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**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)**

Case No.: CC66/2024

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO THE JUDGES: YES/NO

(3) REVISED.

DATE:

SIGNATURE:

In re: Inquest into the Highgate Hotel attack and the deaths of-

1. STANLEY HACKING
2. DOUGLAS WILLIAM GATES
3. ROYCE MICHAEL WHEELER
4. DEON WAYNE HARRIS
5. DERIC JOHN WHITFIELD

JUDGMENT

POTGIETER J

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INTRODUCTION

[1] On 1 May 1993, at approximately 22h00, unidentified gunmen armed with automatic rifles launched a deadly attack on the unsuspecting patrons who, at the time, were frequenting the Highgate Hotel situated at [...] V[...] Road, Cambridge, East London, Eastern Cape. Five people were killed, and several others were wounded during the incident.

[2] The present proceedings in terms of the Inquests Act, 58 of 1959 ('the Act'), are a belated sequel to that occurrence. It is not entirely clear why it took more than three decades for these proceedings to materialise. There can be no doubt that this must have added significantly to the anguish and trauma of the affected parties. It is a blight on the efforts of the country to come to terms with its disgraceful past that this matter was seemingly allowed to simply linger for far too long. It is neither helpful nor constructive to compare the history of this matter to investigations of similar incidents that also occurred during the past political conflict, but suffice it to say that it is difficult to ignore the impression that this matter was previously treated with indifference. In some material respects, the police investigation was substandard, and after such a significant time lapse, relevant records, information, and exhibits have become untraceable or are no longer available. Nonetheless, the patent gratitude of the affected parties that the matter has finally received the necessary attention stands as a testament to their admirable magnanimity and generosity of spirit.

CONTEXT OF THE ATTACK

[3] During the period relevant to these proceedings, South Africa was emerging from almost 5 decades of oppressive and racially discriminatory Apartheid rule and was well on its way to becoming a constitutional democracy. The Interim Constitution, Act 200 of 1993, which provides for an entrenched Bill of Rights, was drafted between May and

November 1993 and assented to on 27 January 1994. It commenced on 27 April 1994 and governed South Africa's first democratic non-racial elections. It was replaced by the final Constitution, Act 108 of 1996, on 4 February 1997.

[4] By May 1993, the country was in a state of transition and intense political conflict. The assassination of Mr Chris Hani on 10 April 1993 sparked widespread and escalating violence and demonstrations across the country, causing a climate of increasing political instability and volatility, with the potential of the country descending into a spiral of chaos. There was growing resistance to the inevitable political change from the right-wing groups, and there was a third force at work coordinating deadly attacks and fomenting so-called 'black on black' violence, particularly involving supporters of the African National Congress ('ANC') and the Inkatha Freedom Party ('IFP'). By way of illustration, townships in the then Pretoria, Witwatersrand and Vereeniging ('PWV') Area, such as Boipatong and Thokoza, were sites of intense conflict and deadly violence, leaving scores of people dead and rendering the affected areas effectively ungovernable. Deadly clashes took place in Thokoza between ANC and IFP supporters on 22 May 1993, leading to at least nine deaths and 69 injuries, the vast majority among the non-IFP group, according to the Truth & Reconciliation Commission ('TRC') final report. The incident reportedly resulted from a march by ANC supporters from the Thokoza Stadium to the Alberton police station to present a memorandum. The violence erupted when the marchers reached the Thokoza hostel compounds (housing mainly IFP supporters). Armed IFP supporters were present outside the hostel, and both sides engaged in shooting. Afterwards, both sides gave conflicting accounts of the incident. The ANC claimed police shot at marchers, while the IFP hostel-dwellers stated that the police fired tear gas at them. I should add that both accounts are in keeping with the fact that some state actors instigated so-called 'black on black' violence at the time.

[5] The purpose of those who were behind these incidents was to derail the negotiations to end Apartheid rule. The country was on the proverbial knife-edge. A coalition of 21 right-wing parties, the Afrikaner National Front, was founded in May 1993, signalling

increased resistance to the political negotiations. This era was probably the bloodiest in the history of the liberation struggle. It was only steadfast, insightful, and committed political leadership that had managed to keep the country on the right course to a political settlement and transition to a constitutional democracy.

[6] The Highgate attack was undoubtedly a false flag operation. The perpetrators clearly intended to pass the incident off as a racially inspired armed attack on defenceless white citizens by the Azanian People's Liberation Army ('APLA'), the military wing of the Pan Africanist Congress ('PAC'), likely to fuel inter-racial conflict and undermine a political settlement. That false impression has been debunked and rebutted in the present proceedings, as more fully appears from the summary of the evidence that accompanies this judgment as Annexure 'A'. I should point out that the then commander of APLA, Mr Letlapa Mphahlele, testified and effectively refuted the view that APLA was responsible for the attack or that the telephone call a few days later to the Citizen Newspaper by a Mr Karl Zimbiri claiming responsibility for the attack on behalf of APLA, was genuine. I will return to this issue later in the judgment.

[7] Ironically, the 1993 Nobel Peace Prize was shared by the South African political leaders, Mr Nelson Mandela and Mr FW de Klerk, as it was stated 'for their work for the peaceful termination of the apartheid regime, and for laying the foundations for a new Democratic South Africa'.

BRIEF OVERVIEW OF THE INCIDENT

[8] The incident occurred on a Saturday evening at a time when the hotel was busy. There were patrons in all the bars, namely the Public/Men's Bar, the Ladies Bar, and the Open Arms Bar. The attack started around 22:05, reportedly in the Public Bar, when a gunman entered through the door armed with an automatic rifle (confirmed to have been an AK-47) and started firing indiscriminately at the patrons, spraying them with bullets. A hand grenade and a teargas canister were also detonated in the bar. Another gunman entered the Ladies Bar and fired at the patrons, also with an AK-47. One of the

patrons, Mr Edward Beyman Lombard, returned fire from the direction of the bar counter with a .38 Special Rossi revolver. Mr Lombard testified that he is a reasonable shot and he is convinced that he struck the attacker on the body with a few rounds. He expressed the view that the attacker must have been wearing body armour because the bullets did not affect him.

[9] The attackers intended to cause maximum harm and loss of life. According to the relevant ballistics report, exhibit 'N', fifty-six 7.62 x 39mm (assault rifle) calibre spent cartridges were recovered at the scene. Nineteen were fired from one rifle and twenty-eight from a second rifle. Seventeen 7.62 x 39mm calibre discharged bullet points were recovered. Four were fired from one rifle and six from the second. One bullet was recovered from the leg of a survivor, Mr Karl Webber, who was shot in the Ladies Bar. It came from the second rifle.

[10] Nine .38 Special spent cartridges, all fired from the same revolver, were recovered at the scene. One discharged .38/.357 calibre bullet point was also found in the door frame at the hotel entrance, which was fired from the position occupied by Mr Lombard.

[11] Various bullet holes were found. Seven in the foyer leading to the Ladies and Open Arms Bars, which were fired from the hotel entrance. One was fired through the wooden panel of the door of the Open Arms Bar. Seven more resulted from shots fired inside the bar from the direction of the door. Three holes towards the back of the bar were caused by gunfire from a direction consistent with the position of Mr Lombard. Thirty holes were found in the Public Bar, mostly through the bar counter, caused by gunfire from the direction of the bar door.

[12] A teargas grenade was detonated inside the Public Bar. A hand grenade was lobbed over the counter and landed in the adjacent pool room, where it exploded and damaged the wall. The explosives expert, Mr Charl Naude, in his report exhibit 'O', had regard to the used teargas canister and the fly-off levers of the strike (igniting) mechanisms of both devices that were found afterwards inside the bar. He identified the

teargas canister as a hand smoke/anti-riot grenade deployed to emit teargas. These grenades were manufactured at the Swartklip Products factory in Mitchells Plain, Cape Town, and were primarily supplied to the police and the defence force, as well as to the TBVC States (Transkei, Bophuthatswana, Venda, and Ciskei). He identified the type of hand grenade by means of the fly-off lever and the damage which resulted when it exploded, causing a typical crater associated with high-explosive hand grenades. He concluded that it was an RPG-5 anti-personnel fragmentation grenade. These were manufactured either in China, the Soviet Union, or other Eastern Bloc countries and were never procured by the South African Defence Force.

[13] Mr Deric Whitfield, one of the patrons who was shot in the Public Bar, managed to crawl to the front parking area, where he later succumbed. Four patrons were shot and killed in the Ladies Bar: Mr Douglas William Gates, Mr Stanley Hacking, Mr Deon Wayne Harris, and Mr Dave Royce Michael Wheeler. In addition, a total of 7 people were injured in the attack.

[14] Eyewitnesses testified that the attackers were wearing balaclavas. There was an indication that they had black cream on their faces, and one attacker was wearing police issue boots.

[15] After the attack, the perpetrators nonchalantly left the scene. They were apparently in no hurry to get away and seemingly had no fear of being arrested. Two of them were seen by a witness, Ms Broderick, who lived close to the hotel as they were moving on Voortrekker Road, which runs past the hotel. One assailant had a rifle openly slung over his shoulder.

[16] Security forces and emergency services arrived at the hotel shortly after the incident and took control of the crime scene.

NATURE OF THE PROCEEDINGS

[17] An inquest is a judicial investigation into a death not due to natural causes, where no resultant criminal proceedings are instituted. Section 5¹ of the Act requires, in such a case, that the prosecuting authority submit the relevant documentation to the magistrate of the district where the incident occurred, who is in turn obliged to ensure that an inquest is held into the incident and that the documentation is provided to the judicial officer who is to hold the inquest.

[18] Section 6² authorises the Minister of Justice to request the relevant judge president to designate a judge to hold an inquest at any place determined by the judge. I should add that this procedure was followed in the present matter, where I determined that the proceedings would be held at the Special Investigating Tribunal premises in East London, mainly for the convenience of the victims, the next-of-kin of the deceased, and the other affected parties.

[19] At the commencement of the proceedings, I granted an order in terms of section 6A³, that a joint inquest be held into the deaths of all 5 deceased. The matter then proceeded on that basis and was held in public. Attorneys and counsel represented

¹ The section provides as follows:

5 When inquest to be held

- (1) If criminal proceedings are not instituted in connection with the death, or alleged death, the public prosecutor referred to in section 4 shall submit those statements, documents and information submitted to him to the magistrate of the district concerned.
- (2) If on the information submitted to him in terms of subsection (1) it appears to the magistrate that a death has occurred and that such death was not due to natural causes, he shall, subject to the directions of the Minister, take such steps as may be necessary to ensure that an inquest as to the circumstances and cause of death is held by a judicial officer in terms of section 6 ...

² The section is to the following effect:

6 Judicial officer who is to hold inquest

An inquest shall be held –

...

- (d) where the Minister has so requested a judge president of a provincial division of the Supreme Court, by any judge of the Supreme Court of South Africa designated by the judge president concerned, and notwithstanding anything to the contrary in any law contained, such inquest may be held at any place from time to time determined by such judge.

³ The section provides in relevant part that:

6A Multiple deaths which are connected

- (1) Where more than one death has occurred, the attorney-general or the public prosecutor within whose area of jurisdiction the incident is alleged to have occurred may request the judicial officer who is to hold an inquest to hold a joint inquest into the deaths of the persons involved.
- (2) After the hearing of the request referred to in subsection (1) the judicial officer may order that a joint inquest shall be held if he is of the opinion that the deaths concerned are connected.

some of the victims and affected families. The Director of Public Prosecutions was represented by a team of 6 counsel.

[20] The object of the Act is 'in the interest of the public and for the administration of justice, to conduct an official investigation into and to obtain a finding by a judicial officer on whether or not the death of a person who has died from other than natural causes was caused by an act or omission which includes or amounts to an offence by anybody'.⁴ Section 16(2) of the Act requires the court to record findings as to the identity of the deceased, the cause or likely cause of death, the date of death, and whether the death was brought about by any act or omission *prima facie* involving or amounting to an offence on the part of any person.

[21] The courts have frequently commented on the purpose of an inquest. The Appellate Division stated in *Tiley*⁵:

The function of an inquest is to determine the identity of the deceased person; the cause or likely cause of death; the date of death; and whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person ... The underlying purpose of an inquest is to promote public confidence and satisfaction; to reassure the public that all deaths from unnatural causes will receive proper attention and investigation so that, where necessary, appropriate measures can be taken to prevent similar occurrences, and so that persons responsible for such deaths may, as far as possible, be brought to justice.

[22] The court in *Tiley*⁶ further referred with approval to the following dicta in *Timol*⁷:

[F]or the administration of justice to be complete and to instill confidence, it is necessary that, amongst other things, there should be an official investigation in every case where a person has died of unnatural causes, and the result of such investigation should be made known. Therefore, the Inquests Act provides that, if there is reason to believe that

⁴ LAWSA Vol 20(2) para 251.

⁵ *Marais NO v Tiley* 1990(2) SA 899(A) at 901E-G.

⁶ At 901G-J.

⁷ *Timol & Another v Magistrate, Johannesburg & Another* 1972(2) SA 281 (T) at 287H-288A and 292A-B.

a death has occurred, that such death was not due to natural causes and that it was not followed by the institution of criminal proceedings, there shall be an inquest as to the circumstances of the death.

...

[T]he inquest must be so thorough that the public and the interested parties are satisfied that there has been a full and fair investigation into the circumstances of the death.

[23] In *De'Ath*⁸ the court referred to the historical position regarding inquests:

The predecessors of the Act show clearly that the purpose of all inquests is to investigate whether, when someone has died or is suspected of having died otherwise than of natural causes, his death has been the result of a criminal offence, and, if so, who the offender is. An inquest is not aimed at proving anyone's guilt, but is most certainly aimed at ensuring that, if possible, where guilt exists, it will not remain hidden.

[24] The court in *Padi*⁹ referred to the following statement in an academic article emphasising the public importance of inquests, which are particularly pertinent to the present matter:

By statute, the inquest serves to ascertain the identity of the deceased, cause of death, date of death, and whether or not the death was brought about by any act or omission involving an offence on the part of any person. Where sufficient evidence is brought to light, the inquest yields to a criminal prosecution.

An inquest's most important function is not this simple determination of facts, however. Public satisfaction is its *raison d'être*; to reassure the public that every possible step will be taken to prevent similar deaths in the future; preserve, where pertinent, the integrity of the State by refuting all allegations of official misconduct, malfeasance, or negligence; and where the State's, an agency's or person(s)'s culpability is substantiated, bringing

⁸ *De'Ath (substituted by Tiley) v Additional Magistrate, Cape Town* 1988(4) SA 769 (C) at 775G; cf *In re: Goniwe & Others (Inquest)* 1994(3) SA 877 (SE) at 878A-E (*Goniwe*).

⁹ *Padi & Another v Botha NO & Another* 1996(3) SA 732 (W) at 740J - 741B.

forth criminal indictments, remedial measures and policy changes necessary to quickly restore confidence in the central authority.¹⁰

[25] The importance of properly investigating deaths is explained as follows in *Van Heerden*¹¹:

The State has an interest in the proper investigation of deaths due to other than natural causes. Even if nobody can be held responsible for a death in a particular case, it may still remain pertinent to determine the circumstances and cause of death in order that appropriate measures can be taken to prevent similar occurrences.

[26] As indicated, the Act obliges the judicial officer to make findings as to the identity of the deceased, the cause or likely cause of death, the date of death, and whether *prima facie* the death resulted from an offence committed by any person¹². Where it is not possible to make any one of such findings, this fact must be recorded by the judicial officer.¹³

[27] The courts have adopted differing approaches to the standard of proof applicable to findings under section 16(2) of the Act. Section 16(2)(d) was amended by Act 45 of 1990, which introduced the term '*prima facie*' in relation to the cause of the death under investigation. Pursuant to the amendment, the court is required to make a finding whether the death was caused by conduct which *prima facie* amounts to or involves an offence.

¹⁰ DJ Akerson *An Inquest – Law Inquest* (1989) 5 SAJHR 209.

¹¹ *Van Heerden & Another v Joubert NO & Others* 1994(4) SA 793 (A) at 795D.

¹² Section 16(2) provides that:

16 Finding

...

- (2) The judicial officer holding an inquest shall record a finding upon the inquest –
- (a) as to the identity of the deceased person;
 - (b) as to the cause or likely cause of death;
 - (c) as to the date of death;
 - (d) as to whether the death was brought about by any act or omission *prima facie* involving or amounting to an offence on the part of any person.

¹³ Section 16(3) provides that:

- (3) If the judicial officer is unable to record any such finding, he shall record that fact.

[28] Commenting on the previous version of section 16(2)(d), ie, excluding the words '*prima facie*', the court pointed out in *Claassen*¹⁴ that the subsection does not indicate what standard of proof should be applied. The court thus accepted that in the absence of any other obvious standard, the judicial officer was required to decide on a balance of probabilities.¹⁵ The test envisioned by the Legislature was accordingly unclear.

[29] The court in *Webster*¹⁶ dealt with the interpretation of the amended subsection and concluded that the test to be applied is the criminal standard, namely, proof beyond a reasonable doubt. The court further held that the words '*prima facie*' were introduced in the subsection merely to show that inquest findings are not final and binding determinations immediately affecting the legal rights and obligations of the affected parties. The latter remains to be determined in subsequent civil or criminal proceedings.

[30] The court in *Goniwe* differed from the decision in *Webster*, indicating that when the amendment was introduced, it was already known that inquest findings are not finally determinative of any legal rights or obligations. No amendment was accordingly necessary to clarify this fact. The decision in *Claassen* shows that the test to be applied was not clear. This was the mischief that the amendment sought to address; it was not to clarify a well-established position. The court indicated that:

The section, as I read it, now provides that the presiding officer must record a finding in terms of s 16(2)(d) if, in his opinion, the evidence establishes *prima facie* that an offence causing the death of the deceased has been committed by any person. This conclusion is, in my view, supported by the fact that s 16(1) of the Act specifically requires proof beyond a reasonable doubt for a positive finding that a death has occurred in a case

¹⁴ *Claassen v Landdros, Bloemfontein* 1964(4) SA 4 (O) at 11C.

¹⁵ It is stated as follows in the original text: 'Art. 16(2)(d) dui nie aan watter maatstaf eerste verweerder moes gebruik het om tot n bevinding te geraak nie. Vir doeleindes van hierdie uitspraak sal dit aanvaar word – aangesien daar geen ander voor die hand liggende maatstaf is nie – dat eerste verweerder geroepe was om op n oorwig van waarskynlikhede te beslis.'

¹⁶ *Inquest into the Death of Dr David Joseph Webster* Unreported WLD judgment by Stegmann J dated 22/1/1993 referred to, but not followed in *Goniwe* (supra note 8) at 879A–F.

where no body is found. When s 16(2)(d) was amended the Legislature, in my opinion, provided for a different standard of proof.¹⁷

[31] The court continued to consider the exact meaning of the words *prima facie* in this context. It rejected the contention that the applicable test is that applied in a discharge application in a criminal trial or for absolution from the instance in a civil trial and pointed out that it is problematic to apply a test applicable to adversarial proceedings in inquisitorial proceedings, such as an inquest. The court went on to say that:¹⁸

In deciding whether a *prima facie* case has been established some regard must, in my opinion, be had to the reliability and credibility of witnesses if they had given evidence at the inquest. The fact that evidence has been produced which, if accepted, would prove that some person has committed an offence which brought about the deceased's death will, in my opinion, not be sufficient to justify a positive finding if it is obvious to the officer presiding at the inquest that there is no prospect of such evidence being believed at a subsequent criminal trial.

[32] Insofar as the applicable standard of proof is concerned, the court stated that:¹⁹

Bearing in mind the object of an inquest it is my opinion that the test to be applied is not the 'beyond reasonable doubt' test but something less stringent. In my opinion, the test envisaged by the Inquests Act is whether the judicial officer holding the inquest is of the opinion that there is evidence available which may at a subsequent criminal trial be held to be credible and acceptable and which, if accepted, could prove that the death of the deceased was brought about by any act or omission which involves or amounts to the commission of a criminal offence on the part of some person or persons.

[33] In the matter of *Padi*,²⁰ the court considered the above-mentioned conclusions in the matters of *Webster* and *Goniwe* concerning the standard of proof applicable to findings in terms of section 16(2)(d) of the Act. The court supported the reasons

¹⁷ At 879 E – F.

¹⁸ At 879H – 880A.

¹⁹ At 880B-C.

²⁰ Supra note 9.

advanced in *Goniwe* for disagreeing with the conclusion in *Webster* that the standard is proof beyond a reasonable doubt. Reference is then made to the unreported judgment of Levy J delivered on 23 June 1994 in the Namibia High Court in the inquest into the death of Adv ATEA Lubowsky that fully supports the rejection by the court in *Goniwe* of the beyond a reasonable doubt standard in *Webster*, describing it as 'obviously incorrect'. Levy J then commented as follows with regard to the application of the standard:²¹

However, I respectfully do not agree with Zietsman JP when he says in respect of the words '*prima facie*' that 'the test envisaged by the Inquests Act is whether the judicial officer ... is of the opinion that there is evidence available which may at a subsequent criminal trial be held to be credible and acceptable'. For reasons I have already stated, there may be no criminal trial. The judicial officer is required on the evidence and documentation submitted to him to decide whether or not a witness is 'credible and acceptable' and if he is not his evidence must be rejected. If the judicial officer rejects that evidence, he may nevertheless be left with some remaining evidence '*prima facie* involving' a person or 'amounting to an offence' by a person. If the person so incriminated gives evidence in the inquest court, which is acceptable to the judicial officer and which gainsays the 'remaining evidence', there is then no *prima facie* evidence involving or amounting to an offence. Should the evidence not be acceptable to the inquest officer, the remaining evidence may well '*prima facie* involve' a person or 'amount to an offence'.

[34] The court in *Padi*²² supported the approach of Levy J to the application of the standard, which differs from that set out in *Goniwe*. The court indicated that the judicial officer holding the inquest is not required to determine the section 16(2)(d) findings, with reference to the credibility and acceptability that the evidence at the inquest might enjoy in a criminal trial. An inquest would not necessarily result in a criminal prosecution. It is an independent, separate process of significant import. The findings must be based on the presiding officer's own impressions and insights, and directed at the object of the

²¹ This extract has been reproduced in (and is quoted from) *Padi* at 739G-I.

²² At 740G-I.

inquest and fulfilling the task of the presiding officer. In this regard, presiding officers are not required to place themselves notionally in the shoes of the criminal court.

[35] I agree with the conclusion that the beyond reasonable doubt standard does not apply to inquests. I respectfully disagree with the application of the *prima facie* test set out in *Goniwe* and approach the present matter on the basis set out in *Padi* and *Lubowski*, with which I concur. The credibility and acceptability of the evidence must be decided on the totality of the evidentiary material placed before the hearing. The critical question is whether, in the opinion of the presiding officer, the evidence, on the face of it (or at first sight), indicates that the death resulted from criminal conduct on the part of a person or persons. In my view, this exercise is best captured by the following description of a *prima facie* case set out in *Mazibuko*²³ (and to be applied *mutatis mutandis*), namely whether ‘a court, applying its mind reasonably, could conclude on the evidence in the case that the injuries to the plaintiff were caused by the negligence of the insured drivers’.

[36] Applying the last-mentioned approach to the present matter, the issue is whether the court could conclude, applying its mind reasonably to all the evidentiary material, that the deaths were caused by criminal conduct on the part of a person or persons. This is the approach that I will adopt to the matter.

THE EVIDENCE

[37] Extensive evidence was presented at the hearing, which lasted approximately five weeks. To promote a better understanding of the expansive account of the evidence that was led contained in the summary annexed to this judgment, I will proceed to give an overview of the evidence under the following subheadings: (a) the affected individuals; (b) early interactions with the authorities and the APLA theory; (c) the role of Dr Edelmann; (d) investigation by Captain Darryl Els; (e) intimidation and surveillance; (f) encounters with informants and witnesses; (g) systemic, investigative, and

²³ *Mazibuko v Santam Insurance & Another* 1982(3) SA 125 (A) at 133E-F.

institutional failures; (h) the fingerprints debacle; (i) ballistics and explosives failures; (j) other investigative lapses; (k) failure to hold a timely inquest; (l) political interference; and (m) narratives.

Overview of the evidence

(a) The affected individuals

[38] The evidence showed that the victims, survivors, and affected relatives were deeply impacted by this senseless attack.

Victims

[39] Royce Michael Wheeler was a 46-year-old married man who was shot and killed.

[40] Deric John Whitfield was a 42-year-old married man and a respected businessman. During the shooting, he sustained a bullet wound to the chest and abdomen, which resulted in his death.

[41] Stanley Hacking was a 65-year-old widowed father. He was a regular patron at the hotel. He sustained bullet wounds to the chest, which ruptured his heart and lungs, resulting in his death.

[42] Deon Wayne Harris, the youngest victim, was a 26-year-old man with a bright future ahead. He was watching rugby on the day of the massacre. He sustained bullet wounds to his right and left lungs, which killed him. Deon would have celebrated his 27th birthday on 13 May, which was also the date that his sister, Lyndene Page, was due to give birth to his first niece.

[43] Douglas William Gates, a well-known and loved figure in East London, was 56 years old. He had a deep love for animals and worked at the SPCA. Douglas sustained a bullet wound to the abdominal wall, rupturing the blood vessels in his groin and buttocks, which led to his death.

Survivors

[44] Survivors described how their lives were not only devastated on the night of 1 May 1993, but in the decades that followed.

[45] The immediate aftermath of the Highgate Massacre left survivors and victims' families not only dealing with catastrophic physical and psychological trauma but also confronting the justice system, seeking justice for over three decades.

[46] Neville Beling ("Neville") was 20 years old at the time of the attack. He is a survivor of the Highgate Massacre. He is permanently disabled as a result of being shot. Neville sustained multiple gunshot wounds to his left arm, leg, and back, never worked again after the attack, and endured more than 15 major surgeries, developing sepsis and suffering multiple instances of heart failure due to anaesthesia. His life has been one of physical suffering and emotional trauma, compounded by the lack of justice. He testified in the inquest.

[47] Karl Andrew Weber was 37 years old at the time of the attack. He is another survivor who continues to live with emotional and physical scars. He was at the Ladies' Bar at the hotel when gunmen opened fire. He was shot, which resulted in his left arm being amputated below the elbow, rendering him partially disabled with only 40% functionality in his remaining right arm. This led to the loss of his job, home, car, and relationships. He also testified in these proceedings.

[48] Bureaucratic indifference was exemplified when Weber was initially denied a disability grant, with authorities arguing he still had one functional arm and both legs, receiving only R460.00 per month after legal intervention.

[49] Another survivor, William Freddie Baling, was 45 years old at the time. He went to the hotel with his brother, Keith Baling. They went to the public bar where they intended to play pool. He was shot in his lower back, which resulted in serious injuries. He has also been in and out of the hospital ever since the attack. He indicates that he has not gone a single day without pain since the Highgate Massacre and says that he has never been able to return to work since.

[50] Megan Nadine Boucher was 22 years old at the time of the shooting. She was present with Karl Webber, Doreen Rossouw, and Douglas William Gates. Whilst sitting at the old Ladies' Bar, she was shot in her right leg, which resulted in serious mental and physical injuries.

[51] Nkosinathi Alfred Gontshi was a barman at the hotel and on duty on the night in question. He was 30 years old. Nkosinathi was sitting behind the bar counter when gunmen opened fire, which resulted in a gunshot wound to his right leg. Although he survived the attack, he has since passed away.

[52] Doreen Rossouw, another survivor who has since passed away, was at the Highgate Hotel having a drink with a colleague when gunmen opened fire. She was 57 at the time of the shooting and sustained injuries as a result of being shot in the leg.

[53] Finally, Charles John Bodington was 40 years old at the time and sustained serious injuries in the attack.

Relatives

[54] As indicated, Lyndene Page is the sister of Deon Wayne Harris. She was 25 years old and pregnant with her first child at the time of the attack, which resulted in the untimely death of her brother.

[55] She has fought to keep the story of her brother alive and to demand accountability. Her advocacy reflects the resilience of the families who have had to endure the burden of living without loved ones, losing their solace and support.

[56] Bernice Whitfield was left without money or food to support her three children after the death of her husband, Deric Whitfield, having not received any insurance payout. Ten months later, she lost her 20-year-old daughter, Chantelle, in a hit-and-run incident that police never meaningfully pursued.

[57] Yvette Wheeler, the daughter of the late Royce Michael Wheeler, confirmed that her father was the sole breadwinner of their household when he was murdered and that their family lost their house after his death. Further, she could not afford to go to university as a result of the dire economic impact of losing her father had on their family.

[58] The prolonged delay in addressing the Highgate Massacre has meant that some family members have since departed. Among those are:

- 58.1 The parents of Neville – Neville Beling Snr, who passed away on 8 June 2016, and Zilla Beling, who passed away on 24 November 2017.
- 58.2 The father of Lyndene Page and the late Deon Wayne Harris, Neville Henry Harris, died on 18 August 2002. Lyndene's mother, Cynthia Lynette Harris, passed away on 22 July 2023

[59] They went to their graves without closure.

(b) Early interactions with the authorities and the APLA theory

[60] Initially, survivors accepted the widespread media and police attribution of the Highgate Massacre to the Azanian People's Liberation Army ('APLA'). Neville Beling testified that he believed this narrative until 2005, when, during a mediation with former APLA commander Letlapa Mphahlele ("Mphahlele"), he was told that the attack did not match APLA's operational style and that a "third force" might have been involved. This revelation fundamentally altered the survivors' views of the Highgate Massacre and catalysed the formation of the Highgate United Group to seek a coherent investigation from the authorities.

[61] Karl Weber described in his testimony the profound psychological impact of learning that the accepted or dominant narrative might be false. He described how some of the survivors, when they felt insecure or threatened, received personal protection arranged by Mphahlele. Such support was not forthcoming from the South African Police Services ("SAPS").

(c) Role of Dr Edlmann

[62] Dr. Tessa (Theresa) Edlmann's ("Dr. Edlmann") involvement marked a critical turning point in the survivors' and families' quest for justice. Her December 2006 memorandum to the National Prosecuting Authority ('NPA') formally requesting renewed investigation and regular quarterly updates represented the first systematic attempt to re-engage official channels.

[63] Dr. Edlmann helped to organise the first gathering of Highgate Massacre survivors in September 2006 at the Kennaway Hotel, East London. This was their first meeting in 13 years, where an emotional reunion exposed deep anger and confusion among survivors who had all along firmly believed that APLA was responsible.

[64] Dr. Edlmann's support extended far beyond organising meetings to encompass comprehensive advocacy and personal care for survivors over two decades. Through

the Spirals Trust, she facilitated critical reconciliation processes, including the 2005 mediation between survivors and former APLA Director of Operations, Mphahlele.

[65] She provided extensive personal support to survivors like Neville Beling, facilitating his medical treatment, surgeries, and accommodation during health crises, while highlighting his immense courage and resilience despite overwhelming physical and emotional trauma.

[66] Dr. Edlmann also documented the severe neglect experienced by survivors, revealing that, contrary to assumptions about white victims having adequate insurance/financial stability, many lived in dire poverty, such as Francina Wheeler, the widow of Royce Michael Wheeler, who resided in a garage without running water, as she received no insurance payout.

[67] Her work involved coordinating multiple families and survivors, as is apparent from her 2006 memorandum, ensuring they remained collectively engaged with authorities and maintaining detailed records that would later prove crucial to this inquest.

(d) Investigation by Captain Darryl Els and betrayal of the survivors

[68] In 2007, the survivors' desperation for answers led them to fund their own investigation, raising R5,000.00 to send SAPS Captain Daryl Els ("Els"), who had been the investigating officer from 13 May 1994 to 5 December 1998, on an investigation mission to Gqeberha/Port Elizabeth and Cape Town. Els claimed to have discovered evidence linking the attack to military-trained operatives of the Hammer Unit who had used a training site near Addo Elephant Park, where structures mimicking the Highgate Hotel were allegedly used for training.

[69] However, after completing his mission and claiming he had identified the perpetrators in a telephone call with Neville Beling, Els abruptly stopped

communicating, later claiming his laptop containing all evidence had been stolen, leaving the families further traumatised.

[70] Els' investigation introduced tantalising, but ultimately unverifiable leads, including claims about Wayne Grobler ("Grobler") allegedly confessing to driving the getaway vehicle and Pieter John Woest Hall as giving the order, along with Major General CP van der Westhuizen, Andries Struwig, Captain FP du Preez, and Sergeant Major MD Hom as participants. This explosive confession was relayed to the court through Frans Swele Molokome ("Molokome"), who supposedly also heard this evidence at Grobler's house in Cape Town. No formal statement was submitted by him at the time of allegedly hearing Grobler's confession. Grobler later denied ever meeting Els and having resided in Cape Town.

(e) **Intimidation and surveillance**

[71] The survivors' pursuit of truth was accompanied by incidents suggesting active intimidation, including but not limited to:

71.1 The mysterious 1995 shooting at Neville Beling's home, where automatic gunfire narrowly missed his cousin, and police later claimed the recovered projectile was just "a piece of metal". This demonstrated the dangers faced by those seeking answers.

71.2 Lyndene Page also recalled what she suspected was phone tapping in 2010, when she and Neville Beling noticed strange noises and echoes on their calls before a meeting at Highgate.

[72] According to Lyndene and Neville, when they attempted to report their concerns about phone tapping to the Cambridge Police Station, Colonel Steven du Rand ("Du Rand") refused to take a formal statement, citing fears for his own safety and family, advising them to slip their statement under his office door after hours. Significantly, neither in his statement nor his testimony did Du Rand deny that this happened. He simply claimed that he could not remember. In my view, the version of the survivors can safely be accepted over that of Du Rand.

(f) **Encounters with informants and witnesses**

[73] The investigation conducted by the survivors and the victims' families attracted various accounts from informants, which, for the most part, amounted to a wild goose chase.

[74] Lyndene and Neville indicated that Frederick Doug Petzer (Dirk) ("Petzer") told them that his brother, Sergeant Zieg Petzer, warned him that "it is going down tonight". He claimed that his brother phoned him from a payphone inside the Highgate Hotel to say "it has gone down, it has happened" minutes after the Highgate Massacre had taken place.

[75] The present investigation officer, Captain Peterson, records that Petzer claimed that when he spoke with Lyndene and Neville, he was intoxicated. Petzer himself denied saying this.

[76] Further uncertainty arose from a chance approach to the family by Edward Baymen Lombard ("Lombard"), a former Rhodesian Army soldier, at Morgan's Bay during a private ceremony to scatter the ashes of Deon Wayne Harris. According to Lyndene,

Lombard claimed that he had been with Deon during the Highgate Massacre, had pushed him down when the shooting started, and returned fire at the attackers. The randomness of his sudden appearance at a private family event understandably raised the family's suspicions.

[77] Over time, other figures stepped forward with fragments of information and theories that tended to complicate, rather than clarify.

[78] The families received an anonymous digital tip in 2012 from a source on MXit, an online chat platform, who claimed to possess footage of the attack. All to no avail. Neville disclosed this tip to the police, who obtained the necessary section 205 subpoena and executed a raid on the property where these tapes were allegedly held. Unfortunately, there was nothing related to the Highgate Massacre on these tapes, and they were mostly just pornography.

[79] Karl Weber testified about a former intelligence operative, Alan Douglas Elsdon ("Elsdon"), who reached out to him. Karl recounted that Elsdon said he had served in the police's Crime Intelligence Service since 1973 and later worked as a private investigator. However, Elsdon later testified that he had actually been a member of the Security Branch. Elsdon volunteered theories about planning, authorship, and targeting concerning the operation. In a subsequent call with Karl's attorney, Paige Winfield ("Winfield") of Cliffe Dekker Hofmeyr ("CDH"), he identified two men (one deceased) as supposed suspects based on a source he called "Hennie" (later identified as Hendrick Louw), who refused to reveal what he knew when approached by Winfield.

[80] In messages introduced from Annexure B to Karl's affidavit, being screenshots of his conversations with Elsdon, the latter dismissed suggestions that ballistic exhibits were posted to Cape Town as "nonsense," insisted Highgate (not Orange Grove) was

the intended target, and opined that the attack was “a bright idea from someone higher up” rehearsed in detail.

[81] Roland Parker’s (“Parker”) evidence independently corroborates the pattern and tenor of Elsdon’s approach. Parker testified that Elsdon contacted him via Facebook Messenger on 30 January 2025, soon after footage of the inquest inspection in loco was posted on Facebook. Elsdon demanded secrecy and expressly cautioned Parker not to inform Neville, Dr. Edlmann, or the legal teams. Elsdon asked Parker to send him reports on the daily inquest court proceedings and to confirm whether the “Hammer Unit” had been mentioned. Elsdon passed on articles and an e-book (“My Cryptic Life”) about the Hammer Unit to Parker and claimed that the unit was dangerous and still active.

(g) **Systemic, investigative, and institutional failures**

[82] Retired Brigadier Clifford Marion (“Marion”), the private investigator for the families, set out a litany of investigative lapses and blunders.

[83] Marion testified that “certain shortcomings amount to gross negligence on the part of the responsible authorities,” notwithstanding the involvement of senior and experienced police officers in the investigation. He summarised multiple lapses, including:

83.1 The scene was not properly investigated,

83.1.1 No effort was made to lift fingerprints from the spent cartridges and grenade levers,

83.1.2 Elimination prints were not taken;

- 83.2 Crucial evidence, such as the ballistic and fingerprint evidence, was lost.
- 83.3 Important statements linking identity photo parades were not completed;
- 83.4 The docket was dormant and seemingly missing for several years, resulting in virtually no investigations during a period of more than 11 years from December 1998 to August 2010;
- 83.5 In addition, there were unexplained and lengthy investigative delays, indicating that the investigations were conducted with little or no urgency.
- 83.6 In particular, these included several key aspects that were not investigated:
 - 83.6.1 the alleged Citizen Newspaper call on 3 May 1993, claiming that APLA was responsible for the attack, was not traced;
 - 83.6.2 the call allegedly made from the Highgate Hotel phone booth was not traced;
 - 83.6.3 the alleged getaway vehicle with the number plate starting with the letters and number XB 3 was not traced;
 - 83.6.4 fingerprints were not lifted from the AK-47 cartridges or the fly-off levers of the grenades found on the crime scene.

[84] Marion indicated that suspects often leave trace prints on ammunition while loading it, and such prints could have been matched against the AFIS system introduced in 2000-2001 or the Home Affairs ABIS database. However, there is no evidence suggesting such items were tested for prints, and not a single officer on the scene confirms or states this happened.

[85] Captain Peterson's characterisation of this failure as "a serious blunder" highlights the magnitude of this neglect, particularly when contrasted with the elaborate fingerprint

elimination exercise that apparently followed the incident, involving 64 individuals whose prints could not be matched against negligible or non-existent scene evidence.

[86] Several police officers who were involved in the crime scene investigation and subsequent tasks, such as photo ID parades, did not make statements, including:

- 86.1 Warrant Officer Venkile, Sergeant Rutters, Warrant Officer Roos, and Sergeant Els;
- 86.2 Sergeant Bossr, who attended the crime scene from 1 May 1993 to 2 May 1993, who only submitted an affidavit some 31 years later on 3 February 2025;
- 86.3 Sergeant Brandt, the explosives expert who attended the scene;
- 86.4 Sergeant Wayne Xavier Rutters, who conducted photo identifications with various witnesses soon after the attack, testified that he normally would have compiled a statement documenting the identifications as per standard procedure. He could not recall whether he made a statement or not, but admitted that the omission was "disturbing" given the high-profile nature of a case involving five murders;
- 86.5 Warrant Officer David Henry Roos also conducted photo identification parades, in which positive identifications were apparently made. He did not depose to any statement in connection with his investigations. When Roos testified, he claimed to have no recollection of his investigative steps. The complete absence of any recollection by Roos of his involvement in the investigation exemplifies the chaotic and shockingly poorly documented nature of the initial investigation;
- 86.6 Dean George Venish was a Constable or Lance Sergeant in the Dog Unit in 1993, and one of the first responders on the scene. He witnessed one of the injured patrons refer to the attackers as "those bloody whites". No

statement was taken from him until 2012, nearly 19 years after the incident. Venish expressed surprise at this delay, stating, "I was surprised that nobody was coming."

[87] Certain affidavits were missing from the docket, including that of:

87.1 Captain Schwartz, who attended the crime scene from 3 May 1993 to 12 May 1993; and

87.2 Lieutenant Colonel W J De Lange, a member of the Security Branch whose affidavit, filed as A51, prompted the arrests of Xolile Ngxabane and Dumisile Nontshokweni.

[88] Four warrants of arrest are missing from the docket.

[89] The docket is entirely silent on why Mtutuzeli Mama was arrested and charged on
29

April 1994 and the charges were withdrawn against him on 2 May 1994.

[90] All the ballistic evidence, including all cartridges (except for the projectile recovered from Neville Beling), was apparently stolen from the Cape Town Post Office on 14/15 July 1995.

[91] Colonel Victor Jacobus Van der Merwe ("Van der Merwe"), who prepared the ballistic report, expressed bewilderment that someone would target a package containing spent cartridges with no commercial value. The loss of the cartridges prevented them from ever being uploaded onto the Integrated Ballistics Identification

System ("IBIS"), which was introduced in 1997, thus permanently closing the possibility of linking any recovered weapons to the massacre.

[92] According to Marion, in his experience, it was never standard procedure to send important exhibits by post. He asserted that it was standard procedure to protect the integrity of the chain of custody by hand-delivering exhibits to the forensic science laboratory.

[93] Marion concluded that:

"... this investigation was grossly substandard. But for these blunders, this investigation may have solved this brutal crime, particularly if forensic evidence had been properly collected, safeguarded, and tested. Such gross incompetence inevitably gives rise to a deep suspicion on the part of the survivors, families, and members of the public that the investigation was designed to fail. I fully understand the sentiment."

[94] Some of these lapses are dealt with in greater detail in the summary of evidence that accompanies this judgment, marked Annexure 'A'.

(h) **The fingerprints debacle**

[95] A consideration of the forensic examination of the Highgate Massacre crime scene revealed serious failures in basic evidence preservation and collection, especially in relation to fingerprints. These lapses fundamentally compromised the investigation from its inception.

- 95.1 Constable Johannes Frederick van Deventer du Plessis ("Du Plessis"), the crime scene photographer, arrived at the Highgate Hotel at approximately 22h40 on 1 May 1993. He was also a fingerprint expert, and confirmed that prints should have been taken from critical pieces of evidence, including the teargas canister and grenade, and teargas levers; however, he did not know or could not recall whether that was done or not.
- 95.2 The fifth and current investigation officer, Captain Peterson, conceded that a failure to lift prints would be a "terrible blunder," emphasising that fingerprinting should have been a basic investigative step, particularly given the gravity of a case involving five fatalities.
- 95.3 Captain Kelvin Cecil Swartbooi ("Swartbooi"), a SAPS fingerprint expert who examined, during January 2025, archived fingerprint evidence from the Highgate scene, acknowledged significant gaps in the original forensic examination, including the failure to fingerprint the 56 x AK-47 cartridges, the grenade lever, and the teargas canister lever, stating that if he had conducted the crime scene investigation, he would have fingerprinted these items.

[96] The investigation diary entry at C6 dated 2 May 1993 stated that fingerprints were lifted from the scene, yet by the start of the inquest, Captain Peterson found no records or documentation confirming this, and when he contacted the LCRC office, they claimed that a rainstorm had destroyed many records at the former Oxford Street premises.

[97] However, after a search for the missing fingerprint exhibits, which was started on 27 January 2025 through the LCRC archives, an envelope containing seven Foliens from the scene of the Highgate Massacre was discovered on 30 January 2025. The

Folien had been so poorly stored, however, that it was completely unusable. That begs the question as to how such crucial exhibits (but not others) could have been found after a relatively short period of searching (approximately three days), and further as to how such critical evidence could have been stored so ineptly as to render it worthless.

[98] The original LCRC docket containing critical information, such as photo logs and evidence chain documents, has never been located. Du Plessis explained that the office had moved three times since 1993, which, in my view, does not in any way provide a justifiable explanation.

[99] The investigation diary entry at C6 dated 2 May 1993 confirmed that Lieutenant Stassen, Sergeant Naudé, and Constable Du Plessis attended the scene to conduct a forensic analysis. Du Plessis confirmed that his role was limited to photography while Stassen and Naudé were responsible for actual fingerprint collection.

[100] Consequently, Stassen, the senior fingerprint officer, became a crucial missing link in understanding the forensic failures.

[101] Stassen's inability to confirm whether critical evidence was fingerprinted, despite being the senior officer responsible for forensic investigation, exemplifies the systematic breakdown in evidence collection and documentation. His admission that he gave minimal instructions to his team and did not follow up on whether chemical fingerprinting was subsequently conducted represents a fundamental abdication of supervisory responsibility.

[102] The absence of a proper command structure compounded these failures. According to Stassen, Lieutenant-Colonel Knoetze, the LCRC commander, arrived at the scene but immediately departed upon seeing him present. Inexplicably, a lieutenant was left to supervise a mass murder scene without oversight.

[103] This created a situation where, as Stassen explicitly admitted, "nobody" was responsible for ensuring Sergeant Naude performed his work properly, with Naude working "on his own time" despite Stassen outranking him as a lieutenant, as against Naude's rank as sergeant. This reveals a complete breakdown in the chain of command and quality control at one of the most serious crime scenes in East London's history.

[104] The forensic investigation's credibility was further undermined by Stassen's contradictory testimony about his activities during the seven hours at the scene. While initially claiming in his YouTube post to have been "incredibly busy," he later admitted under cross-examination to not conducting an initial scoping of the scene and spending virtually all of his time "outside talking to colleagues". He claimed quite astoundingly that his subordinates needed no supervision as they were experienced.

[105] A further investigation diary entry at C55, dated 27 May 1993, noted that fingerprints and palmprints were taken from potential suspects and handed to LCRC, with an elimination report pending. Yet, no such report exists in the docket.

[106] It is little wonder that Marion was moved to describe the crime scene and subsequent investigation as a "disgrace".

(i) Ballistics and explosives failures

[107] The bungling of the handling of the ballistics evidence eliminated any possibility of linking the weapons used to their sources or to other crimes.

[108] As stated, Van der Merwe, the ballistics expert who analysed the crime scene evidence, revealed that the original forensic docket containing all ballistic exhibits, including 56 spent cartridges, bullets, reports, and covering letters, was apparently stolen from the Cape Town Post Office in July 1995.

[109] This theft meant that the cartridges and their headstamps, which would have identified the country of origin, manufacturer, and lot numbers of the ammunition, could never be analysed. According to Van der Merwe, such evidence could have been used to trace whether the ammunition came from domestic sources like Pretoria Metal Pressings (“PMP”) or foreign suppliers.

[110] Van der Merwe determined that at least two AK-47 rifles were used in the attack, with 19 spent cartridge cases matching one weapon and 28 matching a second, but, as mentioned above, the theft of these exhibits meant they could never be uploaded onto the IBIS system, thereby eliminating any possibility of future matches if the weapons were recovered.

[111] The explosives evidence was similarly mishandled, with critical identification opportunities lost. Charl Jurgens Naudé (“Naudé”), the ammunition expert called by the families, identified the teargas grenade as locally manufactured by Swartklip Products and primarily used by the police and selected army units, while the hand grenade lever was consistent with Soviet F1 or RDG series grenades.

[112] Despite these items possibly bearing fingerprints, Du Plessis confirmed that no fingerprints were taken from either the teargas canister or the grenade metal levers.

[113] Van der Merwe's crime scene observations documented approximately 30 bullet holes in the public bar area alone, with seven in the passage leading to the Ladies' Bar, seven in the Open Arms Bar, and three fired from behind the bar counter, possibly from civilian return fire. His analysis of the Ladies' Bar, where four victims died, noted the complete absence of bullet marks on walls or ceilings, which he interpreted as indicating the assailant's bullets found their targets with unusual accuracy and proficiency, suggesting either semi-automatic fire or controlled bursts rather than the full-automatic spray typical of untrained operators.

[114] Van der Merwe explained that AK-47 cartridges from Russian or Chinese origin often include minimal markings, sometimes merely numbers such as "531," while South African-manufactured ammunition from PMP could be distinguished by specific characteristics. Upon examining photographs of the crime scene, he observed unusually shiny cartridge cases that could possibly have indicated PMP manufacture, but without the physical exhibits, these assessments remained speculative, and Van der Merwe declined to make assumptions in this regard.

[115] The explosives evidence pointed to military or police sources. Naudé's expert analysis determined that the CS teargas grenade was manufactured by Swartklip Products (later absorbed into Rheinmetall Denel Munition) and distributed through SAP central depots or military depots such as De Aar, Naboomspruit, or Jan Kempdorp for controlled distribution to trained personnel.

[116] The hand grenade components, specifically the UZRGM fuse fly-off lever, were identified by Naudé as Soviet-manufactured, typically smuggled into the country from Soviet bloc states. Naudé's examination of blast damage at points X, Y, Z, and A1 in the photographs of the scene, found that it was consistent with an RDG-5 grenade (which is classified as an offensive grenade with more so-called "explosive power" having 100 grams of TNT compared to an F1 grenade's approximately 60 grams of TNT) rather

than an F1, based on the absence of large floor gouges and the specific carbonisation pattern left by TNT.

(j) Other investigative lapses

[117] The investigation into the Highgate Massacre was characterised by a pattern of negligence that extended far beyond the initial crime scene failures.

[118] Captain Peterson, who inherited the investigation in August 2021, testified that the docket he received contained 76 statements, many of which were copies, uncommissioned, or unsigned, with statements A2, A3, A4, A7, A8, A9, A10, A12, A13, A15, A16, A17, A18, and A49 among those lacking proper commissioning.

[119] The investigation diary revealed a disturbing pattern of instructions having been ignored and duties neglected, with multiple entries between June and August 1994 showing commanders instructing that an inquest docket be prepared, yet it was never completed despite assurances that statements were being typed.

[120] The peculiar interventions of various “investigators” reveal a pattern of not just gross incompetence but, it appears, deliberate misdirection. Elsdon testified that Els had told him the SAPS prevented him from fully investigating the Highgate Massacre and that a covert SADF group known as the Hammer Unit was responsible. Elsdon provided Captain Peterson with the names of two alleged Hammer Unit members, the brothers Marius and Fanie van Zyl, in February 2023, yet none of these so-called leads proved to be fruitful.

[121] The investigation's treatment of APLA-related evidence reveals selective blindness. Dumisani Ncamazana ("Ncamazana"), who was convicted for, inter alia, a separate 1994 Highgate attack, explicitly denied involvement in the 1993 Highgate Massacre and rejected various claims that he had admitted responsibility as "not true."

[122] More significantly, Letlapa Mphahlele testified unequivocally that APLA was not responsible for the May 1993 attack, listing multiple reasons why it was inconsistent with APLA operations: attackers wore balaclavas (never used by APLA), used tear gas for retreat (unprecedented in APLA operations), faces were painted (not typical), and the weapons used were not consistent with APLA's arsenal at the time. He emphasised that all APLA operations during his tenure were meticulously documented and archived, but no records exist of the May 1993 Highgate attack despite extensive state raids on these archives.

(k) Failure to hold a timely inquest

[123] One of the most troubling aspects that has emerged during the hearing is the extraordinary delay of 32 years in establishing an inquest.

[124] Despite the legal requirement that an inquest be held whenever someone dies from unnatural causes and no criminal trial ensues, no inquest was convened in 1993 or the years thereafter. Section 5(2) of the Inquests Act requires that a magistrate "shall ensure that an inquest is held" when deaths occur from unnatural causes without prosecution.

[125] The investigation diary shows that Captain Ian Swarts ("Swarts") repeatedly instructed between June and August 1994 that an inquest docket be prepared, yet these directives were systematically ignored without explanation.

[126] Captain Peterson confirmed that, despite the legal requirement, no inquest was convened in 1993 or the years immediately following.

[127] When the docket was forwarded to the Attorney General's office between November 1994 and January 1995, it was returned with no recommendations for further investigation, effectively abandoning the case.

[128] This represents a cynical failure of the justice system. As a result, the burden of seeking justice fell entirely on the traumatised survivors and bereaved families, who were forced to become their own investigators while struggling with severe physical disabilities and psychological trauma.

[129] The families were subjected to what Dr. Edlmann characterised as repeated cycles of false hope.

[130] The docket's transfer to the TRC created a hiatus in the investigation, with Captain Peterson confirming that during this period, no police officer was actively working on the case since the docket was apparently not in their possession.

[131] When Lieutenant Colonel Mahlangu queried in the investigation diary on 5 August 2014 whether there was any evidence, Nel's response simply noted it as a "CATS enquiry" and TRC case without addressing the evidentiary issue.

[132] The 32-year delay, combined with the State's abdication of its investigative duties and the burden placed on traumatised survivors to pursue their own justice, represents not merely procedural failure but a fundamental breach of the constitutional promise of dignity and justice for all citizens.

[133] I am constrained to say in the circumstances that the 32-year delay in holding an inquest, combined with the systematic failures documented here, actually approaches the fundamental dereliction of a constitutional duty, rather than just mere neglect.

(l) Political interference and 'closure' of apartheid era cases

[134] This inquest has also touched on the broader context of why so many apartheid-era atrocities, including the Highgate Massacre, were not pursued by prosecuting authorities following the winding up of the Truth and Reconciliation Commission ('TRC').

[135] Advocate Mthunzi Mhaga ("Mhaga"), a Special Director and Head of the Legal Affairs Division in the National Prosecuting Authority ('NPA'), testified that between 2006 and 2009, he was based at the Priority Crimes Litigation Unit (PCLU) working on the TRC cases. More particularly, he worked on the Highgate matter between 2006 and 2007.

[136] Mhaga confirmed that during these years, the NPA had no investigative support and was unable to investigate the TRC cases, including the Highgate case. Nonetheless, he attempted to carry out informal or preliminary investigations himself to try and get the case off the ground, even though he possessed no investigative powers

and enjoyed none of the resources of the police. Unsurprisingly, he was unable to make any progress.

[137] The families' legal team placed on record that political interference in the work of the NPA brought a halt to the investigation of the TRC cases, between 2003 and 2010, when both the Directorate of Special Operations and the SAPS refused to investigate the cases, even though they concerned the most serious crimes involving murders and massacres.

[138] Indeed, the Court was informed that the families of the Highgate victims (along with other victims of apartheid-era crimes) have recently initiated litigation against the South African Government, seeking constitutional damages and an inquiry into the systemic suppression of these cases. Correspondence featuring in this litigation was put up confirming that the NPA was denied investigative support during this period.

(m) **Narratives**

[139] Since nobody applied for amnesty for the Highgate Massacre, and no one with real inside information has come forward, there are no identifiable individual suspects in this matter.

[140] What is left are several narratives or theories that might serve to explain the Highgate Massacre. However, there is no hard evidence to sustain any of the narratives.

[141] Louise Flanagan, in her report "Attack on the Highgate Hotel: The Eastern Cape context" ("the Flanagan Report"), notes:

"Highgate was not an armed robbery. There does not appear to be any evidence that this attack targeted an individual over a personal grievance. This attack appears to be political violence, carried out at a time when political violence was being used to whip up support for certain groups, encourage fear, and encourage anger towards other groups, during a crucial time of negotiations and transition."

[141] The Court had the benefit of hearing the expert evidence of Brigadier Marion, who explored five possible narratives:

141.1 The APLA narrative.

141.1.1 The APLA narrative originated on the night of the massacre, according to the Investigation Diary entry at 23:30 on 1 May 1993. The press ran sketches nationwide with a R150 000.00 reward authorised by Major General Huggett and Minister Hernus Kriel, attributing the attack to APLA. Some 64 persons connected to APLA and the ANC were questioned, with fingerprints and palm prints checked. Several were arrested, and at least one (Mama) was formally charged, though charges were later withdrawn.

141.1.2 Marion noted Flanagan's research showing the South African Police ('SAP') raided PAC homes and offices nationwide on 25 May 1993, arresting 81 PAC members and seizing documents. Despite these raids occurring weeks after Highgate, there did not appear to be anything uncovered linking APLA to the Highgate Massacre. Large numbers of PAC/APLA files seized during the 1995 SADF raids in Umtata and Lesotho similarly revealed no Highgate connection. APLA commander Mphahlele commented on the absence of evidence in these files.

141.1.3 Marion quoted Flanagan's critical observation: "If this attack was carried out by an APLA unit, what happened to those involved? Why did they not claim amnesty, as for similar attacks?" The standard APLA practice involved geographically separate groups knowing of operations. However, it is the operational unit and commanders who would claim media responsibility.

141.1.4 Marion concluded that, in his view, the investigation pertaining to APLA had been thoroughly conducted, with APLA command categorically denying involvement. He noted APLA claimed responsibility for 36 of 64 attacks listed in Robert John Tyrrell's ("**Tyrrell**") report. Thus, suspects' particulars, fingerprints, and weapons from other attacks should have been linked to this attack by now, at least by way of the palm-prints and ballistic evidence. However, he acknowledged that the possibility cannot be ruled out that renegade APLA operatives committed the attack and kept quiet and did not apply for amnesty, though this remains in the realm of conjecture or speculation.

141.2 The Hammer Unit narrative.

141.2.1 This theory emerged during Els's private investigation in 2006 when he told Neville Beling that a "Third Force" called the Hammer Unit was involved. At a Kennaway Hotel meeting on 28 November 2006 in East London with survivors and Mphahlele, Els stated that the attackers were not APLA, listing multiple inconsistencies, namely:

- (a) Attackers wore black/dark blue, used AK-47s, hand grenades, and teargas, which APLA did not;

- (b) APLA used R1s, R4s and R5s as they could not get AK-47 ammunition;
- (c) Withdrawal under teargas was a first;
- (d) Some attackers had black camouflage paint, suggesting they were white;
- (e) No vehicles were reported stolen/hijacked before the attack, unlike typical APLA operations;
- (f) Attackers showed greater training and shooting accuracy than in APLA incidents;
- (g) AK-47s were never linked ballistically before or after, suggesting they were used specifically for that attack and destroyed;
- (h) Police received no intelligence reports on Highgate, unlike other attacks, and
- (i) No relevant documentation existed in the seized APLA files.

141.3 The Disgruntled Patrons narrative.

141.3.1 This narrative arose from multiple incidents on 1 May 1993, where black patrons experienced discrimination at the Highgate.

(a) The bar lady served cigarettes to two black males around 10h00, but told them they were out of stock for beer. Marion noted that it was highly unlikely that the Highgate would have actually run out of beer.

(b) One of the persons at the hotel, Arnott, told a black male who was using the public payphone that the phone was not a public phone and that there was a public phone down the road. The black male ignored him and continued using the phone. Eventually, he ordered them to leave the premises. They left the premises and drove off in a blue and white Toyota or Mazda bakkie with a white canopy in the direction of Summerpride.

141.3.2 Claassen furthermore observed two black men enter the Men's Bar at 11:25, with one grinning at him before they left after a hand gesture from barman Gontshi.

141.3.3 Marion noted this narrative suggested aggrieved patrons may have returned that night to exact vengeance against the white patrons and staff. This narrative, however, carries a low likelihood.

141.4 The Askari narrative.

141.4.1 Marion provided extensive detail on the Askari narrative, which Flanagan's research suggested as particularly compelling. Askaris were turned liberation movement members who underwent military training outside South Africa, were arrested on return, and either turned by the Security Branch's C1 unit or voluntarily became informers. They were trained in the use of Eastern Bloc weapons, including AK-47 rifles, Tokarev and Makarov pistols, limpet mines,

Soviet F-1 hand grenades, and RDG-5 anti-personnel fragmentation grenades - matching Highgate evidence.

141.4.2 The East London Askari unit was established in the late 1980s (likely 1987-1988) under Eugene de Kock's overall Vlakplaas command. They initially rented a farm in the Summerpride area near the Johnson & Johnson factory and possibly on the Thornycroft Road, less than 5km from the Highgate Hotel, before moving to Greenfields in mid-1992. The unit grew from about 10 members in 1989 to a larger group by April 1993.

141.4.3 Eugene De Kock's amnesty testimony confirmed that he supplied Eastern Bloc weapons to East London operatives under Captain Willie de Lange's command, stating weapons were "for clandestine, covert operations which would have led to the death or injury of the enemy" and would "leave the impression that the Security Police could not be connected... it would point in the wrong direction." Eugene De Kock testified he provided "four AK-47 assault rifles with magazines and 16 hand grenades" to East London operatives.

141.4.4 Alfred Benjamin "Ben" Bambatha's affidavits to Minister Sydney Mufamadi confirmed Askaris received "extensive firearms training" at locations including Westbank Prison shooting range and Mooiplaas Security Branch training area, with specialized Task Force training. Bambatha referenced planting weapons, including F1 hand grenades, at crime scenes. The unit's operations included murders rather than arrests, planting weapons to justify killings, executing alleged guerrillas following abduction, and effecting the disappearance of targets intending to join exiled movements.

141.4.5 Crucially, the Askari units were closed down at the end of April 1993, with Askaris paid out, just days before the Highgate attack. The

SAPS payout list (Exhibit "CRMC2") revealed significant discrepancies: black Askaris received between R27 000.00 and R476 000.00 (most around R150 000.00), while white supervising officers received substantially more - P.J. Van Dyk (R796,525.73), E.A. De Kock (R1,001,444.46), and J.S. Vermeulen (R1,102,929.93). Marion noted that it is not known whether the discrepancy was known to the Askaris, but as suggested by Flanagan, the abrupt dismissal could have prompted some or a few of the Askaris to attack the Highgate Hotel with weapons at their disposal as an act of reprisal for their poor treatment.

141.4.6 Flanagan identified four crucial aspects: Askaris knew the Summerpride area well enough to identify escape routes; they likely knew Highgate was a police hangout where senior officers frequented; they had police weapons training, including from special task force trainers; and they had access to unaccounted-for weapons provided by Eugene De Kock.

141.4.7 Captain Peterson's investigations traced and interviewed three Askaris: Fokazi, Oliphant, and Twala, all of whom denied involvement

141.5 The False Flag narrative.

141.5.1 Marion contextualised this narrative within the fragile 1993 transition period when the Transitional Executive Council announced elections for 27 April 1994. He testified: political violence was often used to try to sabotage the negotiation process, polarise communities, and erode trust. The Highgate Massacre might not be an isolated and seemingly random attack but rather part of a broader scheme orchestrated by those aiming to manipulate the fragile political climate.

141.5.2 He detailed how false-flag operations are designed to appear as though they were perpetrated by an entity other than the group actually responsible, calculated to generate sympathy for the attacked group and justify retaliatory operations. The TRC found the South African state responsible for various false-flag operations, including arranging Eastern bloc weapons caches to justify attacks on Botswana (1988), bomb explosions at Joubert Park and J.G. Strydom Hospital (1989), attacks on SAP Flying Squad headquarters using AK-47s and RGD-5 grenades (1989), planting arms at Khanya House and COSATU buildings, and various bombings of railway stations and power plants.

141.5.3 The day after Highgate, both the ANC and the Democratic Party suggested it was carried out by those wanting negotiations to fail. ANC Border official Mcebisi Bata stated that some people in the right wing are trying to whip up emotions, and some in the South African security forces, who are trying to mobilise whites against negotiations. Democratic Party MP Andre de Wet also said something to the effect of: "I'm personally not convinced it's APLA... As we move closer to an interim government and joint control of the security forces, such attacks will continue and escalate".

141.5.4 Flanagan's research revealed a covert SADF/SAP group operated in the Eastern Cape led by SADF officer Anton Nieuwoudt with access to weapons from Eugene de Kock, suggesting renegade elements might have carried out Highgate as a false-flag operation to instigate right-wing backlash and derail democracy.

Summary of the evidence

[142] An in-depth account of the witnesses' testimonies appears more fully from the summary of the evidence annexed to this judgment marked 'A', which must be regarded as having been incorporated herein.

CONCLUSION

[143] Even though the Highgate attack counts among the most devastating incidents of its nature at the time, we are nowhere closer to complete answers more than 30 years later. The attack was meticulously planned and callously executed with the precision of highly trained operatives. Its consequences were lethal, having virtually destroyed the lives of the many affected parties who are left without any real redress. Its sheer wickedness is beyond comprehension. It is disconcerting in the extreme and an utter travesty if not a disgrace that so little effort has been made right from the inception to properly deal with this matter.

[144] The many examples of bungling, lapses, failures, and neglect in dealing with the matter are fully documented in this judgment. This includes improperly investigated crime scenes, failure to lift fingerprints from cartridges and grenade levers, missing elimination prints, lost ballistic and fingerprint evidence, incomplete statements linking photo parades, dormancy of the docket for over 11 years, and unexplained, lengthy investigative delays showing a complete lack of urgency. This state of affairs is simply shameful, and the main reason why this matter has seemingly landed in a dead-end. I agree with Brigadier Marion that the investigation was grossly substandard and but for these blunders, the investigation may have solved this brutal crime, particularly if forensic evidence had been properly collected, safeguarded, and tested. This incredibly gross incompetence inevitably gives rise to the suspicion that the investigation was designed to fail. I should, however, hasten to add that this inquest is capable of being reopened should the situation change or new information become available.

[145] In my view, the Highgate attack was more than likely a false flag operation, partly intended to wrongly implicate APLA. However, the narrative that APLA was responsible has been convincingly debunked in these proceedings, in particular by the evidence of Mr Mphahlele, as well as the expert testimony of Mr Robert Tyrrell, which can be accepted without reservation. Added to this is the evidence that the faces of the attackers were smeared black; the comment by one of the patrons referring to the attackers as whites; the credible and detailed evidence of Mr Karl Weber that one of the attackers was wearing police issue boots; the accuracy of the attack; the lack of any APLA operatives having applied for amnesty in respect of the incident; and the unusual modus operandi of the attackers, such as the use of AK-47s, the inability to link the spent AK-47 cartridges found on the crime scene to any other attack showing that 'clean' weapons were used, and the use of tear gas as a cover to withdraw from the crime scene. The cumulative effect of all this militates against the involvement of APLA. Furthermore, on all accounts, Karl Zimbiri, who purportedly took responsibility on behalf of APLA for the Highgate attack, was a fictitious figure conjured up to perfect the false implication of APLA in this despicable deed.

[146] The remaining narratives can be safely discounted, save that the involvement of the Hammer Unit remains a possibility. It cannot presently be put higher than that. In my considered view, the involvement of elements within the Apartheid security forces is more probable than not.

[147] Being acutely aware that it was not possible to accomplish closure in this matter, I proceed to make the undermentioned findings in terms of section 16(2) of the Inquests Act.

FINDINGS

[148] In the result, I make the following findings:

(a) The identities of the deceased are –

(i) **STANLEY HACKING;**

(ii) **DOUGLAS WILLIAM GATES;**

(iii) **ROYCE MICHAEL WHEELER;**

(iv) **DEON WAYNE HARRIS;** and

(v) **DERIC JOHN WHITFIELD.**

(b) The cause of death of each one of the deceased is multiple gunshot wounds inflicted by an assault rifle(s).

(c) The date of death of each one of the deceased is 1 May 1993.

(d) The deaths were brought about by the offence of premeditated Murder in that the deceased were wrongfully and intentionally shot with an assault rifle(s). (I should add that the same applies to the survivors). The identity of the individual perpetrators is unknown, save that *prima facie* they were probably members of a renegade covert group within the Apartheid security forces, seemingly intent

on derailing the political transition at the time, who staged the attack, to falsely implicate APLA.

CLOSING REMARKS

[149] It remains for me to express sincere appreciation for the invaluable assistance of both legal teams, as well as the investigating officer, Captain Peterson, who all helped to make this very difficult task somewhat manageable. Also, for the participation of all the witnesses, in particular, the survivors and affected families. It is my earnest wish that you will find closure in the fullness of time and that justice will eventually prevail. Last but not least, to the court's support staff who perform an indispensable and often less conspicuous role. Not forgetting the members of the Media who conscientiously reported on the proceedings, thereby sharing the story of the Highgate Massacre with the nation.

D.O. POTGIETER

JUDGE OF THE HIGH COURT

APPEARANCES

Counsel for The State: Adv F Bosman, Adv D Govender, Adv J Coltman, Adv N Mvandaba, Adv G Namba and Adv G Busakwe, instructed by National Director of Public Prosecutions, Makhandla

Counsel for Victim Families: Adv H Varney and Adv R Richards, instructed by Cliffe Dekker Hofmeyr Inc, Johannesburg

Dates of hearing: 27 January 2025 – 31 January 2025, 3 February 2025 – 7 February 2025, 24 March 2025 – 27 March 2025, 11 August 2025 – 13 August and 1 September 2025 – 4 September 2025

Date of delivery of judgment: 1 December 2025



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)**

Case No.: CC66/2024

In re: Inquest into the Highgate Hotel attack and the deaths of-

- 6. STANLEY HACKING**
- 7. DOUGLAS WILLIAM GATES**
- 8. ROYCE MICHAEL WHEELER**
- 9. DEON WAYNE HARRIS**
- 10. DERIC JOHN WHITFIELD**

ANNEXURE A: SUMMARY OF EVIDENCE

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A. The testimony of the private individuals

a. Accounts of the attack:

- i. The inquest heard harrowing first-hand accounts from survivors who were present at Highgate Hotel on the night of the Highgate Massacre. Neville Beling (“**Beling**”), for instance, who was gravely injured in the attack, described the sudden eruption of violence, the sound of automatic gunfire, an explosion, and the overpowering cloud of tear gas that filled the bar, which caused panic and disorientation.²⁴
- ii. Beling, in the Public/Men's Bar of the Highgate Hotel, described the scene as one of utter chaos and terror, with patrons scrambling for cover amid choking fumes and flying bullets. Beling’s testimony painted a vivid picture of a well-coordinated assault: a rifle-wielding gunman,²⁵ his identity concealed by a balaclava or face mask,²⁶ sweeping through the establishment and firing indiscriminately yet with lethal precision.²⁷
- iii. Karl Andrew Weber (“**Weber**”), in the Ladies' Bar of the Highgate Hotel, described hearing shooting (or what he believed were firecrackers at the time) in the Men's Bar,²⁸ the lights going out and seeing a balaclava wearing gunman in blue police boots at the door to the Ladies' Bar who kept firing an AK-47 over and

²⁴ Transcript of Proceedings, Day 3, 29 January 2025, pp. 26–39.

²⁵ Transcript of Proceedings, Day 3, 29 January 2025, p. 25, 37.

²⁶ Transcript of Proceedings, Day 3, 29 January 2025, p. 25.

²⁷ Transcript of Proceedings, Day 3, 29 January 2025, pp. 26–28.

²⁸ Transcript of Proceedings, Day 4, 30 January 2025, p. 7.

over again.²⁹ Leaving the smell of blood in his wake before throwing in a teargas cannister.³⁰

b. Lack of perpetrator identification:

- i. Crucially, none of the survivors who testified were able to identify any of the attackers by name or face, as the assailants were masked and moved swiftly.
- ii. However, survivors did note certain distinguishing features of the attackers and the attack itself. It was noted that at least some assailants wore dark uniforms or clothing. Beling described a man in a brown jacket,³¹ Weber described a man in dark police boots, typically worn by the riot unit,³² and balaclavas, and that they withdrew under the cover of tear gas after unleashing their gunfire.³³

c. Impact on victims and family members:

- i. The survivor testimonies also movingly conveyed the devastating personal impact of the Highgate Massacre. Lyndene Page (“**Page**”), who lost her brother Deon Harris (“**Harris**”) in the attack, testified to the lifelong grief and trauma endured by the families. She described how decades have

²⁹ Transcript of Proceedings, Day 4, 30 January 2025, pp. 7–9.

³⁰ Transcript of Proceedings, Day 4, 30 January 2025, p. 9.

³¹ Transcript of Proceedings, Day 3, 29 January 2025, p. 37.

³² Transcript of Proceedings, Day 4, 30 January 2025, p. 8.

³³ Transcript of Proceedings, Day 3, 29 January 2025, pp. 37-38; Transcript of Proceedings, Day 4, 30 January 2025, pp. 8–9.

passed without answers or accountability, compounding their sorrow with frustration.³⁴

- ii. For survivors like Beling, Roland Richard Parker ("**Parker**"), William Freddie Bailing ("**William Bailing**"), Keith David Bailig ("**Keith Bailing**"), and Weber, every day lived with the physical pain of injuries and the emotional burden of that night is a reminder of the injustice of an unresolved crime.
- iii. Their voices underscored why uncovering the truth in this inquest is not a mere academic exercise, but a deeply human quest to restore dignity and closure for those who suffered most.
- iv. These accounts set the stage for the evidentiary inquiry by highlighting both what happened to the victims and what has not happened since, namely, any form of justice or acknowledgement of responsibility.

d. What follows is an account of the relevant witnesses in this regard.

*Neville Beling:*³⁵

- e. Beling, a survivor who sustained life-altering injuries during the attack, provided his testimony on 29 January 2025. His evidence gave a detailed, ground-level account of the assault as it unfolded in the Men's Bar, documented the severe and lasting medical and psychological trauma he has suffered, and outlined his extensive personal efforts to uncover the truth in the face of alleged investigative failures. He recounted the sudden appearance of the gunman, the experience of

³⁴ Transcript of Proceedings, Day 4, Part 2, 30 January 2025, pp. 67–6, 88–89; Exhibit C – Families Bundle, Affidavit of Lyndene Page, pp. 99–100.

³⁵ Exhibit C, Statement of Neville Beling, pp. 1–18.

being shot multiple times, and the ensuing explosion and tear gas. Beling's testimony was also central to understanding the survivors' subsequent quest for justice, detailing his role in forming the Highgate United Group, his dealings with informants like Frederick Doug Petzer (Dirk) ("**Petzer**"), the failed investigation by Captain Daryl Els ("**Els**"), and his deep suspicions regarding tampered evidence and a compromised official inquiry.

f. Background and events leading to the Highgate Massacre:

- i. Beling provided testimony regarding his life before the Highgate Massacre. He described working at Da Gama Textiles from August 1992 and how, thankfully, he signed his work medical aid forms on 30 April 1993, with effect from 1 May 1993, the day of the attack.³⁶ On that evening, after failed attempts to meet a friend, he decided to go out with his cousin, Parker. They visited several locations before settling on the Highgate Hotel, as it was close to their homes.³⁷

g. Attack and injuries:

- i. Upon arriving at Highgate Hotel, they first entered the Ladies' Bar, found it crowded, and moved to the Men's Bar.³⁸ While waiting for change after purchasing drinks, Beling heard loud footsteps and saw a man in a balaclava with a rifle rushing up the stairs and entering the bar.³⁹ Realising the imminent danger,

³⁶ Transcript of Proceedings, Day 3, 29 January 2025, p. 20.

³⁷ Transcript of Proceedings, Day 3, 29 January 2025, pp. 21–23

³⁸ Transcript of Proceedings, Day 3, 29 January 2025, p. 24.

³⁹ Transcript of Proceedings, Day 3, 29 January 2025, pp. 25–27.

he pushed his cousin to the floor, and as he fell, he felt bullets striking his body.⁴⁰

- ii. Beling was shot multiple times in his left arm, leg, and back.⁴¹ As he lay on the ground, he heard continuous gunfire, followed by a metallic object rolling towards him. He then heard the sound of tear gas dispersing, which severely affected his breathing.⁴² A grenade explosion followed, shaking the building and plunging it into darkness.⁴³ He described choking on a thick, powdery tear gas that was unlike anything he had previously experienced.⁴⁴
- iii. Despite severe injuries and difficulty breathing, Beling managed to reach the bar counter, using his cousin's body for support, and attempted to escape.⁴⁵ A bystander helped him, urging him to stay down, but he insisted on finding a way out. Parker later regained consciousness and, along with others, assisted in carrying Beling outside to an ambulance.⁴⁶

h. Medical treatment and aftermath:

- i. Beling was transported to Frere Hospital,⁴⁷ where he was initially misdiagnosed as having only a wounded arm.⁴⁸ However, after his aunt noticed excessive bleeding from his

⁴⁰ Transcript of Proceedings, Day 3, 29 January 2025, pp. 26–27.

⁴¹ Transcript of Proceedings, Day 3, 29 January 2025, p. 27.

⁴² Transcript of Proceedings, Day 3, 29 January 2025, p. 28.

⁴³ Transcript of Proceedings, Day 3, 29 January 2025, pp. 28–29. .

⁴⁴ Transcript of Proceedings, Day 3, 29 January 2025, p. 29.

⁴⁵ Transcript of Proceedings, Day 3, 29 January 2025, pp. 29–30.

⁴⁶ Transcript of Proceedings, Day 3, 29 January 2025, pp. 30–32.

⁴⁷ Transcript of Proceedings, Day 3, 29 January 2025, p. 35.

⁴⁸ Transcript of Proceedings, Day 3, 29 January 2025, p. 34.

back, doctors realised the severity of his injuries.⁴⁹ He underwent emergency surgery and was informed by medical personnel that he would likely require operations for the next 32 years.⁵⁰ Over the years, he endured more than 15 major surgeries, developed sepsis, and suffered multiple instances of heart failure due to anaesthesia.⁵¹

- ii. Beling also described the long-term impact on his life, stating that he never worked again after the attack. He experienced severe physical pain, morphine addiction, and deep psychological trauma, expressing that he had been robbed of his youth.⁵²

- i. The 1995 shooting incident:

- i. In 1995, while receiving home care from a private nurse, Beling was nearly shot again in what he suspected was a targeted attack. Automatic gunfire was directed at his home, narrowly missing his cousin.⁵³ The police investigated and recovered a bullet projectile from a neighbour's roof, but later informed his father that the forensic tests identified it as "a piece of metal," ending the investigation.⁵⁴

- j. Initial investigations:

⁴⁹ Transcript of Proceedings, Day 3, 29 January 2025, pp. 35–36.

⁵⁰ Transcript of Proceedings, Day 3, 29 January 2025, pp. 35–36.

⁵¹ Transcript of Proceedings, Day 3, 29 January 2025, pp. 39–40.

⁵² Transcript of Proceedings, Day 3, 29 January 2025, pp. 39–41.

⁵³ Transcript of Proceedings, Day 3, 29 January 2025, pp. 41–42.

⁵⁴ Transcript of Proceedings, Day 3, 29 January 2025, pp. 42–43.

- i. Beling recounted his early interactions with the SAPS and the Truth and Reconciliation Commission (“**TRC**”). Initially, he believed the attack was conducted by the Azanian People’s Liberation Army (“**APLA**”), as it was widely reported in the media and by police.⁵⁵ However, in 2005, during a mediation with former APLA commander Letlapa Ngoata Mphahlele (“**Mphahlele**”), he was told that the attack did not match APLA’s operational style.⁵⁶ Mphahlele suggested the possibility of a “third force” being involved.⁵⁷
 - ii. Following this revelation, Beling and other survivors formed the Highgate United Group to seek further investigation. They lobbied the National Prosecuting Authority (“**NPA**”) for a reopening of the case, which was eventually granted.⁵⁸
- k. Private investigation and allegations of a third force:
- i. In 2007, former investigating officer Els, now a private investigator, agreed to help Beling and his group. They raised R5,000 to fund his investigation, which led him to Port Elizabeth and Cape Town.⁵⁹ Els claimed to have discovered evidence linking the attack to military-trained operatives,⁶⁰ under Colonel Piet Hall (“**Hall**”).⁶¹ He also visited a suspected training site near Addo Elephant Park, where structures mimicking Highgate Hotel were allegedly used for training. However, after claiming he had

⁵⁵ Transcript of Proceedings, Day 3, 29 January 2025, p. 46.

⁵⁶ Transcript of Proceedings, Day 3, 29 January 2025, pp. 45–46.

⁵⁷ Transcript of Proceedings, Day 3, 29 January 2025, p. 46.

⁵⁸ Transcript of Proceedings, Day 3, 29 January 2025, p. 49.

⁵⁹ Transcript of Proceedings, Day 3, 29 January 2025, p. 57.

⁶⁰ Transcript of Proceedings, Day 3, 29 January 2025, p. 58.

⁶¹ Els sent Beling an SMS saying that “Hall was a definite suspect”; Transcript of Proceedings, Day 3, 29 January 2025, p. 68.

identified the perpetrators, Els suddenly stopped communicating, later stating that his laptop had been stolen, erasing all evidence.⁶²

ii. Further investigations led to an online exchange on the messaging platform Mxit, where an anonymous individual claimed to have seen video footage of the Highgate Massacre.⁶³ A police search of his residence yielded a collection of videotapes, though none contained footage of the attack.⁶⁴ Beling did, however, find it strange that the search warrant was so limited and always wondered why his entire house was not searched.⁶⁵

iii. Another informant, Petzer, came forward in 2013, claiming that he was there on the night of the Highgate Massacre with his brother, Sergeant Zieg Petzer ("**Zieg**"), Colonel Koegelenberg, and John Alexander Henry Holloway ("**Holloway**").⁶⁶ He claimed that his brother had warned him to leave the Highgate before the attack, saying that "it is going down tonight," suggesting foreknowledge among security forces.⁶⁷ He mentioned seeing a police Casper parked under the subway when he left the Highgate.⁶⁸ He also told them about a guy who frequented Swarries in Milner Estates, East London, who carried a briefcase - Petzer said this person had a handcuff on the

⁶² Transcript of Proceedings, Day 3, 29 January 2025, pp. 57–63.

⁶³ Transcript of Proceedings, Day 3, 29 January 2025, pp. 74–75.

⁶⁴ Transcript of Proceedings, Day 3, 29 January 2025, p. 76.

⁶⁵ Transcript of Proceedings, Day 3, 29 January 2025, p. 76.

⁶⁶ Transcript of Proceedings, Day 3, 29 January 2025, p. 78.

⁶⁷ Transcript of Proceedings, Day 3, 29 January 2025, p. 79.

⁶⁸ Transcript of Proceedings, Day 3, 29 January 2025, p. 78.

briefcase and that it contained extensive information about those involved in covert operations.⁶⁹

- iv. However, when approached by investigators in 2021, Petzer denied any recollection, attributing his past statements to intoxication.⁷⁰ Beling found this difficult to believe as Petzer appeared to be sober on the day that he disclosed this information to him, although Beling believes he is a heavy drinker.⁷¹

I. Lost docket and bullet evidence:

- i. Beling recounted how the Highgate Massacre case docket allegedly went missing and was later discovered in a trash bin in Johannesburg.⁷² He also raised concerns about the bullet extracted from his hip,⁷³ which was initially deemed unnecessary for evidence collection but later retrieved by Captain Vaughn William Peterson (“**Captain Peterson**”). Upon examining it in court, Beling noted that distinctive grooves had been filled in, raising questions about potential tampering.⁷⁴

m. Concluding remarks:

- i. Beling expressed deep frustration over the failure of law enforcement and the justice system to properly investigate the Highgate Massacre. He criticised the NPA’s lack of urgency and

⁶⁹ Transcript of Proceedings, Day 3, 29 January 2025, pp. 79–80.

⁷⁰ Transcript of Proceedings, Day 3, 29 January 2025, p. 81.

⁷¹ Transcript of Proceedings, Day 3, 29 January 2025, p. 81.

⁷² Transcript of Proceedings, Day 3, 29 January 2025, p. 65.

⁷³ Transcript of Proceedings, Day 3, 29 January 2025, p. 83.

⁷⁴ Transcript of Proceedings, Day 3, 29 January 2025, p. 103.

the fact that victims had to conduct their own investigations. He reaffirmed his commitment to uncovering the truth, despite repeated obstacles, intimidation, and deception over the past 30 years.⁷⁵

*Karl Andrew Weber:*⁷⁶

n. Weber began his testimony on 29 January 2025. His evidence spanned a broad range of topics, beginning with his personal and professional life prior to the Highgate Hotel Massacre and extending to his harrowing experience during the attack, the extensive physical and psychological consequences that followed, and the long-standing failures by law enforcement and prosecutorial authorities to properly investigate the incident. He offered a detailed account of the events of 1 May 1993, the aftermath of his injuries (including the amputation of his left arm), and his ongoing pursuit of justice, which has been marked by alleged state obstruction, the disappearance of critical evidence, and deeply troubling interactions with both SAPS and the NPA.

o. Background and life before the Highgate Massacre:

i. Weber testified regarding his life leading up to the Highgate Massacre. At the time of the attack, he was employed as an SPCA inspector in East London, a position he had held for approximately 13 years.⁷⁷

ii. His duties included inspecting abattoirs, game farms, and circuses, ensuring compliance with animal welfare laws, and prosecuting cases of animal cruelty. His work required him

⁷⁵ Transcript of Proceedings, Day 3, 29 January 2025, pp. 84–85.

⁷⁶ Exhibit C, Statement of Karl Andrew Weber, pp. 46–54.

⁷⁷ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 3–4.

to travel extensively across the Eastern Cape, including areas such as Port Elizabeth, Grahamstown, Alice, Fort Beaufort, and Kirkwood.⁷⁸

- iii. Beyond his professional responsibilities, Weber described himself as leading an active and fulfilling life, regularly participating in darts, snooker, soccer, and beach outings. He lived on the premises of the SPCA and was accustomed to being on standby duty every alternate week.⁷⁹

p. Events leading up to the Highgate Massacre:

- i. On the night of 1 May 1993, Weber was tasked with picking up his SPCA colleague, Douglas Gates, from the airport. Accompanying him were two other colleagues, Meghan Boucher ("**Boucher**") and Doreen Rossouw ("**Rossouw**"). They had coffee at the Dolfyn Hotel in Nahoon, but after an unpleasant experience with ants in the sugar, they decided to leave.⁸⁰
- ii. As Weber was a regular patron of the Highgate Hotel, he suggested stopping there before heading home. Upon arrival, he parked a few meters from the entrance to the Ladies' Bar, and the group walked up the stairs before turning into the left-side bar.⁸¹
- iii. The Ladies' Bar was full, so they found a small table against the wall near the dining area. Weber went to the bar to order drinks.

⁷⁸ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 3–5.

⁷⁹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 5.

⁸⁰ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 5–6.

⁸¹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 6–7.

As he returned, he heard a loud noise, initially resembling firecrackers. Before he could process what was happening, the lights went out.⁸²

q. The Highgate Massacre:

- i. When the lights dimmed, Weber saw a masked man standing at the entrance to the Ladies Bar. The gunman was dressed in dark clothing and blue canvas police-style boots, which Weber immediately recognised as the type worn by riot unit officers. He also noticed that the gunman was carrying an AK-47.⁸³
- ii. The attacker opened fire indiscriminately, sending bullets ripping through the bar. Weber instinctively dropped to the floor, a reaction honed from his military training.⁸⁴
- iii. While lying on the ground, he saw that Rossouw had been shot in the leg. He crawled towards her and attempted to stem the bleeding by pressing his elbow into the wound.⁸⁵
- iv. Moments later, Weber heard a metallic object rolling across the floor. Initially believing it to be a grenade, he braced himself for an explosion. Instead, tear gas was released, filling the room with thick, choking fumes.⁸⁶

⁸² Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 7

⁸³ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 8.

⁸⁴ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 8–9.

⁸⁵ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 9.

⁸⁶ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 9.

- v. Weber noted that the magazines appeared to be taped together, allowing for a seamless reloading process.⁸⁷
 - vi. The attack stopped abruptly, at which point Weber saw the gunman fold the stock of his AK-47 over his shoulder and exit the bar.⁸⁸
 - vii. Weber made a formal statement to SAPS on 7 May 1993, though he was unable to sign it, requiring his mother to sign on his behalf.⁸⁹
- r. Medical treatment and long-term health consequences:
- i. Weber confirmed that he was carried out on a canvas sail, as there were no stretchers available. He was transported to Frere Hospital, where he remained unconscious for several days.⁹⁰
 - ii. Doctors discovered that his left arm had sustained severe arterial and nerve damage, requiring amputation below the elbow. The surgery occurred 72 hours after the attack, but Weber did not immediately realise he had lost his arm.⁹¹
 - iii. Upon regaining full awareness, he suffered emotional devastation, struggling to process the reality of his disability. His

⁸⁷ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 9.

⁸⁸ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 12; Bundle of Witness Affidavits pp. 1–4.

⁸⁹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 2.

⁹⁰ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 16–17.

⁹¹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 17–18.

right arm, though intact, retained only 40% functionality, rendering him partially disabled.⁹²

s. Financial and psychological consequences:

- i. Weber's career ended abruptly, leading to financial ruin. He lost his job, home, car, and relationships, including with his daughter.⁹³
- ii. The state initially denied him a disability grant, arguing that he still had one functional arm and both legs. He only received a R460-per-month grant after legal intervention.⁹⁴
- iii. He also suffered severe depression, social withdrawal, and embarrassment due to his disability, requiring assistance with basic tasks such as dressing and eating.⁹⁵

t. Investigation and alternative theories:

- i. Weber testified that the TRC initially attributed the attack to APLA. However, Mphahlele later denied involvement, stating that the attack did not match APLA's tactics.⁹⁶
- ii. He and fellow survivors joined the Pan-Africanist Congress ("**PAC**") and received support from them during memorials,

⁹² Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 18–19.

⁹³ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 19.

⁹⁴ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 19.

⁹⁵ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 18–19.

⁹⁶ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 22–24.

including personal security support, which SAPS failed to provide.⁹⁷

- iii. Weber detailed his repeated efforts to engage with the NPA, specifically through Advocate Mthunzi Mhaga (“**Mhaga**”), whom he and other survivors met in 2006. At the meeting, they presented their concerns and requested that the case be properly investigated. However, Mhaga refused to provide a formal statement and indicated that he was fearful of being seen publicly engaging with the victims. He allegedly told them that he could not be seen on television discussing the matter, a statement that left Weber feeling betrayed and abandoned by the justice system.⁹⁸
- iv. In 2007, former SAPS officer Els was hired as a private investigator. He initially claimed to have identified suspects linked to a military-trained unit. However, after receiving R5,000 from survivors to continue his investigation, he abruptly stopped communication.⁹⁹
- v. Weber also spoke with ex-intelligence officer Alan Elsdon (“**Elsdon**”):
 - 1. Weber testified that Elsdon had told him he joined the South African Police in 1973 and had worked in the crime intelligence service. Elsdon also claimed to have been associated with Eugene de Kock, whom he referred to as “the biggest liar.” He said he was originally from East

⁹⁷ Transcript of Proceedings, Day 4, Part 1, 30 January 2025, p. 25.

⁹⁸ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 25–26.

⁹⁹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 27–29.

London and had since left the police to work as a private investigator.¹⁰⁰

2. According to Weber's January 2025 statement (Exhibit C, page 53), Elsdon later met with Weber's attorneys on 31 May 2024, during which he identified two individuals he believed to be suspects in the Highgate attack: Marius van Zyl, who had since died, and Fani van Zyl. Weber testified that Elsdon had never mentioned those names to him personally.¹⁰¹
3. Elsdon also reportedly disclosed that his source was a man named Hennie, later identified as Hendrick Louw, but when contacted by Weber's attorneys, Louw refused to reveal what he knew about the Highgate Massacre. Weber confirmed that the name meant nothing to him.¹⁰²
4. A Facebook Messenger exchange,¹⁰³ between Weber and Elsdon was introduced. In the messages, Elsdon dismissed a claim that ballistic exhibits related to the attack had been sent via post to Cape Town as "nonsense," saying that police would typically have transported such items by vehicle to Pretoria. Weber said this surprised him and confirmed that Elsdon had raised this point with him as well.¹⁰⁴

¹⁰⁰ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 29.

¹⁰¹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 29–30.

¹⁰² Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 30.

¹⁰³ Exhibit C, Statement of Karl Andrew Weber, p. 67.

¹⁰⁴ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 30–31.

5. Another exchange¹⁰⁵ discussed whether the Highgate Hotel was in fact the intended target of the attack. While some had speculated that the Orange Grove was the actual target due to its orange colour, Elsdon disagreed, stating it made no sense that such a major mistake could have been made and was certain Highgate was the true target. Weber agreed with this assessment and added that if the APLA had been responsible, they likely would have announced or claimed the attack.¹⁰⁶
6. A further message dated 1 May 2021,¹⁰⁷ was read in which Weber reflected on the anniversary of the attack and questioned who might have ordered it. Elsdon responded that it was “*obviously a bright idea from someone higher up*” who believed the attack would help unify white South Africans against communism. He said he had heard that the operation was rehearsed in detail, including who would enter first and where.¹⁰⁸
7. Weber told the court he was shocked at how much Elsdon seemed to know about the attack and that the planning had seemingly been known to some individuals as far back as 2022 or earlier. Elsdon had sent Weber what appeared to be a plan, showing the positioning of the attacker: one on the left and another in the Ladies’ Bar.¹⁰⁹

¹⁰⁵ Exhibit C, p. 69.

¹⁰⁶ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 31–32.

¹⁰⁷ Exhibit C, p. 82.

¹⁰⁸ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 32–33.

¹⁰⁹ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 33.

8. According to Elsdon, the attackers had ensured that the areas they fired into had no exits, while also planning their own route to avoid being ambushed from inside the hotel. Weber noted that Elsdon never disclosed the source of this information, and while there was a suggestion that vehicles could have been used, this remained speculative.¹¹⁰

vi. Leads regarding former Hammer Unit member:

1. Weber recounted a conversation with a man in Grahamstown who claimed to have been in the Hammer Unit and offered to name three individuals linked to the attack. Although initially reluctant to speak to authorities, the man later agreed to meet with Captain Peterson. Weber personally delivered CDs and attempted to facilitate contact. He expressed anger that the NPA had once instructed him, a victim, to investigate this individual, an approach he found inappropriate and unsafe.¹¹¹

- vii.** Despite years of frustration, Weber remained determined to see justice served. He reiterated his demand that SAPS and the NPA reopen the investigation with full transparency and that all available evidence be presented in court.¹¹²

u. Clarification on boots:

¹¹⁰ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, p. 33.

¹¹¹ Transcript of Proceedings, Day 4, Part 1, 30 January 2025, pp. 34–37.

¹¹² Transcript of Proceedings, Day 4, Part 1, 30 January 2025, p. 38.

- i. Weber testified that he recognised the boots because, whilst with the SPCA, they worked with SAPS.
- ii. He confirmed that the boots were flat and did not have a heel and that they had a thin sole, which might have been made of rubber.¹¹³
- iii. A photograph of a pair of blue canvas boots was presented to Weber for identification. These boots were described as ankle-high, laced-up, and featuring a black rubber toe cap. Upon examining the photograph, Weber immediately rejected it, stating that the boots worn by the gunman did not match the ones in the picture.¹¹⁴
- iv. Weber provided a detailed description of the actual boots he had seen on the attacker:
 - 1. plain blue canvas material without a black rubber toe cap;
 - 2. a dull, non-reflective finish, similar to a military tent fabric; and
 - 3. a flat sole without a distinct heel, which contrasted with the boots in the photograph.¹¹⁵
- v. Whereabouts of the bullet:
 - i. A bullet had been lodged in Weber's elbow, which was surgically removed but never formally documented or tested.

¹¹³ Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 40–41.

¹¹⁴ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 97; Exhibit H.

¹¹⁵ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 98–99.

- ii. Weber testified that, after his amputation, he had inquired whether he could keep the bullet as a personal item. However, he was informed by hospital staff that it had to be handed over to law enforcement for forensic analysis.¹¹⁶
- iii. Despite this, Weber never received any feedback from investigators about whether:
 - 1. the bullet had been properly examined;
 - 2. any ballistics tests had been conducted; and
 - 3. the bullet was registered as evidence.¹¹⁷
- iv. Later, when reviewing the case docket, Weber and his legal representatives could not find any reference to the bullet, leading to concerns that it had been deliberately removed from the official record.
- v. The only mention of the bullet came years later when an unnamed source at the NPA informed Weber that it had “disappeared”. This raised serious suspicions that evidence tampering had taken place.
- vi. However, a medical report from 1993 was introduced, containing records from Dr N Comeley and Dr David Bowes, who had treated Weber. The report detailed:
 - 1. The gunshot wound to Weber’s left elbow.

¹¹⁶ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 100.

¹¹⁷ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 102.

2. The decision to amputate due to arterial and nerve damage.
 3. The surgical procedure performed at Frere Hospital.¹¹⁸
- vii.** There was, however, no mention of the bullet being extracted or handed over to law enforcement. This further reinforced the theory that critical evidence had been deliberately erased.¹¹⁹
- viii.** Weber stated that he could not recall being treated by a Dr De Tadt at Frere Hospital, although this doctor had completed a medico-legal (J88) form and indicated that no bullets had been removed. Weber explained that he was treated primarily by orthopaedic surgeons, including Dr Kevin White, Dr Bowes, Dr Keith Watt, and Dr Elderton. He noted that there were four orthopaedic specialists involved in his treatment and did not recognise Dr De Tadt's name.¹²⁰
- ix.** Weber confirmed that he was in a severely impaired mental and physical state following the shooting and could not recall details of his treatment at Frere Hospital, including when or by whom the bullet was removed. He later transferred to Saint Dominic's Hospital for further treatment because the specialists were more readily available there. He stated that the bullet had been lodged in his elbow and believed that it may have been removed during his arm amputation, though he could not be certain. He recalled being told after the amputation that the bullet had been removed and handed to the police, and thought this

¹¹⁸ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 105.

¹¹⁹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 106–107.

¹²⁰ Transcript of Proceedings, Day 4 Part 1, 31 January 2025, pp. 104–105.

conversation took place at Saint Dominic's Hospital, although he could not recall the date.¹²¹

- x. The court was informed of a letter dated 28 June 1993 from orthopaedic surgeon Dr David Bowes to Dr Kevin White at Frere Hospital. The letter referred to an assessment done in theatre on 1 May 1993, describing the nature of Weber's injuries and the surgical procedure that followed, including the discovery of severed nerves and arteries necessitating amputation. However, the letter did not mention the removal of a bullet.¹²²

*Lyndene Ann Page:*¹²³

- w. Page, the sister of the late victim Harris, testified on 30 January 2025. Her evidence provided a deeply personal account of the impact of the attack, both emotionally and psychologically, as she was nine months pregnant at the time of her brother's murder. Page became an active member of the Highgate United Group ("**HUG**") and offered key testimony on the investigation's failures, unexplored leads, and her evolving view that the APLA was not responsible, ultimately pointing to a covert paramilitary group as the likely perpetrators.
- x. Personal connection to the Highgate Massacre:
 - i. Page testified that her brother, Harris, was one of the victims of the Highgate Massacre. He was 26 years old at the time of his murder. She described how now, following the deaths of their parents, she had become the last surviving immediate family member. She felt a strong sense of duty to seek justice on her

¹²¹ Transcript of Proceedings, Day 4 Part 1, 31 January 2025, pp. 105–107.

¹²² Transcript of Proceedings, Day 4 Part 1, 30 January 2025, pp. 108–109.

¹²³ Exhibit, Statement of Lyndene Ann Page, pp. 90–101.

brother's behalf and joined HUG, a collective of survivors and family members dedicated to uncovering the truth.¹²⁴

- ii. At the time of Harris's murder, she was nine months pregnant and expected to give birth to her son on 13 May, the same day as her brother's birthday. She described how their close relationship made the loss even more devastating. She recalled a humorous yet poignant memory where her morning sickness would make Harris physically ill in sympathy, and how he was excited for the birth of her child.¹²⁵

y. Learning about the Highgate Massacre:

- i. She explained that she first heard about the attack when her father was asked to collect his car from the Highgate Hotel. Later, her mother called to inform them that there had been an attack. They watched the news footage, seeing bodies being carried out of the hotel, a traumatic experience she vividly remembered.¹²⁶

z. Emotional and psychological impact:

- i. Page described the devastating emotional toll the incident took on her and her family. The timing of her child's birth, just days after her brother's funeral, created conflicting emotions - happiness for the birth of her son but immense guilt over feeling joy amid tragedy. She never fully allowed herself to mourn her

¹²⁴ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 65–66.

¹²⁵ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 66.

¹²⁶ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 66–67.

brother's death due to the immediate responsibilities of motherhood.¹²⁷

- ii. Her mother struggled deeply with the loss, even creating a shrine for Harris at one point. She was relentless in demanding answers from the police, but authorities took over two years just to release an autopsy report, which ultimately confirmed that Harris died instantly from a single gunshot wound to the chest.¹²⁸
- iii. Her parents' grief affected their relationship with their grandchild, as they felt guilty for loving the baby, fearing she was replacing Harris.¹²⁹

aa. Alleged explosive devices at Highgate:

- i. Page referenced her January 2025 statement,¹³⁰ where she described reports of an explosive device found outside the hotel on the night of the attack. She cited the testimony of Ricardo Van der Nest ("**Van der Nest**"), an ambulance driver, who confirmed that emergency services were ordered to move away due to an impending controlled detonation. The suspicious device was later found under Harris's car.¹³¹

¹²⁷ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 67–68.

¹²⁸ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 68.

¹²⁹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 69.

¹³⁰ Exhibit C, Statement of Lyndene Page, p. 93.

¹³¹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 69–71.

ii. Van der Nest's statement, which was submitted, confirmed that police:¹³²

1. Evacuated vehicles, including Harris's car, before detonating the device.
2. Instructed emergency personnel to move to a safe distance before the controlled detonation.
3. Indicated that the device may have been deliberately placed to target survivors or first responders

iii. This revelation raised suspicions that the attack was far more sophisticated than previously believed, suggesting pre-planning and coordination beyond a random terror attack.

bb. Suspicious encounter with Eric Taylor ("**Taylor**") and alleged phone tapping:

- i. Page recalled an incident during 2010, on an evening before a meeting at the Highgate the following day, where she and Beling noticed strange noises and echoes on their phone calls, raising concerns that their lines were being tapped.¹³³
- ii. While waiting outside the meeting venue the following day, they observed a car repeatedly driving past. The driver was later identified as Taylor. His behaviour was suspicious, as he

¹³² Exhibit D, Statement of Ricardo van der Nest, pp. 62–66.

¹³³ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 71–72.

claimed he was meeting an informant, but the nature of his involvement in the Highgate Massacre remained unclear.¹³⁴

- iii. When they attempted to report their concerns to Cambridge Police Station, the officer they spoke to, Colonel Stephanus Johannes Du Rand (“**du Rand**”), refused to take a formal statement, citing fears for his own safety and family. He advised them to slip their statement under his office door after hours. They complied, but no follow-up ever occurred.¹³⁵

cc. The failed investigation by Els:

- i. Page detailed her interactions with Els, the investigator they had financially supported, believing he would uncover the truth. They provided him with R5,000 to meet informants and follow leads, but he eventually disappeared and made excuses for why he could not provide information. He later claimed his laptop was stolen, raising further suspicions that he had misled them.¹³⁶
- ii. Page confirmed that this made her very suspicious of Els and that she felt misled and generally let down.¹³⁷

dd. Weber’s contact with Elsdon:

- i. Page confirmed that she was informed by Weber that he was in contact with Elsdon at some point.¹³⁸

¹³⁴ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 71–73.

¹³⁵ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 73–74.

¹³⁶ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 75–78; See the testimony of Beling for further details in this regard; Exhibit G: Original handwritten note to Christiaan Milton Botha, who received the cheque for Daryl Els to do the investigations of R5 000, the handwritten note was signed by Christiaan Milton Botha.

¹³⁷ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 78–80.

ee. Theories about the attackers:

- i. Initially, Page believed the APLA was responsible for the attack, as the official narrative suggested, but after the meeting in which Mphahlele stated that they were not responsible, her view completely shifted.¹³⁹
- ii. After investigating the *modus operandi*, weapons used, and testimonies, she became convinced that the Hammer Unit, a covert paramilitary group, was responsible.

ff. The suspicious encounter with Edward Baymen Lombard (“**Lombard**”):

- i. On 31 May 1993, while scattering her brother’s ashes in Morgan’s Bay, Page and her family were approached by one Lombard, a former Rhodesian Army soldier.¹⁴⁰
- ii. Lombard claimed to have been with Harris at the Highgate Hotel bar that night, pushed him down when the shooting started, and fired back at the attackers.¹⁴¹
- iii. His coincidental appearance at their private ceremony and his detailed knowledge of the attack raised suspicions.¹⁴²
- iv. She confirmed that she never heard from him again after this interaction.¹⁴³

¹³⁸ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 79–80; See the testimony of Weber for further details in this regard.

¹³⁹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 84; See the testimony of Mr. Letlapa Mphahlele for further details in this regard.

¹⁴⁰ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 81.

¹⁴¹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 81–82.

¹⁴² Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 83.

gg. Interaction with Petzer:

- i. Page testified about her interaction with Petzer, the man who claimed to know about the Highgate Massacre. The meeting, which took place in the parking lot behind Denrays near the Spar in Cambridge, East London, was arranged through Beling, who had been in communication with Petzer before the encounter.¹⁴⁴
- ii. Page explained that she was nervous but determined to attend the meeting. Petzer arrived and sat on his haunches next to her in the car, where he proceeded to share a series of shocking claims.¹⁴⁵
- iii. Petzer stated that on the night of the Highgate Massacre, his brother, Zieg, had been present at the scene. He claimed that his brother warned him in advance and stated that "it is going down tonight", so he should leave.
- iv. Upon hearing this, Petzer left the area, driving off separately from another man named Koegelenberg. Petzer further revealed that when he arrived home, his brother phoned him from a payphone inside Highgate Hotel, telling him that "it has gone down, it has happened".
- v. This conversation suggested direct foreknowledge of the attack by members of law enforcement or other organised units.¹⁴⁶

¹⁴³ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 82–83.

¹⁴⁴ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 83–85.

¹⁴⁵ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 84.

¹⁴⁶ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 84–85.

- vi.** He also told them about a guy who used to carry a briefcase around, and he said he had a handcuff on the briefcase, which had all the information on who they called fingers.¹⁴⁷
- vii.** During the conversation, Petzer mentioned several individuals he claimed were involved/present:
1. Zieg – His brother, allegedly at the scene.
 2. Koegelenberg – A man who left with him before the attack.
 3. Holloway – Another individual who was reportedly present.¹⁴⁸
- viii.** Page and Beling were taken aback by the level of detail provided, and this testimony added to their growing suspicion that the attack was not solely carried out by APLA but may have involved other forces.¹⁴⁹
- ix.** Later, when approached by Captain Peterson, Petzer denied remembering any of these details, claiming that he was intoxicated and that it was the drinks talking.
- x.** This contradiction cast doubt on his reliability, but Page remained convinced that his initial statement was truthful, given how detailed and specific his recollection had been.¹⁵⁰

¹⁴⁷ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p 85.

¹⁴⁸ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p 84–85.

¹⁴⁹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 85–86.

¹⁵⁰ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 86.

hh. Meeting with Captain Peterson:

- i. On 13 May 2022, which coincided with what would have been Harris's birthday, Page had a critical meeting with Captain Peterson, the investigating officer assigned to the case.¹⁵¹
- ii. Upon entering Captain Peterson's office, the first statement he made to her was that he was 99% sure that it was APLA, but she immediately rejected this assertion.
- iii. During the meeting, Captain Peterson asked whether she and other survivors had ever seen the case files, to which they replied, "no". She testified that upon review, discrepancies and a lack of understanding of what had actually occurred became apparent.¹⁵²

ii. Conclusion:

- i. Page emphasised the lasting trauma, fear, and the failure of justice over 30 years.
- ii. She confirmed that this inquest represents a crucial opportunity for justice and closure.¹⁵³

*Roland Richard Parker.*¹⁵⁴

- jj. Parker, a civilian survivor of the Highgate Hotel attack, gave testimony on 4 February 2025. His testimony provided a first-hand account of the

¹⁵¹ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 87.

¹⁵² Transcript of Proceedings, Day 4 Part 2, 30 January 2025, p. 88.

¹⁵³ Transcript of Proceedings, Day 4 Part 2, 30 January 2025, pp. 88–90.

¹⁵⁴ Exhibit B, Statement of Roland Richard Parker, pp. 91–93.

events of 1 May 1993, offering valuable insight into the sequence of events inside the hotel and the aftermath of the attack. Parker was present in the men's bar at the time of the attack and was accompanied by his cousin, Beling, who sustained serious injuries.

kk. Account of events on the night of the Highgate Massacre:

- i. Parker testified that on the night in question, he and his cousin arrived at the Highgate Hotel. They entered the Men's bar (referred to as the "open bar" or "men's bar") around 22h00, where Parker had just started drinking a beer. He estimated they had been there for 10 to 15 minutes before the attack began.¹⁵⁵
- ii. Parker recalled that he had been seated at the bar, with Beling on his right, both facing generally away from the entrance. He saw an intoxicated man earlier but noted that the real attacker entered shortly after, wearing a balaclava and wielding what appeared to be an automatic rifle, possibly an R4 or similar. Parker, a former soldier, recognised it as such. Regarding the attacker's race, Parker stated, he could not say white or black, because "it could have been black like me (*paint*)".¹⁵⁶
- iii. As gunfire erupted, Beling pulled Parker down. Parker's feet were hooked onto the barstool, preventing him from falling easily. He lost consciousness for an undetermined period. Upon regaining consciousness, he found the bar filled with smoke or mist that caused intense burning in his eyes. He recalled seeing

¹⁵⁵ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 84–85.

¹⁵⁶ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 86–87.

something lying on the floor nearby before running out through the same entrance the attacker had used.¹⁵⁷

iv. Outside, Parker saw an individual shooting in the direction of the Dawn area. Alarmed, he hid and then returned after hearing his cousin call for help. He found Beling inside, struggling. Keith Balling later kicked down one of the internal doors to assist. Parker and two unknown barefoot men (later identified as Mark and Steven Bush) helped carry Beling out of the bar using a canvas. The first police van arrived, but the officers refused to enter due to the presence of teargas. The same occurred with the ambulance crew. Parker and the others had to drag Beling out closer to the door for assistance.¹⁵⁸

v. Parker noted that the bar doors were double doors, all of which had been open when he entered and remained open throughout the incident. He used these to re-enter and exit multiple times. He also recalled that one of the internal wooden doors leading into the “vergaderingsaal” (meeting hall) had to be kicked open by Keith to access Beling, and these had small glass panes.¹⁵⁹

II. Impact and psychological trauma:

i. Parker testified about the lasting psychological impact of the attack. He described persistent trauma, anxiety, and hypervigilance, including altered behaviours when entering public places. He noted that he remains fearful of firearms and suffers from nightmares. He had previously sought

¹⁵⁷ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 86–88.

¹⁵⁸ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 88–97.

¹⁵⁹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 92–94.

psychological assistance but discontinued treatment due to adverse effects from medication and a desire to stay mentally alert. He spent two weeks at St Mark's psychiatric facility following a breakdown after a trauma-healing trip to Cape Town.¹⁶⁰

- ii. He also expressed feelings of guilt, particularly in relation to his father and the decision to go out drinking with his cousin on the night of the Highgate Massacre. He described the deep support he had received from his family and from Beling's family.¹⁶¹

mm. Reflections on justice delayed:

- i. Parker reflected on the delay in the inquest, stating that he was hurt it had taken 32 years for the survivors and families to be heard.¹⁶² He emphasised the mental toll this delay had taken, noting the ongoing stress and lack of closure. He thanked the Court for the opportunity to testify and share his account.¹⁶³

nn. Introduction of digital exhibits and context of contact:¹⁶⁴

- i. Parker confirmed that the first contact from Elsdon occurred on 30 January 2025, shortly after a video of the Highgate Hotel inspection *in loco* was posted on Facebook. Parker believed his tagging in that video post led to Elsdon finding and contacting him via Facebook Messenger. The initial message from Elsdon requested absolute confidentiality and warned Parker not to

¹⁶⁰ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 98–101.

¹⁶¹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 101–102.

¹⁶² Transcript of Proceedings, Day 7, Part 2, 4 February 2025, p. 102.

¹⁶³ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 102–103.

¹⁶⁴ Exhibit Q, Exhibit R.

inform anyone, specifically naming Belling, Dr. Tessa (Theresa) Edlmann (“**Dr Edlmann**”), or members of the legal teams. Parker described feeling fearful and alarmed by the secrecy and the fact that Elsdon had managed to trace him so quickly.¹⁶⁵

oo. WhatsApp communications and alleged attempts to influence testimony:

- i. Following the initial Facebook message, Elsdon asked Parker to connect with him via WhatsApp. Elsdon encouraged Parker to relay daily court proceedings to him and enquired whether Captain Peterson had mentioned the Hammer Unit in his testimony. Parker interpreted these requests as attempts to manipulate or obtain information, likening it to being asked to "snitch." Parker reiterated that he did not know Elsdon, nor did he ever disclose to him that he was scheduled to testify at the inquest.¹⁶⁶
- ii. Elsdon also shared a lengthy article from Algoa FM, which speculated that the 1993 Highgate Hotel shooting may have involved the Hammer Unit. Parker confirmed that Elsdon appeared fixated on this theory and stated that Elsdon's tone was increasingly insistent, and at times aggressive or alarming. When Elsdon referred to the Hammer Unit as dangerous and still active, Parker perceived this as a veiled threat.¹⁶⁷

pp. Theories shared by Elsdon and email communications:

¹⁶⁵ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 18–19.

¹⁶⁶ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 22–23.

¹⁶⁷ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 25–36.

- i. Elsdon proposed several theories to Parker, including that the victims of the Highgate shooting were possibly targeted and that the Hammer Unit had been involved. He referenced historical incidents, such as an alleged 1967 military aircraft explosion off Keizer's Beach, and forwarded an article to Parker titled "The Hammer Unit and the Goniwe Murders."¹⁶⁸ The email included an attached e-book, "My Cryptic Life" (MCL), allegedly authored under the pseudonym Doland Els Alanby. Parker denied knowing Elsdon or this alias and did not read the e-books.¹⁶⁹
- ii. Parker testified that the overall effect of the messages left him feeling fearful and threatened. ¹⁷⁰ He described how Elsdon repeatedly tried to draw him into speculative discussions about the shooting and the potential involvement of state forces, including urging him to identify whether the deceased were specific targets.
- iii. To verify the sender's identity, Parker used the app Truecaller, which identified the number as belonging to Elsdon.¹⁷¹
- iv. Parker further noted that despite the persistent and invasive tone of Elsdon's communication, Parker never disclosed to Elsdon that he was due to give evidence at the inquest.¹⁷²

qq. Physical and psychological effects of the incident:

¹⁶⁸ Exhibit S.

¹⁶⁹ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 27–31.

¹⁷⁰ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 32–36.

¹⁷¹ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, p. 37.

¹⁷² Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 37–38.

- i. In a brief follow-up line of questioning, Ms Bosman, on behalf of the state, returned to the effects of the 1993 incident. Parker revealed that he had long suffered respiratory issues, which he only recently began to associate with the effects of a stun grenade used during the attack. He described a decline in his athletic performance post-incident, eventual heart failure in 2010, and lung scarring diagnosed in follow-up medical imaging. Parker mentioned a pending consultation with Dr Kettles, where he intended to explore the possible link between the hand grenade explosion and the damage to his lungs.¹⁷³
- ii. Parker also shared that he had struggled with self-harming behaviours, including scratching himself until he bled, a symptom he attributed to the psychological aftermath of the Highgate Massacre. He underwent psychiatric treatment and has since ceased those behaviours. He recalled the trauma of being in the hospital post-shooting and witnessing the grief of families asking him if he had seen their loved ones.¹⁷⁴

*Frederick Doug (Dirk) Petzer:*¹⁷⁵

- rr. Petzer testified on 26 March 2025, providing evidence primarily concerning his late brother, Zieg, who was a police officer present inside the Men's Bar during the attack. Petzer himself was at the hotel shortly before the massacre and testified to suspicious circumstances, including a nearby police Casspir and the pub doors being unusually open. The core of his evidence involved his 2013 contact with survivor Beling, initiated to share his brother's belief that APLA was not

¹⁷³ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 39–41.

¹⁷⁴ Transcript of Proceedings, Day 8, Part 1, 5 February 2025, pp. 41–43.

¹⁷⁵ Witness Testimony; Exhibit C, Affidavit of Neville Beling, pp. 1–18.

responsible for the attack, as the gunman allegedly wore camouflage face paint. During his testimony, Petzer disavowed a typed statement attributed to him, raised suspicions that his brother was pressured to alter his official statements, and was confronted with a significant timeline discrepancy, as his contact with Beling occurred nearly seven years after his brother's death.

ss. Introduction and background:

- i. Petzer testified under oath, confirming his full name as Doug Frederick Petzer.¹⁷⁶
- ii. He denied making the typed statement dated 18 April 2023 attributed to him, stating he had never seen it before and that the signature on it was not his.¹⁷⁷
- iii. Petzer confirmed he was present at the Highgate Hotel before the attack took place on 1 May 1993, arriving before his brother Zieg, who was a police officer. He recalled sitting with Zieg briefly before leaving the pub and identified some other individuals present, including Charles Boddington, Herman Koegelenberg, and a railway supervisor known as Mr. Gold or Dold.¹⁷⁸
- iv. Petzer observed that when he arrived at the Highgate Hotel, the doors were open. He claimed to be a frequent drinker at the

¹⁷⁶ Transcript of Proceedings, Day 13, 26 March 2025, the testimony of Frederick Doug Petzer, pp. 2–20.

¹⁷⁷ Transcript of Proceedings, Day 13, 26 March 2025, p. 4.

¹⁷⁸ Transcript of Proceedings, Day 13, 26 March 2025, pp. 5–6.

Highgate Hotel and noted that he had never seen the doors to the pub open before.¹⁷⁹

- v. He also noted a police Casspir vehicle parked near the subway, which he understood to be conducting random checks in the lead-up to the elections. He stated that the police were the only ones with a green Casspir in town and confirmed that his brother explained the vehicle's presence as part of routine operations.¹⁸⁰

tt. Account of the Highgate Massacre and the immediate aftermath:

- i. In his statement, which he claims was not signed by him, Petzer recalled that he received the call from Zieg he immediately travelled back to the Highgate Hotel. However, during his testimony, Petzer recounted how he learned of the attack from his brother by phone after arriving home. Zieg was upset and reported that they had been attacked. Petzer saw Zieg the following morning when he came off duty and showed Petzer his torn pants where a bullet had passed through without injuring him.¹⁸¹
- ii. He described Zieg's experience during the attack: sitting at the men's bar, thinking the shooter was Petzer, who was returning, being shot at and falling off his chair, and ducking into the toilet where the attacker tried to shoot him, but the gun jammed. Zieg helped the barman Alfred, who was also shot, and ducked into

¹⁷⁹ Transcript of Proceedings, Day 13, 26 March 2025, pp. 10–11.

¹⁸⁰ Transcript of Proceedings, Day 13, 26 March 2025, pp. 10–12.

¹⁸¹ Transcript of Proceedings, Day 13, 26 March 2025, pp. 7–8.

the toilet for safety while the attacker was still firing inside the pub.¹⁸²

uu. Statements and investigations:

- i. Petzer asserted that he never gave any formal statement to the police about the incident, and that when his brother made statements, he never discussed the content with him. He also questioned the authenticity of several handwritten statements attributed to his brother, saying that the handwriting and signatures did not appear to be those of Zieg.¹⁸³
- ii. He expressed suspicion that his brother had been asked to change his statement and that some original statements might have been removed or destroyed.¹⁸⁴
- iii. Petzer emphasised that his brother was upset at being asked to change statements but never confided in him about the details.¹⁸⁵

vv. Contact with Beling:

- i. Petzer confirmed making contact with Beling via Facebook in May 2013, initially unsure of the exact timing but later acknowledging it occurred years after his brother died in 2006. He explained he wanted to share information with Beling about what he and his brother knew, particularly their belief that APLA was not responsible for the attack. During this period, Petzer

¹⁸² Transcript of Proceedings, Day 13, 26 March 2025, pp. 8–10.

¹⁸³ Transcript of Proceedings, Day 13, 26 March 2025, pp. 12–15.

¹⁸⁴ Transcript of Proceedings, Day 13, 26 March 2025, pp. 62–65.

¹⁸⁵ Transcript of Proceedings, Day 13, 26 March 2025, pp. 62–65.

shared his brother's account that the attacker had camouflage paint or "Black is Beautiful" on their face, which led Zieg to doubt APLA's involvement since he believed APLA members would not need to disguise themselves in this way.¹⁸⁶

- ii. During cross-examination, a significant timeline discrepancy emerged. Petzer initially appeared uncertain about when his brother died, suggesting it might have been around 2012. However, when presented with official documentation from the Department of Home Affairs, it was established that Zieg died on 23 December 2006 - nearly seven years before Petzer's Facebook contact with Beling in May 2013. This timeline is crucial because Petzer had initially suggested he contacted Beling to share information while his brother was still alive and not receiving feedback from investigators. When confronted with this discrepancy, Petzer acknowledged he "did not know the time" and agreed the death certificate must be correct. This means all information Petzer shared with Beling in 2013 was based on conversations with his brother that had occurred at least seven years earlier.¹⁸⁷
- iii. When challenged about whether he had made boastful claims or exaggerated his knowledge to Beling, Petzer firmly denied any bragging, stating it would be "very bad" to brag about an incident where people were killed and wounded. He rejected three scenarios presented to him: that he was drunk when speaking to Beling, that he was bragging about information he claimed to possess, or that he was now unable to confirm information due to threats. Petzer maintained he was sober

¹⁸⁶ Transcript of Proceedings, Day 13, 26 March 2025, pp. 16–20.

¹⁸⁷ Transcript of Proceedings, Day 13, 26 March 2025, pp. 25–26.

during his conversations with Beling and insisted any apparent inconsistencies in his Facebook messages were due to being "twisted" rather than deliberate exaggeration. He emphasised he only wanted to exchange information with Beling, not make false claims.¹⁸⁸

ww. Final remarks:

- i. Petzer commented on the prolonged delays and apparent inefficiencies within the official investigation.
- ii. Petzer testified that "in 20 years, nothing happened. Nothing happened. Nothing happened" and that the police were "barking up the wrong tree" by focusing on APLA. He expressed frustration that his brother Zieg never received feedback about the investigation and was never properly questioned about crucial details like the attacker's appearance, despite being the only witness who saw the gunman up close in the toilet. Petzer emphasised that Zieg had told him the attacker had camouflage paint or "Black is Beautiful" on their face, a detail that led them both to doubt APLA's involvement, yet this critical information appeared to have been ignored or omitted from the investigation.¹⁸⁹

*Bernice Whitfield:*¹⁹⁰

xx. Bernice Whitfield ("**Whitfield**") was called to testify on the afternoon of 4 February 2025. Her evidence provided deeply personal insight into

¹⁸⁸ Transcript of Proceedings, Day 13, 26 March 2025, pp. 92–94

¹⁸⁹ Transcript of Proceedings, Day 13, 26 March 2025, pp. 61–62.

¹⁹⁰ Exhibit C, Statement of Bernice Whitfield, pp.175–187.

the human impact of the tragedy, highlighting the psychological and economic hardship she and her family endured in the aftermath.

yy. Deric John Whitfield (“**Deric Whitfield**”) was 42 years old at the time of his death, while Bernice was 45. She described him as a very outgoing person and an avid Border fisherman who enjoyed the outdoors. The family would often leave home at 5 o'clock on weekends to go to the beach, where Deric Whitfield would participate in fishing competitions while the family enjoyed the seaside together. This active, nature-loving lifestyle was abruptly ended by the tragedy.¹⁹¹

zz. Notification of the shooting and initial confusion:

- i. Whitfield testified that she was first informed of the shooting indirectly and confusingly. Her mother received several strange calls from a woman who later identified herself as a bar lady at the Highgate Hotel. The caller inquired about her mother's age, then abruptly ended the call. On the third call, she said that Deric Whitfield had been shot and wanted to see his wife. Concerned, Whitfield, her mother, and her daughter drove to Frere Hospital, where they encountered blood in the foyer and loud screaming.
- ii. Although she initially believed Deric Whitfield was still alive, a nurse took her into a private room and confirmed that her husband had died. The nurse's closing of the door, Whitfield explained, signalled to her that the news would be devastating.¹⁹²

¹⁹¹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 107–108.

¹⁹² Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 108–110.

iii. Whitfield testified that she never received official information about her husband's injuries or the circumstances of his death. She learned only through word of mouth that he had been shot and had five bullet wounds in his chest. No police or officials ever provided her with formal details about what happened to him that night.¹⁹³

iv. The circumstances of the notification raised troubling questions for Whitfield. She found it particularly strange that the bar lady had obtained her mother's landline telephone number, as nobody at the Highgate knew her mother or their home number. She questioned how, in his injured state, Deric could have remembered and communicated her mother's telephone number to make such a request. These unexplained details added to her sense that something was amiss about the official narrative.¹⁹⁴

aaa. Mysterious circumstances and missing personal effects

i. Whitfield raised concerns about unresolved questions regarding her husband's final moments. She was told Deric had attempted to crawl from the bar to his car after being shot multiple times, but she found this implausible.¹⁹⁵

ii. When she was called to collect his vehicle from the Highgate Hotel the next day, police officers told her they would escort her just in case she got shot. This strange warning deeply unsettled her, raising questions about why she might be in danger simply

¹⁹³ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, p. 109.

¹⁹⁴ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 109–110.

¹⁹⁵ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 112–113.

collecting her husband's car. Despite this supposed threat, there were no visible bloodstains on the pavement or near the car where Deric Whitfield had allegedly died. Additionally, Deric Whitfield's wallet and car keys were never returned to her. Despite inquiries, neither the police nor hospital officials could explain their disappearance. After she drove away with the police escort of three or four officers, she never heard from the police again. Whitfield found the entire situation deeply suspicious and troubling.¹⁹⁶

bbb. Economic and emotional impact

- i. Deric Whitfield's death left Whitfield in a deeply financially precarious position. She was left without money or food to support her three children, aged approximately 11, 19, and 20 at the time. Immediate support came from the Red Cross and extended family, but the longer-term burden was heavy. She described how her family's entire lifestyle changed.
- ii. The trauma was compounded ten months later when her 20-year-old daughter, Chantelle, was killed in a hit-and-run incident. The police never pursued the case meaningfully, and she never received justice in either instance. This accumulation of grief and the absence of accountability contributed to a prolonged sense of disillusionment with state institutions.¹⁹⁷

ccc. Interaction with Truth and Reconciliation processes and APLA Officials

¹⁹⁶ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 111–112.

¹⁹⁷ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 113–115.

- i. Whitfield stated that she participated in the TRC process but found it ineffective. She described it as a "*waste of time*" and expressed frustration at the lack of accountability. She was also part of a group that met with former APLA Commander Mphahlele. According to her, Mphahlele denied APLA's responsibility for the attack, claiming their training focused only on the maintenance and cleaning of weapons. She challenged this claim, arguing that the precision of the attack, evident from the bullet marks on walls and equipment, suggested involvement by professionally trained operatives.¹⁹⁸
- ii. She also recalled an interaction with Mhaga from the Department of Justice during a healing event in Cape Town. Mhaga had previously promised the survivors answers but failed to provide them. When questioned, he allegedly responded with something to the likes of I don't want to be killed, and I don't want my face on TV, which further eroded her trust in the process. Disillusioned, Whitfield walked out of the group engagement and did not participate in further sessions.¹⁹⁹

ddd. Faith, forgiveness, and closure

- i. Whitfield ended her testimony on a powerful and emotional note. She stated that she had chosen to forgive the perpetrators. Citing her Christian faith, she quoted scripture encouraging forgiveness and expressed a deep belief that justice, if not delivered by human systems, would be realised

¹⁹⁸ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 115–116.

¹⁹⁹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 117–118.

through divine intervention. She urged fellow survivors to also forgive, so they could be set free and reclaim their peace.²⁰⁰

*Desiree Lee Smit-Broderick:*²⁰¹

eee. Introduction

- i. Desiree Lee Broderick (née Smith) (“**Broderick**”) testified as an eyewitness who observed two individuals walking past her home on Voortrekker Road immediately after the Highgate Hotel attack on 1 May 1993. Her testimony provided evidence regarding the appearance and behaviour of possible perpetrators fleeing the scene.

fff. Broderick’s observations

- i. Broderick resided at 1[...] V[...] Road, Highgate, at the time of the incident. She was at home with her parents and a visiting friend on the evening of 1 May 1993. Her house was situated on the corner of Heath and Voortrekker Roads, with an open field separating her residence from the Highgate Hotel.²⁰²
- ii. Just after 10 p.m., while watching movies after her parents had retired to bed, Broderick heard a loud bang followed by what sounded like gunshots. After a brief quiet period, she heard gunshots again. The interval between the first and second series of shots was short, less than five minutes by her estimation.²⁰³

²⁰⁰ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 119–120.

²⁰¹ Exhibit B, Statement of Desiree Lee Broderick, pp. 111–112

²⁰² Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 49–50, 71–72.

²⁰³ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 51–52.

- iii. After switching off the interior lights to improve visibility, Broderick looked through her window and observed two men walking fast on Voortrekker Road, on the opposite side of the street from her house. The distance from her window to where the men were walking was approximately 10–12 metres. The street lights were functioning, providing adequate visibility despite the late hour.²⁰⁴

ggg. Description of the Individuals

i. Broderick provided detailed descriptions of the two men:

1. The person walking in front wore dark clothing (blackish colour top and trousers);
2. The person behind wore a whitish shirt with dark trousers;
3. One individual was carrying a large firearm over his shoulder, using what appeared to be a sling;
4. She observed one person pulling something off his face, which she believed was a balaclava;
5. Both men were of normal build, not hefty or overweight, estimated at 80-90 kilograms, and
6. She identified both individuals as Black men, noting she could see the skin colour on the arms of the one wearing the white shirt.

ii. Broderick described the footwear as appearing to be safety shoes or boots with steel tips, dark in colour (black or brown),

²⁰⁴ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 52–54, 73.

though she could not see the upper portions due to the trousers covering them. When shown a photograph of boots (Exhibit H), she indicated they could have been similar to what she observed.²⁰⁵

hhh. Movement:

- i. Initially, Broderick's statement from 2 May 1993 indicated the men were running ("hulle het gehardloop"), meaning they were running.
- ii. However, during her testimony, she stated that they were walking at a fast pace rather than running. She described it as a brisk walk, not like people trying to escape from something.
- iii. This clarification was significant given that the Court noted her original statement was made the morning after the incident, when memories would have been fresh.²⁰⁶

iii. Duration of observation and police response:

- i. Broderick observed the two men for approximately 10-15 seconds as they passed her window. She did not see them enter any vehicle.
- ii. Police sirens and vehicles only arrived several minutes after the men had passed, coming from the direction of the subway under the railway line.
- iii. At the time she observed the two individuals, the area was silent with no police presence or other vehicles.²⁰⁷

²⁰⁵ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 62–63, 79.

²⁰⁶ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 75–76.

²⁰⁷ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 74, 80–81.

jjj. Inability to Identify

- i. Broderick confirmed she would not be able to identify the individuals if brought before her, as she could not recall their facial features.
- ii. She also stated she could not definitively say whether their faces were painted or smeared black, though she was certain they were Black men based on visible skin colour.²⁰⁸

*Mark Sebastian Bush.*²⁰⁹

kkk. Mark Sebastian Bush (“**Bush**”) testified on 1 September 2025 as one of the first two civilians to arrive at the hotel. Drawing on his military experience, he recounted hearing the distinctive sound of AK-47 fire and smelling teargas from a nearby braai before running to the scene with Steven Good. His testimony provided a harrowing account of the "absolute carnage" inside both bars. He described providing first aid to severely injured victims, including Beling and Weber, and detailed the "shocking" failure of the first ambulance crew to assist, as they refused to enter without gas masks. Bush also described a confrontation with a police officer who tried to remove him from the scene while he was rendering aid. He provided expert observation that the 56 shell casings found corresponded to two professionally loaded (under-filled) magazines, indicating the attackers were trained. He confirmed police never interviewed him about the incident.

III. Introduction:

²⁰⁸ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 59 & 79.

²⁰⁹ Exhibit AAA, Statement of Mark Sebastian Bush.

- i. Bush testified as an eyewitness who, along with Steven Lee Good (“**Good**”), was the first to arrive at the Highgate Hotel on the night of 1 May 1993. His evidence addressed his observations at the scene, the assistance he provided to victims, and his interactions with emergency services and police officers who responded to the attack.

mmm. Background and recognition of the Highgate Massacre:

- i. Bush was 27 years old at the time of the incident, employed as an electrician by the East London Municipality.
- ii. He had served in the army and had been deployed to Angola. He resided at 3 M[...] Road, East London.
- iii. On 1 May 1993 at approximately 16h00, he attended a braai with Wendy Bush and Steven Good at their neighbour's house, George and Cynthia Moore, at 5 M[...] Road, East London.²¹⁰
- iv. Around 22h00, whilst still at the Braai, Bush heard loud noises. Wendy Bush remarked that it sounded like a car backfiring and noted a funny smell in the air, asking what was in the braai that was making her tear up.
- v. Bush initially thought the Highgate Hotel was on fire due to the amount of smoke, but given his military training, he immediately recognised the distinctive sound of AK-47 fire, having received extensive training on these weapons.

²¹⁰ Transcript of Proceedings, Day 18, 1 September 2025, pp. 42–43.

- vi. He also recognised there was teargas in the air. Wendy and the children went inside while Bush and Steven Good ran towards the Highgate Hotel to see what had happened.²¹¹
- vii. He testified that after leaving his neighbour's house, he proceeded towards the Highgate Hotel.²¹²
- viii. Using the map, he explained the location: his house was on the right-hand corner of Maya Road, and the neighbour's house was on the left-hand corner between numbers 3 and 5. Facing Baldwin Road towards Maya Road, he pointed out number 3 Maya Road, where George Moore's house is marked, and identified the Highgate with the knife-and-fork symbol. From there, he crossed diagonally over the field by the shortest route and arrived at the front entrance and car park of the hotel.²¹³
- ix. He confirmed that he could not remember seeing anyone fleeing from the Highgate.²¹⁴

nnn. Arrival at the scene and assistance to victims:

- i. Bush confirmed that when they arrived at Highgate (as the first to arrive), they saw a man shooting up the street. He had a revolver in his hand, remarking that "they" had gotten away and shooting randomly towards the direction that "they" must have run off in.²¹⁵

²¹¹ Transcript of Proceedings, Day 18, 1 September 2025, p. 44.

²¹² Transcript of Proceedings, Day 18, 1 September 2025, p. 44

²¹³ Transcript of Proceedings, Day 18, 1 September 2025, pp. 48–50.

²¹⁴ Transcript of Proceedings, 1 September 2025, p. 50

²¹⁵ Transcript of Proceedings, Day 18, 1 September 2025, p. 44.

- ii. Bush and Good encountered a man who was shot in his back at the entrance of the Public/Men's Bar who needed help and asked the ambulance crew whether they were going to help him, as by that time, some first responders had arrived, but they did nothing at all.
- iii. The ambulance crew that arrived refused to enter the scene because they did not have gas masks for the teargas.
- iv. Bush and Good managed to drag out the man that they found at the entrance, demanded a stretcher, and started helping the victims themselves, but when they asked for further equipment, the ambulance crew refused, and they proceeded to re-enter without any protective gear.²¹⁶
- v. They found Neville Beiling and managed to get him out of the bar with the help of the fire crew who had arrived on the scene.²¹⁷
- vi. Upon entering the Ladies' Bar, Bush described that he immediately saw multiple deceased and injured victims and that the scene was absolute carnage. He found Rousseau heavily bleeding from her leg. He also found Weber, whom he knew through Boucher.
- vii. Weber was injured and heavily bleeding. Bush assisted him by applying pressure to his wounds with his bare hands. Weber was bewildered and delirious, asking for his clothes to be

²¹⁶ Transcript of Proceedings, Day 18, 1 September 2025, p. 44.

²¹⁷ Transcript of Proceedings, Day 18, 1 September 2025, p. 44, 52.

removed, which Bush thought was because of the teargas and loss of blood.

- viii.** Steven went to search for more survivors and helped Boucher, who had been shot in the leg, out of the Ladies' Bar.²¹⁸

ooo. Police officer interaction

- i.** Bush confirmed that a police officer arrived on the scene, entered the Ladies' Bar, and demanded that Bush and Good vacate the scene, but they refused to leave, saying that as soon as someone else was prepared to come in and help the injured, they would go, and until then, they would not stop helping people.
- ii.** Bush testified that because he could not recall “plain” clothing, he believes that the police officer was in uniform.
- iii.** The firefighters eventually relieved Bush and Good and came into the bars to assist.
- iv.** As they walked out of the Ladies Bar, Bush shouted at the police officer who had asked them to leave, as he was acting terribly towards the victims and clearly did not know what he was doing.
- v.** Bush stated that one of the first things they are taught, and this is a universal principle, is to save lives first.²¹⁹

ppp. Departure from the scene and the following day

²¹⁸ Transcript of Proceedings, Day 18, 1 September 2025, p. 44–45, 52

²¹⁹ Transcript of Proceedings, Day 18, 1 September 2025, p. 45,

- i. Bush and Good left the Highgate Hotel and returned home covered in blood without their shirts.
- ii. Although he could not recall exactly what happened to their shirts, he believes that they used them to help stop the bleeding of the wounded or as a face mask for the teargas for some of the survivors.²²⁰
- iii. On the way to and from the Highgate Hotel, Bush does not recall seeing anyone fleeing the scene.²²¹

qqq. Lack of a police interview

- i. Despite being one of the first persons on the scene, Bush and Good were never contacted by the police or any other officials to provide a statement. They were, however, interviewed by the Daily Dispatch newspaper a few days later.²²²
- ii. The next day, Good was deeply distressed, and Bush took him to the hospital to see the victims as he felt it would help reassure him that they were receiving care.²²³

rrr. Media article inaccuracies

- i. A copy of the Daily Dispatch article dated 10 May 1993 was annexed to Bush's statement. Bush confirmed that he had never seen the article until Cliffe Dekker Hofmeyr ('CDH') attorneys provided him with a copy.

²²⁰ Transcript of Proceedings, Day 18, 1 September 2025, p. 45

²²¹ Transcript of Proceedings, Day 18, p. 46

²²² Transcript of Proceedings, Day 18, 1 September 2025, pp. 46, 56–57 .

²²³ Transcript of Proceedings, Day 18, 1 September 2025, p. 55.

- ii. He identified several factual inaccuracies in the article: it incorrectly stated they saw a police patrol vehicle rushing towards the Highgate and that they travelled to the Highgate by car when they walked; Bush never saw anyone administering bandages to the injured man they pulled from the Public/Men's Bar nor did he correct how bandages were being applied; he never saw a police man run into either of the bars and then run out and be sick; he never saw the riot unit arrive, only the one policeman referenced; and no young girl was attending to Weber in the Ladies' Bar as Bush assisted Weber himself.²²⁴

sss. Impact and relocation

- i. The trauma of the event deeply affected Bush and his family. Within three weeks after the incident, they sold their house and moved to the United Kingdom because he and Wendy were concerned about their safety.
- ii. Bush stated that to this day, one of the most disturbing parts about the Highgate Massacre was the disregard for preservation of life displayed by the first responders on the scene.²²⁵

ttt. Reconnection with survivors

- i. On 20 August 2025, Bush reconnected with survivors Beling and Weber via social media. Through them, Good, Wendy, and

²²⁴ Transcript of Proceedings, Day 18, 1 September 2025, pp. 46–47

²²⁵ Transcript of Proceedings, Day 18, 1 September 2025, p. 46

he were put in touch with CDH, the attorneys representing the survivors and families of the victims.²²⁶

uuu. Closing remarks

- i. Bush was astounded when requested to leave the scene. He emphasised that the primary function is to preserve life, and the lack of consideration for the injured parties was the most shocking part. He stated it was not forthcoming, and he was not impressed with the ambulance service or police, though the fire unit was better.²²⁷
- ii. The families expressed gratitude for Bush and Good's heroic acts and placed this on record.²²⁸
- iii. Finally, Bush made an observation based on his military experience: 56 shell casings were found, which equals exactly 56 rounds. As someone trained in AK-47 and R4 rifles, he knew that soldiers are taught never to overfill a magazine to prevent jamming. This adds up to exactly two 30-round magazines loaded with 28 rounds each. He stated this would confirm that the assailants, without a doubt, received training.²²⁹

*Steven Lee Good:*²³⁰

vvv. Good testified on 1 September 2025, providing crucial corroboration for Mark Bush's evidence, as the two men were together

²²⁶ Transcript of Proceedings, Day 18, 1 September 2025, p. 46

²²⁷ Transcript of Proceedings, Day 18, 1 September 2025, pp. 56–57

²²⁸ Transcript of Proceedings, Day 18, 1 September 2025, p. 57

²²⁹ Transcript of Proceedings, Day 18, 1 September 2025, pp. 58-59

²³⁰ Exhibit BBB, Statement of Steven Lee Good.

when they responded to the attack. Good, who was 17 at the time, confirmed their joint actions: hearing the gunfire and smelling tear gas, running to the hotel, providing aid to victims in both bars, and observing a man firing a pistol outside. He gave a forceful account of his confrontation with an obstructive police officer whom he criticised for failing to help. Good confirmed that he was never contacted by police for a statement, noted the lasting trauma of the event, which led to his PTSD diagnosis, and expressed his anger at the failure of emergency services, stating his belief that more lives could have been saved.

www. Introduction and background

- i. Good testified as an eyewitness who accompanied Bush to the Highgate Hotel on the night of 1 May 1993. He provided evidence about his observations and the assistance he rendered to victims.
- ii. Good was a 17-year-old student at the time, residing at 3 M[...] Road, East London. On 1 May 1993 at approximately 16h00, he attended a braai with Mark Bush and Wendy Bush at their neighbour's house, George and Cynthia Moore, at 5 M[...] Road, East London.²³¹
- iii. During his court testimony, Good confirmed the details in Bush's affidavit and mentioned that he suffers from PTSD.²³²

xxx. Response to the attack and arrival

²³¹ Transcript of Proceedings, Day 18, 1 September 2025, p. 65

²³² Transcript of Proceedings, Day 18, 1 September 2025, pp. 66

- i. Good accompanied Mark Bush to the Highgate Hotel after they heard gunshots and smelled tear gas in the air. He was with Bush throughout the time they spent at the hotel. To avoid repetition, his statement confirms the accuracy of Bush's description of events.²³³
- ii. He stated that he can only remember a guy with a pistol coming out and assumed it was one of the guys chasing after the perpetrators.²³⁴

yyy. Interaction with a police officer

- i. Good confirmed that after he entered the hotel with Bush to assist injured patrons, a police officer arrived and demanded that they leave, as they were not involved. They refused to leave since nobody else was helping the injured and stated they would only go when medics or police started helping.
- ii. Good then confronted the officer because of his obstructive attitude and his lack of action at the scene. He was horrified that no officials were helping the injured, and he expressed how wrong he felt this was.²³⁵

zzz. Lack of an official statement

- i. Despite being one of the first persons on the scene, no officer took their contact details, nor were they contacted by the police or any other officials to provide a statement.

²³³ Transcript of Proceedings, Day 18, 1 September 2025, p. 66

²³⁴ Transcript of Proceedings, Day 18, 1 September 2025, p. 67

²³⁵ Transcript of Proceedings, Day 18, 1 September 2025, pp. 65–66, 68–69

- ii. Good was interviewed by the Daily Dispatch newspaper a few days after the Highgate Massacre. He notes there are several factual inaccuracies contained in the article, as pointed out by Bush in his affidavit.²³⁶

aaaa. Impact and relocation

- i. The trauma of the event deeply affected Good and his family. Within a few weeks after the incident, they sold their house and moved to the United Kingdom.²³⁷

bbbb. Assessment of emergency response

- i. Good was very frustrated and angry with the lack of response from the police and medics on the scene. He stated they displayed no courage that night. He believes that more lives could have been saved with proper emergency action.²³⁸

cccc. Military service context

- i. Good has served in the UK Defence Force, so he is no stranger to conflict and violence, but states that nothing comes close to what he saw and felt that night.²³⁹

dddd. Concluding remarks

²³⁶ Transcript of Proceedings, Day 18, p 66; Exhibit BBB, Statement of Steven Lee Good, para. 7; Exhibit AAA, Statement of Mark Sebastian Bush, para. 2.

²³⁷ Transcript of Proceedings, Day 18, 1 September 2025, p. 66

²³⁸ Transcript of Proceedings, Day 18, 1 September 2025, p. 66.

²³⁹ Transcript of Proceedings, Day 18, 1 September 2025, p. 66

- i. The court placed on record an acknowledgement of what Good did that evening, paying homage to how he saved lives and thanking him for standing up to the police officer.²⁴⁰

Edward Baymen Lombard.²⁴¹

eeee. Lombard testified regarding his direct involvement as an armed patron during the Highgate Hotel Massacre on 1 May 1993. His evidence detailed the sequence of the attack from his perspective in the Ladies' Bar, his immediate reaction based on his Rhodesian military experience, his multiple engagements returning fire against the assailants using his personal .38 revolver, his observations of the attackers' appearance and perceived level of training, the immediate aftermath including checking on victim Harris, and his interactions with the first police officer on the scene. He also recounted seeing a potential getaway vehicle and his subsequent coincidental meeting with the Harris family.

ffff. Introduction:

- i. Lombard testified via video link from the United Kingdom regarding his experience as a patron at the Highgate Hotel on the night of the massacre, 1 May 1993. On the night, he was armed with a .38 Special Rossi revolver and engaged the attackers during the incident.²⁴²
- ii. His testimony covered the sequence of events as he perceived them, his actions in returning fire, descriptions of the assailants, and his interactions immediately following the attack.²⁴³ He

²⁴⁰ Transcript of Proceedings, Day 18, 1 September 2025, pp. 69–70

²⁴¹ Exhibit B pp 323 -332 Statement of Edward Baymen Lombard.

²⁴² Transcript of Proceedings, Day 20, 3 September 2025, p. 4.

²⁴³ Transcript of Proceedings, Day 20, 3 September 2025, p. 5.

confirmed the signature on a handwritten statement (Exhibit B pages 327-332) was his, although the handwriting was not.²⁴⁴ He noted minor inaccuracies in the statement provided to him.

gggg. Arrival and events leading to the Highgate Massacre:

- i. Lombard arrived at the Highgate Hotel around 8:45 PM to 9:00 PM on 1 May 1993, having come from visiting his wife and newborn son at the hospital.²⁴⁵ It was his first time at the hotel.
- ii. He was in the Ladies' Bar, speaking with Harris near the bar counter, preparing to leave around 10:15 PM, when the attack began.²⁴⁶

hhhh. The attack and engagement with assailants:

- i. Lombard heard automatic gunfire behind him²⁴⁷ and, recognising the sound from his seven years of military experience (Rhodesian army), immediately dived over the bar counter, pulling the bar lady down with him for cover.²⁴⁸ He clarified that he did not push Harris down²⁴⁹. He shouted for everyone to get down.

²⁴⁴ Transcript of Proceedings, Day 20, 3 September 2025, p 5.

²⁴⁵ Transcript of Proceedings, Day 20, 3 September 2025, p. 8.

²⁴⁶ Transcript of Proceedings, Day 20, 3 September 2025, p. 9.

²⁴⁷ Transcript of Proceedings, Day 20, 3 September 2025, pp. 3–4.

²⁴⁸ Transcript of Proceedings, Day 20, 3 September 2025, p. 4

²⁴⁹ Transcript of Proceedings, Day 20, 3 September 2025, p. 21.

- ii. While taking cover, he heard an explosion (which he believed came from the Public Bar/snooker room area) and drew his .38 Rossi revolver from his moon-bag.²⁵⁰
- iii. When the initial burst of gunfire stopped (believing the attacker had emptied his magazine)²⁵¹, he stood up. He saw a black male in the doorway, about 3-5 meters away, wearing a grey balaclava (revealing only eyes and nose), a grey jersey, and trousers tucked into army boots, holding an AK-47 at his hip.²⁵² He perceived the assailant as black from the visible part of his face, but acknowledged it could have been someone in disguise.²⁵³
- iv. As the assailant turned towards him, Lombard fired approximately four or five shots.²⁵⁴ He believes the last three shots hit the attacker, possibly in a bulletproof/flak jacket, as there was no blood.²⁵⁵ The attacker spun around and ran out of the main entrance.²⁵⁶
- v. Lombard reloaded, grabbed the phone, dialled the police, and passed it to the bar lady.²⁵⁷ While near the wash-bay area, a second attacker, similarly dressed with a balaclava and AK-47,

²⁵⁰ Transcript of Proceedings, Day 20, 3 September 2025, pp. 4, 34

²⁵¹ Transcript of Proceedings, Day 20, 3 September 2025, pp 9–10

²⁵² Transcript of Proceedings, Day 20, 3 September 2025, p. 4,

²⁵³ Transcript of Proceedings, Day 20, 3 September 2025, p. 11.

²⁵⁴ Transcript of Proceedings, Day 20, 3 September 2025, pp. 5.

²⁵⁵ Transcript of Proceedings, Day 20, 3 September 2025, pp. 10, 22–23.

²⁵⁶ Transcript of Proceedings, Day 20, 3 September 2025, p. 5.

²⁵⁷ Transcript of Proceedings, Day 20, 3 September 2025, p, 11.

appeared from the passage (possibly from the restaurant bar area).²⁵⁸

- vi. He fired five shots at this second attacker, who was about 2.5-3 meters away.²⁵⁹ The attacker attempted to shoot back, his AK-47 firing upwards into the wall/reception area as Lombard's shots hit him (he believed four out of five hit), causing him to spin and run off.²⁶⁰ One bullet lodged in the doorframe.²⁶¹ He perceived this attacker as black.²⁶²
- vii. Lombard reloaded again and moved to the hotel entrance.²⁶³ He saw a figure (believed to be the second assailant) standing in the car park about 15 meters away, armed with an AK-47, seemingly waiting for people to exit the Public Bar.²⁶⁴ He stepped out and fired five shots at this person, who then "took off".²⁶⁵
- viii. He corrected his written statement (paragraphs 9-10), confirming that all the shooting involving the assailants occurred *before* the police arrived.²⁶⁶

iiii. Immediate aftermath:

²⁵⁸ Transcript of Proceedings, Day 20, 3 September 2025, p. 32.

²⁵⁹ Transcript of Proceedings, Day 20, 3 September 2025, pp. 11-12.

²⁶⁰ Transcript of Proceedings, Day 20, 3 September 2025, pp. 11, 33.

²⁶¹ Transcript of Proceedings, Day 20, 3 September 2025, pp. 11, 24, 33.

²⁶² Transcript of Proceedings, Day 20, 3 September 2025, p. 13

²⁶³ Transcript of Proceedings, Day 20, 3 September 2025, p. 12.

²⁶⁴ Transcript of Proceedings, Day 20, 3 September 2025, p. 12

²⁶⁵ Transcript of Proceedings, Day 20, 3 September 2025, p. 12.

²⁶⁶ Transcript of Proceedings, Day 20, 3 September 2025, p. 16.

- i. After the third engagement, Lombard saw a white couple arrive in a car. He warned them of the attack, and they reversed away.²⁶⁷ He did not recall seeing Mark Bush or Steven Good.
- ii. He went back inside the Ladies' Bar.²⁶⁸ He checked on Harris, who was crouched against the bar. Upon touching his shoulder, Harris collapsed, and Lombard realised he was dead, seeing a chest wound.²⁶⁹ He noted a woman nearby who was shot in the leg.
- iii. He heard a police vehicle arrive (estimating 10-15 minutes after the assailants left) and ran out.²⁷⁰ He informed the officer that it was a terrorist attack, not just a shooting, and used the police radio to call for ambulances and more backup.²⁷¹ More police and ambulances arrived subsequently.²⁷²
- iv. He observed the first responders (police and ambulance) arriving approximately 15-20 minutes after the attack and assessed their response as "quite quick" and "very good" in attending to the injured.²⁷³ He recalled instructing someone to apply pressure or a tourniquet to an injured woman's leg.²⁷⁴

jjjj. Getaway vehicle and assailants' direction:

²⁶⁷ Transcript of Proceedings, Day 20, 3 September 2025, p. 6.

²⁶⁸ Transcript of Proceedings, Day 20, 3 September 2025, p. 6.

²⁶⁹ Transcript of Proceedings, Day 20, 3 September 2025, pp. 6, 21, 28.

²⁷⁰ Transcript of Proceedings, Day 20, 3 September 2025, p. 16.

²⁷¹ Transcript of Proceedings, Day 20, 3 September 2025, pp. 7, 14, 25.

²⁷² Transcript of Proceedings, Day 20, 3 September 2025, p. 14.

²⁷³ Transcript of Proceedings, Day 20, 3 September 2025, pp. 30 - 31.

²⁷⁴ Transcript of Proceedings, Day 20, 3 September 2025, p. 30.

- i. Before the police arrived, Lombard saw a small, possibly Mazda, four-door car speeding away up the road to the right (facing away from the hotel).²⁷⁵ He could not see the occupants due to the darkness.
- ii. He believed the assailants got into this car, as they had run off in the same direction (to the right).²⁷⁶ He informed the police of this direction and the car.²⁷⁷ He may have fired shots at the departing car, but could not be certain.²⁷⁸

kkkk. Assailants' description and perceived training:

- i. All assailants he encountered wore similar grey clothing, balaclavas, and army boots, and carried AK-47s.²⁷⁹ He believed they wore bulletproof/flak jackets because his body shots did not seem to incapacitate them and left no blood.²⁸⁰
- ii. Based on his military experience, he assessed the attackers as "highly trained," more so than "terrorists" he had encountered during his service.²⁸¹

llll. Post-incident interactions:

- i. Lombard confirmed his firearm, the .38 Special Rossi, was never requested by the police for ballistic testing following the

²⁷⁵ Transcript of Proceedings, Day 20, 3 September 2025, pp. 16, 27.

²⁷⁶ Transcript of Proceedings, Day 20, 3 September 2025, p. 17.

²⁷⁷ Transcript of Proceedings, Day 20, 3 September 2025, pp. 17, 18.

²⁷⁸ Transcript of Proceedings, Day 20, 3 September 2025, p. 27.

²⁷⁹ Transcript of Proceedings, Day 20, 3 September 2025, pp. 4, 12.

²⁸⁰ Transcript of Proceedings, Day 20, 3 September 2025, pp. 10, 22.

²⁸¹ Transcript of Proceedings, Day 20, 3 September 2025, pp. 18-19.

incident, nor did they request further interviews.²⁸² He provided the police with his spent cartridges.

- ii. He recounted a coincidental meeting with the family of the late Harris in Morgan Bay the weekend after the shooting, where they were scattering Deon's ashes.²⁸³ He confirmed the conversation with Page about the events was largely accurate, except for the detail about pushing Deon down.
- iii. He confirmed the person he spoke with was Harris, and the name "Nigel" in his statement was incorrect, likely a mistake made when the statement was compiled from media interviews.²⁸⁴

B. Contextual or ancillary evidence

- 1.2 This section provides the critical contextual and ancillary evidence gathered in the decades following the Highgate Massacre. It moves beyond the night of the attack to chronicle the survivors' long pursuit of justice, the systemic failures of state institutions, and the expert evidence that systematically refutes the long-held official narrative. The testimony collectively dismantles the attribution of the 1993 massacre to APLA and explores alternative theories, including the possibility of a state-aligned "third-force" operation.

²⁸² Transcript of Proceedings, Day 20, 3 September 2025, pp. 33, 34.

²⁸³ Transcript of Proceedings, Day 20, 3 September 2025, pp. 19, 29.

²⁸⁴ Transcript of Proceedings, Day 20, 3 September 2025, pp. 6, 28.

- 1.3 The narrative of the survivors' struggle is primarily detailed through the testimony of Dr. Edlmann, who was instrumental in organizing the Highgate survivors and families. She recounted the group's formation in 2006 after learning that APLA had not authorized the attack, their formal request to the NPA for a new inquest, and the subsequent cycle of hope and disillusionment. Dr. Edlmann described the initial positive engagement with the NPA, which devolved into frustration over broken promises for updates, and the ambiguous, ultimately fruitless, investigation by private investigator Els. Her testimony also highlighted the severe, lasting psycho-social trauma and hardship endured by survivors and their families due to decades of institutional neglect.
- 1.4 The central theme of this evidence is the comprehensive refutation of APLA's responsibility for the 1993 attack. This was established through three key witnesses. First, Mphahlele, the former APLA Director of Operations, provided a direct and authoritative denial. He systematically detailed why the attack was uncharacteristic of APLA, citing critical inconsistencies in the *modus operandi*: the use of balaclavas, face paint, the unprecedented use of tear gas, and the use of AK-47s, which APLA was phasing out. He confirmed the attack's complete absence from APLA's operational archives and dismissed the "Karl Zimbiri" media claims as propaganda. Second, Ncamazana, an APLA member convicted for the *separate 1994* Highgate grenade attack, explicitly denied any knowledge of or involvement in the 1993 massacre.
- 1.5 Finally, Tyrrell, an expert researcher, provided an independent statistical analysis of APLA's operational patterns. His report concluded it was unlikely APLA was responsible. His analysis confirmed that the use of tear gas was unprecedented in all 64 APLA incidents studied and that the complete absence of a claim of responsibility was a fundamental departure from APLA's 80% claim rate for similar attacks.

- 1.6 With the official narrative challenged, the evidence also explored alternative theories. Dr. Edlmann introduced leads pointing toward covert state-aligned groups, including rumours of a "Vlakplaas 2" in the area and research showing large financial payouts to Askari members just before the attack.
- 1.7 The testimony of Van Der Wilt, a former Hammer Unit member, was also heard. He firmly denied any Hammer Unit involvement and instead offered a conflicting, second-hand APLA theory involving child soldiers, a claim unsupported by other evidence.

*Dr. Tessa (Theresa) Margaret Edlmann:*²⁸⁵

- 1.8 Dr. Edlmann, an academic and founder of the Spirals Trust reconciliation initiative, testified on 31 January 2025. Her evidence provided the crucial narrative of the survivors' decades-long struggle for justice, which she helped coordinate. She detailed her involvement beginning in 2005, prompted by the revelation that APLA had not authorised the attack. Dr. Edlmann organised the first-ever gathering of survivors in 2006 and spearheaded their formal 2006 memorandum to the NPA requesting a new inquest. Her testimony chronicled the subsequent cycle of hope and disillusionment, detailing the NPA's failed promises, the elusive investigation by Els, and the systemic failures of the TRC, which had conflated the 1993 massacre with another attack. She also presented key contextual evidence challenging the APLA narrative, including third-force theories, research on Askari payouts, and a powerful account of the severe, lasting psycho-social and medical hardships endured by the survivors and their families.
- 1.9 Professional experience, academic background, and role in civil society:

²⁸⁵ Exhibit C, Statement of Dr. Tessa Margaret Edlmann, p. 112.

1.9.1 Dr. Edlmann extensively detailed her professional career. Initially a teacher, she later became peripherally involved with the TRC.

1.9.2 Subsequently, in the late 1990s and early 2000s, she founded the Spirals Trust, a grassroots initiative aimed at continuing the TRC's reconciliation work at a community level. The Trust began as a narrative-based storytelling initiative at the Anglican seminary, College of Transfiguration, in Makhanda. It focused on reconciling conflicting stories from the Apartheid era and presented at the United Nations as a model for peace education.²⁸⁶

1.9.3 Despite this early success, the Spirals Trust struggled significantly with funding, particularly given its location in the Eastern Cape, ultimately leading to its closure in 2008. Its programs were handed over to other organisations. Following this, Dr. Edlmann completed a PhD in History and Psychology, focusing on the psycho-social impacts of conscription into the SADF. She continued her career extensively in academia, NGOs, and as a freelance worker.²⁸⁷

1.10 The origins of her involvement with Highgate survivors:

1.10.1 Dr. Edlmann's involvement with Highgate survivors and their families began in 2005, after Beling engaged in mediation with Mphahlele, facilitated by Ginn Fourie. This mediation revealed critical information that APLA had not authorised the Highgate attack, contradicting the accepted narrative.

1.10.2 Recognising the significance, Professor David Edwards of Rhodes University suggested that the Spirals Trust, led by Dr. Edlmann, coordinate efforts to reconnect

²⁸⁶ Transcript of Proceedings, Day 5, 31 January 2025, pp. 3–4.

²⁸⁷ Transcript of Proceedings, Day 5, 31 January 2025, p. 4.

survivors and families, document their experiences, and advocate for renewed investigations.²⁸⁸

1.11 Formation of Highgate survivors' network and request for an inquest:

1.11.1 In September 2006, Dr. Edlmann organised the first-ever gathering of Highgate survivors and family members at the Kennaway Hotel, their first meeting in 13 years. This highly emotional meeting exposed deep anger, bitterness, and confusion among survivors, who had been misled into believing definitively that APLA was responsible. The lack of arrests or accountability intensified their resentment toward law enforcement and judicial systems.²⁸⁹

1.11.2 As a result of this pivotal gathering, survivors collectively resolved to formally request the NPA to reopen the investigation and conduct an inquest. They specifically demanded transparency, regular quarterly updates, and group communication from authorities. This marked a crucial move toward potential justice after years of misinformation and silence.²⁹⁰

1.12 Formal request to the NPA:

1.12.1 On 11 December 2006, Dr. Edlmann sent a memorandum to Mhaga at the NPA. This memo formally requested a renewed investigation into the Highgate Massacre, specifically seeking clarity on the motivation, organisation, and identities of the perpetrators. It further demanded transparency through regular updates, at least quarterly, and insisted that the group always be approached collectively, facilitated by the Spirals Trust for communication purposes. The memorandum underscored the sensitivity of the case, asking that the investigation be handled confidentially.²⁹¹

²⁸⁸ Transcript of Proceedings, Day 5, 31 January 2025, pp. 5–6.

²⁸⁹ Transcript of Proceedings, Day 5, 31 January 2025, pp. 7–9.

²⁹⁰ Transcript of Proceedings, Day 5, 31 January 2025, pp. 9–10.

²⁹¹ Transcript of Proceedings, Day 5, 31 January 2025, pp. 11–13.

1.12.2 Signatories included survivors and family representatives-

- (a) Charles Bodington;
- (b) Weber;
- (c) Bernice Whitfield;
- (d) Parker;
- (e) Fran Wheeler; and
- (f) Baling.

1.12.3 Additionally, Dr. Edlmann noted support from survivors who were not physically present at the initial meeting but had expressed telephonic support:

- (a) Ian Hacking, son of Stanley Hacking (deceased victim);
- (b) Neville Harris, father of Deon Harris (deceased victim);
- (c) Doreen Rosseau (injured survivor); and
- (d) Keith Baling (survivor), brother of Billy Baling (injured survivor).

1.12.4 Efforts to trace the family of deceased victim Douglas Gates and injured survivor Nkosinathi Alfred Gontshi (“**Gontshi**”) had not yet succeeded, prompting a request for assistance from the NPA.²⁹²

²⁹² Transcript of Proceedings, Day 5, 31 January 2025, p. 12.

1.13 Initial response and meetings with the NPA:

1.13.1 The response from the NPA, specifically from Mhaga, was initially positive. In February 2007, Mhaga met with the Highgate survivors at the University of Fort Hare's Psychological Support Centre, assuring them that investigations would recommence earnestly. He communicated a commitment to interviewing various individuals and pursuing leads with determination. However, Mhaga declined an invitation to attend a planned memorial service at the Highgate Hotel on 1 May 2007, presumably due to discomfort with potential media attention.²⁹³

1.14 Memorial service and media coverage:

1.14.1 On 1 May 2007, survivors held a memorial service at the Highgate Hotel, unveiling a plaque in memory of the deceased and affected. This event attracted substantial media attention, notably from a Carte Blanche documentary crew. Despite the NPA's reluctance to participate, the survivors viewed this event as an important symbolic act toward recognition and healing.²⁹⁴

1.15 Role of Els and declining momentum:

1.15.1 During this period, Els, formerly medically boarded from the Scorpions and acting as a private investigator, became closely involved. Although initially supportive, Els gradually became elusive and challenging to contact. He was seen as conducting investigative work on behalf of the NPA, but the exact nature of his role remained ambiguous. The survivors' specific request for quarterly updates was not honoured, leading to feelings of frustration and abandonment.²⁹⁵

1.15.2 Dr. Edlmann recounted the increasing perception among survivors that the NPA viewed their provided information as inconclusive, with diminishing interest and

²⁹³ Transcript of Proceedings, Day 5, 31 January 2025, p. 14.

²⁹⁴ Transcript of Proceedings, Day 5, 31 January 2025, p. 14.

²⁹⁵ Transcript of Proceedings, Day 5, 31 January 2025, pp. 14–15.

communication from authorities as a result. A particularly discouraging episode was a funded trip to Cape Town undertaken by survivors at Els's suggestion, which ultimately yielded no significant developments, further deepening their sense of despair.²⁹⁶

1.16 Personal reflections and emotional impact:

1.16.1 Dr. Edlmann reflected emotionally on the severe personal and collective impact these developments had on survivors and herself. The initial high hopes from the memorial service and apparent NPA commitment gave way to disillusionment and feelings of being misled.

1.16.2 She spoke candidly of questioning her role, fearing she might unintentionally offer false hope to survivors. Despite this, she continually encouraged survivors like Beling not to give up, believing firmly that justice would eventually prevail.²⁹⁷

1.17 Further interactions and developments:

1.17.1 Between 2007 and later developments involving Benjamin Nel (“**Nel**”), the situation was described as increasingly bleak, characterised by sporadic information and false hopes. Survivors persisted in trying to gather details independently, facing repeated dismissals from authorities who claimed their leads lacked sufficient evidence. Nel, whom she briefly met, similarly dismissed their efforts as inconsequential, reinforcing their frustration.²⁹⁸

1.17.2 Dr. Edlmann also recounted specific incidents like a 2012 raid organised by Botha based on information from Petzer, which also resulted in no concrete

²⁹⁶ Transcript of Proceedings, Day 5, 31 January 2025, pp. 15–16.

²⁹⁷ Transcript of Proceedings, Day 5, 31 January 2025, pp. 16–18.

²⁹⁸ Transcript of Proceedings, Day 5, 31 January 2025, pp. 18–19.

outcomes, deepening survivors' feelings of repeated disappointment and abandonment by the justice system.²⁹⁹

1.18 Support for Beling

1.18.1 Dr. Edlmann detailed extensive personal support for Beling, whose health had severely deteriorated over the years. She described facilitating his medical treatments, surgeries, and accommodations during his health crises, highlighting Beling's immense courage and resilience despite overwhelming physical and emotional trauma.³⁰⁰

1.19 Broader reflections on justice and reconciliation

1.19.1 Dr. Edlmann expressed the profound emotional and ethical impact of her involvement, underscoring that her motivation stemmed from a lifelong commitment to truth, justice, and reconciliation in South Africa.

1.19.2 She reflected passionately on the importance of holding space and speaking for those who could not, highlighting that her role was only a small part of a much larger struggle. She strongly emphasised the significance of courage and truth in the pursuit of justice, despite risks and obstacles encountered during the investigative process.³⁰¹

1.20 Criticism of the TRC:

1.20.1 Dr. Edlmann voiced disappointment regarding certain systemic failures of the TRC. Specifically, she highlighted errors in the TRC's documentation of the Highgate Massacre, noting it was incorrectly conflated with a separate 1994 grenade attack, causing significant oversight and neglect of the Highgate Massacre.

²⁹⁹ Transcript of Proceedings, Day 5, 31 January 2025, p. 19.

³⁰⁰ Transcript of Proceedings, Day 5, 31 January 2025, pp. 20–21.

³⁰¹ Transcript of Proceedings, Day 5, 31 January 2025, p. 22.

1.20.2 She emphasised that such inaccuracies perpetuated misinformation, significantly hampering the survivors' and families' quest for truth and justice.³⁰²

1.21 Information shared by Beling and witness reports:

1.21.1 Further elaborating, Dr. Edlmann provided details on witness reports shared by Beling, including sightings of a Honda Balade vehicle near Horseshoe Valley, burned out without a record of being reported stolen.

1.21.2 This mysterious detail became significant, particularly given persistent rumours of a farm in Horseshoe Valley known as "Vlakplaas 2" suspected to be associated with clandestine operations and possibly linked to the Highgate Massacre.³⁰³

1.22 Research by Louise Flanagan (“**Flanagan**”) and Askaris in East London:

1.22.1 Dr. Edlmann referenced important investigative contributions by journalist Flanagan, who provided documentation concerning a unit of Askaris (former liberation fighters turned informants) operating in East London. Significantly, Flanagan's research included a list of substantial financial payouts made to individuals linked to Vlakplaas just before the attack, specifically on 30 April 1993.³⁰⁴

1.22.2 This timing raised questions about the possibility of the Highgate attack being related to frustration or orders following these severance payments. Names on this list notably included notorious figures such as Eugene de Kock.³⁰⁵

1.23 Theories regarding APLA involvement and inconsistencies:

³⁰² Transcript of Proceedings, Day 5, 31 January 2025, pp. 23–24

³⁰³ Transcript of Proceedings, Day 5, 31 January 2025, pp. 24–25.

³⁰⁴ Transcript of Proceedings, Day 5, 31 January 2025, p. 25.

³⁰⁵ Transcript of Proceedings, Day 5, 31 January 2025, pp. 25–27.

1.23.1 Dr. Edlmann detailed multiple inconsistencies challenging the narrative of APLA's responsibility for the Highgate attack:

- (a) Attackers wore balaclavas, unusual for APLA members, who typically intended to be identified as part of their political statement.
- (b) The attackers used AK-47s, weapons reportedly inaccessible to APLA due to ammunition scarcity.
- (c) Uncharacteristic precision in the attackers' shooting suggested professional military training rather than the often untrained or poorly trained APLA operatives.
- (d) The use of tear gas grenades, highly unusual for APLA attacks.
- (e) Absence of legitimate claims of responsibility or records of the Highgate attack in APLA archives.
- (f) No amnesty applications or convictions related to the Highgate Massacre, unlike other known APLA incidents.

1.24 Potential motivation behind the Highgate Massacre:

1.24.1 Further detailing potential motivations, Dr. Edlmann highlighted theories suggesting that the Highgate Massacre aimed at provoking violence and unrest among right-wing groups, specifically the AWB.

1.24.2 It was posited that the intention might have been to destabilise the ongoing CODESA negotiations critical to South Africa's transition to democracy. Notably, Dr. Edlmann referenced inflammatory rhetoric by AWB leader Eugène Terblanche

around the time of the Highgate Massacre, potentially fitting into a broader agenda of inciting conflict and undermining peaceful negotiations.³⁰⁶

1.25 Ongoing challenges and further personal reflections:

1.25.1 Dr. Edlmann emphasised the severe ongoing obstacles experienced by survivors and family members throughout her two decades of involvement with the Highgate Massacre case.

1.25.2 She detailed persistent difficulties in maintaining consistent communication with authorities, especially the NPA. Specifically, she recalled a dismissive interaction with Advocate Christopher McAdam (“**Advocate McAdam**”) of the NPA, who displayed reluctance and irritation when approached directly regarding the investigation, reflecting broader institutional indifference and resistance.³⁰⁷

1.26 Severe personal hardships of survivors:

1.26.1 Dr. Edlmann provided extensive accounts of the profound physical, psychological, and emotional hardships faced by survivors:

- (a) Rossouw endured severe chronic pain from injuries sustained during the attack until her death.³⁰⁸
- (b) Gontshi faced severe economic hardship, unemployment, and social isolation following his injuries and eventual job loss at the Highgate Hotel.³⁰⁹

³⁰⁶ Transcript of Proceedings, Day 5, 31 January 2025, pp. 31–32.

³⁰⁷ Transcript of Proceedings, Day 5, 31 January 2025, p. 34.

³⁰⁸ Transcript of Proceedings, Day 5, 31 January 2025, p. 32.

³⁰⁹ Transcript of Proceedings, Day 5, 31 January 2025, pp. 32–33.

(c) Beling's family experienced significant health impacts, including his father suffering multiple strokes, exacerbated by trauma, leaving him severely impaired until his death. Beling's mother, Zilla Beling, provided extensive caregiving for Beling until her death from cancer, a condition Dr. Edlmann attributed partly to prolonged stress and trauma.³¹⁰

(d) Thora Christopher, Weber's partner and primary caregiver, similarly succumbed to cancer, illustrating the severe indirect consequences suffered by caregivers.³¹¹

1.26.2 Dr. Edlmann detailed the emotional toll on survivors' extended family members, underscoring the extensive, ongoing ripple effects of trauma and systemic neglect.³¹²

1.27 Criticism of investigative and institutional failures:

1.27.1 Dr. Edlmann strongly criticised investigative processes, noting repeated frustrations with intermittent and superficial investigations conducted by authorities, including Nel and Captain Peterson.³¹³

1.27.2 She recounted persistent issues, including inadequate record-keeping, poor docket management, and an overwhelming sense of investigative apathy, which collectively hindered progress toward achieving justice and accountability.³¹⁴

1.28 Reflections on justice delayed:

³¹⁰ Transcript of Proceedings, Day 5, 31 January 2025, pp. 33–34.

³¹¹ Transcript of Proceedings, Day 5, 31 January 2025, p. 34.

³¹² Transcript of Proceedings, Day 5, 31 January 2025, pp. 34–35.

³¹³ Transcript of Proceedings, Day 5, 31 January 2025, p. 35.

³¹⁴ Transcript of Proceedings, Day 5, 31 January 2025, pp. 35–36.

1.28.1 Expressing profound disappointment, Dr. Edlmann stated that the delay of over three decades in securing justice for Highgate survivors exemplifies broader systemic failures within South Africa's transitional justice mechanisms.

1.28.2 She characterised the prolonged neglect as a "travesty of justice," underscoring the inadequacy of institutional responses over the years. Despite this, she expressed gratitude for the current dignified handling of the case by the present Court, legal representatives, and NPA officials, recognising the importance of this belated recognition and respect for survivors.³¹⁵

1.29 Memorialisation and preservation of records:

1.29.1 Dr. Edlmann discussed the creation of a memorial plaque at the Highgate Hotel, initially installed to honour the victims and survivors, and later removed due to renovations. She advocated for creating a dedicated archive at the Amatole Museum, housing all related documentation, memorabilia, and survivor testimonies for future generations. She also emphasised the need for a dedicated financial support fund to address the ongoing medical and personal needs of survivors, particularly Beling and Weber, ensuring their long-term welfare and dignity.³¹⁶

1.30 Closing remarks:

1.30.1 In her final reflections, Dr. Edlmann expressed gratitude to the Court and legal teams for their respectful and dignified handling of proceedings.³¹⁷

1.30.2 She reiterated her commitment to truth, reconciliation, and justice, emphasising that the significance of the current inquest extends far beyond the Highgate case,

³¹⁵ Transcript of Proceedings, Day 5, 31 January 2025, pp. 36–37.

³¹⁶ Transcript of Proceedings, Day 5, 31 January 2025, pp. 37–38.

³¹⁷ Transcript of Proceedings, Day 5, 31 January 2025, p. 36.

addressing larger questions about transitional justice, institutional accountability, and the need for collective healing in societal reconciliation efforts.³¹⁸

Letlapa Ngoata Mphahlele:³¹⁹

1.31 Introduction:

1.31.1 Mphahlele testified that he was born on 8 December 1960 in Rosenkrantz, a village in Limpopo, following the Northern Sotho tradition where the firstborn is delivered at the maternal village.³²⁰

1.31.2 He described his education, attending four schools: Mutle Primary School, the first community-built school in the then Transvaal, Rosenkrantz Primary, Matsubane Senior Primary, and Manemkube Senior Secondary, which he left while still attending.³²¹

1.31.3 Mphahlele testified that he is a prolific writer with six published books, including *Child of the Soil: My Life as a Freedom Fighter* (2002), *Mantlalele*, *The Flood is Coming* (2006), *Shining the Searchlight Inwards* (2013), *South Africa: A Republic Gone Bananas* (2014), *Nxae* (2022), a poetry book, and *Mafofora* (2023). He mentioned a forthcoming seventh book in African languages to be launched in June 2025.³²²

1.31.4 He explained that *Child of the Soil* was nominated for the Alan Paton Nonfiction Literary Award and was a bestseller in the Kwela Books catalogue. He also referenced his involvement in five historical documentary films relating to South

³¹⁸ Transcript of Proceedings, Day 5, 31 January 2025, pp. 38–39.

³¹⁹ Exhibit D, Statement of Letlapa Ngoata Mphahlele, p. 6.

³²⁰ Transcript of Proceedings, Day 11, 24 March 2025, pp. 28–29.

³²¹ Transcript of Proceedings, Day 11, 24 March 2025, p. 30.

³²² Transcript of Proceedings, Day 11, 24 March 2025, pp. 30–33.

Africa's struggle, except for *Gratitude*, which was filmed in Ibiza and unrelated to South African history.³²³

1.32 Political and military roles:

1.32.1 Mphahlele testified that he served as the sixth president of the PAC from 2006 until succeeded by Mzwanele Nyhontso. He noted a period when three individuals claimed to be PAC president during internal turmoil, but he identified himself as the sixth, after founding president Mangaliso Sobukwe.³²⁴

1.32.2 He testified that he was the director of operations of the APLA from 1991, after first serving on the high command, the third tier below the central committee and military commission. His role in logistics included infiltrating arms and personnel into South Africa and exfiltrating trainees abroad.³²⁵

1.32.3 He also served as a member of South Africa's National Assembly from 2009 to 2013 and co-founded the Lyndi Fourie Foundation, established through a relationship with Ginn Fourie, whose daughter had died under his command. The foundation's mission was one of reconciliation and forgiveness, which continued informally after the foundation dissolved, including international visits such as to India.³²⁶

1.32.4 Mphahlele testified about his role in community development, such as supporting the establishment of the Siviwe Buso Secondary School in Mthatha, which evolved from helping children in an informal settlement with school supplies to a fully developed school, for which he received an award from the MEC of Education.³²⁷

³²³ Transcript of Proceedings, Day 11, 24 March 2025, pp. 32–33.

³²⁴ Transcript of Proceedings, Day 11, 24 March 2025, p. 34.

³²⁵ Transcript of Proceedings, Day 11, 24 March 2025, pp. 34–35.

³²⁶ Transcript of Proceedings, Day 11, 24 March 2025, pp. 35–36.

³²⁷ Transcript of Proceedings, Day 11, 24 March 2025, pp. 36–37.

1.33 Early political involvement and exile:

1.33.1 Mphahlele testified that his political awakening began with a deep questioning of justice and God, eventually leading him to politics during apartheid. He cited the 1976 Soweto uprisings as a pivotal trigger, despite being away in the mountains at the time.

1.33.2 Feeling compelled to join the struggle, he and others formed an underground group called the Union of Self Study (“**USS**”) to support the movement, but the group was quickly disbanded by the school principal. Consequently, in 1978, he decided to leave South Africa to engage in the anti-apartheid struggle abroad and to empower himself politically, as he had no formal political training at the time.³²⁸

1.33.3 He chose Botswana as his first destination because it was safer than alternatives such as Soweto and Transkei, and he travelled there legally with a passport, avoiding dangerous border crossings guarded by soldiers. Mphahlele also recounted how he forged a letter from his school principal excusing his absence, which was crucial for passing roadblocks controlled by the special branch police.³²⁹

1.34 Joining political movements in exile:

1.34.1 Upon arrival in Botswana, Mphahlele testified that he was detained briefly and pressured by police to join a political party. Initially, he joined the ANC but quickly left after meeting members of the South African Youth Revolutionary Council (“**SAYRCO**”), a splinter group.

1.34.2 He eventually became non-aligned in exile before joining the PAC after a period marked by violent conflict within exile camps, including killings of diplomats and cadres.

³²⁸ Transcript of Proceedings, Day 11, 24 March 2025, pp. 38–39.

³²⁹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 39–41.

1.34.3 He identified Tanzania as the base where he received military training, followed by further training in Guinea, West Africa. Mphahlele also engaged in “bush journalism,” producing camp newspapers like *Itumbi* and later becoming its editor.³³⁰

1.35 Role in APLA and logistics:

1.35.1 Mphahlele testified that he was appointed to the APLA high command and served primarily in the logistics department beginning in 1985. His responsibilities included infiltrating arms into South Africa and exfiltrating personnel for training. He clarified that, while he worked in logistics, operational lines often overlapped with political commissariat functions.³³¹

1.35.2 He explained that Libya, under Marshall Tito, was a major supporter providing training and arms, alongside Tanzania and Guinea. Yugoslavia was the principal supplier of the Scorpion submachine gun, which became associated with APLA. China was not considered the main benefactor, contrary to some beliefs. Tanzania was regarded as the most supportive African state, with Guinea and Libya following.³³²

1.36 Detentions in Zimbabwe and Botswana:

1.36.1 Mphahlele testified that he was arrested twice in Zimbabwe during an emergency period after entering from Botswana, detained for about three weeks without charges before being released. In Botswana, he was arrested after infiltrating a group of five operatives, following which there was a gunfire incident at the border, where one operative was injured, three were arrested, and one escaped.

1.36.2 Mphahlele was charged with possession of arms of war, but no arms were found on him. He served over three years of a five-year sentence before being released

³³⁰ Transcript of Proceedings, Day 11, 24 March 2025, pp. 41–43.

³³¹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 43–44.

³³² Transcript of Proceedings, Day 11, 24 March 2025, p. 44.

following Nelson Mandela's release, when political prisoners, including PAC and ANC members, were freed.³³³

1.37 Appointment as Deputy Chief Political Commissioner and return to South Africa:

1.37.1 While in prison, Mphahlele testified he was appointed Deputy Chief Political Commissioner of APLA, a paradoxical situation given his incarceration. Upon return to South Africa, his first activity was visiting APLA units concentrated mostly in urban centres, despite PAC's original philosophy advocating rural-focused armed struggle.

1.37.2 He found that many operatives in the cities were struggling with starvation and resorted to robbery for survival, leading him to establish a specialised repossession unit ("Beauty Salon") to curb criminality within APLA ranks.³³⁴

1.38 APLA operational strategies and target selection:

1.38.1 Mphahlele testified that APLA's primary objective was to fight the apartheid regime, and attacks on civilians were never the main focus. He noted a problematic double standard where violence against black South Africans was not labelled as attacks on civilians, but when white civilians were targeted, they were described as such. Initially, APLA's urban operations targeted police and military personnel, but after state attacks on black civilians at night vigils, taxis, and buses, APLA adopted a tit-for-tat strategy to make white civilians "taste their own medicine."

1.38.2 He recalled how internal disagreements in the APLA high command about attacking civilians led to modifying orders so that civilian targets would always be accompanied by "hard targets" such as army units or police stations. He gave examples of operations at Queenstown, King William's Town Golf Club, St James

³³³ Transcript of Proceedings, Day 11, 24 March 2025, pp. 44–47.

³³⁴ Transcript of Proceedings, Day 11, 24 March 2025, pp. 47–48

Church, and Heidelberg Tavern, explaining that these were part of planned operations consistent with this strategy. The Heidelberg Tavern attack involved coordinated assaults on police and army units alongside civilian targets, although the state only publicized the civilian aspect.³³⁵

1.39 Highgate Hotel attacks:

1.39.1 Mphahlele distinguished between two Highgate Hotel attacks: one in May 1993 that resulted in deaths and injuries (the Highgate Massacre), and another in March 1994 involving a grenade attack causing no injuries. He testified that APLA accepted responsibility for the second attack but denied involvement in the first.

1.39.2 Upon learning of the May 1993 attack, the Highgate Massacre, Mphahlele initially felt envy and suspicion, believing it was the act of another guerrilla group since the operation was uncharacteristic of APLA. He listed multiple reasons why the May 1993 attack was un-APLA-like: attackers wore balaclavas (never used by APLA), there was no hijacked getaway vehicle (APLA typically hijacked vehicles and abandoned them with keys left inside), tear gas was used (unprecedented in APLA operations), faces were painted (also not typical), and AK-47 rifles were used, although APLA had largely phased these out due to their unreliability.

1.39.3 He explained that the AK-47s supplied from Tanzania were sabotaged, leading to APLA switching to R4 and R5 rifles. APLA weapons were reused across different operations, which was not consistent with ballistics from the Highgate attack weapons, indicating these were not APLA arms. Additionally, Mphahlele emphasised that all APLA operations during his tenure as Director of Operations were meticulously documented and archived, but no records exist of the May 1993 Highgate attack, despite extensive raids on these archives by the state. This lack of

³³⁵ Transcript of Proceedings, Day 11, 24 March 2025, pp. 48–50.

documentation strongly supported his conclusion that APLA was not responsible for the May 1993 attack.³³⁶

1.40 The “Karl Zimbiri” claim and media narrative:

1.40.1 Mphahlele addressed claims by a man named Karl Zimbiri, who purportedly took responsibility for APLA attacks, including the Highgate incident. He testified that Karl Zimbiri was a largely unknown, possibly fictitious figure tolerated by APLA but not formally recognised. Zimbiri was known to make contradictory public statements and condemn PAC leadership, leading to distrust within APLA ranks.

1.40.2 Mphahlele suspected that the State used the name Karl Zimbiri as propaganda to both undermine and inflate APLA’s image. He noted that despite being publicised, Karl Zimbiri was never listed on any wanted or official documents, further questioning his authenticity.³³⁷

1.41 Claims of responsibility and Use of operative names:

1.41.1 Mphahlele explained that APLA typically claimed responsibility for operations through intermediaries using pseudonyms, with names like "Mama Rupelo" and "Ropa," rather than direct claims by the organization. Media reports often linked Karl Zimbiri’s statements to APLA, despite the dubious nature of his claims. He noted that APLA’s control over public messaging was limited compared to the State’s access to media, with the latter often portraying APLA unfavourably or selectively.³³⁸

1.41.2 Mphahlele recounted that many APLA members had images published with rewards for their arrest, yet no such official records existed for Karl Zimbiri. He

³³⁶ Transcript of Proceedings, Day 11, 24 March 2025, pp. 50–56.

³³⁷ Transcript of Proceedings, Day 11, 24 March 2025, pp. 59–61.

³³⁸ Transcript of Proceedings, Day 11, 24 March 2025, p. 60.

described this as part of the complex information war between APLA and the apartheid regime.³³⁹

1.42 Seizure and Status of APLA records and documentation:

1.42.1 Mphahlele testified that the South African Police Service (SAPS) and/or National Intelligence seized the original APLA operational records and archives from Mthatha and Maseru in 1994 and 1995. He confirmed that these documents were never returned and that their exact seizure dates are unknown. The seized records included not only written documents but also homemade weapons and tactical materials such as spikes made from long nails tied to PVC pipes used as road traps.³⁴⁰

1.42.2 He emphasised that the bulk of the archives were kept in Maseru, Lesotho (originals) with copies in Mthatha. These raids resulted in significant losses of historical APLA documentation, which affected not only investigations but also the prosecution and amnesty applications related to APLA members.³⁴¹

1.42.3 Mphahlele stated that, outside of the seized archives, no further APLA operational documentation exists except individual memories and recollections of former operatives.³⁴²

1.43 Modus operandi and operational security:

1.43.1 Mphahlele explained the modus operandi of APLA units, which operated in small, often single-person units for security reasons. This structure was necessary due to limitations in resources and to avoid compromising the entire organisation if one member was captured.

³³⁹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 59–61.

³⁴⁰ Transcript of Proceedings, Day 11, 24 March 2025, pp. 73–74.

³⁴¹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 85–86.

³⁴² Transcript of Proceedings, Day 11, 24 March 2025, pp. 85–86.

1.43.2 He described a culture of operational secrecy where even senior leaders like himself were sometimes unaware of specific actions until after they occurred. For example, he recounted an incident where police were attacked on the same street where he lived, but he only learned about it later at a shopping mall.³⁴³

1.43.3 This compartmentalisation was critical for the safety of all involved and the effectiveness of the struggle. After an operation, confirmation would be relayed internally to validate it as an APLA action, but no comprehensive knowledge was shared beforehand to maintain security.³⁴⁴

1.44 Use of weapons and tactical evolution:

1.44.1 Regarding weapons, Mphahlele clarified that APLA gradually phased out the AK-47 rifles during the early 1990s due to difficulties in procuring magazines and the poor condition of weapons smuggled in from Tanzania, many of which were sabotaged. However, AK-47s were still used when available.

1.44.2 He clarified that while AK-47s were "*no longer being commonly used*," they were still employed when available and functional. APLA units operated with mixed and inconsistent weaponry depending on what was accessible; some fighters carried AK-47s, others had R1 rifles, and some were armed only with pangas when firearms were insufficient. He emphasised that APLA was "not a standing army with unlimited support of arms," and this resource constraint meant they could not afford to discard functional AK-47s even after beginning to acquire R4 and R5 rifles. The gradual phasing out was driven by practical challenges: difficulty procuring compatible magazines, ammunition that was not interchangeable with other weapons, and the

³⁴³ Transcript of Proceedings, Day 11, 24 March 2025, pp. 72–73.

³⁴⁴ Transcript of Proceedings, Day 11, 24 March 2025, pp. 73–74.

general unreliability of Eastern-made weapons that had often been sabotaged during the long smuggling routes from Tanzania.³⁴⁵

1.44.3 Mphahlele also addressed the use of explosives, hand grenades, and other homemade weapons, noting their inclusion in APLA operations and archives. He referenced a detailed analysis of APLA attacks showing that AK-47s were rarely used after February 1992, especially in attacks on non-farm civilian targets, with the bulk of attacks using other weapons.³⁴⁶

1.45 Highgate Hotel and military presence:

1.45.1 When questioned about whether police or military personnel frequented the Highgate Hotel, Mphahlele stated that his knowledge was limited to his visits to the hotel with survivors and family members of victims after the attacks. He had no awareness of specific military or police presence at the hotel prior to the incidents.

1.45.2 He affirmed with certainty that none of the individuals under his command were responsible for the May 1993 Highgate Massacre, though he acknowledged the theoretical possibility of rogue elements operating independently, which he strongly denied in relation to his tenure as Director of Operations.³⁴⁷

1.46 Clarification on document seizure and continuing investigation:

1.46.1 Mphahlele confirmed that the seized archives were held by SAPS or National Intelligence and that, despite efforts, the documents have not been returned. He committed to trying to ascertain the exact dates of seizure despite the death of the librarian responsible for the archives.

³⁴⁵ Transcript of Proceedings, Day 11, 24 March 2025, pp. 77–78.

³⁴⁶ Transcript of Proceedings, Day 11, 24 March 2025, pp. 87.

³⁴⁷ Transcript of Proceedings, Day 11, 24 March 2025, pp. 78–79.

1.46.2 He stressed the importance of these documents to ongoing investigations, especially in light of unresolved cases such as the Northcrest Massacre, and urged that any recovered material be shared to assist the truth-seeking process.³⁴⁸

1.47 Dumisani Ncamazana (“**Ncamazana**”) and cessation of hostilities:

1.47.1 Mphahlele addressed the involvement of Ncamazana, clarifying that while Ncamazana was not on official APLA records, he believed he was acting under instructions from senior commanders. Mphahlele took responsibility to support Ncamazana during his legal defence due to this belief.

1.47.2 He explained that official cessation of hostilities was ordered around April 1994, but communication challenges meant that some operations continued thereafter. Ncamazana was implicated in a 1994 attack on the Highgate Hotel, which APLA accepted responsibility for, but the timing was after the ceasefire order.

1.47.3 Mphahlele noted that Ncamazana’s belief in the legitimacy of his actions was sincere, but that not all operations were uniformly controlled within APLA, reflecting internal divisions and complexities.³⁴⁹

1.48 Analysis of weapons used in attacks:

1.48.1 Mphahlele reiterated that while AK-47s were used in some attacks, like the Yellowwoods Hotel (March 1993), they were generally phased out due to logistical issues. He emphasised the diversity of weaponry used across units and the lack of uniformity in armaments.

1.49 Philosophical reflection and concerns about justice:

³⁴⁸ Transcript of Proceedings, Day 11, 24 March 2025, pp. 80.

³⁴⁹ Transcript of Proceedings, Day 11, 24 March 2025, p. 78.

1.49.1 Before concluding, Mphahlele shared a philosophical reflection by Dietrich Bonhoeffer, highlighting the burden and complexity borne by victims and perpetrators alike.³⁵⁰

1.49.2 He expressed concern about whether the current inquiry genuinely pursues justice or merely goes through procedural motions, pointing to unresolved disappearances and deaths of many former struggle activists under suspicious circumstances.³⁵¹

1.49.3 Mphahlele stressed the importance of comprehensive investigation and justice, especially for families still seeking answers decades later. He lamented the long delays and apparent cover-ups that continue to frustrate truth and reconciliation efforts.³⁵²

*Dumisani Ncamazana:*³⁵³

1.1 Background and political affiliation:

1.1.1 Ncamazana confirmed his identity and took the oath to tell the truth before the court. He stated that he had no objection to taking the oath and was willing to testify fully and truthfully.³⁵⁴

1.1.2 Ncamazana testified that he was born on 13 January 1976 and resided at 1[...] M[...] Street, Cambridge Location, East London. He confirmed his affiliation with the APLA, the military wing of the PAC, and stated that he operated mainly in the

³⁵⁰ Transcript of Proceedings, Day 11, 24 March 2025, pp. 88–89.

³⁵¹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 89–92.

³⁵² Transcript of Proceedings, Day 11, 24 March 2025, pp. 91–92.

³⁵³ Exhibit D, Statement regarding interview with suspect: Dumisani Ncamazana – 15 January 2014 (written on official SAPS3M form), pp. 42–43.

³⁵⁴ Transcript of Proceedings, Day 13, 26 March 2025, pp. 101–102

Mdantsane branch under Commander Nxolile Ncabane, also known as Jimmy Jones. He spent time in Butterworth and Gcuwa in 1992.³⁵⁵

1.2 Arrests and charges:

1.2.1 Ncamazana recounted his arrest in 1994 for incidents related to the Bahá'í Faith and the Highgate Hotel attack. He was incarcerated at Westbank and St. Alban Prisons during proceedings related to his escape from Muldersdrift Correctional Facility in 1999.

1.2.2 He explained that he was serving an effective sentence of 51 years for multiple charges, including the Highgate 1994 and Bahá'í incidents. He was re-arrested at different intervals after the escape, with his last arrest around late 1999 at NU13 in Mdantsane.³⁵⁶

1.3 Denial of involvement in the 1993 Highgate Massacre:

1.3.1 Ncamazana denied involvement in the Highgate Massacre of 1 May 1993. He stated he only became aware of that incident through media coverage.

1.3.2 He rejected allegations, including a statement by Dlaki Melvin Vani ("**Vani**") that he admitted responsibility for planning and executing the attack, calling it "improbable" and "not true", specifically rejecting that he disclosed this to Vani.³⁵⁷

1.4 Weapons training and operations:

1.4.1 He confirmed receiving training in the use of firearms, including AK-47 rifles, but stated the primary focus was on R4 and R5 rifles. Ncamazana rated his proficiency with the AK-47 between six and seven out of ten but admitted never using an AK-47

³⁵⁵ Transcript of Proceedings, Day 13, 26 March 2025, p. 105.

³⁵⁶ Transcript of Proceedings, Day 13, 26 March 2025, pp. 106–107.

³⁵⁷ Transcript of Proceedings, Day 13, 26 March 2025, p. 109.

in actual operations. He testified that APLA members were trained in guerrilla tactics, emphasising planning and executing attacks efficiently.

1.4.2 When asked whether operations targeted white civilians and military or police targets alike, Ncamazana replied that it was not his role to choose which race, his actions were based on orders from leadership, with no autonomy to decide targets independently.³⁵⁸

1.5 Command and unit operations:

1.5.1 Ncamazana confirmed that orders were always given from the APLA leadership and that no operation was carried out without approval. He knew of the figure Karl Zimbiri (widely confirmed as a fictional character) but stated he never met him personally. He conceded that smaller APLA units operated discreetly and information about operations was tightly held to maintain security.

1.5.2 He accepted that some operations might have been opportunistic but maintained that the Highgate Hotel attack in 1994 was planned as a target within their mandate.³⁵⁹

1.6 Response to amnesty application evidence:

1.6.1 During cross-examination, Ncamazana responded to the amnesty application evidence, agreeing that certain attacks, including the Bahá'í Faith Centre attack and subsequent events, involved opportunistic actions following a planned attack. He strongly disputed that the Highgate Hotel attack was opportunistic, affirming it was a planned operation.

1.6.2 He described reconnaissance as a key part of operation preparation, involving teams assessing the target, escape routes, and security before execution.³⁶⁰

³⁵⁸ Transcript of Proceedings, Day 13, 26 March 2025, p. 116.

³⁵⁹ Transcript of Proceedings, Day 13, 26 March 2025, p. 135.

Robert John Tyrrell.³⁶¹

1.7 Introduction:

1.7.1 Robert John Tyrrell (“**Tyrrell**”) appeared as an expert witness on behalf of the families and survivors of the Highgate Massacre. As Senior Program Officer for Research at the Foundation for Human Rights, Tyrrell was commissioned to conduct a comprehensive analysis examining whether the 1993 Highgate Massacre matched the modus operandi of confirmed APLA operations during the 1991-1994 period.

1.7.2 His testimony, which mostly related to his research report, provided crucial statistical and analytical evidence challenging the long-held attribution of the massacre to APLA, offering instead a data-driven assessment that pointed to significant inconsistencies with known APLA tactics and operations.

1.8 Professional Background and Expertise:

1.8.1 Tyrrell holds a Bachelor of Social Science in Public Policy from the University of KwaZulu-Natal (2006), which included both qualitative and quantitative research methodology training, and a Master's degree in Social Science from the same institution (2008), focusing on qualitative and textual analysis. He served as a research associate at the SAHRC from November 2014 onwards and has been employed at the Foundation for Human Rights since October 2016, where he was appointed Senior Programme Officer for Research in the year of his testimony.³⁶²

1.8.2 His professional expertise centres on documenting human rights violations, with particular emphasis on the two years preceding his testimony on gender-based violence and femicide. He co-authored two national GBV reports utilising surveys to analyse prevalence, conviction rates, and perpetrator profiles, with sample sizes of 2,030 and 5,423 respondents, respectively. His speciality lies in designing,

³⁶⁰ Transcript of Proceedings, Day 13, 26 March 2025, pp. 121–122.

³⁶¹ Exhibit HH, Statement/Report of Robert John Tyrrell.

³⁶² Transcript of Proceedings, Day 15, 11 August 2025, p. 7

conducting, and analysing large-scale research on human rights violations, translating complex human rights data into meaningful findings.³⁶³

1.9 Methodology and Analytical Approach:

1.9.1 Tyrrell's analysis began with identifying incidents temporally linked to the 1993 Highgate Massacre within the 1991-1994 period that had any documented connection to APLA. This initial dataset drew from TRC documents, the Kriel statement, and the Flanagan Chronology, yielding 64 incidents where APLA was alleged to have been involved. From these, 36 incidents were confirmed as genuine APLA attacks based on their appearance in TRC amnesty applications or hearings.³⁶⁴

1.9.2 The research team distinguished between primary sources (TRC hearings and associated documentation) and secondary sources (the Kriel statement from the apartheid-era Minister of Law and Order and media reports), prioritising TRC documentation as the most reliable source due to concerns about potential bias in apartheid-era government statements and media reports influenced by the State.³⁶⁵

1.9.3 Four key data points were ultimately selected for analysis:

- (a) number of perpetrators,
- (b) target selection,
- (c) claiming of responsibility, and
- (d) weapon types.

³⁶³ Transcript of Proceedings, Day 15, 11 August 2025, pp. 8–9.

³⁶⁴ Transcript of Proceedings, Day 15, 11 August 2025, pp. 9–11.

³⁶⁵ Transcript of Proceedings, Day 15, 11 August 2025, p. 11.

1.9.4 These were chosen based on both their investigative importance and the availability of reliable data across the incident set.³⁶⁶

1.10 Key Findings on APLA Attack Patterns:

1.10.1 Geographic and Temporal Distribution:

- (a) Tyrrell's analysis revealed that the Eastern Cape was the primary focus of confirmed APLA activity during the period under review, with 12 confirmed attacks: six in 1992, three in 1993, and three in 1994. While APLA was active elsewhere, the Eastern Cape represented its main operational area. Notably, there was a dramatic drop-off in total alleged incidents from 18 in 1992 to only three each in 1993 and 1994 in the Eastern Cape, though this pattern was less pronounced in confirmed incidents.³⁶⁷

1.10.2 Target selection patterns:

- (a) The analysis categorised civilian attacks into three distinct types based on tactical considerations: attacks on farms (typically isolated, often involving petrol bombs at night), attacks on civilians in transit (ambushes of moving vehicles), and attacks on civilians in stationary urban locations. This categorisation was crucial because different target types required fundamentally different tactical approaches and weapons.³⁶⁸
- (b) Of the 19 incidents similar to the Highgate Massacre (attacks on civilians in non-farm stationary locations), 15

³⁶⁶ Transcript of Proceedings, Day 15, 11 August 2025, pp. 14–16.

³⁶⁷ Transcript of Proceedings, Day 15, 11 August 2025, p. 22.

³⁶⁸ Transcript of Proceedings, Day 15, 11 August 2025, pp. 15–16.

were confirmed through the TRC process, representing an 80% claim rate. This high rate of claiming responsibility for similar attacks made the absence of any claim for the Highgate Massacre particularly anomalous.³⁶⁹

1.10.3 Perpetrator numbers:

- (a) The vast majority of confirmed APLA attacks involved between one to four perpetrators, with three or four being most common (61% of confirmed cases). The Highgate Massacre, involving at least two identified perpetrators, fell within this range, making the number of attackers consistent with APLA patterns, though this single point of consistency was insufficient to establish attribution.³⁷⁰

1.11 Critical Inconsistencies with APLA Operations:

1.11.1 Weapon selection anomalies:

- (a) Tyrrell's analysis revealed that R4 and R5 rifles were the predominant weapons in confirmed APLA attacks (36% of cases), with pistols/revolvers used 20% of the time. AK-47s were used in only 10% of confirmed cases. Crucially, from 1992 onwards, there were no confirmed instances of APLA using AK-47s against civilian targets of the type attacked at Highgate in the Eastern Cape. The two instances where AK-47s were confirmed used in this timeframe were against police officers in 1992 and civilians in a school bus in Johannesburg in March 1993 - fundamentally different target types.³⁷¹

³⁶⁹ Transcript of Proceedings, Day 15, 11 August 2025, p. 23.

³⁷⁰ Transcript of Proceedings, Day 15, 11 August 2025, pp. 24–26.

³⁷¹ Transcript of Proceedings, Day 15, 11 August 2025, pp. 26–28.

- (b) The use of tear gas at the Highgate Massacre represented an unprecedented tactical element. In all 64 incidents examined, both confirmed and unconfirmed, there was not a single instance of APLA using tear gas. Tyrrell emphasised that introducing an unfamiliar weapon during a high-stakes attack would be extremely unlikely for guerrilla fighters, as it would require prior training and practice that would have manifested in other operations.³⁷²

1.12 Absence of responsibility claims:

1.12.1 APLA claimed responsibility for 36 of the 64 attacks in the dataset, including many involving multiple casualties. For attacks on similar targets (civilians in non-farm stationary locations), the claim rate was 80% (15 of 19 incidents). Tyrrell noted that TRC testimonies showed APLA members were not reluctant to admit responsibility for civilian attacks, with individuals coming forward to claim involvement in church massacres and similar incidents.

1.12.2 The complete absence of any claim for the Highgate Massacre, either immediately after the attack or during the TRC process, represented a fundamental departure from APLA's established pattern.³⁷³

1.13 Limitations and academic rigour:

1.13.1 Tyrrell demonstrated academic integrity by openly acknowledging several limitations in his research. He noted the reliance on TRC testimony assumed truthfulness of perpetrators who came forward, acknowledged that incidents where perpetrators did not approach the TRC could not be confirmed, and recognised that critical details were often missing from historical records, constraining the analysis to four data points rather than the broader range initially envisioned.³⁷⁴

³⁷² Transcript of Proceedings, Day 15, 11 August 2025, pp. 28–29.

³⁷³ Transcript of Proceedings, Day 15, 11 August 2025, pp. 32–33.

³⁷⁴ Transcript of Proceedings, Day 15, 11 August 2025, pp. 18–20.

1.13.2 Despite these limitations, Tyrrell expressed strong confidence in the methodology and findings, emphasising that acknowledging limitations while working within them represented sound research practice.³⁷⁵

1.14 Expert conclusion:

1.14.1 Tyrrell concluded that, based on the comprehensive analysis, it was unlikely that the Highgate Massacre fit the *modus operandi* of either confirmed or unconfirmed APLA attacks. While acknowledging similarities in target choice and perpetrator numbers, he found these substantially outweighed by the anomalous choice of weapons (AK-47s and tear gas) and the failure to claim responsibility.³⁷⁶

1.14.2 His testimony established that the Highgate Massacre deviated from APLA patterns in multiple critical aspects: the use of AK-47s when APLA had largely transitioned to R4/R5 rifles for such operations, the unprecedented use of tear gas in any APLA operation, and the absence of any claim of responsibility despite APLA's consistent pattern of claiming similar attacks. The convergence of these anomalies led to his professional opinion that APLA was unlikely to have been responsible for the 1993 Highgate Massacre.³⁷⁷

1.15 Further:

1.15.1 Tyrrell maintained his position while acknowledging that new information could potentially affect statistical conclusions. When presented with claims that AK-47s were used in the Yellowwoods attack, he indicated this would need verification through TRC records and, if confirmed, would require statistical recalculation to determine if it represented a significant shift in the analysis.³⁷⁸

1.15.2 Regarding a phone claim of responsibility by one "Karl Zimbiri," Tyrrell noted this came from the Kriel statement rather than confirmed TRC documentation and thus

³⁷⁵ Transcript of Proceedings, Day 15, 11 August 2025, p. 20.

³⁷⁶ Transcript of Proceedings, Day 15, 11 August 2025, pp. 31–35.

³⁷⁷ Transcript of Proceedings, Day 15, 11 August 2025, pp. 34–35.

³⁷⁸ Transcript of Proceedings, Day 15, 11 August 2025, pp. 39–40

would not meet his criteria for a confirmed claim. He emphasised the distinction between allegations and confirmed incidents throughout his methodology.³⁷⁹

Hermanus Van Der Wilt.³⁸⁰

1.16 Introduction:

1.16.1 Van Der Wilt, a 66-year-old pensioner residing at Galway Caravan Park in Gonubie, testified regarding conversations with Karl Weber about the Highgate Massacre and information he received from colleagues about alleged APLA involvement. Van Der Wilt had previously served as a member of the Hammer Unit's Border division and worked in refrigeration for the Transkei Government during the relevant period. He put up theories about the possible perpetrators and contradicted claims that he had implicated the Hammer Unit in the Highgate Massacre.

1.17 Background and work history:

1.17.1 Van Der Wilt worked at the Graham Hotel in Grahamstown around 2020, where he interacted with Weber, who serviced the hotel's security cameras. During the time of the 1993 Highgate Massacre, he was living in Mthatha in the Enkululenkweni ministerial complex, working in refrigeration for the Transkei Government under General Bantu Holomisa. He had previously undergone Hammer Unit training at Kareedouw in the early to mid-1990s as part of his military service obligations, completing a month-long survival course where only 12 of approximately 700 participants succeeded.³⁸¹

1.18 Hammer Unit involvement and training:

1.18.1 Van Der Wilt confirmed he was part of the Hammer Unit's Border division under the Kaffrarian Rifles. He underwent training at Kareedouw conducted by ex-Rhodesian instructors under SADF auspices. The training was extremely rigorous,

³⁷⁹ Transcript of Proceedings, Day 15, 11 August 2025, pp. 36–37.

³⁸⁰ Exhibit PP, Statement of Hermanus van der Wilt.

³⁸¹ Transcript of Proceedings, Day 17, 13 August 2025, pp. 20–22 & 44–45.

with Van Der Wilt stating he participated primarily to prove himself after being assaulted by a captain who called him a racial slur due to his African stepmother. After completing the month-long training, he effectively severed ties with the unit when he went into "exile" in the Transkei to avoid further military service. He emphasized that he never participated in any Hammer Unit operations.³⁸²

1.19 Information about APLA involvement:

1.19.1 Van Der Wilt testified that his colleague Maqanda told him that APLA was responsible for the Highgate Massacre. According to Maqanda, APLA leader Mbselo had organised the attack, training fighters on the outskirts of Port St Johns. Maqanda specifically stated that the attack was carried out by child soldiers: twin brothers who had bragged about their involvement at an initiation ceremony. Van Der Wilt initially recalled the twins' names as Samora and Machel, but when presented with documentation during his testimony, it was established that the twins were actually named Samora and Sadat Mpendulo, who were killed in an SADF raid on an Mthatha home on 8 October 1993. Van Der Wilt also mentioned that he had spoken with someone named Rixitri, whom he identified as one of Mbselo's subordinates, about these matters.³⁸³

1.20 Interactions with Weber:

1.20.1 Van Der Wilt denied Weber's claims that he had suggested Hammer Unit involvement in the Highgate Massacre. He testified that when Weber mentioned "third force" theories, he explicitly told Weber it was not the Hammer Unit because he had been part of that unit. Instead, Van Der Wilt provided Weber with the names Samora and Machel as the alleged APLA perpetrators. He also gave Weber names of Hammer Unit members (Hansie De Villiers, Keith Kyle, and Reggie Bernard)

³⁸² Transcript of Proceedings, Day 17, 13 August 2025, pp. 20–24 & 44–45.

³⁸³ Transcript of Proceedings, Day 17, 13 August 2025, pp. 6–7, 12–17 & 47–48.

specifically so Weber could verify that the unit was not involved. Van Der Wilt characterised any claim that he implicated the Hammer Unit as "a fabrication".³⁸⁴

1.21 Discovery of weapons at ministerial complex:

1.21.1 Van Der Wilt described discovering multiple R4 or R5 rifles with camouflage spray paint in the boot of a car belonging to the Transkei Ombudsman at the ministerial complex. Following this discovery, he was shot at in his home, with a bullet passing through his hair. He believed this attack was connected to what he had seen. General Holomisa subsequently provided protection, assembling soldiers and APLA members to warn them against harming Van Der Wilt. Despite the apparent danger and his role as an informant for security handler Chris De Klerk, Van Der Wilt never reported the weapons discovery to authorities, citing self-protection.³⁸⁵

1.22 Information provided to authorities:

1.22.1 Van Der Wilt served as an informant to Chris De Klerk of state security, voluntarily providing information about APLA activities after attacks like St James Church. He passed on the names Samora and Machel to De Klerk as the alleged Highgate perpetrators based on information from Maqanda. However, he acknowledged never providing formal statements to the police about the incident. His knowledge was entirely second-hand, based on what colleagues told him rather than direct observation or involvement.³⁸⁶

C. Forensic and ballistic evidence

1.23 Crime scene and ballistics:

³⁸⁴ Transcript of Proceedings, Day 17, 13 August 2025, pp. 10-12 & 18-19.

³⁸⁵ Transcript of Proceedings, Day 17, 13 August 2025, pp. 29-32.

³⁸⁶ Transcript of Proceedings, Day 17, 13 August 2025, pp. 25-26 & 35-36.

1.23.1 The inquest was presented with forensic evidence from the crime scene (much of it drawn from the original 1993 police docket, as far as it could be reconstructed). This evidence confirms that the attackers used military-grade weaponry and munitions, and the spent cartridge cases recovered at the scene were determined to be from 7.62x39mm rounds, the ammunition used in AK-47 assault rifles.³⁸⁷

1.23.2 Ballistic analysis indicated that at least two AK-47 rifles were employed, and possibly a handgun or other firearm as well. In addition, remnants of a tear-gas grenade and canister/hand grenade were found; a device identified as manufactured by Swartklip (a South African ordnance manufacturer) was recovered, consistent with tear-gas use.³⁸⁸

1.23.3 Notably, a lever from a Soviet-designed UZRGM fuse (used in F1 or RDG-5 hand grenades) was reportedly found on the scene.³⁸⁹

1.24 Indicators of an unusual *modus operandi*:

1.24.1 The forensic testimony highlighted several anomalies about the weapons and tactics:

- (a) *First*, while AK-47 rifles were used at Highgate, testimony from experts and historical records show that APLA insurgents were phasing out AK-47s during that period due to ammunition procurement difficulties and reliability issues. APLA units typically relied on R4/R5 assault rifles or other firearms stolen locally, though AK-47s were still used when available. The presence of AK-47s at Highgate raises questions, given the operational challenges APLA faced with these weapons.

³⁸⁷ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 92; Day 7, Part 1, 4 February 2025, pp. 31–33.

³⁸⁸ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 101; Day 7, Part 1, 4 February 2025, pp. 68–70.

³⁸⁹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 71–72.

- (b) *Second*, the use of tear gas in an attack on civilian targets was unprecedented in known APLA operations.³⁹⁰ Els, a former police investigator, noted that the Highgate attackers' tactic of withdrawing under the cover of tear gas was "a first" in the political violence of that era. This tactic is more consistent with formal military or police training than with the smash-and-grab style of APLA strikes.³⁹¹
- (c) *Third*, forensic ballistics could not link the recovered AK-47 cartridge cases to any other attacks before or after the Highgate Massacre.³⁹²

1.24.2 In other words, the rifles used at Highgate appear to have been unique "clean" weapons: they were never used in any prior known incident and were likely disposed of immediately after.

1.24.3 By contrast, genuine APLA cells often reused the same weapons in multiple operations, creating ballistic links between different incidents, as confirmed by Mphahlele's testimony regarding APLA's operational practices.³⁹³

1.25 Cause of death and injury:

1.25.1 Medical and post-mortem evidence was uncontested:

- (a) The five deceased victims died from multiple gunshot wounds, and the pattern of injuries was consistent with high-velocity rifle fire at relatively close range.³⁹⁴

³⁹⁰ Transcript of Proceedings, Day 11, 24 March 2025, p. 52

³⁹¹ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 6–12

³⁹² Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 107

³⁹³ Transcript of Proceedings, Day 11, 24 March 2025, p. 53.

- (b) The nature of wounds (many victims were struck in vital areas) corresponds with the testimony that the gunmen were unusually accurate.³⁹⁵

1.25.2 Indeed, evidence showed that the attackers exhibited far greater marksmanship than seen in other contemporaneous attacks attributed to APLA, where gunmen often sprayed bullets wildly. The precision of the shooting at Highgate, hitting several victims fatally in a short span, was another point raised in evidence as being atypical if one assumed inexperienced fighters were responsible.³⁹⁶

*Johannes Frederick van Deventer du Plessis:*³⁹⁷

1.26 Johannes Frederick van Deventer du Plessis (“**du Plessis**”), a retired SAPS Captain and crime scene photographer, testified on 3 February 2025. He served as the designated SAPS forensic photographer on duty during the Highgate Massacre and was among the first officers to document the scene on 1 May 1993. Du Plessis provided detailed insight into his photographic methodology, the reconstruction of events using witness Lombard, and his role in drafting the original sketch plan. This marked his first appearance in court regarding the incident, 32 years after the event.

1.27 Professional background and role at the time of the Highgate Massacre:

1.27.1 Du Plessis confirmed that he deposed to an affidavit in connection with the Highgate Hotel incident, dated 16 June 1993.³⁹⁸ He began his service in the SAP fingerprint department at the Local Criminal Record Centre (“**LCRC**”) in East London

³⁹⁴ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 86–89

³⁹⁵ Transcript of Proceedings, Day 7, Part 1, 4 February 2025, p. 10.

³⁹⁶ Transcript of Proceedings, Day 7, Part 1, 4 February 2025, pp. 8–10.

³⁹⁷ Exhibit J, Statement of Johannes Frederick van Deventer du Plessis.

³⁹⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 5–6.

on 22 August 1988, later establishing a fully fledged office in Port Alfred in 1999, and serving in Middleburg and Graaff-Reinet, where he rose to the rank of Captain and Commander before retiring on 31 December 2021.³⁹⁹

1.27.2 Du Plessis undertook multiple courses in crime scene and fingerprint photography. He was a member of international forensic organisations, including the Canadian Identification Society (joined on 28 June 2014), the International Association for Identification (since 27 September 2013), and the International Crime Scene Investigators Association (since 6 June 2014). He confirmed that his memberships lapsed upon cancellation on 31 December 2020.⁴⁰⁰

1.27.3 At the time of the Highgate Hotel incident, Du Plessis held the rank of Constable and was stationed at the fingerprint department in East London. He described training at the time as poor and largely reliant on peer mentorship and personal experience due to technological limitations.⁴⁰¹

1.28 SAP operational structure and Du Plessis' role on 1 May 1993:

1.28.1 He outlined that the LCRC was divided into three main teams: fingerprint experts, photographers, and videographers. Each team member would be assigned on-call duty weekly. Du Plessis was assigned as the photographer and draftsman for the week beginning 1 May 1993. He was called by radio control at 22h20 and arrived at Highgate Hotel at approximately 22h40 –22h45, starting photography at 23h00.⁴⁰²

1.28.2 He clarified that, as a forensic photographer, his role was to capture the evidence but not engage in investigation or analysis. All original documents were kept at the LCRC in a dedicated file, a copy of which was forwarded to the investigating officer.

³⁹⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 6.

⁴⁰⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 6–7.

⁴⁰¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 7–8.

⁴⁰² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 9, 11.

However, due to multiple relocations of the office and water damage to the office, he was unsure if the original documentation remained intact.⁴⁰³

1.28.3 Du Plessis also confirmed that he had never previously been called to testify in relation to the Highgate matter, and that this was his first appearance despite having been the forensic photographer at the scene. He expressed surprise at the 32-year delay, stating it was the first time in his career he had experienced such a long period between an incident and testifying.⁴⁰⁴

1.29 Initial observations and photographic sequence:⁴⁰⁵

1.29.1 Upon arrival, Du Plessis conducted a walkthrough with the first officer at the scene to understand the sequence of events and plan his photography. He reiterated that SAPS photography training emphasised taking a wide-angle image followed by a close-up for each evidentiary object.⁴⁰⁶ He prepared an album of the photographs he had taken.

1.29.2 Photo 1: Shows the front entrance of the Highgate Hotel, including the sign ⁴⁰⁷

1.29.3 Photo 2: Close-up of the same entrance.⁴⁰⁸

1.29.4 Photo 3: Shows a police officer pointing at a spent cartridge marked “A” at the entrance.⁴⁰⁹

1.29.5 Photos 4–5: Document another cartridge at the bar entrance, marked “C”.⁴¹⁰

⁴⁰³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 9–10.

⁴⁰⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 10.

⁴⁰⁵ Exhibit K – Photographs.

⁴⁰⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 12.

⁴⁰⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 12–13.

⁴⁰⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 12–13.

⁴⁰⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 13.

1.29.6 Photos 6 to 15 captured deceased persons inside the Ladies' Bar, photographed as found. Du Plessis could not identify any of the individuals.⁴¹¹

1.30 Witness re-enactments and positioning inside the Ladies' Bar:

1.30.1 Photos 16 to 18 depict a staged re-enactment by Lombard, who was a witness present during the incident. Du Plessis explained that SAP protocol at the time did not permit them to name civilians or officers in official photo keys or plans; individuals were referenced generically as "witness" or "police officer" in line with training and procedural norms.⁴¹²

1.30.2 Photo 16 shows Lombard seated in the exact position he claimed to have occupied before the shooting began. This position was located just inside the bar entrance, on the right-hand side, behind a door that swung inward into the bar area.⁴¹³

1.30.3 Du Plessis clarified that, based on the configuration visible in the photographs, these were double doors that opened inward and remained open during the course of his photography. The door would have obscured Lombard from view to someone entering the bar, as he was positioned behind it.⁴¹⁴

1.30.4 Photo 17 captures the re-enactment of Lombard's movement, specifically, the manner in which he leapt over the bar counter during the incident.⁴¹⁵

1.30.5 Photo 18 shows Lombard crouched behind the bar counter, in possession of his own revolver. Du Plessis identified it as likely a .38 Special "stump nose", or possibly a .32 or .22 calibre revolver based on visual observation.⁴¹⁶

⁴¹⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 13–14.

⁴¹¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 14.

⁴¹² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 14–15.

⁴¹³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 15–17.

⁴¹⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 16–17.

⁴¹⁵ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 18.

1.30.6 Photo 19 was taken from Lombard's perspective behind the bar counter, illustrating the line of sight he would have had toward the doorway. Du Plessis took the photograph by positioning the camera above Lombard's head. The marker "K" was placed on his head to indicate the location from which the perspective was documented.⁴¹⁷

1.30.7 Throughout this sequence, Du Plessis confirmed he relied on Lombard's recollection to recreate these movements. Lombard's position and actions were accepted for evidentiary demonstration and had not been in dispute at the time.⁴¹⁸

1.31 Shooter's perspective and entrances to the bar:

1.31.1 Photo 20 was taken from the passageway outside the Ladies' Bar, showing the shooter's line of sight as reconstructed by Lombard. Du Plessis stood outside the swinging doors and captured the interior of the bar from the entrance, reconstructing Lombard's claim that he would have seen the attacker from that vantage point.⁴¹⁹

1.31.2 Du Plessis confirmed that the image was taken from the passageway looking into the Ladies' Bar, with one door leading into the bar and another into a storeroom or staff area. He could not recall whether the storeroom door had been open or shut at the time of the shooting.⁴²⁰

1.31.3 Photo 21 depicts a staff-only entrance that leads behind the bar counter. This image is crucial for understanding how the bar area was accessed by staff members and distinguishes the public entrance from internal access.⁴²¹

⁴¹⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 18–19.

⁴¹⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 19–20.

⁴¹⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 18.

⁴¹⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 20–21.

⁴²⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 46.

⁴²¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 21–22.

1.31.4 Photo 22 was taken from the inside of the building looking outward, depicting Lombard (again acting as demonstrator) standing at point “M” and reconstructing the direction he allegedly observed the attackers fleeing toward. The photo thus complements Photo 20 by providing the reverse viewpoint and further spatial orientation.⁴²²

1.32 Outer perimeter, Public Bar area, and additional ballistic evidence

1.32.1 Photos 23–24 depict the outer perimeter of the Highgate Hotel, taken from the vantage point where Lombard stood (point “M”) as shown in Photo 22. In Photo 23, Du Plessis documented the street view to the left, revealing the entrance toward Highgate under the subway bridge, consistent with Lombard’s statement on the direction from which the attackers approached. Photo 24 shows the right-hand side of the same view, along Voortrekker Road, which runs in front of the hotel and into the Dawn area.⁴²³

1.32.2 Photos 25–26 were photographed inside the reception area, though Du Plessis could not recall the exact context of these images. He later confirmed that these areas relate to point B in the key, identified in the sketch plan as the reception. These photos may illustrate trajectory-related or structural aspects, although no clear exhibit was marked therein.⁴²⁴

1.32.3 Photos 27–29 shift to the hallway leading to the ladies’ toilets, where Du Plessis photographed projectiles discovered in the vicinity. These are not to be confused with spent cartridges; the distinction is significant, as projectiles can offer trajectory and origin information. Photo 29 provides a close-up of a projectile at point N,

⁴²² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 22–23.

⁴²³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 22–23.

⁴²⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 24.

confirming a ballistic element near the toilet corridor, a location away from the main bar areas, suggesting multiple trajectories or possible crossfire zones.⁴²⁵

1.33 Structural layout and additional evidence collection:

1.33.1 Du Plessis proceeded to photograph areas within and adjacent to the Ladies' Bar, concentrating on potential ballistic evidence and spatial layout.

1.33.2 Photo 30 depicts the interior structural layout between the Ladies' Bar and a hallway leading to auxiliary rooms. Du Plessis testified that these images were meant to contextualise the building's layout and support the creation of the sketch plan later submitted.⁴²⁶

1.33.3 Photo 31 shows a spent cartridge found near a doorway between the bar and a side passage. Du Plessis noted the presence of this cartridge implied movement through this area, although he emphasised that he was not qualified to interpret trajectories.⁴²⁷

1.33.4 Photos 32–34 were taken of window panes and the surrounding frames. He explained that these photos were requested by the investigators to examine possible entry or exit points for bullets. One pane appeared to have a small circular crack, possibly from a projectile. Du Plessis could not confirm whether any tests had been conducted to trace trajectories through these panes.⁴²⁸

1.33.5 Photos 35–36 detail blood pooling and drag marks along the interior corridor near the bar area. Du Plessis testified these were photographed as found. He took both wide-angle and close-up images of these stains as per SAPS protocol. The

⁴²⁵ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 24.

⁴²⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 24.

⁴²⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 23–25.

⁴²⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 25.

photographs were marked with identifiers that aligned with the sketch plan point “E”.⁴²⁹

1.33.6 Photos 37–38 show another set of spent cartridges, located further inside the venue near what appeared to be a staff cloakroom. Du Plessis noted that these images revealed a clear dispersal pattern of cartridges across several rooms, suggesting shots were fired in multiple areas.⁴³⁰

1.33.7 Du Plessis clarified that Photo 36 showed the safety lever of a grenade lying *in situ*, while Photo 37 showed the same object flipped over to reveal any serial markings. He indicated that, due to proximity to the teargas canister, the lever likely belonged to the teargas grenade, not the lethal grenade. He reiterated that while not an explosives expert, he had experience with such objects.⁴³¹

1.33.8 Upon being questioned as to whether fingerprints were taken from the teargas canister and hand grenade lever, Du Plessis stated that, from what he could recall, no such fingerprints were taken, and he confirmed that it should have been done.⁴³²

1.34 Sketch plan and numbered key:⁴³³

1.34.1 Du Plessis confirmed that, in addition to his photography, he was the draftsman responsible for preparing the official sketch plan of the crime scene. He used this plan during his testimony to help orient the court regarding the location of the evidence depicted in the photographs.⁴³⁴

1.35 Grenade damage and serving hatch evidence:

⁴²⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 25–26.

⁴³⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 26.

⁴³¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 47.

⁴³² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 70.

⁴³³ Exhibit K – Sketch Plan.

⁴³⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 8, 9, 24, 48–49.

1.35.1 Du Plessis explained that Photos 48 and 49 showed a hole in a tile, marked Point U, possibly caused by a projectile. Although he could not conclusively confirm whether it was a bullet hole, he photographed it because it was out of the ordinary and may have been caused during the attack. There was no projectile lodged in the tile when it was found.⁴³⁵

1.35.2 While he did not claim it was a bullet hole, he acknowledged that the reason it was photographed was that it appeared unusual. He did not find a projectile lodged inside and could not determine what caused it.⁴³⁶

1.35.3 He also struggled to remember where in the building the tile had been found, but was aided by referencing the sketch plan, which placed Point U in a side room adjacent to the Public Bar and storeroom. Based on the shape of the damage, Du Plessis speculated the hole looked more like an exit shot, suggesting the projectile may have travelled from the Public Bar through the wall, rather than from the outside in.⁴³⁷

1.35.4 Photo 50 showed a mark left by a grenade on the wooden bar counter, specifically the serving hatch that opens to the snooker room. Du Plessis confirmed that he believed this mark was made when the teargas canister landed on the surface, although he could not definitively state that the powder present came from the canister itself. He noted that no other white powder was visible elsewhere at the scene.⁴³⁸

1.35.5 In revisiting Photo 50, Du Plessis noted a white powdery residue on the bar's serving hatch (between the bar and snooker room). He could not confirm its source but acknowledged witness testimony about airborne powder that caused breathing

⁴³⁵ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 31.

⁴³⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 48.

⁴³⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 48–50.

⁴³⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 31.

issues, suggesting it might be connected to the teargas grenade. Notably, he had not seen similar powder anywhere else on the scene.⁴³⁹

1.35.6 Du Plessis confirmed that Photo 50 captured a close-up of a serving hatch located between the Public Bar and the adjoining room identified as the snooker room. The image appeared to show a significant amount of white powder residue on the wooden counter. While Du Plessis could not definitively identify the substance, he noted that it might be linked to the teargas grenade found in the vicinity. However, he did not observe this powder elsewhere at the scene and was cautious not to speculate further.⁴⁴⁰

1.35.7 He confirmed that these marks were consistent with the detonation of a grenade, and that the damage included impacts to wooden surfaces and floor tiles. Some of these points were highlighted by police officers during the initial walkthrough. Photos 56 and 57 showed spent cartridges and metallic projectiles collected from the snooker room floor.⁴⁴¹

1.36 Snooker room and shrapnel markings:

1.36.1 Photos 51 to 57 documented the interior of the snooker room, where two large snooker tables were located. Du Plessis identified several areas marked X, Y, Z, and A1, which were determined to be shrapnel damage and projectiles embedded in or around the benches and flooring, likely caused by a hand grenade. He also noted Photo 52, which showed an impact mark beneath a bench, and Photo 53, a close-up of the same point.⁴⁴²

1.36.2 Du Plessis clarified that the damage visible at points X, Y, Z, and A1 was consistent with an explosive detonation and emphasised that this was not the result

⁴³⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 50.

⁴⁴⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 50–51.

⁴⁴¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 32–33.

⁴⁴² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 51–52.

of bullet impact but likely due to fragmentation from a grenade, based on the pattern and type of surface damage. These identifications were based on his professional experience and not on formal explosive ordnance disposal (“**EOD**”) training.⁴⁴³

1.36.3 He confirmed that these marks were consistent with the detonation of a grenade, and that the damage included impacts to wooden surfaces and floor tiles. Some of these points were highlighted by police officers during the initial walkthrough. Photos 56 and 57 showed spent cartridges and metallic projectiles collected from the snooker room floor.⁴⁴⁴

1.36.4 Du Plessis described Photos 58 to 61 as having been taken outside the Highgate Hotel, showing markings and possible impact points along the tarred roadway and sidewalk. Using the sketch plan, he explained that Photo 58 was taken from the eastern end of the building, facing toward the subway bridge, and Photo 59 faced westward, down Voortrekker Road.⁴⁴⁵

1.36.5 He indicated that markings labelled A2 and A3 had been flagged as potentially caused by bullet strikes and were photographed to allow analysis, although he could not confirm whether any projectiles were recovered from those points, as he did not personally investigate beyond surface-level collection.⁴⁴⁶

1.37 Collected cartridges:

1.37.1 Photo 102, the final photograph in the bundle, displayed all the spent cartridges collected by Du Plessis. They were arranged atop labelled envelopes, each reflecting the location from which the item had been collected. Some envelopes held

⁴⁴³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 33.

⁴⁴⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 32–33.

⁴⁴⁵ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 33–34.

⁴⁴⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 52–53.

a single cartridge, while others held multiple items, including one pill container used as a substitute when standard materials ran out.⁴⁴⁷

1.37.2 Du Plessis estimated the number of cartridges to be approximately 30, though he initially stated 35. Upon closer inspection, and with Court assistance, it was determined that the total was 30. The envelopes included location sketches and notes to ensure traceability. He clarified that all exhibits were handed over to the investigating officer, along with a chain-of-custody record, and that this information should have been stored in his original LCRC file.⁴⁴⁸

1.37.3 The Court was referred to a statement by Colonel Victor Jacobus Van der Merwe (“**Colonel Van der Merwe**”),⁴⁴⁹ which recorded the receipt of 56 spent 7.62x39mm cartridges. This contrasted with the 30 cartridges photographed by Du Plessis in Photo 102. Du Plessis explained that his team only collected evidence available during the initial scene investigation, and any additional cartridges recovered later by detectives would not have been included in his record but would be sent together to the ballistics unit.⁴⁵⁰

1.37.4 When asked whether a formal record existed identifying the specific locations where all 56 cartridges had been found, Du Plessis responded that such a document would likely reside with the investigating officer. He emphasised that each cartridge collected by him was carefully marked, sketched, and handed over, but the broader integration of additional exhibits fell outside his control. It remained unclear whether such a consolidated exhibit log existed in the docket.⁴⁵¹

1.38 Chain of custody and docket procedures:

⁴⁴⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 34–35.

⁴⁴⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 34–35.

⁴⁴⁹ Exhibit D, Statement of Jacobus van der Merwe, pp. 72–78.

⁴⁵⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 56–57.

⁴⁵¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 56–57.

1.38.1 Du Plessis confirmed that all physical evidence was handed over to the investigating officer and was not retained by the LCRC. A chain of custody statement was generated at the time and included in the original forensic docket. However, he stated that the original file may have been water-damaged due to poor storage during several relocations of the LCRC offices. The location of this file remains unknown.⁴⁵²

1.38.2 Du Plessis confirmed that each cartridge collected on the night of the incident was marked and stored individually. As per standard SAP procedure, each cartridge was placed into an envelope bearing a sketch or photograph of the recovery site and details of the collector. This process was done to maintain an unbroken chain of custody. He clarified that some envelopes depicted in Photo 102 had images of the bar counter and written annotations, indicating where and by whom the cartridges were retrieved.⁴⁵³

1.39 Hierarchy and personnel involvement at the scene:

1.39.1 Du Plessis elaborated on the internal structure of the LCRC. At the time, the LCRC team worked in weekly rotations: one person for photography, one for fingerprints, and one for video. Du Plessis was on photographic duty during the week of the incident and confirmed that he did not lift fingerprints himself that night.⁴⁵⁴

1.39.2 When asked who his immediate superiors were, he explained that the LCRC duty officer would typically attend large crime scenes like this one. He recalled that Lieutenant Franswa Stassen (“**Stassen**”), a senior fingerprint officer, was most likely present along with Sergeant Naudé, though he could not definitively confirm this. He

⁴⁵² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 35.

⁴⁵³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 54.

⁴⁵⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 60–63.

noted that while he remembered calling the videographer out, he could not recall the names of all individuals on scene due to the passage of time.⁴⁵⁵

1.39.3 He confirmed that he did not lift any fingerprints himself, nor did he overlap with that function during the Highgate Massacre investigation.⁴⁵⁶

1.40 Responsibility for fingerprints and documentation:

1.40.1 Du Plessis clarified that Stassen would have been in charge of all fingerprint-related operations and that, at the time, Stassen had a reputation for exceptional expertise in fingerprint analysis. Du Plessis worked under him but emphasised that Stassen was not the top commander, naming Ruben Botha or Coenie Knoetse as the likely commanders overseeing the entire LCRC operation during that period.⁴⁵⁷

1.40.2 When asked who his immediate superiors were, du Plessis explained that Stassen, the senior fingerprint officer, was "most likely" present along with Sergeant Naudé, though he could not definitively confirm this. This uncertainty about whether Stassen, who would have been responsible for all fingerprint-related operations at the scene, was even present exemplifies the confusion surrounding basic investigative protocols. The investigation diary entry at C6 dated 2 May 1993 suggested that Stassen,⁴⁵⁸ Sergeant Naudé and du Plessis returned to conduct fingerprint work, yet du Plessis clarified that his role was limited to additional photography while Stassen and Sergeant Naudé were supposedly responsible for actual fingerprint collection.⁴⁵⁹

1.40.3 The LCRC team functioned in overlapping groups, but there was no formal separation into departmental silos like photography or fingerprinting; rather,

⁴⁵⁵ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 60–61.

⁴⁵⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 36

⁴⁵⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 62.

⁴⁵⁸ Exhibit E, p. C6.

⁴⁵⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 60–61, 66.

individuals rotated between roles based on the call-out schedule. On 1 May 1993, Du Plessis acted as both photographer and sketch plan draftsman, confirming again that his role did not include fingerprinting on that night.⁴⁶⁰

1.41 Clarification on fingerprint involvement and elimination exercises:

1.41.1 In response to cross-examination, Du Plessis confirmed that although he was not the person who lifted fingerprints, he was qualified to do so. When asked whether any suspects' prints had been eliminated based on comparison with prints found at the scene, he deferred to the fingerprint unit and stated that he had no direct involvement in that aspect of the case.⁴⁶¹

1.41.2 He acknowledged having seen the investigation diary entries referring to fingerprint elimination, particularly references to Stassen, Sergeant Naudé (deceased), and himself. He clarified that the entry at C6, which stated that Stassen, Sergeant Naudé, and du Plessis revisited the scene for fingerprinting, was partially misleading. While it might suggest that he participated in fingerprint collection, his actual role during that second visit was to take additional photographs, not lift fingerprints.⁴⁶²

1.42 Photographic evidence: F1 and F2 (external photographs from media)⁴⁶³

1.42.1 When shown Photographs F1 and F2 (external to Exhibit K), Du Plessis could not positively identify any individuals in F1, and only tentatively suggested that the man in the centre of F2 might be Warrant Officer Lionel Ristow. He confirmed that he could not be sure.⁴⁶⁴

⁴⁶⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 62–63.

⁴⁶¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 63–67.

⁴⁶² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 38–39.

⁴⁶³ Exhibit F1, F2.

⁴⁶⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 40–41.

1.42.2 He was also asked about a bomb disposal vehicle and a riot police vehicle visible in F2. Du Plessis confirmed that such vehicles likely belonged to the explosives unit and Tactical Response Team (“**TRT**”). Their presence was logical, given the use of grenades during the attack. He confirmed that while the bomb unit would have prepared a report, he had not seen it, and its absence from the docket was noted.⁴⁶⁵

1.43 Absence of original LCRC docket and possible archive locations:

1.43.1 Du Plessis again addressed the missing LCRC docket, explaining that the original file would have been stored at the office archive, but the office had moved three times since 1993 (from Fleet Street to Oxford Street to Cambridge), and he had no idea where the docket is now.⁴⁶⁶ He could not confirm the file’s current whereabouts but stated that it should contain critical information like photo logs and evidence chain documents.⁴⁶⁷

1.43.2 The Court directed that Captain Peterson attempt to locate the original LCRC file and bomb unit report.⁴⁶⁸

1.44 SAP21 and reference to B2 diary entry

1.44.1 The legal team raised an entry from the investigation diary (C30), which refers to a “*local criminal record centre FP report filed as per B2.*” Du Plessis confirmed that, while in rare cases fingerprint reports were filed into the docket, this was not the norm. Generally, the investigating officer would obtain reports from the SAP fingerprint database, but in high-profile cases, such as this one, the officer may have specifically requested a hard copy of the fingerprint report to be filed in the docket.⁴⁶⁹

⁴⁶⁵ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 41–42.

⁴⁶⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 43.

⁴⁶⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 43.

⁴⁶⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 43–44.

⁴⁶⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 65–66.

1.44.2 Du Plessis stated he could no longer recall what an SAP21 report specifically entailed, noting that modern systems like the Crime Information Management System (“**CIMS**”) had since replaced that format. Nonetheless, Brigadier Marion, referenced by counsel, indicated that SAP21 reports were the formal fingerprint reports used for matching and elimination exercises in 1993.⁴⁷⁰

1.45 Clarification on involvement in fingerprint analysis:

1.45.1 Du Plessis was asked about his name appearing in an entry dated 2 May 1993 at 07h00 in the Investigation Diary,⁴⁷¹ which stated that “Stassen, Sergeant Naudé, and RST du Plessis” returned to the scene to conduct fingerprint work.

1.45.2 He clarified that while the entry included his name under the general fingerprint team, his actual role on that return visit was for photography, as confirmed in the sentence “*verdere fotos is geneem*” (more photos were taken). Stassen and Naudé were responsible for the fingerprint work.⁴⁷²

1.45.3 Although Du Plessis could not immediately recall what SAP21 referred to, it was later clarified through reference to Brigadier Marion that SAP21 was the code for the formal fingerprint report used in 1993. These reports were generated using case numbers and logged under the Crime Register (“**CR**”). While nowadays fingerprint reporting is managed digitally through CIMS, in 1993, such reports may have been manually issued and sometimes included in the docket upon request by the investigating officer.⁴⁷³

1.46 Fingerprint elimination:

⁴⁷⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 67–68.

⁴⁷¹ Exhibit E, Investigation diary p. C6.

⁴⁷² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 67.

⁴⁷³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 66–67.

1.46.1 The process of elimination, comparing fingerprints from the scene with known suspects, was described by Du Plessis. He confirmed that, if a suspect's fingerprints did not match, they would be eliminated. If there was a match, they would be identified as a person of interest. However, Du Plessis stated he was not involved in that aspect of the investigation.⁴⁷⁴

1.46.2 A new document titled "List of Operatives Linked to ANC or APLA Investigated, Questioned, and Fingerprinted" was given to Du Plessis for review.⁴⁷⁵ It listed 64 individuals whose fingerprints were either compared or eliminated. While he acknowledged the procedure of elimination, Du Plessis reiterated that he did not personally conduct those comparisons in this case.⁴⁷⁶

1.47 Handling of spent cartridges and fingerprint potential:

1.47.1 When asked whether the spent cartridges collected at the scene were fingerprinted, Du Plessis stated that he did not know, as this would fall under the fingerprint expert's domain.⁴⁷⁷

1.47.2 However, he affirmed that cartridges and grenade components should ideally be tested for fingerprints, as suspects often leave trace prints on ammunition while loading it. This would also apply to the teargas canister and grenade safety levers found on site.⁴⁷⁸

1.48 Introduction and use of the Automated Fingerprint Identification System ("AFIS")

⁴⁷⁴ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 68–69.

⁴⁷⁵ Exhibit L.

⁴⁷⁶ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 69–70.

⁴⁷⁷ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 70.

⁴⁷⁸ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 70.

1.48.1 Du Plessis confirmed that the AFIS, a digital database of fingerprints, was only introduced in the early 2000s, around 2000–2001.⁴⁷⁹

1.48.2 Before AFIS, SAPS relied on manual methods, including visual comparison of physical fingerprint cards. AFIS significantly improved accuracy and speed, allowing for automated scanning and comparison with a national fingerprint database.⁴⁸⁰

1.49 Possibility of retrospective AFIS use:

1.49.1 Du Plessis acknowledged that had Stassen retained prints from the Highgate Hotel crime scene, they could have been re-run through AFIS once the system came online. He could not confirm if this had been done, but believed that, knowing Stassen’s professionalism, it was likely he would have done so. Du Plessis also noted that he was unsure whether Stassen was still with SAPS when AFIS launched, and thus could not confirm a post *hoc* comparison.⁴⁸¹

1.50 Home Affairs Fingerprint Database (“**HANIS**”) and Automated Biometric Identification System (“**ABIS**”):

1.50.1 It was mentioned that HANIS has now been upgraded to ABIS

1.50.2 Du Plessis stated that SAPS does not normally have access to the Home Affairs database, but that interdepartmental cooperation can occur in serious cases. Counsel cited Home Affairs’ own website, which confirms that SAPS can match prints against ABIS for security purposes. Du Plessis agreed that this could provide valuable leads if suspects were not on SAPS databases but existed on national ID systems.⁴⁸²

⁴⁷⁹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 71.

⁴⁸⁰ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 71–72.

⁴⁸¹ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, p. 73.

⁴⁸² Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 76–77.

1.51 Reflections on being called to testify 33 years later:

1.51.1 Du Plessis expressed surprise that it had taken 32 years for him to be called to testify. He stated that, typically, crime scene investigators are subpoenaed within months of an incident, especially in murder cases, to present photographic or physical evidence in court. He noted that, in his experience, such an extreme delay was unprecedented.⁴⁸³

*Colonel Victor Jacobus Van der Merwe:*⁴⁸⁴

1.52 Colonel Van der Merwe, a seasoned SAPS ballistics expert with over 37 years of experience, testified regarding his forensic involvement in the Highgate Massacre. As the official responsible for the ballistic analysis in the case, he provided expert insight into the types of firearms used, the number of shots fired, and the condition and handling of ballistic evidence. His testimony also revealed serious evidentiary losses, including the theft of the original forensic docket, which significantly hindered subsequent investigative and identification efforts.

1.53 Professional background and experience:

1.53.1 Colonel Van der Merwe confirmed he has been serving in the police force for 37 years. He began his career in the ballistics section in 1988 and remained there throughout his career, qualifying as a ballistics expert.⁴⁸⁵

1.53.2 He clarified that ballistic experts do not collect exhibits from crime scenes but rather act as support to investigating officers and the LCRC. Their role is to analyse

⁴⁸³ Transcript of Proceedings, Day 6, Part 1, 3 February 2025, pp. 38–39.

⁴⁸⁴ Exhibit N, Statement of Colonel Victor Jacobus Van der Merwe, pp. 79–80.

⁴⁸⁵ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 79–80.

exhibits once received from the scene, typically via the forensic lab's case reception or admin.⁴⁸⁶

1.54 Overview of relevant incident and prior cases:

1.54.1 Colonel Van der Merwe confirmed he was involved in investigations of the Yellowwoods Hotel and King Williams Town Golf Club massacres. At the time of the Highgate Massacre (1 May 1993), he held the rank of Warrant Officer. He was tasked with the ballistics analysis relating to the Highgate Hotel matter and compiled a report dated 5 November 1993, marked as Exhibit D in the proceedings.⁴⁸⁷

1.55 Ballistics expertise and training:

1.55.1 Colonel Van der Merwe provided a summary of his qualifications, which entail:

- (a) Completion of three years of in-service training in ballistics.
- (b) Expertise in the microscopic individualisation of firearms, cartridge cases, bullets, and toolmarks.
- (c) Training in restoring obliterated serial numbers, and internal, intermediate, external, and terminal ballistics.
- (d) Expertise in crime scene reconstruction and physical match techniques, including matching horns, teeth, and hides in poaching cases.

⁴⁸⁶ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 80.

⁴⁸⁷ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 81.

- (e) Completion of international courses. Courses on bloodstain pattern analysis and crime scene reconstruction as presented by experts from the USA.⁴⁸⁸
- (f) He stated that he regularly testified in South African courts and in the courts of neighbouring states.⁴⁸⁹

1.56 Career overview and qualifications:

1.56.1 Colonel Van Der Merwe detailed the scope of his three-year in-service training programme, which included:

- (a) Microscopic individualisation of firearms, ammunition, spent bullets, and cartridge cases;
- (b) Tool and tool mark identification;
- (c) Restoration of obliterated serial numbers;
- (d) Internal, intermediate, external, and terminal ballistics;
- (e) Forensic ammunition reloading;
- (f) Wound ballistics and projectile-target interaction;
- (g) Physical matching techniques, including poaching-related investigations (e.g., rhino horn reconstruction);
- (h) Crime scene photography and documentation.⁴⁹⁰

⁴⁸⁸ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 82–84.

⁴⁸⁹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 84.

1.57 His international certifications included:

1.57.1 A Diploma in Forensic Criminalistics (Ballistics) from the Forensic Science Society in the UK (1995);

1.57.2 An Advanced Certificate in Forensic Criminalistics (Ballistics) from UNISA (1998);

1.57.3 Completion of a Professional Hunters Course; and

1.57.4 Training in Crime Scene Reconstruction and Bloodstain Pattern Analysis under US-based specialists Michael Maloney and John Hodel.⁴⁹¹

1.58 Highgate crime Scene and initial observations:

1.58.1 On 3 and 4 May 1993, Colonel Van Der Merwe visited the Highgate Massacre crime scene at the request of Captain Ian Swarts (“**Swarts**”). By the time of his arrival, the scene had already been cleaned, and his objective was to examine bullet holes and ballistic markings rather than collect evidence.⁴⁹²

1.58.2 He reported:

- (a) No bullet holes in the entrance portal of the hotel;
- (b) Seven bullet holes in the passage leading to the Ladies’ Bar and the Open Arms Bar were likely fired from the main entrance area;
- (c) No bullet holes in the Ladies’ Bar or the kitchen area of the Open Arms Bar;

⁴⁹⁰ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 82–84.

⁴⁹¹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 84–85.

⁴⁹² Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 85.

- (d) One bullet hole through the wooden panel near the door frame leading into the Open Arms Bar;
- (e) Seven bullet holes in the Open Arms Bar, apparently fired from the direction of the entrance;
- (f) Three bullet holes fired from behind the bar counter, possibly from a civilian returning fire; and
- (g) A single .38 Special bullet embedded in the hotel's entrance frame, possibly fired from inside the kitchen toward the outside.⁴⁹³

1.58.3 He observed 30 bullet holes in the Public Bar area, most of which had been fired through the bar counter from the direction of the entrance.⁴⁹⁴

1.58.4 He further confirmed that none of the deceased had wounds from handgun fire, only rifle bullets, ruling out speculation that a civilian handgun caused any fatalities.⁴⁹⁵

1.59 Receipt and marking of ballistics exhibits:

1.59.1 Colonel Van der Merwe testified that on 14 June 1993, he received from the Ballistic Administration Unit a packet containing nine fired .38 Special calibre cartridge cases.⁴⁹⁶ These were marked with the lab number 16020/93 and designated as DD1 to DD9. He explained that markings such as "DD" often corresponded to identifiers provided by the person who collected the exhibit, either

⁴⁹³ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 86–88.

⁴⁹⁴ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 88.

⁴⁹⁵ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 89.

⁴⁹⁶ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 90.

the LCRC or investigating officer, and were typically referenced in their photo albums or covering letters.⁴⁹⁷

1.59.2 He also received one fired bullet, which he marked as .38357, indicating it could have come from either a .38 Special or .357 Magnum revolver. This differentiation is based on the cartridge case length, as both calibres use the same bullets.⁴⁹⁸

1.59.3 Furthermore, 56 fired 7.62×39mm calibre cartridge cases, standard ammunition for AK-47 rifles, were submitted under multiple sub-markings (AA1–AA3, CC1–CC13, E–J, N–S, K1–K4, L1–L15, and BB1–BB9), all tied to the same lab number 16020/93.⁴⁹⁹

1.59.4 In addition, 17 fired 7.62×39mm bullets were received (A–D, N, BB10–BB18) as well as three post-mortem recovered bullets marked DR327, DR328, and DR330. These were linked to the deceased individuals from the Highgate Massacre.⁵⁰⁰

1.60 Examination of clothing and other exhibits:

1.60.1 Colonel Van der Merwe also received clothing for ballistic examination. This included blue denim trousers, a striped t-shirt, long-sleeved shirts, windbreakers, and other garments. Each item was individually labelled (A–J) and examined for gunpowder residue or signs of close-range fire. He stated that this analysis was necessary because several bullet holes passed through clothing.⁵⁰¹

1.60.2 Other envelopes marked K–S were handed to other forensic specialists (e.g., Captain Rass, Lieutenant Julie Allen, and Lieutenant Colonel Johan Claassen) for

⁴⁹⁷ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 90.

⁴⁹⁸ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 91.

⁴⁹⁹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 92.

⁵⁰⁰ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 93–94.

⁵⁰¹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 95–96.

further analysis, including chemical tests on clothing and possible bloodstain examination.⁵⁰²

1.61 Ballistics analysis and firearm matching:

1.61.1 Colonel Van der Merwe described the results of his analysis of various bullets and cartridge cases:

- (a) Two separate AK-47 rifles were determined to have been used based on microscopic comparison of cartridge cases.
- (b) 19 cartridge cases matched one AK-47.
- (c) 28 cartridge cases matched a second AK-47.⁵⁰³
- (d) Four bullets matched the first AK-47, and seven (including one recovered from Weber) matched the second AK-47.⁵⁰⁴

1.61.2 Eight bullets could not be conclusively linked to any firearm due to deformation, which damaged the necessary microscopic markings.⁵⁰⁵

1.61.3 He stressed that the damage likely occurred when bullets struck secondary surfaces, such as walls or bones, which would obliterate the identifying marks needed for firearm linkage.

1.62 5.56mm Bullet hole discovery:

1.62.1 Colonel Van der Merwe testified about the discovery of a 5.56mm calibre bullet hole in a ceiling panel. He clarified that this calibre, used in R4 or R5 military rifles,⁵⁰⁶

⁵⁰² Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 96–97.

⁵⁰³ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 101.

⁵⁰⁴ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 101–102.

⁵⁰⁵ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 103.

is smaller than the 7.62mm AK-47 bullets. Physical tests on similar panels confirmed that an AK-47 round would not fit the 5.56mm hole.⁵⁰⁷

1.62.2 This could suggest that a third firearm, likely a 5.56mm calibre military weapon, was fired at the scene, although only one shot was linked to this calibre.⁵⁰⁸ Alternatively, this may have been a hole left from a previous incident.

1.63 Confirmation of AK-47 working condition:

1.63.1 One of the submitted AK-47 rifles (with folding stock) was confirmed to be in full working order and capable of automatic fire.

1.63.2 However, it was not linked to any of the recovered cartridge cases or bullets and thus was excluded from being one of the two used in the Highgate Massacre.⁵⁰⁹

1.64 Exclusion of other incidents:

1.64.1 Colonel Van der Merwe confirmed that none of the Highgate Hotel ballistics exhibits matched exhibits from the Komga (Cas 55/05/93) or Yellowwoods Hotel cases.

1.64.2 This confirms that these were unrelated incidents, at least from a ballistics perspective.⁵¹⁰

1.65 Firing distance and trajectory observations:

⁵⁰⁶ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 105.

⁵⁰⁷ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 99–100.

⁵⁰⁸ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 98–100.

⁵⁰⁹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 107.

⁵¹⁰ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 107.

1.65.1 His tests showed no partially burned gunpowder on clothing or panels, meaning the shots were not fired from close range. The 5.56mm bullet trajectory was upward, from inside the building toward the ceiling.⁵¹¹

1.66 Role of ballistics experts at crime scenes:

1.66.1 Colonel Van der Merwe clarified that ballistics experts are typically called to scenes only upon request, either for reconstructions or where specialist input is needed. He was specifically requested by Swarts to attend the Highgate Hotel crime scene.⁵¹²

1.67 Colonel Van der Merwe's crime scene role and ballistics analysis protocols:

1.67.1 Colonel Van der Merwe reiterated that ballistic experts only attend crime scenes on request and are not standard members of the initial investigative team. LCRC manages the scene, collects exhibits, and compiles photo albums. Ballistics is treated as a specialised, complementary unit. Colonel Van der Merwe described his role as providing technical input on bullet trajectories and impacts when requested by either investigating officers or prosecutors at a later stage in the investigation.⁵¹³

1.67.2 He further elaborated that their input is often requested during scene reconstructions or when new questions arise from photo albums or physical exhibits, particularly when analysing entry and exit wounds or determining shooting distances.⁵¹⁴

1.68 On-Site observations and limitations:

⁵¹¹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 108.

⁵¹² Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 109–110.

⁵¹³ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 110–111.

⁵¹⁴ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 110.

1.68.1 At the scene, he observed approximately 30 bullet holes in the Public Bar area. However, he could not determine their calibre without more specific context or physical evidence. He explained that materials (e.g., wood, brick, plaster) affect how bullet holes appear and make calibre determination difficult without intact bullets or test results.⁵¹⁵

1.69 Observations on bullet holes and calibre determination challenges:

1.69.1 Colonel Van der Merwe explained the limitations of determining bullet calibre based purely on holes in surfaces such as brick, wood, or metal. For example:

- (a) Brick walls: Bullets tend to shatter the plaster, making it difficult to determine calibre.⁵¹⁶
- (b) Wood: The material closes in after a bullet penetrates, often giving a misleading impression of calibre.⁵¹⁷
- (c) Metal panels: Bullet velocity plays a key role as faster bullets create smaller, neater holes, while slower ones may deform and create larger exit holes.⁵¹⁸

1.69.2 He stressed that without controlled testing or comparison with a suspected weapon, accurate calibre identification from impact points is unreliable.⁵¹⁹

1.70 Structure and function of the Forensic Science Laboratory Docket System (“**FSLDS**”)

⁵¹⁵ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 110–111.

⁵¹⁶ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 111.

⁵¹⁷ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 111.

⁵¹⁸ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 111.

⁵¹⁹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 111.

1.70.1 Colonel Van der Merwe clarified that the Forensic Science Laboratory (“**FSL**”) maintains its own independent dockets, separate from the main police case files. These dockets contain:

- (a) All covering letters;
- (b) Internal reports;
- (c) Ballistic exhibits such as cartridge cases and bullets.

1.70.2 He explained that once analysts conclude their work, the docket is archived, unless further entries or re-examinations are required later.⁵²⁰

1.70.3 When asked how the system works today versus in the 1990s, he highlighted the shift from physical postage to electronic systems such as ICDMS, which enables scanning, tracking, and digital access by investigating officers. In contrast, during the early 1990s, most dockets and exhibits were posted via the Post Office, including sensitive items such as firearms and cartridge cases.⁵²¹

1.71 Filing challenges and loss of the Highgate Massacre docket:

1.71.1 Colonel Van der Merwe disclosed that the original docket for the Highgate Hotel incident, which he compiled, had been lost or stolen in the post. He was unaware of the loss until very recently, during preparations for his testimony at the inquest.

1.71.2 He explained that the docket was likely sent to Cape Town, possibly for comparison with other cases such as the St James Church or Heidelberg Tavern

⁵²⁰ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 112.

⁵²¹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 112–113.

attacks. At that time, it would have been sent through physical post, complete with cartridge cases, bullets, reports, and covering letters.⁵²²

1.71.3 While no firearms were included in the posted docket, Colonel Van der Merwe confirmed that exhibits were usually collected either by investigating officers or colleagues such as Colonel Hattingh. Today, biometric systems are used to sign exhibits in and out of storage at the FSL, improving traceability.⁵²³

1.72 Scale of ballistics casework and record keeping:

1.72.1 To illustrate the scale and complexity of FSL operations, Colonel Van der Merwe cited internal statistics:

(a) Over 1.8 million ballistic cases have been handled to date.

(b) The broader FSL system, including biology, chemistry, and other sections, has processed over 8.8 million cases.

1.72.2 He emphasised the logistical difficulty of archiving such large volumes, noting that nothing is destroyed, and every case must be permanently filed.⁵²⁴

1.73 Internal docket System and lost documents:

1.73.1 Colonel Van der Merwe explained that the forensic lab maintained its own docket system, separate from investigative police dockets. His lab number for this case was 16020/93, and he referenced INS127,⁵²⁵ which denoted entry 1 of the forensic record. Exhibits were once routinely shipped via post, even in high-profile cases. Colonel Van der Merwe testified that his original docket, containing reports and

⁵²² Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 113–114.

⁵²³ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 114–115.

⁵²⁴ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 116.

⁵²⁵ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 115.

exhibits, had been posted to Cape Town but was later reported stolen, likely during transit. A police case was opened at the time.⁵²⁶

1.74 Observations on the peculiarity of the theft:

1.74.1 Colonel Van der Merwe expressed puzzlement over why someone would steal the FSL docket, given that:

(a) Its contents (spent cartridges, bullets, and paperwork) had no commercial value.⁵²⁷

(b) It would be difficult to locate such a package intentionally within a large postal facility.⁵²⁸

1.74.2 It was noted that the theft could only have been successful if the perpetrator had specific knowledge of the docket's location, which was considered highly unlikely.⁵²⁹

1.75 Receipt and documentation of exhibits:

1.75.1 Colonel Van der Merwe explained that he may have received the packet of bullets referred to in paragraph 5 of his report either:

(a) By post (most likely at the time); or

(b) Directly from the forensic admin section.

1.75.2 He also explained that the packet seal would typically be made of wax and carry a unique number tied to the issuing police station, which would be physically cut and kept for documentation purposes.⁵³⁰

⁵²⁶ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 112–119.

⁵²⁷ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 120.

⁵²⁸ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 120–122.

⁵²⁹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 121–122.

1.76 Knowledge of explosives and police forms:

1.76.1 Colonel Van der Merwe confirmed he did not receive formal training in explosives, although he had limited informal exposure.⁵³¹

1.76.2 He explained the SAP21 as a general-purpose official police communication form, used for matters like submitting leave requests, and not specifically for fingerprints.⁵³²

1.76.3 He confirmed he was unfamiliar with the SAP 21, a form possibly used for fingerprinting.⁵³³

1.77 Fingerprint Evidence:

1.77.1 Colonel Van der Merwe did not know whether fingerprints were lifted at the Highgate scene.⁵³⁴

1.78 The recovered bullet from Beling:

1.78.1 Reference was made to Exhibit 1, the bullet removed from Beling's body. Colonel Van der Merwe identified it as a 7.62mm projectile, specifically from an AK-47, and clarified that although such bullets are often colloquially referred to as "7.62x39", the "39" denotes the cartridge case length and not the bullet itself. While several firearms use 7.62mm bullets, the features of this one were consistent with the AK-47

⁵³⁰ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 122.

⁵³¹ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 123.

⁵³² Transcript of Proceedings, Day 6, Part 2, 3 February 2025, pp. 123–124.

⁵³³ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 124.

⁵³⁴ Transcript of Proceedings, Day 6, Part 2, 3 February 2025, p. 124.

family. He observed that it bore markings from interaction with the firearm's barrel grooves, confirming it had been fired.⁵³⁵

1.78.2 Colonel Van der Merwe explained the metallurgical composition of Russian-manufactured AK-47 bullets. They often use mild steel with copper or green lacquer coatings to prevent corrosion. These coatings are vulnerable to damage, especially from environmental exposure or body fluids, as in this case. As a result, the bullet's corroded state rendered microscopic comparison unfeasible. Despite having been examined under a microscope, both by Colonel Van der Merwe and his colleague Yolandie Schoeman, no usable striation marks remained. He likened the impact of bodily fluids and improper storage on the bullet to the rapid rusting of untreated metal, thereby explaining the loss of evidentiary value.⁵³⁶

1.78.3 Colonel Van der Merwe confirmed that the bullet could not be compared to any firearm, nor could it be matched with other bullets or cartridge cases. He also mentioned a simple but reliable method often used in lab testing the bullet with a magnet, as steel-based bullets (common in Russian or Chinese munitions) are magnetic, unlike those made from brass or copper alloys.⁵³⁷

1.79 Discussion of ballistic proficiency and crime scene observations:

1.79.1 During questioning about the Ladies' Bar, where four victims died, Colonel Van der Merwe noted the absence of bullet marks on walls or ceilings. He interpreted this to mean the assailant's bullets found their targets, indicating a high degree of accuracy and proficiency. He contrasted the muzzle velocity of the AK-47 (700–750 m/s) with that of the R4 or R5 rifles (around 880–900 m/s), noting that the AK-47 is more likely to retain spent bullets at the scene due to lower exit velocity.⁵³⁸

⁵³⁵ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 1–3.

⁵³⁶ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 3–6.

⁵³⁷ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, p. 6.

⁵³⁸ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 8–10.

1.79.2 Colonel Van der Merwe detailed the firing modes of the AK-47, explaining that full-automatic mode discharges 600 rounds per minute, ten per second, making accuracy difficult. The fact that no missed shots were apparent implied the weapon was likely fired in semi-automatic mode or controlled bursts, again pointing to the shooter's tactical control.⁵³⁹

1.80 Ambiguities in crime scene terminology:

1.80.1 There was some confusion over references in Colonel Van der Merwe's affidavit to the "Open Arms Bar." When asked to clarify whether he meant the Ladies' Bar, Colonel Van der Merwe admitted he could no longer recall precisely and had been relying on second-hand information at the time. The lack of access to his original docket limited his ability to verify such details. It was later proposed that the "Open Arms Bar" might have been a colloquial name for the "Nuwe Dames Kroeg," which further illustrated the difficulties in reconstructing the scene decades later.⁵⁴⁰

1.81 Absence of contact wounds and handgun injuries:

1.81.1 Colonel Van der Merwe elaborated on the absence of contact wounds among the victims, explaining that close-range shots typically produce distinct signs such as tearing or blackening of fabric from partially burnt propellant. Neither post-mortem reports nor clothing examinations showed such indicators, suggesting that the shots were fired from a distance of at least one metre.⁵⁴¹

1.81.2 On the question of handguns, particularly a .38 Special, Colonel Van der Merwe noted its different ballistic characteristics: a larger diameter (approximately 9.6mm) and lower velocity compared to the AK-47's 7.62mm. He found no evidence among

⁵³⁹ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 9–10.

⁵⁴⁰ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 14–16.

⁵⁴¹ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 14–16.

the injuries consistent with handgun wounds, confirming that no shots were likely fired from such weapons.⁵⁴²

1.82 Cartridge and bullet recovery: analytical limitations:

1.82.1 Colonel Van der Merwe reviewed the contents of paragraph 5 in his affidavit, which listed exhibits he had analysed. He referenced a photograph (Photo 102) showing envelopes of collected cartridges and bullets, noting the peculiar clustering of some cartridges. However, lacking his original docket and accompanying documentation, he was unable to confirm the specific locations from which the cartridges had been recovered. He emphasised that this information would typically be recorded in covering letters from investigating officers or LCRC staff and would have enabled precise spatial analysis of the shooting.⁵⁴³

1.82.2 Colonel Van der Merwe explained that he had arrived at the crime scene days after the incident, by which time LCRC staff and others had already combed the area. As such, no spent cartridges remained on the ground, and the only ballistic evidence he found was a .38 bullet embedded in a doorframe. He addressed a discrepancy in the number of cartridges recovered - his report recorded 56 cartridges, whereas a photograph reflected only about 30. He speculated that additional cartridges might have been found after the initial sweep, a common occurrence when different officials contribute to evidence recovery at staggered times.⁵⁴⁴

1.82.3 Drawing from memory, Colonel Van der Merwe roughly calculated the total number of bullet marks (from paragraphs 3.2 to 3.9 of his affidavit) to be around 45. Adding the bullets recovered from post-mortem examinations and one marked Weber, he arrived at approximately 49 projectiles accounted for, closely aligning with

⁵⁴² Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 16–17.

⁵⁴³ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 17–19.

⁵⁴⁴ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 19–20.

the 56 cartridge cases. He concluded that 6–7 spent cartridges remained unexplained, a not-so-uncommon outcome given the fluid and sometimes chaotic nature of early-stage crime scene management.⁵⁴⁵ However, he did not know that this was less common with AK-47 cartridge cases, which are bigger, and that it might have been common for one or two to go missing, but it was strange for five to six to go missing.⁵⁴⁶

1.83 Microscopic analysis and linkage of firearms:

1.83.1 Turning to paragraph 8 of his affidavit, Colonel Van der Merwe confirmed that an AK-47 was handed to him on 12 August 1993 for testing. This firearm, identified by its 7.62x39mm calibre and folding butt, lacked a magazine and was submitted by Captain MA Kruger. The weapon was tested and found to be unrelated to any cartridges or bullets recovered from the Highgate scene. Furthermore, comparisons with exhibits from other cases, Komga (Cas 29713/03) and East London (Cas 691/08/03), also yielded no positive matches.⁵⁴⁷

1.83.2 Colonel Van der Merwe clarified that while he made those specific comparisons at the request of investigating officers, he had not compared the AK-47 with every firearm on the SAPS database. He explained that in 1997, SAPS introduced an IBIS, which could systematically match exhibits across the country. Unfortunately, the Highgate material predated the system, and earlier exhibits were not backloaded onto IBIS. Moreover, the original cartridges from the Highgate scene had since been lost, allegedly stolen during postal transfer in July 1995.⁵⁴⁸

1.84 Challenges in tracing firearms and technological limitations:

⁵⁴⁵ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 20–22.

⁵⁴⁶ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, p. 22.

⁵⁴⁷ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 24–27.

⁵⁴⁸ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 26–30.

1.84.1 Colonel Van der Merwe elaborated that the IBIS system, while powerful, only included exhibits entered from 1997 onward. No retroactive upload of older cases was conducted. Therefore, even if the AK-47s used at Highgate were recovered years later and uploaded to the IBIS database, they would not link to the Highgate cartridges unless those were also on the system.

1.84.2 Unfortunately, the theft of those exhibits eliminated that possibility. He reiterated that SAPS ballistics staff do not engage in firearm ownership tracing, which would typically require a SAPS 521F enquiry with the firearms registry. However, AK-47s, being mostly illegal and unlicensed in South Africa, are unlikely to appear in any such registry.⁵⁴⁹

1.85 Cartridge identification and the loss of headstamp evidence:

1.85.1 Colonel Van der Merwe confirmed that spent cartridges normally carry identifying headstamps on their bases, typically indicating manufacturer, calibre, and production lot. He explained that AK-47 cartridges from Russian or Chinese origin often include minimal markings, sometimes merely numbers such as "531", and not the calibre. These identifiers help distinguish between manufacturers, such as Pretoria Metal Pressings ("**PMP**"), Russian, or Chinese sources. In this case, however, that valuable data was lost with the disappearance of the original cartridge exhibits.⁵⁵⁰

1.85.2 Colonel Van der Merwe also discussed how the absence of these cartridges now precludes the possibility of uploading them to the IBIS system. If they had been available, their inclusion in the database would have meant that any future recovery of the Highgate AK-47s could be definitively linked through ballistic signature

⁵⁴⁹ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 29–31.

⁵⁵⁰ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 41–42.

matching. This inability to verify cartridge origin through base markings or to trace them using IBIS represents a significant evidentiary loss.⁵⁵¹

1.86 Further loss of evidentiary value due to degradation:

1.86.1 Returning to the bullet recovered from Beling, Colonel Van der Merwe used it to demonstrate the impact of corrosion on ballistic comparison. He reiterated that the microscopic striation marks, used to identify the specific barrel that fired a bullet, had been completely eroded, likely due to prolonged exposure to bodily fluids. Under the microscope, the bullet's surface resembled a cratered landscape, with no linear marks suitable for comparison. Thus, despite initial optimism, this bullet could not be matched to any weapon.⁵⁵²

1.86.2 Colonel Van der Merwe added that bullets can only be matched with their cartridges in rare instances. In this case, he could not confirm that the bullets analysed came from the same firearms responsible for the cartridge cases. Nonetheless, he considered it a safe assumption that the two groups of bullets, corresponding to two AK-47s, matched the two sets of cartridge cases. Since bullets cannot exist independently at a scene (unless fired from a revolver), the presence of two bullet groups aligned with the evidence of two firing weapons.⁵⁵³

1.87 Theft of exhibits and suspicion of tampering:

1.87.1 Colonel Van der Merwe addressed the disappearance of cartridge exhibits. He confirmed that these had allegedly been posted to Pretoria in July 1995 but were reported stolen in transit. He expressed concern that, given their lack of resale value, the only plausible motive for their theft was to destroy crucial forensic evidence. Colonel Van der Merwe acknowledged that if true, this would indicate an

⁵⁵¹ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 33–34.

⁵⁵² Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 51–55.

⁵⁵³ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, p. 35.

internal leak, as someone would have needed to identify the specific package within the postal system. While hoping such a breach did not occur, he did not rule it out.⁵⁵⁴

1.87.2 Colonel Van der Merwe confirmed that some exhibits had, in fact, been hand-delivered in other instances, particularly in high-profile cases, highlighting the inconsistency in handling procedures. He stated that if the cartridge cases had been retained, they could have been added to the IBIS system, and a future match might still have been possible.⁵⁵⁵

1.88 Loss of metadata and forensic tracing opportunities:

1.88.1 Colonel Van der Merwe explained that the headstamps on cartridge bases not only identify the country of origin but also enable forensic experts to trace lot numbers and manufacturers. This is especially critical when distinguishing between domestic (e.g., PMP) and foreign (e.g., Russian or Chinese) ammunition. In some special operations, PMP produced unmarked ammunition to ensure deniability, and such rounds have occasionally appeared in crime scenes. He acknowledged that one of the Highgate cartridges appeared unusually shiny in photographs, which may indicate non-standard or even locally produced ammunition.⁵⁵⁶

1.88.2 Had the full set of exhibits been preserved, he explained, experts could have studied the headstamps under magnification to determine origin, lot number, and possible links to the then SAP, SADF, or foreign sources. The theft of the items thus represents not only the loss of ballistic comparison opportunities but also the loss of metadata critical for tracing the supply chain of the weapons and ammunition used.⁵⁵⁷

⁵⁵⁴ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 40–41.

⁵⁵⁵ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 38–39.

⁵⁵⁶ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 46–47.

⁵⁵⁷ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 43–44.

1.88.3 Colonel Van der Merwe confirmed that his ballistic analysis indicated the use of two AK-47s during the massacre. The total number of spent cartridges (56) and bullets recovered and matched (approx. 49) were broadly consistent, and the ballistic signatures showed that two separate weapons had been fired. He stated categorically that no evidence linked a handgun to any of the injuries or damage. He also confirmed that, despite initial indications, the bullet recovered from Beling could not be used for comparison purposes due to advanced corrosion.⁵⁵⁸

1.88.4 Colonel Van der Merwe also addressed the evidentiary dead-end created by the theft of the Highgate cartridges, underscoring that spent cartridges have no resale value and would only have been targeted for the purpose of destroying or obstructing evidence. He suggested this implied the possibility of an internal leak within SAPS or the forensic chain of custody, a concern that troubled both the witness and the Court.⁵⁵⁹

1.88.5 Colonel Van der Merwe then described how cartridge headstamps, markings found on the base of spent rounds, typically include information such as batch number, year of manufacture, and country of origin. He confirmed that certain special forces munitions, particularly those manufactured by PMP, were deliberately unmarked to obscure provenance. This practice, although not widely known to the public, was not unusual for covert operations.⁵⁶⁰

1.88.6 Had the Highgate cartridges been preserved, he affirmed, experts could have analysed the headstamps to distinguish between imported and domestically produced ammunition, such as differentiating Russian or Chinese AK-47 rounds from PMP variants. He examined photographs of the crime scene (particularly Photo 102) and noted a range of bullet casing appearances, including some unusually

⁵⁵⁸ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 4-5, 41-44.

⁵⁵⁹ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 40-41.

⁵⁶⁰ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 46-47.

shiny examples that may have indicated PMP manufacture. However, without the physical exhibits, these assessments remained speculative.⁵⁶¹

1.88.7 Upon viewing a 9mm cartridge for headstamp identification, Colonel Van der Merwe used it to explain how even a magnet test could help distinguish between copper-washed mild steel (typically foreign) and solid copper cartridges (typically PMP). He noted that some of the Highgate bullets, including the one removed from Beling, displayed copper-washed steel properties, further suggesting Russian or Chinese origin.⁵⁶²

1.88.8 Colonel Van der Merwe clarified the process of how microscopic striation marks, used for bullet-to-barrel comparison, are eroded through corrosion. He explained the mechanics of how the copper coating of AK-47 bullets is stripped as they pass through rifling grooves in the barrel: this area, critical for comparison, is particularly vulnerable to degradation. In the case of Beling's bullet, the region had become so pitted that no striations remained, making meaningful comparison impossible.⁵⁶³

1.88.9 He elaborated on why the bullet could not be compared even under optimal laboratory conditions and reaffirmed that its evidentiary value had been permanently compromised. Moreover, he explained that IBIS can still process damaged bullets if certain rear regions remain intact, thanks to improvements in acquisition technology. But in this case, even those critical rear portions had been too corroded to yield useful data.⁵⁶⁴

1.88.10 Finally, Colonel Van der Merwe confirmed that the original Highgate docket had gone missing and that he had not had access to it since relocating to Port Elizabeth in 1996.

⁵⁶¹ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 49–51.

⁵⁶² Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 51–52.

⁵⁶³ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 52–55.

⁵⁶⁴ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 55–56.

1.89 Final clarifications and acknowledgements of evidence limitations:

1.89.1 Colonel Van der Merwe reiterated that after he was transferred from Pretoria to Port Elizabeth in 1996, he was informed that the Highgate docket had been stolen. This theft was not known to him at the time and only came to light later when he attempted to access the file for reference. It was further confirmed that the docket in question, which included vital notes and source material, had not yet been located by the investigating officer, Captain Peterson.⁵⁶⁵

1.89.2 Colonel Van der Merwe also confirmed that the bullets he had analysed were compared against those recovered in the Yellowwoods Hotel attack. While he could not recall full details, he believed both AK-47 and 5.56mm ammunition had been used in that incident.

1.90 Discussion on special forces ammunition and police ammunition practices:

1.90.1 Colonel Van der Merwe acknowledged that special forces in South Africa had occasionally used ammunition produced by PMP that bore no headstamp markings. This unmarked ammunition was purposefully designed to limit traceability in covert operations. When asked whether such ammunition, if identified during analysis, would have raised concerns, Colonel expressed hesitation, explaining that even in ordinary police operations, a wide variety of ammunition types could be found in a single officer's magazine.

1.90.2 He described this as a widespread problem: police officers often carried mixed batches of military surplus and civilian ammunition. He also remarked that current crime scene submissions showed an increase in AK-47 and 5.56mm rounds of recent manufacture, largely from Russian and Chinese sources. Therefore, the

⁵⁶⁵ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, p. 57.

presence of diverse ammunition types, even in police hands, was not necessarily suspicious from a forensic perspective.⁵⁶⁶

Charl Jurgens Naudé.⁵⁶⁷

1.91 Charl Jurgens Naudé's ("**Naudé**") testimony, which drew upon his more than 40 years of experience in the South African Defence Force ("**SADF**") and South African National Defence Force ("**SANDF**"), provided valuable insight into the origins and characteristics of specific explosive items and teargas grenades recovered from the Highgate Hotel crime scene.⁵⁶⁸

1.92 Professional background and expertise:

1.92.1 Naudé confirmed his authorship of a report submitted as Exhibit O. His curriculum details his qualifications and experience, including his tenure as Officer Commanding at the Department of Defence Ammunition Depot and School of Ammunition. He was also a bomb disposal specialist and contributed to the development of SAPS bomb disposal unit standards. He held senior staff officer responsibilities within the Directorate of Army Logistics and was involved in ammunition testing, design, licensing, and disposal. Notably, he led a three-month clearance operation in Maputo following a munitions depot explosion in 2007.⁵⁶⁹

1.93 Examination of teargas grenade evidence:

1.93.1 Naudé was asked to provide expert comment on items recovered from the crime scene, including a spent teargas grenade visible in photograph 40 of the police album. He identified characteristic burn marks consistent with CS gas grenades,

⁵⁶⁶ Transcript of Proceedings, Day 7 Part 1, 4 February 2025, pp. 46–47, 58–59

⁵⁶⁷ Exhibit O, Report of Charl Jurgens Naudé.

⁵⁶⁸ Transcript of Proceedings, Day 7, Part 1, 4 February 2025, pp. 62–66; Exhibit O.

⁵⁶⁹ Transcript of Proceedings, Day 7, Part 1, 4 February 2025, pp. 62–65.

likening the giraffe-like burn pattern to those seen on grenades used in riot control testing. He also pointed out a fly-off lever (depicted in Figure 2 of his report), which typically separates from the grenade upon detonation. Naudé explained that some striker mechanisms bore printed lot numbers which could aid in traceability if retained.⁵⁷⁰

1.93.2 According to Naudé, these CS grenades were manufactured by Swartklip Products in Mitchells Plain, Cape Town. The factory, formerly known as the Ronden Fireworks Factory, was later absorbed into Rheinmetall Denel Munition. He noted that such grenades were primarily supplied to the SAP/SAPS and selected SADF units, as well as the police forces of the TBVC states (Transkei, Bophuthatswana, Venda, and Ciskei).⁵⁷¹

1.94 Distribution and control of ammunition:

1.94.1 Once manufactured, the grenades would be sent to SAP central depots or military depots such as De Aar, Naboomspruit, or Jan Kempdorp for controlled distribution. Naudé affirmed that the items were intended for riot control and were only issued to trained personnel familiar with their use and associated safety measures, including gas mask deployment.⁵⁷²

1.95 Analysis of hand grenade fragments and crater evidence:

1.95.1 When he was referred to photographic figures from the police photo album (Figures 4 and 5, derived from Photos 37 and 38), which depicted a fly-off lever consistent with the UZRGM fuse, Naudé explained that this type of striker mechanism was used in Soviet F1 or RDG series hand grenades, both anti-personnel fragmentation grenades. He noted that South Africa never manufactured these weapons; they were typically smuggled into the country from Soviet bloc

⁵⁷⁰ Transcript of Proceedings, Day 7, Part 1, 4 February 2025, pp. 66–68.

⁵⁷¹ Transcript of Proceedings, Day 7, Part 1, 4 February 2025, pp. 68–70.

⁵⁷² Transcript of Proceedings, Day 7, Part 1, 4 February 2025, p. 69–70

states such as Russia, China, and Czechoslovakia for use by so-called “terrorists” at the time.⁵⁷³

1.95.2 Naudé described the markings used on the fly-off lever for identification and displayed graphical representations in his report showing the grenade types: the RDG-5 (a smooth, offensive grenade), the F1 (a “pineapple”-style defensive grenade similar to the British Number 36), and the UZRGM fuse. He explained that the F1 was pre-fragmented to create deadly shrapnel, while the RDG-5 had a higher explosive content (100g TNT compared to the F1’s 60g) and was designed for offensive use, causing internal trauma such as lung damage rather than extensive fragmentation.⁵⁷⁴

1.95.3 Naudé confirmed that no safety pin had been recovered from the scene and offered possible explanations, such as it remaining on the attacker’s finger or being removed before entry. He described the arming mechanism and delay times, noting that timing varied depending on the fuse type (0–13 seconds).⁵⁷⁵ Naudé concluded that it would have been difficult for the shooter to have difficult for one person to have to let the gun off the sling and then remove the safety pin from the grenade.⁵⁷⁶ Accordingly, his view was that if there was one attacker who was both shooting and throwing the grenade, then he would have expected him to throw the grenade first.⁵⁷⁷ The acceptable evidence, however, is to the effect that the shooting preceded the deployment of the teargas.

1.95.4 Naudé then examined Photos 52 and 53 (Figures 9 and 10), which depicted a blast crater. He concluded that the damage likely originated from an RDG-5 grenade, not the F1, due to the absence of large floor gouges and the specific carbonisation pattern left by TNT. He cautioned that a definitive conclusion would

⁵⁷³ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 71–72.

⁵⁷⁴ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 72–74, 77–78.

⁵⁷⁵ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 73–75.

⁵⁷⁶ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, p. 74.

⁵⁷⁷ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, p. 75.

require a controlled comparison test, but his analysis suggested the RDG-5 was the more probable source.⁵⁷⁸

1.96 Evaluation of blast effects and ammunition provenance:

1.96.1 Naudé compared shrapnel dispersion patterns expected from F1 and RDG-5 grenades. He observed that damage was visible on the side and rear walls but not on the ceiling, which was inconsistent with the expected omnidirectional blast of the F1. This supported the conclusion that an RDG-5 was used.⁵⁷⁹

1.96.2 Naudé also discussed South African-manufactured AK-47 ammunition produced by PMP, confirming that such rounds lacked headstamps to conceal their origin for covert operations. While Czechoslovakia also produced brass cases, PMPs were intended for Special Forces and were distinct in their unmarked appearance. This echoed testimony from Colonel Van der Merwe.⁵⁸⁰

1.96.3 Naudé clarified that he lacked knowledge of political matters, such as alleged weapon transfers from Transkei to APLA. He reiterated that his domain was technical and focused on ammunition characteristics, not geopolitical affiliations.⁵⁸¹

D. Investigative evidence

1.97 Contemporaneous investigations (1993–1994):

1.97.1 The inquest benefited from testimony and statements by officers involved in the initial investigation, as well as experts who reviewed the case file. Captain Peterson

⁵⁷⁸ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 75–77.

⁵⁷⁹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 77–79.

⁵⁸⁰ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 79–80.

⁵⁸¹ Transcript of Proceedings, Day 7, Part 2, 4 February 2025, pp. 80–82.

testified regarding the numerous challenges and irregularities that plagued the investigation from the start.⁵⁸²

1.97.2 He acknowledged under cross-examination that vital evidence had been lost or overlooked over the years. For instance, crime scene exhibits such as fingerprints lifted from the scene and even spent cartridges collected were reported missing from police custody.⁵⁸³

1.98 Third-Force allegations:⁵⁸⁴

1.98.1 Testimony was also given about the broader political context in which the Highgate Massacre occurred. The early 1990s in South Africa, during the negotiations to end apartheid, saw surges of violence that many believed were fomented by a hidden hand or “third-force” (elements of the state security apparatus acting secretly to derail the transition).

1.98.2 In fact, a former member of the joint police and military task team that was investigating political violence at the time, Els, has long maintained that he is “99% sure” the Highgate attack involved apartheid-era security force operatives.

1.98.3 Els (now with the Directorate of Special Operations) met with survivors and PAC/APLA representatives in 2006, and both he and Mphahlele, who was APLA’s Director of Operations in 1993, agreed that APLA did *not* carry out this attack.

1.98.4 Their discussions, which were recounted in the evidence, revealed a remarkable consensus across old battle lines: the Highgate Massacre bore the hallmarks of a “false flag” operation by a third party, likely elements within the apartheid security forces, possibly using proxy agents.

⁵⁸² Transcript of Proceedings, Day 1, 27 January 2025, pp. 31–101

⁵⁸³ Transcript of Proceedings, Day 1, 27 January 2025, pp. 79–84

⁵⁸⁴ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 6–12.

1.99 Historical context: APLA and the Third-Force:⁵⁸⁵

1.99.1 Mphahlele's input to this inquest is particularly noteworthy. As the APLA commander at the time, he testified that APLA had no unit operating in East London that night and no record of this attack in its archives.

1.99.2 He confirmed that APLA generally took responsibility for its military actions, even operations that were controversial, yet in this case, no bona fide APLA cadre ever claimed Highgate.

1.99.3 It was established that a claim of responsibility was made a few days later by persons unknown, ostensibly on behalf of "APLA", but both Mphahlele and Els pointed out that this was suspiciously inconsistent with APLA's usual practice of immediate claims and could have been disinformation.

1.99.4 Mphahlele further testified that, in his view, the Highgate Massacre exposed the apartheid state's complicity in the murder of its own citizens.⁵⁸⁶

1.100 Askari theory:

1.100.1 Additional evidence supporting the third-force theory included documentation about Askaris and covert units operating in the Eastern Cape in the early '90s. Askaris were former liberation fighters "turned" to work for the Security Police. It was revealed that an Askari unit was based in East London, only minutes away from the Highgate Hotel, for years during the conflict.⁵⁸⁷

⁵⁸⁵ Transcript of Proceedings, Day 11, 24 March 2025, pp. 50–56.

⁵⁸⁶ Transcript of Proceedings, Day 11, 24 March 2025, pp. 88–92.

⁵⁸⁷ Exhibit C, Statement of Dr. Tessa Margaret Edlmann, pp. 104–106.

1.100.2 Strikingly, this Askari base (part of the Security Branch's covert operations) was officially closed down on 30 April 1993, literally one day before the Highgate Massacre.⁵⁸⁸

1.100.3 This timing was noted in the evidence as a disturbing coincidence: one inference is that elements of that unit, facing disbandment, might have executed the operation as an act of revenge.

1.101 Summary of contextual evidence:

1.101.1 In sum, and as will become apparent, the historical and investigative evidence laid before the Court indicates that the Highgate Massacre did not occur in a vacuum. It was part of, and must be understood in, the context of a highly volatile political climate in which elements of the apartheid state were known to be orchestrating violence to undermine negotiations.

*Captain Vaughn William Peterson:*⁵⁸⁹

1.102 Background and role in the SAPS:

1.102.1 Captain Peterson confirmed under oath that he joined the South African Police in 1987. He began basic training in early 1988 and was deployed to the Brits Police Station in the North West province, initially serving as a cell guard for high-profile detainees. Thereafter, he transferred briefly to the Investigation and Inquiry Unit, then moved to the Dog Unit, later becoming an explosives dog handler.⁵⁹⁰

1.102.2 In 1993, Captain Peterson was transferred to the Kidd's Beach Mobile Unit in the East London area, where he served as commander until the unit's closure in 1995. He then became the commander of Kidd's Beach Detectives. In 2000, he was

⁵⁸⁸ Exhibit C, Statement of Dr. Tessa Margaret Edlmann, pp. 104–106.

⁵⁸⁹ Exhibit D, Statement of Vaughn William Peterson, pp. 55–56; Exhibit E, Investigation Diary, C2.

⁵⁹⁰ Transcript of Proceedings, Day 1, 27 January 2025, pp. 30–32.

promoted to the rank of Captain and transferred to Buffalo Flats Detectives in East London, where he commanded the unit for 12 years. During that time, he completed the Detective Commander's Course in Graaff-Reinet in 2002.

1.102.3 Following a serious car accident in 2012, he was transferred to the Cluster Detective Office as a coordinator, where his role included monitoring serious crimes, attending crime scenes, overseeing investigative processes, and attending court proceedings. After resigning due to a heart attack in 2019, he rejoined the service in April 2021 and began working on TRC-related investigations under the Directorate for Priority Crime Investigations ("**DPCI**").⁵⁹¹

1.103 Assignment to the Highgate Massacre investigation:

1.103.1 Captain Peterson received the Highgate Massacre investigation file in August 2021 from the national office. He registered the matter under a new inquiry number: Eastern Cape Provincial Inquiry 408/2021. The docket comprised three files: the original case docket in a lever-arch file, and two additional files containing various copies of the docket and statements gathered by previous investigators.⁵⁹²

1.103.2 Upon receipt, Captain Peterson reviewed the docket and noted there were 76 statements, many of which were copies, un-commissioned, or unsigned. Statements A2, A3, A4, A7, A8, A9, A10, A12, A13, A15, A16, A17, A18, and A49 were among those un-commissioned, and some furthermore lacked signatures.⁵⁹³

1.103.3 To address the deficiencies, he attempted to contact the deponents. However, many statements lacked ID numbers and full addresses. Although he employed tracing methods and sought assistance from colleagues and the Buffalo

⁵⁹¹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 31–32.

⁵⁹² Transcript of Proceedings, Day 1, 27 January 2025, pp. 33–34.

⁵⁹³ Transcript of Proceedings, Day 1, 27 January 2025, p. 35.

City authorities, many witnesses could not be located or were found to be deceased. He obtained death certificates where applicable.⁵⁹⁴

1.104 Investigation efforts and contextual understanding:

1.104.1 As part of the DPCI, Captain Peterson explained that he works within the Crimes Against the State (“**CATS**”) component, alongside units focused on organised crime, commercial crime, serious corruption, and others.⁵⁹⁵ While he was unable to speak with the original investigating officers, Els and Bossr, he consulted with Nel telephonically.⁵⁹⁶ Nel confirmed the investigation had reached a point where no suspects or organisations could definitively be linked to the attack.⁵⁹⁷

1.104.2 Captain Peterson stated that both Nel and earlier investigators had noted similarities between the Highgate Massacre and other attacks at the Yellowwood Hotel, King William’s Town Golf Club, and the Baha’i Church Massacres. He clarified that those incidents had been linked to specific individuals who applied for amnesty through the TRC,⁵⁹⁸ unlike the Highgate incident, which remains unresolved.

1.105 Leads, suspects, and family contributions:

1.105.1 No suspects have been positively identified in relation to the Highgate Massacre. Peterson testified that while one individual, Mtutuzeli Mama (“**Mama**”), was arrested in 1994, the charges were withdrawn due to insufficient evidence. No further arrests have taken place.⁵⁹⁹

1.105.2 During engagements with the victims’ families and their legal representatives, Captain Peterson received various leads. One was a name passed

⁵⁹⁴ Transcript of Proceedings, Day 1, 27 January 2025, pp. 36–37.

⁵⁹⁵ Transcript of Proceedings, Day 1, 27 January 2025, p. 37.

⁵⁹⁶ Transcript of Proceedings, Day 1, 27 January 2025, p. 38.

⁵⁹⁷ Transcript of Proceedings, Day 1, 27 January 2025, p. 38.

⁵⁹⁸ Transcript of Proceedings, Day 1, 27 January 2025, pp. 39–41.

⁵⁹⁹ Transcript of Proceedings, Day 1, 27 January 2025, p. 40.

to him by Weber, which led him to Pretoria. However, the individual ultimately refused to meet and denied any relevant knowledge. Another lead concerned a Facebook comment by Petzer, which mentioned the possibility of a third-force involvement. When interviewed, Petzer admitted to making the comments while highly intoxicated and recanted them.⁶⁰⁰

1.105.3 Captain Peterson clarified that Petzer was not a witness to the massacre; it was his late brother, Zieg, who had been present at the Highgate Hotel playing pool on the night of the attack.⁶⁰¹

1.106 Mention of the book "Die Lang Generaal":

1.106.1 During discussions with the families, reference was made to a book titled *Die Lang Generaal*, authored by Elsdon, which dealt with the activities of Gerhard van der Westhuizen, alleged commander of the so-called "Hammer Squad." It was suggested that this group may have been involved in covert operations during apartheid.⁶⁰²

1.106.2 Captain Peterson met with Elsdon at the Stellenbosch Police Station in 2022 to discuss these allegations. While they explored theories regarding third-force involvement, Captain Peterson emphasised that no concrete evidence was presented during the meeting that could link specific individuals or organisations to the Highgate Massacre.⁶⁰³

1.107 The role and structure of commando units:

1.107.1 Captain Peterson testified that there were two commando units active during the period under investigation: one for the East London area and another for

⁶⁰⁰ Transcript of Proceedings, Day 1, 27 January 2025, pp. 42–45.

⁶⁰¹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 42–45.

⁶⁰² Transcript of Proceedings, Day 1, 27 January 2025, pp. 45–49.

⁶⁰³ Transcript of Proceedings, Day 1, 27 January 2025, pp. 47–49.

the Port Elizabeth region. He referred to the Port Elizabeth group as being associated with what was known colloquially as the "Hammer Squad."⁶⁰⁴

1.107.2 Captain Peterson stated that he spoke with Colonel Van der Merwe, who had served as the commander of the commandoes from 1978 to 1998, which included the time of the Highgate Massacre. Colonel Van der Merwe confirmed that they operated in the Port Elizabeth area but denied that a Hammer Squad was formally established. He attributed the Hammer Squad label to a different group.⁶⁰⁵

1.107.3 Colonel Van der Merwe described the commandoes' function as supportive, assisting both the army and the police in the Eastern Province, including areas such as Kirkwood, Grahamstown, and the surroundings of Port Elizabeth.⁶⁰⁶

1.108 Composition and function of commandoes:

1.108.1 In response to the Court's questions, Captain Peterson clarified that the commandoes were comprised of civilians, functioning similarly to police reservists. During the relevant period, individuals who completed their military training were required to serve in regional commandos as part of their reserve duty. These reservists could be called upon annually or bi-annually for up to a month to six weeks to perform military service duties. Captain Peterson confirmed this was standard practice in those years.⁶⁰⁷

1.109 Efforts to investigate the Hammer Unit:

1.109.1 Captain Peterson confirmed that he interviewed Colonel Van der Merwe regarding the Hammer Squad and that Nel may also have been involved in such

⁶⁰⁴ Transcript of Proceedings, Day 1, 27 January 2025, p. 49.

⁶⁰⁵ Transcript of Proceedings, Day 1, 27 January 2025, p. 50.

⁶⁰⁶ Transcript of Proceedings, Day 1, 27 January 2025, pp. 50–51.

⁶⁰⁷ Transcript of Proceedings, Day 1, 27 January 2025, pp. 51–52.

interviews. He did not recall whether any other individuals were interviewed regarding the Hammer Squad.⁶⁰⁸

1.110 Information regarding a potential witness in Grahamstown:

1.110.1 Captain Peterson testified that Weber had identified a potential witness in Grahamstown. While attempting to arrange a meeting, Weber informed him that the witness might not speak freely in his presence.⁶⁰⁹

1.110.2 The initial meeting was postponed due to Peterson's work commitments, and further attempts failed as Weber became unavailable.

1.110.3 Captain Peterson asked Weber to send the witness's address, and although they had a discussion, nothing concrete resulted from the follow-up.⁶¹⁰

1.111 Recovery and handling of a projectile:

1.111.1 Captain Peterson recounted that during a visit to Beling's house with Weber, Beling revealed he had a projectile removed from his hip around 2010. Beling stated he had previously informed Nel of its existence. Captain Peterson requested the projectile for ballistic testing, which Beling handed over.⁶¹¹

1.111.2 Captain Peterson delivered it to the Port Elizabeth Ballistics Unit, but due to the COVID-19 pandemic and staffing shifts, the projectile was initially misfiled under a different case number and reported missing. This caused concern for Beling, who found it suspicious.⁶¹²

⁶⁰⁸ Transcript of Proceedings, Day 1, 27 January 2025, p. 50.

⁶⁰⁹ Transcript of Proceedings, Day 1, 27 January 2025, p. 54.

⁶¹⁰ Transcript of Proceedings, Day 1, 27 January 2025, pp. 54–55.

⁶¹¹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 54–55.

⁶¹² Transcript of Proceedings, Day 1, 27 January 2025, pp. 56–57.

1.111.3 However, after Captain Peterson followed up with Colonel Van der Merwe, the projectile was located still sealed in its bag, and ballistics tests were completed.⁶¹³

1.111.4 Due to corrosion, only the calibre could be determined. The corrosion likely resulted from poor storage in a plastic bag, although the fact that the projectile had remained in Beling's body for years may also have contributed.⁶¹⁴

1.112 Suspicions regarding the AWB and the Orange Grove Hotel:

1.112.1 Captain Peterson testified that during a conversation with Beling and Weber, the possibility of the Afrikaner Weerstandsbeweging ("**AWB**") being involved in the attack was raised. They noted that an AWB meeting was held the night of the attack at the Orange Grove Hotel, located across the river from Highgate.⁶¹⁵

1.112.2 Captain Peterson investigated and contacted the AWB's new leader, Mr Rouge ("**Rouge**"), in 2022. Rouge declined to meet Captain Peterson and referred him to legal representatives whose details he never provided. Rouge denied any AWB involvement or knowledge of the meeting. Nevertheless, Peterson's investigation confirmed that such a meeting took place.⁶¹⁶

1.112.3 He speculated that the Orange Grove Hotel may have been the intended target for the attack, and suggested the possibility of a mistaken target, given orange exterior colour of the Highgate Hotel at the time which may have caused confusion, though this theory was speculative and not supported by direct evidence.⁶¹⁷

1.113 Attempt to interview Ncamazana:

⁶¹³ Transcript of Proceedings, Day 1, 27 January 2025, p. 57.

⁶¹⁴ Transcript of Proceedings, Day 1, 27 January 2025, pp. 58–59.

⁶¹⁵ Transcript of Proceedings, Day 1, 27 January 2025, pp. 58–59.

⁶¹⁶ Transcript of Proceedings, Day 1, 27 January 2025, pp. 59–60.

⁶¹⁷ Transcript of Proceedings, Day 1, 27 January 2025, pp. 59–61.

1.113.1 Captain Peterson attempted to interview Ncamazana, who had been convicted for involvement in the Da Gama attack and linked to APLA. Ncamazana refused to speak to Peterson, allegedly stating he did not talk to white men.⁶¹⁸ Captain Peterson believed that Ncamazana might have knowledge about APLA's involvement or lack thereof in the Highgate Massacre. Captain Peterson noted that Nel had previously interviewed Ncamazana in 2016 but was also unsuccessful in obtaining information.⁶¹⁹

1.113.2 Ncamazana, who is currently incarcerated in Mdantsane Prison, had applied for amnesty regarding the 1994 grenade incident but not the 1993 Highgate Massacre.⁶²⁰

1.114 Alleged Vlakplaas presence in East London:

1.114.1 Captain Peterson testified that a farm near the Highgate Hotel had been locally referred to as "Vlakplaas 2." It was used as accommodation and a base of operations by security forces, though its official name was different. He confirmed the farm existed but had not been used for many years. While he could not trace the current owner, Peterson understood that the government had acquired it after the apartheid era.⁶²¹

1.115 Explanation of 'C10' in the docket:

1.115.1 Captain Peterson explained that 'C10' refers to page 10 in the investigation diary section of the police docket, which logs actions, statements, and

⁶¹⁸ Transcript of Proceedings, Day 1, 27 January 2025, pp. 61–62.

⁶¹⁹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 61–62.

⁶²⁰ Transcript of Proceedings, Day 1, 27 January 2025, pp. 62–63.

⁶²¹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 63–64.

findings by the investigating officer. It is part of the C-clip or C-section of the docket.⁶²² He had obtained relevant information at C10 of the diary.

1.116 Arrest and release of Mama:

1.116.1 Captain Peterson confirmed that Mr Mtutuzeli Ntura Mama (“**Mama**”) had been arrested after three witnesses identified him in a photo ID parade. However, the matter was later withdrawn due to insufficient evidence.⁶²³

1.116.2 Hair and blood samples were taken from Mama, but DNA testing revealed no match, and he was not linked to the relevant blood group.⁶²⁴

1.117 List of deceased witnesses:

1.117.1 Captain Peterson confirmed the deaths of several witnesses, including Swarts, Wilton and Nessie Jameson, Maxwell Nkeli, Patricia Vogl (“**Vogl**”), Zieg, Gontshi, Vernon Baatjie, Rossouw, Holloway, Carol Ann Gower, Lieutenant-Colonel Delanya, and Els.⁶²⁵

1.118 Confirmation of scene photographs and building alterations:

1.118.1 Captain Peterson confirmed that the photographs shown to him were indeed of the Highgate Hotel and noted that the venue still existed but had undergone minor alterations, such as wall removal and door adjustments.⁶²⁶

1.118.2 The orange colour described earlier referred to sections around windows and the building's upper exterior, which had since been repainted multiple times.⁶²⁷

⁶²² Transcript of Proceedings, Day 1, 27 January 2025, p. 65–66.

⁶²³ Transcript of Proceedings, Day 1, 27 January 2025, p. 65.

⁶²⁴ Transcript of Proceedings, Day 1, 27 January 2025, pp. 65–66.

⁶²⁵ Transcript of Proceedings, Day 1, 27 January 2025, pp. 67–68.

⁶²⁶ Transcript of Proceedings, Day 1, 27-01-2025, p. 68.

1.119 Concerns over the quality of the initial investigation:

1.119.1 Captain Peterson took over the investigation in August 2021 and reviewed the existing police docket. He expressed dissatisfaction with the quality of the earlier investigation, especially the state of the statements, some of which were not signed or commissioned. He felt that more thorough investigative steps could have been taken, particularly regarding crime scene analysis.⁶²⁸

1.119.2 However, he acknowledged the difficulty of judging prior efforts without having been involved at the time.⁶²⁹

1.120 History of investigating officers:

1.120.1 Captain Peterson confirmed that Bossr was in charge of the investigation from 1–2 May 1993, as recorded in entries C1 to C13 of the investigation diary.⁶³⁰

1.120.2 He confirmed that Bossr is deceased and that he never discussed the case with him. Captain Peterson noted that he knew Bossr from previous work but not in relation to this case. Swarts then took over from 3–12 May 1993, as reflected in entries C13 to C43. Captain Peterson did not know Swarts personally.⁶³¹

1.120.3 Thereafter, Els held the docket from 13 May 1994 to 5 December 1998 (entries C43 to C153). Els is also deceased. Captain Peterson knew Els from prior work engagements, both when Els was a police officer and later when he acted as a private investigator. Captain Peterson noted that Els had previously investigated a murder in Buffalo Flats in 2004 and was aware of his role in private investigations

⁶²⁷ Transcript of Proceedings, Day 1, 27 January 2025, p. 68.

⁶²⁸ Transcript of Proceedings, Day 1, 27 January 2025, pp. 70–71.

⁶²⁹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 70–71.

⁶³⁰ Transcript of Proceedings, Day 1, 27 January 2025, p. 71.

⁶³¹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 71–72.

but was unaware that Els continued working on the Highgate case after leaving the force.⁶³²

1.121 The transfer of the docket to the TRC and subsequent gaps in the investigation diary:

1.121.1 Captain Peterson acknowledged that the docket had been transferred to the TRC and that this likely caused a hiatus in the investigation. He confirmed that during this period, no police officer was actively working on the case since the docket was not in their possession.⁶³³

1.121.2 The entry in the investigation diary simply notes that the docket was with the TRC. Captain Peterson speculated that TRC investigators handled it during that time.⁶³⁴

1.122 Nel's Involvement and missing investigation diary:

1.122.1 Captain Peterson testified that Nel likely began working on the case in August 2010, not 2014 as initially assumed. Nel's investigation was registered as an inquiry in August 2010, supported by a statement from Beling dated 16 November 2010.⁶³⁵

1.122.2 It appeared that Nel must have kept a separate diary which was initially not available. However, during the course of the proceedings, Nel's diary was found on Friday, 22 August 2025. There appears to be nothing of relevance contained in the investigations that were conducted.

⁶³² Transcript of Proceedings, Day 1, 27 January 2025, pp. 72–74.

⁶³³ Transcript of Proceedings, Day 1, 27 January 2025, p. 74.

⁶³⁴ Transcript of Proceedings, Day 1, 27 January 2025, pp. 75–76.

⁶³⁵ Transcript of Proceedings, Day 1, 27 January 2025, pp. 76–77.

1.122.3 Captain Peterson confirmed that Nel received the docket from Advocate Christopher McAdam of the NPA's Priority Crimes Unit. Captain Peterson never saw the diary maintained by Nel. He confirmed that he, too, kept a separate file and digital entries in addition to the physical investigation diary.⁶³⁶

1.123 Fingerprint records and alleged blunder:

1.123.1 Captain Peterson confirmed that an entry at C6 of the investigation diary dated 2 May 1993 stated that fingerprints were lifted from the scene. However, he found no records or documentation confirming this. He contacted the LCRC office, who reported that a rainstorm had destroyed many records at their former Oxford Street premises.⁶³⁷

1.123.2 Captain Peterson called this a serious blunder, especially given the gravity of the case. He could not confirm whether the prints were never taken or were taken and then lost, but he emphasised that fingerprinting should have been a basic investigative step. The absence of these records raises serious concerns, and although Captain Peterson hesitated to allege that something suspicious must have taken place, he acknowledged the gravity of the omission.⁶³⁸

1.124 Possibility of fingerprint tampering or negligence:

1.124.1 Captain Peterson agreed that it was highly unusual for fingerprint records to be missing in a case of this magnitude. A further diary entry at C55, dated 27 May 1993, noted that fingerprints and palmprints were taken from potential suspects and handed to LCRC, with an elimination report pending.⁶³⁹

⁶³⁶ Transcript of Proceedings, Day 1, 27 January 2025, pp. 76–77.

⁶³⁷ Transcript of Proceedings, Day 1, 27 January 2025, p. 79.

⁶³⁸ Transcript of Proceedings, Day 1, 27 January 2025, pp. 79–82.

⁶³⁹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 87–88.

1.124.2 Captain Peterson confirmed that this suggested that comparison prints existed, making the absence of those records even more troubling. While he acknowledged that the victims and public might suspect a cover-up, he refrained from making such an assertion himself. However, he did concede that negligence, at the very least, played a role and did not exclude the possibility of more sinister motives.⁶⁴⁰

1.125 Other forensic evidence and missing statements:

1.125.1 Captain Peterson confirmed that blood samples had been taken at the scene and from victims, but no conclusive matches were made to any suspect. He also addressed the absence of several statements, including that of Swarts, which should have been A1 in the docket. The original docket lacked this and several other documents (A50–A55), likely due to years of duplication and transfers, especially during the TRC process.⁶⁴¹

1.125.2 Captain Peterson reported these omissions to the NPA. Despite some recovered documents, such as the affidavit of Michael George Kramer (A2), others remained missing, which he acknowledged as problematic given their potential significance.⁶⁴²

1.126 Warrants of arrest and unexecuted documents:

1.126.1 Captain Peterson noted that warrants of arrest were issued for Lungisa Ntintile (“**Ntintile**”), Thembelani Xundu (“**Xundu**”), Xolile Ngxabane (“**Ngxabane**”), and Dumisile Nontshokweni (“**Nontshokweni**”) (entries C61–C63), but there was no indication that they were ever executed.⁶⁴³

⁶⁴⁰ Transcript of Proceedings, Day 1, 27 January 2025, pp. 88–91.

⁶⁴¹ Transcript of Proceedings, Day 1, 27 January 2025, pp. 95–97.

⁶⁴² Transcript of Proceedings, Day 1, 27 January 2025, p. 97.

⁶⁴³ Exhibit E p61-63.

1.126.2 These were also among the missing items in the docket (A51–A53). Captain Peterson confirmed not having any personal involvement with these warrants and was unaware of their outcomes.⁶⁴⁴

1.127 Other police officers and conclusion of proceedings:

1.127.1 Captain Peterson mentioned that he had no direct dealings with Captain Wayne Xavier Rutters (“**Rutters**”) and Warrant Officer Henry Roos (“**Roos**”) in relation to this matter, although he knew them professionally. The court adjourned until the following day. A video and *in loco* inspection of the Highgate Hotel scene were planned for the next session.⁶⁴⁵

1.128 Review of Missing Statements and Documentation:

1.128.1 Captain Peterson resumed his testimony regarding various gaps in the investigation docket. He confirmed that he was unable to locate a statement by Rutters, despite entries in the diary suggesting that Sergeant Ritter had interviewed witnesses René Naudé and Bruce Murray Arnott (“**Arnott**”) and shown them identikits.⁶⁴⁶

1.128.2 Captain Peterson could not confirm whether Rutters had ever produced a formal statement and noted that the docket did not contain one. Similarly, he was unaware of any statement from Roos, who had allegedly also received suspect identifications. Peterson confirmed that Rutters was still alive and that Roos, believed to be retired, had not been seen by him in years. Peterson undertook to follow up on the availability of both individuals.⁶⁴⁷

⁶⁴⁴ Transcript of Proceedings, Day 1, 27 January 2025, pp. 99–100.

⁶⁴⁵ Transcript of Proceedings, Day 1, 27 January 2025, pp. 100–101.

⁶⁴⁶ Transcript of Proceedings, Day 2, 28 January 2025, p. 8.

⁶⁴⁷ Transcript of Proceedings, Day 2, 28 January 2025, pp. 8–11.

1.128.3 Peterson addressed questions surrounding the affidavit of Lieutenant Colonel WJ De Lange (“**De Lange**”), which was referenced in the docket as being filed under number A51. He stated that he had never found this affidavit in the docket and had also reported this absence in a memorandum to the Director of Public Prosecutions.

1.128.4 He explained that the referenced warrants (entries C61-C63) pertained to another matter unrelated to the Highgate Hotel incident, and that it was common practice at the time for unrelated entries to be duplicated across various dockets. Captain Peterson confirmed that the individuals listed under those warrants had no discernible link to the Highgate Massacre.⁶⁴⁸

1.129 Clarification on missing statements and witnesses:

1.129.1 Captain Peterson confirmed that he could not locate a statement from Rutters, nor could he confirm whether Roos had made a statement. However, he indicated that Rutters was still alive and believed Roos had recently retired. Captain Peterson agreed to follow up to verify their status and determine if either had made any statements.

1.129.2 He noted that Rutters had reportedly taken statements from René Naudé and Arnott and showed them identikits, but no corroborating statement by Rutters was found. He also could not locate a statement from De Lange, despite its listing in the docket at entry C63,⁶⁴⁹ and numbered A51. Captain Peterson clarified again that warrants referred to in the entry had nothing to do with the Highgate Hotel incident but were related to other cases, which was common practice at the time.⁶⁵⁰

1.130 The APLA Files and absent references to Highgate Massacre:

⁶⁴⁸ Transcript of Proceedings, Day 2, 28 January 2025, pp. 12–13.

⁶⁴⁹ Exhibit E.

⁶⁵⁰ Transcript of Proceedings, Day 2, 28 January 2025, pp. 8–12.

1.130.1 When asked about the so-called "APLA files" located in the docket under A23 and A24, Captain Peterson described these as records of known APLA operatives, their numbers, crimes, training locations, and internal debriefings from various operations. He found references to numerous APLA-related attacks, including Yellowwood, Bahá'í Church, Heidelberg, and Queenstown.⁶⁵¹

1.130.2 However, while these files referenced incidents such as the Yellowwood, Bahai Church, and Queenstown attacks, there was no reference to the Highgate Massacre. Captain Peterson admitted that this omission struck him as odd, particularly given the patterns of soft target attacks by APLA documented elsewhere and the detailed nature of the files.⁶⁵²

1.131 Other missing documents and observations:

1.131.1 Captain Peterson confirmed that he could not locate the statement of Peter Henning, who was referenced in C18 of the investigation diary as having phoned in a tip about recognising an individual from a newspaper photograph - he reportedly called the Berlin Tea Room after identifying someone from a newspaper photo. He confirmed that he did not find any corresponding affidavit.

1.131.2 He also could not find identikits or related photo documents referenced at entries B8, B9, and B12. Peterson indicated that photos of Mama and Ntintili existed but was unaware of any other photo sets.

1.131.3 Furthermore, he confirmed no inquest docket was ever prepared for the Highgate Massacre despite repeated entries in the docket by commanding officers, particularly Swarts, instructing that such a docket be prepared. Peterson attributed

⁶⁵¹ Transcript of Proceedings, Day 2, 28 January 2025, pp. 13–14.

⁶⁵² Transcript of Proceedings, Day 2, 28 January 2025, pp. 13–14.

this failure to neglect by the investigating officers and a broader breakdown in the chain of command.⁶⁵³

1.131.4 Despite multiple written directives between June and August 1994 to begin preparing the inquest docket, including instructions to type witness statements, the docket was never finalised or submitted.⁶⁵⁴

1.131.5 Captain Peterson elaborated on the processes that should have been followed by commanders and investigators regarding the inquest. He described standard procedures involving brought-forward registers, regular docket reviews, and the preparation and submission of statements.

1.131.6 He reviewed various entries between June and August 1994 (C129 to C134), (entries in the investigation diary referring to inquest preparations initiated by Swarts and later followed up by Els). These entries repeatedly showed instructions to prepare the inquest and replies noting it would be done, yet it was never completed. He found this inexplicable, especially as statements were reportedly being typed, a process that should not have taken as long as claimed.⁶⁵⁵

1.131.7 Captain Peterson characterised this as a clear neglect of duty and found it deeply concerning, especially considering the impact on victims' families and the decades-long delay in holding a formal inquest.⁶⁵⁶

1.132 Interaction with the NPA and inquest failure:

1.132.1 Further diary entries revealed that the docket had been forwarded to the Attorney General's office between November 1994 and January 1995. Captain

⁶⁵³ Transcript of Proceedings, Day 2, 28 January 2025, pp. 15–17.

⁶⁵⁴ Transcript of Proceedings, Day 2, 28 January 2025, pp. 15–16

⁶⁵⁵ Transcript of Proceedings, Day 2, 28 January 2025, pp. 19–25.

⁶⁵⁶ Transcript of Proceedings, Day 2, 28 January 2025, pp. 17–25.

Peterson confirmed that the Attorney General (AG) reviewed the docket, but there were no recorded instructions or follow-up investigations.

1.132.2 A note from 24 November 1994 indicated the AG's interest in perusing the docket, followed by a return entry on 26 January 1995 noting that the AG had reviewed the file but made no recommendations for further investigation.⁶⁵⁷

1.132.3 He reiterated his view that this failure to act compounded the investigative shortcomings and contributed to the prolonged delay in holding an inquest.⁶⁵⁸

1.132.4 Captain Peterson speculated that the docket might have been submitted alongside unrelated cases (such as Cambridge CR473/03/94 and Fort Jackson CR42/03/94), further contributing to confusion. These matters were undergoing trial preparations. Nonetheless, he agreed with the assessment that the Highgate matter was not appropriately prioritised, either by investigators or prosecutorial authorities at the time.⁶⁵⁹

1.133 Missing exhibits and unexecuted warrants of arrest:

1.133.1 Addressing exhibit logs from the crime scene, Peterson acknowledged a lack of inventory corresponding to items submitted to SAP13 registers by Sergeant van Rooyen and Sergeant Wade. He also confirmed that there were no statements from either officer to clarify what those exhibits were.

1.133.2 He also reiterated that he could not confirm the existence or execution of warrants for Ntintile, Xundu, Ngxabane, and Nontshokweni or others mentioned in C61 and C63, nor their links to the Highgate Massacre. He acknowledged that while some individuals were linked to other cases, there was no clear connection to the Highgate Massacre.

⁶⁵⁷ Transcript of Proceedings, Day 2, 28 January 2025, p. 26.

⁶⁵⁸ Transcript of Proceedings, Day 2, 28 January 2025, pp. 26–27.

⁶⁵⁹ Transcript of Proceedings, Day 2, 28 January 2025, pp. 28–29.

1.133.3 Only Mama had been arrested in connection with the Highgate Massacre.⁶⁶⁰

1.134 Absence of forensic evidence:

1.134.1 Captain Peterson referred to early investigation notes (C6 and C10), which mentioned fingerprint collection and the announcement of a R150,000 reward for information related to Ntintile and Xundu. While Peterson initially could not recall the reward, he later remembered seeing a fax about it and promised to search for the document. He confirmed that while there were similarities in modus operandi between Highgate and other APLA-linked attacks, such as Yellowwood Hotel and King William's Town, there was no direct link established.⁶⁶¹

1.135 Missed witness opportunities and record system failures:

1.135.1 Captain Peterson confirmed that he had failed to meet a potential witness in Grahamstown despite intentions to do so alongside Weber. He also elaborated on the transition from manual to electronic record systems, noting that the Highgate case was not transferred to the CAS system until 2010. This lapse complicated access and tracking of the case. He confirmed that this oversight, like many others in the case, raised questions about whether it was due to neglect or a lack of prioritisation.⁶⁶²

1.136 Evidence loss and absence of forensic linkages:

1.136.1 Captain Peterson confirmed that cartridges recovered from the crime scene had been lost in 1995 during transport via registered mail to the Cape Town Post Office. A case was opened (Caledon Square CR1163/07/95), but nothing was recovered. He agreed that the absence of forensic evidence, fingerprints, cartridges,

⁶⁶⁰ Transcript of Proceedings, Day 2, 28 January 2025, pp. 30–33.

⁶⁶¹ Transcript of Proceedings, Day 2, 28 January 2025, pp. 34–36.

⁶⁶² Transcript of Proceedings, Day 2, 28 January 2025, pp. 36–39.

or blood evidence severely hampered the case. The only surviving physical evidence was the projectile removed from Beling.⁶⁶³

1.137 Interview with Petzer and potential misinformation:

1.137.1 Peterson confirmed that he interviewed Petzer after Beling shared messages suggesting Petzer had prior knowledge of the Highgate Massacre. Petzer denied having said this, citing heavy drinking as a reason he may have written such things without recalling them. Peterson said he eventually took a statement from Petzer reflecting that denial.⁶⁶⁴

1.138 Intervention by the NPA and withheld interview with former Brigadier:

1.138.1 Captain Peterson confirmed that during September 2021, he had been investigating a potential lead involving a well-connected elderly man in Pretoria, reportedly a former brigadier called Brigadier Jac Buchner, who has extensive knowledge of third-force and APLA activities during apartheid.

1.138.2 He told Beling that he had intended to interview the man. However, on the way to the meeting, he received a call from the NPA and was instructed to report instead to their head office. There, he met with three people, including a person named Madeleine, identified as Madeleine Fullard ("**Fullard**") from the Missing Persons Task Team.

1.138.3 Fullard allegedly refused to permit Captain Peterson to interview the brigadier, although no explanation was given. Peterson confirmed that while he had not been officially blocked, he had not received any assistance or access to the man and remained without the name or address, which was held by Fullard.

⁶⁶³ Transcript of Proceedings, Day 2, 28 January 2025, pp. 49–52.

⁶⁶⁴ Transcript of Proceedings, Day 2, 28 January 2025, pp. 53–56.

1.138.4 He stressed the importance of the interview, given the man's reputed knowledge of APLA, ANC, and third-force dynamics, and expressed frustration that the investigation was being hindered.⁶⁶⁵

1.139 Request for Court intervention to secure an interview:

1.139.1 It was requested that the Court should assist in ensuring that the investigating officer is permitted to interview the retired brigadier, especially since the Missing Persons Task Team does not have legal authority to prevent a police investigator from pursuing a lead. It was emphasised that if the man holds information relevant to the Highgate Massacre, it would be essential for the Court to hear it before the close of the inquest.⁶⁶⁶

1.139.2 Captain Peterson agreed, reiterating that the man reportedly had deep knowledge of liberation forces and covert operations. He stressed that any insights he could provide might be crucial. However, he confirmed that he remained reliant on Fullard for the man's contact details and had yet to receive them, despite multiple efforts.

1.139.3 The Court sought clarity on the identity and confirmed that Captain Peterson only knew the man's rank and surname, not his full details or location.⁶⁶⁷

1.140 Follow-Up on access to key witness and the role of Fullard:

1.140.1 Captain Peterson confirmed that he had attempted to gain access to a high-ranking witness in Pretoria who might have had valuable information about the Highgate Massacre. He explained that the initiative originated when Captain Dastile, involved in an unrelated investigation, mentioned an upcoming visit to interview a general who could potentially assist.

⁶⁶⁵ Transcript of Proceedings, Day 2, 28 January 2025, pp. 57–59.

⁶⁶⁶ Transcript of Proceedings, Day 2, 28 January 2025, pp. 59–60.

⁶⁶⁷ Transcript of Proceedings, Day 2, 28 January 2025, pp. 60–61.

1.140.2 Peterson expressed his interest in speaking with this general regarding the Highgate Massacre. Arrangements were made for Peterson to join Captain Dastile and Warrant Officer Bobby on the trip to Pretoria.

1.140.3 Peterson stated that before the trip, they were instructed to first meet with Fullard, who was believed to possess the contact details of the general. He emphasised that they could not set up an appointment with the witness beforehand due to not having the necessary address.

1.140.4 Once in Pretoria, they met with Fullard at the offices of the NPA and the Missing Persons Task Team. Several individuals were present, although Captain Peterson could not recall all their names. He described the meeting as informal and open, such that anyone nearby could have overheard their conversation. During the meeting, they were informed that the interview with the general would not proceed.⁶⁶⁸

1.141 The fate of the original docket and timeline of submissions:

1.141.1 Captain Peterson confirmed that the investigation docket was passed through various hands over the years. He stated that after affidavits were prepared for the inquest, the docket was submitted in 1997. He could not definitively confirm whether the original docket was sent to the TRC, but based on entries in the investigation diary (particularly in section C), he inferred that the original likely remained behind, as these entries continued through 1998 in original handwriting.⁶⁶⁹

1.141.2 He surmised that perhaps a copy had been sent to the TRC or the High Court.⁶⁷⁰

⁶⁶⁸ Transcript of Proceedings, Day 3, 29 January 2025, pp. 3–5.

⁶⁶⁹ Transcript of Proceedings, Day 3, 29 January 2025, pp. 7–8.

⁶⁷⁰ Transcript of Proceedings, Day 3, 29 January 2025, pp. 8–9.

1.141.3 Captain Peterson was shown pages C151 to C153 of Exhibit E and confirmed that the original handwritten entries suggested the main docket had not been removed from SAPS custody. He was unable to confirm who had handled the TRC file or when the docket was returned from the TRC. Regarding the departure of Els from SAPS to become a private investigator, Captain Peterson stated that he had the date on record but could not recall it at the hearing. He estimated it was sometime between 1998 and 2000.⁶⁷¹

1.142 Uncertainty over inquest directive and procedural authority:

1.142.1 Captain Peterson was asked whether a formal directive had ever been issued to initiate an inquest into the Highgate Massacre. He recalled that at the time, such a directive would typically have been required from a magistrate's court rather than the attorney general. However, he could not confirm whether such a directive had in fact been issued.⁶⁷²

1.143 Review of investigation diary entries and TRC classification:

1.143.1 Captain Peterson was directed to a note at the bottom of page C153 by Lieutenant Colonel Mahlangu, which queried whether there was any evidence in the investigation. On page C154, a response from Nel simply noted the entry and referred to the matter as a "CATS enquiry" (Crimes Against the State), further describing it as a TRC case. Peterson confirmed that Nel did not explicitly respond to the question of whether there was any evidence in the docket. The remaining points from Lieutenant Colonel Mahlangu were merely acknowledged without elaboration.⁶⁷³

1.143.2 Captain Peterson confirmed that Lieutenant Colonel Mahlangu had likely received the docket for inspection and instructed that the matter be finalised with a

⁶⁷¹ Transcript of Proceedings, Day 3, 29 January 2025, pp. 8–10.

⁶⁷² Transcript of Proceedings, Day 3, 29 January 2025, pp. 9–10.

⁶⁷³ Transcript of Proceedings, Day 3, 29 January 2025, pp. 10–13.

brought-forward date. Nel registered the case as a TRC matter but did not engage further on evidentiary content.⁶⁷⁴

1.144 Context of subsequent investigations:

1.144.1 Captain Peterson testified regarding the ongoing investigations linked to the matter before the court. He confirmed attending a meeting with counsel where specific requests were made about the Askari unit, a local unit involved in the investigation.⁶⁷⁵

1.144.2 Other leads from family representatives were also forwarded to him and the prosecuting authority's legal team. Captain Peterson explained that there were challenges with receiving feedback due to limitations imposed on communication with legal representatives of families and victims.⁶⁷⁶

1.144.3 These instructions reportedly came from their commander and were consistent with prior directives dating back to 2021 involving communication protocols with retired officers from the human rights department.⁶⁷⁷

1.145 Restrictions on communication and investigation process:

1.145.1 Captain Peterson described a specific instruction prohibiting investigating officers from communicating directly with victims' attorneys or family members. All communication had to be routed exclusively through the appointed State advocates.⁶⁷⁸

⁶⁷⁴ Transcript of Proceedings, Day 3, 29 January 2025, pp. 12–13

⁶⁷⁵ Transcript of Proceedings, Day 11, 24 March 2025, p. 3.

⁶⁷⁶ Transcript of Proceedings, Day 11, 24 March 2025, p. 4.

⁶⁷⁷ Transcript of Proceedings, Day 11, 24 March 2025, pp. 4–6.

⁶⁷⁸ Transcript of Proceedings, Day 11, 24 March 2025, p. 4.

1.145.2 This restriction caused some frustration because it limited direct contact with complainants and potentially hindered the flow of information essential to the investigation.

1.145.3 Captain Peterson expressed commitment to the investigation despite these restrictions but acknowledged the difficulty of working under such conditions, especially when divided between multiple investigations, including other unrelated matters.⁶⁷⁹

1.146 Issues of security and suspicious incidents:

1.146.1 Peterson detailed an incident in Cape Town where he and his team felt they were being followed, which he reported to Colonel Ripa. Additionally, another event involved visiting a witness, Petzer, whose nervousness and being forewarned of Peterson's visit suggested possible leaks or surveillance affecting the investigation.⁶⁸⁰

1.146.2 Peterson noted these suspicious activities raised concerns about the security of the investigative process and the safety of witnesses.⁶⁸¹

1.147 Challenges with leaks and internal communication:

1.147.1 Peterson confirmed that any leaks regarding his schedule and investigation could not have come from the families or their legal representatives, as none had access to such details. Instead, he suspected internal leaks within the police or the investigation office itself.

⁶⁷⁹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 5–9.

⁶⁸⁰ Transcript of Proceedings, Day 11, 24 March 2025, p. 6.

⁶⁸¹ Transcript of Proceedings, Day 11, 24 March 2025, pp. 6–7.

1.147.2 This was supported by the fact that only select individuals within his office knew his movements, and there was a need to safeguard the investigation from such breaches.⁶⁸²

1.148 Coordination with legal representatives and authorities:

1.148.1 Peterson indicated that up to a recent date, he had been working closely and transparently with legal representatives on both sides of the case, keeping them updated on progress and developments.

1.148.2 However, the instruction to cease direct communications came suddenly and was unclear in origin or rationale.

1.148.3 This created obstacles in conducting a smooth investigation and raised concerns about the overall cooperation expected in such matters.⁶⁸³

1.149 The distinction between instructions and communication:

1.149.1 Peterson explained that the instruction received should not be confused with prohibiting the exchange of information or suggestions between complainants, their attorneys, and the investigators.

1.149.2 Rather, it concerned formal instructions on how feedback and directives were to be relayed, specifically through State advocates.

1.149.3 He emphasized the need for the court to clarify and potentially rescind any instruction that unduly restricts the investigation or victim liaison responsibilities of police officers, to avoid victimisation or discrimination of officers doing their duties.⁶⁸⁴

⁶⁸² Transcript of Proceedings, Day 11, 24 March 2025, pp. 10–12.

⁶⁸³ Transcript of Proceedings, Day 11, 24 March 2025, pp. 5–6.

⁶⁸⁴ Transcript of Proceedings, Day 11, 24 March 2025, pp. 19–20.

1.150 Specific Case Issues: Identity Confusion:

1.150.1 Peterson narrated an incident involving confusion over witness identity, where two individuals, including Ncamazana, were involved.

1.150.2 Ncamazana appeared before the court, but the person Peterson had initially interviewed, who had refused to talk to him, was different.

1.150.3 This confusion caused complications and required additional verification. Peterson confirmed he followed up to confirm the correct identity of the person who appeared in court, which was indeed the intended witness.⁶⁸⁵

1.151 Subsequent evidence/feedback on further evidence:

1.151.1 Captain Peterson returned to provide further evidence on 11 August 2025 regarding investigative efforts undertaken during the adjournment period.

1.151.2 His testimony focused on attempts to trace and interview former Askari unit members stationed in East London, following up on witness leads, and the continuing challenges in locating key individuals who might shed light on the Highgate Massacre.

1.152 Investigation into Former Askari Unit Members:

1.152.1 Tracing Efforts and Results:

- (a) Captain Peterson testified that he had received a list of 84 former Askaris, from which 13 names were identified as having been placed at the East London unit. His extensive investigation efforts yielded limited results due to incorrect

⁶⁸⁵ Transcript of Proceedings, Day 11, 24 March 2025, pp. 15–17.

or missing identification numbers and duplicate service numbers within the system.⁶⁸⁶

- (b) Of the 13 East London Askari members identified, Captain Peterson was only able to successfully trace and interview three individuals:

MS Fukazi - traced and statement obtained two weeks before his testimony;

MP Oliphant - traced in Vereeniging and statement obtained;

WG Twala - traced and interviewed, though he maintained he was stationed at Vlakplaas, not East London.

- (c) Several others were confirmed deceased, including XVN Busani and MM Sonchancha. Captain Peterson discovered anomalies in the records, noting that MT Nkombhela and MM Sonchancha appeared to be using the same identification number and service number, suggesting either identity confusion or deliberate obfuscation.⁶⁸⁷

1.152.2 Investigative Rationale:

- (a) Captain Peterson explained the significance of pursuing the Askari leads, stating that a scenario had been sketched whereby former Askaris might have been involved in the attack due to receiving their retrenchment packages on 1 May 1993, the very day of the massacre. The theory suggested they might have been upset about being summarily dismissed after years of doing the dirty work for

⁶⁸⁶ Transcript of Proceedings, Day 15, 11 August 2025, pp. 46–47.

⁶⁸⁷ Transcript of Proceedings, Day 15, 11 August 2025, pp. 46–47.

the apartheid regime, with few benefits and prospects. They may also have been upset by the differential amounts allocated to different members, with some receiving substantially smaller payouts than the white officers.⁶⁸⁸

1.153 Key Witness Accounts:

1.153.1 MP Oliphant:

- (a) Captain Peterson confirmed that MP Oliphant acknowledged being a former APLA member who later became an Askari. However, Oliphant proved difficult during the interview, insisting on consulting with the APLA veteran hierarchy before signing any statement. He claimed to have left the Askari unit in 1991, yet had received a cheque on the relevant date, providing contradictory explanations about the payment being sent to Sanlam. Captain Peterson noted that Oliphant would "go around in circles the whole time" during questioning.⁶⁸⁹
- (b) Following his interview with Captain Peterson, Oliphant made contact with Mphahlele, confirming his former APLA membership and raising questions about his potential knowledge of the attack.⁶⁹⁰

1.153.2 MS Fukazi:

- (a) Captain Peterson recommended Fukazi as the more credible witness, describing him as "straightforward" in his responses about what occurred and the workings of the

⁶⁸⁸ Transcript of Proceedings, Day 15, 11 August 2025, pp. 51–52.

⁶⁸⁹ Transcript of Proceedings, Day 15, 11 August 2025, pp. 53–54.

⁶⁹⁰ Transcript of Proceedings, Day 15, 11 August 2025, p. 53.

unit. Fukazi confirmed that all Askaris received their cheques at Vlakplaas, corroborating Twala's account.⁶⁹¹

1.153.3 WG Twala:

- (a) Twala maintained he was never stationed in East London but at Vlakplaas in Pretoria, only visiting East London occasionally for specific operations. He confirmed that all Askaris received cheques (not cash) at Vlakplaas in 1993. When presented with the revenge attack theory, Twala expressed scepticism, stating he did not understand why Askaris would attack the hotel, as everyone had received their cheques.
- (b) However, he acknowledged that while members were unhappy with their payouts, they could not voice disapproval due to fear of Eugene de Kock. Significantly, he noted that one of his former Askari colleagues was involved in the Bahai Church attack, making it difficult to definitively rule out Askari involvement.⁶⁹²

1.154 Follow-up on Outstanding Witness Leads:

1.154.1 Hermanus Van der Wilt ("**Van der Wilt**")-

- (a) Captain Peterson reported persistent difficulties in securing an interview with Van der Wilt, identified by Weber as potentially having information about the attack. Despite multiple attempts to meet on Friday and Saturday before his testimony, Van der Wilt repeatedly claimed unavailability. Peterson arranged for Gonubie detectives to

⁶⁹¹ Transcript of Proceedings, Day 15, 11 August 2025, pp. 54–55.

⁶⁹² Transcript of Proceedings, Day 15, 11 August 2025, pp. 54–56.

collect Van der Wilt and bring him to the police station for an interview scheduled for that afternoon at 15:00.⁶⁹³

1.154.2 Bruce Arnold-

- (a) Captain Peterson successfully traced Bruce Murray Arnold ("**Arnold**"), who had been present at the Highgate Hotel during the attack, to Frere Hospital. However, Arnold was in the intensive care unit's oncology ward with terminal cancer affecting his entire body, including his brain. Medical staff refused Peterson access due to Arnold's critical condition, with little hope for recovery.⁶⁹⁴

1.154.3 Bayman Lombard-

- (a) International efforts to locate Bayman Lombard in England continued through Interpol channels. Colonel Naidoo, who initially assisted, had fallen ill and was replaced by Wimpie Nel. Despite ongoing communication with counterparts in England, no substantive feedback had been received. Arrangements for a potential virtual meeting were being prepared pending the location of Lombard.⁶⁹⁵

1.154.4 Other Missing Witnesses:

- (a) Peterson reported being unable to locate-

The Smith brothers, who were present during the attack;

The two women who worked at the Guild Theatre; and

⁶⁹³ Transcript of Proceedings, Day 15, 11 August 2025, pp. 48–49.

⁶⁹⁴ Transcript of Proceedings, Day 15, 11 August 2025, pp. 49–50.

⁶⁹⁵ Transcript of Proceedings, Day 15, 11 August 2025, pp. 57–58.

Three individuals who were telephoned on the night of the attack were suspected of possible involvement.

- (b) The investigation employed various tracing methods, including hospital notifications and traffic department driver's licence searches, with limited success.⁶⁹⁶

1.155 Status of Key Investigators:

1.155.1 Nel:

- (a) Captain Peterson confirmed that Nel, who had previously led the investigation, was now on pension and "extremely sick with cancer." Despite multiple attempts at telephonic contact and messages through Nel's former commander, no response had been received. Nel's former commander confirmed he was "not doing well at all, and physically he's not in a good place."⁶⁹⁷

1.156 Systemic Challenges Identified:

1.156.1 Captain Peterson's testimony revealed several systemic obstacles hampering the investigation:

- (a) Record-keeping failures: Duplicate service numbers, incorrect identification numbers, and missing records prevented tracing of key witnesses;
- (b) Witness availability: Key witnesses were either deceased, critically ill, or deliberately evasive;

⁶⁹⁶ Transcript of Proceedings, Day 15, 11 August 2025, pp. 49–51.

⁶⁹⁷ Transcript of Proceedings, Day 15, 11 August 2025, p. 51.

- (c) International coordination delays: Interpol processes for locating overseas witnesses remained slow and uncertain; and
- (d) Historical document gaps: The absence of proper identification records for Askaris suggested either poor administration or deliberate obfuscation.

1.157 Recommendations for Further Action:

1.157.1 Captain Peterson indicated his intention to:

- (a) Continue attempts to secure cooperation from MP Oliphant and MS Fukazi for court testimony;
- (b) Persist with the interview of Van der Wilt through local detective assistance;
- (c) Maintain contact with Interpol regarding Bayman Lombard's location; and

1.158 Issue subpoenas if necessary to compel witness attendance. Further subsequent evidence / further feedback on evidence:

1.158.1 On 1 September 2025, Captain Peterson provided comprehensive testimony regarding the ongoing investigative efforts into the Highgate Massacre since the previous sitting of the inquest.

1.158.2 His evidence addressed multiple critical areas:

- (a) The investigation into former Askari unit members who may have been involved in the attack;
- (b) The status of various witness subpoenas and attempts to secure testimony;

(c) The discovery of previously missing investigation documentation; and

(d) The systematic challenges that continue to hamper the investigation more than three decades after the Massacre.

1.159 Investigation into former Askari unit members:

1.159.1 Captain Peterson testified extensively about his investigation into former members of the Askari unit.

1.159.2 Of the Askari members identified, Captain Peterson was only able to successfully trace and interview three individuals: Fokazi, who was traced and provided a statement two weeks before the testimony; Oliphant, who was traced in Vereeniging and eventually provided a statement after considerable resistance; and Twala, who was traced and interviewed, though he maintained he was stationed at Vlakplaas in Pretoria rather than East London.⁶⁹⁸

1.159.3 The Askari members essentially denied awareness of and involvement in the Highgate massacre.

1.160 Twala:⁶⁹⁹

1.160.1 As stated, Twala maintained that he was never based in East London.

1.160.2 He furthermore stated that he was shot in his left leg and lost his leg below the hip, though when questioned about the circumstances surrounding this shooting incident, Peterson noted that "he was quite all over the place whilst being questioned" and "never explained" the circumstances.

⁶⁹⁸ Transcript of Proceedings, Day 18, 1 September 2025, pp. 4–11.

⁶⁹⁹ Exhibit VV, Statement of Wilson Goodman Twala.

1.160.3 When asked whether Twala was questioned as to whether he lost his leg in a Vlakplaas operation, Captain Peterson could not recall whether this was asked/answered.

1.160.4 Twala made it explicitly clear that there was a group of individuals working with Eugene de Kock, and if anyone queried anything, including the retrenchment cheque amounts, they would not see the light of day the next day - a chilling indication of the climate of fear within the unit.⁷⁰⁰

1.160.5 Twala required two statements to be taken, as he was unhappy with the first version. The revision involved removing references to Vusani, another Askari who was killed in what Twala claimed was related to another matter in Mthatha. Twala felt this had nothing to do with Highgate and wanted it removed from his statement, though the fact that Vusani was deployed in East London and the shooting incident occurred in the Transkei raised questions about potential connections.

1.160.6 Significantly, he noted that Vusani (as mentioned above) was involved in the Bahai Church attack, making it difficult to definitively rule out Askari involvement in similar operations.⁷⁰¹

1.161 Fokazi:⁷⁰²

1.161.1 Fokazi confirmed he was transferred to a farm in East London, which he described as being located just past the Johnson & Johnson factory, approximately 4-5 kilometres from the Highgate Hotel. This proximity is significant as those travelling to and from the farm would have regularly passed by the Highgate Hotel, giving unit members familiarity with the location. He was based at this facility until 1993/4, with his primary task being to identify Freedom Fighters and turn them into informants or assets. The farm had no formal name.

⁷⁰⁰ Transcript of Proceedings, Day 18, 1 September 2025, p. 23.

⁷⁰¹ Transcript of Proceedings, Day 18, 1 September 2025, pp. 18–23.

⁷⁰² Exhibit WW, Statement of Mvimbi Susan Fokazi.

1.161.2 Fokazi mentioned that Sergeant Fourie confirmed there was no specific designation/name for the farm.

1.161.3 During the consideration of Fokazi's statement, a connection emerged regarding De Lange:

- (a) Fokazi identified De Lange as having been in the Security Branch at the time.
- (b) Importantly, De Lange was in the photo that was presented in court to witnesses on various occasions in an attempt to identify the individuals appearing in it.⁷⁰³
- (c) Captain Peterson confirmed that an investigation diary entry dated 14 June 1993 indicated that a statement was received from De Lange. However, despite this entry, the actual statement could not be located.⁷⁰⁴ He stated that it was among the documents/statements that were lost and that they were unable to trace, as previously mentioned in his testimony.⁷⁰⁵

1.161.4 Fokazi's statement also mentioned other handlers, including Grant Fourie ("**Fourie**") and Kenny Koopman ("**Koopman**"), with Captain Peterson confirming he had obtained a statement from Fourie and was attempting to locate Koopman, who was believed to be in the area.

1.161.5 Fokazi described being called to Pretoria Vlakplaas and informed that the unit was closing, though he could not confirm the exact date or whether this was before or after the Highgate Massacre.

⁷⁰³ Exhibit F1 and F2.

⁷⁰⁴ Investigation diary, C63.

⁷⁰⁵ Transcript of Proceedings, Day 18, 1 September 2025, p. 25.

1.161.6 He also could not confirm details about the Highgate Massacre itself or whether police officers frequented the establishment.

1.161.7 Most significantly, he revealed that individuals from the unit were involved in attacks after the unit's official closure, with such members being arrested for involvement in, for instance, the Bahai Church incident and the Heidelberg attack.

1.161.8 Despite this admission of unit members' involvement in attacks on soft targets where civilians were killed, Fokazi paradoxically claimed that they would not have attacked the Highgate as they were tasked with ensuring a peaceful transition.

1.161.9 Captain Peterson noted the irony of this statement, given Fokazi's other admissions about unit members' involvement in civilian attacks.⁷⁰⁶

1.162 Oliphant:⁷⁰⁷

1.162.1 Oliphant's statement revealed he was stationed in East London and was arrested in Soutpansberg. Captain Peterson understood Oliphant was still part of APLA at the time of his arrest, representing someone who had transitioned from a liberation movement to a security force asset.

1.162.2 During 1992, Oliphant was involved in a shooting incident for which he was found guilty of culpable homicide and sentenced to 5 years in prison, though the sentence was suspended and never served. Captain Peterson could not confirm the specific nature of this incident or in what capacity Oliphant was acting at the time.⁷⁰⁸

1.162.3 Koopman and Lieutenant Cobus Smith ("**Smith**") were also mentioned by Oliphant, in respect of which Captain Peterson confirmed that he found Smith and that he would be approached.

⁷⁰⁶ Transcript of Proceedings, Day 18, 1 September 2025, pp. 30–31.

⁷⁰⁷ Exhibit YY, Statement of Petrus Mokankamane Olifanti.

⁷⁰⁸ Transcript of Proceedings, Day 18, 1 September 2025, pp. 12, 29–30.

1.162.4 Oliphant refused to come to court, with even the NPA office's attempts through Advocate Coltman failing to secure his attendance.⁷⁰⁹

1.163 Discovery of Nel's investigation diary:

1.163.1 Captain Peterson reported a significant breakthrough in locating Nel's investigation diary,⁷¹⁰ which had been missing from the docket. After extensive searching, making numerous phone calls to contacts in Pretoria, and "scratching around" various archives, the diary was finally located.⁷¹¹

1.163.2 The diary contained two distinct parts: investigations conducted during the COVID period (marked C1 to C9) and the second part, which was when the investigator opened a new file (marked C1 to C60).

1.163.3 Despite the diary containing many entries regarding Nel's discussions with Els about Els' steps during his investigation, Captain Peterson noted an omission: there were no notes about Els telling Nel about any structure in the Eastern Cape or other critical information Els claimed to have communicated.⁷¹²

1.164 Investigation into Arnott⁷¹³

1.164.1 Captain Peterson's own statement was read into the record, in respect of his investigation into Arnott, who was present at the Highgate Hotel on the night of the attack but fortuitously left before the Massacre occurred.

1.164.2 According to Peterson's investigation, Arnott arrived back at the scene as Lombard was shooting at the attackers, placing him as a witness to the immediate aftermath.⁷¹⁴

⁷⁰⁹ Transcript of Proceedings, Day 18, 1 September 2025, pp. 3–4.

⁷¹⁰ Exhibits ZZ, ZZZ, Investigation Diary of Benjamin Nel.

⁷¹¹ Transcript of Proceedings, Day 18, 1 September 2025, p. 11.

⁷¹² Transcript of Proceedings, Day 18, 1 September 2025, p. 12.

⁷¹³ Exhibit XX, Statement of Captain Vaughn William Peterson.

⁷¹⁴ Transcript of Proceedings, Day 18, 1 September 2025, p. 16.

1.165 Status of subpoenas and witness availability:

1.165.1 Captain Peterson provided updates on attempts to secure witness testimony through subpoenas. He confirmed that subpoenas had been issued to the former Askaris, though the investigation team could only make contact with them on the Friday before the hearing (29 August 2025).

1.165.2 He clarified that because they were only recently issued, warrants of arrest could not be executed in these circumstances, limiting the court's ability to compel testimony.

1.165.3 Fokazi was contacted on Friday and Saturday (29 & 28 August 2025), with Saturday being the last time they spoke before Fokazi ceased all communication, even on the morning of the testimony.

1.165.4 When the NPA office, through Advocate Coltman, attempted to contact Oliphant, he explicitly refused to come to court.⁷¹⁵

1.166 Outstanding investigative matters

1.166.1 Captain Peterson detailed numerous outstanding investigative matters that remained unresolved:

- (a) Dave Toyeh was confirmed to be in East London, and although Captain Peterson approached the Moth Club, he indicated that he would approach Toyeh too;
- (b) Wayne Bezuidenhoudt's details were being compiled for follow-up and would be provided;
- (c) The national archives had been checked for APLA files, but nothing relevant was found. Captain Peterson explained that photos and names had been extracted from national

⁷¹⁵ Transcript of Proceedings, Day 18, 1 September 2025, pp. 3–4.

archives regarding what was described as the Askaris' "terrorist album," though this yielded only a couple of photographs with numbers on the back, far less than the comprehensive identification resource described by other witnesses.

- (d) Former General Jac Buchner's description of the album, which contained four photos of individuals from the investigation diary with numbers on the front of the page and names at the back of the page, did not match what was actually found in the archives.⁷¹⁶
- (e) The Yellowwoods case number was still being pursued as it might provide comparative evidence.⁷¹⁷
- (f) International Efforts to Locate Lombard

Captain Peterson reported on ongoing international efforts to locate Lombard in England through Interpol channels.

Despite ongoing communication with counterparts in England, no substantive feedback had been received regarding Lombard's location or availability to testify.

Although he confirmed that members from Interpol were assisting well, no confirmation on testifying had yet been received.⁷¹⁸

⁷¹⁶ Transcript of Proceedings, Day 18, 1 September 2025, pp. 3–4.

⁷¹⁷ Transcript of Proceedings, Day 18, 1 September 2025, p. 32.

⁷¹⁸ Transcript of Proceedings, Day 18, 1 September 2025, pp. 33, 37.

Kelvin Cecil Swartbooi.⁷¹⁹

1.167 Background and expertise

1.167.1 Kelvin Cecil Swartbooi (“**Swartbooi**”) testified that he is a Captain in the South African Police Service with 34 years of service. He currently works at East London LCRC as a fingerprint expert, crime scene investigator, and forensic field worker. He received fingerprint expert status on 7 April 2000 after completing extensive training, including courses in forensic fingerprints, advanced AFIS, and digital photography. He holds a bachelor's degree in forensic investigation from UNISA (2018). He emphasised the challenges faced during the investigation, notably the delay between the incident and the commencement of the official investigation, which hampered the collection and preservation of evidence.⁷²⁰

1.167.2 Swartbooi emphasised that he was not involved in the original 1993 Highgate Hotel investigation. At that time, he was working at Fleet Street Police Station and had no connection to the case. He was only asked to examine the fingerprint evidence on 27 January 2025, the first day of the inquest.⁷²¹

1.168 Discovery and analysis of preserved fingerprint evidence

1.168.1 On 27 January 2025, Colonel de Moy requested that Swartbooi search the archives for fingerprint exhibits with IR number 212/0/1993. He located a deteriorated fluorine envelope containing seven pieces of black folien used for fingerprint lifting. The envelope was marked "Highgate Hotel" with Sergeant Naude listed as the fingerprint expert.⁷²²

⁷¹⁹ Exhibit X, Statement of Kelvin Cecil Swartbooi.

⁷²⁰ Transcript of Proceedings, Day 12, 25 March 2025, pp. 28–29.

⁷²¹ Transcript of Proceedings, Day 12, 25 March 2025, pp. 30–31, 73–74.

⁷²² Transcript of Proceedings, Day 12, 25 March 2025, pp. 31–32.

1.168.2 Upon examination, Swartbooi discovered that while the folien pieces were intact, the actual fingerprints had disappeared from the folien surface. He explained that the aluminium powder used in 1993 had degraded over time, and the fingerprints were "sucked into the fluorine and not visible to the naked eye anymore".⁷²³

1.168.3 Inside the envelope, Swartbooi found photographic prints taken of the original fingerprints in 1993. These photographs, created by using darkroom techniques, showed palm prints despite significant deterioration. From these, he identified four usable palm prints that could be scanned into AFIS.⁷²⁴

1.169 AFIS analysis and results

1.169.1 Swartbooi scanned the four recovered palm prints into the AFIS. He explained that AFIS contains fingerprints of all convicted persons and recent arrestees dating back to before 2000. The system ran searches against its entire database.⁷²⁵

1.169.2 Unfortunately, no matches were found for any of the palm prints. Swartbooi confirmed that these prints remain in the system as "unsolved latents" and would generate an alert if matching prints are ever entered into AFIS in the future.⁷²⁶

1.169.3 He examined elimination prints taken from Mama, who was arrested in connection with the case in 1993. After thorough manual comparison and verification

⁷²³ Transcript of Proceedings, Day 12, 25 March 2025, pp. 33, 37.

⁷²⁴ Transcript of Proceedings, Day 12, 25 March 2025, pp. 38–39.

⁷²⁵ Transcript of Proceedings, Day 12, 25 March 2025, pp. 40–42, 48–49.

⁷²⁶ Transcript of Proceedings, Day 12, 25 March 2025, pp. 49–51, 56–57.

by Captain van Heerden, Swartbooï confirmed that Mama's prints did not match any of the recovered palm prints.⁷²⁷

1.170 Expert opinion on investigation shortcomings

1.170.1 Under cross-examination, Swartbooï was asked about the quality of the fingerprint investigation. While defending Sergeant Naude as "one of the best" investigators, he acknowledged significant gaps in the forensic examination.⁷²⁸

1.170.2 Regarding the 56 AK-47 cartridges recovered at the scene, Swartbooï agreed they should have been examined for fingerprints. When pressed for his professional opinion, he stated that if he had done the crime scene, he would have fingerprinted it. He noted that at least some cartridges could have been tested while preserving others for ballistics analysis.⁷²⁹

1.170.3 Swartbooï similarly agreed that the grenade lever and the tear gas canister lever should have been fingerprinted. He acknowledged that sweaty hands in heightened emotional states often leave good prints on such surfaces. When asked directly if this was a blunder, he confirmed: "*I would have fingerprinted it.*"⁷³⁰

1.170.4 He explained that standard procedure requires taking elimination prints from all persons present at a crime scene, including survivors and staff. No evidence exists that such prints were taken from Highgate Hotel patrons or staff, which Swartbooï acknowledged was a significant investigative gap.⁷³¹

1.171 Commentary on investigation documentation

⁷²⁷ Transcript of Proceedings, Day 12, 25 March 2025, pp. 52–55, 113–114.

⁷²⁸ Transcript of Proceedings, Day 12, 25 March 2025, pp. 70–71.

⁷²⁹ Transcript of Proceedings, Day 12, 25 March 2025, pp. 97–104.

⁷³⁰ Transcript of Proceedings, Day 12, 25 March 2025, pp. 105–108. Transcript of Proceedings, Day 12, 25 March 2025, pp. 118–120.

⁷³¹ Transcript of Proceedings, Day 12, 25 March 2025, pp. 58, 60–61, 92–93.

1.171.1 Swartbooi reviewed social media posts by Stassen, who supervised the original crime scene investigation. While declining to comment extensively, Swartbooi stated he was "shocked" by some of Stassen's statements defending the investigation, given the clear gaps in fingerprint collection.⁷³²

1.171.2 When shown a list of approximately 64 persons of interest mentioned in the investigation diary, which is Exhibit "L", Swartbooi noted that only Mama's elimination prints were found in the archives. He could not explain why other elimination records were missing, but suggested they may have been destroyed after no matches were found, as was sometimes the practice.⁷³³

*Christiaan Milton Botha:*⁷³⁴

1.172 Christiaan Milton Botha ("**Botha**") testified on 6 February 2025. His evidence, led by Advocate Govender on behalf of the State, covered both his background as a former police reservist and private investigator, and his indirect involvement in investigating the 1993 Highgate Hotel attack alongside the late Els.

1.173 Professional background and relationship with Els

1.173.1 Botha provided a detailed professional history, including his registration with the Private Security Industry Regulatory Authority ('PSIRA') and numerous high-profile investigations. He met Els around 2005 through a mutual acquaintance. Els had previously served in the SAPS Murder and Robbery Unit and the Scorpions and claimed to have been unlawfully dismissed from the latter. Botha explained that he asked Els to assist in investigations due to his expertise. Although Botha did not

⁷³² Transcript of Proceedings, Day 12, 25 March 2025, pp. 105–108.

⁷³³ Transcript of Proceedings, Day 12, 25 March 2025, pp. 114–116, 119–120.

⁷³⁴ Exhibit T, Statement of Christiaan Milton Botha.

personally open a file on the Highgate matter, he was aware of and occasionally assisted Els and Molokome in related inquiries.⁷³⁵

1.174 Allegations regarding Third-Force and Hammer Unit:

1.174.1 Botha testified that Els told him he had been part of a national task team investigating various APLA-related attacks, including the Highgate Hotel shooting. According to Els, the attack at Highgate did not fit the modus operandi of APLA and was likely carried out by a covert group within the SADF, namely the Hammer Unit. Botha recalled that Els found the attackers' tactics too professional to be the work of APLA. Elements such as precision shooting, the use of tear gas for retreat, and the attackers' appearance were inconsistent with previous APLA operations.⁷³⁶

1.175 Investigative activities and interactions with victims:

1.175.1 Botha recounted visits and investigations carried out with Els, including meeting victims such as Beling. They later collaborated with Carte Blanche for a documentary segment on the Highgate Massacre. During the filming, Els allegedly identified Gerhard Lotz, a former Security Branch officer implicated in other apartheid-era crimes, conducting surveillance. This sighting reinforced Els' suspicion of state involvement.⁷³⁷

1.175.2 Botha stated that Els became increasingly consumed with proving that the SADF Hammer Unit was responsible for the attack. Although no direct mandate had been given by victims or families, Els pursued leads passionately. One of these included the alleged confession by a former Hammer Unit member to Molokome and Els in Cape Town in 2009. The informant, later identified by Molokome as

⁷³⁵ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 1–5.

⁷³⁶ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 6–12.

⁷³⁷ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 13–14.

Grobbelaar, reportedly admitted to participating in the attack and named Colonel Piet Hall as the commanding officer who issued the order.⁷³⁸

1.176 Contested evidence and inconsistencies

1.176.1 Botha conceded that most of his testimony was hearsay and based on Els' accounts. He was not present during key moments, including the Cape Town meeting or the alleged discussion with Colonel Hall in Port Elizabeth. Notably, Botha initially believed no formal meeting had occurred, but this conflicted with Molokome's affidavit, which described a planned and executed meeting. Botha acknowledged the discrepancy and attributed his uncertainty to the passage of time and his limited involvement.⁷³⁹

1.177 Third-Force theory and alleged cover-ups:

1.177.1 Botha reiterated that Els believed the Highgate Massacre was meant to derail CODESA negotiations and was orchestrated by elements within the state security apparatus. He referenced sightings of SADF-issued grenades and teargas, though he conceded under questioning that this evidence was speculative and contradicted by expert testimony. Botha admitted that his claims lacked corroborating documentation and were based on conversations with Els.⁷⁴⁰

1.178 Reflection on Els' Conduct and Unanswered Questions:

1.178.1 The consistency of Els' commitment was questioned, especially given evidence that he delayed preparing an inquest docket while still in the SAPS. Botha found this difficult to reconcile with the diligent investigator he had known, suggesting that perhaps Els experienced a change of heart after leaving the service.

⁷³⁸ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 41–43.

⁷³⁹ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 47–50.

⁷⁴⁰ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 30–32.

Botha admitted that he never saw the full extent of Els' documentation and could not confirm whether a report had been submitted to the NPA.⁷⁴¹

1.179 Other investigative efforts:

1.179.1 Botha recalled participating in a police-assisted search for alleged footage of the Highgate attack. No such footage was found. He also stated that Els and Molokome never shared photographic evidence of a supposed mock-up of the Highgate Hotel used for training by the Hammer Unit, which he found strange. Botha concluded that while he believed Els acted with genuine intent, many of the claims remain uncorroborated.⁷⁴²

1.179.2 Botha resumed his testimony on 6 February 2025, continuing from where proceedings had paused earlier that day. His evidence during this session focused on the conduct and credibility of his former colleague, Els, the procedural handling of investigative material, and interactions with various individuals purportedly connected to the Highgate Massacre investigation.

1.180 Concerns regarding the legality of the search warrant and the recovered tapes:

1.180.1 Botha confirmed that a search warrant had been obtained with the assistance of Warrant Officer Potgieter, who also participated in the search. However, Warrant Officer Potgieter was not an investigator on the relevant docket, nor did he speak to the primary source, Beling, before applying for the warrant. Botha acknowledged the concern that, typically, only the investigating officer should apply for a search warrant based on firsthand knowledge and an affidavit to a magistrate. Botha admitted that current standards are more stringent than those at

⁷⁴¹ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 35–36.

⁷⁴² Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 54–55.

the time and stated that the tapes recovered, mostly pornographic, held no evidentiary value.⁷⁴³

1.181 Strained business relationship with Els and alleged misconduct:

1.181.1 Botha detailed a personal and professional breakdown between himself and Els. He testified that Els had taken money from a client behind his back, which constituted a breach of trust and led to the dissolution of their business relationship. When questioned about Els' disappearance after supposedly obtaining suspect names, Botha agreed that this behaviour was suspicious and inconsistent with someone pursuing justice. He admitted being unaware of Els avoiding the family and that Els primarily communicated with the family, not Botha.⁷⁴⁴

1.182 Scepticism about Els's credibility and handling of evidence:

1.182.1 It was put to Botha that Els was not a reliable individual, especially given his contradictory accounts to different parties, failure to follow through on commitments, and unexplained disappearance. Botha ultimately agreed, stating that in hindsight, Els's conduct, including the possible manipulation of information, undermined his credibility.

1.182.2 He further stated that while he had once looked up to Els, he now understood that Els might have given false hope and failed to deliver substantiated information.⁷⁴⁵

1.183 On the alleged statement by Els and its missing status:

1.183.1 Botha confirmed that a draft statement typed on his laptop and attributed to Els, which referenced third-force involvement, was never signed or

⁷⁴³ Transcript of Proceedings, Day 9, Part 2, 6 February 2025, pp. 56–59.

⁷⁴⁴ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 61–64.

⁷⁴⁵ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 66–68.

commissioned. He could not recall commissioning the document, despite his name and the date appearing on it. When confronted with the possibility that Els never submitted this statement to the SAPS, Botha acknowledged this was likely. He emphasised that such a document, given its implications, should have been directed to and filed with the SAPS.⁷⁴⁶

1.184 Discussion on missing case file and Els's investigative duties:

1.184.1 Botha testified that he had no knowledge of what happened to any physical file Els may have compiled. He stated that Els was supposed to handle such documentation and that any submission to the police was Els's responsibility. Botha also confirmed that he had served a lawyer's letter on Els after the latter solicited money from clients without authorisation, further indicating the breakdown of trust between them.⁷⁴⁷

1.185 Questions by the Court and clarification on amnesty and affiliation:

1.185.1 In response to questions from the Court, Botha confirmed that he had been a reservist and commissioner of oaths during 2007, the date that appears on the alleged statement by Els. However, he insisted that he had no recollection of commissioning the document.⁷⁴⁸

1.185.2 Advocate Govender noted that no such signed statement exists in the docket and concluded that Els likely never followed through with submitting it.⁷⁴⁹

1.186 Evaluation of the Hammer Unit theory and use of secondary sources:

⁷⁴⁶ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 68–76.

⁷⁴⁷ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 72–74.

⁷⁴⁸ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 74–75.

⁷⁴⁹ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 74–76.

1.186.1 Botha admitted that his belief in Hammer Unit involvement was based largely on what Els told him and on articles like the one by Sam Sole. He conceded that Sole's article did not mention the Highgate Massacre. Botha also repeated unverified claims, such as sightings of former Security Branch officer Gerhard Lotz, to support the theory. He accepted that his knowledge was second-hand and that he had no direct evidence.⁷⁵⁰

1.187 Clarification on explosives and arms access:

1.187.1 Earlier evidence regarding the hand grenade used in the Highgate Massacre was clarified, and it was stated that even though it was of Soviet origin, the SADF and security forces had access to Soviet-made weapons for covert operations. He cited TRC records and arms cache incidents to support this assertion.⁷⁵¹

1.188 Final reflections:

1.188.1 Botha ultimately conceded that while he had previously believed in the leads provided by Els, the inconsistencies, failure to follow through, and absence of tangible evidence rendered those claims unreliable.

1.188.2 He acknowledged the importance of not raising false hope and the need for proper evidentiary standards when dealing with such serious allegations.⁷⁵²

*Swele Frans Molokome:*⁷⁵³

1.189 Molokome testified on 6 February 2025. His evidence primarily concerned his involvement in the private investigations conducted by Els

⁷⁵⁰ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 64, 85–87.

⁷⁵¹ Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 82–84.

⁷⁵² Transcript of Proceedings, Day 9, Part 1, 6 February 2025, pp. 84–88.

⁷⁵³ Exhibit D, Statement of Swele Frans Molokome, pp. 9–10.

into the Highgate Massacre and the alleged information obtained from a man named Wayne Grobbelaar, who claimed to have been involved in the attack as a member of the Hammer Unit.

1.190 Initial Contact with Wayne Grobbelaar (“**Grobbelaar**”) and First Meeting in East London

1.190.1 According to Molokome, Els informed him that they would be meeting a man with information about the Highgate Hotel attack. Molokome accompanied Els to a Wimpy restaurant in Gonubie, East London, where they met Grobbelaar. Molokome stated that Grobbelaar claimed to have driven the vehicle used during the attack and identified himself as a member of the Hammer Unit.

1.190.2 Grobbelaar further alleged that the order to attack the Highgate Hotel had been given by Hall and named several other individuals as participants, including Major General CP van der Westhuizen, Andries Struwig, Carel Komme, Captain FP du Preez, Sergeant Major MD Gomm, and Gideon van der Merwe.⁷⁵⁴

1.191 Second encounter with Grobbelaar in Cape Town:

1.191.1 Following the East London meeting, Molokome and Els travelled to Cape Town approximately a week after they visited Port Elizabeth.

1.191.2 They met Grobbelaar at his home, where he allegedly repeated the same claims made during their initial meeting. After a brief conversation, the group shared a braai, and no further substantive discussion or documentation was produced.⁷⁵⁵

1.191.3 Prior to their Cape Town visit, Molokome and Els went to Port Elizabeth to follow up on Grobbelaar’s claims. They obtained contact details for Hall through the

⁷⁵⁴ Transcript of Proceedings, Day 9, Part 2, 6 February 2025, pp. 95–104; Exhibit D, Statement of Swele Frans Molokome, pp. 9–10.

⁷⁵⁵ Transcript of Proceedings, Day 9, Part 2, 6 February 2025, pp. 117–118.

SADF offices near the harbour and arranged a meeting. Hansie Meyer (“**Meyer**”), a then-serving police officer with the SAPS gang unit, accompanied them. The meeting took place at a bar frequented by former military personnel.

1.191.4 Molokome stated that he remained at a distance of about 8–10 metres as an observer while Els and Meyer engaged Hall. He testified that when Els presented a photo album containing images from the Highgate crime scene, Hall abruptly ended the meeting and left with his bodyguards. Molokome interpreted this behaviour as avoidance or discomfort on Hall's part.⁷⁵⁶

1.192 Handling of investigative material and lack of follow-through:

1.192.1 Molokome confirmed that Els had kept a file and notes relating to the Highgate Massacre investigation, including Molokome's own pocketbook, but he did not know what became of these materials. He did not personally file or submit any documents to Botha, their employer at the time, and could not confirm whether Els ever did so.

1.192.2 Molokome also acknowledged that Grobbelaar never submitted an affidavit nor agreed to testify, merely stating he would “think about it.” Despite the severity of Grobbelaar’s allegations, no formal statement was ever produced or submitted to the SAPS.⁷⁵⁷

1.193 Lack of communication with Christiaan Milton Botha and omission in affidavit:

1.193.1 Molokome admitted that critical details of the Port Elizabeth meeting, including Hall's alleged reaction to the crime scene photographs, were omitted from his affidavit provided to Nel in 2012. He attributed this omission to memory lapse

⁷⁵⁶ Transcript of Proceedings, Day 9, Part 2, 6 February 2025, pp. 109–114.

⁷⁵⁷ Transcript of Proceedings, Day 9, Part 2, 6 February 2025, pp. 105–108.

and the passage of time. He also acknowledged that Els had been responsible for reporting to Botha and that he was not privy to what, if anything, had been relayed about the Hall meeting.⁷⁵⁸

1.193.2 Molokome's testimony highlighted several concerns regarding the unverified and informal nature of the investigative work conducted by Els. His evidence, underscored the absence of formal documentation, corroborating evidence, or clear investigative procedure.

1.194 Meeting with Grobbelaar:

1.194.1 Molokome confirmed that he had accompanied Els on trips to East London, Port Elizabeth, and Cape Town, where they met a man identifying himself as Grobbelaar.

1.194.2 Molokome recognised a photograph of Grobbelaar taken in 2011 as the person they had met. Despite Grobbelaar later denying any interaction with Molokome, the latter remained confident in his identification.⁷⁵⁹

1.195 Failure to obtain statements and to follow up:

1.195.1 Molokome recalled that Grobbelaar initially indicated he would consider providing a statement to the SAPS but ultimately never committed to doing so. Els had told Molokome he would follow up, but to Molokome's knowledge, no further contact was made.

1.195.2 Although Els had stated he would take a formal statement from Molokome to corroborate their discussions with Grobbelaar, this never occurred. The only statement Molokome gave was in 2012, upon request by Nel.⁷⁶⁰

⁷⁵⁸ Transcript of Proceedings, Day 9, Part 2, 6 February 2025, pp. 114–116.

⁷⁵⁹ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 120–124.

1.196 Alleged training structure:

1.196.1 Molokome stated that he had never personally seen the alleged training structure resembling the Highgate Hotel, which Els reportedly saw. He was aware of its existence only through Els, who never indicated when or by whom he was shown the structure.

1.196.2 He confirmed that this information was not documented or photographed by Els and that no such evidence had been made available. Molokome agreed this was irregular for an experienced investigator.⁷⁶¹

1.197 Professional background and internal communication:

1.197.1 Molokome reiterated that he had worked with Botha as an investigator and had prior experience as an undercover agent for murder and robbery units.

1.197.2 He confirmed the importance of documenting findings and was surprised that Botha was unaware of the training structure, suggesting poor internal communication between investigators.⁷⁶²

1.198 Denial of Beling's account:

1.198.1 Molokome denied ever visiting an open field or receiving details from an unnamed individual regarding instructions for the Highgate operation, contrary to the account given by Beling.

1.198.2 He also stated that Els would occasionally travel alone but had no recollection of any such incident occurring during their Port Elizabeth mission.⁷⁶³

⁷⁶⁰ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 124–127.

⁷⁶¹ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 128–134.

⁷⁶² Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 132–134.

1.199 Lack of communication with families:

1.199.1 Molokome admitted that while he expected Els to follow up and draft a report, he had never seen such a document and could not explain the lack of communication between Els and the families.⁷⁶⁴

1.199.2 He acknowledged the importance of transparency and regretted the missed opportunity to clarify what had been uncovered.⁷⁶⁵

1.200 Allegations against high-ranking officials:

1.200.1 Molokome confirmed that Grobbelaar named several individuals purportedly involved in the Highgate Massacre, including Hall and Major General Joffel van der Westhuizen.

1.200.2 He accepted that the participation of such high-ranking officers was unusual and expressed surprise upon learning that some had left the Eastern Cape command before the attack.

1.200.3 Despite Hall's statement denying any knowledge of Els or Molokome, the latter insisted that it was indeed Hall whom he had met at the Eastern Province Command bar.⁷⁶⁶

1.201 Role of Hansie Meyer and post-Cape Town contact:

1.201.1 Molokome explained that he and Els had been accompanied by SAPS member Meyer during their visit to meet Hall. Meyer's presence was requested by Els for additional support.

⁷⁶³ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 135–139.

⁷⁶⁴ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 140–142.

⁷⁶⁵ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, p. 141.

⁷⁶⁶ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 143–145.

1.201.2 When asked why Els may have broken off contact with the families following the Cape Town trip, Molokome denied any knowledge of intimidation or external threats and described Els as a determined individual who would not have been easily dissuaded.⁷⁶⁷

1.202 Lack of follow-up on Highgate leads:

1.202.1 Despite continuing to work with Botha after the Cape Town mission, Molokome did not recall further discussion of the Highgate Massacre investigation. He acknowledged that the failure to properly document and report findings significantly undermined the credibility of the investigation.

1.202.2 In response to the Court's questions, Molokome reiterated that Grobbelaar had said the individuals named were involved in the Highgate Massacre, but he could not confirm their exact roles.⁷⁶⁸

1.203 Failure to compile reports:

1.203.1 During re-examination by Advocate Govender, Molokome confirmed that while it was standard practice to draft reports with Botha after investigations, no such report was compiled regarding the Cape Town and Port Elizabeth trips.

1.203.2 He never saw a report and relied solely on Els's word that one had been drafted. Molokome was ultimately excused from the witness stand.⁷⁶⁹

⁷⁶⁷ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 146–147.

⁷⁶⁸ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 147–149.

⁷⁶⁹ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 149–151.

*Alan Douglas Elsdon:*⁷⁷⁰

1.204 Elsdon's evidence focused on his relationship with Els, the allegations of a cover-up surrounding the Highgate Massacre investigation, and his concerns regarding the SAPS and NPA.

1.205 Background and relationship with Els:

1.205.1 Elsdon testified that he joined the South African Police in East London in 1973 and served in various roles over two decades, including detective, drug squad member, and as an investigator in the Security Branch from 1977. He was also trained as a cryptographer and had access to highly classified information from the SADF and the Bureau of State Security ("**BOSS**"). After resigning from the SAPS, he pursued private investigations and authored a book titled *The Tall Assassin*, which investigated unsolved political murders in South Africa.⁷⁷¹

1.205.2 He explained that he befriended former Els in 2014, when both were working on separate murder investigations, including the Inge Lotz, Jessica Wheeler, and Victoria Stadler cases. During this collaboration, Els confided in him about his frustrations around the Highgate Massacre case. According to Elsdon, Els claimed he had been prevented by SAPS superiors from fully investigating the massacre and alleged that a covert SADF group known as the Hammer Unit was responsible. Els had reportedly identified this group as operating under the Eastern Province Command in Port Elizabeth and told Elsdon that attempts to investigate it had been met with hostility from within the SAPS.⁷⁷²

1.206 Claims of a cover-up and SAPS/NPA inaction:

⁷⁷⁰ Exhibit U, Statement of Alan Douglas Elsdon.

⁷⁷¹ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 152–154.

⁷⁷² Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 152–157.

1.206.1 Elsdon testified that Els became increasingly disillusioned by the resistance he faced and eventually resigned from the SAPS. He asserted that Els believed a cover-up had occurred regarding the true perpetrators of the Highgate Massacre.⁷⁷³

1.206.2 Elsdon supported this view, expressing strong criticism of the SAPS and the NPA for their lack of action and transparency. He claimed that important exhibits and statements had disappeared and that an inquest should have been held shortly after the incident, but was delayed for decades.⁷⁷⁴

1.206.3 He also alleged that a systemic alliance between the SAPS and NPA in the Western Cape had contributed to the mishandling of multiple high-profile investigations, denying victims justice. He urged that these institutions be held accountable and emphasised the need for ethical reform.⁷⁷⁵

1.207 Interaction with Captain Peterson and the Hammer Unit:

1.207.1 Elsdon testified that on 21 February 2023, Captain Peterson of the Hawks contacted him about the Highgate Massacre investigation, indicating that the NPA had instructed him to investigate. They met two days later at the SAPS offices in Stellenbosch, where Elsdon shared the information he had received from Els. He also provided Peterson with the names of two individuals reportedly linked to the Hammer Unit. Peterson assured him the leads would be pursued. However, upon following up later, Elsdon learned that no interviews had been conducted.⁷⁷⁶

1.207.2 He testified that he independently spoke to one former member of the Hammer Unit, who confirmed the existence of the unit and stated, "once a Hammer, always a Hammer," but denied any knowledge of the Highgate Massacre. This

⁷⁷³ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 156–157.

⁷⁷⁴ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 158–160.

⁷⁷⁵ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 157–160.

⁷⁷⁶ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 157–158.

individual further claimed that such an attack was not in line with the Hammer Unit's modus operandi.⁷⁷⁷

1.207.3 Elsdon found the lack of action from Peterson troubling, citing it as another example of institutional reluctance to investigate state-linked suspects.⁷⁷⁸

1.208 Challenges to Els's credibility:

1.208.1 Elsdon acknowledged that his knowledge of the Highgate Massacre investigation was entirely second-hand, based on what Els had told him. He conceded that he had no firsthand knowledge or documentary evidence to support the claim that Els had investigated the Hammer Unit while still a police officer. In fact, Elsdon was unaware that Els only came to know of the Hammer Unit after joining private investigator Botha's firm.⁷⁷⁹

1.208.2 It was pointed out to Elsdon that the official investigation diary contained no record of Els requesting permission to investigate the Hammer Unit or encountering resistance from his superiors. He further questioned why Els never submitted the docket for an inquest, despite being instructed to do so over a period of two years. Elsdon admitted this was surprising and agreed that such delays were inappropriate and undermined Els's credibility as an investigator.⁷⁸⁰

1.209 Attempt to follow up and confidential contact with victims:

1.209.1 Elsdon testified that once he learned the inquest was underway, he contacted survivor Parker to confirm whether Captain Peterson had mentioned the Hammer Unit. He asked Parker to keep their conversations confidential, fearing that broader disclosure might hinder his inquiries. Elsdon admitted that he shared his

⁷⁷⁷ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 158–159.

⁷⁷⁸ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 152–159.

⁷⁷⁹ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 159–163.

⁷⁸⁰ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 163–170.

affidavit with Parker and also shared theories regarding the nature of the Highgate Massacre.⁷⁸¹

1.209.2 Among these, he conveyed a theory, allegedly relayed to him by a former Hammer Unit member, that the massacre might have been a targeted operation disguised by multiple killings.⁷⁸²

1.209.3 He speculated that one politically left-leaning person might have been the real target, with other casualties meant to obscure the motive.⁷⁸³

1.209.4 Elsdon's decision to share theories and documents with a potential witness outside of the legal process, without notifying legal representatives, was challenged, arguing that such actions were improper and irregular. Elsdon defended his actions as personal outreach and claimed his intentions were not malicious.⁷⁸⁴

1.210 Conclusions and acknowledged limitations:

1.210.1 In conclusion, Elsdon accepted that he had no firsthand evidence identifying those responsible for the massacre or confirming the Hammer Unit's involvement. His testimony was based primarily on hearsay from Els and his own suspicions arising from perceived institutional failings.⁷⁸⁵

1.210.2 He expressed frustration over the disappearance of evidence and lack of follow-through by the SAPS and NPA and reiterated his belief that the inquest presented an opportunity to uncover the truth. He acknowledged the limitations of

⁷⁸¹ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 174–176.

⁷⁸² Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 180–181.

⁷⁸³ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 181–182.

⁷⁸⁴ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 170–185.

⁷⁸⁵ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 185–186.

his role and regretted any perception that his communications had undermined the legal process.⁷⁸⁶

1.211 Clarification of meeting with Captain Peterson:

1.211.1 Elsdon confirmed that in February 2023, he met with Captain Peterson, the current investigating officer. Elsdon claimed that he had provided Peterson with useful leads, specifically mentioning two brothers allegedly involved in the Highgate massacre and the name of a deceased former Hammer Unit member, Wayne Richardson. However, Peterson later stated in his affidavit that Elsdon had not supplied any concrete names, which Elsdon disputed. Elsdon explained that he had asked Peterson to consult a list of Hammer Unit members and locate the brothers based on their shared surname, arguing that this would be sufficient to identify them. He insisted that his hesitation to give the names outright was due to security concerns and personal distrust of SAPS and the NPA, especially based on prior experiences in the Western Cape.⁷⁸⁷

1.211.2 Elsdon eventually admitted that he had, in prior interactions, revealed the names of the brothers to the attorneys representing the families, which were later confirmed as Marius and Fanie van Zyl. One of the brothers is now deceased. He stated his willingness to provide the name of the surviving brother and additional leads to Captain Peterson in a closed session.⁷⁸⁸

1.212 Communications with Parker and concerns raised:

1.212.1 The Court addressed Elsdon's WhatsApp communications with survivor Parker. Elsdon admitted reaching out to Parker to verify whether Captain Peterson had mentioned the Hammer Unit or interviewed the two brothers. He confirmed that he sent Parker two of his published books and a report from 1994 that speculated on

⁷⁸⁶ Transcript of Proceedings, Day 9, Part 3, 6 February 2025, pp. 185–188.

⁷⁸⁷ Transcript of Proceedings, Day 10, 7 February 2025, pp. 5–11.

⁷⁸⁸ Transcript of Proceedings, Day 10, 7 February 2025, pp. 11–14.

the Hammer Unit's involvement in the Cradock Four murders. Elsdon acknowledged that this contact occurred before he realised he might testify and that he had promised to send Parker his affidavit, but refrained once he understood the implications of becoming a witness.⁷⁸⁹

1.212.2 He admitted that the timing of some of his messages preceded the development of his "single-target theory," which emerged only after a meeting on 2 February 2025 with an ex-Hammer Unit member in East London. Despite the messages referencing sensitive leads, Elsdon maintained that his motive was to determine whether his leads were pursued, not to interfere with Parker's testimony. Concerns were raised about the irregularity and potential risk of his communications with a potential witness.⁷⁹⁰

1.213 Elsdon's File and unverified leads:

1.213.1 Elsdon confirmed the existence of a personal investigative file at home containing names and information about individuals possibly linked to the massacre. He undertook to share with Captain Peterson this file and the names, including his National Intelligence ("NI") source and a woman romantically linked to one of the Van Zyl brothers.

1.213.2 He also mentioned a 1994 article connecting the Hammer Unit to the Cradock Four, which he had forwarded to Parker without independently verifying its accuracy. Advocate Govender warned that unverified information, particularly with serious implications, should not be disseminated casually, especially to potential witnesses.⁷⁹¹

1.214 Elsdon's relationship with Els and recollections of the Security Branch:

⁷⁸⁹ Transcript of Proceedings, Day 10, 7 February 2025, pp. 14–18.

⁷⁹⁰ Transcript of Proceedings, Day 10, 7 February 2025, pp. 18–24.

⁷⁹¹ Transcript of Proceedings, Day 10, 7 February 2025, pp. 28–30.

1.214.1 Elsdon reiterated his long-standing friendship with Els, who had confided his belief that a cover-up surrounded the Highgate Massacre investigation. Elsdon conceded, however, that he had never directly assisted Els in investigating the case and that Els had left the police before learning of the Hammer Unit. Elsdon also admitted that some of his assumptions were based on hearsay and not verified by official documentation.⁷⁹²

1.214.2 He spoke at length about his own background in the Security Branch and experiences with covert operations. He detailed his writing on unresolved political murders in South Africa and confirmed being targeted with a "midnight warning shot" in 1993 while working on his book *The Tall Assassin*. Elsdon testified that the failure to investigate the Highgate Massacre promptly reflected institutional failures and echoed the long-standing grievances of the victims' families.⁷⁹³

1.215 Concerns of cover-up and further information:

1.215.1 Elsdon mentioned that the Van Zyl brothers had been linked to the Highgate Massacre by a trusted NI source who urged him not to probe further due to safety concerns. He also referenced a now-deceased acquaintance, Jock Richardson, whose brother, Wayne, was allegedly a Hammer Unit member.

1.215.2 According to Elsdon, Jock Richardson feared reprisals from his brother and asked him to keep the information confidential. With both men deceased, Elsdon agreed to share the relevant information with authorities. He also noted claims about a possible training replica of the Highgate Hotel at a military base, allegedly built for practice by the Hammer Unit, but acknowledged that these stories remain unverified.⁷⁹⁴

1.216 Photographic identification and other leads:

⁷⁹² Transcript of Proceedings, Day 10, 7 February 2025, pp. 35–40.

⁷⁹³ Transcript of Proceedings, Day 10, 7 February 2025, pp. 35–37.

⁷⁹⁴ Transcript of Proceedings, Day 10, 7 February 2025, pp. 44–49.

1.216.1 Elsdon was shown two photographs (marked Exhibits F1 and F2) of security personnel outside the Highgate Hotel the morning after the Massacre. He identified two individuals as members of the Security Branch, including Glenn Schooling.

1.216.2 He requested smaller copies of the photos to consult with contacts who might identify additional individuals depicted. Elsdon also referenced a private communication in which he had attempted to meet a woman connected to one of the brothers but failed to locate her. He promised to provide her contact details to the investigators.⁷⁹⁵

1.217 Historical allegations of abuse and final interactions:

1.217.1 Elsdon was referred to a 1982 affidavit from trade unionist Sisa Njikelane in the Neil Aggett inquest, which alleged that Elsdon, along with Sergeants Fourie and Els, had beaten him in a John Vorster Square cell. Elsdon acknowledged the accuracy of the statement.⁷⁹⁶

Colonel Siphiwo Ripa:

1.218 Introduction role of Colonel Ripa:

1.218.1 Colonel Siphiwo Ripa ("**Colonel Ripa**"), Commander for Crime Against the State within the DPCI, testified on the investigative process of the Highgate Massacre inquest. He explained the unique nature of inquests as judicial investigations without prosecution, where the investigation evolves as new information emerges.⁷⁹⁷

1.219 Investigative structure and TRC cases:

⁷⁹⁵ Transcript of Proceedings, Day 10, 7 February 2025, pp. 57–60.

⁷⁹⁶ Transcript of Proceedings, Day 10, 7 February 2025, pp. 65–72.

⁷⁹⁷ Transcript of Proceedings, Day 12, 25 March 2025, pp. 1–3.

1.219.1 Colonel Ripa described the structure of the Crime Against the State unit (CATS) within DPCI, noting an increase in manpower from three to eight investigators since 2019 to handle TRC-related cases, including the Highgate Massacre case. He emphasised collaboration with the Foundation for Human Rights and the NPA, noting that prosecutions require close cooperation with the NPA to build solid cases.⁷⁹⁸

1.219.2 He explained that Captain Peterson is fully supported in his duties, including travel and field investigations, often with an assigned partner for security and procedural reasons during interviews and investigations.⁷⁹⁹

1.220 Communication issues raised and clarifications:

1.220.1 The Court raised concerns about previous reports of communication difficulties between Captain Peterson and the legal teams representing the families and survivors. Colonel Ripa acknowledged these concerns but described the need for communications to go through prosecutors to maintain clear channels and avoid misunderstandings, stressing there was no intention to hinder information flow.⁸⁰⁰

1.220.2 He gave the assurance that no communication restrictions exist that would hamper the investigative process, affirming that Captain Peterson remains fully accessible and cooperative within the existing communication protocols.⁸⁰¹

1.221 Evidence of communication challenges and resolution:

1.221.1 Recent difficulties in contacting Captain Peterson during the recess were recounted, including unanswered calls and delayed responses. He stressed that the

⁷⁹⁸ Transcript of Proceedings, Day 12, 25 March 2025, pp. 7–9.

⁷⁹⁹ Transcript of Proceedings, Day 12, 25 March 2025, pp. 8–9.

⁸⁰⁰ Transcript of Proceedings, Day 12, 25 March 2025, pp. 10–12.

⁸⁰¹ Transcript of Proceedings, Day 12, 25 March 2025, pp. 11–13.

imposed communication via NPA and not directly with the legal teams was unprecedented, inefficient, and obstructive to the investigation.⁸⁰²

1.221.2 Colonel Ripa concurred that direct communication with prosecutors should be standard but acknowledged the importance of smooth communication and the involvement of all stakeholders. He suggested meetings to resolve misunderstandings and emphasised the importance of everyone being copied into relevant communications for transparency.⁸⁰³

1.221.3 Colonel Ripa committed to ensuring that Captain Peterson's work on the inquest is prioritised.⁸⁰⁴

1.222 Working relationship with prosecutors and next steps:

1.222.1 Colonel Ripa highlighted the critical role of prosecutors in guiding the investigation and stressed that requests and communications should be routed through them to maintain investigative integrity. Advocate Govender, also present, confirmed that recent meetings with Captain Peterson have clarified outstanding issues and mapped a way forward for the investigation.⁸⁰⁵

1.222.2 Colonel Ripa assured the Court that the Highgate Massacre investigation is a priority, and any other work would be set aside to focus on this matter.⁸⁰⁶

*Dean George Venish:*⁸⁰⁷

1.223 Introduction:

⁸⁰² Transcript of Proceedings, Day 12, 25 March 2025, pp. 14–16.

⁸⁰³ Transcript of Proceedings, Day 12, 25 March 2025, pp. 16–19.

⁸⁰⁴ Transcript of Proceedings, Day 12, 25 March 2025, pp. 19–22.

⁸⁰⁵ Transcript of Proceedings, Day 12, 25 March 2025, p. 24.

⁸⁰⁶ Transcript of Proceedings, Day 12, 25 March 2025, p. 24.

⁸⁰⁷ Exhibit D, Statement of Dean George Venish, pp. 15–18.

1.223.1 Dean George Venish (“**Venish**”), a retired warrant officer in the South African Police Service, testified regarding his presence at the Highgate Hotel on the night of 1 May 1993 as one of the first police officers to arrive at the scene.

1.223.2 His testimony provided crucial evidence about the immediate aftermath of the attack and witness observations that contradicted the initial APLA attribution narrative.

1.224 Professional Background and Service History:

1.224.1 Venish testified that he joined the police service on 30 December 1987 and retired at the end of June 2024 as a warrant officer.

1.224.2 At the time of the Highgate Massacre, he held the rank of either constable or lance sergeant and had been a police officer for approximately 5-6 years.

1.224.3 He had been a dog handler since 1989, working in the dog unit based at Westbank Greenfield.⁸⁰⁸

1.225 Response to the Massacre:

1.225.1 On the night of 1 May 1993, Venish was on duty with Sergeant Mike Lombard, filling up with petrol at Cambridge Police Station, when they received news of the attack.

1.225.2 They were going off duty at the time, around 21h30 to 22h00. Upon hearing about the incident, they immediately proceeded to the Highgate Hotel with their patrol vehicle and dogs, with Lombard driving.⁸⁰⁹

1.226 Arrival at the Crime Scene:

1.226.1 Venish described arriving at the scene "coming in hot," driving very fast and exceeding the speed limit. As they came under the bridge approaching the

⁸⁰⁸ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 3–4.

⁸⁰⁹ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, p. 5.

Highgate, the area was filled with smoke and teargas that made his eyes burn immediately.

1.226.2 Due to their speed and the poor visibility from the smoke, Lombard hit the central pavement ("middel mannetjie") separating the hotel from the road, causing their vehicle to skid up onto the pavement and come down. Sand buildup prevented damage to the vehicle.⁸¹⁰

1.227 Critical Observations at the Scene:

1.227.1 Upon jumping out of the vehicle, Venish ran to the Highgate Hotel entrance steps, where he observed two men who appeared to have been in a fight. Both men were bloody, with torn clothing, and were lying on the steps, one higher up than the other. Importantly, the man at the top of the steps made a statement that would prove significant: he shouted "these bloody white oaks" or "guys" or something similar.⁸¹¹

1.227.2 Venish was about to enter the building when Lombard shouted at him not to go inside, warning about contamination of the crime scene. Other police vehicles arrived within seconds, and senior members took over the scene. Venish and Sergeant Mike Lombard were then relegated to patrolling the surrounding area.⁸¹²

1.227.3 After being pulled back from the immediate scene, Venish used his dog to search the train lines and surrounding areas on a long puppy line, though they found no visible signs, tracks, or evidence. They patrolled the area, including up towards the Summer Pride area, before going off duty the same night.⁸¹³

1.228 Delayed statement and investigation failures:

⁸¹⁰ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 5–6 & 11–13.

⁸¹¹ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 7–8 & 27–28.

⁸¹² Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 7–8.

⁸¹³ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 14–15.

1.228.1 Remarkably, Venish was never asked for a statement about the incident until 1 March 2012, nearly 19 years after the event, when Nel approached him.

1.228.2 He expressed surprise that nobody had come to take his statement earlier, stating, "I was surprised that nobody was coming."⁸¹⁴

1.228.3 Venish confirmed that he communicated what the injured man had said about "bloody whites" to other officers at the scene, including Lombard and other policemen standing around them. Despite this being potentially crucial evidence suggesting the attackers were white, no follow-up was conducted with him about this observation.⁸¹⁵

1.229 Sergeant Mike Lombard:

1.229.1 When asked about his partner that night, Venish testified that Sergeant Mike Lombard was still alive but in poor condition, consuming excessive amounts of alcohol daily. He described Sergeant Mike Lombard as starting his mornings by brushing his teeth with brandy and assessed him as mentally incapable of testifying. Venish had attempted to engage with Sergeant Mike Lombard about the incident in 2012 but found him unable to have a coherent conversation.⁸¹⁶

1.230 Record-keeping and scene presence:

1.230.1 Despite being one of the first officers at the scene, Venish believed there should have been a record of his and Sergeant Mike Lombard's presence. He testified that Sergeant Mike Lombard, as the senior sergeant, would have been required to report to a senior officer at the scene and request permission to leave, which was standard protocol. However, no such record appears to have been maintained.⁸¹⁷

⁸¹⁴ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, p. 16.

⁸¹⁵ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, p. 27 & pp. 43–44.

⁸¹⁶ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 20–21.

⁸¹⁷ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 40–42.

*Wayne Xavier Rutters:*⁸¹⁸

1.231 Introduction:

1.231.1 Rutters, a retired SAPS Captain with 35 years of service, testified regarding his limited role in the Highgate Massacre investigation.

1.231.2 As a detective sergeant in 1993, he was part of the investigative team under Major Ian Swarts (“**Swarts**”) but had no direct involvement at the crime scene.

1.231.3 His testimony primarily concerned photo identification procedures he conducted with witnesses in the immediate aftermath of the attack and highlighted critical gaps in documentation that should have been maintained.

1.232 Professional Background and Career Progression:

1.232.1 Rutters testified that he joined the SAP in 1986, initially stationed at the riot unit in East London. In 1991, he transferred to the Unrest and Violent Crimes Unit, dealing with taxi violence, necklace murders, and other violent crimes.

1.232.2 He moved to the organised crime unit in 1999, investigating stock theft and narcotics syndicates.

1.232.3 In 2008, when various units amalgamated, he became part of the Hawks, where he remained until his retirement in 2021

1.232.4 At the time of the Highgate incident in 1993, he held the rank of sergeant and worked as an investigative member of the Unrest and Violent Crimes Unit.⁸¹⁹

1.233 Role in the Highgate Investigation:

1.233.1 Rutters testified that he was part of a team investigating multiple serious crimes across the Eastern Cape, including the King William's Town Golf Club and

⁸¹⁸ Exhibit MM, Statement of Wayne Xavier Rutters.

⁸¹⁹ Transcript of Proceedings, Day 15, 12 August 2025, pp. 60–61 & 68.

Yellowwood Hotel attacks. The team worked under the command of the late Swarts, with daily taskings to obtain statements from identified witnesses or follow up on information received. He emphasised that he was never in charge of the investigation but occasionally had dockets booked out to him when Els was on leave or ill, purely for control purposes to prevent case dockets from being lost.⁸²⁰

1.233.2 Rutters confirmed he did not attend the crime scene on the night of the attack. His first visit to the Highgate Hotel occurred after the scene had been cleaned and forensics had completed their work.⁸²¹

1.234 Photo Identification Procedures:

1.234.1 Rutters conducted several photo identification procedures with witnesses in the days immediately following the attack, though he had no specific recollection of these events, given the passage of over 30 years. The witnesses included:

- (a) Arnott on 2 May 1993, who identified a person from photo album A, photograph number 6, as someone he had seen in the hotel foyer on the night of the attack;
- (b) Aileen Clark on 3 May 1993, who identified photograph number 1 from album A;
- (c) René Naude on 3 May 1993, who identified photographs 1 and 10 from album A; and
- (d) Parker on 2 May 1993, who was unable to identify anyone due to his traumatised state as a survivor.

1.234.2 Rutters accepted the accuracy of these witness statements when presented with them during testimony, but could not independently recall the specific identifications.⁸²²

⁸²⁰ Transcript of Proceedings, Day 15, 12 August 2025, pp. 63–65.

⁸²¹ Transcript of Proceedings, Day 15, 12 August 2025, p. 65.

1.235 Missing Documentation:

1.235.1 A critical issue emerged regarding the absence of Rutters' statement documenting these photo identification procedures. Under normal procedure, an officer conducting photo IDs would compile a statement detailing who was identified and where in the photo albums the identifications could be found. Rutters testified that, on the probabilities, he would have made such a statement and submitted it to the investigating officer, as was standard practice. He expressed concern that this statement was nowhere to be found in the investigation docket, particularly given the high-profile nature of the case involving five murders and multiple serious injuries.⁸²³

1.235.2 Rutters clarified that any diary entry regarding his statement would have been made by the investigating officer (Sergeant Els), not by himself. The absence of both the statement and any diary entry recording its submission raised troubling questions about the investigation's record-keeping. When asked if he found this disturbing, Rutters simply answered "Yes."⁸²⁴

1.236 Investigation diary references:

1.236.1 The investigation diary contained references to Rutters' involvement, including an entry dated 10 July 1993, noting that he had visited Welkom to conduct a photo identification with arrested suspected APLA members detained in connection with the Wesselsbron robbery.

1.236.2 The diary indicated he was working with Swarts on the continuing APLA investigation. However, Rutters could not recall specifics about this visit or whether the detained person was Brian Sibanda, as mentioned in the diary.⁸²⁵

⁸²² Transcript of Proceedings, Day 15, 12 August 2025, pp. 69–72.

⁸²³ Transcript of Proceedings, Day 15, 12 August 2025, pp. 73–75.

⁸²⁴ Transcript of Proceedings, Day 15, 12 August 2025, pp. 74–76.

⁸²⁵ Transcript of Proceedings, Day 15, 12 August 2025, pp. 64-67 & 72–73.

*Lieutenant Franswa Stassen:*⁸²⁶

1.237 Introduction:

1.237.1 Stassen served as a lieutenant and second-in-command at the LCRC in East London at the time of the Highgate Massacre. As the duty officer on the night of 1 May 1993, he was responsible for coordinating the forensic team at the crime scene.

1.237.2 His testimony addressed the forensic procedures employed at the scene, particularly regarding fingerprint collection, and revealed significant gaps in the investigation's documentation and follow-up procedures.

1.238 Professional Background and Qualifications:

1.238.1 Stassen began his police service in December 1975, initially working at the criminal record centre in Pretoria before transferring to the LCRC in Port Elizabeth. After briefly leaving the force in 1994, he rejoined a year later in Cape Town, where he assisted with training in Kimberley and Mmabatho. In 1992, he completed an officers' course and began working at the LCRC in East London as second-in-command. He eventually retired in 2001 at the rank of lieutenant-colonel.⁸²⁷

1.238.2 Stassen described himself on his LinkedIn profile as having "vast experience in investigation of fraud concerning social grants and financial misconduct" and as a "Fingerprint Expert" who had been "working with fingerprints and includes testifying as expert in courts all over South Africa for the past 30 years."⁸²⁸

1.239 Response to the Highgate Hotel Incident:

⁸²⁶ Exhibit NN, Statement of Lieutenant Franswa Stassen.

⁸²⁷ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 87–88.

⁸²⁸ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, p. 106.

1.239.1 On the evening of 1 May 1993, Stassen was on duty as the weekly duty officer when he received a call from radio control to attend the incident at the Highgate Hotel. He could not recall exactly when he arrived, but he found his team members already present: Colin Charles (videographer), Sergeant Naude (fingerprint expert), and du Plessis (photographer).⁸²⁹

1.239.2 Upon arrival, Stassen encountered what he described as "chaos" with police officers throughout the scene, injured persons on stretchers, and approximately five deceased individuals in the bar area. He immediately spoke to a brigadier (either Bergh or Swart) and requested that the scene be secured and cleared of unnecessary personnel so the forensic team could conduct their work.⁸³⁰

1.240 Forensic Procedures and Supervision:

1.240.1 Stassen testified that his role was primarily coordinating the scene rather than conducting hands-on forensic work. He gave minimal specific instructions to his team, stating that Sergeant Naude was an experienced expert who "knew what they had to do" and required little direction. Stassen only specifically instructed Naude to examine the entrance ways to the bars for fingerprints.⁸³¹

1.240.2 When questioned about whether fingerprints were taken from critical evidence such as the grenade lever, teargas canister, and spent cartridges, Stassen claimed these items required chemical processing at the office rather than standard aluminium powder used at scenes. However, he could not confirm whether this chemical processing was ever conducted.⁸³²

1.241 Contradictions and Gaps in Evidence:

1.241.1 Stassen's testimony revealed several concerning aspects of the investigation:

⁸²⁹ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 89–90.

⁸³⁰ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, p. 91.

⁸³¹ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 92–93.

⁸³² Transcript of Proceedings, Day 16 Part 2, 12 August 2025, pp. 120–121.

- (a) He claimed to have spent approximately seven hours at the scene, being "incredibly busy," yet later admitted he spent much of the time outside talking to colleagues and waiting for his team members to request assistance.⁸³³
- (b) Despite being the senior officer responsible for the forensic investigation, Stassen could not confirm whether critical evidence, such as 56 AK-47 cartridges, grenade levers, or the teargas canister, was ever fingerprinted. He repeatedly stated he would need to see the physical exhibits to determine if chemical processing had been applied.⁸³⁴
- (c) Stassen confirmed that no fingerprint expert affidavit or SAP21 form existed in the investigation diary, though he disputed whether such documentation was required.⁸³⁵
- (d) Stassen repeatedly corrected himself regarding his rank, initially stating he was a captain before correcting to lieutenant, demonstrating confusion about basic facts of his involvement.⁸³⁶
- (e) When pressed about who should ensure Naude performed his work properly, Stassen stated "Nobody" and that Naude worked "on his own time" despite Stassen outranking him.⁸³⁷
- (f) Stassen was completely unaware of the elimination process whereby fingerprints from the scene should have

⁸³³ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, p. 131.

⁸³⁴ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, pp. 131–133.

⁸³⁵ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, p. 109.

⁸³⁶ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 91–92; Day 16 Part 2, 12 August 2025, pp. 112–113.

⁸³⁷ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, pp. 121–122.

been compared with potential suspects, despite being second-in-command.⁸³⁸

1.242 The Missing LCRC Docket:

1.242.1 A significant revelation was that the LCRC's forensic docket for the Highgate massacre could not be located despite searches conducted in 2025.

1.242.2 Stassen insisted that in his 21 years as a fingerprint expert, his office had "never lost a docket" and expressed disbelief that it could not be found. He suggested the docket must still exist somewhere in the archives and claimed he could find it if given access to the office.⁸³⁹

1.242.3 Despite the magnitude of the incident, Stassen could not definitively remember whether his commander was Brigadier Bergh or Brigadier Swart.⁸⁴⁰

1.243 Social Media Commentary:

1.243.1 Stassen had posted on YouTube defending the LCRC's work on the case, stating: "Fingerprints were lifted at the scene and even suspects have been identified by the serious violent crimes unit via Els. I believe that they have all been given indemnity." However, when questioned, he could not identify these suspects or provide any evidence that fingerprints had led to identifications. He also suggested in his post that missing documentation had "either been destroyed or sold by someone."⁸⁴¹

1.243.2 Evidence showed he edited his post; an original version (Exhibit Z) and an edited version (Exhibit Z1) were presented to the court.⁸⁴²

⁸³⁸ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, p. 139.

⁸³⁹ Transcript of Proceedings, Day 16 Part 2, 12 August 2025, p. 135.

⁸⁴⁰ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, p. 92.

⁸⁴¹ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 97–99; Day 16 Part 2, 12 August 2025, p. 147.

⁸⁴² Exhibit Z & Z1.

1.243.3 He initially denied editing the post, but then admitted he "may have" tried to delete a previous version. He also suggested in his post that missing documentation had "either been destroyed or sold by someone."⁸⁴³

*Warrant Officer David Henry Roos:*⁸⁴⁴

1.244 Introduction:

1.244.1 Roos, a veteran police officer with over 40 years of service in various investigative units, testified regarding allegations of his involvement in the Highgate Hotel massacre investigation. Despite claims that he participated in taking affidavits and conducting photo identification parades at the scene, Roos categorically denied any presence at the Highgate Hotel on the night of the attack or afterwards.

1.244.2 His testimony addressed documentary evidence suggesting his involvement while maintaining that he has no recollection of participating in the investigation.

1.245 Professional History and Career Progression:

1.245.1 Roos joined the South African Police Force in 1980, initially serving in the uniform investigation unit until 1986 before transferring to the detective branch at Fleet Street Police Station. He completed detective training around 1990 and was a warrant officer at the time of the Highgate massacre in May 1993. Following the attack, he was among several young detectives called to assist with investigations due to a shortage of investigating officers.

1.245.2 His career progressed through various units, including the unrest and violent crime unit (1993-1994), the Kroon Commission of Enquiry in Umtata (1995), the organised crime investigation unit in East London (from 1995), and eventually to crime intelligence offices, where he served until retirement in 2021.⁸⁴⁵

⁸⁴³ Transcript of Proceedings, Day 16 Part 1, 12 August 2025, pp. 97–99; Day 16 Part 2, 12 August 2025, 110–111 & p. 147.

⁸⁴⁴ Exhibit QQ, Statement of Warrant Officer David Henry Roos.

⁸⁴⁵ Transcript of Proceedings, Day 17, 13 August 2025, pp. 51–52

1.246 Denial of Scene Attendance:

1.246.1 Roos definitively denied attending the Highgate Hotel crime scene on the night of 1 May 1993 or at any time afterwards. When asked if he could deny claims that he was present and assisted in taking affidavits, he stated he would "definitely be able to deny that because I was definitely not at that scene."

1.246.2 He emphasised that while he may have assisted with the investigation in some capacity, given the volume of cases at the time, he was never physically present at the hotel.⁸⁴⁶

1.247 Photo Identification Parade Documentation:

1.247.1 When presented with an investigation diary entry from Els indicating that an ID kit and photo album had been handed to "Detective Warrant Officer Roos" for showing to witnesses, Roos stated he had no recollection of this task.

1.247.2 The entry specified that the materials were to be shown to witnesses who might identify a black female seen in the public bar on the day of the attack, as well as witnesses from the Queenstown attack.

1.247.3 Despite his name appearing in the official documentation, Roos maintained he could not recall conducting any such identification procedures.⁸⁴⁷

1.248 Statement of Charles Johannes Claassen ("Claassen"):

1.248.1 Roos was shown a statement from Claassen dated 12 May 1993, which bore Roos's name as the commissioner of the statement. The statement detailed how Claassen had conducted a photo identification with Roos on 12 May 1993, during which he identified individuals he had seen at the hotel before the attack.

⁸⁴⁶ Transcript of Proceedings, Day 17, 13 August 2025, p. 53.

⁸⁴⁷ Transcript of Proceedings, Day 17, 13 August 2025, pp. 54–55.

1.248.2 Despite his name and apparent handwriting appearing on the document as the person who took the statement at 15:10 on 12 May 1993, Roos stated he could not recall taking this statement or conducting the identification parade.

1.248.3 He acknowledged it was his handwriting but maintained he had no memory of these events.⁸⁴⁸

1.249 Missing Documentation and Procedural Gaps:

1.249.1 When questioned about standard procedures, Roos confirmed that if he had conducted a photo identification parade where a witness made an identification, he would normally have created his own statement documenting the procedure and results. The absence of such a statement in the docket was acknowledged as unusual.

1.249.2 Roos could not explain why no statement from him existed if he had indeed conducted the identification parade as documented. He agreed this represented an apparent omission from normal investigative procedures, but could not account for it, given his lack of memory of the events.⁸⁴⁹

1.250 Acknowledgement of Possible Involvement:

1.250.1 While maintaining he had no specific recollection, Roos accepted that, given there were no other Warrant Officer Roos working on the matter at that time, the probabilities suggested he had carried out these investigative tasks. He explained that during that period, investigating officers would assign specific tasks to available detectives to assist with overwhelming caseloads. As a junior detective, he would have been given discrete tasks like conducting photo identifications without being the main carrier of the investigation.

⁸⁴⁸ Transcript of Proceedings, Day 17, 13 August 2025, pp. 56–57 & 59–60.

⁸⁴⁹ Transcript of Proceedings, Day 17, 13 August 2025, pp. 58–59.

1.250.2 He emphasised his role would have been limited to helping established investigators like Rutters or Els.⁸⁵⁰

*Captain Stephanus Johannes Du Rand:*⁸⁵¹

1.251 Introduction:

1.251.1 Du Rand, a 56-year-old SAPS officer serving as a designated firearm officer, testified regarding allegations that he instructed Highgate survivors to submit written statements by sliding them under his office door due to fear for his safety. Du Rand, who has served in the police force since December 1986, categorically denied any recollection of such interactions with survivors Beling or Page, despite their detailed testimony about meeting him at Cambridge Police Station between 2007 and 2010.

1.252 Professional Background and Career Development:

1.252.1 Du Rand joined the police force in December 1986, working initially at the dog unit for 13 years before transitioning to organised crime investigations. Since 2002, he has been part of the firearm, liquor, and second-hand goods component at Cambridge Police Station, specifically handling IBIS testing of firearms and all firearm-related work.

1.252.2 He was promoted to captain in 1997 and has remained at that rank. At the time of the Highgate incident in May 1993, he held the rank of warrant officer and was stationed at the East London Dog Unit at Woodbrook as a dog handler and shift commander. He had no involvement in the original Highgate investigation and was not present at the scene.⁸⁵²

1.253 Denial of Witness Interactions:

⁸⁵⁰ Transcript of Proceedings, Day 17, 13 August 2025, pp. 57–59.

⁸⁵¹ Exhibit RR, Statement of Captain Stephanus Johannes Du Rand.

⁸⁵² Transcript of Proceedings, Day 17, 13 August 2025, pp. 67–68.

1.253.1 Captain Peterson had approached Du Rand in March 2025 regarding claims by Beling that Du Rand had information about the Highgate killings and had instructed someone to write information on paper and push it under his office door due to fear for his life and his family. Du Rand testified he had no recollection whatsoever of this interaction or any such facts that could help the matter. He emphasised that he deals with too many people and traumatic incidents to remember specific interactions.⁸⁵³

1.254 Response to Specific Allegations:

1.254.1 When confronted with Beling's statement that Du Rand had been informed about seeing Taylor at the Highgate Hotel and had responded that he did not want to get involved, instructing them to write a statement and slide it under his door, Du Rand maintained he had no memory of these events.

1.254.2 He stated it was the first time he had heard the name Taylor. Similarly, when presented with Page's testimony that Du Rand had asked them to make a statement about Eric Taylor and suspected phone tapping, expressing fear for his family, and requesting they slip the statement under his door after 5 PM, Du Rand's response remained consistent: he did not recall any such interaction.⁸⁵⁴

1.255 Office Location and Procedural Irregularities

1.255.1 Du Rand explained that between 2007 and 2010, his office location at Cambridge Police Station changed. In 2007, his office was in the main passage behind a security gate leading to the roof. The office where papers could theoretically be pushed underneath the door was the licensing office, where four or five people worked. From 2008 to 2010, his office was in a restricted area that was totally blocked off with strongrooms, making after-hours access impossible.

⁸⁵³ Transcript of Proceedings, Day 17, 13 August 2025, pp. 66–67.

⁸⁵⁴ Transcript of Proceedings, Day 17, 13 August 2025, pp. 74–76.

1.255.2 He confirmed that asking someone, particularly a complainant, to make a statement and leave it under a door was not a procedure he would follow, as statements are normally taken on the spot or referred to someone else if sensitive.⁸⁵⁵

1.256 Lack of Denial but No Recollection

1.256.1 Significantly, while Du Rand repeatedly stated he had no recollection of the alleged interactions, he did not categorically deny that they had occurred. When pressed about whether he was denying that the events happened, he stated he was not saying it did not happen; he just does not remember, and that he cannot add on to something he just does not remember.

1.256.2 "If I physically do something, I have a memory, but passing things on and that, it is too much. It is too long time back. It just blurs." This acknowledgement that the events might have occurred despite his lack of memory added complexity to his testimony.⁸⁵⁶

1.257 Knowledge of Highgate Personnel and Prior Connections

1.257.1 Du Rand confirmed he knew Harris's family through bowling connections between their parents and knew Page by sight. Regarding the dog unit's involvement on the night of the Highgate attack, he stated he had no recollection of colleagues Venish and Lombard being called to the scene, though he did not dispute their testimony that they responded to the emergency call.

1.257.2 He explained that such emergency responses would typically come through the 10111 emergency line rather than from a unit commander. He acknowledged that dog unit personnel would have been used for explosive detection work at the scene rather than tracking.⁸⁵⁷

⁸⁵⁵ Transcript of Proceedings, Day 17, 13 August 2025, pp. 68–69 & 76.

⁸⁵⁶ Transcript of Proceedings, Day 17, 13 August 2025, p. 77.

⁸⁵⁷ Transcript of Proceedings, Day 17, 13 August 2025, pp. 71–72 & 78–80.

Mtunzi Mhaga.⁸⁵⁸

1.258 Mhaga testified regarding his involvement with the Highgate Hotel Massacre case during his tenure at the NPA Priority Crimes Litigation Unit (“**PCLU**”) between 2006 and 2009. His evidence covered the preliminary inquiries he conducted due to the lack of dedicated investigative capacity at the time, his interactions with victims' families and potential leads (including alleged APLA members), his conclusion that there was insufficient evidence to proceed, and his response to allegations made by witnesses during the inquest concerning his conduct and communications. He also addressed the broader context of the NPA's struggle to secure investigative support for TRC-related cases during that period.

1.259 Professional background:

1.259.1 Mhaga holds B.Proc and LLB degrees from the University of Transkei (now Walter Sisulu University), awarded in 1996 and 1998. He was admitted as an Advocate on 17 October 2002.

1.259.2 Between 1999 and 2009, he worked as a Public Prosecutor, State Advocate, and Senior State Advocate within the NPA, based initially in Mthatha and later at the National Office in Pretoria.

1.259.3 While in Mthatha, he successfully prosecuted a TRC-related case involving former Transkei security police, which led to his secondment to the PCLU in 2006 to focus on other TRC cases.⁸⁵⁹

⁸⁵⁸ Exhibit HHH, Statement of Mtunzi Mhaga.

⁸⁵⁹ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 15–17.

1.259.4 At the PCLU (2006-2009), he handled several TRC-related matters, including the Highgate Hotel attack file.⁸⁶⁰ He also spent time in private practice as an advocate with the Pretoria Bar.

1.259.5 He is currently a Special Director of Public Prosecutions, Head of the Legal Affairs Division in the NPA⁸⁶¹, and also assists as the National Spokesperson.

1.260 Involvement with the Highgate Case (2006-2009):

1.260.1 Mhaga was allocated the Highgate file upon joining the PCLU in 2006.⁸⁶² At that time, the PCLU lacked a dedicated investigative capacity. The file contained TRC transcripts and newspaper clippings, but not the official case docket, which was missing during that period.⁸⁶³

1.260.2 Due to the lack of investigators, Advocate Anton Ackerman SC (then head of PCLU) instructed prosecutors like Mhaga to conduct preliminary inquiries on TRC cases to gather information for potential future full investigations by SAPS.⁸⁶⁴

1.260.3 Mhaga initiated contact with surviving victims and families, arranging meetings at Fort Hare University, East London campus.⁸⁶⁵ He aimed to introduce himself and gather any potentially useful information. He believes he met with them twice: once for introductions and again to present the outcome of his inquiries.⁸⁶⁶ He stated he provided his contact details at the first meeting.

⁸⁶⁰ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 15–16.

⁸⁶¹ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 15.

⁸⁶² Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 16–17.

⁸⁶³ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 17, 23.

⁸⁶⁴ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 17.

⁸⁶⁵ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 18.

⁸⁶⁶ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 18, 27.

1.260.4 He followed up on information suggesting PAC/APLA claimed responsibility (though later denied).⁸⁶⁷ He met with alleged APLA commanders Mtutuzeli Ntura Mama and "Jim Jones" in East London in 2006. They denied APLA's involvement and offered no assistance.⁸⁶⁸

1.260.5 Advised by Adv Ackerman SC, he also interviewed Ncamazana (implicated in a separate King William's Town attack) at a prison in East London.⁸⁶⁹ Ncamazana was initially reluctant to speak in Adv Ackerman's presence, but later denied knowledge of APLA involvement in the Highgate attack when speaking to Mhaga alone.⁸⁷⁰

1.260.6 Mhaga concluded from his inquiries that there was no evidence linking anyone to the attack at that time.⁸⁷¹ He compiled a written report outlining these findings, which he presented to the victims and families at the second meeting.⁸⁷² He believes this meeting was recorded on video by filmmaker Mark Kaplan.⁸⁷³ He stated the families appreciated his efforts and were satisfied he had followed up on available leads.⁸⁷⁴

1.260.7 He testified that the file he worked on, containing his notes and report, could not be located when he tried to find it before the inquest, despite searching the storerooms.⁸⁷⁵

1.261 Response to allegations from the inquest transcript:

⁸⁶⁷ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 28.

⁸⁶⁸ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 18–19.

⁸⁶⁹ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 25.

⁸⁷⁰ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 19.

⁸⁷¹ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 19, 25–26.

⁸⁷² Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 19–20.

⁸⁷³ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 40.

⁸⁷⁴ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 20, 40.

⁸⁷⁵ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 26–27, 38–39.

1.261.1 Mhaga denied allegations that victims reached out to him first, stating he initiated contact based on details in the file.⁸⁷⁶

1.261.2 He strongly denied stating he was "scared" or intimidated.⁸⁷⁷ He cited his successful prosecution of former security police as evidence that he did not fear handling TRC cases. He asserted there was no reason to be scared as there were no suspects under investigation in the Highgate matter at that time.

1.261.3 He clarified his refusal to be interviewed on camera by Mark Kaplan was due to NPA media policy at the time, as he was not the designated spokesperson, and not due to fear.⁸⁷⁸ He believes the victims may have misinterpreted his adherence to policy as fear.⁸⁷⁹

1.261.4 Regarding Daryl Els (former investigating officer turned private investigator), Mhaga recalled possibly meeting him with the families but denied instructing him or relying on him for investigation work, stating it would have been improper and unethical.⁸⁸⁰ He acknowledged giving Els a hearing as he seemed to be knowledgeable and was with the group.⁸⁸¹

1.262 Lack of investigative support

1.262.1 Mhaga confirmed the PCLU and NPA lacked internal investigative capacity during his tenure there (2006-2009).⁸⁸² Preliminary inquiries were

⁸⁷⁶ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 21.

⁸⁷⁷ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 21–22.

⁸⁷⁸ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 43–44.

⁸⁷⁹ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 44.

⁸⁸⁰ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 45–46.

⁸⁸¹ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 46, 51–52.

⁸⁸² Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 52–53.

undertaken because dedicated police investigators for TRC cases were unavailable.⁸⁸³

1.262.2 He acknowledged awareness (gained later through litigation) of attempts by senior NPA officials (like Adv Ackerman SC) between 2003 and subsequent years to secure investigative support from both the Directorate of Special Operations (“DSO”) (Scorpions) and SAPS, which were largely unsuccessful.⁸⁸⁴

1.262.3 He agreed that the lack of investigative support from SAPS/DSO was a reason why the Highgate case, among other TRC matters, was not properly investigated during that period.⁸⁸⁵

1.262.4 He stated he informed the victims/families during the first meeting that he was a prosecutor conducting inquiries due to the lack of investigative capacity within the NPA.⁸⁸⁶

*Brigadier Clifford Marion:*⁸⁸⁷

1.263 Brigadier Clifford Marion (“**Marion**”) provided expert analysis based on his 47 years of policing experience and his role as an investigator for the FHR tasked with assessing the Highgate Massacre investigation on behalf of the victims' families. His evidence offered a comprehensive critique of the official investigation spanning three decades, highlighting systemic failures, gross negligence by specific officers (including Stassen and investigating officer Els), critical procedural violations such as the failure to lift fingerprints from key evidence and obtain necessary witness statements, the inexplicable loss or disappearance of ballistic

⁸⁸³ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, p. 23.

⁸⁸⁴ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 31–32.

⁸⁸⁵ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 32.

⁸⁸⁶ Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 34–35.

⁸⁸⁷ Exhibit CCC, Statement of Clifford Marion.

evidence and crucial case documents (including affidavits and arrest warrants), and extended periods of docket dormancy. Marion also analysed various narratives surrounding the attack (APLA, Hammer Unit, disgruntled patrons, Askari unit, false flag operation), contextualising them within the political climate of the early 1990s and assessing the investigative steps taken, ultimately concluding that the investigation was "grossly substandard" and designed to fail, leaving no clear suspects identified despite numerous potential leads being ignored.

1.264 Introduction:

1.264.1 Marion is a retired South African Police Service Brigadier with 47 years of policing experience, currently serving as an investigator for the FHR, charged with investigating serious apartheid-era crimes, including murder, torture, deaths in detention, kidnapping, and disappearances.

1.265 History of the docket and extraordinary delays:

1.265.1 Marion's meticulous analysis of the investigation diary⁸⁸⁸ revealed a pattern of extraordinary delays, negligence, and periods of complete dormancy spanning three decades. The docket passed through five investigation officers with minimal progress:

- (a) Bossr served as the first Investigation Officer from 1 May to 2 May 1993. Despite being the initial investigator at the scene, Bossr failed to submit a statement at the time, only providing an affidavit 31 years later on 3 February 2025,

⁸⁸⁸ Exhibit E.

which Marion characterised as having little to no evidentiary value given the time lapse.⁸⁸⁹

- (b) Captain I.R. Schwartz took over as second Investigation Officer from 3 May to 12 May 1993. Critically, Schwartz issued the first instruction to prepare the docket for inquest proceedings on 13 June 1994, which was completely ignored. He issued subsequent instructions along with Hall, with the last instruction dated 29 July 1996. Despite these multiple directives, no inquest was held for 30 years. Marion testified that in cases of death from unnatural causes, an inquest would normally be established within months, making this delay "complete negligence and disregard of instruction" with "absolutely no justification".⁸⁹⁰
- (c) Els served as the third investigating officer from 12 May 1993 to 5 December 1998. The docket was held in abeyance from 15 April 1996 to 10 June 1997, ostensibly due to TRC Human Rights Violation Hearings. No investigations were conducted from 12 May 1997 to December 1997, while Els retained the docket, apparently off sick from 19 August 1996 until May 1997.⁸⁹¹
- (d) The most alarming period was the complete disappearance of the docket from December 1998. According to Exhibit

⁸⁸⁹ Exhibit CCC, Statement of Clifford Marion, paras. 10.1, 47-49; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp.12, 37-39.

⁸⁹⁰ Exhibit CCC, Statement of Clifford Marion, paras. 10.2, 10.4; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 12-13.

⁸⁹¹ Exhibit CCC, Statement of Clifford Marion, paras. 10.3, 10.5; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, p. 12.

"E," it seemingly resurfaced at DPCI Pretoria on 7 August 2014, though Nel's investigation diary (recently provided on 26 August 2025) indicates he commenced investigation on 30 August 2010. This represents over 11 years where "no police work was done on this case," a period Marion described as demonstrating the docket was "dormant for 12 years".⁸⁹²

- (e) Nel served as the fourth investigating officer after Lieutenant Colonel M.S. Mahlangu allocated the case to him. Nel obtained approximately 20 affidavits from 16 November 2010 to May 2021, but with "delays of close to a year between these statements." Marion emphasised this showed not just negligence but a "no care attitude," noting it was "unusual practice in his experience" to have such lengthy delays in an investigation that "could have been finished in 6 months".⁸⁹³
- (f) Captain Peterson became the fifth investigating officer when the docket resurfaced on 1 August 2021, handed over as Enquiry EP 4/08/2021 to Eastern Cape DPCI.⁸⁹⁴

1.266 Forensic and crime scene investigation failures:

1.266.1 Marion provided damning expert testimony on the substandard crime scene investigation, particularly criticising Stassen's performance as senior forensic officer. His analysis revealed multiple critical failures that violated basic investigative protocols even by early 1990s standards.

⁸⁹² Exhibit CCC, Statement of Clifford Marion, para. 10.6; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 14–15.

⁸⁹³ Exhibit CCC, Statement of Clifford Marion, paras: 10.7–10.8; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 15–16.

⁸⁹⁴ Exhibit CCC, Statement of Clifford Marion, para. 10.9; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, p. 17.

1.266.2 Fingerprint evidence failures:⁸⁹⁵

- (a) The most egregious failure was the complete absence of fingerprint analysis on spent AK-47 cartridges and grenade fly-off levers. Marion emphasised that "fingerprints can be lifted off these metal surfaces, and in fact, in my experience, metal surfaces are often the best surfaces on which to take fingerprints." He testified that in his extensive experience investigating "many murders and massacres where multiple cartridges were found," the forensic fieldworker would routinely fingerprint cartridges, often on his instructions. This was standard operating procedure.
- (b) While Swartbooi's evidence and copies of the Folien confirmed palm prints were lifted at the scene, there was no evidence that spent cartridges or grenade levers were dusted for fingerprints. The Investigation Diary indicated that fingerprints were investigated, yet crucial items were ignored.
- (c) Marion highlighted Stassen's disingenuous testimony when he claimed he could determine whether cartridges were fingerprinted if shown them now, as chemical traces would remain visible. Marion noted Stassen was keeping abreast of the inquest proceedings by virtue of his comments made online, and therefore must have known that the cartridges were stolen from the Post Office in Cape Town. This made his offer to examine non-existent evidence "disingenuous".

⁸⁹⁵ Exhibit CCC, Statement of Clifford Marion, paras. 33–39; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 27–29.

1.266.3 Stassen's dereliction of duty:⁸⁹⁶

- (a) Marion's assessment of Stassen's performance was scathing. Despite being a senior forensic officer present for seven hours, Stassen:

Failed to conduct preliminary scoping to identify focus areas, claiming the scene was "chaotic" on arrival;

Never carried out this exercise even after the scene was cleared;

Failed to directly supervise fingerprint collection;

Admitted he "stood outside the hotel and chatted to his colleagues" instead of supervising;

Did not instruct subordinates to fingerprint cartridges and levers despite conceding this should have been done; and

Justified his inaction by claiming his subordinates were "experienced".

- (b) Marion concluded that, in his view, the forensic investigation carried out by Stassen at the scene was substandard. He failed to scope the scene and did not offer his team any supervision or advice. If he had ensured that

⁸⁹⁶ Exhibit CCC, Statement of Clifford Marion, paras. 39.1–39.4, 40; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 30–33.

the cartridges and levers were printed, leads may have been generated for the investigation".

- (c) Marion characterised this as substandard and totally unacceptable for a person of such rank to have done such a poor job, calling it "an absolute disgrace" that demonstrated gathering evidence, "one of the most important functions" and "one of the first lines of the criminal justice system," was completely bungled.

1.266.4 Missing fingerprint report:⁸⁹⁷

- (a) The Investigation Diary entry by Captain Schwartz on 6 May 1993 stated "Local Criminal Record Centre F.P. Report filed as per B2," indicating a scene examination report was generated by at least 6 May 1993. This report is not before the court, and Marion noted, "It is not clear what happened to the report." The missing B2 report could have also clarified what prints were lifted at the scene and provided vital evidence.
- (b) Additionally, elimination prints were never taken from patrons and staff present at the scene, meaning the palm prints in Exhibit "Y" could belong to either patrons or perpetrators, "which we are likely never to know".

1.267 Critical missing statements and documentation:

1.267.1 Marion identified numerous police officers who failed to submit statements despite conducting crucial identification procedures, creating fatal gaps in the chain

⁸⁹⁷ Exhibit CCC, Statement of Clifford Marion, paras, 41–42; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 32–33.

of evidence. This represented a fundamental breach of police procedure that compromised the entire investigation.

1.267.2 Warrant Officers Venkile, Rutters, Roos, and Els failed to submit statements regarding photo identifications conducted with multiple witnesses:

- (a) René Naudé identified a person to Rutters.
- (b) Eileen Margaret Clarke identified a person to Rutters.
- (c) Koliwe Mildred Kweleta identified a person to Warrant Officer Venkile;
- (d) Charles John Bodington identified a person to Bossr.
- (e) John Dirk Van Niekerk identified a person to Els;
- (f) Hermanus G Martiz identified a person to Els.
- (g) Arnott identified a person to Rutters; and
- (h) Charles Johannes Classen (“**Classen**”) identified a person to Roos.

1.267.3 Marion emphasised that these officers did not submit affidavits to explain who these witnesses identified and under what circumstances they were pointed out. No further investigations were conducted on those pointed out.⁸⁹⁸

1.267.4 When Roos was shown Classen's affidavit during the inquest, he could not remember the photo identity kit shown to Classen and admitted that, in normal circumstances, he would have submitted an affidavit about the photo identification.

⁸⁹⁸ Exhibit CCC, Statement of Clifford Marion, para. 44; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 35–37.

He could not explain this omission. Marion noted that proper affidavits would have created the requisite links in the chain of evidence, and their absence represented total negligence.⁸⁹⁹

1.268 Critical missing Security Branch documentation:

1.268.1 Marion expressed particular alarm about missing affidavits from Security Branch officer De Lange. The Investigation Diary indicated De Lange submitted an affidavit filed as A51, which formed the basis for arrest warrants issued for Ngxabane and Nontshokweni.

1.268.2 He found this very alarming, as there would have been important information in this regard, stating it was very strange that such crucial documents establishing probable cause for arrests were either lost or removed.⁹⁰⁰

1.268.3 The missing warrants of arrest for Ntintile (A50), Xundu (A49), Xolile Ngxabane (A52), and Dumisile Nontshokweni (A53) further compromised the investigation. Marion noted these warrants, mentioned in the diary as issued based on affidavits from Classen and Arnott, contained crucial information that is now lost.⁹⁰¹

1.269 The explosives expert's missing report:

1.269.1 No affidavit was found from the explosives expert who attended the scene, despite this being vital to the investigation. This forced CDH to appoint their own expert, Naudé, whose analysis revealed:

(a) A tear gas grenade was used at the scene.

⁸⁹⁹ Exhibit CCC, Statement of Clifford Marion, para. 46; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, p. 37.

⁹⁰⁰ Exhibit CCC, Statement of Clifford Marion, para. 58.2; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 41–42.

⁹⁰¹ Exhibit CCC, Statement of Clifford Marion, paras. 59–60; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, p. 43.

- (b) The fly-off lever was from either a Soviet F-1 hand grenade or an RDG-5 anti-personnel fragmentation grenade;
- (c) The tear gas grenades were manufactured at the Swartklip Products factory in Mitchell's Plain, Cape Town, from the early-mid 1980s to the mid-2000s; and
- (d) The crater and scorch marks confirmed a high-explosive hand grenade detonation.

1.269.2 Marion emphasised that these conclusions should all have been contained in a report prepared by Sergeant Brandt during the initial stages of the investigation.⁹⁰²

1.270 The stolen ballistic evidence:

1.270.1 Marion expressed deep suspicion about the theft of ballistic evidence from the Cape Town Post Office on the night of 14/15 July 1995. According to Lieutenant Colonel Lucas Wilem Visser's affidavit, the Western Cape Ballistics Section requested Highgate exhibits for comparison with suspect firearms. On 10 July 1995, the file was sealed and posted via registered mail (PA 005 097 403 SA) from Silverton Post Office. When Sergeant Moore attempted collection on 18 July 1995, the post office could not produce the parcel. Mr S.E. Davids, Chief Investigation Officer of the Post Office, issued an affidavit stating the parcel was allegedly stolen during the night of 14/15 July 1995.

1.270.2 Marion found this highly suspicious for multiple reasons. First, it violated standard procedure as it is not standard procedure to send important exhibits by post. He stated that during his time with SAP and SAPS, it was standard procedure

⁹⁰² Exhibit CCC, Statement of Clifford Marion, paras. 47–57; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 39–41.

to protect the integrity of the chain of custody and to hand-deliver exhibits by driving them to the forensic science lab. He stated that he would have driven up the exhibits by hand in important matters like this, even if it took the whole night.

1.270.3 Second, the theft made no sense as the cartridges had no commercial value, and he saw no reason why they would have been stolen. While other packages were reportedly stolen that night, Marion questioned whether it was genuine theft or made to look that way. He emphasised the extreme difficulty of breaking into a post office safe, expressing scepticism about how this was possible. His conclusion was unequivocal: In his view, it is absolutely suspicious that, of all of the cases, this is the one where exhibits go missing.⁹⁰³

1.271 Critical uninvestigated leads:

1.271.1 Marion detailed multiple crucial leads that were never pursued, representing fundamental investigative failures that could have solved the case.

(a) The Citizen newspaper call:

At 06h45 on 3 May 1993, Vivian Angela Warby received a call at The Citizen newspaper from someone claiming to be "Karl Zimbiri," a supposed APLA Commander, claiming responsibility for the attack. Marion testified that this lead was not followed up by the investigators, even though at that time the police routinely approached telephone exchanges to trace calls. Tracing the call would have disclosed the address from where it was made, allowing investigators to locate and interview the caller or occupant. This could have

⁹⁰³ Exhibit CCC, Statement of Clifford Marion, paras. 62–67; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 47–52.

potentially assisted the investigation and could have assisted the investigation to assess the claim that APLA was behind the attack.⁹⁰⁴

(b) The Highgate Hotel phone booth call:

Vogl's affidavit described seeing a black male and two black females at the pay telephone at approximately 11h50 on the morning of the attack. She overheard the male saying something to the effect of: We are at the Highgate Hotel, give us directions from here.

Arnott confirmed identifying this black male to Sergeant Rutters from the photo album "A" at photograph number 6. Marion noted: The recipient number of this alleged call was also not traced, and since this call was not traced, we will never know why the call was made or if it was related to the attack that happened at the Highgate later that day.⁹⁰⁵

(c) The untraced vehicle registration:

Arnott saw the three individuals leave in a blue and white bakkie (either a Toyota or a Mazda) with a license plate number starting with XB 3. Marion testified: The police did not run a check on the number plates starting with XB 3 at that stage.

⁹⁰⁴ Exhibit CCC, Statement of Clifford Marion, paras. 26–29; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 24–25.

⁹⁰⁵ Exhibit CCC, Statement of Clifford Marion, paras. 30–31; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 25–26.

Had this been done, it could have narrowed down the cars that fit Arnott's description. He noted that XB would have denoted Butterworth in the Transkei before homeland reincorporation.⁹⁰⁶

1.272 The Mama arrest:

1.272.1 Marion analysed the arrest and charging of Mama on 29 April 1994, with charges withdrawn on 2 May 1994. He testified that there is no indication of what evidence he was arrested, and there is no evidence in the docket to substantiate his arrest. It is also not known why the charges were withdrawn. He stated he was of the opinion that, in terms of the docket, there was no justification for the arrest. While charges could have been withdrawn for this reason, normally an entry would be made explaining withdrawal, but there is no such entry in the docket, and no letters of withdrawal from prosecutors to the investigating officer were found. The evidence section and C clip showed only that he was arrested, detained, and charged without justification.⁹⁰⁷

1.273 Analysis of teargas usage:

1.273.1 Marion conducted research analysing teargas usage across all seven volumes of the TRC Final Report, producing statistics that fundamentally challenged the APLA narrative:

(a) SAP: 123 incidents

(b) SADF: 3 incidents

⁹⁰⁶ Exhibit CCC, Statement of Clifford Marion, para. 32; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 26–27.

⁹⁰⁷ Exhibit CCC, Statement of Clifford Marion, para. 61; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, p. 44 ; Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 11–12.

- (c) Homeland Police (Bophuthatswana, QwaQwa, Transkei, KwaZulu, KwaNdebele): 51 incidents
- (d) IFP: 1 incident
- (e) ANC: 0 incidents
- (f) APLA: 0 incidents
- (g) PAC: 0 incidents
- (h) Other Liberation Movements: 0 incidents
- (i) Unknown: 1 incident (being the Highgate Massacre)

1.273.2 Out of 178 total incidents involving teargas, liberation movements, including APLA, showed zero usage. Marion emphasised that according to the TRC Report, liberation movements, including APLA, did not use teargas in their attacks. He explained that typically one uses teargas after an attack to disorientate people and get away, making its use at Highgate inconsistent with APLA's operational profile.⁹⁰⁸

1.274 General incompetence:

1.274.1 Marion referenced Flanagan's report, which stated police demonstrated, at times, astonishing incompetence in investigations into APLA attacks.

⁹⁰⁸ Exhibit CCC, Statement of Clifford Marion, paras. 62–70; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 52–53.

1.274.2 The Eikenhof attack exemplified this incompetence, where police convicted the wrong people, an ANC group, based on manipulated evidence, with two accused ending up on death row.

1.274.3 The chronology revealed police had seized APLA documents confirming their responsibility for Eikenhof (including reports from Phila Martin Dolo (“**Dolo**”)). During raids on 25 May 1993, Dolo was arrested with the weapon used on 29 May 1993, and Minister Hermanus Kriel (“**Kriel**”) had listed Eikenhof as an APLA attack on 27 May 1993.

1.274.4 Despite this, they proceeded to have innocent ANC members convicted on 20 June 1994. The convictions were only overturned in 1999 after Dolo's affidavit confirmed APLA involvement.⁹⁰⁹

1.275 Comprehensive analysis of investigation narratives:

1.275.1 Marion provided expert analysis of multiple narratives that emerged around the Highgate Massacre, emphasising that while several narratives or theories might serve to explain the Highgate Massacre, there is no hard evidence to sustain any of the narratives. He explained that narratives are theories that are not based on hard evidence but are worthy of being explored, and investigators must have an open mind when information comes from various sources.⁹¹⁰

1.275.2 The APLA Narrative:⁹¹¹

(a) The APLA narrative originated on the night of the massacre, according to the Investigation Diary entry at

⁹⁰⁹ Exhibit CCC, Statement of Clifford Marion, paras. 62–63; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 45–47.

⁹¹⁰ Exhibit CCC, Statement of Clifford Marion, paras. 71–73; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 53–55.

⁹¹¹ Exhibit CCC, Statement of Clifford Marion, paras. 74–82; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 56–59.

23:30 on 1 May 1993. The press ran sketches nationwide with a R150,000 reward authorised by Major General Huggett, and Kriel attributed the attack to APLA. Some 64 persons connected to APLA and the ANC were questioned, with fingerprints and palm prints checked. Several were arrested, and at least one (Mama) was formally charged, though charges were later withdrawn.

- (b) Marion noted Flanagan's research showing the SAP raided PAC homes and offices nationwide on 25 May 1993, arresting 81 PAC members and seizing documents. Despite these raids occurring weeks after Highgate, there did not appear to be anything uncovered linking APLA to the Highgate Massacre. Large numbers of PAC/APLA files seized during the 1995 SADF raids in Umtata and Lesotho similarly revealed no Highgate connection. APLA commander Mphahlele commented on the absence of evidence in these files.
- (c) Marion quoted Flanagan's critical observation: "If this attack was carried out by an APLA unit, what happened to those involved? Why did they not claim amnesty, as for similar attacks?" The standard APLA practice involved geographically separate groups knowing of operations, but it is the operational unit and commanders who would claim media responsibility.
- (d) Marion concluded that, in his view, the investigation about APLA had been thoroughly conducted, with APLA command categorically denying involvement. He noted APLA claimed responsibility for 36 of 64 attacks in Robert John Tyrrell's ("**Tyrrell**") report, and suspects' particulars,

fingerprints, and weapons from other attacks should have been linked to this attack by now, at least by way of the palm-prints and ballistic evidence. However, he acknowledged the possibility cannot be ruled out, that APLA renegade operatives committed the attack and kept quiet and did not apply for amnesty, though this remains in the realm of conjecture or speculation.

1.276 The Hammer Unit narrative:⁹¹²

1.276.1 This theory emerged during Els's private investigation in 2006 when he told Beling a "Third Force" called the Hammer Unit was involved. At a Kennaway Hotel meeting on 28 November 2006 with survivors and Mphahlele, Els stated that the attackers were not APLA, listing multiple inconsistencies:

- (a) Attackers wore black/dark blue, used AK-47s, hand grenades, and teargas, which APLA did not;
- (b) APLA used R1s, R4s and R5s as they could not get AK-47 ammunition;
- (c) Withdrawal under teargas was a first;
- (d) Some attackers had camouflage paint on their faces, suggesting they were white;
- (e) No vehicles were reported stolen/hijacked before the attack, unlike typical APLA operations;

⁹¹² Exhibit CCC, Statement of Clifford Marion, paras. 83-86; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 60–62.

- (f) Attackers showed greater training and shooting accuracy than in APLA incidents;
- (g) AK-47s were never linked ballistically before or afterwards, suggesting they were used specifically for that attack and destroyed;
- (h) Police received no intelligence reports on Highgate, unlike other attacks; and
- (i) No documentation existed in the seized APLA files.

1.277 The disgruntled patron's narrative.⁹¹³

1.277.1 This narrative arose from multiple incidents on 1 May 1993, where black patrons experienced discrimination at the Highgate.

- (a) The bar lady sold cigarettes to two black males around 10h00, but told them they were out of stock for beer. Marion noted that it was highly unlikely that the Highgate would have actually run out of beer.
- (b) Arnott told a black male who was using the public payphone that the phone was not a public phone and that there was a public phone down the road. The black male ignored him and continued using the phone. Eventually, he ordered them to leave the premises. They eventually left the premises and drove off in a blue and white Toyota or

⁹¹³ Exhibit CCC, Statement of Clifford Marion, paras. 87–89; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 64–66.

Mazda bakkie with a white canopy in the direction of Summerpride.

1.277.2 Classen furthermore observed two black men enter the Men's Bar at 11:25, with one grinning at him before they left after a hand gesture from barman Gontshi.

1.277.3 Marion noted this narrative suggested aggrieved patrons may have returned that night to exact vengeance against the white patrons and staff.

1.278 The Askari unit narrative:⁹¹⁴

1.278.1 Marion provided extensive detail on the Askari narrative, which Flanagan's research suggested as particularly compelling. Askaris were turned liberation movement members who underwent military training outside South Africa, were arrested on return, and either turned by the Security Branch's C1 unit or voluntarily became informers. They were trained in Eastern Bloc weapons, including AK-47 rifles, Tokarev and Makarov pistols, limpet mines, Soviet F-1 hand grenades, and RDG-5 anti-personnel fragmentation grenades - matching Highgate evidence.

1.278.2 The East London Askari unit was established in the late 1980s (likely 1987-1988) under Eugene de Kock's overall Vlakplaas command. They initially rented a farm in the Summerpride area near the Johnson & Johnson factory and possibly on the Thornycroft Road, less than 5km from the Highgate Hotel, before moving to Greenfields in mid-1992. The unit grew from about 10 members in 1989 to a larger group by April 1993.

1.278.3 Eugene De Kock's amnesty testimony confirmed he supplied Eastern Bloc weapons to East London operatives under Captain Willie de Lange's command,

⁹¹⁴ Exhibit CCC, Statement of Clifford Marion, paras. 90–110; Transcript of Proceedings, Day 19, Part 1, 2 September 2025, pp. 66–80.

stating weapons were "for clandestine, covert operations which would have led to the death or injury of the enemy" and would "leave the impression that the Security Police could not be connected... it would point in the wrong direction." Eugene De Kock testified he provided "four AK-47 assault rifles with magazines and 16 hand grenades" to East London operatives.

1.278.4 Alfred Benjamin "Ben" Bambatha's affidavits to Minister Sydney Mufamadi confirmed Askaris received "extensive firearms training" at locations including Westbank Prison shooting range and Mooiplaas Security Branch training area, with specialized Task Force training. Bambatha referenced planting weapons, including F1 hand grenades, at crime scenes. The unit's operations included murders rather than arrests, planting weapons to justify killings, executing alleged guerrillas following abduction, and the disappearance of targets intending to join exile movements.

1.278.5 Crucially, the Askari units were closed down at the end of April 1993, with Askaris paid out, just days before the Highgate attack. The SAPS payout list (Exhibit "CRMC2") revealed significant discrepancies: black Askaris received between R27,000 and R476,000 (most around R150,000), while white supervising officers received substantially more - P.J. Van Dyk (R796,525.73), E.A. De Kock (R1,001,444.46), and J.S. Vermeulen (R1,102,929.93). Marion noted that it is not known whether the discrepancy was known to the Askaris, but as suggested by Flanagan, the abrupt dismissal could have prompted some or a few of the Askaris to attack the Highgate Hotel with weapons at their disposal as an act of reprisal for their poor treatment.

1.278.6 Flanagan identified four crucial aspects: Askaris knew the Summerpride area well enough to identify escape routes; they likely knew Highgate was a police hangout where senior officers frequented; they had police weapons training, including from special task force trainers; and they had access to unaccounted-for weapons provided by Eugene De Kock.

1.278.7 Captain Peterson's investigations traced and interviewed three Askaris: Fokazi, Oliphant, and Twala, all of whom denied involvement

1.279 The disruption or false-flag narrative:⁹¹⁵

1.279.1 Marion contextualised this narrative within the fragile 1993 transition period when the Transitional Executive Council announced elections for 27 April 1994. He testified: political violence was often used to try to sabotage the negotiation process, polarise communities, and erode trust. The Highgate Massacre might not be an isolated and seemingly random attack but rather part of a broader scheme orchestrated by those aiming to manipulate the fragile political climate.

1.279.2 He detailed how false-flag operations are designed to appear as though they were perpetrated by an entity other than the group actually responsible, calculated to generate sympathy for the attacked group and justify retaliatory operations. The TRC found the South African state responsible for various false-flag operations, including arranging Eastern bloc weapons caches to justify attacks on Botswana (1988), bomb explosions at Joubert Park and J.G. Strydom Hospital (1989), attacks on SAP Flying Squad headquarters using AK-47s and RGD-5 grenades (1989), planting arms at Khanya House and COSATU buildings, and various bombings of railway stations and power plants.

1.279.3 The day after Highgate, both the ANC and the Democratic Party suggested it was carried out by those wanting negotiations to fail. ANC Border official Mcebisi Bata stated that some people in the right wing are trying to whip up emotions, and in the South African security forces who are trying to mobilise whites against negotiations. Democratic Party MP Andre de Wet also said something to the effect of: "I'm personally not convinced it's APLA... As we move closer to an interim

⁹¹⁵ Exhibit CCC, Statement of Clifford Marion, paras. 111–119; Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 1–5.

government and joint control of the security forces, such attacks will continue and escalate".

1.279.4 Flanagan's research revealed a covert SADF/SAP group operated in the Eastern Cape led by SADF officer Anton Nieuwoudt with access to weapons from Eugene de Kock, suggesting renegade elements might have carried out Highgate as a false-flag operation to instigate right-wing backlash and derail democracy.

1.280 Expert conclusions:⁹¹⁶

1.280.1 Marion's final assessment was unequivocal: "I regrettably conclude that there are no clear suspects at this stage of the inquiry into the Highgate Massacre." He characterised the investigation as "less than satisfactory" and stated that "certain shortcomings amount to gross negligence."

1.280.2 His comprehensive list of failures included improperly investigated scenes, failure to lift fingerprints from cartridges and grenade levers, missing elimination prints, lost ballistic and fingerprint evidence, incomplete statements linking photo parades, docket dormancy for over 11 years, and unexplained, lengthy investigative delays showing "little or no urgency".

1.280.3 Marion concluded by stating that despite the significance of the Highgate Massacre and the senior level of experience and expertise of the investigative officers, particularly Stassen and Schwartz, on the scene, there were numerous investigative blunders. He stated, "I must conclude that this investigation was grossly substandard. But for these blunders, this investigation may have solved this brutal crime, particularly if forensic evidence had been properly collected, safeguarded, and tested".

⁹¹⁶ Exhibit CCC, Statement of Clifford Marion, paras. 120–124; Transcript of Proceedings, Day 19, Part 2, 2 September 2025, pp. 5–7.

1.280.4 He added that such gross incompetence inevitably gives rise to a deep suspicion on the part of the survivors, families, and members of the public that the investigation was designed to fail.