

'NHA 6'

AFFIDAVIT OF MAURICE SMITHERS

I, the undersigned

MAURICE SMITHERS

do hereby affirm and state that:

- 1 I am an adult male born on 21 November 1951. I am currently a full time student at the University of the Witwatersrand doing a Master of Science in Development Planning. I am also a community activist and serve on the board of the Southern African Alcohol Policy Alliance (SAAPA). In the recent past, I have served variously as the National Coordinator of Awethu! A People's Platform for Social Justice, as Executive Director of the Yeoville Bellevue Community Development Trust (YBCDT) and as a Director in the then Gauteng Department of Agriculture, Conservation and Environment (GDACE).
- 2 Unless the context indicates otherwise, the facts contained in this affidavit are within my personal knowledge and are, to the best of my belief, both true and correct.

PURPOSE OF THIS AFFIDAVIT

- 3 The purpose of this affidavit is to set out important events and facts regarding my detention (more specifically during the years 1981 and 1982) and the



detention and torture of Dr Neil Aggett by the Security Branch of the South African Police force ("**Security Branch**") during that time which I believe may be of assistance to the reopening of the inquest into Dr Neil Aggett's death.

BACKGROUND AND POLITICAL ACTIVITY

- 4 During the year 1981 I was running a small community project called the Raw Materials Project. I was also active in printing and distributing posters for trade unions and various other organisations. I was also working underground for the African National Congress ("**ANC**").
- 5 In September of 1981 in the early hours of the morning I was awoken at my home in Yeoville by the Security Branch police officers who had come to arrest me. At the time, I had no idea why they were arresting me.
- 6 I was arrested under section 22 of the Terrorism Act 83 of 1967 ("**the Terrorism Act**"). I did not know if it was linked to my underground work for the ANC or for some other reason. I had been arrested on previous occasions.
- 7 At the time of my arrest I overheard one of the security police officers mention Barbara Hogan's telephone number over his two-way radio and at that point I realised that what was happening was bigger than just me.



MY DETENTION: 1981 - 1982

- 8 I was taken to Randburg Police Station where I was detained for a period of two weeks. During that time, I was taken to John Vorster Square to be interrogated by security police officers. I was not tortured, I was just asked questions. After two weeks in detention at Randburg Police Station I was released.
- 9 Upon my release, I discovered that a large number of people had been arrested at that time and that our arrests were linked to a list of names of close comrades that Barbara Hogan, a member of the ANC, had tried to send out of the country. My name was on that list.
- 10 On 24 November 1981, I was in the Magistrate's Court in Johannesburg for the trial of a friend of mine, when Warrant Officer Deetlefs called me out of the court room and informed me that the Captain who had interrogated me wanted to see me as he had further questions to ask me. I enquired whether he was arresting me and he answered that he was not. However, this was a lie because he took me straight to John Vorster Square where I was again arrested in terms of section 22 of the Terrorism Act.
- 11 Following my arrest, I was taken back to Randburg Police Station, to the same cell, where I was detained for a further four months.
- 12 During my second period of detention at Randburg police station I was periodically taken back to John Vorster Square to write statements. Again, I was never tortured. At the time, I assumed the reason for this was that the



security police officers did not think I possessed any important or incriminating information. Later in my interrogation, it appeared that they wanted just one particular piece of information from me relating to Barbara Hogan.

- 13 The Security Branch knew that I had visited Marius Schoon in Botswana and that he was my friend. They asked repeatedly whether I had ever brought anything back from Marius Schoon to give to Barbara Hogan. I could not recall ever having done so until they asked whether I had brought back a box of chocolates for Barbara Hogan. I then remembered that in 1980 I had a meeting with Patrick Fitzgerald in Zimbabwe and he had given me a box of chocolates to bring back to Barbara Hogan, which I had agreed to do. I admitted that I had brought back this box of chocolates for Barbara Hogan from Patrick Fitzgerald but expressed that I had thought nothing of it at the time.
- 14 Aside from solitary confinement, which is itself a form of torture, I was not tortured during my detention. However, there was always the possibility or threat of torture had the security police believed that I was hiding important information. As a result, during interrogations, I would avoid being obstructionist when my interrogators asked for information which I was able to give without incriminating myself or others. There was, however, always a point at which I would stop giving information, but, on the whole, I refrained from any antagonistic or confrontational behaviour. For example, I admitted that I had brought the box of chocolates back for Barbara Hogan after seeing Patrick Fitzgerald in Zimbabwe, but I did not disclose that I had met him in Zimbabwe for a debriefing regarding my underground work for the ANC.



Further, whenever my interrogators asked whether I was working underground for the ANC, I denied this.

- 15 After a month in detention my interrogations stopped and I was left in Randburg, in solitary confinement, for the remainder of my three months in detention.
- 16 During the first month of my detention in a cell at Randburg Police Station I was not allowed to keep anything, other than blankets and the clothes I wore. My belts and shoelaces were removed before I was locked in my cell. I was allowed only a bible and a bible commentary to read. I would not have been allowed to keep a scarf or Kikoi in the cell with me during that first month. After that first month and after the interrogations had stopped some rules were relaxed. I was allowed to have a radio and books. After my interrogation had ceased I was also allowed to have my guitar.

EVENTS SURROUNDING DR NEIL AGGETT'S DEATH

- 17 By January 1982, my interrogations had ceased and I had been in solitary confinement for over a month. I became very restless and anxious as a result of a prolonged period in solitary confinement and desperately felt the need to get out of my cell. In order to do so I deliberately broke the right lens of my spectacles. The vision in my left eye, at the time, was badly impaired, whereas the vision in my right was almost perfect. I told a police officer I had accidentally dropped them and asked to be taken to the optician. I was taken for an appointment with the optometrist on 25 January 1982.



- 18 I was collected by two black security policemen from Randburg Police Station and taken to John Vorster Square, from where I was to be taken to the optician. I arrived at John Vorster at approximately 10h00 and was taken to the tenth floor. We took the lifts that serviced only the ninth and tenth floors from the ground floor. On the tenth floor I was taken to an office that was fairly big. I sat with my back to the wall of the room. The windows to the outside of the building were to my left and the windows to the corridor were to my right. Directly opposite me was a wall of which the bottom half was panelling and the top was glass through which I could see into the office next door. The glass was ribbed so it partially obscured vision into the next office. I heard the glass of that window had been painted over shortly after.
- 19 I cannot recall now the exact number of the office in which I was sitting. In my inquest testimony I specified that 1011 was the room I had been sitting in and at the *in situ* inspection I again confirmed that the room number was 1011. The office was the room in which fingerprints were usually taken.
- 20 I was taken to this office and left to wait there for approximately three quarters of an hour, with a few black security police officers. There was never just one policeman that sat with me while I was waiting, they would change and sometimes there were two or three sitting there with me. After a minute or so, I looked over to the wall opposite me and observed through the ribbed glass that, standing in the next office, was Dr Neil Aggett ("Neil"). I knew it was Neil because I had met him several times previously.



- 21 At the *in situ* inspection for the original inquest, at which the magistrate and the legal teams for all sides were present, all parties present agreed that it was possible to see through the glass and to recognise somebody despite the fact that the glass was ribbed.
- 22 I recognised Neil because he had a very distinct beard and haircut, and he had a particular way of gesturing when he spoke. I had also seen him on at least two previous occasions at John Vorster Square when I was taken to the tenth floor to write my statements. On these occasions, I saw that Neil was either writing or being questioned in the office opposite me. Although I did not know Neil as a close friend, I did know him reasonably well. Prior to my second detention, I saw him probably four or five times because we were contemplating looking for a house to share with another friend of ours. I was in no doubt that it was Neil in the adjoining office.
- 23 While waiting for my optometrist's appointment I observed that Neil was being questioned by a number of white security police officers, possibly six or seven. He was standing and all of the security police officers were standing as well. I could hear the murmur of voices but I could not distinguish any words at that stage. The police officers were walking around him and talking to him and occasionally hitting him with what looked like a rolled up magazine or newspaper, or something of that nature. It was of a light tinge, almost white in colour, and it appeared to be cylindrical in shape. The police officer repeatedly struck Dr Aggett with this object. I got the impression, however, that he was not being hit very hard, but that the hitting was intended to be more harassment than an attempt to really hurt him.



- 24 I was shocked by what I was witnessing and that the black policemen sitting in the room with me appeared to be oblivious and did not take any issue with the fact that I could see what was happening to Neil.
- 25 After approximately 45 minutes I was taken to Hillbrow to see the optician. The optician performed the eye examination and I was then taken back to John Vorster Square where I was left in the very same room that I had been sitting in prior to visiting the optician.
- 26 I looked across the room and saw that Neil was still in the next office. He was still being hit with the rolled up newspaper or magazine, but now he appeared to be naked, or his top half was naked, and he was being forced to do exercises. I saw him running on the spot and occasionally dropping to the ground for short periods. I assumed he was being forced to do some kind of exercise on the ground, such as press-ups, because when he stood up again I could see him wiping sweat away from his brow and he was unsteady on his feet.
- 27 Twice when Neil dropped to the ground I could hear a loud cracking sound which sounded like flesh being hit and I witnessed one of the police officers raise his right hand and bend down at the same time as I heard this noise. From this I surmised that Neil was being hit very hard. Just prior to this I saw one of the police officers adjusting his pants and I assumed it was because he was taking off his belt which he was using to strike Neil. This was my deduction – it may have been another object.



- 28 I then saw one of the police officers gesture for Neil to stand up, which he did. He stood up with his shoulders hunched, not upright or straight as he had been before and from this I surmised that he was exhausted. I then heard a voice, inaudible to me, say something to him and Neil immediately started running on the spot with his arms outstretched in front of him. He was perhaps no more than three feet away from the glass, and I could see his body going up and down. At times he would lower his arms slightly and begin to gesture with his arms, which indicated to me that he was talking. At other times he would stop running and talk more fully with his hands. He was also sometimes made to lift his legs high while running, this I could see clearly because his body moved a lot faster and a lot higher.
- 29 In addition to this, one of the police officers was walking around Neil, hitting him on the back, shoulders and arms with what appeared to be the rolled up newspaper or magazine. The hitting would happen especially when Neil's arms sagged, if he stopped or if he wiped the sweat off of his forehead. On those occasions I could hear actual words because the security police officers would shout loudly; "*who told you to stop?*"
- 30 At one point while he was running he was again told to get down on the floor and it was on those occasions that I knew he must have been doing some sort of exercise on the ground because I could hear the police officers shouting "*Come on! Ten more! Ten more!*"
- 31 The police officers in the room with me again did not seem to be bothered by the fact that I was witnessing what was happening to Neil. I was really



disturbed by what I was seeing and I did not know what to do. At one point I considered throwing my chair through the glass next to where Neil was to let them know that I was watching what was happening. I decided that this was not a sensible thing to do. I did not think it would achieve anything useful and I knew there would be repercussions if I did. I did not believe I could say anything to the black security officers in the room with me because my experience was that the black security police officers did not hold any authority or any particular power to do anything. Instead I decided to document what was happening and repeatedly asked an officer in the room with me what the time was, which he kept telling me. In his evidence at the original inquest the same police officer said he did not even have a watch on, however, this was untrue because he repeatedly told me what the time was.

32 I witnessed this happening to Neil for approximately an hour, until around ten past twelve. I then saw people walking down the corridor and as they approached the door to the office in which Neil was, Neil's activity stopped. I assumed from the gestures of the security police officers and Neil's actions that he was told to get dressed. He drew clothing onto the lower part of his body and then he did this a second time. From that I surmised that he must have been fully naked because he would have bent down first to draw on a pair of underpants and then again to put on his trousers. He also put on a white collared shirt.

33 The officers then took Neil out of the room and led him away. As he was led out of the room he stumbled over what I assumed to be a chair in the room and it clattered as he knocked against it. I assumed Neil stumbled out of sheer



exhaustion. I did not see Neil other than through the ribbed glass and there was no opportunity for me to talk to him.

34 After witnessing this incident, I was taken back to my cell in Randburg and I was completely distraught. I felt many conflicting emotions including anger, remorse and guilt. I also felt completely powerless because I had seen this happening to Neil and had done nothing about it, despite not knowing what I could have done at the time. I thought about what I had seen and what it meant and decided that I needed put myself in the position of Neil by running on the spot with my arms outstretched and doing many push-ups, for about an hour. I did this for two reasons; the first was that I felt it was an act of solidarity with Neil. The second arose from the fact that I could not understand why I had been left to sit in that office and to witness what was happening to Neil. Because I had not been interrogated in any way since 4th January I thought this might be a precursor to further interrogation and this was probably an attempt to intimidate me by showing me what was happening to other detainees. I therefore put myself through what Neil had gone through in order to determine whether I could handle this treatment.

35 I did these exercises for approximately an hour each day for three days. By the end of the third day I was suffering intense pain in my shoulders and in my legs. I found it very difficult to walk so I stopped these exercises.

36 On the same day that I returned to Randburg Police Station from John Vorster Square after witnessing what had happened to Neil, I decided to write a note



explaining what I had seen and what was happening to Neil, hoping to be able to pass it to one of my friends or family members when they came to visit me.

37 During my detention at Randburg I was one of the only political prisoners and I occupied a cell at the end of the corridor. If I stood on my toilet I could see the parking lot of the police station through my window. Because the police officers at Randburg were not used to having political prisoners they were not concerned about people standing outside the police station trying to communicate with their friends or family, being detained inside.

38 During my first detention at the Randburg Police Station I worked out a way to get a note to my friends and family by placing a small note in the lining of my jacket, which asked them to come to Randburg Police Station, to park in the parking lot and to play a certain song loudly from their car so that I would know to come to my window and speak with them. My dirty clothes would be picked up by my friends or family for washing when they came to bring me clean clothing. I probably got the pen and paper I had used to write the note from the ordinary non-political prisoners in the cell next door who would have passed it through the pipes connecting the cells. My friend who collected the jacket did not look inside the lining for any note and just washed the jacket with the note inside it.

39 When I was released I explained what I had done to my friends so that when I was detained for a second time at Randburg Police Station I would be able to communicate with them in this way. Over time we realised that the police were completely disinterested in what anybody did outside the police station and so



my friends or family were able to come right up to the window and talk to me. We also figured out how to pass things to each other, such as notes or money, by rolling them up into a little drinking straw and passing them through with a long coat-hanger-type-wire. I would often use the money to get things from the black security cops, such as newspapers.

40 It was in this way that I was hoping to pass on my note that I had written about what had happened to Dr Aggett. I had the note ready for when somebody came to visit me but sadly, nobody came. Approximately ten days later I received a copy of the Rand Daily Mail from a policeman at Randburg Police Station. The policeman began telling me about the fact that a detainee had died and he pointed it out to me in the newspaper and that was how I discovered that Neil had died.

41 The newspaper article mentioned that the Detainees Parent Support Committee was trying to arrange for political detainees to have visits with their family members or friends because it was necessary to determine whether the rest of the political detainees were safe. I thought that I would be taken to visit my partner at the time, and so I destroyed the original note and rewrote it to give to her. The note stated the following:

"On 25th I was at JVS from plus/minus 9.30 to 10.00 o'clock and plus/minus 11.00 o'clock to 12.15. In the first period I saw Neil being interrogated by plus/minus 6 guys, then some left and three remained. Neil was standing all the time. In the second period he was still standing, except he was naked. He was made to do push-ups a substantial number. He was hit either with a belt or a rolled up newspaper while doing them. Then he had to get up and run on the spot arms outstretched in front of him. Every so often he was made to lift his legs up high while running and all this was interspersed with



more push-ups. All the while he was being interrogated. The hitting with the newspaper went on all the time especially if his arms sagged. He was sweating profusely and when once he nearly fell over a chair with exhaustion, he was further harassed. When he got dressed after 12.00 o'clock he was pushed around even then. It was clear that he was completely naked because he obviously drew on his underpants and then his trousers. I can only imagine how often he had to go through this, and what worse things were done to him. Use this info but for the moment don't use the date or my name, but keep the note in a very safe place in case it's needed later, please give Yvette especially, but also everyone else all my love and strength. We must go on, I didn't know Neil well but he was obviously a very special person, his killing mustn't be for nothing. I'm okay, nothing has been done to me, I don't think anything will be done, I'm not that important. Take care, Morice."

- 42 The Aggett family's attorneys have found the note (either a copy or the original) in the Aggett Archive in Cape Town. My attorneys will investigate whether the note in the archives is an original or a copy. A copy of this note is attached marked annexure "**MS1**".
- 43 I folded the note and placed it under a false bottom that I had created in a box of matches. I was taken to the John Vorster Square to a room quite similar to the room I had been in on 25 January. I was sitting at one end of the table and a white police officer was sitting at the other end of the table. The person who came to see me was my sister and she came and sat opposite me at the end of the table. The police officer, from where he was sitting, could only see our upper torsos and could not see what was happening under the table. My sister was not political and I did not know what she would do with the note but I felt that I had to take the chance and gave her the box of matches with the note inside. Realising that the police officer could not see what I was doing, I asked my sister for a tissue and after wiping my nose with the tissue I covered the match box with it and passed it to her under the table. I had placed the match



box on my knee and pointed it out to her beforehand so she knew to take it from me with the tissue.

44 The following Friday I received a copy of the Rand Daily Mail and read on the front page that Helen Suzman had read my note out in Parliament. I later found out that my sister and her husband had found the note in the match box and had taken it to Helen Suzman. Helen Suzman did not identify it as a note from Maurice Smithers, merely as a note that had been smuggled out. She had been trying to raise the issue about how detainees were being treated and about Neil's death. She read out this note in Parliament, not mentioning my name and only once she had read the note did she say that this note was about Neil.

45 After reading this article I became very fearful because I was convinced that the security police were able to work out who had passed on this note and who had witnessed Neil being tortured. The security police were very good at recording movements in and out of John Vorster Square and I believed that I would be severely punished if I was exposed. Fortunately, this never happened. Very few people knew I had written that note until the day of the original inquest when George Bizos announced that I was going to be a witness.

46 I had huge respect for Neil as a person; he was a trained doctor and could have chosen to live a comfortable middle class life. Instead he had committed himself to the struggle, fighting for the rights of worker. He was very pleasant but also very intense and serious. He felt very strongly about what was happening in South Africa at that time.



- 47 My immediate reaction when I learned that Neil had died, and that the Security Branch said he committed suicide, was that if he had indeed hung himself, he had been driven to do so because he was being tortured.
- 48 I had no idea whether Neil was a member of the ANC or not. Those of us who were working with the ANC, were working underground in cells, and the rule was that you did not tell anybody, unless it was absolutely necessary to do so. Even if Neil had been a member of the ANC I would not have known.

MY EVIDENCE AT THE ORIGINAL INQUEST

- 49 At the original inquest I attested to an affidavit and gave oral evidence. During the inquest the legal team for the security police officers tried to discredit me on two grounds. The first was that I had spelt my name differently at different times. The correct spelling of my name is M-A-U-R-I-C-E, which I used when I signed my affidavit. However, at one point in my life I started spelling my own name differently because it was repeatedly misspelt. I spelt it M-O-R-I-C-E, and used that spelling when I wrote the note. They used this to discredit me, claiming that you could not trust somebody who spelt their own name in two different ways.
- 50 The second ground had to do with the fact that during my detention I was asked to sign a statement and on that occasion I was asked to take the oath, which I did. At the inquest, however, I wanted to affirm as opposed to taking the oath since I considered myself to be agnostic. The only reason I can think of for doing this was that in detention I wanted to rock the boat as little as possible. I



was concerned that my refusal to take the oath would give the security police officers additional cause to label me a communist. I felt more confident in the court to request that I rather affirm as opposed to taking the oath because the court room was full of media and I knew I had a layer of protection which I did not have in prison.

- 51 I had no difficulty giving evidence at the inquest because the incident that I had witnessed was so fresh in my mind. It had been at the forefront of my mind from the time it had happened.

DETENTION IN JOHN VORSTER SQUARE IN SECOND FLOOR CELLS

- 52 I was detained in John Vorster Square in the second floor cells in 1972 and again in 1986.

- 53 In 1972, I was kept at John Vorster Square for a couple of nights over the weekend. I was not interrogated during this period. I had been arrested along for riotous assembly along with around 60 other students protesting the expulsion from Turfloop University of the SRC, President Abram Onkgoposte Tiro.

- 54 In 1986, I was arrested under the state of emergency and was kept in the second floor cells in John Vorster Square for about two weeks before I was transferred to Johannesburg Prison, also known as 'Sun City', where I spent the next seven months in detention. I was not interrogated, again because it was preventative detention. I recall that, at John Vorster Square, I used to



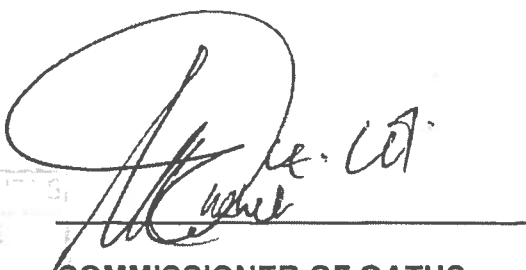
communicate with other detainees through the toilet system. We did this by flushing the water out of the toilet bowl and, once that water was removed, it became an open pipe through which we could hear each other and speak to one another.

55 In John Vorster Square I was held in a fairly large cell. The window of my cell faced Market Street. I recall that there were perspex sheets covering the grille in the cell.



MAURICE SMITHERS

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and affirmed before me at JEPPE SAPS on this the 15th day of July 2018, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



CLIENT SERVICE CENTRE
2018-07-15
CSC
JEPPE

COMMISSIONER OF OATHS
FULL NAMES: MZAMANI JAMES MASHELE
DESIGNATION: Lt. Col. SAPS

ADDRESS: NO 1439
Albertina Sisely
street JEPPE SADS

CUSTOMER SERVICE CENTRE
2018-07-15
CSC
JEPPE



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USE THIS INFO BUT FOR
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BUT KEEP THE NOTE IN
A VERY SAFE PLACE IN
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PLEASE GIVE YURTTA ESP
BUT NOT JEEYONE ELSE
ALL MY LOVE AND STRENGTH.
WE MUST GO ON. I DON'T

KNOW WELL, BUT HE
WAS OBVIOUSLY A VERY SPECIAL
PERSON. HIS KILLING MUST NOT
BE ANY NOTHING.

IM OKAY. NOTHING HAS BEEN
DONE TO ME. I DON'T THINK
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