

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO:

In the matter between:

THE SOUTH AFRICAN HISTORY ARCHIVE TRUST

Applicant

and

**THE MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES**

First Respondent

**THE DEPUTY INFORMATION OFFICER:
THE DEPARTMENT OF JUSTICE AND
CORRECTIONAL SERVICES**

Second Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

CATHERINE MOIRA KENNEDY

do hereby make an oath and state the following:



- 1 I am an adult female director of the South African History Archive Trust ("SAHA"), the Applicant, situated at the Woman's Jail, Constitution Hill, 1 Kotze Street, Braamfontein, Johannesburg.
- 2 I am duly authorised to bring this application on behalf of the Applicant. I attach hereto a copy of the resolution of the Trustees of SAHA dated 11 May 2013, as Annexure "CMK1".
- 3 I have personal knowledge of the facts in this affidavit, unless I state or imply otherwise, and they are true and correct. Where I make legal submissions, I do so on the basis of advice of the Applicant's legal representatives.

NATURE OF THE APPLICATION

- 4 This is an application to direct the Respondents to provide SAHA with the Truth and Reconciliation Commission's victims' database ("TRC database") in a usable and complete format containing all the required entities and fields as set out below.
- 5 In August 2009, the Minister granted SAHA's request under the Promotion of Access to Information Act 2 of 2000 ("PAIA") for access to the TRC database with the victims' personal details severed. SAHA seeks access to this record in order to ensure the preservation and accessibility of the TRC database for all South Africans.



- 6 SAHA has been waiting nearly 6 (six) years for the Department of Justice and Correctional Services, formally known as the Department of Justice and Constitutional Development ("the Department"), to provide it with the complete TRC database. Instead the Department has provided SAHA with only the data from 5 (five) fields of the TRC database in an excel spreadsheet. This is woefully inadequate and contrary to the decision of the Minister of Justice and Correctional Services ("the Minister") that the whole database, save for the victims' personal details, be provided to SAHA.
- 7 In the circumstances, SAHA has been forced to approach this Honourable Court in order to compel the Department to provide it with the TRC database in a complete and useable format.
- 8 In this affidavit, I address the following issues in turn:
 - 8.1 The parties;
 - 8.2 Jurisdiction;
 - 8.3 The TRC database;
 - 8.4 Factual background;
 - 8.5 The Department's failure to provide SAHA with the complete TRC database; and
 - 8.6 The requirements for a final interdict.

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THE PARTIES

- 9 The Applicant is SAHA, a non-governmental organisation ("NGO") constituted as a trust in terms of the laws of the Republic of South Africa ("SA").
- 10 SAHA's founding objectives are to collect, preserve and catalogue materials of historic, contemporary, political, economic and cultural significance, and to promote the accessibility of such materials to the general public. I attach hereto a copy of SAHA's trust deed as Annexure "CMK2".
- 11 SAHA is an independent NGO dedicated to documenting and providing access to archival holdings that relate to past and contemporary struggles for justice in SA. Established by anti-apartheid activists in the late 1980s, its founding mission was to promote the recapturing of SA's lost and neglected history and to record history in the making. Furthermore, SAHA aims to document, support and promote awareness of past and contemporary struggles for justice through archival practices and outreach, and the utilisation of access to information laws.
- 12 In bringing this application, SAHA acts:
- 12.1 In its own interests, to further the achievement of their own objectives; and
- 12.2 In the public interest.

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- 13 The First Respondent is the Minister of Justice and Correctional Services, in the National government, who is cited in his official capacity and whose offices are situated at 316 Thabo Sehume Street, Cnr Thabo Sehume and Francis Baard Streets, Pretoria. The Minister is cited care of the State Attorney, Pretoria, whose offices are situated at the same building.
- 14 The Second Respondent is the Deputy Information Officer: The Department of Justice and Correctional Services, ("the Deputy Information Officer") whose offices are situated at Momentum Centre, 329 Pretorius Street, Pretoria, 001. She is cited in her official capacity as the departmental officer who was responsible for compiling and disclosing the TRC database to the Applicant.
- 15 It should be noted that prior to 25 May 2014, SAHA had been engaging with the Department of Justice and Constitutional Development (and staff thereof). On 25 May 2014, President Zuma announced a new cabinet in which he merged the Department of Justice and Constitutional Development with the Department of Correctional Services to form the Department of Justice and Correctional Services. This application is therefore brought against the Minister and Deputy Information Officer of the Department of Justice and Correctional Services in light of the aforementioned merger.

JURISDICTION

- 16 I have been advised and submit that this Court has jurisdiction to hear this application due to the Respondents being domiciled within this Honourable Court's jurisdiction.
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THE TRC DATABASE

Experts

17 SAHA has consulted two experts in this matter to assist and advise it in relation to the TRC database:

17.1 Mr Gerald O'Sullivan was the National Information Systems Manager of the TRC from March 1996 to October 1998 and was responsible for the building and managing of the TRC ' database, based on a model developed by Dr Patrick Ball, formerly employed at the American Association for the Advancement of Science. Mr. O' Sullivan's supporting affidavit as well as his curriculum vitae is attached hereto as Annexure "CMK3".

17.2 Dr Patrick Ball conducted the original systems analysis and design objectives for the TRC database. He further designed the interview questionnaire and conducted evaluations of multi-site information flow related to the findings of the TRC. In addition, he designed and implemented statistical analysis based on the TRC database used in the TRC's report. As a result of his extensive involvement in the design, implementation and management of the TRC database, he has intimate knowledge of it and its contents. The supporting affidavit of Dr Ball, as well as his curriculum vitae, is attached hereto as Annexure "CMK4".

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The history of the TRC database

- 18 The Truth and Reconciliation Commission ("TRC") was established by the Promotion of National Unity and Reconciliation Act No 34 of 1995 ("the TRC Act"). The TRC Act stated that the objectives of the TRC were "to promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past". The commission was mandated to bear witness to, record and in some cases grant amnesty to the perpetrators of crimes relating to human rights violations between 1960 and May 1994.
- 19 The TRC was obliged in terms of section 4(e) of the TRC Act to prepare a comprehensive report setting out its activities and findings based on its research and investigations. On 29 October 1998, and in compliance with section 4(e) of the TRC Act, a report styled as the Truth and Reconciliation Commission of South Africa Report ("the TRC Report") was handed to President Nelson Mandela. The TRC Report was subsequently tabled in Parliament in accordance with section 44 of the TRC Act. The TRC Report comprises of 7 (seven) volumes of approximately 4500 (four thousand five hundred) pages. A substantial portion of Volume 5 deals with victims of gross violations of human rights.
- 20 The Report and the transcript of the amnesty hearings and decisions are available on the Department's website.
- 21 The underlying information gathered during the process is contained in the TRC database.



- 22 Matters arising from the TRC are now dealt with by the TRC Unit (Stakeholders, Information & Research) within the Department. Furthermore, the TRC database is now under the control of the Department.

The nature and function of the TRC database

- 23 A database is a complex multi-dimensional structure. Most databases contain multiple and interrelated entities. The entity is a collection of related data held in a structured format and it consists of various fields.
- 24 I am advised that the entities are linked together by either a single or multiple keys. The keys create relationships between the pieces of data in each entity. It is only when the entities are accessible together through the use of the unique database 'key', that the rich and complex structure of a database can be utilised. Databases are created in this way to allow for multiple and flexible searches, and in order to link pieces of information together.
- 25 The TRC database is such a relational database, designed to store the data in a number of entities and fields. The design was informed by the work of Dr Ball, a renowned specialist in the field, who had created a number of similar designs for inquiries in other parts of the world.
- 26 The full details of the names of all of the entities and their contents are set out in chapter 4 of "Making the Case: Investigating Large Scale Human Rights Violations Using Information Systems and Data Analysis" ('Making the Case'), authored by Mr O'Sullivan, attached hereto as Annexure "CMK5".



27 According to Mr O'Sullivan, the data model of the TRC database is best described as follows:

27.1 The underlying logical structure of the TRC database is relatively simple, with just 6 (six) central entities. There are a number of other entities in the database that were used by the TRC staff to capture and administer the data but they are not relevant for the purposes of this application because it is the 6 (six) central entities that contain the actual detail of the violations.

27.2 The 6 (six) central entities, with the attributes of relevance for purposes of this application, are PERSONS, SOURCES, ACTS, PERPETRATORS, WITNESSES and EVENTS.

27.3 PERSONS: The PERSONS entity consists of information about the person, whether he or she was a deponent, victim, perpetrator or witness to a violation, as well as TRC staff members.

person seq	Sequential number to uniquely identify persons(only partial detail may be known about a person, so a system-generated primary key was used)
last name	last, or family, name
first names	first name(s)
id number	unique 13-digit South African identification number, passport numbers, or the old apartheid reference book number if the ID number was not available.

Race	race or ethnicity of person, important in the South African context
date of birth	the age of the person.
Sex	the gender of the person
address lines	for contact purposes
phone no	for contact purposes
Town	for contact purposes
staff members	details about staff members

27.4 SOURCES: The SOURCE entity holds details of the source of the information about the violations in question. In the case of the TRC, violations either came from human rights violation statements, or amnesty applications. Secondary source material was only used for corroborative purposes.

Reference no	File reference number allocated to the document. This is one of the keys that is necessary to reconstruct the information reported to the TRC
Protocol type	a code to indicate which version of the format of the HRV statement or amnesty application was used to record the violation
deponent	the identifier of the person who made statement or submitted the amnesty application. This is one of the keys necessary to reconstruct the information reported to the TRC

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place	the town where the statement was made or amnesty application lodged.
office	code of the TRC office responsible for the document.
status	the status field was used to track where in the information flow the document was registered, processed, corroborated or finding.
date taken	the date the statement was taken, or amnesty application made.
Interviewer	the identifier of the staff member who took the statement or application. This is one of the keys necessary to reconstruct the information reported to the TRC
date registered	date of registration
registrar	the identifier of the staff member who took the statement or application. This is one of the keys necessary to reconstruct the information reported to the TRC
date processed	date the document was processed.
processor	the identifier of the staff member who processed the document. This is one of the keys necessary to reconstruct the information reported to the TRC
date corroborated	date document was corroborated.
corroborated (by)	The identifier of the staff member who corroborated the document. This is one of the keys necessary to reconstruct the information reported to the TRC
date finding	date the document completed the findings process.
commissioner	the identifier of the commissioner who made the finding. This is one of the keys necessary

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	to reconstruct the information reported to the TRC
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27.5 ACTS: The ACT entity was at the heart of the database. This entity holds details of the What, Whom, as well as When, Where, How and Why of the violations. It has a many-to-one relation to SOURCES (one document can describe many violations) as well as to PERSONS (one person can be violated many times).

reference no	file reference of the source document. This is one of the keys necessary to reconstruct the information reported to the TRC.
act seq	sequence number of the violation as narrated in the document.
Victim	identifier of the victim. This is one of the keys necessary to reconstruct the information reported to the TRC
violations desc	narrative description of the violation.
violation type	code used to categorize the nature of the violation
outcome	narrative description of the outcome of the violation.
outcome type	code used to categorise the outcome of the violation.
place	town where the violation took place.
location desc	narrative description of the location of the violation (In a police cell, for example, or at the training camp, at the chief's kraal).
location type	category of type of location
day	the day of the month of the violation;

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month	the month of the year of the violation
year	the year in which the violation occurred.
victim org	the code of the organisation to which the victim belonged.
circumstances	narrative description of the political circumstances prevailing at the time.

27.6 PERPETRATORS: The PERPETRATORS entity holds details of the individuals who carried out the violation. It has a many-to-one relation to the violation, because many perpetrators can carry out on violation.

reference no	file reference of the source document. This is one of the keys necessary to reconstruct the information reported to the TRC
act seq	sequence number of the violation as narrated in the document.
perpetrator	identifier of the person who carried out the violation. This is one of the keys necessary to reconstruct the information reported to the TRC
perp org	the organisation to which the perpetrator allegedly belonged.
weapon	narrative description of the weapon used.
characteristic	identifying characteristics of the perpetrator.

27.7 WITNESSES: The WITNESS entity holds details of the individuals who witnessed the violation. It has a many-to-one relation to the violation, because many individuals can witness one violation.

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Reference_no	File reference of the source document
act_seq	Sequence number of the violation as narrated in the document
Witness	Identifier of the person who witnessed the violation.

27.8 EVENTS: The EVENT entity was used to group violations from a variety of documents into conceptually meaningful events. For example, this entity was used to group all violations pertaining to the Ratanda bus massacre in one event. The event was a recursive entity, so small events could be grouped together into larger events.

event_id	sequential number to uniquely identify events
title	the title of the event
start_date	the date when the event started
end_date	the date when the event ended
notes	notes about the event
parent_event	identifier of the larger event, of which this is a part
owner	identifier of the person who created the event.

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- 28 To emphasise the 6 (six) central entities in the TRC database are therefore: persons, sources, acts, perpetrators, witnesses and events as indicated above.

SAHA's objectives in accessing the TRC database

- 29 SAHA's two core programmes are:

29.1 the Freedom of Information Programme which is responsible for submitting access to information requests, as well as lobbying and advocacy, awareness and training to NGOs, CBOs and students around the use of PAIA to advance human rights in SA; and

29.2 The Struggles for Justice Programme which is responsible for developing and using SAHA's archival collections to support broader reconciliation efforts in helping South Africans to understand and come to terms with the past.

- 30 Through these two programmes, SAHA has demonstrated a longstanding commitment to helping to complete the unfinished business of the TRC and raising awareness of the legacies of apartheid injustices.

- 31 SAHA's on-going archival and information activism is a response to a recommendation made by the TRC to make the TRC archive widely accessible and to engage in on-going truth recovery. In this regard I refer to the supporting affidavit of Alexander Lionel Boraine, the former Deputy Chairperson of the TRC, which is annexed hereto marked "CMK6",



32 These activities have complemented other SAHA initiatives aimed at making the work and records of the TRC more readily accessible including:

32.1 The development of the SAHA / SABC Truth Commission Special Report multimedia player and website (2007 – 2012);

32.2 The development of an exhibition, catalogue and on-going educational programme, "The battle against forgetting: human rights and the unfinished business of the TRC" (2010 to date);and

32.3 The joint SAHA / Wits University TRC Archives project encompassing research, document, and oral history collections, archival auditing, digitisation and web development in relation to both official and unofficial TRC records. (2003 – 2006).

33 SAHA has identified the TRC database as a critically important source of information to further its objectives. SAHA believes that the TRC database is a rich archival record of the apartheid era. For this reason SAHA wishes to have access to a copy of the database in order to:

33.1 Ensure the data and information contained in the database is properly preserved;

33.2 Make the database available to the public in a suitably redacted form that is consistent with the requirements of PAIA; and

33.3 Enable SAHA and others to conduct statistical analyses on the information in the database including analyses on the types of

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atrocities that were reported to the TRC and the frequency, severity and nature of incidents.

- 34 Once the documents are released and digitised, they will be made available online through the SAHA archival collection and integrated into the existing SAHA / SABC Truth Commission Special Report website so as to make them more accessible to the public.

FACTUAL BACKGROUND

The PAIA Request

- 35 In order to avoid burdening the Court unnecessarily I refer it to the document titled "Summary of communications and interactions between SAHA, the Department of Justice and Constitutional Development and the Ministry of Justice and Constitutional Development regarding the TRC victims database" [17 March 2006 – June 2012] for the full factual background to this matter. This document is annexed hereto marked "**CMK7**". The paragraphs below merely serve as a summary in order to provide the Court with a necessary overview of the matter.
- 36 On 30 March 2009, Mr Herman Fritz Schoon, in his capacity as the coordinator of the Freedom of Information Programme at SAHA, submitted a Form A, Request for Access to Record of a Public Body in terms of section 18(1) of PAIA ("the PAIA request"), to the Department. The request form sought

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access to the TRC database as well as a copy of the amnesty application of Eugene De Kock. The request form is attached hereto as Annexure "CMK8".

37 Under Section D "Particulars of Record" it states:

"A. A copy of the Truth and Reconciliation Commission's (TRC) Victims Database

B. A copy of the amnesty application that Eugene De Kock submitted to the TRC."

38 Mr Schoon added in this section:

"With regard point A, above, please note that SAHA are not seeking to attain personal information (such as names, ID numbers or residential addresses) of those whose details are on the database. Rather, SAHA wish to attain records as to the types and categories of atrocities that were reported to the TRC, for the purpose of statistical analysis.

While SAHA acknowledge the need to protect the privacy of the people in question, SAHA do not consider it to be necessary to mask details such as age, gender and location of crime.

SAHA have been informed, by the designer of the database that it is within the databases capacity to mask selected fields (such as personal details) and that utilizing this function will not damage the database in anyway. SAHA can put the DOJ

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in touch with the designer of the database, if the DOJ so wishes."

The refusal by the Deputy Information Officer

39 SAHA received a letter from the Deputy Information Officer of the Department, Ms. Raswisiwi dated 5 May 2009. Ms. Raswisiwi informed SAHA that the request for access to the TRC database was refused in terms of section 37(1)(b) of the PAIA.

40 Ms. Raswisiwi noted that the reason for the refusal was that the TRC database contained information that had been supplied in strict confidence by third parties and that the Department was unable to break the undertaking of confidentiality. Furthermore, the nature of the Department's work and need to obtain information from various sources may be jeopardised by the disclosure of confidential information. This letter is attached hereto as Annexure "CMK9".

The internal appeal

41 SAHA lodged an internal appeal to the Minister against the refusal for access on 29 June 2009. In the appeal document, SAHA emphasised that it was not seeking personal information from the TRC database, but rather "access to generic information as to the types of atrocities that were reported to the TRC (such as nature of incident, kinds of injuries incurred, place of incident etc), for the purpose of statistical analysis."

42 The appeal document concludes:



"SAHA therefore call on the honourable Minister to order that the DOJ release a copy of the TRC's victims database, excluding any information that may have been derived from in-camera hearings constituted in accordance with the stipulation of section 33 of the TRC Act, and masking the personal information of those whose information is on the database."

43 It notes further:

"Please note that SAHA have been informed by the designer of the TRC's database: 1) that it is within the database's capacity to mask selected fields; and 2) that it does not do any damage to the database to utilize the masking function. SAHA offered, at the time of submitting the request, to put the DOJ in touch with the database's designer, if the DOJ so wished. That offer still stands."

The internal appeal document is attached as hereto as Annexure "CMK10".

44 On 28 August 2009, SAHA received correspondence from the Minister. The Minister stated that he had considered the grounds of appeal and decided to overturn the Deputy Information Officer's decision to refuse SAHA the requested information.

45 The Minister stated:

"As stated in your appeal, the information you requested regarding the TRC's victims database is of a generic nature

relating to atrocities that were reported to the TRC. I have therefore instructed the Department to severe (sic) from the records to be made available to you, victims' personal details. The process may take a while as the TRC victim's database is quite a voluminous document."

The letter from the Minister is attached hereto as Annexure **"CMK11"**.

SAHA's attempts to obtain the requested record

- 46 On 22 September 2009, SAHA wrote to the Department addressing the Minister offering to introduce the Department to Mr O' Sullivan. Mr O'Sullivan was the National Information Systems Manager of the TRC from March 1996 until October 1998 and was also the person responsible for developing the TRC database.
- 47 The letter notes that the Deputy Information Officer had raised concerns with SAHA that using the masking function on the TRC database to redact the personal information would cause irreparable damage to the database. A copy of the letter is attached hereto as Annexure **"CMK12"**.
- 48 In late November 2009, SAHA collected an extract of the TRC database from the Department in a CD format. The database provided was a spreadsheet which contained only one field with no legend explaining what the field represented. It further contained no dates or any indication of the outcomes of any of the amnesty applications. It was a spreadsheet with limited

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information provided in isolation, such as: "19 cows were stolen and windows broken."

49 The information provided could not be used for statistical analysis nor any other purpose. Since the facts provided could not be connected to any incident, place or person the data was meaningless. SAHA was of the view that the information provided was incomplete and in an unusable format.

50 On 11 December 2009, a meeting was held at the Department to discuss SAHA's concerns about its access to the TRC database. Gabriella Razzano of SAHA, the Deputy Information Officer, Advocate Ndou and Natalie Louw, a staff member of the Department, were all present at the meeting. The confirmatory affidavit of Gabriella Razzano will be filed evenly herewith.

51 During this meeting the Department:


51.1 reiterated their unwillingness to obtain assistance from the experts identified by SAHA; and

51.2 claimed that they had difficulty accessing the database because the only staff member with access to the password had passed away without recording it.

52 On 10 February 2010, SAHA once again wrote to the Department, setting out in detail why the information provided was incomplete and requesting that the Department take proactive steps in correcting the deficiencies in the record supplied. A copy of the letter is attached hereto as Annexure "CMK13".



- 53 On 19 March 2010 a meeting was again held between Gabriella Razzano from SAHA and Natalie Louw along with Ms Raswisiwi from the Department. During this meeting the Department provided SAHA with an adjusted form of the database spreadsheet. The amended version contained 63 285 records each comprising of three fields. This did not constitute the complete TRC database, but only a portion of the data fields. A printout of a sample portion of the information provided by the Department is attached hereto as Annexure **"CMK14"**.
- 54 SAHA approached Dr Ball, Chief Scientist and Vice President of the Human Rights Programs at Benetech. Dr Ball wrote to the Minister on 18 October 2010 offering assistance in redacting the database in the manner required. A copy of the letter is attached hereto as Annexure **"CMK15"**.
- 55 Further correspondence ensued between SAHA and Mr Labuschagne of the Department between 8 November and 2 December 2010.
- 56 On 13 April 2011 SAHA laid complaints with the South African Human Rights Commission ("SAHRC") and the Public Protector. The Department was informed of these complaints. The SAHRC attempted to intervene but without any success. SAHA failed to receive a response to their complaint from the Public Protector.
- 57 In a letter dated 23 May 2012 the Department responded to the query by SAHA relating to the delay in obtaining a copy of the database. It stated:



"We have noted your dissatisfaction with the information in the copy of the database that was provided to you. After further consideration of the matter, it is our submission that there is no additional information that we can provide in order to satisfy your request. That is, the copy provided to you includes the information that the Minister permitted. See Annexure B that is attached hereto."

- 58 On 3 April 2013 SAHA and its partner, the Centre for Applied Legal Studies, wrote to the Minister requesting a meeting to discuss the matter. A copy of the letter is attached hereto as Annexure **"CMK16"**.
- 59 On 10 June 2013, SAHA appointed Cliffe Dekker Hofmeyr ("CDH") as attorneys of record and provided the Department with a period of 14 (fourteen) days in which to implement the Minister's decision of 28 August 2009 by providing SAHA with access to the database in a workable format. SAHA further confirmed that it would pursue the matter through appropriate legal means should the Department fail to comply with its request. The letter is attached hereto as Annexure **"CMK17"**. The confirmatory affidavit deposed to by Ms Tricia Erasmus, an attorney employed with CDH will be filed evenly herewith.
- 60 By 28 June 2013, SAHA failed to receive a response to its above correspondence and a courtesy letter was sent the Department. A copy of the letter is attached hereto as Annexure **"CMK18"**.

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- 61 On 1 July 2013 SAHA received a response from the Minister. The Minister noted that he had considered the complaint against the Department in relation to the way in which PAIA requests were handled. He also noted the suggestion that Mr O'Sullivan and Dr Ball be used to assist in obtaining the relevant information. He states:

"I do not intended taking that approach. The current framework is more than adequate to deal with requests for access to information. I have therefore instructed the Department to provide the database in a useable form, and that the assistance of experts from SITA be made use of."

- 62 In a further Annexure attached to the letter the Department states the following in response to the complaint:

"The Deputy Information Officer refused the request for the records relating to the TRC Victims Database after due consideration and the reasons therefore were provide to South African History Archives. On internal appeal, the Minister overturned the refusal and instructed the Department to sever from the records to be made available to South African History Archives, victims personal details. It is submitted that the Department has, wherever possible, used the severance provisions of the Act to grant request documents."

The letter and Annexure is attached hereto as Annexure "CMK19".

- 63 On 25 July 2013, SAHA received correspondence from the Department confirming that the TRC database was placed on a CD, in a useable format and was ready for collection. SAHA made the requested payment and collected the CD from the Centre for Applied Legal Studies on 15 August 2013.
- 64 However, upon inspection of the above CD by myself, it was discovered that the database provided included only 5 (five) fields. These fields included: the date of atrocity; place; specific location; action type; and action. This still did not constitute the whole TRC database. A printout of a sample portion of the information provided by the Department is attached hereto as Annexure **"CMK20"**.
- 65 On 8 October 2013, SAHA informed the Department that in order to comply with its initial PAIA request, the TRC database should contain approximately 50 (fifty) entities. SAHA further confirmed in the aforementioned correspondence that it had previously notified the Department of these particular specifications in correspondence addressed to the Minister on 15 June 2010. However, Mr. O'Sullivan has since confirmed that the TRC database in fact contained 54 entities. A list of these entities is annexed marked **"CMK21"**.
- 66 SAHA further requested that the Department provide it with the TRC database in a useable, complete format including all the required fields within 1 (one) calendar month failing which SAHA would pursue the matter through appropriate legal means. The correspondence is attached hereto as Annexure **"CMK22"**.
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67 However, SAHA has to date failed to receive a response to the abovementioned correspondence and proceeded to write to the Department on 22 November 2013. In this correspondence SAHA reiterated the fact that it intends to pursue the matter through appropriate legal means as the Department failed to provide it with the complete TRC database. The letter is attached hereto as Annexure "CMK23".

68 On 7 April 2014, final correspondence was sent to the Department explaining the extraction process in simplified terms and once again offering the assistance of Mr Gerald O' Sullivan. However, to date no response has been received from the Department. The letter is attached hereto as Annexure "CMK24".

THE DEPARTMENT'S FAILURE TO PROVIDE ACCESS TO THE RECORD

SAHA is entitled to the complete TRC database with only the victims' personal details severed

69 Section 32 of the Constitution of the Republic of SA provides for a right of access to information held by both public and private bodies. It states that:

"(1) Everyone has the right to have access to

a) any information held by the State; and

b) any information that is held by another person that is required for the exercise or protection of any right.

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the State."

70 PAIA is the national legislation envisaged in section 32(2) of the Constitution. It was created in order to give effect to access to information and to promote the values of openness, transparency, accountability and good governance.

71 Section 9 of PAIA describes as its object, *inter alia*, the promotion of:

"... transparency, accountability and effective governance of all public and private bodies by including, but not limited to, empowering and educating everyone

- i) to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;*
- ii) to understand the functions and operation of public bodies;*
- iii) to effectively scrutinise... decision-making by public bodies that affects their rights."*

72 Every request for access to information in terms of PAIA is an invocation of section 32 in the Constitution and entitles the requestor to access to the requested information, or part thereof, if that requestor complies with all the procedural and statutory requirements set out in the statute, unless there is a valid ground of refusal which the private or public body may rely on.

- 73 I am informed that the Constitutional Court has continually made it clear that the right of access to information is central to the realisation of the rights guaranteed in the Bill of Rights.
- 74 Section 77(6) of PAIA provides that where the relevant authority decides on an internal appeal to grant a request for access, the Information Officer of the body must forthwith give the requester concerned access to the record concerned.
- 75 SAHA has followed all the necessary procedures under PAIA. SAHA requested in its appeal document that it be provided with "a copy of the TRC's victims' database". The Minister adjudicated the internal appeal and decided that SAHA should be provided with access to the TRC database. The only restriction expressly stated by the minister was that the Department "severe (sic) from the records ... victims' personal details".
- 76 In this regard it is submitted that the severing of the records was always subject to section 34 of PAIA which protects the privacy of third parties who are natural persons.

76.1 Section 34(1) requires an information officer to refuse a request for access to a record if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual.

76.2 Section 34(2) stipulates that a record may not be refused in terms of subsection (1), *inter alia*, where:



76.2.1 the information is already publicly available;

76.2.2 an individual has consented in writing to its disclosure; or

76.2.3 information was given to the public body by the individual to whom it relates and the individual was informed by the public body, before it is given, that the information belongs to a class of information that would or might be made available to the public.

76.3 Accordingly, the Department was not entitled to remove details from the database that were already published in the TRC Report.

76.4 It should be noted that the names of victims are disclosed throughout the report. Indeed, names and ages of victims, including the basic facts of their violations are disclosed in volume 7 of the Final Report.

77 Section 28 of PAIA provides that if a request for access is made to a record of a public body containing information which may or must be refused in terms of any provision of Chapter 4, every part of the record which does not contain, and can reasonably be severed from, any part that contains any such information must be disclosed.

78 SAHA has been advised by Dr Ball that the Department can provide it with the complete Database in 2 (two) ways:

78.1 Provide SAHA with a copy of all of the entities and the data they contain in an extracted text form; or

78.2 Provide SAHA with a "database dump" from the database entities. SAHA has access to the necessary skills and expertise to import the data into a new searchable database.

79 In either case, SAHA is entitled to all of the data in the entire TRC database save for the victims' personal details that are not already in the public domain.

80 For the sake of completeness I note that none of the sections of the TRC Act dealing with confidentiality apply to the information contained in the database. Section 29(5) provides for private investigations and the withholding of information pertaining to such investigations shall not be made public until the Commission determines otherwise. Section 37 provides that the Commission may decide to what extent, if it at all, the identity of any person who interacted with the Commission may be disclosed in any report of the Commission. Section 38(1) requires all commissioners and staff members not to disclose matters that have been declared confidential by the Commission, while subsection (3) protected the details of Commission meetings from unauthorised disclosure. As mentioned above the Commission disclosed the names of victims and perpetrators, together with detailed facts, throughout the Final Report. The names and ages of victims, including the basic facts of their violations are disclosed in volume 7 of the Final Report. Accordingly, there can be no justification for the withholding of such details from the database.

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81 In 2006, SAHA requested records from the National Archives relating to "agreements of confidentiality" made by persons making statements or submissions to the TRC, as well as persons appearing at hearings or interviews before, the TRC. Annexed hereto is an affidavit marked "**CMK25**" from the **Second Respondent** dated 12 December 2006 in which she states that there are reasonable grounds to believe that these confidentiality agreements do not exist. Annexed hereto marked "**CMK26**" is a letter in support of this position dated 29 November 2006 made by the then National Archivist, Dr Graham Dominy, confirming that no such agreements could be found at the National Archives, and that the research staff at the National Archives indicates that "no special agreements were signed when individuals made statements..." to the TRC.

The record provided by the Department

82 In summary, the Department has attempted to provide SAHA with its requested record on three occasions:

82.1 In November 2009 it provided SAHA with 1 (one) unlabelled field in an excel spreadsheet;

82.2 On 19 March 2010 it provided SAHA with 3 (three) unlabelled fields in an excel spreadsheet; and

82.3 On 15 August 2013 it provided SAHA with 5 (five) fields: atrocity; place, specific location; action type and action from only one of the 6 (six) central entities.



- 83 However, the information provided by the Department does not comply with SAHA's request for access as it is incomplete. Furthermore, the Department has not endeavoured to sever the personal details and to provide SAHA with the rest of the TRC database as it is obliged to do. Rather it has provided SAHA with disparate sections of the TRC database which are of no use to them.
- 84 It is submitted that if the Department was able to sever or mask personal details from the 5 (five) fields provided then it could do the same in respect of the balance of the other central entities.
- 85 In a complex database with many entities, 6 (six) of which contain the principal information relating to the human rights abuses, it is clear that a spreadsheet with only five fields is insufficient.
- 86 SAHA has consulted with experts to determine what, in their opinion, would constitute a complete record of the information contained in the TRC database.
- 87 I have been advised that the most important entities that must be provided to them in their entirety in order for the database to be regarded as useable and complete are the following 6 (six):

87.1 Persons;

87.2 Sources;

87.3 Acts;

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A.2

87.4 Perpetrators;

87.5 Witnesses; and

87.6 Events.

88 Mr O' Sullivan further advised that there are a number of other sub-entities that are needed for technical purposes and in order for the database to function but they are not necessary for statistical analysis. However, it is not possible to carry out statistical analysis without the raw data from the 6 (six) entities listed above.

89 Dr Ball has considered the table of data provided to SAHA by the Department and has advised them that the information provided by the Department appears to be data from the Acts entity but that it alone does not amount to the TRC database. It is a thin extract of information from the rich and complex structure of the database.

90 In particular:

90.1 The entity of data has been stripped of numerous fields as well as the unique key fields which links its content to the other entities; and

90.2 The entity of data has been provided in isolation and has little use without the sources, persons and perpetrator entities.

Extracting the necessary data

91 During the course of their correspondence, SAHA has understood the Department's problems to be:

91.1 Technical difficulties in accessing and extracting the data;

91.2 Concerns about extracting the data in a way that does not compromise the database; and

91.3 Concerns about ensuring the necessary redactions of personal information takes place.

92 In order to obtain clarity regarding the extraction process SAHA has proceeded to consult with Mr O'Sullivan and Dr Ball who are both database experts.

93 Dr Ball advised that if the Department is able to extract portions of the data then it is highly likely that it can access all of the information contained in the TRC database.

94 This was confirmed at a meeting held between SAHA, the Department and the State I.T. Agency on 13 December 2011 by the database engineer who is responsible for maintaining the TRC database in terms of the Service Level Agreement between SITA and the Department.

95 SAHA has made this position known to the Department:

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95.1 In its original request for access to the record, SAHA advised the Department that they had "been informed, by the designer of the database, that it is within the databases capacity to mask the selected fields (such as personal details), and that utilizing this function will not damage the database in any way."

95.2 This was repeated in SAHA's internal appeal.

96 SAHA also offered to provide the Department with the contact details of the designer of the TRC database in the original request and in the appeal letter, as well as in later correspondence.

97 The Department has to date refused to accept assistance. The Minister has stated that the Department will only use the assistance of SITA. SITA does have this technical capability as confirmed at the meeting referred to above.

98 The conduct of the Minister, officials of the Department and Deputy Information officer in relation to PAIA requests is governed by a range of provisions of the Constitution. These provisions seek to ensure an efficient, equitable and ethical public administration that respects fundamental rights and is accountable to the broader public.

98.1 Section 7(2) of the Constitution requires that the State must "respect, protect, promote and fulfil the rights in the Bill of Rights";

98.2 In terms of section 237 of the Constitution "all constitutional obligations must be performed diligently and without delay"; and

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98.3 Section 195(1) of the Constitution sets out the "values and principles that must govern public administration and states that these principles apply to administration in every sphere of government, organs of State and public enterprises."

- 99 The aforesaid conduct denies the Applicant, and others, meaningful access to the TRC database. In so doing the rights of the Applicant and the public to the truth are violated. This denial inhibits their ability to deal with the past. The truth unearthed by the TRC requires on-going, free and even robust exchanges amongst South Africans. In this regard I refer to the supporting affidavit of Alexander Lionel Boraine, the former Deputy Chairperson of the TRC, which is annexed hereto marked "**CMK6**", who points out that the TRC intended for the database to be used by South Africans as an "essential primary source of valuable historical material" and which must be made accessible to future generations".
- 100 There is an important principle in international law which recognizes the "right to truth." The right has been recognized by the United Nations, enshrined in an international treaty, and upheld in Regional and National courts. This right, as well as the ability to engage with the truth, finds expression in the constitutional values of human dignity, the rule of law, free expression and access to information.
- 101 The right to the truth about gross human rights violations and serious violations of human rights law is an inalienable and autonomous right, linked to the duty

and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedies.

102 The right to the truth is required to be upheld to give meaning and effect to other human rights entrenched in the Bill of Rights, namely human dignity, life, freedom and security of the person, freedom of expression and access to information. It also has a collective and a societal dimension and is accordingly closely linked to the rule of law and the principles of transparency, accountability and good governance in a democratic society which are enshrined as foundational values in section 1 of the Constitution.

103 It is these principles and constitutional obligations that must govern the conduct of the Department and the Minister when dealing with SAHA's PAIA application.

104 The Department has failed to take reasonable steps in ascertaining what information can be reasonably severed. Such steps must include the use of external experts if so required to assist in the process.

FINAL INTERDICT

105 SAHA seeks a final interdict compelling the Department to provide it with the complete TRC database. I am advised that in order to succeed we have to demonstrate to the above Honourable Court :

105.1 A clear right;

105.2 An injury actually committed or reasonably apprehended; and

105.3 The absence of similar protection by any other ordinary remedy.

106 The above Honourable Court may use its discretion to grant SAHA the relief sought.

Clear right

107 SAHA has a statutory right under sections 11 and 77(6) of PAIA to the complete TRC database to the extent that it can reasonably be severed from the victims' personal details that are not already in the public domain. This statutory right is underpinned by its constitutional right in section 32.

108 Moreover, SAHA has a right to the TRC database based upon the constitutional rights of human dignity, equality, the rule of law, free expression and access to information.

Injury reasonably apprehended or actually committed

109 There is a continuing breach of SAHA's statutory right under PAIA and its Constitutional rights under section 32(1)(a), and the other rights referred to above, for as long as the Department does not provide it with the complete TRC Database.

110 The Department and Deputy Information Officer are no longer willing to engage with SAHA. They have unreasonably refused offers of assistance in order to

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extract the necessary data. SAHA firmly believes that without this court's intervention, it will never receive the information granted to it. In this regard I refer the Court to the correspondence received from the Department dated 26 July 2013 confirming that SAHA's matter "has been disposed of", attached hereto as Annexure "CMK27".

111 SAHA and the South African public suffer prejudice as a result of the Department and Minister's conduct.

112 The prevention of this harm is within the power of the Minister, the Department and the Deputy Information officer.

No alternative remedy

113 There is no other possible and satisfactory remedy open to SAHA.

114 I have been advised that SAHA has no further remedies under PAIA. Section 78(2) sets out the categories for the grounds upon which a requestor can make an application to court for relief in terms of section 82. The situation of SAHA does not fit into any of the categories listed. This is so primarily because SAHA has not been "unsuccessful in an internal appeal". In fact, SAHA has been granted the access it requested on appeal. PAIA makes no provision for further appeals.

- 115 The correspondence exchanged and the various meetings that SAHA has had with the Department to date proves that SAHA has done all that it can to resolve this matter outside of this Courts structures.
- 116 SAHA has been unable to convince the Department that the information provided to date is insufficient. The Minister and Department take the view that they have provided SAHA with the information as per the Minister's request. However as indicated, SAHA disputes this.
- 117 The issue of damages does not arise in these circumstances.
- 118 This application to compel the Department to comply with the terms of the Minister's decision is the only available remedy to protect SAHA's rights.

Discretion

- 119 I am advised that even if SAHA does not satisfy any 1 (one) or more of the above requirements, this Honourable Court has judicial discretion to exercise in granting or refusing to grant SAHA the relief sought.
- 120 I further submit that from the facts above, it is apparent that SAHA's application is a *bona fide* attempt to protect and preserve the TRC database.

Conclusion

121 In the circumstances, SAHA requests this Honourable court to grant an order in terms of the Notice of Motion.


 CATHERINE MOIRA KENNEDY

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at Braamfontein on this the 25th day of MAY 2015, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.


 COMMISSIONER OF OATHS

Full names:

Address:

Capacity:

Delano Louw
 KOMMISSARIS VAN EDE EX OFFICIO
 COMMISSIONER OF OATHS
 AMP/RANK Acting Registrar
 CONSTITUTIONAL COURT/KONSTITUSIONELE HOF S.A.
 1 HOSPITAL STREET
 CONSTITUTIONAL HILL
 BRAAMFONTEIN 2017



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South Africa
Tel: (011) 718 2560
Fax: (085) 500 1606
e-mail: info@saha.org.za
www.saha.org.za
Former Women's Jail at Constitution Hill
Kotze Street, Johannesburg

RESOLUTION BY THE TRUSTEES OF THE SOUTH AFRICAN HISTORY ARCHIVES TRUST (SAHA)

Pursuant to Clause 9.6 of the Deed of Trust

On 11 May 2013, it is authorised that:

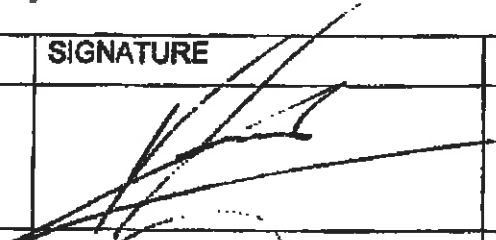
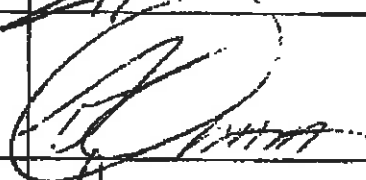
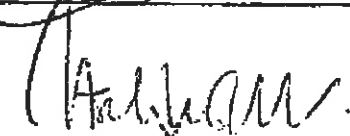
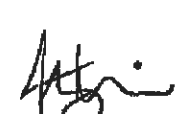
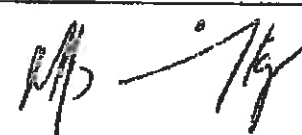
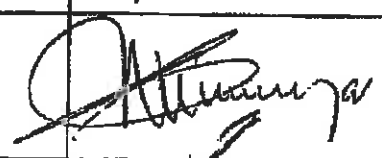

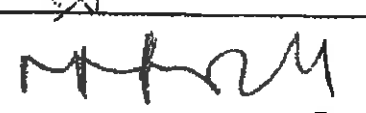
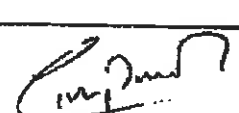
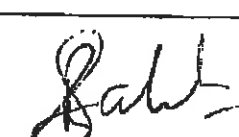
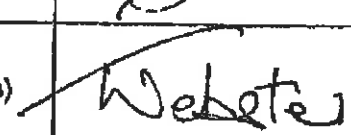
1. On 30 March 2009, the South African History Archive Trust ("SAHA") submitted a request for access to information in terms of section 18(1) of the Promotion of Access to Information Act ("PAIA"). The request was for a copy of the Truth and Reconciliation Commission's ("TRC") Victims Database along with a copy of the amnesty application that Eugene de Kock submitted to the TRC. On 5 May 2009, the Deputy Information Officer notified SAHA that both the components of their PAIA request had been refused. On 29 June 2009, SAHA launched an internal appeal in terms of section 75 of PAIA. On 28 August 2009, the Minister of Justice and Constitutional Development notified SAHA that he had decided to overturn the Deputy Information Officer's decision and to provide them with the requested information. On 9 October 2009, the Department notified SAHA that the records for Mr De Kock's amnesty application were available and SAHA subsequently proceeded to collect same. On 27 November 2009, SAHA proceeded to collect the TRC Victims Database from the Department, however the CD which it was provided with was in an unusable form and the data contained thereon was substantively incomplete. After forwarding numerous correspondence to the Department, SAHA has to date not been provided with the complete TRC victim's database. SAHA will now proceed to take such action as may be necessary to compel the Department to provide it with the complete TRC Victims Database in usable form, including the possibility of launching an application in the North Gauteng High Court.
2. Attorneys, Cliffe Dekker Hofmeyr Incorporated shall be appointed to represent SAHA in achieving the above objective including representation in any proceedings that will be instituted against the Minister of Justice and Constitutional Development in the North Gauteng High Court, and that the said attorneys be authorised to do all things necessary to represent SAHA as the applicant pursuant to litigation.
3. Catherine Kennedy be authorised to depose to an affidavit/application in the said pleadings on behalf of SAHA and further that Catherine Kennedy be authorised to give such instructions from time to time as she may deem necessary to the attorneys appointed by SAHA in relation to the above matter and any proceedings which may be instituted pursuant thereto.

TRUSTEES: D Ntsebeza (Chairperson), H Kleinschmidt, L Calinicos, M Powell, R Saleh, C Raazool, M N Ntsebeza, V Harris, S Hatang, P Pigou, A Manton (ex officio)

Non-Profit Organisation Registration No. 031-807-NPO
Non-Profit Trust No. 2522/93

Handwritten signature/initials

Signed on this the 11th day of May 2013.

TRUSTEE	SIGNATURE	DATE OF SIGNATURE
VERNE HARRIS ID: 5804215085085		11/5/2013
SELLO HATANG ID: 7504285846089		11/5/2013
HORST KLEINSCHMIDT ID: 4510175466089		11.5.13
ANTHONY MANION ID: 7604135132084		11-05-2013
MN NIEFTAGODIEN ID: 6410225158083		11/05/13
DUMISA NTSEBEZA ID: 4910315121083		11/05/2013
PIERS PIGOU ID: 6705305221184		11/5/2013
MARLENE POWELL ID: 5907270095087		11/05/2013
CIRAJ RASSOOL ID: 6112275648084		11/05/2013
RAZIA SALEH ID: 6208080199089		11/5/2013
SPIRIDOULA WEBSTER (also known as Luli Callinicos) ID: 3611100106088		11.05.2013

TRUSTEES: D Ntsebeza (Chairperson), H Kleinschmidt, L Callinicos, M Powell, R Saleh, C Rassool, MN Niefertagodien, V Harris, S Hatang, P Pigou, A Manion (ex officio)

Non-Profit Organisation Registration No. 031-807-NPO
Non-Profit Trust No. 2522/93

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SOUTH AFRICAN
HISTORY ARCHIVE

"SAHA"

DEED OF TRUST

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1. ORIGINAL MOTIVATION

- 1.1 There is a need to collect, preserve and catalogue materials of historical and contemporary political, social, economic and culture importance.**
- 1.2 There is a need to promote awareness of the importance of preserving records of contemporary events of historical significance.**
- 1.3 There is a need to make the above-mentioned materials accessible to the public, to historians and to researchers.**
- 1.4 There is a need to promote public awareness of recent historical events.**

2. ESTABLISHMENT OF A TRUST

- 2.1 A trust is hereby constituted to be known as the South African History Archive ("SAHA") Trust for the purpose herein set out and otherwise on the terms and conditions of this Trust Deed.**
- 2.2 SAHA is a body corporate and has an identity and existence distinct from its members and office bearers.**
- 2.3 SAHA continues to exist despite changes in the composition of its trustees and director.**
- 2.4 Trustees or directors have no rights in the property or other assets of the organisation solely by virtue of holding those positions.**

3. OBJECTIVES OF THE TRUST

- 3.1 The main objective of the Trust is to document, support and promote greater awareness of past and contemporary struggles for justice through archival practices and outreach, and the utilisation of access to information laws.**
- 3.2 It is not the objective of the Trust to make a profit or gain and the income and assets of the Trust may not be distributed to any person save for the payment of reasonable remuneration for services actually rendered in furtherance of the objects of the Trust.**

4. ANCILLARY OBJECTIVES OF THE TRUST

- 4.1. In furtherance of its primary objectives the Trust shall:**
 - 4.1.1 Recapture lost and neglected histories;**
 - 4.1.2 Record aspects of South African democracy in the making;**
 - 4.1.3 Bring history out of the archives and into schools, universities and communities**

in new and innovative ways;

4.1.4 Extend the boundaries of freedom of information in South Africa;

4.1.5 Raise awareness, both nationally and internationally, of the role of archives and documentation in promoting and defending human rights.

5. GALA

5.1 It is recorded that in 1996 SAHA established the Gay and Lesbian Archives (GALA) as a project of SAHA.

5.2 In 2007, GALA formed a separate and independent trust. However, the work of SAHA and GALA remains closely aligned and the organisations continue to work in close collaboration.

6. INTERPRETATION

In this Deed, unless the context otherwise requires, words importing the singular shall include the plural. The following expressions used in this Deed shall have the meaning hereinafter assigned to them unless the context shall clearly otherwise require:

6.1 "Trust Fund" : shall mean the assets or funds held and administered by the Trustees from time to time, that is to say, the Trust capital together with donations and any additions or accruals thereto, including bequests from time to time from any sources and in any form.

6.2 "Trust Capital" : shall mean the capital of the Trust consisting of the Trust Fund and including that part of the net income which is not distributed and is accumulated as part of the capital after deducting:

6.2.1 the aggregate of the liabilities of the Trust, both actual and contingent, and

6.2.2 the sum of all provisions for depreciation, renewals or diminution in value of assets or for liabilities (actual or contingent) the amount of which cannot be determined with substantial accuracy.

6.3 "Fund Raising Act" : shall mean the Fund Raising Act 107 of 1978 as amended from time to time.

6.4 "Nonprofit Organisations Act" : shall mean the Nonprofit Organisations Act 71 of 1997 as amended from time to time.

6.5 "Income Tax Act" : shall mean the Income Tax Act 58 of 1962 as amended from time to time.

6.6 "Trust" : shall mean the Trust created under this Deed of Trust.

6.7 "Trustees" : shall mean the signatories to this Deed as Trustees and any other persons appointed to that office in terms of this Trust Deed from time to time for so long as they hold office as such, who shall be deemed to be members of the trust for all purposes

under the Fund Raising Act and the Nonprofit Organisations Act.

7. THE AFFAIRS OF THE BUSINESS

7.1 The affairs and business of the Trust shall be conducted from Johannesburg.

8. TRUSTEES PROVISIONS

8.1 The parties listed in Annexure A of this Trust Deed were the first Trustees of the Trust;

8.2 The parties listed in Annexure B of this Trust Deed are the Trustees of the Trust at the date of amendment of this Trust Deed.

8.3 Upon the death, permanent incapacity, removal or resignation of anyone of the Trustees, the Trustees then remaining shall, as soon as possible, appoint another Trustee to the office of Trustee, which person shall be decided upon by the remaining Trustees as they in their sole and absolute discretion may determine, it being the intention of the parties hereto that there shall always be a minimum of 5 Trustees and not more than 15 Trustees of the Trust in office. Between 2 and 4 Trustees shall serve as members of the Management Committee, as nominated by the Trustees on an annual basis.

8.4 Where the death, permanent incapacity, removal or resignation of one of the Trustees results in the number of remaining Trustees being less than 5, those remaining Trustees may appoint a further Trustee in the manner outlined in clause 8.3 but may take no other action in relation to the operation of the Trust until such appointment has been made, restoring the number of Trustees to at least 5;

8.5 The Trustees shall at any time from time to time be entitled to accept the resignation of any other Trustee;

8.6 The Trustees shall at any time from time to time have unlimited power of co-option of further Trustees, subject to the maximum referred to in 8.3 above, which shall be exercised on such terms and conditions and for such period as they in their sole discretion may determine;

8.7 Any appointment, removal or resignation, delegation of powers or co-operation shall not be valid unless recorded in writing;

8.8 A Trustee shall vacate his/her office if:

8.8.1 he/she commits any Act of insolvency as defined in the insolvency law from time to time in force;

8.8.2 he/she becomes of unsound mind or is declared incapable of managing his/her own affairs;

8.8.3 he/she resigns his/her office by written notice to the other Trustees;

- 8.8.4 he/she fails to attend three (3) consecutive meetings of the Trustees without the leave of the remaining Trustees;
- 8.8.4 he/she is removed from office by the decision of the majority of the remaining Trustees after he/she has been given written notice of the intention of the remaining Trustees to remove him/her and given an opportunity to address the remaining Trustees or furnish them with reasons in writing why he/she should not be removed as a trustee.

9. PROCEEDINGS OF TRUSTEES

- 9.1 A quorum for a meeting of the Trustees shall be 50 per cent of the Trustees, at least one of whom shall be a member of the Management Committee. In the event of the meeting being inquorate thirty (30) minutes after the time of commencement, it shall stand adjourned to a date which all Trustees shall be notified of in writing, but which shall be not less than seven (7) days after the date of the inquorate meeting, and at such adjourned meeting all those Trustees present shall constitute a quorum.
- 9.2 Subject to the Trustees giving effect to the terms and conditions of this Deed, administering the Trust and its affairs, they shall adopt such procedures and take such administrative steps as they shall, from time to time, deem necessary and advisable including the appointment of a management committee from amongst themselves which shall be responsible for the disbursement of monies, application by criteria for such disbursement, reporting to funders on a quarterly basis, and control an administration of activities;
- 9.3 The Trustees shall meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, but not less than twice a year. The date and the place of the meetings shall be as determined by the Trustees. The Chairperson shall, however, have the power to call a meeting of the Trustees when in his or her opinion circumstances justify such a step and will be obliged to do so on receipt of a written request signed by not less than three (3) Trustees specifying the business to be transacted at such a meeting. Reasonable notice will be given to Trustees of all meetings of the Trustees, which notice may be given by letter, telegram, telex, telefax, electronic mail, or orally.
- 9.4 A notice dispatched to the last address of a Trustee as made known to the Secretary of the Trust when appointed shall be valid;
- 9.5 Decisions are made by majority vote indicated by way of a show of hands;
- 9.6 A resolution in writing signed or approved by other written means, such as by email, by majority vote is valid and effectual as if it had been passed at a meeting of the said Trustees and shall be noted at the next meeting. Such a resolution is constituted at the time of the last signature or approval of the resolution and may consist of several documents in like form each signed by one or more of the Members. If a resolution is written by email, an actual signature is not required. Emails from the Trustees are sent

to the Director, who will then inform all the Trustees of the outcome of the resolution

- 9.7 The Trustees shall elect from amongst their number a chairperson who shall remain in office until he/she resigns as a Trustee or as chairperson or if the remaining Trustees remove him/her from office by resolution to that effect;
- 9.8 The Director shall provide written notice to the Director of Nonprofit Organisations of the names, physical business and residential addresses of the Trustees and Director of the Trust one month after any appointment or election of such persons, even if their appointment or election did not result in any changes to the persons occupying those positions , in accordance with section 18(1)(b) of the Nonprofit Organisations Act.
- 9.9 If the chairperson is absent from any meeting the remaining Trustees shall elect a chairperson for the purposes of that meeting;

10 DISPENSATION OF SECURITY

- 10.1 The Trustees or any of them shall not be required to furnish security for any reason or under any circumstances whatsoever for their duties as such and accordingly no person hereby or subsequently appointed or co-opted or to whom powers are delegated shall be required to furnish security to any state or any official under the provisions of any law which may now or which may in the future be in force. Insofar as it may be necessary, the said state or other official is hereby directed to dispense with the requirement that any Trustee or subsequent Trustees shall furnish security in terms of the Trust Property Control Act or any other law.
- 10.2 If despite the provisions of clause 10.1 hereof, security is lawfully required to be furnished, then the costs of providing the same shall be borne by the Trust.

11 VESTING, COLLECTION, UTILISATION OF FUNDS AND CONTRIBUTIONS

- 11.1 The Trustees are hereby empowered to accept for the purposes of the Trust any gift, bequest or payment of any nature whatsoever from any person which may be given or paid to them with the intention that it form part of the Trust Fund. Any assets so accepted shall be administered and dealt with subject to the terms of this Deed of Trust. All donations of the Trust shall be irrevocable and subject to the terms and conditions of the Trust.
- 11.2 Contributions may be collected in and from any portion of the Republic of South Africa and outside its borders provided that the contributions from outside the Republic of South Africa shall be actually received in the Republic of South Africa.
- 11.3 The funds of the Trust shall be utilised solely for investment or for the objects for which it has been established.

- 11.4 No portion of the income or assets of the Trust shall accrue for the benefit of the Trustees, office bearers, or their relatives or any employee but nothing herein before contained shall limit the right of the trustees to be reimbursed in respect of any reasonable expenses incurred on behalf of the Trust or to be paid a reasonable remuneration for any services rendered on behalf of the Trust including under any contract of employment.

12. TAX ISSUES

If the Commissioner approves SAHA as a "public benefit organisation" and for as long as such status is renewed, then the SAHA Trust will-

- 12.1 in the year of assessment preceding the year of assessment in which the donation is received, distribute at least 75% of its S18A (of the Income Tax Act, 1962) donations received;
- 12.2 issue a receipt for the donation on which the following details are provided-
- 12.2.1 the reference number issued by the Commissioner;
 - 12.2.2 the name and address of the SAHA Trust;
 - 12.2.3 the date of receipt of the donation;
 - 12.2.4 the amount of the donation
 - 12.2.5 the name and address of the donor;
 - 12.2.6 a certificate to the effect that the receipt is issued for purposes of Section 18A of the Income Tax Act, 1962 and that the donation has been or will be used exclusively for the object of the SAHA Trust;
- 12.3 on dissolution transfer its assets to any similar approved public benefit organisations;
- 12.4 not accept any donation-
- 12.4.1 which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and;
 - 12.4.2 conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; or
 - 12.4.3 in circumstances where a donor has imposed conditions which could enable that donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation,
- 12.5 submit to the Commissioner a copy of any amendments to the Deed of Trust.

13 DUTIES OF TRUSTEES

13.1 The Director of SAHA and the members of the Management Committee accept the fiduciary responsibility of the organisation. In addition to any duties imposed upon them under law enforced from time to time, the Trustees shall have the following duties:

- 13.1.1 The Trustees shall appoint a person as Director. The Director shall have responsibility for the day to day management of the accounts of the Trust and such other responsibilities as delegated to the Director from time to time by the Trust. The Director shall be at all times subject to the direction and control of the Management Committee in the performance of their duties.**
- 13.1.2 The Trustees shall take and maintain written minutes of the meetings held pursuant to the provisions of clause 9 above. An official minute book shall be retained at the Trust's principal office.**
- 13.1.3 The Trustees shall, at the expense of the Trust, cause proper books of accounts to be kept, which books of account together with all other papers and documents connected with or relating to the Trust shall be kept as such place as may be agreed upon by the Trustees.**
- 13.1.4 The Trustees at the expense of the Trust shall be entitled to cause accounts of the Trust to be audited by an auditor appointed by the Trustees from time to time, which auditor shall be charged with drawing up the financial statements of the Trust at the end of each and every year. The first financial statements of the Trust shall be prepared on 31 December following the date of resignation of this Trust Deed in terms of the Trust Property Control Act. The auditor may be one of the Trustees or a firm of which he is a member and he/she or his/her firm may charge their reasonable fee for such services.**
- 13.1.5 The financial statement shall be prepared as at the last day of each succeeding year for this purpose every year shall commence on 1 January and shall end on 31 December of each succeeding year.**
- 13.1.6 All monies received on behalf of the Trust shall be paid by the Trustees into a banking account or other account maintained by the Trustees at a registered commercial bank or building society or other financial institution in terms of the Financial Institutions (Investment of Funds) Act 1984 and all payments made on behalf of the Trust shall be drawn from such account. All withdrawals may be made on the signature of such persons as the Trustees may determine from time to time.**
- 13.1.7 All charges, expenses and disbursements including reasonable travelling expenses reasonably incurred by the Trustees in or arising from their administration of the Trust (including the costs of attending meetings of the Trust) shall be a first charge on the income of the Trust and the Trust Assets and shall be paid on demand.**

14 INDEMNIFICATION OF THE TRUSTEES

- 14.1.** Subject to the foregoing a Trustee shall in performance of his/her duties and in the exercise of his/her power act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another;
- 14.2** No Trustee shall be liable for any loss of the Trust arising by reason of any investment made on behalf of the Trust whether authorised in terms of the Trust Deed or not, or for negligence or fraud of any agent employed by such Trustee (although the employment of such agent was not strictly necessary or expedient) , or by any other Trustee or by reason of any mistake or omission made in good faith by any Trustee hereof or by reason of any matter or thing whosoever, except as is occasions by such Trustees own personal, wilful act of dishonesty.
- 14.3** The Trustees shall be indemnified out of the Trust Assets against all claims or demands of whatever nature that may be made upon them arising out of the exercise, purported exercise or omission to exercise any of the powers conferred upon them by this Deed of Trust. Nothing herein contained shall be deemed to exempt a Trustee from or indemnify him/her against liability for breach of trust where he/she failed to show the degree of care diligence and skill referred to above.

15 TRADING ACTIVITY

- 15.1** SAHA will not carry on any business undertaking or trading activity, otherwise than to the extent that-
- 15.1.1** if the undertaking or activity—
 - 15.1.1.1.** is integral and directly related to the sole or principal object of that public benefit organisation as contemplated in paragraph (b) of the definition of "public benefit organisation " in section 30 of the Income Tax Act 1962 (as amended)¹;
 - 15.1.1.2.** is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost; and
 - 15.1.1.3.** does not result in unfair competition in relation to taxable entities;
 - 15.1.2** if the undertaking or activity is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation;
 - 15.1.3** if the undertaking or activity is approved by the Minister by notice in the *Gazette*, having regard to—
 - 15.1.3.1** the scope and benevolent nature of the undertaking or activity;
 - 15.1.3.2** the direct connection and interrelationship of the undertaking or

¹ <http://www.sars.gov.za/lnb/mylnb.asp?jilc/kilc/alrg/ulrg/vlrg/72k0a#ag>

- activity with the sole or principal object of the public benefit organisation;
- 15.1.3.3 the profitability of the undertaking or activity; and
- 15.1.3.4 the level of economic distortion that may be caused by the tax exempt status of the public benefit organisation carrying out the undertaking or activity; or
- 15.1.4 other than an undertaking or activity in respect of which item (aa) , (bb) or (cc) applies and do not exceed such amount as specified under the Income Tax Act 1962 or applicable legislation from time to time'

16. POWERS OF TRUSTEES

- 16.1 The Trustees in their discretion shall have plenary powers to perform all acts and execute all documents relevant to the carrying out of the objects of the Trust and the administration thereof. Without derogating from the generality of the foregoing, the Trustees shall have the power to open and operate any banking account and/or building society account and to draw and issue cheques and promissory notes and to endorse any of the same for collection. The Trustees shall determine the manner of operating the banking or other accounts of the Trust.
- 16.2 The Trustees shall be subject to a majority resolution, have the power to acquire, lease, renovate, restore immovable property in pursuance of the objectives of the Trust. In addition, to buy or sell and transfer Trust Assets and invest the proceeds (including dividends accruing on the Trust Fund) and sign and execute any agreement in regard thereto provided that the Trustees shall not have the power to:
 - 16.2.1 enter into any transactions of a patently speculative nature in relation to property;
 - 16.2.2 carry on business including inter alia ordinary trading operations in the commercial sense as well as the administration of any immovable property acquired by the Trust.
- 16.3 The Trustees shall have the power to:
 - 16.3.1 hold the whole or any part of the Trust Fund or any investments made by them from time to time during the administration of the Trust in their own names or in the name of any person or institution which is nominated by them from time to time for that purpose or, in the name of the Trust; and
 - 16.3.2 exercise the voting power attached to any share, stock or debenture in such manner as they may deem fit, exercise and take up or realise any rights of conversion or subscription appertaining to any or debenture forming part of the Trust;
 - 16.3.3 From time to time to borrow such monies on such terms and conditions as they

deem fit:

- 16.3.3.1 for the payment of any liability (including taxes payable in respect of the Trust); or
 - 16.3.3.2 which may be required from time to time for the protection or better or further investment of all or any of the Trust Assets; or
 - 16.3.3.3 generally for such other purposes in connection with all or any of the assets forming part of the Trust Fund.
- 16.3.4 Invest any funds that are not required for immediate use of the Trust, provided that investments may only be made in:
- 16.3.4.1 a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984;
 - 16.3.4.2 securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985;
 - 16.3.4.3 in other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and Director of Non-Profit Organisations.
- 16.3.5 Obtain such legal advice from time to time as the said Trustees in their discretion require and in which event all costs of and in connection therewith shall be borne by the Trust.
- 16.3.6 Engage the service of financial advisers, brokers, property administrators, consultants, accountants, auditors, architects and experts of all kinds and to make payment of their fees.
- 16.3.7 Institute or defend any proceedings in any court of law or arbitration proceedings in the name of the Trust.
- 16.3.8 Decide (which decision shall be final and binding and shall not be subject to dispute or challenge) whether any monies or assets received by them from time to time as part of the Trust Assets constitutes "capital" or "income" and for the purpose they shall be entitled to make such apportionment in the Trust's account.
- 16.3.9 Apply all or any of the Trust assets or monies held by them towards payment of any tax levied on the Trust or the income of the Trust, if any.
- 16.3.10 Leave the capital of the Trust or any part thereof invested as it may be when it is handed over to them.
- 16.3.11 Sell, realise, call in or convert into cash so much of the Trust assets as the Trustees may from time to time deem fit and make such further investments of the same in such form and in such manner as the Trustees may determine from time

to time vary any of such investments as the Trustees may determine.

16.3.12 Enter into contracts in the name of the Trust in furtherance of the interests of the Trust and to nominate one or more of them or to delegate their authority to any person selected by them for the purpose of management of the Trust and the execution of all documents or other activities of any nature relating to the carrying out of the purposes of this Trust, including documents in connection with the investment and realisation of the Trust assets which realisation shall be in whatever manner they deem fit.

16.3.13 Permit any premises owned by the Trust to be occupied free of rental or for a rental to be determined by the Trustees.

16.3.14 Engage and discharge employees and to set their terms and conditions of employment.

16.3.15 Do all things necessary to achieve the objects of the Trust.

17 BOOKS OF ACCOUNTS, RECORDS OR OTHER DOCUMENTS

17.1 Any books of account, records or other documents must be retained and preserved by SAHA for a period of 4 years –

17.1.1 after the date of the last entry in any book; or

17.1.2 after completion of financial transaction, acts or operations; and

17.2 Trustees may not without the written consent of the Master destroy any document which serves as proof of an investment, safe custody, control, administration, alienation or distribution of SAHA property before the expiry of a period of five years from the termination of the SAHA.

17.3 The Trust is to keep accounting records of its income, expenditure, assets and liabilities, and

17.3.1 Within six month after the end of its financial year, draw up financial statements, which must include at least

17.3.1.1 A statement of income and expenditure for that financial year; and

17.3.1.2 A balance sheet showing its assets, liabilities and financial position as at the end of that financial year.

17.4 Within two months after drawing up its financial statements, the Trust must arrange for a written report to be compiled by an accounting officer and submitted to the Trustees stating whether or not-

17.4.1 The financial statements of the organisation are consistent with its accounting records;

17.4.2 The accounting policies of the organisation are appropriate and have been appropriately applied in the preparation of the financial statements;

- and,
17.4.3 The Trust has complied with the provisions of the Nonprofit Organisations Act and this Deed of Trust which relate to financial matters.
- 17.5 The Trust must, in writing, provide the Director of Nonprofit Organisations with
17.5.1 a narrative report of its activities together with its financial statements and the accounting officer's report as set out in clause 17.4 above, within nine months after the end of its financial year; and
17.5.2 a physical address in the Republic for service of documents and notices, and advice of any change of such address.

18 AMENDMENTS

- 18.1 A Resolution approved by at least two thirds of the Trustees then in office shall be required for any amendment to this Deed of Trust.
- 18.2 Any amendments to this deed of Trust shall be submitted to the Commissioner of the South African Revenue Service.
- 18.3 In addition, the Trust must send to the Director of Nonprofit Organisations a copy of the resolution and a certificate signed by a duly authorised office-bearer stating that the resolution complies with its constitution and all relevant laws.

19. TERMINATION OF TRUST AND DISTRIBUTION OF ASSETS

- 19.1 The Trust shall continue indefinitely but the Trustees shall have the right, in their sole and absolute discretion passed by two-thirds of the Trustees, to terminate the Trust.
- 19.2 Upon its termination the remaining assets of the Trust, after satisfaction of its liabilities shall be given or transferred to one or more trusts or associations not for gain with objects similar to the objects of the Trust which have been approved in terms of section 30 of the Income Tax Act, 1962.
- 19.3 The Trust must provide the Director of Nonprofit Organisations with at least two months' written notice of the intention of the Trustees to terminate the Trust.

20 DISPUTES

Should any question arise as to whether the interpretation of this Deed or any of the provisions hereof as to the true construction thereof or as to the administration of the Trust or otherwise howsoever, the Trustees shall have the power to decide such questions either acting on their own judgement or upon the advice of attorneys and/or counsel and any such decisions shall be final and binding on all parties affected thereby and shall be carried into effect by them.

21 COSTS

All costs of and incidental to the negotiations and finalisation of this Deed of Trust and its registration in terms of the Trust Property Control Act shall be paid by the Trust out of the Trust assets.

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ANNEXURE "A" : ORIGINAL TRUSTEES

HORST GERHARD HERMANN KLEINSCHMIDT
(born: 17/10/1945)

AND

SUSAN J BOOYSEN
(born: 17/9/1954)

AND

JEAN DE LA HARPE
(born: 3/9/1960)

AND

GIBSON THEMBA SIRAYI
(born: 12/10/1953)

AND

SAM MAHOSHA MKHABELA
(born: 23/10/1960)

AND

LULI CALLINICOS
(born: 10/11/1936)

AND

MICHELE PICKOVER
(born: 1/8/1959)

AND

NOEL FRANCIS STOTT
(born: 28/12/1958)

AND

JOHANNES MAFODI MANAMA
(born: 16/3/1949)

Handwritten signature and initials, possibly 'D.L.', in the bottom right corner.

APPENDIX B: CURRENT TRUSTEES

HORST GERHARD HERMANN KLEINSCHMIDT
(born: 17/10/1945)

AND

LULI CALLINICOS
(born: 10/11/1936)

and

MARLENE MERCER POWELL
(born: 07/27/1959)

AND

DUMISA BUHLE NTSEBEZA
(born 31/10/1949)

AND

NKOSINATHI BIKO
(born 11/03/1971)

AND

CIRAJ SHAHID RASSOOL
(born 27/12/1961)

AND

MOHAMED NOOR NIEFTACODIEN
(born 25/10/1964)

AND

RAZIA SALEH
(born 08/08/1962)

AND

ANTHONY ANDREW MANION
(born 13/04/1976)

AND

VERNE SHELDON HARRIS
(born 21/04/1958)

AND

PIERS ASHLEY PIGOU
(born 30/05/1967)

AND

SELLO KOOS HATANG - 7504285846089
(born 28/04/1975)

(hereinafter collectively referred to as "the Trustees")

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO:

In the matter between:

THE SOUTH AFRICAN HISTORY ARCHIVE TRUST

Applicant

and

THE MINISTER OF JUSTICE AND

CORRECTIONAL SERVICES

First Respondent

THE DEPUTY INFORMATION OFFICER:

THE DEPARTMENT OF JUSTICE AND

CORRECTIONAL SERVICES

Second Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

GERALD SCOTT O'SULLIVAN,

do hereby make oath and state that:

G. S. O'Sullivan
G.S.O.

INTRODUCTION

1. I am an adult male specialist in Information Technology. I am the Programme Manager of Innovation and Strategy at the Foundation for Human Rights, situated at 222 Smit Street, Braamfontein, Johannesburg.
2. The facts contained herein are both true and correct and, unless otherwise stated or the converse appears from the context, are within my personal knowledge.
3. I have read the founding affidavit of **CATHERINE MOIRA KENNEDY** and the supporting affidavit of **PATRICK BALL** and I confirm the contents thereof insofar as they relate to me and the technical aspects of the database of the Truth and Reconciliation Commission ("TRC") of South Africa.

EXPERTISE

4. As described in my curriculum vitae, attached hereto as Annexure "GSOS1", I am a software and database specialist, specializing in all aspects of software development and database design, as well Information Technology management and governance, with 28 (twenty-eight) years of software development experience.
5. I obtained a Bachelor of Arts with Honours (Computer Science) from the Open University, Milton Keynes, United Kingdom, in 1991.
6. I have worked in the Information Technology sector for private sector companies as well as public sector agencies, including:
 - (a) Divisional Head of Innovation and Research at the State I.T. Agency, Pretoria, from 2006 until 2014;
 - (b) Director of Information Technology for the Human Science Research Council, Pretoria, from 2002 to 2006;

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(c) Director of Information Technology for the Department of Land Affairs, Pretoria, from 1998 to 2002; and

(d) National Information Systems Manager for the TRC, Cape Town, from 1996 to 1998 during which period I designed, implemented and maintained the database that was used to capture the information reported to the TRC and which was subsequently transferred to the Department of Justice and Constitutional Development which is now the Department of Justice and Correctional Services ("the Department").

7. I have contributed to a number of research papers and books, as listed in my CV, including the following:

(a) *Methodology of Information Management Systems*, in Truth and Reconciliation Commission of South Africa Report, Volume 1. Juta and Co. Ltd, Cape Town, 1998;

(b) *War and Resistance*, Southern African Studies, Macmillan, London 1994;

(c) *The South African Truth Commission: A case study of the complexity involved in recording human rights violations*, a paper delivered at the Statistics and Human Rights conference, Statistical office of the European Commission, Eurostat, November 2002, Brussels; and

(d) *The South African Truth and Reconciliation Commission: Database Representation in Making the Case – Investigating Large Scale Human Rights Violation Using Information Systems and Data Analysis*. Ed. By Ball, P. and Spierer, H., American Association for the Advancement of Science, Washington, 1999.

BACKGROUND

8. From March 1996 until October 1998 I built and implemented the information management system ("TRC database") used by the TRC and I was responsible for the maintenance and support of the system during the lifespan of the Commission.

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9. I also participated in the statistical analysis of the data extracted from the TRC database which was used in the TRC's report.
10. As a result of my extensive involvement in the design, implementation and software development of the TRC database I have intimate knowledge of the technology used, the data structures, and the contents of the statements and amnesty applications that were captured on the database.
11. The structure of the TRC database is what is known as a "relational database" in the I.T. industry. This is a conventional design technique in which data is disaggregated into many different entities, each of which stores data specific to a given category of information ("People", for example, or "Vehicles", or "Gross Violations of Human Rights"). These entities are linked together by a 'key', which is a unique identifier that forms the link between related fields across entities.
12. The full details of the names of the entities and their content that make up the TRC Database can be found in chapter 4 of *Making the Case: Investigating Large Scale Human Right Violations Using Information Systems and Data Analysis* ("Making the Case"). Many entities make up the database, however, there are six which are at the heart of the system:
 - (a) the first entity is titled "Persons" ('persons entity') and contains information about persons relevant to the TRC investigation, whether they were victims, witnesses or perpetrators;
 - (b) the second entity is titled "Sources" ('sources entity') and contains information about the source of the information for the violations in question, whether they were statements made by witnesses or amnesty applications from perpetrators;

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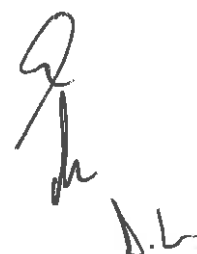
- (c) the third entity is titled "Acts" ('acts entity') and formed the core of the database. It contains information regarding the acts of human rights violations as reported to the TRC;
 - (d) the fourth entity is titled "Perpetrators" ('perpetrators entity') and contains the details of the individuals who carried out the violation;
 - (e) the fifth entity is titled "Witnesses" ('witnesses entity') which contains details of the people that witnessed the acts of human rights violations; and
 - (f) the sixth entity is titled "Events" (events entity) which contains details of grouped violations pertaining to one particular event that occurred.
13. In order to carry out any meaningful analysis of the extensive data collected by the TRC, it is necessary to have a full copy of each of these 6 (six) entities, together with the linking "keys" which join the entities in order to reconstitute the full TRC database for the purposes of validating the data and subjecting it to further analysis.
14. Partial extracts of the kind that have been previously submitted by the Respondent cannot be used to reconstitute the original TRC database because each of the 6 (six) entities described above are linked to each other. They must be extracted in their entirety in order to keep the integrity of the data consistent and hence provide an accurate account of the information that was reported to the TRC.
15. The TRC database has been copied from its original format as I implemented it in 1996 and it has been rebuilt on new hardware by database specialists at the State I.T. Agency for the Department. I am aware of this because during December 2011, I had a discussion with the SITA representative of the Department, Mr. Graham Buss, who did the conversion from the original format to the new platform. Mr. Buss gave me a map of the database entities which he had generated from the converted database.

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16. It is accordingly a simple matter, from a technical perspective, to repeat this exercise in order to make a copy of the raw data from the various database entities, with the linking keys, in order to reconstitute the information as it was reported to the TRC.
17. Partial extracts of the kind that have been submitted by the Respondent cannot be used to rebuild the information as it was reported to the TRC as they omit other entities as well as the keys that are necessary to link the entities together. Such partial extracts do not constitute proper access to the TRC database.
18. To the extent that it is necessary to mask or remove personal data from the database this can be achieved by specifically excluding the relevant data columns that contain personal information from the "Persons" entity when the raw data is copied.
19. Based on the work that I did for the TRC, as well as my experience and expertise in Information Technology, it is my considered view that the Department has provided the Applicant with a grossly incomplete copy of the TRC database which cannot be used for any meaningful analysis.


GERALD SCOTT O'SULLIVAN

I hereby certify that the deponent knows and understands the contents of this affidavit and this it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at Breaux-Isle on this the 20th day of May 2015, and the regulations contained in the Government Notice R.1258 of 21 July 1972, as amended, have been complied with.


D.L.



COMMISSIONER OF OATHS


FULL NAMES:

Enver Moothoosamy

DESIGNATION:

Commissioner of Oaths
Attorney at Law
3rd Floor, 222 Smit Street
Braamfontein
2017

ADDRESS:


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CURRICULUM VITAE

of

Gerald Scott O'Sullivan

610321 5032 083

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Q10C. Jr
Jh D.L.

CONFIDENTIAL

1 PERSONAL INFORMATION

Surname	O'Sullivan
First Names	Gerald Scott
Commonly known as	Gerald
Residential Address	897 Fry Street, Waverley, Pretoria 0186
Telephone (home)	(012) 332 3960
Cell number	082 412 9962
Postal address	897 Fry Street, Waverley, Pretoria 0186
Telephone (work)	(012) 672 1026
Identity number	610321 5032 083

2 EDUCATIONAL QUALIFICATIONS

2.1 SECONDARY EDUCATION

<i>Highest Grade passed</i>	<i>Institution/School</i>	<i>Date</i>	<i>Subjects passed</i>
Matric	St Benedict's College	1979	1. English 2. Afrikaans 3. Mathematics 4. Science 5. History 6. Biblical Studies

2.2 TERTIARY EDUCATION

<i>Qualification</i>	<i>Institution Name</i>	<i>Date</i>	<i>Major Subjects</i>
BA (Hons)	Open University, UK	1990	1. Computer Science

2.3 PROFESSIONAL CERTIFICATION or ASSOCIATION

<i>Professional Certification</i>	<i>Institution Name</i>	<i>Date</i>	<i>Field (see above examples)</i>
1. PRINCE2	Foster-Melliar	2009	Project Management
2. ITIL	Foster-Melliar	2002	IT Infrastructure Library

2.4 Short Courses

<i>Course</i>	<i>Institution Name</i>	<i>Date/Year</i>
TOGAF	Real IRM	2009
Structured System Analysis and Design Methodology	Securicor	1991

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3 CAREER HISTORY

3.1 Divisional Head: Innovation and Research: SITA

Period	July 2011 - Current
Organisation	SITA
Main Duties and Achievements	<ul style="list-style-type: none"> • Establish and capacitate Innovation Centre • Develop Innovation strategy for SITA • Software Development Workbench • eDisclosure system for on-line declaration of financial interests • TC Exam system for recruitment process • eGovernment Gateway (Phase I) • SITA representative International Telecommunication Union (Geneva)
Reason for leaving	• SITA restructuring
Reference	• Mr Nagalin Tuganadar (072 018 0070)

3.2 Chief Technical Architect: SITA

Period	Jul 2007 – Jun 2010
Organisation	SITA
Main Duties and Achievements	<ul style="list-style-type: none"> • Architecture design of the Integrated Financial Management System (IFMS) • Alignment of IFMS technical solution to the architecture • Development of the IFMS Architecture for National Treasury using TOGAF • Design of IFMS application stack on z-Series mainframe • Solution architecture for application middleware layer (Apache/Glassfish) • Integration between COTS and bespoke modules • Oversight of the software development technologies (IBM Rational and open source SDLC tools) • Development of the System Engineering Management Processes (SEMP)
Reason for leaving	• Career advancement
Reference	• Mr Nagalin Tuganadar (072 018 0070)

3.3 Change Management / Business Intelligence (IFMS): SITA

Period	May 2006 – Jun 2007
Organisation	SITA
Main Duties and Achievements	<ul style="list-style-type: none"> • I.T. Governance • Business Intelligence • Development of a Business Intelligence strategy for Integrated Financial Management System • Management of bid process for Procurement Management Module • Bid evaluation of Integrated Development Environment
Reason for leaving	• Career advancement
Reference	• Previous manager left SITA, no further contact.

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3.4 Director: Information Technology: HSRC

Period	Jun 2002 – Mar 2006
Organisation	Human Sciences Research Council, Pretoria
Main Duties and Achievements	<ul style="list-style-type: none"> • Managed the network and desktop infrastructure of the HSRC • Built a Knowledge Management system to support Social Scientists • Built a web-based enterprise management system and corporate data-warehouse using open source web-portal technology and COTS software • Implementation of ITIL Service Management • Research paper on the statistical techniques used by the TRC to measure human rights violations
Reason for leaving	• Approached by National Treasury to join their IFMS project
Reference	• Mr Mike de Klerk (082-452-7749)


3.5 Director: Information Services: Department of Land Affairs

Period	Nov 1998 – Jun 2002
Organisation	Department of Land Affairs, Pretoria
Main Duties and Achievements	<ul style="list-style-type: none"> • Management of network infrastructure and desktop support • Built a spatially-enabled Corporate Data Warehouse for land reform and corporate management information systems • Web-enabled the Deeds Registry database to provide eGovernment services to the Property Industry • Upgraded the network and desktop infrastructure for Year 2000 compliance • Participated in the establishment of the GITO Council
Reason for leaving	• Restructuring of Land Affairs
Reference	• Mr Mkatoko Nyoka (083-222-5750)

3.6 National Information Systems Manager: TRC

Period	Mar 1996 – Oct 1998
Organisation	Truth and Reconciliation Commission, Cape Town
Main Duties and Achievements	<ul style="list-style-type: none"> • Designed and implemented the business processes and I.T. systems • Designed, built and managed the national wide-area network and the local area networks of each regional office • Designed and implemented an Oracle database to record incidences of human rights violations • Managed the Analysis function of the Investigative Unit • Wrote a chapter in the TRC's Final Report based on a statistical analysis of the contents of the database • Research paper on the Innovative design of the database
Reason for leaving	• Commission came to the end of its life
Reference	• Prof Janis Grobbelaar (012) 420-3744 (w)

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3.7 Other relevant experience

Period	Position	Organisation	Duties and achievements
Nov 1994 – Feb 1996	Database Manager	National Institution of Economic Policy, Johannesburg	<ul style="list-style-type: none"> • Analysis of economic survey data using micro-simulation techniques • Maintenance of the macro-economic model • Operational support of the databases, network and desktop support and system maintenance
Apr 1993 – Oct 1994	Systems Analyst and Programmer	COSATU, Johannesburg	<ul style="list-style-type: none"> • Wrote and supported software for a financial membership database • Responsibility for all database manager functions
Feb 1993 – Apr 1993	Software consultant	PCB Technologies, Johannesburg	<ul style="list-style-type: none"> • Software support • Database maintenance
Nov 1992 – Jan 1993	Contract Programmer	Syfreits, Cape Town	<ul style="list-style-type: none"> • Designed and developed software institution on a multi-database UNIX system
May 1991 – Oct 1992	Senior Analyst Programmer	Securicor Security Services, London	<ul style="list-style-type: none"> • Designed and developed software for financial applications • Developed interfaces between COTS and legacy bespoke
Nov 1986 – Mar 1991	Senior Analyst Programmer	Milk Marketing Board, London	<ul style="list-style-type: none"> • Developed software for financial and commercial applications • Superstructure support and advice for on-line database systems
Jun 1984 – Apr 1986	Cellarman	Young's Brewery, London	<ul style="list-style-type: none"> • General pub work and cellar maintenance
Dec 1983 – May 1984	Research Assistant	Nuclear Physics Research Unit, Wits University, Johannesburg	<ul style="list-style-type: none"> • Analysis of geological samples using nuclear fission techniques • Fortran software to analyse experimental data on Unix

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4 RECOGNITION AWARDS AND HONORARY NOMINATIONS

Award / Honorary Nomination	Date	Description (for what did you receive it?)
1. Invitation to deliver a research paper to the American Association for the Advancement of Science (Washington)	1998	Innovative design of the database for the Truth and Reconciliation Commission
2. Invitation to deliver a research paper to the Statistical Office of the European Commission (Brussels)	2002	Developed statistical techniques to measure analyse incidents of human rights violations

5 OTHER RELATED EXPERIENCE AND/OR SKILLS

Relevant skill	Experience (years)	Competence level				
		1	2	3	4	5
Java software development	5			X		
Oracle DBA	14				X	
HTML	3			X		
Linux	9				X	
TOGAF	3			X		
GWEA	2			X		
COBOL	5				X	
FORTRAN	3			X		
Technical writing	16					X

KEY TO LEVEL COMPETENCE LEVEL:

1. Relevant training only
2. Limited practical experience
3. Thorough practical experience
4. Extensive practical experience
5. Possess specialist skills

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SOUTH AFRICAN CONSULATE-GENERAL
LOS ANGELES, UNITED STATES OF AMERICA

CERTIFICATE OF ATTESTATION

I, the undersigned, PHILLIPINE MIETA RAPIA, of the South African Consulate-General in Los Angeles, do hereby certify that

BALL PATRICK DONNELL (PASSPORT NO. 452055500)

of whose identity I have satisfied myself has(ve) this day, 14TH MAY 2015, signed the attached document(s) in my presence.

The document(s) has(ve) been united and sealed with the official seal of this Consulate-General.

Vice-Consul
South African Consulate-General
in Los Angeles



[Handwritten initials]
D.L.

IN THE HIGH COURT OF SOUTH AFRICA**GAUTENG DIVISION, PRETORIA****CASE NO:**

In the matter between:

THE SOUTH AFRICAN HISTORY ARCHIVE TRUST

Applicant

and

THE MINISTER OF JUSTICE AND**CORRECTIONAL SERVICES**

First Respondent

THE DEPUTY INFORMATION OFFICER:**DEPARTMENT OF JUSTICE AND****CORRECTIONAL SERVICES**

Second Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

PATRICK BALL,

do hereby make oath and state that:

*ch*
D.L.

INTRODUCTION

1. I am an adult male database specialist and the co-founder and executive director at the Human Rights Data Analysis Group ("HRDAG"), situated at 109 Bartlett Street, #204, San Francisco, California, United States of America.
2. The facts contained herein are both true and correct and, unless otherwise stated or the converse appears from the context, are within my personal knowledge.

EXPERTISE

3. As is apparent from my curriculum vitae, attached hereto as Annexure "PB1", I am a database specialist, specializing in all aspects of database design, analysis and management with approximately 25 (twenty-five) years' experience in this field.
4. I obtained a Bachelor of Arts (Sociology) at Columbia University in 1988. I further obtained a Masters of Arts (Sociology) and a Doctorate in Sociology from the University of Michigan in 1991 and 1998 respectively.
5. I have worked and consulted in the database and statistics area for over 23 (twenty-three) years. I have founded various projects and non-profit organizations in the field. The full list of my work experience can be found in my curriculum vitae. The most notable examples include:
 - (a) The HRDAG, which I co-founded and I have been the executive director since February 2013;
 - (b) The Benetech Initiative where I was the Chief Scientist from January 2007 to January 2013, as well as Vice-President of the Human Rights Program from May 2010 to January 2013. In addition, I served as the Director of the Benetech Initiative's Human Rights Program during the period November 2003 to April 2010; and



- (c) The Science and Human Rights Program of the American Association for the Advancement of Science ("AAAS") where I was the Deputy Director between November 1998 and October 2003. In addition, I served as a Senior Program Associate for the Science and Human Rights Program of the AAAS during the period August 1996 to October 1998, and a consultant to the Science and Human Rights Program from 1993 until 1996.
6. I have published several books, compiled numerous databases and contributed to many referenced articles and technical publications. These publications focused primarily on databases, statistics, and their relationship with human rights. The details of such publications can also be viewed in my attached curriculum vitae.
 7. I have held various advisory positions with numerous non-profit organisations, including the American Statistical Association and the Mesoamerican Regional Research Centre in Guatemala.
 8. I have presented many lectures on electronic security and on the processing, database representation and statistical analysis of large-scale human rights data at corporations, international organisations, human rights organisations and university departments of law, political science, statistics, computer science, and philosophy. Furthermore, I have won numerous awards including the Eugene Lawler Award from the Association for Computing Machinery, the Pioneer Award from the Electronic Frontier Foundation and I have been elected as a Fellow of the American Statistical Association.
 9. I have participated in the overall supervision of data collection, archiving and analysis in numerous projects, the full list of which can be found in my curriculum vitae. Notable examples include:

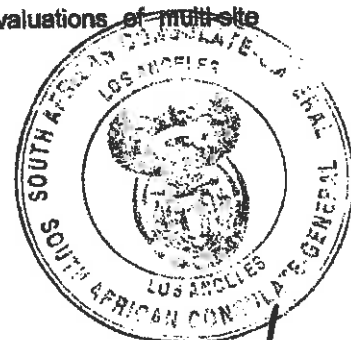


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- (a) The organization, cleaning and record linking of approximately 60,000 records from four datasets concerning expert testimony from war crime trials in Guatemala in 2013;
- (b) Overseeing the matching of more than 450,000 records documenting approximately 195,000 unique deaths in Syria for the United Nations Office of the High Commissioner for Human Rights as well as the HRDAG from 2012 through 2014;
- (c) Implementing and interpreting multiple systems estimating the total deaths and disappearances, analysed by region and alleged perpetrator, for the Truth and Reconciliation Commission in Peru in 2003;
- (d) Designing data processing methods and descriptive standards, editing the use of quantitative material and writing statistical analysis for the Truth and Reconciliation Commission in Sierra Leone between 2003 and 2004; and
- (e) Providing expert testimony to the International Criminal Tribunal for the Former Yugoslavia in two cases (Milošević in 2002, and Milutinović et al. in 2006) on the patterns of migration and killing in Kosovo in 1999.

BACKGROUND

10. Between January 1996 and September 1998, I conducted the original systems analysis and designed objectives for the Truth and Reconciliation Commission ("TRC") database used by the TRC of South Africa. I assisted in the organisational design and personnel selection for the TRC database, and I designed the interview questionnaire and conducted evaluations of multi-site information flow related to the findings of the TRC.

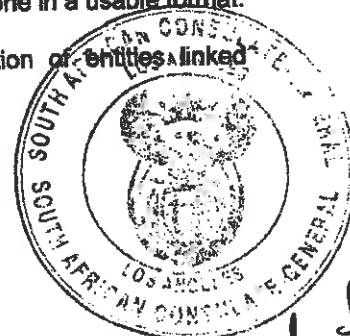


11. I designed and implemented statistical analysis (including approximately 200 entities and graphs) based on the TRC database used in the TRC's final report. These statistics provided a rigorous background to the analysis of the qualitative data emerging from individual statements and TRC hearings.
12. As a result of my extensive involvement in the design and implementation of the TRC database, I have intimate knowledge of the database and its contents.
13. Any database – and the TRC database is no exception – is a complex multi-dimensional structure which integrates data from numerous entities. Each individual entity is a distinct entity within the structure of the database which contains data pertaining to a specific element of the database as a whole. These entities are then linked together by a 'key', which is a unique identifier that forms the link between related fields across entities. It is only when these entities are accessible together, in conjunction with the unique database 'keys' that link them together, can the rich and complex structure be revealed.
14. The TRC database contained 6 (six) different logical entities. The full details of the names of the entities and their content can be found in chapter 4 of an article written by Mr Gerald O' Sullivan and edited by myself, entitled *Making the Case: Investigating Large Scale Human Right Violations Using Information Systems and Data Analysis* ("Making the Case"), attached hereto as Annexure "PB2". The 6 (six) entities are described as follows:
 - (a) "Persons" ('persons entity'), which contains information about persons relevant to the TRC investigation. The entity identifies these persons as victims, perpetrators or witnesses to a violation;
 - (b) "Sources" ('sources entity'), which contains information about the source of the information for the violations in question;



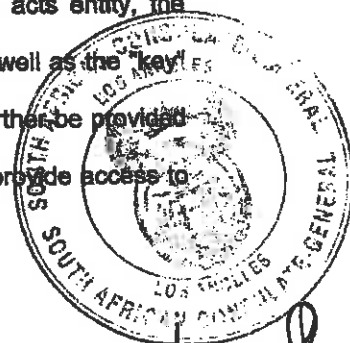
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- (c) "Acts" ('acts entity'), which formed the heart of the database. It contains information regarding the acts of human rights violations as investigated by the TRC. This entity has a one-to-many relationship with the sources entity and the persons entity, since one source document may describe various violations and one person may be violated multiple times;
 - (d) "Perpetrators" ('perpetrators entity'), which contains the details of the individuals who carried out the violations. It too has a one-to-many relationship with the acts entity as one person may carry out multiple acts of violation;
 - (e) "Witnesses" ('witnesses entity') which contains details of the people that witnessed the acts of human rights violations; and
 - (f) "Events" ('events entity') which contains details of grouped violations pertaining to one particular event that occurred.
15. Each of the entities are linked to one another by a "reference_no." field which contains a unique reference number. This reference number features in all 6 (six) entities and serves as the unique "key" which links the data they contain and creates the database structure of the TRC database.
16. I have perused the entity provided by the Respondents ("Respondents' entity"), attached hereto, in sample, as Annexure "PB3", in response to the Applicants request in terms of the Promotion of Access to Information Act 2 of 2000 ("PAIA request"). After considering the Respondents entity I am not satisfied that such a entity can be said to constitute the TRC database, let alone one in a usable format. As explained above, a database must contain a collection of entities linked together by a unique "key".



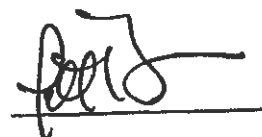
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17. While the Respondents' entity does contain certain fields which resemble the acts entity in the TRC database, it has been stripped of numerous fields as well as its unique "key" which links its content with that of related content in the persons entity, the sources entity, the perpetrators entity, the events entity and the witnesses entity.
18. In any event, the respondent's entity has also been provided in isolation without the other 5 (five) mentioned entities.
19. I am of the opinion, therefore, that the entity provided by the Respondents does not amount to the TRC database in a useable format. The entity is at most a thin extract of information from the rich and complex structure that is the TRC database.
20. It is important to note from the entity provided by the Respondents that they were clearly able to access and extract certain information from the TRC database which in turn indicates that the TRC database in its entirety can indeed be accessed and provided to the Applicant in a useable format. Often databases are not maintained and extraction proves a difficult task. However, the fact that the Respondents were able to extract a sample of the information contained in the database indicates that the respondents currently have access to the TRC database in a useable format in its entirety.
21. In order for the TRC database to be provided to the Applicant in a truly usable format, one must be able to access the entire structure of the database. This structure consists of the persons entity, the sources entity, the acts entity, the perpetrators entity, the witnesses entity and the events entity as well as the "key" field which links these entities together. These entities should further be provided in a format which is accessible by the Applicant. The failure to provide access to



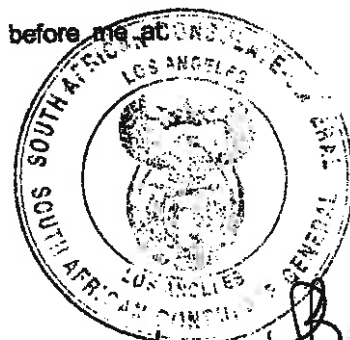
these various components in their entirety in an accessible format constitutes a failure to provide access to the TRC database in a usable format.

22. It follows then that I recommend, in my expert capacity, that unrestricted access be provided to the 6 (six) entities that comprise the TRC database, namely the persons entity, the sources entity, the acts entity, the perpetrators entity, the witnesses entity and the events entity. These entities must be populated with their correct fields as detailed in *Making the Case*. All the entities must further contain the correct "key" in the form of the "reference_no" field which links the various entities together. All of these entities and the data they contain must be provided in an extracted form or as a raw database which is capable of extraction. Only then can it be said that the TRC database has been provided by the Respondents in a usable format in accordance with the Applicant's PAIA request.
- 22 In my opinion certain sensitive information can be easily removed from the database without compromising its integrity simply by deleting relevant name fields alternatively by removing all violations of a sexual nature, removing the day field from the date of birth while still leaving the year and month intact and removing the day field from the date of violation while also leaving the year and month intact.


PATRICK BALL

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at _____ on the 13th day of MAY 2015.

SOUTH AFRICAN CONSULATE GENERAL
630 Wilshire Blvd. • Suite 600 • Los Angeles, CA 90048



Phillipine
NOTARY PUBLIC Commissioner of Oath
Full Names: Phillipine Nieta Rapis
Office: SOUTH AFRICAN CONSULATE
Business Address: **SOUTH AFRICAN CONSULATE GENERAL**
6300 Wilshire Blvd. • Suite 600 • Los Angeles, CA 90048



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PB1

Curriculum Vitae Patrick Ball

Human Rights Data Analysis Group
156 Second St.
San Francisco, CA 94105 USA
pball@hrdag.org
<https://hrdag.org>
<https://https://www.facebook.com/HumanRightsDataAnalysisGroup>

Work Experience

Co-Founder and Executive Director (February 2013 - present) Human Rights Data Analysis Group

- Founded** new non-profit to apply data analysis (sampling, record linkage, and estimation) to the analysis of human rights violations.
- Scaled** record linkage and estimation techniques to include more datasets and more strata (estimation points) via distributed computing.
- Organized** web and social media presence, fundraising, and public presentations.
- Developed** framework for expert testimony in criminal cases.

Chief Scientist and Vice-President for Human Rights (Jan. 2007 - Jan. 2013) The Benetech Initiative

- Investigated** and tested new techniques from data mining and mathematical statistics for application in the analysis of human rights violations.
- Designed** and implemented software framework for implementing *principled data processing*.
- Mentored** Ph.D. students from Yale, Berkeley, Stanford, Notre Dame, Mannheim, and Essex.
- Managed** the Martus Project through multiple releases and major re-engineering.
- Recruited** and trained six professional and administrative staff.

Strategic Information Officer, Profiling Project (April-December 2010) United Nations Mission in the DR Congo, Joint Human Rights Office

- Developed** technical methodology for managing, searching, and linking events, persons, and organizations from information in hundreds of thousands of confidential source documents.
- Designed** database and data model to capture the information.
- Recruited** and supervised programmer for the project.



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Drafted fundraising documents for second phase (2011-2012), and advocated with donors and senior UN staff in Kinshasa, Geneva, and New York on the project's behalf.

Chief Technical Officer and Acting Director of Engineering (April - December 2006)

The Benetech Initiative

Developed and articulated organizational strategy about choosing and building technology consistent with explicit ethical and moral values.

Managed the development and release of three new programs.

Restructured engineering team, hiring two senior engineers and three consultants.

Focused engineering team on automated test design and a maintainable codebase.

Director, Human Rights Program (November 2003 - April 2010)

The Benetech Initiative

Led team of twelve computer programmers, statisticians, data processing staff, product managers, and outreach staff in transition from AAAS to Benetech, and through the integration of the data analysis and Martus teams.

Fundraised to support annual budget of approximately \$900,000, growing to \$1.2 million.

Managed team reorganization during lean times and during growth.

Restrategized the Martus Project (<https://martus.org>), focusing on intense development of a small number of users, leading to the distributed, encrypted storage of over 200,000 documents from sixty countries.

Created new statistical techniques for correction of recall bias, and for automated stratification of multidimensional data; implemented the techniques in software.

Conducted and supervised statistical analysis for NGO and truth commission projects in Sierra Leone, Chad, Timor-Leste, Bosnia, Colombia, Liberia, and Guatemala.

Adjunct Associate Professor of Demography (January-May 2004)

University of California, Berkeley

Taught Demography 260, Measurement of Human Rights Violations, an advanced graduate course examining how human rights projects collect, code, store, analyze, and make inferences with quantitative data about violence.

Deputy Director (November 1998 - October 2003)

Science and Human Rights Program

American Association for the Advancement of Science (AAAS)

Managed approximately \$6.5 million in grants (over seven years) and \$350,000 in contracts received by the Science and Human Rights Program.

Designed and implemented large-scale projects for NGOs, truth commissions, and tribunals in Guatemala, Kosovo, Sri Lanka, Sierra Leone, and Perú.



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- Awarded** stewardship of a fund in support of the Mesoamerican Regional Research Center in Antigua Guatemala (known by the Spanish acronym CIRMA), including \$416,000 annual grant to CIRMA and a seat on the CIRMA Board of Trustees.
- Recruited** and managed Human Rights Data Analysis Group (HRDAG), including two engineers, two data processing staff, and four technical field consultants.

Senior Adviser (August 2000 - October 2003)
The Martus Project of the Benetech Initiative

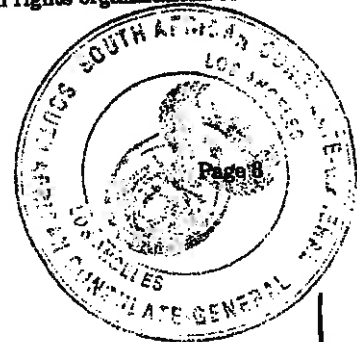
- Conceptualized** and designed email-like text management solution for human rights information. The system records information, encrypts it, and backs data up to an international server network; when the user wants, the information can be published transparently on the web.
- Organized** focus groups with human rights NGOs in three countries to evaluate the project's fit with their information needs.
- Supervised** implementation and consulted on technical details (continuing).

Senior Program Associate (August 1996 - October 1998)
Science and Human Rights Program, AAAS

- Published** *Who Did What to Whom?* (1996). Hailed by one reviewer as a masterpiece, this volume has defined best practice for human rights information management. It is used in human rights courses at Columbia University's School of International and Public Affairs and defined the information management standards in the truth commissions in South Africa and Guatemala.
- Wrote** over \$1.8 million in grants for the Science and Human Rights Program.
- Designed** and implemented large-scale projects with non-governmental human rights organizations and truth commissions in Guatemala, Turkey, and South Africa.
- Pioneered** the application of cryptography to human rights work through training of grassroots activists from over a dozen countries, and lectures to human rights organizations in the US, Guatemala, Turkey, South Africa, and Haiti.
- Promoted** the public understanding of importance of cryptography to human rights.

Consultant (January 1993 - August 1996)
Science and Human Rights Program, AAAS

- Led** workshop (July 1994) and wrote paper "Database Design Standards for Human Rights Agencies." This paper has been used (by others) to implement large-scale human rights databases at the United Nations human rights mission in Guatemala (MINUGUA) and at the Truth and Reconciliation Commission in South Africa.
- Designed** and implemented projects with non-government human rights organizations and truth commissions in Haiti and Guatemala.



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Education

- Ph.D., 1998, The University of Michigan, Ann Arbor, Michigan (sociology). Thesis title: "Liberal Hypocrisy and Totalitarian Sincerity: The Social and Ideological Origins of the National Human Rights Movements in El Salvador, Pakistan, and Ethiopia."
- M.A., 1991, The University of Michigan, Ann Arbor, Michigan (sociology).
- B.A., 1988, Columbia College of Columbia University, New York, New York, (sociology).

Publications

Books

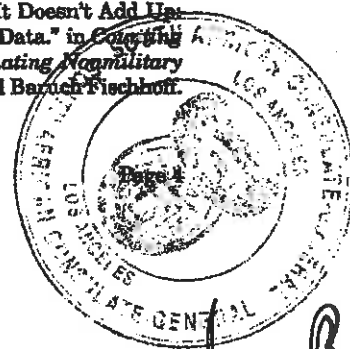
2000. (with the American Bar Association-Central and East European Law Initiative). *Political Killings in Kosova / Kosovo, March - June 1999*. Washington DC: ABA/CEEL- AAAS.
2000. (ed. with Herbert F. Spierer and Louise Spierer) *Making the Case: Investigating Large Scale Human Rights Violations Using Information Systems and Data Analysis*. Washington, DC: AAAS.
2000. *Policy or Panic? Patterns of Kosovar Albanian Refugee Flow, March-May 1999*. Washington DC: AAAS.
1999. (with Paul Kobrak and Herbert F. Spierer) *State Violence in Guatemala, 1960-1996: a Quantitative Reflection*. Washington DC: AAAS.

Data

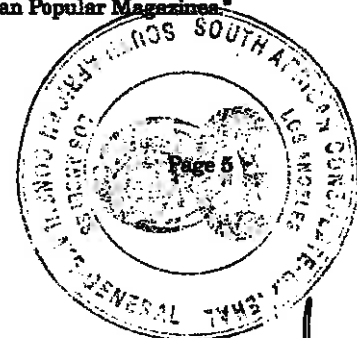
2009. Coded data from the Truth and Reconciliation Commission of Liberia, available at <http://www.hrdag.org/about/downloads/Benetech-HRP-LR-TRC-2010-03-25.html>
2008. Coded data from the Commission for Reception, Truth, and Reconciliation of Timor-Leste, available at http://hrdag.org/resources/timor-leste_data.shtml
2005. Coded data from the Truth and Reconciliation Commission for Sierra Leone, Available at http://hrdag.org/resources/SL-TRC_data.html
2004. Coded data on killing in Perú, available at <http://www.hrdag.org/peru>
2002. Coded data on migration, killing, and geography in Kosovo, March-June 1999. Available at <http://shr.aaas.org/hrdag/product/kosovo/index.html>.
1999. Coded data on human rights violations in Guatemala. Available at <http://shr.aaas.org/guatemala/ciidh/data.html>.

Refereed Articles

2013. (with Jule Krüger, Megan Price, and Amelia Hoover Green) "It Doesn't Add Up: Methodological and Policy Implications of Conflicting Casualty Data." in *Counting Civilian Casualties: An Introduction to Recording and Estimating Nonmilitary Deaths in Conflict*, ed. by Taylor B. Seybolt, Jay D. Aronson, and Baruch Fischhoff. Oxford University Press.



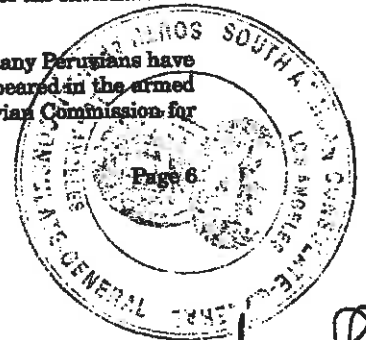
2010. (with Kristian Lum, Megan Price, and Tamy Guberek) "Measuring Elusive Populations with Bayesian Model Averaging for Multiple Systems Estimation: A Case Study on Lethal Violations in Casanare, 1998-2007." *Statistics, Politics, and Policy*, Vol. 1: Iss. 1, Article 2.
2008. (with Audrey R. Chapman) "Levels of Truth: Macro-Truth and the TRC." ch. 6 in *Truth and Reconciliation in South Africa*. ed. by Audrey R. Chapman and Hugo van der Merwe. Philadelphia: U Penn P.
2007. (with Romesh Silva) "The Demography of Conflict-Related Mortality in Timor-Leste (1974-1999): Empirical Quantitative Measurement of Civilian Killings, Disappearances & Famine-Related Deaths" In *Human Rights and Statistical Objectivity*, J. Achter, D. Banks, and F. Scheuren, eds., ASA/SIAM Monograph Series, Philadelphia, PA (USA), pp. 42-57.
2005. "On the Quantification of Horror: Field Notes on Statistical Analysis of Human Rights Violations." in *Repression and Mobilization*. Edited by Christian Davenport, Hank Johnson, and Carol Smith. University of Minnesota Press.
2005. "Free Software," in *The Encyclopedia of Science, Technology, and Ethics*. ed. by Carl Mitchem. Farmington Hills, MI: Thomson Gale.
2004. "Statistics," in *Encyclopedia of Genocide and Crimes Against Humanity*. ed. by Dinah L. Shelton, Howard Adelman, Frank Chalk, Alexandre Kiss & William A. Schabas. Farmington Hills, MI: Thomson Gale.
2004. "Truth and Data: engaging human rights with scientific methods." In *The Scholar as Activist*. Edited by Carol Nagengast and Carlos Velez-Ibanez. Special monograph series of the Society for Applied Anthropology.
2002. (with Jana Asher) "Statistics and Slobodan: Using Data Analysis and Statistics in the War Crimes Trial of Former President Milosevic." *Chance* (Fall):17-24.
2002. (with Christian Davenport) "Views to a Kill: Implications of Source Selection in the Case of Guatemalan State Terror." *Journal of Conflict Resolution*. June.
2001. "Making the Case: The Role of Statistics in Human Rights Reporting." *Statistical Journal of the United Nations Economic Commission for Europe*. 18(2-3):163-174.
2001. (with Audrey R. Chapman) "Truth of Truth Commissions: Comparative Lessons from Haiti, South Africa, and Guatemala." *Human Rights Quarterly*. 23(4):1-42.
1999. "State Terror, Constitutional Traditions, and National Human Rights Movements: a cross-national quantitative comparison." in *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere*, ed. by John A. Guidry, Michael D. Kennedy, and Mayer N. Zald. Ann Arbor, MI: The University of Michigan Press.
1995. (with John R. Wilmoth) "Arguments and Action in the Life of a Social Problem: A Case Study of 'Overpopulation,' 1946-1990." *Social Problems*. 42(3):318-343.
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2010. (with Tamy Guberek, Daniel Guzmán, Megan Price, and Kristian Lum) "To Count the Uncounted: An Estimation of Lethal Violence in Casanare," A Report by the Benetech Human Rights Program. Available online at <http://www.hrdag.org/resources/publications/results-paper.pdf>
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2007. (with Tamy Guberek, Daniel Guzmán, Amelia Hoover, and Meghan Lynch) "Assessing Claims of Declining Lethal Violence in Colombia." Benetech. Also available in Spanish - "Para Evaluar Afirmaciones Sobre la Reducción de la Violencia Letal en Colombia." Available online at <http://www.hrdag.org/resources/publications/CO-PN-CCJ-match-work.pdf>
2007. (with Ewa Tabeau and Philip Verwimp) "The Bosnian Book of the Dead: Assessment of the Database (Full Report)." Households in Conflict Network Research Design Note 5.
2006. (with Romesh Silva) "The Demography of Large-Scale Human Rights Atrocities: Integrating demographic and statistical analysis into post-conflict historical clarification in Timor-Leste." Paper presented at the 2006 meetings of the Population Association of America.
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- Truth and Justice [CVR]; also published as Anexo 2 of the CVR report) 28 August. Washington, DC: AAAS.
2002. (with Wendy Betts, Fritz Scheuren, Jana Dudokovic, and Jana Asher) "Killings and Refugee Flow in Kosovo, March-June 1999: A Report to the International Criminal Tribunal for Former Yugoslavia." 3 January. Washington, DC: AAAS.
2001. (with Jana Asher) "Understanding Human Rights Violation Data through the Analysis of Circuits." *Proceedings of the Joint Statistical Meetings*.
2001. "On the Quantification of Horror: Field Notes on Statistical Analysis of Human Rights Violations." Presented to the Conference on Repression and Mobilization: What We Know and Where We Should Go From Here? Innovations in the Study of Contentious Politics, The University of Maryland.
2000. "Building a Collective Memory: Information Management and Quantitative Analysis."
1997. (with Mark Girouard and Audrey R. Chapman) "Information Technology, Information Management, and Human Rights: A Response to Metal." *Human Rights Quarterly*. 19(4): 838-869.
1996. *Who Did What to Whom: Planning and Implementing a Large-Scale Human Rights Data Project*. Washington, DC: AAAS.
1996. "Quantitative Modeling of a Social Movement's Emergence: Constitutional Rights, State Terror, and Non-Governmental Human Rights Organizations." Working Paper #10 of the Advanced Study Center of the International Institute of The University of Michigan.
1994. (With Ricardo Cifuentes, Judith Dueck, Romilly Gregory, Daniel Salcedo, and Carlos Saldarriaga) "A Definition of Database Standards for Human Rights Agencies." Washington, DC: HURIDOCs/AAAS.
1994. "Evaluation of Microcomputer Software." United Nations Pub. No. ECA/ PADIS/ SC14/ VI/ COM/ 2.1.
1994. "1994 PADIS Survey of Computer and Database Use in African Documentation Centers." United Nations Pub. No. ECA/ PADIS/ SC/ VI/ COM/ 2.2.
1993. "Abstract Fields and Dynamic Data Types." *FoxTalk*. 5(12):3-13.

Projects

The projects listed here are in addition to overall supervision of data collection, archiving, and analysis projects in India, Burma, Thailand, Lebanon, Chad, and elsewhere.

Guatemala: Expert Testimony in War Crimes Trials

Organized and cleaned data, and performed record linkage on approximately 60,000 records from four datasets. Conducted multiple systems estimation. Presented analysis of crude mortality due to homicide by the Guatemalan Army in the trial Gen. Efraín Ríos Montt. Supervised communications metadata analysis from documents randomly sampled from the Historical Archive of the National Police, and presented the results in the trial of Col. Héctor Bol de la Cruz as evidence of the command and control structure of the police during the period of mass disappearances, 1976-1986. (July 2011 - present)



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Syria: UN-OHCHR and HRDAG

Oversaw matching of more than 375,000 records documenting approximately 120,000 unique deaths; analyzed and published findings commissioned by the UN's High Commissioner for Human Rights (January and June 2013). Designed analysis of potentially inaccurate records and estimation of undocumented deaths (ongoing). Secured funding, recruited consultants, and managed volunteers. (March 2012-present)

Guatemala: Historical Archives of the National Police

Designed sampling techniques for study of more than 80 million pages of disorganized archival material from the Guatemalan National Police, 1890-1998. Supervised phased sampling and coding of approximately 50,000 pages of the Archive. Conducted preliminary statistical analysis to find information about the command and control structure of the police during the period of mass disappearances, 1976-1988. (March 2006 - present)

DR Congo: UN Joint Human Rights Office

Evaluated UNJHRO information flow from field investigation to analysis and reporting, diagnosed failure points (where data is lost) and redundancies. Redesigned database to be text-centered, recruited technical staff, oversaw implementation. Designed database and information processing methods for profiling project (to identify and build dossiers on the most serious perpetrators). Assisted UN Sexual Violence Unit in the evaluation of existing quantitative data and strategies to quantify the prevalence of sexual violence. (October 2009-present)

Colombia: Evaluating the Quality of Statistics on Public Violence

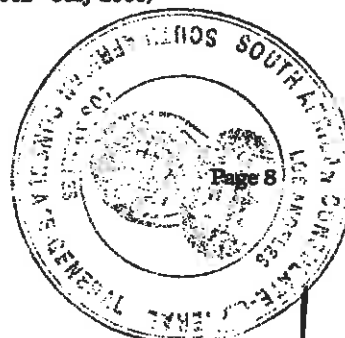
Evaluated government and non-government data sources, and made recommendations for improved collection and analysis. Taught graduate-level seminar on data analysis to fifteen students in Bogotá, June-December 2005. Currently analyzing coverage and reliability of official police homicide registries to determine whether paramilitary demobilization has reduced or increased violence. (June 2005 - present)

Liberia: Truth and Reconciliation Commission

Supervised Benetech staff in the customization and installation of our *Analyzer* database. Designed self-updating report of descriptive statistics. Guided and assisted in the implementation and editing of the report. Provided overall supervision to the project. (March 2007-June 2009)

Timor-Leste: Commission for Reception, Truth and Reconciliation

Guided design of information management system for collection of over 7000 testimonies. Managed field consultant who supervised data quality and an island-wide, retrospective mortality survey conducted by a sample of 1,400 Timorese households. Supervised design of survey of 319,000 grave markers. Used testimony, survey, and grave data to implement and interpret both survey and multiple systems estimations of total deaths, analyzed by type of death. Presented results to Timorese, Indonesian, and international academic audiences. (July 2002 - July 2006)



Perú: Truth and Reconciliation Commission

Evaluated information management system and made recommendations. Implemented and interpreted multiple systems estimation of total deaths and disappearances, analyzed by region and alleged perpetrator. Presented results to many Peruvian audiences, including the commissioners, press, academic, military, political, and human rights groups. (March - August 2003)

Sierra Leone

Advised Truth and Reconciliation Commission on information management strategy. Designed data processing methods. Recruited and advised technical staff. Designed descriptive statistics, edited use of quantitative material throughout report, and wrote statistical analysis for Commission. Oversaw survey of 3,800 households, managed team of eight technical experts in development of report merging TRC data, survey data, and NGO data. (September 2002 - March 2006)

Sri Lanka: Coalition of Human Rights NGOs Information Management Project

Convened five NGOs and guided development of standard definitions of political violence. Designed software. Supervised interns in their ongoing support of the project. Recruited and trained field consultant for ongoing support. (November 2000 - December 2004)

Kosovo: Analysis of Political Killings and Migration Patterns

Conducted on-site evaluation of analytic possibilities during the conflict between NATO and Yugoslavia. Designed project to survey refugees. Partially implemented project, then restructured when conflict ended. Refocused project on using survey and administrative data to model refugee flow out of each populated point in Kosovo, over time. Demonstrated that refugee flow patterns were inconsistent with NATO bombing patterns, while the patterns were consistent with the claim that refugee movements were centrally coordinated; this would include the claim that Albanians had been ethnically cleansed from Kosovo. Analyzed the magnitude and patterns of political killings using multiple-systems estimation techniques developed in Guatemala. Presented report and testimony in two appearances before the International Criminal Tribunal for Former Yugoslavia in the trial of Slobodan Milošević and one in the trial of Milutinović et al. Advised prosecutors on response to defense witnesses (March 1999 - February 2008).

Guatemala: United Nations Commission for Historical Clarification (CEH)

Advised commissioners on research and organizational design. Wrote justification and specifications for external organizations' electronic submissions to the CEH. Designed CEH information flow, interview structure, data processing techniques, and database, and directed their implementation. Guided strategy for the use of descriptive and analytic statistics, and led workshops with CEH analysts on the use of quantitative data. Directed regular evaluations of the information management process on behalf of the Commissioners. Conducted multiple-systems estimation using three databases and estimating statistics based on all three. Edited entire draft report for proper use of quantitative data. (June 1997 - February 1999)

South Africa: Truth and Reconciliation Commission of South Africa (TRC)

Conducted original systems analysis and designed objectives of the information management system. Assisted in organizational design and personnel selection for information management areas. Designed interview questionnaire. Conducted evaluations of multi-site information flow.



Designed and implemented statistical analysis (including approximately 200 tables and graphs) used in the TRCs final report. These statistics provided a rigorous background to the analysis of qualitative data emerging from individual statements and Commission hearings. (January 1996 - September 1998)

Guatemala: International Center for Human Rights Research (CIIDH)

Redesigned and re-implemented database structure, eliminating redundancy and providing greater analytic functionality. Designed and implemented data security system and trained CIIDH staff in its use, protecting data from potential theft or attack by government or paramilitary forces. Designed analytical techniques, wrote programs to extract descriptive statistics for CIIDH reports. Led team that wrote the CIIDH final report entitled *State Violence in Guatemala, 1960-1996: A Quantitative Reflection* published January 1999. This report provides the first social science-based large-scale analysis based on rigorously collected and processed human rights data rendered in quantitative form, and it helps bring a major new analytic technique to the field of human rights analysis. (May 1993 - January 1999)

Haiti: Haitian National Commission of Truth and Justice (CNVJ)

Performed initial systems analysis. Developed interview questionnaire. Reviewed data analysis and classification issues and made recommendations. Cleaned data. Designed qualitative data analysis. Designed, generated, and analyzed descriptive and analytical statistics for the final report. (April 1995 - January 1996)

Guatemala: United Nations' Mission to Guatemala (MINUGUA)

Conducted training workshop on the use PGP to encrypt files and e-mail. Advised on design and development of an information management system to integrate information from Verification and Political Analysis sections of the Mission. Suggested report strategies to optimize data analysis and presentation. The recommendations made were fully implemented by the Mission, greatly improving the validity and analytic depth of their data. (June 1995)

Ethiopia: Pan-African Development Information Systems, United Nations Economic Commission for Africa

Developed database evaluation and selection criteria for African documentation centers. Designed, implemented, analyzed and presented survey of computer use in African documentation centers. Presented workshop on electronic data and communications security. (March - November 1994)

Ethiopia: Office of the Special Prosecutor (SPO), Transitional Government of Ethiopia

Created and led computerization project. Designed and implemented database and controlled vocabulary software (in English and Amharic) for SPO case files and evidence. Supervised foreign consultant selection, system design, hardware and software procurement, and site preparation. Hired and trained programmers, data processors, archivists, and data entry staff. Designed data processing techniques, and trained and supervised prosecutors in their use. Designed and implemented reports. (June 1993 - March 1994)



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El Salvador: Coalition of Non-Government Human Rights Organizations of El Salvador

Designed and implemented several database systems for three human rights organizations in El Salvador. Designed and oversaw data entry, analytic design, and report production for the presentation of human rights violation data to the United Nations' Truth Commission for El Salvador. Designed and implemented analytical techniques leading to reports used in the "Indices of Individual Responsibility" campaign that resulted in the removal of over 100 of the military officers most deeply implicated in human rights violations. (December 1991 - May 1993)

Lecturing

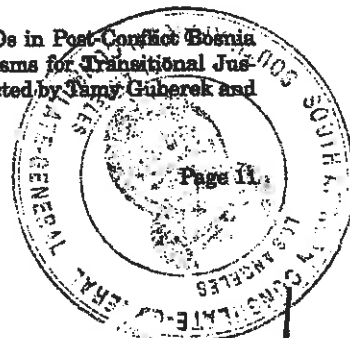
Numerous lectures on electronic security, and on the collection, processing, database representation, and statistical analysis of large-scale human rights data at corporations (e.g., Google, Mozilla, Hewlett-Packard), international organizations (e.g., UNDP, UN-OHCHR), philanthropic groups, human rights organizations, and university departments of law, political science, statistics, computer science, and philosophy in the US, Canada, Guatemala, Turkey, South Africa, Kosovo, Hungary, United Kingdom, Russia, Colombia, Sri Lanka, DR Congo, India, the Netherlands, the DR Congo, and Switzerland. (May 1995 - present)

Fellowships and Awards

- | | |
|-----------|--|
| 2005 | Electronic Frontier Foundation Pioneer Award |
| 2004 | Eugene Lawler Award for Humanitarian Contributions within Computer Science and Informatics of the Association for Computing Machinery |
| 2002 | Special Achievement Award of the Social Statistics Section of the American Statistical Association |
| 1985-1986 | Sawyer Fellowship in the Advanced Study Center of the International Institute of the University of Michigan. Topic: Globalizing Social Movements |
| 1993 | Rackham Graduate Student Regents' Fellowship, Department of Sociology, The University of Michigan (awarded 1988) |
| 1988-1991 | National Science Foundation Graduate Research Fellowship |

Non-Profit and Advisory Board Positions

- | | |
|-------------------|--|
| ASA | Chair of the Scientific Freedom and Human Rights Committee, American Statistical Association (January 2004-January 2006) |
| CIRMA | Board member at the Mesoamerican Regional Research Center (CIRMA), located in Antigua Guatemala, is the leading postgraduate social science research institute in Central America. See http://www.cirma.net . (July 1998 - December 2002) |
| Guberek & Cibelli | Advisory Board for a project entitled Local NGOs in Post-Conflict Bosnia and Herzegovina and Their Visions of Mechanisms for Transitional Justice, a survey of civil society organizations conducted by Tamy Guberek and Kristen Cibelli. (February 1999 - August 2000) |



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PeopLink

is a non-profit organization helping talented producers in remote communities all over the world market their products on the Internet. See <http://www.peoplink.org/>. (December 1996 - January 2001)

Relevant Skills

Computer Languages

Twenty-five years' experience in relational database management systems, including development in dBase, FoxPro, Oracle (PL/SQL), MySQL, and PostgreSQL. Working understanding of the following low-level languages, operating systems, statistical languages, and macro/script environments: Python, Perl, C, Pascal, and PHP; emacs and emacs-lisp; bash shell programming; gnu/linux, BSD, and Solaris (unix); general MS Windows programming (e.g., multi-application VBA and ODBC); IBM mainframe VM/CMS and REXX scripting; SAS (under Windows and VM/CMS); STATA (under Windows and Unix); and R (under Unix).

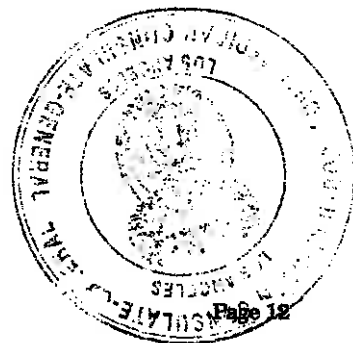
Statistics

Proficient in machine learning based classification techniques, categorical analysis, linear and nonparametric modeling, multiple-systems estimation, data manipulation, clustering algorithms and implementation, and graphical analysis of social science data, especially as related to human rights.

Human Languages

English (native), Spanish (fluent), French (working)

Last Revision: 12 January 2014



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PB2

Gerald O'Sullivan

The six central entities, with the attributes² of relevance for the purposes of this paper, were PERSONS, SOURCES, ACTS, PERPETRATORS, WITNESSES and EVENTS. We first describe these entities with their attributes and then show the relationships among these entities in a flow chart.

PERSONS

The PERSON entity consists of current or static information about the person, whether he or she was a deponent, victim, perpetrator or witness to a violation, and details about staff members.

person_seq	sequential number to uniquely identify persons (only partial details may be known about a person, so a system-generated primary key was used)
last_name	last, or family, name
first_names	first name(s)
id_number	South Africans have a unique 13-digit identification number which can be used to determine date_of_birth or sex; this field could also be used to hold passport numbers, or the old apartheid reference book number if the ID number was not available
race	human rights violations are often about ethnicity or race, uniquely so in the South African context; this attribute was valuable when analyzing patterns in the violence
date_of_birth	the ages of victims at the time of the violation or at the time of taking the statement can be calculated from the date of birth
sex	another useful analytic variable
address_lines	for contact purposes
phone_no	for contact purposes
town	a lookup table is essential for entering the name of towns
staff_members	details about staff members

A number of other PERSON attributes were on the system, but did not prove as useful as the above, because the information was either unavailable or unreliable. These attributes included marital status, religion, employment status and language. Other attributes not included here involved administrative functions - notes about the person, date of the victim finding, etc.



² For clarity the names of the attributes here are not exactly the same as were used in the database.

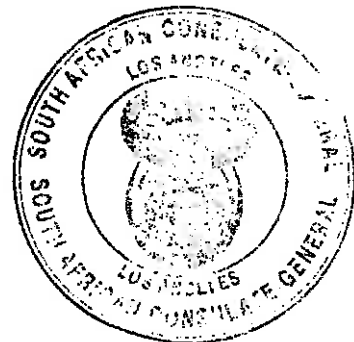
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Chapter Four: The South African Truth and Reconciliation Commission

SOURCES The SOURCE entity holds details of the source of the information about the violations in question. In the case of the TRC, violations either came from Human Rights Violation statements, or Amnesty applications. Secondary source material was only used for corroborative purposes.

reference_no	file reference number allocated to the document
protocol_type	a code to indicate whether the document was an HRV statement or amnesty application; because several different versions of the HRV statement were used, the code also identified the version
deponent	the identifier of the person who made the statement or submitted the amnesty application; this had a foreign-key constraint to person_seq in the PERSONS table
place	the town where the statement was made or amnesty application lodged
office	code of the TRC office responsible for the document
status	the status field was used to track where in the information flow the document was, Registered, Processed, Corroborated, or Finding
date_taken	the date the statement was taken, or amnesty application made
interviewer	the identifier of the staff member who took the statement or application
date_registered	date of registration
registrar	the identifier of the staff member who registered the document
date_processed	date the document was processed
processor	the identifier of the staff member who processed the document
date_corroborated	date the document was corroborated
corroborated (by)	the identifier of the staff member who corroborated the document
date_finding	date the document completed the findings process
commissioner	the identifier of the commissioner who made the finding

The dates and person identifiers above held valuable details of the progress of the document through the information flow. They were particularly useful for monitoring blockages in the system, finding the location of backlogs and monitoring the performance of individual staff members in terms of speed and accuracy. These fields were not normalized for ease of programming and database performance. Strictly speaking, a SOURCE_HISTORY entity should have been used.



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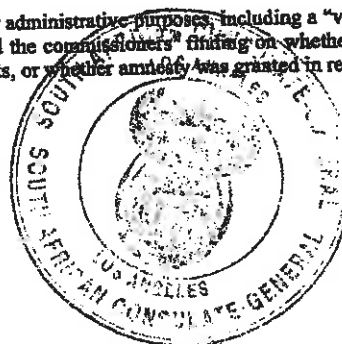
Gerald O'Sullivan

ACTS

The ACT entity was at the heart of the database. This entity held details of the What and Whom, as well as When, Where, How and Why. It has a many-to-one relation to SOURCES (one document can describe many violations) as well as to PERSONS (one person can be violated many times).

reference_no	file reference of the source document
act_seq	sequence number of the violation as narrated in the document
victim	identifier of the victim
violation_desc	narrative description of the violation
violation_type	code used to categorize the nature of the violation. In practice, the TRC conflated the category of the violation as defined in terms of the legislation with the modus operandi of the violation, so the codes were of the form KILLING/SHOOTING or TORTURE/ELECTRIC; in retrospect, we should have had two fields, one for the legislative category and one for the mode of the violence. The approach used was the result of a lack of clarity regarding the coding frame at the start of the process. (See Appendix 2 for the coding frame)
outcome	narrative description of the outcome of the violation
outcome_type	code used to categorize the outcome of the violation. Unfortunately, due to time pressures, this was not used systematically, but it does have enormous analytic capacity for assessing the human cost of gross violations of human rights
place	town where the violation took place
location_desc	narrative description of the location of the violation (in a police cell, for example, or at the training camp, at the chief's kraal)
location_type	like the outcome_type, this was not used systematically, but had it been used, it could have contributed to the recommendations chapter of the Final Report
day	the day of the month of the violation; the date of the violation was split into its three components - day, month and year - because on many occasions, only partial date details were given in the documents
month	the month of the year of the violation
year	the year in which the violation occurred
victim_org	the code of the organization to which the victim belonged. This was selected from a lookup table to ensure uniformity of spelling, etc.
circumstances	narrative description of the political circumstances prevailing at the time.

The ACT entity had a several other attributes for administrative purposes, including a "veracity" indicator. This was subsequently used to record the commissioners' finding on whether the violation constituted a gross violation of human rights, or whether amnesty was granted in respect of the offence.



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Chapter Four: The South African Truth and Reconciliation Commission

PERPETRATORS

The PERPETRATOR entity holds details of the individuals who carried out the violation. It has a many-to-one relation to the violation, because many perpetrators can carry out one violation.

reference_no	file reference of the source document
act_seq	sequence number of the violation as narrated in the document
perpetrator	identifier of the person who carried out the violation
perp_org	the code of the organization to which the perpetrator allegedly belonged. This was selected from the same lookup table as the list of victim organizations
weapon	narrative description of the weapon used
characteristics	identifying characteristics of the perpetrator

The perpetrator entity proved to be very useful for analytic purposes, especially with respect to the alleged organizational allegiance of the perpetrator. However, in most cases, the rest of the information was too sparse to be of much value for investigative purposes. In most cases deponents remembered little of substance other than the name of the organization involved; the other attributes, such as vehicle_used, or place_last_seen, were rarely used.

WITNESSES

The WITNESS entity holds details of the individuals who witnessed the violation. It has a many-to-one relation to the violation, because many individuals can witness one violation.

reference_no	file reference of the source document
act_seq	sequence number of the violation as narrated in the document
witness	identifier of the person who witnessed the violation

The WITNESS entity proved less useful than was anticipated at the start. It was intended help the investigators follow up the details of the case, but in most cases, the deponents themselves were the best witnesses.



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Gerald O'Sullivan

EVENTS

The EVENT entity was used to group violations from a variety of documents into conceptually meaningful events. For example, this entity was used to group all violations pertaining to the Ratanda bus massacre in one event. The event was a recursive entity, so small events could be grouped together into larger events.

event_id	sequential number to uniquely identify events
title	the title of the event
start_date	the date when the event started
end_date	the date when the event ended
notes	notes about the event
parent_event	identifier of the larger event, of which this is a part
owner	identifier of the person who created the event

The EVENT entity had great potential, but was not used to its full capacity by the researchers who were expected to be the major users of this entity. Due to other pressures, they were unable to devote enough time to learn how to make it useful for their needs. Ultimately, it proved useful to the investigators preparing for hearings who used it to extract violations, which they then loaded into a tool, which drew diagrams of links between thousands of incidents, perpetrators and victims in a matter of seconds. The Event entity was also later used by the Amnesty Committee to plan hearings by grouping violations from various amnesty applications together.

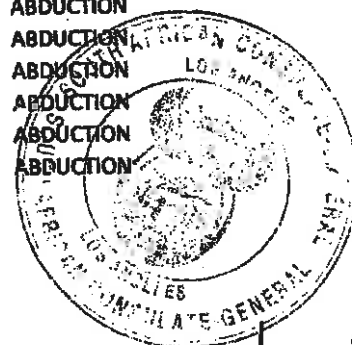
Despite the relatively few entities in the data model, it was complex enough to model all the real world events that were brought before the commission. For example, the same person could be a victim at different times and in different places. A person could be a deponent telling about the death of a relative, and simultaneously be a victim in his or her own right. A person may be the victim of torture, and then perpetrate a gross violation of human rights in retaliation at a later date.

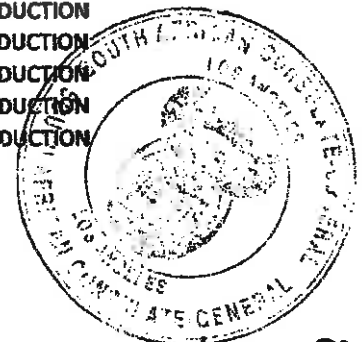


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PB3

Date of Abduction	Specific Location	Action Type	Action
01/05/1983 ALEXANDRA	HIS HOME	ABDUCTION	ABDUCTION
11/03/1992 ALEXANDRA	SELBOURNE, 11TH AVE	ABDUCTION	ABDUCTION
07/04/1990 ALFRED	IN HIS HOUSE, UMTHA	ABDUCTION	ABDUCTION
07/04/1990 ALFRED	IN HIS HOUSE, UMTHA	ABDUCTION	ABDUCTION
07/04/1990 ALFRED	IN HIS HOUSE, UMTHA	ABDUCTION	ABDUCTION
07/04/1990 ALFRED	IN HIS HOUSE, UMTHA	ABDUCTION	ABDUCTION
07/04/1990 ALFRED	IN HIS HOUSE, UMTHA	ABDUCTION	ABDUCTION
07/04/1990 ALFRED	IN HIS HOUSE, UMTHA	ABDUCTION	ABDUCTION
30/07/1988 ALIWALNORT	GOEDEMOED MEDIUM	ABDUCTION	ABDUCTION
30/07/1988 ALIWALNORT	GOEDEMOED MEDIUM	ABDUCTION	ABDUCTION
30/07/1988 ALIWALNORT	GOEDEMOED MEDIUM	ABDUCTION	ABDUCTION
31/07/1988 ALIWALNORT	IN A CELL AT GOEDEMC	ABDUCTION	ABDUCTION
31/07/1988 ALIWALNORT	IN A CELL AT GOEDEMC	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED.	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED.	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED.	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED.	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED.	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED.	ABDUCTION	ABDUCTION
01/01/1987 AMANZIMTOT	NOT SPECIFIED	ABDUCTION	ABDUCTION
01/01/1980 ANGOLA	LUANDA.	ABDUCTION	ABDUCTION
01/01/1980 ANGOLA	LUANDA.	ABDUCTION	ABDUCTION
01/01/1980 ANGOLA	LUANDA.	ABDUCTION	ABDUCTION
01/01/1980 ANGOLA	LUANDA	ABDUCTION	ABDUCTION
01/01/1991 ASSAGAY	CAMP IN ENTSHONGWI	ABDUCTION	ABDUCTION
01/01/1991 ASSAGAY	CAMP IN ENTSHONGWI	ABDUCTION	ABDUCTION
01/01/1991 ASSAGAY	CAMP IN ENTSHONGWI	ABDUCTION	ABDUCTION
01/10/1989 ASSAGAY	AT SALEM NEAR SHONK	ABDUCTION	ABDUCTION
05/12/1991 BARBERTON	AT LTK STORE BUILDING	ABDUCTION	ABDUCTION
05/12/1991 BARBERTON	AT LTK STORE BUILDING	ABDUCTION	ABDUCTION
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13/02/1991 BELFAST	IN ONE OF THE STREETS	ABDUCTION	ABDUCTION
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13/02/1991 BELFAST	IN ONE OF THE STREETS	ABDUCTION	ABDUCTION
01/08/1986 BENONI	AT SOMDLOLO RAND-R	ABDUCTION	ABDUCTION
01/08/1986 BENONI	AT SOMDLOLO RAND-R	ABDUCTION	ABDUCTION
17/10/1993 BERGVILLE	WOODFORD	ABDUCTION	ABDUCTION
17/10/1993 BERGVILLE	WOODFORD	ABDUCTION	ABDUCTION




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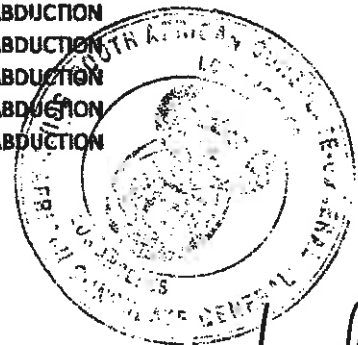
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*Of the United States,
in Order to form a more perfect Union,
establish Justice, insure domestic Tranquility,
provide for the common defence,
promote the general Welfare, and secure
the Blessings of Liberty to ourselves and
our Posterity, do ordain and establish this
Constitution for the United States of America.*

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Year Name's / Present / Month

PATRICK DONNELL

UNITED STATES OF AMERICA

Date of birth / Date de naissance / Fecha de nacimiento
26 Jun 1965

26 Jun 1965

Place of birth: / Lieu de naissance: / Lugar de nacimiento:

CALIFORNIA U.S.A.

Date of issue / Date de délivrance / Fecha de expedición

28 May 2010

Date of expiration / Dat. d'expiration / Zona de caducitat:

27 May 2020

Indorsements / Merit-iss Specials / Antiquaries

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Chapter 4

The South African Truth and Reconciliation Commission: Database Representation

Gerald O'Sullivan

Introduction

The work of the Truth and Reconciliation Commission (TRC) was dominated by information processing. By the time the Human Rights Violations Committee of the TRC had completed its work, it had gathered 21,298 statements, containing 37,672 gross violations of human rights. The Amnesty Committee of the TRC received a total of 7,127 applications for amnesty. At this time (mid-1999), the work of the Amnesty Committee is not complete, so the total number of violations gathered by the amnesty process is not known, but could ultimately be in excess of 10,000.

The anticipated volume and complexity of the information was such that the Commission decided to set up a wide-area network and develop its own database to process the data. As it turned out, the network and database comprised the backbone of the organization, structuring its work in a systematic way. The end result is a rich, complex, logically disaggregated set of corroborated data which enables researchers to make powerful statements about human rights violations.

Information technology in South Africa is sophisticated despite South Africa's violent past, under-developed economy and years of sanctions. It has become more so in the years since the ban on liberation movements in 1990 was removed. With the necessary hardware, software and skills available, the TRC was able to rapidly build a powerful electronic infrastructure.

In this paper, I describe the TRC's experience of putting together this electronic infrastructure. I will describe 1) the basic network structure, 2) the organizational structure of the TRC, 3) the information flow by which the data was loaded onto the database, 4) the logical model of the database and finally 5) give some examples of the analytical results that such a database model provides. In the appendices, I give the complete statement used to gather data and the coding frame. The editors excerpted and summarized lessons learned for this chapter and for Chapter 3. This section appears as Appendix 3.

The Basic Network Structure

The local area networks

The TRC had four regional offices, based in Cape Town, Johannesburg, Durban and East London. Each of the offices had a local area network (LAN) consisting of a number of workstations and heavy-duty printers connected together by an Ethernet network with a Windows NT server at the center of each LAN. The communication protocol was TCP/IP. There were about 250 workstations in the Commission's four offices.

The workstations ran Windows 95, and the Microsoft Office suite was used to carry out the administrative work in the offices. The e-mail facility in particular proved to be a valuable internal communications tool. In addition to Microsoft Word, which was used for word processing, the researchers used the Excel spreadsheet to analyze trends in the data on human rights violations and to graph the results of their analyses.

These products were easy to install and use, readily available and well suited for a network of this scale. However, the domain structure of Microsoft NT complicated the management of the network, and the stability of the servers was often compromised by the shortcomings of the network operating system.

In addition to the off-the-shelf software, all users involved in the TRC Information Flow (data processors, corroborators, researchers and commissioners) had access to the TRC Database. The database was a client-server design, so users had screens loaded on their workstations enabling them to query and update the information stored on the file servers.

Most of the TRC staff had had little or no prior experience with computers, so each office had a Computer Officer who fixed the hardware, installed and maintained the software and provided the

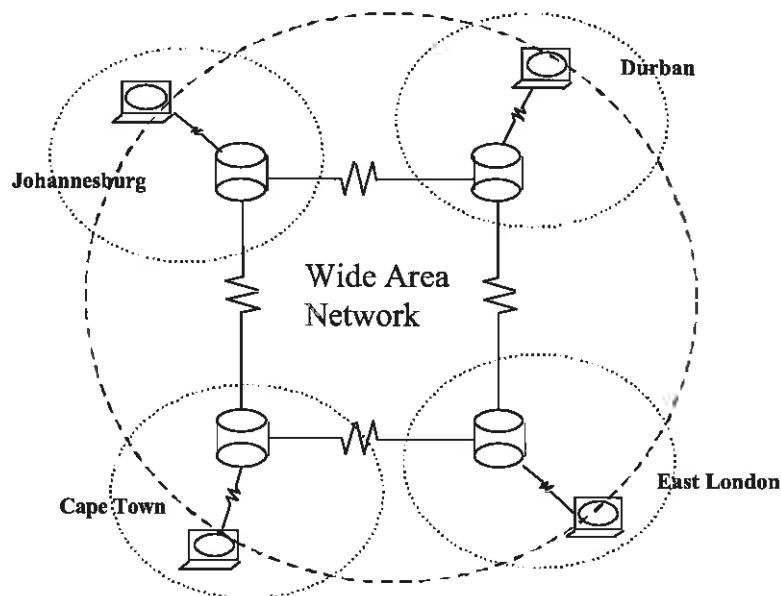
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users with support. A commercial network service provider supported the Computer Officers by performing the more complex hardware and networking tasks.

The Wide Area Network

A wide-area network (WAN) connected the four regional networks together, using 64k digital lines rented from Telkom, the national telecommunications provider, as shown in the schematic diagram of Figure 1.

Figure 1. Schematic diagram of the Wide Area Network



The WAN allowed users to send e-mail from one office to another, transfer word-processed documents between regions and share database information between the offices.

The commission network was not connected to the Internet for security reasons. Instead, each office had one or more freestanding computers (i.e., without a connection to the network) with dial-up access to an Internet Service Provider. There was no physical connection between the TRC network and the Internet. This was the simplest, most reliable, least expensive way of isolating the network from potential intruders, although more computer-literate users were frustrated by the lack of e-mail connections to the outside world.

The Organizational Structure of the TRC

The TRC consisted of three sub-committees:

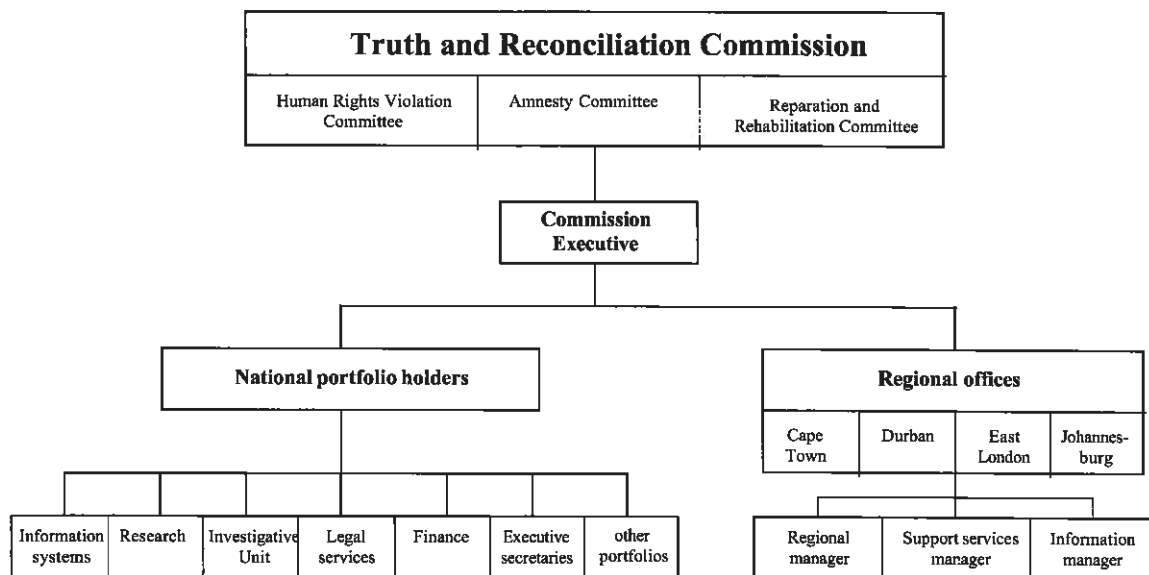
Committee	Responsibility
Human Rights Violation Committee (HRV Committee)	Collecting statements of human rights violations from victims or their surviving relatives
Amnesty Committee	Dealing with applications for amnesty from perpetrators of politically-motivated violations
Reparation and Rehabilitation Committee (R&R committee)	Making recommendations for reparation and the rehabilitation of victims identified by the TRC

The executive arm of the commission consisted of national portfolio holders reporting to the chief executive officer (CEO). They worked with the managers of the four regional offices to carry out the operational functions of the TRC and gathered and processed the HRV statements and amnesty applications on which the commissioners made findings.

Responsibility for the database and network fell under my charge as the Information Systems Manager. I worked closely with the Information Managers in each of the regional offices to ensure that the database functioned as expected, making enhancements to the functionality as more processes in the information flow came on stream. The Information Managers kept the information flow moving and ensured that the data gathered by each office was loaded onto the database efficiently and accurately.

The structure of the commission was as shown in Figure 2.

Figure 2. Structure of the South African Truth and Reconciliation Commission



By vesting the responsibility for the electronic information systems in a position reporting directly to the CEO, the database was assured of a high profile in the organization, thereby avoiding contests of ownership. It was not relegated to a purely "research" function or subsumed in the work of the investigative unit.

Indeed, the reverse was a greater problem. It was difficult to get the Research department, Investigative Unit and Commissioners to take ownership of the data that fed their own processes. The main focus of the work of the Commission was on the public hearings, rather than on gathering statements. Thus, for nearly two years, the attention of the researchers, investigators and commissioners was directed away from the database, towards the logistics of preparing for hearings.

In the absence of involvement from other portfolios and committees, the perception emerged that the contents of the database (quality, volume, and integrity) were the responsibility of the Information Systems portfolio and the Information Managers in the regional offices only. This had a substantial negative impact on the quality of the data since none of the principal users added value through active use of the data, until the findings process began in earnest and the writing of the final report was started.

The Information Flow for Loading Data onto the Database

The TRC database was originally designed to be a research tool, but subsequently become integrated into the operations of the commission. It was at the heart of the Information Flow in which

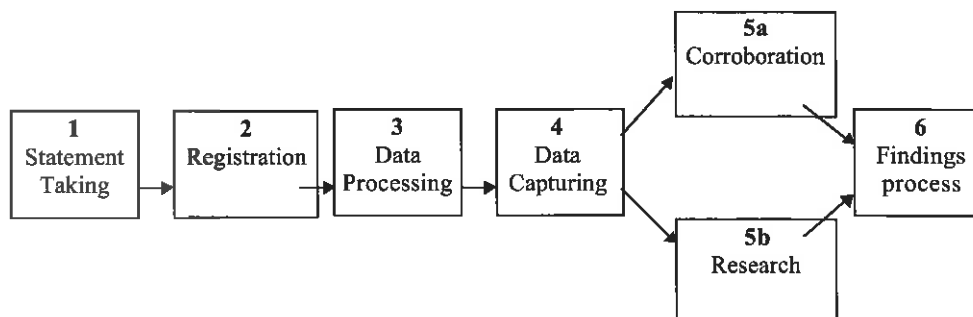
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the violations reported in statements made by deponents were analyzed, captured onto the database, corroborated by investigators and finally passed to commissioners who made findings on whether the violations constituted gross violations of human rights as defined by law.

The information flow was as shown in Figure 3.

Figure 3. TRC database information flow



The first four stages of the information flow were implemented early in the life of the commission. There was enormous pressure to get the database up and running and filled with data. As soon as the first phase of the database development was completed (database engines installed on the servers, input screens developed and installed on workstations), the registration, processing and data capture began.

At the same time as the database development was underway, the commission started its process of holding public hearings. These hearings generated enormous coverage for the work of the commission and the statement-takers were able to harness the energy of the hearings to gather statements. Unfortunately, the hearings diverted the focus of the commission from stages 5 and 6 and the crucial processes of corroboration, research and the making findings were put on hold. The data processors and data capturers worked in isolation during this time, and received no feedback on the quality or quantity of their work.

Once the process of corroboration began, and researchers began to rely on the primary data from the statement-takers to prepare for hearings, rather than using mainly secondary source material. As before, the quality of the data improved dramatically. The corroborative material (death certificates, press clippings, medical files, photographs) added enormous value to the database. Late in the life of the commission, the findings process started and the data were authenticated.

Although laborious, the process of corroboration proved invaluable and gave the findings a legitimacy they might otherwise have lacked. Before this, the data gathered often represented the data-processor's understanding of a hastily written statement, translated into English during an interview with a possibly traumatized deponent, recounting events which may have happened several years previously. Under these conditions, the probability of, and the scope for error were enormous.

The HRV statement

The data gathered by the statement-takers were written down on a standard protocol sheet. The format of the statement changed in the early stages of the commission's life. It was initially a free-flowing narrative, with sheets attached for the statement-takers to record the specific details, and to remind them to ask certain questions. Statement-takers complained that it was too repetitive, and because at that stage the commission's rate of statement-taking was very slow, the format of the statement was questioned. Some members of the HRV committee then argued for a format in the style of a motor-vehicle license application, so that these forms could be distributed by public bodies (the post office, churches, non-governmental organizations, and so on). With such a format, deponents could fill in the forms themselves, or be assisted by family members, official functionaries or religious leaders.

A form was drawn up and put into use. The quality of the data declined dramatically, and I was able to show this by doing word-count comparisons of the two styles. I did this by counting the minimum, average and maximum numbers of words entered on the database by the data-capturers

to describe the nature of the violation, the outcome of the violation and the description of where the violation took place. By comparing the counts from the free-text statements to those from the "license application form," it was easy to see that we had lost almost all context and gained nothing in the process. This form was dropped and the HRV Committee eventually compromised on a semi-structured statement (see Appendix 1).

This semi-structured statement had advantages and disadvantages when compared to the free-text statements, as I discovered by doing word-counts and by comparing the number of violations, victims and perpetrators per statement and the number of violations per victim. The results were mixed but interesting.

In those offices where data processing was known to be weak, the numbers of violations, victims and perpetrators improved, but in those where data processing was known to be better, the rates dropped. The structure helped weak data processors to identify the relevant violations, victims and perpetrators. Previously, they had been lost in the narrative, but better data-processors had less narrative from which to draw, and the structure of the statement only allowed for one victim per violation type, such as killing, torture, severe ill-treatment, etc. (See Appendix 1). Thus, they ended up with fewer violations per victim and fewer victims and perpetrators per statement.

The word-counts showed little change in the amount of detail captured to describe each violation and the consequences of each violation (whether the office increased the number of violations per statement or not). However, they did show a definite improvement in all offices where details about the perpetrators, political context and the place of violation were concerned. It was clear that the semi-structured statement focussed the attention of statement-takers on questions that had been previously neglected. A deponent's testimony is understandably centered on the trauma of the violation itself, so less detail was gathered about the context in which the violation took place.

The Logical Model of the Database

The database was developed in great haste, as there was enormous pressure get the information flow functional, and with very little idea of how it would operate in practice, since the commission itself was in the process of defining its role. Drawing on the experience of Patrick Ball, as well as the work of the Human Rights Information and Documentation Systems International (HURIDOCs) team, and my knowledge of corporate databases, we created a functioning database in record time.

The design process began with the work of the Database Development Group. They reviewed the Promotion of National Unity and Reconciliation Act¹ to identify which sources of data were legally available to the TRC and which print-outs and analyses would be needed from the database to fulfil the reporting objectives of the Commission. This review was then used by a small team consisting of myself, a researcher, a systems analyst and a programmer, to design the database model and its interfaces.

The process development time was reduced by using industry-standard software. The end product was a client-server relational database using Oracle software, which is the database technology of choice for a project of this scale and nature. We chose Oracle partly for technical reasons, but also because SyBase, a database platform with similar functionality, was distributed and supported locally by a South African company with close ties to the arms procurement agency of the old regime. Commissioners feared that to use SyBase could have been seen as a conflict of interest.

We used Oracle's Computer Aided Software Engineering (CASE) tool, Designer 2000, to store the logical model, data flow functions, validation rules and the data integrity rules. By investing more effort early in the design process, we were able to use the CASE tool to generate the bulk of the code needed to create the screens, as well as the SQL scripts needed to create the database tables. Once the CASE tool had generated the code, it was a simple matter to fine-tune the screen designs and add indexes to the tables to enhance performance.

The database consisted of four database engines (one on each server in each regional office) which were kept synchronized across the wide-area network, using the standard Oracle replication functionality. This automatically integrated the data from all the offices, providing one coherent national picture.

¹ This is the Act of Parliament which established the TRC and defined its mandate.

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The users had a suite of programs on their workstations that connected them to the database servers. This arrangement allowed them to register statements and amnesty applications, capture the contents of the violations, carry out complex searches on the data, extract data into spreadsheets, and print a variety of computer-generated reports such as: the content of statements or amnesty applications, corroboration carried out, letters of acknowledgement, perpetrator details, incident reports, as well as statistics for monitoring the performance of the information flow.

The data model

The underlying logical structure of the database is relatively simple, with just six core data entities. There were a total of 50 entities in the end, most of which were code tables for lookup purposes. The others were added over time to provide additional administrative functionality.

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The six central entities, with the attributes² of relevance for the purposes of this paper, were PERSONS, SOURCES, ACTS, PERPETRATORS, WITNESSES and EVENTS. We first describe these entities with their attributes and then show the relationships among these entities in a flow chart.

PERSONS The PERSON entity consists of current or static information about the person, whether he or she was a deponent, victim, perpetrator or witness to a violation, and details about staff members.

person_seq	sequential number to uniquely identify persons (only partial details may be known about a person, so a system-generated primary key was used)
last_name	last, or family, name
first_names	first name(s)
id_number	South Africans have a unique 13-digit identification number which can be used to determine date_of_birth or sex; this field could also be used to hold passport numbers, or the old apartheid reference book number if the ID number was not available
race	human rights violations are often about ethnicity or race, uniquely so in the South African context; this attribute was valuable when analyzing patterns in the violence
date_of_birth	the ages of victims at the time of the violation or at the time of taking the statement can be calculated from the date of birth
sex	another useful analytic variable
address_lines	for contact purposes
phone_no	for contact purposes
town	a lookup table is essential for entering the name of towns
staff_members	details about staff members

A number of other PERSON attributes were on the system, but did not prove as useful as the above, because the information was either unavailable or unreliable. These attributes included marital status, religion, employment status and language. Other attributes not included here involved administrative functions - notes about the person, date of the victim finding, etc.

² For clarity the names of the attributes here are not exactly the same as were used in the database.

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SOURCES The SOURCE entity holds details of the source of the information about the violations in question. In the case of the TRC, violations either came from Human Rights Violation statements, or Amnesty applications. Secondary source material was only used for corroborative purposes.

reference_no	file reference number allocated to the document
protocol_type	a code to indicate whether the document was an HRV statement or amnesty application; because several different versions of the HRV statement were used, the code also identified the version
deponent	the identifier of the person who made the statement or submitted the amnesty application; this had a foreign-key constraint to person_seq in the PERSONS table
place	the town where the statement was made or amnesty application lodged
office	code of the TRC office responsible for the document
status	the status field was used to track where in the Information Flow the document was, Registered, Processed, Corroborated, or Finding
date_taken	the date the statement was taken, or amnesty application made
interviewer	the identifier of the staff member who took the statement or application
date_registered	date of registration
registrar	the identifier of the staff member who registered the document
date_processed	date the document was processed
processor	the identifier of the staff member who processed the document
date_corroborated	date the document was corroborated
corroborated (by)	the identifier of the staff member who corroborated the document
date_finding	date the document completed the findings process
commissioner	the identifier of the commissioner who made the finding

The dates and person identifiers above held valuable details of the progress of the document through the information flow. They were particularly useful for monitoring blockages in the system, finding the location of backlogs and monitoring the performance of individual staff members in terms of speed and accuracy. These fields were not normalized for ease of programming and database performance. Strictly speaking, a SOURCE_HISTORY entity should have been used.

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ACTS

The ACT entity was at the heart of the database. This entity held details of the What and Whom, as well as When, Where, How and Why. It has a many-to-one relation to SOURCES (one document can describe many violations) as well as to PERSONS (one person can be violated many times).

reference_no	file reference of the source document
act_seq	sequence number of the violation as narrated in the document
victim	identifier of the victim
violation_desc	narrative description of the violation
violation_type	code used to categorize the nature of the violation. In practice, the TRC conflated the category of the violation as defined in terms of the legislation with the modus operandi of the violation, so the codes were of the form KILLING/SHOOTING or TORTURE/ELECTRIC; in retrospect, we should have had two fields, one for the legislative category and one for the mode of the violence. The approach used was the result of a lack of clarity regarding the coding frame at the start of the process. (See Appendix 2 for the coding frame)
outcome	narrative description of the outcome of the violation
outcome_type	code used to categorize the outcome of the violation. Unfortunately, due to time pressures, this was not used systematically, but it does have enormous analytic capacity for assessing the human cost of gross violations of human rights
place	town where the violation took place
location_desc	narrative description of the location of the violation (in a police cell, for example, or at the training camp, at the chief's kraal)
location_type	like the outcome_type, this was not used systematically, but had it been used, it could have contributed to the recommendations chapter of the Final Report
day	the day of the month of the violation; the date of the violation was split into its three components - day, month and year - because on many occasions, only partial date details were given in the documents
month	the month of the year of the violation
year	the year in which the violation occurred
victim_org	the code of the organization to which the victim belonged. This was selected from a lookup table to ensure uniformity of spelling, etc.
circumstances	narrative description of the political circumstances prevailing at the time.

The ACT entity had a several other attributes for administrative purposes, including a "veracity" indicator. This was subsequently used to record the commissioners' finding on whether the violation constituted a gross violation of human rights, or whether amnesty was granted in respect of the offence.

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PERPETRATORS

The PERPETRATOR entity holds details of the individuals who carried out the violation. It has a many-to-one relation to the violation, because many perpetrators can carry out one violation.

reference_no	file reference of the source document
act_seq	sequence number of the violation as narrated in the document
perpetrator	identifier of the person who carried out the violation
perp_org	the code of the organization to which the perpetrator allegedly belonged. This was selected from the same lookup table as the list of victim organizations
weapon	narrative description of the weapon used
characteristics	identifying characteristics of the perpetrator

The perpetrator entity proved to be very useful for analytic purposes, especially with respect to the alleged organizational allegiance of the perpetrator. However, in most cases, the rest of the information was too sparse to be of much value for investigative purposes. In most cases deponents remembered little of substance other than the name of the organization involved; the other attributes, such as vehicle_used, or place_last_seen, were rarely used.

WITNESSES

The WITNESS entity holds details of the individuals who witnessed the violation. It has a many-to-one relation to the violation, because many individuals can witness one violation.

reference_no	file reference of the source document
act_seq	sequence number of the violation as narrated in the document
witness	identifier of the person who witnessed the violation

The WITNESS entity proved less useful than was anticipated at the start. It was intended help the investigators follow up the details of the case, but in most cases, the deponents themselves were the best witnesses.

EVENTS

The EVENT entity was used to group violations from a variety of documents into conceptually meaningful events. For example, this entity was used to group all violations pertaining to the Ratanda bus massacre in one event. The event was a recursive entity, so small events could be grouped together into larger events.

event_id	sequential number to uniquely identify events
title	the title of the event
start_date	the date when the event started
end_date	the date when the event ended
notes	notes about the event
parent_event	identifier of the larger event, of which this is a part
owner	identifier of the person who created the event

The EVENT entity had great potential, but was not used to its full capacity by the researchers who were expected to be the major users of this entity. Due to other pressures, they were unable to devote enough time to learn how to make it useful for their needs. Ultimately, it proved useful to the investigators preparing for hearings who used it to extract violations, which they then loaded into a tool, which drew diagrams of links between thousands of incidents, perpetrators and victims in a matter of seconds. The Event entity was also later used by the Amnesty Committee to plan hearings by grouping violations from various amnesty applications together.

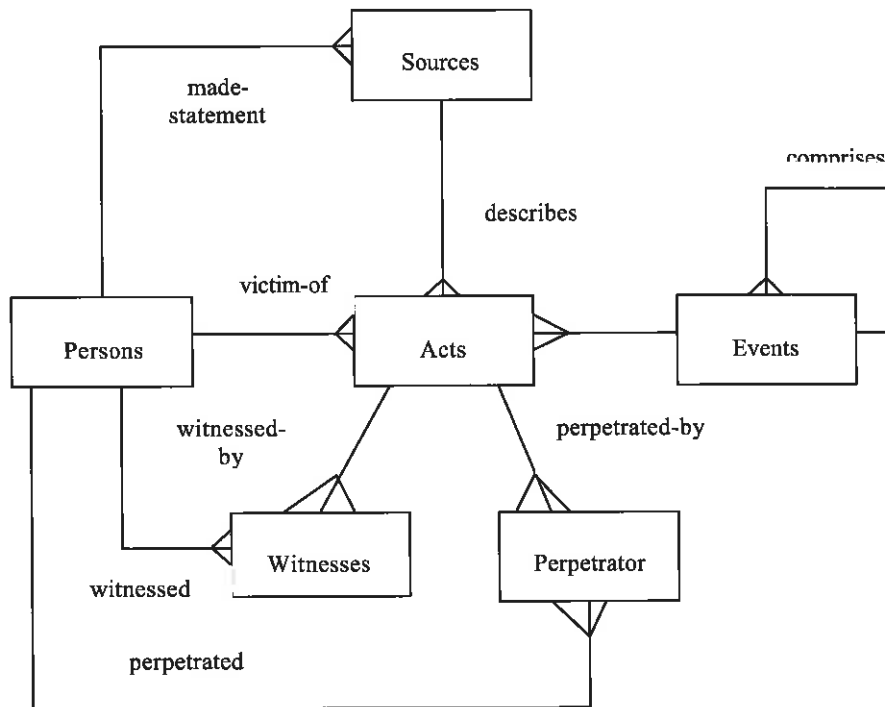
Despite the relatively few entities in the data model, it was complex enough to model all the real world events that were brought before the commission. For example, the same person could be a victim at different times and in different places. A person could be a deponent telling about the death of a relative, and simultaneously be a victim in his or her own right. A person may be the victim of torture, and then perpetrate a gross violation of human rights in retaliation at a later date.

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Chapter Four: The South African Truth and Reconciliation Commission

These entities were related as shown in Figure 4.

Figure 4. Entity relationship diagram



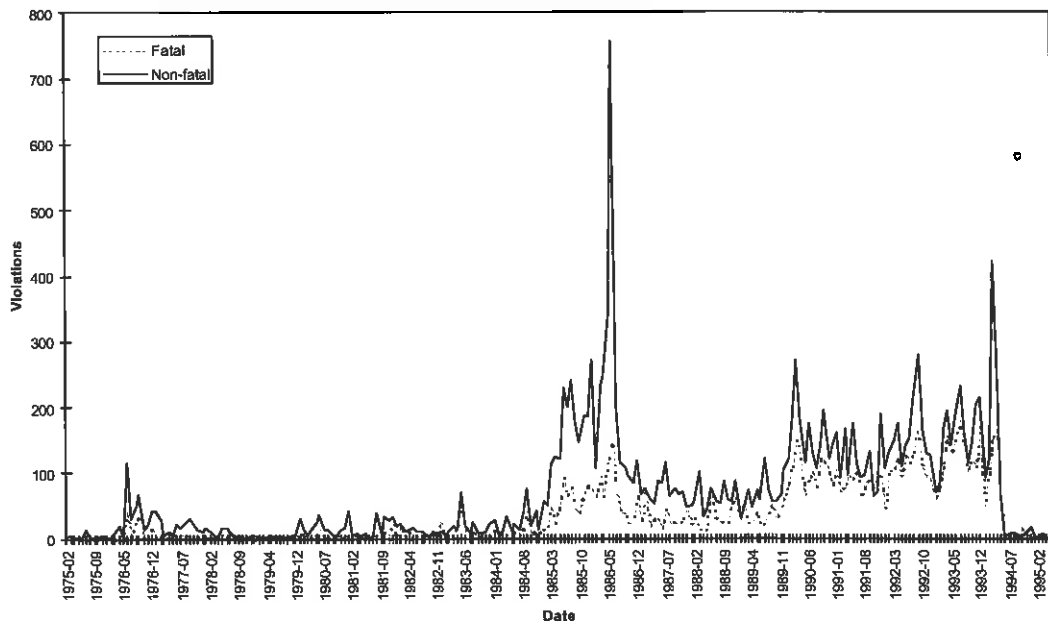
To keep the database design as straightforward as possible and to minimize the time spent on the design and build phase, no history of changes to entities was maintained. Instead, the same record was updated as new information became available or errors identified.

Given more time, it would have been of great benefit to design a database capable of holding various versions of the violation, for example, to keep the original version as told by the deponent separate from the corroborated, or "the finding" version. With such a capability, researchers could have investigated the nature of oral testimony as compared to the "official" version of history. Also, operational managers could have seen where errors were corrected and why, or if needed, to revert to an earlier version.

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Examples of Analytical Results

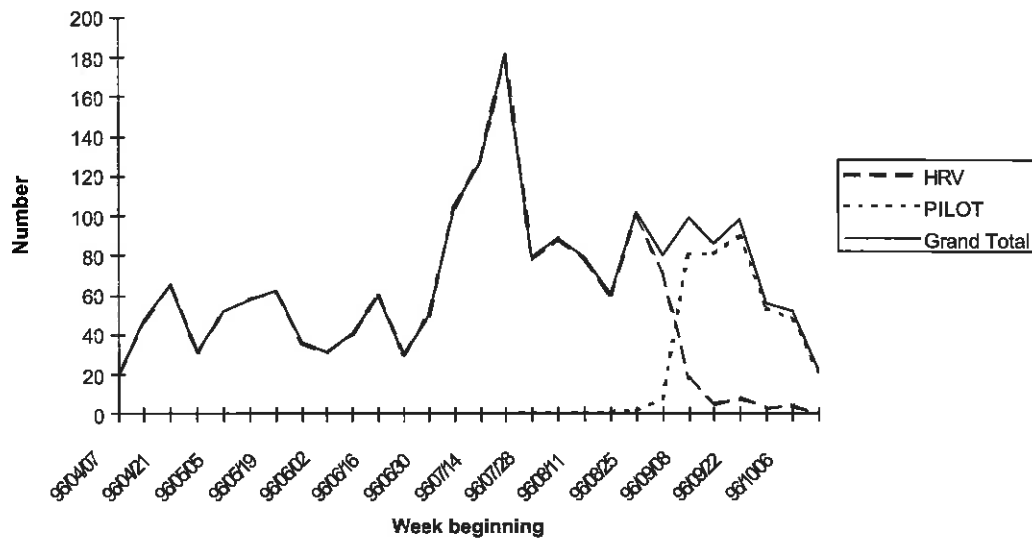
It took several months before results were obtained from the database. This delay caused a great deal of anxiety on the part of the commissioners, until six months later when the first graphs of the results were produced. The following graph which compares the number of fatal to non-fatal violations reported to the commission over the mandate period is one of the first to be produced.



Other analyses were done on the ages of victims, their gender, their political affiliation, and by the type of abuse suffered. For example, graphs were drawn of the different age cohorts of deponents for each gender, which showed that the perception of statement-takers that most deponents were middle-aged women was true.

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Besides its analytic value, the database was used to monitor processes in the information flow. For example, the graph below shows the progress of implementation of a pilot HRV statement in an office.



This type of analysis informed research work, as well as policy formulation for the Rehabilitation and Reparation Committee and strategic planning of the commission's work. The results contributed substantially to the final report of the commission, underpinning the narrative text in a way that dramatically highlighted the scale and extent of the violence of the past.

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Appendix 1

The TRC Gross Violations of Human Rights Statement

Note: Throughout this appendix, we have reduced the spacing between lines and removed blank space for entries to reduce space and make it easier for the reader to determine the structure. Where blank spaces for entries, their presence is indicated by entry lines (".....") of varying length.



STATEMENT concerning GROSS VIOLATIONS OF HUMAN RIGHTS

The aim of this STATEMENT is to gather as much information as possible about the gross violations of human rights suffered as a result of the political conflict in South Africa. According to the legislation, gross human rights violations are:

***Killing, torture, severe ill-treatment, abduction and disappearance
or
Any attempt, conspiracy, incitement, instigation, command or procurement to commit a
gross human rights violation, defined by parliament as killing, torture, severe ill-treatment, ab-
ductions and disappearances,
that occurred in a political context
between 1 March 1960 and 10 May 1994.***

Handwritten signatures and initials.

Truth and Reconciliation Commission (TRC)

The aims of the Truth and Reconciliation Commission are:

- to give as complete a picture as possible of the gross human rights violations resulting from the conflicts of the past;
- to restore human and civil dignity to those who experienced violations by letting them tell their stories and recommending how they can be assisted; and
- to consider granting amnesty to perpetrators who carried out the abuses for political reasons, and who give full details of their actions to the Commission.

If you have experienced or have knowledge of *Gross Violations of Human Rights* committed between 1 March 1960 and 10 May 1994, please complete this statement. Thank you for sharing your painful experience with the Truth Commission. Your contribution will help our country come to terms with the past.

Should you run out of space when answering the questions, please use the additional pages at the back (page 23 and 24).

NOTE:

- You are entitled to legal representation at your own cost, both while completing this statement and/or when testifying in a possible public Human Rights Violation hearing. You can apply for legal aid if needed. Please contact the office.
- If you make a false statement willingly and knowingly you could be prosecuted.
- If you complete this statement by yourself, please post (or hand deliver) to any of the following Truth and Reconciliation Commission offices listed below.
- Please attach additional documents (for example, copy of ID, press clippings, doctors reports, etc.).
- Please put your initials (sign) on every page of your statement at the bottom of each page.
- By submitting this statement to the Truth and Reconciliation Commission, your name may appear in the final report of the Commission; perpetrators may be informed of any allegations you make; and your medical, legal and other records may be made available to the Commission.

JOHANNESBURG Gauteng, Mpumalanga, Northern and North West Province	CAPE TOWN Western Cape and Northern Cape	EAST LONDON Eastern Cape Province	DURBAN KwaZulu/Natal and Free State Provinces
Dr. Fazel Randera (Commissioner – Convenor) Mr. Patrick Kelly (Regional Manager) P.O. Box 1158 Sanlam Centre, 10 th floor cnr Jeppe & Von Weilligh Str. Johannesburg 2000 Tel (011) 333-6330 Fax (011) 333-0832	Dr. Wendy Orr (Commissioner - Convenor) Ms. Ruth Lewin (Regional Manager) P.O. Box 3162 Old Mutual Building, 9 th Floor 106 Adderley Street Cape Town 8000 Tel (021) 245-161 Fax (021) 245-225	Rev. Bongani Finca (Commissioner – Convenor) Rev. Vido Nyobole (Regional Manager) P.O. Box 392 NBS Building, 5 th Floor 15 Terminus Street East London 5200 Tel (0431) 432-885 Fax (0432) 439-352	Mr. Richard Lyster (Commissioner - Convenor) Ms. Wendy Watson (Regional Manager) P.O. Box 62612 Metlife Building, 9 th & 10 th Floors 391 Smith Street Durban 4008 Tel (031) 307-6747 Fax (031) 307-6742

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Declaration

I, solemnly declare that the information I am about to give the Truth and Reconciliation Commission, is to the best of my knowledge, true and correct and I consider the contents of this statement binding on my conscience.

Signature / Finger Print / Mark

Date

Witness signature

If you are called to a public hearing, will you be prepared to appear? YES NO
[circle]

IMPORTANT:

- Some women testify about violations of human rights that happened to family members or friends, but they also have suffered abuses. Don't forget to tell us what happened to you yourself if you were the victim of a gross human rights abuse.

DETAILS OF THE PERSON *HELPING* TO FILL IN THE STATEMENT

Please fill in this section if somebody is *HELPING* you to make the statement.

Full name of person helping:

Relationship to person giving statement (*for example, neighbour, friend*):

Address:

.....

Signature of *helper*: Date:

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1. DETAILS OF PERSON MAKING STATEMENT

PERSONAL INFORMATION

Surname: Title:
(for example, Mr., Ms., Dr., Prof.)

First Names:

Other names:

(for example, clan names, code names, pseudonyms, nicknames, aliases)

Type of ID document: ID or Passport number:

(For example, ID Book, passport, birth certificate, etc.)

Date of birth: Sex: Male Female [circle]

Citizenship: Race as per Apartheid legislation:

Occupation: Are you currently employed? Yes No [circle]

Home Language:

CONTACT ADDRESS

Where does your post go to?

Block / Street and number: P.O. Box:

Section/Extension: Suburb and City:

Township/Suburb/City: Postal Code:

Postal Code: Province: Province:

Home Telephone No.: Work Telephone No.:

What is the best and easiest way the TRC can contact **you** in future?

(Could be the same address as above or could be a friend or relative with whom there is regular contact)

Name of Contact person: (if relevant)

Contact address:

Contact telephone: ()

[area code]

2. WHOSE STORY ARE YOU GOING TO TELL THE COMMISSION?

Are you going to tell the Commission about what happened to **you**? YES NO
[circle]

[AND / OR] [circle]

Are you going to tell the Commission about what happened to **someone else**? YES

NO

(for example, your son, daughter, grandchild, mother, father, aunt, friend, etc.)

[circle]

3. BRIEF DESCRIPTION OF THE VIOLATION OF HUMAN RIGHTS

Please briefly describe what happened to you or the person you are telling us about. Please tell us:

What happened? Who got hurt, killed or kidnapped? When did it happen? Where did it happen? Who did it?

.....

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4. VICTIM DETAILS

Please list ALL the victims you have mentioned and give details as far as you know:

Full names of person violated (i.e. victim)	Sex and age at time of violation	Race as per Apartheid classification	Relationship of person making the statement to the victim	Occupation at time of violation	Organisational involvement (give dates and position) (for example, Community Council, SAP, ANC, MK, APLA, SADF, trade unions, women or youth organisation, civics, religious group)
for example Jackie Jones	female; 21 yrs	White	myself	student	UDF supporter (1983-85) Church deacon
for example Sam Majola	male; 34 yrs	African	my son	taxi driver	COSAS branch chairperson (1987) MK member (since 1985)

5. POLITICAL CONTEXT

Please describe the political situation in the community at the time of each incident.

(for example, there was a mass funeral in the community that day; stay-away; boycott; march; mutiny in the camp; political rally; etc.)

6. PLEASE PROVIDE SPECIFIC DETAIL NEEDED BY THE TRUTH AND RECONCILIATION COMMISSION

This section of the statement is to provide all the relevant information needed by the TRC concerning the specific gross human rights violations.

Please mark the boxes below, and then turn to the appropriate section and answer the questions afterwards as far as you can.

The questions below are arranged according to the different types of gross human rights violations as defined by Parliament. You are requested to:

- please indicate which categories are relevant to your experience by marking a cross (X) in the appropriate box. If you have experienced more than one type or category of violation please indicate this by putting a cross (X) in the appropriate boxes.
- If your experience does not fit exactly into any one of the types/categories of violations listed below, please use the ADDITIONAL PAGES at the end of this form to write down your story.

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Mark with an X	
Killing The person died as a result of a violation(s) (for example, shot by police at a political funeral, died as a result of torture in detention).	<input type="checkbox"/>
Serious Injury or Severe Ill-Treatment The person does not die. Examples include bombings, shootings, stabbings, burnings, sexual abuse, attempted killings. These may have occurred in demonstrations, political conflict between groups, armed combat, etc.	<input type="checkbox"/>
Torture Systematic and intentional abuse with a particular purpose, for example, to get information, intimidation, or punishment. This happens in captivity or custody by the state or other groups. The person, however, survived the ordeal.	<input type="checkbox"/>
Abduction or Disappearance There is evidence that someone was taken away forcibly and illegally, or the person vanished mysteriously and was never seen again.	<input type="checkbox"/>

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The person died as a result of a violation(s) (for example, shot by police at a political funeral, died as a result of torture in detention, was killed in armed confrontation with MK soldiers).

K I L L I N G

EVENT

Name of Victim

When was the person killed? (date and time):

Where was the person killed? (exact location, including street, name of building, area, town):

.....
(for example, in front of the house in Akker St.; at the taxi rank in Extension 4)

Please describe how the person was killed. Include details of what weapon was used to kill the person:

.....
Why was the person killed?

Was there a post-mortem or inquest? If yes, what was the outcome?

(for example, did a doctor examine the body to find out the cause of death? Did you find out how the person was killed? Did you go to court to find out what happened? Was anybody found responsible for the death?)

.....

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PERPETRATORS

Can you identify the perpetrators in any way? Give names, rank and title, and physical description.

.....
(for example, Mr. Siyanda, member of people's court; four men in balaclavas; a big man with a scar called Kallie)

How do you know who they were?

(for example, I saw them; my neighbor told me; there was a court case)

What organization do you think they belong to or support?

(for example, SAP, UDF, witdoeke, PAC, comrades, SADF, Riot Squad, Town Council, Inkatha, ANC)

Can you specify who did what? Who was in charge? Who gave orders? Who was with them?

.....
(for example, Mr. Siyanda ordered the killing, Vusi poured the petrol and Toto lit the match)

Where and when did you last see the perpetrator(s)?

Would you like to meet the perpetrator(s)?

WITNESSES

Is there anyone else who knows what happened to you or the alleged victim either **before, during or after** the killing? If yes; please answer the following questions as fully as possible.

Name of Witness	Contact address and telephone number of witness	What did this person see or hear?
for example, Mrs Moodley my neighbour	13 Esau St, Lenasia tel (011) 123456	She saw the shooting of my son and told me about it.

ADDITIONAL INFORMATION


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<i>The violation did not result in death. These may have occurred in demonstrations, political conflict between groups, armed combat etc. Examples of severe ill-treatment include shootings, stab-bings, beatings, sexual abuse, burnings.</i>	SERIOUS INJURY OR SEVERE ILL-TREATMENT
---	---

EVENT

Name of victim

When did the violation occur? (date and time)

Where did the violation occur? (exact location, including street, name of building, area, town):

(for example, in front of the house in Akker St.; at the taxi rank in Extension 4)

Please describe in detail what was done to you and/or the person you are talking about?

Were you or the victim sexually assaulted? Please give details:

Was there a court case? If yes, what was the outcome?

PERPETRATORS

Can you identify the perpetrators in any way? Give names, rank and title, or physical description.

(for example, Kitskonstable Jacobs; Mrs Daba and a group of comrades; four men in balaclavas)

How do you know who they were?

(for example. I saw them; my neighbor told me, there was a court case)

What organization do you think they belong to or support?

(for example. SAP, UDF, witdoeke, PAC, comrades, SADF, Riot Squad, Town Council, Inkatha, ANC)

Can you specify who did what? Who was in charge? Who gave orders? Who was with them?

(for example. Capt Coetzee ordered the shooting; Constable Denga shot me in the stomach)

Where and when did you last see the perpetrator(s)?

Would you like to meet the perpetrator(s)?

WITNESSESIs there anyone else who knows what happened to you or the alleged victim either **before, during** or **after** the incident?*If yes;* please answer the following questions as fully as possible.

Name of Witness	Contact address and telephone number of witness	What did this person see or hear?
<i>(for example) Joe Mini</i>	<i>1409 KwaMashu, Durban tel (031) 123456</i>	<i>He found me being beaten by Vusi and his friends</i>

ADDITIONAL INFORMATION

.....

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<i>Systematic and intentional abuse with a particular purpose, for example, to get information, intimidation, or punishment. This happened in captivity or custody by the state or other groups. The person, however, survived the ordeal.</i>	TORTURE
---	----------------

EVENT

Name of victim.

When were you and/or the victim tortured? (dates, times, length of time)

Where did the torture occur? (exact location, including street, name of building, area, town)

.....

(for example, Loubscher's office at the police station; in the detention centre near the camp)

Please describe in detail what was done to you or the person you talking about. In other words, describe the torture:

Were you sexually assaulted? Please give details:

Why were you or the person you are talking about tortured?

(for example, to sign a statement, to become a state witness, punishment)

Describe the conditions of the captivity

PERPETRATORS

Can you identify the perpetrators in any way? Give names, rank and title, or physical description

.....

(for example, Kitskonstable Jacobs; Mrs Daba and a group of comrades; four men in balaclavas)

What organization do you think they belong to or support?

(for example. SAP, Security police, Mbokodo , ANC, SADF, Town Council, Inkatha, Transkei police)

Can you specify who did what? Who was in charge? Who was with them?

(Capt Piet was in charge of my interrogation; Botha applied electric shocks; Commander 'Zizi' suspended me upside down)

Where and when did you last see the perpetrator(s)?

Would you like to meet the perpetrator(s)?

ADDITIONAL INFORMATION

Describe any visits by doctors or District Surgeons. Give names and details:

Describe any visits with a magistrate. Give names and details:

Did you see a lawyer? Was there a court case? Was the torture experience described in court? What was the outcome of the case?

Is there anything else you wish to tell the Commission about this experience of torture?

.....

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WITNESSES

Is there anyone else who knows what happened to you or the alleged victim either before, during or after the incident?

If yes, please answer the following questions as fully as possible.

Name of Witness	Contact address and telephone number of witness	What did this person see or hear?
(for example) Mrs Khumalo	14 Grange Str, Meadowlands tel (011) 123456	She was in the police cell with me and saw my wounds
(for example) District Surgeon can't remember name	Pretoria Central Prison	He saw my injuries and refused treatment

Handwritten signature/initials

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Someone is taken away forcibly and illegally, or disappears and is never seen again.	ABDUCTION OR DISAPPEARANCE
---	---

EVENT

Name of victim

When did the abduction/disappearance take place? (date and time)

Where did it happen? (exact location, including street, name of building, area, town)

(for example, from his house at 1711 Loerie St.; from the taxi rank in extension 5)

Please describe how it happened.

Where was the person taken to? (street, building, town)

Why did it happen

What was the outcome? Did the person come back?

(for example, They let me go after two weeks; my son's body was found the next day)

PERPETRATORS

Can you identify the perpetrators in any way? Give names, rank and title, or physical description.

(for example, Mr Siyanda member of people's court; Chief Ndlela, leader of Mbokodo; four men in balaclavas)

How do you know who they were?

(for example, I saw them; my neighbor told me, there was a court case)

What organization do you think they belong to or support?

(for example, Security police, vigilantes, comrades, Mbokodo, Town Council, Inkatha, ANC, SADF)

Where and when did you last see the perpetrator(s)?

Would you like to meet the perpetrator(s)?

WITNESSES

Are there any witnesses to the violation either **before**, **during** or **after** the incident?

If yes; please answer the following questions as fully as possible.

Name of Witness	Contact address and telephone number of witness	What did this person see or hear?
<i>(for example) Mr Mpokeli</i>	<i>629 Site C, Khayelitsha</i>	<i>He saw my son being dragged into a taxi by five men in balaclavas.</i>

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7. EXPECTATIONS

An important part of the Truth and Reconciliation Commission's proposals to the President will be about symbolic acts which will help us remember the past, honour the dead, acknowledge the victims and their families and further the cause of reconciliation.

Please give us your opinion on what should be done:

- 7.1 For individuals:
(for example, medals, certificates, street names, memorials, grave stones, etc.)
- 7.2 For the Community:
(for example, a peace park, build a school, special ceremony, annual religious service, etc.)
- 7.3 For the Nation:
(for example, a monument, national day of remembrance, etc.)

8. CONSEQUENCES OF THE EXPERIENCE

The following questions are specific to the victim who experienced the violation.

- 8.1 If the violation(s) caused permanent physical injury, please describe the injury:
.....
- 8.2 What treatment did the victim get for the injury? Do you still need medical treatment?
.....
- 8.3 Please describe the present physical health of the victim:
- 8.4 If the person cannot look after themselves, please explain how they live with the situation:
.....
- 8.5 Did the violation cause emotional and psychological suffering or pain?
- 8.6 Please explain how the victim coped with the suffering:
(for example, did somebody help you deal with the pain of the event? Did you see a therapist or your priest, or a traditional healer?)
- 8.7 Did the violation affect relationships with friends, family, partner or children?
.....
(for example, I have lost contact with them; my marriage broke down; we do not talk together like we used to, etc.)
- 8.8 Has the person's behaviour changed since the violation?
(for example, he is depressed all the time; she feels like dying; I am always angry; I hate going near that place; etc.)
- 8.9 How did the violation affect the health, education, accommodation, and finances of the victim's family?
.....
- 8.91 Health
(for example, since the death of my daughter, we have been suffering from depression.)
- 8.92 Education
(for example, since my husband died, my son had to leave school to earn money.)
- 8.93 Accommodation:
(for example, since my son died, we are living in this shack.)
- 8.94 Finances
(for example, before I was shot, I was working, but now I am not working and can't feed the children.)

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9. DOCUMENTATION DETAILS

Have you already made **one** or more statements about this incident? YES NO [circle]

If yes, please specify:

To WHOM statement was made? (for example, Foundation for Equality before the Law)	WHEN? (for exam- ple 1993)	CONTACT details / person (for example Adv Strydom tel (+27) - *** ***)

Do you have any documents that will help the Commission understand the situation and experience you have described? YES NO [circle]

(for example, Doctor's Certificate, Membership card, Diary, Newspaper clippings, Legal Documents, Post-Mortem report, Hospital records, Police records, Court records, Inquest reports etc).

Type of Document	Where is this document at the moment?
(for example) Inquest report	with the lawyer Smith, Jones and Associates
(for example) Death certificate	at home

What legal action did you or the victim take? Please give dates and the name of the lawyers, magistrates and judges if you can.

(for example, was there a court case about the violation? Did you sue the perpetrators for damages? Did you lay charges against the perpetrators?)

What was the result?

ADDITIONAL PAGE

Please mark clearly which question or paragraph you are answering on this page.

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CHECK LIST FOR THE PERSON FILLING IN THIS STATEMENT

This page is to help check that the statement has been completed as fully as possible.

CHECK LIST	yes / no	Other comments
Were all the questions either asked or considered?		
Is the DECLARATION on page 3 above signed?		
Is the RELEASE FORM on page 23 signed?		
Are all the relevant pages (including the additional pages used) initialed?		
Are all the relevant documents attached to the last page of this statement?		

FOR OFFICIAL USE ONLY

To be completed by ALL Statement Takers (including Designated Statement Takers - DST)

Full Name of Statement Taker _____

Signature of Statement Taker _____

Date of Interview ____ / ____ / ____

(day / month / year)

Place and Town of Interview _____

Language of Interview _____

Are you a TRC statement taker or a DST? *[circle]*

TRC Office: Johannesburg / Cape Town / East London / Durban *[circle where appropriate]*

COMMENTS / OBSERVATIONS OF THE STATEMENT TAKER

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**RELEASE FORM:
Medico-Legal Records**

I,

(name of person giving permission)

hereby grant permission for the Investigative Unit of the Truth and Reconciliation Commission to obtain copies of all

medico-legal records of

..... who is

(name of victim)

.....,

(relationship to victim, for example, myself, my son, my daughter)

for the purposes of ongoing investigation being conducted by the Truth and Reconciliation Commission.

Yours faithfully,

Signature:Date:

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Appendix 2

Coding frame for gross violations of human rights

Introduction

The task of the TRC is to identify those people who suffered gross violations of human rights, which are defined as follows: Killing, Abduction, Torture and Severe Ill-treatment. In addition to these four, there is a fifth category which is not a gross violation of human rights, but is important for understanding the context, called an Associated Violation.

Each of the five categories has several sub-headings, which explain how the violation took place (a person can be killed in different sorts of ways, so we need to identify how they were killed). By breaking the categories into sub-headings, we can then do meaningful counting for the final report.

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The HRV categories

When coding, the first step is to decide under which HRV category does the violation fall. The table below shows the categories with their definitions (the words in **bold** should be used in the description of the act when they are applicable).

HRV Category	Code	Definition
Killing	KILLING	<p>A killing is when a person dies, in one of three ways:</p> <p>Assassination - killing of a <i>targeted person</i> by a person or group who <i>developed a secret plan or plot</i> to achieve this. Person is targeted because of political position.</p> <p>Execution - capital punishment (death sentence) imposed and carried out by a legal or authorised body such as a court of law or tribunal. Victim is aware of death sentence. Perpetrators are the state, homeland governments, or security structures of political movements.</p> <p>Killing - all other deaths, including a killing by a crowd of people.</p>
Torture	TORTURE	<p>Torture happens in <i>captivity</i> or in <i>custody</i> of any kind, formal or informal (for example, prisons, police cells, detention camps, private houses, containers, or anywhere while tied up or bound to something).</p> <p>Torture is usually to get information, or to force the person to do something (for example, admit to a crime, or sign a statement), but it is also for punishment, degradation, and systematic breakdown of an individual.</p> <p>It includes mental or psychological torture (for example, witnessing torture, or telling the person that their family is dead).</p>
Severe ill-treatment	SEVERE	<p>Severe ill-treatment covers attempted killing and all forms of inflicted suffering which caused <i>extreme</i> bodily and/or mental harm.</p> <p>It tends to take place outside of custody (for example, injury by a car bomb, or beaten up at a rally), but a person could be subjected to severe ill-treatment in custody too (for example, a once-off severe beating, or teargas in the cell).</p>
Abduction	ABDUCTION	<p>Abduction is when a person is forcibly and illegally taken away (for example, kidnapping). It does NOT mean detention or arrest. It is not a gross violation of human rights to be arrested (see Associated violations).</p> <p>If the person is never found again, it is a disappearance.</p>
Associated violation	ASSOCIATED	<p>These are not gross violations of human rights, but are important for understanding the context of the violation (for example, detention, harassment, framing, violating a corpse after death).</p>

The violation types

The next step is to decide how the violation took place (for example, was it a beating, or electric shock, and so on). The tables below show the HRV categories and the types of violations within each.

KILLING	Code	Definition
Beaten to death	BEATING	Person is beaten to death by being hit, kicked, punched . State which part of body assaulted if known e.g., feet, face, head, genitals, breasts . If an object was used in the beating, specify the object, e.g., sjambok, baton, gun, rifle, stick, rope, whip, plank, beat against wall .
Burnt to death	BURNING	Victim is killed in a fire or burnt to death using petrol, chemical, fire, scalding, arson , but does NOT include Necklacing or Petrol Bomb (these are separate codes).
Killed by poison, drugs or chemicals	CHEMICALS	Killed by poison, drugs, or household substance , such as bleach or drain cleaner.
Killed by drowning	DROWNING	The person is drowned in a river, swimming pool , or even in a bucket of water.
Killed by electrocution	ELECTRIC	Killed by an electric shock.
Killing by death sentence	EXECUTE	Hanged or shot as decided by a formal body (court or tribunal) such as the state, homeland state, or political party. It is the consequence of a death sentence.
Killed in an explosion	EXPLOSION	Killed by any manufactured explosive or bomb, but NOT petrol bomb (see below). Explosives include dynamite, land-mine, limpet mine, car bomb, hand-grenade, plastic explosives, detonator, booby trap, letter bomb, parcel bomb, special device (e.g., walkman).
Killed by exposure	EXPOSURE	Person dies after being subjected to extremes such as heat, cold, weather, exercise, forced labour .
Necklacing	NECKLACING	Burnt with petrol and tire . Necklacing is coded separately from Burning, because it featured heavily in the past, so it is useful to distinguish between burning with petrol and a tire and burning in a house, for example.
Other type of killing	OTHER	All other methods of killing including buried alive, strangling, tear-gas, decapitation, disembowelment . Make sure that it is clear in the description of the act exactly how they died.
Petrol bomb	PETROLBOMB	Killed by a burning bottle of petrol. Petrol bombing falls in between burning and bombing, so, like necklacing, it is useful to code it separately. Also called molotov cocktail .
Shot dead	SHOOTING	Person is shot and killed by live bullet, gunshot, birdshot, buckshot, pellets, rubber bullet .

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Stabbed to death	STABBING	Killed with a sharp object, such as a knife, panga, axe, scissors, spear (including assegai).
Suspicious suicide or accident	STAGED	<p>Person dies in a suspicious suicide or fatal accident.</p> <p>This should only be used if it is not clear whether it really was an accident or not, otherwise use the appropriate category and explain in the description that there was a cover-up.</p> <p>Examples are: slipped on soap, jumped out of window, fell down stairs, hanged themselves, car accident, booby trapped hand-grenades or explosives, shot themselves.</p>
Stoned to death	STONING	Person is killed with bricks, stones or other missile thrown at them.
Tortured to death	TORTURE	Person is tortured to death.
Unknown cause of death	UNKNOWN	Person is dead, but there is no further information.
Killing involving a vehicle	VEHICLE	Dragged behind, thrown out, driven over, put in boot , but NOT car bomb (see Bombing). Specify what type of vehicle was involved (for example, car, train, truck, van, bakkie, hippo, casspir).

TORTURE	Code	Definition
Torture by beating	BEATING	<p>Person is tortured by being beaten severely or for a long time (for example, hit, kick, punch). State which part of body was assaulted e.g., feet, face, head, genitals, breasts.</p> <p>If an object was used in the beating, specify the object, e.g., sjambok, baton, gun, rifle, stick, rope, whip, plank, beat against wall.</p> <p>Specify if victim is pregnant or miscarried</p>
Torture by burning	BURNING	Person is burnt, with cigarettes , or fire , for example.
Torture with poison, drugs or chemicals	CHEMICALS	Tortured with poison, drugs , or household substance , such as bleach or drain cleaner.
Torture by deprivation	DEPRIVE	Person is tortured by withholding essentials, such as food , or medical attention with serious injury or need (this does NOT refer to a general lack of medical care while in custody. See Associated violations).
Electric shock torture	ELECTRIC	Electric shocks to the body. Specify which body part was shocked (for example, genitals, breasts, fingers, toes, ears , etc.).
Torture by exposure to extremes	EXPOSURE	Person is tortured by subjecting them to extremes such as heat, cold, weather, exercise, labour, noise, darkness, light (including flashing lights, blinding by light), blindfolding, confinement to small space, smells, immobilisation .

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Psychological or mental torture	MENTAL	Person is tortured psychologically, mentally or emotionally, for example by simulated execution (includes Russian roulette), solitary confinement , degradation (includes use of excrement, urine, spit), insults , disinformation (for example, telling the person that a loved one is dead), threats , witnessing torture , forced participation in torture , exposure when washing or on toilet , threat of torture .
Torture by bodily mutilation	MUTILATION	Torture involving injuries to the body where parts of the body are partly or wholly cut, severed or broken. Specify body part, for example, genitals , fingernails , ears , hair , etc. It includes amputation of body parts , breaking of bones , pulling out nails , hair or teeth , scalping .
Other type of torture	OTHER	All other methods of torture. Make sure that it is clear in the description of the act exactly how the person was tortured. It includes use of animals (specify animal e.g., snake, tortoise, baboon), use of vehicle .
Torture by forced posture	POSTURE	Person is tortured by forcing the body into painful positions, for example, suspension , helicopter , tied up , handcuffed , stretching of body parts , prolonged standing , standing on bricks , uncomfortable position (includes squatting, imaginary chair, standing on one leg, pebbles in shoes), forced exercise , forced labour , blindfolding and gagging .
Torture by sexual assault or abuse	SEXUAL	Person is tortured by attacking them using their gender or genitals as a weak point. This does NOT include electric shock, mutilation or beating (instead, use those categories, and specify genitals as the body part abused). It includes: slamming genitals or breasts in drawer or other device, suspension of weights on genitals , squeezing genitals or breasts , rape by opposite sex , rape by same sex , gang rape , forced sexual acts (e.g., oral sex, simulating intercourse), introduction of objects into vagina or rectum , sexual abuse using animals , threats of rape , touching , nakedness , sexual comments or insults , sexual enticement , deprivation of sanitary facilities for menstruation .
Torture by suffocation	SUFFOCATE	Torture by stopping someone from breathing, for example by bag , towel , tube (wet or dry) over head , drowning (head, whole body submerged), choke , strangle , stifle , throttle , teargas , bury alive .
Unknown type of torture	UNKNOWN	Person is tortured, but the method is not known.

SEVERE ILL-TREATMENT	Code	Definition
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Chapter Four: The South African Truth and Reconciliation Commission

Severely beaten	BEATING	<p>Person is badly or severely beaten, or beaten for a long period of time. They may be hit, kicked, punched, twisted. State which part of the body was assaulted (e.g., feet, face, head, genitals, breasts).</p> <p>If the person was beaten with an object, specify object (for example, sjambok, baton, gun/rifle, stick, rope, whip, plank, wall).</p> <p>Specify if victim is pregnant.</p>
Injured by burning	BURNING	<p>Person is injured by burning with fire, petrol, chemical, scalding, but NOT Necklacing or Petrol Bomb (these are separate. See below).</p> <p>Specify body part, if localised burning.</p>
Injured by poison, drugs or chemicals	CHEMICALS	<p>Person was poisoned or injured by poison, drugs, household substance (for example, bleach or drain cleaner).</p>
Injured in an explosion	EXPLOSION	<p>Person is injured by a bomb or explosives, but NOT petrol bomb (this is coded separately. See below). Explosives include dynamite, land-mine, limpet mine, car bomb, hand-grenade, plastic explosives, detonator, booby trap, letter bomb, parcel bomb, special device (e.g., booby-trapped Walkman).</p>
Psychological or mental ill-treatment	MENTAL	<p>Person is severely psychologically, mentally or emotionally ill-treated, for example by simulated execution (includes Russian roulette), degradation (includes use of excrement, urine, spit), death threats, threat of torture.</p>
Bodily mutilation	MUTILATE	<p>Person is injured by having parts of their body mutilated or damaged. Specify body part, for example, genitals, fingernails, ears, hair, etc.</p> <p>It includes amputation of body parts, breaking of bones, pulling out nails, hair or teeth, scalping.</p>
Necklacing	NECKLACING	<p>Person is injured in an attempted necklacing.</p>
Other type of severe ill-treatment	OTHER	<p>All other types of severe ill-treatment. Make sure that it is clear in the description of the act exactly how they were ill-treated. It includes strangling, drowning, spreading of disease.</p>
Sexually assaulted or abused	SEXUAL	<p>All forms of attack on a person using their gender or genitals as a weak point, for example</p> <p>rape by opposite sex, rape by same sex, gang rape, forced sexual acts (e.g., oral sex, simulating intercourse), introduction of objects or substances into vagina or rectum, sexual abuse using animals.</p>
Injured in a shooting	SHOOTING	<p>Person is injured by being shot with live bullets, gunshot, birdshot, buckshot, pellets, rubber bullet. Specify body part injured, if known.</p>
Stabbed or hacked with a sharp object	STABBING	<p>Injured with a sharp object, such as a knife, panga, axe, scissors, spear (including assegai).</p>

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Injured in a stoning	STONING	Person is injured with bricks or stones thrown at them.
Teargassed	TEARGAS	Severe injury caused by teargassing in a confined space (for example, teargas in a prison van or packed hall).
Suffocated	SUFFOCATE	Injury or ill-treatment by stopping someone from breathing, for example by drowning (head, whole body submerged), choke, strangle, stifle, throttle, teargas, bury alive.
Unknown type of severe ill-treatment	UNKNOWN	Person was severely ill-treated, but it is not clear how.
Injury involving a vehicle	VEHICLE	Injuries caused by being dragged behind, thrown out, driven over, put in boot of a vehicle. Specify the vehicle (for example, car, train, truck, van, bakkie, hippo, casspir).

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Chapter Four: The South African Truth and Reconciliation Commission

ABDUCTION	Code	Definition
Illegal and forcible abduction	ABDUCTION	<p>Victim is forcibly and illegally taken away (for example, kidnapping), but the person is found again, returned or released.</p> <p>It does NOT mean detention or arrest. It is not a gross violation of human rights to be arrested (see Associated violations).</p>
Disappearance	DISAPPEAR	<p>Victim is forcibly and illegally taken away and is never seen again.</p> <p>It does NOT include cases where somebody goes into exile and never returns. It must be done by force.</p> <p>This DOES include people have disappeared but it is not clear why they have gone (instead of abduction, they might have just run away or were shot and buried). In this case, a finding will be made and the code will be left as it is, or changed to Killing if the person was killed, or found to be out of the mandate of the TRC.</p>

ASSOCIATED VIOLATIONS	Code	Definition
Beating	BEATING	Person is beaten, but it is not a severe or prolonged beating. It includes once-off mild beating . Specify if in custody or if victim is pregnant or miscarried .
Violation after death	CORPSE	Body of victim was violated after death, for example by improper burial, body mutilated or burnt or blown up, funeral restrictions, funeral disruption, anonymous burial, mass grave .
Deprivation	DEPRIVE	Deprivation of facilities or essentials, for example medical attention, food, water, sanitary facilities, privacy, family visits .
Destruction of property	DESTROY	Includes violations such as arson, destruction, vandalism, theft, forced removal, eviction .
Financial impropriety	FINANCIAL	Person was subjected to bribery, extortion, pay-off, ransom, blackmail, ruin of business
Framing	FRAMING	Person is labeled as an informer, collaborator (impimpi) or criminal, false information is spread about the person, or a smear campaign against the person is started.

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Incarceration or imprisonment	INCARCERAT	Includes police custody, detention, house arrest, restrictions, banning, banishment, prison, informal prison
Intimidation or harassment	INTIMIDATE	Victim is intimidated or harassed by dismissal from work, threats, animals killed, visits, telephone calls, surveillance, boycott enforcement, pointing of firearms (NOT in custody), threat of violence . It does NOT include vandalism or arson. This comes under Destruction of Property.
Other type of associated violation	OTHER	All other types of associated violations, including released into hostile environment, released into unknown place, left for dead, rough ride, detention of family or loved ones . Give full details in the description of the violation.
Sexual harassment	SEXUAL	Person is sexually harassed. It includes: threats of rape, touching, nakedness, sexual comments or insults, sexual enticement, deprivation of sanitary facilities for menstruation
Petrol bombing	PETROLBOMB	Severely injured by a burning bottle of petrol. Also called molotov cocktail .
Professional misconduct	PROFESS	Person was subjected to professional misconduct by one of the following: Health professionals (including doctors, nurses, orderlies, clinicians, district surgeons, psychiatrists, psychologists and others) who neglect or ignore injuries, collaborate in torture, or conceal the cause of death or injuries. Judiciary (magistrates, judges etc.) who ignore torture allegations, for example. Police who neglect the case, ignore or tamper with evidence. Lawyers who neglect the case, ignore or tamper with evidence, misappropriation of funds or failure to hand over damages. Businesses who collaborate with perpetrators.
Teargassed	TEARGAS	Victim was teargassed, but NOT while in custody (see Torture).
Theft or stealing	THEFT	Money or possessions were stolen from the victim.

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Chapter Four: The South African Truth and Reconciliation Commission

Appendix 3

Lessons Learned

By the editors

Entity, Function	Lesson	Recommendation	Issues
Volume and complexity of information	Wide Area Network and development of own database facilitated work.	Don't even think of working without a network. Don't use "standard" human rights software	Scope and nature of networking. Whether to outsource software development, network, or database design
E-mail	Absolutely essential	Incorporate into system	Whether to have a closed system for e-mail, cutting off access to internet services and external e-mail
Network software and hardware	Domain structure of Microsoft NT complicated network management; stability of the servers compromised by shortcomings of OS	Choice of OS calls for intense study	Having individuals with sufficient experience and skills to make good judgements; getting sufficient time and funds to make a considered decision
Security of system	Security and Internet access can be achieved	Free-standing computers connected by dial-up to Internet is simple, reliable, inexpensive way to provide Internet access	Computer-literate users will be frustrated by the lack of outside e-mail connections
Ownership of information system	Contests of ownership and a high profile can be assured.	Have the persons with responsibility for the electronic information systems in a position reporting directly to the CEO	Having supporters of this recommendation in a position to make it happen
Ownership of data and information	Users may not take ownership of data they use until late in process	Get the users involved early in the project	Getting the message across to users
Corroboratio, research, getting findings	If the system serves several purposes with higher political profiles, corroboration, research, getting findings will be delayed	Work to maintain these activities despite distractions	Easy to say, hard to do. Stakeholders in the system are in conflict and highest political priority may take over
Data collection	Free-flowing narrative may be too slow, rigidly structured form may lose context	Balance these two requirements to produce a form appropriate to the job mission, conditions, and resources	Prior to some initial data collection, it may be impossible to make a good compromise

Process development time	Using industry-standard software reduce development time.	Use industry standard software when possible to do so while achieving goals	Evaluation of software in system context
Tracking information through the system to its successive sources	Details of the information flow progress of the documents useful for monitoring blockages in the system, finding the location of backlogs and monitoring the performance of staff members	Use a SOURCE_HISTORY entity, store various versions of the violation	Time to design
Acts of violation	Must be kept to a reasonable number	Reduce to a reasonable number by appropriate method	Finding "appropriate method." At TRC, head processors and researchers could not reach consensus until top management mandated that consensus be achieved in a finite time. This approach may not work in all situations
Reparations	To support a reparations function, the system must record the consequences of violation to the individual and the resulting individual needs	Determine whether a national policy on reparations exists or is likely to be instituted	Getting a clear commitment on reparations from the start
Deponent statements	If a group of statements is analyzed and captured as a group they may be confused	Analyze statements individually and finish each before moving to next. Code statement without evaluating	Discipline

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"CMK 6"

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO:

in the matter between:

THE SOUTH AFRICAN HISTORY ARCHIVE TRUST

Applicant

and

THE MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES

First Respondent

THE DEPUTY INFORMATION OFFICER:
THE DEPARTMENT OF JUSTICE AND
CORRECTIONAL SERVICES

Second Respondent

AFFIDAVIT


i, the undersigned,

ALEXANDER LIONEL BORAINÉ

state under oath as follows:

- 1 I am an adult male resident at Constantia Place, Southern Cross Drive, Cape Town.
- 2 I was formerly the Deputy-Chairperson of the Truth and Reconciliation Commission ("TRC" or "the Commission") constituted in terms of the Promotion of National Unity and Reconciliation Act 34 of 1995 ("the Act" or "the TRC Act"). I founded the International Center for Transitional Justice and served as president for three years.
- 3 From 1998 to 2001, I served as professor of law at New York University and as director of the New York University Law School's Justice in Transition Program. From 1986 to 1995 I headed two South African non-profit organizations concerned with ending apartheid and addressing its legacy. I was a member of the South African Parliament from 1974 to 1986, and served as president of the Methodist Church of Southern Africa from 1970 to 1972, having been ordained as a Methodist Minister in 1956.
- 4 I hold degrees from Rhodes University in South Africa, Oxford University in England, and Drew University in the United States, as well as six honorary doctorates from universities around the world. I was a Global Visiting Professor of Law at the New York University School of Law's Hauser Global Law School Program

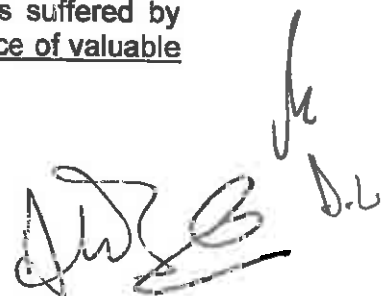
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- 5 The facts contained in this affidavit are within my own personal knowledge and are, to the best of my knowledge and belief, both true and correct.

INTRODUCTION

- 6 This application seeks the full disclosure of the TRC's database (the database) bar the personal details contained therein not already in the public domain. I have read the application and the affidavit of Catherine Moira Kennedy and support the relief sought therein.
- 7 I am advised that the respondents are only willing to release an incomplete or partial version of the database. I submit that this decision is inconsistent with the spirit and purpose underlying the TRC, as well as the recommendations made by the Commission.
- 8 The Commission's view of what was intended for the database following the winding up of the TRC is summed up by the following paragraph from the TRC's Final Report at Volume 6, Section 5, Chapter 7, Subsection 3, Paragraph 18:

"By the time the Commission closed, the database had become a rich repository of information about the nature, scale, location, dates, types and consequences of violations of human rights suffered by South Africans. As such, it is an essential primary source of valuable

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historical material, which must be made accessible to future generations." (Emphasis added).

9 The scheme of this affidavit necessitates me dealing with –

9.1 aspects of the TRC report in relation to the database;

9.2 concluding remarks.

THE TRC DATABASE

10 The first 5 volumes of the TRC Final Report were handed to President Nelson Mandela on 29 October 1998. The last 2 volumes were released on 21 March 2003.

11 The database was central to the work of the TRC. The database was created to manage the data requirements of the 3 main committees of the TRC, the Human Rights Violation Committee, the Amnesty Committee and the Reparations and Rehabilitation Committee.

12 The database contained, amongst other information, all the human rights violations statements as well as the amnesty applications. It was built and managed by our information systems manager, Gerald O'Sullivan, and

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supported by a team from Oracle Corporation as well as our research department. The database was based upon a design compiled by Patrick Ball from the American Association for the Advancement of Science, a leading expert in the analysis of human rights violations data.

- 13 The background to the development of the database is set out in the Final Report of the TRC at paragraphs 8 to 17 of Volume 1, Chapter 11, Subsection 3. A copy of these paragraphs are annexed hereto marked "ALB1".
- 14 The Commission recommended that the database be made widely available to researchers, historians and students in usable and accessible formats. In particular the Commission recommended the following at paragraph 19 of Volume 6, Section 5, Chapter 7, Subsection 3 of the Final Report:

"The Commission recommends that the database be owned, managed and maintained by the National Archives and Records Service of South Africa, who must take responsibility for ensuring that the database:

a forms the cornerstone of an electronic repository of historical materials concerning the work of the Commission;

b is enriched by electronic multi-media facilities to support audio-visual and other graphic materials;

c is in a format that allows for distribution to schools, other educational institutions and the general public by means of CD-ROM or other portable electronic format, and

d uses language that is accessible to the majority of South Africans".



- 15 The Commission anticipated that the database would be made available over the internet and recommended at paragraph 22 of Volume 6, Section 5, Chapter 7, Subsection 3 of the Final Report that since the *"current format does not lend itself easily to use by researchers or the general public"* it should:

a be converted to run on technology best suited for Internet-based, read-only access, using open-source software wherever possible;

b be web-enabled in a user- friendly, searchable format, and

c have facilities for extracting the data for further research and analysis."

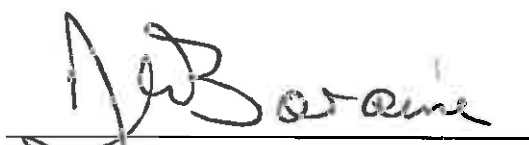
- 16 The full recommendations of the Commission in relation to the database are set out in the Final Report of the TRC at paragraphs 17 to 22 of Volume 6, Section 5, Chapter 7, Subsection 3. A copy of these paragraphs are annexed hereto marked "ALB2".

CONCLUSION

- 17 The central mission of the TRC was to investigate the truth behind the committal of human rights violations during the apartheid era and deliver this truth to the people of South Africa. The database of the TRC stands as one of the most important means of preserving this truth and making it available to future generations.

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- 18 The Department of Justice, and its relevant units responsible for implementing the recommendations of the TRC, have ignored the recommendations in relation to the database. In so doing they have denied the people of South Africa their right to actively engage with the truth of the past through the TRC's database.


ALEXANDER LIONEL BORAINÉ

Thus signed and affirmed at Constantia Place on this 15th day of May 2015, the deponent having acknowledged that s/he knows and understands the contents of this affidavit, having affirmed that the contents hereof are true and correct and that s/he considers the affirmation binding on his / her conscience.


COMMISSIONER OF OATHS

MICHAEL ALTMANN
COMMISSIONER OF OATHS
MANAGER: OLD AGE HOME/VILLAGE
CAPE PENINSULA ORGANISATION FOR THE AGE



■ THE DATABASE

8 The Commission's **database** was the backbone of the information flow. All human rights violations statements and amnesty applications were loaded onto the **database**.

9 The **database** was designed and built from scratch by a small team consisting of consultants from Oracle Corporation, the information systems manager and a researcher. It was based on a design by a consultant from the American Association for the Advancement of Science, who specialises in the recording of human rights violations data. The design also drew on the work done by the Human Rights Documentation and Information System (Huridocs).

10 The **database** was designed on the assumption that any narrative description of human rights violations could be broken up into a series of time- and place-specific acts of violence, succinctly summed up in the phrase 'who did what to whom'. For example, an activist may have had his or her house burnt down, then been detained in solitary confinement before being subjected to electric shock treatment. These would be recorded as three separate violations - arson, detention and torture - as opposed to recording the incidents as a composite violation ('the harassment and torture of Mrs X').

11 This positivist approach allowed for more complex quantitative analyses to be carried out, to supplement the normal qualitative analysis to which narrative data are usually subjected. For example, by recording detention separately from torture, one could analyse the incidence of torture in the context of detention. If a strong correlation was shown to exist, this in turn informed policy recommendations about detention, to prevent a recurrence of the circumstances or conditions that give rise to the torture of prisoners.

12 The approach of breaking up the data into logical components lent itself to implementation on a relational **database**, which was why Oracle software was chosen. Once the logical model of the **database** was finalised, it was built in record time (it took exactly one month from the start of the design phase until it was ready for use by the Commission's data capturers).

13 The central part of the **database** design was a tabular list called 'Acts', which recorded the actual substance of the violation: the victim, the place, the date and time, the nature of the violation and the human rights violation category into which it fell (for example, attempted killing, torture, abduction, severe ill-treatment). Each violation committed by one or more perpetrators was recorded in a separate table called 'Perpetrators'. An act that could have been witnessed by one or more people was also recorded in the 'Witnesses' table.

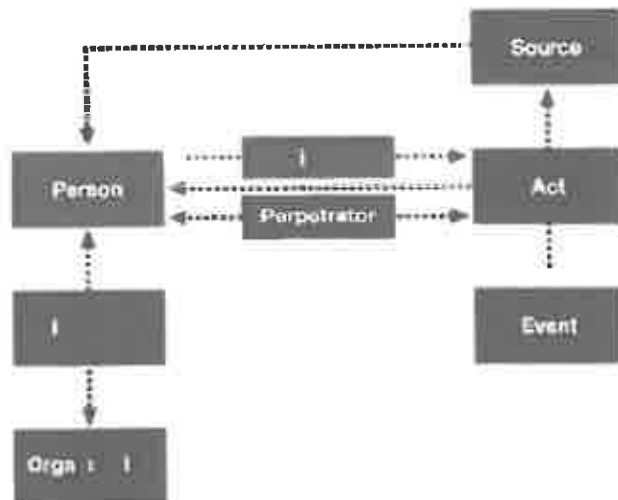
14 The Commission's **database** was an advance on other such models because it allowed for people to be victims, perpetrators and witnesses at the same time. People were only defined as victims, witnesses or perpetrators in the context of the violation itself. This is illustrated in the diagram below, where the personal details of people (names, identification numbers, addresses) appear together in a separate table called 'Persons'. By searching the table for a name, users were able to find the person irrespective of whether they were a victim, a witness or a perpetrator. This represented the real South African context much more realistically,

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since it was entirely possible that an individual could have been victimised and then perpetrated an act of violence in revenge and, thus, could have been both a victim and perpetrator.

DIAGRAM 2.1

UNDERLYING LOGICAL MODEL OF THE TRC DATABASE



15 The database was enhanced to add new functions as needs arose. For example, facilities were added to record the corroboration carried out by the Investigation Unit as, for instance, in the registration of victims.

16 The database was the primary repository of data for all three of the Commission's standing committees. By integrating the data in this way, powerful cross-checks between amnesty information and human rights violations data was possible, while the identity of victims and details of the harm they suffered were immediately available to the Reparation and Rehabilitation Committee.

17 In addition to its original role as the source of all the raw data needed by the Research Department to write the final report, the database was integrated with the investigative software used by the Investigation Unit to provide a huge data bank of corroborative material for investigations.

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THE COMMISSION'S DATABASE

Preamble

17. The Commission created and maintained a database to manage the data requirements of the three Committees. The database was used to register human rights violations statements and amnesty applications as they were lodged with the Commission, after which teams of data processors stored the names of the victims, the violations they suffered and details of the alleged perpetrators. During the life of the Commission, the database was upgraded to assist with the management of the work of the Reparations and Rehabilitation Committee. It is still being used by the staff of the President's Fund today to record disbursements made.

18. By the time the Commission closed, the database had become a rich repository of information about the nature, scale, location, dates, types and consequences of violations of human rights suffered by South Africans. As such, it is an essential primary source of valuable historical material, which must be made accessible to future generations.

Data provision

19. The Commission recommends that the database be owned, managed and maintained by the National Archives and Records Service of South Africa, who must take responsibility for ensuring that the database:

a forms the cornerstone of an electronic repository of historical materials concerning the work of the Commission;

b is enriched by electronic multi-media facilities to support audio-visual and other graphic materials;

c is in a format that allows for distribution to schools, other educational institutions and the general public by means of CD-ROM or other portable electronic format, and

d uses language that is accessible to the majority of South Africans.

Data reconciliation

20. The work of the Amnesty Committee continued after that of the Human Rights Violations (HRV) Committee had been completed, so a process of data reconciliation is necessary to compare and contrast the victims and violations described in Amnesty applications with those gathered by the HRV Committee. The Commission recommends that:

a the database be updated with the victim and violation details from the transcripts of amnesty hearings which, for security reasons, were not always recorded on the database prior to the hearing, and

b the details of the victims and violations mentioned in each amnesty application be reconciled with those recorded by the HRV Committee, to ensure that every victim in need of reparation and rehabilitation is identified and noted.

Database conversion

21. The Commission's database is a custom-built system whose functionality was designed primarily to record victims and violations to support the work of the three Committees. Its current format does not lend itself easily to use by researchers or the general public.

22. The Commission therefore recommends that the database:

a be converted to run on technology best suited for Internet-based, read-only access, using open-source software wherever possible;

b be web-enabled in a user- friendly, searchable format, and

c have facilities for extracting the data for further research and analysis.

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Summary of communications and interactions between SAHA, the Department of Justice and Constitutional Development and the Ministry of Justice and Constitutional Development regarding the TRC victims database

17 March 2006

A PAIA request under 0028/DOJ/2006 is submitted for a copy of the TRC Victims Database, which expressly acknowledges that personal names and personal addresses must be obscured, but acknowledges that this will not require a redaction of the other details such as age, gender, types of violation and location of violations. It is noted therein that the database designers have already informed SAHA that this can be done.

23 March 2006

Department sends fax **acknowledging** receipt and alerting SAHA of the request fee.

24 March 2006

The Department begins sending third party notifications to various persons on the Database saying that SAHA is requesting their personal information as contained on the Database, in spite of SAHA's express request to the **contrary**.

13 April 2006

SAHA sends the Department confirmation of payment.

03 April 2006

Department sends fax **expressly** acknowledging receipt of payment.

18 April 2006

The Department sends notification of a 30 day extension because:

1. The request requires a further search of record/s which are still awaiting receipt and the search for the record/s cannot reasonably be completed within the original period;
2. Consultation amongst other third parties is necessary and/or desirable to decide upon the request, which consultation cannot reasonably be completed within the original period.

21 June 2006

SAHA notified via mail that the request was unsuccessful, as:

"The documents contain information that was supplied in strict confidence by various third parties. This information was supplied after their confidentiality was guaranteed, so we are unable to breach our undertaking.

Further, the nature of our work and the need to obtain information from various sources to enable us to carry out our function in the public interest may be jeopardised by the disclosure of any information supplied in confidence. The request is therefore refused in terms of section 37(1)(b)..."

*** Please note *** - no mention is made in this refusal about complications existing with the database.

09 July 2006

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Piers Pigou contacts Gerald O'Sullivan who confirmed that the Department had made contact about accessing the Database.

Around this time SAHA is alerted through associates that the Department of Justice has begun sending out third party notifications to persons on the Database saying that SAHA is requesting their personal information as contained on the Database, in spite of SAHA's express request to the contrary. This is confirmed again from a source on **11 September 2006**.

08 August 2006

SAHA submits an internal appeal to the then Minister, Ms Brigitte Mabandla, against the refusal. A letter is also sent requesting for a detailed description of how and why they had issued the third party notifications.

10 August 2006

SAH resubmits the internal appeal following a telephone conversation with Ms Raswiswi.

07 September 2006

A letter from the then Director of SAHA, Piers Pigou, is sent to Ms Raswiswi to place on record SAHA's concern about the misrepresentation of their request to so many of those on the Database – who have then in fact contacted SAHA directly to complain of their dissatisfaction. In the letter it is noted that, in a previous telephone conversation, Ms Raswiswi had claimed she had been required to send out the third party notifications because she had received advice from technical experts that it was either not possible to mask the field and/or Ms Raswiswi feared corrupting the Database. SAHA again alerted Ms Raswiswi to the offer by SAHA to offer assistance through the provision of contact with the database designers. Dr Patrick Ball was also expressly raised as a possible resource.

08 September 2006

Piers Pigou forwards Ms Raswiswi the details of Mr O'Sullivan, who was responsible for the design of the database, via email.

Ms Raswiswi contacts SAHA telephonically to informally request an extension for replying to our internal appeal. Piers Pigou responds via email asking how much additional time will be required.

20 October 2006

A meeting is held between SAHA and the Department to deal generally with issues SAHA is having with the Department in its requests. A conversation occurs relating to the confidentiality of the records of the TRC and confidentiality agreements. Specifically in relation to the Database, SAHA demands that the Department to all persons contacted, or likely to be contacted, in the third party notification clarifying the actual content of SAHA's request.

03 November 2006

A letter is sent confirming the meeting of 20 October 2006 and reserving the right to complain to the South African Human Rights Commission should the issue with the third party notifications not be adequately dealt with.

09 October 2006

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In a telephone conversation, Ms Raswiswi had said the process was underway with the Database. Ms Raswiswi claims again she cannot 'tamper' with the Database and thus third party notifications *are* necessary. She requested another opportunity to meet and discuss the issue.

18 January 2007

Gerald O'Sullivan alerts Piers that the Department has still made no attempt to contact him about the redactions in the Database.

23 January 2007

In a telephone conversation with Ms Raswiswi and Kate Allan, Ms Raswiswi refused to comment further on the Database issue.

13 April 2007

Piers Pigou emails Ms Raswiswi notifying her that she has failed to communicate with SAHA for months about the Database issue, as well as notifying the third parties to the actual content of SAHA's request.

07 May 2007

In a telephone conversation with Ms Raswiswi, Kate Allan was told that she had been away and hence not responded to the previous email of 13 April. She advised that she was making attempts to get the issue sorted out. She claimed to not have contacted the database designers due to a delay in internal procedures. She claimed to be awaiting advice from her superiors on how to move forward, but would not inform Ms Allan of whom she was awaiting information from.

09 May 2007

Ms Allan emailed Ms Raswiswi reiterating the content of the 07 May telephonic conversation.

30 March 2009

A PAIA request is submitted to the Department of Justice and Constitutional Development (DOJ) for:

- "A. A copy of the Truth [sic] and Reconciliation Commission's (TRC) Victims Database
- B. A copy of the Amnesty application that Eugene De Kock submitted to the TRC".

In the request it was specifically qualified that:

"[it should be noted] SAHA are not seeking to attain personal information (such as names, I.D numbers or residential addresses) of those whose details are on the database. Rather SAHA wish to attain records as to the *types and categories of atrocities* that were reported to the TRC, for the *purpose of statistical analysis*" (emphasis added).

31 March 2009

Ms Raswiswi addressed a letter to SAHA acknowledging the receipt of the request.

15 April 2009

SAHA confirmed receipt of a letter and paid, to the Department, the request fee.

4 May 2009

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Fritz Schoon sent an email to Advocate Ndou querying whether the DOJ had received the request fee of R35 that SAHA paid. He also stated that he would assume they had adopted the 30 day extension, but that a response would be expected by 30 May 2009.

01 June 2009

Fritz Schoon addressed an email to Advocate Ndou and Ms Raswiswi to inform them that no response to the request had yet been received by SAHA.

10 June 2009

Ms Raswiswi addressed a letter to SAHA, dated 5 May 2009 but noted to be received on this day, refusing access to the request for the following reasons:

"The documents contain information that was supplied in strict confidence by various third parties. The information was supplied after their confidentiality was guaranteed, so we are unable to breach our undertaking.

Further, the nature of our work and the need to obtain information from various sources to enable us to carry out our function in the public interest may be jeopardised by the disclosure of information supplied in confidence. The request is therefore refused in terms of section 37(1)(b) of the Promotion of Access to Information Act 2, of 2000."

29 June 2009

Fritz Schoon submitted an Internal Appeal to the Minister of Justice and Constitutional Development against the refusal of access by MS Raswiswi.

23 July 2009

A copy of the Internal Appeal to the Minister was re-sent to Advocate Ndou. He requested an update on the status and who was handling the matter.

31 July 2009

Schoon faxed a letter to Mr Labuschagne, the Chief of Legal Research in the Ministry, to inform the Department that a response to the Internal Appeal was overdue.

03 August 2009

Schoon wrote an email to Ms Raswiswi and Mr Ndou informing them of his email to Labuschagne, who had then informed Fritz that the delay in responding to the Internal Appeal was due to their failure to address the Minister and give input.

28 August 2009

The Minister of Justice and Constitutional Development expressly granted the South African History Archive (SAHA) access to the TRC Victim's Database, after such access had previously been refused to us from the Department of Justice as:

"As stated in your appeal, the information you requested regarding the TRC's victims' database is of a generic nature relating to atrocities that were reported to the TRC. I have therefore instructed the Department to sever from the records to be made available to you, victims' personal details."

03 September 2009

Schoon sent an email to Ms Raswiswi and Advocate Ndou informing them of the Minister's overturning, and reminding the Department that SAHA could put them in touch with the person responsible for maintenance of the Database to assist with the masking function on the database.

03 September 2009

Schoon wrote an email to Ms Raswiswi confirming their telephone conversation of the same day, whereby Ms Raswiswi promised the Database would be available in three weeks time: which would be 25 July 2009.

29 September 2009

Fritz Schoon addressed a letter to Minister Radebe informing the DOJ again that SAHA was able to put the DOJ in touch with the person who was responsible for maintain the TRC's database. In the email he informed the Minister that, in spite of Ms Raswiswi's fear that the Database could not be masked, she had been told that both the designer of the database and the person who maintained the database had expressly assured that this could be done with no damage being done to the database.

30 September 2009

Schoon telephoned Ms Raswiswi. She stated to him that she would send the database by the end of the week.

8 October 2009

Gabriella Razzano telephoned Mr Labuschagne to query the status of the database – he assured her that he would follow up with Ms Raswiswi and then email a response.

12 October 2009

Gabriella Razzano emailed Ms Raswiswi to inform her that a fax had been received by the Department in relation to the request that was unreadable.

13 October 2009

A fax from Ms Raswiswi was received by SAHA which informed them of an issue in relation to the second half of their request. Gabriella sent an email to Raswiswi confirming receipt, but also stating that SAHA still awaited the database.

20 October 2009

Razzano emailed Raswiswi to inform the DOJ that SAHA was still awaiting the database, and reiterating SAHA's previous offer to help facilitate the release by providing the assistance of the databases' designer.

21 October 2009

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Mr Labuschagne sent a letter confirming receipt of the letter dated 22 September and stating that he had informed Ms Raswiswi's Department of the concerns raised.

December 2009

SAHA receives its first version of the TRC database. It was unfortunately delivered in an unusable form. There was only one field present – with no legend, or explanation as to what the field represented. There were no dates, nor indications of results of said applications.

11 December 2009

A meeting is held at the Department of Justice with Gabriella Razzano of SAHA, Marlyn Raswiswi, Advocate Ndou and Natalie Louw, where the unsuitability of the Database in its current state was raised. The Department reiterated its unwillingness to use any of our assistance for gaining access to the Database. The Department also claimed that they had had difficulty accessing the Database, because the only staff member at the DOJ with the password for the Database had passed away, while never telling anyone what the password was. Therefore, the DOJ had been forced to hack into the Database.

13 January 2010

A meeting is held at SAHA, with DOJ staff member Natalie Louw, where again the issue was raised about deficiency in the record as it stands.

10 February 2010

An exhaustive letter was sent, addressed specifically to Ms Raswiswi, outlining in detail all the efforts taken by SAHA thus far to attempt to get the database in the form requested.

A letter was sent from Ms TS Tshavana confirming receipt of the letter.

19 March 2010

A meeting is held at the Department of Justice, again between Gabriella Razzano and Natalie Louw, where Louw provided an adjusted form of the Database spreadsheet. It was explained that duplication in the Database was due to the way they had collected the information for the Database – which was through pulling the mention of atrocities directly from TRC hearings. The DOJ claims to have pulled the excel spreadsheet directly from the Database. SAHA was informed that Ms Raswiswi was still expressly refusing to allow any of SAHA's contacts to assist in accessing the Database, though this was verbal and since this date no communication has been received directly from Ms Raswiswi, in spite of communications being addressed to her personally.

24 March 2010

SAHA begin internal discussions on the way forward.

15 June 2010

SAHA sends a letter to Minister Radebe requesting his intervention to ensure that SAHA obtains a usable copy of the Database. The letter informs the Minister that after the expiration of 9 months Ms Raswiswi has still failed to comply with the Minister's direction to release the information. A

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summary of correspondence and interactions between SAHA and the Department was provided. The letter also informs the Minister that Gerald O'Sullivan is willing and available to assist with the redaction of personal information from the Database.

2 July 2010

Advocate Labuschagne sends correspondence on behalf of the Minister acknowledging receipt of the 15 June SAHA letter.

22 July 2010

SAHA sends an email to Advocate Labuschagne offering to meet with the Minister or provide any additional information required in considering the matter.

8 November 2010

SAHA sends a letter to Minister Radebe requesting a substantive response to the letter of 15 June 2010. SAHA indicates to the Minister that it is aware that on 18 October 2010 Patrick Ball, who was the international technical advisor on information management systems and statistical analysis for the TRC, wrote to the Minister offering assistance in redacting the Database in what he indicated would be a 'simple process'. SAHA indicated it would make a complaint to the Public Protector and the SAHRC if the Database was not provided in a usable form by 1 December 2010. A copy of the letter was sent to Ms Raswisi.

2 December 2010

Advocate Labuschagne sends correspondence on behalf of the Minister acknowledging receipt of the 8 November letter and stating that he is in the process of making inquiries and hopes to be in a position to revert to SAHA in the near future.

5 December 2010

SAHA sends a letter to Advocate Labuschagne indicating that in light of his letter they have not made a complaint to the Public Protector or SAHRC but will do so if no substantive response is received by 1 February 2011.

4 February 2011

Tammy O'Connor (SAHA) phones Advocate Labuschagne's office and is informed that he is on leave for 6 weeks. His assistant informs Ms O'Connor that he had sent an internal memo to Ms Raswisi but there has been no response. Advocate Allers is dealing with the matter in Advocate Labuschagne's absence. Ms O'Connor requests that Advocate Allers review the file, speak with Ms Raswisi and return Ms O'Connor's call.

14 February 2011

Ms O'Connor attempts to contact Advocate Allers by phone but is informed that both he and his assistant are unavailable. She is provided with his assistant's email address and sends an email for Advocate Allers to her. A copy of the 8 November 2010 letter is provided with the email and Advocate Allers is requested to respond by 16 February 2011. A read receipt of the email is sent on 15 February 2011.

28 March 2011

Ms O'Connor again sends an email to Advocate Allers via his assistant. She indicates that the delay from the Minister's office has now become unreasonable and requests a response as a matter of urgency.

7 April 2011

Ms O'Connor phones Advocate Allers and is informed by his assistant that he is unavailable. When asked, she indicates she does not know whether he is still working on this file or whether it has been returned to Advocate Labuschagne. Request a return call from either advocate.

13 April 2011

SAHA lodges a complaint with the South African Human Rights Commission and the Public Protector. Copies of the complaint were also sent to DOJ and the Minister.

13 June 2011

Acknowledgement of receipt of complaint received from PP.

8 July 2011

Sent follow up to SAHRC and PP regarding complaint.

8 July 2011

Received acknowledgement regarding complaint from the SAHRC.

13 July 2011

SAHRC indicated they have raised the matter with DOJ and requested a meeting with them on 20 July.

5 August 2011

SAHA wrote to SAHRC requesting update on outcome of meeting with DOJ.

12 August 2011

Received letter from SAHRC – they met with Natalie Louw (DOJ) and she undertook to review the matter. SAHRC requested a time-bound undertaking detailing DOJ's intended response to an expeditious resolution of the matter. Also offered to convene a meeting between the parties. Note – letter unsigned. Signed letter received 19 August.

16 August 2011

Tammy and Catherine met with Natalie Louw and Advocate Ndou. DOJ indicated they no longer have the software necessary to support the database. They can therefore only provide the information contained within the database. Catherine undertook to contact Gerald O'Sullivan regarding providing assistance with the provision of the database to SAHA with personal information redacted. Natalie is to thereafter discuss the matter internally with a view to getting authority and assistance with provision of the database to SAHA.

17 August 2011

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Tammy confirmed outcome of meeting in an email.

29 September 2011

SAHRC followed up regarding progress in the matter

6 October 2011

Natalie indicated she would like a further meeting regarding the matter.

10 October 2011

SAHA indicated to the SAHRC that a meeting was to be held in November.

17 October 2011

SAHRC offered to participate in meeting with DOJ.

24 October 2011

SAHA declined offer from SAHRC to participate in the meeting but indicated that if we were unable to resolve the matter we would welcome the opportunity for a further meeting in which SAHRC participated.

17 November 2011

Catherine wrote to Natalie requesting meeting.

21 November 2011

Catherine followed up meeting request.

13 December 2011


Tammy and Catherine met with Natalie, Gerald O'Sullivan and Graeme (DOJ IT). Agreed the following process:

1. Graeme and Gerald to create a table which lists all of the fields in the database and the kind of information contained therein.
2. The list of files to be provided to Natalie (DOJ) who will indicate which fields she considers should be redacted.
3. That list will then be provided to SAHA to ensure that they agree with the fields to be redacted.
4. Once agreement is reached on the matter of redaction, Graeme and Gerald will redact the information.
5. Natalie and Advocate Ndou will then review the redacted version for the purpose of approval.
6. The data will be released to SAHA.

Expected timeframe for completion of the process is the end of January.

14 December 2011

Tammy wrote to SARHC informing them of the outcome of the meeting and indicating that no further intervention was required from at this point as both parties were satisfied with the agreement reached at the meeting.

Handwritten signature and initials, possibly 'Jh' and 'D.L.', in the bottom right corner.

9 March 2012

SAHA wrote to DOJ requesting update on progress, as no correspondence since the 14 December meeting.

16 May 2012

SAHA again wrote to DOJ requesting an update.

7 June 2012

SAHA again wrote to DOJ requesting an update.

June 2012

SAHA received letter from DOJ (dated 23 May) which states 'We have noted your dissatisfaction with the information in the copy of the database that was provided to you. After further consideration of the matter, it is our submission that there is no additional information that we can provide in order to satisfy your request. That is, the copy provided to you includes the information that the Minister permitted.'

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FORM A

REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

(Section 18 (1) of the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000)

[Regulation 2]

FOR DEPARTMENTAL USE

Reference number: _____

Request received by: _____

(state rank, name and surname of information officer/deputy information officer)

on _____ (date) at _____ (place).

Request fee (if any): R.....

Deposit fee (if any): R.....

Access fee: R.....

SIGNATURE OF INFORMATION
OFFICER/DEPUTY
INFORMATION OFFICER

A. Particulars of public body

The Information Officer/Deputy Information Officer: **MS MARLENE RASWISWI**
DEPT. OF JUSTICE
PRETORIA

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be recorded below.
(b) Furnish an address and/or fax number in the Republic to which information must be sent
(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname. **HERMAN FREDERIK SCHOON**

Identity/Passport number: **8202065242087**

Postal address: **P O BOX 31719**

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JOHANNESBURG

Fax number: (011) 717 1964
 Telephone number: (011) 717 1941 or 074 306 7327
 E-Mail Address foip.coordinator@saha.org.za

Capacity in which request is made, when made on behalf of another person:

**COORDINATOR, FREEDOM OF INFORMATION PROGRAMME, SOUTH AFRICAN
 HISTORY ARCHIVE**

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) If the provided space is inadequate please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.*

1. Description of record or relevant part of the record:

- A. **A COPY OF THE TRUTH AND RECONCILIATION COMMISSION'S (TRC)
 VICTIMS DATABASE**
- B. **A COPY OF THE AMNESTY APPLICATION THAT EUGENE DE KOCK
 SUBMITTED TO THE TRC.**

2. Reference number, if available:

3. Any further particulars of record:

With regard point A, above, please note that SAHA are not seeking to attain personal information (such as names, I.D. numbers or residential addresses) of those whose details are on the database. Rather, SAHA wish to attain records as to the types and categories of atrocities that were reported to the TRC, for the purpose of statistical analysis.

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While SAHA acknowledge the need to protect the privacy of the people in question, SAHA do not consider it to be necessary to mask details such as age, gender and location of crime.

SAHA have been informed, by the designer of the database, that it is within the databases capacity to mask selected fields (such as personal details), and that utilizing this function will not damage the database in anyway. SAHA can put the DOJ in touch with the designer of the database, if the DOJ so wishes.

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.		
Disability: _____ _____	Form in which record is required: _____ _____	
Mark the appropriate box with an "X".		
NOTES:		
(a) Your indication as to the required form of access depends on the form in which the record is available.		
(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.		
(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.		
1. If the record is in printed form:		
<input checked="" type="checkbox"/>	Copy of record*	<input type="checkbox"/> Inspection of record
2. If record consists of visual images-		
(this includes photographs, slides, video recordings, computer-generated		

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images, sketches, etc).			
	view the images	X	copy of the images*
			transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:			
	Listen to the soundtrack (audio cassette)	X	transcription of soundtrack* (written or printed document)
4. If record is held on computer or in an electronic or machine – readable form:			
	Printed copy of record*	Printed copy derived from the record*	X copy in computer readable form* (stiffy or compact disc)
* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? A postal fee is payable.			YES NO X
<i>Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.</i>			
In which language would you prefer the record? ENGLISH			

G. Notice of decision regarding request for access


You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record? **PLEASE WRITE AND PHONE**

Signed at JOHANNESBURG this 30th day of MARCH 2009



 SIGNATURE OF REQUESTER


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Department of Justice and Constitutional Development

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

"CMK 9"

J 464

Received
10 June 2009

Access to Information and Records Management

Private Bag X 81, PRETORIA, 0001 • Momentum Centre, 329 Pretorius Street, PRETORIA
Tel (012) 357 8544, Fax (012) 357 8004

Your Ref : 0013/DOJ/2009
Ref: 7/6/9 Schoon H F (5)
Enq: MM Raswiswi
E-mail: MRaswiswi@justice.gov.za

05 May 2009

Mr F Schoon
South African History Archives
P.O.Box 31719
Johannesburg
2000

Tel: (011) 717 1941
Fax: (011) 717 1964

Dear Mr F Schoon

SUBJECT: REQUEST TO HAVE ACCESS TO RECORDS IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT 2 OF 2000)

Your request to have access to documents held by the Department of Justice and Constitutional Development specified by yourself as:

1. A copy of the Truth and Reconciliation Commission (TRC) victims database.
2. A copy of the Amnesty application that Eugene De Kock submitted to the TRC.

Having carefully considered your application and having applied my mind thereto, I regret to inform you that I am unable to provide the documents requested for the reasons set out below in terms of the Amnesty application of Mr De Kock, the requested documents contain personal information which implicates various parties in alleged unlawful activities. Its disclosure could be defamatory to the individuals implicated and could also infringe their dignity which is protected under the Constitution.

I consider that the disclosure of these documents could be highly detrimental to the individuals involved and could reasonably be expected to endanger their lives or physical safety. Notwithstanding the need for disclosure in the light of the factors already referred to,

I refuse this request first because, it would constitute an unreasonable disclosure of highly personal information in terms of section 34 (1) of PAIA.

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Secondly, because its disclosure could reasonably be expected to endanger the life or physical safety of the individuals implicated.

The disclosure could reasonably be expected to facilitate a contravention of the law to the extent that the reputations and dignity of the individual names may be impaired thereby as contemplated in section 39 (i) (b) (dd) of PAIA.

Regarding your request for TRC Database I am unable to provide the documents requested for the following reasons:

The documents contain information that was supplied in strict confidence by various third parties. The information was supplied after their confidentiality was guaranteed, so we are unable to breach our undertaking.

Further, the nature of our work and the need to obtain information from various sources to enable us to carry out our function in the public interest may be jeopardised by the disclosure of information supplied in confidence. The request is therefore refused in terms of section 37 (1) (b) of the Promotion of Access to Information Act 2, of 2000.

The above decision has been carefully considered in terms of the above mentioned Act. Kindly be advised that you can lodge an appeal in terms of section 74 (1) of the Promotion of Access to Information Act 2, of 2000.

I trust you will find the above in order.



MM RASWISWI (Ms.)
DEPUTY INFORMATION OFFICER



FORM B

NOTICE OF INTERNAL APPEAL

(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))

[Regulation 8]

**STATE YOUR REFERENCE
NUMBER(S): 0013/DOJ/2009**

A. Particulars of public body

The Information Officer/ Deputy Information Officer:

Ms M. Raswiswi

Dept. of Justice and Constitutional Development

Pretoria

B. Particulars of requester/third party who lodges the internal appeal

- (a) The particulars of the person who lodge the internal appeal must be given below.*
(b) Proof of the capacity in which appeal is lodged, if applicable, must be attached.
(c) If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.

Full names and surname: Herman Frederik Schoon
Identity number: 8202065242087
Postal address: P.O. Box 31719, Braamfontein, 2017, Johannesburg.
Fax number: 011 717 1964
Telephone number: 011 717 1941
E-mail address: foip.coordinator@saha.org.za

Capacity in which an internal appeal on behalf of another person is lodged:

C. Particulars of requester

This section must be completed ONLY if a third party (other than the requester) lodges the internal appeal.

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Full names and surname:

Identity number:

D. The decision against which the internal appeal is lodged

<i>Mark the decision against which the internal appeal is lodged with an X in the appropriate box:</i>	
X	Refusal of request for access
	Decision regarding fees prescribed in terms of section 22 of the Act
	Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
	Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
	Decision to grant request for access

E. Grounds for appeal

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:

See attached document

State any other information that may be relevant in considering the appeal:

See attached document

F. Notice of decision on appeal

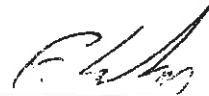
You will be notified in writing of the decision on your internal appeal. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

State the manner: **Please write and phone**

Particulars of manner:

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Signed at Johannesburg on this 29th day of June 2009.



SIGNATURE OF APPELLANT

FOR DEPARTMENTAL USE:

OFFICIAL RECORD OF INTERNAL APPEAL:

Appeal received on _____ (date) by
(state rank, name and surname of information officer/deputy information officer).

Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on _____ (date) to the relevant authority.

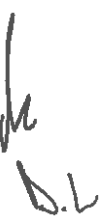
OUTCOME OF APPEAL:

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER
CONFIRMED/NEW DECISION SUBSTITUTED
NEW DECISION:

RELEVANT AUTHORITY

DATE

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER
FROM THE RELEVANT AUTHORITY ON (date):



Internal appeal supplement

Background

1. This appeal is submitted to the Minister in the Department of Justice and Constitutional Development (DOJ). The Minister is the appropriate person, in terms of section 75(1)(b) of the Promotion of Access to Information Act (PAIA), to whom to submit an internal appeal subsequent to the refusal of a request for information from the DOJ.
2. The appellant is the South African History Archive (SAHA).
3. On 30 March 2009 SAHA submitted a PAIA request to the DOJ. The request was for:
 - A. *A copy of the Truth and Reconciliation Commission's (TRC's) victims database.*
 - B. *A copy of the amnesty application that Eugene De Kock submitted to the TRC.*

A copy of the request is attached to this document, marked **ANNEXURE A**

4. On 31 March 2009 Ms Raswiswi, the Deputy Information Officer (DIO) in the DOJ, wrote to SAHA requesting that SAHA pay the request fee of R35-00 (thirty five Rand) in revenue Stamps.

A copy of the letter is attached, marked **ANNEXURE B**

5. On 15 April 2009 I wrote to Ms Raswiswi acknowledging receipt of her letter referred to in point 4. of this document; I included R70-00 (seventy Rand) worth of revenue stamps with the letter, in payment of the PAIA request fee. The outstanding R35-00 (thirty five Rand) was in payment of another PAIA request for which the DOJ had also requested payment of the request fee.

A copy of the letter, as well as of the revenue stamps, is attached to the document, marked **ANNEXURE C**

6. On 5 May Ms Raswiswi wrote to SAHA. The letter stated that both components of the PAIA request in question had been refused.
7. This appeal is against the decision referred to in point 6. of this document.

Factors to be taken into account with regard to Eugene De Kock's amnesty application

8. In denying the request for Eugene De Kock's amnesty application, Ms Raswiswi has relied on sections 34(1), 38(a), 39(1)(b)(iii)(dd) of PAIA, respectively.
9. The alluded to sections of PAIA read as follows:

34(1) Subject to subsection (2), the information officer of a public body must refuse a request for access to a record of the body if its disclosure would involve the

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unreasonable disclosure of personal information about a third party, including a deceased individual.

Emphasis added.

*38(a) The information officer of a public body must refuse a request for access to a record of the body if its disclosure could **reasonably be expected** to endanger the life or physical safety of an individual*

Emphasis added.

*39(1)(b)(iii)(dd) The information officer of a public body **may** refuse a request for access to a record of the body if the disclosure of the record could reasonably be expected to facilitate the commission of a contravention of the law, including, but not limited to, subject to subsection(2), escape from lawful detention.*

Emphasis added

10. In response to Ms Raswiswi's utilisation of section 34(1) of PAIA, please take note of sections 34(2)(b) and 34(2)(c) of PAIA, which read as follows:

*34(2) A record **may not be refused** in terms of section 34(1) in so far as it consist of information...*

(b) that was given to the public body by the individual to whom it relates and the individual was informed by or on behalf of the public body, before it is given, that the information would belong to a class of information that would or might be made available to the public;

(c) already publically available.

Emphasis added.

10a. Given that the deponent of the amnesty application sought, Eugene de Kock, willingly submitted the amnesty application to the TRC with the assistance of legal counsel, it is assumed the Mr De Kock was aware of the provisions of the Promotion of National Unity and Reconciliation Act(Act 35 of 1995) (The TRC Act) that state that confidentiality of the information within an amnesty application lapses on the commencement of the amnesty hearing for the application in question [section 19(8)(b)]; and, furthermore, that section 33(1)(a) of the TRC Act states amnesty hearings were to be open to the public. Accordingly, Mr De Kock was aware, at the time of submitting his amnesty application, that it was more than likely that the information contained therein would become public information. This means that section 34(2)(b) of PAIA overrides section 34(1) of PAIA; as such, the DOJ cannot rely on section 34(1) to withhold the amnesty application of Eugene De Kock.

10b. Furthermore, as noted above, section 19(8)(b) of the TRC Act has the effect of placing Eugene De Kock's amnesty application in the public domain. This

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means that section 34(1) of PAIA is also superceded by section 34(2)(c) of PAIA; which in turn is further evidence as to the inappropriateness of the DOJ citing section 34(1) of PAIA in refusing to release the amnesty application in question.

11. In response to the DOJ's citation of section 38(a) of PAIA as a justification for not releasing Eugene De Kock's amnesty application, SAHA put it to the Minister that the DOJ have not illustrated that releasing Eugene De Kock's amnesty application will serve to endanger anybody.

11a. Section 38(a) of PAIA can only be invoked if the disclosure of the information sought could "reasonably be expected" to cause harm. The exemption in question is not applicable in this instance, as the information sought has already been presented in public hearings [courtesy of sections 19(8)(b) and 33 of the TRC Act]; as such, there can be no "reasonable expectation" of harm, as any anticipated harm would have already arisen.

11b. Furthermore, the TRC had the power, pursuant to section 30(2) of the TRC Act, to give any person detrimentally implicated during an investigation, or at risk of becoming subject to a decision to his or her detriment, an opportunity to make representations or give evidence with regard to the matter under consideration. Accordingly, any individuals whose personal information is disclosed in the amnesty application in question, who could have been detrimentally affected by its disclosure, would have been afforded an opportunity at the time of disclosure to present their case or disagreements with the implications of the information

11c. In any event, even if the Minister is not in agreement with the arguments presented above against the utilisation of section 38(a) of PAIA – and hence deems the use of the exemption in question to be permissible, the DOJ are nonetheless required, by section 47 of PAIA, to notify third parties about the PAIA request that may potentially bring them into danger.

11ci. In the event that the Minister permits the DOJ to rely on section 38(a) of PAIA, then SAHA call on the Minister to order that the DOJ comply with provisions of section 47 of PAIA, and that the DOJ provide SAHA with evidence of such compliance. Furthermore, if the third parties in question should agree to the components of Eugene De Kock's amnesty application that affect them being released, then SAHA call on the Minister to order that such components of the application be released, in accordance with section 28 of PAIA.

12. In response to the DOJ's citation of section 39(1)(b)(iii)(dd) SAHA are of the opinion that this exemption has been inappropriately cited, as SAHA have not requested records pertaining to either a pending bail hearing or court case.

12a. An understanding of statutory interpretation informs us that, if we look at the heading of the exemption in question ("Mandatory protection of police dockets in bail proceedings and protection of law enforcement and legal proceedings"), the exemption is intended to apply in relation to current or proposed civil and criminal proceedings about which the records related. The provision in question is not intended to prevent breach of the law through the

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act of its disclosure, but is limited to preventing negative impacts upon other proceedings.

- 12b. In any event, that the records requested are already in the public domain [by virtue of sections 19(8)(b) and 33 of the TRC Act], and as such any damage to reputation that may arise from the disclosure of the requested records, has already arisen.
 - 12c Arguments made in points '11b' and '11c' of this document, respectively, apply her too.
13. SAHA hereby bring section 46(a)(i) of PAIA to the Ministers attention, and ask that the necessary weight be given to this section in deciding the matter at hand. Section 46(a)(i) reads as follows:

Despite any other provision of this Chapter, the information officer of a public body must grant a request for access to a record of the body contemplated in section 34(1) ... if the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with, the law.

Emphasis added.

- 13a. In the case at hand, releasing Eugene De Kock's amnesty application would bring numerous of the apartheid atrocities (and hence, crimes against humanity), that De Kock as well as others were responsible for having committed, to the fore; knowledge of which, it goes without saying, would be in the public interest.
14. In concluding this section, SAHA have illustrated that none of the exemptions cited by Ms Raswiswi, in refusing to release a copy of Eugene De Kock's amnesty application, hold. SAHA therefore call on the Minister to order, in accordance with section 77(2) of PAIA, that the amnesty application that Eugene De Kock submitted to the TRC be released to SAHA.

Factors to be taken into account with regard to the TRC victims database

15. In denying the request for the TRC victims database Ms Raswiswi cited section 37(1)(b) of PAIA. Section 37(1) of PAIA reads as follows:

37(1) Subject to subsection (2), the information officer of a public body –

(a) must refuse a request for access to a record of the body if the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement; or

(b) may refuse a request for access to a record of the body if the record consists of information that was supplied in confidence by a third party –

(i) the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source; and

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(ii) it is in the public interest that similar information, or information from the same sources, should continue to be supplied.

Emphasis added.

16. Section 37(2) of PAIA reads as follows:

A record may not be refused in terms of subsection (1) insofar as it consists of information that –

(a) Already publically available

(b) About the third party concerned that has consented in terms of section 48 or otherwise in writing to its disclosure to the requester concerned.

Emphasis added.

17. First and foremost, please note that at the time of submitting the PAIA request SAHA pointed out that we were not seeking to be provided with personal information (such as names, addresses and/or I.D. numbers); rather, we sought access to generic information as to the types of atrocities that were reported to the TRC (such as nature of incident, kinds of injuries incurred, place of incident etc), for the purpose of statistical analysis. At the time of submitting the request SAHA acknowledged our willingness for personal details to be masked.

17a. Releasing generic information, such as the sort of information that was requested in the PAIA request, would not serve to reveal the identity of the individuals in question, nor would it serve to violate their confidentiality, in the event that confidentiality agreements were entered into – which is not to say that SAHA accept that such agreements were entered into.

17ai. SAHA's first line of rebuttal, therefore, is to point out that we consider Ms Raswiswi's citation of section 37(1)(b) of PAIA, in refusing to grant access to the TRC's victims' database, to be illogical, and hence inappropriate.

18. In any event, even if it is the case that confidentiality agreements were entered into between the DOJ and those who testified before one or other of the TRC's committees, section 19(8)(b) of the TRC Act stipulates that such confidentiality would lapse on the commencement of the hearing or testimony before the TRC.

18a. This means that the DOJ is no longer bound by whatever confidentiality agreements Ms Raswiswi purports the DOJ to have entered into, as such agreements ceased to be effective at the time of the parties in question either having a hearing, or testifying before one or other of the TRC's committees..

19. Furthermore, section 33 of the TRC Act states that except for select in-camera hearings, all TRC hearings are open to the public. This means that the proceeds of all of the hearings and/or testimonies before the TRC (except of course for the select in-

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camera hearings) would have been publically available; which in turn means that section 37(2)(a) of PAIA supersedes section 37(1) of PAIA.

- 19a. Even if it is the case that the DOJ entered into confidentiality agreements with those whose information appears on the TRC's victims database, such confidentiality agreements are counter acted by a combined reading of the provisions of section 33 of the TRC Act and section 37(2)(a) of PAIA.
20. Ms Raswiswi's reason for refusing to release a copy of the victims database has been illustrated to be both illogical and not in accordance with either PAIA or the TRC Act.
21. SAHA therefore call on the honourable Minister to order that the DOJ release a copy of the TRC's victims database, excluding any information that may have been derived from in-camera hearings constituted in accordance with the stipulation of section 33 of the TRC Act, and masking the personal information of those whose information is on the database.
22. Please note that SAHA have been informed by the designer of the TRC's database: 1) that it is within the database's capacity to mask selected fields; and 2) that it does not do any damage to the database to utilize the masking function. SAHA offered, at the time of submitting the request, to put the DOJ in touch with the database's designer, if the DOJ so wished. That offer still stands.
23. Please, as was the case with the request for Eugene De Kock's amnesty application, take note of and apply due weight to the provisions of section 46 of PAIA.
24. Thank you in advance for your assistance.

Handwritten signature and initials in the bottom right corner of the page.



MINISTER
JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

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Please quote our full reference number in all correspondence

Our reference: 7/6/9 H F Schoon
Your Reference:
Enquiries: X1898
E-mail: Llabuschagne@justice.gov.za

Mr H F Schoon
South African History Archives
P.O.Box 31719
BRAAMFONTEIN
2017

Tel: (011) 717 1941 / 074 306 7327
Fax: (011) 717 1964

Dear Mr Schoon

**INTERNAL APPEAL SUBMITTED IN ACCORDANCE WITH THE PROMOTION OF
ACCESS TO INFORMATION ACT, 2000 (ACT NO.2 OF 2000)**

I refer to your appeal dated 29 June 2009, submitted on behalf of the South African History Archives (SAHA) on the above matter.

After carefully considering the grounds upon which you base your appeal, I have pleasure to inform you that I have decided to overturn the Deputy Information Officer's decision to refuse you the requested information.

As stated in your appeal, the information you requested regarding the TRC's victims' database is of a generic nature relating to atrocities that were reported to the TRC. I, have therefore instructed the Department to severe from the records to be made available to you, victims' personal details. This process may take a while as the TRC victims' database is quite a voluminous document.

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Kindly contact Ms M Raswiswi, the Deputy Information Officer, at telephone number 012 315 1730, for further information regarding the collection of the requested information. Kindly also note that there is a production fee payable and the abovementioned official will inform you how much is payable for the requested documents.

I hope that you will find the above in order.

Kind regards

J. Radube

Mr J T RADEBE, M P

MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

DATE: 28/08/09

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William Cullen Library
University of Witwatersrand

Our ref: 0013/DOJ/2009
DOJ's ref: 7/6/9 H F Schoon

22 September 2009

Private Bag X276
Pretoria
0001

Dear Minster Radebe

**INTERNAL APPEAL SUBMITTED IN ACCORDANCE WITH THE PROMOTION OF
ACCESS TO INFORMATION ACT (ACT 2 OF 2000) (PAIA)**

On 1 September SAHA received a letter from yourself, in response to an internal appeal that we had submitted. The letter stated that you were over ruling Ms Raswiswi's decision not to accede to a PAIA request that SAHA submitted for a copy of the Truth and Reconciliation's Commission's victims database and for a copy of Eugene De Kock's amnesty application; you proceeded to order that a masked version of the TRC victims database as well as Eugene De Kock's amnesty application be released to SAHA.

Please note that if the Department of Justice (DOJ) so wishes, SAHA can put the DOJ in touch with the person who was responsible for maintaining the TRC's database.

The reason I make the above offer is that Ms Raswiswi has formerly indicated to SAHA that she was reluctant to release the victims database, as she felt that using the masking functions on the database would cause irreparable damage to the database. SAHA informed Ms Raswiswi at the time that both the designer of the database and the person who maintained the database disagreed with her as to the effect that use of the masking function would have.

If it is the case that the DOJ are still of the impression that use of the database's masking function will cause irreparable damage to the database, then SAHA's offer to put the DOJ in touch with the person who maintained the TRC's database, who could prevent any damage being done to the database, still stands.

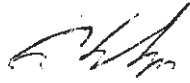
Please contact SAHA if the DOJ would like to take SAHA up on the offer.

Thank you for your assistance.

TRUSTEES: D Ntsebeza (Chairperson), H Kleinschmidt, N Biko, C Rassool, L Callinicos, J de la Harpe,
M Powell, R Saleh, Noor Nieftagodien
Non-Profit Organisation registration no.: 031-807-NPO / PBO

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Yours sincerely,



Fritz Schoon
Co-ordinator
Freedom of Information Programme
South African History Archive

TRUSTEES: D Ntsebeza (Chairperson), H Kleinschmidt, N Biko, C Rassool, L Callinicos, J de la Harpe,
M Powell, R Saleh, Noor Nieftagodien
Non-Profit Organisation registration no.: 031-807-NPO / PBO





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William Cullen Library
University of Witwatersrand

10 February 2010

Deputy Information Officer
Department of Justice and Constitutional Development
Private Bag x81
Pretoria
0001

Dear Ms Marilyn Rawlswi

RE: 0013/DQ/1/2009 and 7/8/9 H F Schoon: TRC Victims' Database

On 28 August 2009 the Minister of Justice and Constitutional Development expressly granted the South African History Archive (SAHA) access to the TRC Victims Database, after such access had previously been refused to us from the Department of Justice.

When SAHA finally received the database in late 2009, it was unfortunately delivered in an unusable form, supposedly due to difficulties the Department had had in accessing the database and redacting the names to ensure that no third parties were revealed. There was only one field present -- with no legend, or explanation as to what the field represented. There were no dates, nor indications of results of said applications.

It was specifically requested in SAHA's original request of 30 March 2009, with regard to the format of the request, that:

"[It should be noted] SAHA are not seeking to attain personal information (such as names, I.D numbers or residential addresses) of those whose details are on the database. Rather SAHA wish to attain records as to the types and categories of atrocities that were reported to the TRC, for the purpose of statistical analysis" (emphasis added).

It should be evident that one field without legends, and entries which merely state "19 cows were stolen and windows broken", cannot be used for statistical analysis.

It is further apparent from the Minister's letter of 28 August 2009, which is attached here as "A1" for your reference, that his instructions to your Department were specifically to sever only from the records the victims' personal details, and nothing more.

SAHA have offered the assistance of Gerald O'Sullivan, an individual familiar with the design of the database, to extract the relevant information from the database as the

TRUSTEES: D Klose (Chairperson), H Klose (President), H Klose, C Klose, L Klose,
H Powell, R Klose, H Klose
Non-Profit Organisation registration no.: 011-037-NPO/FBO

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Department suggests the difficulty is of a technical nature. Mr O'Sullivan confirmed in January 2010 that he is still willing and available to assist with this process. The Department has refused this, but has also not made an attempt to correct the deficient records as far as we are aware.

In a meeting with SAHA's Freedom of Information Programme Support Officer, Gabriella Razzano, of 11 December 2009 (held at the Department's office) this issue was brought to the Department's attention. In that meeting you again stated your desire to use in-house staff, but there was a promise to review the database which appears not to have been done. In a separate meeting with your staff member, Natalie Loun, on 13 January 2010 (this time at SAHA's offices) SAHA again raised the issue of the deficiency of the records, yet still we have not been supplied with the correct records.

Section 60(a) of the PAIA obliges the Department, once a request has been granted, to release the relevant records in 'such form as the requester reasonably requires'. Furthermore, section 78 permits SAHA, after exhausting internal remedies, to seek relief in court specifically if aggrieved by a decision taken in terms of section 60 (see section 78(d)(i)).

If the Department is unable to inform SAHA of proactive steps it is taking to correct the deficiencies in the record supplied, we shall approach the Minister directly to inform him that his instructions, and the commitments he made to us in his letter of August 2006, have not been carried through. If that does not yield results, we shall be forced to approach the courts for a result, as the Minister himself has expressly acknowledged our right to access this database.

This is obviously a last resort, one which SAHA and I am sure the Department would prefer to avoid. I would therefore like to present you with this opportunity to discuss with SAHA how best to resolve the issue, as a sign of our commitment to creating a cooperative relationship between our two organisations.

Yours sincerely,


Catherine Kennedy
Acting Director

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Jan 1 1949	HE WAS BEATEN.	JHB
Jan 1 1950	SHE WAS SHOT WITH LIVE AMUNITION.	UNKNOWN
Jun 12 1951	HE WAS FORCEFULLY REMOVED FROM HIS PLACE OF SETTLEMENT.	PIETERSBUR
Jan 1 1952	HE SUSTAINED INJURIES.	UNKNOWN
Nov 9 1952	HE WAS SHOT ON THE LEFT ARM AND LEFT SIDE OF THE STOMACH.	EASTLONDON
Jan 1 1953	SHE WAS BANNED FOR AN UNSPECIFIED PERIOD OF TIME.	CAPETOWN

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Benetech

Technology Serving Humanity

Benetech is a nonprofit organization.

The Hon. Jeffrey Thamsanga Radebe
Minister
Department of Justice and Constitutional Development
Private Bag X276
Pretoria 0001
South Africa

18 October 2010

Dear Minister Radebe,

I am writing in reference to recent communications between your department and our colleagues at the South African History Archive (SAHA) concerning access to the TRC's Victims Database.

By way of introduction, during the TRC's work period, I was the international technical advisor on information management systems and statistical analysis. I designed the TRC's Victims Database in partnership with Gerald O'Sullivan and the research team at the TRC. Over the last 20 years, I have advised and consulted to eight other official truth commissions around the world, five United Nations human rights field missions, prosecutorial processes at the International Criminal Tribunal for the Former Yugoslavia, the Special Court for Sierra Leone, the International Criminal Court, and dozens of non-governmental human rights organizations. My focus has been the development, quantitative analysis and dissemination of large data systems on human rights violations.

On 30 March 2009, SAHA submitted an access to information request to the Department of Justice (DoJ) for access to anonymised data from the TRC's Victims database. SAHA is not seeking to attain personal information (such as names, ID numbers or residential addresses) of individuals who are represented in the database. Rather SAHA's objective is to attain micro information from the database as to the types and categories of

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atrocities that were reported to the TRC, for the purpose of statistical analysis and further research to complement and build on the work of the TRC.

On 19 March 2010, the DoJ staff did respond to SAHA's access to information request. In response to this request, the DoJ supplied a list of 63,285 records extracted from the TRC Victims Database to SAHA. This list contains three database fields, all unlabelled. Unfortunately, this response does not fulfill SAHA's initial request. SAHA's initial request is for a full copy all database fields except for those which contain detailed personal identifiers (first name, last name, National I.D. Number, (complete) Residential Address, etc). This is a fairly standard request, which I have seen made around the world in the aftermath of official truth commissions and commissions of inquiry. It does, however, require that the personal identifiers of individuals be redacted from the database. If the main impediment for the DoJ in meeting this request is ambiguous documentation of the TRC Victims Database, Gerald O'Sullivan and I would be happy to liaise with DoJ technical staff to guide them through the design of this database, and suggest a simple process to redact the personal identifiers and fulfill SAHA's request. Mr. O'Sullivan and I are willing and able to assist with this matter at the department's earliest convenience.

The ongoing empirical analysis of South Africa's past serves a number of important historical, juridical and public policy objectives. Public information sources, such as the TRC's Victims Database, are an important part of the public record that helps to build a more comprehensive picture of the past and inform future policy options. Along with SAHA, I welcome your decision to release the database as evidence of the Department's commitment to ensuring that the records of the TRC be made available to South Africans in line with the recommendations of the final TRC Report. It is my pleasure to support the Department of Justice and Constitutional Development and the South African History Archive on this important issue.

Please do not hesitate in contacting me (email: pball@benetech.org, tel: +1-650-644-3400), should you or your staff need further clarification from me on any issues regarding this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Ball', followed by a horizontal line.

Patrick Ball, PhD
Chief Scientist & Vice President
Human Rights Programs

Cc: Catherine Kennedy - Director, South African History Archive
Gerald O'Sullivan – Chief Technical Architect (IFMS project) at SITA

Encl: .

(1) Copy of Access to Information Request submitted to the Department of Justice by the South African History Archive

Handwritten initials in black ink, possibly 'JL' or 'J.L.', located in the bottom right corner of the page.



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Honourable Minister Jeffrey Thamsanqa Radebe

Department of Justice and Constitutional Development

Per hand: SALU Building, 28th Floor,
316 Thabo Sehume Street
(c/o Thabo Sehume and Francis Baard Streets),
PRETORIA

Per email: Ministry@justice.gov.za

3 April 2013

Dear Honourable Minister Radebe

**PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND
RECONCILIATION COMMISSION ("TRC") VICTIMS DATABASE**

1. We are in partnership with the South African History Archive ("SAHA"). SAHA is an independent human rights archive dedicated to documenting, supporting and promoting greater awareness of past and contemporary struggles for justice in South Africa. The Centre for Applied Legal Studies ("CALS") is a civil society organisation and human rights law clinic based at the University of the Witwatersrand. CALS is committed to the protection of human rights through empowerment of individuals and communities and the pursuit of systemic change. CALS' vision is *a country where human rights are respected, protected and fulfilled by the State, corporations, individuals and other repositories of power; the dismantling of systemic harm; and a rigorous dedication to justice.*
2. We refer to the above matter which was previously brought to your attention by SAHA under your reference number 3/26/8/1 (n300620).
3. As you will recall, SAHA had made application in terms of the Promotion of Access to Information Act 2 of 2000 ("PAIA") to the Department of Justice and Constitutional Development ("Department") for the release of the Truth and Reconciliation Commission ("TRC") Victims Database on 30 March 2009. The initial request included



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the further request for Mr De Kock's amnesty application records and is attached hereto as Annexure "A".

4. The Department acknowledged receipt of the PAIA request on 31 March 2009, attached as Annexure "B". On 5 May 2009, the Department advised SAHA that the documents requested would not be provided because it contained personal information of individuals which could be defamatory or endanger their lives or physical safety. This letter is annexed as Annexure "C".
5. Following this decision by the Department, SAHA lodged an internal appeal on 29 June 2009, which documents are attached as Annexure "D".
6. In a letter dated 28 August 2009, your Honourable Minister determined that the decision of the Department ought to be overturned, and thereby granted access to the requested documents. Such communication is attached as Annexure "E".
7. On 22 September 2009, SAHA wrote to your office, advising that SAHA was in a position to introduce the Department to the person responsible for developing the TRC Victims Database, as a means of expediting the provision of the database. This letter is annexed as Annexure "F". The person proposed was Gerald O'Sullivan, the National Information Systems Manager for the South African TRC, at that time. The reason for this offer was to alleviate the difficulty that Ms Raswisi had communicated, namely that making use of masking functions on the Database (as a means of redacting personal information) would cause irreparable harm to the Database.
8. In a letter dated the 9 October 2009 (Annexed as Annexure "G" hereto), the Department advised that the records for Mr De Kock's amnesty application were available. SAHA subsequently collected these records, while the TRC Victims Database remained outstanding.
9. On or about 27 November 2009, SAHA collected the TRC Victims Database from the Department. It was provided on a CD, however, it was in an unusable form and the data contained thereon was substantively incomplete. The reason provided by the Department as to why the database was provided in this format was that the Department had experienced difficulty in accessing the Database and redacting personal information of individuals. The version provided was a spreadsheet with only one field present with no legend or explanation detailing what the field represented. There were also no dates provided, nor indications of the outcomes of the applications for amnesty.
10. On 10 February 2010, SAHA wrote to the Department requesting some manner of alleviating the problem and reaching a solution. Such letter is attached as Annexure "H".

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11. On 15 June 2010, SAHA again wrote to your office, requesting assistance with obtaining the Database and detailing the problems encountered by SAHA in negotiating a solution with the Department. This letter is attached for your information as Annexure "I".
12. Mr Patrick Ball of Benetch Technology Inc. ("Benetech") wrote to your office on 18 October 2010 offering assistance with providing the TRC Victims Database in a workable format and with redacting personal information from the Database for the use of SAHA, which letter is attached as Annexure "J".
13. SAHA communicated with your office again on 8 November 2010, and requested that the Database be provided in a usable form, and that the assistance of Mr Gerald O'Sullivan and Mr Patrick Ball be made use of if necessary. This communication is attached as Annexure "K", and also advises that should the Database not be received by 1 December 2010, SAHA will have no option but to lay a complaint with the South African Human Rights Commission ("SAHRC") and the Public Protector, as provided for in PAIA.
14. Mr Labuschagne of the Department responded by letter dated 2 December 2010 (Annexed as Annexure "L") stating that the position would be investigated. In light of this undertaking by the Department, SAHA had chosen at this stage to seek an amicable solution directly with the Department rather than following the formal complaints procedure with the SAHRC and the Public Protector.
15. However once this route came to naught, on 13 April 2011, SAHA laid complaints with the SAHRC and the Public Protector, and the Department was informed on even date. The letter to the Department and the two letters of complaint are annexed as "M", "N" and "O", respectively.
16. SAHA, in a continued effort to reach a solution rather than enter into litigation, has held meetings with representatives from the Department. In a meeting on 13 December 2011, the Department endeavored to provide the Database to SAHA by January 2012. On 9 March 2012, Tarmy O'Connor on behalf of SAHA sent an email to Advocate Ndou requesting an update on the Database which had not yet been provided. This email is attached as Annexure "P".
17. On 23 May 2012, the Department wrote to SAHA advising that there is no additional information that can be provided, and that the copy of the Database provided complies with the Minister's instruction to avail the Database to SAHA. The letter further advises that the Department no longer has the software to use the Database. This letter is annexed marked "Q".


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18. SAHA has investigated and made use of all internal procedures available to it in reaching an amicable solution with the Department. To date, SAHA has encountered very little cooperation and assistance from the Department, and in particular, from the office of the Information Officer.
19. The only remaining avenue available is for SAHA to institute proceedings in court and bring an application to compel the Department to provide the TRC Victims Database in a usable form. This is an avenue that SAHA is reluctant to take, as it does not wish to waste its own and the Department's resources in litigating this matter.
20. SAHA's position is that the PAIA request was granted in full and therefore must be provided in a workable format necessary for the purpose for which it was requested. Anything short of full compliance with the request is inadequate. Furthermore, Benetech and Gerald O' Sullivan have offered to assist the Department in getting access to and being able to work with their own copy of the database. Except for personal data included in the Database there is no reason that SAHA should not be granted access thereto, as determined by yourself. The TRC Victims Database represents an important part of South Africa's history, and it is saddening to witness the Department's lack of will to cooperate fully with SAHA and further to maintain a working record of the Database.
21. We therefore request a meeting with your office to discuss the above and determine the best solution to this problem at your earliest convenience.
22. We await a response from you in relation to the content of this letter and our request for a meeting on or before 19 April 2013.

Yours sincerely,

CENTRE FOR APPLIED LEGAL STUDIES

Per: 

KATHLEEN HARDY
JAMEELAH OMAR





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Honourable Minister Jeffrey Thamsanqa Radebe
Department of Justice and Constitutional Development

Per hand:
SALU Building, 28th Floor,
316 c/o Thabo Sehume and Francis Baard Streets
Pretoria

Per Email:
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Direct e-mail	christine.jesseman@dlacdh.com
Date	10 June 2013

Dear Honourable Minister Radebe,

PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND RECONCILIATION COMMISSION ("TRC") VICTIMS DATABASE

1. We act for the South African History Archive Trust ("SAHA" or "our client") in the above matter. The matter concerns the failure by the Department of Justice and Constitutional Development ("the Department") to release to SAHA the Truth and Reconciliation Commission ("TRC") Victim's Database as further set out below.
2. For ease of reference we attach hereto a letter dated 3 April 2013 to the Honourable Minister from the Centre for Applied Legal Studies ("CALS") with respect to this matter, marked "A". We confirm that our client and CALS have received no response to the said communication, nor has any apparent progress been made by the Department in giving full effect to the Minister's decision granting SAHA access to the documents requested in terms of the Promotion of Access to Information Act 2 of 2000 ("PAIA"). To this effect, the Minister's decision is attached as annexure "B" and the PAIA application of 30 March 2009 is attached as annexure "C".

CHAIRMAN CH Ewing CHIEF EXECUTIVE OFFICER B Williams CHIEF OPERATING OFFICER MF Whitaker CHIEF FINANCIAL OFFICER ES Burger

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¹British ²Dutch ³Cape Town Managing Partner

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Handwritten signature and initials

3. Should the Department fail to implement the Minister's decision within 14 (fourteen) days of the date hereof by providing SAHA with access to the TRC Victim's Database in a workable format which fulfils the purpose for which it was requested, we hold instructions to pursue this matter through appropriate legal means including approaching the relevant court for an order compelling the Department to do so.

Yours faithfully,



CLIFFE DEKKER HOFMEYR INC

Per CHRISTINE JESSEMAN

DIRECTOR: PRO BONO AND HUMAN RIGHTS





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Honourable Minister Jeffery Thamsanqa Radebe
Department of Justice and Constitutional Development

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SALU Building, 28th Floor,
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Per Email:
Ministry@justica.gov.za

Our Reference: Christine Jesseman
Account Number: 01949500
Your Reference:
Direct Line: (011) 562 1162
Direct Telefax: (011) 562 1514
Direct e-mail: Christine.Jesseman@dlacdh.com
Date: 28 June 2013

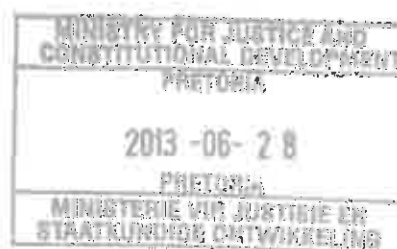
Dear Honourable Minister Radebe,

PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND RECONCILIATION COMMISSION ("TRC") VICTIMS DATABASE

- 1 We refer to the above matter along with our letter dated 10 June 2013, which was served on your offices via email and by hand. Kindly see the letter attached hereto as annexure "A" for your convenience.
- 2 We wish to confirm that we have to date not received a response to the abovementioned letter and that the *des* for the reply has now expired.
- 3 In light of the above we hold instructions to pursue this matter through appropriate legal means including approaching the relevant court for an order compelling the Department of Justice and Constitutional Development to do so.

Yours faithfully,

CHRISTINE JESSEMAN
DIRECTOR: PRO BONO AND HUMAN RIGHTS
CLIFFE DEKKER HOFMEYR INC



CHAIRMAN CH Ewing CHIEF EXECUTIVE OFFICER B Williams CHIEF OPERATING OFFICER MF Whitaker CHIEF FINANCIAL OFFICER ES Burger

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SENIOR ASSOCIATES: JA Aukema G Barkhuizen-Barbosa B Brown KM Carew E Chang J Da Conceição EF Dempster L Horsley S Immelman T Jordaan Y Kleitman JA Krige H Laing AG Lewis CJ Lewis BJ Majola G Masane N Mchunu HW Mennen SJ Meyer CP Muller DG Muller DJ Ndoo L Naidu CM O'Connor L Pillay KS Piets NA Preston JR Ripley-Evans BJ Scriba AE Seaber M Sibanda P Singh-Dhulani LV Stansfield T Suliman KS Thomas RL Thomson F Vaili-Getloo LD Wilson

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**MINISTER
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2050

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Dear Ms Omar

**PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND
RECONCILIATION COMMISSION ("TRC") VICTIMS DATABASE**

I refer to your letter dated 3 April 2013, as well as the documents containing a complaint lodged with my Department by the South African History Archive against the Department of Justice and Constitutional Development.

I have considered the contents of the complaint against the Department as well as your recommendations on how the Department and I should conduct ourselves in order to rectify what is allegedly wrong with the way in which we are handling requests in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

In view of the serious nature of the allegations levelled against the Department, I have decided that it would be necessary to reply thereto in a more detailed manner. In this respect, I have attached to this letter, a comprehensive reply to the allegations made by South African History Archives against the Department.

I find some of your recommendations, especially one that I should reconsider my decision in an internal appeal, very problematic. I take decisions to uphold the refusal of a request by the Information Officer/Deputy Information Officer of the Department or to overturn such decision after carefully considering the merits of each case. I have indeed, in the past overturned the Deputy Information Officer's refusal of requests on a number of occasions where I had arrived at a conclusion different to that of the Deputy Information Officer. I have also looked at the statistics of the requests in terms of the

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Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) dealt with by the Department over the years. The number of refusals is much smaller when compared with requests which were granted. I am of the view that I can only reconsider my decision in an internal appeal where it is patently erroneous, or if new facts which I did not consider have arisen.

I note your suggestion of the utilization of Mr Gerald O'Sullivan and Mr Patrick Ball in the assessment of sensitive records, I do not intend taking that approach. The current framework is more than adequate to deal with requests for access to information. I have therefore instructed the Department to provide the database in a usable form, and that the assistance of experts from SITA be made use of.

In conclusion, I wish to assure you that the Department of Justice and Constitutional Development will, wherever it is practicable abide by the letter and spirit of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). In this endeavour, it is possible that we will make decisions which are not favourable to every requester, hence the present tension.

With kind regards

J. Radebe
Mr J T Radebe, MP
Minister of Justice and Constitutional Development
Date: 2016/7/13
Annexure

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ANNEXURE

THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT'S REPLY TO COMPLAINT LODGED WITH THE CENTRE FOR APPLIED LEGAL STUDIES BY SOUTH AFRICAN HISTORY ARCHIVES

The Department of Justice and Constitutional Development has considered the complaint lodged with the Centre for Applied Legal Studies against it and responds hereunder thereto:-

The Department understands that the complaint against it is mainly directed at the manner in which its Deputy Information Officer has acted in the discharge of her functions in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

In responding to the complaint, the Department considers it appropriate to deal with the allegations levelled against this official in her respective answers thereto.

1. Amnesty application of Eugene de Kock

The Deputy Information Officer refused the request for the records relating to Eugene de Kock's Truth and Reconciliation Commission's Amnesty application after due consideration and the reasons therefore were provided to South African History Archives. On internal appeal, the Minister overturned the refusal and provided South African History Archives with the requested documents.

2. The TRC Victims Database

The Deputy Information Officer refused the request for the records relating to the TRC Victims Database after due consideration and the reasons therefore were provided to South African History Archives. On internal appeal, the Minister overturned the refusal and instructed the Department to sever from the records to be made available to South African History Archives, victim's personal details. It is submitted that the Department has, wherever possible, used the severance provisions of the Act to grant requested documents.

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"CMK 20"

Date of Atrocity	Place	Specific Location	Action Type	Action
01/05/1983	ALEXANDRA	HIS HOME	ABDUCTION	ABDUCTION
11/03/1992	ALEXANDRA	SELBOURNE, 11TH AVENUE.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
07/04/1990	ALFRED	IN HIS HOUSE, UMTHAVUNA WARD, AT GOQOZA.	ABDUCTION	ABDUCTION
30/07/1988	ALIWALNORT	GOEDEMOED MEDIUM B PRISON	ABDUCTION	ABDUCTION

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Tricia Erasmus

From: Gerald O'Sullivan <osullivan.gerald@gmail.com>
Sent: 21 May 2015 03:00 PM
To: Tricia Erasmus; Richard Chemaly
Subject: Re: URGENT: 54 Entities [CDH-CDH.FID3225497]

Dear Richard and Tricia

Based on the database analysis that Patrick and I did for the statistical parts of the TRC Final Report, I can confirm that the 54 tables of the TRC database should be:

ACTIONS
ACTION_TYPES
ACTS
ALIASES
APPLICATIONS
APPLICATION_STATUSES
ASSESSMENTS
CONSEQUENCES
CONSEQUENCE_TYPES
COUNTRIES
DATES
DEF_EVENTS
DEPENDANTS
GRP_PERSONS
GRP_SOURCES
HEARING_MANNER
ID_TYPES
INTERVENTIONS
LANGS
LETTERS
LOCATION_TYPES
NATURES
NEED
OLD_PROVINCES
ORGANISATIONS
ORG_TYPES
OTHER_INFOS
OUTCOME_TYPES
PARTICIPANTS
PARTICIPANT_ROLES
PERPETRATORS
PERSONS
PLACES
PROTOCOL_TYPES
PROVINCES
RELATIONS
RR_CLUSTERS
RR_INTERVENTIONS
RR_OTHER_INFOS
R_AND_RS
R_AND_R_CODES
SOURCES
SOURCE_STATUSES
STD_LETTERS
SUMMARY_STATUSES
TRC_AREAS

TRC_CATEGORIES
TRC_OFFICES
TRUTH_CODE_CONTROLS
TRUTH_REF_CODES
USERS
USER_GRP
VICTIM_TYPES
WITNESSES

Kind regards,

Gerald

de D.L



"CMK22"

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Attention: Ms M Raewiswi

Department of Justice and
Constitutional Development

BY EMAIL: MRaewiswi@justice.gov.za

No. of pages: 2 page + 15 page annexure

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Your Reference 7/8/9 Centre for Applied Legal Studies
Direct Line (011) 562 1162
Direct Telefax (011) 562 1514
Direct e-mail Christine.Jesseman@dlacdh.com
Date 08 October 2013

Dear Madam

PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND RECONCILIATION COMMISSION ("TRC") VICTIMS' DATABASE

- 1 We refer to the above matter along with your correspondence dated 25 and 26 July 2013, which we attach hereto as Annexure "CMK1" for your convenience.
- 2 We wish to confirm that in the above correspondence you stated that the TRC Victims' Database ("the database") was on a CD, in a usable format and ready for collection. The South African History Archive Trust ("our client") then proceeded to make the requested payment and collected the CD from the Centre for Applied Legal Studies on 15 August 2013.
- 3 However, upon inspection of the above CD by our client, it was discovered that the database only included 5 (five) entities or fields. These entities or fields include: the date of atrocity; place; specific location; action type; and action.
- 4 Our client informs us that in order for the database to comply with its initial PAIA request, in which it seeks access to the said database in a useable format, that the database should in fact contain approximately 50 (fifty) entities or fields.
- 5 Our client informs us that they have notified the Department of Justice and Constitutional Development ("the Department"), regarding the above specifications in correspondence addressed to the Honourable Minister Radebe ("the Minister") on 15 June 2010, which we attach hereto as Annexure "CMK2". Kindly note that Annexure CMK2 makes reference to Appendix "B" which is an extract from Gerald Sullivan's publication, *Making the Case: Investigating Large Scale Human Rights Violations Using Information Systems and Data*

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CONSULTANTS: A Aberombie HS Coetzee HC Dagut JMA Evanhuys JJ Gomes MB Jackson RSK Jarvis EJ Kingdon FF Kolbe CJ Scholtz CJ Wiggott

SENIOR ASSOCIATES: JA Aukema G Barkhuizen-Barbosa B Brown KM Carew E Cheng J Da Conceição EF Dempster L Horaley S Immelman T Jordaan Y Kleitman JA Krige H Laing AG Lewis CJ Lewis BJ Majola G Masina N Mchunu HW Menran SI Meyer CP Muller DG Muller DJ Naidoo L Naidu CM O'Connor L Pillay KS Piets NA Preston JR Ripley-Evans BJ Scriba AE Seaber M Sibanda P Singh-Dhulem LV Stansfield T Suliman RL Thomson F Valli-Gattoo LD Wilson

CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS: ES Burger Z Omar NJ van der Walt R van Eeden MF Whitaker B Williams

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Analysis, and that this extract clearly describes the content of a complete and useable database.

- 6 This request has been directed to you previously and you are aware of the long history of this request. Furthermore, our client has previously provided the Minister with information establishing what constitutes a full record of the information requested, in other words, what fields or entities are required to constitute a complete and useable database.
- 7 In light of the above we therefore request that the Department provides our client with the database in a usable format including all the required entities or fields within one calendar month, namely on or before 8 November 2013. Failing the Department providing the aforementioned and providing it in its entirety prior to the said date, we hold instructions to pursue this matter through appropriate legal means including approaching the relevant court for an order compelling the Department to do so.
- 8 We await your urgent response confirming receipt hereof and the Department's intention to comply with our client's request.

Yours faithfully,



CHRISTINE JESSEMAN
DIRECTOR: PRO BONO AND HUMAN RIGHTS
CLIFFE DEKKER HOFMEYR INC.

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Attention: Ms M Raswisi

Department of Justice and
Constitutional Development

BY EMAIL: MRaswisi@justice.gov.za

No. of pages: 1 page + 17 page Annexure

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Your Reference: 7/6/9 Centre for Applied Legal Studies
Direct Line: (011) 562 1162
Direct Telex: (011) 562 1514
Direct e-mail: Christine.Jesseman@dlacdh.com
Date: 22 November 2013

Dear Madam

**PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND
RECONCILIATION COMMISSION ("TRC") VICTIMS' DATABASE**

- 1 We refer to the above matter along with our correspondence dated 8 October 2013, which we attach hereto as Annexure "A" for your convenience.
- 2 We wish to confirm that in terms of the above correspondence we requested that the Department of Justice and Constitutional Development ("the Department") provide the South African History Archive Trust ("SAHA") with the requested TRC victim's database by 8 November 2013, in a usable and complete format containing all 50 of the required entities or fields. We further proceeded to attach the extract from Gerald Sullivan's publication, *Making the Case: Investigating Large Scale Human Rights Violations Using information Systems and Data Analysis* to the above correspondence which clearly illustrated the correct format of the database in order to ensure that the Department complies with SAHA's request.
- 3 However, the Department has to date failed not only to respond to the above correspondence but to provide SAHA with the requested database according to its specifications.
- 4 In light of the above we wish to inform you that we now hold instructions to pursue this matter through appropriate legal means including approaching the relevant court for an order compelling the Department to do so.

Yours faithfully,

P.D.

CHRISTINE JESSEMAN
DIRECTOR: PRO BONO AND HUMAN RIGHTS
CLIFFE DEKKER HOFMEYR INC

CHAIRMAN CH Ewing **CHIEF EXECUTIVE OFFICER** B Williams **CHIEF OPERATING OFFICER** MF Whitaker **CHIEF FINANCIAL OFFICER** ES Burger

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Attention: **Ms M Raswisi**

Department of Justice and
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BY EMAIL: MRaswisi@justice.gov.za

No. of pages: 3 + 18 page Annexure

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Date 7 April 2014

Dear Madam

**PROMOTION OF ACCESS TO INFORMATION ("PAIA") REQUEST FOR THE TRUTH AND
RECONCILIATION COMMISSION ("TRC") VICTIMS' DATABASE**

- 1 We refer to the above matter along with our correspondence dated 8 October 2013 and 22 November 2013, which we attach hereto marked as Annexures "A" and "B" for your convenience.
- 2 We wish to confirm that in the above correspondence we requested that the Department of Justice and Constitutional Development ("the Department") provide the South African History Archive Trust ("SAHA") with a copy of the requested TRC victims' database by 8 November 2013, in a format that is usable and complete containing all 50 of the required entities or fields. We further proceeded to attach the extract from Mr Gerald O'Sullivan's publication, *Making the Case: Investigating Large Scale Human Rights Violations Using information Systems and Data Analysis* ("*Making the Case*") which clearly illustrated the correct format of the database in order to ensure that the Department was able to comply with our request.
- 3 To date, the Department has not only failed to respond to any of the abovementioned correspondence but has also failed to provide SAHA with the requested database according to its specifications.
- 4 We have therefore consulted with Mr Gerald O'Sullivan, author of *Making the Case*, in order to obtain his expert opinion, which further details the process that the Department should follow in order to extract the requested data from the requested TRC victims' database. Mr O'Sullivan was the National Information Systems Manager of the TRC from March 1996 to October 1998 and was responsible for building the TRC victims' database, based on a model developed by Dr Patrick Ball, formerly from the American Association for the Advancement of Science, Washington. We have taken this step as a courtesy in the hope that Mr O'Sullivan's direction

CHAIRMAN CH Ewing CHIEF EXECUTIVE OFFICER B Williams CHIEF OPERATING OFFICER MF Whitaker CHIEF FINANCIAL OFFICER ES Burger

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EXECUTIVE CONSULTANTS: HS Coetzee, MB Jackson

CONSULTANTS: HC Dagut EJ Kingdon FF Kolbe CJ Wiggett

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Handwritten signature: J. D. L.

clarifies any uncertainties that would have otherwise prevented the Department from duly providing SAHA with the requested database.

- 5 Mr O'Sullivan has advised us with regards to both the database design and the data extraction procedure. His opinion is as follows:

5.1 Database design:

- 5.1.1 The TRC victims' database is not just a list of names, dates and places that can be extracted into a spreadsheet.
- 5.1.2 The database is a sophisticated attempt to record human rights violations in a way that avoids undercounting acts of violence. The database was designed so that one statement could record multiple victims and record that each victim could be the victim of multiple violations of human rights. The database made provision for the fact that a victim could also be a perpetrator and vice versa. The design was informed by work that Dr Ball had done for other commissions in other parts of the world.
- 5.1.3 The essence of this highly disaggregated design of the database is that it allows researchers to carry out accurate statistical analysis, looking for trends and patterns in the violence.
- 5.1.4 In order to record the data in the required disaggregated fashion, the database was designed to store the data in a number of sub-tables. Therefore in order to properly perform the statistical work envisaged at the time the database was designed, researchers must get access to a copy of the raw data in every one of the sub-tables.
- 5.1.5 The extraction and copying of such a database is standard practice and any competent dataset administrator will know how to extract the data and make a copy.

5.2 Data extraction

- 5.2.1 The most important tables that must be copied and provided to SAHA in their entirety in order for the database to be regarded as being provided in a useable format are as follows:
- 5.2.1.1 PERSONS
- 5.2.1.2 ACTS
- 5.2.1.3 SOURCES
- 5.2.1.4 PLACES
- 5.2.1.5 VICTIM_TYPES
- 5.2.1.6 APPLICATIONS
- 5.2.1.7 ACTION_TYPES
- 5.2.1.8 TRC_CATEGORIES
- 5.2.2 There are a number of other sub-tables that are needed for technical purposes, but at the bare minimum it is not possible to carry out statistical analysis without making a copy of the raw data from the tables listed above.

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- 5.2.3 Mr O'Sullivan has confirmed that he would be happy to assist the Department's database administrator with the extractions if given the opportunity to do so. Furthermore, our offices will gladly furnish the Department with his contact information should it wish to approach him for the necessary assistance.
- 6 We therefore request that you provide SAHA with the requested TRC victims' database in accordance with Mr O'Sullivan's directions; or you make contact with us in order to secure the assistance of Mr O'Sullivan, within 14 (fourteen) calendar days, namely on or before 22 April 2014. Failing this, we hold instructions to approach a relevant court for an order compelling the Department to do so.

Yours faithfully,



TRICIA ERASMUS
SENIOR ASSOCIATE: PRO BONO AND HUMAN RIGHTS
CLIFFE DEKKER HOFMEYR INC

h B.L

"CMK25"

**AFFIDAVIT IN TERMS OF SECTION 23 OF THE PROMOTION OF ACCESS
TO INFORMATION ACT, 2000 (ACT 2, OF 2000)**

I, the undersigned

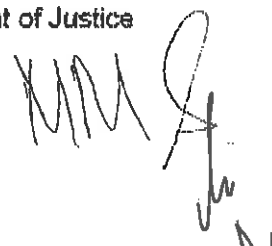
MUSHAATHAMA MARLYN RASWISWI

do hereby make oath and say that:-

1. I am an adult female in the employ of the Department of Justice and Constitutional Development as Senior Legal Admin Officer: Promotion of Access to Information Unit operating business from Momentum Centre, 329 Pretorius Street, Pretoria, 0001, in my capacity as the Deputy Information Officer in terms of the Promotion of Access to Information Act 2, of 2000.
2. The facts contained herein are, unless the context indicates otherwise, within my personal knowledge and belief and are true and correct.
3. Kate Allan, has requested access to the following record in terms of section 18 (1) of the Promotion of Access to Information Act 2, of 2000 viz: -
 - 3.1 *All records relating to confidentially agreements, including such agreements, entered into between the Truth and Reconciliation Commission (TRC) and/ or the Department of Justice and individuals who made submissions or testified at hearings of the TRC.*
4. In terms of the provisions of section 23 reasonable steps have been taken to find the requested records. Despite such reasonable steps, there are reasonable grounds to believe that the record does not exist. It is, therefore, not possible to grant access to the record requested.
5. The following steps have been taken to find the requested records: -

I have instructed search from Dr Graham Dominy Chief Director: National Archives of South Africa for records specified as:

- 5.1 All records relating to confidentially agreements, including such agreements, entered into between the Truth and Reconciliation Commission (TRC) and/ or the Department of Justice and individuals who made submissions or testified at hearings of the TRC.



6. A letter from Dr Graham Dominy Chief Director, National Archives of South Africa dealing with the matter is attached hereto.



DEPONENT: DEPUTY INFORMATION
OFFICER

I certify that the Deponent has acknowledged that he/she knows and understand
the contents of this Affidavit, signed and sworn to before me at Pretoria

this 12 day of December 2006, and that the provisions

of the Regulations contained in Government Gazette R2477 of 16 November 1984, have
been complied with.

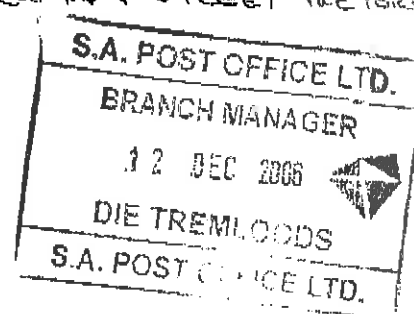


COMMISSIONER OF OATHS

Full names: Jacobus de Clerk

Address: 300 Smoeman Street Pretoria

Republic of South Africa





arts and culture

Department
Arts and Culture
REPUBLIC OF SOUTH AFRICA

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NATIONAL ARCHIVES OF SOUTH AFRICA
NASIONALE ARGIEF VAN SUID-AFRIKA
DIAKHAEFE TSA BOSETSHABA TSA AFRIKA BORWA
INQOLOBANE YOKUGCINA AMAGUGU KAZWELONKE ENINGIZIMU AFRIKA

Private Bag/Privaatsak X236, PRETORIA 0001
Fax/Faks: (012) 323 5287

The Deputy Information Officer
Department of Justice and Constitutional Development
Private Bag x81
PRETORIA
0001

29 November 2006

FAX 012 357 8004

FOR ATTENTION: MS M RASWISWI

RESEARCH REQUEST ON BEHALF OF SAHA

1. I refer to your research request dated 21 November 2006 dealing with information on all records relating to confidentiality agreements between the TRC and / or the Department of Justice and individuals who made submissions or testified at the hearings of the TRC.
2. My staff have gone through various groups within the TRC records including the minutes of meetings held by the commissioners, but could not trace any record referred to in paragraph one.
3. They have also contacted various ex-TRC officials including the chairperson of the Amnesty Committee and a previous legal adviser and were informed that no specific agreements or contracts were signed when individuals made statements or were asked to appear at a Section 29 hearing. In the appropriate instances the individual would be informed about section 29 of the Promotion of National Unity and Reconciliation Act (34 of 1995) that gives the Commission the right to decide if any information shall be made public or not.

REFERENCE: 12/1/1/3
VVER ADDRESS:

ENQUIRIES: G. Wagener
E-MAIL: GERRIT.WAGENER@dec.gov.za

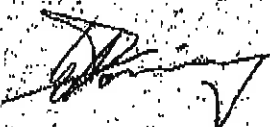
TELEPHONE: +27(0)12-323-5300

Department of Arts and Culture • Departement van Kuns en Kultuur • uMnyango waseBudiko nomaSiko
Isakho lezoBuciko noNkubeko • Lefapha la Senzo leBeko • Igqirha ya Bokaba leBeko • Lefapha la Botswalehi leBeko
Lifika leToboko nomaSiko • Kizawulo ya Vutshila nomaSiko • Umphahla wa-Vutshila na Mvela • umnyango wasebukhwal nomaSiko

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MM

4. Attached please find photocopies of a discussion document prepared for the Human Rights Violations Committee meeting, dated 24 May 1996 and also photocopies of the relevant pages of the minutes of the Commission meetings dated 1 July 1998 and 6 August 1998.

Regards



DR GRAHAM DOMINY
NATIONAL ARCHIVIST



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of Arts and Culture
REPUBLIC OF SOUTH AFRICA

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"CMK27"

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag X 81, Pretoria, 0001 – Momentum Centre, 329 Pretorius Street, Pretoria, 0001
Tel: (012) 315 1730, Fax: (012) 357 8004
Please quote our full reference number in all correspondence

Our reference: 7/6/9 Centre for the Applied Legal Studies
Enquiries: Ms M Raswisi
E-mail: MRaswisi@justice.gov.za

Date: 26 July 2013

Mr Fola Adeleke
South African Human Rights Commission
Private Bag X 2700
HOUGHTON
2041

Dear Mr Adeleke

**RE: PROMOTION OF ACCESS TO INFORMATION ACT 2000 (ACT NO 2 OF 2000)
(PAIA) REQUEST FOR THE TRUTH AND RECONCILIATION COMMISSION (TRC)
VICTIMS DATABASE**

With further reference to our previous correspondence in this regard I wish to inform you that the South African History Archives (SAHA)'s matter has been disposed off.

A letter to this effect has been sent to Ms Jameelah Omar on 25 July 2013 a copy of which is enclosed herewith for your records.

Regards

**M M RASWISI (Ms)
DEPUTY INFORMATION OFFICER**

26/07/13

Handwritten initials: Jb A.L



the doj & cd

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Private Bag X 81, Pretoria, 0001 – Momentum Centre, 329 Pretorius Street, Pretoria, 0001

Tel: (012) 315 1730, Fax: (012) 357 8004

Please quote our full reference number in all correspondence

Our reference: 7/6/9 Centre for the Applied Legal Studies
Enquiries: Ms M Raswisi
E-mail: MRaswisi@justice.gov.za

Date: 25 July 2013

Ms Jameelah Omar
Centre for the Applied Legal Studies
Private Bag X 3
WITS
2050

Dear Ms Omar

**RE: PROMOTION OF ACCESS TO INFORMATION ACT 2000 (ACT NO. 2 OF 2000)
(PAIA) REQUEST FOR THE TRUTH AND RECONCILIATION COMMISSION (TRC)
VICTIMS DATABASE**

I refer to the matter and your letter dated 03 April 2013 (under reference 7/6/9 Centre for the Applied Legal Studies), addressed to the Minister of Justice and Constitutional Development, Mr Radebe.

Kindly be informed that your request for TRC victim's database which was granted pursuant to your appeal to the Minister is ready for collection. The TRC victim's database is on a CD and it is in a usable form.

I wish to bring to your attention that, in terms of section 22(7) (a) of the Act, a production fee is payable by yourself. The production fee in respect thereof is R70, 00.

The production fee is payable at any Magistrate's Court/ or Regional Office or by cash deposit into the bank account of the Department. The banking details for the Department are as follows:

Standard Bank
Account Number: 010147136
Branch Code: 010045
Type of Account: Department of Justice and Constitutional Development
Vote Account Deposits

Reference: 7/6/9 Centre for the Applied Legal Studies

Regards

MM Raswisi (Ms)

Deputy Information Officer

CC: Kathleen Hardy CALS

Mr F Adeleke : South African Human Rights Commission

25/07/13