar said "I express my appreciation to those who have worked overtime without further remuneration. "As no further money is available for payment of overtime, I trust that it will be possible to come to an agreement on how best to utilise the R5 million between February and March."

He said, however, the department would go ahead advertising new posts. "I have done my best to make do with such finances as are available," said Omar.

Barnard's girlfriend tells court he shot Webster

Star 3/2/98 (282)

Amor Badenhorst describes how convicted felon showed her the dam into which he allegedly threw the murder weapon

By **NORMAN CHANDLER**
Pretoria Bureau

Ferdinand Barnard killed Wits University academic David Webster as part of a Civil Co-operation Bureau (CCB) project and later showed his girlfriend - who made the allegation in the Pretoria High Court yesterday - where he threw the shotgun used in the killing

Dramatic evidence of the killing, which took place on May 1 1989, was given by Amor Badenhorst, a 29-year-old former brothel keeper and mother of Barnard's 2-year-old daughter

Badenhorst told Mr Justice Johan Els that Barnard had first blamed the murder on fellow-CCB operative Carl Casteling (Callie) Botha, but later admitted he had done it and had disposed of the weapon in a dam between Nylstroom and Vaalwater

Webster's lover, Maggie Friedman, was in court and focused on Badenhorst as she gave evidence. Webster was shot outside his home at 123 Eleanor Street, Troyeville, Johannesburg. No motive was found during an inquest and subsequent inquiry into his death

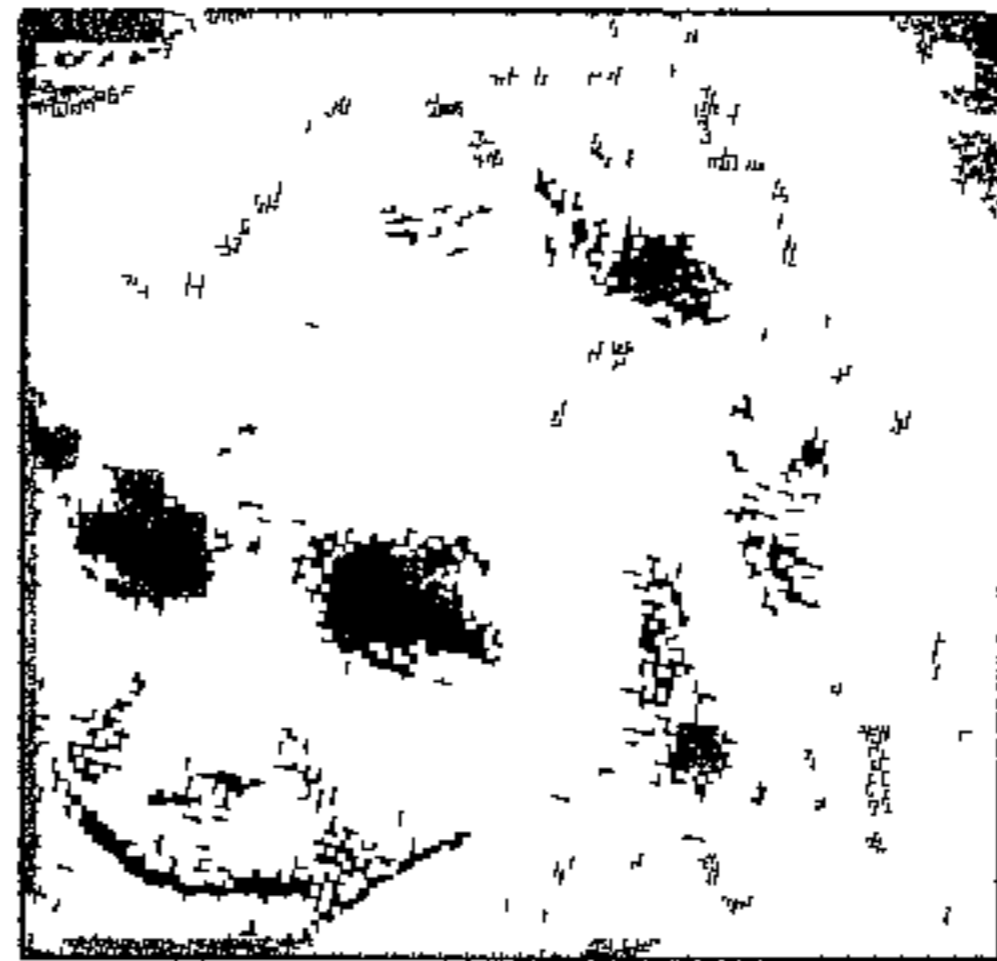
Barnard is serving a 10-year sentence for diamond smuggling and is facing two murder charges, three of attempted murder or conspiracy to murder, seven under the Arms and Ammunition Act, seven of fraud, and various other charges including possession of explosives and teargas, and of defeating the ends of justice

A total of 118 witnesses, including Justice Minister Dullah Omar, will testify for the State

Badenhorst's allegation is the



Maggie Friedman .. at court



Amor Badenhorst ... in tears

such an extent that he told her to stay with her parents because the media could be looking for her"

She admitted she snorted cocaine and took other drugs, including crack, while with Barnard.

She said. "I asked him if he was involved in the murder and he said he had not been involved but that Webster was a CCB project and Botha was the project leader."

He allegedly admitted that another former girlfriend, Brenda Milne, had been with him when he and other CCB members kept Webster's house under observation

Over the following months, the killing was discussed at home, and she found out that Botha and CCB general manager Joe Verster had been present.

It was only when Badenhorst and Barnard went to Nylstroom in 1996 to visit his parents that the alleged truth came out

"We climbed a hill near the town and looked down at a dam Ferdinand told me that this is where he had thrown the gun with which he had shot Webster," she said

Badenhorst, who cried frequently during her evidence and once broke down, gave a graphic account of life with Barnard and other CCB members and operatives of Military Intelligence's Directorate of Covert Collection

"Some did not do normal work," she told the court. "I do not know what they did."

They were, however, involved in establishing brothels to compromise political figures - "including ANC people" - diamond and precious-metals smuggling, illegal currency deals, swindling, and deals with policemen.

The hearing continues today

Alleged killer on trial after nine years of effort

By **CATHY POWERS**

The appearance of former CCB operative Ferdinand Barnard in the Pretoria High Court yesterday for a host of charges, including the killing of anti-apartheid activist Dr David Webster nearly 10 years ago, marks the culmination of nine years of investigation.

Over the years, many people have claimed that Barnard boasted of killing social anthropology lecturer Webster. Among them was Barnard's ex-girlfriend Amor Badenhorst who, two years ago, turned state witness and then disappeared from a witness protection programme

She later entered another programme and said Barnard had confessed to the killing and shown her where he dumped the murder weapon

The State alleged for the first

time in September last year that Barnard pulled the trigger on May 1 1989, killing Webster. An armed Barnard, driven by "Callie" Botha, allegedly gunned Webster down as he was offloading plants from his car outside his

“**Relief that the process is under way**”

Troyeville, Johannesburg, home, and fled. The Wits University academic died at the scene

Five years ago, Mr Justice Michael Stegmann exonerated Barnard in an open ruling of the

inquest into Webster's death. He found that Barnard, a prime suspect, could not be convicted because most of the evidence against him came from "trained, skilled and accomplished liars".

This was followed by allegations by Webster's lover Maggie Friedman of a judicial coverup

Friedman said yesterday she felt "a sense of relief that the process is under way"

"I'm very glad that the connections have been made with the CCB and I hope they are followed through," she said

It is believed that the case, dealing with 24 criminal charges, will take six months to complete. It was transferred from the Pretoria Regional Court in September last year to the High Court because the alleged offences were committed in various parts of the country

EX-MK SOLDIER DESCRIBES BETRAYAL

'I took them to meet their deaths'

ET 4/2/98 (252)

POLICE USED THE CONFLICT in Nyanga between the Witdoeke and the Comrades to flush out ANC supporters and lure them to their deaths, an askari has told.

FORMER uMkhonto weSizwe (MK) guerrilla Mr Xola Mbane, 42, told the Truth and Reconciliation Commission's amnesty committee yesterday how Vlaktiplas boss Colonel Eugene "Prime Evil" de Kock put a pistol to his head after his capture and told him "Co-operate or die."

At that moment he knew he had no choice but to become an undercover agent (askari) for the security police.

Mbane, originally from Port Elizabeth, gave a bizarre account of how he managed to join the ANC for overseas military training late in 1981.

He had got drunk, beaten up his girlfriend and smashed the windows of the Bulawayo home they shared to get arrested and be vetted by the Zimbabwe Central Intelligence Organisation (CIO).

He then, on the advice of an African



TURNCOAT: Former askari Xola Mbane testifies before the amnesty committee

The turning and keeping of an askari

DURING the early 1980s Xola Mbane joins MK and receives training in Angola and the then Soviet Union.

● First mission for MK: Sent to Kimberley via Botswana and Mafikeng to assassinate three Port Elizabeth security policemen. In Kimberley, Mbane goes to the UDF offices, but they have been infiltrated by security police.

● His Makarov pistol jams. He is arrested, tortured and taken to Vlaktiplas. At a braai, Eugene de Kock holds a gun to his head and says: "Co-operate or die." Mbane becomes an askari.

● To prove his loyalty, Mbane is asked to incriminate MK cadres in a 1984 court case.

● In early March 1984 he is told at Vlaktiplas his mission is "to hunt and kill terrorists". He is told to set up a Cape Town askari cell with six members.

● In 1986 he is stationed with police at Koeberg. To gain the confidence of Nyanga

comrades, he helps in their battle against the Witdoeke.

● Vlaktiplas supplies weapons and training for cell members.

● Security police send in "wired informers" whose covers are blown. Mbane and activists shoot and kill them.

● Mbane meets head of Cape Town's terrorist-tracing unit Lieutenant William Liebenberg at the Grand Parade to sort out the problem. He tells Liebenberg not to send informers without his knowledge.

● Within three months two more informers are sent without notification — all are discovered and shot dead.

● MK cell moves from Khayelitsha to Guguletu.

● At a Guguletu community hall mass meeting Mbane spots a former comrade from exile and shoots him to protect his cover.

● On orders from Vlaktiplas he sets up the ambush of the Guguletu Seven.

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National Congress member in Zimbabwe, who said this was the best way of avoiding the South African security police network and using the ANC-friendly CIO to be declared an appropriate candidate for MK training.

After several months of training in the front-line states and a mistaken posting to the Soviet Union, he had been given a mission to assassinate three Port Elizabeth security policemen.

The mission was still-born when he mistakenly asked a plainclothes security policeman for directions to the Kimberley offices of the United Democratic Front (UDF).

Mbane said he had been arrested in a scuffle in which his Makarov pistol had jammed, and that he had then been tortured, detained and delivered into the arms of De Kock at Vlakplaas for "turning".

Mbane's testimony gave a fascinating insight into how De Kock's agents used the police-inspired 1986 Witdoek/Comrades war around KTC in Nyanga to lure activists to their deaths.

He said he and fellow askari Eric "Shakes" Maluleka had met an ANC-friendly squatter chief known as "Yamile" in Khayelitsha, telling him they had come from MK training in exile.

Yamile had introduced them to a man who was having trouble with his AK-47, a certain Chris, also known as "Rastaman".

This had formed the basis of the seven-man MK "cell" of township youths whom the askaris had trained and later led to their deaths.

"We assisted the squatters in their fight against the Witdoeke — by doing this we gained their confidence," Mbane said.

He described how he had driven a stolen kombi in what his cell members believed was to be an ambush of senior police officers early on the morning of March 3, 1986.

He had dropped off cell members at the pre-arranged security police killing ground supposedly for them to collect hidden AK-47s and ammunition.

After driving off he had made a U-turn before hearing what sounded like a grenade explosion.

"I hit the pavement and jumped out. I heard someone pulling this other guy out of our kombi and a shot go off inside. It was (security police Lieutenant Ruan) Bellingan pulling him out. Then I heard Bellingan shout not to shoot the tall man, that he was 'one of us'."

Mbane explained that Bellingan had been referring to him (Mbane) — but he had run away.

Guguletu residents had helped him to hide before he caught a bus to Khayelitsha. He had later made contact with his security police handlers at Koeberg and been told that all seven activists had been killed. The only men in his cell to survive had been himself and fellow askari Maluleka. Mbane said he and Maluleka had been paid R7 000 each.

He said he was not happy about "leading other people's children to their deaths". The amnesty hearing continues this morning — Staff Writer



Killer askari tells of trail of bodies

THE CAPE TIMES' coverage of the police murder in 1986 of seven Guguletu youths led to the prosecution of the paper's then deputy news editor.

THE full horror of calculated slaughter and betrayal at the zenith of the apartheid war emerged yesterday with the Truth and Reconciliation Commission (TRC) testimony of a Vlakplaas askari who trained — and led to their deaths — seven young Guguletu activists

uMkhonto weSizwe guerrilla turned security police undercover agent Mr Xola Frank Mbane, 42, admitted to the TRC's amnesty committee: "I trained these people and drew them to their graves"

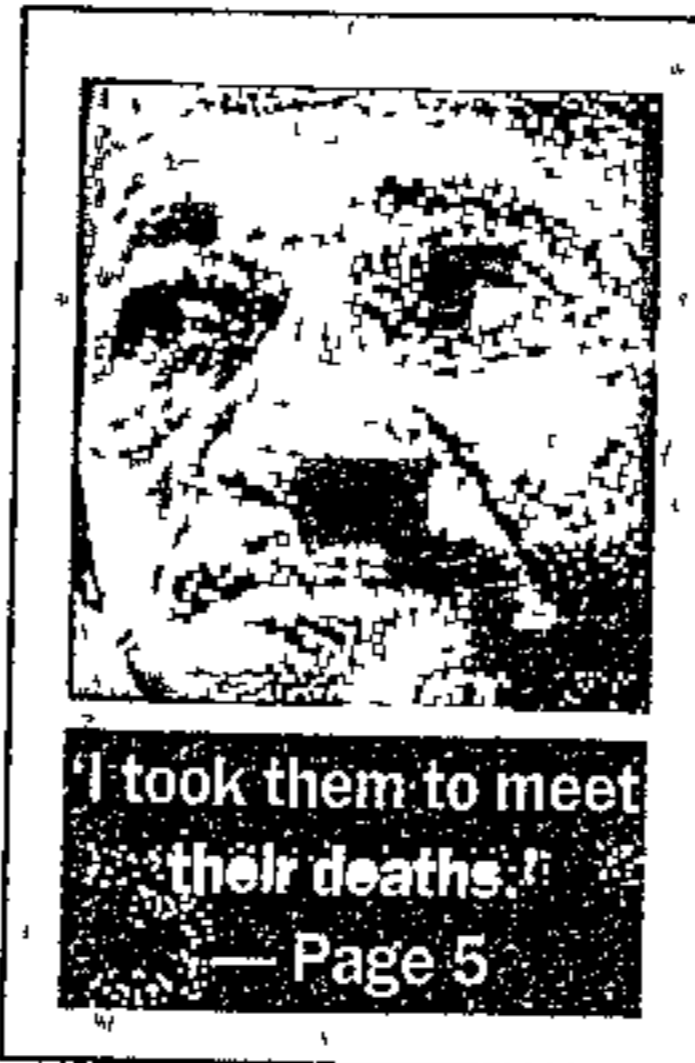
He was testifying in the Cape Town amnesty application of two security policemen, Lieutenant Wilhelm Bellingan and Sergeant Thapelo Mbelo, who shot at point-

blank range two of the seven activists in a Vlakplaas-initiated "sting" operation in NY1, Guguletu on March 3, 1986

Mbane told how — at the behest of local Terrorist Tracing Unit chief Lieutenant William Liebenberg — he created and trained an "amateurish" MK cell of township activist youths

He then supplied them with Soviet-bloc weapons and led them into the police ambush

Police shot and killed all seven — at least one of whom had his hands above his head, trying to give himself up — in a drama



CT 4/2/98

reported fully by the *Cape Times* the following day

The eyewitness story by then crime reporter Chris Bate-man — and a subsequent follow-up report by deputy news editor Tony Weaver quoting suggestions that weapons had been "planted" by security police, led to a seven-month trial

(and acquittal) of Weaver under the Police Act

Mbane said he planted two AK-47s and four magazines at the ambush site — and reconnoitred it with Bellingan — the day before the killing

He also admitted murdering two fellow askaris and a former comrade-in-exile to "create (town-

ship) trust" and avoid his cover being blown ahead of the ambush

Mbane said he was "forced" to shoot and kill the two askaris after suspicious MK activists had blown their covers

"I had to act very quick. I decided to shoot these informers and I killed them. I did this because I wanted to gain the trust of these people we had infiltrated," Mbane testified

He said he also shot and killed a third man — a former MK comrade who could have exposed him

Mbane said that as a trained MK guerrilla, he had commanded respect among the youths, whom he easily manipulated, supplying them with dagga shortly before leading them into the ambush

He testified that at the helm of the entire operation had been his Vlakplaas commander, Colonel Eugene "Prime Evil" de Kock — Staff Writer

(252)

Kadalie to take former boss to court over reinstatement

CT 4/1/98 (252)

TROYE LUND

"UNEMPLOYED" former Western Cape chairperson of the Human Rights Commission, Ms Rhoda Kadahe, is to take the body's national head, Dr Barney Pitjana, to court

After being persuaded to rescind her decision to resign, she turned down various job offers, but was then told she could not return to the commission

But Pitjana told the *Cape Times* yesterday that Kadahe's gripe was with Parliament, not with him

According to Kadahe, the outcry that greeted her resignation last year — she resigned because of her unhappiness at the way the commission was run — culminated in Pitjana's pleading with her not to leave and promising that her grievances would be addressed

But when she returned to work Pitjana told her that she could not be reinstated

"His letter came like a bolt out of the blue. He phoned me on Christmas Day, pleading with me not to leave

"He promised that he would allow me to lay the problems I had with the commission on the table and that he would set up mediation for my case

"Based on the number of requests



'UNEMPLOYED': Rhoda Kadahe

I had to stay on from cabinet ministers, non-government organisations and colleagues — and given that I love my work at the commission and feel that it is very important — I decided to stay on," said Kadahe, who was due to stop work for the HRC on December 31

She wrote a letter to Parliament rescinding her resignation

"Although I wrote it before December 31, I dated it January 4 because I knew Parliament was not open

"Barney accepted it. I asked him if it was all right to turn down other job

offers. He said 'yes' "

Kadahe had handed in her resignation last July, to become effective at the end of last year

But a few days after her return to work last month, she received a letter from Pitjana stating that he could not reinstate her

"This is a shocking, shocking business and it is in my lawyer's hands. After job offers, a big one in Gauteng, in the private sector and at universities, I am now unemployed," she said, adding that if the legal action was successful, she would continue work at the HRC

She said "The number of people in important positions who asked me not to go when I resigned, reaffirmed the importance of the work I was doing "

Legal opinion is that Kadahe's letter rescinding her resignation could work against her because it was dated after her service was due to end on December 31.

Pitjana said "Any action that Kadahe has is with Parliament. I have no role in employing commissioners "

He stressed that he had nothing to do with "who was employed by the commission, who resigned, who came and who left"

He would not comment further, saying that Parliament would have to answer for the decision

Court hears ex-lover had knowledge of Lubowski death

OWN CORRESPONDENT

PRETORIA Ms Amoré Badenhorst, the former girlfriend of CCB operative Ferd Barnard, told the High Court here under cross-examination yesterday that she had knowledge of the death of the murdered Namibian anti-apartheid activist, advocate Mr Anton Lubowski.

Lubowski was killed in Windhoek in 1989.

Barnard is appearing on a number of charges, including that of allegedly killing Wits academic David Webster.

The political killings and the sleazy goings-on in the criminal underworld were also detailed by

Badenhorst.

Badenhorst is the key state witness against Barnard, a former policeman who was recruited into the notorious CCB, part of the SA Army's special forces unit, and had worked for them against opponents of the former apartheid regime.

She was remorseful at having given statements to the Transvaal attorney-general's office and to the police about Barnard after she had discovered his alleged involvement in the Webster death, but had done so because "of the hurt he had done to other people". She would only have retracted the statements had she been on drugs when she wrote

them, the court heard.

Police had searched her car and her house for a road map on which it had been alleged by her former husband, convicted killer Wayne Swanepoel, that Webster's home address had been scribbled.

Badenhorst told Mr Justice Johan Els that Barnard had been "very angry" when he discovered her former husband had made a statement.

Webster was shot dead outside his house in Troyeville, Johannesburg, on May 1, 1989. Both murders have never been solved, and Barnard was cleared by a judge at a judicial inquiry into the Webster death.

But on Monday, Badenhorst

told the High Court that Barnard had confessed to her that he had shot Webster and had thrown the gun into a dam between Nylostroom and Vaalwater.

He took her to the area and pointed out the dam.

Yesterday, she made no further reference to Lubowski, whose death does not appear on the charge sheet relating to Barnard's alleged crimes, and she was also not challenged to expand on her statement by Barnard's counsel, Mr Fame Coetzee. The main charge against Barnard is that he killed Webster.

She also told the court that

Gary Beuthin — who is serving a

life sentence for kidnapping and other crimes — had been involved in Barnard's illegal diamond dealings and in "Kwanza" deals, in which Angolan money was exchanged for rands to buy diamonds, but in which the buyer was defrauded of the money and the diamonds.

Barnard is serving a 10-year sentence for diamond smuggling, and is now facing two murder charges, three of attempted murder or conspiracy to murder, seven under the Arms and Ammunition Act, seven of fraud, and others, including possession of explosives and teargas, and of defeating the ends of justice.

ST 4/2/98

(252)

Barnard's ex-lover tells of 'terror' of his friends

BD 4/2/98 (257)

Stephané Bothma

PRETORIA — Shortly after Ferdi Barnard's ex-lover contacted him in a drunken state while in a witness protection programme, police picked up Calla Botha, an alleged accomplice in the 1989 slaying of anti-apartheid activist David Webster, in the vicinity of the wine estate where she was being hidden

Amore Badenhorst and her two children were rushed to safety in Oudtshoorn by justice department officials after Botha made his appearance in Paarl, the Pretoria High Court heard yesterday

Badenhorst, a former escort and cocaine addict, is a key State witness in the murder, attempted murder, fraud and theft trial of Barnard, a former Civil Co-operation Bureau (CCB) operative who allegedly assassinated Webster on May 1 1989 "on the orders of CCB head Joe Verster"

She said Barnard had confessed to her that he had shot Webster and that Botha had driven the vehicle from which he was shot

"Because I am the mother of Ferdi's child, I never really feared that he would harm me, but I was terrified of his friends," Badenhorst told the court

She contacted Barnard on several occasions while in the witness protection programme and left the safety of her "six bodyguards" often to return to Barnard "The first time I left the wine farm to go to Ferdi in Johannesburg, it took three days before they realised I was gone"

The investigation by Transvaal attorney-general Jan D'Oliveira's special investigating unit into the affairs of Barnard started in 1996 after Badenhorst sold the story about her life of crime with Barnard to Rapport for R50 000

"I did not want to harm Ferdi I love him now, I have always loved him and always will," an emotional Badenhorst told the court She never envisaged that her actions would result in Barnard facing criminal charges and her being a key witness, she testified

Badenhorst initially also did not trust the special investigators and in the beginning she did not mention his "involvement with Webster or with (Anton) Lubowski" She did not elaborate about Lubowski, a Swapo activist who was also shot outside his Windhoek, Namibia house in September 1989

Badenhorst told the court she participated in several "knocks" with

Barnard and his late friend Corrie Goosen, where they would offer diamonds or foreign currency to potential buyers, accept a deposit and disappear with the money and the goods

The court heard that Barnard and Badenhorst had a stormy relationship marred by domestic violence, drugs and crime "I once tried to shoot him and another time I chased him with a knife and scissors," she said, adding that Barnard often assaulted her When Barnard failed to pay the electricity account, Badenhorst chopped up the wood in his sauna to cook her meat outside

In the early stages of their relationship, Barnard showered her with expensive gifts of gold and diamond jewellery but when things went sour between them, he used the jewellery to buy drugs from his "druglord", Badenhorst testified

The justice department funded a drug rehabilitation programme for her, but since entering the witness protection programme Badenhorst said she developed a serious drinking problem

At one stage while in the programme, she was given a job with the special presidential investigations unit as an informer, the court heard

Ex-lover tells Barnard trial of diamond dealing

ARGUS CORRESPONDENT

Pretoria - The deaths of Namibian anti-apartheid activist Anton Lubowski and Wits academic David Webster as well as the involvement of kidnapper Gary Beuthin in Ferdi Barnard's life were unveiled in the Pretoria High Court.

The political killings and, in particular, the sleazy goings-on in the criminal underworld were detailed by Amore Badenhorst, Barnard's former girlfriend, mother of his young daughter, self-confessed brothel-keeper and one-time drug addict.

Ms. Badenhorst is the key State witness against Barnard, a former policeman who was recruited into the notorious Civil Co-operation Bureau (CCB).

Yesterday, she made no further reference to Mr Lubowski, whose death does not appear on the charge sheet relating to Barnard's alleged crimes, and she was also not challenged to expand on her statement by Barnard's counsel, Fanie Coetzee.

The main charge against Barnard is that he killed political activist Dr David Webster.

Ms Badenhorst also told the court that Beuthin - who is serving a life sentence for kidnapping and other crimes - had been involved in Barnard's illegal diamond trade.

She said Beuthin was also involved in "kwanza" deals, in which Angolan money was exchanged for rands in order to buy diamonds, but which defrauded the buyer of both the money and the diamonds.

'We want killers tried'

Namibia - The scheduled second inquest into the assassination in September 1989 of Swapo activist Anton Lubowski was questioned today, when members of the family of the late lawyer withdrew their support for the hearing.

Mr Lubowski's former wife, Gabrielle, said the family wanted the killers to face trial, not another inquest, and added "So far, the findings of the first inquest have been ignored. We don't want another inquest. We want the men who were implicated in plotting his murder to be put on trial" - Sapa.



LEON MÜLLER

Comrades-in-arms. former askari Jimmy Mbane, left, and Vlakplaas policeman Constable Thapelo Johannes Mbelo at yesterday's amnesty hearing

Guguletu Seven: surprise turn sparks adjournment

Key witness quizzed on new statement ⁽²⁵²⁾

ARG 4/2/98

JOHN YELD
ON THE TRUTH COMMISSION

The amnesty hearing for two former Vlakplaas security policemen for their role in the killing of the "Guguletu Seven" was adjourned unexpectedly today when it emerged that a statement by a key witness to a Truth Commission investigator late last year had not been submitted to anyone involved in the hearing.

The adjournment came during the cross-examination of witness Jimmy Mbane, a Vlakplaas-based Askari (turned African National Congress guerrilla) who was subpoenaed to appear for the amnesty applications by his former colleagues, then Sergeant Wilhelm Riaan Bellingan and Constable Thapelo Johannes Mbelo. Mr Mbane played a key role

in the police operation against the seven in March 1986, having infiltrated the group by posing as a returned ANC guerrilla and training them for several weeks for their planned attack on a police vehicle in Guguletu.

At the start of today's hearing, he testified that he had told Sergeant Bellingan that four of the seven had not had any military training at all and that they had been "harmless". This had been well before their planned operation which ended with all seven being shot in a police ambush.

Mr Mbane was then asked by advocate Cobus Booyens, for Sergeant Bellingan, why his lengthy statement to Truth Commission investigators, signed in Johannesburg in August 1996, made no mention at all of Sergeant Bellingan in connection with the Guguletu Seven incident.

He replied that there had been a dispute with the investigators about that statement and that he had come to Cape Town and made another statement to Cape Town-based Truth Commission investigator Zenzile Khoisan.

This statement had been sworn to on November 17 last year.

Mr Booyens immediately asked for an explanation, saying it appeared this new statement had been "deliberately kept away from us".

Ramula Patel, leading evidence for the commission, told amnesty committee chairman Mr Justice Andrew Wilson that she had not seen the new statement.

Advocate Joey Moses, for Mr Mbane, told Judge Wilson that he had become aware of the new statement only early today but had not raised the issue as Mr

Mbane had already completed his evidence-in-chief.

Mr Moses pointed out that the new statement had been initialled on each page but had not been signed.

"My only problem is that the status of this (new statement) is questionable," he said.

Judge Wilson adjourned the hearing so that copies of the new statement could be made and distributed. "I think inquiries should be made as to just what happened here," he said.

Earlier, Mr Mbane told the committee that the Guguletu Seven activists were shot unnecessarily because police knew where they lived and could easily have arrested them.

This testimony contradicts evidence by nine policemen and former policemen to the commission last year. They said they did not know where any of the seven men lived.

Barnard's ex-girlfriend says she still loves him

Jan 4/2 1988 (250)

But she had decided to testify against the former

CCB agent because she was driven by her conscience

NORMAN CHANDLER AND SAPA
Pretoria

Former CCB agent Ferdi Barnard's ex-girlfriend has told the Pretoria High Court she decided to testify about his activities because she felt driven by her conscience, and wanted to make amends to the people hurt by Barnard and herself.

Amoré Badenhorst, the first witness called by the State in the trial of Barnard, yesterday faced lengthy cross-examination by Barnard's advocate, Faan Coetzee.

Barnard has pleaded not guilty to 34 charges ranging from murder and attempted murder to fraud and intimidation. The charges include the murder of human rights activist David Webster and the attempted murder of Justice Minister Dullah Omar in 1989.

Badenhorst (29) said she was scared of Barnard and his friends, but still loved him. He was the only man she had ever trusted and even now, when she experienced times of stress, she always thought of Barnard first.

She admitted that she felt bitter about the way Barnard had treated her - one cold winter when he refused to pay for her water and electricity and she had to cook her food on an open fire outside stands out in her memory - but said she had never meant to harm him.

She stressed her decision to sell her story to the newspaper Rapport for R50 000 had been



In chains ... Ferdi Barnard is led away from court.

motivated by financial considerations. She had not considered the consequences of her actions but later, when she was interviewed by the police, she realised she had no choice but to talk as she had incriminated herself.

She said her situation had come about out of desperation, because she wanted to get away from Barnard and from the drugs he had introduced her to.

She said she had given up drugs when she left Barnard but admitted that, after telling her story and joining the witness protection programme, she had gone back to the streets to buy crack. She had also developed a serious drinking problem, for which she was still

receiving treatment.

Badenhorst admitted she had a violent temper. She had once thrown a video machine at Barnard out of frustration, had tried to shoot him and had also chased him with a knife and scissors.

She also admitted to breaking her stepmother's arm when in a state of severe depression, and had tried to commit suicide by slashing her wrists, but was stopped by her brother.

She said Barnard had also hit and abused her. He did not allow her to have any friends, so she became totally dependent on him, and he supplied her with drugs on a regular basis. He often swore and screamed at her and humiliated her in front of her family.

"When I left him and talked to the police and to the newspaper, I feared he would harm me. He once told me that if he wanted to get to someone, he would sit back in Cape Town with a smile, while they fell in Johannesburg," she said.

Badenhorst said she decided to talk because she was tired of all the lies and she wanted help for her drug problem.

She explained that she had twice left the witness protection programme to go back to Barnard because she felt desperate and depressed and did not know who else to turn to.

She denied that her evidence was "a pack of lies" in order to get back at Barnard. "I am a Christian. When I swear that I will tell the truth, I tell the truth," she said.

PICTURES: PATRICIA HAGEN



Witness ... Amoré Badenhorst is escorted out of the court building yesterday.

Askari tells what led to death of Guguletu 7

Cape Town - A Truth and Reconciliation Commission amnesty hearing for two former Vlakplaas security police operatives, who are seeking amnesty for their part in the 1986 Guguletu Seven incident in Cape Town, resumed yesterday after a lengthy delay over possible self-incriminatory evidence by a witness.

The two amnesty applicants are Sergeant Wilhelm Riaan Bellingan and Constable Thapelo Johannes Mbelo. Seven young men died in an alleged shootout with police in Guguletu on March 3 1986. Two consecutive inquests cleared the police of any wrongdoing.

The witness, Jimmy Mbane, said he joined the ANC in 1981 and underwent military training but he was arrested on re-entering South Africa. Given a choice by Eugene de Kock between death or

co-operating, he became an askari.

He and Eric Mauleka, both under Bellingan's command infiltrated a group in Khayelitsha. They trained the group and decided to attack a minibus transporting police.

Bellingan and Liebenberg were told about the attack and follow-up police action left them dead, Mbane said. The hearing continues today. - Sa

Webster hit no shock to Ferdi's lover

(2/2) CT 5/2/98

PRETORIA Ms Amoré Badenhorst, former girlfriend of Ferdi Barnard, told the High Court here yesterday that she was not shocked when Barnard told her he had murdered Wits academic Dr David Webster because, under apartheid, this was "nothing terrible"

Badenhorst was under cross-examination by Barnard's lawyers about her claim that he had confessed to killing Webster

Barnard, former member of the SA Defence Force's CCB, is facing 34 charges, including two of murder, four of attempted murder and charges of robbery, theft and fraud.

After the inquest at which Barnard denied murdering the academic and was found not responsible, he came to her flat, Badenhorst said " We were talking . and it sort of slipped out that he had killed Webster I didn't believe him I thought he just had a big mouth "

In 1995 Barnard told her "Calla Botha had driven the (hit-squad) car He said that after he shot Webster Calla was so frightened he could not drive, and Ferdi had to threaten to shoot him "

"We used such a lot of drugs I don't know if Ferdi was under the influence when he told me this "

She said Barnard had told her that Webster was an ANC activist who was planning to blow up a bus full of people on the day of his death He said CCB head Joe Verster had ordered him to kill Webster

Badenhorst said Barnard had also confessed to helping a robbery accomplice, Eugene Riley, murder a Mark Frances, to prevent him from testifying against Riley. — Sapa

Kondile death: Amnesty hearing set for next week

CHRIS BATEMAN
POLITICAL WRITER

THE hearing of four former security branch policeman who have applied for amnesty in connection with the torture and death of ANC activist Sizwe Kondile in the Eastern Cape in 1981 will begin in Cape Town on Monday.

Kondile died after allegedly being abducted from Lesotho by security policemen, given "knock-out" drops and then shot dead near Komatipoort.

His body was burned to ashes in an alleged attempt to cover up his injuries and torture in the Jeffrey's Bay police cells.

The amnesty applicants are Nicolaas Johannes van Rensburg, Hermannus Barend du Plessis, Johannes Gottfried Raath and Gerit Nicholas Erasmus.

Some of them have also applied for amnesty in connection with the deaths of the Cradock Four, the Pebo Coetzee and student activist Mr Sipho Minkulu.

Other notorious security policemen who have been subpoenaed to testify include former Vlakplas commander Dirk Coetzee and his former operatives, David Tshikalanga and Almond Nofomela Coetzee allegedly supplied the "knock-out" drops.

Their amnesty applications on a range of human rights violations were heard in Durban a year ago.

Mr Geoffrey Danster, a former policeman from Port Elizabeth who was present at the interrogation and alleged torture of Kondile, is also expected to testify.

The amnesty hearing will be chaired by Judge Hassen Mall.

Mother's protect sons' killer

STAFF WRITER

AN ironic empathy between the mothers and the askari who led their seven sons to gruesome deaths in Guguletu 12 years ago emerged at the amnesty hearing of two security policemen yesterday.



As Mr Xola Mbane, 42, was asked by the lawyer for amnesty applicant, Lieutenant Wilhelm Bellingan, which hotel he (Mbane) was staying in, the families of the victims vigorously shook their heads at him, one drawing her finger across her throat.

Asked afterwards what they were trying to convey to Mbane, Ms Ndombunuse Piet, sister of shoot-out victim Christopher "Rasta" Piet replied "We don't want the boere to find him and kill him and prevent the whole truth coming out."

Ms Piet caused an uproar in a TRC hearing dealing with the Guguletu Seven last year when she exploded from her chair to hurl a shoe at Director Leonard Knipe of

the Violent Crimes Unit. He was one of the policemen in the shooting.

A bloody picture of her brother, with an armed Senior Superintendent John Sterrenberg (now Western Cape police public relations chief) standing over the body in his camouflage uniform, had been produced as evidence.

At that hearing Sterrenberg testified to having felled Piet with a volley of shots, then creeping up behind a tree and finishing him off at close range with a shot from his side-arm.

One mother, Mrs Eunice Miya, said she would find it incredibly difficult to forgive Mbane. Mbane has told the *Cape Times* he wants a face-to-face meeting with the mothers to apologise for his betrayal of their sons.

"Yes, he might have believed De Kock would kill him unless he did all this — but he could have sacrificed himself for all seven of our children."

"This is a very, very hard thing for us," Miya said. She could not forgive Mbane in spite of

his protestations that he was himself a victim of security police manipulation.

When TRC commissioner and investigative unit chief Mr Dumisa Ntsebeza was asked whether Mbane — who missed the amnesty deadline last year — would be charged for his actions, he replied:

"I don't know what the amnesty committee will recommend. To us he's a witness and a valuable source, he seems to have misunderstood how the process works. I can only express regret."

Deputy attorney-general Mr J C Gerber said either the TRC or individuals could make a complaint to the police and that his office would decide on the docket placed before them.

A fresh probe and affidavits would have to be gathered as all evidence given by Mbane to the amnesty hearing was inadmissible in a criminal trial.

The Guguletu Seven were Mandla Simon Mxinwa, 23, Alfred Zola, 22, Godfrey Jabulani Miya, 23, Christopher Piet, 23, Themba Molefe, 30, Z Kondile, Zola Mfobo, 21.

'I killed many more'

(252)

IN a dramatic confession yesterday, former MK guerrilla turned *agent provocateur* Xola Frank Mbane, who has killed about 20 people according to TRC sources, told the *Cape Times* that he had killed many more people than he had publicly admitted killing.

The self-confessed killer and undercover agent who led the Guguletu Seven activists to their deaths at police hands, was speaking during a break in his testimony in the amnesty application of two security policemen, Lieutenant Wilhelm Bellingan and Sergeant

Thapelo Mbelo, who shot two of the seven at point-blank range in a Vlakplaas security police death squad "sting" operation in Guguletu on March 3, 1986.

"There are others I killed and some I helped kill to protect my cover — I won't say how many until I have made a full statement getting everything out. This Gugs thing was just a small part of my operations," he said.

Mbane revealed that his wife and children had left him when they read that "I was a murderer". ● See Page 9

CT 5/2/98

GUGS KILLINGS 'AVOIDABLE'

'They wanted to do this evil thing'

ET 5/2/98

"THIS GUGS THING was just a small part of my operations," says former MK guerrilla turned *agent provocateur* Xola Mbane, who has killed about 20 people, according to TRC sources. (252)

THE self-confessed killer and undercover agent who led the Guguletu Seven activists to their deaths at police hands, Mr Xola Frank Mbane, admitted yesterday in an exclusive interview with the *Cape Times* that he had killed more people than those he had publicly admitted to killing

He was speaking during a break in his testimony in the amnesty application of two security policemen, Lieutenant Wilhelm Bellingan and Sergeant Thapelo Mbelo, who shot two of the seven at point-blank range in a Vlakplaas security police death squad "sting" operation in Guguletu on March 3, 1986

"There are others I killed and some I helped kill to protect my cover — I won't say how many until I have made a full statement getting everything out. This Gugs thing was just a small part of my operations," he said

Mbane, a former uMkhonto weSizwe (MK) guerrilla turned security police undercover agent (or askari), admitted in the amnesty hearing on Tuesday that he shot and killed two fellow askaris and a former MK colleague to protect his cover and gain local township credibility

This had happened in the build-up to the police ambush when he was training a cell of seven "amateurish" youths in Khayelitsha and Guguletu for a bogus attack on police, and supplying the youths with arms for their mission

"I cannot tell you how many more I killed, but as a member of the special Vlakplaas (askari) kidnapping, assassination and infiltration unit I worked

throughout the country," he said

Truth and Reconciliation Commission sources claimed Mbane's total death tally was nearer 20 — but he would not put a figure on it until he had made a sworn confession

He told the hearing earlier that he was forced to become an askari after he was captured within days of returning to South Africa as a fully trained MK guerrilla

Vlakplaas commander Eugene "Prime Evil" de Kock had put a pistol to his head and said "co-operate or die"

Mbane said he knew De Kock was capable of tracking him down anywhere in South Africa or neighbouring countries and killing him — unless he did exactly as he was told

He told the *Cape Times* he had spurned security police protection after leaving Vlakplaas as this would have "just drawn more attention to me".

He said he was living in the Pretoria region "among my people — but my wife and kids all left me when they read in the papers that I was a murderer"

Of Bellingan — who was his askari "handler" in Cape Town — and "other" security policemen, he said "I'd rather go to jail than have to keep meeting them in the street"

Of the irony that Bellingan and Mbelo were applying for amnesty while he had not, Mbane said that unlike them, he had not "signed up to join the police", and so saw no point in applying for amnesty

Yesterday he re-affirmed at the amnesty hearing his belief that the

'My wife and kids left me when they read I was a murderer.'

THROUGH GLASS DARKLY: "Prime Evil" Eugene de Kok seen through a water jug at the TRC hearing on Tuesday

PICTURE: GARTH > -

illing of the Guguletu Seven was unnecessary, "evil" and avoidable. A police helicopter had often circled above the hideout he shared with the Guguletu Seven while he sat on top of a bus wearing a white cap and reading a newspaper to help the pilot identify

the shack. "Their (the security police) intention was not to arrest us. They had enough chance. They just wanted to do this evil thing that they did," he said. Gesturing at De Kock, who is attending the hearing in his prison outfit,

Mbane said: "That dog, he caused all this. He's got much thinner now. He was much bigger then. You should have seen him when he had a bit of Red Heart rum in him." The hearing continues today — Staff Writer

CT 5/2/98

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High Court ruling paves the way for gay couples

ROBERT BRAND AND RYAN CRESSWELL

ET 5/2/98 (252) (509)

JOHANNESBURG The Pretoria High Court's landmark ruling in favour of a lesbian police captain who wants to register her partner as a dependant for medical aid could pave the way for the recognition of gay and lesbian marriages, legal analysts said

Mr Justice J P le Roux set aside a decision by Polmed, the South African Police Service's medical aid scheme, to refuse an application by police Captain Jolande Langemaat to register her partner of 11 years, Ms Beverley-Ann Myburgh.

Constitutional experts said the ruling — recognising same-sex couples should have the same rights as heterosexual couples — could also have implications for other areas of employer/employee relationships.

The precedent set by Judge Roux is legally binding only within the jurisdiction of the Gauteng division of the High Court, but would be a persuasive argument in other jurisdictions

"It is an important decision

because it affects not only medical aid," said Professor Gretchen Carpenter of the University of South Africa's law faculty

Any benefit accruing to an employee or dependant, by virtue of his or her marital status, may have to be extended to same-sex partners, Carpenter said.

Mr Kevan Botha, legal adviser of the National Coalition for Gay and Lesbian Equality, said the ruling had "opened the way for many lesbian and gay people to claim their rights and for our relationships to be recognised"

Langemaat described the judgment as a victory for the gay and lesbian community

"The judge spoke to our hearts when he said both hetero and single-sex relationships deserve equal respect. We ask for nothing more."

In his judgment, Judge Roux said it was time that SA law recognised committed gay and lesbian relationships, which were no different from marriages

Roux said police regulations and Polmed's definition of dependants represented a select group of people

and excluded a large number of dependants, including grandparents, brothers and sisters

The regulations governing the registration of Polmed dependants will now have to be rewritten and Langemaat's application to register Myburgh reconsidered.

Commissioner George Fivaz, who with Polmed and Safety and Security Minister Mr Sydney Mufamadi opposed the application, said he would comment after studying the judgment

Mr Declan Brennan, executive director of the Representative Association of Medical Schemes (RAMS), said there was a problem with the law at the moment as gay marriages were not yet legally recognised in South Africa and schemes demanded a marriage contract or proof of a common law relationship.

But some medical aid concerns are already covering gay couples whom they deem to be serious partners. Mr Adrian Gore, managing director of Adrian Gore Momentum Health, said his company was already doing this for many gay couples

Guguletu seven 'were untrained'

BO 5/2/98

(252)

CAPE TOWN — The truth commission's amnesty hearing for two former Vlakplaas members seeking amnesty for their part in the Guguletu seven killings, was told yesterday that the original group of four youths were untrained and did not pose a threat to anyone.

Former police askari Jimmy Mbane said he had the impression that the police had intended to set the youths up to be killed.

Wilhelm Bellingan, a former sergeant at Vlakplaas, and Const Thapelo Mbelo are seeking amnesty for the death of seven young men in an alleged shoot-out with police on March 3 1986.

During cross-examination by Bellingan's legal representative, advocate Kobus Booyens, Mbane said it was only after a fifth member — who had been trained locally and was in possession of an AK47 — joined the group that he contacted Bellingan and another security police officer, Wilham Liebenberg, and told them the four youths were not trained and did not have weapons.

It was agreed that Mbane and fellow askari Eric Maluleke would provide the group with military and weapons training.

Mbane said the information he and Maluleke had been given —

that the group was carrying out destabilising actions — was false.

Questioned by Booyens about three men allegedly sent by Liebenberg to infiltrate the group, who were killed when they were discovered, he said he had told both officers why the informers were killed.

After he shot the first informer, who was found to be carrying a tape recorder, Mbane said he had asked Liebenberg and Bellingan not to send more informers as they would be killed. Two more were sent and they were also killed. Mbane said Liebenberg had denied sending informers — Sapa.

Lubowski's family against new inquest

WINDHOEK — The upcoming second inquest into the September 1989 assassination of Swapo activist Anton Lubowski was dealt a blow yesterday when the family of the former lawyer withdrew their support for the hearing.

The Lubowski family said they wanted the murderers to be brought to trial.

Speaking for the late Lubowski's parents, children and sister, his former wife Gabrielle told The Namibian they wanted the killers to face trial, not a new inquest.

"So far the findings of the first inquest have been ignored. We don't want another. We want the men implicated in plotting his murder to be put on trial," she said.

The inquest starts on February 9 and is expected to last four days, according to the Windhoek High Court roll.

Lubowski said the family wanted Irish mercenary Donald Acheson and Civil Co-operation Bureau operatives Ferdi Barnard, Calla Botha, Chappie Marais, Slang van Zyl, Joe Verster, Staal Burger, Wouter Basson and Johan Niemoller, all implicated at the first inquest, to stand trial.

At the end of the first inquest in 1995 Judge Harold Levy found that Acheson, hired by the bureau, assassinated Lubowski. He also found that former bureau MD Joe Verster and the other bureau operatives were prima facie accomplices in the murder.

"Judge Levy's findings are being ignored. We don't know why," Lubowski said. She denied allegations that her late husband had been an SA spy. — Sapa.

BO 5/2/98

Banks to tighten criteria for home loans

Robyn Chalmers

THE number of houses built each year could be reduced by up to 18 000, with the loss of about 40 000 potential jobs, when financial institutions phase in new criteria for granting bonds next month, developers warn.

The more stringent criteria bring SA into line with international lending norms and raised a storm of protest when mooted two years ago.

Employees receiving housing subsidies will be affected by the change, which substantially reduces the size of bond for which they qualify. Public servants make up the bulk of this market.

Council of Southern African Bankers housing GM Lance Edmunds said that with the downsizing of the public service banks believed it prudent to revise lending criteria. Many retrenched employees would not be able to pay

their bonds, particularly as the current lending criteria allowed borrowers access to homes they struggled to afford.

Banks calculate the bond amount to be granted by taking 25% of the base salary and adding the housing subsidy. The new method will be to take 25% of the combined salary and subsidy.

This means someone earning R1 600 a month and qualifying for a R63 400 bond previously, will now be offered a bond of about R33 000.

SA Residential Developers' Association executive director Hendrick Kekana said the new criteria would kill the much-needed secondary housing market and have an adverse effect on sectors of the residential market, notably houses priced between R60 000 and R100 000.

Kekana said about 21 250 houses a year were being built for individuals with a subsidy. With the new criteria,

it was estimated that only about 15% of these would be built each year.

Building Industries' Federation of SA executive director Ian Robinson said the change would have a negative effect initially on public residential investment, which is about R1,1bn a year. "However, in the longer run it will control consumer spending and debt obligations and there will be less repossessions, which should have a positive effect on the economy."

Edmunds said banks were aware that the new criteria would have a "serious impact" on the amount an individual could borrow, and had attempted to lessen its effect. "We have done what we can by imposing a one-year moratorium on the criteria last year, and we will phase the criteria in over an eight-month period. But ultimately we believe it irresponsible to continue lending as we are."

Lesbian ruling expected to set precedent

Taryn Lamberti

THE refusal of the police medical aid scheme, Polmed, to allow a lesbian police officer to register a female partner of 11 years as a dependant on her medical aid was declared unconstitutional by the Pretoria High Court yesterday.

An SA Police Service regulation, which defines a dependant as a "legal spouse, widow, widower or dependent child", was struck down by Judge JP Roux on the grounds that it violated a constitutional right to equality.

Roux directed Polmed to reconsider Capt Jolanda Langemaat's request. Langemaat and Beverley-Anne Myburgh, who had lived together as a married couple since June 1986, had a

"committed, exclusive, loyal and continuous relationship". They had joint finances, were financially co-dependent, made joint decisions and were listed beneficiaries of each other's policies, Roux said.

The stability of same-sex relationships was no different from that of married couples and "it was time the law recognised such unions".

Polmed's argument that it feared a flood of unmarried people attempting to register their partners as dependants on the medical aid had no merit.

Josey Ballenger reports that medical scheme administrators believe the case will set a precedent not only for medical aids but also for pension and other funds with beneficiaries.

However, they pointed out that several medical aids already extended benefits to homosexual partners. In those cases a member supplied a legal document verifying the couple's long-term cohabiting status.

Subject to certain conditions, "special dependants" such as parents, grandparents or other relatives were also accommodated.

Alex van den Heever, senior researcher at Wits University Centre for Health Policy, said the case meant medical aids would have to decide how to differentiate between unmarried heterosexual couples and same-sex couples. This could be resolved by a change in law to recognise same-sex marriages, he said.

Key Market Movements — 3/2 to 4/2

Gold				Currencies		Europe close DM/\$	Europe close R/£	3 month NCD	Stock Markets				
Lon close \$/oz	Lon PM \$/oz	Lon PM R/oz	Kruger-rand	R per \$	\$ per R				FTSE 100	Nikkei Index	JSE Ov'all	JSE Gold	JSE Indus
298,45	298,35	1 472,21	1 540,0	4,9345	9,2031	1,8171	8,1360	14,90	5 612,8	17 022,98	6 569,4	860,6	7 716,9
297,35	298,15	1 467,64	1 520,0	4,9225	0,2027	1,8017	8,1016	14,83	5 595,8	16 882,62	6 506,7	829,0	7 654,0

I drove Gugs

Seven to

cop ambush,

says askari

*Activists 'harmless',
PART 5/12/98*

(2/5)

JOHN YELD
ON THE TRUTH COMMISSION

Askari Jimmy Mbane told a Truth Commission amnesty

committee hearing today that he had driven the Guguletu Seven to the site of the police ambush in which they were all shot dead.

Mr Mbane was appearing in the amnesty application of two of his former Vlakplaas colleagues, then Sergeant Wilhelm Rian Bellingan and Constable Thapelo Johannes Mbelo. The two men have applied for amnesty for their part in the killing of the seven in 1986.

Mr Mbane testified today that he and another askari - Eric "Shakes" Maluleke - had trained the Guguletu Seven after infiltrating their group in January 1986, and that he had driven them to the scene of their planned attack on a police vehicle where they had all been shot dead in a police ambush.

He was shown a video clip from the SABC television programme Special Report, which covers the Truth Commission. The clip contained an interview with an unidentified man who claimed he had been a guerrilla involved with the Seven, that the group had been trained by a Mitchell's Plain man called Ali, that

he had been involved in the police ambush in which the Seven had died and had thrown a handgrenade at the policemen - and had then managed to escape.

Asked to comment, Mr Mbane responded "I don't know this person I am saying we were nine inside this kombi (the Seven, himself and Maluleke) and I'm standing by that I was in charge thus whole operation started in my presence."

In testimony yesterday Mr Mbane confirmed that he had signed a statement to the TRC about his involvement in the killing by police of the Guguletu Seven in 1986, even though he knew it contained mistakes.

This was because the commission's investigators were "bothering and irritating" him, he said.

"I just wanted them to stay away from me they didn't have any respect for me," he said.

Western Cape police told the commission last year that the guerrillas were highly trained and constituted a major threat in the region.

But Mr Mbane testified that, after infiltrating their group, he had found six of them had not had any military training at all, and the seventh - Christopher "Rastaman" Piet - had had only local training. "They were harmless, sir," he said.

Blow to TRC as 2 members fall ill

JOHN YELD

The Truth Commission's embattled amnesty committee was dealt another blow today when one of its members, Judge Selwyn Miller, was taken to hospital.

Judge Miller was one of a panel of four hearing amnesty applications this week by two former Vlakplaas security policemen for their role in the controversial killing by police of the "Guguletu Seven" in March 1986.

Judge Miller reportedly experienced pains during the night, and was taken to a doctor for an examination by one of the Truth Commission staff early today. He was later admitted to hospital.

The reduced amnesty panel continued the hearing, but another of its members - Sisi Khampene - withdrew shortly before lunchtime as she has a viral infection.

Her withdrawal reduces the amnesty committee to two

Judge orders medical aid to admit gay partner

Lesbian police captain's successful court application against Polmed will have wide-ranging effects, say analysts

Star 5/21/98 (252)

By ROBERT BRAD
AND RYAN CRESSWELL

In a ground breaking ruling for gay and lesbian couples in South Africa, the Pretoria High Court has found that a lesbian captain in the South African Police Service has the right to register her lover of 11 years as her dependant on her medical-aid scheme.

Judge JP Roux yesterday declared regulations by the South African Police Service's Medical Aid Scheme (Polmed), which exclude the partners of gay and lesbian couples as dependants, unconstitutional.

Judge Roux ordered Polmed to reconsider Captain Jolande Langemaat's application to have her partner, Beverley-Ann Myburgh, registered as a dependant.

Thus follows an application last month by Langemaat, seeking a court order compelling Polmed to register her partner on the medical aid scheme.

The ruling could pave the way for the recognition of gay and lesbian marriages, legal analysts said yesterday.

The precedent set by Judge Roux is legally binding only within the jurisdiction of the Transvaal division of the High Court, but would be a persuasive argument in other jurisdictions.

"It is an important decision because it affects not only medical aid," said Professor Gretchen Carpenter of the University of South Africa's law faculty.

Any benefit accruing to an employee or dependant by virtue of his or her marital status may have to be extended to same-sex partners, Carpenter said. This could include pension benefits or other benefits such as free education of spouses or dependants.

Kevan Botha, legal adviser of the National Coalition for Gay and Lesbian Equality, said the ruling had "opened the way for many lesbian and gay people to claim their rights and for our relationships to be recognised". He said the judgment was a direct challenge to all employ-



Gay-rights victory "We ask for nothing more," said Captain Jolande Langemaat (left) after a judge ruled that same-sex relationships deserve equal respect, and that a medical aid's refusal to register her partner, Beverley-Ann Myburgh, as a dependant was unconstitutional.

ers to change their policies and abide by their constitutional and statutory obligations.

Langemaat described the judgment as a victory for the gay and lesbian community.

"We didn't do it just for ourselves. The judge spoke to our hearts when he said both hetero and single-sex relationships deserve equal respect. We ask for nothing more."

In his judgment, Judge Roux said it was time that South

African law recognised committed gay and lesbian relationships, which he said were no different from the relationships of married couples.

Roux said the police regulations and Polmed's definition of dependants represented a select group of people and excluded a large number of dependants, including grand parents and brothers and sisters. This was discriminatory. The constitution forbids

unfair discrimination on the grounds of sexual orientation or marital status.

Commissioner George Fwaz - who, together with Polmed and Safety and Security Minister Sydney Mufamadi, opposed the application - said he had taken note of the judgment and would comment once he had studied it. Declan Brennan, executive director of the Representative Association of Medical Schemes, said copies of the judgment

would probably be studied by medical-aid management.

He said some medical-aid schemes already covered brothers, sisters and grandparents if they were proven dependants. He said there was a problem with the law in that gay marriages were not yet legally recognised in South Africa and schemes needed a marriage contract or a common-law relationship to write up a policy. Adrian Gore, managing di-

rector of Adrian Gore Women's Health, said his company was already covering gay couples whom it considered "serious partners".

However, Gore said, Judge Roux's "broad definition" of other dependants such as grandparents, brothers and sisters should be considered carefully because the industry had to guard against members being able to put any unhealthy relative on a policy.

NAASHON ZALK

ASKARIS JUST 'PAWNS IN THE GAME'

Vlakplaas policemen split along racial lines

FAMILIES OF THE GUGULETU SEVEN believe that black askaris and policemen involved in their killings were "pawns in the game" of their white superiors. **CHRIS BATEMAN** reports.

IN spite of their brutality and betrayals in the name of apartheid, the Vlakplaas policemen involved in the Guguletu Seven killings are now split along purely racial lines.

This emerged from interviews with Sergeant Thapelo Mbelo and Mr Xola Mbane, the Vlakplaas askari who trained, armed and led the seven young activists to their deaths in NY1 Guguletu 12 years ago.

Mbelo is applying for amnesty with his Vlakplaas commander, Lieutenant Wilhelm Bellingan, for shooting at least two of the Guguletu Seven activists at point-blank range in a Vlakplaas "sting" operation on March 3, 1986.

In another similar twist, the families of the seven victims have shown some compassion for their black compatriots — once marked for instant township death as "Mzimpi" (sell-outs) — whom they believe were "pawns in the game" of their white superiors.

Mbelo said yesterday at the conclusion of the amnesty hearing — postponed for written argument and ruling by the amnesty committee — that since his testimony, Bellingan had not spoken to him or greeted him.

"Yes, what I said may have damaged him but it was the truth and my future is at stake," Mbelo said.

"When the Guguletu hearings first began last year, we met in the hearing room and he was very friendly — like old colleagues are — and I gave him my phone number and we chatted and so on, but once I testified he was as cold as anything and he hasn't spoken to me since," Mbelo said.

Mbelo, who says he still serves as a sergeant in the "special branch", after 16

years' service, claims that in contrast, the families of the victims had forgiven him after his self-proclaimed "full disclosure" to the Truth and Reconciliation Commission.

"There are one or two of them who are still hostile to me, but I've got it all off my chest now and I feel much better," he added.

He described Mbane, his former Vlakplaas (askari) colleague as "my friend — he's a black person and he's got it much worse than me. I feel very sorry for him, he has to fend for himself and he had no choice but to do what he did, or (Eugene) De Kock would have killed him."

Mbane has described how he killed two fellow askaris, sent without his knowledge to join his budding "MK cell" in Khayelitsha by terrorism training unit chief William Liebenberg.

Mbane says he had to murder his former MK guerrilla colleagues to prevent his own cover being blown — which would have meant instant death for him.

Mr George Molabetsi, a TRC debriefer who has constantly been at the side of the families throughout their long ordeal, said the families believed "this is a black and white thing, overall, and that it represents the apartheid era."

"They see Mbelo and Mbane as pawns in the game — pawns who were placed in a very dangerous position where they were declared outlaws in their own communities and vulnerable to death or injury at any second."

Molabetsi said the families saw the way in which Mbane was manipulated as "showing the ruthless, brutal and cruel manner in which they handled MK detainees."

CT 6/2/98

(252)

Both men were viewed by the families as having been unfairly treated, he said.

"That doesn't make it any easier for the families to forgive them — but the solidarity along racial lines is there," he said.

Mbane has said he wants to apologise to the mothers of the seven youths.

The mothers showed their sympathy with Mbane's position on Wednesday by vigorously signalling to him while he was under cross-examination by one of Bellingan's lawyers not to reveal the name of the hotel he was staying at.

They said later they were afraid "the boere will find him and kill him to stop the truth coming out".

Mbane was seen gratefully accepting journalists' calling cards at the conclusion of the hearing — now his only "protection" against both sides in the aftermath of the apartheid war.



"COLD" Former Vlakplaas commander Wilhelm Bellingan FILE PICTURE

Maxim!

Profits of



Gender equality commission special adviser Colleen Lowe-Morna and commission deputy chairman Phumelele Ntombela-Nzimande discuss Radio Islam's refusal to allow women on air.

Picture TREVOR SAMSON

Body will oppose Islam radio licence

Dustin Chick (272) (210)

THE Commission on Gender Equality and members of the Muslim community met yesterday to discuss the refusal by Radio Islam to allow women to participate in its activities.

The meeting followed a decision taken by the monitoring and complaints committee of the Independent Broadcasting Authority (IBA) in December ordering the station to allow women on air or face having its licence revoked.

According to the station's management, the decision to bar women from Radio Islam's activities had been taken because of Islamic religious beliefs. Deputy chairman Phumelele Ntombela-Nzimande said the gender commission would oppose the renewal of the station's licence.

The deadline for public submissions on the suitability of Radio Islam having its licence renewed expired today.

Although Radio Islam's right to freedom of religion was protected by the Constitution, there was a limitations clause which prevented individuals from infringing on the rights of others, said Ntombela-Nzimande.

Ntombela-Nzimande said radio stations were not about practising religion as they were in the public arena.

Condoning the exclusion of women from the public airwaves would set a dangerous precedent for other forms of discrimination.

The head of the legal section of the Muslim Judicial Council, Siraj Hendricks, said the beliefs propagated by Radio Islam were not those shared by the greater Muslim community.

Shoot-out victims 'could have been arrested instead'

CAPE TOWN — Former police askari Jimmy Mbane told the truth commission's amnesty committee yesterday it had been quite possible for the seven young men who died in a shoot-out with police in Guguletu in 1986 to have been arrested before the incident.

Throughout the three days he has spent on the witness stand, Mbane has maintained that his commander, former Vlakplaas operative Wilhelm Riaan Bellingan, and another security police officer, William Liebenberg, knew the group's whereabouts.

He and fellow askari Eric Maluleke had been instructed to arm and train the group in basic military combat, which led to a plan two months later to attack a minibus ferrying police officers to Guguletu Police Station. The seven subsequently died during the attack on March 3 1986, after Mbane had informed Bellingan of the plan. (252)

The weapons, ammunition and grenades they had been given by the Vlakplaas police had been kept under his supervision in a trunk, Mbane said, and Bellingan could easily have "extracted the teeth" of the operation by instructing him to hand the trunk over to the police.

Mbane was giving evidence in the amnesty hearing for Bellingan and another applicant, former Vlakplaas operative Const Thapelo Johannes Mbelo, for their part in the incident.

During cross-examination by Brent Williams, the legal representative for the families of some of the victims, Mbane agreed that the police "anticipated and wanted a firefight".

Although Bellingan had not indicated that the group would be arrested, he had expected this to happen, and had been shocked when he realised he had led the seven to their deaths. — Sapa.

150 6/2/98

Barnard denies he told mistress of Webster's murder

Stephané Bothma

PRETORIA — Former Civil Co-operation Bureau and Military Intelligence operative Ferdi Barnard yesterday accused his former mistress of teaming up with a known gangster, Corrie Goosen, in fraudulent diamond and currency deals, of which he himself "knows nothing about".

Barnard, 39, on trial in the Pretoria High Court on 34 charges including the 1989 murder of anti-apartheid activist David Webster, denied having shot Webster or ever telling Amore Badenhorst he had done so. He also disputed her claim that he

had shown her a dam near Nylstroom where she said he had disposed of the murder weapon. "My client says he took Amore Badenhorst to the dam to smoke a crack pipe," defence advocate Fanie Coetzee told the court.

Badenhorst, a self-confessed former prostitute and cocaine addict, is a key witness against Barnard, with whom she had an affair for five years before entering a witness protection programme at the end of 1996.

Badenhorst also told the court that a serving member of the SA Police Service's organised crime unit, Capt Rasie Erasmus had been present when Barnard and Badenhorst used cocaine

and other drugs, and had even "let Ferdi's crack cocaine pipes".

She told judge Johan Els that Barnard told her about his involvement in the Webster murder as well as the murder of a drug dealer, Mark Francis, beaten to death with a baseball bat in Hillbrow in 1991.

She testified about her own role in fraudulent transactions executed by Barnard and Goosen, who died in a high-speed motorcycle crash last year.

Yesterday Coetzee said his client had never been involved in any of the criminal deals, by which she had testified: "His sole function on these occasions was to provide security for

Goosen's deals, for which he was paid as a bodyguard, and his job was to secure the venues where Goosen and others were engaged in diamond deals. He knows nothing about so-called 'knocks'," Coetzee told the court.

Badenhorst burst out laughing when Coetzee said that, according to Barnard, if she had been involved in anything illegal, "there must have been something between you and Goosen that my client doesn't know about... you must have had a private arrangement with Goosen".

"With respect... The only person I ever listened to was Ferdi Barnard," Badenhorst responded.

(252) PD 6/2/198

Barnard's lover tells of hell and roses

(2177) Star 6/2/98

Court told of the murky underworld involving gangsters, prostitutes and undercover policemen

By **NORMAN CHANDLER**
Pretoria Bureau

The life of sharp-witted Amore Badenhorst can only be described as a house made of playing cards propped up by the sleazy underworld and her love for a larger-than-life character who has let her down with devastating effect.

Her life, and those of her two young children, has come tumbling down at every turn, and, as she has told the Pretoria High Court, her lover, Rerdi Barnard, never lifted a finger to help her pick up the pieces.

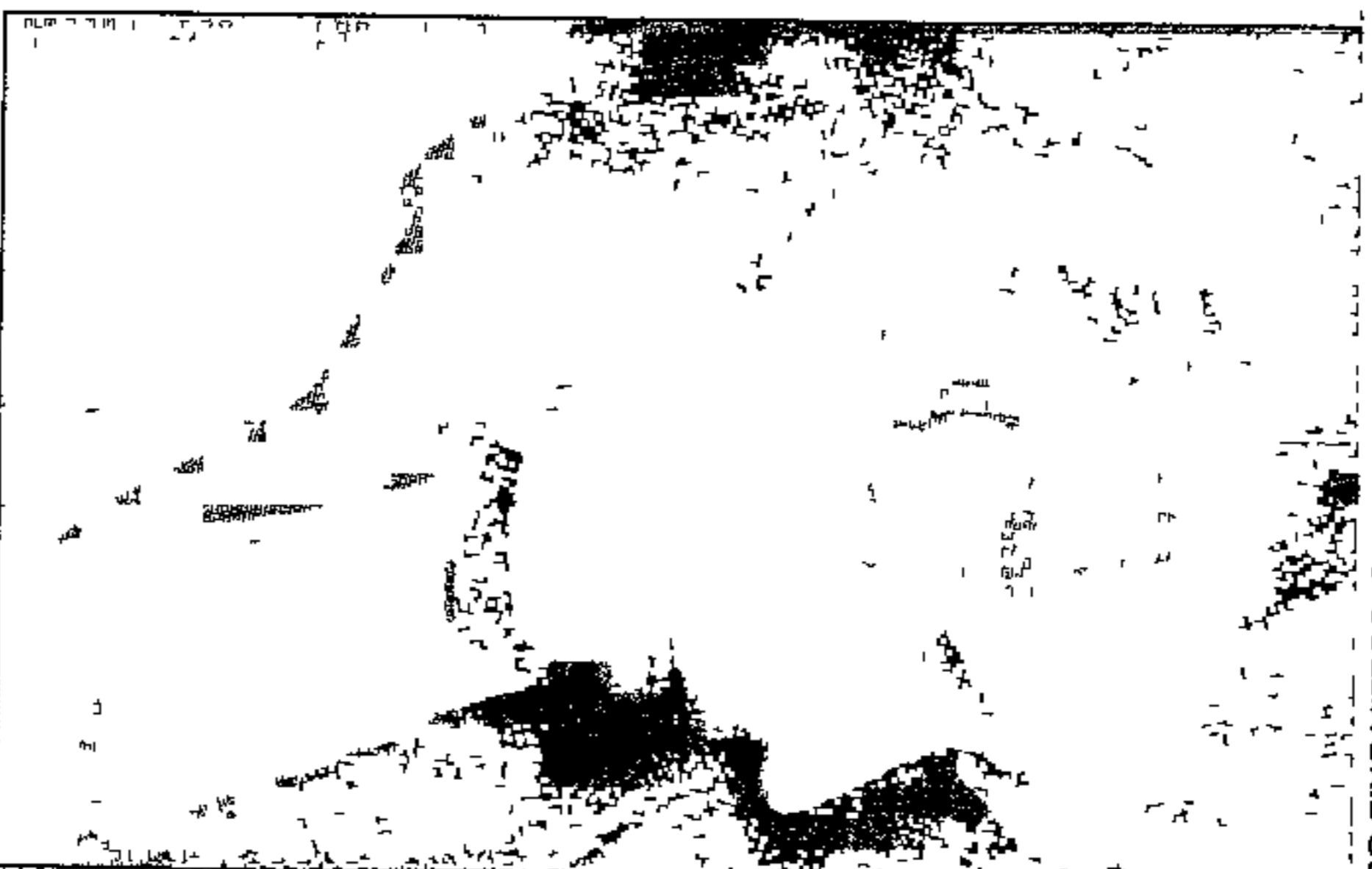
She blamed Barnard for turning her into a brothel-keeper and drug addict.

She told the court he gave her a stolen car to use - only to set it alight when he realised the police might take an interest in it as they delved increasingly into his affairs.

He also would not let her have visitors, nor visit the neighbours, but felt nothing about bringing home young blonde women from Club 69 - which he owns - to sleep with them on the couple's bed.

Thus was even though he had fathered her young daughter, in whom, she said bitterly from the witness box, Barnard had not taken any interest.

When she complained of his behaviour, there was always a heated argument and hook the kids and ran to Durban or Badplaas.



CHRIS COLLINGRIDGE

Obsessive lovers ... Amore (left) and Barnard (right), who parted ways on a number of occasions but always ended up getting back together, until she finally decided she had had enough.



GARY BERNARD

The quarrels included threats by her to shoot him, stab him with a knife or pair of scissors, having a video recorder thrown at her, and being hurled out of cars. The complaints book at many police stations bear testimony to the bitter rows.

But, she said, Barnard, now serving 10 years for diamond smuggling, always tracked her down, brought her back, and the cycle started all over again.

Even while on the Government's witness protection programme she would run away, so obsessed was she with Barnard. But, as the court heard, she would again make

statements to the police, and return to the programme. This prompted Mr Justice Johan Els to ask her: "Why are you giving evidence against him?" She replied: "I loved him I couldn't do without him. I am giving evidence because of the people he has hurt."

And she has made it plain that she still loves Barnard but now realises that she would never have been able to get him to mend his ways.

Badenhorst (29) has painted a self-portrait of herself as the archetypal gangster's moll.

Her world has been that of spies, swindlers, killers (both

state sanctioned and others), brothels and clubs, guns, travel, extravagant spending on the proceeds of diamond and other deals, and top hotels and restaurants.

She loved her parents, doted on her two children, and spent the proceeds of swindles on herself and her home - in short, all the classic ingredients of a Hollywood gangster film.

Her life of hell, and sometimes roses, in the arms of Barnard included more home addresses than most people have in a lifetime.

In a matter of three years she had houses in Waverley (Johannesburg), two in Roode-

poort's Weltevreden Park, and another in her parents' hometown of Nigel.

The Burns Street, Waverley, house was nothing less than a brothel, with separate living quarters for her and the children and a huge entertainment area for "the girls" and their night visitors.

ANC politicians and other important figures were taken there, she told the Pretoria High Court, to "compromise them", with the full knowledge of police officers who also made use of the facility.

To make matters even more interesting, the rent was paid for by convicted multi-murderer Eugene de Kock, who was South Africa's No 1 assassin while in the pay of the police's Vlakplaas anti-terrorism unit.

De Kock, Barnard and Badenhorst met frequently - the favourite haunts included the Three Sisters coffee house in Hillbrow, the Sunnyside Park Hotel, various Holiday Inns, the Burns Street house, but never, as she indignantly informed the judge, would she allow De Kock to enter her own house in Weltevreden Park.

"No Never, never," she said.

It seems that she, like a lot of other South Africans, lived in mortal fear of the assassin although she herself was a part of the murky nether world of murders and gangsters.

Thapelo Mbelo grins broadly and then chuckles infectiously as he recalls the apartheid's regime's propaganda of "a Red under every bed"

But there's also a marked tick in his left eye that hints at the underlying tension in his life - the unhappy legacy of that self-same propaganda which he admits succumbing to

"Yep! We believed it at the time," he says candidly

For Mr Mbelo was one of a group who probably qualified as the most hated men in South Africa the apartheid government's black security police

And his particular status was even more "élite", for he was stationed at the security police's notorious Vlakplaas unit outside Pretoria, where his job was to handle - some would say manipulate or control - the Askaris (turned guerrillas from the liberation movements) who did much of the unit's dirtiest work during the war they fought on behalf of the apartheid government (and sometimes just for themselves)

This week Mr Mbelo and his one-time commander, sergeant Wilhelm Rian Belligan, sat in the 10th floor offices of the Truth and Reconciliation Commission's Adderley Street offices listening intently as their lawyers argued that they deserved amnesty for their role in the controversial killing of the "Guguletu Seven" guerrillas in March 1986. There has always been wide understanding of the plight of the Askaris, and of how vicious torture, intimidation and threats were used to coerce them into their unhappy roles and keep them there in effective subjugation

There is much less sympathy for black security policemen, who were perceived to have made a conscious choice to reap the benefits of the hated apartheid system

But Mr Mbelo's amnesty application provides a rare and fascinating insight into how such policemen were recruited, and of how their particular choice of employment was not always completely voluntarily

"I was born and raised in Bloemfontein and attended school there," he stated

"My mother was unmarried and worked as a domestic worker for a white family. Due to the fact that she slept at the house where she worked I only saw her at the end of the month for a day or two, I was raised by my grandmother"

Politics were never discussed in their home and no one in the family had strong political leanings, he continued

"I left school whilst busy with matric in 1980. The reason I left school was because my family were struggling financially and I could not even afford a proper uniform, and (I) decided to assist my family"

At the time black schools were wracked by violent protests and boycotts and there was little formal schooling taking place

"At school I was disinterested in politics and did not ascribe to any particular political theology. When I left school I scouted for employment, but was unsuccessful

"The first positive reply that I received was from the South African Police"

Before completing his basic training, he was recruited into the security police and after further training was posted to Vlakplaas. "At an early stage since joining the SAP I was indoctrinated about the so-called 'Total Onslaught' which the ANC, PAC and other liberation movements were waging

'Our mission, we were told, was to counter the revolutionary onslaught'



LEON MULLER

Thapelo Mbelo 'It's a very difficult thing they've done, to forgive a person for killing your child'

against the apartheid regime. We were also indoctrinated about the so-called 'Rooi Gevaar' (Red Peril)

"Our mission, we were told, was to restore law and order in the townships and to counter the revolutionary onslaught which was being led by the ANC

"Although I was black and denied certain basic human rights by the regime, I took my duties seriously and honestly believed that what I was doing was in the best interests of the country at the time"

It was that belief that eventually led to his taking part in the police ambush of the Guguletu Seven ANC activists

During that incident, he says he obeyed an order by a white sergeant in the riot squad and shot one of the Seven in the head, even though he (the guerrilla) had his hands in the air and was giving himself up at the time

Today, Mr Mbelo is still a serving in the police, holding the rank of sergeant and based at the Organised Crime Unit Truck Hijackings, in Bloemfontein

Does he pick up any antagonism from his police colleagues because of his past?

"No, or if it's like that, they don't show it to me," he told the Cape Argus in an interview after the close of the amnesty hearing

"At first, nobody knew the kind of job I'd been doing because I changed my work. It only came out last year when I started spilling the beans

"There are people who are politically aware who have accepted me because they knew the complications of the past

"There are some who say 'You were killers,' but I don't feel bad about them, because everyone has the right to express their views"

Mr Mbelo admits his past was responsible for "shattering" his family life, and that

his wife left him when she found out. Asked how he feels now about having worked for the hated security police, he replies

"We did the spade work. These white guys (in the security forces) weren't allowed into the townships, and so they must say 'thanks' to us"

Have they said thanks?

Mr Mbelo laughs. "How can they say that? Where's that government? It's gone."

As to whether he's bitter about his treatment as a black security policeman, he says "Only about the way they used us, because we worked as if we were fighting for the country"

At the conclusion of his testimony when the amnesty hearing started in November, Mr Mbelo apologised to the parents and families of the Seven and appealed for forgiveness

Asked yesterday whether he believed his amnesty application for the "Guguletu Seven" incident would be successful, Mr Mbelo said this had not been his main concern. "The family of the victims are my main concern. They forgave me, and I'm very happy

"After they forgave me I felt - how can I put it? - there was a load off my shoulders, and I'm happy for that. It's a very difficult thing they've done, to forgive a person for killing your child. It's unbelievable"

Mr Mbelo says the truth and reconciliation process was unexpected, but he believes it is working

"I think they (the people who negotiated the formation of the commission) have done something very great

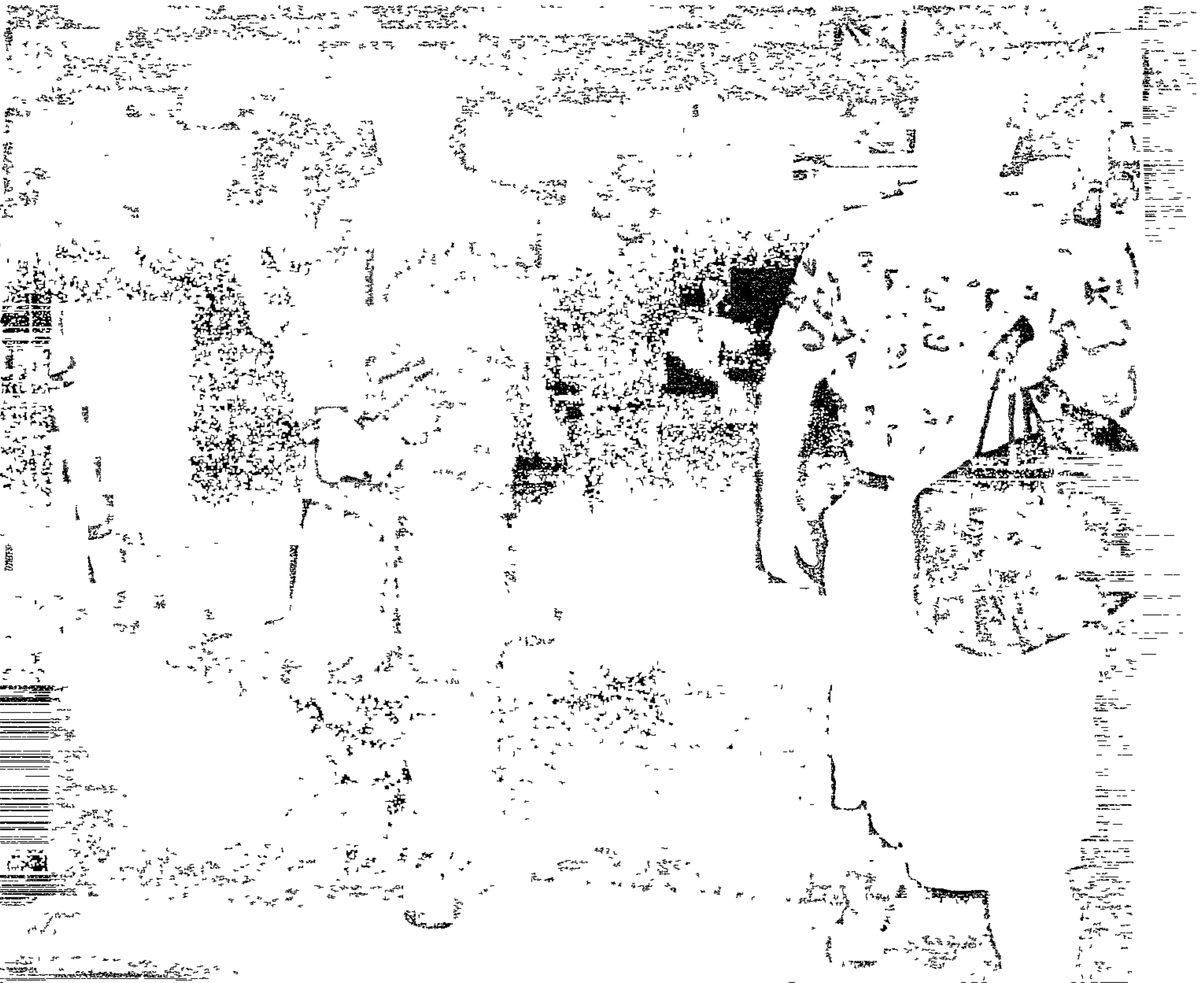
"The whole country and the whole world are starting to get the facts of what really happened, whereas before people would only see on their TV screens that the cops have killed so many 'terrorists'. They didn't really know what was happening

"Now the present police force must make sure not to make the same mistakes that the previous police did"

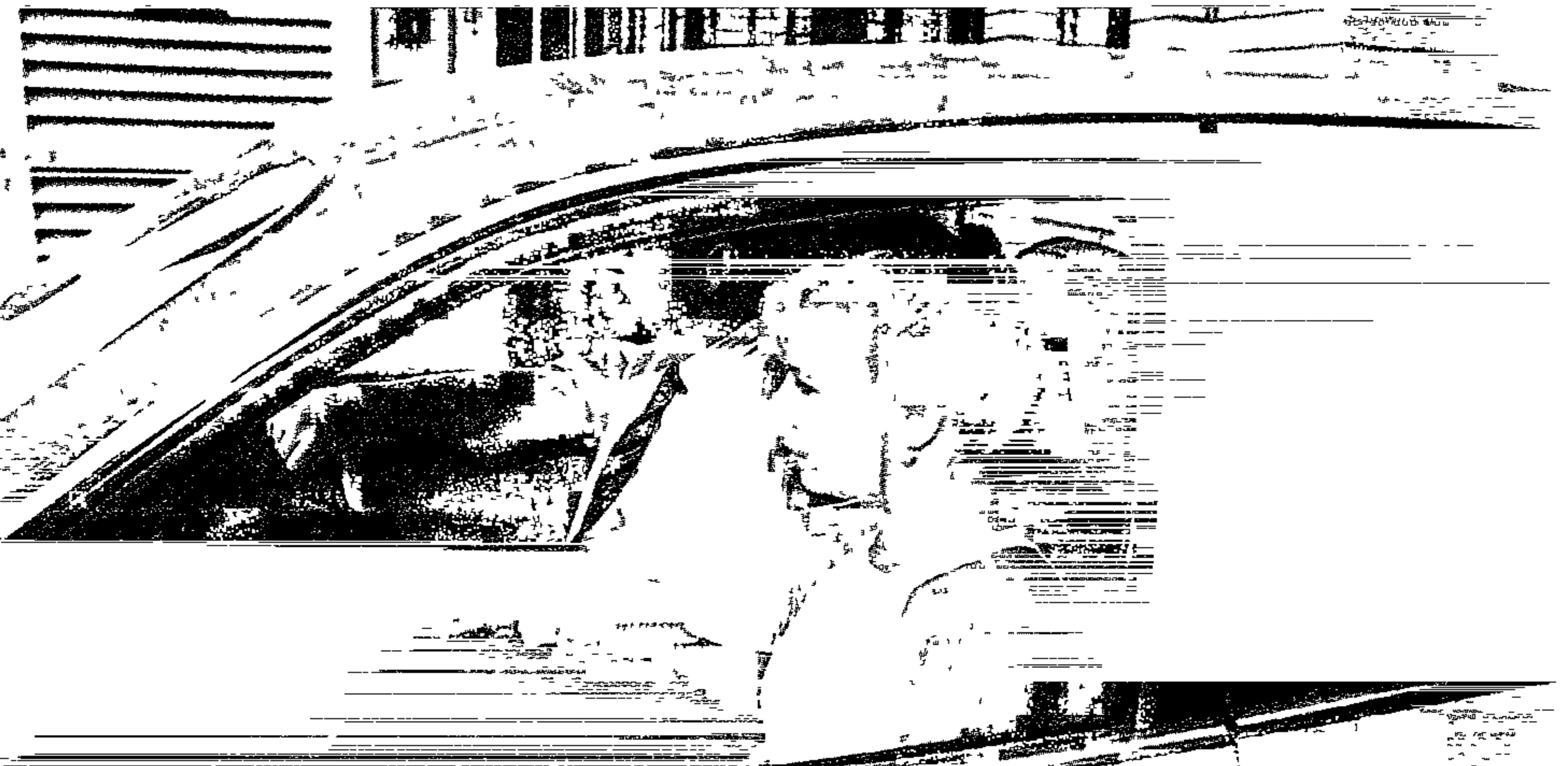
SATURDAY FEBRUARY 7/8 1998

I was fighting for my country, says black security cop

Askari handler applies for amnesty
APR 7/21/98 (252)



Accused: former CCB operative Ferdi Barnard is led into court in leg irons, accompanied by a policeman



Hiding: Ferdi Barnard's former girlfriend Amore Badenhorst is in the witness protection programme

ARG 7/8/98

NORMAN CHANDLER

Pretoria – Fears of a revenge attack on Amore Badenhorst by friends of her former lover, Ferdi Barnard, saw her whisked to safety after completing her evidence against him in the Pretoria High Court.

"I am relieved it is over. It has been a long week. I have said (in court) what I have to say," she said as she left court to begin a new life under the Government-sponsored witness protection programme.

In all probability she will be given a new identity and a home in a town a long way from Johannesburg, the Saturday Argus has been reliably informed.

The fears for Ms Badenhorst's life are real. Mr Barnard's friend, Callie Botha – said in court by Ms Badenhorst to have driven the car when Mr Barnard allegedly shot Wits academic David Webster in 1989 – had earlier tracked her down to Paarl in

(252)
the Western Cape while she was on the witness-protection programme. It was only quick action by police that saw Mr Botha picked up for questioning after being spotted in the area.

Ms Badenhorst, 29, is the star witness against Mr Barnard, charged with having murdered Dr Webster even though a formal inquest and a judicial inquiry found Mr Barnard had had nothing to do with the May 1, 1989 killing.

The charge sheet states that he and Mr Botha "and other members of the CCB" had taken part in the killing. Mr Barnard at the time was a member of region six of the Civil Co-Operation Bureau (CCB), a unit of the South African Army's special forces regiment which specialised in covert activities against so-called enemies of the state.

Ms Badenhorst was the first of more than 130 witnesses to be called by the State in a case in which Mr Barnard is also

accused of having murdered with a baseball bat a former friend, Mark Francis. He is also facing three charges of attempted murder, and numerous allegations of fraud, assault, intimidation, illegal possession of arms and ammunition as well as of landmines, and of defeating the ends of justice.

Ms Badenhorst outlined in detail a litany of crimes she alleged had been committed by Mr Barnard.

She told Judge Johan Els of his confession to her that he had shot Dr Webster with a shotgun in the Johannesburg suburb of Troyeville, because the CCB had information Dr Webster "intended to blow up a bus load of people". He was killed, she has alleged, as part of "the Webster project" and spoke of how pleased Mr Barnard was once the inquest and inquiry had been completed. Yesterday, Ms Badenhorst – who admitted in court to having been a cocaine and crack addict and who drank heavily

while she was with Mr Barnard from 1992 to 1996 – denied assertions by Mr Barnard's attorney, Fanie Coetzee, that she had lied to the court. She said that she had not lied and also had been truthful about what she knew when interviewed by a special investigations task force set up to probe the Webster killing after she had made startling revelations about it to De Wet Potgieter, an investigative journalist on the Afrikaans Sunday newspaper, Rapport. She had been paid R50 000 for her information.

Earlier in the week, there was evidence detailing cocaine parties held in the couple's home at Roodepoort. Women had also been procured for sex parties while she had been set up by Mr Barnard as the madam in a brothel to which leading ANC figures were invited in order, she said, to compromise them. The rent for the brothel was paid for by Vlakplaas operative, Eugene de Kock, a friend of Mr Barnard.

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Amore fingers Ferdi

- now a new life

Generals (152) lodge gripe against TRC

ANI 7/2/98

Pretoria - Four former South African Defence Force chiefs have lodged a complaint with the Public Protector against what they labelled the one-sidedness of the Truth and Reconciliation Commission.

Dirk Marais, convener of the SADF Contact Bureau, said in Pretoria yesterday that Thursday's complaint followed a motion adopted by former SADF members at a symposium on August 30 last year.

In the resolution, the meeting expressed its dismay over the unfair and apparently one-sided approach adopted by the TRC.

The complaint "was formulated by former SADF chiefs, generals Magnus Malan, Constand Viljoen, Jannie Geldenhuys and Kat Liebenberg," said General Marais, adding that the Public Protector Act prohibited him from revealing any more details.

In the motion adopted last August, former SADF soldiers said they fully supported reconciliation, but that the process should be even-handed.

"We do not accept that we were ever defeated militarily and we demand that the political processes do justice to both sides represented in this issue," the motion said.

"In this way, both the honour and the good reputation of the SADF - which still forms the basis of the SA National Defence Force - must be restored."

The contact bureau, which is based in Pretoria, comprises a panel of the four former SADF chiefs and two conveners - Sapa.

Second inquest into assassination of Lubowski begins next week

By ZOE TITUS

Windhoek — The second inquest into the assassination of Swapo activist Anton Lubowski starts on Monday, but still no names of witnesses can be provided by the prosecutor-general's office.

There is no certainty whether operatives of the Civil Co-operation Bureau or Irish mercenary Donald Acheson, detained shortly after the killing, will be there.

At the end of the first inquest in 1995, Judge Harold Levy found that Acheson, hired by the CCB, had assassinated Lubowski. The operatives implicated during the first inquest into the death of Lubowski were Ferdi Barnard, Chapple

Marais, Gela Botha, Siang van Zyl, Joe Verster, Staal Burger, Wouter Basson and Johan Niemoller. Judge Levy found at the same time that former CCB managing director Verster and seven other CCB operatives were "prima facie accomplices" in the murder.

"We are doing our utmost to get everyone, including the CCB. We are hoping for a breakthrough but first need to guarantee the safety of the witness," confirmed Nico Horn, junior advocate in the case and special investigator for the inquest. The case, set to start on Febru-



WHO KILLED HIM?

ary 9, is expected to last four days, according to the court roll, though some sources feel that the time set aside is not sufficient.

Horn said some of the CCB operatives were currently "entangled" in the murder case of David Webster, an educationist killed under similar circumstances as Lubowski in SA earlier in 1989.

"One or two people have already just disappeared. It's a touchy issue," Horn said, apparently referring to Barnard and Botha who, according to reports in the South African media, are to go on trial for Webster's

killing. Media reports in SA say Barnard had admitted to journalist Jacques Pauw that he had twice failed to kill Lubowski and that his CCB colleagues flew to Namibia to finish Lubowski off, four months after Webster's murder.

In January 1996 Namibian Prosecutor-General Hans Heyman announced he had decided to reopen the inquest into Lubowski's murder because there was insufficient evidence to warrant the institution of a prosecution against any of the persons implicated by Judge Levy.

Heyman said at the time he would propose to the judicial officer, Judge Nic Hannah, that certain witnesses be recalled and other witnesses in SA subpoenaed. — Independent Foreign Service

Star 7/2/98

(252)

Ferdi's incriminating secrets and lies

Once his closest confidante, Amore Badenhorst spills the beans about underworld murderer Barnard

MARLENE BURGER

THE first words from her peach-painted lips were "I'm terrified of Ferdi Barnard and all his friends."

Then, under the intense and unwavering gaze of the object of her fear, the woman who became a prostitute at the age of 15 began relating a tale of sex and sleaze, drugs and death.

Amore Badenhorst's account of her five years with one of South Africa's most notorious criminals is crucial to the case unfolding in Pretoria High Court GD where Barnard — a former drug squad policeman recruited as an agent for the shadowy Civil Co-operation Bureau while in prison for murdering two drug dealers — is being tried on 34 criminal charges, including the 1989 assassination of Wits University anthropologist David Webster, and fraud totalling millions of rands.

Driven by "lies, deceit and hurt" to testify against the man who "gave me back my self-respect as a woman", Badenhorst told the court it had not been easy to leave Barnard, and even after entering a witness protection programme, she had twice run away to be with him.

But when he had yet again broken his promise to take care of her and her two children, Shauna, 9, and Shanka, 2, she had finally realised he would never change.

In the 14 months since an Afrikaans Sunday newspaper paid her R50 000 to lift the lid on life with Barnard, Badenhorst has reinvented herself. A 10-day stint at a rehabilitation clinic, courtesy of the state, cured her crack cocaine habit, but the stress of being cloistered in witness protection drove her to alcohol, a problem she is now fighting.

Gone is the bottle-blond big hair she sported as "Barnard's woman", in its



PETRIIFIED: Amore Badenhorst Picture: JULIANI VAN DER WESTHUIZEN

place a simple coppery colfure and a selection of demure outfits.

Over five days this week, she described, frequently lapsing into tears, the symbiotic relationship of two people bound by the seediness of life on the fringes of society.

Raised on military bases, Badenhorst ran away from home as a teenager when her mother died of cancer. Within two years she was a prostitute on the streets of Hillbrow. Even after marrying a vice-squad policeman who beat her mercilessly and is now serving a 15-year sentence for shooting a colleague, she continued to work as an escort.

Within six weeks of meeting Barnard in 1991, she was his woman, notwithstanding the fact that he was still involved with someone else.

For four years, Barnard kept her in a succession of houses for which he paid the rent and utilities. In the Johannesburg suburb of Waverley, she set up a security forces brothel where "ANC op-

eratives" could be both questioned and compromised. The rent was paid, she claims, by former Vlakplaas commander and convicted murderer Eugene de Kock.

Barnard was her proverbial knight in shining armour, taking care of her needs and indulging her every whim, from a thatch-roof house to cartons of costly cosmetics, allegedly from hijacked consignments.

But towards the end of their affair, he took back all her jewellery and used it to pay for crack cocaine.

During their last year together, his generosity had dried up and that winter, she "broke down his sauna" to get wood so that she could cook food for her children — Barnard is her daughter's father — on an outside fire when he refused to pay for lights and water. Violence and constant drug use became the norm. Barnard's alleged accomplice in illegal diamond and foreign currency deals was known gangster Corrie Goosen,

who died in a high-speed motorcycle crash last May.

The indictment against Barnard is speckled with Goosen's name, and it has become apparent that Barnard's defence rests largely on pointing a finger at the dead man, for whom, he claims, he merely acted as a paid bodyguard.

Badenhorst's role in the confidence tricks allegedly devised by Barnard and Goosen was to drive cars and make reservations for meetings with victims. Throughout their relationship, Barnard allowed her no friends and used her homes, she testified, to store an arms cache, Angolan currency worth R500 000, two "Black Widow" land mines, and R80 000 in cash.

But it was as his confidante that Badenhorst became equipped to take revenge on the man she tearfully claims she still loves "and always will".

She said that within hours of being cleared by the Webster inquest, a weary Barnard told her that he had, in fact, assassinated the "ANC activist" who wanted to blow up a bus load of people. Barnard told her the death warrant had been issued telephonically by CCB chief Joe Verster.

Later, she claims, he showed her a damn near Nyistroom where he had dumped the shotgun used to kill Webster. Barnard also allegedly told her he and another CCB operative, Eugene Riley, had beaten drug dealer Mark Francis to death with a baseball bat in a Hillbrow alley, to prevent him testifying against Riley following an abortive jewel heist in Bophuthatswana.

For Badenhorst, the fact that Barnard trusted her enough to tell her his deepest secrets was "a trump card" — a sign that we would stay together forever.

Instead, their relationship destroyed by drugs, her revelations of those shared intimacies could prove the final downfall of "the only person I ever trusted in my life."

ST 8/2/98

(252)

I did not kill David Webster, Barnard tells court

Star 6/2/98

By NORMAN CHANDLER
Pretoria Bureau

(272)

Ferdinand Barnard says he did not fire the shot that killed Wits University academic David Webster

He yesterday told the Pretoria High Court, through his attorney Fanie Coetzee, that he was not present when the murder took place in Troyeville, Johannesburg, on May 1 1989, and claimed that his former lover, Amoré Badenhorst, was lying

Badenhorst (29) said the couple had spoken about the murder on numerous occasions "He (Barnard) was there, and he did it," she said

She has so far spent four days in the witness box detailing her life with Barnard, who yesterday stared impassively at her as she answered his denials Badenhorst was Barnard's

live-in lover for four years and they had a 2-year-old daughter together

Barnard, currently serving 10 years for diamond theft, has been charged with Webster's murder. He has also been charged with murdering a friend, Mark Francis, who was found beaten to death in an alley next to the Summit Club in Hillbrow, Johannesburg, four years ago

He is also charged with three counts of attempted murder plus several charges of fraud, intimidation, defeating the ends of justice, possession of arms and ammunition, and possession of two landmines. More than 130 witnesses are scheduled to give evidence on behalf of the State.

Mr Justice Johan Els was told yesterday that Badenhorst was lying when she said Barnard had confessed to her that he had killed Webster

The confession, the court heard earlier, was made on the day an inquest found that Barnard was not responsible for Webster's death

According to Barnard, he had been with his lawyers and had not returned to the family home, as claimed by Badenhorst

"He was there, and he told me he had done it," replied Badenhorst. "He was pleased about the result of the inquest as he had been drawn and ill prior to it

"He personally told me it was a CCB project. Obviously it was Dr Webster who was the project in question, but there were also other projects."

Earlier, in another day of titillating evidence from Badenhorst, the court was told how Barnard had brought his friends to a Waverley, Johannesburg, house which the couple had rented to run as a

brothel. It was alleged in court this week that the house had been used to compromise senior political people, and that some ANC personalities were taken there. She agreed that women had been procured for "parties" at her home while the couple were high on cocaine, and that cocaine parties had taken place. Compromising pictures of women had been taken.

At one of the parties Barnard had knocked Badenhorst out "twice in three minutes", and after another party, 15 windows as well as the front door had been smashed - she had done the damage to the windows while Barnard had hit the front door with his fist, smashing both the door and the glass

The trial continues

► **Lover's hell and roses**
... Page 5



More than a gardener? Bennet Sibaya denies being a Stratcom agent, or that he was ever involved in police 'dirty tricks' operations. PHOTOGRAPH: RODGER BOSCH

'I'm not a spy,' says Sibaya

Marion Edmunds

The mystery surrounding Cape Town gardener Bennet Sibaya's relationship with the Truth and Reconciliation Commission deepened this week, after he denied providing commission investigators with evidence that he was involved in police "dirty tricks" operations.

Sibaya has refuted suggestions, made in a Sunday newspaper, that he told the commission he had been a Stratcom agent who worked voluntarily with the police to frame its head of investigations Dumisa Ntsebeza.

Sibaya last year accused Ntsebeza at a commission hearing of driving the getaway car involved in the Heidelberg Tavern massacre in 1993. He later withdrew the accusa-

tion, saying he had been tortured by police to make an affidavit at the time of the police investigation into the massacre.

The withdrawal came after he spoke to commission chair Desmond Tutu, whom he said was the only man he could trust.

Sibaya is due to appear before the amnesty committee next week to formally retract his original statement and to provide evidence in the conclusion of the Azanian People's Liberation Army amnesty applications for the Heidelberg massacre.

Sibaya's false claims did not correspond with those accepting responsibility for the massacre.

Ntsebeza was quoted in a Sunday newspaper last week, saying that Sibaya had supplied commission investigators with "sensitive new information", which gave him reason

MIG 9-15/1/98
to believe that an investigation into Sibaya ought to continue

The article said commission investigators were "baffled by the type of sensitive information Sibaya possessed about apartheid security matters in the Cape."

However, Sibaya's version of events is far less sensational. He said this week his only contact with the commission was when he had phoned them after being chased by two policemen late one night before Christmas. "I was walking along the main road and two policemen drove near me and said, 'Why did you let Dumisa loose?' and they asked me to come with them. So I ran away and climbed over the fence of a house and slept under a tree in the garden that night," he said.

Sibaya showed the *Mail & Guardian* the house, its 2m fence,

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as well as scars on his leg where the top of the fence had torn his flesh, when he scaled it in haste to escape the policemen.

This week he was found tending flower-beds at work, clad in blue overalls. He denied being wealthy, having a relationship with the police, or knowing anything about Stratcom. Ntsebeza said while the allegation of a Stratcom link was "far-fetched", he refused to rule out the possibility that Sibaya was more than a gardener.

"Sibaya is a very complex character, but that does not make him a Stratcom operator. But why did the police choose him? Must we buy his story?"

Asked whether Sibaya had given the commission more information in December, Ntsebeza replied "I would like to think so."

PW's sweetheart deal

m+g 9-15/1/98

(258)

Wonder Hlongwa and Mungo Soggot

President Nelson Mandela overruled truth commission legislation guidelines to ensure former state president PW Botha's legal team was paid almost double the going rate for representing a potential witness

This week Minister of Justice Dullah Omar — who had been part of the negotiations on the massive bill — said the decision had been taken after careful consideration of what Botha represented

"Mr Botha is a former head of state of South Africa. He symbolised apartheid South Africa and was therefore the most important person to speak on behalf of apartheid South Africa," Omar said

"We did not want to be vindictive, we did not want to create problems. We wanted to facilitate matters for him as much as possible. That is why we approved that the state attorney should negotiate with his attorneys and arrive at an agreement in terms of which he will be properly represented."

Mandela's legal adviser, Fink Haysom, confirmed this. "The issue was placed before us for consideration, particularly whether PW Botha was entitled to be represented by senior counsel. The office of the president believed he was entitled to have such representation."

The agreement reached was that Botha's senior counsel LAPA Laubscher would be paid R600 per hour and R6 000 a day — a potential R10 800 for an eight-hour day. His junior counsel Piet de Jager was paid R400 per hour and R4 000 a day and his attorney Ernst Penzhorn paid R450 per hour and R4 500 a day.

State attorney Ben Minnaar said they had not been prepared to work for the lower fees offered by the truth commission.

The commission's standard fees for legal consultation and preparation is between R250 to R450 an hour and between R1 500 to R2 500 a day for representation, with an additional 20% on the appearance fee for each additional person that the attorney appears for, or up to the maximum amount of R4 000.



Dare, truth or promise: PW Botha and TRC chair Desmond Tutu

These rates are lower than standard commercial fees and many victims of human rights abuses have had difficulty in getting lawyers to represent them at commission hearings. The Legal Resources Centre, for example, which represents many victims, has had to seek additional sponsors to supplement its costs.

Omar said Mandela had been "involved" in the decision to pay Botha's lawyers and truth commission chair Desmond Tutu had been consulted. The president was concerned about Botha's reluctance to face the truth commission.

"We wanted Mr Botha's lawyers to be paid sufficient money to enable him to have all the legal assistance he needs to appear before the truth commission properly represented. We did not want a situation where due to inadequate legal representation he was not able to prepare himself properly," Omar said.

"Now that he has indicated that he will not be attending and he is being summonsed, the assistance he has been receiving has come to an end."

National Association of Democratic Lawyers (Nadel) spokesman Krish Govender

said he was "extremely surprised" that this deal had been struck with Botha's lawyers.

"This is not sensitive to the needs of South Africa as a whole and I'm sure the truth commission could have struck a better deal," Govender said. He said the fees paid to Botha's lawyers were "top rate" and were not commensurate with the work lawyers performed at the truth commission.

"Lawyers are only there as legal bodyguards and not to perform legal battles. All they do is protect certain rights. People who come before the commission should not expect the kind of representation required in legal trials."

"The standard rate for commission work is low, but appropriate in relation to the kind of work done there."

Botha was subpoenaed to appear in the George Regional Court on January 23 to face criminal charges for snubbing the truth commission. The 82-year-old faces two years' imprisonment or a R20 000 fine or both if found guilty.

He receives a generous state pension, but could not be contacted to establish whether he would retain his legal team at his own cost.

Appointments to help clear amnesty cases

(252)
CAPE TOWN — Eight new members had been appointed to the truth commission's amnesty committee, Justice Minister Dullah Omar announced yesterday.

The appointments, which are expected to help overcome the huge backlog in amnesty cases, increase the committee's size from 11 to 19.

The new members are Judge R Pillay of the Eastern Cape High Court, Judge JJ Ngcobo of the Cape High Court, JB Sibanyoni from the Community Law Centre in Pretoria, Port Elizabeth attorney MW Tsotsi, advocates F Bosman and S Sigodi, Welkom attorney KJ Moloi, and Han Lax, a member of the commission's reparations committee.

An estimated 1 400 applicants for amnesty still have to have public hearings.

The amnesty committee is legally obliged to complete its work by June, but the commission has said that this will not be possible. Alternatives are being explored — Sapa.

BD 10/2/98

Boere commander granted amnesty

THE commander of the Boerekommando, Carel Willem Andries van der Merwe, has been granted amnesty

Van der Merwe, 46, had bombed the Melkrivier Primary School in the Vaalwater district in Northern Province in January 1992, the truth commission said yesterday

Van der Merwe, of Grootvlei near Pretoria, also received amnesty in relation to the illegal possession of explosives at the time

Nobody was injured in the attack, but damage to the entrance and offices

of the school was estimated at R12 000

The amnesty was granted in chambers as the bombing did not involve any gross human rights violations

Van der Merwe said in his application he had been ordered to carry out the attack by a Boerekommando superior at Hendrina in Mpumalanga in December 1991. His political objective had been to overthrow the government of former president FW de Klerk. He had carried out the attack to place pressure on government not to open the school to black pupils — Sapa

(252)

It's Labour of love on Saturdays

W Cape department responds to Mandela plea

THABO MABASO
BUSINESS REPORTER

Employees of the Western Cape branch of the Department of Labour will work on Saturdays without pay in response to President Mandela's call on public servants to be selfless in carrying out their duties.

Labour Department provincial director Brian Williams told the

Cape Argus that the decision to work for nothing on Saturdays was taken at a workshop at the weekend.

"When we began working on Saturdays, we will offer all the range of services that you can find when you visit our offices," Mr Williams said. Close to 400 employees, ranging from cleaners to the department's top managers, would be affected by the decision. The employees would begin

working on Saturdays in the first week of next month. But not all offices would open on Saturdays at first.

Mr Williams said only the Cape Town office would open during the first few months, and offices in other parts of the province would follow suit later. "Because this is a voluntary thing, nobody will be forced to work if they do not want to. Between now

and March we will work out a plan that will look at how the decision will be implemented," he said.

Mr Mandela told the opening of Parliament on Friday that there were corrupt elements who saw the public service as an opportunity for self-enrichment.

"Some public servants are, to put it mildly, not imbued with the spirit of public service and they relate to senior citizens with attitudes border-

ing on the criminal," he said.

Mr Williams challenged other government departments to follow their example by sacrificing time and energy for the good of the communities they served.

"Our message to other departments is that we can only build our country if there is a commitment from the civil service to serving people beyond working hours," Mr Williams said.

ARL 10/2/98

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Ex-cops 'falsely blaming dead sergeant for killing'

Lawyer says amnesty seekers trying avoid implicating others



Evidence: former security policeman Hermannus du Plessis at yesterday's hearing

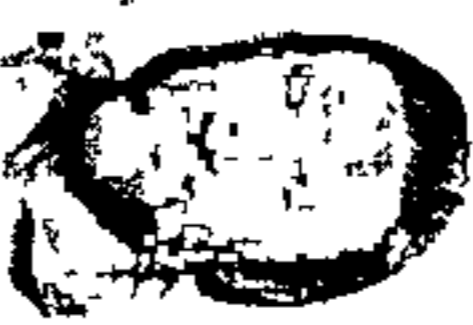
Former security policemen seeking amnesty for the 1981 murder of Eastern Cape activist Sizwe Kondile have been accused of falsely blaming the actual shooting on a colleague who later committed suicide.

A lawyer has suggested their motive is to avoid implicating other policemen involved in the murder who have not applied to the Truth Commission for amnesty.

The suggestion was made today by advocate Rudolf Jansen, who is appearing for former Vlakplaas commander Dirk Coetzee at the amnesty application by four former Eastern Cape security policemen for the abduction and murder of Mr. Kondile. They are retired generals Nic van Rensburg and Gerrit Erasmus, then captain Hermannus du Plessis, also since retired, and then sergeant Johannes Raath, who is still serving in the police as an inspector.

The four policemen said they were involved in the killing of Mr. Kondile and the burning of his body on a wood pyre in the bush near Komatipoort to

JOHN YEID



ON THE TRUTH COMMISSION

prevent him revealing the identity of their principal agent in Lesotho to the African National Congress.

They claim the actual shooting of Mr. Kondile was done by a security police sergeant, Roy Otto, who was then based at Lebombo, near Komatipoort. Mr. Otto committed suicide in 1985.

Yesterday, Mr. Du Plessis testified that Mr. Otto had shot a drugged Mr. Kondile in the head. "I think it was with his service pistol," he said.

But Mr. Coetzee testified at the 1990 Harms Commission of inquiry into "hit-squad" activities and during his 1996 amnesty application to the Truth



Unity-Kondile's mother Charity, left, and sister Mpunnie at yesterday's hearing

Commission that Mr. Kondile was shot by a non-commissioned officer on the staff of Komatipoort security police chief Archie Flemington.

He said Mr. Kondile had been drugged with "knock-out drops" supplied by the then police forensics

head, Lothar Neebling.

"After a while the drops took effect and Kondile became disoriented. He fell over on his back and a long, slender W/O (warrant officer) or sergeant on Archie Flemington's team took a Makarov pistol with a silencer and

shot Sizwe Kondile on the top of his head," Mr. Coetzee said.

Today, Mr. Du Plessis conceded that police documentation produced by Mr. Jansen indicated that Mr. Otto had been on leave on the date he (Mr. Du Plessis) said Mr. Kondile had been killed. He also conceded that Mr. Otto had been short, thick-set and balding, and did not match Mr. Coetzee's description.

When Mr. Jansen suggested it was "improbable" that Mr. Otto had been involved, Mr. Du Plessis replied that Mr. Coetzee could have placed him (Mr. Otto) on leave as "part of the tactics" to disguise the killing.

Mr. Jansen then suggested to Mr. Du Plessis that the security policemen were deliberately lying to protect their former colleagues.

"This is part of a pattern of implicating people who are dead so that you cannot implicate someone who has not applied for amnesty," he said. Mr. Du Plessis denied this, saying: "I might be a fool, but I'm not such a big fool."

The hearing continues

TRC gets extra eight

EIGHT new members have been appointed to the Truth and Reconciliation's amnesty committee. Justice Minister Dullah Omar announced yesterday.

The appointments, which are expected to help overcome the huge backlog in amnesty cases, increase the committee's size from 11 to 19 and will enable six three-person panels, each chaired by a judge, to operate simultaneously. The new appointees are Judge R Pillay, of the Eastern Cape High Court, Judge JJ Ngcobo of the Cape High Court, JB Sibanyoni from the Community Law Centre in Pretoria, Port Elizabeth attorney Dr MW Tsotsi, advocates F Bosman and S Sigodi, Welkom attorney KJ Molo, and Elan Lax, a member of the TRC's reparations committee. An estimated 1 400 amnesty applicants still have to have public hearings. — *Sapa*

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Sowetan 10/2/98

Ex-top cop in plea for amnesty

Du Plessis admits beating activist but denies using electric shock on Kondile

FORMER security policeman Colonel Herman du Plessis, who is applying for amnesty for the murder of Sizwe Kondile in 1981, yesterday admitted playing a part in the murder of the former Eastern Cape activist who was shot and his body burnt to ashes

Du Plessis is one of four policemen applying for amnesty for the murder of Kondile, who was the son of the present chief magistrate of Port Elizabeth, Dumile Kondile

Du Plessis told the Truth and Reconciliation Commission's amnesty committee in Cape Town yesterday that he interrogated Kondile in the Jeffrey's Bay police cells in July 1981

He admitted assaulting Kondile with his open hand and with his fists, but said the attack was not brutal

He denied using electricity to shock Kondile

Du Plessis said Kondile co-operated with him and supplied information about African National Congress activities in Lesotho and the former Transkei

Du Plessis said he considered Kondile an ideal candidate for becoming a police informer because of his knowledge of ANC movements in the Lesotho and Eastern Cape areas

He was also a confidante of former Umkhonto we Sizwe leader Chris Hanu and had information of possible attacks being planned from Lesotho

Du Plessis told the committee that Kondile agreed to become an informer in spite of expressing fears about the dangers of being exposed as a police collaborator

Sketching the political situation in the Eastern Cape at the time, Du Plessis said it had been extremely unstable and was marked by bomb attacks by operatives in Lesotho

After trying to recruit Kondile as an informer, Du Plessis later realised that Kondile was not trustworthy and remained loyal to the ANC. He concluded this after finding messages the activist was planning to send to his superiors in Lesotho

From the messages it was clear that Kondile had no intention of co-operating with the security police. Du Plessis said he realised that Kondile could endanger the whole counter-insurgency network in the Lesotho-Eastern Cape area

Betrayed

He also felt betrayed by Kondile's decision to remain loyal to the ANC and felt that he had miscalculated in trusting the activist

Concerned that information Kondile had in his possession would fall into the hands of the ANC, Du Plessis, along with his superiors General Nic van Rensburg and General Gerrit Erasmus, decided there was no alternative but to kill the activist

They contacted former Vlakplaas security police base commander Dirk Coetzee, who had the means to dispose of Kondile and arrangements were made for him to be handed over

Kondile was taken to Komatipoort where Du Plessis met Coetzee. They drove to a remote spot near the Mozambique border

Kondile's car, which was being held by police, was also taken to the area and abandoned near the Swaziland border

Du Plessis said Kondile, who was handcuffed to a tree while the policemen prepared food and drinks, suddenly slumped forward when a Sergeant Roy Otto, who was with Coetzee, shot him

The body was then placed on a pile of wood and burnt to ashes. The policemen spent the night there and Du Plessis later returned to Port Elizabeth

He said it was the first time he had witnessed somebody being shot and said he still bore the scars of the experience. The hearing continues - Sapa

Amnesty for school bomber

Jan 10/2/98

The commander of the Boerekommando, Carel Willem Andries van der Merwe, has been granted amnesty, the Truth and Reconciliation Commission said yesterday.

Van der Merwe (46) bombed Melkrivier Primary School in the Vaalwater district in Northern Province in January 1992.

Nobody was injured in the attack, but damage to the entrance and offices of the school was estimated at R12 000.

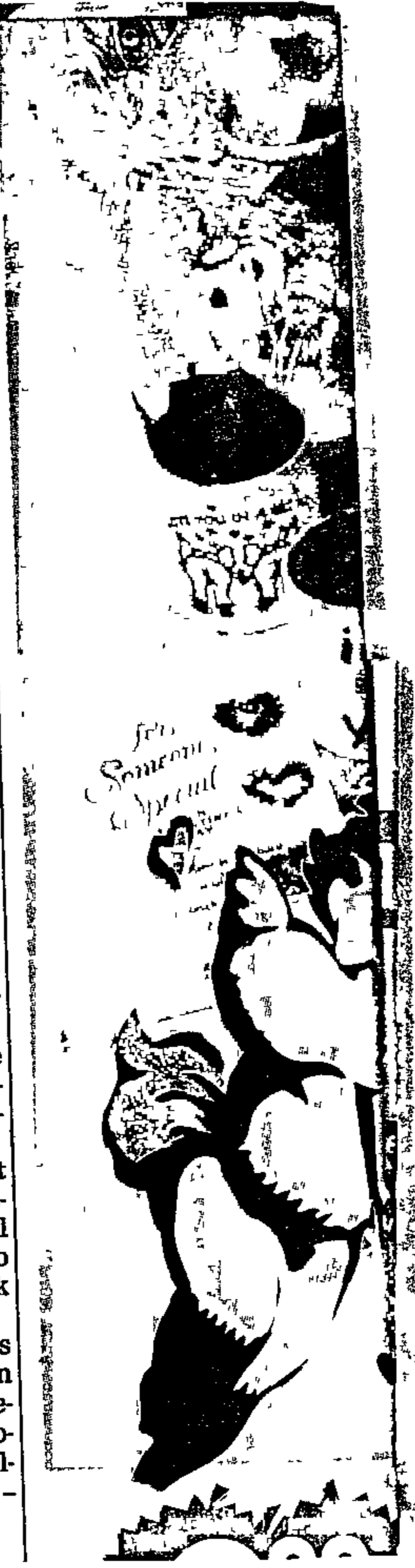
Van der Merwe said in his amnesty application he had been ordered to carry out the attack by a Boerekommando superior at Hendrina in Mpumalanga in December 1991.

His political objective was to overthrow the government of then-president F W de Klerk.

He said he carried out the attack to place pressure on the National Party government not to open the school to black pupils.

Van der Merwe was due to stand trial for an act of terrorism and illegal possession of explosives last year in Middelburg in Mpumalanga. - Sapa

glen 10/2/98



Barnard 'boasted of killing'

ZELDA VENTER

CT 11/2/98

(252)

PRETORIA: The High Court here heard how Ferdi Barnard related with glee at a braai how he had killed Dr David Webster. He allegedly told how Webster fell on the sidewalk outside his home and lay there, suffocating in his own blood.

Mr Johan Kruger, an electrical contractor who acted as a go-between in a few diamond deals between Barnard and prospective buyers, gave evidence yesterday in the trial in which Barnard, a former CCB operative, has pleaded not guilty to 34 charges, including two of murder.

Kruger, who met Barnard when they were in prison, told the court that Barnard had told him and a few other friends during a braai on a farm in 1993, at which the late Corrie Goosen was also present, that

he was a member of the CCB.

According to Kruger, Barnard said the CCB's main task was to kill leaders of the ANC. He said Goosen then told them how he intimidated people after which Barnard said words to the effect of "that's nothing, I shot Dr David Webster."

Kruger said Barnard told them with great glee how Webster was suffocating in his own blood. He said at first he thought Barnard was trying to impress the Nel brothers who were present, because they were clinging to Barnard's lips.

Asked if he was shocked by the revelation, Kruger admitted he was shocked, but said he did not know if Barnard's story was true. Kruger said he never told anyone of Barnard's confession.

"I believed he was a member of the CCB and that he did good work there."

'Kondile refused to help kill Hani'

(272) 00 11/2/98

CAPE TOWN — African National Congress (ANC) cadre Sizwe Kondile could have led police to SA Communist Party leader Chris Hani in Lesotho in 1981, the truth commission heard yesterday

The body's amnesty committee heard that Kondile had double-crossed the police and was killed

High-ranking former security policemen told the committee in Cape Town that Kondile had been a key figure in the ANC operation in Lesotho

The committee heard that Kondile had been driving Hani's car when he was arrested crossing

the border from Lesotho into the Free State in June 1981

Former police generals Nic van Rensburg and Gerrit Erasmus, with Col Hermanus du Plessis, are applying for amnesty for arranging Kondile's murder in July 1981.

Erasmus and Du Plessis told the committee Kondile had been killed when he had failed to cooperate with police by infiltrating the ANC in Lesotho

Du Plessis said he had persuaded Kondile to become a police informer and supply information about Hani's planned operations

Du Plessis said after giving Kondile the name of the principal police agent in Lesotho, the cadre had reneged on his word.

Du Plessis said he had found a note by Kondile to the ANC expressing his loyalty. Du Plessis had discussed his dilemma with Van Rensburg, who agreed the only option was to kill Kondile

Du Plessis and Van Rensburg denied testimony given to the committee by self-confessed hit-squad commander Dirk Coetzee that Kondile was killed because he had suffered brain damage during violent interrogation — Sapa

Barnard 'boasted of Webster's murder at braai'

Stephané Bothma

PRETORIA — More than two years after the Civil Co-operation Bureau (CCB) was disbanded by the SA Defence Force, convicted killer Ferdi Barnard allegedly told his partners he was still working for the organisation which "had gone underground", the high court heard yesterday.

Johan Kruger, said Barnard regaled business associates with tales of his exploits as a state assassin during a party in 1992. "He told us with relish how David Webster fell on the pavement outside his house and suffocated in his own blood," Kruger told Judge Johan Els.

Barnard earlier pleaded not guilty to 34 charges, including the murder of Wits university academic and anti-apartheid activist Webster in May 1989.

Kruger admitted he had introduced Barnard and gangster Corrie Goosen to prospective illegal diamond buyers who were then defrauded of vast amounts of money. Kruger and Barnard met 13 years ago in prison while Barnard was serving a sentence for murdering two drug dealers in the early 1980s.

Kruger told the court that at a braai on the farm of two diamond diggers, Deon and Marius Nel, Barnard and Goosen said they still worked for the CCB. Goosen died in a motor-

cycle accident last year.

"Barnard told everyone at the braai that he had taken out Webster and that one of the aims of the CCB was the elimination of African National Congress leaders," Kruger said. He said: "I had no reason not to believe him."

Kruger told the court he had been involved in a number of diamond scams with Barnard and Goosen, including one in which a diamond prospector, Bennie Hoepfner, handed over R1,4m to Barnard. Hoepfner believed he was paying for more than 2 000 carats of uncut diamonds from Angola.

On one occasion Hoepfner paid Barnard and Goosen R1m

in cash as a deposit on diamonds. Barnard later claimed Goosen was robbed of the money in Swaziland and that he had a "wound on his arm" to prove it.

"When Hoepfner made statements to the police after being ripped off for the third time, Barnard threatened to take out Hoepfner and his entire family," Kruger said.

Kruger and Hoepfner took the threat seriously.

Like Amore Badenhorst, Barnard's former mistress, Kruger was warned by Els that unless the court was satisfied with the truthfulness of his evidence, he could face prosecution as Barnard's accomplice.

The trial continues today.

Opposition hits out at Mandela

Wyndham Hartley

CAPE TOWN — President Nelson Mandela came under fire from opposition parties in the National Assembly for insisting in his opening speech that statutory affirmative action was the correct path for SA and suggesting crime was under control.

The leader of the National Party, Marthinus van Schalkwyk, charged that the Employment Equity Bill was again the legalisation of race as a determining factor in the private sphere.

"There is no difference between this bill and apartheid legislation which classified people on the basis of skin colour." He predicted that it would heighten racial tensions.

Democratic Party leader Tony Leon produced a 1994 Mandela election poster which promised that affirmative action would not be at the expense of others, would not involve the lowering of standards and would focus on training and upgrading skills.

Leon said this was in sharp contrast to a speech from ANC MP Maria Rantho who said that it was imperative to get rid of merit as the principle in the appointment of public servants.

Inkatha Freedom Party leader, Home Affairs Minister Mangosuthu Buthelezi, in an essentially moderate response to Mandela's speech, gently chided that bold initiatives, courage and determination were needed in the fight against crime. He said he could not agree with Mandela that the crime situation was under control.

Buthelezi said that the new patriotism suggested by Mandela had to include a bold initiative by government to help communities understand the importance of legality, respect and authority.

This would involve the ANC distancing itself from the culture, ideology and moralities of the armed struggle, he said.

Van Schalkwyk said Mandela and the ANC were out of touch with SA and "shadow boxing" with the real issues if they by saying crime was under control.

He asked how Mandela could defend a murder rate of 54 per 100 000 people when the average in the third world was 5,5 per 100 000.

The NP leader was the target of a ferocious attack by Water Affairs Minister Kader Asmal who described him as a whining schoolboy who headed a party of rabble who were rude to the president during his speech last Friday.

Asmal described NP attacks on the truth commission

US assistance sought for education

Simon Barber

WASHINGTON — The US Information Agency is seeking tenders from US colleges for a R700 000 contract to train SA and Namibian educators how to provide "outcomes-based education" in "large, multilevel, multilingual, multi-ethnic" classrooms.

The project is not aimed directly at teachers. Rather, the successful bidder will host an "intensive" five-week course in the US for up to 28 "curriculum developers", "learning facilitators" and "co-ordinators" from national and provincial education departments selected by the agency.

The course will begin in June.

Afterwards, the host institution will be responsible for organising "a one-week, escorted, cultural and educational tour of Washington".

Would-be hosts are asked to "strive to balance cost effectiveness in accommodation and meal plans with flexibility for differing diets and personal habits among the participants".

In designing the course, they encouraged would-be hosts to keep "lengthy lectures at a minimum".

Bidders will be rated on the degree to which they exhibit "diversity in the broadest sense including, but not limited to, ethnicity, race, gender, religion, geographic location, socioeconomic status and physical challenges".

Stanbic

Continued from Page 1

dence of bad debts was rising for the first time in many years, exacerbated by a softening in the real price of houses in many parts of SA. Instalment finance arm Stannic continued to experience high levels of bad debt.

After provisions, interest income was up only 9%. But noninterest income recorded a 31% increase to R4,2bn, making up 45% of total income against the group's targeted ratio of 47%. The bulk of noninterest income comes from fees and commissions, which grew by a "well-founded" 22%.

Vosloo said the group's operations throughout SA and offshore contributed to the increase. The group's treasury operations also did well, reflected in a 62% increase in trading income, though Vosloo noted this was off a low base in 1996 when the group took losses on its gold trading activities.

The group now operates in 40 countries following a period of rapid offshore expansion, and 17% (1996: 14%) of total income came from outside SA. Vosloo said operations outside Africa had earned £33m.

The expansion drive continues to

put pressure on operating costs, which increased 20% as the rand declined and new technology was installed in the group's African operations.

Vosloo said costs in the SA operations were up 17%.

The group cut its cost-to-income ratio to 63,4, from 65,1 in 1996. The target is 60%, though Vosloo stressed that his group was not driven "blindly" by the belief that a lower cost-to-income ratio necessarily indicated a more effective banking group. Stanbic was balancing its need to expand and develop new products with cutting costs and was "competitively comfortable".

The group said Standard Corporate Merchant Bank (SCMB) MD Jacko Maree had been appointed deputy group CE of Stanbic, responsible for the group's domestic operations. Myles Ruck would replace him at SCMB.

Stanbic's attributable income, which included exceptional profits on the disposal of Standard Bank Property Fund and on other properties and investments, exceeded R2bn for the first time. Vosloo noted that Stanbic was the first SA bank to reach this milestone, saying that the group took 130 years to earn its first billion, but only four more to earn its second.

Picture: Page 3

Amnesty bid: question mark on murder story

Doubts over police version at TRC

JOHN YELD
ON THE TRUTH COMMISSION

Testimony by former security policemen about when they murdered Eastern Cape activist Sizwe Kondile was cast into doubt today when official police documentation came under close scrutiny at a Truth Commission amnesty hearing.

Four policemen - retired generals Nic van Rensburg and Gerrit Erasmus, then captain Hermanus du Plessis, also since retired, and then sergeant Johannes Raath, who no longer serves in the police - are seeking amnesty for the abduction and murder of Mr Kondile

This week, they have been testifying to the amnesty committee that on August 10, 1981, they faked Mr Kondile's release from Jeffrey's Bay police cells. They then murdered him and burnt his body on a pyre the following day. They say this was necessary to prevent him revealing to the ANC the name of their principal agent in Lesotho, which he had learnt in detention.

But former Vlakplaas commander Dirk Coetzee, who helped them kill Mr Kondile and dispose of his body, told a different version to the 1990 Harms Commission and during his own amnesty application in 1996. Coetzee said he had been told by Mr Van Rensburg that Mr



LEON MÜLLER

Applicant: Nic van Rensburg

Kondile had to be killed to cover up injuries sustained during his detention, and to avoid his becoming "a second Steve Biko". He said he had seen Mr Kondile at Jeffrey's Bay police station in September 1981, and that he had been murdered only in early November.

Today, Mr Erasmus, who was Eastern Cape divisional head of security police at the time, was quizzed about a letter from Mr Du Plessis to security police headquarters in Pretoria, informing them about progress with the investigation into Mr Kondile.

The letter was dated September

18 1981, and was also countersigned by Mr Erasmus.

Amnesty committee member Judge Ronnie Pillay asked Mr Erasmus to explain why the letter had been sent, as - according to their testimony - Mr Kondile had already been "released" on August 10.

Mr Erasmus said: "I cannot give you an explanation for this. I see I signed the telex to send it, but I cannot give you an explanation."

Judge Pillay commented: "Why not? Unless it is the truth?"

Mr Erasmus replied: "I don't believe it is the truth."

He was also asked why he had stated in his amnesty application that Mr Du Plessis and Mr Van Rensburg had reported back to him about the "successful conclusion" of the operation involving Mr Kondile "later in October". Mr Erasmus answered: "I believe the date in my application is wrong. I don't know how it happened."

Advocate Imrann Moosa, for Mr Kondile's mother Charity and sister Mpumie, said the family believed Mr Kondile had been murdered "as a cover-up for very serious injuries inflicted on him".

"The family believes the real 'terrorists' are people like yourself," he said. Mr Erasmus responded: "We killed one another as a result of politics."

ARLT 11/2/98
(252)

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59
per kg
99

Justice unions declare dispute

(252) Star 11/2/98
State advocates and prosecutors appear set to resume their work-to-rule protest after declaring a dispute with the Justice Department yesterday because of overtime payments

"Fruitful negotiations are no longer possible as there is nothing on the table," the Society of State Advocates and the National Union of Prosecutors of SA said in a joint statement in Pretoria

"Delays and broken promises by departmental representatives have left the unions with no alternative but to declare a dispute in accordance with the Labour Relations Act."

The unions accused the department of dragging its feet in applying to the Department of State Expenditure for permission to use R5-million for overtime payments until the end of the current financial year.

"Approval was according to Minister (Dullah) Omar already sought on January 29," the statement said

"It would appear that the letter was only sent in February, that such approval has not yet been obtained, and that the department is not prepared to give an undertaking that this money

will be approved."

The unions said the "payment of overtime in this financial year is but a hollow promise in an attempt to keep the courts going".

Society of State Advocates spokeswoman Retha Meintjies said it appeared likely that advocates and prosecutors would again refuse to work overtime

The department suspended overtime payments from January 13 due to a lack of funds. The previous work-to-rule protest was suspended after Omar's announcement on January 29 that R5-million had been obtained for the payment of overtime.

The two unions described the latest round of negotiations as a "futile exercise won by crime and criminals".

They said at least 10 state advocates had resigned since January, leading to a loss of about 200 years of experience. Another meeting was due for Monday.

Omar's spokesman Paul Setsetse said that approval to use the R5-million for overtime payments was being awaited from the Department of State Expenditure. Comment could not be obtained from the Justice Department. - Sapa

NP gives TRC deadline

ET 12/2/98

(252)

THE National Party yesterday handed the Truth and Reconciliation Commission a letter giving it a seven-day deadline to say what it was doing about a review of the blanket amnesty granted to 37 African National Congress leaders in December last year.

Announcing this at a briefing for diplomats and the media in Cape Town, NP leader Mr Marthinus van Schalkwyk said his party would await the TRC's response before deciding what further action to take.

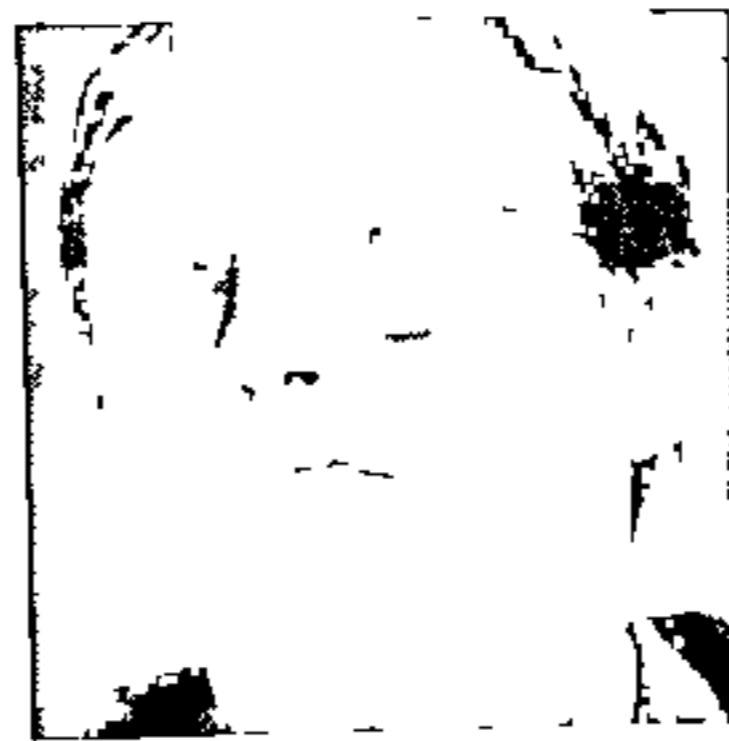
He said a month had passed since the TRC committed itself to taking the issue to the High Court on review, and it was almost two months since the NP had given the commission its view — gained from Senior Counsel — that the blanket amnesty was illegal.

The NP wanted details from the TRC,

within seven days, on the nature of the relief it was to seek in the courts.

Van Schalkwyk said the TRC was in a dead-end street, legally, politically and administratively and at a time when reconciliation should be top of the agenda, it was becoming bogged down in two vital court cases that could lead to a "lot of emotion in the country".

The one case was that of seeking a court order on the validity of the amnesty given to the 37 ANC leaders, and the other was that against former state president Mr P W Botha.



WANTS DETAILS:
Marthinus van Schalkwyk

Answering questions, Van Schalkwyk said Botha was not above the law and the NP would never be part of any right-wing initiative to rally support for him, but he believed the TRC had made a mistake in taking him to court — Sapa

Commission's work will continue

A NEW organisation is to be formed which hopes to further the work of the Truth and Reconciliation Commission (TRC) when it disbands later this year.

Known as the Institute for Change, Memory and Reconciliation, it will focus on doing advanced research into the TRC's final report, educating people about the TRC's work and helping the government and other organisations implement the TRC's recommendations.

The driving force behind the institute is Professor Charles Villa-Vicencio, head of the TRC's research unit.

"I have been approached by scores of

people, asking what should be done after the life of the TRC," he said yesterday.

"It has become clear that it will be a tragedy if all the interest, commitment and information generated by the TRC is allowed to fade away. After consultation, I have decided to establish an institute."

People who have agreed to serve on its board include TRC deputy chairman Dr Alex Boraine, the Archbishop of Cape Town, Archbishop Njongonkulu Ndungane, and Mr Leon Wessels, former deputy chairman of the Constitutional Assembly.

TRC chairman Archbishop Desmond Tutu has agreed to be its patron — Sapa

Witness had

'fear of Ferdi'

(252) CT 12/2/98

PRETORIA Ferdi Barnard's former "business partner" told the High Court here yesterday that he decided to speak out against Barnard only after the ex-CCB agent's arrest late last year because he feared for his life and his family's

"After his arrest, I got together with my advocate and we drew up a statement that was handed to the state," Mr Johan Kruger told the court

"I know him well I know he's violent When I was approached by the state in April last year, I said I would not talk until Barnard had been arrested because I feared for my life and that of my family."

Kruger said Barnard had boasted to him and two other diamond prospectors at a braai that he shot academic Dr David Webster and had described with glee how Webster lay on the pavement, drowning in his own blood

Webster was gunned down with a shotgun outside his Troyville house in 1989

Barnard has pleaded not guilty to Webster's murder, as well as 31 other charges, ranging from attempted murder to robbery and fraud.

Barnard's former girlfriend, Ms Amoré Badenhorst, earlier testified that Barnard had confessed to her that he had killed Webster.

Kruger also linked Barnard to a number of fraudulent diamond transactions in which he allegedly defrauded the police and a number of diamond prospectors introduced to him by Kruger

On one occasion he had posed as a diamond expert representing a British diamond dealer at Barnard's request, Kruger said

Barnard's advocate, Mr Faan Coetzee, put it to Kruger that he was deliberately trying to incriminate Barnard in crimes of fraud and murder

Coetzee argued that Kruger was trying to scale down his own involvement in illegal diamond transactions by dragging in a made-up story about Webster because he wanted to become a state witness

Kruger knew he had to return to the prospectors' community to make a living as an electrical contractor, Coetzee said

He said Barnard would deny confessing Webster's murder to anyone.

Kruger said he was telling the truth and denied that he had given false evidence to avoid prosecution, adding he at first believed that Barnard's transactions were legal, but realised that he was committing fraud when Barnard boasted that he had "knocked" (defrauded) two diamond prospectors

The trial continues — Sapa

Row erupts over proposed truth body

Stephen Laufer

(252)

CAPE TOWN — Nongovernmental bodies have criticised the intention of leading truth commission personnel to form a new institute to continue the commission's work.

Truth commission chairman Archbishop Desmond Tutu has agreed to be the patron of the planned institute for change, memory and reconciliation. The organisation would start work after the commission closed in July.

The institute threatened to draw funds away from established groups, Venetia Govender of the human rights committee said.

Several sources said the group would duplicate efforts of credible nongovernmental organisations already engaged in human rights education, international conflict management, trauma counselling and research.

Govender said the new body had set itself the task of analysing the commission's work. This meant former commission staff would be involved in a critical assessment of themselves.

The time and energy going into establishing the institute and winning funding for it was also problematic, given the amount of work still facing the commission.

Derrick Marco of the Institute for Democracy in SA took a more conciliatory line, saying there was a need for continued support of victims and perpetrators of gross human rights, and any organisation contributing to the healing of SA's people was welcome.

The driving force behind the new body, commission research head Charles Villa-Vincencio, said the institute did not intend to monopolise work relating to the truth commission and would co-operate with other bodies.

BD 12/2/98
It is understood that a presentation has been made to European Union ambassadors and to the Finnish government. One source said the proposed budget was R17m, unusually high for a small nongovernmental body.

Commission deputy chairman Alex Boraine said he would sit on the board of the new institute, but only after working hours until July. He believed many initiatives would seek to carry on the truth commission's work, and this was a "sound idea".

Villa-Vincencio said other board members would include Judge Richard Goldstone, the Anglican Archbishop of Cape Town, Njongonkulu Ndungane, and the former National Party deputy chairman of the Constitutional Assembly, Leon Wessels.

It is understood that truth commissioners Yasmin Sooka and Dumisa Ntsebeza will also serve on the board.

Witness tells of his fear of Barnard

Stephané Bothma

(252) BD 12/12/98
PRETORIA — An accomplice of Ferdi Barnard was too terrified to make a statement about his role in allegedly fraudulent diamond deals until the former Civil Co-operation Bureau (CCB) agent was behind bars, the high court heard yesterday.

Johan Kruger, a mining equipment technician, admitted that he had acted as a middleman for Barnard and Corrie Goosen, who died in a motorbike accident last year.

Kruger told the court that he was first approached by the attorney-general's office in April last year and asked to make a statement about his involvement in the alleged crimes. "I told them there was no way I was going to endanger my life by saying anything against Barnard while he was a free man. Only after he was arrested did I reconsider my position," he said.

Kruger was the first secret witness to testify against Barnard, who has pleaded not guilty to 34 charges, including the 1989 assassination of Wits University anthropologist and anti-apartheid activist David Webster.

"I know Ferdi is a violent man and I feared for my safety and that of my family. That is why I refused for a long

time to co-operate," Kruger told Judge Johan Els.

The court again heard yesterday that Barnard made a false statement to the Johannesburg police gold and diamond branch about a nonexistent illegal diamond deal in order to obtain state-owned diamonds for a scam.

Superintendent Siebert Myburgh said he met Barnard in January 1993 in the presence of former Vlakplaas operative Chappies Klopper. Barnard offered information about Ron Cummins, a British citizen, who he claimed had £1m to spend on uncut diamonds.

The state said that Cummins, who was used by Barnard in more than one scam, did not exist.

Myburgh said he believed the deal was genuine, and sent a junior officer to Kimberley to collect a large consignment of uncut stones to be used in a police trap. However, as far as he knew, the deal never went through.

Myburgh told the court that Barnard used the name Lanco Heyns at the time.

Barnard's defence advocate, Faan Coetzee, said his client denied involvement in any fraudulent diamond deal. Barnard had only provided security for associates involved in diamonds.

The trial continues today.

Commission 'not even-handed'

(252)
CAPE TOWN — The truth commission was not impartial or even-handed, and its long-expected report would, therefore, be one-sided and damaging to the Freedom Front's constituency, front leader Gen Constand Viljoen said yesterday.

The commission's court action against former state president PW Botha amounted to "Afrikaner-bashing" and because of that, the front supported Botha, Viljoen told diplomats and reporters in Cape Town.

Botha had sound political and personal arguments for his actions and the issue was becoming a rallying-point for Afrikaner nationalism.

Viljoen said his party's main mission remained that of seeking self-determination for Afrikaners, and it

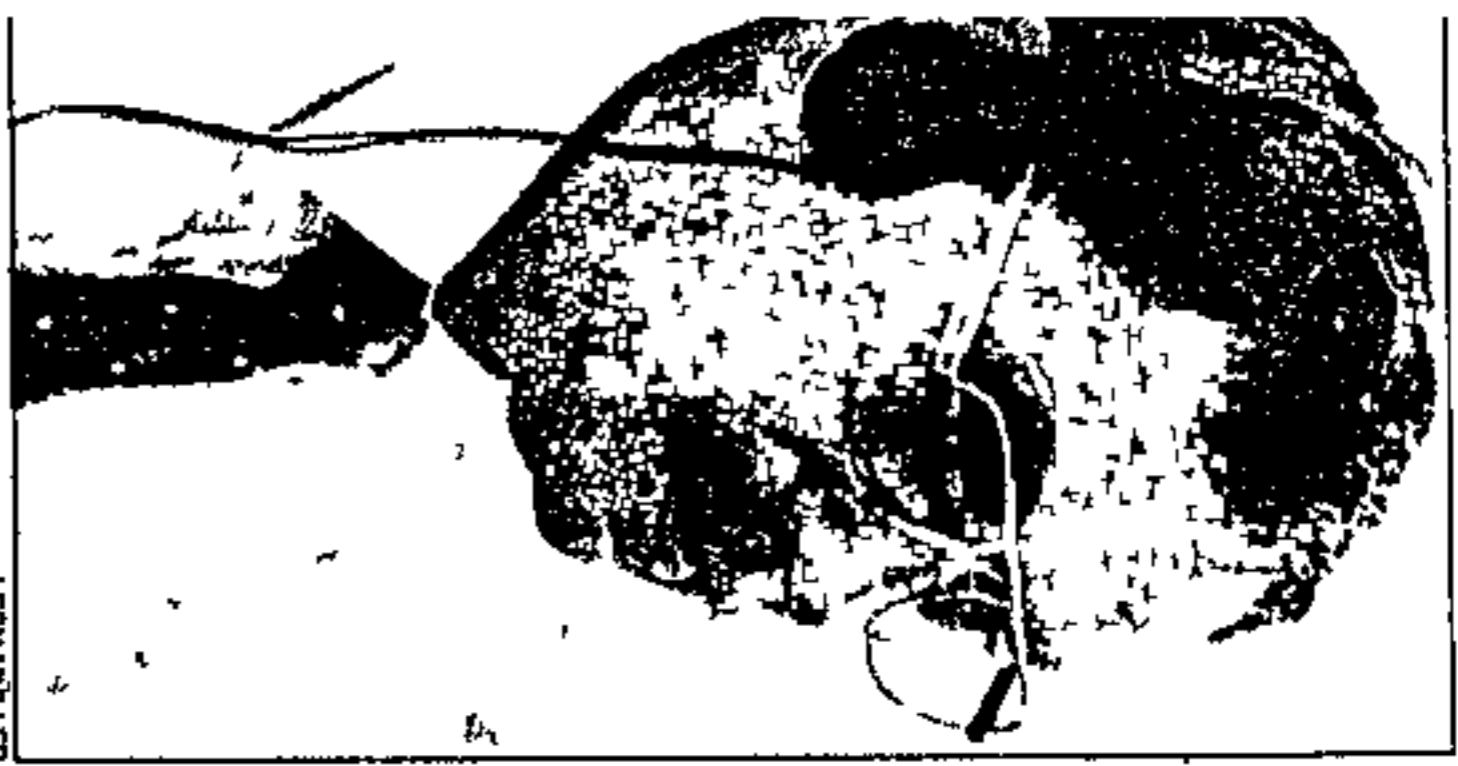
MD 12/2/98
would support the desires of other cultural groups for this as well.

The front would participate in the 1999 election.

Viljoen said that if he ever got the impression the African National Congress government was being dishonest in its approach to the front's striving for self-determination, this could lead to a breakdown between Afrikaners and blacks, and "this will be a disaster for the country".

Asked whether the front would consider resorting to violence, he said it would be "easy for us to start an IRA-type war", but this would not be wise.

If the achievement of self-determination took too long, a future generation would have to decide on its options. — Sapa



LEARNER/LEARNER
comfortable Johannes Raath

Medics' visit suspended Kondile's hell Elderly doctor gave him pills after torture sessions - witness

JOHN YELD
ON THE TRUTH COMMISSION

The torture of Eastern Cape activist Sizwe Kondile by security policemen was stopped periodically when an elderly white doctor visited him and gave him tablets, one of his captors told the Truth Commission's amnesty committee today.

Four former security policemen - retired generals Nic van Rensburg and Gerrit Erasmus, then captain Hermannus du Plessis, also since returned, and then sergeant Johannes Raath, who resigned last year with the rank of inspector - are applying for amnesty for their role in the abduction and murder of Mr Kondile in 1981.

Xhosa speaking Ginothy Danster told the committee today that he had helped guard, interrogate and torture Mr Kondile while he was held at Jeffrey's Bay police station for several weeks.

In his written statement to Truth Commission investigators, he said he had been "picked up" three times and taken to the security police offices after resigning from the security police in 1983.

He was forced to sign documents relating to the murder of Mr Kondile and of another Eastern Cape activist, Siphwo Mzimkhulu, who was also killed by security police.

In his verbal testimony today, he gave graphic details of the torture of Mr Kondile.

He said the torture had included sleep deprivation, electric shocks with a portable telephone and suffocation with a prisoner's bag and with strips of rubber tubing.

Mr Kondile's family, some of whom were wiping away tears, listened silently as Mr Danster described how their prisoner had been handcuffed and bound at the knees, and then subjected to suffocation and electric shocks.

"You put this bag on very tightly so he can't breathe. Then there is a small telephone with a crank handle with two wires. It's very, very painful. It shocks you.

"When we saw he was suffocating, we would take the bag off his head and he would be asked questions."

Mr Kondile initially had refused to co-operate, but had supplied "a lot of information" after the torture.

Mr Du Plessis and Mr Raath, who both earlier denied torturing Mr Kondile, had taken part in the torture sessions, said Mr Danster.

He said an "old white man, apparently a doctor" had visited Mr Kondile and given him tablets.

"We were then given orders (by Mr Du Plessis) to ask him questions, and not to ill treat him," he said.

Earlier, Mr Raath took the witness seat. Looking distinctly ill at ease, he

sweated visibly as he testified.

Exactly when in 1981 Mr Kondile was killed is one of several issues of dispute between the four policemen and former Vlakplaas commander Dirk Coetzee, who also applied for amnesty for Mr Kondile's murder and had a separate hearing in 1996.

Mr Coetzee told the amnesty committee Mr Van Rensburg had confided in him that Mr Kondile had to be killed because of severe brain injuries during his detention and that the security police didn't want "another Steve Biko".

During his testimony yesterday, Mr Raath agreed he had helped interrogate Mr Kondile in Jeffrey's Bay, but denied exerting "any pressure" on the helpless prisoner.

In an affidavit, Mr Danster said Mr Raath had bragged to him that they had "taught him (Kondile) a lesson". When he asked Mr Raath what he meant, he had replied that Mr Kondile's "brain was splattered".

Yesterday, Mr Raath denied saying that.

He said he had not watched Mr Kondile being shot and couldn't remember where the wound had been on his body.

At the start of his testimony, Mr Raath said he and his family were suffering.

"I'm very sorry this happened and I will have to carry this burden for the rest of my life."

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AWB amnesty offers lifeline

for Appla trio
(052) ART 12/2/98
ANUS CORRESPONDENT

Maritzburg - Decisions by the Truth Commission amnesty panel that have set free killers convicted of racist acts could have set an "uncomfortable" precedent for other racially motivated crimes, an amnesty judge has warned.

Mr Justice Bernard Ngoepe, acting chairman of the amnesty committee, was responding to closing arguments yesterday in the amnesty hearings of three Appla men convicted of shooting people at a Newcastle disco in February 1994.

The Appla members said they were ordered by a senior officer to target a place frequented by whites.

Leading evidence at the hearing, Paddy Prior, arguing against amnesty, said it was clear the attack had been along racial lines and not purely politically motivated. But Judge Ngoepe cited amnesties granted to three African-er Weerstandbeweging members convicted of murder for opening fire on a Pucco bus transporting black commuters.

Tears as killers beg a mother's mercy

ART 12/2/98
(052) ART 12/2/98
ANUS CORRESPONDENT

Pietermaritzburg - Three Appla soldiers who killed a young woman in a St Valentine's Day attack four years ago have begged their victim's sobbing mother for forgiveness.

And in an about-turn at yesterday's hearing, Maria Swart, mother of Salomina van Wyk, who was killed during the attack on the Crazy Beat disco in Newcastle, withdrew objections to the trio's amnesty applications.

Bongani Malevu, Falhango Walter Tanda and Andile Shiceka, ended their testimony before the TRC's amnesty committee with a request to meet their victim's family.

All three are serving jail sentences for the attack, which they say was targeted at white people so that the government at the time would be forced to change.

The Newcastle attack followed a spate of acts aimed at whites and allegedly perpetrated

black commuters.

on the helpless prisoner.

Mr Raath had bragged to him that they had "taught him (Kondile) a lesson". When he asked Mr Raath what he meant, he had replied that Mr Kondile's "brain was splattered".

Yesterday, Mr Raath denied saying that.

He said he had not watched Mr Kondile being shot and couldn't remember where the wound had been on his body.

At the start of his testimony, Mr Raath said he and his family were suffering.

"I'm very sorry this happened and I will have to carry this burden for the rest of my life."

Secret torture farm revealed

TRC told of abandoned premises, similar to the notorious Vlakplaas, which housed askaris

By Sharon Chetty and Mpkeleni Duma

ON A PROPERTY barely five kilometres outside the city of Bloemfontein there is an abandoned farm from which the former security branch allegedly plotted its nefarious deeds.

Like the notorious Vlakplaas base east of Pretoria, the property housed an elite group which specialised in infiltrating the liberation movements.

Those who were based there were mostly askaris (in this case members of the African National Congress and Pan Africanist Congress who worked as double agents).

Led by a group of senior white officers, they continued the work of the security branch until 1993, years after the unit was supposed to have been disbanded and even while the former National Party government was negotiating with the ANC and other parties.

Now one of the askaris who worked from the farm at Dealesgift has applied to the Truth and Reconciliation Commission (TRC) for amnesty and has provided the first glimpse into the special project.

David Sello Thejane then a member of the Azanian Students Movement, left the country in 1985 at the age of 16 while a student at Nkgopoleng High School in Sasolburg.

He went to the Dukwe refugee

camp in Botswana, where he underwent military training.

Three years later and after finishing school in Gaborone, he decided that he wanted to return to South Africa because he was not happy with the factions in the Azanian National Liberation Army in exile.

When he got to the border he was deported to South Africa as he did not have the right documents. He was then arrested by security branch police, who detained him under Section 29 of the Internal Security Act in solitary confinement in Welkom for a year.

While in detention, he says, he was threatened with death but was promised improved conditions, like family visits and better food, if he cooperated with his captors and worked against his former comrades.

Thejane says he agreed to do so and in 1989 began a life of deceit and double-dealing during which, he claims, he infiltrated the liberation movements (especially the Azanian People's Liberation Army) several times, had their activists arrested and then helped to torture them.

While in the greater scheme of things his tale is not particularly remarkable, since he alludes only to "major operations" being planned from the Dealesgift farmhouse and is unable to pinpoint specific atrocities, he does, however, provide some insight into the workings of the police in the period of the multiparty negotiations

Thejane also claims that Apla was infiltrated by the police to such an extent that they got close to one of its key commanders, Letlape "Happy" Mphahalele, although he managed to evade capture.

The Apla infiltration allegedly happened in the period during which there were several killings of farmers, allegedly inspired by the movement's "Kill the Boer, kill the farmer" slogan.

Thejane says the idea was to investigate the farmers' deaths, yet he is unable to explain why the security branch was unable to prevent any of the deaths while working undercover.

The farm was kept so secret that not even the local police or the rest of the security branch were aware of its existence, says Thejane.

"We used to go there to have meetings and collect things there was a place where we used to practise shooting."

Soviet-made Uzis and Makarovs, then commonly associated with the liberation movements, were part of their issue.

Thejane's force number was 0450085-7 and, he claims, his commanders included a Terreblanche, a Sergeant Barnard who trained the new recruits, a Major Venter, a Lieutenant Landman and a Sergeant Botha. His immediate head was a Sergeant Selai.

Eugene de Kock, the former Vlakplaas head who has now been sentenced to 212 years in prison for death squad activities, was a frequent visitor to the farm and encouraged the askaris to work to "fight anarchy."

Thejane claims he was trained at the Hammanskraal police college outside Pretoria and also visited Vlakplaas several times. At one gathering more than 100 askaris were allegedly addressed by De Kock in the presence of several police generals.

The Free State, former Transkei and Eastern Cape were their areas of operation although Thejane says he was once taken to Gugulethu in Cape Town, but did not do anything specific.

Ironically, while they were entrusted with top secret information, they had such superficial contact with their white superiors that Thejane says he cannot remember their first names.

The commanders 'disappeared' once the unit was disbanded and they received severance packages. He got R145 000. His monthly pay was R700, although they were "rewarded" in thousands when they arrested an activist.

Dubbed 'Bashun' by his colleagues, the 29-year-old former askari is a well-known figure in Bloemfontein.

"Everyone knows I was the main man here. I never used to smile with them but they don't say anything or confront me because they know it was apartheid then," he says about the fact that people are aware of his role as an askari and especially as the security policeman who monitored people and events from a kombi with tinted win-

dows.

He readily admits to having tortured several detainees "I was not talking, just torturing. I was very aggressive."

His preferred method was partial suffocation. He would tie up the hands and legs of a detainee and wrap them in a blanket to restrict movement. Then he would place a flat piece of rubber - cut from a tube - over the person's face to hinder breathing, he recalls in clinical detail.

Thejane's notoriety has been confirmed by a fellow askari, who also worked from the farm.

The man, who refused to be named as he has not applied to the TRC for amnesty, reiterated Thejane's description of the farm and the operations launched from there.

An active member of the ANC's armed wing Umkhonto we Sizwe he was arrested in 1986 while visiting Rockville, Soweto, from Lesotho where he used to be based.

Once an askari, he started working from the farm in 1987 and also stopped in 1993. He names as among his commanders a Cahitz Venter, Landman and Nicholson.

While he maintains that the security branch was investigating mostly crime and was "not interested in politics" in the post-1990 period, he admits they arrested mostly schoolchildren and "never managed to get hold of the commanders" of the liberation movements.

There was a place where we used to practise shooting

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By Sharon Chetty

DAVID Theyane's amnesty application is remarkable not for the details of the activities of the apartheid-era security police, but because he is one of the few askaris or informants who has come forward to make public his past role.

Although the Truth and Reconciliation Commission is unable to provide specific details on trends in amnesty applications, *Sowetan* understands that fewer than expected applications have been received from these double agents.

During TRC hearings last year former Umkhonto we Sizwe commander Tony Yengeni lambasted askaris and informants for not going public about their activities.

A similar call was made by the

Call on former askaris to

come out and tell all to TRC

Sowetan 12/2/98 (252)

mother of Eastern Cape activist Siphiwo Mnikulu. Mrs Joyce Mnikulu, who wanted to know who betrayed her son, who was killed by the police.

In the case of late Natal MK commander Phila Ndwanhwe no mention is made of the askaris who led her to her capture and ultimate death at the hands of the security branch.

Only five white policemen - one of whom, Andy Taylor, has since died of cancer - have admitted their role in her kidnapping and murder.

Another MK woman, Notuthula Simelane, was also led into a trap by a double agent in 1985 when she waited for a contact outside Johannesburg's Carlton Centre. Simelane was subsequently tortured and killed. The double agent has not applied for amnesty either.

In another prominent incident in June 1988 four MK soldiers entering South Africa from Swaziland, near Piet Retief, were guided into the clutches of a team of waiting policemen led by Eugene de Kock.

Although unnamed they were killed and later paraded a terror list. A second group suffered the same fate a few days later. The turnout has not been heard of since.

Former MK commander Sibhe Mhonywa has described the reluctance of informants and askaris to make known their role as "worrying".

"We all know that it would have been impossible for the security branch to work in the townships without the help of local informants, whether they were Indian, African or

coloured," Mhonywa said. He questions whether the "easy integration" of these askaris and informants into the present police service is appropriate. He also suggests that there are sinister motives by their (askaris) white commanders for not encouraging them to seek amnesty.

If their identities are made known during TRC hearings and they have not sought amnesty, they might still be liable for prosecution.

TRC spokeswoman Christelle Terrablanche says that no comment can be made on amnesty applications. She was also unable to say whether or not there would be special hearings or investigations into security branch activities in the post-1990 period.

The TRC mandate allows it to look at events up to May 1994.

TRC hears of covert police torture base

Source: 12/2/98

(252)
Former askari says police plotted against the ANC and PAC during peace negotiations

By Sharon Chetty

ONE OF THE FIRST known askaris to have applied to the Truth and Reconciliation Commission for amnesty has exposed a secret police base outside Bloemfontein from where security police plotted against the African National Congress and Pan Africanist Congress even while the former government was involved in negotiations with these organisations

The Vlakplaas-type farm was known only to a select few security policemen who continued their work against the liberation movements although that wing of the police was supposed to have been disbanded in 1990

Mr David Sello Thejane (29), an askari until 1993, claims that the farm in Dealesgift, about 5km outside Bloemfontein, was the base from which the covert unit plotted against the liberation movements and planned escapades into Lesotho, the former Transkei and Eastern Cape

Thejane was a member of the Black Consciousness Movement of Azania and its military wing, the Azanian National Liberation Army, until 1989 when he was recruited into the security branch

The property has since been abandoned and Free State authorities are still trying to ascertain its ownership. Thejane was the logistics person at the farm

He has applied for amnesty for shooting at a person six times with a Makarov pistol in 1991, allegedly because the man had followed him and he thought he was going to kill him. Thejane claims not to know if his shots killed the man

Luxury vehicles

He also says in his amnesty application that at one point, when he saw several luxury vehicles at the farm, he was told by one of his superiors that the visitors were judges from Pretoria

Thejane also admits to torturing several detainees, most of whose names he claims to have forgotten. He does, however, recall one activist's name that of a Jikila, although he has no idea what became of the man after his detention

Thejane also insists that the unit operating from the secret farm merely arrested activists and destabilised the liberation movements

● See page 11

Union declares dispute ⁽²⁵²⁾

Sowetan 12/12/98

THE National Union of Prosecutors declared a dispute with the Justice Department on Wednesday after unsuccessful negotiations over overtime payments, union chairman Mr Vincent Pienaar said

Last month prosecutors countrywide abandoned all overtime work after a decision by the Justice Department to suspend payments for extra time worked

In KwaZulu-Natal most court rolls were affected as prosecutors prepared all their work in the morning

Pienaar said "It is with bitter disappoint-

ment that negotiators for prosecutors left the Justice Department chamber today (Wednesday) Fruitful negotiations are no longer possible as there is nothing on the table"

Recently the department promised a relief fund of R5 million to quell the problem of overtime pay

Pienaar said Justice Minister Mr Dullah Omar told negotiators earlier that the Department of State Expenditure had approved the use of the fund from the Budget but on Tuesday they were told that the fund was not approved - Sapa

Lubowski inquest lurches into farce after evidence is 'lost'

WINDHOEK: The second inquest into the murder of Swapo activist Anton Lubowski has turned into a comedy of errors. None of the subpoenaed South Africans showed up.

The documents which local newspaper editor Hannes Smith had claimed contained irrefutable proof of the identity of Lubowski's murderers myster-

ously disappeared. And while the murderer or murderers remain at large, Smith, legendary editor and sole reporter of the *Windhoek Observer*, now faces four months in prison unless he produces the documents today.

To add to the confusion, he startled reporters after the hearing yesterday by revealing the names of suspects alleged-

ly mentioned in the controversial documents

Along with the now-familiar names of former operatives of the the Civil Cooperation Bureau (CCB), Smith also divulged the name of an employer of the Johannesburg City Council, Mr Martin Hennig, never before mentioned in the Lubowski case

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cf 13/12/98

In a telephone interview, Hennig denied any knowledge of the assassination and said he had never met any of the CCB men named by Smith — Chapee Maree, Ferdi Barnard, Slang van Zyl, Calla Botha and Staal Burger — nor fish national Mr Donald Acheson, who figured prominently as the chief suspect in the first Lubowski inquest

Hennig said he had only been in Namibia twice, both times on holiday with a former girlfriend

Smith testified on Monday that he was in possession of documents, which he apparently bought for R4 800 from an unknown informer in Johannesburg in February 1996, naming the assassins — Independent Foreign Service

ACTIVIST SHOT, BURNT

Coetzee quizzed on Kondile's murder

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FORMER HIT-SQUAD leader Dirk Coetzee says Sizwe Kondile was killed to avoid another "Biko scandal" but amnesty applicants say it was because he knew too much.

CT 13/2/98

SELF-CONFESSED hit-squad leader Dirk Coetzee was recalled to the Truth and Reconciliation Commission yesterday to clarify contradictory evidence about the last days of murdered activist Sizwe Kondile.

Coetzee first made revelations about the murder of Kondile to the Harms commission of inquiry in 1990, when he said the activist had been shot and burnt near the Mozambique border in 1981.

The policemen implicated in the murder at first denied Coetzee's claims, but have subsequently admitted arranging Kondile's murder and have applied for amnesty.

The TRC's amnesty committee heard several versions this week of the circumstances in which Kondile was killed. Generals Nic van Rensburg and Gerrit Erasmus, Colonel Hermanus du Plessis, and Sergeant Johannes Raath have all said Kondile was killed on August 11, 1981 after he was released from detention and then abducted.

They all claim Kondile at first agreed to co-operate with police, but after being given vital information had reneged and remained loyal to the ANC. He had been eliminated to prevent the information from reaching the ANC.

Coetzee was called to reappear before the committee by Mr Imrann Moosa, appearing for Kondile's mother, Ms Char-

ty Kondile, in an effort to ascertain the circumstances of the murder.

Coetzee said Kondile was killed in late October or early November 1981 after suffering a head injury while trying to escape interrogation.

He told the committee Van Rensburg had asked him to steal a trade union activist's Audi car and travel to Jeffreys Bay.

Coetzee said that when he arrived at Jeffreys Bay police station, Van Rensburg had shown him Kondile's car and said the detainee had suffered a head injury diving through a window while handcuffed.

Van Rensburg had told him he did not want another "Biko scandal" on his hands. Coetzee said he had agreed to arrange to have Kondile shot and burnt near the Mozambique border and to abandon Kondile's car nearby to make it look as if the activist had fled into Swaziland.

Coetzee was cross-examined by Mr Kobus Booysen, for Van Rensburg and Du Plessis, about dates and police records. Booysen put it to Coetzee that he often changed records and had not followed correct procedures. He also put it to Coetzee that he made hit-squad revelations to escape difficulties he was in at the time. This Coetzee denied.

Coetzee will continue testimony under cross-examination today — Sapa



Barnard 'swindled R1,4m'

PRETORIA: An alleged fraud victim of former Civil Co-operation Bureau agent Ferdi Barnard told the High Court here yesterday that he had been left destitute after losing R1,4 million in a fake diamond transaction arranged by Barnard.

Mr Bennie Hoepfner, a diamond prospector from Bloemhof, was testifying in Barnard's trial on 32 charges of murder, attempted murder, fraud, theft, robbery, intimidation and illegal arms possession.

Barnard has denied guilt on all the charges.

Hoepfner said that in 1992 he had been approached by an electrical contractor, Mr Johan Kruger, who told him that Barnard and Corrie Goosen, now dead, were looking for licensed prospectors to buy a large consignment of Angolan diamonds.

Hoepfner was taken to view the diamonds and Barnard assured him that everything was legal.

He said he had been persuaded to make

several cash deposits on the diamonds, even after he was told that the first deposit of R1m had been stolen.

Goosen showed Hoepfner a wound on his arm and said he had been shot during the robbery.

Hoepfner sold his Mercedes-Benz and gave the money to Goosen, who assured him it would be given to the Angolans so the transaction could continue.

He said he had trusted Barnard until the end. Although he knew the transaction would not be legal, he had believed in Barnard because the transaction was "coloured so beautifully" and the names of such important people were mentioned that it started sounding "half-legal".

He said he was shocked when he received a call from Kruger after he had spoken to detectives of the Klerksdorp diamond and gold branch. Kruger told him Barnard would kill him if he talked to the police again — Sapa

Coetzee takes the stand

Ex-cop grilled on his Kondile story

After nearly four days of "will he, won't he" speculation and some hard argument by several legal teams, former Vlakplaas commander Dirk Coetzee took the witness stand at the amnesty hearing concerning the death of Sizwe Kondile.

Coetzee, whose revelations in 1990 were instrumental in blowing the lid on police "hit squad" activities, was called as a witness in the amnesty application of four former Eastern Cape security policemen.

Generals Nic van Rensburg and Gerrit Erasmus, Captain Hermannus du Plessis, and Sergeant Johannes Raath, all since retired, are applying for amnesty for the abduction and murder of Mr Kondile.

Their version is that he was shot and his body burned near Komatiport on August 11, 1981.



ON THE TRUTH COMMISSION

They say they were forced to kill him to prevent his revealing to the African National Congress the name of the security police's principal agent in Lesotho, which he had learned in detention in the Jeffreys Bay police station.

The four claim they faked Mr Kondile's release from detention on August 10, took him to Bloemfontein to collect his car, abducted him soon afterwards and drove him to a remote spot near Komatiport, where he was murdered the following day.

But Coetzee's version, given to the 1990 Harms Commission and in his own amnesty application for Mr Kondile's murder - heard in 1996 but not yet decided - differs in crucial aspects.

He says he was told by General Van Rensburg, then a friend, that Mr Kondile had to be killed to avoid another "Steve Biko-type incident" as he had severely injured himself by jumping, handcuffed, through a window and landing on his head during an abortive attempt to escape.

He learned from General Van Rensburg that Mr Kondile had been "released" from Jeffreys Bay, taken to Bloemfontein, abducted and taken back to Jeffreys Bay, where he was held illegally for about two-and-a-half months, then murdered.

After Coetzee gave brief evidence-in-chief, he was subjected to hostile cross-examination by

advocate Cobus Boooyens, for General Van Rensburg and Captain Du Plessis.

When Mr Boooyens suggested Coetzee had "enough problems" in his life, he responded "I have more than enough, but luckily I think I have been vindicated in a large enough way."

When Mr Boooyens pointed out a discrepancy in Coetzee's first version of the Kondile story, told to journalist Jacques Pauw in Mauritius, Coetzee said he had left South Africa in a hurry and felt "torn apart" and "a traitor" to his people.

With a pointed reference to testimony by the four policemen that they had met and compared statements before submitting their amnesty applications, Coetzee remarked "I can assure you, I wasn't sitting in hotels with ex-colleagues refreshing my memory."



In the middle: ex-Vlakplaas commander Dirk Coetzee, centre, former colleague Almond Nofomele, right, and witness protection officer Mike Barnardo

ARG 13/2/98

DEPARTMENT OF JUSTICE

Bedevilled by staff walkouts

FM 13/2/98 (258)
The beleaguered Department of Justice, reeling from mass resignations of senior advocates, has appointed a private-sector forensic investigator to prosecute in the R20m-plus Premier fraud trial

Leading for the State in the case against Norman Knight will be Deon Friedman, who works with new black accountancy firm Gobodo Incorporated

Knight and former co-director Ockert Schoeman face theft and fraud charges following the 1993 merger of their Medical Cash & Carry pharmaceutical distribution company with Premier. The deal created United Pharmaceutical Distributors, whose JSE listing was suspended in September 1994 at Premier's request. This followed investigations into suspected irregularities and fraud involving about R40m. Knight was arrested and charged the following month and has been on bail ever since.

The Justice Department's chronic staff shortage and lack of experienced senior

advocates has caused a bottleneck in the prosecution of serious fraud cases (*FM News Focus* February 6). Business leaders, including Premier chairman Doug Band, are calling for top advocates in private practice to prosecute for the State to speed things up.

Initially the prosecutor preparing Case No 132/95 was to have been Senior State Advocate Herman de Beer. But he resigned from the Attorney-General's office at the end of 1995 to work as a forensic investigator with accountants KPMG.

Attorney-General Andre de Vries retained De Beer to continue with the prosecution, but KPMG is the independent auditor to the Premier Group, and after the defence complained that he might be biased, De Beer was taken off the case.

The new prosecutor, Friedman, was a Junior State Advocate. When he quit for the private sector De Vries, in turn, retained him to carry on. At least one of the defence counsels is unhappy about his continued involvement. Schoeman's attorney Mike Werner questions the Attorney-General's right to retain him.

"There might be a legal objection. Whether the Attorney-General has the

right and entitlement to appoint him in terms of the provisions of the Act is another story," says Werner.

"We might want to take advantage of that. Friedman is no longer a practising advocate, he's a forensic investigator. His appointment as State prosecutor could possibly be unlawful and we will consider whether there's any basis for a technical objection."

Attorney-General De Vries comments: "I foresee no problem or impediment with such an appointment."

"It happens from time to time that in voluminous and complex commercial matters, where an advocate resigns who has spent months or even years on preparation, it is in the interest of justice that such an advocate finalise the matter."

"During the past 12 months two other such appointments have been authorised by the Department of Justice to cases in my office."

Knight's four-year wait can't have been much fun. "I think it's beginning to get to him," says his attorney, Chris Ferreira.

One consolation for Knight — both he and Schoeman deny any wrongdoing — is that his bail, set in 1994 at R300 000, has been reduced to R100 000. Jack Lundin

Omar to pay legal personnel overtime

AN additional R5 million has been approved for overtime pay for prosecutors, state advocates and other legal personnel, Justice Minister Dullah Omar said yesterday.

The Department of State Expenditure had approved his ministry's request for the extra money, and they would arrange for paid overtime "where necessary", he said.

His announcement follows a work-to-rule by some justice department staff, including prosecutors and State advocates, after the budget allocation for overtime dried up.

Omar said the department could not extend overtime as an additional allowance to all legal personnel, or do so automatically as if it was part of the usual monthly salary package.

If unions wanted to declare a dispute on how the overtime dispensation worked, they were welcome to do so, Omar said.

"It is imperative that courts should function normally - not because the Minister or department would want it to be so, but because it is in the best interests of the country," he said - Sapa

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13/2/98
Sawar

Differences are real

sewelan 13/2/98

By Siphon Pityana

THE long and hard struggle for a non-racial South Africa was not a struggle for a raceless South Africa. Nonracialism is not tantamount to "racelessness", any more than nonsexism amounts to "sexlessness".

In this world there will always be different races and the sexes will always be different. This is the way God made the world and it cannot be changed.

Some confused politicians backed by yet more confused institutions want us to believe that there are no longer different races in South Africa and the sexes have suddenly undergone some radical and complete "unisexation", so that it is no longer necessary to talk about differences among the races and sexes.

How ridiculous! Just because people went to the polls in April 1994 does not mean that the very deep racial, gender and disability disparities among South Africans have suddenly been obliterated by the "X" on the ballot paper.

Topping the list of confused institutions is the South African Institute of Race Relations (SAIRR). The very existence and name of this institute presupposes that there is a need to address race relations in South Africa, yet they now want us not to mention or refer to racial differences, ostensibly because this will bring back racism.

And some opportunistic political parties, always masquerading as democrats, who are now reborn adherents of "racelessness", have fallen foul of the "racelessness" and "sexlessness" fallacies.

These groupings seem to adopt the ostrich approach to solving problems. In its very small mind, the ostrich believes that when it does not acknowledge the existence of a problem, the problem will vanish.

It is not just the fallacies of "racelessness" and "sexlessness" that are of concern to us. The SAIRR is now using a brand new "threat" to scare companies from supporting the Employment Equity Bill.

This is the "demographics *gevaar*". It argues that the Bill will require companies to be 75 percent black, 52 percent female and five percent disabled within five years. Nothing could be more deceiving.

Much to the credit of the Ministry of Labour, the Bill has left it to employers and employees to determine their own employment equity goals and the targets to be attained.

The Bill also leaves the time frames for attaining the goals and targets entirely to the companies.

The fact that they have to produce plans that

South Africans going to the polls did not change disparities in power and wealth along racial, gender and disability lines. To talk as if this were so, is clearly absurd, writes **Siphon Pityana...** (252)



are between one year and five years, does not mean that they must reach full demographic representation across all levels within the parameters of their first plans.

Such a conclusion can only arise from a biased and selective reading of the provisions of the Bill. There is generous flexibility in the assessment of the plans by the Ministry of Labour.

In Sections 39 and 40 of the Bill, it is stated that the director-general, in reviewing the employment equity plans of companies, will consider among other factors:

- The pool of suitably qualified people from designated groups from which the employer may reasonably be expected to appoint or promote employees,

- Economic and financial factors relevant to the sector in which the employer operates and

- The present and anticipated financial circumstances of the employer.

So where is the insistence on total and immediate demographic representation at all levels and occupations?

Where in the Bill does it say that mere under-representation of designated groups will *ipso facto* be proof of discrimination, as the SAIRR would like people to believe?

The concept of "disparate impact" does not relate to under-representation but to the impact of particular policies and practices on the exclusion of "minorities" and this is assessed on a case by case basis.

The Ministry of Labour is not so naive as to think that companies will be able to grab blacks, women and people with disabilities off the streets and achieve immediate demographic representation.

Why would we insist on joint planning by the various stakeholders within the workplace if the process were this simple?

This "threat" from demographics is a figment of the racist imagination.

Some politicians-cum-statisticians are now predicting that 50 percent of management will be black by 2000.

These bogus statisticians do not explain

how we will move from the current three percent of blacks in senior management to 50 percent within two years.

How are we going to achieve an exponential 23,5 percent a year growth rate of black managers to reach 50 percent by 2000 when the number of black managers only grew by 2,3 percent between 1994 and 1997?

Is there anyone who can tell me of at least 10 large companies in the private sector that are definitely going to be 50 percent black in management by 2000?

I would really like to note these companies and study them as role-models. On the other hand, if we cannot get a commitment from even 10 large private sector companies, then we need this legislation even more urgently than I thought.

This law is not only motivated by the shortage of blacks in management. An ordinary sweeper who has been discriminated against and denied opportunities for development and advancement in the past will benefit from this legislation.

A female administrator who has been prevented from moving up, in spite of her efforts and capabilities, because she cannot do "male" jobs, will be able to challenge this.

People with disabilities of all races, who were not only denied opportunities in the past but were treated with disdain, will now be able to insist on equal opportunities at work.

A white male who has been victimised and denied opportunities because of his sexual orientation will now be able to challenge this.

So why are our detractors ignoring all the other beneficiaries of this legislation and making it look like the law is just about blacks and management?

Is it perhaps because they do not want to be seen to be against women empowerment?

Lessons from countries like Canada, Australia and the United States have taught us that the elimination of racial, gender and disability imbalances cannot be left to so-called market forces.

(The writer is the director-general of the Ministry of Labour.)

Justice Dept gets R5-m for overtime

By CATHY POWERS

The Department of State Expenditure yesterday approved the Justice Department's request for R5-million to reinstate overtime pay, after unions declared a dispute this week

The Justice Department will now pay overtime where "necessary and possible", according to a statement

The R5-million is a stop-gap measure after overtime funds dried up

The department warned it could not be as generous with overtime pay as before.

"It (the department) cannot extend overtime as if it is an additional allowance to all legal personnel, or do so automatically as if it is part of the

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usual monthly salary package

"Prosecutors and state advocates do not have the right to insist on working overtime and to demand overtime pay. It is up to the department to assess where overtime work is required and whether it had the necessary resources to pay for overtime work," the statement said

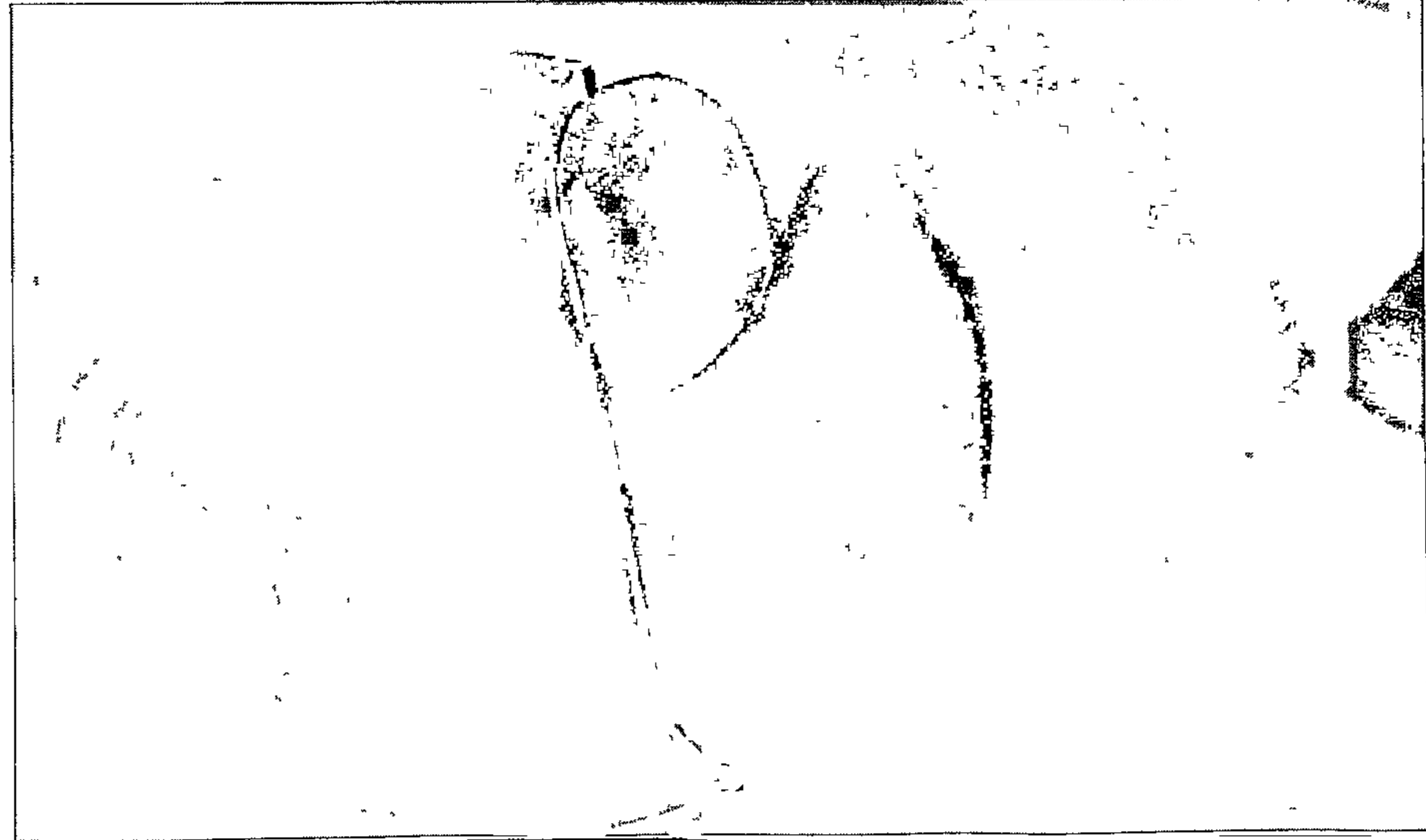
The Justice Department had always agreed that salaries were inadequate and was in the process of right-sizing and developing appropriate salary scales, it added

The Justice Department accused the National Union of Prosecutors of SA and the Society of State Advocates of constantly being hostile to the department.

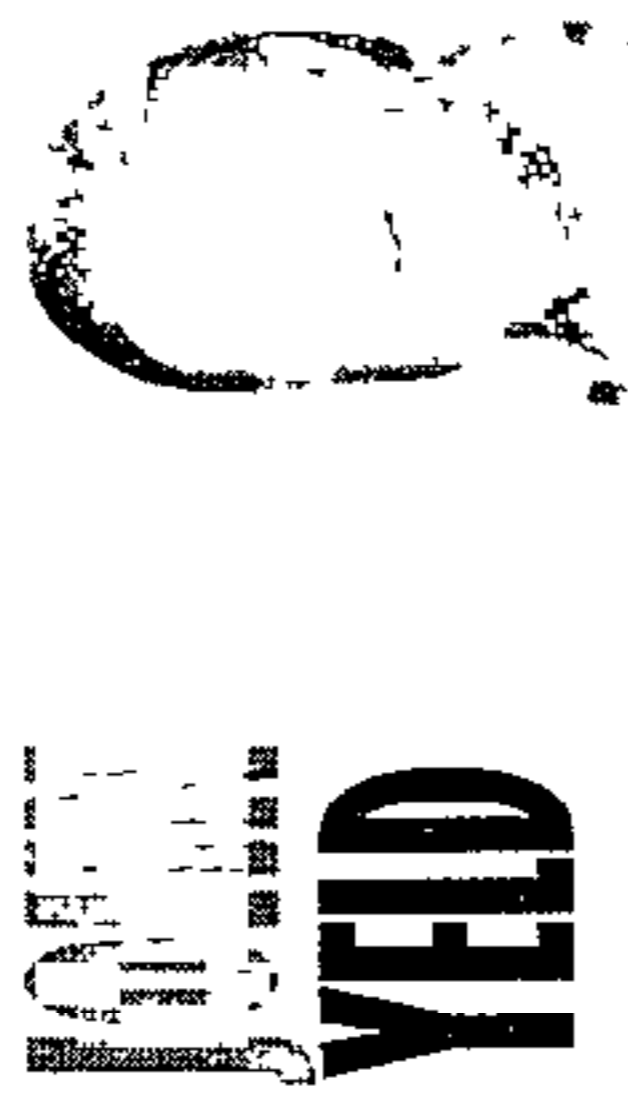
Star 13/2/98

Reconciliation is tough beat for penitent cop

An interrogator's tears fail to move the family of murdered activist
 (252) AAG 14/2/98



Amnesty applicant: former Eastern Cape security policeman Gerrit Erasmus



ON THE TRUTH COMMISSION

One of Archbishop Tutu's favourite phrases is "reconciliation doesn't come cheap" - and the Truth Commission chairman's words seemed apt at this week's session of the amnesty hearing on the 1981 murder of activist Sizwe Kondile.

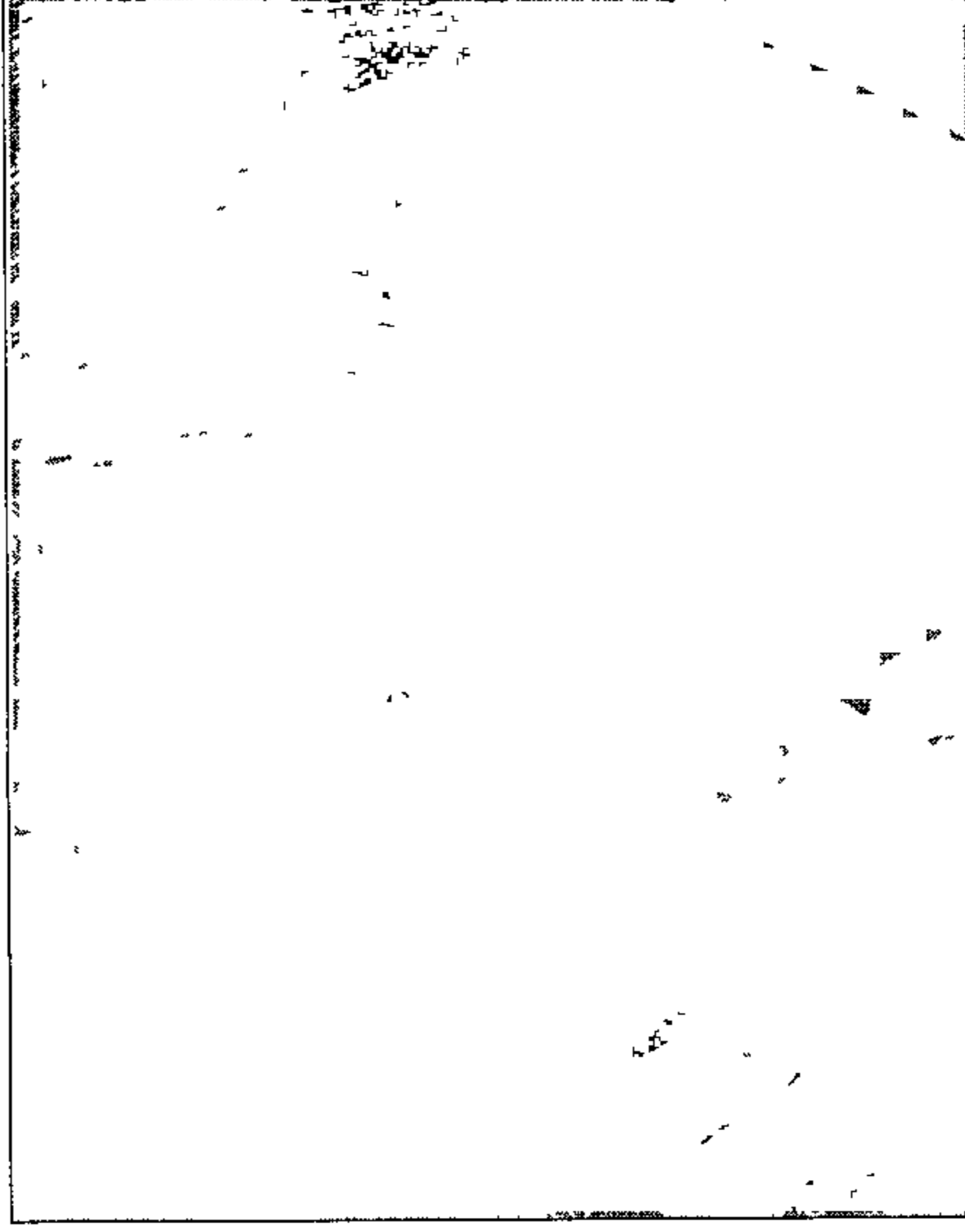
For most of the hearing, Mr Kondile's family have sat quietly, listening impassively to the testimony of four white former security policemen - former generals Nic van Rensburg and Gerrit Erasmus, then captain Hermanus du Plessis, and then sergeant Johannes Raath - who are seeking amnesty for abducting and murdering the young activist.

But on Thursday there were tears as a former security policeman, Ginothy Danster, who was subpoenaed to appear as a witness, told the amnesty committee how he had helped interrogate and torture Mr Kondile at the Jeffreys Bay police station. Danster also said "I would like to address the family. I'm sure you have waited a long time to hear what happened to Sizwe."

"This is something that has been very heavy on my shoulders. Truth and lies are not the same. I would like to apologise to the family."

"I did not take part in the killing of Sizwe Kondile, but I did take part in the interrogation. I ask for forgiveness."

While testifying, Danster also said he wanted to express his remorse directly to the family, but when he



Amnesty applicant: former captain Hermanus du Plessis



Amnesty applicant: former general Nic van Rensburg

moved towards them after completing his evidence, as if to shake hands, they sat stony-faced, ignoring the overture.

At the end of the day, however, Danster formally met the family in a small, stuffy tearoom on the ninth floor of the TRC offices.

"I know I do not deserve to have a word with the family. I know it is not easy to forgive," he said. "I regret what happened in the past but I felt it was necessary for the family to hear the story." Again rebutting former colleagues who claimed the activist had agreed to work for them, he said Mr Kondile had not been an informer. "He was loyal."

Mr Kondile's mother, Charity, sat listening to Danster impassively. Afterwards her legal representative, Imrann Moosa, commented "Mrs Kondile instructs me that she has listened to what he has said and to his evidence, and she has no response. She will consider her position."



Overture: Ginothy Danster said 'I am sure you have waited a long time to hear what happened to Sizwe'

SUNDAY ANALYSIS

Secret organisations and the judiciary

(252) ST 15/2/98

MEMBERS of the Afrikaner Broederbond have long fascinated political cartoonists. Sometimes they are depicted as lumbering dinosaurs, or wearing Ku Klux Klan-style hoods. But they have never been portrayed wearing the judicial wig. Not yet.

There was, however, a near miss in 1993, when Natal Judge Willem Booysen was named as a member of the organisation's executive. However, he pre-empted the cartoonist's pencil by resigning from the Bond and issuing a statement that he had always acted impartially on the Bench.

Now, almost exactly five years later, Judge Booysen has been nominated for promotion to the post of deputy judge president of Natal, is about to become vacant and his name has been sent to the Judicial Service Commission which selects judges.

The provincial judge president, Allan Howard, is due to retire in about three years. So an appointment at this stage could see Judge Booysen leading the Bench in Kwazulu Natal — as deputy and then as judge president — for the next seven years.

The decision to nominate him, and his decision to accept that nomination, raise all the old questions asked when his Bond membership was first disclosed.

Judge Booysen, 63, has been a permanent member of the judiciary since 1981, although he had acting appointments from 1974. He is clearly efficient and able, a man of many talents who generally gets on well with his colleagues and the press.

In 1993, a journalist and expert on the Bond, Hennie Serfontein, named Judge Booysen as a member of the Broederbond's executive in an article

Questions must be asked of the man who saw no conflict in being a judge and a Broederbonder at the same time, writes CARMEL RICKARD

listing the then top figures in the organisation. This alarmed members of the organised legal profession and opposition politicians, and a fortnight later the judge announced that he had resigned from the Bond.

He said that when he was appointed to the Bench, he had considered his position, but did not see any conflict with membership of the Bond because it was "a cultural organisation which excluded party politics" and he felt sure he could be an impartial judge.

Moreover, he said "I believed that I should honour my pledge (made) upon becoming a member (of the Bond) to remain a member in spite of personal risk or disadvantage." He said that while on the Bench he had never been influenced by the fact of his membership and believed that justice had been done in his court.

He added "I do believe, though, that justice must also be seen to be done. When it becomes public knowledge that a judge is a member of the Broederbond, or any other secret society, different considerations arise. Some members of the public may in that event, in my view wrongly but understandably, doubt the impartiality of the judge."

"In that event, I believe a judge should cease to be a member in order that justice should be seen to be done."

This statement, while seeking to justify the judge's position, does the opposite. In effect, he is saying that it was fine to be a member of a secret organisation as long as the public did not know — a view which smacks of contempt for the public and compounds the error of judgment in continuing as a Broeder while a judge. For there can be no doubt it was an error.

To take just one example imagine the feelings of the black activists whose application contesting their detention under the emergency regulations came before Judge Booysen in 1986. Seven years later, they discover that the judge before whom they had appeared was a member of the Broederbond. The security police chief in Durban who ordered their detention was also named as a member. So was the advocate who appeared for the police, and the minister of law and order against whom they brought their case.

Would the activists believe that the decision (which went against them) was reached by an impartial court?

And while the principle should be that judges ought to resign from any secret organisation on their appointment to the Bench, this was not just any secret organisation. It would be difficult to exaggerate the Broederbond's political power and influence in South Africa

during the time Judge Booysen sat on its executive.

It may well be that the judge played a verligte role in the organisation, or that he has changed his views since 1994. But how is the public to know?

Serfontein says that, in terms of the Bond's oath, "a Broeder is always a Broeder", and that the judge did not leave because of a fundamental difference of opinion with the organisation, but rather because he was "smoked out".

Legal experts say they can find no judgment which points to a "conversion" or which illustrates his present views. Moreover, like the rest of his colleagues, Judge Booysen declined to appear before the truth commission's hearing on the legal profession where he would have had an opportunity to explain his views on the Bond and the judiciary. Nor did he make any written submission to the commission.

So the public simply does not know where he stands — and whether he still believes that membership of the Bond, or indeed any secret organisation, is compatible with judicial office.

Serfontein says it would be a mark that the judge has really changed if he were to withdraw his nomination. "That would go a long way to rehabilitate him in the eyes of many people."

But there are no signs that such a step is likely.

So the public's right to know now lies with the Judicial Service Commission.

When its members interview candidates in April, they will have to ensure that they establish where he stands on a number of key issues — including secret organisations and the judiciary — and whether, despite his political history, he should be appointed.



SA's cities 'must change focus'

Deborah Fine

SA's cities were paying too much attention to racial integration and historical services backlogs at the expense of the promotion of economic growth and investment, a recent report by the Centre for Development and Enterprise said.

The report, "Cities and the global economy — new challenges for SA", said the growing strength of the global economy meant large groups of cities were gaining importance as the primary arenas of global economic and national competition.

Some analysts had suggested a decline in the importance of nations and a rising pre-eminence of cities in the global marketplace. This was because cities were the prime locations for the production of goods and services. More than half of the gross domestic product of most countries came from urban-based activity.

Cities would thus become the "engine

rooms" of national economies, and the future of countries would depend on their cities becoming globally competitive. SA's future would be "decided in the big cities", the report said.

Globally, cities would have to compete for investment and capital, making it necessary for them to devise increasingly competitive means of attracting investors.

Besides having to face the "harsh realities" of economic competition on a global scale, cities in the developing world bore the additional challenge of growing populations, enormous services needs, and limited human and financial resources.

The only way in which the quality of life in these cities would improve was through sustained economic growth. Failure to achieve growth and investment would lead to insufficient resources to address backlogs.

SA cities therefore needed to realign their development priorities, which were

too "lopsided" at present. While the correction of historical socioeconomic imbalances was vital, more focus was needed on making SA cities globally competitive by maximising and marketing their advantages to the global market.

It was only through competing as a "desirable site for investment in the tough global marketplace" that sustainable resources would be secured to effect SA's desired socioeconomic transformation.

"Any national economic growth strategy must have the role of cities as a top priority. To neglect cities is to jeopardise national development," the report said.

The new global economy was built on "access, communications and connections". Thus developing infrastructure, particularly transport and communications, had to be a priority. Government, business and labour needed to assess the impact of their policies on the global competitiveness of SA's big cities, the report said.

Sasco plans talks with universities' attorneys

Jonathan Davis

THE SA Students' Congress (Sasco) plans to meet attorneys representing 21 tertiary education institutions this week to discuss its threat to take them to court over their alleged breach of students' constitutional right to fair administrative action.

Sasco's legal representative, Brian Curren, said on Friday that he had been contacted by attorneys appointed by the SA Council of Vice-

Barnard stands behind blanket denial

Stephané Bothma

PRETORIA — Two weeks into his trial on 34 criminal charges, it has become apparent that former Civil Co-operation Bureau (CCB) agent Ferdi Barnard will counter accusations of fraudulent deals by blaming them on a dead man.

Barnard offered no explanation for his plea of not guilty on all charges when his trial began in the Pretoria High Court on February 2. However, since then his advocate, Fanie Coetzee, has offered a blanket denial of all testimony implicating Barnard in criminal activity, including the May 1989 assassination of anti-apartheid activist David Webster.

On the fraud charges, however, Coetzee has repeatedly intimated

that Barnard was no more than an innocent bystander, acting as a bodyguard and security expert for West Rand gangster Corrie Goosen, who was killed in a motorcycle accident near Port Elizabeth last May.

"I am instructed by my client that he merely provided security," Coetzee has told every state witness who has testified so far about the R1,7m scams which the state alleges were the brainchild of Barnard and Goosen.

While not denying his presence at the scene of allegedly fraudulent deals, Barnard has claimed that he was not involved in their planning or execution, at one point accusing his ex-lover, Amore Badenhorst, of conspiring behind his back with Goosen in an illegal

diamond deal.

His most recent denial was on Friday, when Pretoria attorney Evadne de Jager told how her life had been ruined by what she believed was a legitimate foreign currency deal in 1993, set up by Barnard and Goosen.

De Jager had found a buyer for seven billion Angolan kwanzas which were to be exchanged for dollars, but was told by Goosen that R200 000 in outstanding storage fees had to be paid before the kwanzas could be delivered to her client. After she handed over the money, Goosen disappeared.

The trial continues today. Former Vlakplaas policeman Chappies Klopper will tell the court about Barnard's alleged criminal activities.

Big boost for legal staffing

(2/12)

Justice Ministry gets go-ahead to hire more prosecutors and magistrates

Star 16/2/98

BY CLIVE SAWYER
Political Staff

Posts for more than 1 800 new staffers for the Office for Serious Economic Offences and for regional court prosecutors and magistrates are to be advertised soon

According to Justice Minister Dullah Omar, the Public Service Commission and the Government's treasury committee had given the go-ahead for the posts to be filled, in consultation with the Finance Ministry

His department had asked for 4 000 posts to be filled, but the commission had deemed less than 2 000 of these to require urgent appointments.

The OSEO has complained in the past that it was unable to carry out its task because of a lack of capacity. The OSEO announced last year it would not take on any new cases.

The new appointments were among steps outlined by Omar



Dullah Omar ... confident

on improvements to the criminal justice system

He said his ministry had considered asking President Mandela to go ahead with the appointment of a national director of public prosecutions, dubbed in the media the "super attorney-general", in spite of

the enabling legislation not yet having been approved

The constitution requires the appointment of a national director of public prosecutions and the conversion of provincial attorneys-general into provincial directors of public prosecutions

The National Assembly justice committee will this week hold hearings on the legislation, and Omar has urged all provincial attorneys-general to give evidence

Omar said he had decided to "await the thinking" of the justice committee before approaching Mandela.

Also slated for approval by Parliament this year is the Magistrates' Courts Amendment Bill, which will provide for the appointment of community assessors in magistrates' and regional courts

The community assessors will participate in decisions on bail, verdicts and sentencing

Omar acknowledged there had been concerns about the effect the appointment of community assessors would have on the impartiality of courts, but said these would be addressed as the bill was processed

In general, magistrates and prosecutors had done their jobs well, but better court and case management was needed.

Some of the problems in courts were not caused by these officials, but by cases having to be postponed because police investigations were not yet complete, or by dockets not being available on trial dates

Omar said another improvement to the court system was the Judicial Matters Amendment Bill, which would increase the penal jurisdiction of district and regional courts. This meant fewer cases involving serious offences would have to be transferred to high courts, but there would be greater pressure on district and regional courts.

Call for judges panel to choose super-prosecutor

DONWALD PRESSLY

THE man tipped for the new post of National Director of Public Prosecutions has urged the portfolio committee on justice to make the appointment procedure "more transparent", like that for judges.

Transvaal attorney-general Dr Jan D'Oliviera yesterday told the ANC-dominated committee, chaired by Mr Johnny de Lange (ANC), that the Judicial Services Commission — which recommends the appointments of judges to the High Court, the Constitutional Court and the

Supreme Court of Appeal — should recommend a candidate for the proposed chief prosecutor's post.

His appeal echoes that of Mrs Sheila Carmerer, former deputy justice minister and now National Party spokesperson on justice, who has called for an independent procedure.

D'Oliviera said that although the national director or "super attorney-general" was to be appointed by the president, the National Prosecuting Authority Bill made no provision for the selection procedure. The bill is to go before Parliament later this year.

The United Nations' guidelines on prosecutors included selection criteria that embodied safeguards against partiality and prejudice, D'Oliviera said.

The Judicial Services Commission should be entrusted with the responsibility of recommending candidates to the president.

Attorneys-general, who are to become provincial directors of public prosecution, are appointed by the state.

Although ANC members of the committee did not rule out the possibility of a more transparent procedure, they noted that the state

appointment of attorneys-general was standard practice in the United States, the national attorney-general was a political appointment.

D'Oliviera said the conditions for the removal of the national director of public prosecutions should apply also to the provincial directors.

In terms of the bill, the president may suspend the national director for misconduct, continued ill health or inability to carry out his or her duties efficiently.

The president would be required to report his decision to Parliament, which would be empowered to reinstate the national director.

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ET 17/2/98

Justice system 'in danger'

Wyndham Hartley

(252)

BD # 17/2/98

CAPE TOWN — Attorneys-general across the country told Parliament's justice committee yesterday that legislation to create a national prosecuting authority was necessary to save the country's criminal justice system but the present version had inadequacies which should be rewritten.

At issue in the National Prosecuting Authority Bill is the independence the national prosecuting authority will have from the public service and the justice department in determining salaries and working conditions.

Witwatersrand local division attorney-general Andre de Vries suggested a national director of public prosecutions or so-called "super attorney-general" should be appointed, as was provided for in the constitution, to rewrite the act to the satisfaction of prosecu-

tors and politicians

Jan d'Oliviera, the attorney-general for the Transvaal division, said that in the light of the fact that prosecutors' salaries were a national disgrace and their career prospects were uncertain — resulting in low morale — the bill had to be "accelerated" into law.

The justice committee's consideration of the legislation yesterday came after recent confrontations between prosecutors and Justice Minister Dullah Omar regarding overtime pay.

It is understood that the cabinet is unhappy with delinking the prosecutors completely from the public service because this could lead to all state professionals wanting to separate themselves from Public Service Commission regulation. As a concession, the legislation will allow prosecutors to negotiate their salaries separately from the rest of the public service.

Security 'knew' Barnard was Webster's killer'

Stephané Bothma

PRETORIA — It was common knowledge in security circles that former Civil Co-operation Bureau agent Ferdi Barnard had assassinated Wits University anti-apartheid activist David Webster, the high court was told yesterday.

However, Chappies Klopper, a former Vlakplaas C10 unit member and now an agent for the National Intelligence Agency, who is stationed abroad, said "As was the case with the (Steve) Biko affair, no one could prove it."

Testifying against Barnard, who has pleaded not guilty to 34 criminal charges ranging from murder to fraud, Klopper said he was not surprised when he learned that Barnard drove around with what he claimed was the Webster murder weapon — a sawn-off shotgun named "Buks Benade" — in the boot of his car.

"Although Ferdi never admitted shooting Webster, he did show me a shotgun and said that was the weapon which killed Webster," Klopper told judge Johan Els.

Klopper, who blew the whistle on the criminal activities of his former commanding officer, Vlakplaas chief Eugene de Kock, at the Goldstone commission in 1994, said Barnard had been a "valuable" informer for the C10 unit in the early 1990s. After being transferred to Vlakplaas, Klopper acted as Barnard's handler, he testified.

Klopper also told the court that former security police chief Gen Krappies Engelbrecht received a Rolex watch for his help in covering up a scam in which Barnard fraudulently obtained R200 000 from a city attorney.

He said he and De Kock had each been given R10 000 by Barnard after attorney Evadne de Jager paid more than R200 000 to Barnard's alleged accomplice, gangster Corrie Goosen, on behalf of a client in what she believed was a legitimate foreign currency deal.

The court also heard that Barnard and De Kock were joint owners of a brothel in the Johannesburg suburb of Waverley where video recordings were made to blackmail clients. The trial continues today.

Former police chief applies for amnesty

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CAPE TOWN — Retired police commissioner Johann van der Merwe is among 10 former policemen applying for amnesty for offences arising from the 1988 Johannesburg death in detention of an African National Congress (ANC) activist.

The policemen are to appear before the truth commission's amnesty committee during a five-day hearing at Vista University next week.

The 10 are seeking amnesty for offences related to the death of Maisha Johannes Stanza Bopape, who disappeared mysteriously after being detained.

Police claimed at the time that Bopape escaped while those guarding him had been out on an investigation.

According to a truth commission statement, the policemen claim Bopape was arrested in Hillbrow and taken to John Vorster Square, where he was held without trial, tortured and killed. — Sapa

BD 17/2/98

The truth about Bopape, at last

(252) Sowetan 17/2/98



Activist Stanza Bopape – a 10-year mystery will be cleared up when 10 former policemen testify before the TRC next week.

By Claire Keeton

TEN YEARS after the disappearance of Stanza Bopape, a Mamelodi civic association activist, 10 former policemen will publicly confess to the Truth and Reconciliation Commission (TRC) about his torture. They will also give details about the circumstances that led to his death.

For the first time the policemen – from the ranks of constable to general – will clear up the mystery surrounding Bopape's death at a TRC amnesty hearing in Mamelodi next week.

Three of them – Lieutenant-Colonel Adriaan van Niekerk, Constable Hendrik Mostert and Constable Jacobus Engelbrecht – applied for amnesty only after they were subpoenaed by the TRC to appear before an investigative inquiry into the killing.

Unsolved mystery

"Bopape's disappearance was one of the unsolved mysteries arising from detention without trial in the 1980s. Police claimed Bopape had escaped from the custody of three policemen in the Vaal Triangle while they were out on an investigation," TRC media officer Mr Mbulelo Sompetha said yesterday.

Van Niekerk, Mostert, Engelbrecht, Major Charles Zeelie and Johan du Preez have all applied for amnesty. Du Preez was a detective inspector in the South African Police Service at the time of his application.

The policemen say Bopape, an African National Congress

and civic association activist, was arrested in Hillbrow and taken to John Vorster Square police headquarters in Johannesburg on June 10 1988.

He was held there in solitary confinement under Section 29 of the Internal Security Act and subsequently tortured and killed.

Brigadier Schalk Visser and Captain Leon van Loggenberg have applied for amnesty for their role in the disposal of Bopape's body, which is now believed to have been thrown into a river.

Mrs Francina Bopape, has appealed to the TRC to help her find her son's remains so that she can give him a proper burial.

In 1993 *Sowetan* followed up information from former policeman Constable Johnny Mokaleng that he had seen Bopape's body being buried secretly on a farm in Phokeng, near Rustenburg in North West.

But no remains were found although Mokaleng pointed out to policemen the alleged site of the grave.

The TRC has contacted Mokaleng, who has not applied for amnesty, to attend the five-day hearing.

Former police commissioner General Velde van der Merwe, General Gerrit Erasmus and General Petrus du Toit have applied for amnesty on charges of conspiracy and defeating the ends of justice by covering up the reasons for Bopape's death.

They were all either based at John Vorster Square, Pretoria or Middelburg in Mpumalanga at the time of Bopape's murder.

Court told about gun in Webster case

Sowetan 17/2/98

Witness talks about activities and antics of cop accused of activist's murder

FORMER Vlakplaas agent Chappies Klopper told the Pretoria High Court yesterday that Ferdie Barnard had on more than one occasion told him of the gun used in the 1989 murder of anti-apartheid activist Dr David Webster.

Klopper, who was Barnard's handler since 1992, said although Barnard had not directly confessed to Webster's murder to him, it was generally accepted in security circles that he was responsible for it.

He said Barnard referred to the firearm, a short-barrelled gun, as "Buks Benade", and added Barnard used to drive around with the gun and had told him repeatedly that it was used to kill Webster.

Barnard is facing 32 charges, including the Webster murder, the attempted murder of Justice Minister Dullah Omar and various charges of robbery, theft and fraud. Klopper also claimed Barnard had asked him to supply a landmine to blow up the car of former Brixton murder and robbery unit chief Charlie Landman.

This was to be done to give Landman more standing with the police and to make it appear as if Landman's life was in danger.

Klopper referred Barnard to an explosives expert and later heard that Landman's car had been blown up. He claimed Landman was almost blown up with his car because of a severe hangover and that only a timely reminder from Barnard had saved his life.

Klopper testified that Barnard and for-

mer Vlakplaas commander Eugene de Kock had operated a brothel in Johannesburg, where high-profile guests were often entertained. Videos and tape recordings of goings-on at the brothel were used to blackmail people.

Klopper told the court that Barnard had one day given him and De Kock R10 000 each, and also gave one of their colleagues R5 000.

Barnard told them he had defrauded an attorney of R100 000 in a deal involving Angolan money, and that he simply felt like sharing his spoils.

"We did nothing for the money. I didn't know why he gave us the money," Barnard told him then.

He and De Kock were called out to the house of General Krappies Engelbrecht, who was at the time head of the security police, where they were questioned about the case. Barnard later told him that they had given Engelbrecht a Rolex watch "as a gesture of goodwill".

Barnard also told Klopper that he had given his attorney in the Webster inquest a Rolex watch.

Klopper claimed Barnard had told him about an incident when he had set alight his car so that he could claim the insurance money. De Kock was convicted on a similar charge of fraud after setting a state vehicle alight, that was insured privately.

In both cases, the cars were insured through Barnard's brother-in-law, who was an insurance broker.

The trial continues - Sapa

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'Barnard told me he had killed Webster'

Star 17/2/98 (2/72)

Court hears that accused blew up ex-head of Brixton murder and robbery unit's car and gave general a Rolex watch

Former Vlakplaas agent Chappies Klopper told the Pretoria High Court yesterday that Ferdi Barnard had, more than once, told him of the gun allegedly used in the 1989 murder of anti-apartheid activist Dr David Webster.

Klopper, who was Barnard's handler since 1992, said that although Barnard had not directly confessed to Webster's murder to him, it was "generally accepted" in security circles that he was responsible for it.

He said Barnard referred to the firearm, a short-barrelled gun, as "Buks Benade", and added that Barnard used to drive around with the gun and had told him repeatedly that it was used to kill Webster.

At that stage, Vlakplaas changed from investigations into terrorism and started concentrating on organised crime.

Barnard is facing 32 charges including the Webster murder, attempted murder of Justice Minister Dullah Omar and various charges of robbery, theft and fraud.

Klopper also claimed Barnard had asked him for a landmine to blow up the car of former Brixton murder and robbery unit chief Charlie Landman.

This was to be done to give

Landman more standing with the police and to make it appear as if his life was in danger.

Klopper referred Barnard to an explosives expert and later heard that Landman's car had been blown up. He claimed Landman was almost blown up with his car and that only a timely reminder from Barnard had saved his life.

Barnard had joked to him that the explosion nearly caused Landman's mother-in-law to have a heart attack.

Klopper testified that Barnard and former Vlakplaas commander, Eugene de Kock had operated a brothel in Johannesburg, where high-profile guests were often entertained.

He said videos and tape recordings of goings-on were used to blackmail people.

Klopper told the court that Barnard had one day, out of the blue, given him and De Kock R10 000 each, and also gave one of their colleagues R5 000.

Barnard told them he had defrauded an attorney of R100 000 in a deal involving Angolan money, and that he simply felt like sharing his spoils.

"We did nothing for the money. I didn't know why he gave us the money," Barnard told him then.

Klopper said he and De Kock were called out to the house of General Krappies Engelbrecht, who was at that stage head of the security police, where they were questioned about the case.

Barnard later told him they had given Engelbrecht a Rolex watch "as a gesture of goodwill".

Barnard told Klopper he had given his attorney in the Webster inquest a Rolex watch.

Klopper claimed Barnard had told him about an incident when he set his car alight so that he could claim insurance money.

He said De Kock was convicted on a similar charge after torching a state vehicle that was insured privately.

In both cases, the cars were insured through Barnard's brother-in-law, who was an insurance broker.

Klopper added that Barnard, while an SA Narcotics Bureau member, had repeatedly provided him with information about alleged fraudulent diamond transactions.

There was only one arrest, and Barnard later told him that the police were used to obtain diamonds, which he could show to prospective clients, whom he eventually defrauded.

The trial continues - Sapa

Transparency sought in amendments to the judiciary

By DONWALL PRESSLY
Political Correspondent

Cape Town - The man tipped to hold the new post of national director of public prosecutions has called on the justice portfolio committee of Parliament to make the appointment "more transparent" in line with the appointment of judges.

Witwatersrand Attorney-General Jan D'Oliveira told the ANC-dominated committee chaired by ANC MP Johnny de Lange that the Judicial Services Commission should be entrusted to recommend the appointment of the country's pro-

posed new chief prosecutor. At present, the committee recommends appointments of judges to the High Court, the Constitutional Court and the Supreme Court of Appeal.

His position echoes that of former deputy justice minister Sheila Camerer's call for an independent procedure of appointment.

D'Oliveira said although it was constitutionally prescribed that the national director - dubbed the super-attorney-general - be appointed by the president, "there nowhere exists any provision pertaining to the procedure for appointment" in the National Prosecuting Authority Bill. The bill is scheduled to go

through Parliament this year.

He said the United Nations' guidelines on the role of prosecutors provide for selection criteria for prosecutors which embodied safeguards against appointments based on partiality or prejudice.

The Judicial Services Commission should be entrusted with the making of recommendations to the president.

At present, attorneys-general, who will become provincial directors of public prosecution, are appointed by the state.

While ANC MPs did not rule out the possibility of a more transparent procedure of appointment, they pointed out that direct state appointment of attorneys-general was standard practice.

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Botha given R1,6m to fund TRC submission

FORMER state president Mr P W Botha had been allocated about R1,6 million to fund his submission to the Truth and Reconciliation Commission, Finance Minister Trevor Manuel said yesterday.

Briefing Parliament's finance committee on the adjustments estimate budget, Manuel said that after a lengthy debate in the cabinet, it had been decided to allocate R549 000 to fund privileges for former president Mr F W de Klerk. This money would be used to pay for two staff members, a travel allowance, tele-

phone services and office equipment. The allocations were queried by African National Congress MP Mr Rob Davies, who called for clarity on the privileges afforded to both former presidents. The adjustments estimate budget enables Parliament to approve additional funds to those already allocated in the main budget.

State expenditure director-general Mr Cassim Gassiep said the fiscus had clamped down on departments requesting more funds. Of the R1,29 billion applied for, only R472m had been allocated, he said. The South African National Defence Force, for example, had asked for an extra R355m, but this was refused.

Manuel said the cabinet's treasury committee took into account five criteria when deciding whether to allocate extra funds, as laid out in the Treasury Act, but the key was whether the expenditure was unforeseen and unavoidable.

Negotiations between the national and provincial governments for a slice of the R1,5bn, set aside in the adjustments estimate budget, would start this week, Manuel said he was concerned that the provinces were not doing enough to collect their own revenues.

Finance director-general Ms Maria Ramos said it was not foreseen that the increase in the budget deficit, from four percent to 4,3%, would affect debt servicing costs.

The government had revised its inflation forecasts for 1997/8 to about eight percent, she said. — Sapa

MBEKI CRITICISES EMPHASIS ON NEGATIVE REPORTING

SA media 'doing a bad job'

MEDIA COVERAGE of President Nelson Mandela's speech at Matikeng had highlighted deficiencies in press coverage, it is argued. **RYAN CRESSWELL** reports

THE South African media is doing a bad job of covering the positive aspects of South Africa's changing society, Deputy President Thabo Mbeki said yesterday.

Addressing a meeting of the International Advisory Board of Independent Newspapers in Johannesburg, Mbeki gave as an example the fact that until recently the media had not reported the fact that crime had been dropping steadily since 1994. This had been reported only a few weeks ago, Mbeki said this development

had been ignored because there was a "pessimistic mind-set" that said crime was out of control.

He added that this same mind-set had contributed to a belief that good doctors only came out of places like the University of the Witwatersrand and not the University of the Transkei.

He said positive aspects, like the fact that the amount of steel sold in the first half of 1997 had equalled two-thirds of the steel sold in the whole of 1996, were not fully understood or reported by the South African media.

Mbeki said coverage of President Nelson Mandela's speech at the ANC's Matikeng conference in December had demonstrated the deficiencies in South African journalism.

He said 83% of the content of Mandela's speech was not passed on to readers.

"Information, information, information," he exclaimed at one stage in his talk.

"How do we change the society if we don't even know about it?" He also called for more transformation of the press so that different types of voices could be heard



and said the quality of reporting should be improved, perhaps by more training.

"The media concentrated on something like 17% (of the speech). Mainly those sections that made critical remarks about the press, the opposition and NGOs."

Mbeki said it was possible that young reporters, without much experience, did not grasp the importance of some of the deeper issues in the long report and said there was a trend for senior journalists to join management so they would get better salaries.

CRITICAL: Mbeki

Group 'was focused on discrediting TRC'

RYAN CRESSWELL
JOHANNESBURG. A group of Afrikaners had been set on discrediting the TRC from the start of its activities, Archbishop Desmond Tutu told the International Advisory Board of Independent Newspapers yesterday.

This group had gone to "considerable effort" to try to discredit the commission. Tutu, who heads the TRC, said the group had wanted to "pre-emptively" discredit the commission's final report. The reason the TRC was being attacked, he said, was that it was showing just how evil the methods used by apartheid security forces had been, which had placed a powerful group in a very bad light.

He believed there was a conspiracy because ● Of the repeated claims that the commission was not even-handed and was biased towards the ANC ● Of claims that violations by those who carried out the struggle were treated more leniently ● Of claims that the security forces were treated too harshly

Tutu denied all the allegations of bias, saying the commission was bound by the Proclamation of National Unity and Reconciliation Act to be even-handed.

African National Congress women's league president Winnie Madikizela-Mandela in Johannesburg yesterday.

Picture JULIAN VAN DER WESTHUIZEN

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R50 000 and 1kg of cocaine was price on De Kock's head

Stephané Bothma (252) PD 18/2/98

Former Vlakplaas operative Chappies Klopper offered former Civil Co-operation Bureau (CCB) operative Ferdi Barnard, R50 000 and 1kg of cocaine to kill his commanding officer, Eugene de Kock, the high court heard yesterday.

Klopper, a key state witness in the murder and fraud trial of Barnard, rejected an allegation by defence advocate Fanie Coetzee that he had a grudge against Barnard and therefore, told lies about him.

Klopper admitted, however, that he had left the C10 unit under a cloud of controversy, saying he had a bad fall out with De Kock. Barnard, who was an informer for the now disbanded Vlakplaas C10 unit while working for the notorious CCB and later for military intelligence's directorate of civil information, pleaded not guilty to 34 charges ranging from murder to attempted murder and fraud.

Klopper, the man who exposed the criminal activities of Vlakplaas to the Goldstone commission of inquiry under the name of Mr Q, said he understood why Barnard disliked him.

Klopper was a state witness against De Kock, who was sentenced to more than 200 years' imprisonment and two life terms. In the De Kock trial, Barnard played an important role in gathering dirt on Klopper to discredit him as a state witness against De Kock.

Judge Johan Els heard that Klopper hated Barnard because Barnard had exposed Klopper as Mr Q, the man who had spilled the beans about the criminal activities of Vlakplaas.

"I do not have Barnard for what he did; I would have done the same. At the time, everybody (of the old security fraternity) stood together. I would have done the same," Klopper told the court.

Klopper said while Barnard was an informer for the C10 unit, he (Klopper) had supplied him with Russian-made weapons and hand grenades.

He said although he feared for his life after leaving Vlakplaas, he had never asked Barnard to kill De Kock.

During his testimony in the De Kock trial, he was angry with Barnard, but now understood why Barnard took De Kock's side against him. "They all stood together. I would have done the same," Klopper said.

The trial continues today.

Overstretch hammers work of key offices

The Public Protector and the Independent Complaints Directorate are understaffed and overworked, write

Dr Mark Shaw and Lala Camerer

(252) *ATW 18/2/98*

Wuch has been made of the establishment of oversight and accountability structures to ensure that citizens are protected from state abuse. Their success and influence on good governance may be limited, not because they have too little to do, but because they have too much.

The office of the public protector, currently filled by Advocate Selby Baqwa, and the Independent Complaints Directorate (ICD), headed by Advocate Neville Melville, are two key accountability mechanisms established by the constitution and national legislation respectively.

The public protector is asked with investigating corruption and maladministration at any level of government and

amount (R5,8-million) be allocated to his office. Included in the request is money to establish regional offices.

Similar "regional" offices have in the past performed well in former Bophuthatswana, the office of the ombudsman carried forward a total of 5 045 cases. However, such capacity at provincial level will need to be addressed to ensure effective management, financial and administrative systems.

For its part, the ICD, which began its operations in April 1997 (and is as yet not fully functioning), has also argued that its current budget is insufficient. The requested budget for 1998/99 is R27-million and would allow for the hiring of additional investigators (currently there are 25) and the ex-

Initial research suggests that comparative figures are dramatically lower: the New York City Police record on average 15-20 deaths in custody a year for a population of around 7 million, Australia recorded only nine deaths in police custody in 1996.

Institutional overstretch is clearly a problem for both the public protector's office and the ICD. But, is the solution simply one of better resourcing? Up to a point, yes. But, as Baqwa and Melville concede, both institutions are tasked with dealing more with the exceptions than the rule.

Thus, while the public protector and the ICD have a useful role to play in investigating incidents of state abuse, they are most useful, ironically, when

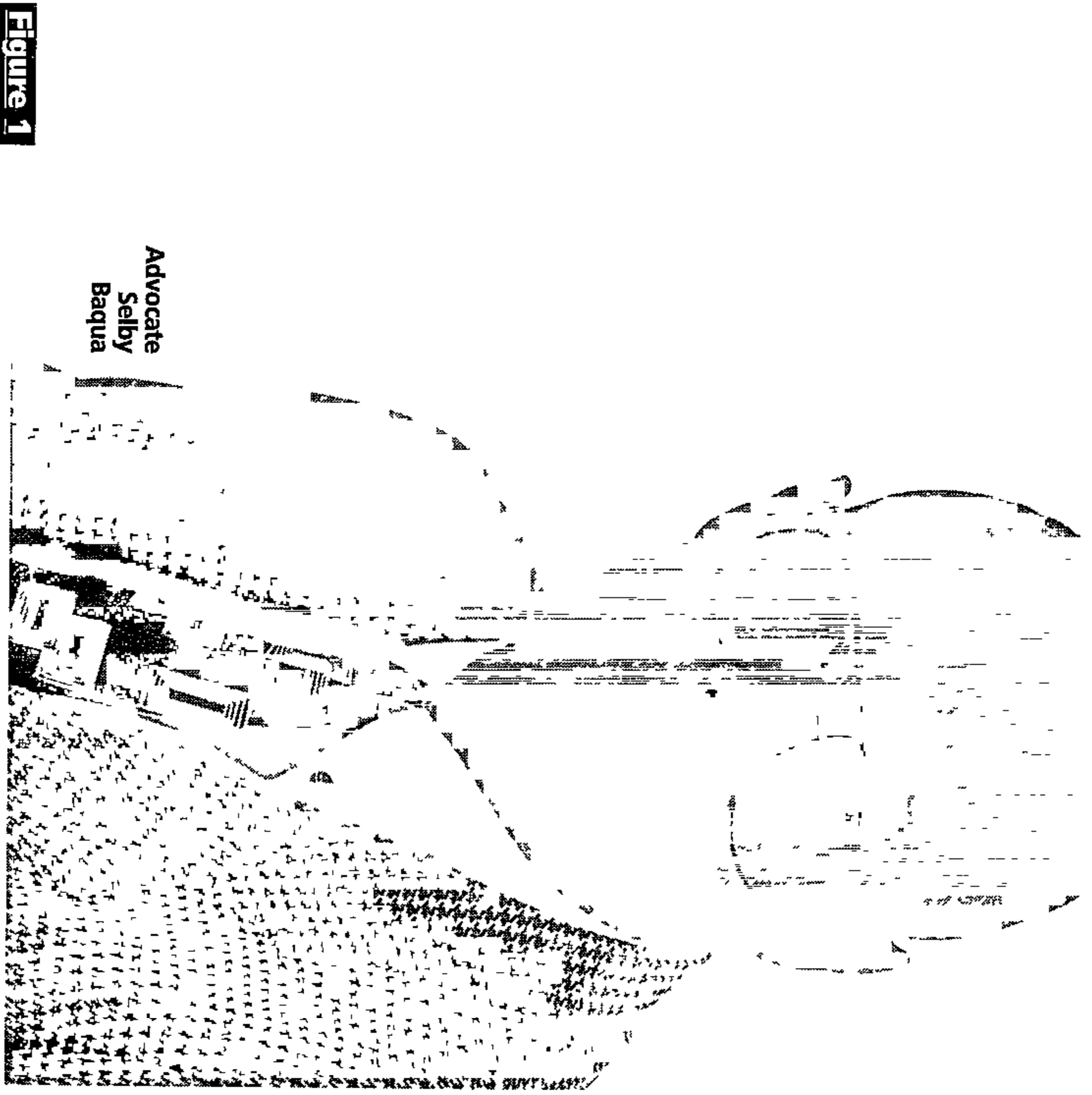
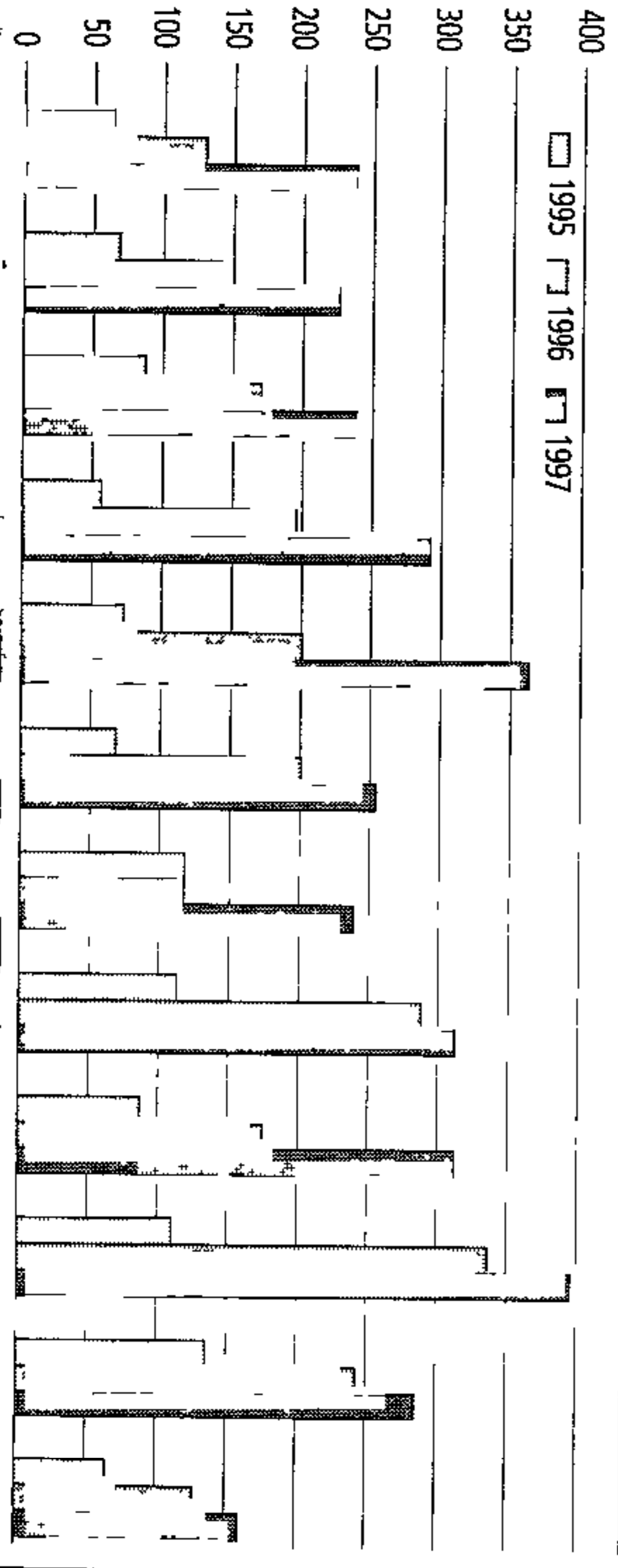


Figure 1
COMPLAINTS RECEIVED BY OFFICE OF PUBLIC PROTECTOR



Telkom as well as in statutory councils such as the Human Sciences Research Council

The ICD has as its responsibility the investigation of police misconduct, either through a breach of internal regulations or criminal conduct, and more specifically the investigation of deaths in police custody

While the reporting lines of the two structures are different, both face similar problems

The public protector reports direct to parliament. This, combined with wide-ranging powers, makes the office one of the most important. The ICD, while a separate entity from the Department of Safety and Security, reports to the minister of that department

Both structures are overstretched and understaffed. Thus the public protector has a shortage of investigators. Bagwa's office has 40 investigators for a population of around 40 million, while a comparative institution in Uganda has 110 investigators for 20 million people

Complaints received by the office of the public protector have risen dramatically since its establishment

While the yearly trends have remained the same - increases from January to mid-year, a slight decline, then a peak until the end of the year - there have been dramatic increases in the number of complaints, particularly between 1996 and 1997 (see Figure 1)

This reflects a great deal of trust in Bagwa's office, but also suggests that incidents of corruption and mismanagement in government (or at least the reporting thereof) may be on the increase

So great is the overstretch that Bagwa has requested a budget of five times the current

regional offices. Estimates as to what the ICD requires in resources to do this job are in the region of 350 investigators and millions of rands

The work of the ICD is complicated by jurisdictional over-

Baqwa wants budget to go from R5,8-m to R29-m

lap with the SA Police Services (SAPS). The process through which the ICD works with the police has not yet been clarified in legislation. The ICD may take over a docket and investigate it, or have a parallel file and monitor and supervise the police investigation

However, the ICD does not have sufficient capacity to monitor and track investigations but is developing new procedures and capacity to follow dockets through the criminal justice system and provide post-investigation monitoring

The challenges faced by the ICD are well illustrated by the number and distribution of deaths in police custody between April and December 1997 (Figure 2)

The total number of deaths for the period, 534, indicates an average of two deaths a day in police custody. The deaths are not spread equally among the provinces with Gauteng, KwaZulu Natal and the Eastern Cape having the highest numbers (Figure 3)

ICD statistics show breakdowns for deaths in custody for the following categories from natural causes, suicide, from injury received in custody, from injury received prior to custody and through possible police negligence

igemen are read. They should not be seen as the only instruments to solve wide-scale corruption and abuse. The Bophuthatswana case suggests that role of the ombudsman while important was relatively limited. wide-scale misuse of funds and other abuse occurred in the homeland government which the investigations did little to reduce.

As a recent United Nations study on state effectiveness notes, "Where capability is weak, how the state intervenes - and where - should be carefully assessed. Many states try to do too much with few resources and little capability and do more harm than good. A sharper focus on fundamentals would improve effectiveness"

Thus the solution to greater amounts of corruption or abuse in government seldom lies with threats of investigating such incidents but with better management controls and oversight systems within departments themselves. Thus, the SAPS should take responsibility for suicides in police custody

Indeed, the danger of structures like the ICD is that their presence is used as a justification for not acting (or passing) on particular issues within departments themselves. Deaths in police custody are as much the responsibility of the SAPS as the ICD to prevent

The danger of overloading either the public protector or the ICD is that too many cases will hamper effectiveness

This article will appear in the Nedcor ISS Crime Index, Volume 2 Issue 1, which will be available from the Institute for Security Studies soon. Dr Mark Shaw heads the Safety and Governance Programme of the Institute for Security Studies and Lala Camerer is a senior researcher on the programme

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STWA
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Source: Office of the Public Protector

Figure 2 DEATHS IN POLICE CUSTODY IN 1997 (by month)

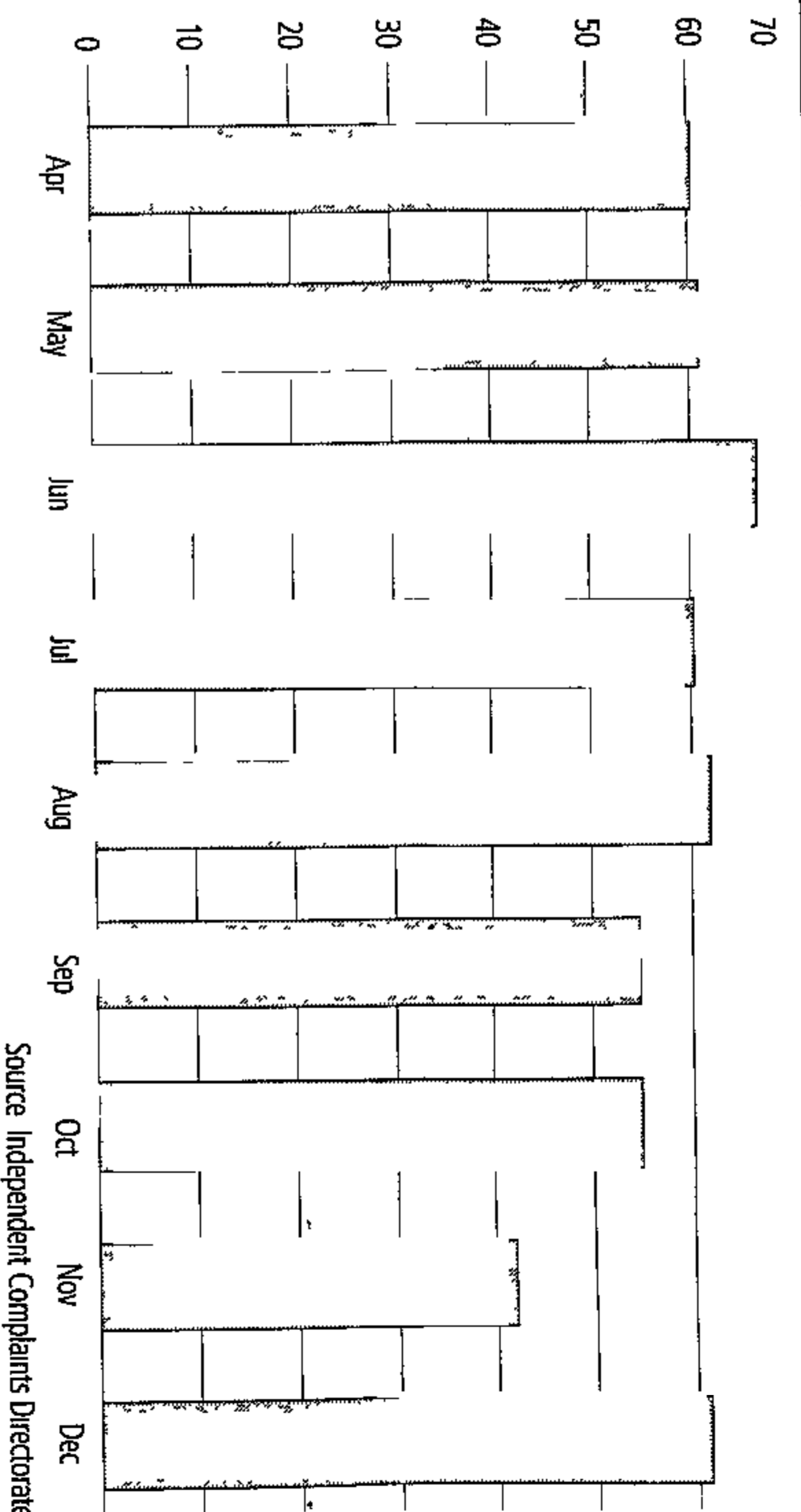
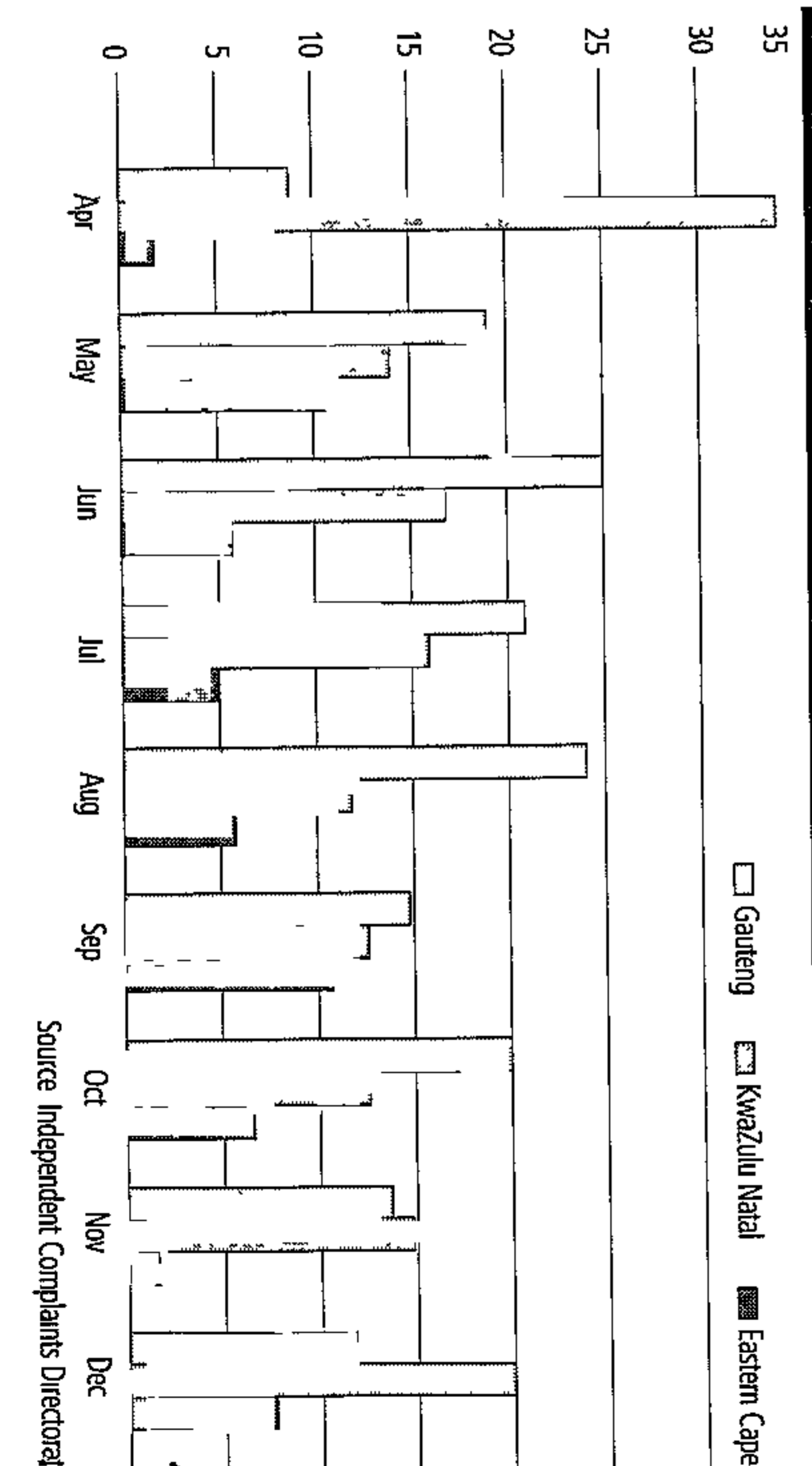


Figure 3 DEATHS IN POLICE CUSTODY IN 1997 - SELECTED PROVINCES



Source: Independent Complaints Directorate

Afrikaner group discrediting TRC, says Tutu

Stan 18/2/98 (252)
By RYAN CRESSWELL

A group of Afrikaners had been set on discrediting the Truth and Reconciliation Commission from the very beginning of its activities, Archbishop Desmond Tutu told the International Advisory Board of Independent Newspapers yesterday.

"In fact, there has been a deliberate ploy on behalf of some in the Afrikaner community to show this commission is untrustworthy," he added.

Tutu, the TRC's chairman,

said the group wanted to preemptively discredit a TRC report that will be presented to President Mandela in July.

The reason for the attack was that the TRC was showing just how evil the methods used by apartheid security forces were, and this was putting a powerful group in a bad light.

Tutu added there were five major reasons why he thought there was a conspiracy.

■ There were claims the TRC was not even-handed and was biased in favour of the ANC

■ Some people were saying violations by those who carried out the struggle were treated more leniently than those carried out by security forces

■ There were claims the security forces were treated too harshly

■ There were complaints that 37 ANC activists had been offered collective amnesty

■ There were complaints about the way the TRC was treating ex-state president PW Botha

Tutu denied all these claims of bias made against the TRC.

Barnard again denies allegations that he was responsible for the murder of David Webster

By MORRIS CHANDLER

Pretoria Bureau

18/2/98

Ferdie Barnard has, for the second time, denied killing his academic David Webster.

He made the denial yesterday in the Pretoria High Court after former Vlakplaas, policeman Chappies Klopper earlier accused him of the murder.

Klopper claimed it was common knowledge in security cir-

cles that Barnard had boasted of killing Webster, who died outside his Thoyeville, Johannesburg, home on May 1 1989.

Klopper was Barnard's handler from 1992, the court heard. Klopper told the court, under cross-examination by Barnard's legal team, of his dealings with former Vlakplaas commander and convicted mass murderer Eugene de Kock, and how Calle Botha, a friend of

Barnard's, knew that a rented house in Waverley, Johannesburg, was used as a brothel at which ANC politicians could be compromised.

The existence of the house was first made known by Barnard's former lover, Amoré Badenhorst, when she gave evidence for the State during the current trial. Badenhorst was also the first person during the trial to

allege that Barnard had confessed to the Webster killing.

In his evidence yesterday, Klopper said that in 1991 he and Barnard had been involved in a police front company called Basil Arms, an arms dealer. They used false names in their business dealings.

Klopper recalled that Barnard, as well as other members of the Civil Co-operation Bureau, a clandestine unit of the

SADF's Special Forces Regiment, had been working for military intelligence at the time.

Klopper said he had been "witness Q" during the Goldstone Commission into alleged third-force activities and that after giving evidence to the commission he had laid a charge at Brixton police station, Johannesburg, claiming Barnard had threatened him. The trial continues.

Madiba offered to help P W Botha

ARCHBISHOP Desmond Tutu revealed yesterday the lengths to which President Nelson Mandela had gone to try to get former president P W Botha to co-operate with the TRC

The archbishop said that Mandela was prepared to accompany Botha personally to the hearings to assist the process of reconciliation

Tutu said that as recently as last week Mandela had held discussions with members of the Botha family in an attempt to sway Botha towards co-operation

The archbishop made the comments as part of an impassioned plea to whites, and Afrikaners in particular, to embrace the TRC process

He begged them to accept the TRC as a last opportunity to deal with their burden of guilt about the past

Addressing the Press Gallery Association in Parliament, Tutu called on whites to acknowledge the "dastardly things" that were done to the majority in the past

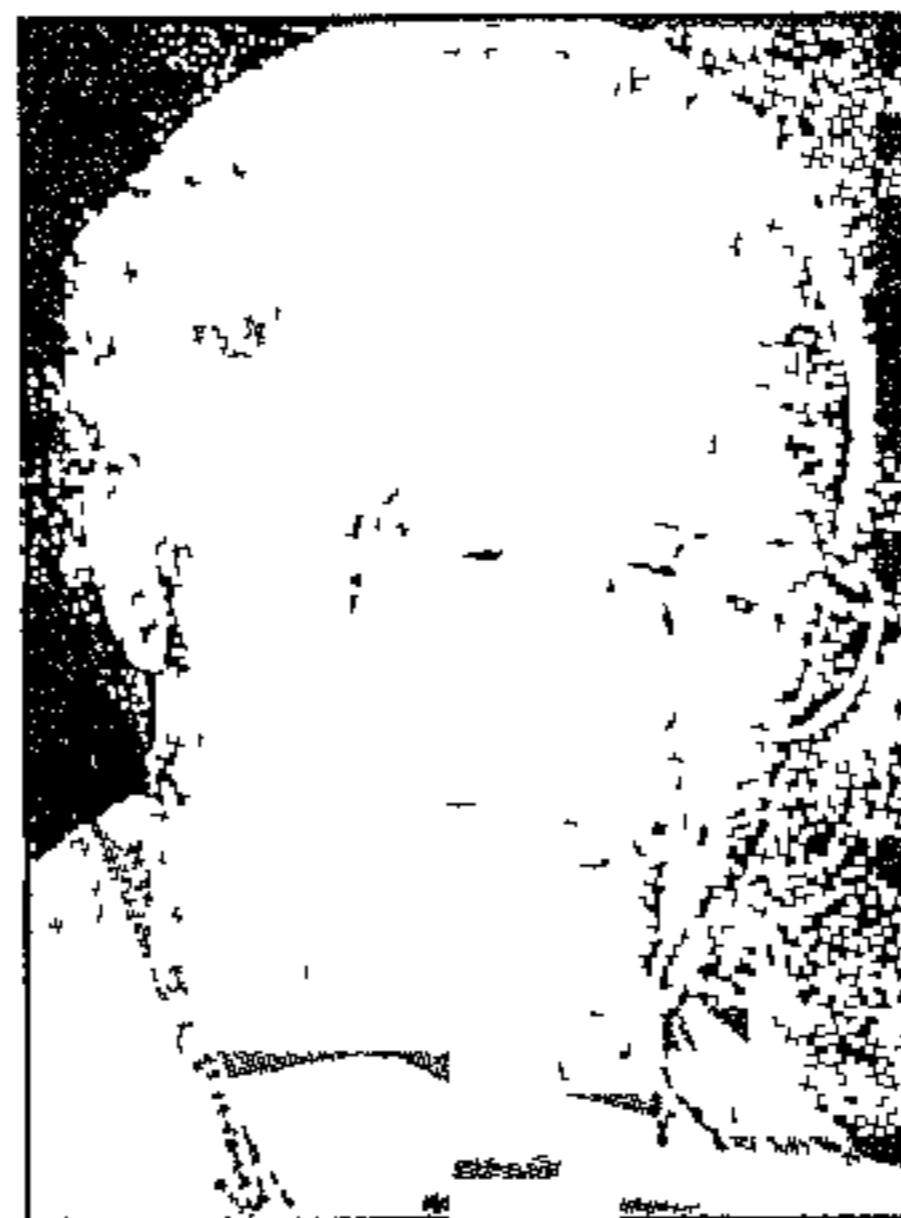
The TRC, which he chaired, offered whites an opportunity to join all the country's people in dealing with the past together. He warned that the opportunity would not come around again

"I feel for you white people — if you reject the TRC you will carry your burden of guilt to your graves. The truth will come out, even if it comes out in your children

"You have an opportunity now to say 'we are sorry' and the onus will then be on black people and most will forgive you"

It seemed there were many Afrikaners who still had a great deal of nostalgia about the past

"They still long for the time



DESMOND TUTU. 'No truth in claims about P W Botha'

when they were running the show," Tutu said

He was deeply saddened by what appeared to be an admira-

(252)
tion among Afrikaners for the way in which P W Botha had defied the TRC

He denied claims that the TRC was trying to humiliate P W Botha and Afrikaners in general. The TRC could have subpoenaed Botha in 1996 but did not do so

Instead he had begged Botha to co-operate but the former president had taken 12 months to supply written answers to questions put to him

He again singled out *Die Burger* and *Rapport* as newspapers intent on discrediting the TRC and impeding the healing process in the country

Tutu said he had spent many years of his life working towards reconciliation and had even been personally attacked and vilified among the black community for some of his actions towards this end — Sapa

CT 19/2/98

Businessman 'too frightened of Ferdi' to confess his part

Stephané Bothma

PRETORIA — A businessman who fell victim to a foreign currency scam in which Ferdi Barnard allegedly stole R200 000 was too suspicious of the police and frightened of the former Civil Co-operation Bureau (CCB) agent to mention his involvement to the Office for Serious Economic Offences

Francois du Toit told the Pretoria High Court yesterday that in 1992 he and his lawyer, Evadne de Jager, became involved in what they believed was a legitimate deal to exchange 6-billion Angolan kwanzas for US currency

He was testifying at the trial in which Barnard pleaded not guilty to 34 charges, including several of fraud and theft and the 1989 murder of Wits university lecturer David Webster

Du Toit met now deceased gangster Corrie Goosen and Barnard on several occasions to finalise the deal, which included the payment of R200 000 for "storage fees" before the release of the crate of Angolan currency to Du Toit

"Goosen showed me the crate filled with kwanzas, which was being held for safe keeping by Badger Arms," Du Toit testified. The court heard earlier

that Badger Arms was a front company started by former Vlakplaas commander Col Eugene de Kock.

Goosen and Barnard refused to accept a bank guaranteed cheque and insisted that the money be paid over in cash. Goosen and Barnard disappeared with the R200 000 and never handed over the kwanzas, he said.

Shortly after this, De Jager, who "had done nothing wrong", was arrested by police. She was taken into custody for allegedly stealing trust money after lodging a complaint about Barnard and Goosen with former security police chief Gen Krappies Engelbrecht. The case against De Jager dragged on for four years despite an audit showing no shortfall in her trust account.

Du Toit said only after the money disappeared had he realised he had been dealing with the "notorious Ferdi Barnard of CCB fame".

"Although they arrested my attorney for a deal in which I was the client, until this day the policemen investigating the case against her had still not contacted me for a statement."

However, another policeman who introduced himself to Du Toit under the false name of Faber, did take a statement from Du Toit.

Tutu pleads for an apology from whites

CAPE TOWN — Archbishop Desmond Tutu said yesterday that unless white people apologised for the wrongs of apartheid, the burden of guilt would be passed on to the next generation.

Tutu said whites, especially Afrikaners, were being given a final one-off opportunity to apologise for "the terrible things you did to us."

"It will come out in your children, carrying the burden of guilt for their mothers and fathers," Tutu said.

"I am praying that one day you white people will understand."

Tutu, who chairs the truth commission, said he had been attacked by the black community for trying too hard to embrace whites. "I am still doing it, but this is the last opportunity you have."

Tutu said he could have chosen to subpoena former president PW Botha to testify at the truth commission in 1996, but he gave Botha a chance to come of his own volition.

Botha is due to appear in court on Monday to answer charges of contempt for avoiding a commission subpoena Tutu issued late last year.

Tutu said he felt deeply saddened when Botha appeared in court last month at the start of the contempt hearing and said he had nothing for which to apologise.

BD 19/2/98

TRC a last chance to deal with guilt, Tutu tells whites

SAPA 19/2/98 (252)

'Dastardly things' done in the past must be acknowledged, and the opportunity to do so will not come again, he warns

SAPA
Cape Town

Archbishop Desmond Tutu yesterday made an impassioned plea to white South Africans to accept the Truth and Reconciliation Commission as a last opportunity to deal with their burden of guilt about the past.

Addressing the Press Gallery Association in Parliament, Tutu called on whites to acknowledge the "dastardly things" that were done to the majority in the past.

The TRC, which he chairs, offered whites an opportunity to join all the country's people in dealing with the past together. He warned that the opportunity would not come around again.

"I feel for you white people - if you reject the TRC you will carry your burden of guilt to your graves. The truth will come out, even if it comes out in your children.

"You have an opportunity now to say 'we are sorry' and the onus will then be on the

black people and most will forgive you."

It seemed there were many Afrikaners who still had a great deal of nostalgia about the past.

"They still long for the time when they were running the show," Tutu said, warning it would never return.

He was deeply saddened by what appeared to be an admiration among Afrikaners for

Denies there is attempt to humiliate P W Botha

the way in which former state president P W Botha had defied the TRC.

"I get the feeling that many people were thinking this is the kind of man we need to lead us," he said. He denied claims that the TRC was trying to humiliate Botha and Afrikaners in general. The TRC could have subpoenaed Botha in 1996 but did not so

Instead he had begged Botha to co-operate, but the former president had taken 12 months to supply written answers to questions put to him.

President Nelson Mandela had offered to accompany Botha to the TRC hearings, but this had not persuaded him to attend, Tutu said.

Just as the fight against apartheid had united blacks in South Africa, Afrikaners were looking for a common enemy to create unity among themselves. He believed they had identified the TRC as just such an enemy.

He again singled out Die Burger and Rapport as newspapers intent on discrediting the TRC and impeding the healing process in the country. He accused the newspapers of telling lies about the TRC and challenged them to take him to court for saying so.

Tutu said he had spent many years of his life working towards reconciliation and had even been personally attacked and vilified among the black community for some of his actions towards this end.

Inkatha against centralised

'super attorney-general'

DONWALD PRESSLY

THE Inkatha Freedom Party (IFP) looks set to oppose the creation of a new post, national director of public prosecutions, dubbed super attorney-general

The party said the new system of a centralised prosecuting authority, to be established in legislation passing through Parliament this year, would not only unnecessarily centralise prosecuting procedure but would also be open to political manipulation

The party also said the National Prosecuting Authority Bill, subject to public hearings this week, would lead to a "juniorisation" of state advocates who would fall into a pool of public prosecutors with no distinction between lower and higher courts

IFP justice spokesperson Mr Kieran O'Malley said the proposed system of appointing attorneys-general was as flawed as the present one

At present, attorneys-general are appointed by the president. But the practice is that the director-general of justice consults the attorneys-general when a vacancy arises. A name is submitted to the minister of justice who seeks approval from the cabinet. The president then appoints that person

Under the new system, the president also appoints attorneys-general, to be known as provincial directors of public prosecution, as well as the national director

The IFP echoes the National Party (NP) view that the Judicial Service Commission, which makes recommendations to the president on the appointment of judges, should be involved in appointments of new directors

The IFP, unlike the NP, opposed the constitutional provision for a national prosecuting authority

The Association of Law Societies, which has not made a submission on the bill, originally opposed the creation of a central prosecuting authority. The IFP and Democratic Party (DP) also opposed the inclusion of the clause in the national Constitution

O'Malley said Justice Minister Dullah Omar had already rung the alarm bells. Commenting on the prosecution of the Rev Alan Boesak for alleged fraud, he said "While we respect the process of the law, neither the president, deputy president, the cabinet, nor the minister of justice were asked for their views"

O'Malley said the IFP's contention was that on due procedure, politicians should not be consulted

AT 20/2/98

Discrimination is no excuse for anarchy

IT IS no surprise that the first substantive clause of the bill of rights in both the interim and the final constitutions is the guarantee of equality before the law and the outlawing of unfair discrimination on various grounds, including race. Racial discrimination against black people was, after all, the basis of the previous era from which the constitution seeks to deliver us.

So it is something of an irony that the very first purported victim of racial discrimination to approach the Constitutional Court for relief, and to be granted that relief, is a white male.

Judgment in the case of Pretoria City Council vs Johan Walker, delivered on Tuesday, provided the court with an opportunity to debate the jurisprudence of what, in the political arena, has become one of the most emotional areas of discourse — how to deracialise SA. Most notably, Judge Albie Sachs delivered a 30-page dissenting view challenging vigorously the majority judgment delivered by court deputy president (and its senior black member) Pius Langa.

The court decided that the levying of a flat, unmetered service charge rate on residents of Mamelodi and Atteridgeville while residents of "old", white Pretoria were charged according to measured consumption was not unfair discrimination. This was because the policy was based on rational grounds — among them that it was imposed during a period of transition during which, among other things, many of the black townships' 38 000 homes did not have water and electricity meters installed.

However, the court decreed that the council's strategy in taking legal action against nonpayers in old Pretoria but not against township residents was unfair discrimination. It is this view that Sachs, who has often taken a more left-wing view than most other members of the Constitutional Court bench, has challenged. Both judges take as a key point

Cape editor Alan Fine and local government reporter Deborah Fine look at the first Constitutional Court case to tackle the question of racial discrimination

(252) 20/2/98

of departure the views expressed in a previous case involving alleged gender discrimination when President Nelson Mandela granted a general amnesty to a class of women prisoners — a male prisoner claimed this was unfair.

There the court argued "The more vulnerable the group adversely affected by the discrimination, the more likely the discrimination will be held to be unfair."

It also said it needed "to develop a concept of unfair discrimination which recognises that, although a society which affords each human being equal treatment on the basis of equal worth and freedom is our goal, we cannot achieve it by insisting on identical treatment in all circumstances be-

fore that goal is achieved." Sachs disputes whether there was any racial discrimination against Walker at all.

"I tend to agree with the magistrate (in the original case) that the policy of selective enforcement of objectively determinable characteristics of different geographical areas, and not on race."

Langa disagrees: "I cannot subscribe to this view or to the proposition that this is a case in which, because of our history, a non-discriminatory policy has had a fortuitous effect on one section of our community rather than another. There may be such cases, but in my view this is not one."

"The impact of the policy that was adopted by the council officials was to require the (white) residents of old Pretoria to comply with the legal tariff and to pay the charges made in terms of that tariff on pain of having their services suspended or legal action taken against them, while the (black) residents of Atteridgeville and Mamelodi were not held to the tariff, were called upon to pay only a flat rate which was lower than the tariff, and were not subjected to having their services suspended or legal action taken against them. To ignore the racial impact of the differentiation is to place form above substance."

If his argument on that score is inadequate, Sachs goes on to argue that Walker has suffered no disadvantage "the complainant has in fact benefited from accumulated discrimination (against black township residents) and continues to enjoy structured advantage of a massive kind". He highlights a public policy danger of the court decreeing that

measures designed to assist the poor — who are predominantly black — were to be considered to be unfairly discriminatory.

"All poverty relief programmes, public housing programmes or programmes to extend primary health care or access to basic education will inevitably benefit black people more than white." It would be a "strange" and "perverse" reading of the bill of rights' anti-discrimination and equality clause to presume such programmes to be unfair.

By using the Walker case as an example of indirect, unfair discrimination, Sachs expresses the fear that it would set a precedent that "every tax burden, every licensing or town planning regulation, every statutory qualification for the exercise of a profession would be challengeable simply because it had a disproportionate impact on blacks or whites or men or women or gays or straights or able-bodied or disabled people."

He also points out the differential treatment of old Pretoria and its townships had led to improved services and had remedied to a significant extent the "culture of nonpayment", thus enhancing the quest for equality.

For Langa, though, the "vulnerability" argument was vital, and he approached it in a very different way to Sachs.

Walker's privileged economic position was not in dispute. However, he held that Walker belonged "to a racial minority which could, in a political sense, be regarded as vulnerable. It is precisely individuals who are members of such minorities who are vulnerable to discriminatory treatment and who, in a very special sense, must look to the bill of rights for

protection. When that happens, the court has a clear duty to come to the assistance of the person affected."

That argument did not wash with Sachs, who responded that "The fact that a complainant chooses to wear the cap of a victim of race discrimination does not mean that the cap fits."

The court has sent interesting signals about how it will approach these matters in future. One should probably not look at the precedent too narrowly, though. The ambiguity of human rights law and the fact that each case is based on different facts allows scope for new interpretations.

Completely unambiguous was its approach to Walker's — and all

citizens' — financial obligations to local authorities. Walker contended that he was entitled to withhold services payments because the council's conduct had amounted to a violation of his constitutional rights.

Acknowledging that the withholding of municipal payments had been used in the past by township residents as a means of protest against discriminatory apartheid policies, the court stated categorically, however, that this "culture of self-help" had "no place in a constitutional state in which the rights of all persons are guaranteed and all have access to the courts to protect their rights."

It is not for the disgruntled individual to decide what the appropriate relief should be and to combine with others to punish the government structure by withholding payment. That conduct carries with it the potential for chaos and anarchy and can therefore not be appropriate, the court said.

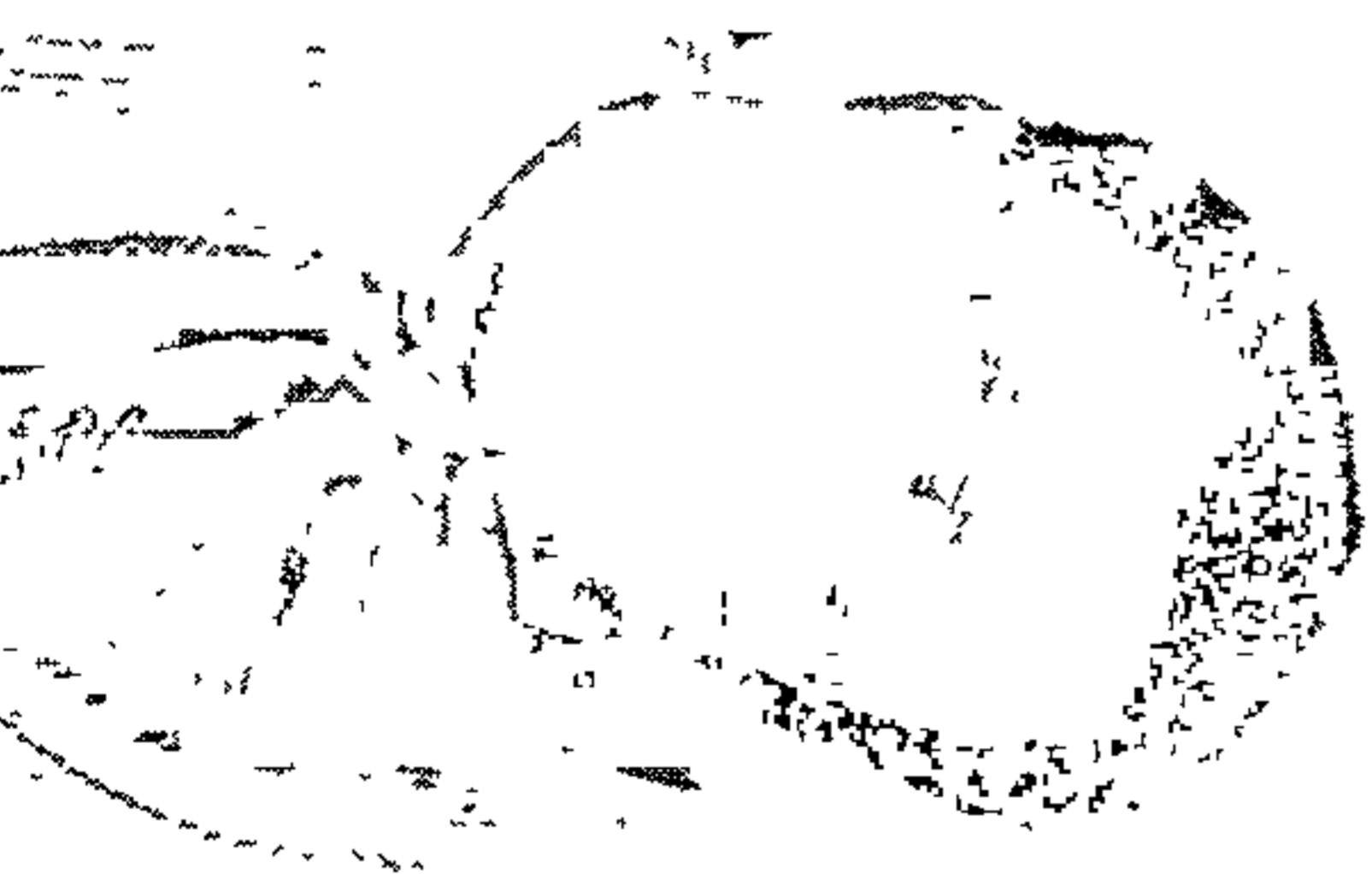
It ruled that, even though Walker had been unfairly discriminated against by the council, this was not a legitimate excuse for his refusal to hand over services payments. He remained fully indebted to the council despite its discriminatory enforcement practice. Instead of seeking a court order legitimising his withholding of payment, it would have been more appropriate for Walker, as a member of a constitutional state, to seek the court's assistance in putting an end to the council's unconstitutional actions.

The finding of unfair discrimination was thus not a vindication for Walker, but rather an affirmation that the council had acted incorrectly and should be persuaded, through legal means, if necessary, to "put its house in order."

The message spelt out by the Constitutional Court is clear. The rule of law must reign supreme. Citizens may not take the law into their own hands to remedy perceived grievances, but should turn to the courts as a means of enforcing their fundamental rights.



SACHS



LANGA

NP says Tutu's call to Afrikaners is a ploy

CAPE TOWN — Archbishop Desmond Tutu's call for Afrikaners to apologise for the past was a ploy to divert attention from the truth commission's own credibility crisis, the National Party (NP) said yesterday

Commission chairman Tutu this week made an emotional appeal to whites and particularly Afrikaners not to reject the commission, but use it to deal with the guilt of the past

NP leader Marthinus van Schalkwyk said Tutu's "outburst" had surprised him because political leaders, including former NP leader FW de Klerk, had already appeared before the commission and apologised for the mistakes of the past

He said it appeared Tutu was dealing with the commission's credibility crisis by trying to transfer the blame. He warned that attempts to apportion collective guilt on whites and Afrikaners for what happened in the past could only lead to friction in the country

"Individuals must be called to account for their actions and apply for amnesty in the required way," he said

"The attacks on the credibility of the TRC came about as a result of the unlawful way in which it granted amnesty to 37 African National Congress leaders"

The NP would continue to call on the commission to account for its decision, Van Schalkwyk said

The commission agreed to take the mat-

ter to court to obtain a declaratory order, but if it did not, the NP would approach the courts for a ruling, he said

Van Schalkwyk said he was also concerned that Tutu's remarks this week were pre-empting the commission's final report, because he was making judgments about who was to blame before all the evidence had been considered

Earlier this week, Tutu said the commission offered whites and particularly Afrikaners a final chance to deal with their burden of guilt

He warned that if they did not make use of this opportunity, their guilt for supporting a system that committed dastardly acts would be passed on to their children

The Conservative Party (CP) yesterday rejected as ridiculous Tutu's call on Afrikaners to accept the commission as a vehicle to unburden their guilt about the past

"Tutu's outburst has confirmed his bias against whites. He is an absolute enemy of whites and Afrikaners in particular," CP spokesman Pieter Aucamp said in Pretoria

He urged Tutu to not forget that the lives of many people were destroyed by land mine and bomb explosions during the apartheid years

"Whether Tutu likes it or not, the Afrikaner rejects the TRC. We don't have to apologise for having built SA into a first-world country, where crime was under control," Aucamp said — Sapa

BB 20/2/98 (252)

TRC calls Vlok on Bopape

(102) M.G. 20-26/8/98 (202)

Wally Mbhele

Former minister of law and order Adriaan Vlok will be called to testify before the Truth and Reconciliation Commission's amnesty hearing of 10 security policemen who claim they are responsible for the chilling murder of prominent anti-apartheid activist Stanza Bopape.

TRC sources this week could not confirm if Judge Louis Harms — who concurred with police explanations that Bopape had allegedly escaped from police custody — would also be called to testify.

The hearings, which begin on Monday at Bopape's home town of Mamelodi in Pretoria, will for the first time hear of the security police's role in the murder of the former Mamelodi Civic Association general secretary.

Bopape vanished after being detained by the police during the night of June 9 1988. For nine years the policemen have remained mum about Bopape's fate, until some of them were subpoenaed by commission investigators last year after his family testified.

On July 13 1988 one of the amnesty applicants, former police commissioner Johan van der Merwe, then commanding officer of the security branch, informed Bopape's attorneys he had "wilfully escaped from police custody"

the previous night and had been "exempted from the provisions of Section 29 of the Internal Security Act".

Van der Merwe, a close confidant of Vlok, said Bopape had escaped while being escorted to Vereeniging by police. The police vehicle stopped when it had a puncture, and Bopape fled.

In a press statement on April 26 1989, Vlok announced that Bopape had been spotted after his escape in an area where "an act of terror in which people were killed took place". Vlok failed to identify the source of this allegation.

Vlok's representative, Leon Mellet, claimed on June 15 1989 that Bopape was seen "in the company of a man and a woman by his former colleague who had served with him on a youth council". The youth's name was, however, withheld "in the interest of the youth's safety".

Bopape's father Junius had several fruitless meetings with police. They sent him to look for his son in African National Congress camps in Lusaka after Vlok claimed he had fled the country.

More bizarre was the fact that at the time of his disappearance it took the police more than three weeks to announce that Bopape had "escaped" from detention. The police said an early announcement would have prejudiced

their investigations into ANC activities in the Vaal Triangle

In an extraordinary answer in Parliament on June 19 1990, Vlok responded to a series of questions put to him by former MP Jan van Eck about Bopape's "disappearance".

He promised he would be willing to provide names of three policemen to the Harms commission of inquiry — which was investigating state-sponsored hit squads at the time — should such a request be received.

In its report, the Harms commission said it was of the view that there were no sufficient grounds for it to hold a hearing on the matter. Harms seemed to echo Vlok's suggestion that Bopape had been "positively identified" by a witness as having been at the scene of a bomb blast at Ellis Park on July 2 1988.

One question that still baffles truth commission investigators and the Bopape family is that Vlok's name is not mentioned in the 10 security policemen's submission for amnesty.

This is one of the reasons the Bopape family cites for opposing their amnesty bid. They are convinced they are not making a full disclosure. The family believes the policemen are trying to minimise their role and the extent of the torture inflicted on Bopape before he died. Bopape's son Amandla was born just before he died. He never met his father.

Among the 10 amnesty applicants, five confess that Bopape died during electric shock torture at the security police offices at John Vorster Square.



Adriaan Vlok



NATIONAL PROSECUTOR

(25/11)

The State courts power

FM 20/12/99

Prosecutor to be a political appointee

Parliament is considering a complete overhaul of SA's prosecutorial system which would render Attorneys-General (AGs) subservient to a politically appointed national director of prosecutions with the power to intervene and review their decisions

AGs voiced concern at public hearings of parliament's justice committee this week that the new "super-AG" proposed by the National Prosecuting Authority Bill will be appointed solely by the president, will need no specific legal qualifications and is not directly accountable to parliament

This has raised fears that government is paving the way for a political appointee who will curtail the AGs' independence

"It's a dangerous game," says National Party (NP) justice spokesman Sheila Camerer. She warns that SA is in danger of making the same mistake as the US, where the AG is regarded as sympathetic to the ruling party and the president

The Bill aims to give effect to the Constitution, which provides for a national

director with power to draft a prosecutions policy and to intervene and review AGs' decisions

A senior NP MP says this issue was sacrificed during the negotiations to secure a final agreement on the Constitution — "now we just have to live with it"

Almost all existing AGs are political appointees who were granted independence only in 1992. Before then, their office was seen as subject to political manipulation

Currently there is little or no recourse for reviewing AGs' decisions and many commentators endorse the need for a national director to balance the requirements of independence and accountability and to ensure that a uniform prosecution policy is implemented countrywide

But instead of minimising the potential for politics to contaminate future legal decisions, the Bill replaces one set of political problems with another

A national director would have the power to prevent politically sensitive prosecutions like that of former ANC Western Cape leader Allan Boesak or the contempt of court case against former State President P W Botha

Should the Bill be enacted as is, eight of SA's existing AGs would be replaced within 24 months. At present AGs are appointed until the age of 65 but the Bill limits an AG's term to a maximum of seven years, which it applies retroactively to the existing AGs' dates of appointment. A term may be re-

duced at the discretion of the president

"Such a provision is open to abuse and could be used against sitting AGs who might be unpopular with the ruling party," says SA Institute of Race Relations spokesman Martin Schonteich

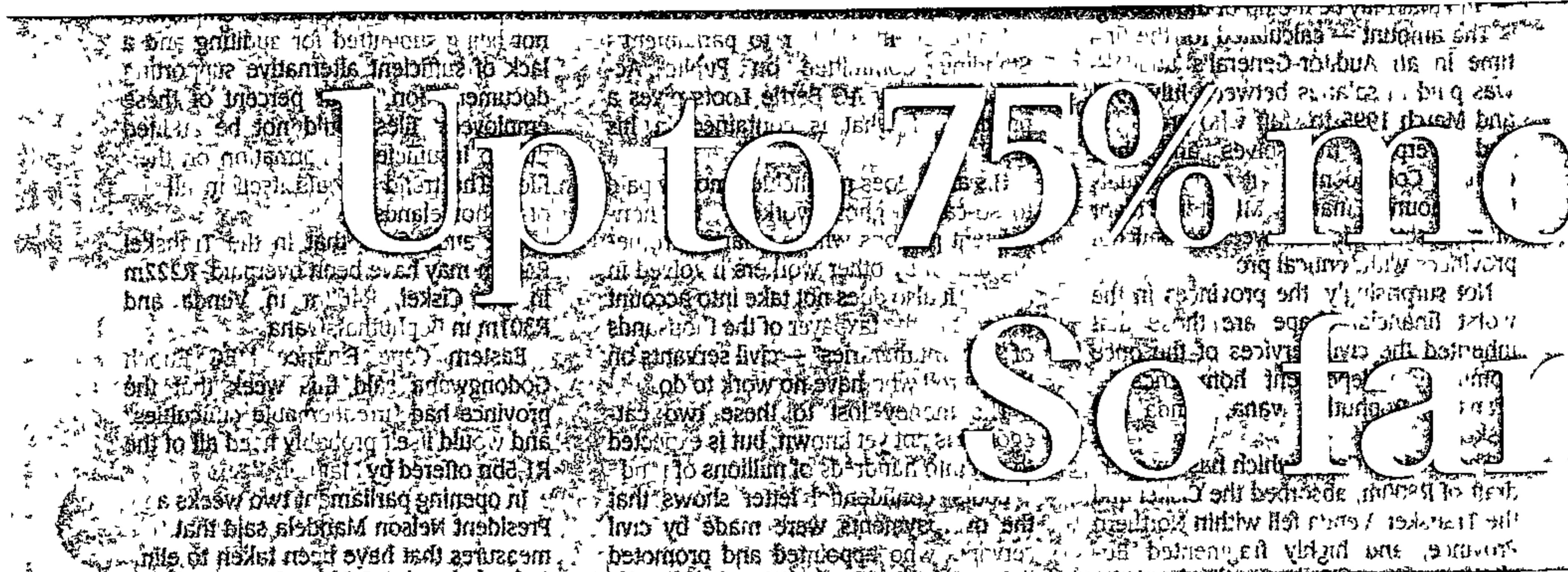
At the public hearings, Witwatersrand AG Andre de Vries took a different tack, decrying the Bill for failing to delink prosecutors from the public service despite Justice Minister Dullah Omar's assurances

Instead, the Bill offers a compromise — prosecutors will be allowed to negotiate their salaries separately from the rest of the public service, but in all other respects they will be public servants

"They are still stuck with the old bureaucracy where the Justice Department appoints, promotes and transfers prosecutors as it may deem fit. This is not what is needed at this stage and is not a lifeline for a dying institution," said De Vries. "This is certainly not what prosecutors envisaged or relied upon"

Justice committee chairman Johnny de Lange (ANC) concedes that Omar was unable to secure a full delinkage for prosecutors such as that afforded to inland Revenue staff. Justice Department officials say government is reluctant to make any more concessions for groups of public servants as all will demand similar treatment. However, De Lange says government could still be persuaded to delink prosecutors and he will pursue the matter

Claire Bisserker



Upper Class

That's much more legroom than most other business classes. So comfortable, so spacious, so relaxing. After that, you may find everyo

By Jody Kollapen

AN investigation by the South African Human Rights Commission (SAHRC) into allegations of racism at the Brits Fire and Ambulance Services raises an interesting question of freedom of opinion in the context of our Constitution

Last month the SAHRC received a complaint from members of the South African Municipal Workers Union (Samwu) about incidents of alleged racism and racial discrimination

During its visit to the North West town of Brits, the members of the SAHRC found, displayed in two offices at the fire and ambulance services, miniature replicas of the old South African flag. Many blacks associate this flag with apartheid.

What was of concern to the SAHRC was that one of the offices where this flag was displayed was that of the head of the unit.

It has been suggested by some that the guarantee of freedom of opinion and expression must surely mean that the display of such flags is acceptable. Some hide behind the fact that it

Display of old SA flag, not on in state offices

(252)

is their constitutional freedom to say and display whatever they choose

In answering this question, the SAHRC first accepts that even in the new South Africa, with its commitment to equality and justice, there are those who by their words and deeds associate themselves fully with the old order. And that is their constitutional right.

However, when that association happens in the context of them exercising a public duty or holding public office, the matter is brought into the public domain and such conduct is to be judged by different standards and criteria. What are these criteria?

Section 2 of the Constitution affirms its supremacy as the law of the country. The section goes on to say that law or conduct inconsistent

with the Constitution is invalid and also that those obligations imposed by the Constitution must be fulfilled.

In section 5 the Constitution spells out what the national flag is

Section 9 (the equality clause of the Bill of Rights) contains the guarantee of equality, while section 195 commits the public administration to the democratic values and principles enshrined in the Constitution.

One must then accept that this in its simplest form entails a loyalty to the Constitution and its principles.

The old apartheid flag is representative of an order based on inequality and undemocratic principles.

The open display of such flags in government offices is totally insensitive to the majority of South Africans. It is a contradiction of the principles

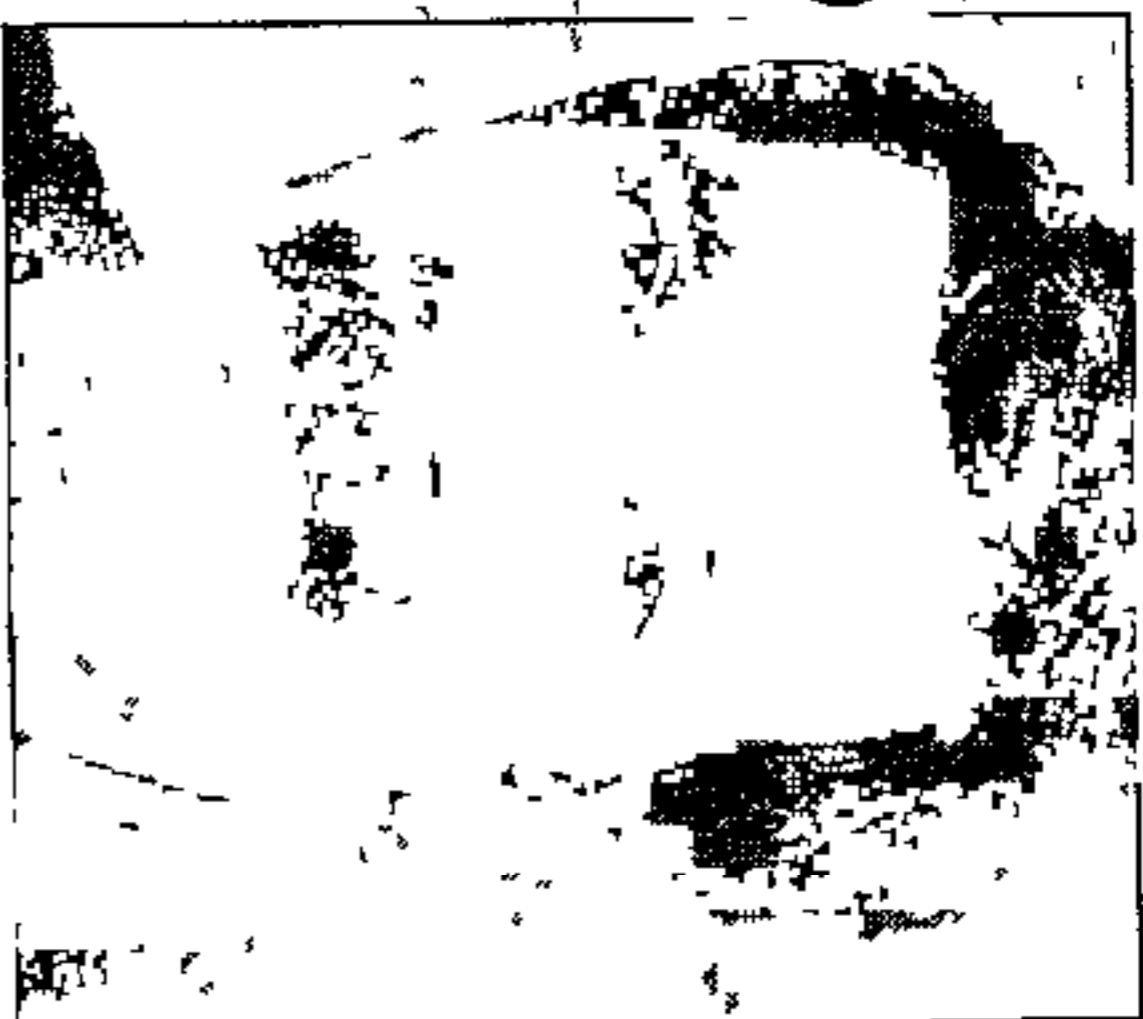
of the Constitution

Frankly, it must raise serious questions as to whether the public official who displayed it is capable of rendering a service that is 'impartial, fair, equitable and without bias'.

The transformation of our public service is undermined by such conduct as the open display of old flags.

It is our view that an appropriate prohibition would not fall foul of the Constitution - in fact it can be argued that such a prohibition is in accordance with advancing the principles and spirit of the Constitution.

Having said that, we are also of the view that the right to expression and to hold an opinion would not operate to prevent such public officials from displaying such flags or other objects in the privacy of their



Commissioner Jody Kollapen

homes or while they are not engaged in the service of the state

However, undesirable some may find such conduct, the right of the individual to express such views in the appropriate manner is protected. When public officials in the execution of their duties reflect such views and associations, then the state is not only entitled to, but also obliged to, intervene.

(The writer is a Commissioner with the SAHRC Commission and was involved in the Brits investigation.)

More-sensitive policing and witness-friendly courts are on the cards

Crime victims have rights too

By CHARLENE SMITH

The Government is considering amending the constitution to strengthen the rights of victims of crime.

Legislation to compensate and empower victims, as well as a victims' charter, will be placed before Parliament this year, with a constitutional amendment next year, according to Justice Minister Dullah Omar.

An SA Law Commission discussion paper, which is a step on the road to legislation, will be issued next month.

Wille van Heerden of the SA Law Commission said the issue was high on the Government's agenda and the process was being speeded up. "There will be conferences and workshops to get as much input as possible," he said.

Outrage

Omar said South African law stated that crime was an offence against the state, "but the state is inanimate. We have to change the notion that crime is a wrong against the state, it is only wrong because it is a crime against people."

"It is not the security of the state that has to be provided for, it's the concerns of people who are outraged and hurt. If we address those concerns, we

will bring an attitude of compassion and humanity into courts, and that protects the state."

One recommendation is that a victims' advisory council be established, which could have statutory powers.

A further proposal is that a percentage of fines should be used to create a fund to compensate victims of serious crime.

On March 16, researchers will begin visiting 4 000 households nationwide as part of a R1,8-million National Victimization Survey to establish shortfalls in services to victims.

Prepared in concert with the United Nations Development Programme, it will form part of an international study. The first results are expected in June.

Lorraine Glanz of the Secretariat for Safety and Security said this would give a picture of crime independent of police statistics - which show a drop in crime - and would focus police resources more effectively.

A major thrust of anti-crime measures this year will be to enhance the protection of victims and witnesses, provide more-witness-friendly courts and more-sensitive policing, and a concerted move away from the widely held perception that the constitution is "perpetrator-friendly".

In terms of proposals, victims



ATTITUDE OF COMPASSION: Studies show that enhancing the rights of victims leads to a drop in serious crime, says Justice Minister Dullah Omar

or their families would be able to make victim impact statements at bail hearings, which could see bail denied or made more onerous. These statements would also be made at the time of sentencing and at parole hearings. Courts are concerned that threats against

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witnesses are causing more cases to be derailed. Threatening behaviour would lead to rapid police and court action.

The Government would retain its strong protective stance towards women and children and adopt a far more sensitive approach to the families of murder victims.

An average of 65 people are murdered in South Africa daily, and Dr Rika Snyman, who heads the committee on victim empowerment under the National Crime Prevention Strategy, says surveys show that 10 people are directly affected as a result of each murder, with a cumulative impact on society.

Omar said international studies had shown there was a direct correlation between enhanced victims' rights and a drop in serious crime.

"If a court shows it cares for the victim, it says to the public that the wrong done to this person needs to be addressed. The culture of a society changes, reversing a culture of violence and the legitimate exercise of power. Communities become more sympathetic to victims and act more assertively to prevent crime."

The legislation, backed by the amendment to the Bill of Rights in the constitution, would ensure that victims would be treated more sensitively by the police and courts. They would be kept informed of the progress of the case and could take action against unco-operative state officials, or against those accused who threatened witnesses and victims, or their families.

The Government is already implementing measures to boost victims' rights.

Omar said "We have a deliberate policy at courts to ensure that magistrates introduce measures that make courts more victim-friendly. But communities themselves need to create environments where victims do not feel isolated."

Separate rooms

For example, courts in Johannesburg and Mitchells Plain have introduced separate witness waiting rooms, so that witnesses can sit in comfort, away from the accused and his or her cohorts. Provisions have also been made at these courts to get witnesses home safely if they lack transport. Courts in Durban will soon follow suit.

A major grant from the Irish government will ensure that every major urban court will soon receive information desks, of the sort initiated recently at the Pretoria Magistrate's Court, where the public can inquire about cases and judicial processes.

Rietbok crash the work of right-wing agents? Thirty years on the suspicion lingers

icks and a plane tragedy

(252) Star 21/2/98



takes advantage of the latest attraction at the Two Oceans Aquarium and other denizens of the deep PHOTOGRAPH AFP

Transport Minister Mac Maharaj has been called on to reopen the investigation into the mysterious disappearance of an SAA flight 30 years ago. No bodies or wreckage were ever recovered. Now allegations have begun surfacing that government agents sabotaged the Vickers Viscount named Rietbok, killing all 25 people on board. **DEON MAREE** reports

Grahamstown - The official version of the incident on March 13 1967 was that the SAA Vickers Viscount, the Rietbok, disappeared without a trace while preparing to land at East London airport on its way from Port Elizabeth to Johannesburg.

Among the passengers on the ill-fated flight was Professor J P Bruwer, vice-rector of the University of Port Elizabeth and acting chairman of the Broederbond.

For all the help the investigation conducted by the government at the time offered family members of the victims, the plane could just as well have disappeared into the Bermuda Triangle.

The pilot's last recorded message reported he was nearing the runway and would be landing in about four minutes, which meant the plane had to be very close to the shoreline.

Yet, officially, no fraction of the plane was ever discovered, nor were any bodies recovered.

Identify body

Family members of the victims found it so difficult to get to the truth behind the disappearance of the plane that some are convinced that for 30 years they "have been expecting to walk into their relative somewhere".

The night after the disaster, Professor Bruwer's son, Piet Bruwer of Piketberg, was telephoned. He was told that several bodies and pieces of wreckage had washed ashore near Kayser's Beach and was asked to come and identify the body of his father.

He immediately left Piketberg, drove through the night by car and reached East London the next morning. At Kayser's Beach, which by that time had been cordoned off, he was asked to wait for a certain police officer. When the officer arrived, he said to Bruwer that it had all been a mistake, no bodies had been found.

Bruwer was not even allowed to approach the beach to put a wreath on the water in memory of his father.

On March 14, the morning after the Rietbok disaster, it was widely reported in newspapers and on

The strange death of an investigator

Immediately after the Rietbok disaster on the night of March 13 1967 South African Airways dispatched its own investigating team to the scene. The team was headed by Captain Jimmy Boyd, a former pilot and well known at the time as an amateur golfing champion. By March 17 he had reportedly finished his preliminary investigation and was due to fly back to Johannesburg that morning to report back to SAA. However, that morning there was no reply to knocks on his hotel room door in East London. When the door was opened, Boyd was found dead. It was presumed that he might have died in his sleep of a heart attack, but the circumstances around his death remained uncertain. The coincidence of his dying as he was about to report to SAA is striking. Was he silenced?

the radio that 21 bodies had already washed ashore. The Afrikaans paper *Die Burger* added that the Rietbok had been found in 23 metres of water.

The next day these initial reports were all denied by officials connected to the disaster probe.

Personnel on board two navy mine-sweepers, the SAS Mosselbaai and the SAS Johannesburg, who searched the area immediately after the disaster, saw at least three bodies floating on the water, and many pieces of wreckage.

The commanders of the two vessels, Captain Des Reaper and Captain David Forsight, last month confirmed this in *Die Burger*.

According to Reaper, who was in overall command of the two vessels at the time, he "personally saw two bodies among the wreckage".

Reaper says several pieces of floating wreckage were recovered.

Every single piece of wreckage washed ashore and was found by members of the public in the weeks after the disaster was confiscated by the police or the security police.

At least two newspapers, *Die Oostertig* and *Die Burger*, reported in 1967 that they had reliable information that the wreck of the Rietbok had been found by divers - but that this was being kept secret by the department of transport.

This week a diver approached *Beeld* newspaper and disclosed that he had been part of the privately engaged diving team instructed by the department of transport to search for wreckage and survivors of the disaster.

Paul du Plessis of Bredasdorp confirmed that the wreck had been found, but that team members were sworn to secrecy in

terms of the National Secrets Act.

Du Plessis' diving team were instructed to unscrew a brass plate secured in the pilot's cabin which stated that the Rietbok had previously belonged to the Cuban government.

Du Plessis also confirmed that bodies had been found in the wreckage of the aircraft.

A few days after the disaster, Johan Bruwer, who is now deputy chief subeditor on the Sunday paper *City Press*, was visited by two men in suits at Pearson High School, where he was a matric pupil. The headmaster introduced them as "security policemen".

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MYSTERIOUS END Professor J P Bruwer

FREE SEMINARS, CV CLINICS, FASHION SHOWS, DEMONSTRATIONS, MAKE-OVERS

Stamp scam has Post Office licked

STAFF REPORTER

Spotting a black rhinoceros at Johannesburg Zoo may be perfectly normal, but seeing a printed one on a standardised mail stamp may be an indication of forgery.

Just when it seemed that local criminals had tried every trick in the book comes news that forgers are now onto scamming the Post Office by forging stamps.

Counterfeits of the standardised South African mail stamp depicting the black rhinoceros have become the latest fraud to surface in Gauteng.

According to South African Post Office spokesman Ben Rootman, the origin of this illegal operation is still unknown, but the Post Office's investigative unit has launched a large-scale investigation after noticing major differences between the genuine and counterfeit stamps during recent months.

Post Office security services national head Reggie Mariemuthoo said "Stamps are valuable and are a major part of our revenue. Therefore the sale of these counterfeit stamps is a serious crime which will affect the economy and profit of the Post Office."

He also said there were a number of differences between the counterfeit and genuine stamps, the most notable of which was the absence of perforations on the fakes.

agents? Thirty years on the suspicion lingers

a plane tragedy

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The official version of the incident on March 13 was that the SAA Vickers the Rietbok, disappeared without a trace while en route to land at East London on its way from Port Elizabeth to Johannesburg. Among the passengers on the flight was Professor J P Bruwer, vice-rector of the University of Port Elizabeth and acting head of the Broederbond. At the help the investigation conducted by the government time offered family members of the victims, the plane could as well have disappeared into the Triangle.

The pilot's last recorded message reported he was nearing the land and would be landing in four minutes, which meant had to be very close to the land. Officially, no fraction of the plane was ever discovered, nor any bodies recovered.

Identify body

Members of the victims' families find it so difficult to get to the bottom of the disappearance of the plane that some are convinced 30 years they "have been waiting to walk into their relatives' graves". The night after the disaster Bruwer's son, Piet of Piketberg, was telephoned. He was told that several pieces of wreckage had been found ashore near Kayser's and was asked to come and identify the body of his father. He immediately left Piketberg, but the night by car and did not reach East London the next morning. At Kayser's Beach, by that time had been cordoned off. He was asked to wait for a police officer. When the officer arrived, he said to Bruwer that it had all been a mistake. No body had been found. Bruwer was not even allowed to go to the beach to put a stone on the water in memory of his father.

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out that the segregation of white and coloured Afrikaans-speaking citizens could not be justified on the basis of "cultural differences".

Some white Afrikaners branded him "a traitor" and even "a communist". He was not a typical Broederbond leader and, to some, not a desirable one.

Shortly before his death, certain extraordinary circumstances arose. Prime minister John Vorster, who had been in office for about six months after the assassination of Hendrik Verwoerd, together with the foreign minister at the time, Dr Helgard Muller, approached Bruwer to take up an unprecedented post as a roving ambassador to African states. He was to be based in Zambia, with the approval of president Kenneth Kaunda.

Kaunda had a long-standing friendship with Bruwer, who had previously spent more than two decades in the former Northern Rhodesia as an educationist. He had at first been a missionary teacher, later establishing a teachers' college at Katete and serving for some time as secretary of education. Many of his former Zambian pupils, of whom Kaunda was probably one, according to his family, held him in high regard.

Detente

Johan Bruwer believes that Vorster, after Verwoerd's death, may have seen a window of opportunity to reconsider the apartheid policy and that the appointment of his father as roving ambassador was part of his brief - and eventually unsuccessful - attempt at detente and re-establishing contact with the Frontline States.

On March 11 1967, two days before the Rietbok disaster, Helgard Muller went to Port Elizabeth to spend a day with Bruwer to discuss the ambassadorship. When Bruwer boarded the Rietbok on March 13, he was on his way to a final meeting with Vorster in Pretoria before the announcement of the new post.

That night the Rietbok disappeared and nothing came of the plan, which was never made public.

If the Rietbok was sabotaged by some right-wing dirty-tricks department to stop this attempt at renewed contact with African states, it succeeded very well. And if this were the case, the assassination of a Broederbond leader by government agents may well have been too embarrassing to explain.

Last month, Minister of Transport Mac Maharaj referred the matter to the Chief Directorate of Civil Aviation for recommendations after Johan Bruwer, as well as other family members of victims, requested his help in solving the mystery of the Rietbok tragedy.



MYSTERIOUS END
Professor J P Bruwer

Gauteng plan to introduce alternative adjudication for petty juvenile malfeasance

CP 22/2/98

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THE GAUTENG government has developed proposals to restructure the criminal justice system to relieve the burden on police, the courts and correctional services, premier Mathole Motshekga says

Motshekga in his opening address to the legislature on Friday said the apartheid system criminalised a host of petty juvenile, technical and social offences, which overburdened the system

A task team, chaired by Motshekga, would co-ordinate and integrate various initiatives to form an alternative criminal justice system

The community policing and justice plan proposed that minor offences which resulted from municipal and community violations should be decriminalised

"The offences should become a special category of violations and special municipal and community courts and corresponding police services should be established for these violations," he said. The violations included soft-drug use, family squabbles and juvenile offences

Motshekga said community and municipal courts existed during the 1980s and functioned relatively well, although they were abused by criminal elements because of a lack of a human rights culture and a responsive police service

These courts would assume responsibility for defined violations and impose alternative sentences such as community service

Motshekga said the community-based criminal justice system would divert a significant number of cases from the formal justice system

The implementation of the system did not require legislation because municipal courts could be created by agreements between magistrates

regarding boundaries and by transforming the present traffic courts and small claims courts

Motshekga said the province would allocate R1,1-billion this year for projects to build schools, houses, clinics, police stations and multi-purpose centres

Despite the apartheid legacy and the resulting constraints, the province had registered outstanding achievements, he said

Successive apartheid regimes catered for the social needs of the minority at the majority's expense

Motshekga said there seemed to be mutual interest between some opposition parties and certain media to discredit government without justification.

"This malicious propaganda against government is informed by narrow political agendas in preparation for the 1999 elections"

He said it was disturbing that this malicious campaign is being mounted against the province. It has led to a collaboration, resulting in confidential state documents being leaked to the media

Motshekga said government instituted democratic support institutions such as the public protector, and the legislatures had established standing committees to enable MPLs to exercise political oversight over provincial governments

"Despite all these constitutional means to deal with public affairs, some political parties have opted out of the constitutional process and use gossip, rumours and illegally obtained documents to exercise their political oversight"

Motshekga vowed that his government would take drastic steps against anyone found guilty of criminal and unpatriotic behaviour.

COMMENT & ANALYSIS

Commission's impartiality under fire

The truth commission has been more divisive than it has been positive and its aim of promoting reconciliation has not met expectations, writes Steven Friedman

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IT HAS taken some of us more than two years to realise we need more than a commission headed by priests to heal our divisions. As the Truth and Reconciliation Commission nears the end of its lifespan, it has become more a source of division than of unity from the white right to the Pan Africanist Congress, from supporters of PW Botha to those of Winnie Madikizela-Mandela, its impartiality and credibility are under fire.

The claims of bias may be invalid — but they do show that, whatever goals the commission achieved, reconciliation was not among them. Commission chair Archbishop Desmond Tutu may realise this last week he appealed to whites to apologise for apartheid and to accept the need for reconciliation.

Tutu's call, and the reactions to the commission, are not the only evidence that the divisions of the past persist — and that the core of the divide remains, largely, race. Political debate is more racially polarised than in the early post-1994 period on one side, all critics are rejected as racists — on another, anyone who does not buy into suburban causes is dismissed as a slave to "political correctness". It is hardly surprising that a survey of public and private decision-makers a while ago found that interviewees were stressing the differences between South Africans more and the commonalities less than they did a few years ago.

In the past couple of weeks, there could be no stronger sign of a persisting division than the sight of a prominent robbery accused and a suspect using race to deny the legitimacy of the criminal justice system. "People's poet" Mzwakhe Mbuli, accused of robbery, used a bail hearing for a trade against the "white" judicial system and police, former guerrilla Collin Chantse, a cash-in-tran-

sit heist suspect, claimed he was being victimised to cover up a (white) detective's collaboration with the robbers.

It is as well not to become too alarmed by all of this. Firstly, the tensions between elites does not necessarily translate into conflict between citizens — there is evidence that racial attitudes on the ground are more relaxed than at the top. Secondly, it is fairly predictable that, in a society with our history, some people accused of common law crimes may play the race card, just as some of those charged with corruption or incompetence sometimes do. This does not necessarily mean that many people are hesitating.

Third, our racial attitudes are complicated and there is still surprising evidence of common ground, as well as difference, of operation across racial and other divides as well as conflict.

But the examples do confirm that those who expected the truth commission process to achieve reconciliation have been disappointed. Many might join Tutu in blaming the failure of whites — or anyone else — to enter into the spirit



TUTU

of national healing. But the problem may have less to do with any group of citizens than with reconciliation, or the way it is understood by some influential people. The commission's promise of reconciliation was, from the outset, based on flawed ideas doomed to failure. There were those who

saw it as an opportunity for apartheid's perpetrators to confess and to apologise to their victims, one which they would grasp because the majority had been generous enough to demand confession rather than retribution. It was assumed that, once they had done this, the victims would accept the apology and forgive.

Others called on more general principles those who had committed wrongs against others would confess their sins and so would be reconciled with those against whom they sinned.

The religious imagery is no more accidental than the prevalence of Christian priests and theologians in the truth commission. The desire of anti-apartheid politicians for a moral reckoning with the system was melded onto a particular religious view of reconciliation (there are, of course, as Muslim theologian Faried Essack pointed out, other religions in this society which have other views on how people are reconciled).

What no one bothered to explain was why perpetrators were going to accept their guilt or why, even if they did, the victims should accept the apology. If we were that united in our understanding of what was wrong in our past, who was responsible for it, and how we should react to those we hold to be guilty, there probably would have been no need for a truth commission. If we were not so united — which we are not — a commission was not going to change that.

This is not to say that the truth commission was a futile exercise of the past. He argued in public, and that names be attached to crimes. It is also possible that the commission sessions convinced some who had refused to believe there were rights abuses, they might now accept that great wrongs were committed which should never recur. As an exercise in reconciliation, in bringing together those who remain estranged from each other, it was a non-starter. But is reconciliation itself equally doomed? Are we simply now seeing the re-emergence of deeply rooted divisions which the unreal post-1994 aura washed away? Yes and no.

Yes, in the sense that, if reconciliation means — as some in government seem to hope — that we will all put away our racial past and bury our differences, it is a whole generation away if it happens at all.

Difference — and, more specifically, racial difference — is embedded in the society and any attempt to wish it away, or command it to stop, will cause far more harm than good.

No, in the sense that there is a surprising bedrock of commonality in the society which means that, to a remarkable degree, elites (and the rest of us) are prepared to live with and in some cases to co-operate with each other, even while they retain a strong sense of difference.

Therefore, the problem is both more difficult and far simpler than some of the ideas which lie behind the commission suggest. If we are to manage our differences rather than seek to dissolve them, two elements are essential: the first is a recognition and a tolerance of difference, the second is broad agreement on principles on which there is no room to differ.

The fact that there are different values and interests in the society, which coincide with race, is not a disaster stronger and longer for years. But if, as in the Mbuli and Chantse cases, there is no agreement that we all respect the same law and legal system (whether because some are victims of racism or because they can claim they are), we have a real problem. If we cannot agree on what corruption is and on what should be done about it, the problems is as real.

The minimum requirement for a functioning democratic society is broad agreement on some fundamental principles and institutions — how disputes are to be settled, what is acceptable conduct by public officials and what is not, respect for the law and the institutions which apply it. If that is achieved, we have a workable society, even without the brand of reconciliation the truth commission sought to promote.

Getting that far will be hard — but it will become far harder if we fail to distinguish between that on which we have to agree and that on which we can afford to differ.

□ Friedman is director of the Centre for Policy Studies

Truth commission asked to be patient with PAC cadres

THE Pan Africanist Congress (PAC) appealed to the truth commission yesterday to be patient with its cadres who had applied for amnesty **BD 23/2/98**

PAC secretary-general Mike Muendane said, unlike former state president PW Botha who was being helped financially, the PAC had to travel countrywide to consult with their cadres.

The plea follows a truth commission appeal to the party to provide it with full details of its cadres who had not disclosed all the necessary information in their amnesty applications.

The truth commission said on Friday it faced the unfortunate prospect of having to reject half of the amnesty applications received from people claiming allegiance to the PAC. "Of the about 260 applications received from the PAC, 132 provide only codenames and political affiliations of applicants," truth commission spokesman John Allen said.

"No real names or specifics of acts in respect of which amnesty is sought are given, nor is there sufficient information to enable the commission to establish further particulars without further help from the party and/or individuals," Allen said.

He said a letter was sent to Muendane on November 26 last year urging him to help the truth commission by providing the outstanding information.

Muendane said yesterday if they were to persuade their disillusioned members to continue participating in the truth commission process, they required the commission's assistance.

He said the truth commission had given Botha R1,6m in financial assistance, while the PAC needed far less than that to persuade its cadres to participate in the amnesty process.

Muendane reiterated claims by his party that the commission was biased against PAC's former military wing, Apla. The prejudice against the PAC members had led them to lose faith in the truth commission process — Sapa.

Commission hears details of the 'Cradock Four'

(2/17)



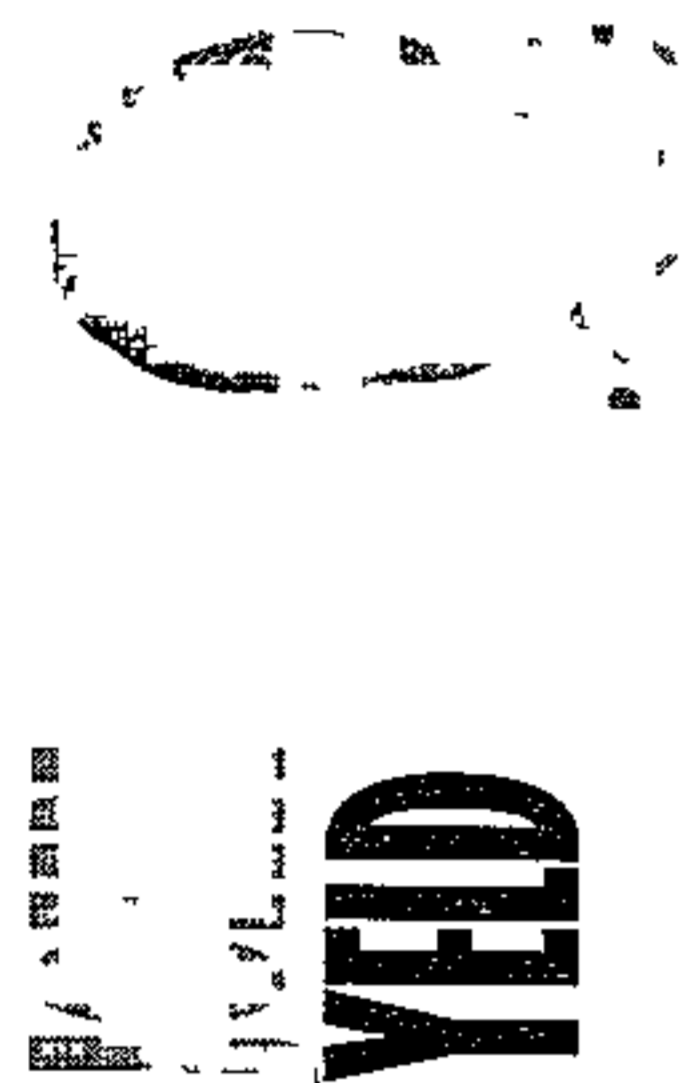
Slain: the murdered Matthew Goniwe. Now seven former policemen are seeking amnesty

Port Elizabeth - On the same day former state president PW Botha was proclaiming his innocence before a George magistrate, his government's security policemen started telling a Truth Commission hearing here how they had bludgeoned, stabbed and shot four prominent Eastern Cape anti-apartheid activists to death.

Part of their motivation for the murders had been exhortations by Mr Botha and others in his cabinet such as then defence minister General Magnus Malan, one of them told the commission's amnesty committee today.

Seven former policemen - Eric Alexander Taylor, Gerhardus Johannes Lotz, Nicholas Janse van Rensburg, Harold Snyman, John Martin van Zyl, Hermanus Barend du Plessis and Eugene de Kock - are applying for amnesty for the murder of the "Cradock Four" activists in June 1985 and/or the subsequent cover-up of the killings.

The four activists - United Democratic Front leaders Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlau - were abducted while returning to Cradock from a meeting in Port Elizabeth and were murdered before their bodies were mutilated



YED

ON THE TRUTH COMMISSION

and set alight Colonel Snyman, who was head of the Eastern Cape security police at the time and who is alleged to have approved the murder of the four, was not present when the amnesty hearing got underway to a late start in the new Centenary Hall township.

His doctor sent his attorney a letter earlier this week saying Colonel Snyman was terminally ill with cancer. The first to testify at the start of today's amnesty hearing was Mr Van Zyl, then a captain in the security police and who later resigned to join

the SA Defence Force's "Special Forces" unit. Mr Van Zyl testified that by June 1985 there had been an unofficial list of Eastern Cape activists earmarked for assassination by the security police, but that he

could not remember all the names on it. Mr Goniwe, then a Cradock teacher, had been considered the most effective activist in the region and was the security police's prime target, but not the only one.

He said the Cradock Four had been stopped between Cookhouse and Port Elizabeth on the night of June 27 1985, handcuffed and transferred to security police vehicles. They had then driven back to St George's beach near Port Elizabeth where the fuel line on Mr Goniwe's car - which the security police had fitted with false number plates after the abduction - had been cut and the vehicle set alight. Mr Van Zyl said he had then driven away alone with Mr Mkhonto, intending to beat him unconscious with a rubber truncheon and then stab him to death.

"While I was driving slowly through the deserted area looking for an appropriate place to kill him, he suddenly got me around the neck from behind."

"I had to stop and then I shot him over my shoulder with an unlicensed 22 calibre weapon which I had brought out of Rhodesia (Zimbabwe) and which was under my seat. I don't know where I hit him. I pulled him

Killings

ARG 23/2/98

out of the car and then shot him once more in the head before I established that he was dead."

Mr van Zyl said Mr Mkhonto's body was stabbed several times by black security policemen, sergeants Faku and Moguduka, and an "askari" (turned ANC guerrilla) Shepherd Sakati. The three then helped him pour petrol over the body and set it alight. All three were later murdered by the security police in a car-bomb attack at Motherwell, allegedly after threatening to disclose details of the killing of the Cradock Four. Setting out his personal background, Mr Van Zyl said "huge pressure" had been brought to bear on the Eastern Cape security police by the then joint management system of former president Botha's government to restore stability and order to the region.

"In this connection I refer to speeches by, among others, former president PW Botha and (defence minister) Magnus Malan, as well as other political leaders, to the effect that 'we find ourselves in a guerrilla war situation' and 'meet fire with fire' and that we are facing a 'total onslaught situation', and... n," he said.

The hearing is continuing

Trial a circus, says PW

Court siege as Botha pleads not guilty

ASHLEY SMITH
COURT REPORTER

George - PW Botha described his appearance in the Regional Court here today as a "second circus" after pleading not guilty to ignoring a Truth Commission subpoena.

Hundreds of police and a kilometre of razor wire surrounded the court as Lappe Laubscher, appearing for the former president, launched a scathing attack on "the ANC- and PAC-aligned Truth Commission". He said his client had been given an undertaking by TRC chairman Desmond Tutu in December 1996 that he would not be required to attend any hearings personally.

Mr Laubscher said the commission had waived its right to subpoena Mr Botha and agreed he could answer questions about the State Security Council in writing.

He said Mr Botha had a hip replacement operation last August and a doctor's certificate dated September 29 stated that he was unable to travel for at least three months.

A subpoena was then delivered to Mr Botha asking him to appear at the commission's offices in Cape Town on December 5. The commission had made statements in the media saying Mr Botha had defied the commission openly, which was untrue.

The commission had also promised that Mr Botha could attend its hearings in George, but there had been no discussion with his client.

The commission had said the 1 200-page written reply sent by Mr Botha to the commission's offices did not deal with key areas relating to the State Security Council.

Mr Laubscher said that included in this document were notes relating to former law and order minister Adriaan Vlok's amnesty application.

Earlier, Mr Laubscher said his client had no objection to Western Cape Regional Court president Victor Lugaju presiding at his trial, even though Mr Lugaju had a problem expressing himself in Afrikaans.

He said Mr Botha's legal team had met Mr Lugaju soon after Mr Botha's court

appearance last month and had received an undertaking that Mr Lugaju could understand Afrikaans and he would have no problem understanding the mountain of documentation already entered as evidence.

After the case was adjourned to April 14 for trial today, Mr Botha got up and remarked that the proceedings had been "the second part of the TRC circus".

He was greeted warmly by several personal friends in the courtroom. As he left, African National Congress supporters marched around the razor-wire barricade separating them from the court building.

The ANC contingent gathered from about 7am, waving banners, shouting and singing freedom songs as they waited for Mr Botha. There was no sign of fighting support.

Placards read "PW's meow no match for Madiba's roar", "Afrikaner tiger meow meow meow", and "Die tier in Afrika is agter die trailes (the tiger in Africa is behind bars)".

These referred to a remark by Mr Botha that the "Afrikaner tiger is awakening".



Defiant PW Botha leaves court today

LEON MULLER

AR 4 23/2/98

(252)

PW plans to put TRC in the dock

Star 23/2/98

(252)

Former state president, on trial for ignoring subpoena, expected to use forum to attack Tutu

By Robert Brand

Former state president PW Botha was expected to launch a legal and political offensive against the Truth and Reconciliation Commission when he appears before a magistrate in George today on a charge of ignoring a subpoena issued by the TRC.

He would plead not guilty, his legal representatives said. But his plea explanation was expected to contain a stinging attack on the TRC and its chairman, Archbishop Desmond Tutu, accusing them of a politically-motivated vendetta against him and other Afrikaners. Botha's trial is being used as

a rallying point for conservative Afrikaner groupings. Several prominent Afrikaner leaders have initiated a "support group" to marshal moral and financial support for the former National Party leader.

The hearing today was expected to be short. Botha first appeared in court on January 23, when Western Cape Regional Court President Victor Luggan postponed the case to today for entering a plea, and set down April 14 for the start of the trial. Botha was subpoenaed to answer questions before a TRC panel about the activities of the State Security Council, a body he created during the 1980s to co-ordinate the state's response

to the liberation struggle. He refused to appear in person before the commission, leading to his criminal charge in terms of the TRC's founding legislation. Documentation supporting

Malan and Viljoen due to give support

Botha's not-guilty plea, however, outlines the basis of his defence against the charge, which carries a maximum sentence of two years' jail or a R2 000 fine. The Afrikaners Sunday news-

paper Rapport reported yesterday that Botha would accuse the TRC of persecuting him with malicious intent. He is also expected to accuse the commission of political bias against the former government and Afrikaners.

Among those who may be called as witnesses are Tutu and his deputy, Dr Alex Boraine. Neither Tutu nor Boraine will be present at today's hearing, commission spokesman John Allen said. A senior official of the TRC will be on hand, however, with documentation requested by Botha's legal representatives. The commission will also be represented by advocate Jeremy Gauntlett, SC. The local branch of the ANC

had applied for permission to demonstrate outside the court building, according to Superintendent Wicus Holtzhausen, who is in charge of security at the venue.

No rightwing grouping had applied for permission to demonstrate, but several Afrikaner leaders were expected to attend the hearing, among them former defence minister Magnus Malan and Freedom Front leader Constand Viljoen. Viljoen is one of the movers behind the "support group", which was formed in Pretoria last week with the aim of "consolidating the Afrikaner nation and the principles for which PW Botha is making his stand".

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'GROOT KROKODIL' PLEADS NOT GUILTY

'TRC acting in bad faith'

(272) CP 24/2/98

GEORGE: The case of former state president P W Botha was postponed in the local Magistrate's Court to Tuesday, April 14, for trial.

FORMER state president P W Botha accused the Truth and Reconciliation Commission (TRC) yesterday of acting in bad faith and with an ulterior motive, when it decided to notify him to appear before the commission.

Pleading not guilty to charges that he had disobeyed a TRC subpoena to appear before it, Botha — speaking through his legal representatives — said an agreement had been entered into between himself and TRC chairperson Archbishop Desmond Tutu in George on November 21, 1996, and as a consequence the TRC was not entitled to require his presence.

The case was postponed by Western Cape Regional Court president Mr Victor Lugaju and two assessors to April 14 for trial.

Botha's defence said the TRC was prejudiced and consequently acted ultra vires regarding its activities and the decisions of the commission relating to him, his government and the functionaries of that government.

In a statement read to the court, Botha said the commission was prejudiced because the majority of its members were members of the



APPEARANCE: P W Botha, surrounded by policemen and guards, waves to a crowd as he leaves court in George yesterday **PICTURE AP**

ANC and the PAC at the time of their appointment to the TRC.

Subsequent to their appointment, the majority of those commissioners refused to resign their membership of the ANC and PAC.

Any criticism by such commissioners of the past actions by the ANC or the PAC would expose those commissioners to disciplinary action by either the ANC or

the PAC respectively, Botha said.

Botha said the commission abruptly and without any explanation decided it was not prepared to wait for his written replies of more than 1 700 pages submitted late last year, but to demand his appearance in person before it.

The defence said the commission in public and in the media gave contradictory and false expla-

nations why Botha's attendance was required by it, more particularly by alleging that his written answers to the commission's written questions were inadequate before the said answers were even studied by the commission.

The state's charge sheet reiterates that Botha as a former minister of defence, prime minister, state president and chairperson of the State Security Council, was required to appear before the commission to give evidence or to answer questions in connection with the activities of the State Security Council and related matters.

Earlier yesterday, the security forces erected barriers at the main entrances leading into George and erected a head-high razor wire around the court building.

About 100 ANC supporters gathered on a traffic island opposite the court building and booed Botha and his fiancée, Mrs Reimette Water Naude, as they stepped from their car.

The ANC members carried placards which read "Botha's meow no match for Madiba's roar", "Afrikaner tiger meow, meow, meow" and "Die tier in Afrika is agter die tralies" (The tiger in Africa is behind bars).

Present in the courtroom were some of Botha's children, Freedom Front national executive member Mr André van Wyk, ANC representatives and national legal officer of the TRC, Mr Hanif Vally — Sapa

Why Goniwe (252) had to be killed'

ET 24/2/98

PORT ELIZABETH Police arranged to eliminate Matthew Goniwe, an excellent school teacher and popular figure in Cradock, because of his status as an efficient activist, the Truth and Reconciliation Commission heard here yesterday.

Goniwe and three others were stopped while travelling between Port Elizabeth and Cradock, and were killed in June 1985.

Former policeman Johan Martin van Zyl told the TRC's amnesty committee the decision was taken to eliminate "Goniwe and his lieutenants" because they were deemed to be responsible for the situation in the area at the time. He said the police were desperate at not being able to implement a Joint Management Centre system, and were losing ground to street committees.

He said Goniwe had been identified as the most effective activist in the region and it was decided to eliminate him and his closest associates.

"We had to chop off the head of the destabilising forces in the area," Van Zyl said.

Van Zyl is one of seven former security policemen applying for amnesty for the 1985 murder of Goniwe and three other activists. The other six policemen are Eric Alexander Taylor, Gerhardus Johannes Lotz, Hermanus Barend du Plessis, Nicolaas Janse van Rensburg, Eugene de Kock — and Harold Snyman, who will not appear at the hearing because of serious illness.

The policemen are applying for amnesty for killing Goniwe, Sparrow Mkonto, Fort Calata and Siculo Mhlauli, known as the Cradock Four.

Mr George Bizos, SC, for families of the dead men, produced documents that showed Mr Sam de Beer, the NP government's education minister, at the time had recommended that Goniwe, who had been suspended from his position

as a school teacher, be reinstated. De Beer saw this as the solution to the unrest.

"At the same time you and your group of murderers decided to go ahead and do your own thing and kill Goniwe," Bizos said.

Van Zyl denied this and insisted he had received orders from Snyman which he believed had come from higher levels.

Bizos also put it to Van Zyl that officials in the local education department considered Goniwe an excellent mathematics teacher and believed he should not have been suspended from duty.

Van Zyl replied that police had identified him as being behind the activities that were destabilising the Eastern Cape region.

Bizos also put it to Van Zyl that one of the Cradock Four, Siculo Mhlauli, had not been activist at all

but was a school teacher in Oudtshoorn and had been merely taking a lift back to his home town of Cradock.

Van Zyl replied that Mhlauli was

also an activist who was planning to implement Goniwe's plans in Oudtshoorn, and his killing was therefore justified.

He said plans were made to ambush Goniwe during one of the many trips he made around the Eastern Cape.

The car the men were in was stopped and the four occupants were handcuffed and taken to a dark spot near Port Elizabeth.

Van Zyl said he took Mkonto in the back of his vehicle with the intention of stabbing him to death. Mkonto had resisted and during the scuffle he shot the activist, first in the body and later in the head.

He then ordered a Sergeant Faku to stab the dead man and to set the body on fire. Van Zyl said the plan was to make the killing look like an attack by vigilantes or Azapo (Azanian People's Organisation) supporters.

The hearing continues — Sapa

**POLICEMAN
TELLS OF
BOPAPE'S DEATH**
— Page 3

MAMELODI ACTIVIST TORTURED

Policemen tell of shock at death of Bopape

(252)

ET 24/2/98

PRETORIA: A policeman applying for amnesty for the death of activist Stanza Bopape told a TRC hearing yesterday how he and his colleagues had tried to make the death look like an escape.

TWO former policemen recounted yesterday their shock and surprise when they realised in June 1988 that they had tortured ANC Mamelodi activist Mr Stanza Bopape to death.

"We knew we now had a problem," Constable Hendrik Mostert told the Truth and Reconciliation Commission here

Lieutenant-Colonel Adriaan van Niekerk, who was the senior officer, testified that he was puzzled at Bopape's death "I could not believe that he had died from the electrical shocks. We only shocked him. We never assaulted him."

Van Niekerk said Bopape was subjected to three electrical shocks

Van Niekerk, Mostert and eight other former policemen are seeking amnesty for offences arising from the death of Bopape

The applicants include retired police commissioner Johan van der Merwe

Police initially claimed Bopape escaped while being escorted to Vereeniging by police

Five of the 10 applicants are seeking amnesty for Bopape's death. They are Van Niekerk, Mostert, Major Charles Zeelie, Constable Jacobus Engelbrecht and Constable Johan du Preez

Two other applicants, Brigadier Schalk Visser and Captain Leon van Loggerenberg, have applied for amnesty for their role in the disposal of Bopape's body

Van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, are seeking amnesty for covering up the real reasons for Bopape's death

The Bopape family opposed the applications, saying the former policemen had not disclosed all the facts

Van Niekerk said yesterday Bopape, at the time chairman of the Mamelodi Civic Association, was arrested in Hillbrow, Johannesburg, on June 9, 1988

Police suspected he was involved in a group which was behind several Pretoria bomb attacks in the 1980s

These included a bomb explosion at a crèche in Proes Street and another at a Juicy Lucy in Vermeulen Street

Van Niekerk said Bopape was transferred on June 10 to John Vorster Square police headquarters in Johannesburg, where he was held under Section 29 of the Internal Security Act

On June 12 he was taken from his cell to the security branch offices on the 10th floor for questioning

Van Niekerk said Bopape earlier in the morning refused to co-operate with police

Van Niekerk, Zeelie, Mostert and Engelbrecht then decided "to give him a bit of a fright"

Van Niekerk said he agreed to a proposal that Bopape be subjected to electrical shocks. He said the use of force to make people talk was commonplace in the police

"We wrapped the ends of the electrical wire in cloth to prevent any burning marks on his skin," Van Niekerk said

The cloth was wet to increase the severity of the shock

Van Niekerk and Mostert said three shocks over a period of two to three minutes were applied

"Bopape was asked whether he had anything to say. But his head only fell forward

"I immediately realised something

was wrong," Van Niekerk said

He said they untied Bopape and Du Preez tried emergency treatment

"It was clear that Bopape was dead. Later we ascertained that he was earlier treated for a possible heart condition in Princess Clinic"

Van Niekerk said he then contacted Erasmus, who was a brigadier at the time. Erasmus said he would take up the matter with police head office

Bopape's body was covered with a blanket and locked in an office

In the afternoon Erasmus told Van Niekerk and Zeelie that the security branch of the former Eastern Transvaal police would dispose of the body

"Erasmus also ordered us to conceal Bopape's death by faking an escape," Van Niekerk said

He said he and his four co-applicants delivered Bopape's body to Eastern Transvaal police officers at Bronkhorstspuit that night

The five applicants returned to Johannesburg to plan Bopape's fake escape from De Deur near Vereeniging

"False statements and information were compiled and passed on through head office and other branches," Van Niekerk said

Photographs of Bopape were also released after the so-called escape

A member of the public later apparently recognised Bopape from his photograph and gave the police a statement

"The officer who took that statement did not know the escape was not genuine," Van Niekerk said "This was a coincidence in our favour"

Mr Gys Rautenbach, for the Bopape family, said he would submit that Bopape had actually been treated for a sinus problem in the clinic

Van Niekerk denied that the electrical shocks were more severe and extensive than the applicants said

Van Niekerk said he felt guilty about Bopape's death "We never wanted death. That is all I can tell you"

The hearing continues today — Sapa



TRC may need more money — Omar

CT 24/2/98

THE Truth and Reconciliation Commission may have to approach the Justice Department for further funding to meet its legal costs, Justice Minister Dullah Omar said yesterday.

He was speaking during the debate on the Adjustments Appropriation Bill, which provides for the TRC to receive R29,425 million more than was budgeted for in 1997/8.

Omar said the TRC's suggestion that it be put into a state of suspen-

sion when its deadline expires at the end of July this year was a possible option, to give its Amnesty Committee time to complete its work.

The TRC would submit its report to President Nelson Mandela in July as planned, and could then submit an addendum covering the committee's work.

The department had originally budgeted for the TRC to complete its work by July, but this would have to

be reassessed.

TRC deputy chairman Dr Alex Boraine told a news conference late last week he had proposed that the TRC be suspended in July, with the option of being reformed after the completion of the Amnesty Committee's work.

Boraine said the TRC offices would be closed down and members would not receive any benefits after July 31 this year — Sapa

(252)

FINAL RESTING PLACE: Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlauli who were known as the Cradock Four lie in this grave. The four men were killed by security forces in June 1985. Yesterday the TRC heard evidence of how they were killed and why the police had deemed their lives expendable.

FILE PICTURE

Doped Barnard confessed to killing

ET 24/2/98 (252)

PRETORIA While smoking a crack pipe in the parking lot of a Johannesburg restaurant, Ferdi Barnard allegedly confessed to author and journalist Jacques Pauw that he had killed Dr David Webster.

This evidence was given in the High Court here yesterday by Pauw, who said he did not publish this information at the time because he knew Barnard was a very dangerous man and he feared for his life.

Pauw, at the end of last year, wrote a book based on Barnard's alleged confession. He also made two documentary programmes for the SABC — *Prime Evil*, based on the life of Eugene de Kock and *Death of a Gangster*, about the death of Corrie Goosen — using Barnard as a source of information.

"It was a very dramatic moment in my journalistic career when he confessed to me," Pauw yesterday told the court.

Pauw said he met Barnard a few times to get information for his programmes and that he viewed Barnard as one of his journalistic sources. He said he and Barnard were on a good footing.

Barnard at first denied killing Webster, he said, and continued to do so on several occasions — including during a TV interview for the programme *Prime Evil*.

Pauw said he took Barnard out to lunch to give him a video recording of *Prime Evil*. He was under the impression that Barnard

was under the influence of cocaine. He was jittery and had all the symptoms of a cocaine user. He also went to the bathroom several times, presumably to use cocaine, Pauw said.

He told the court that during lunch Barnard had asked him to walk with him to his car. Pauw said Barnard then frantically searched his car for his crack pipe.

"Barnard lit the crack crystals in his pipe and suddenly said 'It is true that I shot him'. We were not speaking about Dr Webster at the time, so I asked him whom he shot. He answered that he shot Dr Webster. I asked him why, and he said it was a CCB project and that Joe Verster knew about the killing," Pauw said.

He added that he asked Barnard why he had not applied for amnesty, but Barnard had said that he did not want to.

"It was a very dramatic moment in my journalistic career. I did not know what to do with the information he gave me and I asked several people for advice.

"There was no way that I was going to publish the information at that time.

"I was always scared of Barnard and I knew you don't just publish anything

about him," Pauw said.

Two months later he invited Barnard to lunch again to gain more information about the Webster murder. This time Barnard was totally sober and off drugs. "The time was not right to probe him about Webster," Pauw said.

He said he only saw Barnard again in June last year, when he was working on *Death of a Gangster*. He told the court that he paid Barnard a visit at his brothel in Johannesburg. It was clear that Barnard was very drunk and back on drugs, he said.

"I tried to speak to him about Dr Webster, but he would not say anything. Barnard said he had told me a lot of things in the past and if I repeated them to anyone, he would kill me,"

Pauw said.

He told the court that at that stage he made a statement to the attorney-general.

Asked by Mr Faan Coetzee, Barnard's advocate, why he only made the statement months later, Pauw answered that before he said anything, he had wanted to make sure that Barnard would be arrested.

"Your client is a very dangerous man. He was an assassin for the CCB, he has already been convicted of murder and vari-

ous other criminal charges. He is not a man of whom you can publish whatever you like," Pauw said.

He added that at that stage he had not planned on unveiling the confession in a book.

Coetzee said Barnard would say that he could not remember making the confession to Pauw.

"If he did say he killed Dr Webster, it was said in a senseless babble while under the influence of crack," Coetzee said.

He accused Pauw of trying to make Barnard drunk on the second occasion that he took him out to lunch, so that Barnard would say more about the Webster killing.

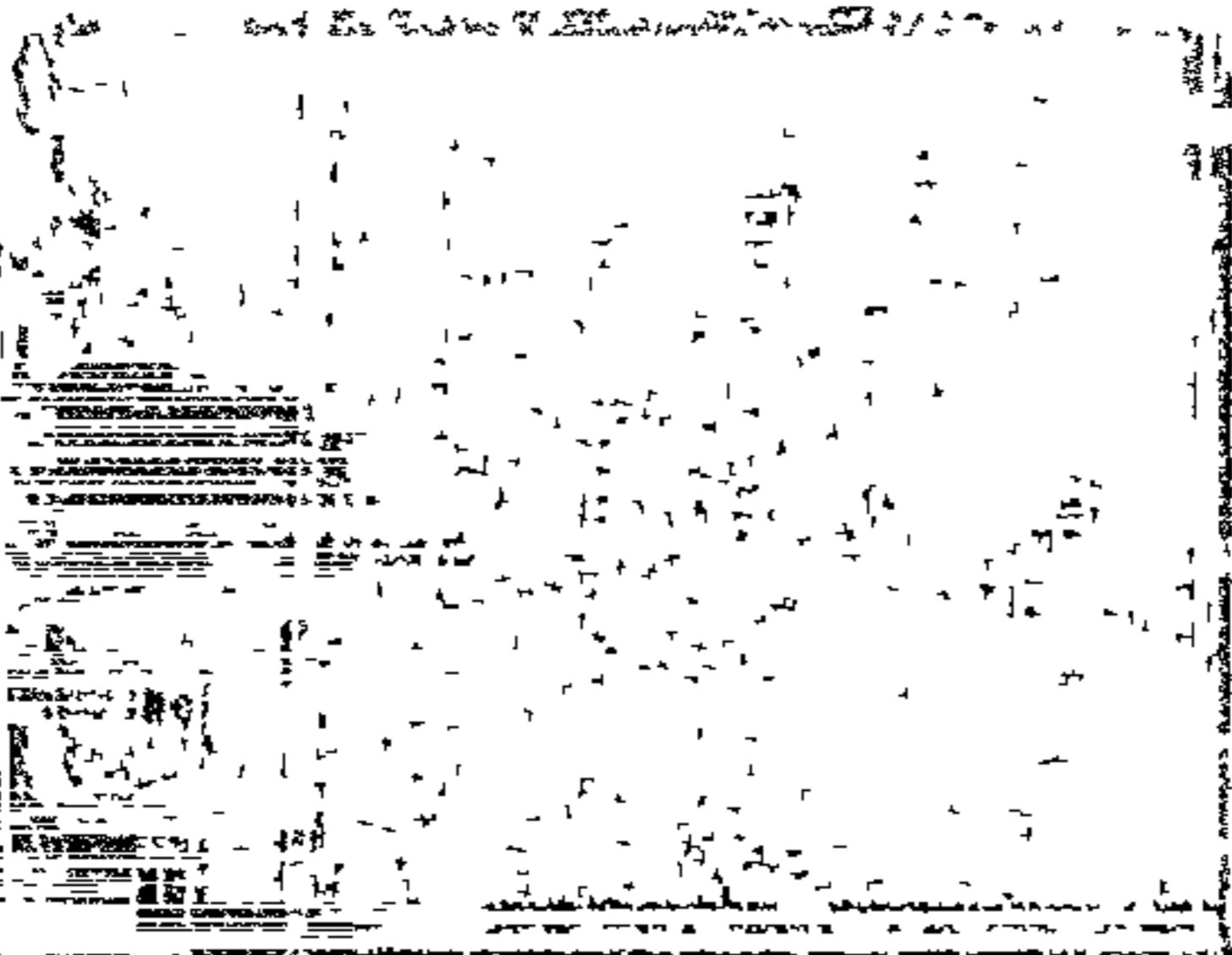
Coetzee also said that Pauw offered to buy Barnard crack out of his entertainment allowance. Pauw said this was absurd, because, according to his knowledge, Barnard always had enough crack.

"You did not publish Barnard's confession because you knew it was said under circumstances when he was heavily drugged. Barnard will say that for days before he met you at the restaurant, he continuously used crack. He was not even in a state to watch *Prime Evil*," Coetzee said.

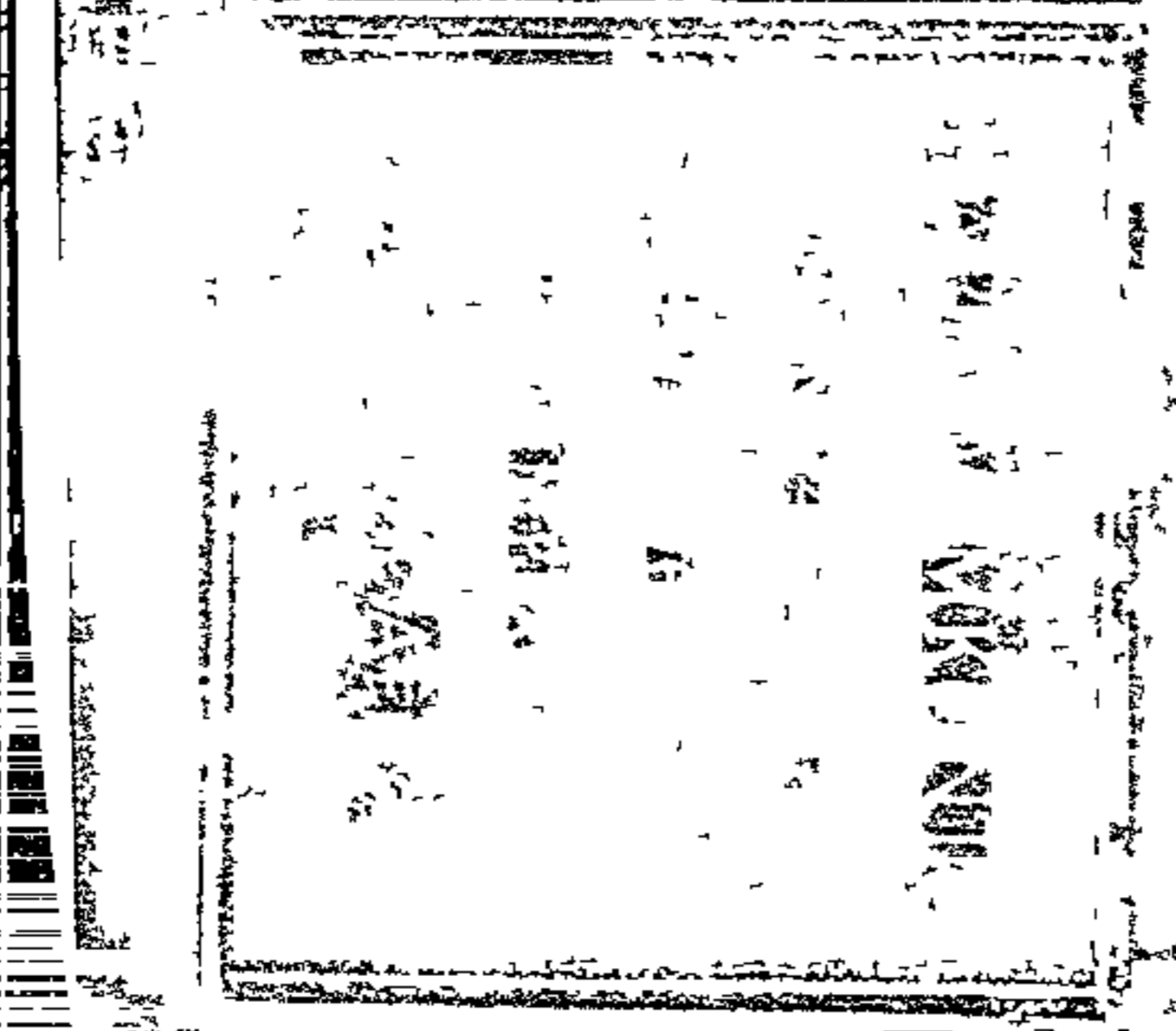
Pauw, on several occasions yesterday, said that although Barnard had used drugs at the time, he definitely appeared to know what he was saying — Own Correspondent.



CT 24 12/98



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OMAR TO TABLE UN CONVENTION

SA to become a haven for victims of torture ⁽²⁵²⁾



SA WILL HAVE to comply with a UN convention on torture should it be passed by Parliament **JOVIAL RANTAO** reports

ET 24/2/98

FOREIGN nationals who can prove that they face torture or ill-treatment if deported from South Africa will soon be in a position to earn an extended stay in the country.

Parliament is to be asked to ratify a UN convention that would empower the government to decline to extradite foreign citizens who risk being tortured or ill-treated by their governments on arrival.

Tomorrow, Justice Minister Dullah Omar will ask the cabinet to approve the International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. After cabinet approval has been received, Omar will table the convention before the National Assembly and the National Council of Provinces for ratification.

Foreign nationals who were members of armed formations and might have been involved in crimes against humanity would not qualify for consideration under the convention.

According to the UN High

Commission for Refugees, the convention bound countries not to use physical and psychological torture to extract information.

Only foreign nationals with refugee status would be covered by the convention. The UN said of the 38 000 applications for asylum received by South Africa last month, only 4 500 had refugee status under the UN conventions.

The UN convention not only provides that governments should outlaw torture in their national legislation, but also states that no order from superior institutions may be invoked as a justification of torture.

In terms of the convention, no government may extradite a person to another country where there are substantial grounds that the person would be in danger of being subjected to torture.

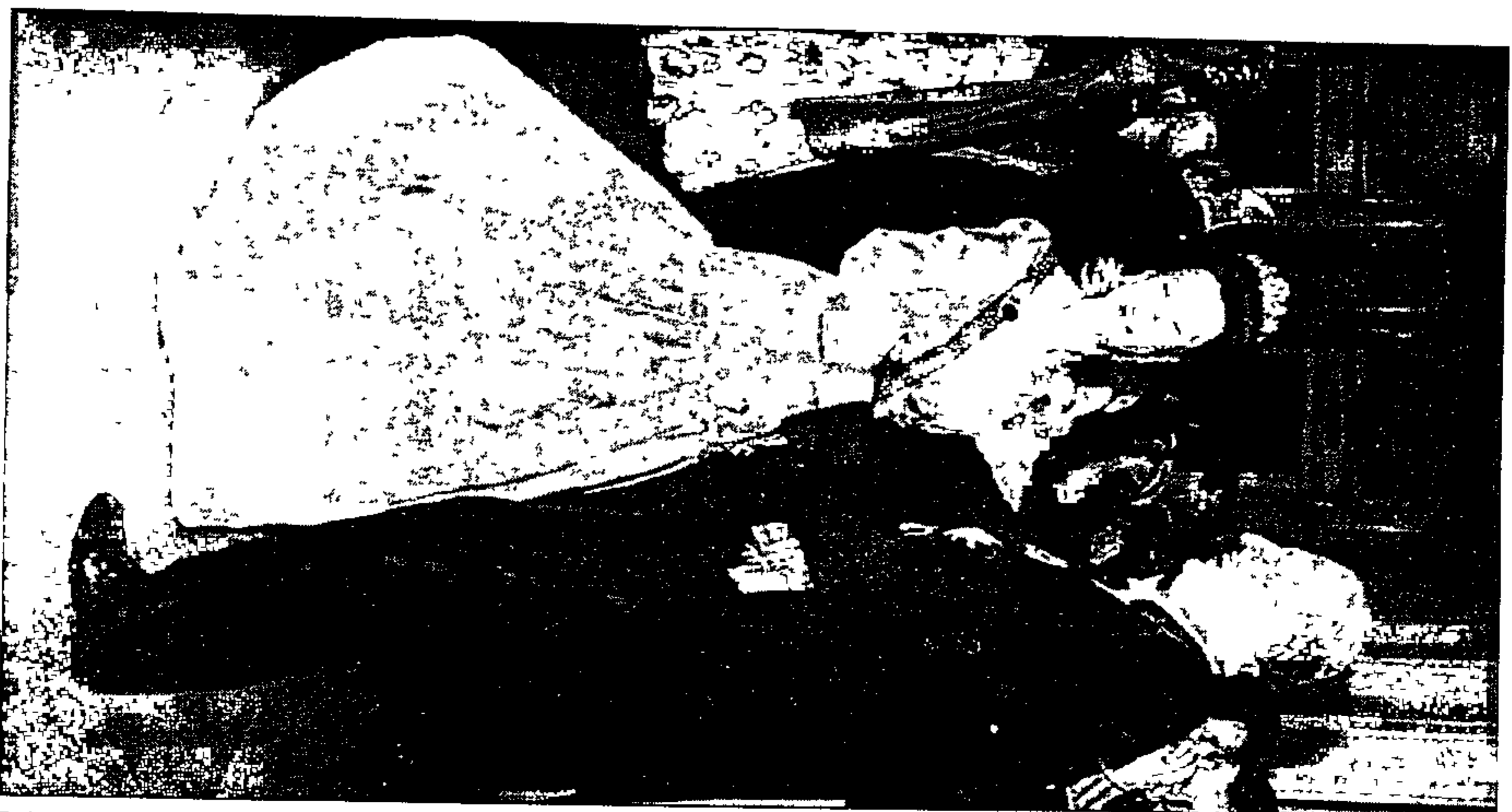
The convention requires governments who are signatories to assist each other in connection with criminal proceedings involving acts of torture, and to ensure that education and information

about the prohibition of torture are fully included in the training of law-enforcement personnel, civil or military, medical personnel, public officials and others who might be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest or imprisonment.

Signatories to the convention also undertake to provide in their legal systems that victims of torture should obtain redress and have an enforceable right to fair and adequate compensation.

On ill-treatment not amounting to torture, the convention provides that each party in the state shall undertake to prevent acts of cruel, inhuman or degrading treatment or punishment, and assume obligations in respect of such acts. The convention binds its signatories to review interrogation rules and arrangements for the custody and treatment of arrested and detained persons.

South Africa signed the convention in 1993 and ratification is now necessary if the convention is to have force in the country. Section 231 of the Constitution provides that international agreements only bind the Republic after they have been approved by resolution in the National Assembly and the National Council of Provinces



ROYAL DANCE: Norway's King Harald and Queen Sonja, who will be waltzing their way to South Africa today, pictured at a dinner dance

PW Botha denies guilt, accuses truth commission of malice

Own Correspondent

GEORGE — Former state president PW Botha pleaded not guilty yesterday to a charge of contravening the Promotion of National Unity and Reconciliation Act by refusing to appear before the truth commission in December last year.

His legal counsel, advocate HR Laubscher, SC, read out a lengthy statement in which Botha denies all the elements of the charge against him, makes no admission and accuses the commission of prejudice, malice, ulterior motives and lies.

On the aspect of prejudice, Botha claimed the commission acted ultra vires specifically in its decision about him and the government that he led.

Most of the members of the commission were members of the African National Council (ANC) or the Pan Africanist Congress (PAC), who refused to terminate their party membership when appointed to the commission, he said.

Botha said that because of this membership, those commissioners who might have criticised ANC or PAC activities of the past on the part of the ANC or PAC exposed themselves to disciplinary action.

On the aspect of malice and unfairness, Botha claimed the commission knew he underwent a hip replacement operation on August 28 1997, and a doctor had issued a certificate stating that he should not travel until the end of December 1997. Yet the commission de-

(252) 60 24 | 2 | 98

manded that he appear before a session in Cape Town on December 5.

Botha also accused the commission of contradictory and untrue explanations in the media as to why it was necessary for him to appear on December 19 last year.

Laubscher also asked the presiding magistrate, Victor Lugagu, to confirm an earlier discussion to the effect that Lugagu could not express himself well in Afrikaans, but was able to understand proceedings in Afrikaans. The explanation of plea was read out to court in Afrikaans.

Advocate Jeremy Gaudlet, for the commission, presented the court with several large cardboard boxes containing documents and said the commission reserved its position on the subpoena served on Botha.

The session lasted barely half an hour and the case was postponed to April 14.

Botha remained silent throughout the proceedings, and left immediately after the hearing. He was accompanied by his fiancée, Renette de Water Naude, and family members.

There was no impromptu conference outside the court, several hundred people, mostly ANC supporters, held placard protest and booed Botha. They were no incidents.

A gospel singer sang Christian songs a public address system throughout morning, but there was no sign of the old flag, which was seen at Botha's first court appearance last month. There was a strong police presence, and streets around court building were cordoned off.

Ceasefire campaign calls for cut in defence budget

Dustin Chick

THE Ceasefire Campaign has criticised high defence spending in SA and called on Finance Minister Trevor Manuel to further reduce the size of the defence budget when he announces this year's budget in Parliament next month.

Rob Thomson, an executive member of the anti-gun organisation, said Manuel was em-



Year ended	Year ended
30 June	30 June
Unaudited	Audited
1996	1997
R000	R000
415 133	425 328
11 760	28 140
233	169
11 003	28 209

powered by the people of SA to reduce defence spending and to transfer the savings to departments contributing directly to reconstruction and development.

Thomson said the SA National Defence Force had adopted a "threat independent" approach which meant it had admitted to the lack of enemies, but was at the same time in the process of placing a R12bn equipment tender.

This was due to come before cabinet in early May for a final decision by June. The bidders for the tender included the UK, Sweden, Germany and France.

Thomson said it was "unproductive" capital expenditure for government to spend money on defence equipment when people were "unable to eat guns".

He said the tender would bolster continued military spending and would promote foreign manipulation of the defence industry.

Last year's budget left the defence force with R9,2bn at its disposal, but this included a R300m concession made by the finance department. This would mean this year's budget, predicted at R9,2bn, would in real terms be up on last year's figure of R8,9bn, Thomson said.

Government was not taking into account the hidden and potential costs when budgeting for the defence department. Thomson said the on-ly threat facing SA was a socioeconomic one.

'Police gave Bopape electrical shocks'

PRETORIA — Police subjected African National Congress (ANC) activist Stanley Bopape to three electrical shocks before his death in detention in 1988, the truth commission heard yesterday.

In testimony before the amnesty committee at Vista University, Mamelodi, former policeman Laert-Adriaan van Niekerk said that when Bopape's head fell forward they knew something was wrong. He said police later learned that Bopape suffered from a heart condition.

Bopape was questioned at John Vorster Square police headquarters in Johannesburg on June 12 1988 about his suspected involvement in several Pretoria bomb attacks. Van Niekerk said the attacks included a bomb explosion at a crèche in Proes Street, and another at a Jucy Lucy restaurant in Vermeulen Street.

Van Niekerk and nine other former policemen are seeking amnesty for offences arising from the death of Bopape, a former ANC activist.

Bopape was general-secretary of the Mamelodi civic association at the time.

Retired police commissioner Johan van der Merwe is one of the amnesty applicants.

Police initially claimed that Bopape escaped while being escorted to Veremeung by police and disappeared.

Five of the 10 applicants are seeking amnesty for the killing of Bopape. They are Van Niekerk, May Charles Zeelie, and constables Hendrik Mostert, Jacobus Engelbrecht and Johan du Preez.

In their application, they say Bopape was arrested in Hillbrow, Johannesburg, and taken to John Vorster Square on June 10 1988.

There he was held without trial under Section 29 of the Internal Security Act. Bopape was subsequently tortured and killed.

Two other applicants, Brig Schalk Visser and Capt Leon van Loggerenberg, have applied for amnesty for their role in the disposal of Bopape's body.

Van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, are seeking amnesty for covering up the reasons for Bopape's death.

Van Niekerk said police felt Bopape's death in detention would spark new unrest, and they decided to fake his escape.

He said electrical shocks were used because Bopape refused to co-operate. "We wrapped the ends of the wire in cloth to prevent any burning marks on his skin."

The hearing is to continue. — Sapa

BD 24/2/98

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Goniwe's skill as activist led to his death

PORT ELIZABETH — Security police killed United Democratic Front (UDF) activist Matthew Goniwe in 1985 to "cut off the head" of the forces causing chaos in the Eastern Cape at the time, the truth commission heard yesterday.

Former security police captain Johann Martin van Zyl told the commission's amnesty committee police were desperate to stabilise black areas, which were being controlled by UDF structures.

At the time senior policemen in Port Elizabeth were planning to murder Goniwe, former National Party education minister Sam de Beer recommended that Goniwe be reappointed to his position as a teacher in Cradock as the

key to putting an end to the unrest in the Cradock area.

This apparent conflict between the two departments in former president PW Botha's government in 1985 emerged when George Bizos, appearing for the families of the dead activists, yesterday quoted from an official document stating that Goniwe should be reappointed to his post.

Van Zyl said Goniwe was identified as the most effective activist in the region and it was decided to eliminate him and his closest associates.

Van Zyl and six other former security policemen — Eric Taylor, Gerhardus Lotz, Hermannus du Plessis, Nicolas Janse van Rensburg, Eugene

de Kock and Harold Snyman — are applying for amnesty for the June 1985 murder of Goniwe, Sparrow Mkonto, Fort Calata and Sielo Mhluli, known as the Cradock Four, on the road between Port Elizabeth and Cradock.

Van Zyl told the committee of the frustration experienced by police at the time at being unable to wrest control of township structures from street committees and people's courts. Chaos reigned in the areas day and night, and police were unable to deal with the situation through the courts.

He discussed the matter with former security police general Nic van Rensburg, and was told by Snyman and Van Rensburg the only solution to

the desperate situation in the region was the elimination of "Goniwe and his lieutenants".

The necessary plans were made to ambush Goniwe on one of his many trips around the Eastern Cape.

Van Zyl said he could not say who gave the order to kill Goniwe, but he carried out the attack on the basis that he believed Snyman and Van Rensburg would never have given the order without official sanction from police headquarters.

The hearing is continuing. The amnesty committee, chaired by Judge Ronnie Pillay, is expected to hear testimony over the next two weeks. — Sapa

(2572)

BD 24/12/98

Cabinet ready to ratify UN covenant on rights

David Gaybe (2572) PD 24/2/98

CAPE TOWN — The cabinet had agreed to ratify the UN covenant on economic, social and cultural rights, Water Affairs Minister Kader Asmal told Parliament yesterday.

SA will become the 141st signatory to the international charter.

Asmal told a parliamentary workshop on implementing and monitoring economic and social rights in SA that socioeconomic rights, as enshrined in the Bill of Rights, were "not merely the optional extras of democracy".

He said "There is a positive obli-

gation on the executive and the legislature to fulfil them as far as this is reasonable, and to do so with all due speed," Asmal said.

The workshop was co-hosted by the welfare committee, the Community Law Centre (Western Cape University) and the Centre for Human Rights (Pretoria University).

Asmal encouraged parliamentary committees to call ministers to provide proof that they were meeting their constitutional duty to fulfil and protect socioeconomic rights.

"Should there be moves to swing SA into a position — as has happened elsewhere — that involves

the destruction or weakening of the welfare state, there is no doubt in my mind that such action could and would be declared unconstitutional," Asmal said.

South Africans should not forget that the constitution was sovereign, he said.

SA Human Rights Commission member advocate Pansy Tlakula said all but three national departments (health, land and environmental affairs) and two provincial governments (Gauteng and Northern Cape) had failed to meet a February 15 deadline to answer a socioeconomic rights "protocol" from the commission. Answers were in-

tended for use in determining guidelines for checking socioeconomic rights, as spelt out in the constitution, were being met at national and provincial levels.

Tlakula said the commission would hold a workshop with departments and provincial governments, and if they still failed to provide answers the commission would consider resorting to "other measures".

The keynote speaker was Prof Philip Alston, chairman of the UN committee on economic, social and cultural rights, which is responsible for supervising states' obligations under the UN charter.

Alston said it was insufficient for signatories merely to recognise socioeconomic rights. They should adopt appropriate measures nationally "to give them flesh". Signatories that failed to deliver could no longer tell the international community to "go to hell" — this is a domestic issue, as they had to account to his committee.

Legal Resources Centre attorney Vincent Saldanha said civil society had, in monitoring socioeconomic rights, been preoccupied with national government but needed to look more closely at provincial and local levels.

TRC prejudiced – PW

(252) Sowetan 24/2/98

FORMER president Mr PW Botha accused the Truth and Reconciliation Commission yesterday of acting in bad faith and with an ulterior motive when it decided to notify him to appear in person before the commission.

Pleading not guilty to charges that he had disobeyed a TRC subpoena to appear before it personally, Botha – speaking through his legal representatives – said an agreement had been entered into between himself and TRC chairman Archbishop Desmond Tutu in George on November 21, 1996. As a consequence, the commission was not entitled to require his presence.

The case was postponed by Western Cape Regional Court president Mr Victor Lugaju to April 14 for trial, which has been provisionally set to last until April 17.

Botha's defence said the TRC was preju-

diced and consequently acted *ultra vires* regarding its activities in general, and in particular regarding the decisions of the commission relating to him, his government and the functionaries of that government.

In a statement read to the court, Botha said the commission was prejudiced because the majority of its members were members of the African National Congress and the Pan Africanist Congress at the time of their appointment to the TRC.

Subsequent to their appointment the majority of those commissioners refused to resign their membership of the ANC and PAC.

Any criticism by such commissioners of the past actions of the ANC or the PAC would expose those commissioners to disciplinary action by either of the two parties, Botha said – Sapa

"Ordered them to torture Bopape"

Sauerhan 24/2/98

By Claire Keeton

FORMER security policeman Lieutenant-Colonel Adriaan van Niekerk told the Truth and Reconciliation Commission yesterday that he had authorised the electric shock torture which killed Stanza Bopape.

A Mamelodi, Pretoria, civic leader and member of the African National Congress, Bopape died in detention on June 11 1989 after refusing to cooperate with the police.

Three police generals were among those responsible for the cover-up of his death, which involved staging a mock escape and public lies.

Van Niekerk was the first of the 10 former policemen who have applied for amnesty for Bopape's murder to testify in Mamelodi yesterday.

He said Bopape was arrested with Mr Simon Nkosi by security police on June 10 1989 in Hillbrow, Johannesburg. He was detained by the West Rand branch and transferred to John Vorster Square where Van Niekerk was commander of the investigations unit.

Van Niekerk said his commanding officer, General Gerrit Erasmus, told him the West Rand branch had asked for help in interrogating the detainees in connection with "acts of terror".

He said Bopape and Nkosi were transferred to John Vorster Square on June 10 and he instructed Constables Hendrik Mostert and Jacobus Engelbrecht to interrogate them.

The following day Van Niekerk attended a meeting in Krugersdorp where he was told that Bopape was involved in the "Maponya" cell of the African National Congress, which



Adriaan van Niekerk, who told the TRC that he authorised the torture that killed Stanza Bopape.

had allegedly been responsible for several violent acts around Pretoria.

Van Niekerk said Bopape's interrogation continued on Sunday June 11 "Every now and then I walked in and the members indicated that Bopape was not cooperating." Van

Niekerk said.

"I decided to speak to him myself to make sure he understood how serious the situation was, that he was being detained under Section 29 and it was his duty to give the police information."

Despite continuous pressure on Bopape he did not answer any questions.

"Later members came to me and we decided as a group to give him a fight in order to persuade him to cooperate with us."

Van Niekerk said they ordered an electric shock device from the Sandton security branch to force Bopape to respond.

"I agreed that the device should be applied," said Van Niekerk. The interrogators tied him to a heavy wooden chair from Van Niekerk's office, which they pushed into the corridor.

"We removed his shirt and tied his hands and legs to the chair. We didn't take very long, maybe two to four minutes (of applying the shocks) and then we stopped. There was no reaction, his head fell forward and we realised there was something wrong. We untied him, placed him on the floor and gave him mouth-to-mouth resuscitation."

Bopape did not move and they realised he was dead. He immediately called Erasmus and asked him what they should do.

Erasmus came to the police headquarters, where the body was hidden under a blanket in a locked office, and said the Eastern Transvaal security police would help them dispose of the body.

Bopape's body was handed over to the Eastern Transvaal policemen on a deserted road and they said they would throw it into the Komati River. Brigadier Schalk Visser and Captain Leon van Loggenberg will testify later this week about their disposal of the body.

The same day policemen at John Vorster Square staged a false escape, with Mayor Charles Zeelie pretending to be Bopape.

"Another death in detention would not have been a great show for the political parties," said Van Niekerk. The amnesty hearing continues all week.

(252)

TRC, PAC headed for a fallout

Sowetan 24/2/98

(252)

Commission wants party to furnish more details on amnesty applications

By Simon Zwane
Political Reporter

THE Truth and Reconciliation Commission (TRC) and the Pan Africanist Congress (PAC) are heading for a tense confrontation over the incomplete amnesty application of 132 PAC members

The TRC yesterday cautioned that it might have to reject these applications – which constitute about half the number of applications submitted by the PAC – because they did not provide the real names of applicants and details of acts for which amnesty was being sought

PAC general secretary Mr Mike Muendane reacted angrily to the TRC statement, saying the commission was punishing his party for cooperating while rewarding former president PW Botha for refusing to cooperate

“I am surprised at the impatience the TRC is showing to the PAC while they have shown so much patience and bent over backwards for a former oppressor,” Muendane said

“If it was so difficult for Botha to prepare his case while in George, how much is it for us without the funds they gave to the former oppressor?”

Muendane said the party was experiencing financial and logistical problems in locating the applicants who live in different parts of the country

He said PAC president Bishop Stanley Mogoba, Ms Patricia de Lille and Azanian People's Liberation Army commander Mr Letlapa Mphahlele had discussed these problems with TRC chairman Archbishop Desmond Tutu

The TRC said it had sent a letter to Muendane last November urging him to help in providing outstanding information

A reminder was sent last month with a copy of the November letter but “to date we have received neither replies nor acknowledgment of either letter”, the TRC said.

However, Muendane said he believed that his party had dealt with the issues raised in the letter in meetings with the commission

Goniwe killed 'to destabilise UDF'

Sowetan 24/2/98 (252)

SECURITY police killed United Democratic Front activist Matthew Goniwe in 1985 to "cut off the head" of the forces causing chaos in the Eastern Cape at the time, the Truth and Reconciliation Commission (TRC) heard yesterday.

Former security police captain Martin van Zyl told the TRC's amnesty committee in Port Elizabeth that police were desperate to stabilise black areas, which were controlled by the UDF's structures. He said Goniwe was identified as the most effective activist in the region and it was decided to eliminate him and his closest associates.

"We had to chop off the head of the destabilising forces in the area."

Van Zyl is one of seven former security policemen applying for amnesty for the 1985 murder of Goniwe and three other activists.

The other six are Eric Taylor, Gerhardus Lotz, Hermanus du Plessis, Nicolas Janse van Rensburg, Eugene de Kock and Harold Snyman.

Snyman will not appear at the hearing because of serious illness.

The policemen are applying for amnesty for killing Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauhi, known as the Cradock Four, on the road between Port Elizabeth and Cradock in June 1985.

Van Zyl told the committee of the frustration experienced by police at being unable to wrest control of township structures.

He said after discussing the matter with former security police General Nic van Rensburg, it was decided that the only way to stabilise the situation was to eliminate "Goniwe and his lieutenants".

- Sapa.

'Goniwe eliminated due to status as an effective activist'

Star 24/2/98

(252)

By **KEN DANIELS**

Port Elizabeth - Police arranged to eliminate Matthew Goniwe, an excellent school teacher and popular figure in Cradock, because of his status as an efficient activist, the Truth and Reconciliation Commission heard yesterday.

Goniwe and three others were kidnapped while travelling between Port Elizabeth and Cradock, and were killed in June 1985

Former policeman Johan Martin van Zyl told the TRC's amnesty committee in Port Elizabeth the decision was taken to eliminate "Goniwe and his lieutenants" because police were losing ground to street committees within which Goniwe had been identified as the most effective activist

"We had to chop off the head of the destabilising forces in the area," Van Zyl said

Van Zyl is one of seven former security policemen applying for amnesty for the 1985 murder of Goniwe and three other activists. The other six are Eric Alexander Taylor, Gerhardus Johannes Lotz, Hermanus Barend du Plessis, Nicolas Janse van Rensburg, Eugene de Kock, and Harold Snyman, who will not appear at the hearing because of serious illness

The policemen are applying for amnesty for killing Goniwe, Sparrow Mkonto, Fort Calata and Sicele Mhlauli - known as the Cradock Four.

Advocate George Bizos SC, for families of the deceased, produced documentation that showed that Sam de Beer, the then National Party education minister, recommended at the time that Goniwe, who had been suspended from



Goniwe



De Beer

his position as a school teacher, be reinstated. De Beer saw this as the solution to the unrest that was troubling the Cradock area.

"At the same time you and your group of murderers decided to go ahead and do your own thing and kill Goniwe," Bizos said to Van Zyl

Van Zyl denied this, insisting he had received orders from Snyman that he believed had been passed down from higher levels of command.

When Bizos argued that Mhlauli had not been an identified activist, Van Zyl replied that Mhlauli was an activist who was planning to implement Goniwe's plan in Oudtshoorn, and his killing was

therefore justified. He said after discussing the matter with former security police general Nic van Rensburg it was decided that the only way to stabilise the situation was to eliminate "Goniwe and his lieutenants"

He said the necessary plans were then made to ambush Goniwe during one of the many trips he made around the Eastern Cape. The car the men were in was stopped, and the four occupants were handcuffed and taken to a dark spot near Port Elizabeth.

Van Zyl said he took Mkonto to the back of his vehicle with the intention of stabbing him to death. Mkonto had resisted and during the scuffle he shot the activist, first in the body and then in the head.

He then ordered a Sergeant Faku to stab the dead man and to set the body on fire. Van Zyl said the plan was to make the killing look like an attack by vigilantes or Azapo (Azanian People's Organisation) supporters.

The hearing continues - Sapa

We 'only' shocked Bopape, says policeman

(252)

Former law and order minister denies involvement in cover-up after amnesty seeker describes 'puzzling' death during torture

SAPA

A former police officer was puzzled by Mamelodi activist Stanza Bopape's death during electric shock torture in 1988, the Truth and Reconciliation Commission heard yesterday

"I was puzzled I could not believe he had died because of the electrical shocks we gave him," Lieutenant-Colonel Adriaan van Niekerk testified in Mamelodi. "We only shocked him. We never assaulted him."

Van Niekerk said Bopape shook and jerked with each shock, but the activist never spoke. "He did not say anything," Van Niekerk told the commission's amnesty committee sitting at Vista University. Police later learnt that Bopape had been treated for a sus-

pected heart condition.

In an attempt to cover up his death in detention, police claimed Bopape disappeared after escaping from custody.

Van Niekerk and nine other former policemen are seeking amnesty for offences arising from the death of Bopape, an activist of the then-banned ANC.

The applicants include retired police commissioner Johan van der Merwe.

Five of the 10 applicants are seeking amnesty for the killing. They are Van Niekerk, Major Charles Zeelie and constables Hendrik Mostert, Jacobus Engelbrecht and Johan du Preez.

Two other applicants, Brigadier Schalk Visser and Captain Leon van Loggerenberg, have applied for amnesty for their role in the disposal of Bopape's body. Van der Merwe and two other

former police generals, Gerrit Erasmus and Petrus du Toit, want amnesty for covering up Bopape's death in detention.

Van Niekerk yesterday said Bopape, chairman of the Mamelodi Civic Association at the time, was arrested in Hillbrow, Johannesburg, on June 9 1988.

Police suspected he was involved in a group called Maponya, which was thought to be responsible for several bomb attacks in Pretoria.

Van Niekerk said Bopape was transferred to John Vorster Square police headquarters in Johannesburg on June 10, where he was held under section 29 of the Internal Security Act.

On June 12 he was taken from his cell to the security branch offices on the 10th floor for questioning. Van Niekerk said Bopape re-

fused to co-operate and he, Zeelie, Mostert and Engelbrecht decided "to give him a bit of a fright". He agreed to a proposal that Bopape be subjected to electric shock treatment, adding the use of forceful methods to make people talk was not unusual in the police.

The activist was shocked three times over a period of two to three minutes.

"Bopape was asked whether he had anything to say. But his head only fell forward. I immediately realised something was wrong."

Van Niekerk said they untied Bopape, and Du Preez tried to give emergency treatment.

"It was clear Bopape was dead. Later we ascertained that he was earlier treated for a possible heart condition in hospital. We were not aware of this

fact at the time."

Van Niekerk said he and the other policemen felt Bopape's death could have political consequences for the government.

He then contacted Erasmus, who was a brigadier at the time. Erasmus said he would take up the matter with police head office. Bopape's body was wrapped in a blanket and locked in an office.

That afternoon, Erasmus told Van Niekerk and Zeelie that the security branch in the former Eastern Transvaal would dispose of the body. "Erasmus also ordered us to conceal Bopape's death by faking an escape."

Van Niekerk said he and his four co-applicants delivered Bopape's body to police officers at Bronkhorstspuit that night. "The five policemen then returned to Johannesburg to plan

Bopape's fake escape from De Dour near Vereeniging.

"False statements and information were compiled and passed on through head office and other branches," Van Niekerk said. Photographs of Bopape were released after the so-called escape.

Former law and order minister Adriaan Vlok yesterday denied involvement in the cover-up.

In a statement read by his lawyer to the TRC in Pretoria, he said he only recently learnt the truth about Bopape's disappearance.

He said he realised an earlier statement made to the TRC - based on information he had got through departmental channels - was not correct only when he learnt of the amnesty applications - Sapa

Star 24/2/98

PW pleads not guilty at 'second TRC circus'

(252) Star 24/2/98

BY ASHLEY SMITH

George - Former state president PW Botha described his appearance in the George Regional Court yesterday as a "second circus" after pleading not guilty to ignoring a Truth and Reconciliation Commission subpoena.

Lappe Laubscher, appearing for Botha, launched a scathing attack on "the ANC and PAC-aligned truth commission".

He said his client had been given an undertaking by TRC chairman Desmond Tutu in December 1996 that he would not be required to attend any hearings personally.

Laubscher said the commission had waived its right to subpoena Botha and had agreed that he could answer questions about the former State Security Council in writing.

He said Botha had had a hip-replacement operation in August and a doctor's certificate dated September 29 stated that he was unable to travel for at least three months. A subpoena was delivered to Botha asking him to appear at the commission's offices in Cape Town on December 5.

He said the commission had made statements in the media saying Botha had defied the commission openly, which was untrue.

The commission had said the 1 200-page written reply sent by Botha to the commission's offices had not dealt with key areas relating to the former State Security Council.

Earlier, Laubscher said his client had no objection to Western Cape Regional Court President Victor Lugaju presiding at his trial, even though he had a problem expressing himself in Afrikaans.

He said Mr Botha's legal team had met Mr Lugaju soon after his court appearance last month and had received an undertaking that Mr Lugaju could understand Afrikaans and he would have no problem understanding the mountain of documentation which had already been entered as evidence in the case.

After the case was adjourned to April 14, Botha got up and jokingly remarked that the proceedings had been "the second part of the TRC circus".

► More TRC reports

BARNARD ARGUED OVER METHOD

'I overheard Webster plot'

(259) CT 27/2/98

PRETORIA: Ferdi Barnard and a colleague killed a friend of Barnard's because they feared he might reveal their part in a failed robbery, the colleague's girlfriend said yesterday

THE Pretoria High Court heard yesterday that former Civil Co-operation Bureau agent Ferdi Barnard and a close friend argued about the way in which anti-apartheid activist Dr David Webster should be killed

Ms Elmarie Louise Wilken, girlfriend of the late Eugene Riley, testified that she had overheard Barnard and Riley talking about murdering Webster on more than one occasion. Riley favoured Webster's being shot in the head with a sniper rifle.

Webster was killed with a shotgun on May 1, 1989, in the street in front of his Troyeville home in Johannesburg. The state alleges that Barnard murdered Webster after monitoring him for some time.

Several witnesses have testified that Barnard told them Webster's death had been a Civil Co-operation Bureau project and that CCB director Joe Verster had known about it. The CCB was a secret government intelligence and hit squad organisation.

Wilken said Riley and Barnard had met while both were members of the police narcotics bureau. Both did work for various intelligence agencies, including the CCB, and Wilken said they were inseparable.

Riley supplied Barnard with information about various subjects, including arms and drug smuggling, on a regular basis. Riley was shot dead in January 1994 in what at first was suspected to be a suicide, but was later investigated as a murder.

Wilken said that when Riley heard about Webster's death over the radio he had been upset and told her there would be trouble. She did not hear Barnard and Riley discussing Webster's death again.

She said Riley and one of Barnard's friends, Mark Frances, had apparently been involved in a failed robbery in Bophuthatswana in February 1991. Both were arrested and appeared in a Bophuthatswana court.

According to Wilken, Riley left home one morning in February 1991 with his 9mm service pistol and an Uzi sub-machinegun. When he did not return home she became worried and left messages on his pager.

Barnard phoned her and told her to relax, saying Riley had "travelled widely".

When she still did not hear anything from Riley, Barnard said he was worried that Riley might have been injured and was bleeding to death somewhere. He promised to look for Riley and borrowed petrol money from her.

Barnard informed her some

time later that Riley had been arrested in Bophuthatswana on charges of attempted murder and robbery.

She said she had later phoned Barnard to tell him that Frances had made a statement and Barnard had been furious. He and Riley were worried about what Frances might have said.

"During the court case I often saw Barnard at our house. They often talked about Frances' statement. Frances had become a risk to them because he could implicate Ferdi. They didn't want anyone to know that Ferdi had been in Bophuthatswana. I think he was still on parole at the time," she told the court.

"Initially they thought they could make that statement disappear, but they later realised that

Frances was a risk to them. Ferdi and Eugene decided together to kill him.

"On the night of Frances' death Eugene took an aluminium baseball bat that was in our house and met Ferdi. He later returned and took a jerry can with petrol that we kept at the house. He asked me for a lighter because he said they had to burn their clothes immediately. I never saw the baseball bat again."

Wilken said she knew then that they had killed Frances.

She said Barnard had visited Riley the next evening and said he would be arrested the next morning in connection with Frances' death, but that Charlie Landman — former head of the Brixton Murder and Robbery squad — had everything under control.

"He told Eugene to wear his glasses because someone might be able to identify him. Eugene was arrested that morning by several policemen, but he came home again the same evening. The case is still pending. As far as I know, he never appeared in court in connection with Frances' death."

Wilken said Riley had arrived home twice with R100 000 in cash following fraudulent transactions that he called "knocks".

The state alleges that Barnard, Riley and others were involved in various fraudulent transactions involving diamonds and foreign money.

The trial continues — Sapa



ON TRIAL: Ferdi Barnard

No evidence linked Bopape to bombings'

ET 25/2/98

(252)

PRETORIA Mamelodi activist Mr Stanza Bopape's comrades had been dissatisfied with his performance, according to a statement handed to the Truth and Reconciliation Commission here yesterday. The statement also said there had been no information linking him to bombings in Johannesburg before his 1988 death in detention.

Bopape was arrested in Hillbrow on June 9 that year and died three days later after being subjected to electrical shocks. Police initially claimed he had escaped while being escorted to Vereeniging.

Ten former policemen, including retired commissioner General Johan van der Merwe, are seeking amnesty for offences arising from Bopape's death.

The statement handed in yesterday was signed by Captain Cornelius Bezuidenhout of the Krugersdorp police.

Mr Gys Rautenbach, acting for the Bopape family, said the statement had been obtained on Sunday. A second statement had been signed the same day by former Krugersdorp policemen Mr Johannes Kleynhans.

They indicated that Bopape had been arrested for at most having had a telephone conversation with Ms Ellen Mogale, Rautenbach said.

Mr Harry Prinsloo, acting for some of the applicants, said he did not accept the contents of these statements.

Amnesty committee chairman Mr Justice Selwyn Miller ruled that the statements would be regarded as evidence only after the two policemen had been cross-examined.

Bopape was suspected of being linked to a group then on trial for bomb attacks in Pretoria and Johannesburg.

Bezuidenhout, who helped arrest Mogale, said Mogale had told police Bopape was controlling a group in Johannesburg. "There was no specific information that linked him to deeds of terrorism in Johannesburg. Further questioning of Mogale revealed there was dissatisfaction because Bopape was not actively enough involved," Bezuidenhout said.

He said no explosive devices had been found in Bopape's Johannesburg flat when he was arrested.

Earlier in the day, former Constable Hendrik Mostert testified that he had unwillingly taken part in the plot to dispose of Bopape's body.

Mostert said he had helped load Bopape's body into the boot of a police car on the night of his death for delivery to former Eastern Transvaal policemen at Bronkhorstspuit.

Mostert said he had never been told what had happened to Bopape's body.

When he applied for amnesty he learnt the body had been thrown into a river.

Mostert said senior police officers had tacitly approved the use of force to make people talk during the 1980s. The aim of such interrogations had been to prevent more bomb attacks, which were commonplace at the time.

"Seeing people torn to shreds in a bomb explosion made one realise how important it was to get information," he said. "That does something to you as a person."

Five of the 10 applicants are seeking amnesty for killing Bopape. They are Mostert, Lieutenant-Colonel Adriaan van Niekerk, Major Charles Zeelie, and Constables Jacobus Engelbrecht and Johan du Preez.

Two other applicants, Brigadier Schalk Visser and Captain Leon van Loggerenberg, have applied for amnesty for their role in disposing of Bopape's body.

Van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, are seeking amnesty for covering up the real reasons for Bopape's death. — Sapa

Koevoet man was transferred to Port Elizabeth

(2472) PH 25/7a/98

PORT ELIZABETH — The killing of the activists known as the Cradock Four in 1985 was planned and carried out by a former Koevoet policeman who was transferred to the Eastern Cape shortly before the operation, the truth commission's amnesty committee heard in Port Elizabeth yesterday.

Johan van Zyl, who is applying for amnesty for the murder of the Cradock Four with six other policemen, told the hearing he was transferred to the police security branch in Port Elizabeth from the Koevoet unit in Oryamboland in early 1985.

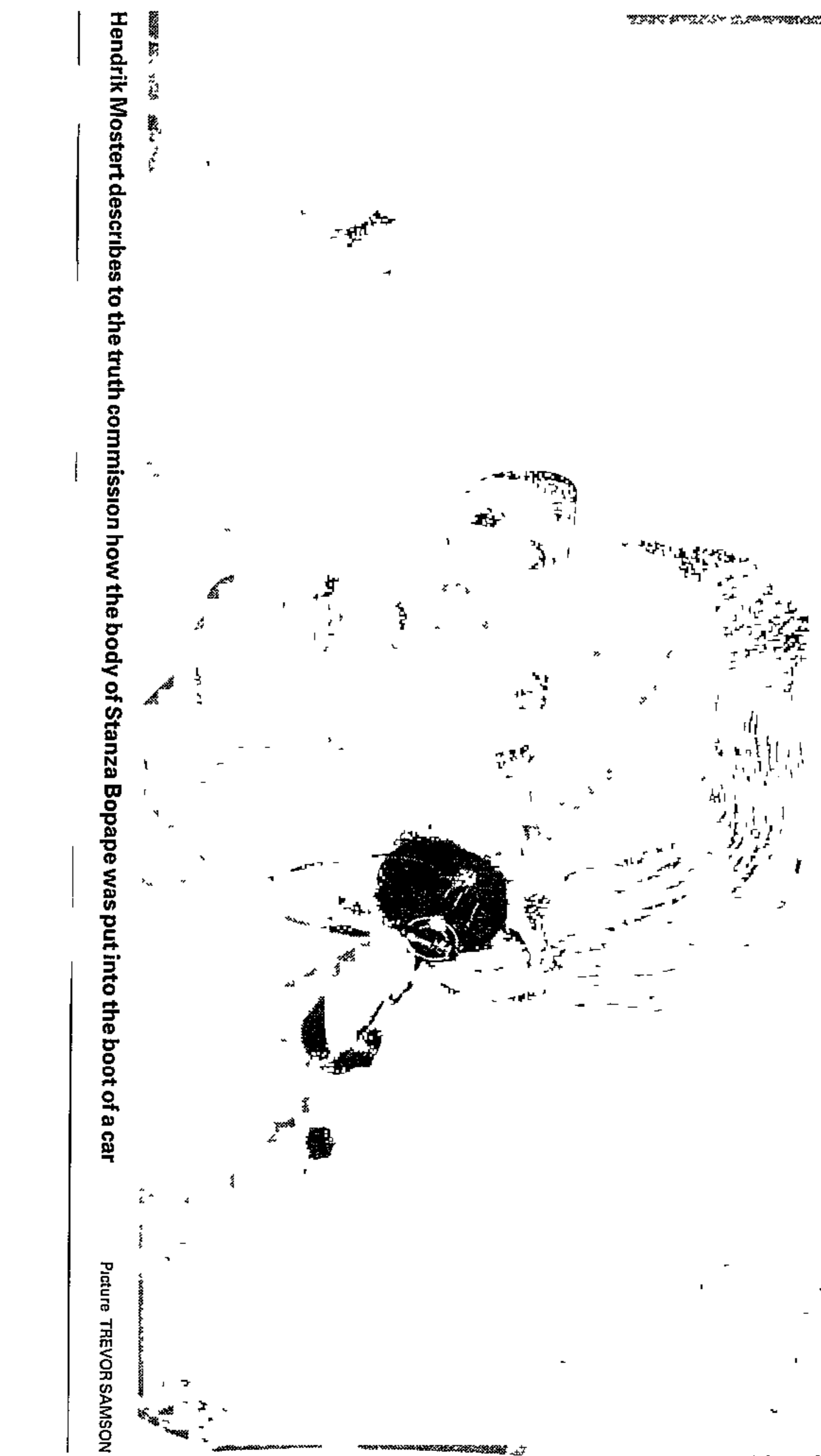
Van Zyl has admitted to planning and carrying out the police operation in which Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicele Mhlawuli were shot and stabbed to death in June 1985.

It was also revealed during the hearing that another Koevoet officer, Maj Eric Winter, was transferred to Cradock at the same time.

Acting for the families of the Cradock Four, George Bizos suggested to Van Zyl that Koevoet members, who had a reputation for being ruthless, were sent to the Eastern Cape to deal with the unrest in the area. Van Zyl disputed this, saying he had asked to be transferred. He said Winter played no part in the killings.

Van Zyl was asked if he had told Col Eugene de Kock about the Goniwe killings. He said he could not remember discussing it with De Kock, but denied ever saying that he shot Goniwe.

De Kock, now serving a life sen-



Hendrik Mostert describes to the truth commission how the body of Stanza Bopape was put into the boot of a car

Picture: TREVOR SAMSON

before killings

Mostert said he was not told what happened to the body but when he applied for amnesty he found out that it was thrown into a river.

Earlier in the day, Mostert testified that senior police officers tacitly approved the use of torture to make detainees talk during the 1980s.

"As long as you got the information," he said.

Mostert said the aim of such interrogations was to prevent more bomb attacks, which were common place at the time — Sapa

tured him with electric shocks

Police suspected he was part of a group responsible for several bomb attacks in Pretoria in the 1980s.

In an attempt to cover up Bopape's death, police got rid of his body and claimed the activist escaped while being escorted to Vereeniging.

Mostert said yesterday he helped load the body into the boot of a police vehicle on the night of the death.

The body was then delivered to policemen at Bronkhorstspuit

Court told how friends planned to kill Webster

(252) ARGUS CORRESPONDENT

ARG 25/12/98

Pretoria - The Pretoria High Court has heard how ex-CCB operative Ferdi Barnard and his close friend Eugene Riley discussed the method they were going to use to murder human rights activist Dr David Webster.

Dr Webster died in the street in front of his Troyville home on May 1, 1989 after being killed with a shotgun. The murder was, earlier in the Barnard trial, described by the State as a political assassination.

Elmarie Louis Wilken - girlfriend of the late Mr Riley - yesterday told the court how on several occasions Barnard and Mr Riley discussed Dr Webster's murder.

Ms Wilken, who has been taken up in the State's witness protection programme, was the first witness in the Barnard trial to give evidence about actually hearing Barnard discussing the murder. Four State witnesses previ-

ously testified that Barnard confessed to them that he killed Dr Webster.

But Barnard pleaded not guilty to 34 charges against him, including a charge of murdering Dr Webster.

Ms Wilken described in court how she overheard them when they planned the murder while she served them coffee in the lounge of the house she shared with Mr Riley.

They said Dr Webster had to "fall"

"I understood it to be that he had to be killed. I did not know who Dr Webster was at the time," said Ms Wilken.

Mr Riley suggested that Dr Webster should be shot in the head with a sniper's rifle, but Barnard did not agree. He wanted to use his own method and suggested that Dr Webster should just be shot, she told the court.

According to Ms Wilken the two men discussed the plan on several occasions. On the day of the murder she and Mr Riley were visiting his parents. He was very upset when he heard about the murder over the radio, she said.

Goniwe killers 'ignored decision at top level'

Plan to get him back to teaching

Port Elizabeth – In June 1985, Cradock United Democratic Front organiser Matthew Goniwe was a serious thorn in the side of the apartheid government.

After long and thorough deliberation, the State Security Council recommended that the best way of countering Mr Goniwe's growing influence in the Eastern Cape was to get him back into teaching immediately

But just two weeks later, on June 27, Mr Goniwe and three companions were murdered and their bodies mutilated and burned by Eastern Cape security policemen who are now applying for amnesty

Yesterday, one of those police – Johan "Sakkie" van Zyl, who was a captain at the time – struggled to explain to a Truth Commission amnesty hearing here why the murders had been committed in the face of the contrary recommendation by the SSC

The hearing was told that Mr Goniwe was a gifted mathematics and science teacher, but had been dismissed the previous year after refusing a "punishment" transfer to Graaff-Reinet because of his political activities

This led to a 15-month school boycott in Cradock and his increasingly successful work as Eastern Cape UDF organiser

In an attempt to neutralise him, the powerful SSC recommended on June 13, 1985, that he be reinstated in his Cradock school

THE TRUTH

YELD



ON THE TRUTH COMMISSION

post without restrictions the following month

This was supported by the then education minister, Sam de Beer – who is black – and by the head of the security police, Johann Coetzee, although he also proposed overnight house arrest for Mr Goniwe

Even the head of the security police in Cradock, Eric Winter, was informed of the recommendation and agreed Mr Goniwe be reinstated

But Mr Goniwe and his colleagues were then murdered by Van Zyl, Harold Snyman, Eric Taylor, Gerhardus Lotz, Nic van Rensburg and Hermanus du Plessis

Former Vlakplaas commander Eugene de Kock is applying for amnesty for his role in the subsequent cover-up

Van Zyl told the hearing he organised the murders on the instructions of Snyman and

ARG 25/2/98
Van Rensburg – then head and deputy head respectively of the Eastern Cape security police – because the activists were heavily involved in violence and chaos in the region at the time

Yesterday, Van Zyl came under sustained pressure during cross-examination by George Bizos, SC, for the widows of the four, to explain why he had proceeded with the operation when the government's most senior security establishment had just decided Mr Goniwe should be reinstated

"All those who had eyes to see and ears to hear and who had anything to do with him (Mr Goniwe) knew by mid-June of this recommendation for his re-appointment," Mr Bizos said

Van Zyl replied "The information was not passed on to me"

Mr Bizos, pointing out that even the Cradock security police knew about the recommendation, remarked "You remained particularly ignorant"

Van Zyl insisted "I was not informed"

Mr Bizos noted that the report by General Coetzee about Mr Goniwe contained no suggestion that the activist had been involved in violent acts, and was "substantially different" to the situation which he (Van Zyl) had sketched in his amnesty application

The hearing continues

Policemen 'worked in milieu of deceit'

Port Elizabeth – The elite foot soldiers of the apartheid Government exchanged confidences and lied to one another because they operated "in a milieu of disinformation".

This was the explanation offered to a Truth Commission amnesty panel yesterday by former Eastern Cape security policeman Johan "Sakkie" van Zyl, who was trying to explain differences between his testimony and that of former Vlakplaas commander Eugene de Kock about the 1985 murder of the Cradock Four activists

Mr Van Zyl is one of six former Eastern Cape policemen seeking amnesty for mur-

dering the four, while Mr De Kock has applied for amnesty for helping in the cover-up of the killings

Mr Van Zyl told the amnesty panel that he had organised the murders on instructions from his senior officers and that he had shot one of the four, Sparrow Mkhonto

Responding to questions yesterday from Mr De Kock's lawyer, Schalk Hugo, Mr Van Zyl confirmed that he knew Mr De Kock "reasonably well" and trusted him with "sensitive information"

He said it was possible he had told Mr De Kock about the operation to murder the four but could not remember having any such

conversations. He was asked in detail about differences in their respective versions

Mr De Kock has said he recalled clearly Mr Van Zyl telling him that he had personally killed Matthew Goniwe

Responding to Mr Hugo, Mr Van Zyl repeatedly said he could not remember giving Mr De Kock such information, although he conceded it was possible he had

However, he said he could have been lying to Mr De Kock when telling the story

He said he could not offer a plausible explanation for why he would have lied to him, except that they had both operated "in a milieu of disinformation"

Bopape's jail records are missing - TRC

Sowetan 25/2/98

(252)

Policeman who tortured Stanza says his death was kept secret to avoid bloodshed

By Simon Zwane

POLICE records of the detention of slain Mamelodi Civic Association activist Stanza Bopape are missing, the amnesty committee of the Truth and Reconciliation Commission heard in Mamelodi, Pretoria, yesterday

The committee's evidence leader Mr André Steenkamp told the committee that the TRC had been investigating the circumstances around the death of Bopape for over a year but had failed to get any documents indicating that Bopape had indeed been detained under Section 29 as claimed by 10 policemen seeking amnesty for his death

Steenkamp said the applicants were also subpoenaed to provide the records but failed to do so "Our information was that at some stage there was a list of people who were detained under Section 29 but we could not ascertain whether Bopape was ever detained," he said

However, Constable Hendrik Mostert, who tortured Bopape and took part in the cover-up of his death, maintained that Bopape was detained under the section

He said light electric shocks were applied to Bopape before he died. Police devised a

cover-up plan which included faking Bopape's escape from police custody. His body was then thrown into a river

Mostert said although the disposal of Bopape's body was not right and was against his principles, he did not disagree with it "I did not consider any options (of disposing the body) I was in a position where a decision was taken. It would have been foolish of me to disagree with it," he said

He said the death was kept secret because revealing it would have caused bloodshed and created problems for the National Party government

Asked why the committee should believe him when he had lied so much on previous occasions about the incident, Mostert said

"I willingly came to this commission with the idea to assist. I can't take part in the new South Africa with this burden that I carry. I try to tell the truth as far as I can remember it. There is nothing I can offer except the truth"

The legal representative for the Bopape family, Mr Gys Rautenbach, earlier failed in his attempt to exclude some of the applicants from the hearing. He asked the committee for a ruling to keep some applicants from the hearing when they were not giving evidence

Bopape refused to betray comrades

South African 25/2/98 (252)

By Claire Keeton
Feature Writer

THE death of anti-apartheid activist Stanza Bopape from electric shock torture in detention was an accident, former security policemen told the Truth and Reconciliation Commission (TRC) in Mamelodi this week.

But had Bopape not died suddenly under interrogation on June 12 1988, they would probably have applied longer and more severe shocks to him to force him to cooperate.

A courageous and popular activist, Bopape's life wasn't worth much to the security policemen at John Vorster Square. He died in detention there, like many before him, because he refused to betray fellow activists from Mamelodi and the African National Congress (ANC).

"Some activists never gave any information despite what we did to them, despite the force we used. Bopape was not willing to give us any information," former policeman Lieutenant-Colonel Adriaan van Niekerk told the TRC.

Ten retired security policemen, including former commissioner General Johan van der Merwe, have applied to the TRC for amnesty for Bopape's death and the police cover-up which followed.

Family lawyer Guys Rautenbach warned the first two applicants, Van Niekerk and former Warrant Officer Hendrik Mostert, that they did not believe their account to the TRC.

"As far as the family is concerned, they have a suspicion that more pressure was placed on him than two or three electric shocks," Rautenbach said.

Bopape's fellow detainee, Simon Bheki Nkosi, said that he (Bopape) had been brutally assaulted and tortured during his detention.

It is clear from the testimony of Van Niekerk and Mostert that there was a high level of cooperation between different branches and regions of the security police, particularly in protecting each other even if that involved illegal activities.

At the same time it seems there was a surprising level of confusion and misinformation in security police investigations, apparently reaching right to the top to former Law and Order Minister Adriaan Vlok.

Bopape and Nkosi were picked up from their flat in Hillbrow around midnight on June 9 to 10 1988 in a joint swoop by security policemen from the West Rand and John Vorster Square.

Armed group

Bopape was initially detained in Roodepoort and then transferred to John Vorster Square where he was held under Section 29 of the Internal Security Act.

On June 11 Van Niekerk attended a security police meeting in Krugersdorp where he was briefed about Bopape's alleged involvement with an ANC armed cell known as the "Maponya" group. Police claimed that Bopape moved between Johannesburg, Pretoria, the West Rand and Vaal Triangle, committing "acts of terror".

Van Niekerk instructed Mostert and Engelbrecht to interrogate Bopape about this cell but John Vorster Square never invited the West Rand investigators who were pursuing the

"Maponya" investigation.

Mostert said he and Engelbrecht fetched Bopape from the cells at about 9am and took him to the 10th floor of John Vorster Square for interrogation.

Bopape gave the policemen his personal details but would not reveal any further information.

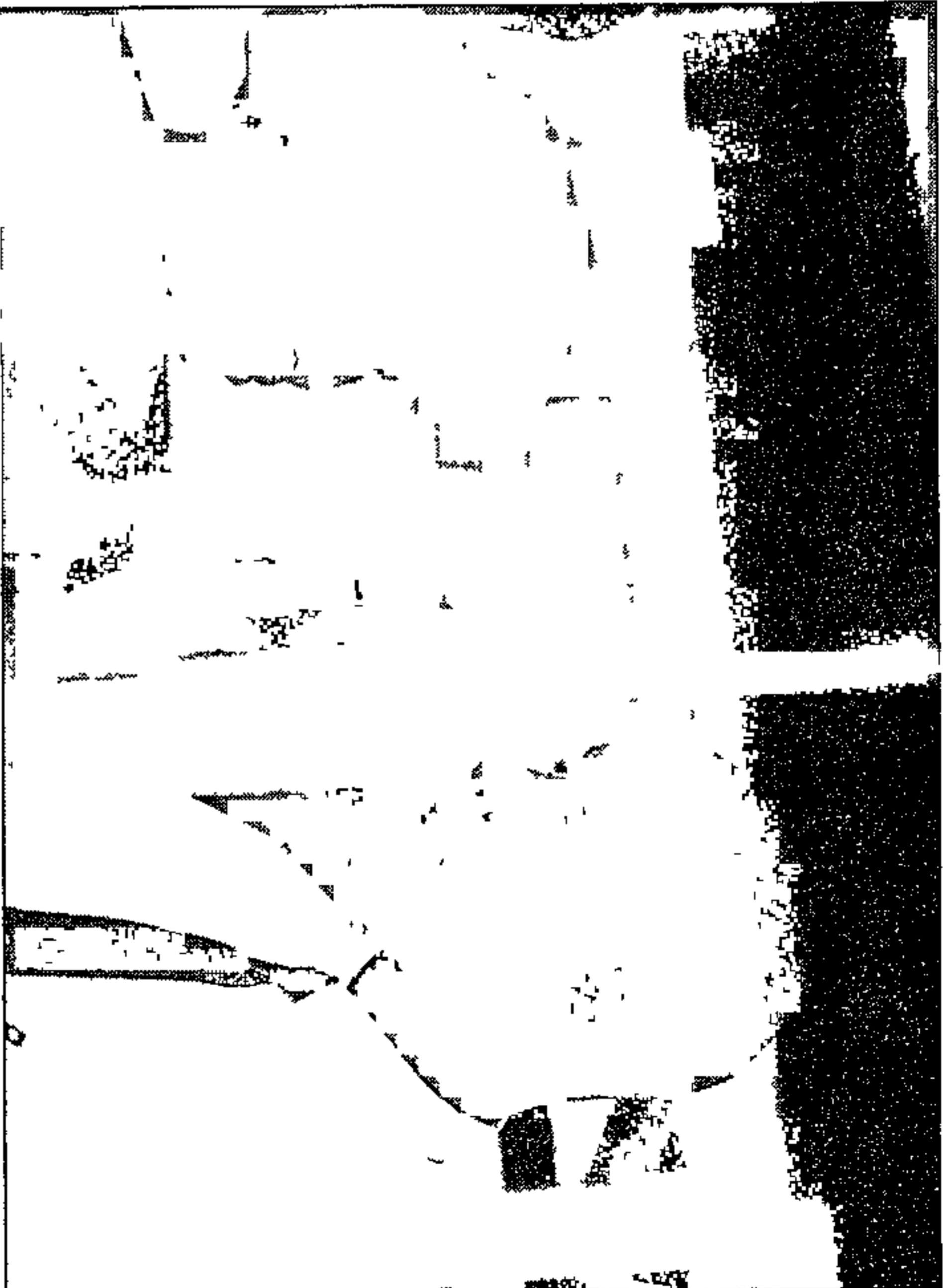
"I informed Van Niekerk that Bopape refused to cooperate and he talked to him. But he was not willing to give us information," Mostert said.

Van Niekerk said "The members came to me and we decided as a group that because he would not cooperate, we would give him a fright - in order to persuade him to cooperate." He claimed Bopape suffered no other form of intimidation or coercion at that stage.

Van Niekerk said they could not find an electric shock device at John Vorster Square so they requested assistance from Sergeant Johan Ludwig du Preez of the Sandton security branch.

Du Preez proved more than willing to cooperate, not only bringing the device but also taking part in the torture. The policemen stripped Bopape of his shirt and tied him to a heavy wooden chair.

"Tying him down was part of a tactic to keep his body stable, otherwise it could pull away and then he could be injured," Van Niekerk said, to the disbelief of many attending the hearing.



Mrs Francina Bopape and former policeman Johnny Mokaleng at Monday's amnesty hearings in Mamelodi.
PIC LEN KUMALO

He said they wrapped cloth around the tips of the electric poles to prevent burn marks and they wet the cloth to make the shocks more severe.

Engelbrecht and Du Preez applied the shocks for a few minutes with support from Major Charles Zeelie, while Van Niekerk asked Bopape if he wanted to say anything.

"It didn't take very long. His head fell forward and we realised that something was wrong. We untied Bopape and placed him on the floor where Du Preez did mouth-to-mouth resuscitation. He seemed dead to all of us."

Van Niekerk said he felt Bopape's pulse and confirmed that he had died. His body was covered with a plastic bag and blanket and hidden in an office.

"As a group we spoke about what to do next and decided to inform our seniors. I phoned General Gerrit Erasmus and told him what had happened." Van Niekerk said.

The general came to John Vorster Square and told Van Niekerk and Zeelie

that the Eastern Transvaal security branch had agreed to hide the evidence of their crime by disposing of the body.

"Erasmus also ordered us to conceal Bopape's death by faking an escape," Van Niekerk said.

They smuggled the deceased into the boot of Zeelie's car and drove to near Bronkhorstspuit to meet Brigadier Schalk Visser and Captain Leon van Loggenberg from Eastern Transvaal. They handed over the body and headed back to headquarters to plan their cover-up.

This charade near Vereeniging involved Van Niekerk firing shots at Zeelie, pretending to be Bopape. Van Niekerk said false information about Bopape was fed to security structures from branch level through to the national security council after the so-called escape.

Vlok suggested to Bopape's family that their son had escaped into exile, leading them on a futile search to Zambia.

'I heard them plan Webster's murder'

ARM 25/2/98 (2572)

Woman tells court Ferdi Barnard and his friend planned activist's murder in the lounge of her home

PRETORIA CORRESPONDENT

The Pretoria High Court heard yesterday that ex-CCB operative Ferdi Barnard and his close friend Eugene Riley discussed the method they were going use to murder human-rights activist David Webster.

Webster died in the street in front of his Troyeville home on May 1 1989, after being shot with a shotgun

Elmarie Louis Wilken, who was at one time Riley's girlfriend, yesterday described in court how she overheard them

planning the murder while she served them coffee in the lounge of the house she shared with Riley.

They said Webster had to "fall", she said, adding "I understood it to be that he had to be killed. I did not know who Dr Webster was at the time"

Barnard has pleaded not guilty to 34 charges against him, including a charge of murdering Webster

Riley died in January 1994 after he was shot Wilken yesterday said the police at first thought he committed suicide, but they later opened a murder

docket Up to now no one has been charged with the murder.

Wilken also told the court that she knew Barnard and Riley murdered one of their friends, Mark Francis, because he implicated the two men in a failed robbery in Bophuthatswana.

Riley and Francis were arrested for the failed robbery Wilken said she told Barnard after the two men were released on bail, that she had seen Francis make a statement to the police about the incident. According to her Barnard was furious about this Wilken told the court that on

the night of the killing, Riley had taken an aluminum baseball bat that they kept in their bedroom He left the house to meet Barnard Riley later came back and said he had to burn his and Barnard's clothes "I then knew they murdered Mark Francis," she told the court

She said Barnard warned Riley that the police were going to arrest him for the Francis murder According to Wilken, Barnard said there was nothing to worry about, because Charles Landman of the Brixton Murder and Robbery Unit had everything under control

She said Riley was indeed arrested the next day, but that nothing ever became of the charge against him

Riley was, a month after the murder, acquitted on a charge of attempted murder and robbery in Bophuthatswana

She also told the court that Barnard was arrested at the end of 1989 in terms of Article 29 of the Security Act Wilken said, on Barnard's request, she burnt all documents relating to CCB-operations

Wilken - who is in the State's witness-protection programme - will today be cross-examined

Court to untangle conflicting laws

(292)

CF 26/2/98

RONALD MORRIS
JUSTICE WRITER

TWO laws, one designed to ensure the fair treatment of the creditors of an insolvent and the other to protect victims of crime, come head-to-head in the Cape High Court today

This follows the arrest last December of Mr Thompson Vuyisile Msweli on a charge of the theft of R3,1 million of foreign donor funds earmarked for South African non-governmental organisations

Shortly after Msweli's arrest,

deputy attorney-general Mr Percy Sonn made legal history when he brought an application before the High Court under the Proceeds of Crime Act to freeze Msweli's assets

Accountant Mr Barend Petersen was then appointed curator of assets identified as having been acquired by Msweli from the stolen money

Shortly after Msweli's assets were frozen, WUS-SA obtained a provisional sequestration order on Msweli's estate. This was later made final and a trustee was appointed. This is where the competing systems of administering

property come in

Under the Insolvency Act the trustee is entitled to vest the property in the master of the High Court and certain creditors are afforded preferential rights — for example banks which hold mortgages. The Proceeds of Crime Act, however, has a different procedure which has yet to be established in practice. One of its objectives is the protection of assets of the victims of crime, whereas the Insolvency Act has as its objective the fair treatment of creditors of the insolvent.

Under the Proceeds of Crime

Act the disposal of property takes place in court by the presiding judge based on the recommendation of the curator

Clearly these are two competing systems of administering the same set of assets

The conflict will now either be solved by consensus between the curator and the trustee or by the judge hearing the matter

In terms of the Proceeds of Crime Act WUS-SA has more protection than it would have had under the Insolvency Act. The matter is to be decided today

E Cape security branch head 'approved killing'

ET 26/2/98

PORT ELIZABETH. The second-in-command of the Eastern Cape security police in 1985 yesterday told the Truth and Reconciliation Commission that his superior at the time had authorised the murder of the Cradock Four

General Nic Janse van Rensburg, who was a colonel at the time, is applying for amnesty for his role in the death of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli in June 1985.

Van Rensburg told the TRC's amnesty committee here that he had discussed the elimination of Goniwe and other United Democratic Front leaders with Captain Johan van Zyl and Major Herman du Plessis

However, final approval was given by the head of the Eastern Cape security police, Colonel Harold Snyman, who is gravely ill and is not attending the hearing

Van Rensburg said the security police in the Eastern Cape at the time were being placed under increasing pressure from the State Security Council and the joint management centres to control the unrest in the region

The so-called "G-Plan", whereby alternative structures were set up in black areas, was producing significant gains for the African National Congress-SA Communist Party alliance.

Van Rensburg also quoted statements

by political leaders at the time, including president Mr P W Botha and defence minister General Magnus Malan, to the effect that "we must fight fire with fire" and "we are facing a total onslaught"

These remarks had placed even more pressure on the security police

Van Rensburg said he, Du Plessis and Van Zyl had identified Goniwe and other UDF leaders as being behind the unrest in the region. He admitted planning the operation to kill "Goniwe and his associates" in such a way that it would appear they had been killed in a vigilante attack

The four were stabbed, shot and their bodies burnt after their vehicle had been stopped near Port Elizabeth on the night of June 26, 1985. Van Zyl was recalled for further cross-examination yesterday by Mr George Bizos, SC, who is representing the families of the victims.

He told the TRC that he was so motivated at the time that he would have "done anything for this country"

At the end of his testimony he was asked by amnesty committee chairperson Judge Ronnie Pillay who had had the power of life and death in the security police.

"Nobody I believe," Van Zyl replied

Asked if he could have refused to carry out the order to kill, he replied that he could have, but had gone ahead because he was motivated by patriotism — Sapa

TORTURE 'ACCEPTED PRACTICE'

Police faked dead activist's escape

PRETORIA: A former policeman yesterday said torture, though not officially condoned, was accepted practice in his experience, 'something I just picked up in the police'

A FORMER police lieutenant yesterday recounted how he pretended to be deceased Mamelodi activist Stanza Bopape in a mock escape on June 12, 1988

"I put on Bopape's shoes and ran through a maize field," Lieutenant Alfred Zeelie testified before the Truth and Reconciliation Commission

"I let one end of a pair leg irons touch the ground from time to time to leave marks"

Bopape had died earlier in the day after being subjected to electric shocks at John Vorster Square in Johannesburg

Police at the time claimed Bopape had escaped while being escorted to Vereeniging. His body was secretly disposed of

Zeelie and nine other policemen are seeking amnesty for charges arising from Bopape's death

Five of them —

Zeelie, Lieutenant Adriaan van Niekerk, Warrant Officer Hendrik Mostert, Sergeant Johan du Preez and Constable Jakobus Engelbrecht — were directly involved in the killing

Zeelie said they faked Bopape's escape after they had delivered his body to police at Bronkhorstspuit. They travelled to De Dour near Vereeniging. Zeelie then put on Bopape's



shoes and held one end of the leg irons in his hand while running away

Du Preez picked him up at the other end of the maize field. The group then returned to John Vorster Square and compiled and distributed false statements about the supposed escape

"The mock escape went without a hitch and was later investigated by the local detective branch," Zeelie said

He was in charge of a police team which arrested Bopape and his flatmate Mr Bheki Nkosi on June 9, 1988

According to a statement by Nkosi, Zeelie punched Bopape in the stomach during the arrest. Asked about this, Zeelie said he could have used the necessary force to arrest Bopape, but denied that he had assaulted the activist

Nkosi also claimed that another policeman had asked Bopape if he was drunk and punched him

The applicants who have testified so far have all denied that Bopape was ever assaulted

Two other applicants, Brigadier Schalk Visser and Captain Leon van Loggerenberg, have applied for amnesty for their role in the disposal of Bopape's body

Retired police commissioner Johan van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, seek amnesty for covering up the real reasons for Bopape's death

Engelbrecht testified that he had not enjoyed torturing Bopape. "I was only doing my job," Engelbrecht added

He told the TRC that his actions were aimed at keeping the former government in power

"The security branch of the police was an extension of the government," he said

Engelbrecht said he had moved electrodes from a shocking device across Bopape's upper body during the torture

He denied that Bopape was assaulted beforehand

"Bopape was stubborn and unco-operative, but we did not dare assault him"

Detainees held under section 29 of the Internal Security Act were visited regularly by a district surgeon, Engelbrecht said

Asked whether he would agree that not assaulting Bopape had required "superhuman restraint" by the police, Engelbrecht replied "I won't say that, but he was stubborn"

He said he had often tortured suspects with electric shocks while serving in the detective branch

Although not formal policy, this was an accepted practice

"It was something I just picked up in the police," Engelbrecht said

—Sapa

(XIA)

CT 26/2/98

New appointments set to strengthen justice

Wyndham Hartley (252)

CAPE TOWN — More than 300 urgent appointments which would strengthen the administration of justice had been approved by the cabinet, Justice Minister Dullah Omar said yesterday.

Speaking during a debate in the National Assembly, Omar said that 56 new magistrates' posts

had been approved, in effect creating as many new courts. Eleven of the new magistrates will be in the Johannesburg area.

A further 193 state prosecutors and 29 members of the office for serious economic offences had also been approved, Omar said. This was part of an application for an extra 4 000 posts in the justice department. About 1 800 posts have

been classified as urgent and will be filled over the next three years.

ANC MP Johnny de Lange congratulated Omar and said it represented an important step in the fight against crime. He said it was important to understand that Omar had succeeded in getting the posts approved in a time of strict fiscal discipline and moves to reduce the public service.

BD 26/2/98

Top police 'condoned' electric shocks

PRETORIA — The entire police top structure in the late 1980s was implicated yesterday in the use of electrical shocks to pry information from suspects.

Former police lieutenant Charles Zeelie told the truth commission in Pretoria: "My seniors up to commissioner knew about these methods, and condoned them." He was testifying in the amnesty hearing of 10 former policemen for charges arising from the death in detention of Mamelodi activist Stanza Bopape on June 12, 1988.

Bopape died after he was subjected to electrical shocks at what was formerly John Vorster Square in Johannesburg. In a bid to cover up his death, police secretly disposed of Bopape's body and claimed he escaped while being escorted to Vereeniging.

Zeelie conceded yesterday it was a criminal act to torture suspects, but said he did not believe it was illegal to fight African National Congress mem-

bers. Providing proof that senior officers condoned electrical shocks was that they approved the operation to conceal Bopape's death, he said.

Retired police commissioner Johan van der Merwe, and two other former police generals, Gerrit Erasmus and Petrus du Toit, are seeking amnesty for their role in covering up Bopape's death.

Their legal representative, Louis Visser, disputed Zeelie's assertion that they had approved of electrical shocks. They would deny this.

"Our submission is that the cover-up did not amount to condoning," he said.

The generals would explain their view of the political situation in 1988, and why they opted for concealing Bopape's death.

Asked whether any of the three generals had approved the torture Bopape was subjected to, Zeelie said senior officers had been giving silent approval to such actions.

He recalled an incident where he had assaulted a suspect in the presence of Erasmus. "There were hundreds of cases where suspects were assaulted," Zeelie said.

He said electrical shocks had been used to make people talk since he joined the police in 1969. "I must have used this method 10 times or more."

Zeelie said "I was very surprised when Bopape died. The only conclusion I can come to is that he died of a heart attack." Gys Rautenbach, acting for the Bopape family, said his clients suspected that Bopape was subjected to more extensive torture, and that his body was in such a condition that police had to dispose of it secretly.

Zeelie described how he put on Bopape's shoes and ran through a maize field to stage with colleagues a mock escape. The group then returned to John Vorster Square and compiled and distributed false statements about the "escape". — Sapa

Police claim
would have
ired unrest

Ex-policeman 'too sick to testify'

Dying colonel to be checked by independent medical

Port Elizabeth - A senior security policeman has conceded to the Truth Commission that the police suggestion that vigilantes ordered the Cradock Four could probably have worsened political violence in the region.

This was in spite of their claim to the commission's amnesty panel that the main motive for killing the activists was to reduce political violence and re-establish law and order.

Nic van Rensburg, who is one of the former security policemen seeking amnesty for the murders, told the hearing that he had suggested to his colleagues that they should make it look like a political attack.

At the time there were violent clashes between the United Democratic Front and the Azanian People's Organisation, Mr Van Rensburg said Judge Ronnie Pillay suggested that the murders would have worsened the situation if people had believed the story Mr Van Rensburg conceded "That was probable."

Port Elizabeth - An independent medical specialist will examine former Eastern Cape security police head Harold Snyman, tomorrow to confirm that he is not fit to testify at the Cradock Four amnesty hearing.

Snyman, who is terminally ill with cancer, is one of six former security policemen seeking amnesty for murdering Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauhi in 1985.

Two of his former colleagues - then-Captain Johan "Sakkie" van Zyl and then-Colonel Nic Van Rensburg - have both testified that Snyman gave the order to kill the four activists.

But they also testified that they did not believe Snyman was capable of issuing an order to kill and that the murder instruction must have come from a higher authority.

At the time, Snyman served on the Eastern Cape Joint Management Council (JMC), the regional structure of the apartheid government's nation-



ON THE TRUTH COMMISSION

al security system headed by the State Security Council.

Van Rensburg testified that Snyman had confided in him that army officers serving in the security system were critical of the security police for not being effective and had told him (Snyman) in private conversation just a few weeks before the murder of the four that they were better placed to eliminate political leaders such as Mr Goniwe.

But Van Rensburg said he had not asked Snyman the names of the army officers and he also had not asked him

directly whether a higher authority had ordered the security police to murder Mr Goniwe.

Yesterday, advocate George Bizos SC, for the widows of the Four, asked for Van Rensburg's testimony to be interrupted so that Snyman could be called urgently to say whether he had been given such orders and, if so, by whom.

At the second inquest into the deaths of the four activists in 1994, the inquest officer found a "death" signal had been sent from the SA Defence Force's Eastern Cape Command to the head of the SSC, recommending the "permanent removal from society" of Mr Goniwe and two others.

Today, advocate Cobus Booysens, for Snyman and Van Rensburg, told the amnesty panel that a specialist and doctor treating Snyman had pronounced him unfit to testify.

"His condition is so bad at the moment that to subject him to any kind of stress could cause the disease to become more virulent and there's a

reasonable possibility that it could reduce his life expectancy," he said. "The advice of the doctors we've spoken to is that he should not be subjected to any stress."

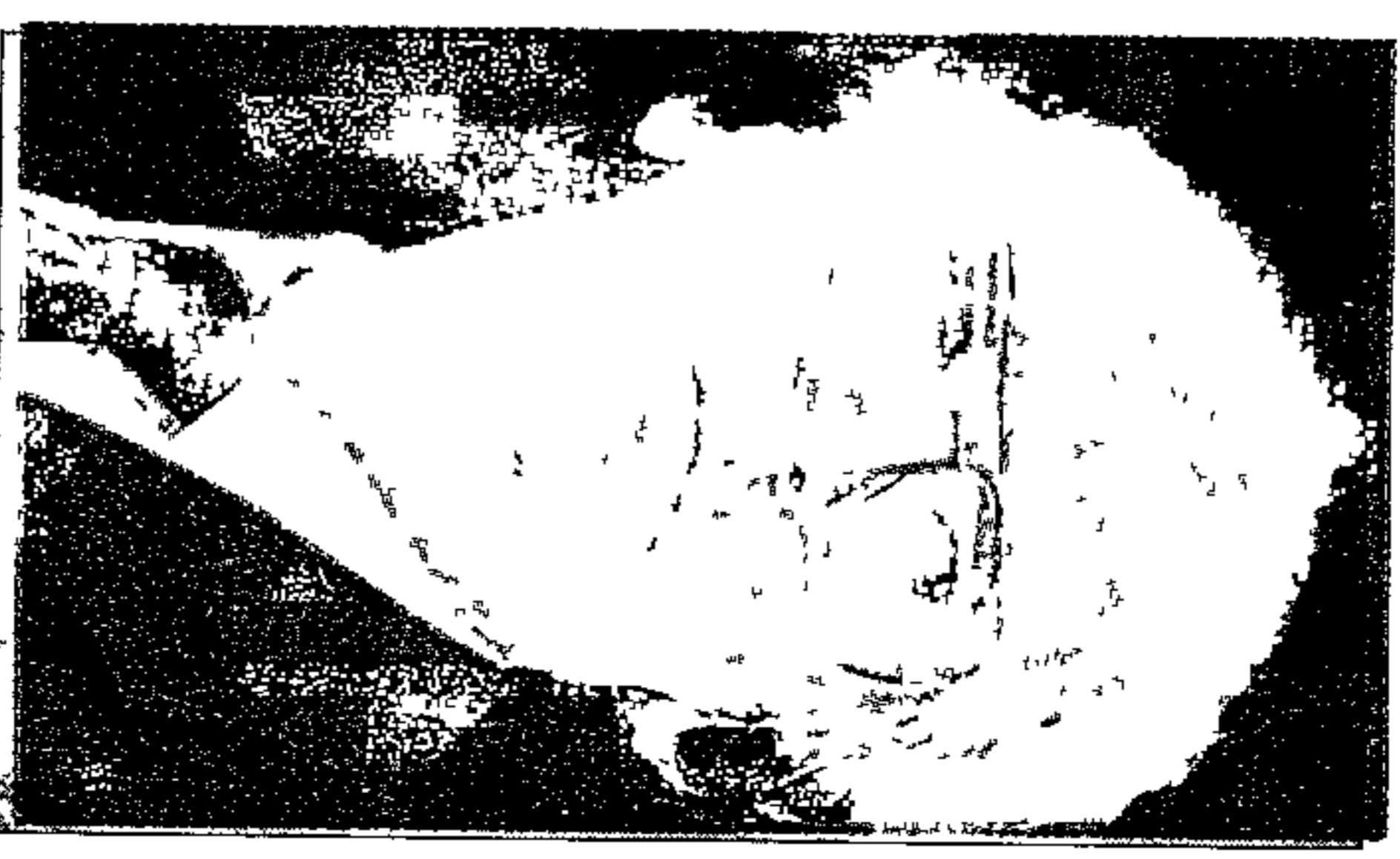
"We've also spoken to Colonel Snyman and he's indicated that he wants to follow the advice of his medical practitioners."

He said there was no objection to the legal team for the widows organising an independent specialist to examine Snyman.

Mr Bizos told amnesty panel head Judge Ronnie Pillay that the independent examination would probably take place at 8am tomorrow.

"We are also examining the possibility of alternative solutions, such as a statement being taken from Mr Snyman," Mr Bizos added.

"We are not unmindful of the considerations for his health. (But) the information we are seeking is important and I do not believe we should lose it. It's absolutely vital to this whole process."



To be called: Harold Snyman

Ex-policeman admits to torturing Bopape *Star 26/2/98* 'My boss okayed killing of Cradock Four'

A former policeman said yesterday he had not enjoyed torturing Mamelodi activist Stanza Bopape, and added, "I was only doing my job."

Bopape died on June 12 1988 while being subjected to electric shock torture at John Vorster Square police headquarters in Johannesburg.

Constable Jakobus Engelbrecht told the Truth and Reconciliation Commission his actions were aimed at keeping the former government in power.

"The security branch of the police was an extension of the government," he said

Engelbrecht and other policemen, including retired national commissioner Johan van der Merwe, are seeking amnesty for offences arising from the death of Bopape.

Engelbrecht admitted he had moved electrodes from a shocking device across Bopape's upper body.

He denied that Bopape was assaulted beforehand.

"Bopape was stubborn and un-cooperative, but we did not dare assault him."

Detainees held under section 29 of the Internal Security Act regularly received

visits from a district surgeon, Engelbrecht said.

Asked whether he would agree that not assaulting Bopape required "superhuman restraint" by the police, Engelbrecht replied: "I won't say that, but he was stubborn."

He said he had often tortured suspects with electric shocks while serving in the detective branch.

Although not formal policy, this was an accepted practice.

"It was something I just picked up in the police," Engelbrecht said. — Sapa

Port Elizabeth — The second in command at the Eastern Cape security police in 1985, told the Truth and Reconciliation Commission yesterday that his superior at the time had authorised the murder of the Cradock Four.

General Nic Janse van Rensburg, who was a colonel at the time, is seeking amnesty for his role in the death of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauhi in June 1985.

Van Rensburg told the TRC's amnesty committee in Port Elizabeth he had discussed the elimination of

Goniwe and other United Democratic Front leaders with Captain Johan van Zyl and Major Herman du Plessis.

However, the final approval was given by the head of the Eastern Cape security police, Colonel Harold Shyman, who is now gravely ill and is not attending the hearing.

Van Rensburg said security police in the Eastern Cape at the time were being placed under increasing pressure from the State Security Council and the joint management centres to control unrest.

He quoted statements by political leaders at the time, including president P W

Botha and defence minister Magnus Malan, to the effect that "we must fight fire with fire" and "we are facing a total onslaught". These remarks had placed even more pressure on police to bring the situation under control.

Van Rensburg said he, Du Plessis and Van Zyl had identified Goniwe and other UDF leaders as being behind unrest in the region. He admitted planning the operation to kill "Goniwe and his associates" in a way that it would appear they had been killed in a vigilante attack. — Sapa

BOUGHT FOOD FOR DEAD MAN

Police in cover-up of activist's murder

-CT 27/2/98
(267)

PRETORIA: After shocking Stanza Bopape to death, police tried mouth-to-mouth resuscitation in a vain attempt to revive him, "but he had stopped breathing".

POLICE bought food for a dead man on June 12, 1988 as part of a sham to cover up his death in detention, the Truth and Reconciliation Commission heard yesterday

The purchase was made while five policemen were on their way to Vereeniging to fake the escape of Mamelodi activist Stanza Bopape at De Deur, former police sergeant Mr Johan du Preez testified here

He said police kept a record of food purchased for detainees. With this in mind, the group stopped at a late-night shop in Johannesburg, to buy a meal, ostensibly for Bopape

Bopape died earlier in the day after being subjected to electric shocks at what was then called John Vorster Square in Johannesburg

Du Preez and nine other former policemen are seeking amnesty for offences arising from Bopape's death, including the secret disposal of the activist's body.

The TRC was told that five of the

applicants were directly involved in torturing Bopape — Du Preez, Lieutenant-Colonel Adriaan van Niekerk, Major Charles Zeelie, Warrant Officer Hendrik Mostert and Constable Jakobus Engelbrecht

Du Preez said he became involved when he received a telephone call from one of the other four at home on June 12, 1988. He was asked to bring an electric shock device to John Vorster Square

After picking up the machine at the Sandton security branch, where he was stationed, he drove to John Vorster Square and entered the building without the device.

"I first wanted to make sure the coast was clear. We were discreet in using the shocking devices. We had to create the image the police were in control and that they were the gentlemen," Du Preez said

Bopape was told to remove his shirt before he was tied to a chair. Du Preez said he operated the shocking

device "I gave it two circular turns at a time. It was not a continuous current. After the third or fourth time I saw Mr Bopape's head fell forward"

The group realised something was amiss, untied Bopape, and laid him on his back. "I started with mouth-to-mouth resuscitation to try and revive him but he had stopped breathing," Du Preez said

Asked why he tried to save somebody regarded as the enemy, Du Preez said "I did it instinctively. I did not want him to die"

Bopape's death in detention would also have been an embarrassment to the security police and the government, Du Preez said

He admitted that Bopape's death could have been the result of negligence on his part and said this was the reason for his amnesty application

"I accept responsibility for his death and don't want to shy away by saying that he possibly died of a heart attack"

Zeelie earlier in the day maintained that Bopape died of a heart attack and said the electrical shocks he received were not lethal — Sapa

Bill deals with flaws in witness protection

(252) ET 27/2/98

DONWALD PRESSLY

THE days of intimidated witnesses blowing apart trials at the last minute may be numbered if new witness protection legislation is put into effect

While witness protection is a relatively new concept in South Africa, the present system, according to the justice ministry, is flawed.

The Witness Protection and Services Bill will redress shortcomings of the present programme — set up in terms of the Criminal Procedures Act as amended four years ago — such as the lack of a proper centralised structure to co-ordinate witness protection and the laying down of a uniform policy, according to the memorandum to the bill

The ANC chairperson of the National Assembly justice portfolio committee, Mr Johnny de Lange, said an office for witness

protection, to be headed by a director appointed by Justice Minister Dullah Omar, will be established

"To assist the new office, the bill makes provision to establish witness protection panels within the areas of jurisdiction of each attorney-general," said De Lange

The bill contains a prohibition on the publication of information that may reveal the identity of a protected person or the location where the person is being protected

The director will be given a free hand to set up the panels, including the appointment of chairpersons. The panels will consider the merits of each application for protection.

The panels can make recommendations on appropriate protection, the duration of the protection and any particular circumstances "that ought to be taken into account"

People who believed that their safety was being compromised "by reason of their testimony or contemplated testimony at criminal proceedings" will be able to make application for protection to the investigating officer, a police or prison official, a public prosecutor, a member of a panel, any officer attached to the Office for Witness Protection and the

The bill contains a prohibition on the publication of information that may reveal the identity of a protected person or his whereabouts.

executive director of the Independent Complaints Directorate — which investigates complaints against the security forces

State played a double game over Goniwe's fate'

(252)

BD 27/2/98

PORT ELIZABETH — The state played a "double game" over the fate of Matthew Goniwe by considering his reinstatement as a teacher while at the same time plotting his death, the truth commission's amnesty committee heard yesterday.

Former security police officer Nic Janse van Rensburg, one of seven policemen applying for amnesty for the murder of Goniwe and three other United Democratic Front (UDF) activists, told the hearing the operation was planned in early June 1985.

Van Rensburg was told by George Bizos, appearing for the families of the victims, that the

State Security Council was at the same time considering the reappointment of Goniwe as a teacher in Cradock

Van Rensburg replied that he knew nothing about this, but said the security police in the Eastern Cape strongly opposed the reinstatement.

Bizos said it appeared from documents produced at the hearing that one arm of the state regarded Goniwe's reinstatement as a way to curtail unrest in the area while the other arm was planning to kill him

"Was this a case of the one hand not knowing what the other was doing or was the state playing a double game by pre-

tending to reinstate him while plotting his death?" he asked

Van Rensburg replied that he could not say for certain

He justified the killing of "Goniwe and his cohorts" on the grounds that they were behind the anarchy that reigned in the Eastern Cape at the time

Bizos produced documents detailing Goniwe's movements in the weeks before his death and said they contained no evidence of subversive behaviour

According to a report drawn up after security police surveillance, Goniwe was visited by foreign journalists and diplomats, Progressive Federal Party politicians and attended fu-

nerals and education meetings at the time. Bizos said these were lawful activities

Van Rensburg said Goniwe sent a telegram to the UDF on May 3 1995 saying: "May Day, May Day, the workers are the backbone in the struggle under the leadership of the working class. The democratic effort is assured of total liberation." He considered this a subversive act as the telegram contained a socialist message.

Asked if this justified killing the man, he said he trusted information given to him by his staff, who identified Goniwe and the UDF leaders as responsible for the unrest. — Sapa.

Addict drafted 'to infiltrate MK'

Stephané Bothma

(252)

BD 27/2/98

PRETORIA — A former prostitute and Mandrax addict was recruited by Military Intelligence (MI) to infiltrate the African National Congress's armed wing, Umkhonto we Sizwe (MK), which was "sponsoring the armed struggle by swopping drugs for weapons", the high court heard yesterday.

Carol-Anne Human said she was recruited by former Civil Co-operation Bureau (CCB) agent Ferdi Barnard as an MI agent in 1991 and received regular cash payments from him.

She was testifying in the murder and fraud trial of Barnard, who earlier pleaded not guilty to 34 charges against him, including the 1989 assassination of Wits University activist David Webster and the attempted murder of Justice Minister Dullah Omar in the same year.

The court heard that Human worked for

an escort agency during 1991 and was addicted to smoking Mandrax. She had a sexual relationship with Barnard at the time.

"Because I was a Mandrax smoker I knew all the big dealers in Johannesburg. Barnard paid me regularly to supply information about the people visiting these dealers. He told me MK was sponsoring their armed struggle with Mandrax — they swapped the drugs for firearms," Human told Judge Johan Els.

Human, who said she idolised Barnard, was arrested in October 1991 after police found an Uzi automatic weapon in her flat. She said the weapon belonged to Barnard.

During 1993, during when her trial for possessing the weapon, Human said she received threatening telephone calls "I also found a letter and a photograph on my gate one day. The letter warned: 'If you go to court you will be dead by Sunday'".

The photograph was of Mark Frances,

taken in the mortuary after he was beaten to death with a baseball bat, allegedly by Barnard, Human testified.

"Frances looked terrible," she said. "According to the state, Barnard and another CCB informer, Eugene Reilly, killed Frances after he had made a statement about Barnard and Reilly's alleged involvement in a robbery in Bophuthatswana.

Human told the court that she had once asked Barnard why he had changed from a "very good policeman" into a gangster. "He told me it was the system that made him like that," she said.

Barnard, a former drug squad policeman, was sentenced to prison in the early 1980s for killing two drug dealers. After his release he was recruited to work as an agent for the shadowy CCB.

The trial continues today, when Human will be cross-examined by Barnard's defence team.

Police claim they tried to revive tortured Bopape

MD 27/2/98 (252)

PRETORIA — A former police sergeant yesterday described how he tried to revive Mamelodi activist Stanza Bopape minutes after shocking him during a torture session.

"I started with mouth-to-mouth resuscitation to try and revive him, but he had stopped breathing," Johann du Preez told a truth commission amnesty hearing.

Du Preez said he handled the shocking device, and turned its handle a few times to generate an electric current.

"I gave it two circular turns at a time. It was not a continuous current. After the third or fourth time, I saw his head fall forward."

Bopape was untied and laid on his back on the floor before Du Preez applied emergency treatment.

Du Preez and nine other policemen, including retired national commissioner Johan van der Merwe, are seeking amnesty for offences arising from Bopape's death.

He died on June 12 1988 while being subjected to shock torture at what was then known as John Vorster Square police headquarters in Johannesburg.

In a bid to cover up his death, police disposed of Bopape's body secretly and claimed he escaped while being escorted to Vereeniging.

Du Preez described Bopape's death as a strange turn of events, saying the electrical current used was not lethal.

Fellow amnesty applicant Charles

Zeelie earlier in the day said he was convinced Bopape died of a heart attack, adding this conclusion had given him some peace of mind. "We never intended killing him," he said.

Asked what had caused the heart attack, Zeelie said Bopape might have been suffering from shock because of the circumstances he found himself in.

Asked whether he had had any role in Bopape's death, Zeelie said he was negligent in the sense that somebody died while undergoing electric shocks.

Zeelie conceded there was no evidence to prove that Bopape had died of a heart attack.

Gys Rautenbach, for the Bopape family, said the family believed Bopape died from torture.

Zeelie replied he would give anything to have Bopape's body available to prove he was telling the truth.

Five of the amnesty applicants were involved in torturing Bopape. They are Zeelie, Du Preez, Lt-Col Adriaan van Niekerk, W/O Hendrik Mostert and Const Jakobus Engelbrecht.

Two other applicants, Brig Schalk Visser and Capt Leon van Loggerenberg, have applied for amnesty for their role in the disposal of Bopape's body.

Van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, want amnesty for helping to cover up Bopape's death. — Sapa.

I supported Goniwe 'elimination', says former security cop

DECL 27/2/98
(252)

Declaration stuns TRC crowd



YELD

ON THE TRUTH COMMISSION

Port Elizabeth – Ex-security policeman Nic van Rensburg has been accused of displaying “Standard 2 logic” in explaining why he believed it was necessary to murder Cradock activist Matthew Goniwe.

Van Rensburg is one of six former security policemen applying to the Truth Commission for amnesty for murdering Mr Goniwe and fellow activists Fort Calata, Sparrow Mkhonto and Sicelo Mhlauhi.

The accusation came from George Bizos, SC, counsel for the activists’ widows, during cross-examination yesterday.

Van Rensburg spent much of the session denying that he had known of recommendations made shortly before the mur-



Elimination vote: Nic van Rensburg

ders by several higher authorities – including a State Security Council working committee that Mr Goniwe be reinstated as principal of the Cradock school from which he had been dismissed as a way of neutralising his political activities.

Mr Bizos asked Van Rensburg how he would have voted had he been at the meeting of the working committee convened to consider the issue of Mr Goniwe

There were gasps and exclamations from the audience of about 150 when Van Rensburg declared bluntly “I would have voted for elimination.”

Mr Bizos’s disparaging remarks about Van Rensburg’s logic came when he tried to justify his response. Mr Bizos remarked, “You thought death was an answer in the Eastern Cape, and re-appointment was not?” Mr Van Rensburg responded “For me it was about the security situation that he was involved with, not with the education situation.”

Asked by Mr Bizos if he would still have continued with the operation to kill the activists even if he had known of the deliberations about Mr Goniwe at the state security council, Van Rensburg replied “Ja”.

Earlier, Van Rensburg agreed with Mr Bizos that if he assessed the situation objectively he would have to “seriously suspect” former Military Intelligence head Joffel van der Westhuizen of ordering the so-called “death signal” about the Cradock Four.

ASSURANCE INDUSTRY

The truth shall set

(252) FM 27/2/98

The best way the industry can serve the interests of both policyholders and shareholders is to offer full

This is a good time for the SA assurance industry to engage in some heavy self-reflection. Right now it's the darling of the stock market. Will anything ever go wrong again?

The current interest is fed by frenetic corporate activity. Momentum Life and Southern Life are "talking". African Life has launched a rare hostile bid for Norwich Holdings.

Much of the action is being driven by the forthcoming demutualisations of Sanlam and Old Mutual. A bonanza awaits policyholders as a result (Cover Story August 29 1997).

But the assurance industry needs to look beyond the hype and ask: are current share price levels really supported by the fundamentals? A primary consideration is the ability and willingness of South Africans to keep on investing while savings ratios are on the decline.

The FM has pointed out before that many people are incurring debt at a sharp pace in order to support their life assurance investments (Open Season July 11 1997). Between 1991 and 1996 South Africans borrowed the stunning sum of R150bn in order to fund the purchase of products and policies from life companies.

Nearly a decade has passed since Chris Stals took over from Gerhard de Kock as Governor of the Reserve Bank. At that time,

men like Piet Badenhorst, former CE of United — and later Absa — warned that the assurers' golden years would come to an abrupt halt once a different interest rate regime came into being.

Sure enough, it's now a matter of record that high real interest rates and single-digit inflation have had a profound effect on the flow of investments within SA. In 1976 assurers wrote premiums of about R1bn. In the next 10 years, total premiums increased by a staggering multiple of nine. In the subsequent decade to 1996, premium income experienced another eightfold increase.

True, the huge marketing machine selling assurers' investment products was firing on all cylinders.

However, consumers have displayed signs of protest at the lack of industry disclosure in SA. Unlike the UK and Australia, where the authorities imposed heavy-handed regulation, the market ruled.

Consumers took revenge by swinging to direct and packaged unit trust products.

Assurers must now act swiftly to protect their traditional business. One way of doing

so is to prove that the accusations of poor disclosure — and poor value for money — are false.

The latest international trends suggest that assurers will prove unable to escape harsh regulation if they fail to impress regulators and the investing public.

The government of New Zealand, for instance, has introduced legislation aimed at better prior disclosure to consumers. Two documents must be disclosed prior to life assurance being sold. The first is an investment statement — a document written in plain English aimed at the prudent but

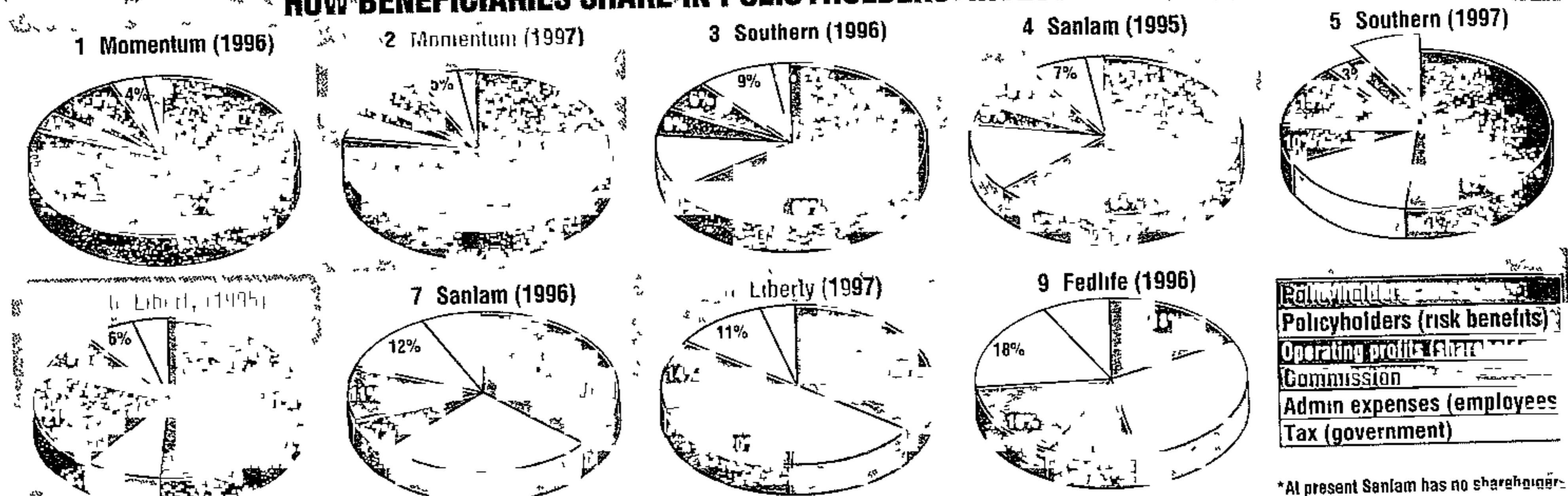
non-expert investor. It is intended to enable investors to understand the characteristics of the product. The second is a prospectus describing the product and the financial statements related to it. It need only be provided on request.

All of this furore about disclosure is about value for money. Things started going wrong when investment products and products offering life and disability cover (risk benefits) became intertwined. Since then consumers have by and large been

CONSUMER DISCLOSURE SCORE CARD

Item disclosed	
Gross investment returns	
Bonus statements	
Balance on investment account	
Charges and fees	
Commission	
Risk premiums	
Investments content of portfolio	
Yes/No/Uncertain	

HOW BENEFICIARIES SHARE IN POLICYHOLDERS' INVESTMENT RETURNS



them free

Disclosure — and fast

unable to determine what portion of the premiums that they pay is for risk cover, and what for investment

Perhaps a solution is within reach for both assurers and consumers. Researching this article, we have studied the policy documents of a variety of SA life assurers and come to the conclusion that lack of communication, rather than disclosure, is the biggest problem

Communication takes place before a sale, when the salesperson is in contact with the customer. Shortly after the sale is concluded, the consumer receives the policy agreement. Generally speaking it discloses the charges and fees that assurers make against policyholders' premiums, but fails to disclose risk premiums

Then, once a year, a bonus statement is mailed to policyholders. Plenty of information — but no disclosure of risk premiums. Modern policies encompass the concept of a balance on the investment account (see chart on page 30). This is certainly a useful concept

The only trouble is that to reconcile the account, the average policyholder would probably have to employ a chartered accountant at more than R400/hour, or enrol at a business school

There is no easy-to-understand disclosure of all relevant information on a single statement

The *FM* has nevertheless devised such a statement for a fictitious life assurer, Space Age Life (see page 30). We don't claim it's perfect. Nor is it relevant in all circumstances. But it's certainly a lot simpler than most of the documents we've seen

Disclosure to policyholders, of course, doesn't take place in a vacuum. Likewise, value added for policyholders should be seen in a broader context. Debates over the interests of shareholders versus policyholders are as old as the industry itself

The shareholder lobby will claim that its capital is at risk by providing investment guarantees to certain classes of policyholders. They provide the last buffer to policyholders in tough times

The policyholder lobby will counter that

The fact of the matter is that mutuals are subject to the same capital requirements as nonmutuals — but mutuals can't grow without capital

In the end it is all about value for money for shareholders and policyholders

Better corporate disclosure since 1994 has partially opened the door for analysis of the value assurers add for all stakeholders. As our corporate disclosure score card on page 32 shows, not all assurers disclose certain crucial information, so it is impossible to include them in the analysis

But glance at the chart on page 32, showing the major flow of funds within a life assurer. The *FM* has published similar charts before, but this one shows which items add and reduce value for the two main stakeholders in a life assurer — shareholders and policyholders

Investment returns on policyholders' funds, often labelled as the only driving force of a life assurer's profits, stand out as the only value-added source for policyholders

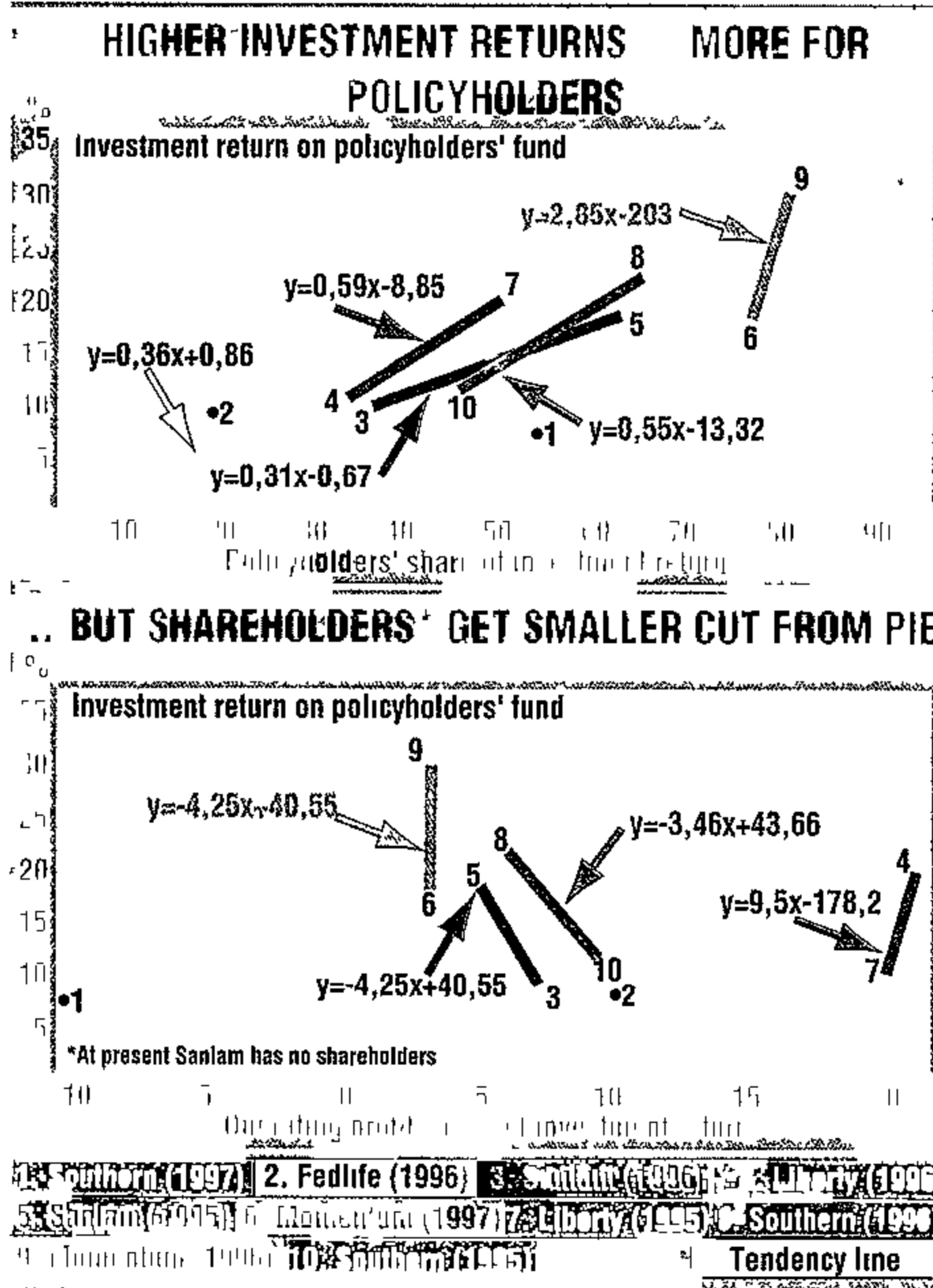
Revenue — charges, fees and risk premiums — is likewise the only exclusive value reducer for policyholders. Let's view the chart again. Operating surplus = Revenue - Expenses. Turning it around we get Revenue = Expenses + Operating surplus. The footnote to the chart on page 32 defines expenses with the result that Revenue = Operating surplus + selling expenses + administrative expenses + tax + risk benefits

This reveals how much value is added for stakeholders in a life assurer (shareholders, policyholders, salespeople, staff and government). See pie chart on page 28

Remember, we've said that the only item adding value for policyholders is investment return. If we deduct "revenue", that is operating surplus + selling expenses + administrative expenses + tax + risk benefits from policyholders' investment return, the residue can be considered as the "net" value added or retained in the particular year to policyholders

The pie chart shows that the value added for policyholders is split into two parts — risk benefits and other. As the chart on page 32 shows, the net difference — between investment return and revenue — strengthens policy liabilities

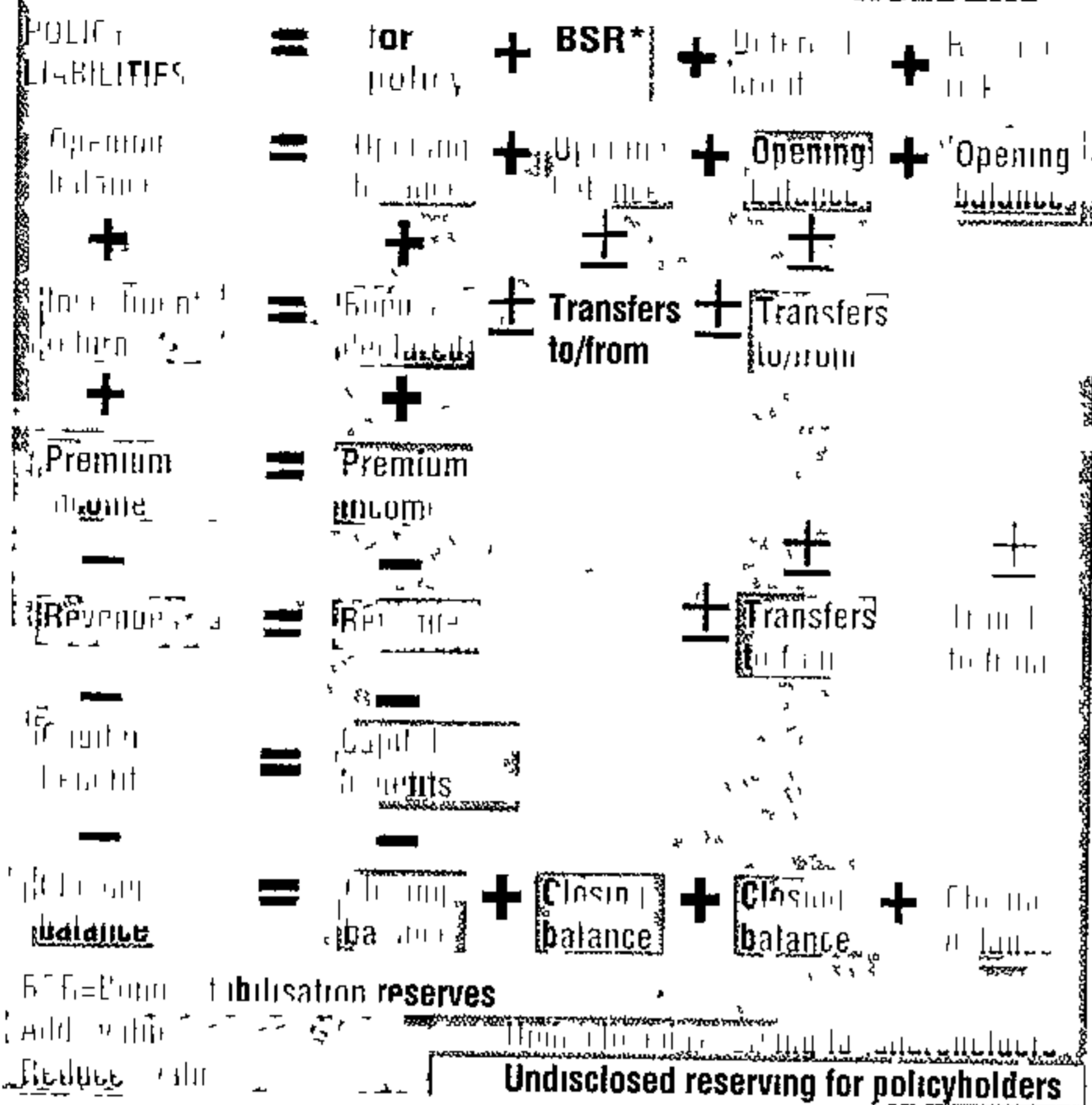
The pie chart shows quite a lot — the percentages of investment return being retained in policy liabilities for the benefit of



its funds are at the disposal of shareholders and managers. They pay high charges to fund an army of highly paid sales consultants, a huge company bureaucracy and dividends to shareholders

For this reason they will probably argue that it's better to buy a policy from a mutual company. More than 20 years ago Morris Bernstein, MD of Fedlife, wrote in his doctoral thesis that mutuals maximise sales and nonmutuals maximise profits

VALUE ADDED AND LOST FOR POLICYHOLDERS



policyholders

But first, a few of the salient features of life assurance financial reporting need to be explained

Certain items in the financial statements are treated purely on an accounting basis. They include investment returns on policyholders' funds, selling expenses, administration expenses, tax and risk benefits. This is fairly simple, corner-shop accounting.

The remaining item is the operating surplus, which is dependent on revenue, which is in turn subject to the actuarial valuation. The financial soundness valuation method used by SA life assurers is based on the following principle: profits should be recognised prudently over the term of each contract to avoid the premature recognition of profits that may give rise to losses in future years.

This requires further explanation — by using selling expenses (commission) as an example. In terms of accounting policies, all commission paid out in the course of a financial year is recorded in the income statement. This is the percentage reflected in the pie charts under "commission", in a range from 6% to 16%.

On an endowment (investment) policy the rate would be 3,25% of premium income over the term of the policy. Up to 85% of the commission may be paid upfront. It's this upfront payment on new (first year) business that pushes commission payments sharply up. Appropriate adjustments need to be made to reflect the timing differences

between commission in the income statement and the actuarial results.

One might argue that the pie charts do not reflect this reality at all. Fair enough. But it can be argued just as forcefully that the net value added for policyholders (investment return minus revenue) should over the long term be in excess of at least 70%. If not, policyholders and shareholders will eventually pay the price.

Assume for the moment the pie-charts reflect a long-term average picture. Leaving aside smoothing, the share of investment return shown in the pie chart is what policy-

holders will eventually get.

For example, Momentum showed an investment return of 30,7% on policyholders' funds in 1996. Of that 82% was "retained" for policyholders. That leaves us with a "net" return of 25,2%.

On the other hand Fedlife showed a

return of 9,4% on policyholders' funds in 1996, of which only 18% was retained for policyholders, leaving a "net" return of 1,7%. The average position of Fedlife over a longer period is likely to be much better.

The correlation between investment returns on policyholders' funds and the "net value added" for policyholders is striking. A longer history may be needed to observe specific patterns, but the graphs on page 29 show clearly that policyholders are likely to get a bigger share of the pie if investment returns are higher.

The linear graphs show the relationship between investment returns and policyholders' and shareholders' slices of the pie. The mathematical equation for each of the graphs is also displayed. If you know what the investment return (y) is likely to be, you can calculate what portion is likely to be retained for policyholders (x). Or if you know what a desirable retention for policyholders (x) would be, then you can calculate what the desired investment return (y) would need to be.

In the linear equation, the number before "x" is indicative of what an increase in investment return would do to the value retained for policyholders. The lower the number, the faster the value retained.

Sanlam falls into this category. It makes sense, because economies of scale should come into play for a big assurer once investment returns increase. Increasing its

Joe Value Policy Number 9000-1 Applicant Joe Value
 9 Disclosure Drive ID 801313 5095 005 Insured life Joe Value
 Simplicity Park Premium annually recurring Premium amount R11 000 p a
 10% escalation (current)
 Life cover R400 000 Investment guarantee 4% p a
 Term 5 years, starting on 01/01/1999
 *Portfolio smooth bonus, endowment

*Gross investment returns.	1996 - 13%
	1997 - 6%
	1998 - 10%
	1999 - 14%
	2000 - 11%

STATEMENT.

01/01/99	Premium	10 000,00	10 000,00
	Other fees (0.5%)	30,00	9 470,00
31/12/99	Bonus (13% x R7 470 00)	971,10	8 441,10
	Charges (5% of premium)	550 00	18 891,10
	Risk premium death cover	2 000,00	16 861,10

NOTES

- Balance on investment account not available at early surrender
- Updated statements, surrender values and investment portfolio's available on Internet at www.space.co.za
- Reduce your charges by negotiating commission on new policies
- Formula for calculating bonus rates and gross investment returns not comparable

This statement is only a fictitious example

THE CORPORATE DISCLOSURE SCORE CARD

Item	Feasure	Liberty	MetLife	Momentum	Norwich	Old Mutual	Sage	Sanlam	Southern
1. Free reserves	10	10	10	10	10	10	10	10	10
2. Net assets (cash)	10	10	7	10	7	10	10	10	10
3. Policy liabilities (p/income)	10	7	7	7	7	10	7	7	7
4. Expenses	7	7	7	7	7	7	7	7	7
5. Net assets (investments)	1	8	8	9	10	10	2	1	1
6. Revenue charges and fees	10	10	10	10	10	10	10	10	10
7. Risk premiums	7	7	7	7	7	7	7	7	7
8. Capital benefits	1	8	8	9	10	10	2	1	1
9. Dividends	10	10	10	10	10	10	10	10	10
10. Charges and fees	10	10	10	10	10	10	10	10	10
11. Operating a/c	10	10	10	10	10	10	10	10	10
12. Net assets (cash)	10	10	10	10	10	10	10	10	10
13. Policy liabilities	10	10	10	10	10	10	10	10	10
14. Deferred profits	10	10	10	10	10	10	10	10	10
15. Free reserves	10	10	10	10	10	10	10	10	10
16. Retained profits	10	10	10	10	10	10	10	10	10
17. Total	41	10	11	11	10	10	12	44	45
Bonus points	10	0	10	0	0	0	10	8	0
TOTAL	10	10	10	10	10	10	22	52	45
Ra	10	10	10	10	10	10	8	2	6

Disclosed=10 points Partially disclosed=FM appraisal Can be calculated=7

Investment income on free assets, Only SA assurers to disclose embedded

investment return to 25% is likely to increase the value retained for policyholders to 83%

Momentum — much smaller than Sanlam — is unlikely to improve its value retained significantly, even if investment returns improve. By the same token, value retained is unlikely to decline significantly if its investment returns tumble.

Liberty appears to be structured for exceptional investment returns. Even with an investment return of 25% the value retained would be only about 57%.

Shareholders are likely to get a smaller share of the pie if investment returns for

policyholders decline. This comes as no surprise: it is always prudent to stuff some money under the mattress for a rainy day. The only company that has shown a proportionally higher operating surplus when investments returns rose is Liberty.

Building up a kitty for shareholders and policyholders is part and parcel of the assurance industry (see the chart on page 30). That makes it possible for assurers to smooth profits.

Perhaps the time has come for the disclosure of bonus stabilisation reserves and deferred profits.

FM innovation

At the end of 1998 Space Age Life has free reserves (capital) of R1bn, policy liabilities of R9bn and net assets of R10bn. Policy liabilities include bonus stabilisation reserves (BSR) of R500m, deferred income of R100m and risk reserves of R100m. The following typical scenarios were recorded (refer to journal entries later on and chart on this page).

*Early in 1999 the company raises capital of R1bn (journal entry 1)

*Its premium income for 1999 is R1,5bn (journal entry 2)

*During the year it incurs the following expenses: Selling expenses (R50m), admin expenses (R50m), risk benefits (R200m) and tax R30m (journal entry 3)

*The company earns an investment return of R300m (15%) on free assets and R1,35bn (also 15%) on policyholders assets. The bonus rate of 13% delivers total bonuses of R1,079bn on the total balances on the investment account after subtracting charges, fees and risk premiums. A transfer of R50m is made to deferred income (also referred to as revenue) (journal entry 4)

*The company charges fees equal to 5,5% of premiums to policyholders' investment accounts. In addition it charges R300m to policyholders' accounts for death and disability cover provided (journal entry 5)

*Capital benefits of R350m are paid out (journal entry 6)

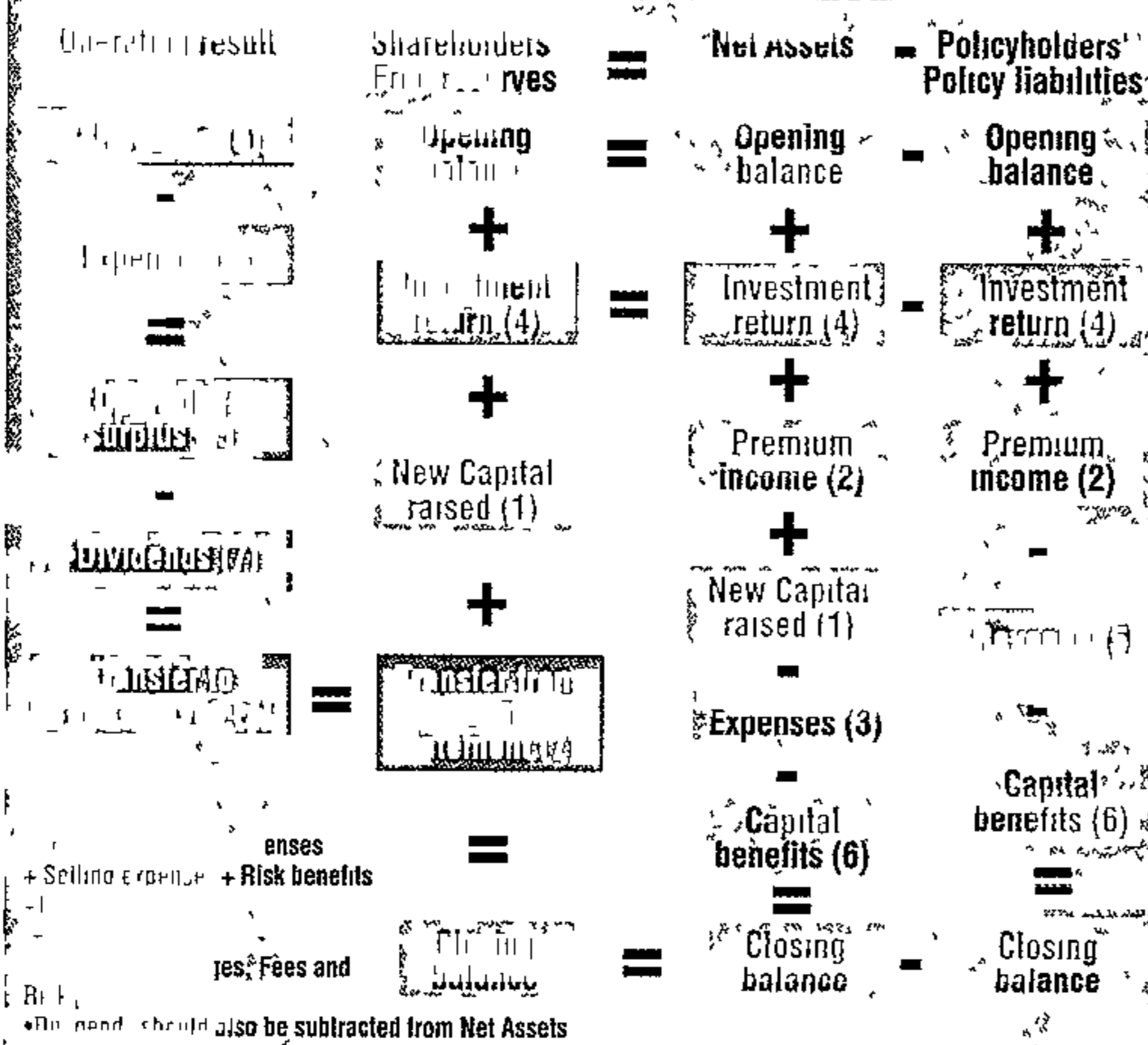
*The actuary reckons it to be prudent to declare an operating surplus R35m and pay out dividends of R30m (journal entry 7)

*Meanwhile Joe Value takes out a policy at Space Age Life on January 1, 1999. His particulars are shown in the statement on page 30. Now, follow the journal entries as numbered from 1 to 7 (debits without brackets, credits with brackets)

Journal Entry	Amount
(1) Net assets (cash)	R1bn
Free reserves (share capital)	(R1bn)
(2) Net assets (cash)	R1,5bn
Policy liabilities (p/income)	(R1,5bn)
(3) Expenses	
Selling expenses	R50m
Admin expenses	R50m
Risk benefits	R200m
Tax	R30m
Net assets (cash)	(R330m)
(4) Net assets (investments)	R1,65bn
Free reserves	(R300m)
Policy liabilities	
— Balances on inv a/cs	(R1,079bn)
— BSR	(R221m)
— Deferred profits	R50m
(5) Policy liabilities	
Balances on inv a/cs	R382,5m
Revenue charges and fees	(R82,5m)
Risk premiums	(R300m)
(6) Policy liabilities	
Balances on inv a/c	R350m
Net assets cash	(R350m)
(7) Dividends	R30m
Charges and fees	R17,5m
Operating a/c	R5m
Net assets (cash)	(R30m)
Policy liabilities	
Deferred profits	(R17,5m)
Free reserves	
Retained profits	(R5m)

Fictitious case study

ADDING AND REDUCING VALUE



This better disclosure to shareholders can be coupled with better disclosure to policyholders.

Now that Sanlam and Old Mutual plan to list on the Johannesburg Stock Exchange, policyholders should be reassured that their share in the post-listing "pie" will not shrink.

There is no better way to make that reassurance than through better disclosure. Meanwhile Old Mutual, Norwich and Sage need to eliminate their disclosure backlog.

No time should be wasted. The best way to serve the interests of shareholders is to look after policyholders.

Deon Basson

Tutu appeals for reparation

THE surest recipe for unrest and turmoil in South Africa would be if the vast majority had no proper homes, clean water, electricity, good education and adequate healthcare, Truth and Reconciliation Commission chairman Archbishop Desmond Tutu said yesterday.

Addressing the Pretoria Afrikaanse Sakekamer, Tutu said the quality of life of these people had to be vastly improved, "otherwise we have had it".

He called on Afrikaners to invest in transformation and said this was not just being altruistic, it was ultimately good business.

"For your own sakes there has to be stability, otherwise the economy will suffer (and) business confidence will

take a knock

"Contribute to reparation for reconciliation through community development, scholarships. If the disadvantaged, poor, homeless and unemployed become desperate, they may use desperate means to redress the imbalance.

"Be willing to share lest you end up with nothing to share. We don't want any more Vryburgs," Tutu said.

"You are a splendid people and South Africa needs you. You are gifted, you have a vibrant language and culture and identity which you tried to safeguard with some of the most vicious laws imaginable.

"But ultimately your worth as a person does not depend on any of these extrinsic things.

"God loves you and God won't allow you to go under, your worth is infinite and intrinsic," he said.

However, there did appear to be a significant segment that was quite vociferous, egged on by two major newspapers, *Rapport* and *Die Burger*.

They had sought from day one to vilify and discredit the TRC so that they would pre-emptively have discredited its report, Tutu said.

"They have made no bones at all about their nostalgia for a past which we ought all, corporately and individually, to lament.

"They want to recall a past when they, the Afrikaners, were in charge, even though they now claim never to have supported apartheid" - Sapa

(252) Sowetan 27/2/98

Trauma expert urges S Africans to create dialogue

Sowetan 27/2/98
(252)

By Claire Keeton
Feature Writer

TOTAL silence is the usual way society, and even some mental health professionals, respond to the survivors of trauma whether they suffer from the damage of war, sexual assault or a terminal illness

Most people find confronting the pain associated with trauma overwhelming and try to avoid dealing with it. This further isolates the individual or community which has suffered the trauma, leaving them vulnerable and alone.

An internationally acclaimed trauma expert, Dr Yael Danieli, has called this response a "conspiracy of silence" after extensive research and practice as a clinical psychologist.

"The silence exacerbates a sense of isolation and alienation in society, as well as making the task of healing so much more difficult," she says.

Danieli, director of the Group Project for Holocaust Survivors and their Children and director of a Centre for Rehabilitation of Torture Victims in New York, is in South Africa to assist the Truth and Reconciliation Commission (TRC) in identifying ways to promote the healing of the survivors of apartheid.

The TRC's reparation and rehabilitation Committee is hosting her visit, which includes a three-day workshop at their Johannesburg office on silence and the meaning of restitution, compensation and rehabilitation for the victims of gross human rights violations.

Danieli told *Sowetan* that she had been brought to South Africa to contribute to the process of the reparation and rehabilitation of victims.

She said her experience in dealing with 32 societies in trauma has shown her that healing is a "process, not an outcome".

"It is important to respect the process of healing and growth, with an individual and a country. You must not get stuck on 'This must happen now'. You hope with hard work you will see change."

Danieli compared the process to the growth of a plant, which cannot be accelerated by force or it will die. But she warned there could be no growth or movement as long as the conspiracy of silence was maintained.

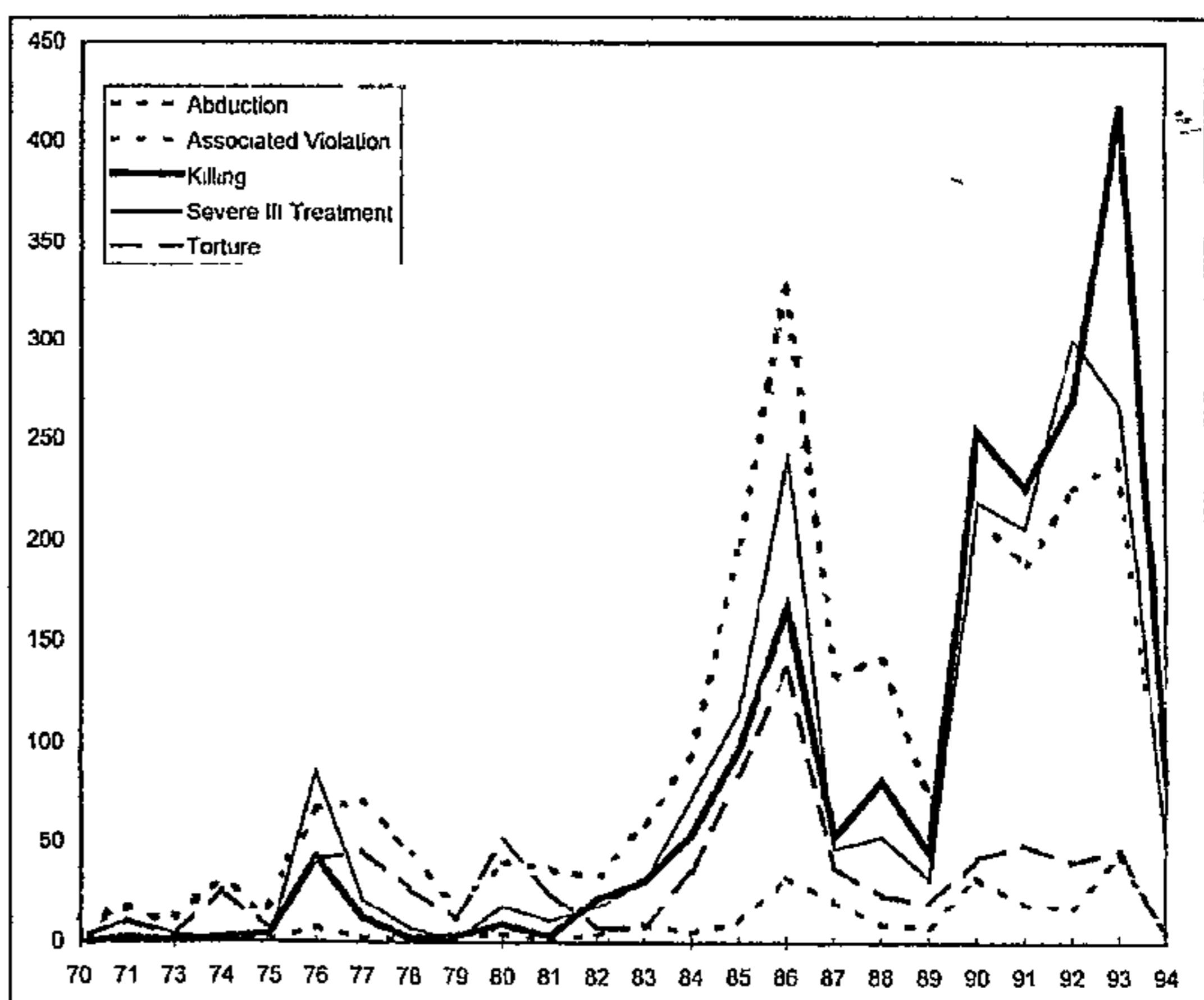
She explained how she developed the concept of a conspiracy through her research as a postgraduate student.

"I was doing my dissertation on the psychology of hope and looking at the most oppressive challenges to hope by interviewing Holocaust survivors, prisoners of war and the terminally ill."

"People told me no one would talk. In fact, people wouldn't stop talking. It was as if they were waiting all these years to talk and said uniformly that no one would listen. If people did listen, they did not understand unless they had shared the same experience."

"I believed that listening was the most important (tool) for helping survivors. But survivors of the worst

The TRC hopes victims who talk about their trauma will be healed



This graph highlights the sharp rise in traumatic human rights violations, including murder and abduction, which affected hundreds of people from 1970 to 1994 in Gauteng. SOURCE: TRC

atrocities told me even therapists wouldn't listen. I was outraged and changed my dissertation to the 'conspiracy of silence'."

As a consequence Danieli interviewed many therapists and found that they were not trained to cope with the pain involved in dealing with trauma.

At the TRC workshop participants themselves identified reasons why it was difficult to express the trauma they had experienced or observed. These ranged from feelings of being scared and ashamed to not wanting to lose

control by talking about it and wanting to protect themselves.

Other reasons were the difficulty in identifying the trauma when it had been deeply buried, the mind's reluctance to retrieve it and a history of not talking about trauma.

Danieli says it is common for an individual who has suffered trauma

to no longer trust others.

"Silence is an integral part of the trauma. Silence is oppression. If we keep the silence going, we perpetuate the trauma and oppression," Danieli says. "If we do not integrate the trauma, the areas (of pain) will not heal and we will feel as if the trauma happened yesterday."

The TRC workshop dealt concretely with healing processes in the group, while also tackling conceptual work. "The group was a prism of some of the societal challenges facing South Africa," Danieli says.

They reviewed the TRC's proposed reparation and rehabilitation policies together under her guidance. She says they looked at what influences policy and the implementation of reparations programmes by the TRC.

"We had a truly multidimensional discussion concerning not only individual victims but social and national dimensions."

The reparation and rehabilitation



Commissioner Hlengiwe Mkhize: monetary compensation to victims of trauma must always be coupled with services.

committee chairwoman Commissioner Hlengiwe Mkhize said "Danieli felt we ought to be strong on victims' rights and not compromise them. She made it clear that any monetary compensation is symbolic, and must always be coupled with services for the traumatised."

Danieli has listened to countless stories of abuse, but still she was "stunned at the cruelty in the experiences (of South Africans)".

She advises South Africans to get to know each other and create a truthful dialogue "where the history of each one is respected and learnt by all, and understood with a future orientation."

To the survivors of all types of trauma, Danieli proposes the establishment of groups where they can share their experiences with those who understand their pain.

She also recommends dialogue at a community level, through schools and churches, as well as a national dialogue between groups.

Danieli feels that healing and reparations in South Africa must be priorities beyond the TRC as they are a force for transformation.

If not, South Africa will pay for the legacy of its trauma and violence in the future - as a society that has no respect for human life and human rights.

People told me that no one would talk. In fact, people wouldn't stop talking.

TRC amnesty members upset by cop

Policeman evasive while being questioned
over the death of slain activist Bopape

By Simon Zwane

TRUTH and Reconciliation Commission amnesty committee members became upset yesterday as a policeman, applying for amnesty in connection with the death of Mamelodi Civic Association activist Stanza Bopape, constantly evaded questions

Lieutenant Charles Zeelie answered with "I don't know" and "I can't remember" to crucial questions put to him at the amnesty hearing in Mamelodi. The hearings are aimed at establishing who killed Bopape and if he was assaulted before he died.

"In your evidence you do tell what happened in great detail. You, however, suffer some amnesia when it comes to real issues and it is surprising that you can't remember details on facts leading to the death of Bopape," said Commissioner Jake Molo.

"If this was a once-off incident it would not be difficult to recall in detail what happened even if you lived a 100 years," said Molo.

Zeelie told the committee that he had never been involved in the death of a detainee before the incident involving Bopape, whom he believed died of a heart attack.

The usually restrained and calm Judge

Chris de Jager also burst out at Zeelie when he tried to give a long-winded, evasive answer when asked who had suggested that a mock escape be staged from De Deur in the Vaal Triangle to conceal Bopape's death.

"With all the patience that I have, I don't want to hear the story from the start," the judge interjected sharply.

"The question was put to you concerning De Deur. Answer the question, please don't tire us with history," he said.

The exchanges seemed to indicate that committee members were not convinced that Zeelie and three other amnesty applicants who have testified so far were making a full disclosure.

It is a requirement for the granting of amnesty that the whole truth be told and failure to do so might result in the rejection of an application.

The hearing will sit for the last day today before adjourning to a date still to be decided.

Ten former policemen, including the erstwhile commissioner of police General Johannes van der Merwe, have applied for amnesty.

The Bopape family is opposing the application.

Sewetan 27/2/98

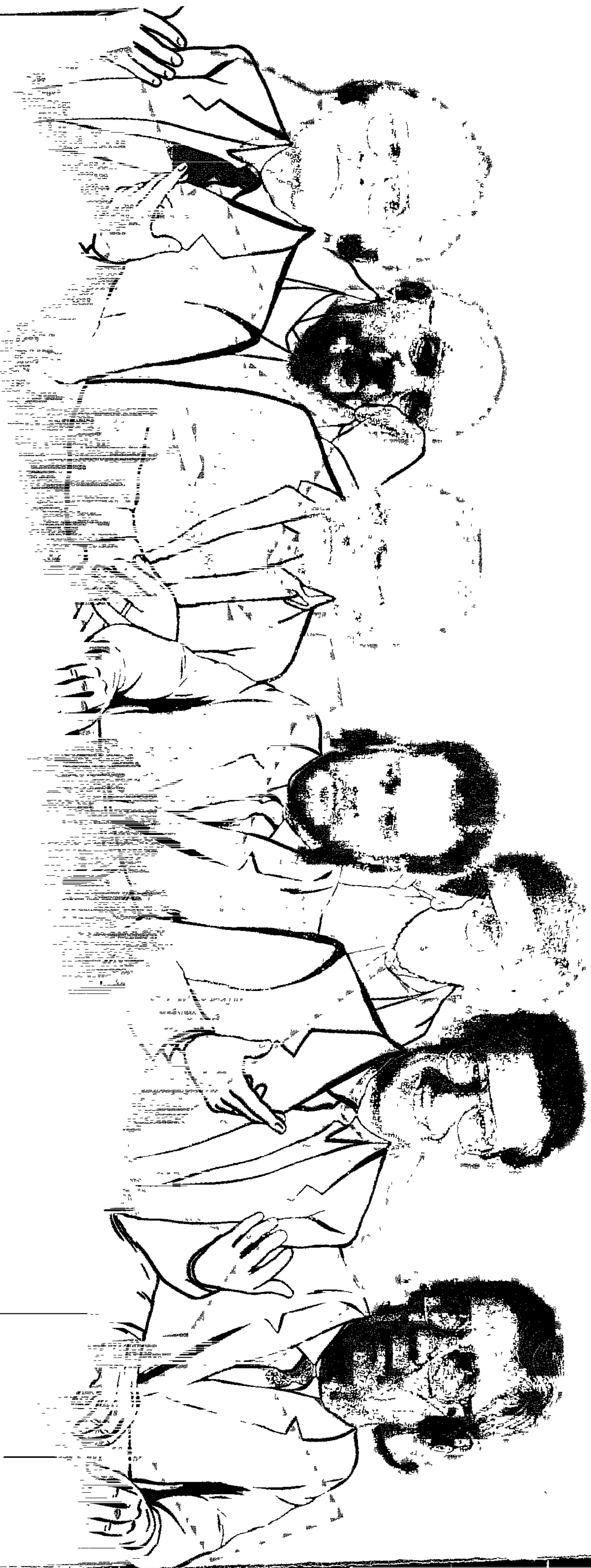
(252)

2527

Apartheid in the dock

The master, PW Botha, should come clean about the dirty workings of his servants during his reign of terror, writes **Robert Brand**

GRAPHIC: DAVIDA TANCHIEL



Only two - a master and a servant - were on trial. The others - mostly servants with a few others - men among them - were pleading for mercy before the Truth and Reconciliation Commission.

All 18 were, in different ways, accounting for their individual deeds. But, as a collective, they represented apartheid, those who made the policies and those who implemented them.

It was apartheid in the dock this week in two court cases and two TRC hearings which shed some light on the fundamental question of who should be held responsible for the atrocities committed in its name.

Former state president PW Botha appeared in court in George on a charge of ignoring a TRC subpoena. In Pretoria, former Civil Co-operation Bureau (CCB) operative Ferdi Barnard stood accused of murdering David Webster and others. In Port Elizabeth, several former security policemen were pleading for amnesty before a TRC panel for the murders of the Cradock Four and in Mamelodi, Pretoria, more former security policemen, including former chief of police Johan van der Merwe, were asking for amnesty for the death of activist Stanza Bopape and the subsequent cover-up.

Botha's trial, in a sense, provides the backdrop for the other three cases. Botha has been subpoenaed by the TRC to answer questions about the State Security Council (SSC), the body he created to co-ordinate the state's response to what it perceived as a revolutionary onslaught.

Botha refused to obey the subpoena and is now facing charges in terms of the Promotion of National Unity and Reconciliation Act. He has pleaded not guilty.

In public statements at his first court appearance, Botha said the National Party government had never sanctioned any illegal actions against its opponents.

There can be absolutely no doubt that government officials committed illegal actions, including murder, the amnesty applications for the deaths of Stanza Bopape and the Cradock Four, and many other amnesty applications by former security

Hearings should shed some light on who should be held responsible

force members, attest to that. The fact is, the security forces not only detained opponents of the government, they assaulted, tortured and murdered them.

The fundamental question the TRC has to answer is where the responsibility for those actions lies.

Botha's analysis of the situation leaves only two possibilities: either the state did not sanction torture and murder of political opponents in which case the responsibility for criminal actions lies with individual policemen and soldiers who committed them, or the state regarded tor-

ture and extra-judicial executions as legitimate ways of fighting political opposition.

One of those who allegedly carried out extra-judicial executions is Barnard, a former policeman and convicted murderer who became a member of the CCB, a secret section of the South African Defence Force's Special Forces unit.

Whether Barnard murdered David Webster is for the high court to decide. What we do know is that the CCB undoubtedly committed various "dirty tricks" against government opponents, and murdered at least 12 that we know of. Dr Fabian Ribbeiro and his wife Florence, and 10 Mamelodi youths who were lured into a trap at Netherland

Those actions were planned and executed with the knowledge of the CCB's commanders and the then head of Special Forces, General Joop Joubert. The then chief of the Defence Force, General Janne Geldenhuys, also knew about the Ribbeiro murders but frustrated the police investigation.

Geldenhuys was a member of the SSC. Whether he discussed the Ribbeiro murders with his SSC colleagues we do not know, what we do know is that it was known at the highest policy-making level that members of the security forces were involved in illegal actions. The fact that this case was vigorously, if unsuccessfully, investigated by a non-political arm of the police, the murder and robbery unit, suggests that the state regarded extra-judicial execution as a crime. But was it condoned by the government?

Botha said the NP never sanctioned any illegal actions

This case is significant, because it contradicts Van der Merwe's own repeated claims that illegal actions such as torture were not tolerated in the police. He knew about at least this one. And it would stretch credibility to suggest this was an isolated incident, a mere aberration.

Testimony by some of the applicants leaves no doubt that the torture of detainees was standard practice. Former police lieutenant Charles Zeelie, who is applying for amnesty for Bopape's death together with Lieutenant Adriaan van Niekerk, Warrant Officer Hendrik

The Bopape case provides further clues. Stanza Bopape disappeared in 1988 after being detained by the security branch. Then police minister Adriaan Vlok said in Parliament that Bopape had escaped from police custody.

It now appears that he died while being tortured with electric shocks, and that police then covered up his death by inventing an elaborate escape plot and lying to their minister.

Among those applying for amnesty for the cover-up is former police commissioner Johan van der Merwe, who was head of the

Mostert, Sergeant Johan du Preez and Cornus up to commissioner knew about these methods, and condoned them."

It is clear that the policemen involved knew their actions were illegal and feared the consequences, that is why they covered up. But the cover-up was sanctioned at the top level of the police, suggesting torture was condoned at least at the highest level of officialdom, if not by the political leadership.

The case of the Cradock Four is even more instructive. Six former security policemen, Sakkie van Zyl, Harold Snyman, Eric Taylor, Gerhartus Lotz, Nic van Rensburg and Hermannus du Plessis, have admitted murdering Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sreelo Mhlabu.

They say they did it because the four were spearheading resistance in the Eastern Cape and removing them from the scene would have contributed to political stability.

However, SSC minutes show that the political leadership thought the best way of neutralising Goniwe was to re-appoint him to his teacher's post in Cradock, under severe restrictions. This was supported by then black education minister Sam de Beer and by then head of the security police Johann Coetzee.

But just two weeks later, on June 27 1986, Goniwe and three companions were murdered and their bodies mutilated and burnt. The policemen involved in the murder

struggled to explain to the TRC why the murders had been committed in the face of the contrary recommendation by the security council.

It appears the decision to kill Goniwe and his colleagues was made at local level, by the head of the security branch in the Eastern Cape, Colonel Harold Snyman, and that it was not sanctioned or condoned by the SSC or any other level of government.

There seems to be no evidence that the SSC or Cabinet directly sanctioned or condoned any specific illegal act. But taken as

PW must reveal the truth about a system that spawned killers

a body of evidence, it seems impossible that government did not know that these acts were taking place. The Cradock Four, Bopape, David Webster, the Ribbeiros, the Netherland Ten and many others must have alerted government that something was awry.

In all these cases, the policemen involved knew they would be in trouble if they were found out. But they had enough confidence that the system would protect them to go ahead anyway.

The system became a haven for murderers, and PW Botha will have to answer for that.

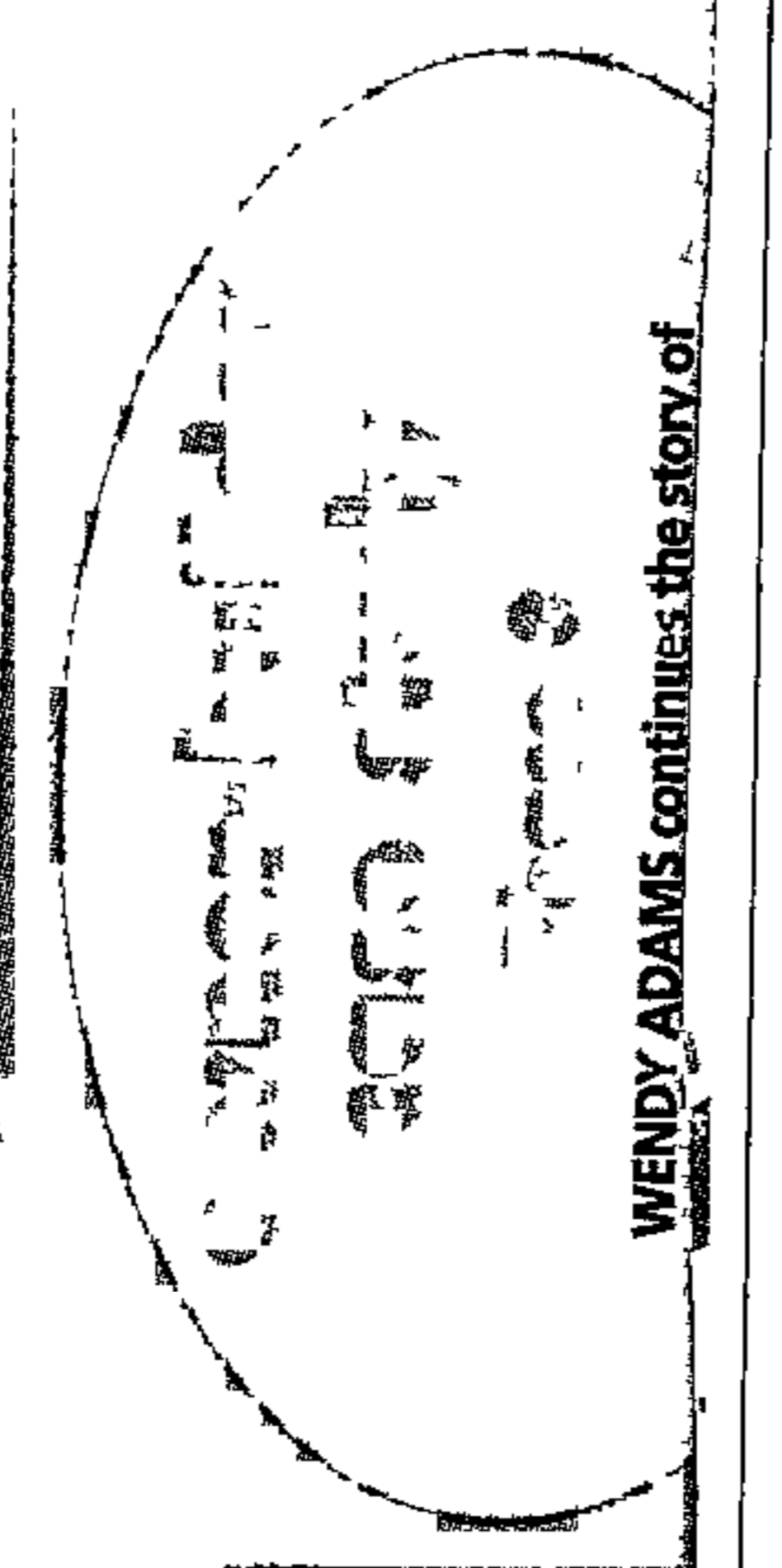
home building DIY
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Botha's analysis of the situation leaves only two possibilities: either the state did not sanction torture and murder of political opponents in which case the responsibility for criminal actions lies with individual policemen and soldiers who committed them, or the state regarded tor-



WENDY ADAMS continues the story of

Opening your property

Most of the trees in the garden can be guided into a clearing. Unbelievably, Robin and his two workers brought down 27 trees between them over a period of three weeks, working primarily at the weekends. Each tree trunk was about 20 m to 25 m in length. Once each tree was down, the work continued as the branches were cut up into manageable

Don't use a chainsaw if you are not a professional. We cannot warn you strongly enough that tree-felling is a risky and dangerous undertaking to handle as a DIY exercise. We therefore asked tree-felling professionals "Chop-a-Tree" for some comments and this is what they said...

NEVER USE A CHAINSAW IF YOU ARE NOT A PROFESSIONAL

DIY home building

ADVERTISING FEATURE

I tried to revive Bopape after torture - policeman

Star 27/2/98 (252)

Amnesty applicant says there was no intention to kill activist

A former police sergeant yesterday described how he had tried to revive Mamelodi activist Stanza Bopape minutes after shocking him during a torture session.

"I started with mouth-to-mouth resuscitation to try and revive him, but he had stopped breathing," Johann du Preez told a Truth and Reconciliation Commission amnesty committee hearing in Pretoria.

Du Preez said he handled the shock device, and turned its handle a few times to generate an electric current.

"I gave it two circular turns at a time. It was not a continuous current. After the third or fourth time, I saw his head fall forward."

Bopape was untied, placed on his back on the floor and Du Preez tried to revive him.

Du Preez and nine other policemen, including retired national commissioner Johan van der Merwe, are seeking amnesty for offences arising from Bopape's death.

He died on June 12 1988 while being subjected to electric shock torture at what was

then known as John Vorster Square police headquarters in Johannesburg.

In a bid to cover up his death, police disposed of Bopape's body secretly and claimed he escaped while being escorted to Vereeniging.

Du Preez described Bopape's death as a strange turn of events, saying the electrical current used was not lethal.

Fellow amnesty applicant Charles Zeelie earlier in the day said he was convinced Bopape had died of a heart attack, adding this conclusion had given him some peace of mind.

"We never intended killing him," he said.

Asked what had caused the heart attack, Zeelie said Bopape might have been suffering from shock because of the circumstances he found himself in.

Electrical shocks would not necessarily cause a heart attack, he said. "I know of very fit people who unexpectedly died of a heart attack."

Asked whether he had any role in Bopape's death, Zeelie said he was negligent in the

sense that somebody died while undergoing electric shocks.

Zeelie conceded there was no evidence to prove Bopape had died of a heart attack.

Gys Rautenbach, acting for the Bopape family, said they believed Bopape had died as a result of extensive torture.

Zeelie replied that he would give anything to have Bopape's body available to prove that he was telling the truth.

Five of the applicants were involved in torturing Bopape, and are seeking amnesty for his killing. They are Zeelie, Du Preez, Lieutenant-Colonel Adriaan van Niekerk, Warrant Officer Hendrik Mostert and Constable Jakobus Engelbrecht.

Two other applicants, Brigadier Schalk Visser and Captain Leon van Loggerenberg, have applied for amnesty for their role in the disposal of the body.

Van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, want amnesty for covering up the activist's death - Sapa

Bid to force ex-colonel to testify over orders

BY JOHN YELD

Port Elizabeth - An independent medical specialist will examine the former head of the Eastern Cape security police Colonel Harold Snyman today to confirm the opinion of his own doctors that he is not fit to testify at the "Cradock Four" amnesty hearing.

Snyman, who is terminally ill with cancer, is one of six former Eastern Cape security policemen seeking amnesty from the Truth Commission for murdering the four - Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauhi - in June 1985.

He has not been attending the amnesty hearing which started this week.

Two of his former colleagues - then Captain Johan "Sakkie" van Zyl and Colonel Nic van Rensburg, then Snyman's second-in-command - have both testified that Snyman gave the order to kill the four activists.

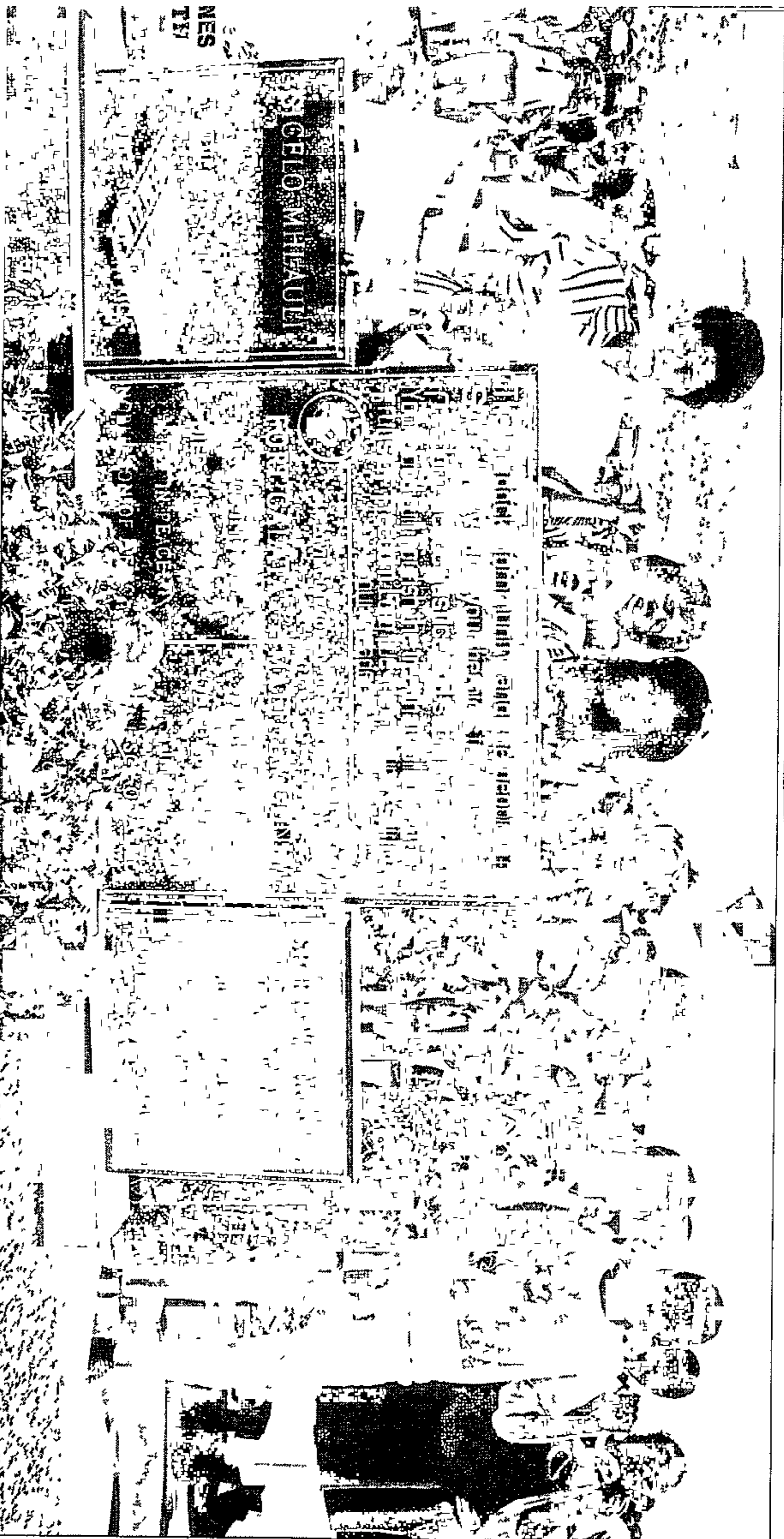
But they also both testified that they believed the instruction to murder the four had come from a higher authority.

At the time, Snyman served on the Eastern Cape Joint Management Council, the regional structure of the apartheid government's national security system headed by the State Se-

curity Council.

Van Rensburg testified that Snyman had confided in him that army officers serving in the security system were critical of the security police for not being effective and had told him (Snyman) in private conversation just a few weeks before the murder of the four that they were better placed to eliminate political leaders such as Goniwe.

Advocate George Bizos SC, for the widows of the four, asked that Van Rensburg's testimony be interrupted and Snyman be called to say whether he had been given such orders and, if so, by whom.



LEON MULLER

Memorial plaque: the people of Cradock pay tribute to hero of the struggle Matthew Gonwe, who was murdered by Eastern Cape security police

Cops murdered teacher for driving friends to UDF rally

'Flaw' in Cradock Four killers' amnesty bid

(2102) / ARG 28/2/98

JOHN YELD
ON THE TRUTH COMMISSION

Port Elizabeth - Oudtshoorn
teacher Sicele Mhlauli must have spent the last few hours of his life desperately regretting his decision to drive a friend to Port Elizabeth in June 1985

For his friend was Cradock-based United Democratic Front (UDF) activist and fellow teacher Matthew Goniwe, and Mr Mhlauli's fateful decision to take him to a UDF meeting in "Ibhayi", some 200km away, ended with their being brutally murdered by Eastern Cape security policemen

Two other UDF stalwarts in the car with them at the time - Port Galata, a close teaching colleague of Mr Goniwe who had been expelled with him from their Cradock school, and Sparrow Mkhonto, an executive member of the Cradock Residents' Association (Cradora) which Mr Goniwe had helped establish - also died at the hands of the security policemen that night

It is common cause that at about 11pm on Thursday June 27 1985, the four men were returning to Cradock after the UDF meeting and had reached somewhere around the Olifantshoek pass about 80km from Port Elizabeth when they were pulled off the road by security policemen driving an unmarked car

The car was probably fitted with false number plates, but there was an official blue police light flashing. The four were handcuffed and driven back to St George's Strand just outside Port Elizabeth, then individually shot and/or beaten unconscious and stabbed to death before petrol was poured over their bodies and set alight

After their deaths, the four men became popularly known in the media as the "Cradock Four". But this tag was not entirely accurate, for Mr Mhlauli was in fact living and working in Oudtshoorn at the time



Murdered activist Matthew Goniwe

However, like Mr Goniwe, he had been born and raised in Cradock, and the two were childhood friends

This week a Truth and Reconciliation Commission amnesty panel heard two very different versions of why Mr Mhlauli was murdered during the police operation against Mr Goniwe and his colleagues

One version was given by the first of the six former Eastern Cape security policemen seeking amnesty for murdering the activists

Johan "Sakkie" van Zyl, then a captain and a former member of the police's notorious "Koevoet" unit in Namibia, testified that in 1985, the Eastern Cape had been wracked by violence and political unrest. The region had been "plunged into chaos", and the UDF and its affiliates had been largely responsible, he said

"It was clear that the normal legal methods such as banning, restrictions and arrests of political leaders weren't having the desired results

"It was therefore common cause among the security community that the situation demanded urgent and drastic action"

Such "drastic action" meant the security police hierarchy deciding to



George Bizos: opposing amnesty application

murder Mr Goniwe and his top lieutenants - including, he claimed, Mr Mhlauli. Mr Goniwe, Mr Calata and Mr Mkhonto were all from the Cradock region and had "prominent" leadership roles in the UDF and its affiliates

"Our information showed that Mr Mhlauli was, under the leadership of Mr Goniwe, busy promoting the aims and role of the UDF in the South-Western Districts," Van Zyl said

Responding to questions from advocate George Bizos, for the widows of the four, Van Zyl said Mr Mhlauli had been in Cradock "being briefed and debriefed about the situation at his school in Oudtshoorn" at the time of his death. He was forced to admit to Mr Bizos that he could not remember personal details about Mr Mhlauli, and agreed that his information in this regard was "miserrily sparse and inaccurate"

Mr Bizos then put it to Van Zyl that the reason why Mr Mhlauli was in Cradock at the time was that it was school holidays, and that he had been enjoying a break in his home town when he had learned that his old friend Matthew needed to go to Port Elizabeth for the UDF meeting, he had volunteered his services as a driver

"Mr Mhlauli's misfortune was that

he was a good driver, and Mr Goniwe did not have a driver's licence - did you know that?" Mr Bizos asked

Mr Bizos then proceeded to lead evidence to show that Mr Mhlauli had not been involved in Eastern Cape politics at all. Cradock security police had not had a reference number for Mr Mhlauli, there had not been a personal file on him at the Eastern Cape security police headquarters, the then head of the Cradock security police, Major Eric Winter, had stated on oath that he knew nothing at all about Mr Mhlauli, and Mr Mhlauli had not been named in the so-called "death signal" about Mr Goniwe and Mr Calata sent to the State Security Council by the SADF's Eastern Cape Command just 20 days before the four were murdered

During the first half of 1985, Mr Goniwe had been under 24-hour electronic surveillance in his home, his telephone had been tapped, and his movements had been intensively monitored, Mr Bizos said

According to a comprehensive police surveillance report for the period between January and June 1985, among the scores of people Mr Goniwe had been in contact with were Danny O'Grady of the United States Ambassador's office, Sheena Duncan of the Black Sash and US Senator Edward Kennedy. But Mr Mhlauli's name had not featured anywhere in that report, Mr Bizos said

"Mr Mhlauli was killed because he had the misfortune to be in that car, and that if you killed anyone, all four had to be killed in order not to prejudice the secrecy of the operation"

This was denied by Van Zyl

The version of Mr Mhlauli's presence in the Eastern Cape that the amnesty panel accepts will be crucial to their final decision on whether to grant amnesty to the former Eastern Cape security policemen for the brutal murders that rocked South Africa to the core in 1985

Radock Four was form of state terrorism, says amnesty

APR 28/2 - 5/3/98 (252)

Port Elizabeth - The government engaged in a form of terrorism in an attempt to counter the rise in black political activity in the Eastern Cape in 1985.

This was conceded yesterday by former security police officer Nic Janse van Rensburg, one of seven policemen applying for amnesty for the murder of the activists known as the Cradock Four.

George Bizos, appearing for the families of the victims, put it to Van Rensburg that, although the government had sanctioned terrorism at the time, all actions had to be authorised "at the highest possible level". Reading from an official document at the Truth and Reconciliation Commission amnesty committee hearing in Port Elizabeth, Mr Bizos said the unconventional use of force had to have top-level sanction to prevent it from "boomeranging on the state".

Van Rensburg agreed and said the attack on Matthew Goniwe and three other United Democratic Front activists had been authorised by the head of the Eastern Cape security police at the time, Harold Snyman, who in turn received orders to kill from "higher up".

Van Rensburg has been unable to tell the committee who gave Snyman his order. Snyman is seriously ill and cannot attend the hearing.

His doctors have opposed attempts to have him brought to the hearing and committee officials may try to have a statement taken from him at his bedside.

Killing of

seeker



Harold Snyman: seriously ill



Eugene de Kock: seeking amnesty

Mr Bizos said to Van Rensburg "So you knew that the attack on Goniwe had to be authorised at the highest possible level, but you did not bother to find out from whom the order came?"

The policeman replied that he trusted Snyman as someone who would not have made such an order without the necessary authority.

See page 11

Barnard used me to identify MK cadres for 'elimination', ex-escort tells court

ART 28/2/98 (252)

Pretoria - Former escort girl Carol Human has told the High Court here that she infiltrated Umkhonto weSizwe (MK) as an agent for Civil Co-operation Bureau member Ferdi Barnard.

MK was the African National Congress' military wing

Barnard has pleaded not guilty to 32 charges, including the murders of anti-apartheid activist David Webster and one of his own friends, Mark Frances

Ms Human, who confessed that she idolised Barnard because he had always made her feel safe and secure, told the court this week she had had a short affair with him after meeting him through Mr Frances in January 1991

Barnard at one stage rented a flat for her but their affair ended because he was living with another woman and she wanted a more stable relationship

In May 1991, Barnard, who was

working for military intelligence and also had his own private investigation firm, recruited Ms Human as one of his agents

She had to spy on active members of MK so that they could be eliminated before they could come to power

Ms Human, who is a confessed Mandrax user, said Barnard had sometimes paid her and her husband R100 or more per day

She said Barnard had arrived at her flat one night in August 1991 dirty, sweaty and wearing a camouflage shirt. He said he, Mr Frances and Eugene Riley had been involved in a shoot-out in Bophuthatswana. He said they had gone to the former homeland to avenge being conned into buying fake diamonds

Ms Human said Barnard had told her that Mr Frances and Mr Riley had been arrested. She went with him to Bophuthatswana to try to find Mr Frances and Mr Riley, but to no avail

A few days later Barnard

expressed concern to her Mr Frances might have implicated him in a statement to a magistrate. Mr Frances was shot dead on August 4, 1991

Ms Human said she had heard about Mr Frances' death when Barnard came to her flat and told her the news. He asked her and her husband to spread the rumour that Mr Frances had died because of a drug deal that went sour

Ms Human and her husband were arrested in October 1991 for keeping illegal weapons in their flat. She said the weapons belonged to Barnard. She said they had become scared when they received a nameless note, made up of letters cut out of a magazine, which said they would be dead if they appeared in court

At the back of the letter there was a photograph of Mr Frances's face, taken in a mortuary. The letter had prompted her and her husband to disregard their bail conditions, Ms Human said - Sapa

PUBLIC SECTOR-GOVT. - JUSTICE

1998

MARCH.

New body buries apartheid divisions in legal profession

ET 17/3/98

(252)

A NEW amalgamated body — the Law Society of South Africa (LSSA) — was constituted yesterday to represent South Africa's almost 9 000 attorneys, previously divided into separate organisations on racial and provincial lines

The signing ceremony, in a packed old assembly chamber at Parliament, was conducted by representatives of the four provincial law societies comprising the former, mainly-white Association of Law Societies (ALS), the Black Lawyers' Association, and the National Association of Democratic Lawyers

The historic ceremony, following more than two years of negotiations between the different bodies, was witnessed by scores of dignitaries, including Justice Minister Dullah Omar, his deputy, Dr Manto Tshabalala-Msimang, judges, advocates and attorneys

Delivering the keynote address, Omar said the African National Congress had decided at its December Mafikeng national conference in favour of a single legal profession with no distinction between attorneys and advocates

He had yet to make up his mind

During talks last week with the Bar Council (representing advocates) and the ALS (representing attorneys), the former had voiced strong opposition to the idea that all law graduates should be subject to the same internships and examinations

Omar said Parliament would ultimately have to decide on the matter and would have to take into account the views of the public and the legal profession

"It is not only the future of the legal profession we're looking at, but the protection of the public and greater access to justice for all"

The quality of the service to the public would also have to be taken into account, Omar said

Inkatha Freedom Party spokesperson on justice Mr Koos van der Merwe welcomed the formation of the new body

"It represents a major step away from our apartheid past in the legal profession," he said — Sapa

Army 'plot to kill Omar'

CP 17/3/98

(252)

PRETORIA A Cape Flats gang leader was hired for R15 000 by the Civil Co-operation Bureau (CCB) to help in the plan to assassinate Justice Minister Dullah Omar, the High Court here heard yesterday

The project was given the go-ahead by the police top brass, according to ex-CCB-operative Abraham Slang van Zyl, who testified in the trial of Ferdi Barnard

Barnard — also an ex-CCB-operative — has pleaded not guilty to 34 charges, including the attempted murder of Omar and the murder of Wits activist Dr David Webster

Elaborating on the CCB's failed attempts to kill Omar in 1989, Van Zyl said the first plan had been to assassinate the minister outside his Athlone home

He said he had recruited

"Peaches" Gordon, a Cape Flats gang leader

Gordon had obtained information on several suspected activists, but had never known that he worked for the CCB

Based on the information he obtained on Omar, the CCB had decided that Omar fell under the category of "enemy of the state"

According to Van Zyl, the Omar-project was approved by senior officers in the CCB and former head of the Brixton Murder and Robbery Unit General Staal Burger had handed him a Makarov pistol, seven rounds of ammunition and a silencer to do the job He said the Omar-project had started in April 1989

He handed the weapon to Gordon and gave him instructions to find assassins to kill Omar The plan was to kill him outside his home

Van Zyl said that although Gordon was a criminal he had had to trust him because he did not have anyone else Assassins were not a dime a dozen, he said

When the assassination attempt failed, the CCB had decided to poison Omar by lacing his food with a deadly powder When this also failed, it was decided to terminate the Omar project, Van Zyl said.

He said Gordon had subsequently been murdered

Van Zyl has applied for amnesty for crimes including blowing up the Early Learning Centre in Athlone and an incident when a monkey foetus was strung up at Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu's house, as well as the conspiracy to murder Omar — Own Correspondent, Sapa

Page 6

Witnesses hold up TRC hearing again

(252)

Walus, Derby-Lewis hearing postponed

Star 17/3/98
By Mike Masipa

Two right-wing witnesses failed to pitch up for the amnesty hearings of Polish immigrant Janusz Walus and Clive Derby-Lewis in Johannesburg yesterday, forcing the Truth and Reconciliation Commission to adjourn proceedings once again.

Walus and Derby-Lewis have applied for amnesty for the assassination of Communist Party leader Chris Hani at his Boksburg home in April 1993. The hearings began in August and resumed yesterday after a lengthy break. The two are serving life sentences for the murder.

Johannes Visser and Edwin Clark have been playing cat and mouse with the TRC, citing lack of legal representation for their failure to appear. The Hani family's legal representative, advocate George Bizos, has been trying to establish that there was a wider conspiracy to murder Hani, and Visser and Clark are central to his argument.

Visser has applied for amnesty for stealing R12-million, some of which Clark allegedly tried to divert into a fund for Derby-Lewis' legal fees.

Walus and Derby-Lewis maintained throughout their trials and the amnesty hearings that they were acting alone.

Also expected to appear is former policeman Johannes de Waal, who took the initial statement when Derby-Lewis was arrested in 1993.

The TRC heard yesterday that Visser had promised Bizos' team, which asked for the adjournment, that he would appear today, while Clark had reassured the Walus/Derby-Lewis side that he would do so too.

Judge Hassen Mall warned that there would be no further delays from today, when the hearings resume, because the postponements were hampering progress.

Before the two absent witnesses were to testify, the committee heard from former Conservative Party member Lionel Durandt that he had handed Derby-Lewis a parcel containing the murder weapon, but thought at the time that it was a jersey.

Durandt said he saw Derby-Lewis at a Krugersdorp town council meeting on March 10 1993, when Derby-Lewis told him that a jersey would be delivered to his house and asked him to deliver it to the Derby-Lewis home when it arrived.

He claimed the murder weapon was brought to his home by someone he did not know. Durandt was arrested in connection with helping Derby-Lewis to obtain the gun but was later released.

National law body formed

Star 17/3/98

(277)

Cape Town - A new amalgamated body, the Law Society of South Africa, was constituted yesterday to represent South Africa's body of almost 9 000 attorneys, previously divided into separate organisations on racial and provincial lines.

The ceremony was conducted by representatives of the four provincial law societies comprising the previous mainly white Association of Law Societies, the Black Lawyers' Association and the National Association of Democratic Lawyers

The signing followed more than two years' of negotiations between the different bodies and was witnessed by scores of dignitaries, including Justice Minister Dullah Omar, his deputy Dr Manto Tshabalala-Msimang, judges, advocates and attorneys

Delivering the keynote address, Omar said the ANC had at its December national

conference decided in favour of a single legal profession with no distinction between attorneys and advocates

During talks last week with the Bar Council (representing advocates) and the Association of Law Societies (representing attorneys), advocates voiced opposition to the idea that all law graduates should be subject to the same qualification requirements.

Omar said Parliament would have to decide on the matter and would take into account the views of the public and the legal profession

"It is not only the future of the legal profession we're looking at, but the protection of the public and greater access to justice for all"

IFP justice spokesman Koos van der Merwe welcomed the formation of the new body "It represents a major step away from our apartheid past in the legal profession," he said - Sapa

SADF approved of (252) 'murdering Omar'

Sowetan 17/3/98

PRIVATE investigator and former CCB agent Slang van Zyl told the Pretoria High Court yesterday that a plan to murder Justice Minister Dullah Omar had been approved by the top structure in the South African Defence Force in 1989

He was testifying in the case against former CCB operative Ferdi Barnard, who faces charges including murder and fraud. He is accused of killing anti-apartheid activist Dr David Webster.

Van Zyl said he joined the defence force's Civil Co-operation Bureau in 1988 after spending 10 years as a police detective. He resigned in October 1989 when the private detective agency he had started as a front operation became successful.

Tasked with the maximum disruption of the enemies of the state, which included murder and intimidation, Van Zyl said he started his official operations for the defence force in January 1989. Enemies could be any person belonging to banned organisations on the left and far right of the political spectrum, he said.

He said he was joined in a cell of the CCB by former police colleagues

Ferdinand Maree and Calla Botha

Van Zyl said he received two lists with names of persons that had to be monitored.

One of the lists included the names of Finance Minister Trevor Manuel and also the son of Truth and Reconciliation Commission deputy chairman Dr Alex Boraine.

He said Webster's name never appeared on any of the lists.

Van Zyl said one of his first tasks in the CCB was to find suitable assassins to carry out his projects. One of the men he recruited was a gang leader on the Cape Flats known as Peaches Gordon.

In 1989 Gordon came forward with information about Omar, who was at that stage the secretary of the United Democratic Front in the Cape and an executive member of several banned organisations.

"I was convinced that Omar fell in the category as an enemy of the state. I sent the information through to Joe Verster. The top hierarchy approved of the project to kill Omar and I received orders that Omar should be shot dead in front of his house," he said.

The trial continues - *Sapa*.

New single law society for attorneys formed

(252)
Sowetan 17/3/98

A NEW amalgamated body – the Law Society of South Africa – was constituted yesterday to represent South Africa's almost 9 000 attorneys, previously divided into separate organisations on racial and provincial lines

The signing ceremony in a packed Old Assembly Chamber in Parliament was conducted by representatives of the four provincial law societies, comprising the previous mainly white Association of Law Societies (ALS); the Black Lawyers Association and the National Association of Democratic Lawyers

The historic ceremony, which followed more than two years of negotiations among the different bodies, was

witnessed by scores of dignitaries, including Justice Minister Dullah Omar, his deputy Dr Manto Tshabalala-Msimang, judges, advocates and attorneys

Omar said in his address the African National Congress had at its December Mafikeng national conference decided in favour of a single legal profession with no distinction between attorneys and advocates

During talks last week with the Bar Council (for advocates) and the ALS (for attorneys), the former had voiced strong opposition to the idea that all law graduates should be subject to the same internships and examinations – *Sapa*

Askari's remains exhumed

Sowetan 17/3/98

By McKeed Kotlolo

THE remains of Constable Brian Ngqulunga, an askari who was tortured and murdered by his Vlakplaas colleagues eight years ago, have been exhumed at the notorious farm.

Ngqulunga (42) of Block L Soshanguve, who was killed on July 20 1990 by Vlakplaas operatives under the command of Colonel Eugene de Kock, was exhumed yesterday by the Truth and Reconciliation Commission and his remains will be reburied at a place to be decided on by his family.

His wife Tholagele (38), their daughter Brigitte (14) and son Frans (12), together with relatives from as far as Piet Retief in Mpumalanga, attended the exhumation on the slope of a hill at Vlakplaas.

The family later expressed relief that "his remains will now be buried properly with the dignity he deserves".

It took TRC officials and Saffas Funeral Services employees more than two hours to remove a thick concrete slab laid on the lone grave which was encircled with razor wire, and finally exhume the remains.

Ngqulunga, a former African National Congress member who was abducted from Swaziland, was detained and later became a member of the askari who allegedly traced, arrested and killed anti-apartheid activists.

TRC members will exhume three more bodies of anti-apartheid opponents at Boschkop Farm in the Rustenburg area in North West today.

They are Aaron Makwe of Garankuwa, Watson Majava of Stilfontein and the third person who is only known by his nickname "Kwadi".

Tomorrow they will exhume the remains of Selby Mavuso of Rockville, Soweto, at Thabazimbi in North West.

The body of Robert Mokoena will be exhumed in Nelspruit in Mpumalanga on Friday.

Thirteen more bodies are to be exhumed from Sekoto Cemetery in Louis Tritchardt on March 24.

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How Walus got the gun that killed Hani

252
 Cowles 17/3/98

MURPHY DEPT. OF JUSTICE

By Sharon Chetty

THE unlicensed gun used to kill Chris Hani and the people in possession of it came under scrutiny yesterday at the Truth and Reconciliation Commission amnesty hearing of Clive Derby-Lewis and Janusz Walus.

The two have been convicted for the murder of the South African Communist Party (SACP) chief. They seek a reprieve from their life sentences (commuted from death) for the April 10 1993 murder.

They say that the assassination was politically motivated and carried out under the aegis of the Conservative Party. Lawyers for widow Mrs Lampho Hani and the SACP have opposed the bid.

They are out to prove that Derby-Lewis and Walus have not made complete disclosures as they have not revealed the full extent of the involvement of others in the rightwing conspiracy.

Former Krugersdorp councillor Mr Lionel Durandt and Mrs Maureen Venter were questioned extensively yesterday about their knowledge of the weapon and the circumstances surrounding its handing over to Derby-Lewis.

Venter's husband Mr Faan Venter had left the gun in a package containing a jersey at Durandt's home.

Venter had got the weapon - which had been stolen from a defence force cache - from a Mr Gene Taylor.

Durandt passed on the illegal weapon to Derby-Lewis who then gave it to Walus, who shot Hani with it.

Durandt, claiming not to have known that he was a go-between in the handing over of the gun, testified that a man unknown to him had left a package at his home with a jersey that was to be passed on to Derby-Lewis.

He drove with his wife to the Derby-Lewis home to hand over the package. Durandt said afterwards his wife told him that she had looked into the parcel and saw a firearm.

According to an earlier statement, his son Mr Andre Albert said he had also looked into the package and had seen a pistol and a 9mm

Murdered SACP leader Chris Hani.

Under cross examination Durandt, who used a hand-held tape recorder to record his testimony, said that he did not ask Derby-Lewis the purpose of the weapon and why there had been a gun in the parcel which was to have contained only a jersey.

He contradicted himself over dates and whether or not he had attended a church prayer meeting on the night that the package was left at his home.

Maureen Venter testified that Derby-Lewis had said that he would collect the weapon "in case of trouble". She approved, as it meant getting rid of the unlicensed weapon which had been in her husband's possession for about two and half years, if not longer.

The Derby-Lewis had been at the Venter's home when they heard news of Hani's murder.

She could not remember whether or not Derby-Lewis had said at some stage, "Don't worry, it is not that weapon," purportedly in reference to the illegal gun provided by her husband.

When asked if she had been questioned by police about the unlicensed firearm her husband had given Derby-Lewis, she said she could not remember.



By Ido Lekota

THE 37 African National Congress leaders granted blanket amnesty by the Truth and Reconciliation Commission last year may have to attend public hearings to support their applications if their pardon is revoked

The 37 include Deputy President Thabo Mbeki, Defence Minister Joe Modise, Foreign Affairs Minister Alfred Nzo, Justice Minister Dullah Omar, Environmental Affairs and Tourism Minister Pailo Jordan and deputy Peter Mokaba

Last Friday the TRC lodged an application with the Cape High Court to have the blanket amnesty set aside

Blanket amnesty: 37 could be facing public hearing

claiming there were irregularities in the granting

Yesterday TRC media director Mr John Allen confirmed that if the amnesty was set aside the 37's applications would have to be reconsidered according to a procedure which included public hearings, if necessary

"The law allows the amnesty committee the discretion of holding public hearings," said Allen

According to Allen the TRC was currently discussing with the ANC an agreement whereby the two parties would concede to set aside the amnesty and allow the courts to decide the issue

Allen said the ANC's position on the matter was "not adversarial" He also indicated that the TRC was having discussions with the ANC to have the application papers sent to an attorney as opposed to being physically served on each of the 37 respondents, because some of the respondents were outside the country as ambassadors.

At the weekend ANC general secretary Mr Kgalema Motlanthe also indicated that the party was prepared to cooperate with the TRC to have the matter resolved

The TRC's application comes in the wake of another application lodged by the National Party last Tuesday to have the amnesty revoked. In the application the NP claimed that the provisions of the Truth and Reconciliation Commission Act were contravened when the amnesty was granted "Some of the applicants did not even disclose the acts they were applying amnesty for," said NP leader Mr Martinus van Schalkwyk

NP spokesman Jan Bosman said yesterday they would not withdraw their application because the TRC and the ANC might reach an agreement unacceptable to his party.

Sowetan 17/3/98

in extra funding

BD 18/3/98

A planned communications campaign had been put on hold because of this. Complaints received had increased from just more than 1 000 in 1995 to 3 320 in 1997 (a total of 6 686).

Human Rights Commission chairman Arney Pityana told the committee the commission had been unable to address its constitutional mandate for the development of human rights because of a lack of resources. He said a better equipped search facility was needed.

Pityana said because the commission

was funded through the justice department, the independence of the commission had been jeopardised.

He suggested funding for the commission should be through Parliament as this would strengthen the "supervisory" duty of the commission and Parliament over the executive.

He welcomed the recently tabled Human Rights Amendment Bill as this would allow the commission to raise funds outside its budget and give it authority to establish a human rights fund.

Bosses fear jobs will have to fit applicants

Reneé Grawitzky

BD 18/3/98

TALKS on the Employment Equity Bill move into top gear this week, amid rising employer fears of amendments which could force them to modify jobs to suit applicants.

The Black Management Forum — supported by sections in labour — has called for the scrapping of section 12 (3) of the bill. This states that in implementing employment equity, employers are not required to appoint or promote the "designated group" — blacks, women and disabled people — who are not suitably qualified for a position. This clause states also that government cannot force a company not to employ those outside the designated group, implement quotas or create new positions.

The scrapping of this clause is central to employer concerns about the bill and will be debated at the resumption of negotiations in the National Economic, Development and Labour Council (Nedlac) today.

Closing date for public submissions was last month, and parties are supposed to complete negotiations by the end of this week.

Employers approached Labour Minister Tito Mboweni for a postponement. This request was refused as the department wanted the bill debated in Parliament before June. The bill is supposed to go to Nedlac's management committee this month.

Other employer concerns relate to the imposition of fines and punitive measures, the requirement that employment equity plans should reflect the country's regional and national demographics, practicalities relating to state contracts, and whether the proposed legislation should facilitate the reduction in the apartheid wage gap.

Labour argued in its submission that the bill had failed to give legislative effect to facilitate the reduction of the apartheid wage gap.

It said the bill and the original green paper focused on the high levels of wage and income inequality and that an employment equity strategy would address these disparities.

Labour believed, however, the bill failed to give effect to this.

Labour called for the bill to be amended to ensure all employers who received state contracts, irrespective of size, be required automatically to comply with the provisions of the proposed legislation.



Mathole Motshekga, right, presented his provincial budget to the province's legislature yesterday. This is a photo of premier Mathole Motshekga.

Pictures: TREVOR SAMSON

I might have killed Hani if asked — witness

Pule Molebeli

A WITNESS told the truth commission yesterday that he would have participated in any assassination plot if "his leader", convicted murderer Clive Derby-Lewis, had asked him to do so.

Edwin Clark, a Krugersdorp-based computer technician, was testifying at the amnesty application of Derby-Lewis and Polish immigrant Janusz Walus, who murdered SA Communist Party leader Chris Hani outside his Boksburg home in 1993.

Clark told the amnesty committee's hearings at the Johannesburg city hall he

knew the commission wanted him to testify, but he had not come forward because he had "moral problems" with the commission, which he considered to be "a farce". He had agreed to testify only after being asked to do so by Derby-Lewis's legal representative.

Sapa reports that when asked by George Bizos SC, for the Hani family, whether he was proud of what Derby-Lewis did by killing Hani, Clark replied he had to admire someone who was willing to "stand up for God and country".

He said he had nothing against Hani as an individual, but during the "state of undeclared war" prevailing at the time, Derby-Lewis was one of the people who decided to do something about the situation, rather than do nothing.

He said an "atheist, communist, terrorist organisation" was taking over the country at the time and some of the consequences were being seen today. He was therefore not willing to condemn Derby-Lewis for what he did.

He said that he might have been asked to kill Hani himself if Walus had not been approached. Asked by Bizos if he would have carried out the killing if approached by Derby-Lewis, he said "I would have seriously considered it and possibly have said yes."

Baqwa protests against delays in extra funding

Wynham Hartley

CAPE TOWN — Public Protector Selby Baqwa yesterday accused the government of unjustified delays in considering his application for extra funding for the creation of regional offices to deal with his office's massive workload.

Baqwa told Parliament's justice committee he was "extremely concerned" that the treasury committee had chosen to postpone a decision on his request which went before cabinet in October last year.

He said the task team to investigate his request apparently did not exist and that Public Service Minister Zola Skweyiya, who was supposed to head the team, "says he knows nothing about it".

Baqwa said it appeared that Finance Minister Trevor Manuel would not consider the request without a report from "this nonexistent task team". He said he had written to Justice Minister Dullah Omar to request clarification. Baqwa requested an extra R22m for the 1998/99 financial year. He received

R5,8m last year and this was raised to R7,4m in the new budget.

He said the bulk of the money was for the establishment of the nine regional offices needed to deal with the flood of cases referred to the public protector for investigation. The need for regional offices arose when the provision for provincial public protectors in the interim constitution was dropped.

Baqwa said every time there was publicity around the office of the public protector it resulted in a flood of new cases.

A planned communications campaign had been put on hold because of this.

Complaints received had increased from just more than 1 000 in 1995 to 3 320 in 1997 (a total of 6 686).

Human Rights Commission chairman Barney Pitsoana told the committee the commission had been unable to address its constitutional mandate for the development of human rights because of a lack of resources. He said a better equipped research facility was needed. Pitsoana said because the commission

was funded through the justice department, the independence of the commission had been jeopardised.

He suggested funding for the commission should be through Parliament as this would strengthen the "supervisory" duty of the commission and Parliament over the executive.

He welcomed the recently tabled Human Rights Amendment Bill as this would allow the commission to raise funds outside its budget and give it authority to establish a human rights fund

Housing department gets tough on banks

Vuyo Mvoko

CAPE TOWN — The housing department has finalised legislation to compel financial institutions to divulge their lending patterns for low-cost housing and small businesses, it was confirmed in Parliament yesterday.

Housing director-general Mphum Nkumalo-Nhlapo told the housing portfolio committee that the department wanted to push the legislation through before the close of Parliament in September. She said the draft bill would soon be circulated to stakeholders for consultation.

The department had been working closely with a group from the US, where lending institutions were forced by law not only to disclose their lending patterns but to contribute a profit percentage to low-cost housing. SA, however, would not follow the US example initially, as this would re-

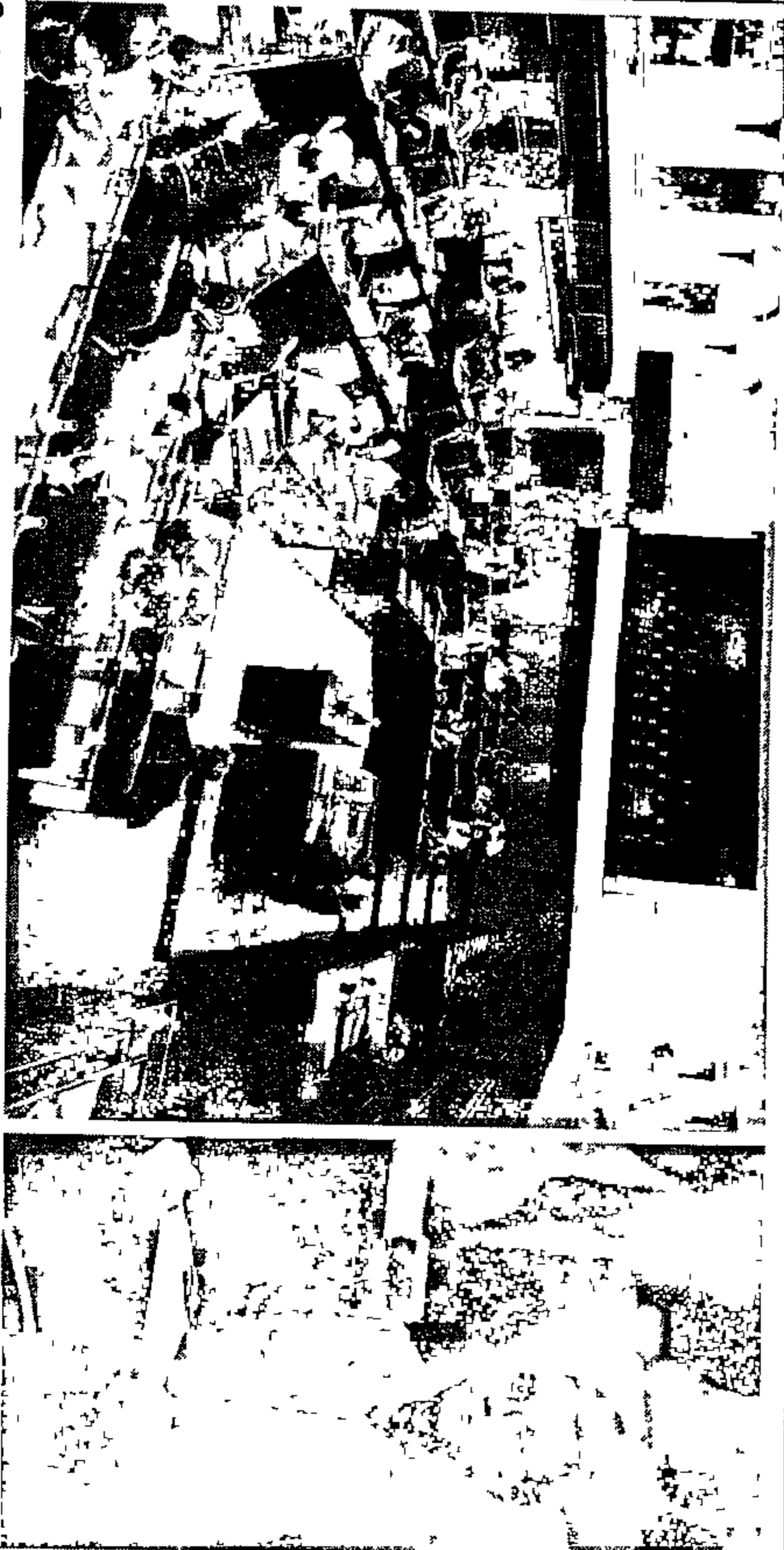
quire the setting up of monitoring infrastructure, Nkumalo-Nhlapo said.

She said it was envisaged that banks would be rated according to criteria still to be determined.

Their performance would determine the extent to which they would be entrusted with government accounts. Banks would also be closely monitored on whether they lent money in areas in which they did business.

Nkumalo-Nhlapo said institutions concentrated on the middle to upper end of the market and the legislation was meant to ensure the banks' participation in low-cost housing.

Nkumalo-Nhlapo said the housing department would also push through the Residential Landlord Tenant Relationships and Rent Bill this year to regulate the relationship between landlords and tenants. The first draft of the bill would be submitted to the cabinet for approval next month.



Gauteng finance and economic affairs MEC Jabu Moleketi, right, presented his provincial budget to the province's legislature yesterday. This is the first budget to be presented under the leadership of premier Mathole Motshekga.

Pictures: TREVOR SAMSON

Ferdi Barnard received bonus for killing Webster

Stephané Bothma

PRETORIA — Former Civil Co-operation Bureau (CCB) "hit man" Ferdi Barnard was paid a R90 000 "production bonus" for gunning down Wits university lecturer David Webster and used the money as a deposit on a house on the West Rand, the high court was told yesterday.

Barnard's former wife, Maryna Language, said the alleged assassin moved into his new house a few months after Webster was shot on May 1 1989.

Language, a secret state witness in the trial of Barnard, told the court she had been misled by Transvaal attorney-general Jan D'Oliviera's special investigating team into testifying against her former husband

She said that she had been promised a new identity and resettlement in Mauritius, and had been sexually abused while in the witness protection programme.

Barnard earlier pleaded not guilty to 34 charges, including the murder of Webster, the attempted murder of Justice Minister Dullah Omar and several counts of fraud.

0018/3/98 (252)
Language told Judge Johan Els that after her divorce from Barnard in 1983 they had remained very close friends

Barnard had showed her a "death list" containing the names of Webster, Swapo activist Anton Lubowski, SA Communist Party leader Chris Hani, Archbishop Desmond Tutu and Winnie Mandela.

Language said Barnard never made a secret of having shot Webster. He had shown her a building society home bond document to show that he had used his R90 000 "production bonus" as a deposit on a house.

Hijackings magistrate faces Pretoria probe

Formal complaint to be lodged

ARC 18/3/98
(252)

LINDSAY BARNES
STAFF REPORTER

The chief magistrate of Mitchell's Plain is to lodge a formal complaint against magistrate Ben Julius for releasing two men accused of four murders and three car hijackings.

Chief magistrate Peter Festus is to collect documents, including the charge sheet on which Mr Julius noted his controversial decision, which he will add to a written response Mr Julius has made to formal questions about their release.

The charges against Marshall Andrews and Rashaad Petersen were struck from the roll by Mr Julius at Mr Petersen's bail application last week, because, after two previous postponements, the prosecution team was not ready to proceed.

The men were released, but on Friday they returned voluntarily to court, where they were re-arrested on charges of murder, robbery and possession of an unlicensed firearm.

The charges arise from the hijacking and killing of Maggie and Mike Knott of Somerset West, Marilese Holmes of Johannesburg and her companion, American Edward Keim. They are also accused of hijacking Stellenbosch pastor Dries Manders and his son, Andries.

Mr Festus will send the documents on Mr Julius's decision to the Magistrate's Commission in Pretoria. Commission secretary Danie Schoeman said Mr Julius would be charged if the investigation found *prima facie* evidence of misconduct.

Mr Schoeman said he was expecting a report on Mr Julius soon, and would give it immediate attention.

Meanwhile, Mr Julius is standing by his decision and says he is considering legal action for defamation against "anybody who has tried to create the impression I am incompetent" after media reports at the weekend. He had questioned his colleague, Mr Festus, who was quoted on the matter in a Sunday publication.

Mr Julius said the media had unfairly called his competence into question, and added "Nobody has proved that I made a wrong decision. It was not the incorrect procedure.

"Even if there was a mistake, which I doubt, nothing can be done about it. I executed my power, which I am entitled to do," he said.

He had received death threats, he said, after releasing the men, who are to appear in court on Monday to apply for bail. They are being held at Pollsmoor Prison.

Protest mob storms Hani TRC hearing

(252) ARG 18/3/98
ARGUS CORRESPONDENT

Johannesburg - Striking transport sector employees stormed the amnesty hearing of the killers of Communist Party leader Chris Hani.

Mr Hani's widow, Limpho, yesterday had to leave the room to calm chanting strikers attracted to the hearing by the Truth and Reconciliation Commission posters outside the Johannesburg City Hall.

The TRC amnesty committee has been hearing evidence this week in the bid by Mr Hani's killers, Janusz Walus and Clive Derby-Lewis, to be granted amnesty.

Mr Hani was shot by Polish immigrant Walus outside his Boksburg home in April 1993. Walus and Derby-Lewis were both sentenced to life in prison.

Rightwinger Johannes Visser was testifying in camera when the strikers stormed the entrance to the hall, singing pro-Hani slogans and toy-totyping.

The Hani family legal representative Advocate George Bizos has been trying for some time to get Mr Visser before the amnesty committee in a bid to prove that there was a wider conspiracy behind Mr Hani's killing, in spite of Walus and Derby-Lewis denying this.

Their application for amnesty will be unsuccessful if Mr Bizos proves a wider conspiracy that Walus and Derby-Lewis did not disclose.

Mr Visser has applied for amnesty for stealing about R12-million. He claims this was politically motivated because some of it was used for the legal fees of rightwing offenders.

Closing argument will be heard today.

Winnie, Tutu on CCB hitlist, Barnard's ex-wife tells court

Pretoria - Ferdi Barnard's ex-wife, Maryna Language, told the Pretoria High Court that the Civil Co-operation Bureau supplied him with a hitlist which included African National Congress Women's League president Winnie Madikizela-Mandela and Truth and Reconciliation Commission chairman Desmond Tutu.

Other people on the list were anti-apartheid activist David Webster, Swapo activist Anton Lubowski and SA Communist Party leader Chris Hanu, she said.

The hitlist lay around in their house and, shortly before Dr Webster's murder in May 1989, Barnard told her he was a hitman for the CCB. She said Barnard told her he would be paid to murder Dr Webster because the Wits University academic had a high profile in the ANC.

"I didn't believe him. I thought he lived in a dream world, but after Webster was killed I

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had to believe him," she said. Barnard is facing charges including fraud and murder.

Ms Language divorced Barnard in 1993, but kept close contact with him until two years ago, on occasion even helping him with his cocaine addiction.

She said that on the night after Dr Webster was murdered Barnard told her in detail about the incident.

"He said Webster was busy unloading plants from a bakkie and was standing in the street. He saw that this was the ideal opportunity to do the job then and there. He shot Webster with a shotgun and said Webster's wife screamed like a stuck pig."

Ms Language said Barnard seemed to be a pawn in the hands of people like former Brixton murder and robbery unit chief Charlie Landman, and that he alone was now held up as the big criminal, while the others could walk away from everything. - Sapa

TRC finds 12 bodies on farm

ARG 18/3/98 (252)
Rustenburg - The Truth and Reconciliation Commission exhumed 12 bodies on a farm near Rustenburg in North-West while searching for the remains of three African National Congress cadres killed by police.

TRC spokesman Mdu Lembede said commission investigators made the unexpected discoveries yesterday while searching for the bodies of Watson Majova, Aaron Makwe and Karabo Madiba, three Umkhonto we Sizwe members killed by police in Tlhabane near Rustenburg in 1985.

Employees of an undertakers' company contracted to carry out paupers' burials led investigators to the area where the three men were believed to have been buried.

The investigators found four bodies in each of the three graves they excavated.

Mr Lembede said the TRC believed there could be a mass grave containing many more bodies on the farm. - Sapa

'Winnie was on hit list'

ET 18/3/98

NORMAN CHANDLER (252)

PRETORIA Mrs Winnie Madikizela-Mandela and Archbishop Desmond Tutu were, along with murdered activists Dr David Webster and Anton Lubowski, on a Civil Co-Operation Bureau (CCB) hit list, the Pretoria High Court was told yesterday

Mrs Maryna Language, the former wife of Ferd Barnard — who is charged with Webster's murder — said Barnard could deny it if he wanted, "but the lists I saw were murder lists, and Barnard told me he was the CCB hitman. He received a R90 000 production bonus for the Webster killing"

She also told Mr Justice Johan Els that the CCB had still been in existence up until three years ago. It was disclosed during the Harms Commission hearings eight years ago that the CCB, a unit of the army's Special Forces Regiment, had been disbanded as a result of its activities against alleged enemies of the state being exposed in newspaper reports

Barnard is facing three charges of murder, two of attempted murder, and numerous counts of fraud, defeating the ends of justice, assault and being in possession of arms, ammunition and explosives

Language, one of several women in Barnard's life who have given evidence against him during the trial, told the court of how she had come across a murder list which contained the names of Mandela, Tutu, Webster and Lubowski

"He told me it was a CCB list. I knew he was working for the CCB from the start. He did not tell me everything about what he

was doing, but as much as he could," she said under cross-examination by Barnard's lawyer, Mr Fanie Coetzee

"Some of what he told me went in one ear and out the other (but) I was not shocked when I heard of the Webster killing. He told me that there were three people in the car in which he was travelling, and that Webster was in the street

unloading plants when he (Barnard) did the job"

Language, who described herself as "the rock on which Barnard leaned" after he came out of prison following an assault charge, also told the court that he used cocaine and crack. She said he often snuffed cocaine up to four or five times a day. "He was so under the influence of cocaine that at times he did not know what he was doing. He was totally out of it"

The trial continues



HRC push to ban private prejudice (252)

ANDRE KOOPMAN

at 18/3/98

IT is illegal for the government to discriminate against anyone on the basis of race or religion in terms of the Bill of Rights — but there is no definitive legislation which prevents individual South Africans from discriminating against each other

In terms of the Constitution, if legislation is not enacted by February 2000 to give effect to the right not to be unfairly discriminated against on the grounds of race, gender, religion or sexual orientation, the provision falls away. The Human Rights Commission is now pushing for such legislation.

Professor Karthy Govender, a part-time member of the commission, said yesterday that many of the provisions in the Constitution against discrimination were "shell provisions" that needed to be fleshed out in legislation to entrench human rights.

Ms Shirley Mabusela, deputy chairperson of the commission, said yesterday that a drafting unit had been established to draw up legislation to make all forms of discrimination illegal.

Winnie and Tutu on hit list, court told

Former wife of Ferdi Barnard says he received a R90 000 'production' bonus for killing David Webster

By NORMAN CHANDLER
Pretoria Bureau

Winnie Madikizela-Mandela and Archbishop Desmond Tutu were, along with murdered activists Dr David Webster and Anton Lubowski, on a Civil Co-operation Bureau (CCB) hitlist, the Pretoria High Court was told yesterday.

Maryna Language, the former wife of Ferdi Barnard, who is charged with Webster's murder, said Barnard could deny it if he wanted, "but the lists I saw were murder lists, and Barnard told me he was the CCB hitman. He received a R90 000 production bonus for the Webster killing".

She also told Mr Justice Johan Els that the CCB had still been in existence up until three years ago. It was disclosed during the Harms Commission hearings eight years ago that the CCB, a unit of the South African Army's Special Forces Regiment, had been disbanded.

Barnard is facing three charges of murder, two of attempted murder, and numerous counts of fraud, defeating the ends of justice, assault, and being in possession of arms, ammunition and explosives.

Language, one of several women in Barnard's life who have given evidence against him during the trial, told the court how she had come across a murder list that contained the



Ex-wife... Maryna Language

names of Madikizela-Mandela, Tutu, Webster and Lubowski.

"He told me it was a CCB list. Some of what he told me went in one ear and out the other (but) I was not shocked

when I heard of the Webster killing. I was told about it before I had read of it in the newspapers. The accused never kept a secret from me," she said.

Language also told the court Barnard used cocaine and crack. She said he sniffed cocaine up to four or five times a day. "He was so under the influence of cocaine that at times he did not know what he was doing."

He also allegedly exchanged CCB guns in his possession to obtain drugs, the court was told.

Barnard's lawyer, Fanie Coetzee, put it to her that Barnard denied ever having had lists of activists or enemies of the state and that the names of people she knew about "were

merely part of his work for the state." She replied "For me, it was a murder list."

He also said that anything Barnard and Language had talked about regarding Webster could merely be coupled to what was happening in South Africa at the time (in 1989) and that they had in any event only spoken about it years later.

"I do not agree," she replied. "Webster had been murdered and after the killing he had told the world and his wife he had killed him. He had told me.

"He is lying if he says he did not receive a R90 000 production bonus, for how else could he have found the deposit for our new house?"
The trial continues.

(252) Swan 18/2/98

Webster's name was (252) Souetan 18/3/98 'on Barnard's hitlist'

FERDI Barnard's former wife, Maryna Language, told the Pretoria High Court yesterday that the Civil Co-operation Bureau (CCB) had supplied him with a hitlist which included ANC Women's League president Mrs Winnie Madikizela-Mandela and Truth and Reconciliation Commission chairman Archbishop Desmond Tutu.

Other people on the list were anti-apartheid activist Dr David Webster, Swapo activist Mr Anton Lubowski and SA Communist Party leader Chris Ham, Language said.

She said the list used to lie around in their house and shortly

Witness tells court Ferdi used blood money to buy new house

before Webster's murder in May 1989, Barnard had told her he was a hitman for the CCB.

She said Barnard told her he would be paid to take out Webster because the University of the Witwatersrand academic had a high profile in the African National Congress.

"I didn't believe him. I thought he lived in a dream world. But after Webster was killed I had to believe him," she said.

Barnard is facing charges that

include fraud and murder.

Language divorced Barnard in 1993 but kept close contact with him until two years ago.

She said that the night after Webster was murdered Barnard told her in detail about the incident.

Barnard told her he was in the car with Eugene Riley and Calla Botha.

"He said Webster was busy unloading plants from a bakkie and was standing in the street. He saw that this was the ideal oppor-

tunity to do the job. He shot Webster with a shotgun and said Webster's wife screamed like a stuck pig.

"The accused (Barnard) said he wore a blonde wig. He had a short, blonde wig that he used to keep in a cupboard.

"An identikit compiled by an eyewitness to the shooting looks similar to Ferdi wearing the wig.

"He said after Webster's death he received a R90 000 production bonus.

"He used the money as a deposit for a new house, to which he moved a few months after Webster's death," Language said.

The trial continues - Sapa.

Hani's killers defended with 'stolen money'

Source: 18/3/98

(252)

TRC hears evidence about R369 082
originally intended for a 'right-wing war'

By Sharon Chetty

STOLEN money could have been used in the criminal defence of Chris Hani's killers, the Truth and Reconciliation Commission amnesty hearing of Clive Derby-Lewis and Janusz Walus has heard

Edwin Clark, a close friend of the Derby-Lewis, was questioned yesterday about a stolen R369 082,56 cheque which, according to another witness, was to have been used to sponsor a right-wing war, but was instead diverted into an account for the Hani assassination.

Details of the stolen money was given to the amnesty committee by Johannes Visser, a former security branch policeman who, in another application, has asked for amnesty in relation to fraud and theft of millions of rands

During yesterday's hearing Visser testified in camera as he had received death threats warning him that he would be "dealt with in the same way as Chris Hani" if he went public with certain information

Walus and Derby-Lewis want reprieve from their life sentences and claim that the April 10 1993 assassination was politically motivated

The legal representatives of the Hani family and the SA Communist Party have, how-

ever, been trying to prove that Derby-Lewis and Walus have not been truthful and have not revealed full details of a broader conspiracy involving several people

Clark, who had been asked by Visser to "cover up for him", said that he had been told by Visser that he was guilty of various charges which were politically related and had applied for amnesty from the TRC

He was questioned about being involved - together with Visser and a Mr Roodt - in stealing money and gathering arms and two-way radios for a (right-wing) war, which he denied

While Clark emphatically denied the claims made by Visser he did, however, agree that he had told Visser, after Hani's death, that the hard disks on his computer had contained incriminating information which the police had not managed to get

Although he admitted to being a close friend of the Derby-Lewis and only appeared at the TRC at their request - he had previously not responded to a subpoena - Clark claimed not to have known of the Hani murder plot and was unable to give details of discussions held informally and sometimes around a braai at the Derby-Lewis about how to save the country from a "Communist takeover"

TRC digs up 12 bodies

THE Truth and Reconciliation Commission yesterday exhumed 12 bodies on a farm near Rustenburg in North West while searching for the remains of three African National Congress cadres killed by police

TRC spokesman Mr Mdu Lembede said commission investigators made the unexpected discoveries while searching for the bodies of Watson Majova, Aaron Makwe and Karabo Madiba, three Umkhonto we Sizwe cadres who were killed by police in Tlhabane, near Rustenburg, in 1985

Employees of an undertakers' company contracted to carry out paupers' burials led

investigators to the area where the three men were believed to have been buried

The investigators found four bodies in each of the three graves they excavated yesterday.

Lembede said the TRC believed there could be a mass grave containing many more bodies on the farm. He said the matter was being investigated. Majova was killed when his home in Tlhabane was destroyed by a police Hippo vehicle. His two comrades were shot in the same incident.

"Our information is that the three men were secretly buried on the farm by police," Lembede said - Sapa

UK peers take a long, hard look at SA's truth experiment

BUSINESS DAY, Thursday, March 19 1998 15

The lords and ladies of the house devoted a day to weighty discussion about SA's truth commission. London correspondent **Tim Cohen** was there

THE House of Lords, with its bizarre traditions, its peculiar role in the parliamentary process and the hereditary selection of many of its constituents, is an institution apparently tailor-made for British eccentrics.

How the lord chancellor manages to look dignified sitting on a sack of wool, a tradition dating from medieval period when wool was the chief source of the country's wealth, is hard to imagine. The House of Lords constitutes a kind of government of the exceptional, by people selected by accident of birth and imperial whim, and for anyone who happens to be interested at the time.

Yet the Lords has forged a place in the parliamentary process simply by virtue of the weight of its words, a remarkable achievement in itself. A debate last week on SA's truth commission was no exception.

The question put by Baroness Nicholson of Winterbourne was whether the truth commission was applicable to other international disputes. The contributions to the debate were permeated

with admiration and awe at the process and the people involved, but the lords did not shrink from spelling out the commission's shortcomings. Neither was there unanimity about the international applicability of the commission.

Nicholson said although there had been about 19 truth commissions in 16 countries over the past 20 years, the SA model had unique features. The key point was that the commission was essentially democratic and the process had been open and transparent, 20 000 submissions on human rights violations had been made to the 40 commission officers across the country. "The evidence has created a rich tapestry of oral history from ordinary people."

The Lord Bishop of Southwell described the commission as "one of the most important and imaginative social experiments in forgiveness at almost any time in history".

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"We have a duty to learn from its successes, its limitations and its applicability. Most of all, we must recall that it is a home grown experiment with truth, created in a particular setting and climate. And in providing a model for us, we are not absolved of the responsibility of discerning what we must do in loving and forgiving."

Lord Hughes of Woodside pointed out that it was important to remember that the ethos of reconciliation and forgiveness existed at the time the commission was conceived and had pervaded its work. This made it difficult to translate into other post-conflict situations. A truth commission could not be imposed from outside and had to be driven from within. The call for truth and reconciliation had to come primarily from those who were the victims. "Unfortunately, as I look around the world, I do not see

people calling for a truth and reconciliation commission. I hear people calling for a war crimes tribunal. I can understand why people feel like that."

The Duke of Montrose was more positive about the possibilities, saying the truth commission provided "some useful ideas". It provided an element of reconciling conductor to defuse bitterness and hatred.

However, he agreed that "the forgiveness factor" was a crucial condition. The participants had to be prepared to admit where they themselves had been wrong. Lord Sempill emphasised the role of Christianity and the high level of religious tolerance. "I maintain that the deeply engrained Christian values of much of SA society made it easier for it to understand and to get on with the role of forgiveness."

Baroness Williams of Crosby picked up on this point, saying the truth commission underlined the spiritual dimension to politics. "An understanding capacity for mercy, forgiveness and imagination may bring peace to our troubled world, from Bosnia to Northern Ireland, to Somalia and the outer edges of the earth in a way that sometimes the technologists, economists and scientists fail to imagine," she said.

Lord Moynihan addressed the critics of the commission, who he said had been vociferous and strong, consisting of an "ironic alliance of those who have most to lose and those who have lost most, those who complain of a biased 'victim's justice' and those who complain of no justice at all."

There were still lingering suspicions that the truth commission remained the creature of the African National Congress and was biased accordingly. The Win-

nie Mandela case, the "regrettable" decision to grant blanket amnesty to 37 ANC leaders and the case of Inkatha leader Mangosuthu Buthelezi would all test the commission's credibility.

The commission was wide open to the criticism that the foot soldiers had emerged while their superiors, who devised the policies they implemented, had kept quiet, still unwilling to accept accountability for the past.

But he said SA's experience, although not without controversy or flaws, might just prove to be an example other countries, from Rwanda to the former Yugoslavia, could use, suitably tailored and adapted, in the process of trying to unite a divided people, reconcile a dysfunctional society and rebuild a shattered nation.

Parliamentary under-secretary of state Baroness Symons of Vernham Dean summed up the day's debate saying the lessons of SA's experiences with the truth commission may well have a "resonance and a relevance" to many other peoples and many other countries around the world.

Hani's killers should not get amnesty, Bizos argues

Pule Molebeledi

DD 19/3/98

THE killers of SA Communist Party leader Chris Hani should be refused amnesty because they were not acting on behalf of the Conservative Party (CP), which did not have a policy of violence, the truth commission's amnesty committee was told yesterday.

Council for the Hani family, George Bizos, argued in his submission at the Johannesburg City Hall that Hani's killers, Polish immigrant Janusz Waluz and Clive Derby-Lewis, did not have express or implied authority to carry out the act from anyone.

Bizos said the CP had not adopted violence, and particularly murder, as one of its means to wage an ideological struggle against the African National Congress or any other body.

Convicted murderers Waluz and Derby-Lewis are applying for amnesty for their involvement in the killing of Hani at his Boksburg home in 1993.

Bizos appealed to the commis-

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sion to be cautious when examining the evidence of a "clique, a small cabal of fanatics," who had admitted that they had lied before. "They may be fanatics or unreasonable, but none of this entitled them to say they believed they had express or implied authority . . . there was nothing happening in the country for them to react by killing a leader," he said.

He said the applicants had not made full disclosure on when the conspiracy to kill Hani was first proposed, on the identity of the members and intended victims of the conspiracy, and on who had procured the murder weapon.

Hans Prinsloo, Derby-Lewis's lawyer, said his client should be granted amnesty because he believed he was supporting the CP's cause. At the time of the assassination, there was talk of war.

Waluz's lawyer, Louisa van der Walt, said her client was convinced the country was at war. He qualified for amnesty, as he had made full disclosure about his part in the murder.

Ex-CCB agent believes Barnard shot Webster

Stephané Bothma

PRETORIA — A former Civil Co-operation Bureau (CCB) production manager who functioned as Ferdi Barnard's controller in 1989, told the High Court yesterday that he now believed the covert organisation could have been involved in the assassination of Wits university lecturer David Webster

Lafras Lutingh, a former SA Defence Force special forces member and CCB agent testified that when Barnard confessed to

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the May 1 1989 murder of Webster, he was certain the CCB was not involved "But as I stand here today, I believe that he had pulled the trigger," Lutingh testified in Barnard's murder and fraud trial

Lutingh said after the confession he wanted to distance himself from Barnard because he believed at the time the CCB was not involved and Barnard could incriminate the organisation

In December of that year, during an internal investigation into the Webster

BD 19/3/98
killing, Lutingh told defence force Gen Witkop Badenhorst and security police chief Gen Krappies Engelbrecht about Barnard's confession

"Badenhorst called me to one side and in an intimidating manner informed me that the Webster matter had been finalised and I should not talk about it anymore

Lutingh later made a false statement about the Webster murder to the Huns commission of inquiry

The trial continues today

NP in new court bid on ANC (252) amnesty

ARL 19/3/98

JOHN YELD
ON THE TRUTH COMMISSION

The National Party has launched a second urgent High Court application after the African National Congress refused to accept papers served in connection with the challenge on amnesty granted to 37 ANC members.

The NP's first application, due to be heard on April 10 unless it is opposed, is for the court to set aside the amnesty granted by the Truth Commission to the 37 ANC members, including Deputy President Thabo Mbeki and several Cabinet ministers.

The TRC is also taking the issue to the High Court, but is asking for a declaratory order, a lesser legal step, to the effect that the amnesties are invalid and the amnesty committee must re-hear the applications.

NP leader Marthinus van Schalkwyk said the party had been forced to make the second application after the ANC's lawyers in Pretoria declined to accept papers for the first application, claiming they had "no mandate" from the ANC.

Mr Van Schalkwyk said the NP would ask the court for an order compelling the lawyers to accept the papers and also for the papers to be faxed to those of the 37 who were not in the country.

He said the refusal of the lawyers to accept the NP's papers confirmed the party's view that the ANC wanted to keep the NP's application out of court as long as possible so the TRC's application would be heard first.

The NP had been served with the Truth Commission's papers for its application.

"These court papers confirm our impression that this was brought in a hasty fashion.

"We also get the impression - and it will be very interesting to see if this is correct - of 'behind doors' co-operation between the ANC and the TRC on this matter."

Hani's killers still want to foment violence, TRC told

Bizos argues against amnesty for killing

ARGUS CORRESPONDENT

Johannesburg - The killers of Communist Party leader Chris Hani remained committed to creating chaos and overthrowing the Government and should therefore not be granted amnesty, the Truth Commission heard yesterday.

Opposing argument by Janusz Walus and Clave Derby-Lewis's legal representatives at the Johannesburg City Hall, Hani family lawyer George Bizos said the two had not been entirely truthful with the TRC's amnesty committee.

They had also not met other requirements for the granting of amnesty, Mr Bizos said.

Walus, a Polish immigrant, and former Conservative Party member Derby-Lewis, are serving life terms for the murder of Hani outside his home in Boksburg on April 10, 1993.

They have applied for amnesty for the murder, citing political motivation.

Before Mr Bizos spoke, Derby-Lewis' lawyer Harry Prinsloo told the committee his client was no longer involved in politics and had no intention of getting involved in violent activities, should he be released.

But Mr Bizos said "To this day the two don't accept that we have had elections and a democratic take-over has taken place. They still talk about a communist takeover. They may be fanatics but it does not entitle them to amnesty, their actions certainly do not warrant that."

"Their statements (in court hearings) that the struggle continues, showed they have not given up hope of a coup d'etat and will work towards that goal."

Mr Bizos said the applicants, along with Derby-Lewis' wife Gaye, had not made a full disclosure, a requisite for amnesty.

He said Derby Lewis and Walus had attempted to hide, despite facts to the contrary, that they were acting in a wider conspiracy to kill Hani.

This was corroborated by another witness Edwin Clark's testimony before the same committee on Tuesday, Mr Bizos said.

In addition, the two men and Gaye Derby-Lewis had lied about the list containing "enemies of SA" and from which Hani was identified as the prime target.

Mr Bizos said some statements made about the list by Mrs Derby-Lewis indicated there was a co-conspirator, despite denials by Walus and her husband.

The amnesty applicants' lawyers had ear-

ARG 19/3/98

her told the TRC that granting the two killers amnesty "would promote reconciliation in the country".

Mr Prinsloo said Derby-Lewis and Walus' action in killing Hani was carried out in circumstances that should be seen as an "undeclared war".

Conservative Party leaders had said that the "Afrikaner should fight against an ANC-Communist Party take-over that was clearly imminent at the time".

For that reason their action should be seen as political, even though the CP was not officially advocating violence, he said.

Mr Prinsloo said Derby-Lewis and Walus believed the obvious way to stop the communist takeover was to "take out" key leaders of the SACP.

Hani was identified as a target because of his "brutal record in the struggle" and as a possible successor to Nelson Mandela as leader of the ANC.

Walus' representative, Louisa van der Walt, said her client was convinced at the time that the country was in a state of war.

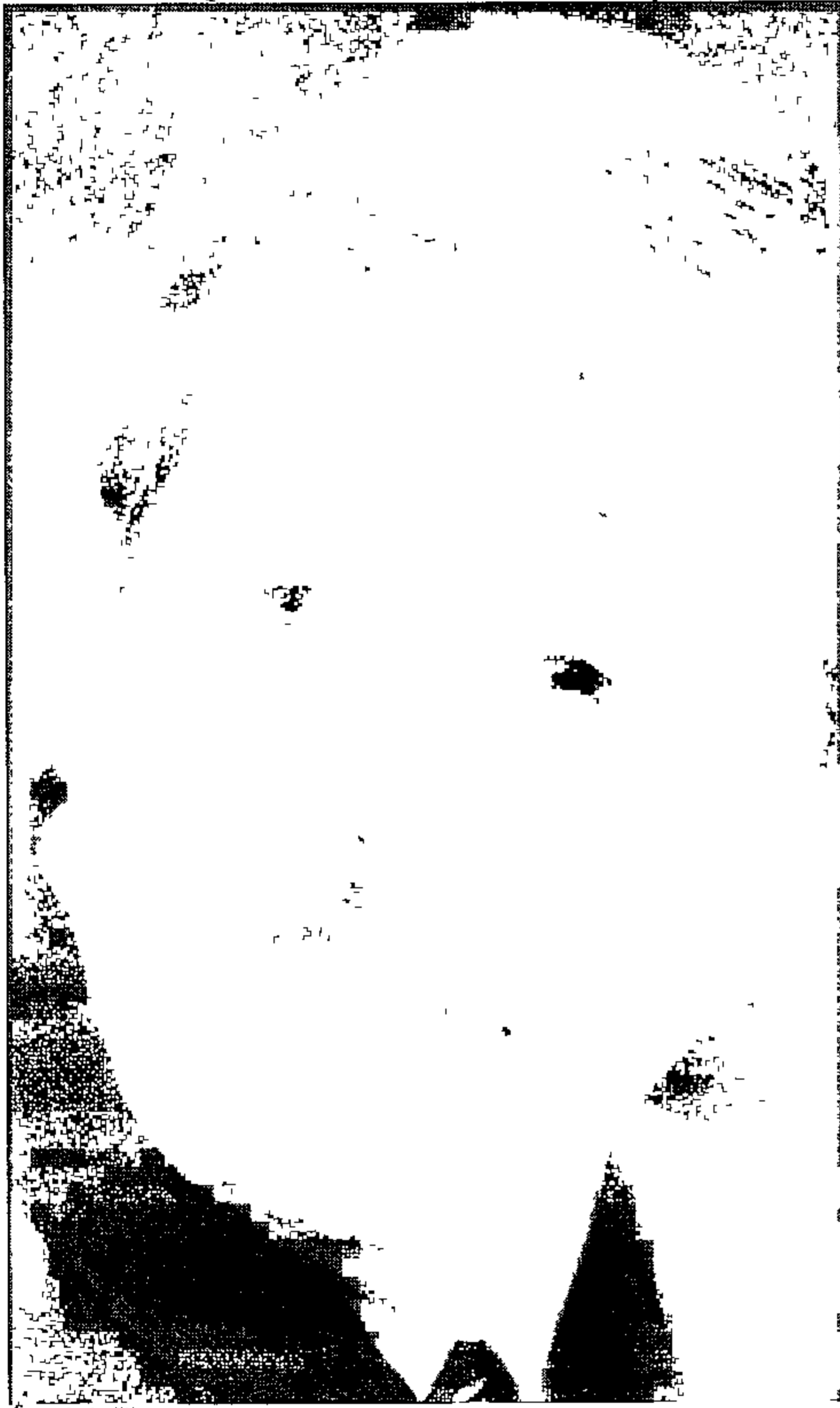
She said Walus had believed that Derby-Lewis, as a senior CP member, was acting in terms of party policy.

The hearings continue today with Mr Bizos resuming his closing argument.

hearings draw to a close

(257)

CT 19/3/98



'FEARED COMMUNIST TAKE-OVER': Clive Derby-Lewis

Amnesty 'would aid reconciliation'

JOHANNESBURG Granting amnesty to Clive Derby-Lewis for his part in the murder of Chris Hani would promote reconciliation in South Africa, the Truth and Reconciliation Commission was told yesterday

Derby-Lewis has applied for amnesty along with Polish immigrant Janusz Walus for the murder of the former leader of the SA Communist Party, in Boksburg on April 10, 1993

Derby-Lewis' lawyer, Mr Harry Prinsloo, told the TRC's amnesty committee here that his client was no longer involved in politics and had no intention of getting involved in violence

"Granting amnesty to Derby-Lewis will promote reconciliation in this country," Prinsloo said

He said granting amnesty would also help to improve the perception that white males were being neglected in the country

Prinsloo argued that the Conservative Party was involved in an "undeclared war" at the time Hani was killed

He said CP leaders had not publicly supported violence at the time because if they had they would have been arrested.

But they believed that all means should be used to prevent a takeover of the country by the SA Communist Party, which they said, controlled the African National Congress

Prinsloo said the most obvious way to stop a movement such as the SACP was to "take out" one of its key leaders

"One has to look at the success achieved by the ANC in using violence to force the National Party government to succumb to realise what this strategy can achieve," Prinsloo said, adding that ANC

leaders had never publicly advocated assassination but there was no doubt that it occurred at the time

Walus' representative, Ms Louisa van der Walt, said her client was convinced at the time that the country was in a state of war

He was led to believe that Hani had contingency plans to bring 10 000 troops into the country to enforce a communist unitary state if the ANC failed at the ballot box

She said Derby-Lewis and Walus had decided on Hani as a target because of his position in the SACP and because he was a possible successor to President Nelson Mandela as leader of the ANC

She said Walus had also believed that Derby-Lewis, as a senior member of the CP, was acting in terms of the party's policy

Mr George Bizos SC, who is appearing for the Hani family, gave his argument later yesterday on why amnesty should be denied to Walus and Derby-Lewis — Sapa



VICTIM: SACP leader Chris Hani

to give information

questions and issues to be discussed with the UDF delegation. They relate to the background of events during the conflict of the 1980s

"Issues to be dealt with include the UDF's relationship with the African National Con-

gress leadership in exile, necklacing, and the possible effect of consumer boycotts in causing some human rights violations," Ntsebeza said

The TRC will soon announce the date and venue of the hearing — Sapa

Crunch time for killers as Assassins 'were beyond the pale'

JOHANNESBURG · Clive Derby-Lewis and Janusz Walus were part of group of fanatics who acted without the support of any political party when they killed SA Communist Party leader Chris Hani, the Truth Commission's amnesty committee heard yesterday

Mr George Bizos, SC, who is appearing for the Hani family and

is opposing the granting of amnesty, said during argument in the final stages of the hearing in Johannesburg that Walus and Derby-Lewis were part of "a clique or cabal of fanatics"

Derby-Lewis and Walus have applied for amnesty for killing Hani, who was SACP

general-secretary, outside his home in Boksburg on April 10, 1993. They are both serving life sentences for the murder

Bizos said the core group of fanatics to this day still spoke of a communist takeover of the country and saw democracy as having another meaning than the accepted definition

He said they would not accept that more than 60% of the population had voted the present government into power

Bizos said Derby-Lewis and Walus had tried to set themselves up as saviours of the country, acting in support of a religion by trying to portray Hani as an anti-Christ

"But even though these fanatics

were unreasonable and beyond the pale, there was nothing happening in the country at the time that entitled them to react by killing a top leader," Bizos said

He said the assassination of political leaders had never formed part of the South African political scene. When Harry Prinsloo, appearing for Derby-Lewis, pointed

out that former prime minister Hendrik Verwoerd had been assassinated, Bizos replied that as far as he knew that was not a case where members of one political party had killed the leader of another

Referring to testimony of Conservative Party leader Dr Ferdi Hartzen-

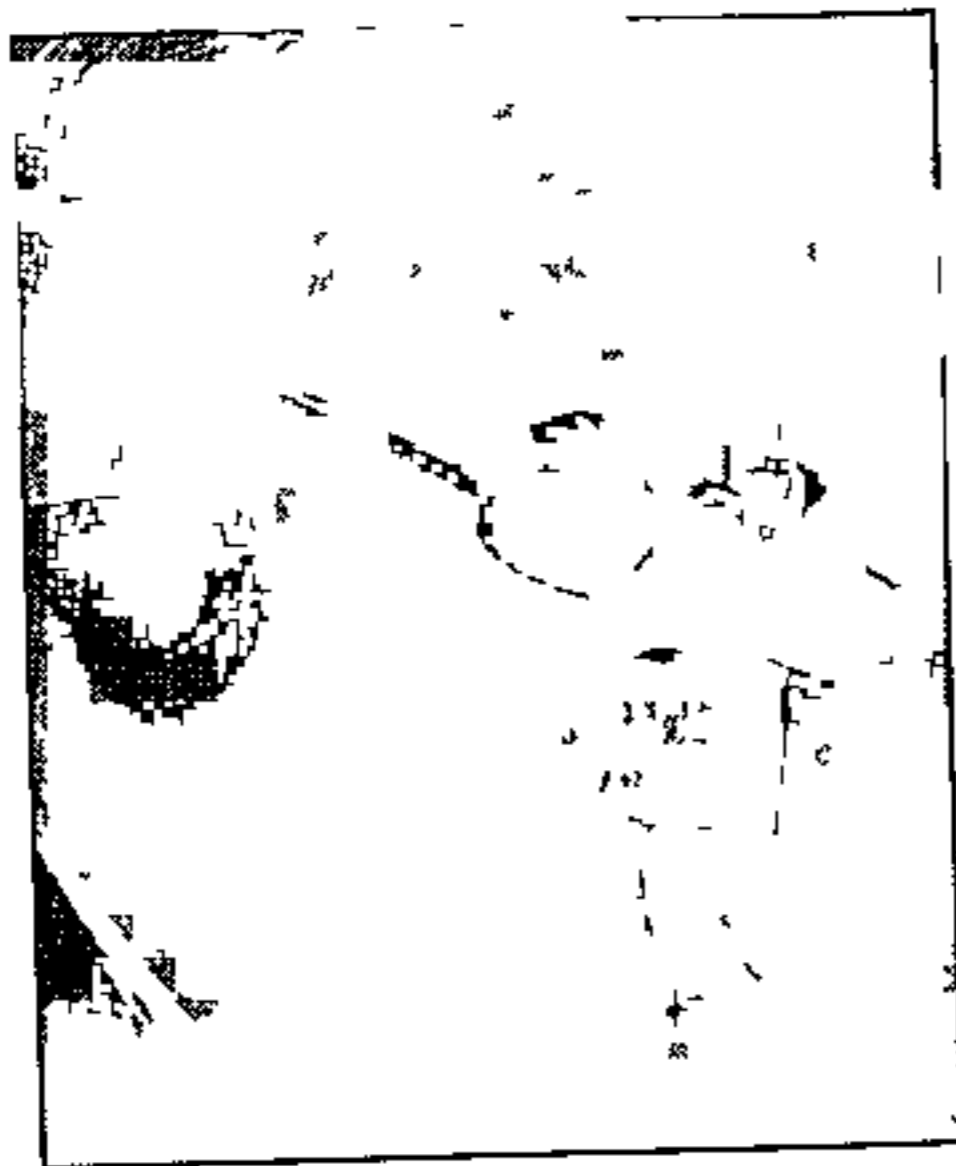
berg, Bizos described it as a pathetic attempt to excuse the actions of Derby-Lewis, who was once a CP MP

"It was a discredited politician trying to help his former partner in a discredited political party," Bizos said

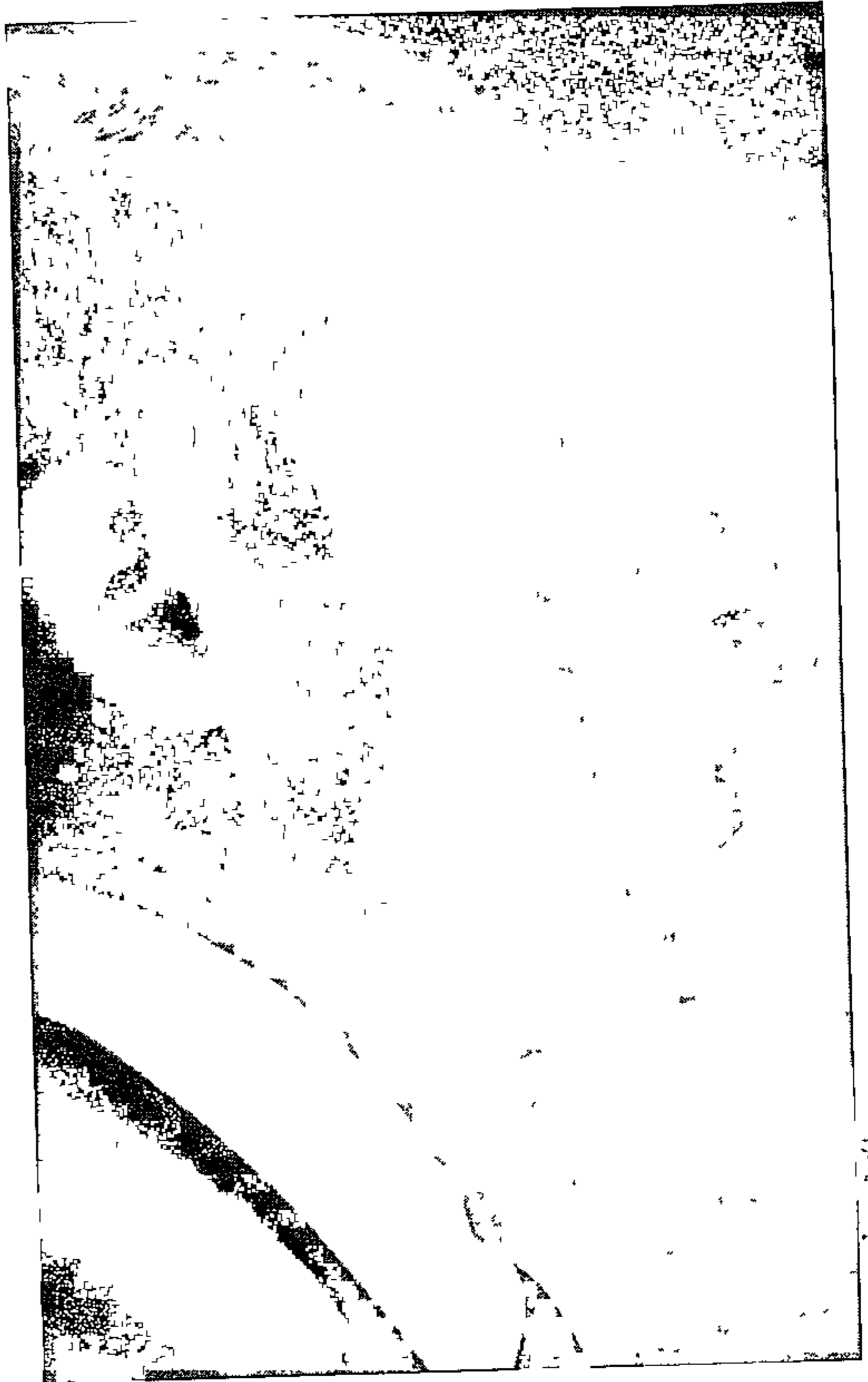
He pointed out to the committee that at the time Hani was shot, the Conservative Party was taking part in the Codesa talks

"How could they (Derby-Lewis and Walus) think they could make things better by killing one of the leaders taking part in the negotiations and working to bring about democratic settlement change?" Bizos asked

Bizos will continue his argument today — Sapa



OPPOSED: George Bizos



'STATE OF WAR': Janusz Walus

Former UDF leaders

JOHANNESBURG Former leaders of the United Democratic Front have agreed to meet the Truth and Reconciliation Commission at a public hearing early next month, the TRC reported yesterday

The purpose was to provide information the commission need-

ed for its final report, said TRC spokesman Mr Dumisa Ntsebeza

"This follows a meeting in Cape Town last week between myself, commissioner Mary Burton and staff, with Popo Molefe, a former UDF leader," he said

"The commission sent a list of

Charting roads not yet travelled

JACOB SELEBI, South Africa's ambassador to the United Nations, was this week unanimously elected to chair the UN Human Rights Commission. We record Selebi's opening address to the 54th session of the commission in Geneva.

IT IS a great privilege and honour for my country, and me personally, to have been elected chairman of the 54th session of the Commission on Human Rights. I should like to thank the African Group for nominating me and the members of the commission for the support and confidence expressed in electing me chairman.

Ambassador Somol, my immediate predecessor, deserves our special thanks for his enthusiasm and indefatigable spirit, not only during the past session but also over the intervening period.

By electing a South African to this most important of international human rights bodies, the commission is sending a very important and symbolic message. No country or situation before or since has captured the attention of the commission in the way that apartheid South Africa did.

Over several decades, the commission adopted scores of resolutions condemning apartheid. It created several mechanisms to investigate the massive and systematic violations perpetrated in South Africa under the pernicious system of racial discrimination and the flagrant abuses of basic human rights and fundamental freedoms.

In 1995, the commission was finally able to remove the question of apartheid from its agenda, in recognition of the developments that had taken place in South Africa during the previous year.

Today, it is a very different South Africa that is able to participate in the UN. We are a country and people that cherish our hard-won liberties and we are rightly proud of our new constitution, our national institutions, designed to strengthen, promote and protect human rights, and of our vibrant civil society.

In saying these things, I am not trying to suggest that we have a perfect human rights record. We do not. The stresses and strains placed upon our society by



Jacob Selebi, photographed during his activist years

'Electing a South African to head this important international human rights commission sends out a vital and symbolic message.'

decades of humiliation and human rights abuses cannot be expunged overnight. Like other societies, we are coming to terms with our past and struggling to create our future.

This year our deliberations coincide with the 50th year of the Universal Declaration of Human Rights. In the coming weeks we shall have many occasions to speak to the importance of this instrument. At this stage I should like to share with you my vision of how the commission should honour this event.

I can think of no better way for the commission to commemorate the adoption of the universal declaration than for us to express our support for those who devote themselves to defending the ideals

enshrined in this document. This brings me to the Declaration on Human Rights Defenders, which was adopted by the working group, by consensus, earlier this month. The importance of this instrument has been recorded over many previous sessions of the commission. I am very grateful to the excellent work done by the chairman of the working group, Professor Jan Helgesen and his two predecessors. The fruits of the working group underline the importance of dialogue and the need for co-operation, both between states and between states and NGOs.

In the 51 years of its existence, the commission has built an impressive history of achievements in the field of standard-setting and monitoring human rights. From the ashes of the Second World War, the commission has been able to articulate a set of shared values dealing with human rights and fundamental freedoms. While these noble standards and principles are aspirational, they have contributed to the fact that at no other time in history have so many people lived under democracy and freedom. This is no small achievement.

And yet, who amongst us can be content when untold horrors are being committed throughout the world: wars, conflict, ethnic strife, abuses and poverty rob men and women of their dignity and worth, whether they are a refugee fleeing conflict or an unemployed labourer whose children work when they should be at school, or a migrant who is arbitrarily detained, or a person who on account of his or her colour is marginalised, or a child who dies of malaria. There is much work still ahead of us.

The commission has played, and should continue to play, an important role in the promotion and protection of human rights. But to continue to do so, it must, at all times, be relevant and credible and it must take an integrated and co-operative approach. I am therefore proposing to you, members of the commission, that we bring our agenda into line with the world in which we live.

In the past few years, several attempts have been made towards reforming the agenda, including an important proposal two years ago by my predecessor, Gilberto Saboia of Brazil. I believe that we should use the occasion of this important year to consider how best to implement the proposals.

Secondly, important developments in the past few years suggest that the mechanisms of the commission are not working as they should. The Secretary-General himself recognised this when, in his far-ranging proposals of July 16, 1997 he requested the High Commissioner to undertake a review of the mechanisms. Some states are clearly not respecting the mechanisms of the commission but, at the same time, certain of the mechanisms are not earning respect.

We have an opportunity to do something about this. Not to make the mandates weaker, as some fear, or more meddling, as others want, but to make them more effective and enhance their relevance. What I propose is a review of all the mechanisms, from the sub-commission to the working groups to the special procedures, to be undertaken by two members of the bureau, working in concert with the High Commissioner, who would report to the 55th session. I suggest that these two vice-chairs would make recommendations or proposals to the next session based upon their consultations with states, the High Commissioner for Human Rights and NGOs.

My last plea to you is this: we, collectively, can make the commission a more relevant and effective body for the promotion and protection of human rights so that dignity can be enhanced and all freedoms fostered. I sincerely believe that we can best do so in a climate of seriousness and calm. I therefore appeal to all delegates, member states and observers not to use this forum to advance political agendas and engender confrontation, which belong elsewhere, but to promote a genuine spirit of co-operation toward the realisation of all human rights. In closing, I should like to set a challenge to all of us: when our work concludes in six weeks' time, we should be able to ask ourselves: "Did we make a difference? Has someone's life been improved because of what we did in the past six weeks in Geneva?"

That should be our yardstick.

● South Africa's Human Rights Day on Saturday, March 21, commemorates those who died during the 1960 Sharpeville massacre. International Human Rights Day, December 10, honours the Universal Declaration of Human Rights drawn up by the UN on December 10, 1948.

ET 19/3/98 (252)



Strikers storm Hani amnesty hearing

(157) (202)

BY MIKE MASIPA

Star 19/13/98

Striking transport workers stormed into the amnesty hearing of the killers of Communist Party leader Chris Hani yesterday, briefly disrupting proceedings.

Hani's widow Limpho had to leave the room to calm chanting workers, who were attracted to the hearing by Truth and Reconciliation Commission posters outside the Johannesburg City Hall.

The workers had been toyi-toying around the city centre when they decided to go into the venue.

The TRC amnesty committee has this week been hearing evidence in the bid by Hani's killers Janusz Walus and Clive Derby-Lewis to be granted amnesty for the murder Hani was shot dead by Polish immigrant Walus outside his Boksburg home in April 1993. Walus and Derby-Lewis are currently serving life sentences.

Limpho Hani left the room where the testimony of right-winger Johannes Visser was being held in camera when a group of striking transport workers stormed the entrance to the hall singing pro-Hani slogans and toyi-toying.

Security officers at the entrance had their hands full trying to control the demonstrators, who had unwittingly also cornered former Conservative Party member Lionel Durandt, who testified on Monday about his connections to the gun used to kill Hani.

The Hani family legal representative, advocate George Bizos, has been trying for some time to get Visser before the amnesty committee in a bid to prove there was a wider conspiracy behind Hani's killing, despite denials to the contrary by Walus and Derby-Lewis.

If Bizos' argument proves true, Walus' and Derby-Lewis' application will be unsuccessful for failing to make a full disclosure as required.

Derby-Lewis, Walus should not receive amnesty, TRC told

By MIKE MASIPA

The killers of Communist Party leader Chris Hanu remained committed to creating chaos and overthrowing the Government and should therefore not be granted amnesty, the Truth and Reconciliation Commission heard yesterday

Opposing argument by the legal representatives for Janusz Walus and Clive Derby-Lewis at the Johannesburg City Hall, the Hanu family lawyer, George Bizos, said the two had not been

truthful with the TRC's amnesty committee and had not met other requirements for the granting of amnesty

Walus, a Polish immigrant, and former Conservative Party leader Derby-Lewis are serving life terms for the murder of Hanu outside his Boksburg home in April 1993. They have applied for amnesty for the murder, citing political motivation for the crime.

Bizos said the applicants, along with Derby-Lewis' wife Gaye, had not made a full dis-

closure, which is a prerequisite if amnesty is to be granted

Lawyers for the amnesty applicants had earlier told the TRC that granting the two killers amnesty would promote reconciliation in the country

Derby-Lewis' lawyer, Harry Prinsloo, said the actions of Derby-Lewis and Walus in killing Hanu were carried out in circumstances that should be seen as an undeclared war, as talk from CP leaders was that the "Afrikaner should fight against an ANC-Communist

Party takeover that was clearly imminent at the time"

For that reason their actions should be seen as political as espoused by their political party, although the CP had not officially advocated violence.

Louisa van der Walt, Walus' representative, said her client was convinced at the time that SA was at war. She said Walus had believed that Derby-Lewis, as a senior CP member, was acting in terms of party policy

The hearing continues today

(252)

Stow

19/3/98

ANC files papers to free Eikenhof Three

By Themba Molefe

THE African National Congress has finally filed legal papers petitioning the release of its three young activists serving long sentences for a crime they have denied committing.

The young men are Siphwe Bholo (29), Siphu Gavin (27) and Boy Ndweni (22), all of the Vaal Triangle.

This latest bid to secure their freedom might also open a window to a sordid tale of lies allegedly told by witnesses who had set their eyes on the lucrative R500 000 reward put on the head of one of the young men.

According to ANC legal department head Mr Mathews Phosa, papers petitioning a retrial were served yesterday on the Supreme Court of Appeal in Bloemfontein and the attorney general's office in Pretoria.

The three want their conviction and sentences expunged from court records for the murders of Zandra Mfichley, her son and his friend at Eikenhof, south of Johannesburg, on March 19 1993.

Bholo and Gavin are serving life sentences after the triple death sentences imposed by Judge DJ Curlewis were commuted. Ndweni's 20-year sentence was reduced to 17 years.

The trial was heard in the Heidelberg Circuit Court and lasted 18 months.

Phosa, who is also Mpumalanga premier, said yesterday now that the papers had finally been served, Bholo, Gavin and Ndweni may appear before a High Court judge within three weeks, during which a formal application for bail will be made.

If the Appellate Division orders a

retrial, new evidence contained in the petition and pointing to how police investigators allegedly persuaded potential witnesses to implicate the three young men in the killings - may be led.

Efforts to secure their release began last August after Phila Dolo, a cadet of the Azanian People's Liberation Army, the Pan Africanist Congress' military wing, confessed to the Eikenhof shootings.

Identification parades

It has been claimed that statements absolving the three from the crime were made to the police but never used in court.

Some of these statements were from four youths (three black and one white) aged between 13 and 22, who witnessed the shootings and who denied Bholo, Gavin and Ndweni

were the perpetrators when asked to point them out at identification parades.

According to information the white child's father was allegedly promised the R500 000 reward for the capture of Gavin if he helped secure his conviction.

When he went to claim the reward at the end of the trial, the father was allegedly told the money had already been paid out to a black woman.

Shortly after that the Eikenhof Three's plight was exposed, Phosa said the ANC intended to investigate corruption allegations involving certain police officers regarding the R500 000 reward and its recipients.

Meanwhile, Mr Oupa Kulashe, a relative of two of the three ANC men, said yesterday that his tireless effort to ensure that their case was reopened was finally being rewarded.

"I am sure that the parents of these boys are also sighing with relief at the news."

Kulashe - who had been working closely with ANC lawyers on the matter - late last year launched a scathing attack on the organisation, saying: "The families had been given hope that they would be reunited with their sons sooner but were disappointed."

He said at the time that the hope was inspired by the visit to the men at Leeuwkop Prison by then premier Tokyo Sexwale.

"This had meant nothing," Kulashe had said.

Phosa said a retrial would be a mere formality because of Dolo's confession.

Meanwhile, Dolo has applied to the Truth and Reconciliation Commission for amnesty for an unrelated matter.

Lawson 19/3/98

(252)

Shock as TRC exhumes 12 bodies from three graves

(252) Sowetan 19/3/98

By Claire Keeton

THE 12 bodies exhumed by the Truth Commission near Rustenburg in North West this week could substantiate the claim of secret police graves in that area by former Constable Johnny Mokaleng

The Truth Commission found four bodies in each of the three graves excavated on a private farm on Tuesday, when they were expecting to exhume the bodies of only three Umkhonto weSizwe cadres killed by police in 1985

The families of the three men – Mr Watson Majova, Mr Aaron Makwe and Mr Karabo Madiba – were surprised by the discovery of so many skeletons

“It was a big shock We were expecting to

see Watson and the other two, not 12 bodies,” Majova’s father, Mr Thontsi Gardiner said yesterday He said one of the undertakers pointed out a place to him where there could be another 25 bodies

Many more bodies

Truth Commission investigators suspect there may be a mass grave containing many more bodies on the farm which would support Mokaleng’s claims, though no further exhumations are planned yet

Five years ago *Sowetan* investigated Mokaleng’s account that the police had a mass

grave in the Phokeng area, between Rustenburg and Swartruggens

“It was a big shock. We were expecting to see Watson and the other two, not 12 bodies”

Mokaleng, an ex-cop from Potchefstroom, said he had been part of a group of policemen that buried detainees, including Mr Stanza Bopape, on a farm in October 1988 after they had been tortured

But three excavations led by Mokaleng in January 1993 failed to uncover any remains and he was charged with perjury and fraud He said he could have been confused about the exact place since the police had been drinking heavily on that fateful night

TRC to inspect secret graves

(252)
Sowetan 19/3/98
By Mpkeleni Duma

A TEAM of investigators from the Truth and Reconciliation Commission will accompany two long-term prisoners at the Grootvlei Maximum Prison near Bloemfontein to point out secret graves in the Free State and Eastern Cape.

The long-term prisoners – Mr Joseph Mosia (47) and Mr Andries Nchake (49) – claimed in a recent interview that South African Police Service Commissioner George Fivaz was involved in a number of skirmishes in which people were killed and buried in secret graves.

The TRC investigators will inspect the secret graves at Bloemfontein, Ladybrand, Hobhouse and Lady Grey today and tomorrow.

Mosia and Nchake alleged that activist Mr Tota Letsie of Lesotho was allegedly shot dead by Fivaz and other policemen from Ladybrand and buried in a secret grave near the river between Maseru and Ladybrand.

Both Mosia and Nchake alleged that a certain Mr Benjamin Baloyi and another man were killed and also buried in secret graves in Lady Grey.

According to the prisoners, they used to infiltrate drug cartels and the information they supplied to the police caused many deaths.

Killers must not receive amnesty — Hani widow

DD 20/3/98

(252)

Pule Molebeledi

THE killers of SA Communist Party leader Chris Hani should not be granted amnesty because their evidence at the truth commission was fraught with lies and inconsistencies, Hani's widow, Limpho, said yesterday.

Hani said at a news conference she did not believe the two convicted murderers, Clive Derby-Lewis and Polish immigrant Janusz Waluz, were ready to live in the new SA.

However, she said she would respect the committee's decision if it granted them amnesty. Jeremy Cronin, SA Communist Party deputy secretary-general, quickly intervened and called her statement "generous, as the SACP would find it (amnesty) difficult to swallow".

Hani and Cronin were addressing the media immediately after closing arguments by the Hani family lawyer, George Bizos, on the amnesty pleas of Derby-Lewis and Waluz.

The two right-wingers are seeking amnesty for the murder of Hani at his Boksburg home in April 1993.

The hearings ended yesterday and the committee will meet next Friday to listen to responding arguments by lawyers for Derby-Lewis and Waluz.

Hani rejected arguments that Waluz was a "foot soldier" as, she said, both applicants had "planned my husband's murder". Illustrating the closeness of the two co-conspirators, Hani compared Waluz and Derby-Lewis to a scrambled egg in which the yolk and egg white could not be separated.

Cronin said the SACP was convinced that the amnesty hearing had

shown "on every ground" that the two had failed to meet the basic requirement of their amnesty application.

He said the organisation was not looking for revenge but for truth, "as we are building a new SA where we could all be free".

In his closing arguments Bizos repeated his call for amnesty to be denied. He said there was no reason to suppose that the two had acted on behalf of any political organisation.

He warned that if the two right-wingers were released, they would reconvene as a little "clique or cabal" and pursue their fanatical agenda.

"They will then abuse the freedom of society to pursue their fanatical idea that led them to the assassination."

Sapa reports Bizos said it was difficult to think of a worse act to commit in SA than trying to induce a race war.

He said the act of assassinating a high-profile leader such as the general secretary of the SACP, with the intention of creating chaos in the country, did not qualify for amnesty.

He said that by Derby-Lewis and Waluz's own admission, their motive for killing Hani had been to create a state of chaos in which a right-wing government would come to power by way of a security force takeover.

One of the committee members, Judge Bernard Ngoepe, pointed out that a decision on amnesty could not be made on the grounds of what the applicants would do if freed. He wished to dispel any notion that a decision on "amnesty" would be made on any grounds other than those contained in the Promotion of National Unity and Reconciliation Act.

Hani assassins 'will (252) continue race war'

ARG 20/3/98

Johannesburg - If freed, Clive Derby-Lewis and Janusz Walus would pursue the fanaticism that led them to assassinate communist boss Chris Hani, the Truth and Reconciliation Commission's amnesty committee has been told.

The amnesty hearing for Derby-Lewis and Walus ended yesterday. Committee chairman Mr Justice Hassen Mall said its decision would be made known in due course.

George Bizos SC, representing the Hani family who are opposing amnesty for Derby-Lewis and Walus, said the applicants had no respect for the South African constitution and were not committed to reconciliation.

"If these two men are released, they will return to another little clique or cabal that will be established in Krugersdorp or somewhere else. They will then abuse the freedom of society to pursue their fanatical ideas that led them to assassination," said Mr Bizos.

Committee member Mr Justice Bernard Ngoepe said a decision on amnesty could not be made on the grounds of what the applicants would do if freed.

He wanted to dispel any notion that a decision on amnesty would be made on any grounds other than those contained in the Promotion of National Unity and Reconciliation Act.

Earlier, Mr Bizos said it was difficult to think of a worse act to commit in South Africa than trying to induce a race war, as Derby-Lewis and Walus had done by killing Mr Hani.

Mr Bizos said the act of assassinating a leader such as the general secretary of the Communist Party, with the intention of creating chaos in South Africa, did not qualify for amnesty.

Derby-Lewis and Walus are applying for amnesty for killing Mr Hani on April 10 1993 on the grounds that they were acting in support of a political motive - Sapa

DECISION EXPECTED WITHIN A MONTH

Hani's widow will accept amnesty call

CT 20/3/98

(252)

BUT Limpho Hani says her husband's killers have shown their unreadiness to accept the new South Africa, and may continue where they left off **MIKE MASIPA** reports

MRS Limpho Hani, the widow of slain Communist Party leader Chris Hani, said yesterday she would accept a decision by the TRC to grant amnesty to her husband's killers — even though Janusz Walus and Clive Derby-Lewis had shown no remorse for the crime

Polish immigrant Walus and Conservative Party MP Derby-Lewis are serving life prison terms for Hani's murder at his home in Boksburg on April 10, 1993

Speaking shortly after the conclusion of the hearing, Hani said she nonetheless felt Walus and Derby-Lewis had lied throughout the amnesty hearings and had shown no remorse for the deeds

In his closing argument this week, Hani family lawyer Mr George Bizos argued that the applicants had among other things failed to make a full disclosure as required for amnesty to be granted

Backing Bizos, Hani told the press conference that one lie told by Walus' defence was that he was merely a foot-soldier taking orders from Derby-Lewis in killing Hani

"We still feel very strongly that they should not be granted amnesty. Walus and Clive Derby-Lewis are like scrambled eggs. How do you separate egg white from the



'THEY LIED': Limpho Hani

egg yolk?" she asked

She reiterated Bizos' argument that the applicants had shown their unreadiness to live in the new South Africa and would probably continue where they left off if they were freed

"To them the new dispensation is all a coup against the right-wing. They killed my husband because they did not want to live under an ANC-SACP government. Now we have such a government, one has to ask what will happen to our leaders if Walus and Derby-Lewis are released," Hani said

She added that if the two were indeed sorry for killing her hus-

band as they claimed, they would have written a private letter of apology

Addressing the same media conference, SACP deputy secretary-general Mr Jeremy Cronin was quick to respond to what he called "Limpho's generosity" and said the "party would find it (the applicants' amnesty) very hard to swallow"

Cronin said "for the (amnesty) process to have credibility, it does not have to be an end in itself", but it should rather be aimed at achieving reconciliation. Granting amnesty to Walus and Derby-Lewis would not help achieve that

"The SACP is not looking for revenge. Our priority is the truth. We have not uncovered the whole truth with this exercise. We hope the amnesty committee understands the importance of the decision they have to make," said Cronin

The TRC amnesty committee will reconvene next Friday to listen to the Walus and Derby-Lewis lawyers responding to the Bizos team's closing testimony

TRC spokesperson Mr Mbulelo Sompetha said the amnesty committee was expected to make its decision on Walus and Derby-Lewis within a month

●The TRC will hold hearings early next month into the 1992 attack on the King William's Town golf club and other atrocities in the Eastern Cape.

PAC waits for amnesty decision

DESPITE top-level submissions to the TRC from the Pan Africanist Congress' political and military leaderships, the commission had so far given no signal it was prepared to grant amnesty to any of the about 400 Apla cadres in jail, PAC Western Cape regional chairperson Mr Theo Mabusela said yesterday

He himself had had a number of meetings with the Truth and Reconciliation Commission, and some of the Azanian Peoples Liberation Army (the PAC's armed wing) members in prison had served under his command in the Western Cape, he told a press conference in Cape Town

Although some of the amnesty applications may not have fulfilled

all the legal requirements, he found it strange that the TRC had given no sign that it was even prepared to forgive Apla members, such as those responsible for the St James' Church incident

Yet, someone like TRC chairperson Archbishop Desmond Tutu's son Trevor was released "fairly quickly", and mass murderer Barend Strydom was walking free

"What does that mean? What has the PAC done?" Mabusela asked. He appealed to all — including the media — to "properly analyse" the situation

He said it would have been "lovely" if some Apla members

could, for instance, have been released in time to attend President Nelson Mandela's inauguration in 1994



The PAC in the Western Cape would be holding a commemoration service at the Langa Methodist Church at 10am tomorrow to commemorate those who died in the Sharpeville massacre and in Langa and other areas on March 21, 1960

A procession will start from the Langa flats, where people had been killed, at 9 30am

"We need to rededicate ourselves to the cause for which our comrades died," Mabusela said

Sapa

Hani's killers 'no strangers to lies'

(252) Souletan 20/7/98

By Sharon Chetty

Stories of Walus and Derby-Lewis fraught with contradictions, says Bizos

THE TRUTH and Reconciliation Commission (TRC) amnesty application of Chris Hani's killers was expected to yield dramatic and new information this week about those who killed one of the country's most popular leaders.

But after a long, drawn-out hearing, information that was already mostly known was re-examined.

Instead, the thrice-adjourned hearings, which lasted longer than the criminal trial and ended yesterday, resembled a court case. It was bogged down in intricate cross-examination about details despite the fact that the killers are already convicted and their story is well known.

Former Conservative Party (CP) president's councillor Clive Derby-Lewis and Polish immigrant Janusz Walus want amnesty for the April 1993 assassination on the grounds that the murder was politically motivated as it had implicit sanction by the CP. They are serving life sentences which were commuted from death.

The Hani family and the South African Communist Party (SACP) have opposed the application and have set out to prove that the two did not have a political motive, have been untruthful and did not fully disclose the details of a broader conspiracy around the assassination, and therefore do not meet the basic requirements for amnesty.

In making the case against the killers, Advocate George Bizos highlighted contradictions in their testimony and statements and sketched a picture of the two, together with Derby-Lewis' wife Gaye and Edwin Clark, a close friend of the Derby-Lewises, as a "clique or small cabal of fanatics".

He said that by their own admission, "they were not strangers to lies". Several contradictions were highlighted, chief among them that:

- While Derby-Lewis claimed that Hani's assassination had been part of a plan to cause chaos so that there could be a right-wing takeover and because he wanted to "wake up Afrikaners", he did not speak to any right-wing or CP leader about the plot, despite his closeness to them.

It was suggested by Judge Bernard Ngoepe that it may have been "bordering on naivety" to expect a right-wing takeover without making prior arrangements.

- Although they claimed to be acting on behalf of the CP (which at the time was involved in multiparty negotiations), the party (through leader Ferdie Hartzenberg's testimony) admitted that at no stage was there discussion on the adoption of violence as a strategy.

One of the judges suggested contrary to their claim that a "climate of war" existed and that they were therefore justified in assassinating Hani, doing so was a subjective decision.

Committee chairman Judge Hassan Mall questioned whether Derby-Lewis distinguished between a communist takeover and black majority government.

Bizos pointed out that killing a high-profile leader "could not have been in the course and scope of their duty" as the CP did not order assassinations as part of its political programme.

- There were discrepancies in statements and in their amnesty applications. Walus at first said he had



Flashback Limpho Hani (right) and Zenani Dlamini at a previous TRC amnesty hearing by Clive Derby-Lewis and Janusz Walus.

acted alone when he went to Boksburg and shot Hani outside his home. Later he amended the statement to say that he was acting on "instruction".

Whether or not there was indeed an instruction from Derby-Lewis to him was questioned as their testimony showed that they made a joint decision to kill Hani and Walus undertook to carry out the killing.

- Much was made of the fact that the two and Gaye Derby-Lewis had been held under Section 29 of the Internal Security Act when they were first arrested by the police.

They claimed they were badly treated by being deprived of sleep, interrogated for long hours and at times, plied with alcohol.

On this basis, they argued, details of their statements made then should be inadmissible.

Yet Derby-Lewis wrote a letter to a Colonel Roos thanking him for the good care they had received.

Former security branch captain Johannes de Waal, the man who interrogated Gaye Derby-Lewis, denied having coerced her in any way. He also claimed that she had no complaints and said that she had thanked him for treating her well.

- It was denied that a list drawn up by Gaye Derby-Lewis and containing the names of several prominent people, including that of President Nelson Mandela, was a hit list, but

they could not explain the need to put numbers next to people's names or their addresses when the Derby-Lewises claimed it was for propaganda purposes for an article to be published in *Die Patriot*.

Bizos said that the fact the Gaye Derby-Lewis would not speak

about the list on the telephone to former *Citizen* journalist Arthur Kemp, who helped in getting some of the addresses, suggested "conspiratorial" behaviour on her part.

Kemp also would not fax the list and she met him at the Rotunda in Johannesburg to fetch it.

Mall asked how a "seasoned politician" like Derby-Lewis believed killing only Hani would have the desired chaos and questioned whether the plan was to kill other leaders.

- Bizos also argued that there has not been full disclosure of the involvement of Gaye Derby-Lewis and others in the plot. The last witness was Clark, who at first refused to cooperate with the TRC.

He admitted that there was "incriminating" information on the hard drives of his computer which the police did not get to, but would not reveal what the information was.

Before him another right winger, Johannes Visser, testified in camera that stolen money was allegedly used for the assassins' defence.

Gaye Derby-Lewis also contradicted herself over whether she had seen the murder weapon in her house before the assassination.

Derby-Lewis wrote to a Colonel Roos thanking him for the good care they received

Sowetan 20/3/98

The long road ahead

(252)

ONE of the major constitutional responsibilities of the South African Human Rights Commission (SAHRC) is to investigate the observance of human rights, to take steps to redress violations of human rights and to educate members of the public about their rights.

Since its inauguration on October 2 1995, the SAHRC has dealt with hundreds of cases. Various forms of violations of constitutional rights have been reported. This was revealed in the second SAHRC annual report which was presented to Parliament this week.

As the country commemorates Human Rights Day tomorrow, the role of the SAHRC must be put under observation.

According to the Constitution, the SAHRC has been established to promote respect for human rights and a culture of human rights, to promote the protection, development and attainment of human rights; and to monitor and assess the observance of human rights.

Addressing the parliamentary Justice Portfolio Committee on March 17, SAHRC chairman Dr Barney Pityana said "We are conscious that we have not begun to address our mandate for human rights development.

"We consider that the obligation can be best fulfilled by carrying out studies concerning fundamental rights and by bringing proceedings to a competent court, as envisaged by the Human Rights Act. Unfortunately, resources have not allowed us to develop this sufficiently."

The SAHRC has nevertheless positioned itself for a future role to enhance a human rights culture.

In conjunction with the Department of Justice, the SAHRC recently embarked on the Equality Legislation Project.

The project will come up with anti-discrimination legislation by February 2000 to outlaw discrimination on the grounds of race, sex, gender, religion, sexual orientation or any other grounds listed in the Constitution.

Again speaking before the parliamentary committee, Pityana said there were certain vital and urgent issues South Africa needed to face so that a culture of human rights could be entrenched.

"All evidence suggests that racism is a problem that needs to be dealt with decisively. To do so, a national project on racism awareness and sensitivity is called," Pityana said.

However, SA has no mechanism for measuring, planning and managing human rights.

The SAHRC, with the Department of Justice, will spearhead a National action plan (NAP) for human rights – a national initiative to set goals and priorities within achievable time frames to promote and protect human rights.

A draft copy of the NAP will be presented to

Two years after its formation, the Human Rights Commission has positioned itself to enhance a human rights culture. **John Mojapelo** outlines the issues.



Dr Barney Pityana ... a culture of human rights must be entrenched in South Africa.

President Nelson Mandela tomorrow.

A large majority of violations received by the SAHRC centre on the equality clause of the Constitution, which states that everyone is equal before the law and has the right to equal protection and benefit of the law.

More than 20 percent of the cases dealt with equality and children's rights in education.

The discrimination complained about is based on race, disability, marital status and health.

Various cases

Some cases handled by the SAHRC that had constitutional effect included that of Penny Janes, a married mother attached to the navy in Simonstown.

Janes approached the SAHRC with the complaint that the South African National Defence Force medical aid discriminated against her.

Her husband was excluded from her scheme, while the wives of married men in the force benefited from the aid scheme. The SAHRC ruled that this was discriminatory.

Another discriminatory case involved three unmarried women who wanted artificial insemination. They were refused because they were not married.

The SAHRC forced the Department of Health to change the Human Tissues Act after a

threat to summon Health Minister Nkosazana Zuma to answer to discriminatory charges.

Thabiso Molopo, a 14-year-old Mpumalanga boy who is without limbs, was accepted back at his school after the SAHRC intervened. He had been expelled from the school because of his disability.

A pregnant Soweto pupil was also readmitted to school after the SAHRC's intervention. She had been expelled without due process.

The Department of Home Affairs changed its application procedures after a Cape Town High Court case involving asylum seekers.

The Department is now obliged to give reasons in all cases where application for asylum has been refused.

The SAHRC also displayed its independence in its reasoned ruling concerning a complaint of "hate speech" lodged by the National Party against three African National Congress cabinet ministers.

The SAHRC found, that the context in which the words were uttered, constituted a healthy and robust debate in an open and democratic society and expressed its reluctance to support curbs on free speech under such circumstances.

Towards the end of 1997, the SAHRC was inundated with complaints from learners who were expelled from school. In one instance, a learner who is a mother was told by her principal to go home and "look after your baby".

Although the SAHRC does not condone some of the learners' behaviour, principals were asked to follow procedures set out in the Schools Act and rights as set out in the Constitution.

While the SAHRC receives an average of 100 cases a month, more than 80 percent of the cases are rejected because they are not under the jurisdiction of the SAHRC.

Contributing to human rights in the school curriculum in formal education is another area in which the SAHRC is involved.

As one of the state institutions set up by the Constitution to bolster constitutional democracy, the SAHRC has firmly established itself as one of the main national institutions to foster a culture of human rights.

(The writer is the SAHRC's media and public relations director.)

'TRC is not prepared to release Apla cadres'

Source: 20/3/98

THE Truth and Reconciliation Commission has so far not given any indication that it is prepared to release about 400 Azanian People's Liberation Army (Apla) cadres from jail (252)

This despite top level submissions to the TRC from the Pan Africanist Congress leadership, PAC Western Cape regional chairman Mr. Theo Mabusela told a media conference in Cape Town yesterday.

He said he had held several meetings with the TRC, and some Apla - the PAC's armed wing - members in prison

who had served under his command in the Western Cape

Although some of the amnesty applications may not have fulfilled all the legal requirements, he found it strange that the TRC had given no sign that it was even prepared to forgive Apla members - such as those responsible for the St James Church attack.

The PAC in the Western Cape will hold a service at the Langa Methodist Church at 10am on Saturday to commemorate those who died in the Sharpeville massacre on March 21, 1960 - Sapa.

'No amnesty for the Hani killers'

By Sharon Chetty

AMNESTY should not be granted to Clive Derby-Lewis and Janusz Walus, the men convicted of killing Chris Hani, as they had lied in their applications before the TRC, the murdered man's widow, the SA Communist Party and lawyers opposing their applications claimed yesterday.

Granting them amnesty would also not promote reconciliation as the two had wanted to start a "savage civil war of blacks against whites" in which innocent civilians would have been killed.

The convicted killers say they were working on behalf of the Conservative Party and wanted to create "chaos" so that the rightwing could take over the country.

But advocates George Bizos and Geina Malindi said the men had had no

political motive in killing Hani and sketched several inconsistencies in the men's testimony and applications.

Their attitude and evidence before the TRC showed that the two "do not believe in national unity or the reconstruction of a common society", said Bizos.

After the conclusion of the public hearing, Mrs Limpho Hani and SACP general secretary Jeremy Cronin said there were still a lot of questions left unanswered.

Cronin said that former *Citizen* journalist Arthur Kemp, who helped Gaye Derby-Lewis draw up a hit list, was known to have worked with the military intelligence of the former government, and that link had not been fully investigated. Kemp, who is in Britain, could not appear before the TRC.

● See page 11

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DAILY NEWS

CONSTITUTIONAL COURT

Defending the new democracy

Reflections on the first three years of constitutionalism (252)

As politicking for next year's general election starts and tensions begin to rise, it is pertinent to ask whether the Constitutional Court — and, with it, the notion of a constitutional State — is gaining acceptance in SA's emerging new society

"Political leaders have accepted constitutionalism and they have accepted the decisions of the court, even where it has gone against them," Constitutional Court President Arthur Chaskalson says in response to that question "I think it is important for the development of constitutionalism"

Inaugurated just more than three years ago, the Constitutional Court is the prime custodian of SA's fledgling democracy, in which parliament's sovereignty has been replaced by constitutional supremacy

But though people are generally aware that they have rights, their understanding of the notion of a Constitutional State is incomplete, Chaskalson adds. Since its inauguration in February 1995, the 11-member court has rescinded clauses in statutory laws that contravened the human rights enshrined in the Constitution. The offending items include provisions in

- The Magistrates' Court Act, which resulted in the imprisonment of debtors without them being accorded the same procedural safeguards as suspected criminals,
- The Criminal Procedure Act, which denied accused persons access to the police docket, presumed that confessions confirmed in writing before a magistrate were made freely and voluntarily, and empowered courts to sentence juveniles to whipping, and
- The Drugs & Drug Trafficking Act, which presumed that a person found with more than 115g of dagga was dealing in the

substance

PM 27/3/98
Chaskalson identifies a common thread in the Constitutional Court's decisions on these matters — an attempt to ensure that no-one is convicted, still less imprisoned, without a fair trial

"In our history, particularly in the Fifties, Sixties and Seventies, laws were continually being passed that shifted the onus of proof onto the accused and made it easier for the State to get a conviction



Arthur Chaskalson Constitutional Court, defending freedom

"Our statute book is full of that sort of provision. It is also full of provisions which are too broad, giving Ministers vast discretionary powers. The heart of democracy is that people shouldn't be deprived of their liberty without fair proceedings"

On the decision that removed the blanket prohibition on an accused gaining access to the police docket, Chaskalson says "You are entitled to know what the case is that you have to meet. It is an accepted principle in all democratic countries"

Dealing with the opposing argument that access to the police docket provides the accused with an opportunity to prepare a false defence, Chaskalson says that the risks and counter-risks have to be weighed

up carefully

"One or two people may slip through the net because they were given advance warning. On the other hand, you may wrongly convict because people weren't given the opportunity of preparing adequately for the case against them"

"If you start off with the assumption that everyone who is arrested is guilty, then you don't really need a trial"

Though the State has "a real interest" in convicting guilty people, "if it wants to deprive somebody of liberty it must show that it is entitled to do so"

Arguably the Constitutional Court's most important — and controversial — decision is its finding that the death penalty is inhumane and in conflict with the constitutional clause upholding the right to life

Chaskalson says each of the judges wrote his or her own judgment but 11 judgments concurred on the broad outcome that the death sentence contravenes the Constitution

Noting opposition to the decision, which many South Africans blame for the high crime rate and apparently emboldened criminals, Chaskalson says "I know that it is one which hasn't necessarily been popular among the broad public"

He believes, however, that much criticism is misinformed and comes from people who have not read the (long and detailed) judgment

"The real issue was whether the death penalty was materially a greater deterrent than life imprisonment, not whether either was a deterrent. It is a complex issue which is dealt with in the judgment"

On growing clamour for the restoration of the death sentence, Chaskalson says "I really don't want to enter that debate. But leaving aside legal niceties, in the end you have to ask yourself whether you are more likely to have a humane society if you have a humane punishment"

Apart from its attack on statutory laws inherited from the past, the Constitutional Court has made two cardinal decisions on laws emanating from the new parliament — the first in 1995, when it invalidated provisions of the Local Government Transitional Act, the second in 1996, when it sent the Constitution drafted by the Constitutional Assembly back to parliament because it could not be reconciled with the 34 constitutional principles contained in the interim constitution

These decisions stand as proof of the Constitutional Court's independence and contradict those who believe its selection procedures were designed to produce a court weighted in favour of the ANC

Patrick Laurence

CRIME PREVENTION

FM 27/3/98

You're being watched

Durban cops turn to photography

Durban city police Constable Daynandh Lukraj, like any other bobby on the beat, must keep his eyes peeled as he patrols up Point Road, an area notorious for its drug dealers and call girls. But that's where the similarity ends.

Instead of pounding his beat on foot or wheels, Lukraj does it from an office chair in front of video monitors, with what could pass for a TV games joystick in his right hand. The controls enable the policeman to glide effortlessly through Durban's CBD streets and the beachfront.

Using closed-circuit television (CCTV) cameras is not a new crime prevention concept in Durban. In 1994 a pilot programme for the beachfront resulted in a 70% reduction in crime. The concept is now being expanded to the CBD.

The programme is a R9m initiative, involving the Durban Metro, SA Police Service and the private sector. The bulk of the capex, funded through an even three-way split, will go to increasing the number of cameras to 38.

The Metro and the provincial government recognise that KwaZulu-Natal's tourism industry suffers whenever a tourist is killed. A provincial tourism spokesman says "Even more serious are the longer-term consequences. A blacklisting through a single incident such as a murder can bring a thriving tourism industry to its knees."

City police head of communications CI Ray Smart is the first to concede that the CCTV network, which works with the force's two-way radio and emergency telephone network, is not in itself a panacea for the metro's crime problem. "Part of the problem is that operators need specialist training not available in SA. In addition the cameras cannot replace the bobby on the beat or the co-operation from the public."

Business Against Crime MD Dave Marshall emphasises the importance of bringing the broader public into the campaign as the eyes and ears of the police. This includes upgrading the status of traffic wardens and car-park watchers.

Marshall says the car-park watch system — which has reduced car theft by 60%-70% — is to be completely overhauled thanks to a R5m grant from KwaZulu-Natal premier Ben Ngubane.

Herb Payne

JOE THOLOE
THE BODY POLITIC

It's not a snake, it's a tree



SA debates nowadays remind me of the ancient story of four blind men who touched parts of an elephant. The one who held the trunk insisted it was a large snake. The one at the

leg said it was a large tree. The man who touched the tail said it was a brush. The fourth swore it was a wall because he had felt the side of the elephant. If you listen carefully, you will hear similar arguments around you.

The Vryburg Hoerskool, North-West drama is only a gross example. I listened to some of the people involved before the school was closed and its governing body was dissolved.

The black pupils and their parents, as well as the mayor of Vryburg, Hoffman Galeng, insist that the headmaster, Theo Scholtz, and the school's governing body are obstacles to "transformation". They want them fired.

The white parents argue the problems at the school stem from a few ill-disciplined black pupils. Some say these pupils are older than their white counterparts and that is why they are difficult to discipline.

The irony is that if you sat the white parents down and asked them what they wanted for their children and for the school, they would give you exactly the same answers as the black parents would. Both groups would tell you that they want the best education for their children, they want their children equipped to fend for themselves when they grow up. It is one elephant.

The white parents and the teachers will tell you that they have done well in their attempts to transform the school — from an Afrikaans school with no black pupils only a few months back to one with 140 black pupils. That, they would argue, is progress and commitment to transformation.

But the black pupils are not satisfied. To them, the school is still run by Afrikaners, with a Calvinist, authoritarian world view. They feel they are merely tolerated in this environment. And they tell their parents that racism

lurks behind the smiles.

The two groups are shouting past each other. "It is a snake!" "You're lying — it is a tree!"

The shouting will continue even after the school is reopened after the Easter recess. My crystal ball says we will see the school closed again for much longer.

And as the pupils are redistributed to other schools, they will carry their anger and resentment with them.

If each of the blind men had managed to get the others to feel where he had felt, they would quickly realise that it was after all a snake, a tree, a brush and a wall. All in one.

Sadly, it is mostly blacks who talk about the transformation of this country. For us, it was the reason for the long struggle for liberation.

But, as Deputy President Thabo Mbeki said on Human Rights Day, the struggle was to liberate all South Africans, not just blacks.

It would appear that the feeling among most of our white countrymen is "Apartheid is dead now — you are no longer hobbled. Let's get on with life."

And we in turn argue that apartheid was not just about the absence of a vote. It affected the fabric of our lives and needs to be threaded out of everything — business, health, education, housing, refuse removal and so on. For us, transformation means pulling apartheid threads out completely so that we become one nation where colour means nothing.

Instead, we hear people on the other side telling us that the changes will happen on their own because the legal constraints are gone.

And we retort that such a route will take us a long time. We also argue that the people who speak like this want to continue in their privileged positions, enjoying the fruits of apartheid.

Listen carefully and you will hear the resentments against affirmative or corrective action. You will hear blacks mumbling under their breath about racism. We are seldom frank and open in this debate.

Unless we tackle transformation with honesty, this country will not prosper as it should. ■

TRC in controversy months before it submits final report

By Kalzer Nyatumba

PERHAPS, given the nature of its work, the Truth and Reconciliation Commission (TRC) has found it difficult to stay out of controversy

Now, with only about six months left before it makes its recommendations and ceases to exist, the commission is once again embroiled in controversy

In the past week alone, two things have received publicity. The first is the National Party (NP) decision to take the TRC to court over the latter's misguided attempts to grant what amounts to a blanket amnesty to 37 African National Congress (ANC) leaders ^{being sent to court} behind bars.

The second are some ill-fated attempts by the leadership of the TRC (including deputy chairman Dr Alex Boraine, investigations head Dumisa Nisepeza and research head Professor Charles Villa-Vicencio) to form a

TRC-type body which will continue to function after the formal dissolution of the present commission

That way those who serve in the envisaged Institute for Memory, the Past and Reconciliation will be proud custodians of our past, largely one-sided though it may be, and they will be kept employed a little longer

And, as many people know, there are fairly generous funders in the international community who will not think twice about giving to a "good cause" - especially if that cause has anything to do with apartheid and our diabolical past.

Clearly the ANC leaders deserve amnesty for their actions

(NP) Robben 20/10/98

What is not as easy to understand is why those involved could not wait until the TRC itself had fulfilled its mandate and gone out of existence, and why Archbishop Desmond Tutu agreed to serve as a patron of the envisaged institute

As one understands it, this institute would do research on the unquietes of the past and ensure that our ignoble past is not forgotten or rewritten, and it would promote the ideal of reconciliation

All of which, one must confess, sounds noble.

The problem, of course, is that there is a very clear conflict of interests here: people involved in the TRC are actually seeking to perpetuate, in a different guise, that body's work

Not only have they used some of the TRC's time to conceive this new scheme, but they will also be taking advantage of contacts made during their TRC tenure

Then there is another awkward point who should be custodians of the past?

Should it be those who, notwithstanding their own little contributions (such as they are) to the end of apartheid, directly benefited from the past by virtue of the colour of their skins, or those who were on the receiving end of that past?

The analogy may be somewhat crude, but should the NP, for instance, be in charge of Robben



TRC chairman Archbishop Desmond Tutu.

Island and Germans in charge of Nazi concentration camps? The comparison may appear absurd, but in certain quarters in the black community, the matter is that sensitive

It is most unfortunate that, in the dying months of its existence, just as it is gearing up to write its report, the TRC is still enveloped in controversies. Were it not for an apparent lack of will, for instance, the commission could long ago have resolved the amnesty rumpus - and single-handedly, too

The TRC did not have to wait for the NP to take it to court before it could make its own court application for the controversial ANC amnesties to be overturned

As things now stand, the TRC

appears to be acting merely to avoid an embarrassment when the court finds in the NP's favour

Clearly the ANC leaders, whose selfless sacrifices made it possible for liberation finally to dawn in our country, deserve amnesty for their actions. Of that there should be no doubt

But there is a formula for the granting of amnesty, and it goes something like this: first there is an application to the TRC, then there is a public hearing and full disclosure

Otherwise a general presidential amnesty could have been granted to everybody on May 10 1994, and there would have been no need for a TRC.

(The writer is the editor of The Saturday Paper, Durban.)

Legal beagles to probe R30m fraud

MTG 20-26/3/88

(257) (258)

Mzilikazi wa Afrika

The Department of Justice has enlisted two of South Africa's top special investigation teams to probe a well-organised national crime syndicate which has defrauded the department of more than R30-million over the past three years.

Confidential information leaked to the *Mail & Guardian* shows that 23 government officials, including police officers, court clerks and at least one magistrate, have been identified as key members of the syndicate.

Syndicate members allegedly steal and launder justice department cheques by duping innocent businesspeople into cashing them, and then threatening them with death and mutilation if they do not refund large portions of the money.

The intelligence co-ordinator of the commercial special investigation unit, Sergeant Jason Jordan, says none of the suspects has been arrested, but a special team of crack investigators has tracked them down

in almost every province and are poised to nab them.

Jordan's team and members of the Heath special investigative unit, have also interviewed seven of the syndicate's business stooges in East London, Jordan says.

"The suspects dress in expensive suits, drive luxury cars and introduce themselves as senior government officials, but they are dangerous thugs who won't hesitate about getting dirty to get what they want," he says.

The biggest single cheque stolen, for R4,3-million, was taken from the Ekangala Magistrate's Court in Mpumalanga. It was cashed at the Trust Bank in East London on November 25 last year.

Minister of Justice Dullah Omar acted on the theft last week, after calling for Judge Willem Heath to work with the commercial investigative unit in tracking down the syndicate.

National Police Commissioner George Fivaz has also asked the Heath special investigative unit to investigate the theft of the R4,3-million.

The Ekangala scam was fronted by an expensively dressed man, who identified himself as Johannes Brightman to an East London businessman while offering to buy an office block for way above the market value.

The unnamed businessman reportedly jumped at the deal and sold the offices to Brightman through a local estate agent.

"The businessman, who now fears for his life, thought the deal was on behalf of the government and deposited the cheque with his bank. It was cleared immediately and suddenly the syndicate pounced, demanding all the money back at gunpoint," says Jordan.

The suspects used false names, fraudulent identity documents and virtually untraceable pay-as-you-go cellular phones to close the deals.

Officials from the Department of Home Affairs confirmed this week that Johannes Brightman does not legally exist and neither does the identity number he used to sign the real-estate contract.



High-powered probe: Dullah Omar has called on Judge Willem Heath to investigate a crime syndicate that has defrauded the justice department of more than R30-million. PHOTO: RODGER BOSCH

The Ekangala Magistrate's Court has been hit twice by the syndicate, with a R750 000 cheque stolen in 1986. That cheque, however, was cancelled by suspicious finance officials at the Department of Justice before it could be cashed — African Eye News

TRUTH COMMISSION

PM 20/7/98

ANC called to account (207)

Camp commanders face interrogation

As the TRC enters the last phase of its existence — it has to submit its final report to President Nelson Mandela by July 31 — the ANC will figure prominently in its deliberations

Two developments have propelled the ANC to the top of the TRC agenda

- The summoning of three former ANC military commanders to an "investigative inquiry" into alleged atrocities committed in ANC military camps in Angola, and
- An application by the TRC to the High Court to rescind the amnesties of 37 ANC members, including Deputy President Thabo Mbeki

The three former Umkhonto we Sizwe (MK) commanders — Gabriel Mthembu, a former commander of Quadro, the most notorious of the ANC camps, Andrew Msondo, a former MK national commissar, and John Zulu — have been subpoenaed to

answer questions on March 26 and 30 about cruelty in the camps

A focal point of the investigation will be the death of six men in detention, including Timothy Seremane, brother of Chief Land Claims Commissioner Joe Seremane

The pending interrogation is a sequel to the pleas by Joe Seremane at a TRC human rights violation hearing last year, where he pressed for an investigation into the reported execution of his brother. He secured a pledge from TRC commissioners Hugh Lewin and Dumisa Ntsebeza that his brother's death would be investigated

In a broader sense the antecedents of the scheduled investigative hearings go back to the ANC-appointed Skweyiya and Motuenyane commissions of 1992 and 1993

By subpoenaing the MK commanders, the TRC has taken a major step towards addressing the belief that it has largely ignored allegations of human rights abuses against the ANC while zealously pursuing similar accusations against former security force members

The MK men will be quizzed behind closed doors

Closed investigations have on occasion been followed by public hearings of the human rights violation committee

But there is another possibility as Ntse-

beza notes, the TRC has the power to release the record of an in-camera hearing to the public. It may do so in the case of the MK commanders

The TRC decision to apply to the High Court to set aside amnesty granted last November to 37 ANC members, including several members of its national executive committee, may help to counter charges that it favours the ANC. The application follows legal advice to the TRC that the amnesties — granted by the autonomous amnesty committee — may contravene the Promotion of National Unity & Reconciliation Act, the law providing for the establishment of the TRC

TRC chairman Desmond Tutu denies the commission was prompted by a High Court application from the National Party. He identifies four suspected irregularities in the applications from the ANC 37

They include, crucially, failure by the applicants to specify individual offences for which they are seeking amnesty

The ANC has decided not to oppose the application thus seemingly making annulment of the applications a formality

Revocation of the amnesties means, that the 37 will have to submit new applications detailing specific offences for which they want amnesty

Patrick Laurence

R13-m boost for rights commission

By JACKIE CAMERON

(252)

Taxpayers will fork out double the amount of money they paid last year to fund the SA Human Rights Commission – the watchdog body that last year attracted controversy when it was revealed that they were ensconced in plush R75 000-a-month offices.

The Government will give more than R13-million to the SAHRC, commission chairperson Dr Barney Pityana told the *Saturday Star* this week.

Last year the commission received more than R6-million in funding. It complained to the Government that it did not have enough money to function effectively – yet commissioners accepted massive salary increases. Pityana's total salary package, for example, was boosted to more than R400 000. His basic salary moved from about R183 000 to R256 000.

Pityana said: "We have been informed that we will be getting R13,2-million. This is a considerably bigger budget than last year. This will contribute towards the much improved functioning of the commission."

"There are increases in salaries (which have been included in the budget), which will be annual increments in line with those of civil servants."

The commission's action plan for the year ahead, which will include details on how the money will be spent, will be unveiled at a press conference this month, Pityana said.

The Department of Justice and the SAHRC have drafted a national action plan (NAP) which spells out



BARNEY PITIANA: Believes that it's better to accomplish a little successfully

Star 21/3/98
measures the Government should take to improve the protection of human rights in South Africa

The draft plan will be handed to President Nelson Mandela at the presidential guest house in Pretoria tonight to mark the 50th anniversary of the Universal Declaration of Human Rights.

Pityana said budgetary constraints would always limit the extent to which a human rights culture could be achieved in South Africa but that the plan had clear strategies and achievable goals.

"It is better to do a little successfully. So the plan will attempt to set priorities."

Pityana said there would "be something in the plan tied up with socio-economic rights".

He added that the current position about the death penalty had not changed.

Great emphasis would be placed on "enabling people to think creatively" to ensure that there is tolerance and respect in our society – despite gender and racial differences.

"We will never do away with the differences. There's no point being intolerant. We need to find creative ways of affirming our differences and living with our differences. There is no monochrome environment," Pityana said.

"NAP also seeks to say to individuals in South Africa that the transformation of the country isn't simply a matter for grand ideas, but at the end of the day a respect for each and every one of us."

"We hope to have a five-year plan. Once the Government has accepted (the proposals), we will have an international obligation to report to the United Nations on the steps the Government has taken."

"NAP is not just a piece of paper, it's a part of the process of the major transformation of our society," Pityana added.

Top judges dump 'women are liars' law

CARMEL RICKARD
Legal-Correspondent

ST 22/3/98

(252)

THE Appeal Court has unanimously thrown out a controversial legal rule under which women are viewed as probable liars when they claim they have been raped.

The judgment, delivered in Bloemfontein on Friday, means that from now on women's evidence in rape cases will be given as much weight as that of men. As a result, it is likely there will be an increase in convictions for rape. While around 50 000 women report rapes to the police each year, some 11 000 cases get to court and only 4 000 convictions are obtained annually.

Women's organisations have said one of the main reasons for the abysmally low conviction rate was the "cautionary rule" — which obliged a magistrate or judge hearing a rape case to view the woman's evidence as probably unreliable because women were "habitually inclined to lie about being raped". They say the decision marks a turning point in the struggle against violence directed at women, and it could greatly reduce the trauma experienced in court by women who have been raped. Cape Attorney General Frank Kahn, whose staff argued the challenge to the rape rule in the Appeal Court last month, said his team of women prosecutors had put enormous effort into getting rid of the rule. They saw firsthand its devastating effect on the women appearing in

the specialised rape courts which his office runs in Cape Town. "The rule was chauvinistic, archaic and unfair, and it was a cloud hanging over the head of a rape victim even before the case began. This is the best news we've had in a long time, and is something extra to celebrate on Human Rights Day," he said. A Full Bench of five judges, including Chief Justice Ismail Mahomed, concluded that the "cautionary rule" was based on myths about women's behaviour and was irrational and outdated. Judge Pierre Olivier, who wrote the landmark judgment, said that in the past, judges had tried to justify this approach by saying it was based on "col- lective wisdom and experience." In fact, all the research indicated that women were no more likely to lie than men.

Few things could be more difficult or humiliating for a woman than to lay a rape charge and then go to court to give evidence, he said.

Judge Olivier said the rule "unjustly stereotypes complainants in sexual assault cases (overwhelmingly women) as particularly unreliable." It also meant it was more difficult to obtain a conviction in a rape case than in other cases.

The court said, however, that the evidence in a particular case might call for a "cautionary approach", but that this was a far cry from the previous situation where a general cautionary rule applied against all women who said they had been raped.

South Africa now joins a number of other countries which have already discarded the cautionary rule.



Limpho Hani and daughter Nomakwezi, who witnessed her father's assassination

Hani's widow is angry at killers

(252)

solwe from 23/3/98

By Sharon Chetty

She doesn't think Derby-Lewis and Walus are remorseful for the murder

FIVE YEARS after Chris Hani was murdered outside his front door his widow Limpho remains bitter angry and filled with unanswered questions about the assassination

This is despite the completion last week of the second public inquiry into his death when his two convicted killers appeared before the Truth and Reconciliation Commission's amnesty committee

When Hani was shot dead on April 10 1993 by Polish immigrant Janusz Walus, (who had been given the stolen gun by then Conservative Party member Clive Derby-Lewis) it unleashed anger countrywide

Hani undoubtedly commanded respect admiration and a large following as an Umkhonto weSizwe commander and general secretary of the SA Communist Party

For his wife and three daughters - one of whom, Nomakwezi, witnessed the killing - it was the start of a lot of pain and anger

"Lindiwe (the youngest) one day said to me 'Why didn't Walus just stay in Poland and kill the Communists there?'" said Limpho

Walus' main justification for the murder was his 'fear of a Communist takeover' which he claims forced him to flee from Eastern Europe

Bad timing

More than anything, it was the timing of the murder that makes it hardest to come to terms with, says the widow

Hani, previously dubbed a "militant" and 'hawk', had been propagating negotiations for a political settlement. He was also getting used to living as a civilian in suburban Boksburg

When we were in exile I always expected Chris to be killed since danger was a part of our lives - it's so hard to think that when things got better Chris died

Ironically, the Hanis survived several attempts on their lives in exile

While Limpho was in prison in Bloemfontein Chris and their first born, Neo, escaped a car bomb in Lesotho

Also in Lesotho, Limpho was pregnant with Lindiwe when they evaded a bomb attack on their home and during an SADF cross border raid, the family survived because the killers attacked

the wrong house

During their 1993 criminal trial Derby Lewis and Walus refused to testify but were nevertheless convicted of murder and sentenced to death, later commuted to life imprisonment

The first time Derby-Lewis and Walus publicly spoke about the assassination was in support of their amnesty application but much to Limpho's disappointment, "they did not say anything"

Mrs Hani and the South African Communist Party have opposed amnesty on the grounds that the two had lied failed to reveal all the information about others who had been part of a broader conspiracy, and contrary to claims that they had a political motive, were mere racist killers

"I sat there waiting to hear more I just wanted them to say everything once and for all," she said

Instead, last week she also got to hear from one of the rightwingers friends, Edwin Clark, how he too would have killed Hani had he been asked to

After listening to the hearing she says she has been left frustrated and dissatisfied by the whole exercise

And having come face to face with her husband's killers for days at a time, she has also had to deal with the weight of political contradiction

Her husband - constantly referred to as that anti-Christ by his killers - was supportive of the multiparty talks which eventually resulted in a moratorium on the death penalty and the TRC

She's a member of the Parliament which made the TRC possible and while she says she will respect the decision of the amnesty committee even if Walus and Derby-Lewis are set free, she describes their attitude throughout the hearings as "an insult"

"They are so arrogant I don't think they have changed their minds. They are still contemptuous of this Government and show no appreciation of the new system that spared their lives," she says

There's also no guarantee that the two won't kill again, she says

Although remorse is not a requirement for amnesty, she says the two

made it apparent that they still do not think of the murder as wrong

A feeble attempt by Derby-Lewis to apologise to her last August at the Pretoria City Hall (perhaps an imitation of other amnesty hearings where persecutors and their victims have often come face to face in sometimes emotional apologies) left her convinced of his insincerity as she was not even in the venue at the time

"He did not bother to check if I was present he just rattled it off. He should have just shut up instead of insulting me. If he really meant it, what stopped him from sending me a private message all these years - why does he use a TRC and media platform to apologise?"

She's convinced that the murder was part of a bigger rightwing plot and says that the criminal trial was "done in a hurry" because the former government wanted to "set an example" and also to contain leftwing anger

Intelligence links

Military intelligence links of former Citizen journalist Arthur Kemp, who helped Gaye Derby-Lewis draw up a "hit list" that included President Nelson Mandela, were never properly explored and the possibility that two assassins (as claimed by a witness) confronted Hani, was also ignored, she says

What riles her most is that several rightwingers who were clearly associated with the murder have not been charged or called to account

The murder weapon was part of a cache stolen from the military, but Gene Taylor, who first produced the weapon, was neither charged nor appeared before the TRC

"I remember Chris saying one day that those guns were going to kill us (black people) when he heard about the rightwing heist"

To add insult to injury, Derby-Lewis has complained about the difficulties his family has in visiting him in prison. Walus has asked for conjugal visits by his girlfriend

"Do they ever stop to think that they robbed my children of a father that they are damn lucky their children still have them around?"

'Tutu, please bring Tiro's killers to book'

(252) Sowetan 23/3/98

Mother says now that her son has been reburied, she wants justice to be done

By Mathatha Tsedu

TRUTH AND RECONCILIATION Commission (TRC) chairman Archbishop Desmond Tutu was called upon yesterday to ensure that the killers of Onkgopotse Tiro are brought to justice

The call was made by Tiro's mother, Mrs Moleseng Tiro, in a message read on her behalf by her son Mookame, at the reburial of the remains of the Black Consciousness Movement (BCM) student leader killed by a parcel bomb 24 years ago

Tiro's remains were exhumed in Gaborone, Botswana, on Friday. Mrs Tiro said the Azanian People's Organisation (Azapo), which organised the reburial, had helped her achieve "the first hurdle of getting my son's remains back home. Tutu must now do his task. He must pass the second hurdle of bringing the killers of my son to book."

The call was echoed by Azapo president Mr Mosibudi Mangena, who alleged that a former police spy "and his fellow merchants of death and sin" had killed Tiro.

"All we want is for them to confess. We want to hear their voices confirm what we have known all along. They should give us details of

their dastardly deeds. They must give us the names of all the evil conspirators and their tasks in Tiro's murder," Mangena said.

He said the continuing practice of black children learning under trees, the theft of millions of rands meant for schoolbooks and feeding schemes at schools, and the sjambokking of black children by racists in Vryburg as well as the murders of blacks on farms were reminders that black people were not yet free despite the new political dispensation.

The service, held at Tiro's village of Dinokana, near Zeeuust, was attended by more than 5 000 people. The crowd included North West premier Popo Molefe, MEC for education Mf. Zacharia Tolo, Land Court judge Mr Justice Moloto, the chief legal adviser to Deputy President Thabo Mbeki, Mrs Mojanku Gumbi, and several BCM stalwarts and a delegation from Botswana.

The exhumation on Friday saw an emotional service in Gaborone before Tiro's remains were transported to the border gate where an elaborate handover to Mangena and the Tiro family was performed by former members of the Azanian National Liberation Army.

The reburial included the unveiling of a new tombstone by Mrs Tiro and Mangena.

Murder was 'kind of initiation'

(252)

PRETORIA — A rightwinger had to kill any black person to qualify as an assassin for an underground movement in 1989, the truth commission heard yesterday

Cornelius Lottering testified in Pretoria that his commander, Dawie de Beer, wanted to test him for future assignments to murder prominent black political figures. "He was not sure that I was suitable, as I was not a violent person. The murder was a kind of initiation," Lottering said.

He is seeking amnesty for three offences, including the murder of taxi driver Potoko Makgalemela in Johannesburg on August 29 1989.

In the same year Lottering committed armed robbery and escaped from custody.

He testified that at the time he was a member of the Orde van die Dood (Order of Death), an underground movement which was set up by the Afrikaner Weerstandsbeweging (AWB).

When recruited by the order, he was told he would have to murder a black man to prove himself. It was up to Lottering to se-

lect a target.

"I chose the black taxi driver because he was ferrying white passengers. I felt my act would be a protest against integration," Lottering said.

He and another rightwinger, Fanie Goosen, lured the victim away from a taxi rank near a ski club at Daleside, south of Johannesburg.

Makgalemela was stabbed with a knife and then shot with a 9mm pistol in the mid-section of his body.

2024/3/98

Separated

"To make sure he was dead, I walked closer and shot him in the head," Lottering told the commission. He said that Orde van die Dood had already separated from the AWB at the time of the murder.

"We lost all confidence in (AWB leader) Eugene Terre'Blanche because of his affair with (former newspaper columnist) Jani Allen," Lottering said. He assumed the Conservative Party (CP) was playing a strong

role in the activities of the order.

This was based on statements by De Beer, who had talks with former CP leader Andries Treurnicht.

Lottering said three CP advocates, Jurg Prinsloo, Fanie Jacobs and Chris de Jager, offered to defend Goosen and him free of charge after their arrest in December 1989. Treurnicht instructed them to do so, Lottering said.

The three advocates withdrew from the case after the two accused changed their pleas and statements.

In his original version of events he told police Goosen had acted with him. He amended this version on instructions to protect Goosen. Goosen was acquitted at the criminal trial and disappeared.

Lottering said the first objective of the underground movement was to eliminate National Party leaders.

"We later decided African National Congress leaders had more power and we should focus on them."

The hearing continues — Sapa

"sum total" of work done by... yesterday after parents...
M... dispute have lasted for nearly case once and for all"

Witness 'saw Webster's killers'

(262) PD 24/3/98

PRETORIA — A statement by a witness who saw the faces of David Webster's killers was handed to the Pretoria High Court in his absence yesterday.

Police said they had been unable to trace Cornelius du Plessis, but there was as yet unconfirmed evidence that he died some time ago.

In the statement Du Plessis described the appearance of the two killers in detail, as well as his attempts to save Webster's life. He said he was driving behind a white car from which the shots that killed Webster were fired.

Former Civil Cooperation Bureau agent Ferdi Barnard has pleaded not guilty to a charge of murdering Webster in front of his Johannesburg home.

Du Plessis said he was driving behind a white Opel when he heard a loud bang. A white man standing behind a yellow bakkie fell onto the ground. The car passed him, and Du Plessis saw the occupants looking back at him before racing away.

Du Plessis ran towards Webster and tried to stem the blood pouring from a wound in Webster's chest. An ambulance arrived after about 45 minutes but Webster was dead.

Du Plessis, who said in a later statement he recognised one of the killers at a 1992 inquest into Webster's death, described the driver of the Opel as about 26 years old, neat, with a dark skin and an attractive face. His passenger was about 40.

Du Plessis expressed fears that he and his family would be harmed. He said he at first did not want to come forward, but decided to make a statement because, he feared the police were on the wrong track and the real killers might never be found.

Du Plessis said he was shocked when he saw one of the killers, who appeared to be a witness at the Webster inquest, but did not catch his name. Although the killer appeared to have been wearing a yellow wig during Webster's murder, his face was still recognisable because of his distinctive features.

The trial was postponed to next Monday to enable the state to consult Justice Minister Dullah Omar in connection with an attempted murder charge against Barnard.



'DECISIONS INVALID' — TUTU

TRC's bid to undo ANC amnesties

CT 24/3/98

(252)

THE OUTCRY which greeted the blanket amnesty granted to 37 members of the ANC last year has culminated in the TRC seeking to have the decision overturned because, it says, their applications did not meet the full requirements of the Amnesty Act, nor did they supply all the information the act demands. Justice Writer **RONALD MORRIS** reports.

THE Truth and Reconciliation Commission yesterday launched High Court proceedings in which it asked that the blanket amnesty granted by its Amnesty Committee to 37 ANC members — including Deputy President Thabo Mbeki — be declared void and set aside

In papers TRC chairperson Archbishop Desmond Tutu said the amnesty decisions were invalid on the following grounds

- That amnesty could only be granted in respect of an identified act, omission or offence
- That the committee had failed to determine which acts qualified for amnesty when it made the decision
- That it could not have satisfied itself that the 37 ANC members had made a full disclosure of all relevant facts
- That the committee could not have satisfied itself that there was no need for a hearing before it made the amnesty decisions

Tutu said many of the applications for amnesty referred to a joint "declaration" made by the ANC on the basis of collective responsibility for the actions of the ANC during the anti-apartheid struggle

The other names include Minister of Environmental Affairs and Tourism Pallo Jordan, his deputy Mr Peter Mokaba, Minister of Transport Mac Maharaj, Mr Andrew Masondo, Deputy Speaker Ms Baleka Mmakota Mbete-Kgositsile, Defence Minister Joe Modise, Minister of Intelligence Joe Nhlanhla, SACP leader Mr Charles Nqakula, Foreign Affairs Minister Alfred Nzo, Justice Minister Dullah Omar, deputy minister in Mbeki's office Mr Essop Pahad, Mpumalanga Premier Matthews Phosa, poet and writer Mr Wally Serote, SABC journalist and former MK commander Mr Snuki Zikalala, and ANC KwaZulu-Natal leader Mr Jacob Zuma

The amnesty decisions were dated at Cape Town on November 28 last year and a preprinted form was used for all. However, in each case the name of the person and the period of amnesty had been inserted by hand.

Each of the amnesty decisions was formulated in identical terms and in every case the decision was to the effect that amnesty was granted "for all offences associated with a political objective as defined by the act"

This caused a considerable outcry and received widespread publicity

Tutu said the functions of the Amnesty Committee were to consider applications for amnesty and to grant amnesty where all the requirements of the act had been satisfied

Amnesty applicants were required to make their applications in the prescribed form and within certain time limits and the committee was then required to investigate the application and to make any necessary inquiries

The committee could grant amnesty without holding a hearing if it was satisfied that certain requirements had been complied with

The committee also had to satisfy itself that the application related to an "act associated with a political objective which did not constitute a gross violation of human rights"

The definition of a "gross violation of human rights" included the killing, abduction, torture or severe ill-treatment of any person, and any "attempt, conspiracy, incite-

ment, instigation, command or procurement" to commit such an act"

Once full disclosure of all relevant facts had been made there was no need for a hearing and once amnesty had been granted the person could not be held criminally or civilly liable

Following the outcry, the TRC had taken legal advice and then instituted the High Court proceedings, Tutu said

Documents entitled "ANC statement to the Truth and Reconciliation Commission" and "Further submissions and responses by the ANC to questions raised by the TRC" indicate that some of the offences for which amnesty was claimed probably did fall within the definition of "gross violations of human rights"

At a minimum, the application forms of the 37 failed to provide sufficient information to enable the committee to satisfy itself that the offences for which amnesty was claimed

did not constitute "gross violations of human rights"

Since the committee could not have been satisfied that these offences fell outside the definition, its decision to grant amnesty without a hearing was irregular

The defects referred to were of a sufficiently serious nature to render the amnesty decisions void. Alternatively, they constituted irregularities which would make the amnesty decision liable to be set aside on review, Tutu said

Attempts to contact a spokesperson for the law firm Moosa Waglay and Pietersen, on whom the papers were served yesterday afternoon, proved unsuccessful

Committee failed to determine which acts qualified

Justice Department wants business and NGO aid to help with overhaul of system

By CATHY POWERS

The Justice Department yesterday asked business and non-government organisations for financial help in a bid to kick-start key projects to overhaul the justice system

The 20 key projects – which included the creation of a juvenile justice system – would cost the department around R96,3-

million

More than R67,8-million of this was still needed

Outlining the key projects at a conference yesterday, the department's chief of legal and court administration Sidney Pilane appealed to Business Against Crime, foreign donors and NGOs to help fund the radical overhaul.

Only five of the 20 projects

are fully funded – most of them by foreign aid

Justice Department director-general Jasper Noethe said the financial holes that still exist would hamper progress

"If we don't get it (the funding) we will have to go through the ordinary budgetary process, which will take that much longer," he said

The projects are part of the

department's plan to transform a fragmented, discriminatory legal system into a unified, non-racial system that is accessible and efficient

The ambitious Justice Vision 2000 was launched in September last year

Priority was overhauling the administration of courts, said department deputy director-general Vusi Pikoli.

Blair 24/3/98 (252)

Terre'Blanche will not testify in amnesty case

PRETORIA — Afrikaner Weerstandsweg (AWB) leader Eugene Terre'Blanche was not interested in testifying in support of a right-winger seeking amnesty for murder, the truth commission heard yesterday.

Daan Mosterd, acting for applicant Cornelius Lottering, said he had asked Terre'Blanche on Monday night to give evidence. Mosterd also tried to get hold of Henne Binneman, a former comrade of Lottering.

Neither of them are interested in testifying, Mosterd said. Lottering is seeking amnesty for three of-

fences, including the killing of taxi driver Potoko Makgalamele in Johannesburg on August 29 1989. In the same year he committed armed robbery and escaped from custody.

At the time he was a member of an AWB breakaway group, Orde van die Dood (Order of Death). Lottering contends that he was acting on the instruction of his commander, Dawe de Beer, to further the right-wing cause for a separate Afrikaner homeland.

Lottering is serving a sentence of 21 years for his crimes. After former AWB Brig Dries Kriel test-

ified in support of Lottering on Monday afternoon, Mosterd said he also intended approaching Terre'Blanche and Binneman to give evidence.

The hearing was adjourned yesterday when neither turned up.

Amnesty committee chairman Judge Selwyn Miller ruled that Mosterd's written argument in support of the application should be submitted by Friday.

Kriel accused the AWB leadership on Monday of leaving members serving prison sen-

Insults led to killings, truth commission hears

DURBAN — The truth commission yesterday heard applications for amnesty from two Inkatha Freedom Party (IFP) members who killed two African National Congress (ANC) supporters after becoming enraged by political insults.

The commission's amnesty committee is hearing applications for amnesty from IFP supporters who have been charged with murders at different times during the years of conflict between the IFP and the ANC in KwaZulu-Natal between 1990 and 1992.

Nimrod Mthembu and Shengu Ngobese were convicted, and are serving jail sentences for the murder of a woman, Zondhwa Khumalo, and a man, Siza Ntsele, at Mapumulo near Stanger in 1991.

Mthembu and Ngobese both told the committee during their applications for amnesty that they were loyal members of the IFP and resented and opposed all attempts by the ANC to gain support in their area.

They claimed to have been acting in the best interests of the IFP by removing the ANC from society.

However, they both conceded they received no orders from IFP officials to do so.

Both said they became infuriated by taunts from ANC supporters who referred to IFP supporters as "oklova" and "istaki".

Asked by committee chairman Hassen Mall to explain what these words meant, Mthembu was unable to do so apart from

saying he looked at them to be derogatory remarks.

He said he was able to identify the people who made these remarks as ANC supporters and that he felt it was his duty to eliminate them from society.

Asked if the use of anti-IFP slogans was the only way he identified them, Mthembu replied that Khumalo had opposed the imposition of a dog tax in the area. He said the tax was imposed by the KwaZulu-Natal government which was controlled by the IFP, so he took her to be an ANC supporter.

The committee is to consider the application and give its decision at a later stage.

The rest of the hearings continue later this week — Sipa

Tsitsikamma Nature Reserve faces Coyieland rights claim

Deborah Fire

COVIE residents in the Western Cape have lodged a land rights claim for about 450ha of prime eco-tourism land in the Tsitsikamma Nature Reserve.

While they have not claimed ownership of the land, they want access to it for grazing purposes and access to the Indian Ocean along the reserve's southern boundary, or monetary compensation.

Western Cape land commission spokesman Franz Zottl said 30 allotments of two morgen each, were given to Covie residents in 1884, with grazing and fishing rights on the adjoining common land.

However, the ocean frontage was declared part of the nature reserve in 1974 and fenced off. Covie residents were removed from the area in 1976.

TRC told of drive-by shooting on poll day

Rightists recall attack on minibus

ART 25/3/98 (252)

Pretoria – Two rightwingers decided to shoot blacks on April 27, 1994 in a bid to disrupt the country's first non-racial election, the Truth and Reconciliation Commission heard today.

They were convinced that their actions formed part of a country-wide rightwing uprising, James Wheeler told the amnesty committee in Pretoria.

He and Cornelius Pyper are seeking amnesty for murder and attempted murder. Both crimes were committed on election day in 1994.

On the night of April 27, 1994, the two men fired at a minibus loaded with black passengers on the road between Westonaria and Randfontein on the West Rand.

Vuyani Papuyana was killed in the shooting and his brother Godfrey was wounded.

The applicants contend they

were acting in support of what they labelled the struggle of the Conservative Party and the Afrikaner Weerstandsbeweging against the ANC-SA Communist Party alliance.

Wheeler, who is serving a 15-year jail sentence for his crimes, today said he attended several rightwing political meetings before election day.

Leaders of the Afrikaer Weerstandsbeweging and the Conservative Party made it clear that Afrikaners would suffer under an ANC-SACP government.

On April 27, Wheeler and his wife visited Pyper at his Westonaria home. On a later drive through the town they noticed large numbers of blacks queuing at polling stations.

After returning to Pyper's home, the men held a braai and consumed beer and brandy.

"We drank a lot, and decided we

should do our part to disrupt the election and help prevent an ANC/SACP takeover.

Before they left, Wheeler caught Pyper's wife trying to warn the police. He ripped out the telephone cord.

Wheeler said he and Pyper drove along the road between Randfontein and Westonaria, searching for an opportunity to shoot blacks.

"I saw a minibus with black people in front of us. I cocked my shotgun and handed it to Corrie (Pyper)," said Wheeler.

"I drove until we were next to the minibus. Corrie shot at the driver through the open window of the front door on the left."

Wheeler said he accelerated and sped away.

Expressing remorse, Wheeler told the amnesty committee: "I cannot believe that I was so shortsighted." – Sapa

TerreBlanche 'not interested' in pal's bid for amnesty

(252) Star 25/3/98

Afrikaner Weerstandsbeweging leader Eugene TerreBlanche has refused to testify in support of a rightwinger seeking amnesty for murder, the Truth and Reconciliation Commission heard in Pretoria yesterday.

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Lottering is seeking amnesty for three offences, including the killing of Johannesburg taxi driver Potoko Makgalemele in 1989, when he was a member of an AWB breakaway group, "Orde van die Dood" (Order of Death).

Lottering said he was acting on the instruction of his commander, Dawie de Beer, to further the rightwing cause for a separate Afrikaner homeland. Lottering is serving a 21-year prison sentence.

Former AWB brigadier Dries Kriel testified for Lottering on Monday afternoon when he accused the AWB leadership of leaving members serving prison sentences in the lurch. "People who gave the orders are too cowardly to come and support those people in jail." - Sapa

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Focus on human rights in health

By Claire Keeton

THE launch of the Human Rights and Health Project has ushered in a new era in which human rights are being actively promoted in South Africa's medical profession

The project, which has long been involved in campaigning for human rights in medicine and which prepared a 250-page submission for a TRC special hearing on the health sector's complicity in human rights violations, was officially launched on Human Rights Day

The keynote speaker at the launch was Dr Christian Pross, director of the Berlin Centre for the Treatment of Victims of Torture. Other speakers included TRC commissioner Dr Wendy Orr, who exposed the assault and torture of hundreds of detainees in the Eastern Cape in 1985, and the project's fellow, Dr Jeanelle de Gruchy

Uncovering abuses

Pross, who played a major role in uncovering abuses by the medical profession in Nazi Germany, said "It is fascinating watching the process here in uncovering the role of the medical profession under apartheid, finding out the extent to which doctors were involved in human rights violations like in Steve Biko's death and the unequal distribution of healthcare between black and white South

Africans"

He said atrocities committed by Nazi doctors were suppressed for decades in Germany after World War 2

Under Adolf Hitler 45 percent of German doctors were members of the Nazi party, the highest percentage of all professions

The Nuremberg Doctors Trials of 1946-47 publicly revealed shocking medical crimes, from fatal human experiments to mass murder

But, said Pross "It was quite difficult in the early '80s collecting enough evidence. Former Nazi doctors were still in control and they wanted to prevent us. The archives were closed to research"

Pross documented details of doctors who had conducted cruel experiments in concentration camps, who had participated in the compulsory sterilisation of so-called genetically inferior groups, and who killed hundreds of thousands of prisoners they declared unfit for labour in the camps

"Now there is so much material, it is no longer risky," he said

Pross said it was necessary for the medical profession to implement its own ethical bodies to monitor human rights violations

"Doctors must have a human rights commissioner or ombudsman, and those who report human rights violations must have some protection"

He said "It is risky for doctors to speak up and expose colleagues. They



TRC Commissioner Dr Wendy Orr says there is much South Africa can learn from the kind of reparations made to victims of the Holocaust

may be victimised by their fellows or superiors

"They need protection, like lawyers to support them in court"

German doctors supporting human rights had fought long and hard for a commissioner in the national medical association and they had finally won their battle a year ago when one was

appointed

Pross said he had spoken to Dr Orr about the TRC health project in South Africa. He said there were determined efforts by the TRC to uncover medical abuses and that this research needed public and government support, as well as funding

"It took us 40 years after the end of the war to expose abuses South Africa is a better example they are acting soon after the end of apartheid to do this"

Pross said it was essential to provide compensation for the victims of trauma, who often suffer from post-traumatic stress disorders and physical problems like lost limbs

He said Germany paid a monthly pension to the survivors of concentration camps

"It was not a high payment but it meant something. It also had the sym-

bolic meaning of recognising them as victims"

Pross suggested that South Africa provide a lump sum for victims such as detainees. He said the TRC was doing courageous work in exposing past abuses and that this was vital to healing

"We did not have a Truth Commission or a Reconciliation Commission in Germany. After the Holocaust there were hardly any trials and the traumatised kept burning," he said

"If countries do not deal with the past the wounds will not heal. There will be a cycle of revenge and renewed violence"

Dr Orr said "It is useful to hear about the kind of reparations made after the Holocaust. It is important to the type of policy we are developing here," said Orr

On her own run-in with the Eastern Cape medical establishment, she said "There was much apathy and conservatism in the profession at that time"

Said Dr de Gruchy "We invited Dr Pross to learn lessons from him. We must try to develop a different culture here - a fundamental respect by health professionals for human rights"

● Pross is speaking at Wits University Medical School (Marie Curie Theatre) at 5pm tomorrow on "Breaking Through the Post-War Cover-Up of Nazi Doctors in Germany"

(52) *Boonelan 25/3/98*

AWB abandons amnesty seeker

252
Southern 25/3/98
AFRIKANER Weerstandsbeweging leader Eugene Terre'Blanche is not interested in testifying in support of a rightwinger seeking amnesty for murder, the truth commission heard yesterday

Mr Daan Mosterd, acting for applicant Mr Cornelius Lottering, told the TRC he had asked Terre'Blanche on Monday night to give evidence. Mosterd also tried to get hold of Mr Henne Binneman, a former comrade of Lottering. "Neither of them are interested in testifying," Mosterd said.

Lottering is seeking amnesty for three crimes, including the killing of taxi driver Potoko Makgalemele in Johannesburg on August 29 1989. In the same year he committed armed robbery and escaped from custody.

At the time he was a member of an AWB breakaway group, Orde van die Dood (order of death). Lottering claims he was acting on the instructions of his commander, Mr Dawie de Beer, to further the right-wing cause for a separate Afrikaner homeland. Lottering is serving 21 years in jail for his crimes.

After former AWB "Brigadier" Dries Kriel testified in support of Lottering on Monday, Mosterd said he also intended approaching Terre'Blanche and Binneman to give evidence.

The hearing was adjourned yesterday when neither turned up.

On Monday Kriel accused the AWB leadership of abandoning members serving jail sentences - *Sapa*.

Right-wingers 'shot blacks to stop vote'

PRETORIA — Two right-wingers had decided to shoot blacks on April 27 1994 in a bid to disrupt the country's first nonracial election, the truth commission heard yesterday.

They were convinced their actions formed part of a countrywide right-wing uprising, James Wheeler told the amnesty committee in Pretoria.

He and Cornelius Pyper are seeking amnesty for murder and attempted murder. Both crimes were committed on election day in 1994.

On the night of April 27 1994, the two men fired on a minibus loaded with black passengers on the road between Westonaria and Randfontein on the West Rand.

Vuyani Papyana was killed in the shooting and his brother Godfrey was wounded.

The applicants contend they were

acting in support of what they labelled the struggle of the Conservative Party (CP) and the Afrikaner Weerstandsbeweging (AWB) against the African National Congress (ANC) and SA Communist Party (SACP) alliance.

Wheeler, who is serving a 15-year prison sentence for his crimes, said yesterday he had attended several right-wing political meetings before election day.

CP and AWB leaders made it clear that Afrikaners would suffer under an ANC-SACP government.

On April 27, Wheeler and his wife visited Pyper at his Westonaria home. On a later drive through the town, they noticed large numbers of blacks queuing at polling stations.

"This was a further confirmation of my impression that the freedom of Afrikaners and other whites was being

signed away through the election," Wheeler said.

Another right-winger, Gert de Bruyn, told Wheeler and Pyper later in the day about bomb explosions.

"He said there would be more explosions. I was convinced that the struggle for freedom and survival, which the AWB spoke of, had started," Wheeler told the commission.

After returning to Pyper's home, the men held a braai and consumed beer and brandy.

"We drank a lot, and decided we should do our part to disrupt the election and help prevent an ANC-SACP takeover," he said.

Before they left, Wheeler caught Pyper's wife trying to warn the police. He ripped out the telephone cord.

Wheeler said he and Pyper drove along the road between Randfontein

and Westonaria searching for an opportunity to shoot blacks.

"I saw a minibus with black people in front of us. I cocked my shotgun and handed it to Corrie (Pyper)," Wheeler told the amnesty committee.

"I drove until we were next to the minibus. Corrie shot at the driver through the open window of the front door on the left."

Wheeler said he accelerated and sped away.

"In my rearview mirror I saw the minibus leaving the road gradually. I told Corrie it did not appear as if he had hit anyone."

The police visited Wheeler the following day and he promptly confessed to his actions.

Expressing remorse, Wheeler said: "I cannot believe that I was so shortsighted." — Sapa. **PD 26/3/98**

Ramathodi urges truth commission to find killers of cadres

LOUIS TRICHARDT — Northern Province premier Ngoako Ramathodi has appealed to the truth commission to step up its efforts to identify the murderers of 13 Umkhonto we Sizwe (MK) operatives buried at Tshikota near Louis Trichardt in the 1980s.

"We shall stop at nothing to find the perpetrators who maimed and tortured our cadres before they killed them," Ramathodi, who led a team of insurgents from Zim-babwe in the late '80s, said at their exhumation yesterday.

The bodies of the MK soldiers were buried secretly at Tshikota after they were killed by security forces more than 10 years ago. Those whose remains would be exhumed in the next two days were identified as Jeremiah Tynota, Matshidiso Tsatsi, Michael Modise, Moses Khosi, Bomstile Komane, Mbengeni Kone, Sipho Kolisi, Mncedi Momi, Luuvuyo Khehla, Mlungisi Velaphi, Frans Gombeng, Oupa Molefe and Lawrence Lesemola.

A separate report said the truth commission hearings in Durban, where former Inkatha Freedom Party (IFP) supporters were applying for amnesty, was delayed yesterday because the lawyer appearing for the applicants was not available. The amnesty committee, chaired by Judge Hassen Mall, is hearing applications for amnesty from nine former IFP supporters who are serving murder sentences.

The hearings were due to continue today, when the lawyer — Louis de Klerk — would be available to represent the applicants. The applications for amnesty all arise from the political conflict that raged between rival supporters of the African National Congress and the IFP during 1990 and 1992 — Sapa.

25/27 PD 26/3/98



It was shortsighted to kill, TRC told

(272) Star 26/2/98

Two rightwingers decided to shoot blacks on April 27 1994 in a bid to disrupt the country's first nonracial election, the Truth and Reconciliation Commission heard yesterday

They were convinced their actions formed part of a country-wide right-wing uprising, James Wheeler told the amnesty committee in Pretoria

He and Cornelius Pyper are seeking amnesty for murder and attempted murder. Both crimes were committed on election day

On the night of April 27 the two men fired on a minibus loaded with black passengers on the road between Westonaria and Randfontein on the West Rand

Vuyani Papuyana was killed in the shooting and his brother Godfrey was wounded

The applicants claim they were supporting what they labelled the struggle of the Conservative Party and the Afrikaner Weerstandsbeweging against the African National Congress-SA

Communist Party alliance.

Wheeler, serving a 15-year prison term for his crimes, said he attended several right-wing meetings before the election

Leaders of the AWB and the CP made it clear that Afrikaners would suffer under an ANC-SACP government

On April 27 Wheeler and his wife visited Pyper at his Westonaria home. Later they noticed large numbers of blacks queuing at polling stations

"This confirmed my impression that the freedom of Afrikaners and other whites was being signed away," Wheeler said

Later another rightwinger, Gert de Bruyn, told Wheeler and Pyper about bomb explosions

"He said there would be more explosions. I was convinced the struggle for freedom and survival, which the AWB spoke of, had started," Wheeler said.

After returning to Pyper's home, the men held a braai and consumed beer and brandy

"We drank a lot, and decided we should do our part to disrupt the election," Wheeler said

Wheeler caught Pyper's wife trying to warn the police, and he ripped out the phone.

Wheeler said he and Pyper drove along the road between Randfontein and Westonaria, searching for an opportunity to shoot blacks

"I saw a minibus with black people in front of us. I cocked my shotgun and handed it to Corrie (Pyper)," Wheeler said

"I drove until we were next to the minibus. Corrie shot at the driver through the open window of the front door on the left."

Wheeler then sped away.

"In my rear-view mirror I saw the minibus leaving the road gradually. I told Corrie it did not appear as if he had hit anyone."

When police arrived the next day, Wheeler promptly confessed

Expressing remorse, Wheeler said "I cannot believe I was so shortsighted" - Sapa

Terre'Blanche's appeal postponed indefinitely

Stephané Bothma (252) DD 27/3/98

PRETORIA — The appeal by Afrikaner Weerstandbeweging leader Eugene Terre'Blanche against a six-year prison sentence was postponed indefinitely by a high court judge yesterday, pending the outcome of his amnesty application.

Judge Willie Hartzenberg granted an application by Terre'Blanche's legal team for a postponement of the appeal on his conviction in the Potchefstroom Regional Court last year for the attempted murder of Paul Motshabi and an assault on John Ndzima. Terre'Blanche, who did not appear in person at

the high court yesterday, was sentenced to six years imprisonment last July but was immediately granted bail of R20 000 pending the outcome of the appeal, which was extended yesterday.

At the time, Terre'Blanche's previous convictions on charges of public violence, crimen injuria and malicious damage to property were taken into account by the court for the purpose of sentencing.

His lawyers argued yesterday that should his amnesty application on these charges be successful, it could change his sentence.

To date, the truth commission has not yet announced a date for Terre'Blanche's amnesty hearing.

Kriel seeks justice probe

Linda Ensor ~~(252)~~

CAPE TOWN — Western Cape premier Her-nus Kriel has asked President Nelson Man-dela to set up a commis-sion of inquiry to exam-ine the structures of the criminal justice and policing system. ~~(252)~~

He wants the commis-sion to report its findings by May 24. ~~(252)~~

The plea came shortly after he announced the establishment of a task team to develop strate-gies for combating gang violence and to stabilise crime at schools.

The task team was set up to upgrade the crim-inal justice system "to bring about more effec-tive prosecutions and successful detentions". Action plans included the use of police from outside the province to clean up gangster areas.

McBride cop linked to death of cadres

BY ROBERT BRAND
AND GILL GIFFORD

A South African policeman appointed to investigate the arrest of Foreign Affairs official Robert McBride in Mozambique on gunrunning charges was allegedly involved in the deaths of at least six Umkhonto we Sizwe (MK) cadres during the 1980s.

McBride's wife Paula and his attorney Jose Nascimento reacted with outrage yesterday at the appointment of Superintendent Frans "Lappies" Labuschagne to the three-man team sent to Maputo this week to assist in investigations.

McBride, a former MK cadre convicted for the bombing of Magoo's Bar in Durban, was arrested in Mozambique this month.

Former Vlakplaas commander Eugene de Kock named Labuschagne during his trial as a policeman involved in the murder and kidnapping of MK cadres.

De Kock said Labuschagne

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and another policeman killed MK high commander Cassius Maaake and senior commander Paul Dikaledi in an ambush near Swaziland. They also ambushed and killed an MK operative codenamed Viva and "three or four" other cadres.

This was in 1986 and 1987, when Labuschagne was with the Ermelo and Middelburg security branches.

In his autobiography, *A Long Night's Damage*, De Kock also describes Labuschagne's alleged involvement in the kidnapping of Sheila Nyanda from the ANC's Swaziland offices.

The allegations are repeated in his TRC amnesty application. The TRC has also investigated an allegation that Labuschagne was involved in the death of Stanza Bopape, an ANC activist, in 1988.

A source close to McBride said there was particular concern about Labuschagne's appointment because of allegations that McBride could have been set up by elements from the former security forces.

(252)
"Why use Mpumalanga policemen in the investigation if there are indications that the Mpumalanga police could have been involved in the set-up?" the source said.

Safety and Security Minister Sydney Mufamadi would not comment yesterday on what he described as "untested and malicious allegations".

"We are not even sure that Labuschagne and the man accused by De Kock are one and the same person."

However, reliable sources confirmed Labuschagne is the man accused by De Kock. The SA Police Service also confirmed there was no other Labuschagne with the security branch in the Eastern Transvaal in 1986 and 1987.

Deputy national police commissioner Zolisa Lavisa said Labuschagne had been appointed because of his experience in investigating arms smuggling.

■ The other team members are Director Errol Seyisi and Superintendent Hein Prinsloo.

Justice head goes overboard on overtime

(252)

M+G 27/2 - 1/2/98

Mungo Sogot

The director general of the cash-strapped Department of Justice has claimed close to R88 000 in overtime pay for the past 12 months — incurring a rebuke from Minister of Justice Dullah Omar.

Jasper Noeth clocked an overtime claim of R87 991 for the current financial year, a department source confirmed this week. Noeth's overtime pay-out is about 25% of his R332 205 salary.

His large claim — which is about R30 000 more than the starting salary of a prosecutor — sits uneasily with his department's struggle to find overtime money for disgruntled prosecutors and state advocates.

Many of these court officials have accused the justice department's management of raiding an unfairly large portion of the overtime kitty.

Omar has urged management in his department not to apply for overtime. "People at management level, especially the director general, ought not to be claiming overtime. I my-

self frown upon management elements taking overtime," he said this week.

Omar says he has probed complaints from justice officials that management has taken too much overtime pay. But he says he has found "no unfair allocation at the expense of others."

Omar says he appointed a three-man committee to investigate the complaints and passed its findings to the public protector. "They [the internal committee] found no irregularities, even including the director general," he said, but he handed their report to the public protector for an independent opinion.

In December last year the minister was forced to stop overtime pay to justice officials when his department's overtime allowance ran dry. Court officials — who have sought to boost their salaries with hefty overtime claims — subsequently threatened to strike and Omar has now managed to secure an extra R5-million from the treasury. The criminal justice system has sustained a heavy exodus of lawyers seduced by better pay and conditions in the private sector.

One of the officials who conducted Omar's investigation, former attorney general Niel Rossouw, was reluctant to talk about Noeth's claim. He said everyone who claimed overtime — including the director general — worked the requisite hours.

"People work far harder than you think," he said. When asked for details of Noeth's claim, he added "I am not going to tell you, and you can print that."

Despite frowning on overtime claims, Omar concedes there has been a lot of "genuine hard overtime work."

The deputy director general of the department, Vusi Piccoli, says management claimed R7,3-million in overtime this financial year, while prosecutors received R23-million and state attorneys R2,7-million. He says the department's R42,5-million personnel budget was depleted by December 21 last year.

Noeth, who claimed R78 238 in the 12 months to February last year, was unavailable for comment.

aliases of Vlok and the cover-up cop

(252) M+G 27/a - 5/13/98

The man who covered up police bombings, with the full knowledge of Adriaan Vlok, also 'investigated' Stanza Bopape's death, writes Wally Mbhele

Apartheid police heavyweight General Jaap Joubert accompanied former minister of law and order Adriaan Vlok to a ceremony to congratulate policemen who bombed the offices of the South African Council of Churches — while he was supposedly investigating the bombing

Joubert's role in the cover-up of the bombing of Khotso House was leaked to the *Mail & Guardian* this week as more questions arose at an amnesty hearing of former policemen who have finally decided to break the silence about the fate of slain activist Stanza Bopape

Joubert also investigated Bopape's "disappearance" after he had "accidentally" died during police electric shock torture in June 1988 and his body was burnt and scattered by policemen

Ten policemen, including former police commissioner Johan van der Merwe, are applying for amnesty in connection with Bopape's killing. Bopape was general secretary of the Mamelodi Civic Association — a United Democratic Front (UDF) affiliate

Joubert's involvement in the cover-up of the Khotso House bombings is one of the intricate issues the Bopape family hope to exploit in support of their claim that more senior police officials were involved in the cover-up of Bopape's death

Vlok had linked Bopape to a bombing at Ellis Park after he was killed by police. He also blamed another UDF activist, Shirley Gunn, for the bombing of Khotso house

Joubert also headed the investigation into the bombings of the Congress of South African Trade Unions' offices, the Catholic Bishops Conference's Khanya House and the South African Council of Churches' Khotso House

None of his investigations succeeded in netting a perpetrator. It has now emerged from sources within the truth commission that Joubert accompanied Vlok to a ceremony to congratulate the Khotso House bombers while he was allegedly investigating them

The Bopape family would like to ask Vlok — if he was responsible for appointing Joubert to what seems to amount to cover-ups — why the only cover-up he is not aware of is Bopape's

The Bopape family's lawyers this week indicated that they would call Vlok to be cross-examined about his statement to the amnesty hearing denying knowledge of a cover-up

Vlok's lawyer, Louis Visser, this week told the amnesty hearing that his client only realised that Bopape had not escaped when he learned about the 10 policemen's amnesty application

He said Vlok's earlier statement to the commission dealt with a reply he gave in Parliament when he again insisted that Bopape escaped from police custody

Three weeks after Bopape's death Van der Merwe claimed that he had "wilfully" escaped from police custody. He is now admitting his role in a cover-up of the truth

The only reason he gives for the



Pondering the past: Former minister of law and order Adriaan Vlok at the truth commission. PHOTOGRAPH: GREG MARINOVICH/PICTURENET AFRICA

lie is that the facts of the murder would have sparked massive "unrest" during the June 16 1988 commemorations

In their attempt to destroy the policeman's case, the Bopape family will argue that if fears of unrest during June 16 commemorations were the cause for a cover-up, it should not have endured after that date

It took the police nine years to reveal Bopape's fate. The family argues that they only did so after being subpoenaed by Truth and Reconciliation

Commission investigators forward. They would never have come taken the advantage of the fact that hundreds of their colleagues, like those who were allegedly responsible for the massacres in places like Munsieville and Boipatong, are still silent," said Bopape's brother, Mike

One of the amnesty applicants for-mer lieutenant Charles Zeelie, said the fact that senior officers approved of the cover up of Bopape's fate proved that his actions were condoned

He testified that Bopape died after he was subjected to electrical shocks at the former John Vorster Square police station in Johannesburg. His body was taken to the former Eastern Transvaal where it was blown up with explosives before being tossed into a crocodile-infested river

What has not yet been established at the hearing is how Van der Merwe came to know about the true circumstances of Bopape's murder and how Joubert and Vlok became part of a sustained cover-up

Lynda Gledhill

South African doctors were warned this week that the Truth and Reconciliation Commission intends naming 35 of them found to have been involved in gross violations of human rights during the apartheid era

The warning came as members of the health care profession appealed to their colleagues to confront the complicity of many of its members during apartheid

Hand in hand with facing the past is the challenge to take on human rights as an important issue today, says Dr Leshe London, administrator of the Health and Human Rights Project and a professor at the University of Cape Town

"It is important we do this now, in a substantial way," he says

London says the truth commission explored some of the actions of health workers at a hearing in June 1997, but this was not enough.

He is also critical of the Medical Association of South Africa (Masa) for not wanting to delve further into the complicity of health workers during apartheid

"Masa needs to be proactive and not wait for complaints to come in. There are doctors who have been named before the commission who are still working"

London would like to see Masa establish a standing committee on human rights, which would help to carry on the tradition of doctors who worked against the human rights abuses in the 1980s

The Health and Human Rights Project, which was established in April 1997, was officially launched this week with the visit of German scholar Dr Christian Pross to South Africa

Pross has written extensively on the role of the medical profession under Nazi Germany and the impact of medical complicity in human rights abuses

Unlike South Africa, Germany ignored the actions of its medical professionals for decades, affecting health care up until today, Pross said

"Many of the doctors involved with the Nazis continued to hold key positions at medical universities. They continued to shape German medicine. No one was supporting human rights

"What is needed is to create a new culture of

Doctors under fire from truth commission

medicine. There needs to be a focus on the protection of human rights"

At the project's launch on Human Rights Day, two fellowships were named, in honour of Elda Barni and Dr Mangaliso Megina

Barni was a 56-year-old diabetic detainee who died after 333 days in detention in 1988 because her insulin was withheld

Megina was vice-president of the National Medical and Dental Asso-

ciation, and he worked in the townships to help survivors of repression during the apartheid era. He died in a car accident last year

The project plans to continue investigating and documenting health

professionals' involvement in apartheid-era abuses of human rights

It is also training health care teachers and students about the importance of advocating patients' human rights

MHG 27/3-2/4/98
2/14/98
2/12/98
2/12/98

All rise for people's courts

FM 27/3/98

SA's justice system is poised for a radical transformation with the establishment of the country's first family court in Durban next month. The courts should create "one-stop shops" for the resolution of family disputes including children's court issues, divorce, custody battles and interdicts related to family violence, says the Justice Department.

They are also aimed at cutting legal costs.

Justice Minister Dullah Omar has selected six areas where the courts will initially operate as pilot projects.

The Durban family court becomes operational on April 1 and the other five

areas — Johannesburg, Cape Town, Mitchell's Plain (Cape Flats), Port Elizabeth and Lebowakgomo (Pietersburg, Northern Province) — should be open by June 1.

Durban has already accumulated family court functions in a cluster within the Durban High Court building. But the opening of the Johannesburg court could be delayed by building alterations.

Johannesburg's maintenance court is located in the Magistrates' Court in West Street while the High Court, which deals with access, is situated blocks away in Pritchard Street. Domestic violence is dealt with from another area.

The plan is to house all of these functions under one roof.

The pending removal of the Black Administration Act from the statute books paved way for the establishment of the courts. The Act, which prescribes

that people must testify that they are black and separates black divorce courts from the rest of the judicial system, is due to be expunged from statute books through the Divorce Courts Amendment Bill before the end of the month.

The six courts will operate for a year before being re-evaluated. They will have the status of regional courts and do not preclude litigation from going to the higher courts.

The family court programme was initiated by Omar last February when he appointed a task team to look into the issue. That was followed by the establishment of local steering committees to prepare the courts for operation and develop training programmes for non-government organisation and other groups which will be instrumental in providing network services for families in crisis.

Herb Payne

Time against TRC in exhumation of graves

CP 29/7/98

By HANGWANI MULAUDZI

(252)

TIME is running out for TRC investigators if they hope to exhume more than 200 unmarked secret graves countrywide before a June deadline, it was revealed this week.

The unknown graves are that of former MK cadres and other political activists who died during the anti-apartheid struggle in the 1980s.

TRC special envoy of the Dutch government Cornelis Kooymans was speaking at this week's exhumation of four MK cadres' graves at Northern Province's Tshikota village, outside Louis Trichardt.

Kooymans said the lack of resources and the unavailability of certain files has left the TRC with little time to account for the secret graves.

Kooymans added that the exhumation of other freedom fighters was that their families could not be traced.

"We are doing our best as the TRC to make contact with the families of this cadres," said Kooymans.

Kooymans, however, said when the TRC submit its final report to cabinet they will make recommendation that time is extended for TRC investigators to continue with their duties.

"The politicians are the ones to decide but I'm optimistic that time will be extended for us to finish our job," said Kooymans.

Meanwhile the exhumation of the remains of four out of the 13 MK-cadres who were secretly buried in Tshikota cemetery was a low key affair.

Only a handful of people including Northern Province Premier Ngoako Ramatlhodi, MEC for Agriculture Rev Dean Farisani witnessed the exhumation of Velaphi Mlungisi of East London, Milo Malatji of Seshego, Mncedi

Nolosi of Middledrift and Sipho Kolise of Grahamstown.

TRC investigation unit spokesman Captain Fanie Molapo said the four - Malatji, Kolise, Mlungisi and Nolosi - were ambushed along the Limpopo valley by security forces and secretly buried in Tshikota.

Molapo said although he could not give the exact number of MK-soldiers along the valley, the figure could exceed 70.

"So far we have identified 200 cadres with hundreds more expected to be uncovered throughout the country," said Molapo.

Molapo said the problem with the exhumation of other freedom fighters was that their families could not be traced because most of them did not use their real names.

"We are doing our best to trace the families of this cadres," said Molapo.

Ramatlhodi called on former security force members who had been involved in the brutal killings and subsequent secret burials to come out and confess.

He said the NP should stop pretending it knew nothing about the secret graves scattered all over the country which are products of the inhumane system of apartheid.

Ramatlhodi said the discovery of the graves in the province was just a drop in the ocean.

"It is a dreadful experience for the families especially for those who travelled hundreds of kilometers for the exhumation," said Ramatlhodi.

"We will not rest until we get a full disclosure and apologies from those who authorised the killings," said Ramatlhodi.

Relatives of the slain soldiers said although they were hurt to learn that their loved ones were brutally murdered, they were relieved to finally know the truth.

Slam doors on criminals, Leon urges

'Courts are clogged'

ARG 30/3/98 (252)

CLIVE SAWYER
POLITICAL CORRESPONDENT

Democratic Party leader Tony Leon is to send proposals to justice ministers to close seven "doors" in the system through which criminals walk unpunished.

Speaking in Cape Town, he said there was no "quick fix" solution but much could be done if the will to solve the problems existed

The seven "open doors" were

- Ready availability of firearms to criminals through the illegal weapons trade and lack of control of legal guns

- Poorly managed and under-resourced policing

- Gross inefficiencies in bail procedure

- The falling rate of convictions

- Weak sentencing

- Massive overcrowding and escapes from prisons

- Inability of the criminal justice system to address the needs of victims

Mr Leon said that what distinguished South Africa from other

countries were the extraordinarily high levels of violence

Serious crimes like robbery, murder, rape and taxi violence were characterised by the use of firearms "We need immediate gun control"

He noted that spending on policing had now surpassed that on defence, but there was no visible improvement in service

The clogged court system was costing R3-million a day in keeping awaiting-trial prisoners in jail

Mr Leon said a sure sign of the crisis in the criminal justice system was that the rate of convictions was dropping across all categories

The approach to sentencing was in disarray Minister of Correctional Services Sipo Mzimela had said 60% of prisoners should not be in prison "We need to impose cheaper and more appropriate sentences"

This need was urgent because the prison system was facing collapse because of overcrowding

"Of all the players in this tragedy, the victim is the most marginalised, from the initial contact to encountering confusing court procedures"



LEON MULLER

Sound bytes: the Biko family, from left, Nkosinathi Biko, Ntsiki Biko and Samora Biko with black consciousness activist Peter Jones at today's hearing

Ex-cop tells of hosepipe beating

ARG 30/3/98 (252)



Ball: former security policeman Gideon Nieuwoudt

Former Eastern Cape security policeman Gideon Nieuwoudt described to a Truth Commission amnesty hearing today how he had beaten Black Consciousness activist Peter Jones severely with a length of green garden hosepipe during his interrogation.

Mr Jones was arrested at a roadblock outside Grahamstown with Black Consciousness leader Steve Biko in August 1977

Mr Nieuwoudt is one of five former Eastern Cape security policemen applying for amnesty for their role in the assault and death of Mr Biko, who died in detention on September 13, 1977 after severe head injuries

The other four ex-policemen testified at a hearing in Port Elizabeth last year, but Mr Nieuwoudt was granted a separate hearing because that amnesty panel had already made a finding that he lied in his amnesty application relating to an assault on Port Elizabeth activist Mkuseli Jack.

Mr Nieuwoudt, who is on bail pending his appeal against his murder conviction for his part in the Motherwell car bombing in which three black security policemen and an informer were killed by their white colleagues, also is applying for amnesty for assaulting Mr Jones

He told the amnesty panel today that Mr Jones had been interrogated by a four-man team, of which he was the junior, for a full eight hours on the first day, but that Mr Jones had not revealed any information

"He (Mr Jones) reacted arrogantly and aggressively," he testified

The following day Mr Jones had been brought back for further interrogation, and when the other three members left the room, he had beaten Mr Jones with the hosepipe

"I took it and hit him a number times across his back. I hit him very hard, to the extent that he started crying. According to

JOHN YELD



ON THE TRUTH COMMISSION

me, he must have suffered much pain". He had continued to hit him after he had started crying.

After the beating, Mr Jones had co-operated with him and had written details of his activities with Mr Biko, said Mr Nieuwoudt

Responding to a question by amnesty panel member Chris de Jager, Mr Nieuwoudt said his three colleagues had been "impressed" when they returned to find Mr Jones co-operating

"Did they ask you how you got it right?" Mr De Jager asked. Mr Nieuwoudt replied "I can't remember. I might have told them (But) I would never have admitted freely to a senior officer that I had assaulted him."

Mr Jones was present at today's hearing, and listened to Mr Nieuwoudt's testimony attentively, occasionally blinking rapidly

During the tea interval he greeted Mr Nieuwoudt and shook hands with him when the former security policeman approached him. Mr Biko's widow, Ntsiki, and her two sons, Samora and Nkosinathi, were also present. Their lawyer, George Bizos SC, told the hearing that the family were opposing Mr Nieuwoudt's amnesty application for his role in Mr Biko's death

Among the spectators at the hearing was actor Sir Peter Ustinov, who is in Cape Town filming part of a series about the travels of legendary American author Mark Twain

Companion hopes for Biko 'truth'

ERIC NTABAZALILA

MR Peter Jones, the man who was arrested with Black Consciousness leader Steve Biko more than 20 years ago, hopes Gideon Niewoudt, the former security policeman applying for amnesty for Biko's death, will "tell the truth for all the South Africans to know who delivered the fatal blow to Biko and his specific role in Biko's torture"

Niewoudt will appear before an amnesty committee in the city today seeking amnesty for the death of Biko and the torture of Jones

A weekend newspaper reported that a letter intended for the TRC and written by a retired security policeman had claimed that Biko was betrayed by a woman informer — and that the TRC denied ever having received it

Jones said last night that he and the Biko family had maintained for 20 years that their arrest (Biko and Jones) was mysterious and that it was difficult to accept that it was "just a coincidence" for the police to have suddenly set up a roadblock and arrested them

"This story about the betrayal of Biko came as a surprise to me. We are aware of the letter and we have been given the woman's name. We know her — but she was never connected to us or the organisation," he said

He said the Biko family would release a statement today about the allegations in the newspaper

The 30-year-old Biko died of brain injuries on September 12, 1977 after being transported nearly naked 1 200km from Port Elizabeth to Pretoria Central Prison in the back of a police

Land Rover

He was first tortured in Port Elizabeth after he was arrested at a roadblock in Grahamstown with Jones. They were returning from a series of secret meetings in Cape Town

Biko was taken to the security branch offices on September 6, 1977 for questioning. Jones was taken to Algoa police station, where he was tortured by Niewoudt and his co-applicants

Jones alleged that Niewoudt verbally abused him when he arrived at Algoa police station. He was taken to a cell and instructed to strip, which he did. He said he was beaten and kicked and pulled into a shower, which was then turned on

He was also made to stand on two half-bricks while holding two steel chairs above his shoulders

CT 30/3/98
(252)
He was detained from August 18 to October 31, and never saw his friend Biko again

Five former security policemen have applied for amnesty for the death of Biko. They are Rubin Marx, Johan Beneke, Gideon Niewoudt, Harold Snyman and Daantjie Siebert

Niewoudt applied for the separation of his amnesty application from those of his co-applicants and a new amnesty panel that excludes amnesty committee members who ruled on his amnesty application for assaulting Mkhusele Jack — another youth activist in Port Elizabeth in the 1980s

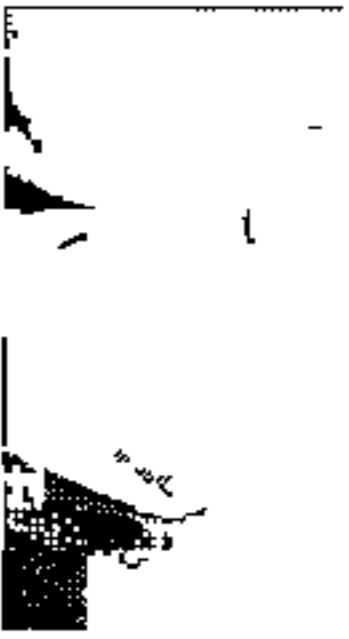
He admitted beating Biko with a hosepipe

Niewoudt was convicted for the Motherwell car bomb in which three of his colleagues and a police informer were killed



Courts' bill stands in the dock

Appointment of lay assessors will cause unbelievable complications, writes Martin Schönreich



Draft legislation approved by the Cabinet in January, which will make the use of lay assessors compulsory in all magistrates' courts, is to be tabled in Parliament shortly. The Magistrates' Courts (Assessors) Amendment Bill will have serious consequences for the independence and impartiality of the judiciary at magistrate's court level.

According to Minister of Justice Dulah Omar, it proposes that every trial involving crimes committed against a person heard in a magistrate's court (where most criminal trials take place) will be presided over by a magistrate and two lay assessors. Omar says such legislation is necessary as "the participation of people other than judicial officers in court decisions places a strong emphasis on community participation in the workings of the justice system".

For example, a trial might centre around a dispute about who murdered the deceased. The accused avers that it was not him, but X. The prosecution, however, claims that it was the accused who pulled the murder weapon's trigger. To adjudicate upon such a factual dispute, the draft bill proposes a simple system of court room majoritarianism. If the presiding officer thinks that the accused pulled the trigger, and the two lay assessors believe it was X, the accused will be acquitted on the strength of the two assessors' votes.

Not only will the assessor system put the integrity of the courts at risk, it is also unnecessary. Most magistrates have the theoretical knowledge, training and practical experience needed to reach a just decision on the basis of all the evidence presented in a trial.

Lay assessors are also to be used for sentencing purposes, albeit only in an advisory capacity to the presiding officer. Again, this is unnecessary.

Any of the parties in a trial - the presiding officer, the prosecution, or the defence - can call any relevant witness to present evidence on the feelings of the community so as to assist the court in determining an equitable sentence.

In 1991 the Magistrates' Court Act was amended, permitting magistrates to appoint either one or two assessors who in the opinion of the magistrate "may be of assistance at the trial". With the exception of murder trials, it is at the discretion of the presiding officer whether to appoint assessors or not. Where an accused is charged with murder, two assessors have to be appointed, unless the accused requests otherwise.

In terms of the draft bill no such discretion exists. Neither will it be possible for an accused - nor the prosecution for that matter - to object to the presence of assessors at a trial.

Sources in the Department of Justice say that the draft bill will seek to select assessors in terms of their representativeness of "the community". Omar has suggested that local authorities might be

charged with compiling lists of assessors from their communities.

Using community representation as a selection criterion for assessors is bound to cause disputes where the accused and his victim come from different socio-economic and ethnic backgrounds. As assessors will be part of the Bench, objecting to an assessor will be tantamount to asking a presiding officer to remove himself. This is a time-consuming process, and will further increase the enormous backlog of cases in the courts.

Courts which have made use of the voluntary lay assessor system in the past have encountered numerous practical difficulties. Situations have arisen where a presiding officer intended to acquit an accused, but was obliged to convict him on the strength of the assessors' sentiments. While such a decision can be taken on appeal, it is a costly and time-consuming procedure to do so.

Trials are often postponed because the accused, his witnesses, or State wit-

nesses fail to appear in court on the trial date. Two lay assessors per trial will exacerbate this situation. At the Johannesburg Magistrates' Court, some 7 000 trials are standing over from last year, to which are added more than 1 000 new cases a month. It is a mammoth logistical task for the police to subpoena all the State witnesses involved in these trials. Assuring the attendance of lay assessors will further stretch state resources.

Under the current, non-compulsory system, lay assessors are paid for their work. It is likely that this will continue. Even if their remuneration is not high (currently in the region of R100 a day), it is money which the criminal justice system cannot afford.

The lay assessor system envisaged in the bill will lead to a more expensive and protracted process, causing further delays and postponements in a system which is already close to breaking point due to a lack of funds and capacity.

Martin Schönreich is the parliamentary affairs manager at the SA Institute of Race Relations.

STW 30/9/98 (252)

Attorney organisations finally brought together

Establishment of Law Society of South Africa ends racial divisions

A new governing body for the attorney's profession was established this month to represent South Africa's almost 9 000 attorneys, previously divided into separate organisations on racial and provincial lines.

The establishment of the Law Society of South Africa (LSSA) comprising representatives of the four provincial law societies, the Black Lawyers Association and the National Association of Democratic Lawyers, brings to an end the existence of the Association of Law Societies which for 60 years functioned as the national umbrella body of the provincial law societies.

"One of the major objectives of the LSSA is to promote, advance and assist in the drafting of legislation within two years, which would form the basis of the new Attorney's Act, and to urge acceptance of the Act within the legal profession and among all interested parties," says Ismael Ayob, chairperson of the Gauteng Law Council.

He says the new law society also wishes to promote the expeditious promulgation of such legislation and to ensure it will provide for governing bodies which are legitimate, representative, accountable and transparent.

Delivering the keynote address at the signing ceremony of the LSSA, Justice Minister Dullah Omar said the launch of the new law society is a giant step forward



Justice Minister Dullah Omar ... the launch of LSSA is a giant step forward in dealing with major problems of the past and in the rationalisation of the profession.

in dealing with major problems of the past and in the rationalisation of the profession.

However, he said that the division in the legal profession between the attorney's profession and the advocate's profession still needs to be discussed.

According to Omar the separation of the two professions impacts upon the way in which legal services are rendered in South Africa, the quality of such services and indeed the structure and regulation of the profession.

"The launch of the new LSSA rationalises the one sector of the legal profession. We still need to discuss, as a legal fraternity, the future of the legal profession as a

whole, including its regulation, while recognising the principle of freedom of association," he said.

However Omar said it is not only the future of the legal profession that needs looking at, but the protection of the public and greater access to justice for all the people of South Africa.

According to Ayob the creation of a unified, national and inclusive law society in South Africa is an achievement of immense proportions to the profession and is the culmination of a great deal of hard work which started in 1996.

He explains that more than two years of lengthy negotiations, draft proposals, draft constitutions and many meetings preceded the birth of the LSSA.

Differences between the establishment on the one hand, and the alternative bodies on the other hand, were however overcome.

The structure of the new governing body, membership, ethical rules, and in particular representation on the council, were some of the burning issues that demanded decisions.

"The challenge facing the profession is to create a lasting spirit of unity among all attorneys, divided as they have been in the past along racial and provincial lines," says Ayob.

"Furthermore the LSSA holds the belief that continuous attention and action is necessary to improve the relationship of trust between the attorney's profession and the general public.

'Eikenhof three' lodge petition against multiple convictions

BO 31/3/98 (252)

BLOEMFONTEIN — A petition for three men, commonly referred to as the "Eikenhof three" has been received by the Supreme Court of Appeal

Siphiwe James Bholo and Siphso Samuel Gavin, who have automatic appeals pending against their convictions and triple death sentences for the murders of Zandra Mitchley, her son Shaun Nel, 14, and Clare Silberbauer, 13, at Eikenhof on March 19 1993, have applied for leave to appeal against their remaining convictions

Bholo was jailed by the trial court for 24 years and Gavin for 30 years on two counts of kidnapping, four attempted murders and charges of unlawful possession of firearms and ammunition

Boy Titi Ndwemi has applied for leave to appeal against all the counts of which he was convicted and jailed for 17 years

The three were convicted by Judge DJ Curlewis in the circuit court at Heidelberg in 1994. Apart from the automatic leave for the counts that involved the death penalty, the men were refused leave to appeal against their remaining convictions.

In the petition, which seeks condonation for its late filing, the men seek leave to call further evidence to be heard by the Supreme Court of Appeal, or for the matter to be remitted to the trial court. They also apply for a special entry to be made on the trial record in respect of a number of alleged irreg-

ularities at the trial, and for leave to lead further evidence to prove the irregularities

Moves for the release of the three men began in August 1997, when it became known that Phila Martin Dholo, who claimed to have been an Apla (Azanian People's Liberation Army) commander, claimed responsibility for the Eikenhof attack.

He amplified an earlier amnesty application, by the addition of "Eikenhof" to the list of incidents for which he had claimed amnesty in 1996.

He claimed that he ordered the Eikenhof ambush and named various Apla members alleged to have committed the attack. He contended that the people who carried it out were trained members of Apla and did not include members of the African National Congress. He also claimed that those convicted of the murders had nothing to do with Apla and did not take part in the attack.

ANC supporters Ndwemi, Bholo and Gavin contend that the further evidence they want to lead would prove, or tend to prove, that the offences of which they were convicted were not committed by them, but by Apla members, that certain members of the police investigation team caused false evidence to be placed before the trial court, and that material statements or documentation were not made available to them or their legal representatives by the prosecution — Sapa

mark above his left eye

ed they be brought to trial — Reuter.

dismantle the medicines control council and replace it v

Kahn rejects call to drop charges against PW Botha

BD 3/7 3/198

(252)

Linda Ensor

CAPE TOWN — Two former professors of Cape Town (UCT) to the truth commission to drop charges against former state president PW Botha on the grounds that he did not have the mental capacity to stand trial.

However, Western Cape attorney-general Frank Kahn — the only person with the power to halt the prosecution — insisted yesterday that the "law would take its course."

Commission chairman Archbishop Desmond Tutu forwarded the affidavits to Kahn yesterday for his decision.

Botha was charged for failing to comply with a commission subpoena to appear before state security system which op-

erated during his presidential reign. He is scheduled to appear in the George Magistrate's Court on April 14.

His capacity to stand trial was questioned in signed affidavits by Prof Derek Philcox, a retired UCT professor of neurology and head of the neurology department at Groote Schuur Hospital who examined Botha at the time of his stroke in 1989 and Prof Kay de Villiers, a retired professor of neurosurgery and head of department at Groote Schuur.

The medical experts based their views on the damage caused by the stroke which ultimately led to Botha's withdrawal from office.

Kahn said he had been repeatedly assured — yesterday as well — by Botha's legal advisers that he was fit to stand trial and had sent the medical

affidavits to his legal and medical advisors for evaluation.

"As far as I am concerned the trial continues," said Kahn. "The decision to prosecute was not taken lightly and is not one that will be lightly reversed. I must be properly persuaded otherwise." Kahn also said he had decided to prosecute in the public interest.

Botha's attorney, Ernz Penzhorn said on his departure from Cape Town yesterday he had not yet seen the documents and could thus not comment.

Tutu would not disclose the details of the confidential affidavits and said the matter was now a matter for the attorney-general to decide through the commission would proceed as if the trial would go ahead. He said De Villiers had approached him earlier this year to express his concern over Botha.

De Villiers would also not comment but the nature of his views were found in a book *Leierstryd* by Alf Roes and Die Burger editor Ebbe Dommissie, published in 1990.

De Villiers explained in the book Botha's stroke was caused by a closure of a blood vessel in the right half of the brain.

Where the right parietal lobe was damaged, a person's rationality, concentration, spatial conceptualisation, language and musical sense would be affected, De Villiers noted.

Memory loss and the development of psychotic derangement were also possible.

In legal terms a person was normally unfit to stand trial if they were unable to distinguish between right and wrong and to understand the charges, the commission's legal adviser Hanif Vally said.

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Directors:



12 people from Umlazi had reportedly been urged them to see the attackers mere

Biko left chained for 24 hours — interrogator

(252) BD 31/3/98

CAPE TOWN — Interrogators left activist Steve Biko chained and untended by a doctor for 24 hours during questioning 20 years ago, a former security policeman said yesterday.

"If he had been given immediate medical attention, Mr Biko might have been alive today," Gideon Nieuwoudt told an amnesty panel of the statutory truth and reconciliation commission.

Nieuwoudt, now 47 and one of five former officers applying for amnesty for the brain damage-induced death of Biko while in police custody, said he hit the 30-year-old activist with a stretch of rubber hose to try and restrain him.

"My observation was that Mr Biko was arrogant, aggressive and he didn't answer questions at all," he said

Nieuwoudt, a junior officer at the time of the interrogation, said Biko tried to punch one of the policemen questioning him and four officers tried to restrain the activist, but failed until he hit him with a length of hose.

"Blows were aimed backwards and forwards. I hit him with a hosepipe to distract him," he said "We struggled and as a result of our momentum Mr Biko's head hit the wall

"He seemed almost like a boxer who had been knocked out. He seemed very dazed and confused," he said. "His upper lip was swollen and he had a chafe mark above his left eye."

Nieuwoudt said he then lifted the activist up and chained him to a security gate with his arms outstretched in a crucifix position "to break down his resistance".

But it became clear to him that something was wrong with Biko because he was slurring his words. About six hours after Biko hit his head against the wall Nieuwoudt noticed he had wet himself.

Nieuwoudt said he then unchained Biko's arms and left him on a cell mat, but did not remove the chains from his legs.

"I could see he was ill. I wanted to give him a chance to rest," he said. "Next morning he was still lying on the mat."

Nieuwoudt said Biko was left untended for 24 hours after being beaten and was finally visited by a doctor the day after he hit his head

Uncontested evidence is that after suffering serious injury at the hands of his captors, Biko was driven naked and unconscious from Port Elizabeth on the east coast to a prison in Pretoria, 1 200km away, where he died.

All five policemen have so far maintained that Biko's death on September 12 1977 was an accident.

Biko's family has opposed amnesty for the five policemen and has demanded they be brought to trial. — Reuter.

Ex-Apla officer recalls his varsity 'repossession' heist

(252) ARC 31/3/98

East London - The Azanian Peoples' Liberation Army regarded the University of Transkei as a legitimate target for Apla's "repossession" robberies in the 1990s, said a former Apla commander.

Thapelo Maseko is seeking amnesty at a Truth Commission hearing here for his part in a robbery at the university in 1993 in which a policeman was killed, two others were wounded and R500 000 was stolen.

Mr Maseko told the amnesty committee yesterday that the University of Transkei had not been regarded as a normal civilian structure, but as "an enemy instru-

ment for oppressing our people".

He said he had been instructed to lead a new Apla unit, called Beauty Salon, charged with "financing" Apla's operations.

As a commander of the unit, he received his instructions from, and reported directly to, Apla director of operations Letlapa Mphahlele.

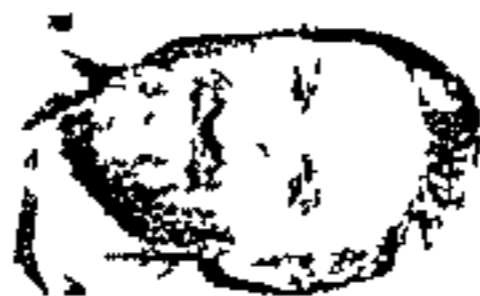
"The funds would enable Apla to carry on the struggle to liberate the oppressed masses, alternatively to bring home to the apartheid regime that their policy was unacceptable," he said.

Mr Maseko objected to committee members calling the attack a robbery, saying the money was not for personal gain - Sapa

Nieuwoudt's TRC testimony 'a lie'

(527) ARG 31/3/98

JOHN YEID



ON THE TRUTH COMMISSION

Former security policeman Gideon Nieuwoudt's evidence to the Truth Commission yesterday was "a lie, a fabrication", ex-black consciousness leader Peter Jones said today.

Referring to Nieuwoudt's testimony that he had beaten him not more than 10 times with a green hosepipe while other security policemen in the interrogating team had been out of the room, Mr Jones said, "I was never interrogated by Nieuwoudt."

Nieuwoudt is one of five former security policemen seeking amnesty for their part in the death in detention of black consciousness leader Steve Biko in 1977.

The others are then colonel Harold Snyman, captain Daan Japie Siebert and warrant officers Johan Benke and Ruben Marx.

Nieuwoudt, who is on bail pending an appeal for his murder conviction for blowing up three black colleagues and an informer at Motherwell, is the only one applying for amnesty for assaulting Mr Jones, who was arrested with Mr Biko at a roadblock outside Grahamstown in August 1977.

Mr Jones, who was detained for 533 days and banned when he was released, told the amnesty committee today he was interrogated in the same small room in security police headquarters in Port Elizabeth where



Painful memories. Steve Biko's widow Ntsiki and her sons Nkashinathi, left, and Samora at the Truth Commission's amnesty hearing yesterday.

LEON MULLER

Biko sustained the injuries which caused his death.

He said he was taken to the room about 10pm on August 24 1977 and handcuffed naked to a steel chair. Mr Snyman and Mr Siebert questioned him and, at one point, Mr Siebert "jumped up and started hitting me with an open hand and with a hosepipe on the chest, face and back."

He was left there that night in the company of two coloured security policemen and the following morning the interrogation by the five white security policemen resumed. He said he was instructed to stand

on two half bricks, holding two steel chairs above his head. When he continued denying any knowledge of an inflammatory pamphlet allegedly written by Biko, the policemen got angry.

"Siebert kicked me on the leg. By that stage the chairs had long come down to my shoulders."

"One chair fell down and struck Snyman and one struck Siebert, who asked me if I wanted to fight. Siebert started kicking me. I



Gideon Nieuwoudt

grabbed his hands and told them there was no need for this, I would co-operate."

Mr Jones said he was then handcuffed. "Siebert removed his watch, rolled up his sleeves and started hitting me for a long period. This led to a vicious assault by all five people in the room."

"Siebert stood in front of me, hitting my face. Nieuwoudt was to the left and rear, attacking my head and back with a green hosepipe, while Benke was hitting me on the back and bottom with a black hosepipe."

Snyman and Marx were basically delivering blows and kicking me to keep me adjusted, keeping me in position. "During this massive assault I was moving all over the room and falling. I eventually ended up against the wall. Everyone was panting, and me moaning and groaning as a result. "They then asked if I was ready to give a satisfactory statement and I indicated yes."

The hearing is continuing.

Ferdi ex-lover tells how Omar was lucky to be alive

(527) ARG 31/3/98

Preoria - Ferdi Barnard used to boast that Dullah Omar, later to become justice minister, was lucky to be alive because he had almost killed him, the High Court heard here.

Barnard's former girlfriend, Brenda Milne, yesterday also told the High Court that the former Civil Co-operation Bureau agent confessed to her that he killed anti-apartheid activist David Webster in May 1989.

Barnard and Ms Milne lived together from December 1987 until she left him early in 1996. She said Barnard had told her that he almost killed Mr Omar months after the Webster murder.

Barnard went to Cape Town to monitor Mr Omar in September 1989 on the orders of his CCB superiors. He was to kill the then African National Congress activist.

After tracking Mr Omar's movements, Barnard waited in a garage with his silenced gun to shoot him. Mr Omar was saved when a woman climbed into his car with him, an unexpected move that ruined Barnard's plan.

After the aborted mission, Ms Milne said, whenever Barnard saw Mr Omar on television, he would wonder whether Mr Omar knew how lucky he was to be alive.

Barnard is facing 34 charges, including murder and attempted murder relating to Dr Webster and Mr Omar respectively. He has pleaded not guilty.

Ms Milne said she had kept notes of everything Barnard did from January 1994. She said at that stage she firmly believed her lover would kill

her, as he had threatened to do so many times. She did not want her child to grow up with him and she wanted the truth to be known about the man if anything happened to her, she said.

"The whole lifestyle with him was a nightmare. There was a lot of crime going on, he took drugs and was an alcoholic."

Ms Milne said Barnard was addicted to pornography and womanising. "Life with him became unbearable," she said.

Ms Milne said Barnard, as part of his duties while working for the secret Defence Force agency, the CCB, monitored several activists. "The information would be given to his bosses, whereafter authorisation would be given to eliminate them."

"I've seen the list. David Webster's name was on it." Other names included Anton Roskam, Bruce White, Gavin Evans, Jay Naidoo, Frank Chikane and Vaili Moosa.

"I accompanied him a number of times when he monitored Dr Webster," she said.

Ms Milne said they also monitored Anton Lubowski, Mr Evans, Mr White and Mr Naidoo. "This meant driving past their houses or the places where they worked."

"He already had a lot of computerised information about Dr Webster, which he got from a policeman at Brinxon. On May 1, 1989, the day that Dr Webster was killed, he came home and told me he had shot him."

Ms Milne said her white Ford Laser was used the day Dr Webster was murdered. She was not surprised when Barnard told her - Sapa

'DAZED AND CONFUSED'

Nieuwoudt describes

Biko's last moments

CT 31/3/98 (952)

THE TRC hears how the black consciousness leader was beaten senseless and then chained to a gate 'to break down his resistance'. **ANDRE KOOPMAN** reports

FORMER security policeman Gideon Nieuwoudt told the TRC that he had beaten political leader Steve Biko with a hosepipe and he admitted that Biko may be alive today had he received medical attention after suffering head injuries during interrogation

He told the TRC yesterday that Biko had been dazed, incoherent and incontinent after he had struck his head against a wall during a fight with security policemen. Nevertheless, he had been chained to a gate for about six hours afterwards

Nieuwoudt said he hoped that events such as the Biko killing did not occur again and "that there will be reconciliation in this country and that everybody will work together to establish a beautiful South Africa"

Nieuwoudt, 47, a former lieutenant-colonel in the security

branch, and four of his former colleagues are applying for amnesty for the death in detention of the black consciousness leader who died of head injuries in 1977

Nieuwoudt is also applying for amnesty for assaulting city businessman and former activist Mr Peter Jones — who was detained during the same period

Nieuwoudt told the amnesty committee, chaired by Judge Ronnie Pillay, that the hosepipe belonged to a colleague who had used it to siphon petrol

He denied under questioning by Mr George Bizos for the Biko family that the hosepipe had been his chosen instrument of torture

He agreed with Bizos that hosepipe beatings by security police had entered into folklore in

the Eastern Cape

Biko, who was banned at the time, and Jones were arrested at a roadblock in Grahamstown on August 18, 1977 and had later been taken to security police headquarters at the Sanlam building in Port Elizabeth. Nieuwoudt said Biko had been unco-operative during interrogation and tried to punch Captain D Siebert, who was questioning him.

A fight then ensued between Biko and the security policemen who were in the room. Nieuwoudt, a detective sergeant at the time, said he had struck Biko several times with the hosepipe to "distract him"

"We struggled and as a result of our momentum, Mr Biko's head hit the wall

"He seemed almost like a boxer who had been knocked out. He seemed very dazed and confused," Nieuwoudt said

While Biko was not unconscious, if he was a boxer he would have been "counted out on his



REMORSE? Former security policeman Gideon Nieuwoudt, who says he hopes for reconciliation in South Africa, at yesterday's TRC hearing

feet", he added

He said he realised that Biko had hit his head "very hard" against the wall and that, "his upper lip was swollen and bloody and he had a chafe mark above his left eye"

Nieuwoudt said he then lifted Biko up and chained him to a security gate with his arms outstretched in a crucifix position to "break down his resistance" until he was prepared to answer questions. Nieuwoudt said he later realised

there was something very wrong with Biko because he wet his pants and slurred his speech

Asked by Judge Pillay why he had not unchained Biko when he realised he was not well, Nieuwoudt replied that he would never have disobeyed an order from a senior officer (Colonel Piet Goosen) who had instructed him to chain Biko

After 24 hours Biko was seen by district surgeon Dr Ivor Lang and later by Dr Benjamin Tucker



WHY? George Bizos SC who appears for the Biko family fires questions at the TRC hearing in Cape Town yesterday

While it was clear that Biko needed further medical attention, he was later taken in the back of a Land Rover to Pretoria Central Prison, semi-naked and handcuffed

He died on September 12, 1977 on the same day he was incarcerated in Pretoria Central. Nieuwoudt said that he and other policemen carried Biko to the Land Rover on a cell mat

"In my opinion he was not fully conscious. I couldn't even hear

what he was saying," he said. After hearing that Biko had died, Nieuwoudt and other security policemen involved in his interrogation were summoned by Colonel Goosen, who instructed them that the "true facts" of the Biko death should not be revealed because it would lead to prosecutions and would place the state in a bad light. Goosen instructed the security policemen to prepare "false statements" about Biko's death, Nieuwoudt said

PW not fit for trial — medics

(252) CT 31/3/98

FORMER state president Mr P W Botha, due in court on charges of contempt, may not be fit to stand trial, two medical experts said in sworn statements yesterday.

"The commission was today given affidavits from two eminent, independent medical experts questioning the capacity of Mr P W Botha to stand trial in view of the damage caused by the stroke he suffered in January 1989," Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu told a news conference yesterday.

Botha, 82, is due in court on April 14 to face charges of contempt for refusing to appear before the TRC to testify about his State Security Council, which imposed emergency rule in the 1980s.

Tutu said the TRC had handed the statements made by two retired professors of neurology, Derek Philcox and Jacques de Villiers, to Cape attorney-general Mr Frank Kahn to rule whether the trial should be called off.

"We are passing it to the attorney-general and it is up to him," Tutu said. "We're acting as if the trial is going ahead."

Tutu's deputy, Dr Alex Boraine, agreed with a journalist's question that some people would say calling off the trial because of Botha's incapacity would provide an easy way to avoid what is bound to be a bitter court hearing.

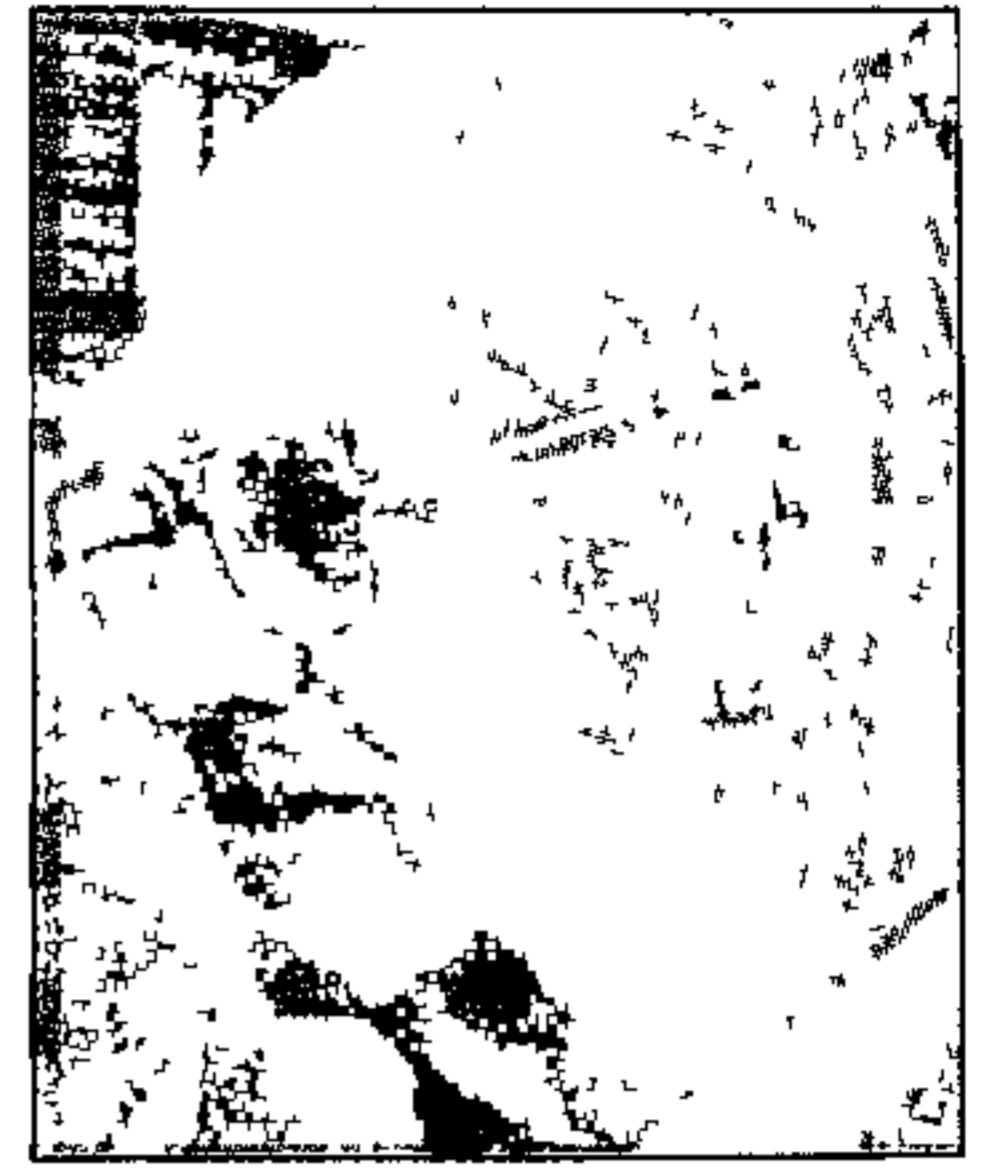
"If it can be confirmed that Mr P W Botha is not fit to stand trial then it would be wrong to contin-

ue," he said. "We don't want him to appear in court and we don't want him to go to jail. We want him to appear before the TRC."

Kahn said by telephone he could not comment on the contents of the affidavits and that he had passed them to Botha's lawyers. "Throughout the process Mr Botha's legal advisers have assured me that he is fit to stand trial," he said.

Botha led South Africa from 1978 until 1989 when, weakened by a stroke, he was ousted by Mr F W de Klerk, who later lifted a ban on anti-apartheid organisations and released President Mandela from jail.

Botha appeared in court in January and February at pre-trial hear-



MAY NOT APPEAR: P W Botha

ings and is due in the George Regional Court next month for a four-day hearing. He denies authorising torture or murder to maintain white rule, has called the TRC a "circus" and said Afrikaners only apologise for their sins before God — Staff Writer, Sapa

'Webster shot without go-ahead'

(252) B CP 31/3/98

PRETORIA: The ex-girlfriend of former CCB-operative Ferdi Barnard told the Pretoria High Court yesterday how, out of fear for her life, she had made notes about things Barnard had done, including the killing of Wits activist Dr David Webster.

Ms Brenda Milne, the mother of Barnard's seven-year-old son, said she had spied on Barnard for the last two years of their relationship. He had often threatened to kill her.

Milne said she had made the notes to protect herself and her son.

She said Barnard had killed Webster on May 1, 1989 before getting the go-ahead from the CCB.

Webster's name had been on a list Barnard had been given by the CCB. His job had been to watch the people on the list, but not to eliminate them before getting the go-ahead. Several times she had gone with Barnard to monitor Webster.

Barnard had told her he would kill Webster as soon as he got the chance. On the day of the murder he had told her he and Calla Botha were going to monitor Webster.

"He arrived back about lunch time and told me he had shot Dr Webster," she said. "He said he got the opportunity to do it when Dr Webster was unloading plants from his bakkie. Barnard said Mr

Botha drove slowly past the house, while he (Barnard) aimed the shotgun out of the window. He said he called Dr Webster's name, and when he looked up he shot him."

Milne said Justice Minister Dullah Omar had nearly been murdered. Barnard had told her he had gone to Cape Town to watch Omar.

"He told me how he once waited in the parking garage next to Mr Omar's car, ready with a gun and a silencer. The only thing that saved Omar's life was that a woman got into the car with him."

Barnard's advocate, Mr Faan Coetzee, will cross-examine Milne today — Own Correspondent

NEWS

The Star 31/3/98

Ferdi Barnard 'almost killed Omar'

Star 31/3/98 (257)

CCB agent's former girlfriend tells court of her lover's confessions

SAPA

Ferdi Barnard's former girlfriend, Brenda Milne, yesterday told the Pretoria High Court that Barnard used to boast that Justice Minister Dullah Omar was lucky to be alive because he almost killed him.

Milne, the mother of Barnard's son, said the former Civil Co-operation Bureau agent had confessed to her that he killed anti-apartheid activist David Webster in May 1989.

Barnard and Milne lived together from December 1987 until she left him early in 1996.

She said Barnard had told her that he almost killed Omar months after the Webster murder.

Barnard is facing 34 charges, including murder and attempted murder charges relating to Webster and Omar. He has pleaded not guilty.

Milne kept notes of everything Barnard did from January 1994. She said that at that stage she firmly believed her lover would kill her, as he had threatened to do so many times.

She did not want her child to grow up with him and she wanted the truth to be known about the man if anything happened to her, she said.

"The whole lifestyle with him was a nightmare. There was a lot of crime going on, he took drugs and was an alcoholic."

Milne said Barnard was addicted to pornography and womanising.

"Life with him became unbearable."

She said she spied on Barnard, taking pictures of him playing with his favourite sawn-off shotgun, called "Buks Benade".

"He would hold it, play with it, threaten me with it. He would take it with him when he went out on a job. He threatened people with it," she said.

Milne said Barnard, as part of his duties while working for the secret defence force agency, the CCB, monitored several activists.

The information would be given to his bosses, whereafter authorisation would be given to eliminate these people.

"I've seen the list. David Webster's name was on it." Other names included Anton Roskam, Bruce White, Gavin Evans, Jay Naidoo, Dr Frank Chikane and Valli Moosa.

"I accompanied him a number of times when he monitored Dr Webster," she said.

Milne said Anton Lubowski,

Evans, White and Naidoo were also monitored. This meant driving past their houses or the places where they worked.

"He already had a lot of computerised information about Dr Webster, which he got from a policeman at Brixton. On May 1 1989, the day Dr Webster was killed, he came home and told me he had shot him."

Webster was gunned down while taking a plant from a bakkie outside his house.

Milne said her white Ford Laser was used on the day Webster was murdered.

She said Barnard gave her different versions of what he did with the gun used to kill Webster. One was that he threw it into a dam and another was that he gave it to his father.

Milne and her son went into hiding for a week after Webster's murder and then went on an extended holiday - for which Barnard gave her R15 000 - during the Webster inquest. Barnard paid for the holiday because he did not want Milne to talk to the press or police, she said.

Milne said Barnard went to Cape Town to monitor Omar in September 1989 on the orders of his CCB superiors. He was to kill the then ANC activist.

After tracking Omar's movements, Barnard waited in a

garage with his silenced gun and wanted to shoot him.

Omar was saved by a woman who climbed into his car with him, an unexpected move that changed Barnard's plan. After the aborted mission, Milne said that whenever Barnard saw Omar on television, he would wonder whether Omar knew how lucky he was to be alive.

She said Wits University activist Anton Roskam's car was set alight one night.

Roskam, now an attorney, previously testified that he received threatening letters after his car was set alight. One of the letters said that if he continued with his left-wing activities, the same thing that happened to Webster would happen to him.

Milne said Barnard told her how he and one of his friends, Eugene Riley, killed Mark Francis with a metal baseball bat, which they called "Tonk" because of the sound it made.

Francis was allegedly murdered because Barnard feared he would make a statement incriminating him in a Bophuthatswana robbery.

Milne claimed Barnard on one occasion broke into her father's home and stole family photos after a fight, during which he accused her of seeing her former husband again.

TRC told of police plan to use Biko's colleague against him

Star 31/3/98 (252)
Cape Town - The security police tried to get Black Consciousness activist Steve Biko jailed by using his colleague and fellow activist Peter Jones as a state witness, the Truth and Reconciliation Commission's amnesty committee heard in Cape Town yesterday.

The plan to remove Biko was revealed in the application for amnesty by former security police colonel Gideon Nieuwoudt (45).

Nieuwoudt's application for amnesty is being heard separately from other policemen who were involved in Biko's interrogation.

Nieuwoudt said that when Biko and Jones were arrested at a roadblock near Grahamstown on August 18 1977, the plan was to interrogate Jones first for information that could be used against Biko.

Nieuwoudt said that during his interrogation of Jones he received no co-operation until he struck him with a length of hose that had been lying around the office.

He also admitted striking Biko with the same piece of hose, but denied it had been there for the purpose of beating of detainees.

"Was this not your preferred instrument of torture?" asked

George Bizos SC, who is appearing for the Biko family.

The former policeman, who was a sergeant at the time, denied this and claimed the hose was left there by a colleague who used it for siphoning petrol.

Nieuwoudt answered in the affirmative when asked by Bizos if the police planned to use Jones to testify against Biko, who could have been sentenced to 15 years in prison in terms of the security laws of the time.

However, although Jones had given the police valuable information about the Black Consciousness Movement's internal network, he had not co-operated to the extent that he would testify against Biko, and the police were unable to proceed with the plan.

Jones is expected to testify to the amnesty committee today.

Earlier Nieuwoudt told the hearing that Biko was brought to the security police offices in Port Elizabeth on September 6 1977.

He said Biko, who was interrogated by Lieutenant Daan Siebert, was arrogant and aggressive and refused to answer questions.

The hearing continues today. - Sapa

Plot' report man unreliable

Modise had prior knowledge of coup plot report - Meiring

By RYAN CRESSWELL
3/13/98

By RYAN CRESSWELL

Vusi Mbattha, allegedly the main source of information for a military report on a left-wing coup plot recently handed to President Mandela, has a history of providing questionable information

Mbattha, also known as Vusi Madada, was arrested in connection with gun-running along with Foreign Affairs official Robert McBride in Mozambique recently Mbattha claimed to be a policeman, but investigators sent there to look into the arrests said he was a convicted criminal

Before his arrest, he apparently gave investigators information about a planned coup involving army generals and others.

In 1993 Mbattha approached Lawyers for Human Rights with allegations about gun-running for the Inkatha Freedom Party.

He also gave evidence to the Goldstone Commission and the Truth and Reconciliation Commission, but was not considered a good witness on either occasion.

TRC spokesman John Allen said a statement by Mbattha was read at the hearings into the activities of the Mandela United Football Club, but he was never asked to take the stand.

South African National Defence Force chief General Georg Meiring yesterday defended an intelligence report about an alleged coup plot, saying Defence Minister Joe Modise had prior knowledge of the report before it was handed to President Mandela.

But Meiring admitted the report had not been subjected to normal intelligence checks and processes because it was "too sensitive"

The SANDF began compiling the report last year, but had been unable to confirm such a plot by the time it submitted the report to Mandela last month, Meiring said.

The report alleges that various former Umkhonto weSizwe generals who are now in the SANDF, as well as present and former ANC politicians, were planning to overthrow the Government.

Accused are Meiring's probable successor General Siphwe Nyanda, United Democratic Movement leader Bantu Holomisa, ANC MP Winnie Madikizela-Mandela and suspended Foreign Affairs official Robert McBride.

Reports of a coup plot first surfaced after the arrest of McBride in Mozambique on suspicion of gun-running about three weeks ago.

A commission of inquiry, comprising Judge President Is-

mail Mahomed and Constitutional Court judges Richard Goldstone and Pius Langa, investigated the report over the past three days and will hand it to Mandela today.

Meiring, who has been said to be facing the axe because of his actions, said in a statement yesterday he had not been party to the compilation of the report.

He said the SANDF had made attempts to confirm the contents of the report, but had failed to do so.

The report was allegedly based on information given by a single source, believed to be Vusi Mbattha, the man arrested with McBride in Mozambique on suspicion of gun-running.

Because of the serious na-

ing said, the president was personally informed of the report. This was done on February 5, and it had been made clear that the information was unconfirmed.

"The action was taken with the prior knowledge of the minister of defence. Failure to have taken this step would have been a dereliction of duty," Meiring said.

He said Defence Minister Joe Modise was not implicated in the report.

Presidential spokesman Parks Mankahlana said it was now up to Mandela to make decisions about whether to go public with the report and the subsequent inquiry.

Thirteen apply for amnesty

By Claire Keeton (252)

THIRTEEN ANC members have applied for amnesty for the 1994 Shell House shootings, the Truth and Reconciliation Commission (TRC) announced yesterday

Nineteen people were killed and many injured in the shootings on March 28 1994 during a massive Inkatha Freedom Party (IFP) aligned march past the headquarters of the

African National Congress (ANC), in the politically explosive build-up to the country's first democratic elections

The shootings prompted an inquest last year in which no individuals or organisations were found criminally responsible for the killings. But the IFP, the ANC and the police were criticised for their role in the violence

Victims injured in the shootings

at Shell House and Lancet Hall have been encouraged to contact the TRC

Mr Vuyani Green said the hearing is scheduled for May 11 to 22 in Johannesburg

The commission has managed to trace the families of those who died and is in contact with lawyers representing them

● Victims and next of kin should contact Dudu Chih of the TRC at (011) 333 6330

Sowetan 31/3/98

TRC told of Biko's torture

(257) Sowetan 31/3/98

STEVE Biko looked like a dazed boxer after his head struck a wall during a scuffle with his interrogators in 1977, a former colonel in the security police told the Truth and Reconciliation Commission (TRC) yesterday

Gideon Nieuwoudt, who has applied for amnesty for assaulting Biko during the interrogation, was testifying at an amnesty committee hearing in Cape Town

His application for amnesty is being heard separately from those of other policemen who were involved in Biko's interrogation

Nieuwoudt - who was convicted in 1996 for his part in the Motherwell car bomb incident in which three black policemen and a police informer were killed - has admitted striking Biko with a length of hose pipe in the security police offices in Port Elizabeth on September 6 1977.

He told the committee he was present when Biko was brought to the offices. He was a sergeant at the time

He said Biko, who was interrogated by Lieutenant Daan Siebert, was aggressive and refused to answer questions. Nieuwoudt said Biko seemed to realise that Siebert had no information about him

Siebert grabbed him by the chest and pulled him to his feet. Biko then took the chair and pushed it towards Siebert and lunged at the policeman

Nieuwoudt said another policeman, Warrant-Officer Johan Beneke, charged across the room and tackled Biko, who resisted and the men exchanged blows

Nieuwoudt then took a piece of hose and struck Biko several blows

Nieuwoudt said during the struggle, Biko fell back and his head struck the wall. He slid to the floor and appeared dazed after the blow.

"He looked like a boxer who had been knocked out but was not unconscious. He would have been counted out on his feet," Nieuwoudt said.

He said Siebert told him to cuff Biko's hands and feet before chaining him to the security bars in a standing position with his arms outstretched at shoulder height

He described Biko as being in "crucified position" and said he was ordered to do this by Colonel Piet Goosen to break down his resistance.

Nieuwoudt said he later realised there was something seriously wrong with Biko because his speech seemed impaired and he lost control of his bladder and urinated in his trousers.

Asked by committee chairman Judge Ronnie Pillay why he had not unchained Biko when he realised he was not well, Nieuwoudt said he would never have disobeyed an order from a senior officer

The hearing continues - Sapa

(252)

Radio Islam shut down

ARG 11/3/98 (252)

Johannesburg – Lenasia-based community station Radio Islam has a month to dismantle its operations.

The Independent Broadcasting Authority has refused it a one-year community broadcasting licence, saying that although the station proposed to allow women on air, the IBA was not convinced there would be "substantive gender equity".

Radio Islam was taken to task when the Youth for Islamic Enlightenment and Development lodged a formal complaint over the station's refusal to allow women on air. In December, the IBA ordered it to allow women three hours of airtime daily.

IBA spokesman Pekwane Mashilwane said yesterday the authority disagreed with the station's intention to broadcast to only a limited portion of the Muslim community – Argus Correspondent

Pebco Three: was askari Mamasela a victim or a liar?

His role key to amnesty ruling

JOHN YELD
ON THE TRUTH COMMISSION

Port Elizabeth – Was Vlakplaas askari Joe Mamasela a hapless victim of circumstance, trapped by fear and the threat of further torture into serving the apartheid-era security police loyally for 12 years?

Or was he a self-serving mercenary and liar, owing allegiance to no one and cynically using his Vlakplaas post to enrich himself while selling out loyal members of the liberation movements?

Which of these two descriptions more accurately reflects the real Mr Mamasela will be at the heart of deliberations by a Truth Commission amnesty panel after its hearing into the 1985 deaths of the Pebco Three

Seven former security policemen and an askari who was a colleague of Mr Mamasela have applied for amnesty for murdering Port Elizabeth Black Civic Organisation activists Siphon Hashe, Champion Galela and Qaqawuli Godolozu, and disposing of their

bodies by burning them and dumping the remains in the Great Fish River

The policemen are Hermanus du Plessis, Gerhardus Lotz, Harold Snyman, Johan "Sakkie" van Zyl, Gideon Nieuwoudt, Gerhardus Beeslaar and Johannes Koole, and the askari is Kimpani Peter Mogoai.

Last year, the white policemen among the eight testified that the activists had not been assaulted after being abducted.

They said they had been given coffee laced with drugs and each killed with a single shot to the back of the head while asleep

But the black policeman, Koole, and Mogoai gave a different version, saying Mr Hashe had been viciously assaulted and at least one of his companions punched and kicked.

Mamasela, who was in the police team but who has not applied for amnesty, went further, giving vivid details this week of how the activists were beaten and tortured to death

He also testified about how he

got involved with the security police at Vlakplaas and why he previously told his version of the killing of the Pebco Three – to the Truth Commission at a closed inquiry in 1996 and to television journalist Jacques Pauw.

If his version of events and of the reasons for his personal involvement in the killings is believed by the amnesty panel headed by Mr Justice Bernard Ngoepe, all or most of the eight applicants are unlikely to be granted amnesty because of the requirement of full and truthful disclosure. So it was not surprising that lawyers for the applicants subjected Mamasela to vigorous and hostile cross-examination

Roelof du Plessis, for Beeslaar, accused him of lying and exaggerating his evidence to suit the occasion. "When you play to the gallery, you make things up," he suggested

Mamasela denied he had a motive for lying. "I just tell the truth and that's all. I don't have to impress anyone." His cross-examination will continue today

(252)
ARLT 11/3/98

Motives of self-defence unit killers questioned

Nov 11/3/98

14 who murdered comrades involved in crime 'did not have political motive' and might not qualify for amnesty

By SIMON ZWANE

The fate of 14 self-defence unit (SDU) members seeking amnesty for the murder of comrades who belonged to the ANC Youth League remained uncertain as their amnesty hearing ended in Boksburg yesterday.

Members of the Truth and Reconciliation Commission's amnesty committee were still not entirely convinced that the applicants had a political motive when they captured 14 youths in Katlehong's Moleleki shack settlement on the East Rand in 1993, and later killed nine of them execution-style.

All the amnesty applicants have been charged with 10 counts of murder and 14 of kidnapping, but their trial has been

Trial to resume if application is refused

suspended pending the outcome of their amnesty application

Judging by the questions put to the applicants' legal representative, advocate Zwelethu Madasa, as he presented his closing argument, it was evident that the committee also had difficulty in accepting that the applicants had made a full disclosure

Committee chairman Mr Justice Sandile Ngcobo pointed out that Nceba Sonti, one of the applicants, had testified that he merely accompanied SDU members when they captured youth league members, but claimed he did not participate in the assaults and murders

However a survivor, Jabulani

(252)
Nxumalo, told the committee that Sonti stabbed him in the arm with a spear when the SDU members abducted him from his home in the middle of the night.

"I think Sonti's evidence must be viewed against his failure to disclose that he stabbed someone," said Judge Ngcobo

"If one accepts that he deliberately failed to disclose that, how do we know if he was candid with us? Was he a bystander as he claims he was?"

Madasa conceded that the failure to disclose this fact was problematic, but said his client might have thought it was sufficient to disclose that he took part in capturing the victims

He argued that by virtue of the fact that the applicants had a mandate to defend their community, their actions in killing the youth had a political motive

The youths had become a "nuisance" because of their criminal activities and were regarded by the SDU members as enemies of the community, he stated

He further argued that, despite evidence pointing to the youths' involvement in crime, the SDU members did nothing to them until the assassination of Bulelwa Zwane, a civic activist, and the murder of a leading SDU member Blanco Jiyane

"If so, should we not consider that they (the applicants) were motivated by self-defence and that there was no political objective?" a committee member, Wynand Malan, asked

Judge Ngcobo also pointed out that the applicants had consistently described their victims as criminals, as opposed to political opponents.

Their trial will have to resume in August if their applications fail

TRC has to decide which is the real Mamasela

By JOHN YELD

(2/12) Nov 11/3/95

Port Elizabeth - Was Vlakplaas-based askari (turned ANC operative) Joe Mamasela a hapless victim of circumstance, trapped by fear and the threat of further vicious torture into serving the apartheid-era security police loyally for 12 years?

Or was he a self-serving mercenary and liar, cynically using his Vlakplaas post to enrich himself while selling out loyal members of the liberation movements?

Which of these two descriptions more accurately reflects

the real Mamasela will be at the heart of deliberations by a Truth and Reconciliation Commission amnesty panel at the conclusion - possibly today - of evidence and cross-examination during its hearing into the May 1985 deaths of the Pebco Three

Seven former security policemen and an askari have applied for amnesty for murdering the three activists - Siphon Hashe, Champion Galela and Qaqawuli Godolozu

The policemen are Hermanus du Plessis, Gerhardus Lotz, Harold Snyman, Johan "Sakkie" van Zyl, Gideon Nieu-

woudt, Gerhardus Beeslaar and Johannes Koole, and the askari is Kimpani Peter Mogoai.

Last year, the white policemen among the eight amnesty applicants testified that the Pebco Three had not been assaulted while being held at the disused police station at Post Chalmers near Cradock after being abducted from Port Elizabeth airport. But the black policeman, Koole, and the askari, Mogoai, said Hashe had been viciously assaulted and at least one of his companions had also been punched and kicked.

Mamasela, who was part of

the security police team involved in the incident but who has not applied for amnesty, went further, and gave vivid details during his testimony under subpoena this week about how the Three had been beaten and tortured to death.

If his version of events and of the reasons for his own personal involvement in the killings is believed by the amnesty panel headed by Judge Bernard Ngoepe, all or most of the eight applicants are unlikely to be granted amnesty, because of the requirement of full and truthful disclosure

Clearly ... somebody is lying to the TRC

By Claire Keeton

SOMEONE is lying to the Truth and Reconciliation Commission (TRC) – either turned African National Congress guerrilla and self-confessed killer Joe Mamasela or his former commanders in the police

They all agree they killed three Port Elizabeth civic leaders – Sipho Hashe, Champion Galela and Qagawuli Godolozi – in cold blood near Cradock in early May 1985

And they agree the activists had to be eliminated for their role in making the townships “ungovernable.” But they give conflicting accounts of how the activists died

This week Mamasela testified in New Brighton, outside Port Elizabeth, that the three Port Elizabeth Black Civic Organisation (Pebco) leaders were savagely tortured and killed over two days

His account contradicts the testimony last November of seven former security policemen applying for amnesty for the abduction and murder of the Pebco Three

But another amnesty applicant for the Pebco Three deaths, askari Kimpani Peter Mogan, supports Mamasela's account So who is lying?

The lawyer for several of the police applicants, Kobus Boooyens, spent hours on Monday cross-examining Mamasela to prove that he was the liar and to undermine the credibility of his testimony

He showed that Mamasela had previously lied in court Mamasela's superiors however, were as deeply implicated in the web of deceit as he was

“The police used us and told us to

he in court against innocent people; Mamasela said

Although he has lied under oath, his description of how the police abused the Pebco Three is more typical of the way detainees were treated than that of the seven amnesty applicants

Most of them claimed the activists were not ill-treated during interrogation before they were shot

Captain Johan Martin van Zyl, who was in charge of the team that killed the men, said they were given coffee laced with a sleeping drug

He said he shot one of the Pebco leaders in the back of the head, Colonel Gideon Nieuwoudt shot another and Sergeant Gerhardus Lotz the third

Their bodies were then burnt on a pyre and the remains dumped in plastic bags in the Fish River

Special operation

The applicants' testimony clearly absolves them from any blame for beating or torturing the Pebco Three But this is not what Mamasela told the amnesty hearing

“I was serving as an askari at Vlakplaas when I was called aside by Colonel Roelf Venter for a special operation in Port Elizabeth”

Mamasela said he, Mogan and Warrant Officer Johannes Kooole – all from Vlakplaas – were involved in the operation because no one in the Eastern Cape knew their faces

They drove to Port Elizabeth with Venter and were briefed about picking up the Pebco Three for interrogation Mamasela and his colleagues, wearing dark clothing, gloves and balaclavas, headed for the airport to inter-

cept the activists who had been lured there by a false message from the police

“There was very efficient surveillance, as if we were watching TV When the men entered the airport, we knew it was them,” said Mamasela

They allegedly waited in a blue minibus with tinted windows and then ambushed Galela and Godolozi and forced them, and later Hashe, inside

The three were handcuffed and lay on the floor with guns to their heads They were driven out past Cradock to an abandoned police station at Post Chalmers

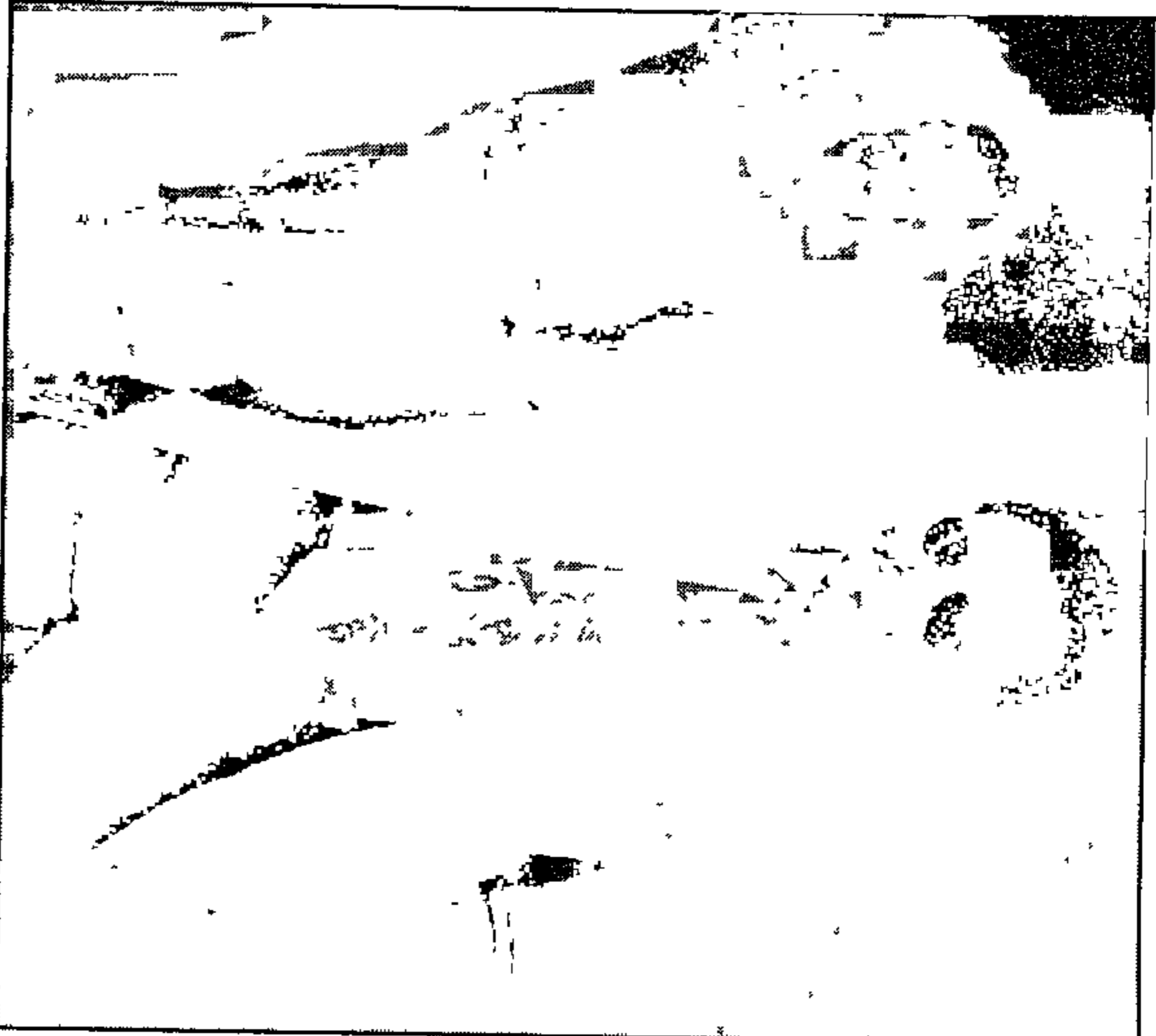
Two police cars accompanied the minibus, with the head of the Port Elizabeth security police and a few security policemen allegedly inside

Mamasela said the three “suspects” were hauled into a shed and briefly interrogated, though not assaulted, since it was late and the policemen were tired “They had no concrete evidence against these men,” he said

But at about 7.30am on May 8 Venter, Nieuwoudt, Warrant Officer Gerhardus Beeslaar and about 10 other policemen allegedly arrived for the interrogation

“I was ordered by Venter to make a fire and I knew the interrogation would begin Our interrogations always started with braavlers,” Mamasela said He then described a day of brutal beatings, punching, kicking and torture which ended in the death of Hashe and Galela

“They were in no position to defend themselves They were handcuffed (behind their backs) and it was impossible to ward off blows,” said Mamasela, admitting he was directly involved



Joe Mamasela - his testimony at the TRC hearing in Port Elizabeth contradicts that of seven former security policemen applying for amnesty for the abduction and murder of three civic leaders in 1985.

He claimed to have spent much time trying to strangle the victims and stifle their cries

“The policemen were drinking and having a braai while discussing the event as if it was a movie,” said Mamasela, estimating there were about 15 policemen present

He said Godolozi died on May 9 after six hours of cruel interrogation, after the Port Elizabeth chief of the National Intelligence Services (NIS) allegedly authorised his death

“He spoke to Nieuwoudt and Venter and said it didn't matter, he wouldn't miss Godolozi if he died because he only gave them useless information” Mamasela claimed that the Port Elizabeth country since 1996

Elizabeth policemen waited for NIS authorisation to kill Godolozi as he said he was working for them

From his account it seems Godolozi had never assisted the police in their work, even if he was employed by them Mamasela said the fatal assaults were the most brutal he had ever seen in his life as a killer

“It was the most dehumanising experience”

Mamasela could be wrong about the details surrounding the deaths of the Pebco Three or he could be lying

But his story of torture preceding the deaths of the activists is common in South Africa It has been told again and again at TRC hearings across the

Amnesty applicants 'plotted to tell lies'

(252)
Sowetan 11/3/98

By Claire Keeton

FORMER police assassin Joe Mamasela told the Truth and Reconciliation Commission yesterday that amnesty applicants in the death of the "Pebco Three" had collaborated with two former colleagues to strengthen their case

Mamasela claimed that two former Vlakplaas operatives were approached in January by a police sergeant to support the applications of Colonel Roelf Venter and Warrant Officer Gerhardus Beeslaar

"My intelligence is true they were (approached) to back up their masters," said Mamasela

But Beeslaar's lawyer, Mr Roelof du Plessis, dismissed this claim, arguing that the accounts of Mr Johannes Koole and Mr Kimpani Mogai differed from those of Venter and Beeslaar

"If they were working together, they would not have contradicted each other," said Du Plessis

Koole and Mogai support much of Venter's and Beeslaar's testimony. However, they say that the "Pebco Three" were assaulted before their deaths, unlike Venter's and Beeslaar's testimony

Mamasela testified this week that Sipho Hashe, Champion Galela and Qaqawuli Godolozu were savagely assaulted and tortured, result-

ing in their death

Du Plessis asked Mamasela why three applicants - Colonel Gideon Nieuwoudt, Captain Johan van Zyl and Sergeant Gerhardus Lotz - would lie about shooting the three Port Elizabeth leaders instead of admitting to beating them to death

"It is very easy," Mamasela explained "It is in the nature of the police to commit a dubious act, to treat (detainees) brutally. But when it comes to the crux, they paint a picture of humanitarian treatment"

He emphasised it was typical of men in the security forces "to come together and lie together"

However, Mamasela admitted he had lied on several occasions

Reject ^(2/7/99) amnesty, TRC told

By Russel Molefe

THE 13 self-defence unit (SDU) members who brutally massacred eight youths at Moleleki section in Katlehong on the East Rand in December 1993 should be denied amnesty, the Truth and Reconciliation Commission was urged yesterday.

In his closing argument at the end of the amnesty hearings in Boksburg, TRC evidence leader Mr Zuko Mapoma said a political objective, as is required by the law governing the granting of amnesty, could not be established in the case of the 13 former SDU members.

Sowetan 11/3/99
They are Michael Armoed, Langa Nkomo, Oscar Motlokwa, Vusumuzi Mthembu, Nceba Sonti, Paulos Shongwe, Rodrick Singo, Norman Mashini, Lefu Mokoena, Thobile Laphindo, Moshe August, Bernard Ndaba and Themba Mtshali.

The application of Malcomes Ngam and Julian Ndlebe were withdrawn earlier because it was found that they did not participate in the massacre, which resulted from a conflict between the SDU and the African National Congress Youth League (ANCYL).

The former SDU members abducted 14 ANCYL members, tied them up and took them to a shack at Moleleki section on December 7 1993. Four youths were later released.

The remaining youths, aged between 14 and 19, and Alfred Buthelezi (35) were taken to open veld where they were ordered to sit in a row. They were shot with pistols and AK-47 rifles before being "finished off" with pangas and spears.

Mapoma also argued that the massacre was a direct revenge attack for the killing of SDU chairman in the area, Blanco Jiyane, earlier in the day by ANCYL members.

The 13 former SDU members, who were also members of the ANCYL, claimed in their testimony earlier that the victims were involved in criminal activities and it was their duty to protect the community from any form of harm or harassment.

Mamasela denies lying about how Pebco three were killed

DD 11/3/98 (252)

PORT ELIZABETH — Self-confessed murderer and former Vlakplaas operative Joe Mamasela yesterday denied he lied and exaggerated in his account of how the so-called Pebco three were beaten to death.

Mamasela was testifying before the truth commission's amnesty committee hearing in Port Elizabeth in which eight policemen applied for amnesty for killing three members of the Port Elizabeth Black Civics' Organisation (Pebco) in 1985.

He told the committee on Monday that he was part of a squad of policemen who

beat the Pebco three to death during a marathon interrogation session at a disused police station near Cradock.

It was put to Mamasela by Kobus Booyens, who is appearing for five of the policemen, that he was exaggerating and lying in his description of the beating.

Mamasela replied "That is absolutely ridiculous."

The policemen have applied for amnesty for the death of Siphiso Hashe, Champion Galela and Qaqawuli Godolozu.

In their application for amnesty, the policemen ad-

mitted killing the three but said they were shot dead and were neither interrogated nor tortured.

The applicants are former Port Elizabeth security policemen Col Gideon Nieuwoudt, Gerhardus Lotz, Col Herman du Plessis, Capt Sakkie van Zyl and Col Harold Snyman, Gerhardus Beeslaar, Johannes Koole and askari Peter Mogoai.

When asked where his loyalties lay, Mamasela said he had supported the African National Congress until 1981, when the organisation had allegedly killed his brother. He said at that

stage he became disillusioned with all politicians.

He denied ever supporting the security police and claimed the atrocities he committed while at the Vlakplaas security police base were under duress.

When Booyens put it to Mamasela that he had in previous inquiries and court hearings been shown to have lied, Mamasela replied "Your clients told me to lie and I lied. It was the norm in the police to tell black people to lie. If you do not lie you get killed."

The hearing is continuing — Sapa

Criminal (252) justice gets (252) lion's share of real spending

BD 12/3/98 (252)
Wyndham Hartley

CAPE TOWN — Real spending on the departments administering the criminal-justice system will increase almost 2% following the 7,8% increase in funding for the safety and security, justice and correctional services departments in the budget yesterday.

The criminal-justice departments are among few in the national government that will get increased allocations from the treasury for the 1998/99 financial year and receive a sizeable chunk of available funds in a tight budget.

The increases budgeted yesterday are particularly significant when seen against the substantial increase of almost 15% across all three departments last year.

Particularly noteworthy is correctional services which, on top of an increase in last year's budget of more than 20%, gets an increased allocation again of 26%. This is the largest increase for any department in the budget.

A marked increase in spending and the building of two new prisons is one reason for the large increase and for subsequent increases to the end of the medium-term expenditure framework (MTEF) in the 2000/2001 budget year.

The spending is also designed to cope with an expected increase in offenders from 156 000 in the 1998/99 financial year to 200 000 in 2000/01. The cost of caring for the prisoner population of 156 000 is R19 685 each for the 98/99 financial year, a total of R3,070bn.

Police services gets an extra 7%, which is also an increase in real terms, while justice gets a nominal increase of just under 1%, meaning that it effectively gets less money in real terms. Justice will get R18,835m more than last year, with a total budgeted amount of R2,173bn compared to actual spending in 1997/98 of R2,154bn.

In his address to the National Assembly, Finance Minister Trevor Manuel said spending on departments administering the criminal justice system would be kept at 7,8% over the remainder of the medium-term expenditure period.

The budget review said the increase in spending on justice was made necessary by increased allocations to the Human Rights Commission, the Gender Equity Commission and the special investigation unit. There had also been a substantial increase in demand for legal aid.

The justice budget also provides R100m for truth commission reparations in 1998/99 and increasing to R200m in 1999/2000 and R300m in the final year of the MTEF.

R100m set aside for interim reparations

Stephané Bothma

20 12 31 98 (252)

THE allocation of R100m to the justice department for the truth commission reparations programme was welcomed by commission chairman Archbishop Desmond Tutu yesterday.

He called the move a significant first step towards compensating victims of human rights violations.

However, Tutu stressed that the commission would press for the allocation to be increased in future budgets.

"The allocation is substantially more than the R50m we believe will be needed for interim reparations and we are grateful that an allocation for final reparations has effectively been made even before the presentation of our final report to President Nelson Mandela," Tutu said.

He nevertheless expressed the hope that the allocation would be substantially increased in future years.

Finance Minister Trevor Manuel announced that the allocation for reparations would rise to R200m in 1999/2000 and R300m in 2000/2001.

Tutu said "We have proposed that victims should be paid a total of R500m a year for a period of six years."

The commission would press for the allocations to be increased in future budgets.

The archbishop said the commission's plan for final reparations included a proposal that victims receive individual grants of between R17 000 and R23 000 a year — the medium household income in SA — for a period of six years.

Sorry, Pebco

Three killer

Mamasela

tells widows

Cash offer – and hug

JOHN YELD

ON THE TRUTH COMMISSION

Port Elizabeth – After three days of testimony ranging from gut-wrenching description to pure theatrics, ex-askari Joe Mamasela apologised to the families of the murdered Pebco Three.

He also offered to share his financial resources with them. And he hugged them when he met them afterwards

Mamasela, who admits involvement in 40-odd murders, made his offer after his appearance by subpoena at the amnesty hearing in which seven former security policemen and another askari are seeking amnesty for murdering Port Elizabeth Black Civic Organisation (Pebco) activists Siphon Hashe, Champion Galela and Qaqawuli Godolozu in 1985.

Mamasela was in the Vlakplaas security police team that helped Eastern Cape colleagues abduct the three from Port Elizabeth airport and take them to Post Chalmers, near Cradock, where they were murdered. Mamasela told how the activists were beaten and tortured to death.

In his testimony he denied the claim by the amnesty applicants that the activists were killed humanely.

"In all my experiences in this hell-hole, there is no such thing as clean killing. People were killed brutally, they died worse than animals. That is a fact," he said.

He also said the claim that the bodies of the three had been burnt was "extremely improbable and illogical".

"To do that you have to make a devil's fire, a big, big fire, and that might have attracted the neighbours."

He explained his participation in the killings by claiming he had been coerced into working for the security police for 12 years because of his fear of being killed if he did not obey, and of the threat of further torture.

Two of the widows – Nothobile Hashe and Rita Galela – were at the hearing to listen to Mamasela's comments yesterday, but Monica Godolozu was not present. "She's fed up with the lies of the applicants," their lawyer, Bond Nyoka, told the amnesty panel.

Mr Nyoka told Mamasela the widows accepted his apologies because he had been prepared to break the long silence and come out with the truth about the killings.

Mamasela replied "I would just say deeply from the bottom of my heart, this to me is a glorious opportunity to say thank you very much for at least understanding."

"To me this is a cathartic experience and I would like to extend my apologies to everyone because I see each and every black person as a victim."

National reconciliation without atonement was "meaningless".

He said "As a perpetrator, although it was against my will, I must atone in kind, as I'm doing now by testifying and also in cash."

"Whatever money I have I will share with the victims and hope they will accept that."

At the conclusion of the day's session, Mamasela met Mrs Galela and Mrs Hashe, whom he hugged.

He told journalists that details of his financial offer had yet to be worked out with the families.

The hearing continues today.

(252)

ARLT 12/3/98

Witness in Ferdi Barnard trial killed

JOHANNESBURG: A state witness in the trial of former Civil Co-operation Bureau agent Ferdi Barnard died in hospital on Tuesday after he was attacked on a plot at Welbekend, south-west of Pretoria, shortly before he was due to testify in the Pretoria High Court.

Richard "Crunchy" Johnson, 34, was to testify about an armed robbery at a cosmetics company in the 1990s, in which Barnard was allegedly involved.

Johnson, his wife Rhoda, 23, and their three-year-old daughter apparently moved into a three-bedroomed house in Nest Park, Welbekend, last Friday.

Police spokesman Senior Superintendent Andre Austin said four armed men entered the house about 2am on Tuesday, tied up Rhoda Johnson and attacked Johnson.

Austin said although the intruders fired shots in the house, Johnson was not shot. He was apparently attacked with a pangas or axe, he said.

Johnson suffered serious neck wounds on his head and was later taken to Tambo Memorial Hospital in Boksburg, where he died.

Johnson's wife and daughter were not

injured in the attack.

A gardener alerted neighbours who called the police, Austin said.

Police suspect robbery may have been a motive as the intruders are believed to have taken some clothing and loose items.

However, the Johnsons had no furniture and very few belongings in the house. Richard Johnson was unemployed at the time of his death.

No arrests have been made and the Pretoria murder and robbery unit is investigating.



~~255~~ CT 12/3/98 (252)

An investigator in the office of attorney-general Jan D'Olivera, Senior Superintendent Casper Jonker, said Johnson was an important witness in the Barnard case.

He was not on the witness protection programme and his name did not appear on the witness list, but he was due to have called at the attorney-general's office in Pretoria on Tuesday and would possibly have testified in the Barnard trial yesterday or today, Jonker said.

"At this stage we can't say whether Johnson's murder is linked to his testimony in the Barnard case, but the matter is under investigation," he said — Sapa

Some of Pebco 3

killers still

in police

CT/12/3/98

PORT ELIZABETH Only half the policemen involved in the murder of the Pebco 3 had applied for amnesty and the rest still held high rank in the force, self-confessed murderer Joe Mamasela told the Truth and Reconciliation Commission here yesterday.

Mamasela, a former Vlakplaas hit squad agent, admitted to being present when a squad of policemen killed three members of the Port Elizabeth Black Civics Organisation in May 1985.

Eight policemen have applied to the TRC's amnesty committee for amnesty for the killing of Siphon Hashe, Champion Galela and Qaqawuli Godolozu, known as the Pebco 3.

Mamasela told the committee that he had seen 15 to 20 policemen at various times during the interrogation and torture of the men.

He said he had not recognised all of them, but some now held high rank in the police.

Their identities were being protected by the policemen who had applied for amnesty.

He has admitted taking part in a prolonged interrogation of the three, during which they were battered to death with an iron pipe and a stick.

Under lengthy cross-examination by lawyers appearing for the policemen, Mamasela vigorously denied that the men had been eliminated in "a clean killing".

"In all my experience in this hell hole (referring to Vlakplaas), I have never heard of a clean killing. That is an attempt by them (pointing to the applicants) to appear honest and decent gentlemen,"

Mamasela said — Sapa

TRC gets more than it needs

(252)

THE allocation of R100 million for the Truth and Reconciliation Commission's reparations programme was a significant step towards the payment of reparations to victims of human rights violations, TRC chairman Archbishop Desmond Tutu said yesterday

"The allocation is substantially more than the R50m we believe will be needed for interim reparations, and we are grateful that an allocation for final reparations has effectively been made," he said in a statement — Sapa

27/12/98

Amnesty court (157) case to go ahead

CAPE TOWN — The National Party's (NP's) decision to challenge the amnesties granted to 37 African National Congress leaders would not stop the truth commission from going ahead with its own court application, commission chairman Archbishop Desmond Tutu said yesterday.

80 13/3/98
He was reacting to an NP announcement that it had asked the High Court in Cape Town to set aside the "clearly illegal" amnesties, on the grounds that the law made no provision for blanket amnesties.

The commission, its independent amnesty committee, and the 37, who include Deputy President Thabo Mbeki, have all been listed as respondents.

Tutu said SA was now a democratic country and nothing stopped the NP from approaching the courts. It would be up to the court to decide whether the party had the standing to be heard.

"Their decision does not change anything at all for the (truth commission); we remain determined to take the matter to court as quickly as possible," he said.

The truth commission was advised by a lawyer in January that the amnesties were faulty and should be reviewed, and said it would ask the high court to review the amnesty committee's decision. — Sapa

Pebco 3: police 'tampered with statement'

Askari's two versions questioned

Port Elizabeth - Former black security policeman Johannes Koole has told a Truth Commission amnesty hearing that his statement about his involvement in the killing of the "Pebco Three" activists was embroidered by a police investigator.

But this was denied by the investigator - Superintendent Cornelius De Lange of Gauteng Attorney General Jan D'Oliveira's special investigations team - who was called specially to the hearing to testify about taking Mr Koole's statement.

Mr Koole made his claim yesterday while trying to explain discrepancies in his sworn statement, made to Mr De Lange in April 1986, and in his amnesty application to the TRC, submitted in December 1986 and which is also a sworn statement.

Mr Koole is one of seven former security policemen and an askari (turned African National Congress guerrilla) seeking amnesty for murdering the Port Elizabeth Black Civic Organisation (Pebco) activists -



JOHN YEID
ON THE TRUTH COMMISSION

Sipho Hashe, Champion Galela and Gagawuli Godolozzi - In May 1985

Mr Koole, who was a warrant officer at the time, has admitted taking part in assaults on the three while they were being held at the disused Post Chalmers police station outside Cradock.

His version of events is important because of the degree to which it corroborates evidence by former Vlakplaas-based askari Joe Mamasela.

Mamasela, who has not applied for amnesty for the incident, has told the amnesty hearing that the three were tortured and beaten to death at Post Chalmers.

The six white policemen applying for amnesty all deny that the three were assaulted in any way, and claim they were killed "humanely" with a single shot to the head after being given drugged coffee.

In his statement to Mr De Lange, Mr Koole also said the three had been severely assaulted, and that the beatings had gone on "all day".

But in his testimony to the TRC, he played down both the severity and the duration of the assaults.

Responding to a suggestion by advocate Cobus Booysens SC, for five of the white policemen, that there were "vast differences" in his two sets of testimony, Mr Koole said Mr De Lange had added facts to his April 1986 statement.

"There are words which he (Mr De Lange) used which I did not use," Mr Koole, who also claimed he had signed the statement without taking the prescribed oath, said Mr De Lange had "suggested" certain things to him which he had not known about and which had then appeared in the statement.



Askari tells all Joe Mamasela testifies at the amnesty application of former security policeman for murdering the Pebco 3 activists

He had not wanted to sign it because of these problems, but he had been told to sign by Mr De Lange and that the changes would be made later.

But when Mr De Lange was called to testify on Wednesday, he strongly denied there had been anything irregular about taking Mr Koole's statement.

Mr Koole said he had any motive for implicating anyone. The hearing has been postponed to May 18 for argument.

TRC to seek court ruling on amnesty

The Truth and Reconciliation Commission had told the Democratic Party it was ready to seek a court ruling on the controversial amnesties granted to 37 African National Congress leaders, said DP spokeswoman on the commission Dene Smuts. She said yesterday the TRC had satisfied the DP that the form its application would take would meet the party's objections to its simply asking for a declaratory order, or judge's opinion, which had been the TRC's original intention.

"We await sight of their court papers and believe they will do the right thing," she said.

Ms Smuts was speaking after the National Party announced that it had launched its own High Court application to have the "clearly illegal" decision set aside.

Ms Smuts said it would do no harm for the NP to come into the matter. The court would join the two applications and hear them as a single matter, she said. - Sapa

(200) A/G 13/3/98

NP fights ANC amnesties

CT 13/3/98 (252)
THE National Party and a victim of the 1983 Church Street bomb launched a court application yesterday to overturn the blanket amnesties granted last year to 37 African National Congress leaders, including Deputy President Thabo Mbeki

NP leader Mr Marthinus van Schalkwyk said the party believed the amnesties were illegal, and that the 37 had not gone through the same process as everyone else who applied for amnesty.

"We are not against amnesty to the 37 ANC leaders, what we are saying is we are against a special amnesty only to ANC leaders. If there is a law in this country, it must apply to all South Africans."

His party had decided to go to court because the Truth and Reconciliation Commission had delayed its own application so long.

Earlier this year the TRC said it had obtained legal advice that the amnesties — which were granted without full disclosure of the acts for which amnesty was being sought — were faulty and should be reviewed.

The TRC said it would ask the High Court to review the decision made by its autonomous amnesty

committee.

Van Schalkwyk said yesterday the NP would have preferred the TRC itself to have brought an application, but suspected there was an "agenda" to drag the process out as long as possible.

If the TRC brought the application a month or two before the end of its life in June, the commission would have lost its locus standi by the time the matter came to court, and the application would fall away.

"Therefore we are forced to do what we are doing today," he said.

He said the NP was helping the second applicant, Church Street bomb victim Mr James Simpson, with legal costs.

A legal adviser to the NP, MP Mr Jaco Maree, said Simpson had been brought in as a co-applicant because the NP was not directly affected by the amnesty decisions.

"We just wanted to make very sure we were not thrown out of court because of a technicality."

The application listed 39 respondents — amnesty committee chairman Judge Hassan Mall, the TRC itself, and the 37 to whom amnesty had been granted — Sapa



KAHN AND POLICE BLAME EACH OTHER

Anger over release of alleged killer hijackers

(252) CT 13/7/98

A SENIOR INVESTIGATOR has been appointed by the police to probe the circumstances in which two men charged with four hijack killings escaped from court. Crime Writer **LINDIZ VAN ZILLA** reports.

THE police and the attorney-general's office yesterday slammed as a "disgrace" the accidental release of two men charged with hijack killings in Cape Town in January.

But neither Western Cape police Commissioner Leon Wessels nor the attorney-general of the Cape, Mr Frank Kahn, were willing to accept responsibility for the bungle that led to Mr Rashad Petersen and Mr Marshall Andrews walking out of the Mitchell's Plain Magistrate's Court late on Wednesday night.

The two men were being held for the murders of Somerset West couple Mr Mike and Mrs Maggie Knott and Johannesburg businesswoman Ms Marjiese Holmes and her American friend Mr Edward Keim III. The men were also linked to the hijacking of Stellenbosch pastor Mr Dries Manders and his son Andries.

Petersen and Andrews appeared at a late-night bail application in connection with the murder of the Knotts, whose bodies were found on the False Bay coast on January 6.

However, the murder charges relating to the Knotts was struck from the court roll by the magistrate, who in the words of Wessels "ordered the prisoners free to go".

The men were released, though they are still facing charges in connection with the murders of Holmes and Keim and the Manders' hijacking.

Kahn has hit at the police, saying that "after the matter was struck from the court roll the suspects should have been detained, as they were facing another case. That is the responsibility of the police."

Kahn said he was pleased the police had appointed a senior police investigator to find out what had gone wrong. His office had requested a full report to find out whether the blame for the seemingly accidental withdrawal of the Knott case lay with the magistrate or the prosecutor's office.

"But that still does not alter the fact

that someone in police custody walked out of the court building that is the responsibility of the police," Kahn said.

The investigating officer attempted to re-arrest the two suspects as they fled the court building, but they resisted and escaped. Police later issued warrants of arrest for the two fugitives.

Wessels said in a statement: "After much deliberation between officials of the Justice Department, advocate for the defence and the investigating officer, the case was placed on the court roll on Wednesday morning."

"During the course of the proceedings that night the trial was halted and the case struck off the roll by the presiding magistrate, who ordered the prisoners free to go," Wessels said.

Attacking the justice system, Wessels said "It is a sad day when court officials do not realise the seriousness of cases and to what lengths investigating officers have to go in order to arrest perpetrators. Yet when they are brought to book they are released with impunity."

"We all have a duty in addressing the serious crime problems, and to release people accused of serious crimes does nothing to promote these efforts," he said.

He said that apart from the internal investigation, case dockets had been opened for investigation of charges of defeating the ends of justice and escaping from custody.

Wednesday's mistake is the second in two days in which arrested suspects have managed to escape from police custody.

Tied in with this are several "high-profile" cases against gang leaders and Pagad officials that have flopped dramatically in recent months.

● Charges of tax evasion and dealing in 87 000 Mandrax tablets were temporarily withdrawn against Mr Colin Stanfield — an alleged leader in the drug cartel. The firm — in August last year following the shock resignations of the advocate leading the prosecution and the two police officers inves-



Western Cape police Commissioner Leon Wessels:
"It is a sad day when court officials apparently do not realise the seriousness of cases and to what lengths investigating officers have to go in order to arrest perpetrators. Yet when they are brought to book they are released with impunity."



Attorney-General of the Cape Frank Kahn:
"After the matter was struck from the court roll the suspects should have been detained, as they were fleeing another case. That is the responsibility of the police... someone in police custody walked out of the court building."

tigating the charges

Stanfield was arrested on August 29 1996 after a three-year police investigation and a bust in April 1995 in which police found the Mandrax tablets. The tax evasion charges stem from R1 million in cash found when the police searched his Rondebosch home.

The reasons given for the sudden resignations were poor salaries and tough working conditions, but Stanfield's defence team claimed the resignations was a smokescreen to the fact that the state had not managed to formulate a charge against their client. At the time, Stanfield's attorneys

said they were considering suing the state for "malicious arrest". The case against Stanfield is set to resume after the prosecutor was "reined" at a substantial fee.

● The prosecution of Pagad member Mr Ozeer Boooley for the murder of Hard Livings gang leader Rashad Staggie in 1996 collapsed in the Cape High Court last month.

The trial had been set down for three weeks. 146 witnesses had been called and 250 sworn statements were in the police docket. But the prosecution said they could not continue, as a key witness who had placed Boooley at

the scene of Staggie's death had deviated from his original statement.

In the wake of the dismissal of the Boooley case, Pagad threatened to sue the state for R1 million for what it called "malicious prosecutions".

● Pagad's national co-ordinator Mr Abdoes-Salaam Ebrahim was cleared in Wynberg Magistrate's Court last month of four charges of attempted murder.

The magistrate slammed the state's case against Ebrahim as "so weak that he could not link any of the charges to Ebrahim".

The case began to falter when an investigating officer could not explain

why evidence relating to two of the charges was dated up to nine days before the attack took place. After the acquittal Pagad accused the state of "victimising" its members.

● In the second incident involving Ebrahim, a George magistrate withdrew charges of intimidation and assault during a three-minute court appearance, only two days after his acquittal before a Wynberg magistrate.

● Two teenagers charged with raping a 49-year-old Clifton woman on Saturday escaped during proceedings in the Cape Town Magistrate's Court on Tuesday.

Police and justice will still feel the pressure

BY CATHY POWERS AND GILL
GIFFORD

Budgets for crime, justice and correctional services will increase slightly over the next three years, but in real terms crime and justice saw decreases in their income and expenditure allocations for the current financial year.

According to Dr Andre Roux, director of the Institute for Futures Research at the University of Stellenbosch, the police, justice and correctional services as a group will experience roughly a 2% increase in real terms over the next three years.

But the Department of Justice's budget of R2,173-billion for this financial year - R19-million more than 1997/1998 - is a decrease in real terms, according to Henry Isaacs, the department's director of budgets.

Additional expenses not budgeted for were included in the allocation - like the TRC's reparation programme, which received R100-million

"We envisage effectively less over the years, so we need smarter ways of operating," Isaacs said.

The police budget of R13,709-billion, 6,6% up on last year, is also a decrease in real terms, according to Roux. The bulk of the police budget - R7,339-billion (up from R6,965-billion last year) - goes to crime prevention.

Detective services will receive R2,458-billion, while administration costs will amount to R3,4-billion. Personnel expenditure, at R2,3-billion, makes up the bulk of administrative spending.

Police Forum head Paul O'Sullivan said the SAPS was winning the war against crime. "An

analysis of statistics up to last week shows that there is a general downward trend," O'Sullivan said

The bulk of the justice budget, R1,3-billion, will be spent on administration. This is expected to go some way towards making courts more efficient, reducing work loads and the backlog in courts. Other key areas were legal aid, the Human Rights Commission, Gender Equality Commission and the establishment of the Special Investigation Unit and Special Tribunal.

Spokesman for the National Union of State Prosecutors of SA, Vleis van Zyl, said the increases in the education, welfare, health and poverty sectors would address some basic causes of crime.

But prosecutors plagued by low salaries and bad working conditions are unlikely to benefit.

NP asks court to overturn amnesties

(25a)
Star 13/3/98

Tutu rejects claim that TRC has been
dragging its heels over ANC 37

STAFF REPORTER AND SAPA

The National Party and a victim of the 1983 Church Street bomb yesterday launched a court application to overturn the amnesties granted last year to 37 ANC members, including Deputy President Thabo Mbeki

The NP says the Truth and Reconciliation Commission has been dragging its heels in asking the High Court for a review of the amnesties, as it had promised

NP leader Marthinus van Schalkwyk said the party believed the amnesties were illegal, and that the 37 had not gone through the same process as everyone else who applied for amnesty

"We are not against amnesty to the 37 ANC leaders, what we are saying is that we are against a special amnesty only to ANC leaders. If there is a law in this country, it must apply to all South Africans"

Earlier this year the TRC said it had obtained legal advice that the amnesties, which were granted without full disclosure of the acts for which amnesty was being sought, were faulty and should be reviewed

The TRC said it would ask the High Court to review the decision made by its autonomous amnesty committee. However, the commission has not served papers, and a court date has not been set.

Van Schalkwyk said the NP would have preferred the TRC itself to have brought an application, but suspected there was an "agenda" to drag the process out as long as possible

If the TRC brought the application a month or two before

the end of its life in June, the commission would have lost its *locus standi* by the time the matter came to court, and the application would fall away

"Therefore we are forced to do what we are doing today," Van Schalkwyk said

TRC chairman Archbishop Desmond Tutu yesterday called the accusation that the TRC was dragging its heels "nonsense".

"We are now a democratic country and nothing stops the National Party from approaching the courts. It will be up to the courts to decide whether the party has the standing to be heard

"Their decision doesn't change anything at all for the TRC. We remain determined to take the matter to court as quickly as possible. It is nonsense to suggest that we are dragging our heels. The delays have worked against us, not for us, and we want the matter finalised before we close on July 31."

Van Schalkwyk said the NP was helping the second applicant, Church Street bomb victim James Simpson, with legal costs

A legal adviser to the NP, MP Jaco Maree, said Simpson had been brought in as a co-applicant because the NP was not directly affected by the amnesty decisions.

"We just wanted to make very sure we were not thrown out of court because of a technicality," he said

The application listed 39 respondents - amnesty committee chairman Judge Hassen Mall, the TRC itself, and the 37 to whom amnesty had been granted

The application would be heard on April 8 if unopposed

Witness can't be found for TRC hearing on murder

(252) Star 13/3/98
BY SIMON ZWANE

An Afrikaner Weerstandsbeweging member, who is a key witness in the amnesty application of a fellow rightwinger, has disappeared ahead of a Truth and Reconciliation Commission hearing.

Fanie Goosen, who was accused of conspiring with Cornelius Johannes Lottering to murder Soweto taxi-driver Potokar Franzar Makgalemele in 1989, cannot be located with less than two weeks to go before Lottering's amnesty hearing, which begins on March 23.

TRC spokesman Mbulelo Sompetha said the commission had approached Goosen's mother.

She had told them she did not know where her son was.

Notice of Goosen's required appearance before the amnesty commission was sent to him through his organisation, the Afrikaner Weerstandsbeweging.

Sompetha said they were also experiencing difficulty in locating Makgalemele's next of kin.

It is important for the victim's family to be present during an amnesty

hearing and to put questions to the applicants.

The family can also oppose the application if they are of the opinion that the applicant has not told the whole truth or did not have a political motive and an order to commit the offence.

Makgalemele was allegedly hijacked near Gold Reef City by Lottering and Goosen.

He was then overpowered and was driven to Daleside Ski Club where he was stabbed and shot dead.

In his amnesty application Lottering said he shot Makgalemele in the head "as a test" to see if he could kill a human being.

Lottering also belonged to the Orde van die Dood and was allegedly tasked with killing prominent political figures such as former president FW de Klerk and some of his cabinet ministers.

Lottering and Goosen also face charges of malicious damage to property, attempted intimidation, robbery and unlawful possession of weapons and ammunition.

They have not applied for amnesty in respect of these offences.

Pebco Three applicant claims his statement was embellished

By John Veld

Port Elizabeth - Former black security policeman Johannes Koole has told a Truth and Reconciliation Commission amnesty hearing that his statement about his involvement in the killing of the "Pebco Three" activists was embroidered by a police investigator.

However, this was denied by the investigator, Superintendent Cornelius de Lange, of Gauteng Attorney-General Jan D'Oliveira's special investigations team.

Koole made his claim yesterday while trying to explain discrepancies in his sworn statement, made to De Lange in April 1996, and in his amnesty application submitted in December 1996.

Koole is one of seven former security policemen and an askari (turned ANC guerrilla) seeking amnesty for murdering Port Elizabeth Black Civic Organisation activists. Sipho Hashe, Champion, Galela, and Qaqawuli Godolozzi in May 1985.

The six white policemen applying for amnesty all deny that the three were assaulted in any way and claim they were killed with a single shot to the head after being given drugged coffee. In his statement to De Lange, Koole said the three had been severely assaulted, and that the beatings had gone on "all day". But in his testimony to the Truth Commission, he played down both the severity and the duration of the assaults, although he admitted kicking and punching some of them.

When De Lange was called to testify this week, he strongly denied that there had been anything irregular about taking Koole's statement or that he had any motive for implicating anyone. "I wrote down what he told me and he signed it. I didn't add anything, I didn't omit anything," he said.

The hearing has been postponed to May 18 for argument.

Star 13/3/98

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Families happy to know the truth

(252)

Sowetan 13/3/98

By Claire Keeton
Feature Writer

Mamasela claims to be liked by
many black South Africans

THE MURDERER of over 40 activists in South Africa, Joe Mamasela, includes himself among those who led to a democratic South Africa.

"I am proud we have achieved something in this country," he says.

A self-confessed killer - whose victims were mostly young and mostly innocent - by his own admission - Mamasela claims to be liked by black South Africans.

He said he was a member of the African National Congress (ANC) in the 1970s before being betrayed, after which he became a member of the Vlakplaas police hit squads operating in Western Transvaal.

"I know my people like me, they will stand up," he boasted at a Truth and Reconciliation Commission (TRC) hearing in New Brighton near Port Elizabeth this week. Only one person stood up.

Mamasela was testifying at an amnesty hearing concerning the deaths of Sipho Hashe, Champion Galela and Qaqawuli Godolozu, all leaders of the Port Elizabeth Black Civic Organisation (Pebco).

They were killed in May 1985 by the Eastern Cape security police and Vlakplaas assassins, including Mamasela.

Hashe and Galela's widows showed extraordinary generosity by accepting Mamasela's apology. Nothobile Hashe and Rita Galela told *Sowetan* they were relieved Mamasela had exposed the way their husbands died.

Their attitudes demonstrate how much it means to the families of victims to find out what happened to their loved ones, instead of suffering the pain of never knowing.

"At least he told the truth about what happened," said Galela.

Hashe said it seemed Mamasela had been forced by white security policemen to kill activists.

This was the core of Mamasela's defence during hours of cross-examination by lawyers of the eight amnesty applicants - that he was a "victim", killing under duress.

Mamasela came under fire for his testimony about how the "Pebco 3" died - but also for his own credibility and moral character.

He said the three were brutally beaten to death at an abandoned police outpost near Cradock. His account, which contradicts that of most of the applicants, remained consistent through the lengthy cross-examination.

Mamasela even told *Sowetan* he would be prepared to take a lie-detector test.

The lawyers emphasised how often Mamasela lied prior to the hearing, including to the Harms Commission in 1990 and to an Independent Board of Inquiry investigation in 1994.

"You do not hesitate to lie under oath when it is in your own interests,"



Flashback ... Joe Mamasela during the TRC hearing in Durban last year concerning the death of lawyer Griffiths Mxenge.

said attorney Roelof du Plessis, painting Mamasela as an opportunist whose loyalties shifted with the wind.

He suggested that Mamasela only decided to tell the truth about his murders in 1994 when he saw the ANC would come to power.

"It's not as if I'm an opportunist," Mamasela said, denying this.

However, he admitted "I was never loyal to the ANC or the security forces. My loyalty is to myself - and to God at the moment."

He said "I was a mere askari, a prisoner-of-war. I could not question instructions or I'd get killed." Instead, he joined police covert operations - he betrayed and killed dozens of activists in the 1980s and kept a dossier on his victims.

Mamasela said he kept a diary but it was not a full record or it would have been as thick as a Bible.

"My contention is that Mamasela freely and voluntarily participated in operations," Du Plessis said.

Sympathetic

He pointed out that Mamasela never warned victims of traps even though he claimed to feel sympathetic to them, referring for instance to a trap in which several youth were blown up by booby-trapped hand-grenades.

Du Plessis also said, occasionally Mamasela spent weeks in the township on his own to gain the confidence of these activists but he never alerted them to their impending death.

Mamasela said it was not safe for him to do this since he was watched by black policemen, though he did warn some marked targets. "The black man's worst enemy is another black man, myself included," he said.

Du Plessis said it was improbable that Mamasela was trusted with such sensitive missions if he was simply acting under coercion.

The apartheid assassin said he pretended to be a "black Afrikaner" and claimed that he acted as the lap dog of Transvaal security chief Brigadier Jack Cronje.

"You did not stay in the security police for 12 years by force, involuntarily. You stayed for the money," Du Plessis said. "I was informed you couldn't wait to get your money after any operation."

The lawyer said police hitmen were rewarded for successful covert operations.

"There was no guarantee we would receive (money) or I would have been a multimillionaire," Mamasela responded.

However, he confirmed he had received a golden handshake of about R400 000 when he retired from Vlakplaas in 1993 as a bribe to keep his "mouth shut".

Mamasela claimed he had used this money, as well as a monthly expense allowance of about R5 000, to uncover the "dastardly, nefarious acts of both the National Party and the ANC".

A smartly-dressed man, with a gold watch and a red BMW, Mamasela offered to share his spoils with the families of the "Pebco 3".

"I must go the extra mile to atone - through speaking here and in cash. Whatever money I have, I will share with the victims," he said to applause from the audience.

Mamasela told *Sowetan* he would discuss the details of financial assistance with the families.

He said talking about the killings has been cathartic for him. "I don't care now if they shoot me, at least I would have died for the truth."

Mamasela, who has not applied for amnesty, denied that he had struck any secret deal to avoid prosecution and said he was waiting to be prosecuted for his crimes.



Defence lawyer: attorney Vernon Jantjies

Court orderlies face official enquiry for 'aiding' escape

From page 1

(252)
AR 6/14/98

Argus he had not helped investigating officer Andrew Davidson re-arrest the men because the charges had been dropped and he did not have a warrant of arrest for them.

But Director Knipe said this claim was "ridiculous"

The court orderly, who asked not to be named, said Commissioner Adam Blauw, the deputy provincial police commissioner in the Western Cape, had told them they were "in the clear." While Commissioner Blauw could not be reached for comment, Director Knipe insisted the court orderlies could not be cleared before his investigation was complete

Mr Jantjies himself is embroiled in controversy, after it emerged he was the magistrate on the bench at the Mitchell's Plain Court when the two alleged killers first appeared in court in January

Mr Jantjies has now set himself up in private practice. There was nothing sinister about him representing the two alleged killers, he said

However, some of the court orderlies said they had been intimidated by the sight of a former magistrate, now representing the alleged killers, telling them not to re-arrest the men



LEON MULLEN

Accused: murder suspects Rashaad Petersen, left, and Marshall Andrews arrive at court. They were released by a magistrate and then rearrested

Hijackings: why suspects were freed

ARG 14/3/98 (252)

NORMAN JOSEPH

Mitchell's Plain magistrate Ben Julius has defended his decision to release two double-murder suspects, saying the State was abusing the court system.

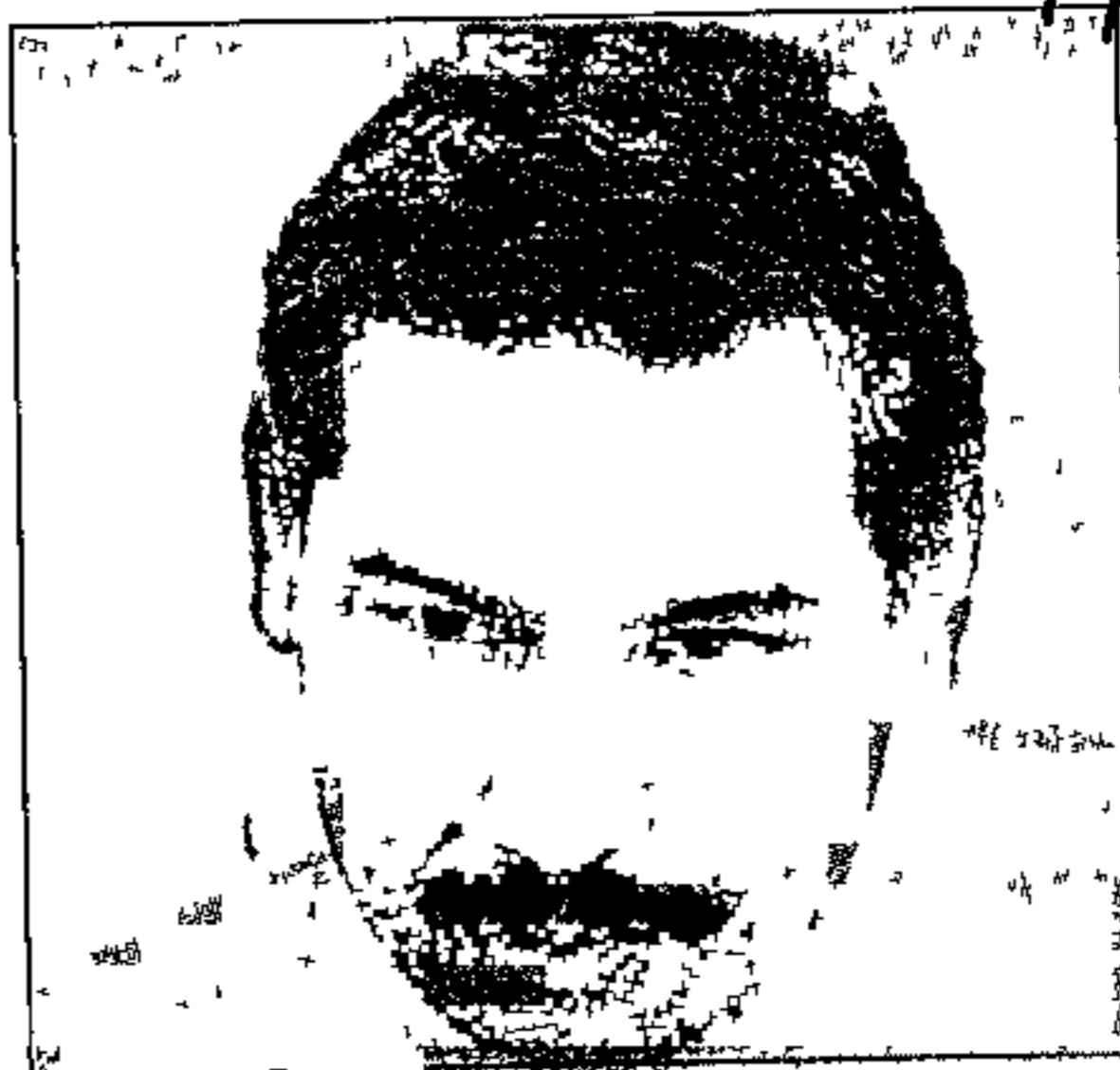
On Wednesday, Mr Julius released alleged car hijackers Andrew Marshall and Rashaad Petersen and struck their case from the court roll because the prosecution team was not ready for a bail application after two postponements.

He said the case had a long history, which began on January 12.

In an interview yesterday, Mr Julius said the suspects had a right to a bail application hearing.

He said that at 4pm on February 18 the case was "crowded out" - there had been too many cases on the court roll - and could not receive attention.

Vernon Jantjies, the suspects' attorney, placed his dissatisfaction on record.



My version: magistrate Ben Julius

and it was agreed the case would receive priority on Wednesday morning, Mr Julius said.

He said that on Wednesday Mr Jantjies had to wait because the prosecutor was not ready. At 2.35pm, Mr Jantjies asked to address the court urgently and

objected to the delay, said Mr Julius.

He explained "But the charge sheet was not available and was with controlling prosecutor Terrance Swart. Mr Jantjies placed his dissatisfaction on record and the matter had to stand down for a while."

"At 3.15pm, a prosecutor appeared with the charge sheet and said that Mr Swart, who was assigned to contest the bail application, was not prepared for the hearing because a family member had died in the Eastern Cape."

Mr Swart and the prosecutor were not available and prepared, but said they would be ready by Monday, March 16.

Mr Julius said "I refused the postponement because I felt the State was negligent in not making arrangements to accommodate the defence team."

The State was manipulating the court, he said.

"Investigating officer Andrew Davidson was not to blame for the delay and what had happened," Mr Julius added.

TRC court bid to scrap amnesty for 37 ANC members

Request echoes call by NP
APR 19/3/98

PIETER MALAN

The Truth and Reconciliation Commission has asked the Cape High Court to overturn the controversial decision by its amnesty committee to grant amnesty to 37 leading ANC members, including Deputy President Thabo Mbeki.

The TRC yesterday filed papers with the court, asking for a court order declaring the amnesties granted at the end of last year void, and ordering the amnesty committee to consider these applications afresh.

The TRC's application follows hot on the heels of an application by the National Party on Thursday, in which the party also asked the court to overturn the blanket amnesties.

NP leader Marthinus van Schalkwyk said on Thursday the party believed the amnesties were illegal as the 37 had not gone through the same process as everyone else who applied for amnesty.

He said the NP had decided to go to court because the TRC had delayed its own application so long

The TRC's action, launched yesterday, goes much further than the originally envisaged "declaratory order" which would have asked the court to consider whether the granting of amnesty had been in accordance with the TRC Act.

In papers filed with the High Court yesterday, TRC chairman Desmond Tutu said the blanket amnesty granted to the 37 ANC members - including Mr Mbeki and five Cabinet ministers - was invalid as it failed to refer to an identified act, omission or offence.

Archbishop Tutu said yesterday the reason for the delay in seeking the court order was that the TRC had discussions with the ANC to try and negotiate an agreement whereby they could secure a court order by consent.

He said the NP's action complicated matters as the party's approach constituted a "weaker challenge", because it only wanted the amnesties overturned, and did not ask that they be reviewed as well.

Archbishop Tutu said the NP had cited the TRC as respondents, putting the commission in a position in which it was a respondent

in one matter and an applicant in another matter where similar relief was sought. "Bearing in mind the statement by Mr Van Schalkwyk that he would have preferred the TRC to take this matter to court, we hope the party will now give serious consideration to withdrawing their application," Archbishop Tutu said.

NP spokesman Jacko Maree described the TRC's latest action as "a damage control exercise".

He said the TRC's claim that its application was stronger than the NP's was an attempt at face saving.

"The NP's application of 'reviewing and setting aside' the amnesties is exactly the same as the TRC's application to declare the amnesties void.

"In both instances, if the application is successful, the amnesties will be set aside and it will be referred back to the amnesty committee for reconsideration."

Mr Maree rejected suggestions that the NP would withdraw its application, saying the danger existed that the TRC could at any moment settle the matter on much weaker terms than the relief it was apparently seeking from the court.

Police search for the man they fear could be the next of Ferdi's former friends to die

Frenzied hunt for Barnard witnesses

Spur 14/9/98

BY PEIA KROST

(2/17)

A key witness in the Ferdi Barnard trial was killed this week. Now police fear that another of Barnard's associates could be assassinated.

Top policemen are working around the clock to trace a former cosmetics factory employee who they fear could be "taken out" because of knowledge he has about crimes committed under the instructions of former Civil Co-operation Bureau operative Barnard.

Police fear that Willie Britz - who worked for Florida's Eibelles L'Oreal factory - could be killed following news of the murder of Richard "Crunchie" Johnson - beaten to death in an alleged housebreak-
ing this week.

In January, Johnson told police he feared that Barnard would kill him.

The 34-year-old Johnson was to be a key witness in the Barnard trial currently being heard in the Pretoria High Court.

Shortly before he was murdered, Johnson confessed to police that he had perpetrated more than 50 housebreakings over a two-year period under Barnard's orders.

Barnard is facing 32 criminal charges, including charges for the murder of David Webster and the attempted murder of Justice Minister Dullah Omar.

Looking over shoulder

Johnson told me Barnard had the power to take him out and that he would do it," senior police detective in the attorney-general's special investigation team, Superintendent Johnny Roodendaal, said yesterday.

Roodendaal explained that Johnson understood this meant that Barnard would kill him. However, despite the apparent threat on his life, Johnson refused to enter a witness protection programme.

"He said he could look after himself better than we could as he was used to always looking over his shoulder," Roodendaal said.

"He was terrified of Barnard but he did not trust policemen. He suspected Barnard had many friends in the force as he had seen him many times with police *chommes* at nightclubs."

Johnson was due to call at the attorney-general's office on Tuesday and would probably have given evidence that day. Instead, he was beaten with an iron pipe around 2am on Tuesday and died in hospital a few hours later.

P.T.O.

Hunt for Barnard

Witness

Star 14/3/98

A handgun was used by the five attackers, but it was not the weapon that caused his death

The method used to kill Johnson was very similar to the manner in which Mark Francis was killed in 1991 when he was about to give evidence against Barnard. Barnard faces a murder charge over Francis's killing

However, Roodendaal said the fact that Johnson was a witness was not on public record, and if his death had been a "hit", Johnson must have told someone he was about to give evidence against the former CCB operative Barnard was known to still have a vast network of loyal friends who sympathised with him

Roodendaal spent months tracking down Johnson, whom other witnesses had identified as someone with important information. He eventually found him in the Vaal Triangle "We talked all the way from there to Pretoria. He told me how he had worked for Barnard."

Johnson told Roodendaal that he and a colleague had "pulled" all the housebreaking jobs for Barnard.

Johnson also told Roodendaal that he and a colleague - whose name is known to the *Saturday Star* - were smuggled into Elebelles L'Oreal in Florida, where a man by the name of Willie Britz worked.

"They discussed how easy it would be to steal over R80 000 worth of cosmetics from the factory"

One of the men had allegedly told Barnard - who allegedly



RHODA JOHNSON watched her husband being murdered in their new home

ordered him and to go ahead with the heist because he wanted "the stuff" to sell to make money

Wearing balaclavas, Johnson and his colleague held up the night watchman and tied him up, Roodendaal said Johnson had told him

"He said one of them went into the factory and took a bakkie full of cosmetics and together they drove away with the load"

Johnson, who moved into the three-bedroomed house in Nest

and wanted to work from a plot" Roodendaal said Johnson had been shot at while driving with his wife and child in the same week he had spoken to him

"His mother-in-law told me that after that incident he dropped the two off and disappeared for a while," Roodendaal recalled

Johnson was to meet him later that week but never arrived. That was the last the policeman saw of him

Although Pretoria Murder and Robbery detectives are

investigating all possible reasons for the murder - from an ordinary housebreaking to a "hit" - they find it strange that housebreakers would attack a house in which there was "absolutely no furniture, not even curtains"

The unit's head, Senior Superintendent André Austin, said it was obvious - even from the outside - that the house was empty. He added that Johnson's wife, who was naked throughout the incident, was not harmed, although she had been tied up

Their daughter had been left alone. Johnson's wife said yesterday she did not think Barnard was involved in the murder. She did not recognise the five men who attacked her husband.

The police are appealing to Britz to contact the attorney-general's special investigation team as they believe that if Johnson was assassinated, then Britz may be next on the list

Anyone with information about the attack should contact Inspector Riaan de Wet on 083-442-6805.

Top ANC leaders to discuss TRC court application to overturn amnesties

(252)

Star 14/3/98

Top ANC leaders, including Deputy President Thabo Mbeki, were to meet today to discuss the Truth and Reconciliation Commission's court application to overturn the amnesties granted to 37 members, ANC spokesman Ronnie Mamoepa said.

The ANC's national executive committee's subcommittee on truth and reconciliation, chaired by Mbeki, was to meet in Gauteng to discuss the issue, he said. Only then would a statement be issued.

Mbeki and five cabinet ministers - Joe Modise, Mac Maharaj, Pallo Jordan, Alfred Nzo and Dullah Omar - are among the 37.

Others include Mpumalanga Premier Mathews Phosa, Deputy Speaker Baleka Kgosisile, Deputy Environmental Affairs Minister Peter Mokaba, SA's ambassador to the United Nations Jackie Selebi, Deputy Intelligence Minister Joe Nhlanhla and KwaZulu Natal provin-

cial legislator Dumsani Makhaye

Meanwhile, NP spokesman on the TRC, Jacko Maree, said yesterday that the commission's court application to overturn the 37 amnesties was a damage-control exercise, coming a day after the National Party had filed similar papers

No confidence

The NP would not easily withdraw its application as requested by TRC chairman Archbishop Desmond Tutu, Maree said in a statement

"If the NP withdraws its application, the danger exists that the TRC can, at any moment, settle the matter on much weaker terms than the relief they are apparently seeking from the court"

The NP had no confidence in the manner in which the TRC had handled the matter so far, Maree said. However, the NP had

always been and was still willing to discuss the matter with the TRC.

"It has been the unwillingness of the TRC to discuss this matter with the NP and to play open cards with the NP which has resulted in the NP having no alternative but to go ahead with its application"

The NP could not allow the case to be driven by others and would not easily terminate its participation, he said.

Tutu told a press briefing earlier that the TRC had delayed filing the papers - which had been ready on Tuesday - because it was negotiating with the ANC on an order by consent.

It was also hoping to serve papers on the attorneys representing the 37, rather than on the individuals personally, who included ambassadors in foreign postings.

However, when the NP filed its action, the TRC decided to go



THABO MBEKI: Among 37 from ANC granted amnesty

ahead with its own application, Tutu said. The NP application, which cites the TRC as a respondent, complicated matters, he added.

The commission hoped the party would seriously consider withdrawing it. - Sapa

C

Council in spat with gay employee

YVETTE VAN BREDA

ST(CM) 15/3/98

THE Cape Town City Council has lashed out at a gay employee for not approaching them before going to the SA Human Rights Commission about getting his partner of 18 years registered on his medical aid

The council is due to reply to the SAHRC tomorrow on submissions made by Johan Fourie, who wants his lover, Theunis Rautenbach, on his medical aid

Council spokeswoman Leonora de Souza said this week that "we would have used our influence" to help Fourie get his partner on his medical aid even though the council did not have any authority over the medical aid companies concerned

"We are disappointed that Fourie chose to go to the commission directly without coming to us for assistance first," she said

"The council is an equal opportunity employer and we do not discriminate against staff on any level. It is in this spirit that we would have assisted him and if he should come to us for help now we will still assist him," said De Souza

Rautenbach, who worked in the clothing industry, could not afford to belong a medical aid scheme, said Fourie.

"If we could be legally married we would be," he added

After the ground-breaking Pretoria High Court decision allowing lesbian police captain, Jolande Langemaat, to register her partner of 11 years on her medical aid, Fourie decided to take his case to the SAHRC

"I thought the SAHRC would handle it properly as I knew they were dealing with the other Polmed matter. I believed it would do no good to approach the council first, and it is my prerogative to decide how to go about fighting for my rights," he said

Faranaaz Veriava of the SAHRC said that in all cases the complaints were put to the alleged human rights abuser "and as soon as they give us an undertaking that they will deal with the matter in a proper manner and agree to change their policies to reflect the values and norms of our society, we applaud their co-operation and that's our job done"

This had been the case with Fourie's complaint, she said



WE WILL COOPERATE WITH TRC PROCESS... Deputy-President Thabo Mbeki

ANC will not contest overturn of amnesties

CP 15/3/98
(272)

THE GOVERNING African National Congress said yesterday it will not contest a Truth and Reconciliation Commission (TRC) court bid to overturn amnesties granted to 37 ANC members last year.

The TRC announced on Friday it had asked the Cape Town High Court to overturn the amnesties granted to Deputy President Thabo Mbeki and 36 other high ranking officials because of irregularities. The amnesties were granted by the TRC's amnesty committee, which is entitled to pardon those guilty of human rights crimes provided full disclosure is made and a political motive is proven.

Archbishop Desmond Tutu said in court papers the pardons could be invalid "by virtue of at least four irregularities", including failure to make full disclosure and to identify specific offences.

The ANC said in a statement members of its subcommittee on the TRC, chaired by Mbeki, met here yesterday to consider the TRC's decision and had recommended itself to cooperate fully with the truth and reconciliation process. "We remain convinced of the need to avoid the process being turned into a political football," ANC secretary-general Kgalema Mottlanthe said in the statement. He

added that the ANC would approach the court application in a non-adversarial manner.

The National Party (NP), meanwhile, said it will not withdraw its own court bid to overturn the blanket amnesties.

The NP launched the action on Thursday, claiming the amnesty committee had been biased towards the ANC in granting the pardons. NP leader Marthinus van Schalkwyk said yesterday he had considered the TRC's request that the NP drop its court action, but that the TRC had not given enough reasons for a withdrawal - Sapa-AFP

Amnesty body 'to abide by truth committee's decision'

Deborah Fine

THE truth commission's amnesty committee would not contest the commission's decision to apply for court action to overturn the amnesties granted to 37 high-ranking African National Congress (ANC) officials last year, media liaison director John Allen said yesterday.

He said the committee, which granted the amnesties, had agreed to abide by the body's decision to apply to the Cape Town High Court to overturn the pardons on the grounds that they could be invalid as a result of irregularities.

The irregularities included a failure to identify the specific offences for which amnesty had been granted.

Deputy President Thabo Mbeki, Defence Minister Joe Modise, Transport Minister Mac Maharaj, Justice Minister Dullah Omar and Foreign Affairs Minister Alfred Nzo were among the 37 ANC members to be granted amnesty by the committee.

The ANC also confirmed that it would not contest the decision following a meeting of the party's subcommittee on the amnesty body on Saturday.

"The ANC approaches the forthcoming court application by the commission not in an adversarial manner .. our standpoint

CA BD 16/3/98 (252)
will be guided by what will enhance the entire reconciliation process and advance the interests of the country irrespective of immediate benefits that may accrue to any individuals," ANC secretary-general Kgalema Motlanthe said.

Meanwhile, National Party leader Marthinus van Schalkwyk told delegates at a weekend party conference held in Springbok, Northern Cape, that he had received a letter from committee deputy chairman Alex Boraine in which he asked that the NP seriously consider withdrawing the party's separate court application to have the amnesties withdrawn. The NP launched its application on Thursday.

Van Schalkwyk said he was concerned the commission may not pursue the case against its own amnesty committee and the ANC should the NP withdraw its case.

Sapa reports that commission chairman Archbishop Desmond Tutu said on Friday he had been advised that the original amnesty decisions were invalid "by virtue of at least four irregularities." These appear to hinge on a clause in the body's legislation stating that there had to be a hearing if the offence for which amnesty was being sought was a gross human rights violation. Tutu said offences in the original applications probably were within this definition.

New law society 'giant step forward' — Omar

Taryn Lamberti

(252)

THE Law Society of SA, a new governing body representing almost 9 000 attorneys previously divided along racial and provincial lines, was launched in Cape Town yesterday.

The society — made up of representatives from the four former provincial law societies, the Black Lawyers' Association and the National Association of Democratic Lawyers — was formally constituted, and brought to an end the existence of the Association of Law Societies, which had functioned as a national umbrella body for 60 years.

Sapa reports that the signing ceremony took place in a packed old assembly chamber in Parha-

ment and followed more than two years of talks between the different bodies.

The ceremony was witnessed by scores of dignitaries, among whom were Justice Minister Dullah Omar, his deputy Manto Tshabalala-Msimang, judges, advocates and attorneys.

Delivering the keynote address, Omar said the African National Congress had, at its December Mafikeng conference, decided in favour of a single legal profession with no distinction between attorneys and advocates.

During talks last week between the Bar Council (representing advocates) and the Association of Law Societies (representing attorneys), the council had voiced strong opposition to the idea that

all law graduates should be subject to the same internships and examinations.

Omar said Parliament would ultimately have to decide on the matter and would have to take into account the views of the public and of the legal profession.

"It is not only the future of the legal profession we're looking at, but the protection of the public and greater access to justice for all," he said.

Omar congratulated the parties for reaching agreement on the formation of the Law Society of SA. "I think that your agreement and the launch of the new law society today is a giant step forward in dealing with major problems of the past and in the rationalisation of the profession," he said.

Plan to eliminate Omar miscarried —

(257) BD 17/3/98

Stephané Bothma

PRETORIA — The top structure of the defence force's Civil Co-operation Bureau (CCB) had given the go-ahead in 1989 for the elimination of Dullah Omar and offered a well-known Cape Flats gangster R15 000 to gun down the future justice minister, the high court heard yesterday.

Van Zyl told Judge Johan Els he and his entire CCB cell and their commanders Joe Verster and Gen Eddie Webb had applied to the truth commission for amnesty relating

to their CCB activities in the late 1980s

He was called by the State to testify in the murder, attempted murder and fraud trial of another former CCB operative, Ferdi Barnard, who earlier pleaded not guilty to 34 charges including the assassination of Wits university lecturer David Webster and the attempted murder of Omar.

Van Zyl said his amnesty application included the planned killing of Omar, the planned killing of journalist and activist Gavin Evans, an explosion at the Early Learning Centre in Athlone in the Cape, the

placing of a monkey foetus outside the home of Archbishop Desmond Tutu and a conspiracy to destroy minibuses used by Namibian liberation organisation Swapo.

Responding to a statement by prosecutor Anton Ackerman SC that "it was a good thing that the CCB was not very successful in carrying out its projects", Van Zyl said he agreed. Asked about the monkey foetus, Van Zyl said the CCB was not a joke and that the "intimidation" exercise was a very serious one.

Van Zyl said it was only after Webster

was shot on May 1 1989 that he had first heard the name. "Webster's name was never on any list of targets for elimination or intimidation given to us," Van Zyl said.

He said at one stage he had been given the names of future finance minister Trevor Manuel and also that of the son of truth commission deputy chairman Alex Boraine to monitor.

After the killing of Webster, CCB MD Verster had launched his own investigation to establish the identity of the killer, Van Zyl testified. The court heard Omar had be-

come a CCB target after being identified "as an enemy of the state" by Cape Flats gang-leader Peaches Gordon, who at the time "performed some duties" for the CCB.

"We needed to recruit people who were not scared to commit murder. Peaches would have done anything for money and definitely also murder," Van Zyl said.

After being identified as a target, details of Omar's anti-apartheid activities were given to the top CCB structure, which approved his elimination. A Makarov pistol was given to Peaches, who would have been

paid R15 000 for killing Omar.

Several months passed and Peaches failed to shoot Omar. It was decided the activist should be poisoned or given medicine to induce a heart attack, Van Zyl said.

"The defence force supplied me with a powder which would cause Omar to have a heart attack, but Peaches could not get an opportunity to put the substance over his food," the court heard. Later, plans were again formulated to shoot Omar. But it was eventually decided to call off the Omar project, Van Zyl said. The trial continues today.

Former CCB member

Derby-Lewis was

'surprised' by news

8b 17/19/98
(2/5/2)

Pule Molebeledi

THE unlicensed gun used to kill SA Communist Party leader Chris Hani in March 1993 was supplied to convicted murderer Clive Derby-Lewis because he was collecting weapons in case trouble started in the country, the truth commission amnesty hearing on the murder was told yesterday.

Maureen Venter, the wife of Fannus Venter, the supplier of the stolen gun, told the hearing at the Johannesburg city hall that she was having tea with Derby-Lewis and his wife Gaye on the day Hani was killed.

She said that she had received a call from her son who alerted her to a radio report saying Hani had been killed.

"We were all extremely surprised, including Mr and Mrs Derby-Lewis," she said.

Venter said police continually bothered her and wanted her to specifically say whether she had heard Derby-Lewis say to her husband "Don't worry, it is not that weapon".

She denied making a statement to Benoni police, but admitted after persistent questioning by George Bizos, representing the Hani family, to having made a written statement in the chambers of an advocate in Johannesburg stating that she had tea with the Derby-Lewis on the day of Hani's murder.

Venter said she was not made uncomfortable by the presence of

an unlicensed gun at her house despite her husband having two other lawful guns.

Hani's killers, Janusz Walus and Derby-Lewis, are applying for amnesty, while the family of the slain communist party leader is opposing their application.

The hearing heard that the unlicensed gun was supplied to the Venters by a Jean Taylor and was passed on to Lionel Durandt in a package "containing a jersey".

Durandt denied under cross-examination by Gena Malndi, another lawyer representing the Hani family, that he knew there was an unlicensed gun in the package delivered to his house for Derby-Lewis.

Statement

Malndi read a paragraph from a written statement by Durandt's son to the police.

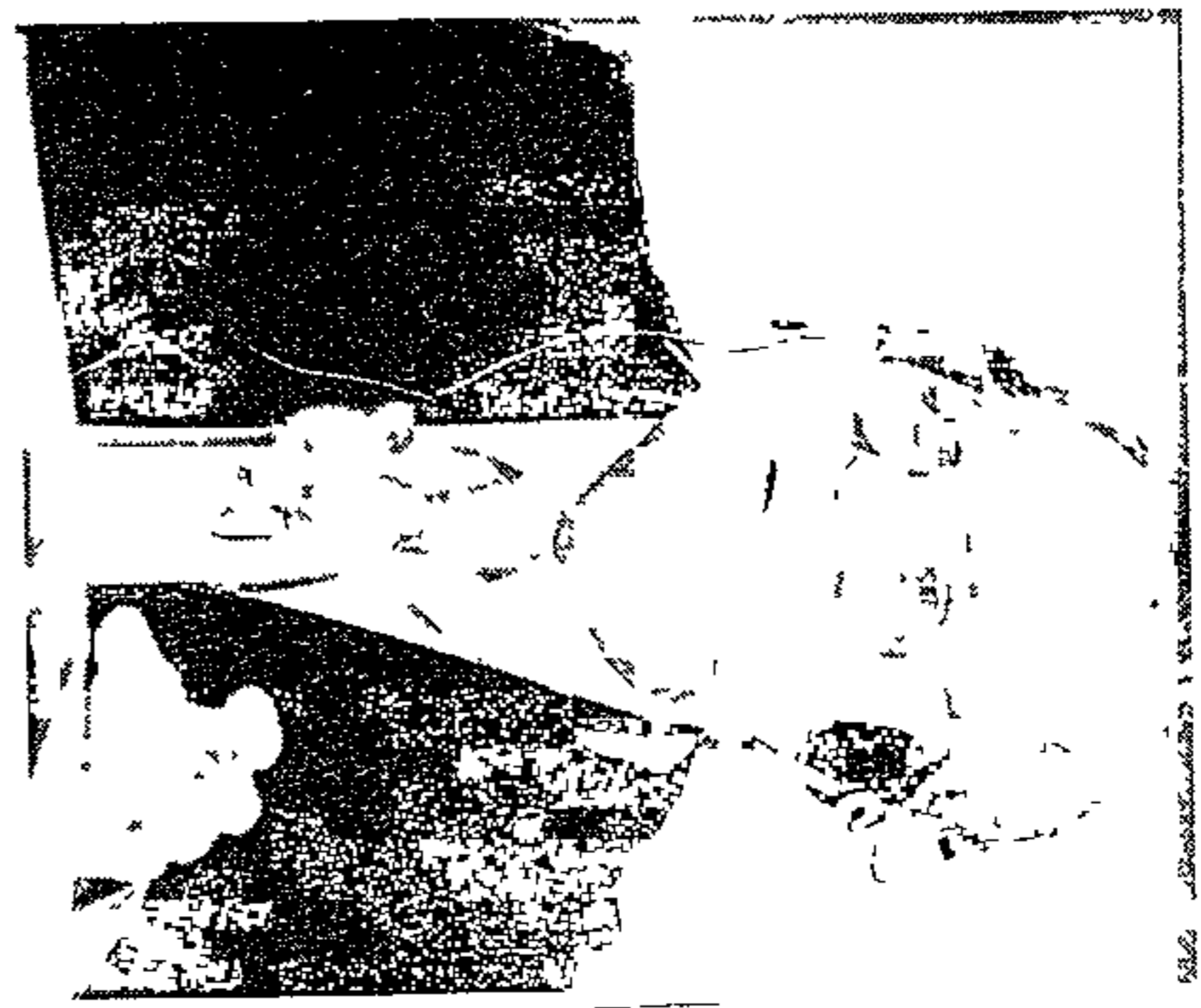
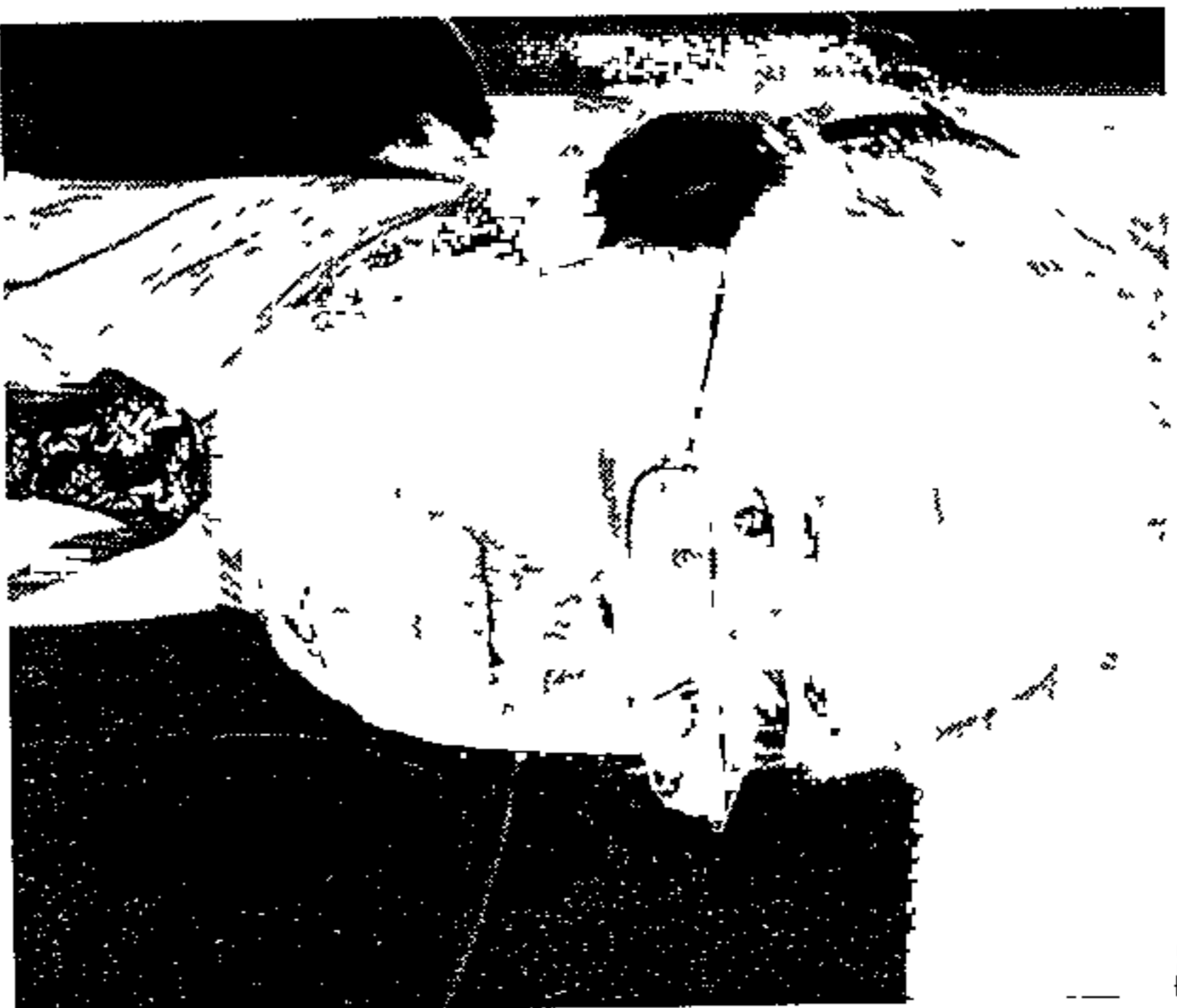
The son said that, according to what he had seen when he visited his mother, the parcel contained a handgun.

Durandt denied knowing about the gun before March 11 1993 and said he never asked his wife what was in the package.

Malndi said the conspiracy to kill Hani was not hatched in February and March 1993 but much earlier.

He said Durandt was not frank in his testimony about delivery of the gun and its purpose.

The commission amnesty hearing continues today.



George Bizos, top left, represents the family of slain SA Communist Party leader Chris Hani at the amnesty application of convicted murderers Clive-Derby Lewis, bottom left, and Janusz Waluz, bottom right, in Johannesburg yesterday. Lionel Durandt, top right, testified. Pictures: TREVOR SAMSON

How CCB plot to kill Omar failed

(252)

ARG 17/3/98

ARGUS CORRESPONDENT

Pretoria - A former Vlakplaas operative has told how the unit plotted unsuccessfully to kill Dullah Omar, later to become justice minister, first by shooting and then by poison.

Sanctioned by top officials of the Civil Co-operation Bureau, Abraham "Slang" van Zyl first paid notorious Cape Flats gang leader "Peaches" Gordon R15 000 to gun down Mr Omar, he told the High Court murder trial of fellow operative Ferdi Barnard here

Detailing the CCB's failed attempts to kill Mr Omar during 1989, Mr Van Zyl said their first plan was to assassinate Mr Omar outside his Athlone home with a Makarov pistol

When this failed, the CCB decided to poison him by lacing his food with a deadly powder they had manufactured

When this plan also failed, it was

decided to close the Omar file

Barnard - also a former Vlakplaas operative - has pleaded not guilty to 34 charges, including the attempted murder of Mr Omar and the murder of academic David Webster

Mr Van Zyl, whose code-name was Goldie, said the CCB had become active in January 1989 and he had to recruit agents to help him. One of these was "Peaches" Gordon, a Cape Flats gang leader who would do anything for money - even kill

On the basis of information from Gordon, the CCB decided Mr Omar fell in the category of enemy of the state

An order to kill was given only after a study of the suspect was completed and people high up in the CCB had decided the person had to die, said Mr Van Zyl



CCB plan: 'Slang' van Zyl

The Omar project had been approved and General Burger handed him a Makarov pistol, seven rounds of ammunition and a silencer

He handed the weapon over to Gordon and gave him instructions to find assassins to kill Mr Omar. When Mr Omar was still alive three months later, he asked Barnard to monitor

the situation

After Mr Omar had a heart attack, the plan had to be abandoned for a while

Gordon suggested they substitute Mr Omar's heart tablets with ones which would give him another heart attack

The CCB, however, could not provide these tablets, but gave him a deadly powder with which to lace Mr Omar's food, Mr Van Zyl told the court. This plan also failed

Ex-general's lawyer accuses TRC of bias

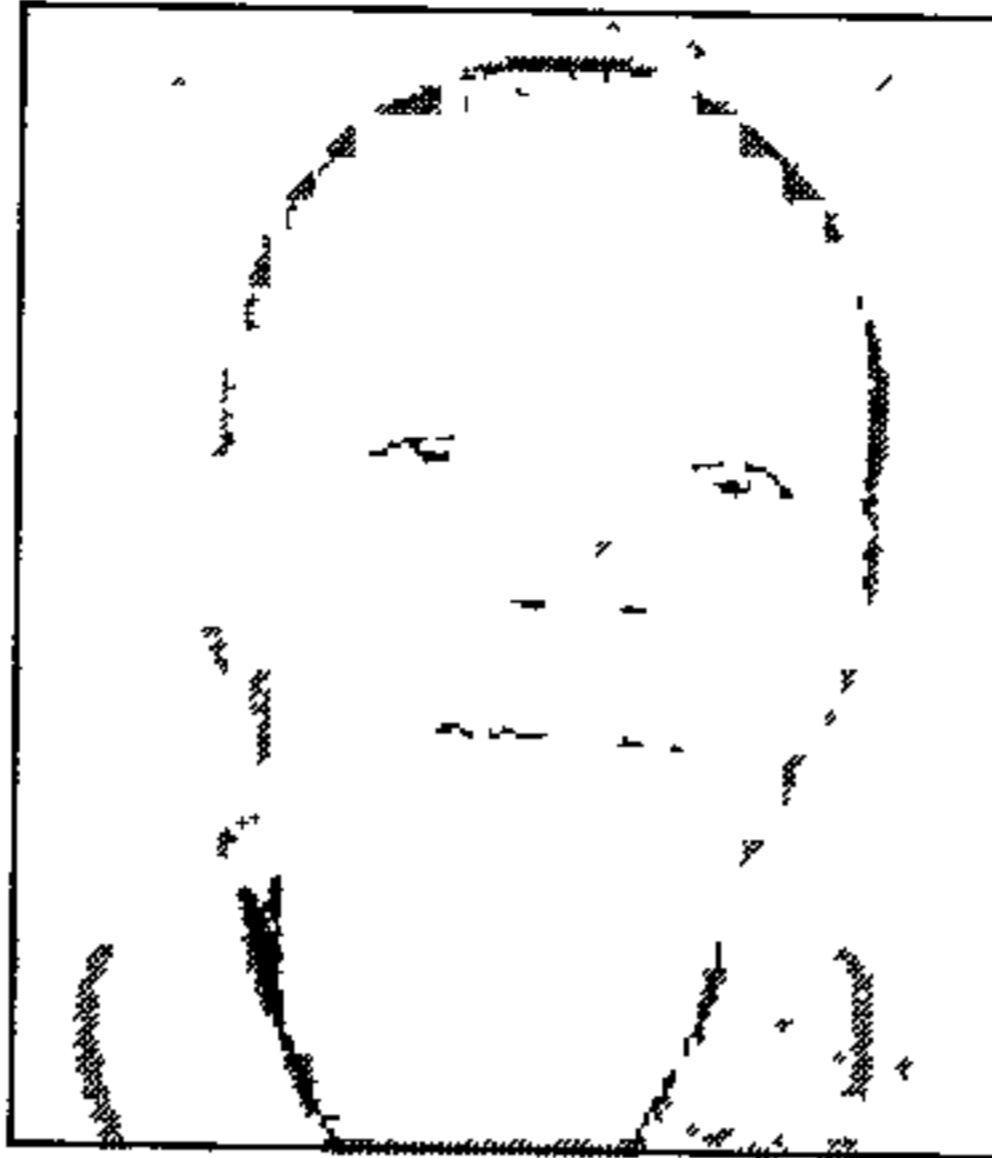
TRUTH and Reconciliation Commission investigators were accused of bias against 10 former policemen seeking amnesty with regard to the 1988 death of Mamelodi activist Stanza Bopape (pictured)

Mr Louis Visser, acting for three former generals, said that the TRC investigation report sought to discredit his clients and even deny them amnesty

The applicants include retired former Commissioner of Police Johaan van der Merwe and two other retired generals, Gerrit Erasmus and Petrus du Toit. They are seeking amnesty for their role in attempts to cover up Mr Bopape's death

Mr Bopape died on June 12, 1988 while being subjected to electric shocks at John Vorster police headquarters in Johannesburg

In a bid to cover up his death, police secretly disposed of the body and claimed he escaped while being escorted to Vereenig-



ing

Mr Visser asked the amnesty committees to authorise the applicants to make enquiries about documents relevant to Mr Bopape's arrest and detention

Mr Andre Steenkamp, for the committee, earlier said TRC investigators were unable to trace the relevant documents

CP 1/3/98
Mr Visser said many documents were destroyed, but those required for the hearing should still be around, and asked the committee's permission for his clients to look for them

Mr Visser explained that it would be inappropriate for them to do so on their own while an Attorney-General's investigation into the matter was underway

Mr Gys Rautenbach, for the Bopape family, said he had no objections, provided TRC investigators were involved in the process

Mr Visser replied that the applicants would produce any documents they found to the committee, but stressed they would not conduct their investigation in conjunction with TRC investigators, whom he accused of bias

Committee chairman Mr Justice Selwyn Miller authorised the applicants to make enquiries about the relevant documents - Sapa

(252)

for the 1999 fiscal year

In a report to committee chairman Ben Gulman, staff members said SA had "the willingness, the infrastructure and the institutional capacity to host an international academy on the Budapest model. No other nation in the sub-Saharan has these qualities."

They recommended that the academy be "run jointly" by SA and the American FBI and DEA, and suggested that \$1.2m be budgeted for first-year start-up costs

17 were fully covered by customs, immigration and police

The state department also expressed "concern" that SA authorities were not taking sufficiently aggressive steps against money-laundering. Legislation had been passed to make criminal the laundering of drug money, but not the proceeds of other criminal enterprises. SA banks were not required to report large or suspicious transactions in currency and other monetary instruments.

NYANGA — A conference reviewing Zimbabwe's privatisation programme has urged President Robert Mugabe to shield a proposed privatisation agency from political interference.

State Enterprises and Indigenous Investment Minister Cephas Msipa told the conference at the weekend the agency would be established within weeks in the president's office.

However, MP Livingstone Manhobo, from Mugabe's ruling Zanu (PF) party said "If the agency is going to be transparent and accountable to the general public then it must be placed under parliament." The majority of the 40 delegates to the two-day

conference, which opened on Friday, supported this view.

Participants said leaving the agency under the president's office would subject it to the same problems that stalled the country's privatisation programme announced in 1991. Only four state firms have since been privatised.

"We feel that by locating the agency under the president's office we will open it to problems of lack of transparency, slowness in decision-making and political interference," said Danny Meyer, president of the Zimbabwe National Chamber of Commerce.

At the end of the conference, an International Finance Corporation (IFC)

official said corruption hampered African privatisation programmes.

"International investors complain of corruption in many African countries and this needs to be addressed because many countries are privatising. It's now a buyer's market," IFC regional corporate finance services representative Brian Samuels said yesterday.

Meanwhile, Michael Hartnack reports the government demanded yesterday that workers ignore the Zimbabwe Congress of Trade Unions's call for a two day, stay-home strike, starting tomorrow, in protest against economic mismanagement.

ZCTU leaders Gibson Sibanda and

POICE ILOU IICETU W COPE WIM SUSS

SA's police officers are not being helped to cope with high stress levels, contributing to a high suicide rate, delegates at a specialist conference heard last week.

The conference of police officers, academics and psychologists was told that in the past two years 269 police officers had committed suicide.

A communiqué released after the conference also said that as many as 10 000 police officers out of a 160 000-strong force were absent on any given day.

SA's police are battling high crime levels while trying to change from being a paramilitary force that enforced apartheid to an efficient crime prevention and investigation service.

An average 50 of people a day are murdered in SA, which also has rates of serious crimes several times higher than those in western Europe and the US.

Conference delegates stressed that police officers should be given the tools to deal with stress and trauma — Reuter

Mugabe urged to keep privatisation agency separate

Morgan Tsvangirai urged Zimbabweans to stock up with essentials and stay inside their homes to avoid being teargassed or shot.

Industry and Commerce Minister Nathan Shamuyarira said "The government will not allow people to continue disrupting services and the work process." He gave no hint that Mugabe might invoke his presidential powers to declare the stay-away illegal.

The War Veterans' Association warned of possible violent reprisals against ZCTU members and Zimbabwe's 70 000 whites, whom Lands Minister Kumirai Kangai alleged were behind the unrest — Reuter.

State witness 'in drug-induced haze while testifying at Barnard trial'

murdering former Wits University activist David Webster

She told the court that she had seven years of hell after her arrest for possession of the Uzi.

Her husband, Christopher Human, was also called to testify against Barnard. Human also said he had been

STEPHANÉ BOTHMA — A state witness in the case against former Civil Co-operation Bureau (CCB) operative Ferdi Barnard on Friday admitted she was under the influence of crack cocaine while in the witness box in the high court.

Carol-Anne Human, a former prostitute and lover of Barnard, was reacting to an allegation by defence advocate Fanie Coetzee that her "entire life was a haze and she often lost her mind" while under the influence of drugs.

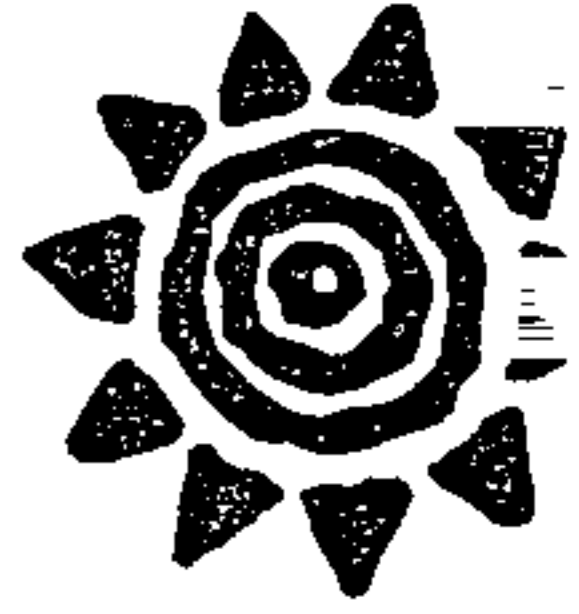
"I smoked cocaine this morning and I am not out of my mind," she responded, to the astonishment of the court, which immediately took a tea adjournment. After the tea break, no mention was made of Human's statement and her cross-examination continued.

She was arrested in 1991 for possessing an unlicensed Uzi submachine

gun which she claimed belonged to Barnard. She said she was recruited by Barnard as a military intelligence agent in 1991 and received regular payments. She said she believed Barnard could legally own a firearm.

Challenged by Coetzee that she was fabricating her testimony against Barnard and that because of her drug abuse, she could not remember clearly, Human responded "I feel like a louse sitting here. I do not want to say these things about Ferdi."

Human was the first state witness during her testimony she made regular eye contact with Barnard and occasionally smiled at the man accused of



Getting private bills beyond the NCOP

TIRO HOLELE and MANDY TAYLOR

Parliament's receptivity to Private Members' Bills comes under the spotlight this week

THE Aged Persons Amendment Bill will come under the spotlight this week when it will be considered by a National Council of Provinces (NCOP) select committee

It has been introduced by DP member James Sefle as a Private Member's Bill and will provide a crucial test of how amenable the NCOP is to such bills

In terms of the new constitution, individual parliamentarians may submit private bills to the legislature for consideration. These are first referred to a committee and, if approved, follow the same procedure as all other bills

How receptive is parliament to such bills? To date the only bill successfully to chart its way through the entire parliamentary process was a Correctional Services Bill introduced by Carl Niehaus as the then ANC chairperson of the portfolio committee

The ANC used the private member's bill procedure for introducing a bill that did not have the support of the Minister of Correctional Services, IFP member Sipho Mzimela

In contrast, private members' bills introduced by opposition MPs have not made it beyond the starting post

Sefle was upbeat about the possibility of his bill being approved by the NCOP select committee. He believes that the NCOP may be more receptive to private members' bills than the National Assembly. Describing the NCOP as more "collegial", Sefle said that the select committee that deals with private members' bills understood its function as a technical rather than a political role

This bill will be the first real indication of how the NCOP intends dealing with private members' bills as previously such bills that came before the NCOP were withdrawn when the final constitution introduced different procedures for bills

The Aged Persons Amendment Bill seeks to regulate the care of the elderly in institutions. It proposes the establishment of a reg-

ulatory council to set standards for institutions involved in the care of the elderly; it seeks to criminalise the abuse of the elderly and it provides for mandatory reporting of their abuse to the Human Rights Commission

It proposes that a commissioner from the HRC be tasked with investigating complaints of abuse of the aged and conducting regular investigations of aged care facilities

The Minister of Welfare, Geraldine Fraser-Moleketi, has opposed this bill and it will be interesting to monitor the effect of executive disapproval on the passage of such a bill

Her grounds for opposing the bill are that there is already a consultation process in place for the drafting of new legislation concerned with the aged and that the Administration of the Aged Persons Act has been assigned to the provinces

Private members' bills also have significance for civil society organisations. NGOs concerned about the aged have lobbied for many years for a change in the law. In the face of executive inaction they chose to work with Sefle to produce

CT 2/3/98 (252)

this bill

Even if legislation is not ultimately passed, it will have been a way of increasing pressure on the executive to deal with the issue at hand

According to Piet Mathee, chairperson of the Private Members' Legislative Proposals Committee in the National Assembly, steps must be taken to enhance the capacity of MPs to draft legislation

His committee went on a study tour of Canada, the US and the UK at the end of last year and will shortly be releasing a report with proposals on how to improve the private members legislative process

He confirmed that private members' bills were important whether or not they were passed

According to him, the process provides an opportunity to shine a bright light on important issues

It is hoped that even if the Aged Persons Amendment bill fails to win approval in parliament, it will serve to shine a light on this crucial area

Holele and Taylor write for Idasa's Political Information and Monitoring Service

The Star Monday, March 2 1998

Witnesses who fear for their safety will benefit from new bill

Star 2/3/98 (252)

Justice ministry believes that the present system is flawed

By DONWALD PRESSLY
Cape Town

The days of intimidated witnesses blowing apart trials at the last minute may be numbered if new witness protection legislation is put into effect.

While witness protection is a relatively new concept in South Africa, according to the justice ministry, the present system is flawed.

The Witness Protection and Services Bill will redress shortcomings

of the present programme – set up in terms of the Criminal Procedure Act amended four years ago – such as the lack of a proper centralised structure to co-ordinate witness protection and the laying down of a uniform policy.

The ANC chairman of the National Assembly justice portfolio committee, Johnny de Lange, said an office for witness protection, to be headed by a director appointed by Justice Minister Dullah Omar, will be established.

The bill prohibits publication of information that may reveal the identity of a protected person or the place or location where the person is being protected.

People believing their safety was being compromised “by reason of their testimony or contemplated testimony at criminal proceedings” may ask for protection to the investigating officer, a police or prison official, public prosecutor or any officer attached to the Office for Witness Protection. – Parliamentary Bureau

C

SATU - 100 YEARS

APPEARING IN THE STAR, PRETORIA NEWS, CAPE ARGUS AND THE DAILY NEWS

The South African Typographical Union celebrates its 100th anniversary
 EDITORIAL Alliance
 ADVERTISING: Cathy Starnes

A century of defending print workers' rights

Working conditions, pay have been on the agenda since 1898

The South African Typographical Union (Satu) is the oldest trade union in South Africa, according to Martin Deyssel, general secretary of the union.

Deyssel says, with the establishment of Satu on January 5 1898, workers in South Africa's printing industry had a national voice and a national body to look after their interests for the first time.

Prior to the establishment of Satu the working conditions of printing craftsmen were attended to on a regional basis.

In Cape Town the movement dates back to as early as 1881 under the name The Cape Town Typographical Association.

During the course of Satu's history the printing industry has changed dramatically, developing from handsetting type to lino types, type-casting ma-

chines, photo-setting and recently computerisation and desk-top publishing linked to direct plate making systems.

Today, out of about 38 000 employees in the printing, newspaper and packaging industry, over 23 000 belong to Satu, giving the union a representation of 64% in the industry.

According to Deyssel, Satu began as a craft union looking after the interests of craftsmen until 1913 when Satu became an industrial union catering for the needs of semi-skilled as well as skilled workers.

"However, the Industrial Conciliation Act of 1924 imposed stringent limitations on the membership to be enjoyed by so-called coloured and black members," he says.

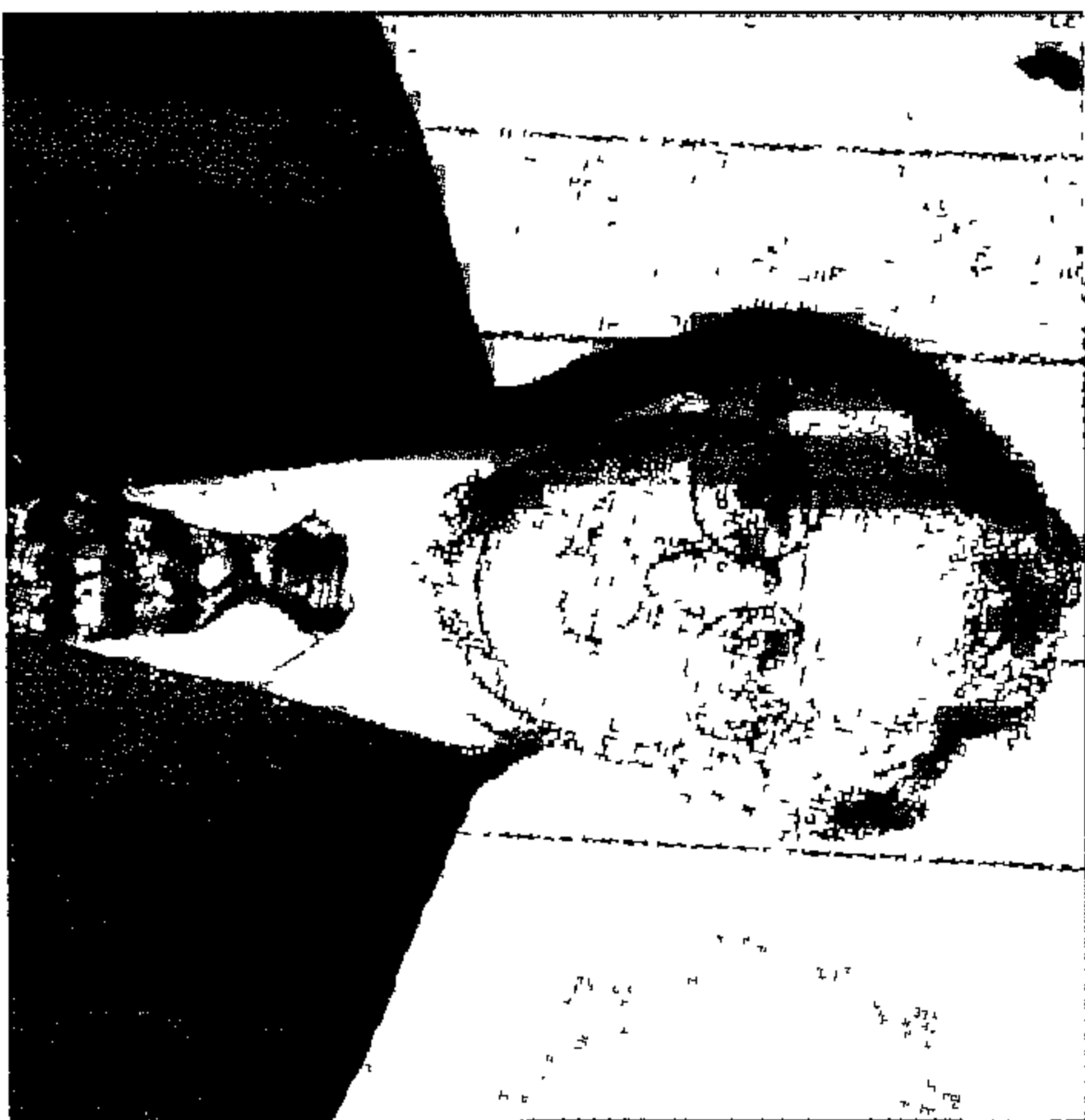
"Notwithstanding the restrictions Satu continued to protect the interests of these workers and effectively bar-

gained collectively for them.

"The formation of an African section of Satu in the early 1940s resulted in a warning from the Department of Labour that Satu's own registration was in danger and the African section was wound up.

"A separate African Printing and Allied Workers' Union was then formed and functioned with the practical assistance of Satu, which continued to strive for reasonable pay and working conditions for all employees on the basis of work done irrespective of racial origin."

Satu was the first union to recognise the desirability of collective bargaining and formed a National Industrial Council (NIC), together with the employer organisations of the day (The Federation of Master Printers of South Africa and the Newspaper Press Union of



Martin Deyssel... The South African Typographical Union is the oldest trade union in the country

South Africa) in 1919.

This was the first Industrial Council to operate in the country and predated the Industrial Conciliation Act of 1924.

Through the years Satu continued to grow its membership, to protect the interests of all its members as a fully-fledged mixed union, to bargain collectively for its members and the industry and to secure financial structures for the benefit of its members.

The national management of Satu vests in its governing board with an executive council attending to the affairs of the union between meetings of the governing board, which consists of 31 elected representatives.

Satu is divided into eight regional offices: Johannesburg, Pretoria, Bloemfontein, Durban, Pietermaritzburg, East London, Port Elizabeth, and Cape Town.

Application to establish a Statutory Council currently being processed

Satu has made an application for the establishment of a Statutory Council for the printing, newspaper and packaging industry, says Martin Deyssel, general secretary of the union.

He says the application is with the Department of Labour and has to go through the full process of being gazetted and facing possible objections.

Deyssel explains that in terms of the new Labour Relations Act if a trade union represents at least 30% of the employees in a sector it can apply for the establishment of a Statutory Council.

A Statutory Council deals with all disciplinary issues throughout the specific industry as well as pension funds and medical aid funds.

"Statutory Councils can also, by consensus, convert themselves into a Bargaining Council," says Deyssel.

"However, we went the Statutory Council route because a Bargaining Council can only be established when both the employer and employee bodies agree to such a council.

"As there is still major resistance towards a Bargaining Council by some employer bodies at this stage, we took the next best step which is a Statutory Council.

Between 1919 and 1989 At that stage the employer organisation pulled out and as a result the Industrial Council collapsed.

However, Deyssel believes the establishment of a Statutory Council will benefit the industry, because, he says, "where disputes were expensive before, now each region will have a dispute settling mechanism made up of employer bodies and representative unions, as well as a panel of arbitrators and conciliators."

"The Statutory Council will also give legal backing to force employers' pension funds, which would empower the union to collect these funds timeously.

"Unfortunately the union sometimes has to resort to lengthy and costly legal processes to ensure collection of these funds, whereas the statutory council would give us the power to collect our members' arrears contributions from their employers," he concludes.



Despite technological developments some old printing traditions still hold true

In spite of the changes that have come with technological development in the printing industry some of the old traditions of the printing trade still remain.

A good example is the use of the title "Father of the Chapel" Joe Newenhuis, a pressman with the Newspaper Printing Company and himself a Father of the Chapel, explains this as a trade union term and simply means chief shop steward.

That most of the printing was done by the church," he says. "A priest, or Father, was nominated to oversee the printing process."

Printing has changed much since those days, especially with computerisation.

Both Newenhuis and Clive Conrad, who is a printer with Independent Newspapers in Cape Town and senior national vice president of the SATU, have witnessed major changes in the industry in the last 35 years.

"I don't think anybody could have foreseen the changes that have taken place in the industry since the early 1960s," says Newenhuis.

"The first major technological innovation," according to Conrad, "came with the conversion from the 'hot metal' method to 'cold setting'."

The hot metal method initially entailed pouring molten metal into a mould to form the printing plates, although this was later improved upon by us-

ing a keyboard to impress the letters onto the hot metal.

The next big change involved setting on bromide paper which was photographed onto a negative, then transferred onto an aluminium litho plate for printing.

The most recent revolution in printing technology has been the advent of desktop publishing where the whole page is made up on a computer, which produces the negative to be transferred onto

litho plate.

All these changes have had a dramatic effect on the working conditions of printers and on the trade generally.

Conrad says: "In the hot metal days it was manual work from working with the lead and inks. Now we come to work like gentlemen. Some with collars and ties even."

"Yes, technology has made my job much easier."

However, he says the job is

still physically taxing, particularly because of the pressure of continual deadlines.

Newenhuis points out that the new technology has also had the effect of retrenchments in the industry over the years, with new technology replacing workers.

Nevertheless, both agree that the technological improvements have brought about improvements in the standard and quality of printing, notwithstanding commercial pressures

to cut costs.

The modernisation of the industry and increasing commercial pressures make both chapel fathers yearn for the days of yore when, as Newenhuis points out, "Printing had very strong traditions - we were more like a big family then."

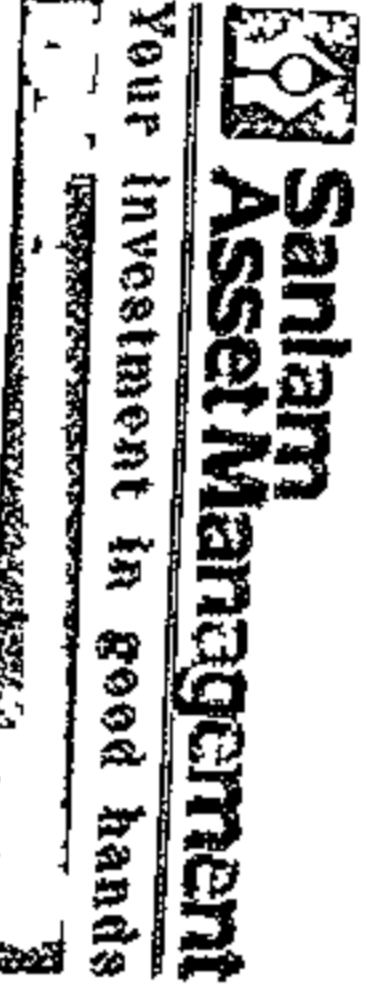
Both believe much of the comradeship has been lost today because of the levels of commercialisation and the pressures to produce profits.

Conrad says the younger generation of printers have missed out on the earlier sense of comradeship.

However, he is confident that SATU will not only help with wage negotiations and working conditions, but also help develop a sense of belonging in the trade with a younger generation of fathers of the Chapel, and who knows, maybe even Mothers of the Chapel, coming through.

CONGRATULATIONS

Sanlam Asset Management wishes SATU all the best for the next 100 years



BREACH

FOR A BETTER WORLD IN THE PRINTING INDUSTRY

JOIN THE

S.A. TYPOGRAPHICAL UNION

It's IS WHAT WE OFFER

Union has 'industry interests at heart'

While the Printing Industries Federation of South Africa, as an employers' body, has often negotiated from the opposite end of the bargaining table with SATU, the federation has always found the trade union to have the interests of the industry at heart, says Chris Sykes, chief executive of the Printing Industries Federation of South Africa.

The federation and its predecessor (The Federation of Master Printers of South Africa) have been associated with SATU since 1919 when, together with the Newspaper Press Union, the first National Industrial Council was established in the printing industry.

Protection are onisnatexa pne un

INSIDE

Protection and extension are needed

A comparative review conducted by Idasa, the Human Rights Committee and the Black Sash on whistle-blower legislation, shows that the bill's current provisions are well thought out and compare favourably with whistle-blower legislation in other countries.

Possible ways in which the draft legislation could be improved, however, are:

- extending the protection afforded public sector whistle-blowers to whistle-blowers in the private sector,
- extending the protection to the courts

of court clerks or train lawyers, and protection on the part of employers and insurers, they should be extended to whistleblowers,

■ providing a whistle-blower protection where this is applicable in situations where this is applicable in the person accused of corruption and in extending that legal and financial protection to whistleblowers so that they do not feel themselves a defendant in a claim which holds them out of government resources stacked against them

'Whistleblowers' get push to blow louder



(272)

Act will provide protection for those who expose

corruption in public sector, writes Mandy Taylor

Mandy Taylor
2/1/98

“Whistle-blower” is a term South Africans are hearing more and more frequently. Used last year by the media in connection with former housing director-general Billy Cobbett, who “blew the whistle” on possible maladministration in the award of a Mpumalanga housing tender, it is again being spoken about – this time in connection with possible leaks of information from Gauteng MEC Jessie Duarte’s department.

A whistle-blower is a person who exposes corruption or maladministration at his or her workplace and protection of whistle-blowers is a key mechanism in fighting out corruption. The proposed Open Democracy Act – due to be tabled in Parliament later this year – will provide protection for whistle-blowers in the public sector.

The whistle-blower clauses in the draft Open Democracy Bill seek to harness the support of “insiders” in the fight against corruption. The bill encourages government employees to expose corruption or maladministration by firstly providing procedures for how the information can be made public and secondly providing protection for the whistle-blowers.

Protection means that whistle-blowers cannot be subject to any civil or criminal charge and it means that they cannot lose their jobs as a result of going public with

evidence of corruption.

The clauses allow a whistle-blower to speak out about any corruption, illegality, dishonesty or serious maladministration in a government body. This includes an abuse of power by a government official, the unauthorised use of funds, and even negligent administration which results in either a substantial waste of public resources or a substantial danger to someone’s health and safety.

The Open Democracy Act, once passed, will apply to all government departments at local, provincial and national level. It will also apply to institutions which exercise public power or use public funds. The only elements of government that will be excluded are Cabinet, the courts and judicial officers.

Support of ‘insiders’ sought to win battle

The bill must strike a balance between encouraging the exposure of corruption while offering sufficient protection against scandal-mongering and party-political game playing. In achieving this balance, the bill introduces a number of checks. Firstly, employees must believe that what they are exposing is illegal, corrupt, dishonest or amounts to serious maladministration. Secondly, the bill establishes that exposure must be made to certain institutions, namely: a parliamentary committee, a committee of a provincial legislature, the Public Protector, the

Human Rights Commission, the Auditor-General or an attorney-general. Whistle-blowers can go straight to the media only when they can show “on clear and convincing grounds” that there is some imminent threat to the public interest. The cases of Cobbett and Duarte raise some interesting issues about whistle-blower legislation.

Although the Democratic Party has denied that Theo Burger, recently reinstated director of support services in the provincial department of safety and security, acted as a whistle-blower in the recent allegations against Duarte, questions remain about whether the DP’s information came from someone inside Duarte’s department. Duarte has hit out at those making the

allegations of maladministration, saying that it amounts to a smear campaign against her.

Gauteng Premier Mathole Motshekga, in an apparent reference to Burger in the Duarte case, has said that his government will consider criminal charges against those who “steal state documents”.

If this case does turn out to involve a whistle-blower, the fate of the whistle-blower may depend on whether or not the Open Democracy Act has been passed. If the act is in place, the whistle-blower will, on the one hand, be protected from the threat of prosecution issued by Motshekga. On the other hand the whistle-blower will have to blow the whistle publicly (the bill makes no provision for anonymous whistle-blowers) and he or she will,

in all likelihood, not be protected if the information is leaked to an opposition party.

But, if he or she formally approaches a provincial legislative committee, such as the Portfolio Committee on Safety and Security, he or she will be protected.

Similarly, one can speculate that Cobbett’s fate may have been different had the Open Democracy Act been in place. Cobbett clearly had a bona fide belief that serious maladministration had taken place.

He approached the Auditor-General (one of the specified institutions in the bill) with his evidence and (on his account) was fired by Housing Minister Sankie Mthembu-Mahanyele for doing so. Had the act been in place and if it was established that he was indeed fired as a result of his

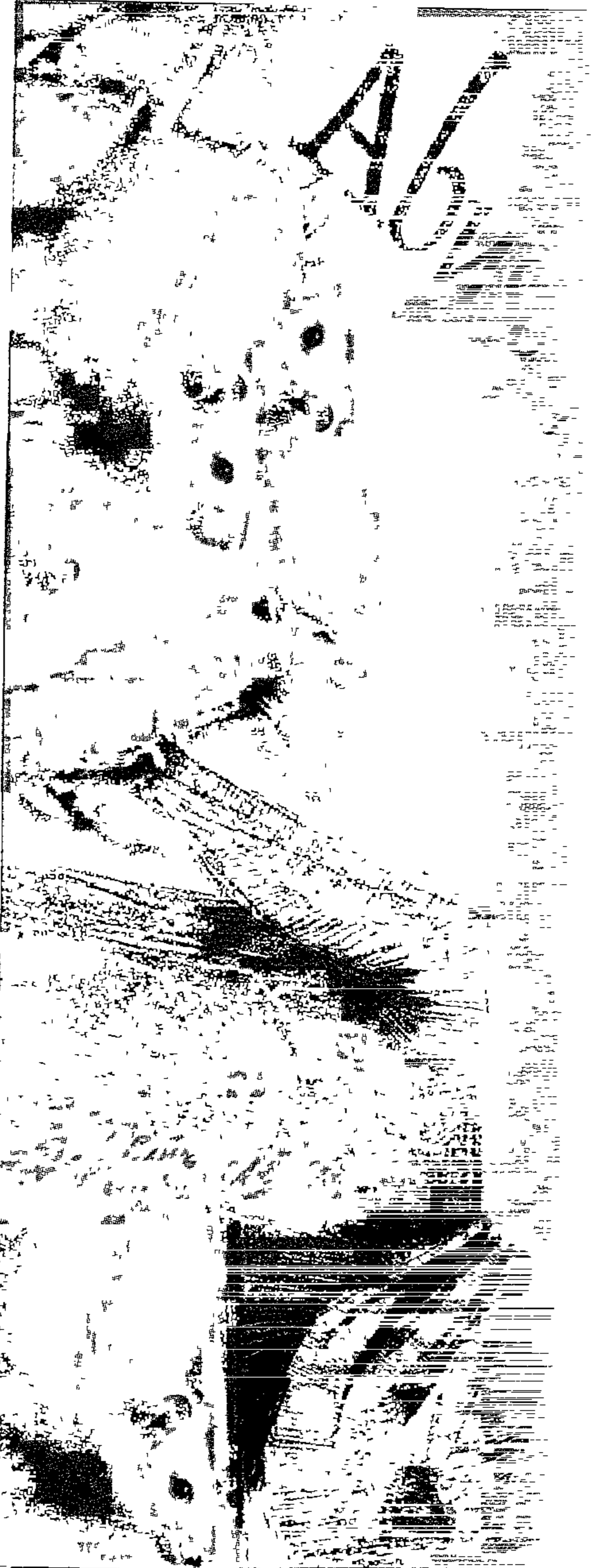
actions, he could have approached the high court for an order to reinstate him.

If he felt that his relationship with the minister had deteriorated to such an extent that he could not envisage working with her in future, he could have asked to be transferred to another department on terms no less favourable than he enjoyed as director-general of housing.

The bill has been around, in various guises, since 1995 but was only published for comment in November last year.

Comment received is currently being processed and the deputy president’s office has indicated that the bill will probably be tabled in Parliament in April.

Mandy Taylor is the project manager for the Political Information and Monitoring Service of Idasa.



Amnesty hearing told how Goniwe was killed

Star 3/3/98 (252)

Victim was beaten with length of heavy metal, then stabbed

OWN CORRESPONDENT

Port Elizabeth

Former security policeman Eric Taylor realised how wrong he had been to help murder the Cradock Four in 1985 when he watched the film *Mississippi Burning* four years later, and also read President Mandela's autobiography, *Long Walk to Freedom*.

This emerged here yesterday during the Truth Commission's amnesty hearing for Taylor and five of his former Eastern Cape security police colleagues Harold Snyman, Nic van Rensburg, Ger-

hardus Lotz, Hermanus du Plessis and Johan "Sakkie" van Zyl.

They are applying for amnesty for murdering the Cradock Four - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlau - on June 27 1985 and burning their bodies with petrol.

Former Vlakplaas commander Eugene de Kock is applying for amnesty for defeating the ends of justice by participating in the police coverup after the deaths of the four.

Yesterday, after General Van Rensburg had completed his testimony and nearly three days of cross-examination at the hands of

advocate George Bizos SC, for the widows of the four, Taylor took the witness seat and started testifying about his role in the killings.

Looking nervous and tense, the former lieutenant appeared close to breaking down at times, when he described how Sergeant Lotz had beaten Goniwe unconscious with a length of heavy metal before three black security policemen stabbed him to death.

A petrol mixture had been poured on the bodies and, after a one-word radio signal from Captain Van Zyl, who had been commanding the operation, they had been set alight.

TRC a circus, says PAC's Mphahlele

(252)

Sowetan 2/3/98

Leader says Government is not prepared to negotiate Apla cadres' release from jail

By Justice Mohale

THE Truth and Reconciliation Commission is a circus which abuses taxpayers' money to defend the oppressors of the African masses, chairman of the Pan Africanist Congress (PAC) in Northern Province Mr Letlapa Mphahlele said in Soweto yesterday

Speaking at the 20th memorial service for the first PAC president, Smangaliso Sobukwe, in Mofolo, Soweto, Mphahlele said "The commission was established to force the victims of apartheid to apologise for waging a just war against the Nationalist Party government"

His speech was interrupted on several occasions by ululating from the audience, showing support for what he was saying

Mphahlele said the legal costs for defending self-confessed killers of African people should be used to build houses for former liberation movement cadres who did not have decent shelter

He also accused the Government of dividing black people by releasing some of the political prisoners while leaving others behind bars

"There are hundreds of PAC cadres languish-

ing in our jails and the Government is not prepared to negotiate for their release," he added

Mphahlele said former combatants were treated like criminals while in jail He said this was an insult to the African masses He praised Sobukwe's teachings, saying they were still alive in the mind of the oppressed people

Quoting Sobukwe he said "The oppressed masses must overcome mental slavery for them to be liberated" Mphahlele said he realised the majority of the African people despised themselves because their mindset had been twisted, and they felt inferior

Granted amnesty

He attacked black people who took whites as role-models, saying whites would always remind them that they were black

Mphahlele showed the audience a letter he wrote to President Nelson Mandela asking for his presence when he appears in court on May 8 on charges relating to the activities of the Azanian People's Liberation Army

Mphahlele accused the TRC of favouritism in that many Apla cadres had not yet been granted amnesty, while Mr Trevor Tutu was granted amnesty in a short time

Blowing the whistle

will now be safer

New act will provide protection

ART 3/3/98

"Whistle-blower" is a term South Africans are hearing frequently

Used last year by the media in connection with former housing director-general Billy Cobbett, who "blew the whistle" on possible maladministration in the award of a Mpumalanga housing tender, it is again being used - this time in connection with possible leaks of information from Gauteng MEC Jessie Duarte's department

A whistle-blower is a person who exposes corruption or maladministration at his or her workplace - and protection of whistle-blowers is a key mechanism in rooting out corruption

The proposed Open Democracy Act - due to be tabled in Parliament later this year - will provide protection for whistle-blowers in the public sector

The whistle-blower clauses in the draft Open Democracy Bill seek to harness the support of "insiders" in the fight against corruption

The bill encourages government employees to expose corruption or maladministration by first providing procedures for how the information can be made public and, second, providing protection for the whistle-blowers

Protection means that whistle-blowers cannot be subject to any civil or criminal charge, and it means that they cannot lose their jobs as a result of going public with evidence of corruption

The clauses allow a whistle-blower to speak out about any corruption, illegality, dishonesty or serious maladministration in a government body

This includes an abuse of power by a government official, the unauthorised use of funds, and even negligent administration that results in either a substantial waste of public resources or a substantial danger to

THE STORY

The proposed Open Democracy Act - due to be tabled later this year - will shelter those exposing corruption and fraud in the public sector, writes **MANDY TAYLOR**

someone's health and safety

The Open Democracy Act, once passed, will apply to all government departments at local, provincial and national level. It will also apply to institutions that exercise public power or use public funds

The only elements of government that will be excluded are the cabinet, the courts and judicial officers

The bill must strike a balance between encouraging the exposure of corruption, while offering sufficient protection against scandal-mongering and party-political game playing

In achieving this balance, the bill introduces several checks

First, employees must believe that what they are exposing is illegal, corrupt, dishonest or amounts to serious maladministration

Second, the bill establishes that exposure must be made to certain institutions, a parliamentary committee, a committee of a provincial legislature, the Public Protector, the Human Rights Commission, the Auditor-General or an attorney-general

Whistle-blowers can go straight to the media only when they can show "on clear

and convincing grounds" that there is some imminent threat to the public interest

The cases of Mr Cobbett and Ms Duarte raise some interesting issues about whistle-blower legislation

Although the Democratic Party has denied that Theo Burger, recently re-instated director of support services in the provincial department of safety and security, acted as a whistle-blower in the recent allegations against Ms Duarte, questions remain about whether the DP's information came from someone inside Ms Duarte's department

Ms Duarte has hit out at those making the allegations of maladministration, saying that it amounts to a smear campaign against her

Gauteng Premier Mathole Motshekga, in an apparent reference to Mr Burger in the Duarte case, has said that his government will consider criminal charges against those who "steal state documents"

If this case does turn out to involve a whistle-blower, the fate of the whistle-blower may depend on whether the Open Democracy Act has been passed

If the act is in place, the whistle-blower will, on the one hand, be protected from the threat of prosecution issued by Mr Motshekga

On the other hand, the whistle-blower will have to blow the whistle publicly (the bill makes no provision for anonymous whistle blowers) and he or she will, in all likelihood, not be protected if the information is leaked to an opposition party

But, if he or she formally approaches a provincial legislative committee, such as the Portfolio Committee on Safety and Security, he or she will be protected

Similarly, one can speculate that Mr Cobbett's fate may have been different had



the Open Democracy Act been in place Mr Cobbett clearly had a bona fide belief that serious maladministration had taken place

He approached the Auditor-General (one of the specified institutions in the bill) with his evidence and (by his account) was fired by Housing Minister Sankie Mthembu-Mahanyele for doing so

Had the act been in place and if it was established that he was indeed fired as a

result of his actions, he could have approached the high court for an order to re-instate him. If he felt that his relationship with the minister had deteriorated to such an extent that he could not envisage working with her in future, he could have asked to be transferred to another department on terms no less favourable than he enjoyed as director-general of housing

The bill has been around, in various

guises, since 1995, but was only published for comment in November last year

Comment received is currently being processed and the deputy-president's office has indicated that the bill will probably be tabled in Parliament in April

■ *Mandy Taylor is the project manager for the Political Information and Monitoring Service of the Institute for Democracy in South Africa*

Giving more power to protection bill

ARG 3/3/98

(24) (2/12) (2/10)

A comparative review carried out by Idasa, the Human Rights Committee and the Black Sash on whistle-blower legislation, shows that the bill's clauses are well thought out and compare favourably with whistle-blower legislation in other countries

Possible ways in which the draft legislation could be improved, however, are:

■ Extending the protection afforded public sector whistle-blowers to whistle-blowers in the private sector

■ Extending the protection to the courts (for example, if court clerks or translators expose corruption on the part of a prosecutor or magistrate, they should be protected as whistle-blowers)

■ Permitting a whistle-blower to

remain anonymous where this is desirable and where it would not compromise the rights of the person accused of corruption

■ Ensuring that legal aid is available to whistle-blowers so that they do not find themselves defending a claim with the whole might of government resources stacked against them

'Cradock Four' cop will not name his informers

ARL 3/3/98

(252)

Port-Elizabeth - The bond between informer and handler is one of the closest human relationships possible, former security policeman Eric Taylor told the Truth Commission's amnesty panel today.

Mr Taylor, one of six former Eastern Cape security policemen seeking amnesty for murdering the "Cradock Four" activists on June 27 1985, was explaining to the panel why he would not give the names of informers who had supplied him with details of the movements of the four - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlauli - in the



ON THE TRUTH COMMISSION

days before their murder. Mr Taylor, a lieutenant at the time, admitted he had not personally known any of the four when he and

his colleagues pulled them off the road near the Olifantshoek Pass while travelling back to Cradock from a United Democratic Front meeting in Port Elizabeth.

He said the four had been identified from photographs which he had studied beforehand and from information supplied by informers.

Such information had included details of Mr Mhlauli's alleged involvement as a prominent activist and

associate of Mr Goniwe. This evidence is being challenged by advocate George Bizos, SC, for the widows of the four, who has argued

that Mr Mhlauli, an Oudtshoorn teacher, had arrived in Cradock at the start of the school holidays soon before the murders and that his presence in Mr Goniwe's car had been an unfortunate coincidence.

But Mr Taylor insisted today that Mr Mhlauli's activities had been brought to his attention by informers since late 1984 and that he had been responsible for implementing Mr Goniwe's "G-plan" - creating alternative government structures.

Amnesty panel chairman Ronnie Pillay asked Mr Taylor whether there was any reason the identities of these informers should still be protected

today. Mr Taylor responded "Definitely. The relationship between informer and handler is one of the closest you can get. 'I can never go back on my word to them'."

Mr Justice Pillay asked Mr Taylor whether he was speaking "morally or legally".

He replied "Firstly, definitely morally. I would not be willing to answer questions about their identity."

"I want to state categorically, or even stronger than that, that I will never reveal anything about these informers."

TRC to quiz leaders over abuses in camps

(252) Star 3/3/98
BY ROBERT BRAND

Several top ANC leaders, and possibly some cabinet ministers, could be subpoenaed to testify at a Truth and Reconciliation Commission inquiry into human rights abuses in the ANC's detention camps in exile during the 1980s.

Investigations head Dumisa Ntsebeza said yesterday the TRC would spare no one in its inquiries into claims that members of the ANC's security department tortured and executed cadres suspected of being spies.

"We are doing this in the interests of having as broad and complete a picture as possible of the nature of human rights violations during the apartheid era," Ntsebeza said.

The Star has heard that subpoenas have already been pre-

Inquiry likely to be in-camera hearing

pared, but have not yet been issued. Ntsebeza would not confirm or deny this yesterday.

He is meeting with his chief investigator tomorrow to plan the format of the inquiry, which is likely to be an in-camera hearing at which witnesses are obliged to answer questions.

"We have to decide how many people to call, and there is also the question of time

"We have to decide whether we will be able to hear all the evidence in one day or whether the inquiry will take longer," Ntsebeza said.

Asked whether the commission would subpoena cabinet ministers and senior ANC leaders implicated in the abuses, he said: "We have to decide whether we can get the information in another way or whether we will need to interview people. If we have to go that far, we will."

He confirmed that the reports of the Motsuenyane and Skweyiya commissions, appointed by the ANC to investigate allegations of human rights violations in the camps, formed the basis of the investigation.

The reports found that ANC members in charge of the camps were in some instances directly responsible for the abuses, while the leadership of the organisation's security department, some of whom were now in the Cabinet, had not taken sufficient steps to prevent them.

In submissions to the TRC last year, the ANC admitted that excesses had occurred in its camps in Angola and Zambia, particularly at the notorious Morris Seabelo detention centre, also known as Quatro.

The TRC's investigation into the allegations gained momentum late last year when the present head of the Land Claims Commission, Joe Seremane, demanded an investigation into the death of his brother Timothy, who had allegedly been tortured and executed at Quatro.

Commission spokesman John Allen yesterday confirmed the TRC had received a number of amnesty applications in connection with human rights violations in the camps.

► Amnesty hearing told how Goniwe was killed

Barnard 'tried to kill second activist'

BD 4/3/98

(272)

Stephané Bothma

PRETORIA — A month after Civil Co-operation Bureau (CCB) operatives Ferdi Barnard and Calla Botha allegedly gunned down Wits university lecturer David Webster, the two men monitored another anti-apartheid activist with the intention of murdering him

The state charges that in June 1989 Barnard attempted to kill Roland White, who had been involved in founding and coordinating several anti-National Party government organisations between 1981 and 1987

On May 1 1989, Barnard allegedly shot Webster outside his Troyeville home while Botha drove the getaway vehicle

Former Brixton murder and robbery squad detective Gert Zeelie told the Pretoria High Court yesterday that Barnard and Botha were brought in for questioning after being picked up by the police while watching the Fox Street, Johannesburg, building

in which White worked at the time

Zeelie was called by the state to testify in the trial of Barnard, who has pleaded not guilty to 34 charges including the murder of Webster, the attempted murder of White and Justice Minister Dullah Omar, and several counts of fraud

The court heard that White at the time feared for his life after spotting two "suspicious" men following him. A colleague contacted the Brixton murder and robbery squad and reported White's fears

Zeelie gave orders that the building be watched and Barnard and Botha were taken into custody. "When they were brought to my office at Brixton, they told me the reason why they were hanging around the Urban Foundation building (where White worked) was because Botha had spotted an attractive woman entering the building and they were waiting for her to come out so that he could meet her," Zeelie told judge Johan Els

However, Zeelie did not accept the ex-

planation and told the two CCB agents to come up with a better excuse. "The next day Botha returned. He told me that the true reason for them being at the building was that Barnard worked for a repossession company and a vehicle they were looking for was seen in the parkade of the building. Botha even had documentation to prove that Barnard worked for such a company. I accepted the documentation and the explanation," Zeelie testified

However, the state said the true reason for Barnard and Botha being at the Urban Foundation building was to murder White. They planned the killing in their capacity as members of the covert CCB, a subsection of the SA Defence Force's special forces

The aims and objectives of the CCB was to collect information about people and organisations regarded as enemies of the former government and to "disrupt" the enemies of SA which included the killing of people, the indictment against Barnard states

The trial continues

Truant cabinet minister

CAPE TOWN — Cabinet ministers are to be called to account after apparently playing truant from the National Council of Provinces (NCOP) yesterday.

Nine ministers were scheduled to reply to delegates — but none showed up.

NCOP chairman Patrick Lekota has now demanded that the ministers give written explanations of the reasons for their absence, and said he would not hesitate to make this

information public.

He insisted that the truant ministers attend the next sitting of the council of provinces tomorrow to reply to the unanswered questions.

It was not the first time that the house had expressed deep concern at the executive's apparent lack of seriousness when it came to the business of the council.

"I should like to take this opportunity to remind everybody concerned that in terms of our consti-

tution .. the National Assembly (only) one of the houses of Parliament," Lekota said.

The absentees were Nkosazana Zuma (health), Mangosuthu Buthelezi (home affairs), Penu Maduna (minerals and energy), P. lo Jordan (environment), Sanl Mthembi-Mahanyele (housing), Si Mzimela (correctional service), Geraldine Fraser-Moleketi (welfare), Dullah Omar (justice) and Onel Mtshali (arts and culture).

Truth body told of victims' abduction

Pearl Sebolao

A FORMER self-defence unit member applying for amnesty in connection with the Katlehong massacre on December 7 1993, yesterday denied any involvement in the killings, saying he had come forward only to proclaim his innocence.

Zola Sonti told the amnesty hearings in the East Rand township that he was only involved in capturing the victims, who were accused of the murders of ANC members Nombulelo Zwane and Jackson "Blanco" Jiyane. The two were murdered a day before the massacre.

The 13 youths and one adult implicated in Jiyane and Zwane's murders were abducted and eight of them killed.

Sonti said he handed over the victims to people gathered outside Jiyane's house and left.

He said he did not know that they would be killed and had "thought that the law would take its course", but had not approached the police as he did not trust them.

In his submission, Sonti applied for amnesty in connection

with the murders of two people, whom he referred to as "Mavuso and another" on December 7, 1993. Their connection to the massacre was unclear.

Sonti will continue with his testimony today.

Earlier in the day, Anastacia Mohale, the mother of one of the victims Ditaba Joseph Mthembu, fainted when amnesty applicant Oscar Motlokwa described how he and other unit members had taken the victims into the veld and shot, hacked and stabbed them to death.

Motlokwa, a former ANC branch chairman in Katlehong and unit member said an order to kill them was issued by unit commander Ntshebe Dondolo.

He also told the hearing how they hid the victims in the shack until the police, who had come to fetch Jiyane's body, had left. The victims were then taken to the veld where they were shot.

Seven of the ten amnesty applicants are facing 10 charges of murder and 14 charges of kidnapping, arising from the massacre. The criminal charges have been suspended pending the outcome of their applications.

Goniwe killer was 'certain he would get away with it'

PORT ELIZABETH — One of Matthew Goniwe's killers told the truth commission in Port Elizabeth yesterday that until recently he was convinced he and other members of the death squad had got away with their crime.

Eric Alexander Taylor is applying for amnesty for killing Goniwe and three other United Democratic Front activists in 1985.

He told the commission's amnesty committee it had always been the intention of the squad members to avoid being linked to the murder.

Taylor said he began a transformation in the 1990s as a result of the release of Nelson Mandela and the start of negotiations.

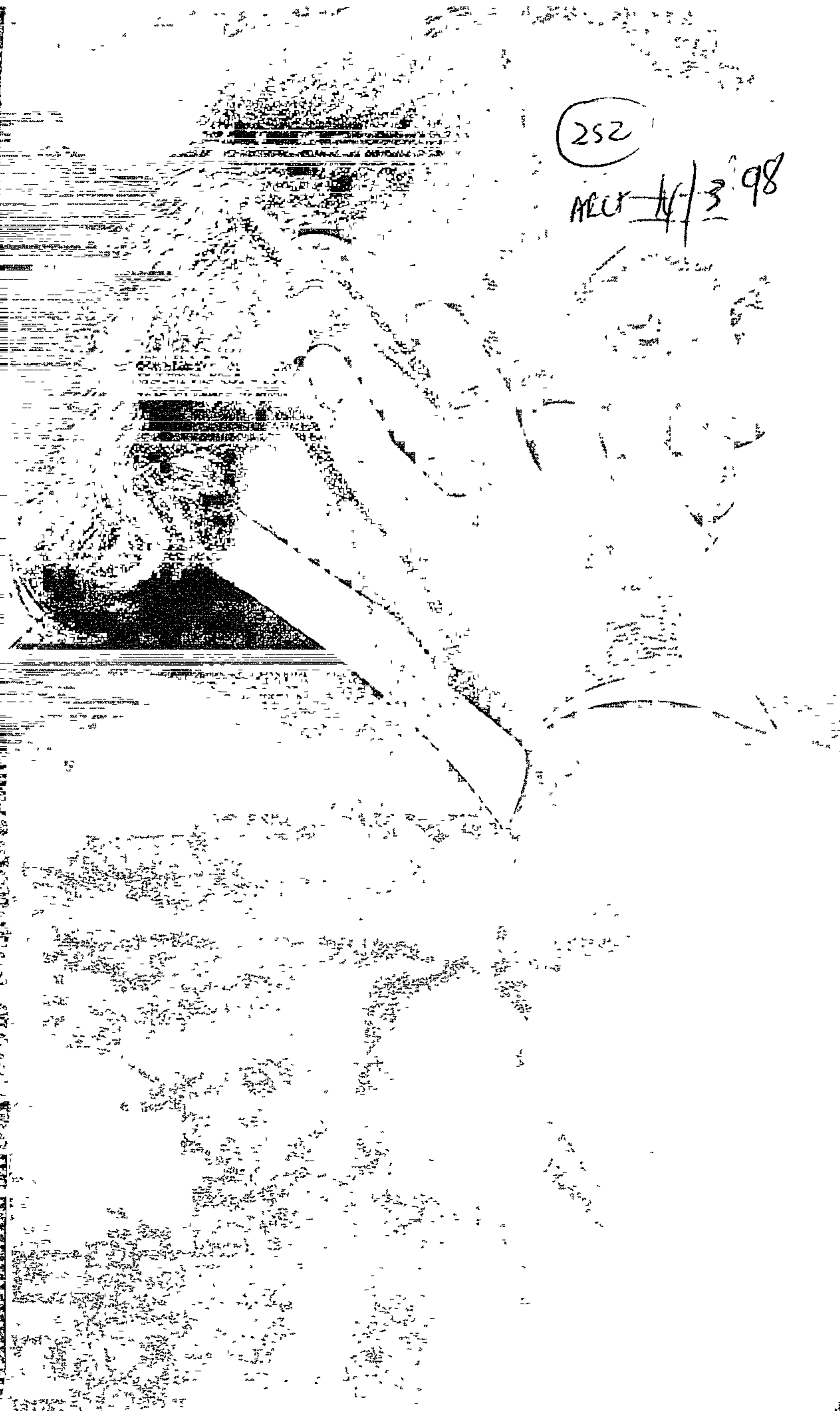
He said that as a result of this process he decided to meet the families of the people he killed and to apply for amnesty.

"If we had known in 1985 there would be negotiations in five years' time (1990) we would never have acted that way," he said.

Taylor, Johann van Zyl and Gerhardus Lotz were allegedly members of a squad that killed Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlawuli in 1985. The hearing is continuing — Sapa

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REC-11/3/98



Crime ring. Ferdi Barnard - facing 32 criminal charges, including murder and attempted murder

Ferdi Barnard:

cops fear hit list

Witness slain with pipe

(252) ARG 14/3/98

PETA KROST

Top policemen are working around the clock to trace a former cosmetics factory employee who they fear could be assassinated because of knowledge he has about alleged crimes committed under the instructions of former CCB operative Ferdi Barnard.

Police fear that Willie Britz – who worked for Florida's Elebelles L'Oreal factory – could be killed after news of the killing of Richard "Crunchie" Johnson, who was beaten to death in an alleged housebreaking this week.

In January, Johnson told the police that he feared Barnard would kill him.

Johnson, 34, was to be a key witness in the Barnard trial being heard in the Pretoria High Court.

Shortly before he was murdered, Johnson confessed to police he had done more than 50 housebreakings over a two-year period under Barnard's orders.

Barnard is facing 32 criminal charges, including the murder of David Webster and the attempted murder of Justice Minister Dullah Omar.

Senior police detective in the attorney-general's special investigation team, Superintendent Johnny Roodendaal, said "Johnson told me Barnard had the power to take him out and that he would do it."

Superintendent Roodendaal explained that Johnson understood this meant that Barnard would kill him.

Despite the apparent threat on his life, Johnson refused to enter a witness protection programme.

Superintendent Roodendaal said "He said he could look after himself better than we could, as he was used to always looking over his shoulder."

"He was terrified of Barnard, but he did not trust policemen."

"He suspected Barnard had many friends in the force as he had seen him many times with police chommies at nightclubs."

Johnson was due to call at the attorney-general's office on Tuesday and would probably have given evidence that day.

Instead, he was beaten with a iron pipe about 2am on Tuesday and died in hospital a few hours later.

Although a handgun was used by

the five attackers, it was not the weapon that caused his death.

The method used to kill Johnson was similar to the way Mark Francis was killed in 1991 when he was about to give evidence against Barnard.

Barnard faces a murder charge over Francis's killing.

However, Superintendent Roodendaal said that the fact that Johnson was a witness was not on public record and if his death had been a "hit", Johnson himself must have told someone else that he was about to give evidence against Barnard.

Barnard is known to still have a vast network of "loyal friends" who "sympathise" with him, said Superintendent Roodendaal.

Johnson told Superintendent Roodendaal that he and a colleague

'He had seen him many times with police chommies at nightclubs'

had "pulled" many housebreaking jobs for Barnard.

"He told me that he was present when Barnard gave orders for the housebreakings although he was on a much lower level than Barnard in the ranks."

Johnson also told Roodendaal that he and a colleague – whose name is known to Saturday Argus – were smuggled into Elebelles L'Oreal in Florida, where a man by the name of Willie Britz worked.

"They discussed how easy it would be to steal more than R80 000 worth of cosmetics from the factory."

Inspector Roodendaal added that one of the men had allegedly told Barnard of this, and Barnard allegedly ordered him to go ahead with the heist.

Wearing balaclavas, Johnson and his colleague held up the night watchman and tied him up, using tape to tie his hands together and shut his eyes and mouth.

Superintendent Roodendaal said Johnson had told him:

"He said one of them went into the factory and took a bakkie full of cosmetics."

Johnson, who had moved into the three-bedroomed house in Nest Park, Welbekend, last Friday – four days before his death – had spent the last few years living out of his car with his wife Rhoda and his 3-year-old daughter.

"He said that he was no longer involved in crime but, along with Barnard, there were a number of people he could not trust so it was better to live that way," said Superintendent Roodendaal.

"He moved to the Welbekend house where he intended to start making sleeper furniture, as he was good with his hands."

"He had a lot of machinery and wanted to work from a plot."

Superintendent Roodendaal said Johnson had been shot at recently.

"His mother-in-law told me that after that, he dropped the two off and disappeared for a while," Superintendent Roodendaal recalled.

Johnson was to meet him later that week, but never arrived. That was the last the policeman saw of him.

Although Pretoria murder and robbery unit are investigating all possible reasons for the murder – from an ordinary housebreaking to a "hit" – they find it strange that housebreakers would attack a house in which there was "absolutely no furniture, not even curtains."

Head of Pretoria's murder and robbery unit, Senior Superintendent Andre Austin, said it was obvious – even from the outside – that the house was empty.

"Two shots were fired. One hit the wall and the other grazed Johnson's back. Although they obviously had a gun, they used a pipe to beat him."

He said Johnson's wife, who was naked throughout the incident, was not harmed, except that she had been tied up. Their daughter was unhurt.

Johnson's wife said yesterday that she found this strange, but said she did not think Barnard was involved. She did not recognise the five men who attacked her husband.

The police are appealing to Willie Britz to contact the attorney-general's special investigation team as they believe if Johnson was assassinated, he may be next on the list.

Anyone with information about the attack, should contact Inspector Riaan de Wet on 083-4426805.

Amnesty hearing told 'pack of lies'

Applicant given perjury warning

ARG 4/3/98

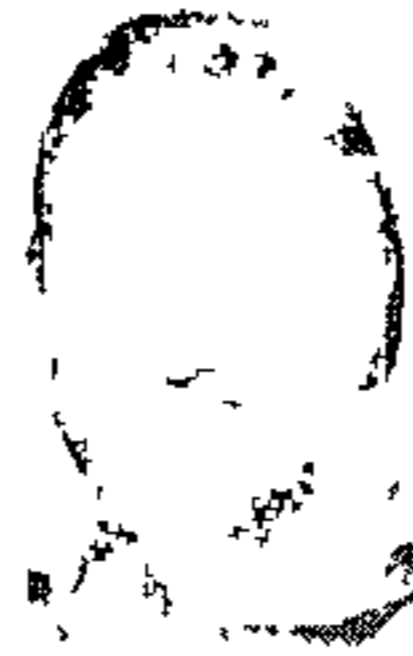
Port Elizabeth - In a dramatic development at the Truth Commission amnesty hearing here today, police documents were produced that directly contradicted evidence by six former security policemen seeking amnesty for the murders of the "Cradock Four".

Advocate George Bizos SC, for the widows of the Four, told the amnesty panel that information in the documents suggested they had been told "a pack of lies" by the amnesty applicants during the past nine days of the hearing.

Three of the six former Eastern Cape security policemen who have testified so far each claimed that the Four - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli - had been dangerous United Democratic Front (UDF) revolutionaries responsible for fanning violence that racked the Eastern Cape in 1985.

They also testified that Mr Mhlauli, an Oudtshoorn teacher, had been a close associate of Mr Goniwe, had been well known to them (the security policemen), and had been planning to introduce Mr

YELD



ON THE TRUTH COMMISSION

Goniwe's "G-plan" for alternative structures such as street committees to the South-Western Districts.

Today, former lieutenant Eric Taylor repeated this claim and stated in response to questions by Mr Bizos that he had personally sent "five or six" reports about Mr Mhlauli to Oudtshoorn security police in the months before the murders.

Mr Bizos then told Mr Taylor "It is my sad duty to tell you that you are deliberately committing perjury", and he submitted two police documents.

The first had been sent from the police's Eastern Cape division to police headquarters in Pretoria

just days after the murder of the Four. It included the security police reference numbers of Mr Goniwe, Mr Calata and Mr Mkhonto, but referred to Mr Mhlauli as "unknown".

Mr Taylor responded "It (the document) doesn't come from the security branch, it came from the uniformed branch."

Mr Bizos responded "I expected that answer from you - please read the last paragraph."

The last paragraph states: "This DT (report) has been drawn up in conjunction with the security branch."

Mr Bizos then produced a document sent from Oudtshoorn police, responding to a request from Port Elizabeth police for information about Mr Mhlauli.

Oudtshoorn policeman Colonel Roland stated there had not been a file on Mr Mhlauli.

Mr Bizos remarked to Mr Taylor "Well, it looks as if either you are lying when you say you sent six reports, or that Colonel Roland did not do his job properly." Mr Taylor responded "I can't explain it. I can only stand by what I said."

Who ordered hit on Cradock Four?

Police informer describes attack by Barnard

PORT ELIZABETH. A security policeman from the squad that murdered the Cradock Four in 1985 yesterday showed limited knowledge of the United Democratic Front, the organisation to which the four men belonged

Eric Alexander Taylor, a former police lieutenant, was testifying before the amnesty committee of the Truth and Reconciliation Commission here. He has confessed to the murders.

Taylor told the committee he still did not know who authorised the killing of the Cradock Four. He was led to believe at the time that the order came from "higher up".

"I would still like to know where this line of command stopped."

He said the four activists were killed because they were seen as a threat to the country.

Taylor said he was having difficulty remembering the leadership structures of the UDF and its affiliates in the Eastern Cape.

He is applying for amnesty for the June 1985 murders of Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlahu.

The committee has heard from two other officers applying for amnesty — General Nic Janse van Rensburg and Johan van Zyl — that the Cradock Four were eliminated because they were causing anarchy in the province.

Asked by Mr George Bizos SC, for the families of the victims, to name the executive members of the UDF in Port Elizabeth and Cradock at the time, Taylor was largely unable to do so.

He said at the time he knew most of the UDF activists and the positions they held, but had since forgotten who many of them were.

Taylor, who was responsible for monitoring activists in the Cradock area, also had difficulty in describing the positions held by Goniwe, Calata and Mkonto in

CT 4/3/98
the Cradock Residents Association, which the police also saw as a threat to security in the area.

He was convinced until recently that he and other members of the death squad had got away with their crime.

He said it had always been the intention of the squad members to avoid being linked to the murders. Even when the inquest into the death of the Cradock Four was re-opened in 1993 he was not worried about being identified.

"If they had not succeeded in solving the case in eight years it was unlikely they would ever do so," he said.

Taylor said he began undergoing a transformation in the 1990s as a result of the release of Nelson Mandela and the start of negotiations on the future of South Africa.

He said that as a result of this process he had decided to meet the families of the people he killed, and to apply for amnesty. There was a "heaven's breadth" between his attitude now and what he

felt in 1985.

"If we had known in 1985 there would be negotiations in five years' time (1990) we would never have acted that way," he said.

He said the meeting he had with the families of the victims last April had been a difficult and emotional experience.

Johann Martin van Zyl and Gerhardus Lotz were allegedly members of the squad with Taylor that killed the Cradock Four.

Policemen Janse van Rensburg, Hermanus Barend du Plessis and Harold Snyman have also applied for amnesty for planning the murder.

Convicted killer Eugene de Kock has applied for amnesty for trying to cover up the involvement of the police.

Taylor is expected to face further cross-examination by Bizos today. — Sapa



PRETORIA. The High Court here heard yesterday how former Civil Co-operation Bureau agent Ferdi Barnard and several accomplices allegedly tortured a police informer and left him in the veld near Johannesburg to die.

Barnard is facing 32 charges, including the high-profile murder of former University of Witwatersrand anti-apartheid activist Dr David Webster in 1989, and the attempted murder of far left-wing activist Mr Bruce White, and Mr Dullah Omar, now Minister of Justice.

The informer, who works for the police gold and diamond branch at Klerksdorp in North West and cannot be named, said yesterday he was introduced to Barnard's brother, Karl, in 1993.

They had several meetings during which Barnard's alleged partner, the late Corrie Goosen, was also present.

The men wanted the informer to get uncut diamonds. Goosen was presented to him as the man with the money.

During one of the meetings the informer showed Barnard's brother and Goosen diamonds for which he wanted R16 000, but the transaction was not concluded.

Another meeting was arranged in February 1994. Barnard, his brother, Goosen and another man arrived at the meeting and told the informer to get into their vehicle. They drove towards Roodepoort.

The informer was then told he was under arrest and the men said they wanted the diamonds.

The informer said Barnard assaulted him in the car, hitting him on the legs with a piece of iron. Barnard and Goosen allegedly punched him repeatedly.

They eventually stopped in the veld near Lupaardsvlei, where the informer was pulled out of the car and assaulted again. He told the court Barnard tried to hit him on the head with the piece of iron. He tried to ward off the blows with his arms, but one arm was broken. Both his legs were also broken during the assault, the court heard.

While Barnard was hitting him, the others kicked him. Afterwards the driver of the car wanted to shoot him, but the others said to leave him there because he was already

Order to kill Cradock Four must have come from higher authority, TRC told

By JOHN YELD

Port Elizabeth - Former Eastern Cape security policemen had a mandate from their superior officers to kill at least another two activists in addition to the "Cradock Four", a Truth Commission amnesty panel has been told.

Eric Taylor, one of six former policemen applying for amnesty for murdering the Four - Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauhi - on June 27 1985 told the panel yesterday that he could recall two other Cradock activists who had been on the approved "death list"

Taylor, a lieutenant at the time, said there might also have been a third additional name on the list - that of Goniwe's nephew Mbelelo - but that he could not remember this clearly

Responding to questions by advocate George Bizos SC, for the widows of the Four, Taylor agreed that he had conspired to murder the others

Asked why he hadn't applied for

Star 4/3/98
amnesty for this as well, Taylor replied that no further murder operations had taken place after the Four had been killed

He was then asked by advocate Denzil Potgieter SC, a member of the amnesty panel, why he and his colleagues had not attempted to kill the additional activists on the "death list" after successfully murdering the Four. He replied "I can't answer that. I was never again approached to take part in any operation"

But he agreed that he would have, if there had been such instructions from his seniors

Earlier in the day, Taylor testified that he had been ordered to take part in the murders of the Four by one of his superior officers, Captain "Sakkie" van Zyl, but he accepted that Van Zyl must in turn have been instructed by a higher authority

Asked whether he had ever inquired from Van Zyl where his orders had come from, Taylor said "I didn't ask him.. I want to say we had almost a subculture. We simply didn't ask each other.

(252)
"I had absolute trust in the fact that he (Van Zyl) wouldn't have arranged an operation like this without authority"

Taylor added that the security police had operated on a "need-to-know" basis, and that this had been the practice all over the world, in organisations such as the Central Intelligence Agency and the Israeli Mossad secret service

Bizos commented "Let's leave the CIA out of this - we have enough problems of our own"

Asked to speculate on where the orders to kill the Four could have originated, Taylor said senior security officers and cabinet ministers had been members of the State Security Council (SSC) at the time.

"All over the country, prominent activists suddenly started disappearing and being murdered

"I ask myself the question: 'Did these people (on the SSC) think it was coincidence?' I can't believe that they thought it was a coincidence, although I don't think the full truth will ever come out"

The hearing continues today

Bopape plans to tell ancestors the truth

(2972) Souveron 4/3/98

By Claire Keeton
Feature Writer

WHEN the whole truth about murdered Mamelodi civic leader Stanza Bopape is told, his brother Mike will visit their father's grave to tell him what happened so his soul may rest in peace

But nearly 10 years after Bopape's death, that day still seems far away - despite last week's amnesty hearings of the security policemen responsible for his death and the cover-up that followed

"His mother Francina is tired, since 1988 she has never found the truth," says Mamelodi African National Congress (ANC) Women's League chairwoman Sheila Mashumbi

The Bopape family believe the web of police lies to hide Stanza's death in detention on June 12 1988 hastened his father's death six years later

Mature Bopape died without knowing what had happened to his missing son, having gone on a futile trip to Zambia to search for him

His family does not believe the five former policemen who testified before the Truth and Reconciliation Commission (TRC) in Mamelodi last week disclosed all the facts, a requirement for amnesty

Mike, Bopape's younger brother, says "It was my father's man worry, he wanted to know the truth I wish he was alive so he could challenge former police commissioner General Johan Van der Merwe

"Van der Merwe and former minister of law and order Adriaan Vlok told my father to have confidence in the

He should not panic about Stanza's disappearance"

The irony of this message is not lost on the family

"Now we must believe that the same mob that murdered Bopape and fabricated the cover-up are telling the truth," says Mike

"We are not satisfied with their version

"These are the same guys who made up stories before and even today they are still telling stories

"For this reason we are opposing their amnesty application and we stand by this position

"If they get amnesty, we will be left with more sadness and bitterness," he said

The former policemen, ranking from constable to general, did not apply for amnesty until three of them were subpoenaed on December 10 1996 to appear before a TRC investigative inquiry into Bopape's disappearance

On that day the lawyers for Lieutenant-Colonel Adriaan van Niekerk, Warrant Officer Hendrik Mostert and Constable Jacobus Engelbrecht requested a postponement, pending their amnesty applications



Mike Bopape

By the cut-off date for amnesty applications on December 15 1996, the TRC had received 10 applications concerning Bopape's death

He was a well-loved community leader in Mamelodi, who was detained in 1985, 1986 and 1987

He was general secretary of the Mamelodi Civic Association at the time of his death

Mashumbi, Bopape's former comrade, says "He was a good guy, he often smiled. When you talked, he would listen. At this time he would probably be in Parliament. We miss him."

In 1988 Bopape was working hard to improve the living conditions of people in overcrowded shacks

Today a sprawling informal settlement of over a million residents near Mamelodi is named in his honour

The family's problems with the applicants' testimonies, centre on the claims that Bopape died accidentally after receiving a few electric shocks, not from beatings or torture, and secondly, that Eastern Transvaal security police disposed of his body in the

Komati River Mike said security policemen had threatened Bopape's life shortly before he died

He and his brother shared a bedroom and the latter said the police raided their house several times looking for Bopape, beating him up in his brother's absence

"Two months before he was killed, the police told me that Stanza should 'watch out' because if they found him he would be in big trouble

"His friend Bheki Nkosi (detained with Bopape) said he was tortured badly and Bopape's torture would be more severe," says Mike

"We know how it happened. The police would not act softly to obtain information"

Some policemen last week confirmed that they used torture to extract information from "terrorists" and consistently said their superiors accepted these methods

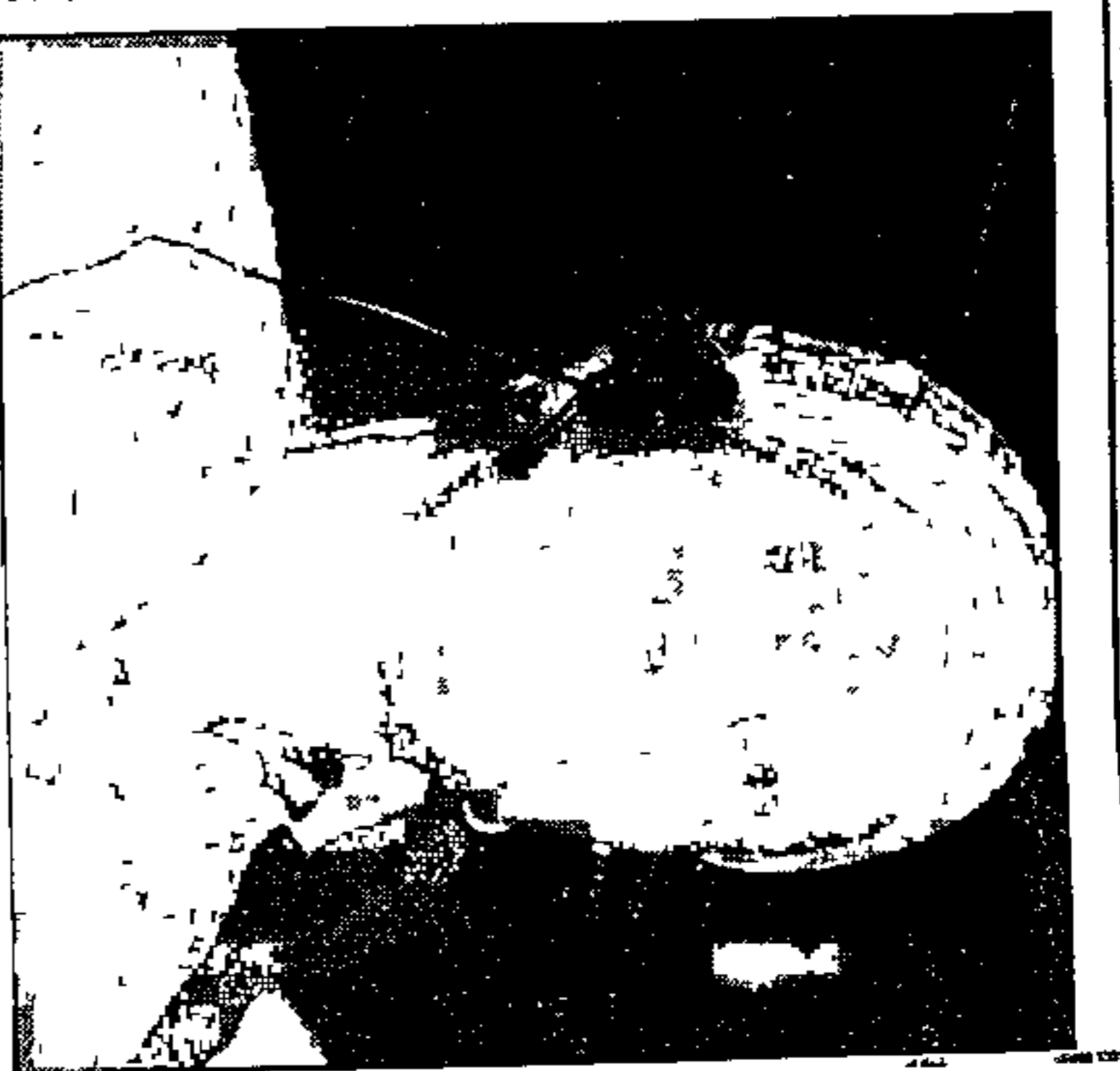
They said Bopape was a suspect in ANC bombings in Pretoria

"The security branch developed these methods of force. I did this with a political objective, of using violence against the counter-revolution. I acted on behalf of the security branch," Engelbrecht told the TRC

"The security branch was an extension of the government. We acted on behalf of the whole of South Africa."

But the whole of South Africa includes Mamelodi - where Bopape is a hero

The family cannot understand why Bopape, an active 27-year-old then, could die from a few electric shocks, which were usually not lethal, according to amnesty applicant Sergeant Johan du Preez



Mrs Francina Bopape

PICS CLAIRE KEETON

"If he died unexpectedly from a heart attack, why didn't the police inform the family? They have a phone at John Vorster Square (where he died)," Mike says

This was not the only mystery at the hearings: several loose ends were explored under cross-examination by the family's lawyer Gys Rautenbach

For example, Du Preez could not clarify why he put Bopape's body in plastic bags to avoid getting blood in his car, when the deceased was supposedly unharmed apart from the electric shocks

"I do not believe his body was thrown into the Komati River, nobody believes that

"One of the policemen was a bomb disposal expert, he could have been blown up. But we are hoping he is buried somewhere," Mike says

Bopape's mother has said many times that she wants "his bones". Mashumbi says "All of Mamelodi will be happy only when the police show us his bones."

She has proposed a tombstone for her son and other freedom fighters in Mamelodi to remember their contribution to a free South Africa

TRC hears how 8 kids were killed

(252) Sowetan 4/3/98

By Russel Molefe

EIGHT youths abducted and "executed" by members of the self-defence units (SDUs) in Katlehong on the East Rand in December 1993 were renegades who had terrorised residents, the Truth and Reconciliation Commission amnesty hearing was told yesterday

But Mr Oscar Motlokwa, one of the 15 people applying for amnesty for their part in the killing, denied under cross-examination that he and his comrades had also beheaded their victims

Motlokwa was a member of the SDU at Moleleka Section in Katlehong, where residents had complained about being harassed by youths who were members of the African National Congress Youth League

He said delivery vehicles were being shot at and residents' properties stolen by alleged renegades of the ANCYL.

On December 6, 1993 Ms Nombulelo Zwane, a member of the

local civic organisation, and Blanco Jiyane were killed. Isaac Motloung was also shot dead and all the deaths were blamed on ANCYL members.

On December 7 Motlokwa and his comrades "rounded up" 13 youths aged between 14 and 19 and an adult identified as Mr Alfred Buthelezi. However, four youths were later released

Motlokwa said the remaining eight youths and Buthelezi were taken to a shack where SDU commander Ntshabe Dondolo issued an order that they be killed. They were taken into the veld, shot and left there for dead

Vuyani Tshabalala survived the shooting

Motlokwa denied that SDU members later told the parents of the victims "to go and pick up their dogs in the veld". He also denied that Buthelezi was killed with the youths because he had followed the SDU members to the shack pleading for mercy for his son, Thokozani, who was also shot dead

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Barnard trial witness tells of Calla Botha call

Stephané Bothma

PRETORIA — Businessman and former Springbok athlete Willie Smit was "blackmailed and threatened" into perjuring himself during the 1992 inquest into the murder of Wits university lecturer David Webster, the high court heard yesterday.

The threats against the lives of Smit's children and warnings that details of an extramarital affair with his secretary would be made public, came from a close friend of former Civil Co-operation Bureau (CCB) agent Ferdi Barnard, accused of gunning down Webster on May 1 1989.

Smit, currently studying for his MBA at Stellenbosch University,

was called by the state to testify in the murder, attempted murder and fraud trial of Barnard.

The court heard that on several occasions Barnard confessed to Smit that he had been responsible for the assassination of Webster.

Smit testified to this effect during the Webster inquest, but after a tea adjournment, he made a "dramatic turnabout" in his evidence and asked the inquest judge to declare him an incredible witness.

"I do not want to be involved any longer. My statement (implicating Barnard) is based on hearsay and I cannot back it up. The court must please declare me an incredible witness," Smit told the inquest court.

caused an uproar, was explained for the first time yesterday, almost eight years after the event.

"Lester Mouton, a 'very' close friend of Barnard approached me outside the courtroom during the adjournment and told me I was playing with my children's future I understood that they would harm my children.

"Mouton said also that my affair with my secretary would be made public in court if I went back inside to testify," Smit told the court. His wife was not aware of the affair at the time.

Smit said Mouton had ordered him to deny everything he had told the inquest up to that point, which Smit did.

(2572) PA 5/3/98

Before the high court adjourned for tea in the morning, Judge Johan Elis told Smit that he did not want a repeat of what had happened at the inquest. After the break, Smit told the court that he had "just had a call" from Calla Botha, another former CCB operative who allegedly drove the car from which Webster was shot.

Referring to another charge against Barnard, in which the state claimed that Barnard and Botha had monitored another anti-apartheid activist, Roland White, with the intention of assassinating him, the court heard that Botha told Smit: "Are you 100% sure that it was Ferdi who told you that White had to be taken out? You must recon-

sider your testimony; it was not Ferdi who told you that."

Botha telephoned again minutes later and told Smit that he (Botha) had nothing to do with White.

Smit testified that Barnard had told "the whole world, everybody who would listen" that he had killed Webster. "He admitted it to me and all my employees. At one stage the man walked around boasting about all the murders he had committed.

"Webster's was not the only murder he committed. At one stage he showed me a photo album containing pictures of about 22 or 23 people he had shot," Smit said he had employed Barnard in the late 1980s as an insurance assessor.

The trial continues.

Goniwe murder mission 'backfired'

PORT ELIZABETH — A police plan to kill activist Matthew Goniwe, as a way of stopping unrest in the Eastern Cape in 1985, backfired when the attack led to widespread violence, the truth and reconciliation commission heard in Port Elizabeth yesterday

Eric Alexander Taylor, a former security police lieutenant who has admitted carrying out the murder of Goniwe and three others in June 1985, conceded under cross-examination that the mission failed

Testifying before the commission's amnesty committee, Taylor also agreed that the killing of Goniwe and the others caused further stonings, boycotts and stayaways — exactly what the police were trying to stop.

This in turn led to the declaration of a state of emergency in July 1985.

Taylor was repeatedly asked on

what grounds the police decided to eliminate Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlawuli. He replied that their plan aimed at creating alternative structures, such as street committees, was causing chaos in black areas

George Bizos for the families of the victims, asked Taylor if he saw Goniwe's demands for human rights for blacks as a threat. Taylor replied that he interpreted these demands as a threat to the existing political order.

He was asked by committee member Denzil Potgieter whether he believed that blacks were not entitled to human rights. (252)

Taylor replied that he now believed in human rights for all. However, at the time he believed the demand for human rights was a threat to the system — Sapa

BD 5/3/98

Barnard boasted about Webster killing, trial told

(252) ARL 5/3/98
Pretoria - Former Civil Co-operation Bureau agent Ferdi Barnard told "everyone who wanted to listen" that he killed anti-apartheid activist Dr David Webster, a witness has told the Pretoria High Court.

Barnard has pleaded not guilty to 34 charges, including the Webster murder and the attempted murder of Dullah Omar, now Minister of Justice

Willie Smit, who arranged for Barnard to be released on parole in 1987 by giving him a job at the insurance company where he was a manager, said in court yesterday Barnard had repeatedly told him that he killed Webster

Mr Smit met Barnard through his brother, Calla, who was a teacher. Barnard left the insurance firm about

three months after being released on parole and told Mr Smit that he was working for the security police

Barnard and his brother arrived at Mr Smit's house in the early hours of the morning in June 1989. They were panic-stricken, and Barnard said they had been arrested while monitoring a certain Bruce White, whom they wanted to "take out" - or kill - just as they had taken out Webster. They wanted Mr Smit to give them an alibi

"Ferdie said White was a personal friend of Webster. At that stage I had only heard about Webster

"I think he was a bit boastful. The Webster killing was not his only murder. He even showed me a photo album with 22 or 23 people he had killed" - Sapa

You're lying, amnesty applicant told

ARG 5/3/98

Ex-policeman grilled

(52)

Port Elizabeth - Former security policeman Gerhardus Lotz today told a Truth Commission amnesty panel how he had used a heavy metal spring to beat "Cradock Four" activist Matthew Goniwe over the head.

But he was then accused of lying to make the killing appear "civilised"

Mr Lotz, a warrant officer at the time and a veteran of the police's notorious Koevoet unit in pre-independence Namibia, demonstrated to the panel how he had hit Mr Goniwe from behind, holding the spring - which had weighed "three-to-five kilograms at least, maybe even more" - with both hands and delivering the blow as if he had been using an axe

He agreed with a suggestion by advocate Patric Mtshaulana, for the families of the Four, that Mr Goniwe had "collapsed like a pack of cards"

Mr Lotz told Judge Ronnie Pillay, head of the amnesty panel, that he had hit Mr Goniwe hard enough to kill him, and that he had believed he was dead. But Mr Lotz was then presented with two post-mortem reports on Mr Goniwe - one by a state pathologist and another by an independent pathologist appointed by the family

Both reports stated that the cause of death had been multiple stab wounds and that there had been no signs of a severe blow to the head

Asked to explain, Mr Lotz insisted that he had hit Mr Goniwe over the head with the spring. Mr Lotz also testified that two black security policemen



ON THE TRUTH COMMISSION

who had been with him had then stabbed Mr Goniwe several times

Mr Mtshaulana then suggested to Mr Lotz that he had deliberately painted a false picture of the killing to make it appear "civilised"

Mr Mtshaulana told Mr Lotz his version of the death was "a lie"

"This man was slaughtered like a sheep by a flock of vultures - who stabbed him from all directions," Mr Mtshaulana suggested

Mr Lotz said that after he had hit Mr Goniwe, he had merely watched as the black security policemen had stabbed him, before turning away. Mr Mtshaulana said "You couldn't take this. You left the black people to do this dirty job?" Mr Lotz replied "Yes". Judge Pillay remarked "And of course they (the black security policemen) were willing to do it?" Mr Lotz responded "They weren't forced"

Mr Lotz is one of six former Eastern Cape security policemen applying for amnesty for murdering the Four - Mr Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauri - on June 27, 1985

Bizos probes headmaster's murder

(252)

ET 6/3/98

PORT ELIZABETH: Mr Sicele Mhlauli was until this week the least known member of the so-called Cradock Four, but he is proving to be a key figure in the amnesty hearing before the Truth and Reconciliation Commission here of seven policemen

The policemen, applying for amnesty for the murder of the Cradock Four in June 1985, claim that Mhlauli was a known activist

But Mr George Bizos, SC, representing the families of Mhlauli and the other victims, produced a welter of evidence this week that showed that the Oudtshoorn headmaster might have been killed because he happened to be travelling with Mr Matthew Goniwe, Mr Sparrow Mkonto and Mr Fort Calata when they were stopped by the police death squad

Bizos told former lieutenant Eric Alexander Taylor he was telling the Truth Commission's amnesty committee a pack of lies about his motive for killing Mhlauli

Taylor told the committee he had received numerous reports from informers about Mhlauli's movements in the Eastern Cape. He said he was told Mhlauli had close links with Goniwe and was planning to import resistance politics to the South-Western Districts

When asked by Bizos if he conveyed that information to his headquarters in Port Elizabeth, Taylor said he had done so several times. He also claimed that he had passed on the information to the Oudtshoorn



security police. "If you are saying that, then it is my sad duty to tell you that you are committing perjury in this committee," Bizos told Taylor.

Bizos produced an official police document which showed that Mhlauli was not known to police headquarters in Port Elizabeth

Taylor at first appeared stunned by the revelation, but then suggested that the document had been drawn up by the uninformed branch and not the security police

Bizos said "I knew you were going to say that." He told Taylor to read the last paragraph, which stated that the report had been drawn up in conjunction with the security police.

Bizos put it to Taylor that he was willing to tell even more lies to hide his real motive for killing Mhlauli

Taylor conceded there was a discrepancy of his and his headquarters' assessment of Mhlauli, and said he was at a loss to explain it

He insisted he had received information which indicated that Mhlauli was a political agitator. Taylor's application for amnesty requires that he makes a full disclosure of his deeds and provides a political motive for his actions.

A finding by the committee that Mhlauli was an innocent victim in the attack would have a major effect on Taylor's request for amnesty. Bizos also produced evidence which showed

Mhlauli moved to Oudtshoorn because he was unhappy with the turbulence in Eastern Cape schools.

On the night he was killed, he left Oudtshoorn when his school closed and was travelling to Cradock with Goniwe, Calata and Mkonto

According to a report placed before the committee, Mhlauli's parents and grandparents lived in Cradock and he was returning for the July holidays.

He had known Goniwe, who was also a teacher, for many years since growing up together in Cradock. Taylor also had difficulty explaining his motives for killing Goniwe, who appeared to have been an excellent teacher in Cradock

When asked by Bizos to comment on reports that Goniwe insisted on children being on time for school, discouraged smoking and visiting shebeens and condemned the burning of schools, Taylor said he could not deny this, adding that it was his after-hours activities that concerned the police.

Asked by committee chairman Judge Ronnie Pili-lay and committee member Denzil Potgieter if he believed it was wrong for blacks to strive for human rights, Taylor said that at the time he perceived the demand for human rights as a threat to the existing political order

Taylor is one of seven policemen applying for amnesty for the murder of the Cradock Four. The other six are Johan Martin van Zyl, Nic Janse van Rensburg, Gerhardus Lotz, Hermannus Barend du Plessis, Harold Snyman and Eugene de Kock.

The hearing continues on Tuesday with testimony by Lotz — Sapa

Killing of Goniwe 'backfired on police'

Far from stopping unrest, the murder caused further stonings and boycotts, hearing told

SPAR 5/9/98

(252)

SAPA
Port Elizabeth

A police plan to kill activist Matthew Goniwe to stop unrest in the Eastern Cape in 1985 backfired when the attack led to widespread violence, the Truth and Reconciliation Commission heard in Port Elizabeth yesterday.

A former security police lieutenant who has admitted carrying out the murder of Goniwe and three others in June

1985, Eric Alexander Taylor, conceded under cross-examination that the mission failed and in fact had the opposite effect. Testifying before the TRC's amnesty committee, Taylor also agreed that the killing of Goniwe and the others caused further stonings, boycotts and stayaways - exactly what the police were trying to stop.

This in turn led to the declaration of a state of emergency in July 1985. Taylor was repeatedly asked on what grounds the police

decided to eliminate Goniwe, Sparrow Mkhonto, Fort Calata and Sicele Mhlaui. He replied that their efforts to create alternative structures, such as

'Human rights were a threat'

street committees, was causing chaos in black areas. George Bizos SC, for the families of the victims, asked

Taylor whether he saw Goniwe's demands for human rights for blacks as a threat. Taylor replied that he had interpreted these demands as a threat to the existing political order.

Asked by committee member Denzil Potgieter whether he believed that blacks were not entitled to human rights, Taylor replied he now believed in human rights for all, but at the time he had believed that the demand for human rights was a threat to the system.

Committee chairman Judge

Ronnie Pillay put it to Taylor that the quest for human rights went to the heart of the struggle at the time.

Taylor replied that he knew now it was wrong to oppose the people in their struggle for human rights. But he said he had been indoctrinated into believing he was fighting against the overthrow of the government.

Taylor is one of seven politicians applying for amnesty for the murder of the Cradock Four in June 1985. The hearing continues

Amnesty applicant and advocate disagree

By SIMON ZWANE

An amnesty applicant yesterday contradicted his legal representative before the Truth and Reconciliation Commission's amnesty committee in Boksburg and suggested that the lawyer's consultation with him had not been thorough.

Vusumuzi Mthembu, a member of an ANC self-defence unit seeking amnesty together with 13 other SDU members in connection with the murder of nine ANC Youth League members, denied that he took part in the abduction and killing in December 1993.

He also denied he was armed on the day of the killing.

His account differed from

that of his representative, advocate Muziwethu Madasa, who stated that all applicants "were armed with various sorts of weapons which differed from person to person" when the massacre was committed.

Madasa had also told the committee that some of the applicants participated only in the abduction of the victims but not in their killing.

He mentioned the four applicants who took part in the abduction but did not name Mthembu among them.

"Our counsel did not get all the facts because he did not have enough time to listen to every one of us," Mthembu said.

Lack of proper consultation

between Madasa and his clients has been evident since the hearing started on Monday, as the applicants' have offered different testimony from their written applications.

In their applications, some of the SDU members claimed that they committed the killings to defend their community against the Inkatha Freedom Party, but they testified in court that the conflict was between themselves and the youth league.

Also, in their written applications some named people they had allegedly killed, but in their evidence denied ever killing anyone.

The hearing was delayed for an hour to clear the confusion.

Star 5/9/98

(252)

Only half SA's people feel- body is unbiased — survey.

PRETORIA — Only about half of all South Africans feel the truth commission is fair and unbiased, a recent survey has found.

A mere 40% think the truth commission will bring South Africans closer together, while barely 17% expect it to render people more willing to forgive.

The poll, conducted by MarkData in June and July last year, surveyed 2 240 people at random.

Asked whether they felt the truth commission was fair and unbiased towards all political parties, 52% of the respondents agreed, while 31% said the body favoured or was hostile to some parties. (25)

The percentage of those satisfied with the commission's fairness was the highest among blacks (62%), followed by coloureds (46%), Indians (35%) and whites (18%).
Sapa. BD 6/3/98

Policeman 'hit Goniwe on head with steel spring'

PORT ELIZABETH—A policeman yesterday told truth commission hearings in Port Elizabeth he hit Matthew Goniwe on the back of the head with a heavy steel spring before ordering black policemen to finish him off with knives.

Gerhardus Johannes Lotz is one of seven policemen applying to the commission's amnesty committee for amnesty for the murder of Goniwe, Fort Calata, Sicele Mhlanuli and Sparrow Mkonto — known as the Cradock Four — in June 1985.

The four — whom the police have said were political activists stirring up trouble in the Eastern Cape — were travelling between Port Elizabeth and Cradock when they were stopped by a police squad. Police allegedly took them to an isolated

spot near Blouwater Bay outside Port Elizabeth and killed them.

Lotz said the spring he used to strike Goniwe weighed two to three kilograms and he had wielded it with all his strength. He said the blow might have killed Goniwe, but he accepted a medical report that gave a stab wound to the heart as the cause of death.

Asked by Patrick Mshaulana, for the families of the victims, if he had left the dirty work (finishing the men off with knives) to the black policemen, Lotz replied: "I suppose you could put it that way."

Lotz denied that Goniwe put up a struggle, and said he went to his death quietly. Lotz was replying to a statement to the committee by former Vlakplaas chief Eugene de

Kock, who said Goniwe had put up a fierce struggle against police before being stabbed to death.

De Kock said he was told of the struggle by Capt Johan van Zyl, who was in command of the squad that killed the Cradock Four.

De Kock has also applied for amnesty for his part in covering up the murder of the four. He is also due to testify in this hearing.

Lotz said earlier he fought on the border in the former South West Africa in 1981. He was later transferred to the Eastern Cape and built up a hatred for African National Congress guerrillas after visiting bomb scenes, and seeing more than 120 necklaced victims.

The other policemen applying for amnesty are Nicholas Janse van

Rensburg, Hermannus Barend du Plessis and Eric Alexander Taylor.

The hearing is continuing in the Centenary Hall in New Brighton, near Port Elizabeth.

Meanwhile, the truth commission said it would ask Western Cape attorney-general Frank Khan to prosecute former Cyril Co-operation Bureau (CCB) treasurer Wouter Basson for ignoring a subpoena to appear before a closed inquiry yesterday.

Khan is already investigating whether to prosecute Basson for failing to co-operate with the commission on matters relating to the CCB's foreign operations, including the death of South West African People's Organisation lawyer Anton Lubowski. — Sapa.

Frances 'knew he was going to die'

Stephané Bothma

PRETORIA — Hours before he was beaten to death with a baseball bat in a Berea alley, an alleged crime partner of Ferdi Barnard knew he was going to be killed for making a statement implicating the former Civil Co-operation Bureau agent in an attempted robbery, the high court was told yesterday.

Mark Frances was killed by Barnard and another former policeman Eugene Riley on August 4 1991, the state alleges in the murder and fraud trial of Barnard, who pleaded not guilty to all 34 charges against him.

Riley, who according to the indictment was involved in many of Barnard's alleged crimes, committed suicide under suspicious cir-

BD 6/3/98 (2/12)
cumstances in 1995

The state says that Barnard, Riley, Frances and another "unknown person" attempted to steal jewellery worth millions from a house in Pampierstad, Bophuthatswana, in February 1991. Things went wrong and Riley and Frances were arrested, while Barnard managed to flee.

After his arrest, Frances confessed the crime to a Taung magistrate and also implicated Riley and Barnard in the attempted robbery. Riley and Frances were later released on bail.

State witness Jean du Plessis told judge Johan Els yesterday he had been one of the last people to see Frances alive.

"During the evening of August 4 1991 I saw Frances, who told me he had an appointment with Riley

that night. Frances was nervous and told me he would have to negotiate with Riley or he would be dead," Du Plessis testified.

Frances also borrowed a knife from Du Plessis.

Later that night, Du Plessis' brother Riaan called him, informing him that somebody was being assaulted in the alley next to their house. They rushed to the alley, to find the bloodied body of Frances who was still alive and who attempted to talk to them.

An ambulance was called but Frances died in hospital later that night.

According to the state it was not known exactly who beat Frances to death, but that Barnard and Riley had acted with a common purpose to kill him.

The trial continues today.

Ex-CCB man snubs TRC closed hearing

ARG 6/3/98

(252)

Cape Town - The Truth and Reconciliation Commission is to ask Western Cape attorney-general Frank Kahn to prosecute former Civil Co-operation Bureau (CCB) treasurer Wouter Basson for ignoring a subpoena to appear before a closed investigative inquiry yesterday.

The attorney-general is already investigating whether to prosecute Mr Basson for failing to co-operate with the TRC on matters relating to the CCB's foreign operations, including the death of Swapo lawyer Anton Lubowski.

TRC investigative unit head Dumisa Ntsebeza said in a statement yesterday that the investigating panel had waited 30 minutes for Mr Basson (alias Christo Brits) and his lawyer to arrive.

"It was established that the lawyer was tied up in a different legal matter, but failed to inform the TRC that he and his client would not arrive."

Failure to respond to a subpoena is a criminal offence in terms of the Pro-

motion of National Unity and Reconciliation Act, and carries a possible sentence of either two years imprisonment or R2 000 or both.

Mr Basson, together with former CCB managing director Joe Verster, testified in closed inquiries in August last year and were warned then that they might be recalled.

Mr Verster appeared on Monday and Tuesday, while Mr Basson was due to testify yesterday.

The alleged violations they have been questioned on include

- The bombing of the Early Learning Centre in Athlone in August 1989
- The death of Mr Edward "Peaches" Gordon and his role in the CCB
- Alleged cross-border atrocities, such as the 1989 assassination of Mr Lubowski and the parcel bomb that maimed Father Michael Lapsley of the Anglican Church in Harare in 1990

Mr Basson should not be confused with Dr Wouter Basson of the former South African Defence Force's Seventh Medical Battalion, Mr Ntsebeza said - Sapa

Cops drank heavily, 'Prime Evil' tells Cradock Four panel

'Goniwe defended himself' (252)

ARG 6/3/98

JOHN YELD
ON THE TRUTH COMMISSION

Port Elizabeth – All former security policemen drank heavily and could be considered to have had a "drink problem", former Vlakplaas commander and Koevoet veteran Eugene de Kock told a Truth Commission amnesty panel today.

De Kock (nicknamed 'Prime Evil') was testifying during the amnesty application by six former Eastern Cape security policemen for murdering the "Cradock Four" activists – Matthew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauli – in June 1985 and burning their bodies.

De Kock is applying for amnesty for defeating the ends of justice by not revealing details of the murders which came to his knowledge.

He testified today that one of the six security policemen, Sakkie van Zyl, had been a colleague of his in the police's notorious Koevoet anti-insur-

gency unit in pre-independence Namibia in the early 1980s.

He said he had had a close and trustworthy relationship with Mr Van Zyl and other Koevoet members. Soon after he (De Kock) had assumed command of Vlakplaas in July 1985, Mr Van Zyl had phoned and told him that he had a "problem" with a weapon that he had used in an operation and wanted to change its ballistic characteristics.

De Kock said he had told Van Zyl that he did not have the necessary contact in the police ballistics department and suggested that he throw the weapon in the sea. "Van Zyl replied that there were only about 120 of these weapons in the country and that it belonged to a friend of his."

De Kock said during "two or three" conversations with Mr Van Zyl later that year, he had been told that Mr Van Zyl had led the operation against the Four and that he had personally abducted ("gevat") Mr Goniwe and put him in his yellow po-

lice vehicle.

"He also informed me that he had been very surprised when Goniwe had fought violently and had defended himself. During this struggle Goniwe apparently almost succeeded in taking Van Zyl's weapon from him.

"A shot went off and it pierced the roof of the police vehicle."

Last week Mr Van Zyl testified that he had used an unlicensed 22 semi-automatic rifle during the operation against the Four and confirmed that he had also used this weapon during the earlier murder of the "Pebco Three" activists. Mr Van Zyl said he had been forced to shoot Mr Mkhonto (not Mr Goniwe) when the activist had suddenly attacked him as they were driving in his vehicle to where the killing would be done.

The shooting had not been part of the police's plan, as the Four were supposed to have been stabbed to death to make the killings look like a vigilante attack by Azapo. The hearing is likely to be postponed to June

Goniwe finished off with knives, TRC told

PORT ELIZABETH: A policeman told the Truth and Reconciliation Commission (TRC) here yesterday he hit Mr Matthew Goniwe on the back of the head with a heavy steel spring before ordering black policemen to finish him off with knives

Mr Gerhardus Johannes Lotz is one of seven policemen applying to the TRC's amnesty committee for amnesty for taking part in the murder of Goniwe, Mr Fort Calata, Mr Sicele Mhlauh and Mr Sparrow Mkonto, known as the Cradock Four, in June 1985

Lotz told the committee he pulled Goniwe, who was handcuffed, out of a car and hit him on the back of the head

The Cradock Four — whom the police have said were political activists stirring up trouble in the Eastern Cape — were travelling between Port Elizabeth and Cradock when they were stopped by a police squad. The police allegedly took them to an isolated spot near Bluewater Bay outside Port Elizabeth and killed them

Lotz said the spring he used to strike weighed two to three kilograms and he wielded it with all his strength. He said the blow might have killed Goniwe, but he accepted a medical report that gave a stab wound to the heart as the cause of death

Lotz said he could not explain why the medical report made no reference to an injury on Goniwe's head

Asked by Mr Patrick Mtshaulana, for the fam-

ilies of the victims, if he had left the dirty work (finishing the men off with knives) to the black policemen, Lotz replied "I suppose you could put it that way"

Lotz denied that Goniwe put up a struggle, and said he went to his death quietly. Lotz was replying to a statement to the committee by former Vlakplaas chief Eugene de Kock, who said Goniwe put up a fierce struggle before being stabbed to death. Vlakplaas was a police hit-squad base

De Kock said he was told of the struggle by Captain Johan van Zyl, who was in command of the squad that killed the Cradock Four. De Kock has also applied for amnesty for his part in covering up the murder of Goniwe and the other three

He is also due to testify in this hearing

Lotz said earlier he had fought on the border in the former South West Africa in 1981

He was later transferred to the Eastern Cape and built up a hatred for ANC guerrillas after visiting bomb scenes, and seeing more than 120 necklace victims (people killed by burning tyres round their necks)

The other policemen applying for amnesty are Mr Nicholas Janse van Rensburg, Mr Hermanus Barend du Plessis and Mr Eric Alexander Taylor

The hearing will continue in the Centenary Hall in New Brighton, Port Elizabeth — Sapa



ET 6/3/98

What public thinks of the TRC and its effectiveness (252)

Sapa 6/3/98

Only about half of all South Africans feel the Truth and Reconciliation Commission is fair and unbiased, a recent survey has found

A mere 40% think the TRC will bring South Africans closer together, while barely 17% expect it to render people more willing to forgive

The poll, conducted by MarkData in June and July, surveyed 2 240 people

Asked whether they felt the TRC was fair and unbiased towards all political parties, 52% of respondents agreed, while 31% said the body favoured or was hostile to some parties

The percentage of those satisfied with the TRC's fairness was the highest among blacks (62%), followed by coloureds (46%), Indians (35%) and whites (18%)

About 67% of ANC and 68% of PAC supporters gave the TRC their blessing in this respect

The percentages among supporters of other parties ranged from 50 (Inkatha Freedom Party) to 33 (Democratic Party) and 24 (National Party).

"The findings suggest the TRC is perceived to be impartial by a majority, but that majority is very narrow," the researchers said

Asked if the body would bring people closer together, 27% of the sample said it would create hostility and 23% felt it would make no difference

The researchers said there was in no major category of the population a clear majority appearing to believe the TRC could achieve reconciliation - Sapa

TRC hears of the last moments of Goniwe's life

Star 6/3/98 (252)

Amnesty seeker accused of bid to make killing appear 'civilised'

By JOHN YELD
Port Elizabeth

Former security policeman Gerhardus Lotz told a Truth and Reconciliation Commission amnesty panel yesterday how he had used a heavy metal spring to beat "Cradock Four" activist Matthew Goniwe over the head.

But Lotz was then accused of lying to make the killing appear more "civilised".

Lotz, a warrant officer at the time and a veteran of the police's notorious Koevoet unit in pre-independence Namibia, demonstrated to the panel how he had hit Goniwe from behind, holding the spring - which had weighed "three-to-five kilograms at least, maybe even more" - with both hands and delivering the blow as if he had been

using an axe. He said he had hit Goniwe "as hard as I could".

He agreed with a suggestion by advocate Patric Mtshaulana, for the families of the Four, that Goniwe had "collapsed like a pack of cards".

Lotz told Judge Ronnie Pilay, head of the amnesty panel, that he had hit Goniwe hard enough to kill him, and that he had believed he was dead.

But Lotz was then presented with two postmortem reports on Goniwe, one by a state pathologist and another by an independent pathologist appointed by the family.

Both reports stated that the cause of death had been multiple stab wounds and that there had been no signs of a severe blow to the head.

Asked to explain, Lotz insisted he had hit Goniwe over

the head with the spring.

He also testified that two black security policemen who had been with him had then stabbed Goniwe several times as he lay unconscious on the ground.

Mtshaulana then suggested to Lotz that he had deliberately painted a false picture of the killing to make it appear "civilised".

"You hit him and he died peacefully. You hit him once to avoid pain."

Lotz replied "That's what happened."

Mtshaulana then told Lotz that his version of the death was "a lie" and that there had probably been a violent struggle, as former Vlakplaas commander Eugene de Kock had stated he had been told by Lotz's colleague Sakkie van Zyl.

Furious Lekota

Slams ministers

By Ido Lekota

TENSION between the National Council of Provinces and Cabinet ministers who have consistently ignored the second chamber of Parliament has reached an unprecedented level and President Nelson Mandela has been called on to intervene.

The ministers' absence has angered NCOP chairman Mr Patrick Lekota.

Yesterday Lekota lambasted ministers who, for the second time in a week, failed to attend a session at which the crucial Adjustment Appropriation Bill was to be discussed. Cabinet ministers were expected to attend to answer questions

from delegates about their requests for more money in the 1998-99 Budget.

Only Finance Minister Mr Trevor Manuel, Deputy Minister of Mineral and Energy Affairs Ms Susan Shabangu and Deputy Minister of Safety and Security Mr Joe Mathews attended.

Efforts by the African National Congress to have Manuel answer the questions on behalf of absent colleagues were rejected by opposition parties.

The debate on the Bill -- in which Manuel outlines the expected Budget deficit and areas where more money will be required -- was postponed to a date when all the ministers will attend.

Apologies tabled on the ministers' behalf by ANC chief whip in the

NCOP Mr Henry Makgothi did not please Lekota. He said the ministers had violated the Constitution.

"I can't think of a reason why Cabinet ministers should ignore an order based on the Constitution," said an angry Lekota. "The President would not direct any of the ministers to ignore the Constitution and attend to matters which are not their primary task. I find the situation completely unacceptable."

"When ministers respond and come to this House they are not doing me a favour. I have underlined the fact that Parliament is not only the National Assembly but also the NCOP."

"Each of these houses are involved in expenditure of taxpayers' money

None of us want to be part of a circus at the expense of taxpayers. This is a serious matter and it raises questions as to the extent to which we're loyal to the Constitution. I'll take up this matter with the President and report to this House."

Health Minister Dr Nkosazana Zuma, Arts, Science, Culture and Technology Minister Dr Lionel Mtshali, Telecommunications and Broadcasting Minister Mr Jay Naidoo, Environmental Affairs and Tourism Minister Dr Pallo Jordan, Correctional Services Minister Dr Sipo Mzamela, Housing Minister Sankie Mthembu, Mahanyele, Education Minister Professor Sibusiso Bengu, and Welfare Minister Ms Geraldine Fraser-Moleketi sent their apologies.

South African 6/13/98

Split over TRC, says survey

(252) *Sowetan 6/3/98*

ONLY about half of all South Africans feel the Truth and Reconciliation Commission is fair and unbiased, a recent survey has found

A mere 40 percent think the TRC will bring South Africans closer together, while barely 17 percent expect it to render people more willing to forgive

The poll conducted by MarkData in June and July last year, surveyed 2 240 people at random

Asked whether they felt the TRC was fair and unbiased towards all political parties, 52 percent of the respondents agreed, while 31 percent

said the body favoured or was hostile to some parties

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About 67 percent of African National Congress and 68 percent of Pan Africanist Congress supporters gave the TRC their blessing in this respect

The percentages among supporters of other political parties ranged from 50 (Inkatha Freedom Party), 33 (Democratic Party), and 24 (National Party)

"The findings suggest that the TRC is perceived to be impartial by a majority, but that majority is very narrow," the researchers said

Asked if the body would bring people closer together, 27 percent of the sample said it would create hostility and 23 percent felt it would make no difference. People also seemed to doubt the body would enhance a spirit of forgiveness

Among those questioned, 24 percent expected people to feel more angry and bitter, 23 percent said the TRC would cause more hurt and pain. Only 17 percent predicted people would be more forgiving - *Sapa*

TRC pondering (252) *South Africa 6/3/98* 'political motive'

By Russel Molefe

THE Truth and Reconciliation Commission is grappling to establish a political motive for the killing of eight youths in Katlehong on the East Rand in December 1993 by 13 former self-defence unit members who are seeking amnesty for the massacre.

The point in dispute between the applicants' legal representative, Advocate Lukhanyiso Madasa, and the TRC's Mr Zuko Mapoma, is whether or not the SDU members had a political motive when they killed the youths.

So far, nine former SDU members have told the amnesty hearing in Boksburg that the youths, who were all members of the ANC Youth League, were terrorising residents and had been involved in gangster-related crimes such as car hijackings and the looting of spaza shops in Moleleki.

It is believed that the killings stemmed from the conflict between the SDU and ANCYL. The killings are also believed to have been in revenge for the murder of local civic organisation members, Ms Nombulelo Zwane and Mr Blanco Jiyane.

The eight youths were abducted and taken to open veld near Moleleki section

on December 7 1993 where they were all shot dead.

Amnesty applications for Mr Malcomes Ngam and Mr Julian Ndlebe have been withdrawn.

Former SDU member Mr Langa Nkomo told the amnesty hearing yesterday that Moleleki section was initially patrolled jointly by SDU and ANCYL members to protect the community during political violence in the area at the time.

However, members of the ANCYL later separated from the SDU and started with their criminal activities, Nkomo said.

"I did not believe they were genuine ANC members. I believed they were gangsters who took ANC membership to disguise their criminal activities. According to my knowledge, an ANC member cannot harass the community where he lives."

Another former SDU member Mr Paulos Shongwe said after the youths had been shot, SDU commander Mr Ntshebe Dondolo ordered other SDU members armed with pangas to "finish them off".

An emotional moment arose when Mr Lefu Mokoena asked for forgiveness from the families of the murdered youths. Mokoena is the only applicant who has thus far asked for forgiveness.

Gay couple fight for equal rights

City council challenged

ARCA 7/3/98

(252)

ADELE BALETA

Cape Town City Council employee Johan Fourie, 50, does not want much from life. But, like most people, he does want to make sure the person he loves is well cared for.

The only difference between Johan and many other couples who are in long-term relationships is that he has for the past 18 years been sharing his life with another man.

This fact has prevented him from being able to get married and to enjoy the financial benefits that marriage can offer.

"Because we are men and cannot be legally married, we can't get benefits that married couples get," Johan says sitting next to his lover, Theunis Rautenbach, on the couch in their tastefully furnished apartment in the Gardens.

Theunis, who interrupts the interview to tape the television soap *The Bold And The Beautiful*, says "We have been together for a long time. We live like man and wife. We share expenses and have a bond that is more stable and committed than most so-called marriages."

Although Theunis, 51, has a job in the clothing industry, he cannot afford medical aid for himself.

Johan lodged a complaint with the Human Rights Commission this month to help him get the council's medical aid scheme to register Theunis as a dependent.

Similarly, he wants the council's pension fund to register his partner in the event of his death.

Their bid to end discrimination against them by the city council follows the landmark judgment that

ruled in favour of lesbian police captain, Jolande Langemaat, allowing her to register her partner Beverly-Ann Myburgh on her medical aid.

The police services medical aid, Polmed, is appealing against the Pretoria High Court's ruling, which is legally binding only within the jurisdiction of the Gauteng division of the High Court.

Johan said the judgment spurred him to take on the city council's pension fund and medical aid.

Since the two men met - while buying movie tickets in 1979 - they have been in a committed and exclusive relationship, have a joint will

'I can understand why black people still feel bitter about discrimination'

and are financially co-dependent.

Their home and their lives speak of stability and consistency. They have both held down their jobs and lived in the same apartment for over a decade. Johan said they just wanted to get on with their lives like most other people.

"I feel very bitter that we are still being discriminated against. The pension money is my money. I worked for it and should be able to decide what happens to it when I die," he said.

"I can understand why black people still feel bitter about the discrimination they experience," he said.

Neither of the men were con-

cerned about criticism of their union. "Really, we have got used to it. It used to worry me, but I don't care any more," says Theunis.

Zackie Achmat of the National Coalition for Gay and Lesbian Equality said the Polmed judgment had paved the way for lesbian and gay people to claim their rights and to get their relationships legally recognised.

He confirmed that marriages between same-sex partners were illegal in terms of the common law, but that the matter was under review by the SA Law Commission.

Faranaaz Veriava, the commission's legal and education officer, said the Human Rights Commission was challenging the council on the basis that it was unconstitutional to discriminate against the couple. The council has been asked to reply to the commission's inquiry by March 16.

Johan said that while the pension fund would pay out a lump sum to Theunis, it would not give him monthly instalments which was the case in heterosexual relationships. The fund could not be reached for comment at the time of going to press.

Although comment from the Local Authorities Medical Aid Fund was not available at the time of going to press, it has been confirmed that to register a partner as a dependent, the scheme requires a marriage contract.

Declan Brennan, executive director of the Representative Association of Medical Schemes, said that most member medical schemes demanded a marriage contract or proof of a common-law relationship. But he added that medical aids could determine whether they recognised homosexual relationships.



True love: Johan Fourie, right, wants his lover Theunis Rautenbach legally recognised and, in particular, feels that his partner should enjoy full pension and medical-aid benefits

OBED ZILU

Bid to scrap laws against consensual sex between men

ADELE BALETA

Sodomy between consenting male adults is legal in the Western Cape, but if men are caught having sex outside the province they could be arrested and even shot

And while consensual anal sex between men is legal in the province, oral sex is taboo, as is men dancing together at a party

This anomalous situation still exists in spite of the South African Constitution, which bans discrimination on the basis of sexual orienta-

tion. It also shows there is still a lot of lobbying to be done before homosexual male and females can enjoy equal rights in a country which has one of the most liberal constitutions in the world

In August last year, in a case concerning consensual sex between two prisoners, a Cape Town High Court judge ruled that the sodomy law – still on the statute books – was unconstitutional. This means that sodomy remains a schedule-1 crime outside the Western Cape, giving a private citizen the right to arrest someone he or she suspects of having committed

sodomy and even using violence if the suspect shows resistance

In November last year, the SA Human Rights Commission and the Gay and Lesbian Rights Coalition applied in the Johannesburg High Court for the total abolition of several sodomy laws. The court has not yet made a ruling

The laws being challenged are

- The common-law crime of sodomy which criminalises consensual sexual acts between men

- Schedule 1 of the Criminal Procedure Act which lists sodomy as a schedule 1 offence

- The Unnatural Sexual Act which refers to a broader category of consensual same-sex acts such as oral sex and mutual masturbation

- Section 20a of the Sexual Offences Act which criminalise "any act calculated to stimulate sexual passion or to give sexual gratification between two men at a party"

A "party" is defined as "any occasion where more than two persons are present". The lawyers also want the removal of a schedule of the Security Officers Act which prevents those convicted of sodomy from becoming security officers

Programme sees more suspects on time for trial

AR 7/13/98 (252)

An unique project launched at Mitchell's Plain Magistrate's Court is helping to restore credibility to the criminal justice system, according to officials.

It is estimated that the Pre-trial Services Demonstration Project launched in August last year has saved the State – and ultimately the taxpayer – a considerable amount of money in terms of fewer awaiting trial people being held in prison and less footwork needed from police.

The precise savings are being calculated by the Bureau of Justice Assistance, said director Michelle India Baird.

Justice Minister Dullah Omar said the Mitchell's Plain project was an "outstanding success" and once the pilot project was over, he would put a case before Cabinet to request support and funding for the programme to be implemented in courts in all the major cities.

Since its launch the project has

- Reduced the number of awaiting-trial prisoners being sent by the Mitchell's Plain courts to Pollsmoor Prison

- Led to a reduced number of suspects absconding before the start of their trial, thus decreasing the time – and money – spent by police obtaining warrants of arrest and seeking out vanished suspects

- Reduced the level of intimidation of witnesses by providing a safe environment for those vulnerable to harassment

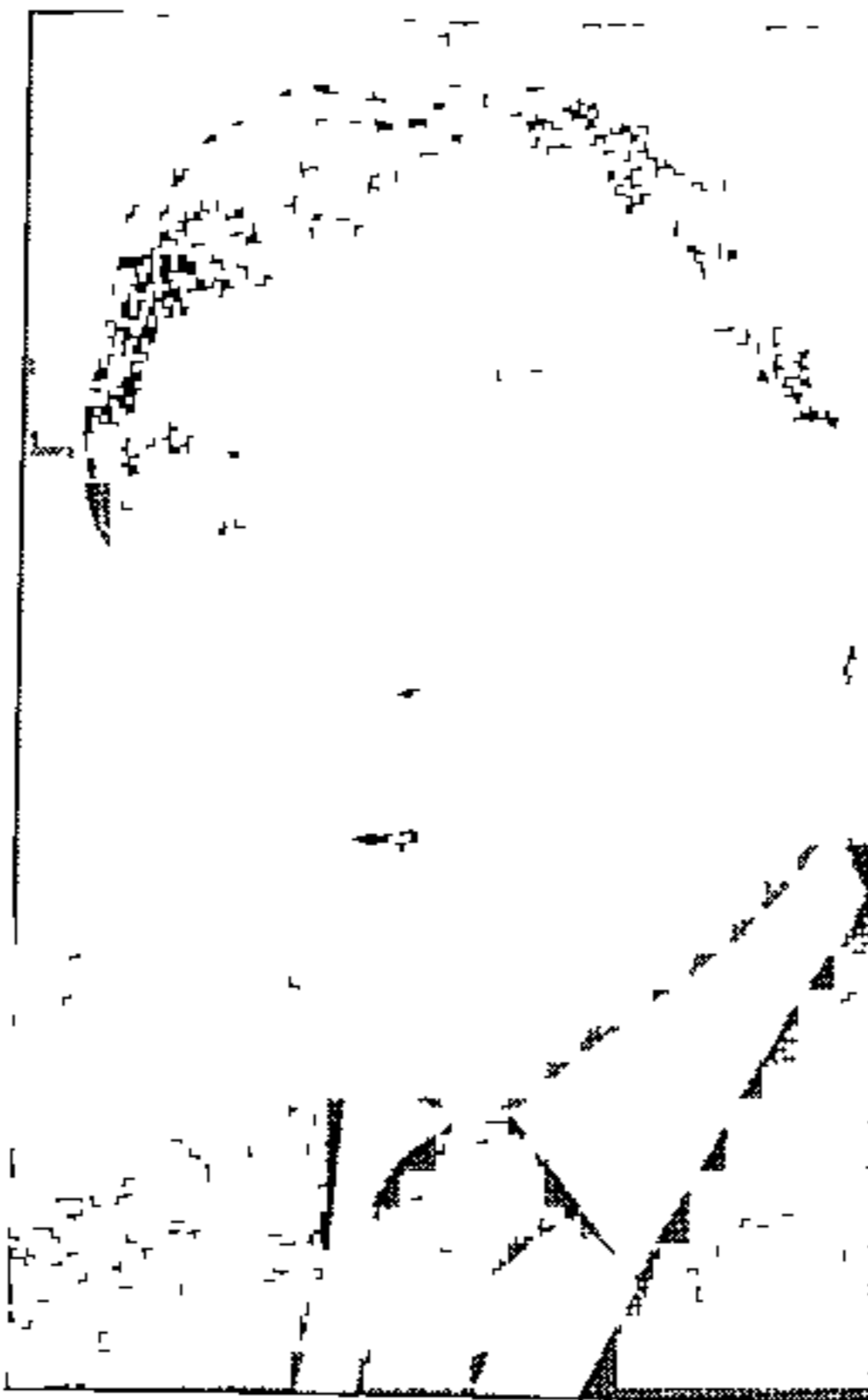
- Given community members a greater involvement in the courts, rendering it more community friendly

The project is the brainchild of the Bureau of Justice Assistance, a joint venture between the Justice Ministry and United States-based Vera Institute of Justice.

The Bureau aims to help the Government increase the efficiency of the justice system.

In the near future the Bureau, guided by a national steering committee, chaired by Mr Omar, will turn its attention to court management, the right to legal representation, community-based juvenile justice and family courts, prosecution of police and justice officials for misconduct and corruption and alternative sentencing programmes.

If successful, the Government



Dullah Omar: 'an outstanding success'

will take control after five years. At present its operations are funded by the Open Society Foundation of South Africa and an anonymous donor and the demonstrations are paid for by the Justice Department.

The Bureau is to launch one demonstration project a year for five years; the Pre-trial Services project is the first.

The troubled Mitchell's Plain Magistrate's Court – which serves one million people in an area of 45km² and is plagued by at least 15 known gangs and 200 drug dealers – was selected as the project's guinea pig.

The project was instituted at Johannesburg Magistrate's Court last November and will kick off in Durban this month.

More courts are being prepared for implementation of the project.

Research conducted by project staff prior to the Pre-trial project's implementation uncovered shocking statistics: three quarters of all awaiting trial prisoners sent to Pollsmoor Prison by the Mitchell's Plain courts had been granted bail, but could not afford to pay.

For half of these prisoners, bail amounts were less than R500 but this still proved too steep.

They were left to languish, at the State's cost, in the country's most overcrowded prison.

By the end of January the figure had dropped to 42% and this is still

waning, said Ms Baird. The statistics made the magistrates aware of the socio-economic conditions of the area they were serving, said Connie Erasmus, senior public prosecutor at Mitchell's Plain.

"The research showed that bail being set at Mitchell's Plain was too high. As a result we brought many people back to court and released them on a warning or with conditions attached, with a date on which to appear in court," he said.

Most of these suspects had been arrested for petty crimes such as assault or drunken driving. Previously, bail depended on a belief that the accused would not return to court on the trial date if released on a warning or under certain conditions, such as having to report to the police station regularly.

But since the launch of the project, more suspects have been released instead of being granted bail, Mr Erasmus said.

This has had a direct effect on the prisoner population at Pollsmoor.

Surprisingly, the number of accused who disappear before their trial date has dropped, resulting in fewer related warrants of arrest being issued.

This has freed police somewhat from time spent tracking awaiting-trial suspects.

Mr Erasmus said the disappearances had decreased because the project's team had strictly supervised bail and release conditions.

Initially aimed at analysing bail decisions at the courts, the Pre-trial Services project spread its tentacles at Mitchell's Plain to the on-going problem of witness intimidation and the lack of computerised data on first offenders being processed by the courts.

Both are being addressed at present.

The project has gone some distance in restoring credibility – in the eyes of the community – to the criminal justice system, according to Mr Erasmus.

"In Mitchell's Plain, the project is working wonderfully.

"People are more positive (in dealing with the courts)," he said.

Said Bureau director Ms Baird: "The Mitchell's Plain project has been a surprising success, primarily due to the co-operation of the community, courts and police."

Criminals have been getting off the hook by terrorising witnesses called to testify against them. A new project at the Mitchell's Plain Magistrate's Court aims to nip this in the bud. Lindsay Barnes reports

Sheltering witnesses from the wolves

Desperate to escape bloody victimisation at the hands of gangsters, the family stumbled into the new witness waiting room at Mitchell's Plain Magistrate's Court and poured out their hearts

They were shattered by threats of violence and death from gangsters living next door to them. Although they had tried valiantly to continue their daily routine, they were losing the battle

One of them, a young woman, had had a charge of rape against a notorious gang leader and since then the family had suffered intimidation at the hands of his gang members. The woman was determined to follow through with her courageous attempt at winning justice, but her family was paying dearly

The gangsters allegedly shot her brother in the stomach and physically assaulted other family members, making it clear their lives were at stake if she testified against her rapist

Close to breaking point, the family finally confided their ordeal to volunteers at the Mitchell's Plain Magistrate's Court witness waiting room, who swung into action

The investigating officer was informed of the victimisation and two people were arrested and charged with intimidation. The family was taken to trained therapists at Lenegaur day hospital where they were counselled. A short while later workers at the National Institute for Crime Prevention and Reintegration of Offenders (Nicro) found alternative accommodation and relocated the family for good

Using the secure witness waiting room as a safe haven during her trial, the woman was able to testify against her rapist and was successful in getting a conviction. A case of attempted murder has been opened for the shooting of her brother. The gangsters charged with intimidation were tried and convicted

While this case illustrates a more extreme form of victimisation at the hands of gangsters, it is by no means



Safe haven: in the witness waiting room are Nicro social worker Nadeema Isaacs, volunteer comforters Elizabeth Prins and Delores Alberts, supervision officer Kevin Daniels and project planner Alethea Percival

unusual at the court

It is difficult to quantify how many cases have been dropped because State witnesses – as a result of intimidation – failed to appear. In any area where gangsterism is rife, witness intimidation – in and outside of courts – occurs regularly. The denial

of bail to an accused has little effect in preventing intimidation as other gang members may make threats on his behalf

Six months ago, these circumstances began to change at Mitchell's Plain Magistrate's Court with the implementation of the Pre-trial Ser-

vice Demonstration pilot project, run by the Bureau for Justice Assistance

The aim initially was to help magistrates make better-informed bail decisions, but, of necessity, the project had extended to improving the general efficiency of the courts, said

Bureau for Justice Assistance director, Michelle India Baird. A spin-off is the witness waiting room, a secure area into which up to 40 State witnesses, who appear in all seven courts, are ushered every morning to reduce the chance of intimidation. Previously, witnesses and sus-

pects on bail crammed into the same narrow corridors outside the courts, waiting for their cases to be heard. It was not uncommon for witnesses being threatened and then leaving the building without testifying.

The spacious, colourful waiting room contrasts with the bleak build-

ing. It is equipped with comfortable chairs, a television, a cubicle where the social worker supplied by Nicro counsels traumatised people, and offers welcoming cups of tea and coffee. Five local residents have volunteered to run the service and act as comforters, listen to witnesses' fears and answer their questions about court proceedings.

They are armed with pamphlets on the rights of State witnesses and the right to bail. One of the volunteers, Elizabeth Prins, said her commitment to the project stemmed from a deep caring for her community. "We are here to make witnesses feel relaxed."

The witness in one of the first cases of intimidation she dealt with had phoned that day to thank her after getting a conviction in the case. The volunteers chat to the witnesses and may refer them to Nicro social worker Nadeema Isaacs, who is based at the waiting room, or to other professionals for help. The volunteers may not hear the facts of a case and they dissuade witnesses from discussing them.

They acknowledge that some witnesses decline to use the room, for reasons unknown to the staff. If witnesses are too intimidated to leave their homes, the waiting room staff arrange to have them escorted to the courts. It is usually in high-profile cases involving gangs that the worst victimisation takes place.

Since the inception of the new room, levels of intimidation have dropped considerably at the court, according to supervision officer Kevin Daniels.

An indication of this is that the number of cases of intimidation heard in the court have declined from an average of three to four a day to the same number a week.

"We nip intimidation in the bud immediately. We ask the people accused of intimidating witnesses to refrain and if they persist, we arrest them," Mr Daniels said.

Contact the witness waiting room at 324-155 extension 274

AR 7/3/98

(252)

HANNES THIBART

**MK officers
to testify to
TRC on camp
'atrocities'**

(252)

SAW 7/3/98

Three former Umkhonto weSizwe commanders have been summoned to testify at a closed Truth and Reconciliation Commission inquiry in Cape Town on March 26 and March 30 into alleged atrocities at ANC camps in exile.

TRC investigative unit head Dumisa Ntsebeza yesterday said generals Andrew Masondo and John Zulu of the SA National Defence Force and Gabriel Mthembu of the National Intelligence Agency had been "invited" to appear. They could be prosecuted if they failed to attend without sufficient cause.

The men would be required to answer questions or give evidence on alleged violations in detention camps in Angola. Issues to be raised included the death in detention of at least six people, including Timothy Seremane, the brother of chief land claims commissioner Joe Seremane.

Ntsebeza said the TRC had received several human rights violation statements from alleged victims of ANC detention facilities. They were being investigated.

Several amnesty applications had been received from people involved in violations in detention camps, such as Quatro camp, he said - Sapa

Maseru raid: TRC probing Fivaz role

Jailed informers tell the TRC of his alleged involvement in apartheid raids

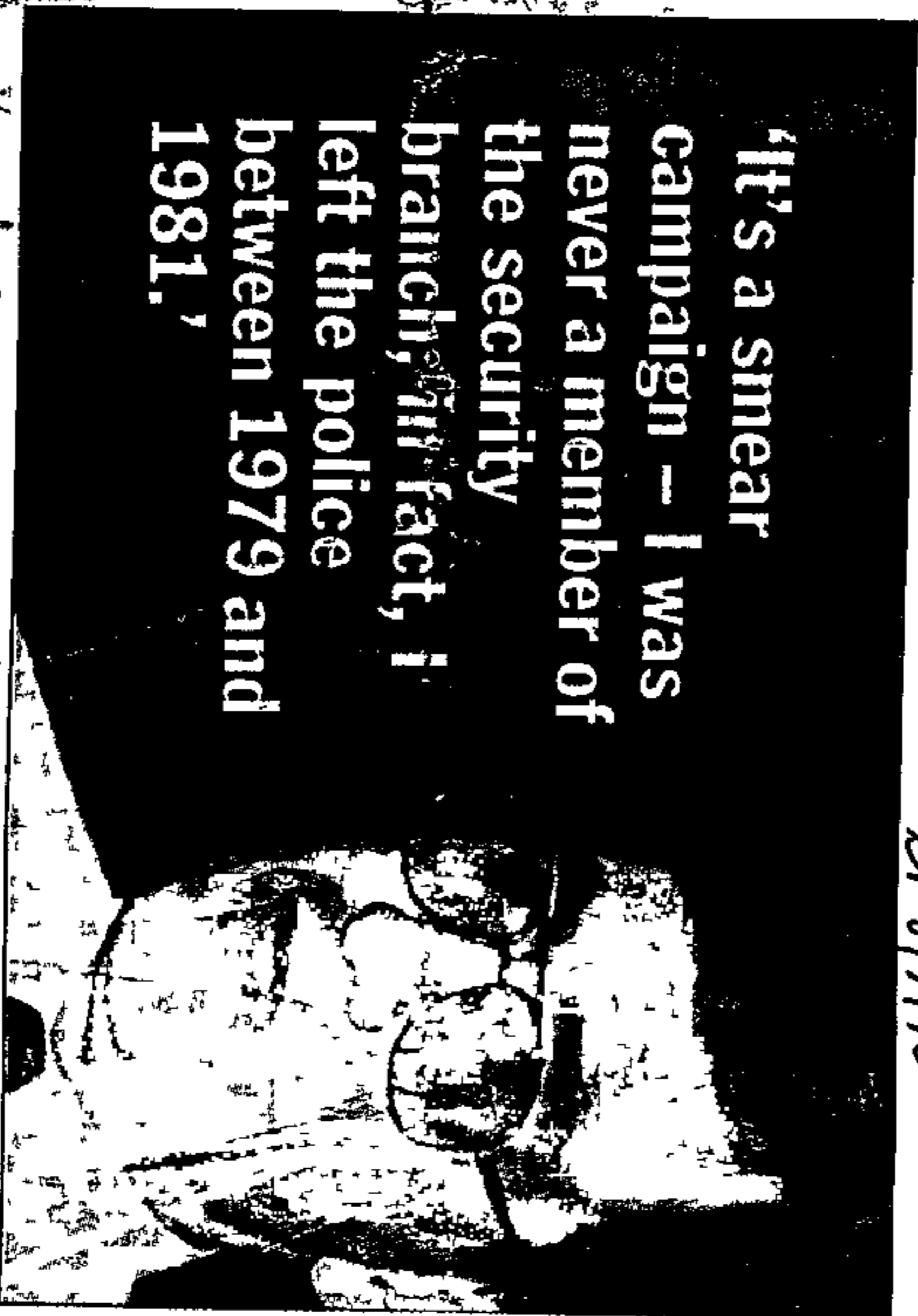
BY JIMMY SEEPE

POLICE Commissioner George Fivaz has been named to Truth and Reconciliation investigators as being involved in raids into Lesotho against the ANC and killings in the Free State in the 1980s. These included the SADF raid into Lesotho in 1982, when 42 people were killed and efforts were made to kill MK leader Chris Hani and his wife Lumpho.

The accusations have come from former security police informers being interviewed by the TRC who had passed on information about ANC activities in Lesotho to the apartheid police. Yesterday Fivaz described these allegations as "utter rubbish".

He said he had never been a member of the security branch and that he had left the police between 1979 and 1981 to work for Fedhasa, the hotel association. "When I returned to the police I was stationed in Pretoria - where I have been ever since - and where my job was in the Inspectorate, checking on the police stations' structures," said Fivaz.

'It's a smear campaign - I was never a member of the security branch, in fact, I left the police between 1979 and 1981.'



DENIES ALLEGATIONS... Police Commissioner George Fivaz says 'it's utter rubbish'

"I served in the Free State, where I was born, in my early years in the police force as a uniformed policeman and a detective." He said he was aware of the TRC probe and welcomed it, suspecting the allegations were being spread by people trying to smear his name. Mpumalanga Premier Matthews Phosa, who is also head of the ANC legal department, told City Press he was aware of the al-

legations but was not prepared to comment on the matter. He said the TRC should be left to continue their investigations uninterrupted. The TRC, in keeping with its policy of not commenting on names during investigations, would not say whether Fivaz was being investigated. TRC spokesperson Christelle Terblanche however admitted to City Press that the

information supplied to the SADF for the raid was very poor, and few ANC cadres were eliminated. Instead, the soldiers massacred civilians, including women and children. The SADF's reason for the attack was that the ANC's Lesotho command was responsible for several acts of sabotage in various centres from Cape Town to the Transkei. No one has applied to the TRC for amnesty for this massacre.

CP 8/3/98

(252)

Maseru raid = TRC probing Fivaz role

*Failed informers
tell the TRC
of his alleged
involvement in
apartheid raids*

By JIMMY SEEPE

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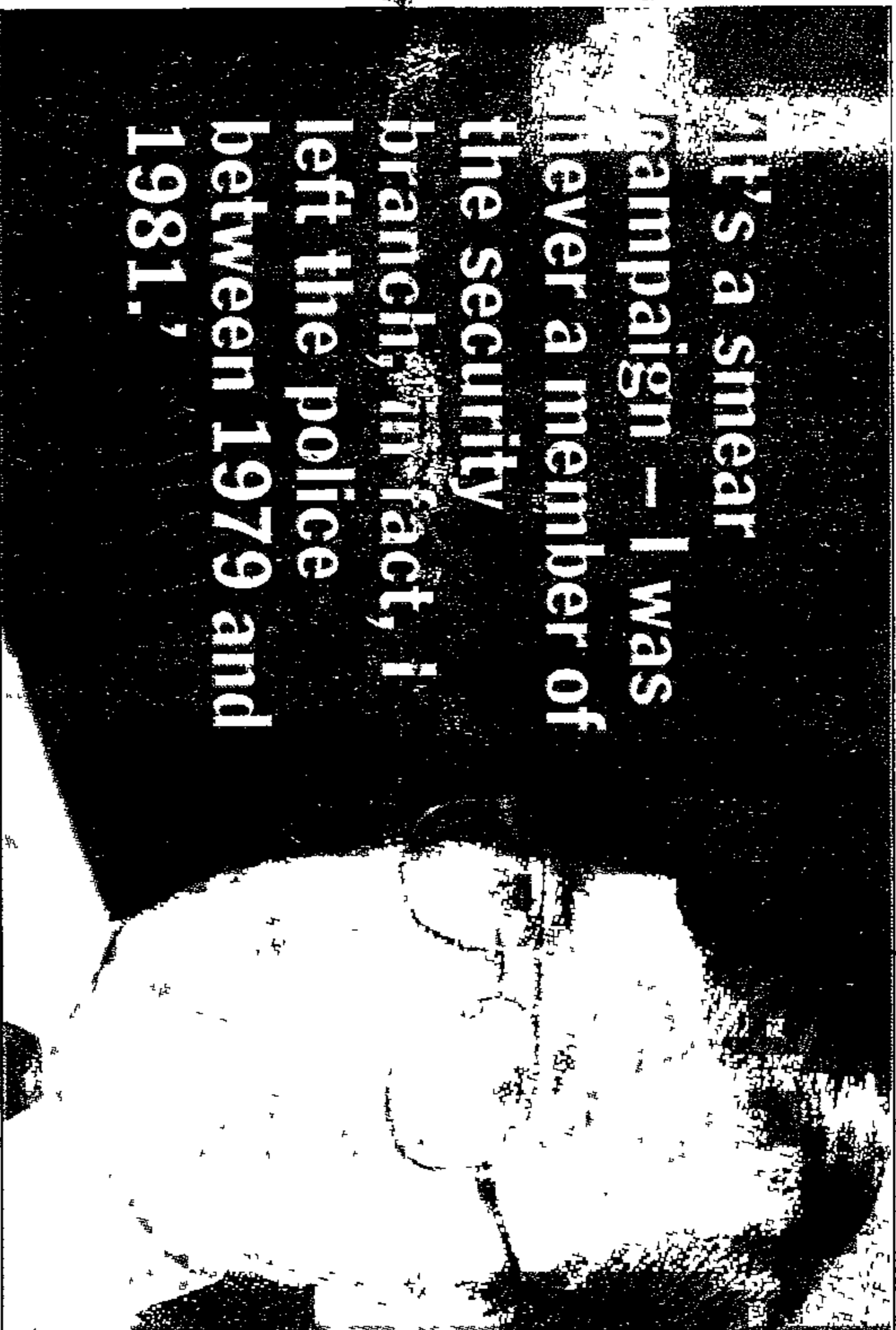
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TRC was probing several deaths which occurred around South Africa's borders, including those of Lesotho in the 1980s

Terblanche said the TRC was obliged to inform a person of any allegations made against him or her three weeks prior to the sitting

City Press learned that three of the former police informers who made statements to the TRC regarding Fivaz are serving prison sentences in the Grootvlei Prison in Bloemfontein

One of them is a former gang leader known as Tamath, who is about to be released

He has declined to apply for amnesty for some of the atrocities he is alleged to have committed in the 1980s

Nothing has yet come before the TRC about the Maseru raid in December 1982 in which many innocent civilians, including women and children, were massacred

The information supplied to the SADF for the raid

CP 8/13/198

(252)

The order to kill Webster 'came from very high up'

Stephané Bothma

PRETORIA — A former close friend of Civil Co-operation Bureau operative Ferdi Barnard was made to believe that the order to kill Wits university lecturer David Webster had come from ministerial level, the High Court was told on Friday

State witness Chris Ras testified in the murder and fraud trial of Barnard that the former covert agent had on several occasions admitted that he had assassinated Webster on May 1 1989.

Barnard has pleaded not guilty to all 34 charges against him, including the murder of Webster and the attempted murder of Justice Minister Dullah Omar.

"Orders to shoot the activist came from very high up, Barnard told me and I understood that they were from ministerial level. On several occasions Barnard had to go to Pretoria for meetings with high-ranking security personnel," Ras told Judge Johan Els.

He said that, in the circles in which they moved, it was a "big joke" that Barnard had killed Webster. "Barnard often referred to himself as Freddie Webster and many of his friends called him that. He loved it when they called him that."

At one stage, Barnard had taken out a shotgun and fired a shot at the showroom window of a Rivonia BMW garage, shattering the glass. "That is how Webster went," Barnard allegedly told Ras.

Ras said that at one stage of their friendship, which started in 1993, he and Barnard had used about R10 000 worth of cocaine a day. On some days they would make up to seven trips to their cocaine dealer.

He said he kept telling Barnard not to give him details of the crimes Barnard had allegedly committed. "I told him it was before my time and that I did not want to get involved or get into the firing line"

Despite this, Barnard repeatedly told him about Webster's assassination and how Webster had died

Barnard also confessed to the killing of Mark Frances, a friend who was allegedly beaten to death with a baseball bat after making an incriminating statement against Barnard, Ras said. He said his friendship with Barnard went sour after he realised that Barnard only used him.

Barnard's trial continues today with testimony from Rich Verster, another former operative from military intelligence.

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Fivaz favours TRC probe after claims

ARGUS CORRESPONDENT

Johannesburg - National Police Commissioner George Fivaz has come out in favour of a "transparent" Truth and Reconciliation probe into his alleged involvement in cross-border raids in the 1980s.

This came hot on the heels of weekend reports linking Commissioner Fivaz to the 1982 Lesotho raid, which left 42 people dead, and the Free State killings of the 1980s.

City Press yesterday reported that former security informers being interviewed by the TRC had implicated Commissioner Fivaz in "several deaths" around South Africa's borders in the 1980s, and efforts to kill former South African Communist Party leader Chris Hanu and his wife, Lumpho.

Commissioner Fivaz rejected the allegations as "utterly untrue and highly optimistic".

"These allegations are as ridiculous as those made recently in which I supposedly tortured and assaulted suspects in custody in the late 1970s and early 1980s - when in fact I was not in the South African Police (SAP) at the time," said Commissioner Fivaz.

He added that, at the time of the Lesotho raid, he was based at the SAP Inspectorate in Pretoria.



Implicated: George Fivaz

He described the prominence given to the allegations as "clearly calculated to harm the credibility of the national commissioner of the SAPS".

Commissioner Fivaz said he was confident that an "incisive and transparent" probe by the TRC would fully exonerate him as he had never been involved in any form of human rights abuse.

TRC investigation head Dumisa Ntsebeza said he would issue a statement on the issue today after he had received a full briefing.

TRC to probe 'atrocities' in ANC camps

ARGUS CORRESPONDENT AND SAPA

Johannesburg - The first official investigation of human rights abuses in the African National Congress's detention camps in other countries will take place later this month when three former Umkhonto we Sizwe commanders face the Truth and Reconciliation Commission.

The three, who are now high-ranking officers in the army and intelligence services, will be questioned about alleged atrocities committed in the '70s and '80s in ANC detention camps in Angola.

TRC investigations head Dumisa Ntsebeza announced at the weekend that Andrew Masondo and another senior South African National Defence Force member, John Zulu, and Gabriel Mthembu of the National Intelligence Agency had been asked to attend an inquiry behind closed doors on March 26 and 30 in the TRC's Cape Town offices.

Mr Ntsebeza said the three would be required in terms of the Promotion of National Unity and Reconciliation Act to answer questions and give evidence about the investigation unit's continuing look into the alleged violations.

Braai, then PE trio beaten to death

Ex-Askari's tale of horror

Port Elizabeth - Brutal interrogation sessions by the former security police always began with a braai, former Askari and self-confessed murderer Joe Mamasela told the Truth Commission today.

He was testifying at the hearing of amnesty applications by seven former security policemen and an Askari for the murder in 1985 of Port Elizabeth Black Civic Organisation (Pebco) leaders Siphon Hashe, Champion Galele and Qaqawuli Godolozu.

The policemen are Hermanus du Plessis, Gerhardus Lotz, Harold Snyman, Johan "Sakkie" van Zyl, Gideon Nieuwoudt, Gerhardus Beeslaar and Johannes Koole and the Askari is Kimpani Peter Mogoai.

Mr Mamasela told the hearing the activists had been lured to the Port Elizabeth airport by the security police on the pretext that a British diplomat wanted to meet them, and then abducted.

They were driven to the disused

YELD

ON THE TRUTH COMMISSION

police station at Post Chalmers near Cradock, handcuffed by the legs and kept in a shed overnight. About 7:30am the following day, a big group of Eastern Cape security policemen arrived, bringing food with them, Mr Mamasela said.

"I was ordered to make a fire for braarvleis and I knew the interrogation was going to begin because our interrogations always started with a big braarvleis."

Mr Mamasela then gave details of assaults on Mr Hashe and Mr Galele. He said the first blows had been delivered by then Lieutenant Nieuwoudt after Mr Hashe had told him that the African National Congress stood for a non-racial

democracy, and that "the heavens didn't fall in" when black police were driven from the townships.

"This seemed to infuriate Nieuwoudt and he grabbed an iron pipe and beat the old man several times on his head," Mr Mamasela said. The other policemen joined in, and Mr Hashe was kicked, punched and beaten with sticks.

Mr Hashe was also throttled and sat on so that he couldn't breathe and eventually appeared dead. Mr Galele was assaulted in a similar way, Mr Mamasela said.

In addition, Mr Beeslaar squeezed his testicles and hit them so hard the colour of Mr Galele's face changed and yellow liquid came from his genitals.

Mr Godolozu was spared overnight after telling the policemen that he worked for the National Intelligence Agency and was locked into the shed with the corpses of Mr Hashe and Mr Galele. Mr Godolozu was assaulted the following day until he died.

The hearing is continuing.

ART 9/3/98

(252)

Queue of opposition private members' bills growing

CLIVE SAWYER

THE queue of opposition MPs seeking to put private members' legislation to Parliament is growing

While most laws come from the cabinet, there is a long-standing practice that allows individual members to try to get their own bills approved

The National Assembly and National Council of Provinces each have special committees which act as gatekeepers to decide which private members' bills to let through into the parliamentary process

Both are chaired by opposition MPs — Mr Piet Matthee of the National Party in the Assembly, and Mr Errol Moorcroft of the Democratic Party in the NCOP

The rules say private members' bills may not be put to Parliament if they are frivolous, vexatious or duplicate legislation already initiated by the executive

Post-1994 South Africa is still developing its own conventions about private members' bills, but naturally politics plays a key role, with the majority party unlikely to be willing to be seen to be conceding the initiative to minori-

ty parties

The pile of bills being considered by the portfolio committee on private members' legislation has a varied life expectancy, with some running boldly in the face of government ideology

Three come from Inkatha Freedom Party members, one from an African Christian Democratic Party MP, another from a Democratic Party MP, and one from the Pan Africanist Congress

Waiting in the parliamentary wings to be introduced is DP MP Douglas Gibson's South African Police Service Amendment Bill, which proposes allowing voluntary national service in the police

A bill put forward by the IFP's Mr Peter Smith seeks to change the wording of the Constitution to allow Parliament to pass a law bringing back the death penalty

Also flying in the face of the ANC's constitutional stance is a bill proposed by Inkatha's Mr Velaphi Ndlovu to change the Constitution to give provinces powers over policing similar to those held by provinces in relation to other matters

ET 9/3/98 (252)

row

(207)
ACT 9/2/98

A ROW is brewing in the Roman Catholic Church after a Cape Town Catholic bishop's call for the church "not to reject" gay couples. JUDITH SOAL reports.



The reaction from church circles is expected to be so heated that the *Southern Cross* is to publish an editorial next week "clarifying" the story "The bishop has pointed out that he said the church should not oppose the legal recognition of same-sex unions. The use of the word "accept" must be understood in this context," the editorial states.

Father Smangaliso Mkhathswa, a Catholic priest and the Deputy Minister of Education, said the issue was causing debate not only in the church, but also in the ANC. "A lot of people, Africans and religious people in particular, will be totally opposed to legalising these unions, but there is a sophisticated difference between recognising a union legally and accepting it as a marriage."

"The church will never accept same-sex marriages, it is totally contrary to our teaching, but that is not the same as opposing the legalisation of the union of two people who love each other. I believe we have to remove laws that discriminate against people."

City priest Father Andrew Borello said the article was bound to cause quite a stir. "It's only just hit the holy fan now, so to speak, and there will be a lot of waves. Some people will love it, some will hate it, but there won't be much indifference."

City opera chief Professor Angelo Gobatto, a gay practising Catholic, applauded Cawcutt's call.

'The (Catholic) church will never accept same-sex marriages ...'

how long the relationship might have lasted."

But the vice-president of the SACBC, Archbishop Wilfred Napier, questioned this. "He (Cawcutt) talks about incredible discrimination against gay people, but I don't know to what extent that is true. I doubt that it happens often."

Napier said the Bible was very clear on the question of marriage.

"The official teaching of the church is that marriage can only take place between a man and a woman. I'm worried that the bishop seems to be so concerned about material matters such as pensions and possessions, but doesn't deal with the moral question."

"As a church, we have to ask ourselves whether we are trying to build society or break it down. If we want to build it, we have to maintain standards, and those standards are set by the Bible's teaching."

He also criticised the *Southern Cross* for giving the article such prominence. "This kind of story causes confusion rather than building faith. I don't think that sensationalising a story such as this is the proper function of a newspaper serving the church."

A CATHOLIC bishop has criticised the church for its "outrageous" discrimination against homosexuals, raising waves in circles not known for their broadmindedness.

Bishop Reginald Cawcutt, the assistant bishop of Cape Town, has called on the SA Catholic Bishops' Conference (SACBC) not to oppose expected legislation to legalise gay marriages. His call was published on the front page of yesterday's *Southern Cross*, the Catholic church's weekly newspaper.

"Gay people endure outrageous discrimination from both the church and the state. They are despised and indeed regarded as some lower form of humanity," Cawcutt said.

He said there were many painful implications of living in a union that was not legally recognised.

"Pension funds, insurance, ownership of property, commercial concessions, visiting rights in hospitals, plus many other benefits that marriage partners enjoy (are denied to gay couples)."

"One of the cruellest things I have seen concerns what happens after a gay or lesbian partner dies. The (official) next-of-kin can overrule the wishes of the deceased, bringing incredible sadness and distress to the partner, no matter

"Any official sanction against relationships could lead to promiscuity. Once the church recognises that there is virtue in loving, caring partnerships, people will place more value on that themselves. "I believe that individual people have to sort out these matters in their own conscience — much in the same way that married Catholics have to deal with doctrinal prescriptions on birth control. "I don't think it would be healthy for the church to suddenly say they've been wrong all these years. That would be confusing. But the bishop's call is more in line with the teaching of Christ, which calls for compassion and says you must not judge your fellow beings." Mr Steven Andrew, a gay Catholic, was somewhat bemused by the row. "At one level what the church says is quite irrelevant because it is so out of touch, but whenever it speak out against gay people it legitimises the hatred and lack of compassion that is such a general feature in our culture." Father Emil Blaser, the media officer for the SACBC, said he expected the bishops to take their customary cautious stance on any future legislation. "Ultimately, they will take an orthodox line. Anything less would be seen as supporting something immoral."

He said Cawcutt's call was in line with the church's "New Catechism", which stresses compassion and sensitivity above censure. "The New Catechism teaches that gay people be treated as full members of the church, deserving of dignity and respect, and that nothing should be done to exclude them."

(SAC Den)

'IT'S HIT THE HOLY FAN'

Catholics in gay rights

Fivaz calls for full TRC probe into allegations

Star 9/3/98 (252)
BY KOLISA VAPI

National Police Commissioner George Fivaz has come out fearlessly in favour of a "transparent" Truth and Reconciliation probe into his alleged involvement in cross-border raids in the 1980s, saying it was in the public interest.

This came hot on the heels of weekend reports linking Fivaz to the 1982 Lesotho raid, which left 42 people dead, and the Free State killings of the 1980s.

City Press reported yesterday that former security informers being interviewed by the TRC had implicated Fivaz as being involved in "several deaths" around South Africa's borders in the 1980s, including desperate efforts to kill former South African Communist Party leader Chris Hani and his wife Limpho.

Fivaz reacted to the allegations.

"These allegations are as ridiculous as those made recently in which I supposedly tortured and assaulted suspects in custody in the late 70s and early 80s - when in fact I had left the SAP for a period before rejoining," Fivaz said.

He added that, at the time of the Lesotho raid, he was based at the SAP inspectorate in Pretoria.

He described the prominence given to the allegations as "clearly calculated to harm the credibility of the national commissioner of the SAPS"

Fivaz expressed confidence that an "incisive and transparent" probe by the TRC would fully exonerate him because he had never been involved in any form of human rights abuses.

Meanwhile, TRC investigations head Dumisa Ntsebeza said he would issue a statement on the issue today after he had received a full briefing from his investigators.

By SIMON ZWANE

Numerous accounts of so-called political murders committed in the name of the struggle for or against apartheid have been played out over the past year-and-a-half in front of the amnesty committee of the Truth and Reconciliation Committee

Although it is common knowledge that in the same struggle many people lost their lives at the hands of their own comrades, perpetrators have so far not come forward to claim responsibility for these deeds.

From Bhambaya in KwaZulu Natal to Katilehong on the East Rand and even to Welkom in the Free State, fellow comrades have at some stage drawn guns and spilled each other's blood to solve their political differences

Denials in case of SDUs a headache for amnesty

(A.P.R.)

Very often politicians have attempted to camouflage the real facts surrounding such conflicts by blaming their political opponents, agent provocateurs or a third force. In many cases a conspiracy of silence has also been enforced to ensure that the truth never comes out.

From the NP to the ANC to the IFP the response to intra-party conflict has always been the same: Point a finger at the other side, not at yourself.

However, this pattern took a turn in Boksburg this week when 15 ANC-aligned self-defence unit members came forward to publicly admit killing members of their organisa-

tion's youth league during the violence which wrecked Moleleki informal settlement in Katilehong in December 1993.

In their applications, the SDU members tried to justify their actions by claiming that league members had become "loose cannons" and were terrorising the community, looting, killing and causing general mayhem.

However, the case has proved a major headache for committee members as most facts are in dispute and very little is accepted as common cause.

The matter is further complicated by lack of sufficient detail in the application submitted by the SDU members

Although it is accepted that there was conflict between the SDU and the youth league in the area at the time and that about 11 people were killed as a result of that conflict, everything else is contested

SDU members have sought to convince the committee that the killing of a respected local civic leader Bulelwa Zwane as well as the murder of Blanco Jiyane, a senior SDU member, sparked the war between themselves and the youth

This apparently led to the abduction of eight youths and one adult, Alfred Buthelezi, who were then executed in a veld near the township out of

revenge for the earlier killings. Youth League members are prepared to admit killing Jiyane, but dispute allegations that they were involved in Zwane's murder

As far as they are concerned, SDU members murdered Zwane because she did not go along with their criminal activities

The SDUs then allegedly abducted and later killed 14-year-old Thokoza Buthelezi, together with other league members, apparently because he had witnessed Zwane's killing

His father, Alfred, was executed together with the eight youths because he had the temerity to demand that the

SDU should release his son Mthembu's wife, Julia, was also shot and killed at her house as SDU members feared that her son might have informed her about Zwane's murder

SDU members have disputed this and claimed that Buthelezi was a member of the IFP and had organised a rival SDU to try and wrestle territorial control of the settlement from them

They rejected as unsubstantiated allegations implicating their fellow member and amnesty applicant Oscar Motlokwa in Zwane's murder

Motlokwa has given two

conflicting accounts of where he was on the day of Zwane's murder

Initially, he said he had been asleep at his house when other SDU members woke him up to inform him about the incident. Later he changed this and said he was in prison when the incident took place.

This case illustrated clearly the difficulties faced by many forgotten heroes who are currently languishing in prisons

Because their political masters have dumped them, many of these soldiers are not afforded legal assistance in making their amnesty applications.

They have to rely on their non-existent understanding of legalese to fill in their application forms and often this resulted in the supply of insufficient and even inaccurate details.

The current dispute between the TRC and the PAC has arisen because of similar facts

More than a hundred PAC members are facing the prospect of having their applications withdrawn because they have provided inadequate information about the offence for which they seek amnesty

What's worse about their case is that they do not even provide their real names.

They have supplied the commission with code names by which they were known during the armed struggle.

Committee
Row 9/3/98

Pebco victims 'agreed to co-operate'

B0 10/9/98

(258)

PORT ELIZABETH — Two members of the so-called Pebco Three agreed to co-operate with security police in a vain attempt to save their lives during brutal interrogation, the truth commission's amnesty committee heard yesterday.

Former Vlakplaas police hit-squad member Joe Mamasela revealed the fate of the three members of the Port Elizabeth Black Civics Organisation who disappeared in 1985.

What became of Siphso Hashe, Champion Galela and Gagawuli Godolozzi had been a mystery until April last year, when Mamasela confessed to being part of a squad of policemen that killed the three.

Testifying at the hearing in Port Elizabeth on Friday, Mamasela de-

scribed how Hashe, after being severely beaten, offered to take police to his sister's home where some AK-47 rifles were hidden.

Mamasela said he gained the impression Hashe was making up the story in order to save his own life. His efforts proved futile because according to Mamasela, W/O Johannes Koole jumped onto Hashe's chest and strangled him.

Godolozzi, the second to be interrogated, tried to tell his captors that he worked for National Intelligence Services (NIS). Mamasela said he believed this was also a ruse by Godolozzi to save his own life.

According to Mamasela, they then questioned Galela. He was subjected to prolonged assault by being kicked,

punched and struck with a stick and a steel pipe. Mamasela said at one stage W/O Gert Beeslaar squeezed Galela's testicles "until they were the size of golf balls", and then punched them with his fist.

"This was the most brutal thing I've ever witnessed. It was a dehumanising experience," he said. Mamasela said Galela later died from his injuries.

Mamasela said Godolozzi, who had been spared, was forced to sleep beside his dead comrades' bodies.

He said the next morning a man who wore a smart suit and looked like a gentleman arrived at the place. He was apparently from NIS and said Godolozzi had provided no useful information. Godolozzi was then also beaten to death. The applicants for amnesty in con-

nection with the Pebco Three murders are former Port Elizabeth security policemen Col Gideon Nieuwoudt, Gehardus Lotz, Col Herman du Plessis, Capt Sakkie van Zyl and Col Harold Snyman, Beeslaar, Koole and askari Peter Mogoai.

Mamasela described how he and a group of policemen abducted the three at Port Elizabeth airport. He said they were driven to a derelict police station near Craddock. "A braarivels was then started."

He described how the three were brought out one at a time and then assaulted with a steel pipe and sticks. He said they were systematically beaten to death while the policemen had drinks and ate from the braarivels. The hearing continues — Sapa

Security force informers told to steal cars

BD 10/3/98 (252)

Stephané Bothma

PRETORIA — Military intelligence (MI) informers and co-workers who needed vehicles were told to steal them because the defence force could not afford to provide transport for all of them, the high court heard yesterday.

A key state witness in the Ferdi Barnard murder and fraud trial testified that MI also used stolen vehicles recovered by the police for operations, and gave them to informers.

Rich Verster, who worked for the SA Defence Force's intelligence section, said he gave one of these "hot cars", a Mercedes-Benz, to Barnard to "get rid of" after Barnard was recruited to MI in 1991. "The Mercedes had been

stolen by a special forces member for use in a specific operation," said Verster, who was Barnard's MI handler.

"If Barnard reregistered this vehicle and sold it, he would have given half of the money he made back to MI." The money would have been paid into a secret account to be used for informers or other expenses.

Verster said he recruited Barnard to MI in 1991 after the Civil Co-operation Bureau, a clandestine military unit, was closed down. "Barnard had a valuable network of informers which was of importance to MI."

He said on several occasions Barnard admitted that he had "pinched" Wits university lecturer David Webster, a term that meant he

had killed him. "I was not shocked about the admission Webster's death to me at the time was acceptable."

Asked what the task of MI and the Directorate of Civil Co-operation — another covert military section — was, Verster said it was to gain information on organisations such as the African National Congress, the Pan Africanist Congress and the Afrikaner Weerstandsbeweging.

Verster, who has spent the past year in a UK prison for a drug-related case, said Barnard continued working for MI after he was officially fired in 1991 when a newspaper implicated him in the illegal possession of an Uzi submachine gun.

The trial continues today.

MK killed operatives for slightest mistake, says Joe Mamasela

(257) ARG 10/3/98
'I was sold out to the Boers by ANC'

JOHN YELD
ON THE TRUTH COMMISSION

Port Elizabeth - Former askari and self-confessed murderer Joe Mamasela told a Truth Commission amnesty hearing today that the African National Congress had killed its operatives if it suspected "even the slightest mistake".

Mr Mamasela, a turned ANC guerrilla, also accused the ANC of having murdered his brother in 1981

He said his brother had been "the first official necklace victim of the ANC in Botswana", and said his ANC internal handler "sold me out to the Boers on a silver platter"

His allegations came during a highly confrontational cross-examination by lawyers for some of the seven former security policemen and an askari seeking amnesty for murdering three Port Elizabeth Black Civic Organisation (Pebco) activists - Siphon Hashe, Champion Galela and Qaqawuli Godolozzi - in May 1985

Yesterday Mr Mamasela, who was subpoenaed to appear, provided grim details of vicious assaults on the three activists and of how each had been beaten to death

His version is denied by the white amnesty applicants, but confirmed to a degree by the two black applicants, former security policeman Johannes Koole and askari Kumpani Peter Mogai

Last year the white applicants testified that the activists had not been assaulted while being held at the disused police station at Post Chalmers near Cradock after being abducted from Port Elizabeth airport

They said they had been given coffee laced with sleeping draughts and killed by single shots in the head while asleep

Yesterday Mr Mamasela told the hearing that Warrant Officer Koole took such an active part in the assault on the "Pebco Three" that he was covered in blood and looked like an assault victim himself

Mr Mamasela said all three activists died after being viciously beaten for several hours



LEWIS MILLER

Evidence: former askari Joe Mamasela addresses a TRC amnesty hearing in Port Elizabeth yesterday

Today Mr Mamasela responded aggressively to questions during the cross-examination and was loudly applauded by an excited audience of about 200 people

At one point he said he was supported by "his people" and asked those in the audience to stand up to demonstrate such support

One woman in the front row stood up and others clapped before Mr Mamasela was called to order by the chairman of the amnesty panel, Judge Bernard Ngoepe

Mr Mamasela was also asked by Judge Ngoepe to withdraw his description of advo-

cate Roelof du Plessis, for Mr Koole, as an "unscrupulous" lawyer who made his money defending the former police.

Mr Mamasela testified that he had been an ANC operative, but had become disillusioned with some members of the organisation after being "sold out" in 1979

"I convinced myself I would have nothing to do with black or white politicians - they were the same"

He said he had been captured and viciously tortured by police and had eventually joined the security police at Vlakplaas under duress

"No victim can ever forget torture at the hands of the police

"If you're black you will know what I mean," he said

He said he had agreed to fight against the ANC, but not "the innocent people in the country", and he denied that his full loyalties had been with the security branch

"I perceived myself as a victim at that stage

"I was loyal to myself and to my own cause to expose where possible the dastardly, nefarious, nocturnal acts of both the ANC and the NP, and that's precisely what I did

"I hated a pocket of those ANC people who had a hand in killing my own brother and who had a hand in hunting me down as a wild animal"

Mr Mamasela said he had received a payout of "R400 000-plus" when leaving the security police in 1993 after 12 years' service, and that he had used "the bulk" of this money in the attempt to expose the activities of the former security police

"I went public my conscience was troubled and even today I have flashes of all these things"

Mr Mamasela was asked to comment on a remark attributed to him by journalist Jacques Pauw in his book *Into the heart of Darkness*, in which he (Mamasela) described the ANC as "stupid kaffirs"

He replied "That's pure rubbish and Jacques Pauw knows it He's trying to drive a wedge between me and my people"

The hearing is continuing

Mamasela tells how Pebco 3 died

CT 10/3/98

(252)

PORT ELIZABETH: Joe Mamasela, a self-confessed hit-squad member, described the beating to death of the Pebco 3 as among the most savage and brutal behaviour he had ever witnessed

Testifying before the amnesty committee here yesterday, Mamasela recounted the final gruesome hours of the three members of the Port Elizabeth Black Civics Organisation (Pebco) who disappeared in May 1985. He painted a graphic picture of how the three were abducted at the airport here, taken to a deserted police station near Cradock and then beaten to death.

This account contrasted sharply with the testimony given by the policemen applying for amnesty for the deaths of Siphon Hashe, Champion Galela and Qaqawuli Godolozzi.

In their application for amnesty, the policemen admitted to killing the three, but said they were merely shot to death and were neither interrogated nor tortured.

The applicants are former Port Elizabeth security policemen

Colonel Gideon Nieuwoudt, Major Gerhardus Lotz, Colonel Herman du Plessis, Captain Sakkie van Zyl and Colonel Harold Snyman, Warrant Officers Gerhardus Beeslaar and Johannes Koole and askari Mr Peter Mogoai.

During interrogation by Mr Kobus Booysen, appearing for the policemen, Mamasela was aggressive and argumentative. The chairperson of the committee, Judge Bernhard Ngoepe, on several occasions asked him to restrain himself and to listen to the questions.

He also warned that the committee would form an impression of a witness, not only by the content of his testimony, but by the way he conducted himself.

Mamasela's testimony has thrown light on what became of the Pebco 3, whose disappearance was a mystery until April last year. In a dramatic confession on television, Mamasela admitted to being part of a squad of policemen who

killed the three

Testifying at the hearing late last week, Mamasela gave a graphic account of how the three were interrogated, tortured and then systematically beaten to death. He described how Hashe, after being severely beaten, offered to take the

police to his sister's home where some AK-47s were supposedly hidden.

Mamasela said he gained the impression that Hashe was making up the story to save his own life.

His effort proved futile because, according to Mamasela, one of the policemen, Koole,

jumped onto Hashe's chest with his knees and strangled him to death.

Mamasela described Koole as a "vicious bull-terrier".

Godolozzi, the second of the three to be interrogated, tried to tell his captors that he worked for the National Intelligence Services. Mamasela said he believed this was

also a ruse by Godolozzi to save his own life.

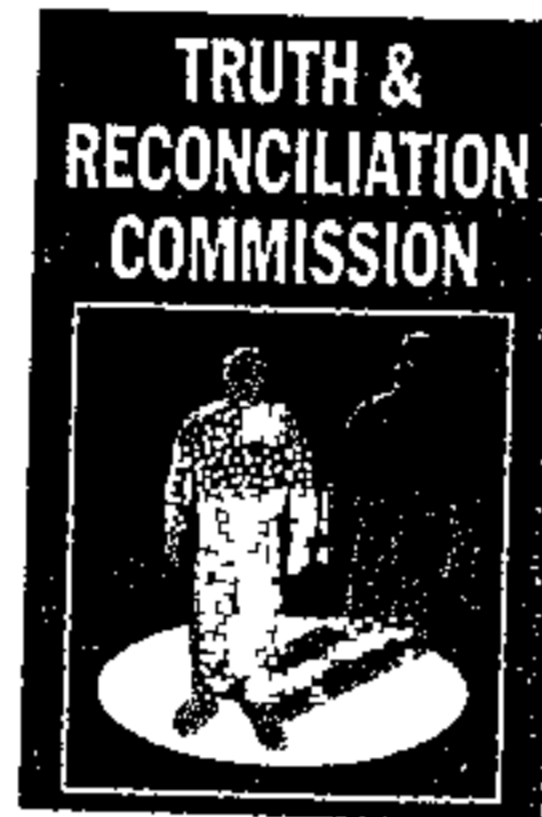
According to Mamasela, they then questioned Galela, who was subjected to prolonged beating by being kicked, punched and struck with a stick and a steel pipe. Mamasela said at one stage, Beeslaar squeezed Galela's testicles "until they were the size of golf balls" and then punched them with his fist.

"This is most brutal thing I've ever witnessed. It was a dehumanising experience," he said, adding that Galela also later died from his injuries.

Mamasela said Godolozzi, who had been spared, was forced that night to sleep next to the bodies of his colleagues.

He said the following morning a man who wore a smart suit and "looked like a gentleman" arrived. He was apparently from the NIS and said Godolozzi had provided them with no useful information.

This proved to be Godolozzi's death warrant and he was then also beaten to death, Mamasela said — Sapa



Mamasela tells TRC how Pecco 3 died

By Claire Keeton

THE viciousness of the brutal assaults on three Port Elizabeth civic leaders by the security police in May 1985, was the worst that self-confessed killer Joe Mamasela ever saw, he told the Truth Commission yesterday.

Mamasela publicly admitted that he took part in the savage beating, torture and killing of Sipho Hashe, Champion Galela and Qagawuli Godolozi while they were defenceless. Although he has not applied for amnesty for his deeds.

He said all perpetrators, like himself, should be prosecuted and, perhaps, pardoned after 10 or 15 years.

He was testifying about the abduction and murder of the "Pecco 3", following amnesty applications last November by seven former policemen and one askari concerning their deaths. Mamasela said the three leaders of the Port Elizabeth Black Civic

Organisation (Pecco) were abducted on May 7 1985 and the deadly assaults took place on May 8 and May 9.

I was ordered to make fires and I knew the interrogation was going to begin. Our interrogations always started with a brayvles," said Mamasela, adding that several policemen were drinking heavily.

He said that Hashe was the first to be humiliated and brutally beaten for two to three hours.

"Colonel Gideon Nieuwoudt grabbed an iron bar and beat the poor old man on his head, and all the others joined in. He was in no position to defend himself, he was handcuffed from behind," said Mamasela.

"There were kicks, punches, fists and sticks (used). I noticed blood oozing from the old man's nostrils, ears and mouth, and I saw his eyes turning white as if he was about to die."

Mamasela said he revived Hashe by throwing water over him, which led to further interrogation.

He said that Johannes Kooole "instinctively and brutally delivered a mule-like kick to the jaw of the old man" breaking it, then strangled him with a stick held to his throat.

"He was holding on like a vicious bull terrier. When he left him, the old man was lying dead still and Kooole was bloodied all over," said Mamasela.

Mamasela claimed that Godolozi was then brought in for interrogation and when he saw Hashe's corpse he promised to cooperate, claiming that he was already working for the National Intelligence Agency (NIA).

Mamasela said they did not believe him but they delayed their assault on him, turning instead to Galela.

Mamasela said Galela was savagely beaten and his testicles were named and punctured.

"It was the most brutal (assault) I have ever witnessed. I have never seen anything like this. It was a dehumanising experience."

Mamasela claimed that an NIA "master" came to the interrogation and told the police that they "wouldn't miss" Godolozi, since he gave them useless information.

"He was the strongest and the most fit. His assault took six to seven hours before (he died)," said Mamasela.

The assault and killings took place at an abandoned police station near Cradock, called Post Chalmers.

The policemen who have applied for amnesty are Colonel Harold Snyman, Colonel Gideon Nieuwoudt, Captain Johan van Zyl, Colonel Herman du Plessis, Sergeant Gerhardus Lotz, Johannes Kooole, Gerhardus Beeslaar and askari Kumpam Peter Mogai.

They have admitted to drugging and shooting the Pecco 3, then burning their bodies and throwing them in the Fish River.

They denied any ill-treatment of the captives, but Mogai has supported Mamasela's account of the assaults.

Source from 10/3/98

(257)



Ratha Nayager, the newly appointed Gauteng auditor, was introduced yesterday at a press conference in Parktown. A former financial manager of Southern Associated Maksters, he fills the vacant post left by Shauket Fakie, who assumed the position of national deputy auditor-general this month. Before the appointment, Nayager was practising privately under the name Nayager Associates. He qualified as a chartered accountant in 1984, graduated with a BCom from the University of Durban-Westville and completed his honours through Unisa in 1981.

Picture: TREVOR SAMSON

Investigative team failed to suspend its co-operation with the task

Blast 'was to boost colonel's image'

Stephané Bothma

BD 11/3/98

(252)

PRETORIA — Two former security policemen with "experience" in dirty tricks had planned to blow up the official vehicle of Col Charles Landman in 1993 in an attempt to "enhance the image" of the former Brixton murder and robbery unit chief, the high court heard yesterday.

Retired policeman Charles Zeelhe said he was approached by former Civil Co-operation Bureau (CCB) agent and policeman Calla Botha in June or July 1993 to assist with placing an explosive device under Landman's police vehicle.

Landman had not yet been in charge of the Brixton unit but had headed the investigation into the Elkenhof murders in which a woman and her daughter were gunned down with AK-47 rifles. Landman had said in court he was receiving death threats because of the Elkenhof probe.

Zeelhe, an explosives expert, was called by the state to testify at the murder and fraud trial of former CCB operative Ferdi Barnard, who has pleaded not guilty to all 34 charges brought against him. "Calla asked me to help blow up Landman's car. The intention was to discredit the Pan Africanist Congress and to boost Landman's image and prove that Landman could not be intimidated by Apla, the PAC's armed wing."

Zeelhe had told Botha he would assist only if no one else was involved. When Zeelhe spotted Barnard and a former Brixton murder and robbery detective in a second vehicle as he and Botha were on their way to attach a mini limpet mine to Landman's vehicle, he got out of Botha's car and went home. The next day, Zeelhe saw news reports claiming Landman's vehicle had been blown up by Apla.

Through his counsel Barnard yesterday denied any knowledge of the Landman car incident. The trial continues.

Chamber of Mines says policy would hurt industry

Linda Ensor

CAPE TOWN — The Chamber of Mines, De Beers Consolidated Mines and other mining conglomerates yesterday criticised the government's proposal that mineral rights be vested in the state, saying the uncertainty this would create would jeopardise future investment in the industry.

They said the "profoundly flawed" proposals in the green paper on minerals and mining policy, which sug-

gested the expropriation of mineral and prospecting rights from mining houses without compensation, violated the constitution's property rights.

Legal claims and counterclaims would create an extremely litigious mining sector, Parliament's portfolio committee on mineral and energy affairs heard during a session on the green paper.

Chamber vice-president Nick Segal called on government to initiate a multilateral negotiation process on the is-

sue of mineral rights to arrive at a consensus solution.

However, small mining groups, represented by the Africa United Small Mining Association, the Congress of SA Trade Unions and the National Union of Mineworkers, supported state ownership of mineral rights to open the industry to newcomers. The unions noted that "the current under-utilisation of minerals, which is due largely to hoarding of mineral rights by the private sector, had a negative im-

pact on investments in the industry"

They called for the regulation of mining companies' offshore investments; worker representation on companies' boards, and the dissolution of mining monopolies.

Billiton, Amplats, Ingwe Coal and Samancor, however, supported the chamber. Fears were raised that opening the industry and the "use it or lose it" approach to mineral rights would lead to overproduction and overexploitation of resources.

BD 11/3/98