



## Script

### **Oury Jalloh**

The Contradictory Facts of his Death

Feature by Margot Overath

Narrator: Bärbel Röhl

Reader: Joachim Schönfeld

Announcer: Conny Wolter

## **Music**

### **1. Michael Tsokos:**

We can see here what is clearly a cell, with tiles on the floor as well as the walls, and we can see that the zenith of the thermal effects, so the effects of fire in the form of extensive carbon and soot marks, is clearly located by a bed, which is a type of concrete block, and there we can see the heavily charred remains of a person.

#### **Title:**

Oury Jalloh

The Contradictory Facts of his Death

Feature by Margot Overath

#### **Narrator:**

On Friday the seventh of January 2005, shortly after twelve noon, Oury Jalloh burnt in cell number five in the basement of Dessau Police Station, bound hand and foot, on a very non-flammable safety mattress. It is still not known how the fire started, after two lawsuits and 125 days of hearings. 59 of those were in the state court in Dessau, and 66 in the state court in Magdeburg.

It was a mild winter's morning on the 7<sup>th</sup> of January 2005. Oury Jalloh was drunk, but conscious, as the doctor who took a blood sample from him would later say. Jalloh had spent the night in a disco, on the street he asked some women of the city sanitation department if he could borrow their mobile. The women called the police. He said to them: "Wait, the taxi will be here soon". He had walked further along when the patrol car arrived. Both police officers followed him and wanted to arrest him. They thought that he had sexually assaulted the women, but didn't tell him their suspicions. He didn't want to go with them, they grabbed him, and he struggled with them. They put him in a headlock, brought him to the ground, put him in cuffs and thrust him into the car. At the station they emptied his pockets. They carried him to the cell, lay him down and bound his hands and feet. Four and half hours later, he was dead.

A sequence of events that makes us ashamed and bewildered, say representatives of the attorney general and the leader of the federal court almost ten years later.

## **2. Tsokos/Author:**

Tsokos: What would you like to know?

Author: I'm mostly interested in how long the corpse burnt. So, he was living, [rustling of papers]...

### **Narrator:**

He is supposed to have made the fire in the cell himself, with a lighter that wasn't noticed during the search.

I show Professor Doctor Micheal Tsokos, director of the institute for forensic medicine at Berlin's Charité, a picture of the burnt corpse on my laptop and the autopsy report. He wasn't called as an expert witness in the court case. His Book "Investigating Death" brought me here.

### **Tsokos/Author continue:**

Tsokos: Hmm, but why is carbon monoxide zero?

Author (quietly): Exactly. Why? What do you think that means? ... I found out from you that carbon monoxide is normally present in burnt corpses. Well, obviously, otherwise he wouldn't have lived...

### **Narrator:**

What happened on the street on the morning of the seventh of January 2005 is indisputable now, the women of the city sanitation department have described the course of events. But what happened after that? How did the fire break out? Why was Oury Jalloh burnt beyond recognition in several minutes? Was he unconscious as the fire broke out?

## **3. Michael Tsokos:**

That there is no carbon monoxide confuses me, that has nothing to do with being unconscious. I find very contradictory findings in the autopsy report. On the one hand vital signs, that means that he was alive, which means that soot would have been breathed in, there is soot in the windpipe, soot was swallowed in the throat and stomach, which obviously means that he was alive, as he came into contact with the smoke. But this carbon dioxide concentration of 0% is for me inexplicable. That doesn't fit at all with the whole context of the case and says, in my opinion, that he was already dead when the fire started.

#### **4. Entrance to the state court in Magdeburg.**

Voices: "Up the stairs, ok, careful" ... Noises, Man: "Who is that?" Woman: "That is Ms Margot Overath, shall we take a look?" (Noises) "We have to take a look in your bag" (Noises and voices) "If you have anything else in your pockets, keys, a phone, just put them down here. You have to turn off your phone upstairs, and then just go through the gate here." (Steps, voices, beeping noises, a door closes, ambience change)

#### **Over the ambience the following, Narrator:**

Since 2009 I have been following the case. I looked around the police station, was in cell 5, talked to the police officers and lawyers, with friends and acquaintances of the victim, read hundreds of pages of expert reports and witness statements and sat in the press gallery in court, as the proceedings against the supervising officer Chief Inspector Andreas S. for failure to render assistance took place. The entire time, the public prosecutor's office of Dessau maintained that Oury Jalloh set himself on fire.

The proceedings in Magdeburg finished on the 18<sup>th</sup> of December 2012. Because Andreas S. hadn't stopped the self-immolation, Magdeburg's criminal court gave him a fine of 10,800 euros with a judgement of manslaughter by negligence.

#### **5. Ambience Magdeburg: Protests after the judgement**

How many of us must die, Mouctar, how many of us must die, how many of us must die.../C'est bon, we can do it.../That is a disgrace for Germany.../ We can do it, we can do it.../ How many of us.../ We're taking to the streets, let's go.

#### **Narrator:**

Defence, public and private prosecution went on the 28<sup>th</sup> of August 2014 to the the fourth criminal panel of the federal court in Karlsruhe, who considered whether to hear the appeal. Central to the hearing was the question of whether Oury Jalloh was rightfully taken into custody, or whether he was falsely imprisoned by the supervising officer Andreas S. Where the lighter came from, how the fire broke out and why it grew so much in such a short time was never discussed. It was just about the requirement for an order of lawful detention.

Helmut Mojen, head of the commissioner's office for capital crimes at the criminal investigation department of Bremen.

## **6. Helmut Mojen:**

If this is a measure that takes away freedom, which it is in this case, then the court has to operate immediately, and the judge has to decide in the end about how to proceed with this measure. The police don't decide. In this respect this has to be carried out immediately.

### **Narrator:**

So: not a police officer, but only a judge is allowed to make a decision about the denial of freedom. But Andreas S., who worked until the reunification for the police in the GDR, claimed not to know about the requirement for a judge to make this decision.

On the fourth of September 2014 the federal court rejected the application for an appeal. Oury Jalloh is claimed to have been aggressive, and therefore his detention was rightful. The criminal panel ventured that a judge would have seen it that way too, “with a probability bordering on certainty”. The judgement from the court in Magdeburg remained therefore valid.

## **7. Ambience, Federal Court: Calls for the announcement of a judgement**

### **Narrator:**

Mouctar Bah, a friend of Oury Jalloh.

## **8. Mouctar Bah:**

This aggression, that isn't Oury. Oury is a friendly man. Oury is someone who laughed about almost everything. He was always in a good mood. And he played a lot with kids, he played with my kids too. Even my daughter, we talk about it still. He was a friend to everyone because he was such an open person.

**Narrator:**

Lawyer Attila Teuchtler. He defended the supervising officer Andreas S.

After the judgement from the Federal Court, Teuchtler seemed relieved.

**9. Lawyer Teuchtler:**

Some wanted more, they wanted a judgement of death through false imprisonment, that was the intended result, very severe, and we wanted an acquittal. Now it will remain manslaughter by negligence, and that is a lesser evil.

**Narrator:**

Under the headline „A ludicrous explanation“ Wolfgang Janisch of the Süddeutschen Zeitung commented:

**Reader:**

You don't have to be an adherent to the thesis brought by activists that this was murder to think that the judgement of the federal court in the case of Oury Jalloh was wrong. The police officer who was prosecuted disregarded the guidelines for protecting Jalloh, he is responsible for the fact that the man from Sierra Leone remained illegally imprisoned in the cell. Despite this, the officer will have no harsher a punishment than a driver who, due to a second of not paying attention, hits a pedestrian.

**Narrator:**

A man had already died in cell 5 in October 2002. When he was found, rigor mortis had already fully set in. The police officer Andreas S. was at the time, as the supervising officer, responsible for his safety. The disciplinary hearing was still in progress as Oury Jalloh burnt in the same cell. The

spokesperson of the federal court:

### **10. Federal Court Spokesperson:**

The federal court comprehensively validated the judgement of the state court. It confirmed that the judgement concerning manslaughter by negligence was correct and that a further judgement concerning other offences was not possible for legal reasons. The federal court particularly confirmed the consideration of evidence of the state court, which came to the conclusion that Oury Jalloh started the fire himself with the help of a lighter.

### **Narrator:**

That was the legal truth because the federal judge couldn't find any legal errors in the judgement from Magdeburg. It became legally binding, even though it is still unclear what really happened. That includes the origins of the fire and the furious pace of the fire's development in which Oury Jalloh died in less than two minutes.

Just five months before the federal court gave its verdict, the public prosecutor's office gave the following press release:

### **Reader:**

Public Prosecutor's Office, Dessau-Roßlau, 03.04.2014.

Re: Death by burning of Oury Jalloh on 07.01.2005 in a cell at the Police Station Dessau:

Public Prosecutor's Office sees need for further explanation.

Over the course of the Magdeburg proceedings, the discussion of many details lead to new questions concerning the outbreak of the fire. These were not pursued in the proceedings against Andreas S. because they are not part of the context of the actions that were being considered.

### **Narrator:**

Andreas S., the police officer who was responsible for Oury Jalloh's security. For nine years it was just about him. Had he made sure that the prisoner was safe in his cell? Had he ignored the fire alarm? Was he quick enough or did he go downstairs too late? And so on.

But the question- Why did a fire occur? - was asked seriously for the first time ten years later. Why?

### **11. Gabriele Heinecke:**

There is a conspiracy, I'm convinced. After considering this case since 2010, and at the beginning I found it difficult to believe that someone could go up to someone bound on all fours and set them on fire, I've been convinced otherwise (*cuts off*)...

### **Narrator:**

Lawyer Gabriele Heinecke represented Oury Jalloh's brother Mamadou Saliou in court as joint plaintiff.

### **12. Gabriele Heinecke:**

Knowing what we know, there has to have been one person or many- I don't know- who were responsible for this act.

### **Music**

### **Narrator:**

Flashback.

Friday the seventh of January 2005. Since 8:30 Oury Jalloh has been lying in cell 5. At 8:47 his identity is determined. At 12 midday, the fire alarm begins to sound. Several minutes later, Andreas S. opens the cell, his colleague M. opens the door. He sees the whole mattress and the man ablaze, blue below and red above. A terrible picture, one that can't even compare to a road accident with fatalities, he would say later. Oury Jalloh is cuffed to a concrete bed, M. cannot pull him out. He doesn't have the key to the cuffs. These are carried by Andreas S., who carried them, as he testified, "always on my person". He however turned around and ran back. To call for help? To call his boss? M. slammed the door shut.

Opposite Cell 5 in the utility room a fire hose hangs on its holder. It is usable, the door is usually open. But no officer attempts to save Oury. M doesn't, and neither do the others standing in the yard. At least one of them had been a professional firefighter at the Dessau chemical works. That wasn't just any fire department. At the chemical works certain highly flammable materials were produced, including pyrotechnics. A stream of water into the cell would have been enough. He must have known.

But they wait for the fire service. Once the fire is out at 12:20, the officer in charge, K., creeps into the cell. Thick black smoke rises to the cell ceiling. He discovers the dead man by accident, hitting his knee against his shoulder. He isn't prepared to find someone tied up at the scene of the fire. He'd been told that "one person is missing".

K sees the mattress, it is already burnt to ashes. From the lower abdomen of the corpse flames 50cm high blaze upwards.

### **13. Michael Tsokos:**

Normally carbon monoxide as a vital sign is naturally raised by the effects of fire. That here the amount of carbon monoxide in the blood is zero is difficult to imagine, difficult to explain. I would in any case take a second measurement of the sample.

#### **Narrator:**

A second measurement on the 31<sup>st</sup> of March 2005 gave the same results. The corpse was almost 2 months old, frozen and defrosted to be examined. The tissue had altered somewhat already, and for this reason the values were slightly different. But not decidedly different.

### **14. Michael Tsokos:**

And if it is 0% again, then there are just two possibilities: either, he was already dead, as he burnt, or he died so quickly that he didn't even have time to breathe anything in. That is of course without a fire accelerant more unusual, that it would happen so quickly.

#### **Narrator:**

From the judgement from Mageburg, on page 164:

“Additionally the chamber has arrived at the belief that the fire on the 7<sup>th</sup> of January 2005 in cell 5 took place in the context of the use of a fire accelerant.”

**15. Michael Tsokos:**

It is obvious to me that something about that isn't right. But the question is just, “why isn't something right here?”. You don't know that. You don't have to assume that something was hushed up, per se, but something just doesn't add up.

**Narrator:**

I get a second opinion. For this, I travel to Switzerland. Dr Peter Iten from Zurich was the head of the forensics department at the Zurich Canton Police. After this he made a name for himself at the University of Zurich, where he lead the Department for Forensic Chemistry/Toxicology at the institute for Forensic Medicine until his retirement.

**16. Peter Iten:**

This death says to me that the low or very low carbon monoxide content can only be produced by a very specific process. That is a very quick death. And that is usually only possible when a fire breaks out almost like an explosion. For example, when someone is covered with fire accelerant and set alight, when someone in a fireball is not able to breathe in the gases from the fire because breathing also stops reflexively due to cramps, and death comes very quickly. So a situation that explains that practically no carbon monoxide can come into the body, so it can't be found in the body. Virtually no traces of fire accelerant could come into the lungs and be detected. It is possible in this phase to breathe in particles of soot and small particles of such materials, but with a quick death the entire evidential and toxicological picture can be explained uniformly and informally.

**Narrator:**

I want to know what questions he would ask.

**17. Peter Iten:**

I would ask how a prisoner, who had previously been searched, could have brought fire accelerant into the cell. How he could have opened the bottle. How he could have poured it on himself. And all of that in handcuffs.

**Narrator:**

Oury Jalloh couldn't smuggle a container into the cell. He was only wearing a t-shirt and trousers, his pockets had been turned inside out. Jalloh also didn't have a lighter with him, that was determined at the first trial in Dessau. The responsible officer was in 2008 acquitted of the charge of not noticing it. Additionally, Jalloh's hands and feet were bound, the right hand was tied to the wall.

**18. Peter Iten:**

So, with hands tied to the wall it is impossible. Except if perhaps a reconstruction shows that it was possible in that cell. Or that it was possible with this type of binding/restriction. If that wasn't possible, then you have to look at the examples of other arsonists. Criminology works by moving from the effects to the causes.

**Narrator:**

The leader of the operation on the day of the catastrophe, the seventh of January 2005, was the leader of the station Gerald K. He informed Brigitte S, then the chief of police in Dessau, in the police headquarters 2.5km away. We can reconstruct from witness testimony that he reported a "black african" had set himself alight in a cell. During the writing of her report for the interior minister, the top-tier management leaders sat on the same storey to advise her. The department leader, the division leader, the directors. The meeting began shortly before 13:00.

From this point on followed failure after failure.

No public prosecutor came to the scene of the crime. Even though that should have been his duty. According to the regulations for criminal proceedings, the public prosecutor has to explain the facts for himself, from the beginning. He has to be present at the scene of the crime, he has to see the scene of the crime, in order to create his own picture of the events.

The task force of the state office of criminal investigation should have explained the cause of the fire, but they left out the most important man: the fire expert. Even the device for detecting traces of gases, which can detect fire accelerants remained unused. In other places sniffer dogs are used to

sniff out traces of fire accelerant. Not here.

The work at the scene of the crime wasn't documented with photos or videos. The debris was secured in an unprofessional manner. The bags with samples of the debris were given to the laboratory only 3 days after the fire, because it was the weekend.

### **19. Frankdieter Stolt:**

For me that's no argument. And that's not what is written in PDV100...

#### **Narrator:**

Frankdieter Stolt, criminologist and police scientist from Mannheim.

#### **Stolt:**

...PDV 100 is the binding regulation "leadership and deployment". And there you will find nothing about the police's investigative measures being restricted to weekdays. The opposite. For that reason there are round the clock watches, on-call services etc. So that this can be ensured.

#### **Narrator:**

All electronic evidential records of Oury Jalloh's case have been deleted since then. Not only on the computer system in Dessau, also the backup copies in Magdeburg. All by November 2010. Routine deletion, says the witness Steffen B. from the police technical office in Magdeburg. Nobody told him that he should secure the information, otherwise he would have burnt them to a CD.

Why didn't the public prosecutor secure the information?

The log book of both officers, that their colleague Thorsten B. had seen at 11:30 in the cell with Jalloh is also no longer around. In the end the public prosecutor had it, but he explained that he had forwarded all the files to the state court in Magdeburg. The files came, but the log book didn't.

Police witness Thorsten B. gives his account of January the 7<sup>th</sup>, 2005, midday, at the station in Dessau, Wolfgangstraße.

**Reader:**

I was, before the lunch break, downstairs in the detention basement looking for my colleague U. I thought that when he came back from his patrol I could go to the canteen with him. The door to cell 5 stood open. I looked in and saw how U and S were frisking Jalloh. U said he had something to do and he'd come later. Then I went to lunch alone.

**20. Michael Tsokos:**

Here a close up of the front of the chest, which is completely blackened and carbonised, as well as the inside of the right upper and lower arm. On the right upper arm we can see exposed musculature, with its typical red ripples, because everything else that is normally there, whether muscle fascia or subcutaneous fat or skin, has been completely destroyed in the fire. The entire hand as well as the forearm is charred black.

**Narrator**

Oury Jalloh's right hand can be seen clearly in the photo. The joint is in a handcuff, hanging on a bracket that is attached to the wall of the cell. The judgement said that he used this hand, attached to the wall, to scorch the mattress and to make an opening with an area of 1m by 30cm. To take the core out and set it alight.

Is that possible? This question was never answered. The handcuff was not secured- it remained hanging on the wall. A few days later the caretaker cut them off with a bolt cutter and threw them away.

**21. From the Video, with ambience:**

We are in the yard of the Dessau police station, Wolfgangstraße at the rear entrance, with the exit of the cells. (Ambience with steps, ambience change).

**Narrator:**

He is now entering the basement where a black African set himself alight in a cell. With these

words Jens W. entered the cell. He was on call this day as the videographer for the crime scene task force.

This is how it sounded on the original video.

**From the Video, with ambience:**

I'm now entering the basement where a black African set himself alight in a cell. (*steps*)

**Narrator:**

On the 3<sup>rd</sup> of November 2011 Jens W, as a court witness, claimed that he got the information at the station during a briefing, but he can't remember from who.

**From the Video, with ambience:**

In this cell there are no objects other than a tiled platform with the person's former mattress.

**Narrator:**

With his camera on his shoulder he went down into the cell and made a video of the bound corpse.

**From the Video, with ambience:**

The person in question is bound hand and foot, the bonds are intact.

**Narrator:**

After four minutes of video the picture goes black. The video stops. The judge asks him why. The answer: there was a power cut. The judge asked him, whether his camera had a battery.

Yes, he replied, but the battery hadn't lasted very long. It would only work with power.

Lawyer Gabriele Heinecke, who represented Oury Jalloh's brother:

### **23. Gabriele Heinecke:**

We asked a vast number of other witnesses, among others the building's caretaker , whether there had been a power cut on 07.01.2005. There was no power cut.

#### **Narrator:**

There had never been a power cut in the station, said the caretaker.

Henning D., police detective from Bitterfeld.

#### **Reader:**

I was in the basement for hours, because I had to secure the entrance and take care of the power supply, because the crime scene was floodlit. I don't know anything about a power cut.

### **24. Gabriele Heinecke:**

That you can make a mockery of a court like that is a scandal. I don't understand why it is not being described as a scandal by the public prosecutor. You take that at face value. You don't have an option to protest that, that a story like the power cut just obviously isn't true. And you don't interfere.

#### **Narrator:**

I wrote to the public prosecutor.

“Dear Public Prosecutor,

I would like the opportunity to make an interview with you or a spokesperson on the topic of the completed proceedings and the new criminal investigation. I attach the list of my questions. On my programme many participants in the proceedings express surprise that the public prosecutor did not require truthful statements from the police witnesses. I would like to hear your response.”

He declined my request- the main proceedings were finished, all of the questions had been discussed there openly.

For the criminal investigation he referred me to his press release.

“After all of that”, he wrote at the end, “I am not able to comply with your request for an Interview.”

### **25. Gabriele Heinecke:**

We know that from the beginning there was a headquarters that systematically influenced witnesses. It sent letters to all of the colleagues that said what was supposed to really have happened. It is completely mad, if you want to find out the truth, that that wasn't inhibited. The public prosecutor knew it. The public prosecutor was obviously involved in these things. The chief of police at the time, she knew. She was involved. That means that you want to unify the manner in which the police officers give statements. For working out the truth, which is the duty of the public prosecutor and the police, that is, to put it informally, totally nuts.

### **Narrator:**

Even the chief of police at the time, who has been responsible for questions of data protection at the state government since 2008, doesn't want to talk to me. My concerns lie under the responsibility of the justice system, a spokesperson for the Interior Ministry wrote to me.

### **Music**

What is weird though, is that not only did evidence go missing, new evidence also appeared.

The lighter.

### **26. Gabriele Heinecke:**

The heart of it all is the lighter. And the lighter was not in the cell.

### **Narrator:**

In the debris that was analysed by the chemist of the state criminal investigation office there was a melted fragment of a red Tokai brand lighter. For the public prosecutor and the courts, the instrument of death. For the first time, seven and a half years after the fact, it was investigated for any remaining traces.

In June 2012 two employees of the state criminal investigation office in Stuttgart made witness statements at the trial in Magdeburg.

Dr. Detlef H., Diploma in chemistry and expert in forensic chemistry, and Jana S., Diploma in engineering for textiles and clothing technology. They investigated the lighter with highly sensitive measuring devices.

Detlef H.:

**Reader:**

We examined the lighter for remains of melted textile fibres and the remains of the mattress core in the cell. We didn't find any. A transfer of fibres from the mattress cover could have taken place due to the heat, but this didn't happen.

**Narrator:**

After this, Jana S made a statement from the witness stand.

**Reader:**

We found no cause for the materials melted into the lighter. There is no match between the fibres of the lighter and the samples from the fire debris. Not just in terms of colour, the other properties are also different. The backing material from the mattress has properties that simply don't match those on the lighter.

**27. Gabriele Heinecke:**

That means that at the time the lighter melted and these plastic fibres melted in, the lighter was somewhere else than in the cell. It wasn't on the body or clothes of Oury Jalloh. And that is such a clear indication that you can ask yourself why the public prosecutor didn't take that into consideration over 9 years.

**Narrator:**

On the seventh of January 2005 no lighter was found on Oury Jalloh's body. And now the discovery of the Stuttgart criminal investigation office that the material traces on the melted lighter from the bag of fire debris are not associated with the fire in cell 5.

What sort of material are the fibres on the lighter? From a police uniform?

Two years after Jana S and Detlef H.'s statements in Magdeburg the public prosecutor let the lighter be investigated once again. In summer 2014 there was a result. It was negative, he wrote to me. No evidence of contact with police uniforms from 2004 and 2005. Nothing more.

I wanted to know exactly, so I called the lawyer. She told me the essential points of the report that the expert from the Stuttgart criminal investigation office had emphasised as “noteworthy”: He found completely carbonised and completely intact fibres on the lighter, some of the intact fibres stuck to the charred fragments of fibres. He also found two different long, unburned animal hairs. Origin unknown.

**28. Gabriele Heinecke:**

The remains of this lighter didn't come from the cell. It came by other means into the bag of fire debris, there can't be any other conclusion.

**Narrator:**

The lighter was in a bag of debris from the cell. Where were the bags between Friday the 7<sup>th</sup> of January and Monday the 10<sup>th</sup>? The bags were with the crime scene task force, said Peter K., expert on fires and explosions at the criminal investigation office of Magdeburg on the 27<sup>th</sup> day of proceedings at the state court in Dessau.

The joint plaintiff asked: Were they secure there, or could they be opened and closed again? That

was possible, admitted Peter K. To close them again you just needed new tape.

The State Court in Magdeburg, 25.08.2011. Forensic scientist Uwe H. of the crime scene task force is questioned. It is about the fire debris and the lighter. Uwe H. said:

**Reader:**

As we lifted the corpse we found some material underneath in a good condition. We put it into the bag immediately. We didn't notice that there was a lighter inside. I imagine that it must have stuck to somewhere on the side of the corpse.

**29. Peter Iten:**

He must document [the scene] photographically, to secured the evidence...

**Narrator:**

There is no photo, no evidence. Just this theory, that was taken for years to be true.

**Peter Iten continues:**

... Now we see how important that is, photography, when the corpse is removed. Then you can't propose such theories any more.

**Narrator:**

That the forensic work at the scene wasn't documented with pictures is for Dr Peter Iten the most serious error.

**30. Peter Iten:**

And when that is documented photographically, there is no discussion any more and you know

what that was or not, and where it was. I'm sorry, but that is the norm. So I don't understand it. I really don't understand it.

### **31. Michael Tsokos:**

Here we can see the corpse on the autopsy table. We see the typical fencing pose with bends in the elbows, wrists and in the left knee...

#### **Narrator:**

Fencing pose. This happens when, as a result of extreme heat, the limbs' musculature pulls together and shortens.

#### **OT Tsokos continues**

... We can see a widespread black charring of the entire surface of the body. Partly light yellow or red ruptures in the skin that have occurred post-mortem after the cooling of the corpse, and we can see that the tongue's position is altered, sticking out of the mouth, a typical finding in the corpse of somebody who died in a fire. And from the facial morphology we can't conclude anything. The face is blackened and charred. There is no hair left, no eye brows. Here we can see a detail of the left hand. With a metal handcuff around the left wrist. We can see that the tissue of the left hand is completely blackened and charred. We can see that the fingers have been partially lost. That is, the fingers are partially not there.

#### **Narrator:**

Where did this heat come from, that was so hot that it even lead to the loss of fingers?

Dublin, Republic of Ireland, May 2013. Five months after the judgement in Magdeburg.

### **32. Eddie Bruce-Jones and Mouctar Bah:**

So Mouctar is trying to open the mattress with fingers, he has been trying for about 20 seconds ...

**Narrator:**

The Irish fire safety expert Maksim Smirnou begins his attempts to reconstruct the fire in cell 5 as part of the “Initiative in Memory of Oury Jalloh”.

**Eddie Bruce-Jones:**

... pulling at the seam, trying to get his finger in the seam. He is trying to pull and stretch at the material around the seam. Seam is not opening. (the sound of knocking)

**Narrator:**

The initiative collected money for months for this purpose. From 450 individual donations they collected 35,000 euros.

**Eddie Bruce-Jones:**

...pull intensively at very at the knots in the seam. But nothing is happening.

**Narrator:**

The courts decided to do without a reconstruction of the fire because they assumed that Oury Jalloh had killed himself. They were content with partial attempts that were quickly broken off, or computer simulations.

**Eddie Bruce-Jones:**

He is still holding the flame there, now there is a bit of smoke and now it's burned his finger again  
(*Mouctar groans*)

**Narrator:**

The fire experts ordered ten mattresses from Germany, of the same type used in the cells in Dessau. Initially they tried to burn a hole into the flame resistant artificial leather cover. Mouctar Bah, Oury Jalloh's friend, volunteered to be the test subject, although he was neither under the influence of alcohol nor bound as Oury Jalloh was. Next to him sat Eddie Bruce-Jones who recorded the attempt with an mp3 recorder and a stop watch.

**Eddie Bruce-Jones:**

... not smoking a bit, he has burned his finger again. Now he is trying to pull at the burning leather material. (*groans*)

**Narrator:**

Eddie Bruce-Jones is a lecturer at the Birkbeck School of Law, college of the University of London. He knows the different investigative systems of Britain and Germany in cases of police brutality. He studied in Berlin and London. If the victim had died in a cell in London, the police wouldn't have been allowed to perform an investigation against themselves. The officers would be checked and supported by the IPCC London, the Independent Police Complaints Commission. The commission was founded in 1999 after the Macpherson Report. In that year, an investigative commission under the leadership of the retired judge Sir William Macpherson revealed racism in the Metropolitan Police.

**Eddie Bruce-Jones:**

(Mouctar groans loudly). Yeah, he's burned his fingers. (Mouctar groans with pain) ... It's been 15 minutes. ...

**Narrator:**

Mouctar Bah has held the lighter flame to the mattress cover for 15 minutes. The attempt is painful, he has to repeatedly turn the sparking wheel to produce a flame, his fingers are swollen, his skin has blisters.

**Eddie Bruce-Jones:**

Now the foam is burning significantly on the side ... but it goes out!

**Narrator:**

It take a quarter of an hour, only then is there a small hole in the mattress cover.

### **34. Eddie Bruce-Jones**

Now it's been 16 minutes (*ambience*) ... ok, the foam, he lit the foam and it went out again. (*groan*).

**Narrator:**

The flame goes out again quickly.

### **36. Eddie Bruce-Jones:**

Trying to open the mattress more. He's been able to rip a significant part of the mattress open, about 12cm...

**Narrator:**

For their next attempt they cut the mattress open with a carpet knife. Nadine Saeed helps the experts.

### **37. Nadine Saeed and Maksim Smirnou, with a lot of ambience:**

Ok, maybe first try the 10cm down there. Maybe first, maybe you first try downstairs and dig another 10 cm and when it's not working than we cut upstairs and we make it bigger and bigger and bigger? You know?

Right, ok, no problem. (*noise*) So, now we are ready to cut extra 10 cm over here and initiate ...(*light ripping noises and inaudible voices*)

**Narrator:**

Again and again they make a 26cm long hole in the mattress. They lay a pig, cut and opened up, onto the mattress. Tests with dead pigs are the international standard, because the tissue structure of humans and pigs are 90% genetically identical. To make it more comparable the pig is wearing Jeans and a T-shirt. Then the foam core is set alight.

### **38. Nadine Saeed and Mouctar Bah:**

So they say that the important thing is, or what is very important, or what they found out, is that the fire stops where the body is lying. It doesn't matter where the body is lying, the fire stops. Because it is pressing on the mattress, and it can't...

Yes, yes, that's right. You saw it too, as I lay there before. When I moved myself, then it went out. That is the same.

### **39. Press conference, partially as ambience:**

*begins with noises, then Thomas Ndindah greets the media representatives on behalf of the Initiative in memory of Oury Jalloh.*

### **40. With Ambience:**

We will be showing the documentary about the fire expert now and ask that the lights be turned off.

### **Narrator:**

Berlin, the 12<sup>th</sup> of November 2013. A press conference by the “Initiative in memory of Oury Jalloh” with the fire report from Maksim Smirnou. He has finished his experiments. Nine mattresses didn't burn up. With these results he couldn't understand the fire's development in cell 5. Consequently he opened the cover of the tenth mattress wide and poured petrol on the foam core at first and then the dead pig lying on top. He lit his lighter. In no time it was ablaze. A camera was present at all of the experiments. The initiative showed the video of the last experiment. Black smoke is visible. Cell 5 was also full of smoke at the time.

Senior Prosecutor Folker Bittman from Dessau appears surprised.

### **41. Ambience**

#### **42. Folker Bittmann:**

For us, for me, in the past, such possible developments as have been presented in the report haven't opened up, so we haven't seen this need for an explanation until now. It's different now.

#### **Narrator:**

After everyone is gone I ask the expert about the specifics of the case.

#### **43. Maksim Smirnou:**

That's specially... it's very deep damage to the body.

#### **Narrator:**

The very deep damage to the body of the victim make the case difficult to explain, says the fire expert Maksim Smirnou.

#### **Maksim Smirnou:**

In the literature sometimes it shows a picture of a body damaged with a structure fire and with hand amputation.

#### **Narrator:**

In the literature he found comparable pictures of fire victims with amputated fingers, and this is how he got an idea of the form and temperature of the fire.

#### **44. Maksim Smirnou:**

I'm always in doubt. Of my own opinion, you know? The best thing is to prove for itself, first, then you prove to convince someone. You know? So, this is the way I am operating normally.

#### **Narrator:**

He isn't entirely sure what exactly happened. If you want to solve a case, you have to do a lot of experiments. He is always restrained with his conclusions.

On the day after the press conference Philip Oltermann, Germany correspondent of the British Guardian newspaper, is looking for parallels between what became clear in the NSU (National Socialist Underground) case and the case of Oury Jalloh. Quote: "The cover up of the NSU scandal and the superficial investigation into Oury Jalloh's death throws up questions about the behaviour of the German police when members of an ethnic minority become the victims of crime. The parallels are concerning and it would be premature to disregard them as mere coincidence."

Four months later, the 3<sup>rd</sup> of April 2014. The public prosecutor explains now that she wants to follow up on the cause of the fire in a separate investigation into the death. In other words, she was investigating a murder with an unknown murderer.

The first interim results in this investigation were already presented. They were in agreement with the earlier findings of the state criminal investigation office. The solving of other questions "has to be accelerated".

Quote from the press release of 03.04.2014:

**Reader:**

The fire debris was investigated again intensively for traces of fire accelerant. The chemical experts determined two things:

1. In the case of the use of fire accelerant, traces would be verifiable even after 9 years.
2. No indentifiable traces of fire accelerant were detected.

**45. Peter Iten:**

That's not correct. I think it is important to explain that. The layman has to know. Not finding any fire accelerant doesn't mean it wasn't used. The laws of logic don't allow you to conclude something from nothing.

**Narrator:**

And if you do it anyway?

**46. Peter Iten:**

Then it is wrong. So, once again, if no fire accelerants were found, that doesn't mean they weren't used. It could have evaporated before. The method could be at fault. The securing of the samples could have been at fault. Both are still possible, either yes or no.

**Narrator:**

In their search for a source of ignition the men of the crime scene task force rummaged through the fire debris with their hands, according to the report of the leader of the task force Uwe H. on the 25.02.2005.

Was this the incorrect method?

**47. Peter Iten:**

Yes, definitely. Look, right there, underneath, there must be a point that is less burned. And at this point it is particularly interesting to look for fire accelerant, because it would have flowed under the person and been protected. Before there was a fire. And it could have remained, down there, in the cooler areas unevaporated for us to find.

**Narrator:**

The fire debris of this area should have been carefully recorded and retrieved, says Iten. Rummaging through doesn't secure any of the traces.

**48. Peter Iten:**

The order is wrong. So there are priorities, that are discussed between the specialists, so that the order is correct.

**Narrator:**

Where would the coolest point have been?

**49. Peter Iten:**

Deep inside the mattress, and the points where, in the situation, the deceased could have poured it himself. And for that we have to take into account the binding. If you can find arson materials in a place that the deceased could not have reached, then we have to look for a third person.

**Narrator:**

And there is supposed to have been a third person. He allegedly observed the arrival of the firefighters from the window of the control centre. In the judgement from Magdeburg he was described as a “strange man with glasses”, his identity was never found out. Was it the same strange man that an officer had seen on the smoky stairway “as a shadow”? He is supposed to have come the opposite way as he went up the stairs.

**Music**

Spring 2013. For the first time someone approached me with information about a possible suspect. A retired police officer from Halle. He told me that although he was in his 70s, his passion for solving crimes had stayed with him. A man had contacted him a few months ago who claimed to have clues that could lead to the solving of the case.

He called him “informant”, a term he had used as before, when he was in active service.

On a hot day in summer 2013 I met my source somewhere in the surrounding area. After we had discussed the numerous inconsistencies of the case, he pulled an A4 sheet of paper in a plastic sleeve from his bag, a print out of a highly enlarged picture of a man in work clothes. He looked like he worked with animals. A big dog literally hung on him – they obviously seemed to know each other very well.

Was he the alleged arsonist?

I learnt of details of the conversations of my source with his informant.

I heard that someone had wanted to teach Jalloh a lesson, but it had got out of hand.

An explanation for the fresh trace of blood on the table leg in the medical room of the custody unit? Christian G. from the crime scene task force took a sample on the afternoon of the 7<sup>th</sup> of January with cotton swabs and distilled water. Whether it was Jalloh's blood is unknown, because this evidence disappeared.

The possible murderer is alleged to have been informed by someone on the inside, and have sneaked unnoticed into the unit.

The back entrance of the custody unit, the entrance from the car park, was secured with a numerical code. Every police officer knew the code. At the time of the fire there was an unknown person in the building. The judgement described him as the "strange man with glasses".

It was alleged that racism and sexual abuse took place.

In fact, the lower abdomen of Oury Jalloh was especially deeply burnt.

The police witness Beate H. went, at 11:45, down into the custody basement, because she heard the noise of keys from the intercom, fifteen minutes before the fire alarm went off. She told her interrogating officers on the afternoon of the catastrophe that Jalloh's trousers were opened and had been pulled down a lot. His underwear was visible. How was that possible? His hands were bound, stretched out on both sides.

The next day I talk about the story with a lawyer. He tells me to personally inform the federal prosecutor in Karlsruhe, which I also did. The attorney general took my information, but wrote to me later explaining that he wasn't responsible in this case. In Autumn 2013 he gave my story back to Saxony Anhalt. And so it came to Dessau. I learned from the state prosecutor in Dessau that they had questioned the informant, but that his "speculative statements" were circumstantial and unusable for the investigation.

The state prosecutor had only checked the informant, they wanted to know who the man was.

As I met him in the lobby of a hotel in Berlin, he seemed jittery and incredibly nervous.

He talked for almost an hour about things that didn't interest me. I was about to get up and leave when he finally got to the point:

"I'm not saying that he did it. I'm just saying that he is the key. He moves in the right circles." I should do my research, but I should be careful. He said it was dangerous.

## **50. Gabriele Heinecke:**

There has been, mind you, a person recently, also from the justice system, who, as you know, reported a police offence against another police officer. As far as I know, they didn't follow this complaint, but assumed from the beginning that it should be a disciplinary offence to report another officer in this way.

### **Narrator:**

This person called me one evening. An older voice. They had a suspicion who could have organised the fire. A suspicion? Just something they had worked out, not definite, was the answer. It would be about an officer who, during interrogation in court, was supposed to have not given the whole story about his past career.

His training, his career. That should make the public prosecutor prick up his ears, the person said.

How would the public prosecutor deal with the evidence, I wanted to know. I asked in an email.

Two days later, the answer. Quote: “regarding your question we should note that evidence relating to the suspect is always taken seriously by the public prosecutor.”

### **Music**

## **51. Michael Tsokos:**

So if he has made an attempt to save himself or whether he strained on the shackles, I can't tell that from the evidence.

### **Narrator:**

It happened so quickly that he couldn't even cry out. That was the reason why no fire accelerant was found in his organs.

## **52. Peter Iten:**

In this fireball, in this huge heat, death usually comes very very quickly. Breathing stops, the musculature cramps. So the time that he survives is very short. That means that naturally no fire accelerant is breathed in.

## **53. Gabriele Heinecke:**

I would hope, that after this long time the guilty conscience of the police officers, who know more than we do, would eventually lead to the truth being told. That at some point what happened on the seventh of January, and was hushed up, and that everyone knew it was hushed up, that that will come out. That everyone who has some sort of honour or humanity in them feels that they don't want to have that with them for the rest of their life. The truth has to come out. And I just hope that happens.

## **Narrator:**

Oury Jalloh's grave doesn't lie in Germany. His parents took him back to them. In April 2005 he was buried in the graveyard of Conarky in Guinea, West Africa.

## **Credits:**

Oury Jalloh

The Contradictory Facts of his Death

Feature by Margot Overath

Speaking: Bärbel Röhl, Joachim Schönfeld, Conny Wolter

Executive Producer: Ulf Köhler

Sound Editing: Hans-Peter Ruhnert

Sound Engineer: André Luer

Assistent Director: Ulrike Lykke Langer

Director: Nikolai von Koslowski

Translation: Benjamin Goodwin

Produced by Mitteldeutscher Rundfunk with Norddeutscher Rundfunk and Westdeutscher

Rundfunk, 2014.