

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON

MR TOKOTA SC

MS HEMRAJ SC

HELD ON

DAY 154

Lukmos
communications

25 NOVEMBER 2013

TRANSCRIPT PAGES 17235 TO 17388

[PROCEEDINGS ON 25 NOVEMBER 2013]

2 **[09:15] CHAIRPERSON:** The commission resumes.

3 Brigadier, you are still under oath. Mr Semenya.

4 **MR SEMENYA SC:** Thank you, Chairperson. On

5 Friday when we adjourned we were at a point where you went

6 to brief the commanders at forward holding area 1.

7 Correct?

8 **BRIGADIER CALITZ:** It is correct, Mr

9 Chairperson.

10 **MR SEMENYA SC:** And that you tell us in

11 paragraph 94 of your statement.

12 **BRIGADIER CALITZ:** That is correct, Mr

13 Chairperson.

14 **MR SEMENYA SC:** That briefing related to

15 what is now called stage 3 of the operation, am I right?

16 **BRIGADIER CALITZ:** Mr Chairperson, yes,

17 at that stage we were called to move forward to

18 holding area 1, but I was not aware of stage

19 3, but learned about it when I got there.

20 **MR SEMENYA SC:** And that was a briefing

21 by Colonel Scott?

22 **BRIGADIER CALITZ:** On our arrival I

23 Colonel Scott and Brigadier Pretorius were already there and

24 Colonel Scott gave us the

25 briefing.

1 **MR SEMENYA SC:** He has testified about it
2 himself. Was at the Vito motor vehicle?

3 **BRIGADIER CALITZ:** Indeed, Mr
4 Chairperson, it was a vehicle from the Special Task Force,
5 a Vito Minibus and he did it from
6 his laptop.

7 **MR SEMENYA SC:** And the briefing was done
8 through a Google map presentation?

9 **BRIGADIER CALITZ:** Mr Chairperson,
10 he did not give a presentation, he
11 he only gave us the layout on one photo that was on
12 Google maps.

13 **MR SEMENYA SC:** The commencement of
14 stage 3 was to be done with the unfurling of the barbed
15 wire, was it not?

16 **BRIGADIER CALITZ:** It is correct, Mr
17 Chairperson.

18 **MR SEMENYA SC:** And why was that?

19 **BRIGADIER CALITZ:** Mr Chairperson,
20 Colonel Scott informed me that there was a decision
21 made in the JOC that we would proceed to
22 phase 3, specifically being the wire,
23 which we called a defence mechanism.

24 **MR SEMENYA SC:** And what was that? What
25 was defensive about the measure?

1 **BRIGADIER CALITZ:** I beg your pardon sir?

2 **MR SEMENYA SC:** What was defensive about

3 the measure?

4 **BRIGADIER CALITZ:** Mr Chairperson,

5 before we implement any disperse action as the

6 Public Order Policing, in accordance with our standing order

7 instruction we have to implement a defence line firstly,

8 at all times. In this case it was the wire and if we get to a

9 a place where the barricaded the roads

10 we will pull the vehicles into a line.

11 Your defence line must be in order

12 before one can go forward onto the next

13 phase.

14 **MR SEMENYA SC:** As is a standard

15 operating procedure do you have to announce what defensive

16 measures you are taking and why you are taking it?

17 **BRIGADIER CALITZ:** Mr Chairperson,

18 no. In this regards it would be senseless to announce that

19 we are going to roll out the wire as a defence,

20 and then I am going to roll and lodge

21 action against you, the protestors, sitting on the hill.

22 At that stage I could not give the warning,

23 because if the group starting moving

24 before we had our defence line in place, it would be unsafe.

25 So, I could not give the warning before I had my

1 defence line in place.

2 **MR SEMENYA SC:** If we look at slide 181

3 of exhibit L could you help us understand what the briefing
4 was all about.

5 **BRIGADIER CALITZ:** Mr Chairperson,

6 firstly, we were told that we told that

7 it was decided at the JOC that we would go on to phase 3,

8 as the situation was getting out of hand as the

9 protestors was in possession of dangerous

10 weapons and we could not go on

11 with them openly walking around with dangerous weapons.

12 The plan was that we would disperse them. What you see is

13 what Colonel Scott showed us on the diagram of Google map

14 when he gave us the briefing. It is was divided into

15 different phased, Mr Chairperson,

16 we asked the interpreter to let them know that we are going to

17 start with phase one, where we would

18 "deploy the barbed wire to protect the SAPS and the

19 media." That is what we refer to in the defensive line. It is

20 the six Nyalas, the orange line shows the wire we

21 would roll out with Nyala 6 in a

22 northerly direction, away from the hill towards the small kraal.

23 After that we would then move out to

24 to the left-hand side, as you can see it states there, first line POP, second

25 line TRT and then the SDF. As we -

1 **CHAIRPERSON:** Mr Semanya, that of course

2 was the position in which the first line and the second

3 line members were placed even at the time of phase 1 or did

4 that, or is that really part of phase 2?

5 **BRIGADIER CALITZ:** No, that was when we

6 should have moved out, I think it is phase –

7 **CHAIRPERSON:** No, sorry I put, I used the

8 wrong intent, sorry Brigadier. I think I used the wrong

9 tense in the question. You were telling us what the plan

10 was going to be. What stage 3 was going to involve.

11 **BRIGADIER CALITZ:** It is correct.

12 **CHAIRPERSON:** Alright and it involved as

13 I understand it three phases as we can see from this. The

14 first phase was unrolling the barbed wire?

15 **BRIGADIER CALITZ:** It is correct.

16 **CHAIRPERSON:** The second phase is what we

17 see in the top left hand corner of that slide, alright and

18 all I am asking you is was it intended that the first line

19 of POPS and the second line of TRTs NIUs and SDFs were they

20 going to be in position at the time phase 1 was taking

21 place or would they take up their positions, I know you

22 did not quite get there because other things happened, were

23 they supposed to take up those positions as set out in the

24 slide once phase 1 was completed?

25 **BRIGADIER CALITZ:** Thank you, Mr

1 Chairperson. It is indeed like that. After the completion
2 of phase 1, where the wire was rolled out completed up to
3 the sixth Nyala after the small kraal, like we call it,
4 I would then instructed them to proceed with
5 phase 2. We would only then start to move
6 out with the Nyala vehicles. It is also what
7 I briefed the members on, after we
8 came back and it was conveyed to me too, at
9 forward holding area 1. If I can maybe, give a quick
10 description. The vehicle in front of the blue, I cannot see the
11 specific colour, but the Nyala vehicles would be
12 positioned four to five meters apart,
13 facing the direction of the hill. In between
14 each Nyala I would post my Public Order Police
15 members with the equipment available
16 to them.

17 As soon as they were in position the TRT line
18 would then take their place behind us. Their function
19 was specifically to assist us if there should have been any arrests,
20 they would assist us in the arrests and they
21 would also assist us in the scattering of the protestors,
22 they were also instructed to do a sweep on the "small
23 hill". We now know that the implementing of the
24 phase was interrupted.

25 We further discussed phase 2,

1 in this stage everything would be set up so that we could have clear communication
2 with the protestors, as set out very clearly in our
3 standing order of procedures. I would then warn the
4 protestors in more than one language, through the
5 help of an interpreter, in Fanagolo and English
6 so that they could understand that the action they were
7 busy with, was illegal.

8 Not just relating to the law on public gatherings, but also
9 due to the fact that the action they took was illegal,
10 if they laid down their weapons, I would have given them sufficient time
11 to communicate with us. In Public Order Policing
12 this is done under the discretion of the operational commander.

13 We decide on how long we will give them to part and
14 how long they will need to part. In this case

15 the whole area at the back was open,
16 so I would have given them between 20 and 30 minutes
17 to move out. I would count down and keep them informed
18 that they have ten minutes and then

19 I would tell them again when there was five minutes remaining,
20 eventually I will tell them there is a minute left and

21 and then there would be action taken against the people

22 that did not want to move and such action would be

23 explained to them. We would inform them that there

24 would be an tactical attack against them, by means of

25 a water cannon, in order to get them to disperse,

1 and those that stayed behind would be arrested. That would give
2 those being intimidated or that did
3 not really want to be part of the group, a chance to
4 move away. Normally this works in 90% of the cases.
5 Mr Chairperson, we would then move forward and
6 if a group stayed behind on the hill,
7 I would then send in the water cannons under the
8 protection of two Nyala vehicles.
9 We would try to force the people or
10 protestors out with water. If that was
11 ineffective we would then make use of a stun
12 grenade, which was demonstrated to you, it is
13 non-lethal and after that we would use CS
14 teargas. During phase 2, the members in the POP vehicles would then have
15 sufficient time to put on their equipment, such as,
16 gas masks, etc. and the wind direction also played
17 a critical role. If this did not work
18 we would move forward and then attempted
19 to disperse the group by using rubber bullets, which
20 was the last resort of the Public Order Policing.
21 That was the plan. We planned to
22 to move the protestors back by that time.
23 They would have run into a western or
24 east western direction, which was very open and was
25 no threat to them at all.

1 In the next phase the TRT group
2 will search the area in hill 2 for all
3 possible weapons.
4 Then the people from *forward holding area 1* and
5 the experts and detectives from the criminal record
6 centre will come and handle the scene.
7 The Special Forces and NIU
8 had a specific task of
9 searching the area in hill 1. The Special Forces and their
10 vehicles would enter, in the middle of
11 hill 1 and 2 and also on the outside on the side,
12 of the PowerStation, while
13 NIU will move in a line formation
14 through hill 1. You will see there,
15 it looks like a light line, it is a riverbed or a
16 footpath between hill 1, 2 and hill 3. It
17 would then be the point where we would
18 regroup. There I would get my unit again
19 and I would then move forward with the
20 Public Order Policing members. The TRT,
21 NIU, and STF would search the hills
22 and that was all they had to do.
23 In phase 3 if the members scattered into
24 different directions
25 that is where the protesters would be encircled.

1 The word encircled are misunderstood. If we talk about
2 encirclement, we mean isolating. We encircle
3 by means of Public Order Policing
4 vehicles. Mr Chairperson, you saw during the
5 presentation, when we speed forward with a Nyala vehicle,
6 it is to try and intimidate the people or protestors.
7 When we then get to the people or protestors we
8 position the vehicles in such a manner that the public order
9 policing members can just jump out of the vehicles, on which
10 I will yell the command, engage. They will jump out and
11 isolate the people. That is when we encircle the smaller
12 groups that arises. By means of the aggressive way that we
13 peruse this matter; we then intimidate them to lay down their weapons,
14 normally it is a deterrent and they will be foolish to
15 to engage in any further action against the
16 Public Order Policing Members. The police officers
17 are trained to make arrests in these situations, as well as
18 using the correct techniques to disarm the people and to
19 perform further arrests. The people that was arrested
20 we would put them in the vehicles of the forward holding area 1.
21 We call those vehicles Canters, and
22 I will then move through the people to them
23 and after we photographed them, we will put the people
24 we arrested onto their trucks. We were furthermore
25 briefed that when we arrive at the line

1 we would regroup and any members –

2 **CHAIRPERSON:** [*inaudible, microphone*

3 *off*].

4 **BRIGADIER CALITZ:** At the, I beg your pardon,

5 I cannot hear?

6 **CHAIRPERSON:** - this is by the riverbed,

7 you talk about the line you are going to regroup?

8 **BRIGADIER CALITZ:** Yes, Mr Chairperson,

9 I call it a riverbed, but is actually just a

10 very deep ditch.

11 **CHAIRPERSON:** Yes.

12 **BRIGADIER CALITZ:** When we got there.

13 **CHAIRPERSON:** Yes.

14 **BRIGADIER CALITZ:** We have different

15 photographers and various aerial photographs

16 that has proven that we regrouped before that already,

17 and not at the specific stage when we heard about it. If

18 we regrouped there would have been clear communication

19 from my side that the public order policing vehicles should be in line

20 and ready to move forward

21 wherever they are needed. It includes, at this stage we

22 did not have any specific planning

23 for hill 3, but it

24 included the plan. The plan was

25 that they would move into the area at the left side

1 there where the settlement is, should they have moved there
2 we would have followed them in that direction. Our policy and
3 procedures makes provision that if we as the public
4 order policing act against any person, we are
5 obliged to follow it up. It is senseless to
6 disperse people with rubber bullets and then just
7 leave them alone. We were obliged to regroup
8 and follow up on arrests that we did at that
9 stage. So that is basically the briefing that was given through to the
10 members.

11 **CHAIRPERSON:** Now you said that
12 Lieutenant Colonel Scott showed the commanders on his
13 laptop screen what essentially stage 3 involved, did it
14 amount in effect to showing them the slide that we now see
15 or did he show them something else as well?

16 **BRIGADIER CALITZ:** No, Mr
17 Chairperson, it was only the image that we have in front of us
18 now.

19 **CHAIRPERSON:** I know that that slide was
20 I think compiled later but it was an attempt, according to
21 the evidence to reproduce what was shown and you agree with
22 that? That is essentially what was shown, is that right?

23 **BRIGADIER CALITZ:** Mr Chairperson,
24 I cannot remember, but I think
25 the removing of Nyala 6 was already

1 included, as it was part of the line that had to
2 to the hill. Therefore, I remember the briefing as being
3 similar to what we are seeing here.

4 **[09:34] CHAIRPERSON:** No, that is what I wanted to
5 know. Thank you.

6 **MR SEMENYA SC:** That basically deals with
7 what you have until paragraph 101 of your statement, but
8 can I ask you this, Brigadier; the plan as you outline it
9 now, what possibilities were there of any fatalities
10 occurring if the plan had unrolled the way it was
11 conceived?

12 **BRIGADIER CALITZ:** No, Mr Chairperson,
13 according to my experience there should not have been any casualties.
14 I dealt with the scattering of crowd on many occasion,
15 and never experienced what happened here, before. There would
16 have been none.

17 **COMMISSIONER HEMRAJ:** Brigadier, was
18 there anything on that slide at all or in the briefing that
19 might have conveyed the impression that what was envisaged
20 was an encircling of the hill itself with barbed wire?

21 **BRIGADIER CALITZ:** No, Commissioner, not at all,
22 if I had to put myself in the position of the crowd.
23 I also testified yesterday that we communicated about
24 12 to 13 times with the crowd by means of the system,
25 to inform them that we were not there to threaten them

1 with the wire. You can see Nyala 1, 2, 3 and
2 4, was moving away in the direction of the hill, even Nyala 5 and 6 was
3 facing away from them. So the only line that was closed off
4 was the area right in front of them.
5 Their left-hand side, one can say the north-western side,
6 it is the Nkaneng informal settlement, was open
7 and to their disposal, as well as the 200 degrees
8 behind them. Therefore, I cannot think that they were under the impression
9 that we were going to encircle the hill, and it was not possible
10 to do at that stage with the means we had
11 to our disposal.

12 **MR SEMENYA SC:** Was the briefing
13 understood by the commanders as you tell it to us now?

14 **BRIGADIER CALITZ:** Mr Chairperson, I believe so.

15 After Colonel Scott gave the briefing
16 he asked each commander if they understood what he said,
17 and if they had any questions.
18 There were questions, I cannot recall specific ones, but
19 there were a lot of interaction between the
20 commanders and Colonel Scott, explanations like, just say
21 exactly where, how, what? So it was clearly communicated to them,
22 and because I was the operational commander, it was
23 my task to ensure that everybody knew what they had to do
24 and I made sure the commanders understood what they had to do,
25 and they confirmed to me that they

1 understood clearly.

2 **MR SEMENYA SC:** Now Colonel Scott told us

3 that it was part of his briefing that the barbed wire was

4 to be deployed simultaneously on all the six Nyalas that

5 were there.

6 **BRIGADIER CALITZ:** Mr Chairperson,

7 no, I cannot, sorry.

8 **COMMISSIONER HEMRAJ:** Sorry, did he

9 specifically say that?

10 **MR SEMENYA SC:** Yes, that my recollection

11 of the evidence that he said the barbed wire and the

12 instruction was that they must be deployed simultaneously.

13 What is your recollection of the briefing?

14 **BRIGADIER CALITZ:** Mr Chairperson,

15 If that is what Colonel Scott testified to, I cannot say

16 that was the words he used,

17 but that is not what I understood, nor is it what was

18 conveyed to me. If we look at "exhibit" L and all

19 the other documents, it was never discussed that we

20 roll out simultaneously. What I can say is that

21 it would be very unsafe, operational wise,

22 if we would have done it. In any operation, if we wanted

23 to roll out simultaneously and I think that is what we tried to

24 demonstrate yesterday, or the day before yesterday, is that there is a

25 danger that the wire Nyala, although we marked it 100-meter

1 between the vehicles, we are never sure that it will
2 a 100m. The Nyala's wire,
3 in my experience of 18 years, it is usually about 70
4 meter. If the Nyala se wire, "coil" and hooked
5 it will only go up to 50 meters. So with
6 no Nyala you will know that it will exactly come to a specific
7 point. The danger is that if the Nyalas would deploy
8 simultaneously and if one Nyala
9 vehicle may move 5 to 10 meters from where
10 another is "deployed" and like we tried to explain
11 to you yesterday or the day before yesterday, the
12 wire in a Nyala weighs about a ton. The "A-frame" that we
13 refer to at the back, is about 50 plus kilogram. In
14 the video or presentation, we tried to show that it takes about
15 four to five men to take the "A-frame"
16 and physically pull it, the danger we would have is that the
17 barbwire could catch on to the long grass and bushes
18 as that was how the area in Marikana was at that stage,
19 so it would not work to do it simultaneously.
20 We would have a possibility of gaps
21 in-between and it would definitely risk the lives of the police officers
22 and the media that was there.
23 -
24 **CHAIRPERSON:** I cannot remember precisely
25 what Brigadier Scott said – oh sorry, Lieutenant-Colonel

1 Scott said on that point. He did say it was part of the
2 plan that it should be simultaneous. I cannot remember
3 whether he said, he specifically said that, but I want to
4 ask you something else flowing from what you have just said.
5 Will it be correct to sum up what you have just told us that
6 never mind what the plan originally said, from a practical
7 point of view it was not really possible to do it
8 simultaneously; there would have been all sorts of
9 problems. Is that effectively what you are saying, was it
10 that was part of the plan, which was not a practical part of
11 the plan? Do I understand correctly?

12 **BRIGADIER CALITZ:** Mr Chairperson,
13 indeed. It would never be possible. It would have
14 been very dangerous if we would do it that
15 way.

16 **MR SEMENYA SC:** In the past and in your
17 experience, have you ever unfurled these barbed wires, if
18 there were more than one, simultaneously?

19 **BRIGADIER CALITZ:** Mr Chairperson,
20 like I testified, we did use the wire in the
21 past, but we never rolled out simultaneously as we
22 were never sure of the lengths of the wire. The communication
23 is very clear, one vehicle will pull up to another,
24 the "A-frame," will then be hooked onto the
25 nose of the Nyala vehicle, before the other one can

1 move.

2 **COMMISSIONER HEMRAJ:** But Brigadier, if

3 in the briefing Colonel Scott had said to you that what he

4 envisaged was a simultaneous unfurling or deploying of this

5 barbed wire, would you not have taken issue with that

6 because it is not practically possible?

7 **BRIGADIER CALITZ:** Commissioner, if I understood

8 it like that, or if it was conveyed to me like that,

9 I would have definitely informed them that

10 it was not possible, not just because of the risk factors, but also due to

11 the area.

12 **MR SEMENYA SC:** And then you left that

13 briefing and the various members, commanders went to brief

14 their members as well?

15 **BRIGADIER CALITZ:** It is correct, Mr

16 Chairperson.

17 **MR SEMENYA SC:** And you briefed the group

18 commanders of POP and the drivers of Nyalas in accordance

19 with the plan as we saw it on slide 181?

20 **BRIGADIER CALITZ:** Mr Chairperson,

21 it is correct. All the commanders were with me at what we called

22 "forward holding area 1," so all the commanders moved

23 with us simultaneously. It was only the NIU

24 en die Special Task Forces commanders that were not there and

25 they had to convey it to their own members,

1 they were not in front with us, so the NIU and Special Task Force
2 went to brief their members. All the
3 commanders that were with me, went forward with us
4 and it included the Public Order Policing, as well as the
5 TRT "commanders." I specifically conveyed the message
6 in their presence to the members, so that they
7 can add on if necessary. When I went back to the
8 briefing, I did it a little
9 behind from the Nyalas, where the TRT
10 vehicles were parked. I called all the drivers
11 of the different vehicles. The reason thereof was
12 due to the fact that I did not just want to brief the commander,
13 but the specific drivers of the vehicles, so that when we
14 gave the order they would know what it
15 "entail" and where to go. Therefore, we gave them
16 a detailed briefing and the
17 commanders of the TRT group went back to
18 their members, where they gave their briefing,
19 each section commander returned to his
20 vehicle, where the specific section were then briefed.

21 **MR SEMENYA SC:** Was this a very
22 complicated plan or strategy?

23 **BRIGADIER CALITZ:** "Complicated?" If I
24 understand it correctly.

25 **MR SEMENYA SC:** Was it easily understood

1 by those to whom the briefing was made?

2 **BRIGADIER CALITZ:** Mr Chairperson,

3 it is our work. It is what we do every day. So

4 any disperse action, follow-up action, all the terminology

5 is well known from, the commanders down to the

6 ground. It is clearly understandable.

7 **MR SEMENYA SC:** The contention that you

8 did not have adequate time for the briefing, is it correct?

9 **BRIGADIER CALITZ:** Mr Chairperson,

10 the time was short, but not insufficient,

11 no. I came back at 3 o; clock and we had about 15 to,

12 20 minutes to complete the briefing with the

13 commanders, after which they would

14 return to the section commanders. In perspective,

15 if I can go back to the

16 "slide" Mr Chairperson, the wire would then

17 still be rolled out. We would only then

18 move out to give the warning. So there was more

19 than enough time. There would be a 30 to 40 minutes

20 timeframe, before any action would start.

21 So after the briefing there were more than enough time

22 according to what we have planned.

23 **MR SEMENYA SC:** If you had another number

24 of hours, what more could have been said about this

25 operational plan of dispersing the group, encircling the

1 smaller ones, and arresting those resisting to disarm?

2 **BRIGADIER CALITZ:** Mr Chairperson,

3 no, if I as the operational commander had another

4 hour, the only other thing I could do

5 was to gather the members in a

6 parade and then do the briefing, but taken in consideration the

7 conditions and the events on the hill and the

8 threats, I do not think I would have gone that way.

9 So there is not really anything else that we could have

10 done.

11 **COMMISSIONER HEMRAJ:** Would it have made

12 a difference to you, the manner in which you carried out

13 the operation, if you had that extra time with the planning

14 and the briefing?

15 **BRIGADIER CALITZ:** Commissioner, no,

16 not at all. I think my people understood what they had to

17 do. The order were very precise and they would have done it

18 under the command of the different group and section

19 commanders. Therefore, I do not think it would have made

20 a difference, no.

21 **MR SEMENYA SC:** And the plan was that the

22 operation will commence at 15:30, correct?

23 **BRIGADIER CALITZ:** Mr Chairperson,

24 It is correct. It was the command I got at the

25 JOC, that we should start at 15:30

1 -

2 **MR SEMENYA SC:** And then you tell us that

3 at around 15:15 you called the JOC to ask for assistance to
4 improve your communication facility there, right?

5 **BRIGADIER CALITZ:** It is correct, Mr

6 Chairperson. I was still not comfortable with the hand radio
7 system that we had at that stage,

8 because of the interaction from the power cables

9 and because I was only informed at that stage that we

10 were moving on to phase 3, I knew that it

11 was very important to be in communication with the

12 different groups at all times, that is why it was important for me

13 to be in contact with the commander of the radio technical and asked him

14 to come and install a base set, which would then put out 5 times
15 the strength that a normal hand radio could do.

16 That just made me feel more at ease if I knew I would be

17 be in constant communication with my members and that they

18 could hear and understand me clearly.

19 **MR SEMENYA SC:** But you did not commence

20 the operation at 15:30 as planned, and this is why?

21 **BRIGADIER CALITZ:** Mr Chairperson,

22 we did not commence as we got the order at 15:30

23 it would be dark soon and we had to make various arrest,

24 those arrests should then be processed. It is a long

25 process, statements had to be taken down, the scenes

1 had to be coordinated and the received the threats,
2 at that stage it was still easy,
3 but when I got back to the group I was told that the
4 AMCU leader, Mr Mathunjwa, was already busy in the front.
5 At that stage, I was not aware that he went back to
6 the group and I was also informed
7 that there were media in the front too. So it
8 would be a very unwise decision to roll
9 out the wire. Mr Mathunjwa as well as the
10 media would be at risk. Therefore, I gave it time
11 and I presumed that Mr
12 Mathunjwa would come back to me as he did on
13 previous occasions. We would then communicate
14 on what happened and I could then
15 roll out the wire, but that did not happen.
16 Mr Mathunjwa finished at about 15:40 on my watch
17 and he got into a vehicle
18 I think it was a
19 silver Fortuna – and he drove right past us. He
20 did not come back to me at all. He did not come to
21 talk to me. It was not possible for me to
22 leave my position – the media
23 had also fallen back when Mr Mathunjwa
24 left, and at that stage
25 I could do nothing else but to ask

1 Colonel Makhubela if he was ready, I communicated with Colonel
2 Makhubela on the radio and he informed me that
3 he was in position and I then gave the command to
4 roll out the wire.

5 **MR SEMENYA SC:** This is around 15:40?

6 **BRIGADIER CALITZ:** It is correct, Mr
7 Chairperson.

8 **MR SEMENYA SC:** And the first Nyala with
9 the barbed wire started to deploy?

10 **BRIGADIER CALITZ:** It is correct, Mr
11 Chairperson, from the PowerStation – he
12 started to move from there.

13 **MR SEMENYA SC:** So did the next Nyala
14 with the barbed wire?

15 **BRIGADIER CALITZ:** Yes, the members moved next to him.
16 It is part of the process that the Public Order
17 Policing Members move next to the vehicle, some
18 of the members must sit on the wire, in order to regulate the "A-frame".
19 Other members would then be in charge of defence and others
20 to communicate with the driver. So it takes a while
21 for the process to roll out. They reached Nyala 2
22 and then Nyala 2 "deployed" further.

23 **MR SEMENYA SC:** And that also happened
24 with the third Nyala?

25 **BRIGADIER CALITZ:** Correct, Mr

1 Chairperson.

2 **MR SEMENYA SC:** With the fourth Nyala,

3 what transpired then?

4 **BRIGADIER CALITZ:** Mr Chairperson,

5 if you will allow me, I want to go back on step.

6 After we started rolling out the wire, Mr Noki came to

7 to my vehicle and in a

8 very aggressive manner asked me why we were

9 "deploying," the wire, that is how it was translated to me.

10 **[09:54]** I then instructed Colonel Macintosh to inform

11 the group again that the wire was not as a threat against them

12 but for the protection of the police and the media,

13 as per my statement, against the community, which were then

14 definitely the strikers. We told him,

15 it is in my statement, "He told him that it was not

16 intended against the strikers." We did this

17 while Nyala 1 was still moving from Nyala 2,

18 we kept on trying to calm down the community by

19 telling them this were for our protection, it was a protection

20 measurement and Nyala 3 then moved to Nyala 4

21 -

22 **COMMISSIONER HEMRAJ:** Can you just help

23 me with something, Brigadier, when the first or the second

24 Nyala started deploying barbed wire, where was your vehicle

25 at that stage where Mr Noki approached you? Where were you

1 stationery?

2 **BRIGADIER CALITZ:** Commissioner, I do not

3 think that they would allow us to go there

4 if you look at the positioning of our

5 vehicles on the pictures, I think it was scene 1 of CALS 1's,

6 vehicle movements, that is the easiest,

7 I can try to explain verbally,

8 I was Nyala 4, if we talk about the wire, Nyala 4 was

9 in front of me, maybe from here to the evidence

10 leaders, we were a small distance away from them, so Nyala 4

11 was in front of me all the time.

12 **CHAIRPERSON:** Can you tell us how many

13 meters it was, we can see it, but if we

14 look on the charter; we will not know the distance.

15 -

16 **BRIGADIER CALITZ:** Mr Chairperson,

17 maybe -

18 **CHAIRPERSON:** Perhaps if you can indicate

19 to us in meters, because we can see it but later when we

20 read the transcript and those who read the transcripts, who

21 have not been here, will not know what the distance is. How

22 many metres would you say it is?

23 **BRIGADIER CALITZ:** It is maybe 20

24 meters -

25 **CHAIRPERSON:** No, it is not -

1 **BRIGADIER CALITZ:** I cannot estimate the
2 distance from here, but it was about 20 meters -
3 -

4 **CHAIRPERSON:** I see, you say it was about
5 20 metres?

6 **BRIGADIER CALITZ:** Yes, close to that,
7 I shouted out of my vehicle to the members in Nyala 4
8 at one stage, I think we will still get to that part, to turn around
9 and they heard me clearly, so it was not that far.

10 **CHAIRPERSON:** You did not say, unless I
11 did not hear you, something which is in your statement which
12 is very important, and that is what in the second sentence,
13 in paragraph 108, you may have said it but I did not hear you say
14 it, but what Mr Noki had said -

15 **BRIGADIER CALITZ:** Oh, yes -

16 **CHAIRPERSON:** - When he approached you as
17 the first barbed wire was being uncoiled, you said he was
18 very aggressive and that he said something, what did you
19 say?

20 **BRIGADIER CALITZ:** Mr Chairperson,
21 yes, I neglected that, but it was
22 important. After he came to us to query about
23 the wire, he was very aggressive and said
24 we will not be seeing him again that day, but that we will definitely
25 die, I think that is the words that was used

1 or that is how it was interpreted to me,
2 he definitely said we in our hippos, that is how they referred to the Nyala's,
3 will die. I think I went to note it
4 as the sixth threat at that time.

5 **COMMISSIONER HEMRAJ:** Brigadier, Mr Noki
6 would have had to move from his position near the hill,
7 pass Nyala 4, traverse the 20 metres and then come to the
8 Nyala that you were in.

9 **BRIGADIER CALITZ:** Commissioner,
10 Mr Noki, he was a little bit in front of the
11 specific group that we are referring to, the
12 militant group. The leader always remained a
13 little in front and when the Nyala 1 started moving, Mr Noki
14 walked toward us, got up on the vehicle,
15 and made the threat to us. I think they
16 did take a picture of it, I am not sure of it, at this stage.

17 -

18 **BRIGADIER CALITZ:** And he was just on his
19 own, when this happened or were there other people with him?

20 **BRIGADIER CALITZ:** He made the
21 the threat to us while on his own, I think there was one person
22 a little behind him.

23 **CHAIRPERSON:** Now if you look at slide
24 192 you will see there is a photograph, but there are two
25 bullet points, if one can call it that, two paragraphs

1 which refer to two entities, the one is an earlier incident

2 at 13:40.

3 **BRIGADIER CALITZ:** Yes.

4 **CHAIRPERSON:** And the other which is the

5 top bullet, is what you have just told us about now, but can

6 you tell us whether the photograph, but if you do not know

7 then you will not be able to tell us and someone else may be

8 able to, the photograph we see here in slide 192, is that

9 taken during the first incident at 13:40, which is

10 described in the second bullet on this slide or was it

11 taken during what you call the sixth threat, I think that is

12 what you called it, and which must have taken place around

13 about 15:40, I take it, is that right? In any way, which

14 is it or cannot you tell us?

15 **BRIGADIER CALITZ:** Mr Chairperson,

16 thank you very much, no; I am under oath, so I would have to

17 lie if I say I can recall exactly when and where that

18 picture was taken, but that is what happened each time,

19 he came to our vehicle, no, I cannot

20 say that is the picture that was specifically taken then, no.

21 **MR SEMENYA SC:** Can you help us interpret

22 what we see in Exhibit, if we have a look at what CALS has

23 recreated as the positions of the vehicle, it is an

24 annexure to the statement of Mr White, but in particular

25 GW6(B)?

1 **BRIGADIER CALITZ:** If he can maybe help,

2 on what page will that be?

3 **MR SEMENYA SC:** It is Exhibit JJJ109.

4 **BRIGADIER CALITZ:** I have the exhibit, I

5 just need the page number of the pictures, they

6 have different –

7 **MR SEMENYA SC:** I am particularly

8 interested in looking at page 6 of that exhibit which would

9 show the time as 15:43:56 seconds.

10 **BRIGADIER CALITZ:** I am looking at that photo.

11 **COMMISSIONER HEMRAJ:** Sorry, Mr Semenya,

12 I am a bit lost, Exhibit 109, JJJ109, which page?

13 **MR SEMENYA SC:** It is Annexure GW6(B),

14 I am told it is page 178.

15 **BRIGADIER CALITZ:** Mr Chairperson,

16 I have it as, JJJ178, if I may, GW6(B), JJJ178,

17 GW6(B), page 6.

18 **COMMISSIONER HEMRAJ:** We cannot find these

19 exhibits, Mr Semenya, sorry.

20 **BRIGADIER CALITZ:** Can I make mine available?

21

22 **CHAIRPERSON:** - put it up on the screen,

23 the sensible thing to do, I think is to put it up on the

24 screen so that everybody can follow, thank you for offering

25 yours but the offer is politely the client, provided it can

1 be put up on the screen so that everybody can follow. It
2 is important, I think in a commission like this, evidence
3 of this nature should be capable of being understood by
4 everybody, including the people who are listening to
5 evidence with the interpreters.

6 **BRIGADIER CALITZ:** I understand, Mr
7 Chairperson.

8 **CHAIRPERSON:** Ms Hardy, do you know
9 whether Mr White's annexure that is being referred to is
10 available electronically, because if it is then it should
11 be able to be put up on the screen, if it is not, then we will
12 have to make another plan?

13 **MS HARDY:** Chairperson, it definitely is
14 available electronically, maybe I could be of some
15 assistance, also just so, I am not sure if the files have
16 been changed in terms of the exhibits, but we provided a
17 file for each of the commissioners with this full statement
18 and these exhibits printed, so –

19 **CHAIRPERSON:** Yes, no, we got those.

20 **MS HARDY:** Okay.

21 **CHAIRPERSON:** We cannot lay our hands on
22 them at the moment, but in any event it is desirable that
23 everybody here in the chamber, even those watching on the
24 World Wide Web should be able to understand the evidence,
25 so therefore if the particular annexure can be put up on

1 the screen and that it would be available for all to see,

2 that would obviously desirable.

3 **MS HARDY:** Maybe I can be of assistance.

4 **CHAIRPERSON:** I would be great if you

5 could do, perhaps we can adjourn for five minutes, I think

6 it is quite an important part that we have, is that right,

7 Mr Semenya?

8 **MR SEMENYA SC:** Yes, it is indeed.

9 **CHAIRPERSON:** Okay, we will adjourn for

10 five minutes to give you an opportunity to help us, Ms

11 Hardy.

12 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

13 **[10:19] CHAIRPERSON:** The Commission resumes. I

14 understand with the assistance of Ms Hardy the problem has

15 been sorted out. Thank you very much, Ms Hardy. Mr

16 Semenya, would you like to take advantage of what Ms Hardy

17 has prepared for us and show the relevant slide to the

18 witness, and then we can carry on? You are still under

19 oath, Brigadier, in case you had forgotten.

20 **BRIGADIER CALITZ:** I did not

21 forget, thank you, Mr Chairperson.

22 **MR SEMENYA SC:** Chairperson, can I ask Ms

23 Pillay to help us with at least identifying the exhibit

24 number?

25 **CHAIRPERSON:** That would be sensible,

1 because there were conflicting exhibit numbers we got
2 before we adjourned. Ms Pillay, can you give us a
3 definitive answer on the point of what the exhibit number
4 is?

5 **MS PILLAY:** Chairperson, we will mark the
6 annexures as part of a 178.1-series onwards because the
7 statement of Gary White is JJJ178. So the first annexure,
8 which is GW6A would be JJJ178.1, and that is a bundle of its
9 own, Chairperson, and the second bundle would be JJJ178.2, which
10 would be annexure GW6B.

11 **CHAIRPERSON:** Which is the one we are
12 going to look at?

13 **MS PILLAY:** B, that is JJJ178.2. So for
14 completeness, Chairperson, JJJ178.3 would be GW6C, and JJJ178.4
15 would be GW6D; JJJ178.5 would be GW6E; and JJJ178.6 would
16 be GW6F.

17 **CHAIRPERSON:** Thank you. The one we are
18 looking at is GW -

19 **MS PILLAY:** 6B.

20 **CHAIRPERSON:** - 6B.

21 **MS PILLAY:** Which is JJJ178.2.

22 **EXAMINATION BY MR SEMENYA SC (CONTD.):**

23 And if we may go to page 6 of that exhibit and flight it on
24 the screen? Brigadier, this is indicated to be around
25 15:43:56, and I remember you telling us that you were in

1 Pappa1. Are you able to indicate it on that photograph?

2 **BRIGADIER CALITZ:** It is correct, Mr

3 Chairperson, Pappa1.

4 **CHAIRPERSON:** [Microphone off, inaudible]

5 show us on the photograph. That is the question.

6 **BRIGADIER CALITZ:** Oh, sorry, Mr

7 Chairperson, if you look at the photographer,

8 Mr Chairperson, it says

9 –

10 **CHAIRPERSON:** [Microphone off, inaudible]

11 photographer –

12 **BRIGADIER CALITZ:** I mean on the photo,

13 I apologise. On the photo, the position of Nyala 4 is correct

14 – there it is, Nyala 4's position as we sit now

15 and if we talk in police-terminology, it is at 5 o'clock, it is

16 Pappa1.

17 **CHAIRPERSON:** Is that Nyala –

18 sorry, is that the Nyala – only one of us nods speak

19 Afrikaans. Is that the Nyala, which is marked P1 on the

20 screen?

21 **BRIGADIER CALITZ:** That is Correct, Mr

22 Chairperson. P1, it is "Pappa1," it is my Nyala and it is

23 where we did all negotiations at that stage and

24 on the left side before me, is Nyala 4.

25 **MR SEMENYA SC:** Just so that we interpret

1 the photo there, it would tell us that you are having Nyala

2 1 and 2 on the left of the picture frame, correct?

3 **CHAIRPERSON:** Is that right? It looks as

4 if Nyala 1 has started uncoiling its wire and it looks as

5 if it is almost reached Nyala 2. Is that correct? That is

6 what we can see.

7 **BRIGADIER CALITZ:** It is correct, Mr

8 Chairperson.

9 **CHAIRPERSON:** And then the other Nyalas,

10 like the runners in a relay race, are positioned at the

11 places where they will get the baton, in this case the

12 wire, if it reaches far enough, and then proceed further.

13 Is that right?

14 **BRIGADIER CALITZ:** Correct.

15 They gave me an "pointer", Mr

16 Chairperson, so I do not know if it shows up on your "screen",

17 Nyala 1 and 2 is there at the back. Nyala 1

18 "deploy," his wire from the Power Station, Nyala 1 then

19 hooked onto 2 and 2 then moved to 3 and then 3 moved on to 4

20 and my Nyala was Pappa1 at all times.

21 -

22 **MR SEMENYA SC:** And as you told us, then

23 you would have the other two Nyalas on either side of where

24 you were as Pappa1.

25 **BRIGADIER CALITZ:** Mr Chairperson,

1 I think the question came from the Commissioner yesterday or
2 the day before yesterday on how many Nyalas there was, I think I replied
3 under correction that it was five, I had two on my left-hand side,
4 Pappa11, Pappa9, and two on my right hand-side, Pappa7
5 en Pappa3. That was the Public Order Policing Line,
6 with the negotiators in Pappa1.

7 **MR SEMENYA SC:** And as the picture would
8 show us, we would have the water cannon of Johannesburg as
9 indicated with an arrow there and marked WC-JHB.

10 **BRIGADIER CALITZ:** Mr Chairperson,
11 there at the back is water cannon 1, as well as
12 North-west water canon right behind it.

13 **CHAIRPERSON:** What you call "water canon
14 1," water cannon 1, is I take it the one from Johannesburg.
15 Is that correct?

16 **BRIGADIER CALITZ:** Yes, I said
17 1 -

18 **CHAIRPERSON:** One that is marked WC-JHB,
19 that is what you call WC1, is it?

20 **BRIGADIER CALITZ:** Yes, we do
21 not say 1 or 2, I just showed on the picture
22 the first one is -

23 **CHAIRPERSON:** Yes, we are just trying to
24 understand your evidence.

25 **BRIGADIER CALITZ:** The first one is the

1 water canon from Johannesburg, Mr Chairperson. The one
2 at the back is the water canon from Northwest. The vehicles
3 on the left is the "off-road" trucks, called the
4 Canters.

5 **MR SEMENYA SC:** And for completeness,
6 there is indicated the other Nyalas, Pappa5, 19, 18, 4, and
7 a Casspir, right?

8 **BRIGADIER CALITZ:** Mr Chairperson,
9 indeed. If you recall the vehicles I
10 recalled from the "forward holding area" was the vehicles of
11 Luitenant-Colonel Pitsi, which include the four Nyala
12 vehicles as well as the white Casspir vehicle, which
13 observed the northerly region to the kraal.

14 **CHAIRPERSON:** So forgive me, there are
15 two Casspirs on the slide, Casspir A and Casspir B. Which
16 one is the white one to which you have just referred?
17 Casspir A or Casspir B?

18 **BRIGADIER CALITZ:** Casspir A is the white
19 one, it is a Public Order Policing Vehicle.
20 Casspir B as you can see on the photo is next to the
21 Scorpion from the Special Task Force. It
22 is a camouflaged Casspir vehicle.

23 **CHAIRPERSON:** Thank you.

24 **MR SEMENYA SC:** And if we look at this a
25 little closer as well, just in front of Nyala 4 would have

1 been the tight group of warriors there, right?

2 **BRIGADIER CALITZ:** It is correct, Mr

3 Chairperson.

4 **MR SEMENYA SC:** And what the picture also

5 tells us is that the 3, 4 000 people who were there

6 earlier, who gathered there, are not as large as they were

7 before. Is that correct?

8 **BRIGADIER CALITZ:** Mr Chairperson,

9 like we said, when Nyala 1 moved,

10 most of the big group that was on hill 1,

11 as well as on hill 2, if you look in a north,

12 north-westerly direction, all the people are walking there,

13 the hill is almost empty. So those people moved

14 down and all the dots is people that

15 already started to move away. It is this group of people

16 that are walking freely to the Nkaneng Village, but the

17 militant group remained in their formation in

18 the front.

19 **CHAIRPERSON:** Brigadier, "here and there"

20 is all very well to tell us, but when we read the record

21 later and others read the record they will not understand what

22 you are talking about. So I think the, perhaps we can go

23 through it again slowly, but when you refer to here and

24 there, spots, "dots", and so on, would you please

25 indicate in such a way that later on when we read the

1 transcript, or others read the transcript, they can see
2 what you are talking about? Now I think the "dots" and
3 spots you were referring to are really, what one can call
4 northeast as it were, of Nyala 5 – sorry, northeast is a
5 wrong expression because what I mean is it is police
6 language, between 1 and 2 o'clock above Nyala 5. Is that
7 correct?

8 **BRIGADIER CALITZ:** Mr Chairperson –

9 **CHAIRPERSON:** And some of them even 3, 4
10 o'clock of Nyala 5.

11 **BRIGADIER CALITZ:** Yes.

12 **CHAIRPERSON:** Is that correct?

13 **BRIGADIER CALITZ:** If I can indicate the directions,
14 because north were on my right hand side, more to the
15 Nkaneng settlement, so in the north, north-western direction
16 a lot of the "protesters" moved down
17 from the bigger hill 1 into the direction of
18 Nyala 5, they moved past Nyala 5 in the region of the Nkaneng
19 settlement.

20 **CHAIRPERSON:** On the northern side of
21 Nyala 5. They walked past Nyala 5 on the northern side, is
22 that right? On the right-hand side of the –

23 **BRIGADIER CALITZ:** On the left.

24 **CHAIRPERSON:** Sorry? On the photograph
25 as one looks at it, or some of them also walked on the

1 left-hand side if one looks at it, therefore on the

2 southern side of the Nyala. Is that right?

3 **BRIGADIER CALITZ:** I have it on

4 the left-hand side of Nyala 5, Mr Chairperson.

5 It is the north, north-western region.

6 **CHAIRPERSON:** Yes. Yes, I see. Perhaps

7 you could just go through that again just to make sure that

8 those who read this will not be confused by what I have said,

9 if you will go through it again.

10 **BRIGADIER CALITZ:** Mr Chairperson,

11 just to repeat, I said Nyala 1 moved to Nyala 2

12 and the bigger group on hill 1, as well as those

13 on hill 2, the 3 000 people started moving down

14 freely. I got the impression that

15 they did not care anymore and then started to move down to

16 the Nkaneng settlement. Nkaneng is in a northern

17 region, north of Nyala 5, just out of the picture,

18 and then on the left-hand side of Nyala 5, the north-western

19 side of Nyala 5; there we can see many people

20 moving in the direction of Nkaneng. A little bit west of this

21 photo – I think you can see it on other photos – there is

22 a large group moving in a western direction, away from the

23 hill.

24 **COMMISSIONER HEMRAJ:** But when say to the

25 left of Nyala 5, you really mean that area above the, in

1 the photograph above Nyala 5. Is that right? On the
2 right-hand side of the photograph.

3 **BRIGADIER CALITZ:** It is correct,
4 Commissioner, on top of Nyala 5.

5 **MR SEMENYA SC:** And if, to help us
6 understand, we shifted that frame to the left so that we
7 can see the kraal, the small kraal, yes, do you see that,
8 Brigadier?

9 **BRIGADIER CALITZ:** The small kraal is on
10 the northern side of Nyala 6. As Nyala
11 6 is standing, right on its right-hand side.

12 **MR SEMENYA SC:** In fact if we do a closer
13 inspection we will see that there are a number of people
14 already moving on the right side of Nyala 6 and in between
15 that and the small hill. They are freely going to
16 wherever they want to go.

17 **BRIGADIER CALITZ:** It is correct, Mr
18 Chairperson. It is exactly what I meant; if we performed
19 the operation and we could move out here and form a line,
20 we predicted that it would happen, in order for
21 those that were no longer interested,
22 could leave the area freely.

23 **CHAIRPERSON:** Would you have said, 'Those
24 of you who are no longer interested are free to go,' or
25 would you have simply said everyone is free to go? Or how

1 – I know it is hypothetical; you did not get there, but just

2 as a matter of interest, what would you have said?

3 **BRIGADIER CALITZ:** Mr Chairperson,

4 if we had to warn them, we would

5 address the “protesters,” we would inform them that they were

6 busy with an illegal gathering, and we would request them

7 to lay down their weapons and leave the area.

8 If that did not happen, we would arrest

9 those that stayed behind. The people no longer

10 interested in the protests would then have a chance

11 to leave, and I would have looked at my watch

12 and give them 20 to 30 minutes

13 to leave the area. If you do not leave the

14 area we will presume you are part of the

15 illegal protest, which was still on-going, and there

16 would be action against you, and you would be arrested,

17 that is how we would further explain it to them.

18 **CHAIRPERSON:** Thank you. That is what you

19 would have said. In fact you never got there because there

20 was a disruption, as it is been called by some of the

21 witnesses.

22 **BRIGADIER CALITZ:** It is correct, Mr

23 Chairperson. That is the procedure we always follow;

24 that is the way we work.

25 **MR SEMENYA SC:** But just so that we can

1 complete the picture on this photograph, you would have
2 been positioned, as you tell us, in Nyala Pappa1. You would
3 have been able to see in front of you where Nyala 4 was
4 positioned as well, correct?

5 **BRIGADIER CALITZ:** I was standing still as
6 Pappa1 and could request what is happening with Pappa4,
7 Mr Chairperson.

8 **MR SEMENYA SC:** Now remarkably the
9 evidence leaders tell us that there was no incident 1 where
10 the group of people came to Nyala 4. What was your
11 observation?

12 **BRIGADIER CALITZ:** Mr Chairperson,
13 the question – sorry, if I understand you
14 correctly? You said the “evidence leaders” -

15 **MR SEMENYA SC:** The evidence leaders are
16 contending that there was never an incident 1, and this is
17 against the evidence of Magidiwana, Pasha, and then the
18 others who were there.

19 **BRIGADIER CALITZ:** Yes, I understand. No,
20 I missed the first part of the question, Mr
21 Chairperson. No,
22 incident 1, is the big group, or the militant group,
23 it moved straight toward Nyala 4 when Nyala 4
24 started rolling out its wire. When Nyala 4 rolled
25 out the wire, the militant group moved straight

1 toward them. It was right in front of me. If you look
2 at my statement and those of the members
3 that was outside my vehicle, I got out of my vehicle
4 and shouted at them to get back into their vehicle,
5 some of the members were outside, busy rolling out
6 the wire and would definitely be in danger.

7 There was no other reason to shout at them
8 "get back into your vehicle" if the group were still
9 sitting peacefully.

10 **MR SEMENYA SC:** Just so that we
11 understand whom we are talking about, can we go to exhibit L,
12 slide 121? These are the people you are talking about, the
13 militant group. It is indicated to be on Wednesday, but
14 because you were there as well, was this your observation?

15 **BRIGADIER CALITZ:** Mr Chairperson,
16 yes, definitely. It was they typical action of militant group.
17 That was the typical militant behaviour that they
18 revealed and I witnessed.

19 **COMMISSIONER HEMRAJ:** May I just
20 understand, Brigadier, that at the time the group reached
21 Nyala 4, had Nyala 4 already begun to deploy the wire?

22 **BRIGADIER CALITZ:** Commissioner, the way I saw it,
23 Nyala 4 started moving when 3 reached them,
24 and when Nyala 4 started moving I saw the group
25 moving down in the direction of Nyala 4. That is why

1 I shouted at the members to pull back, but the wire on the "A-
2 frame" of Nyala 4 was already hooked onto 3 and therefore
3 I could shout at those members, if they just got into the vehicle.
4 the wire would just drag along.

5 When it started to move they came down the hill.

6 **MR SEMENYA SC:** But what slide 121 shows
7 us, a group of people with ominous-looking weaponry there,
8 we see a spear stuck on the tongue.

9 **BRIGADIER CALITZ:** Correct, Mr
10 Chairperson.

11 **MR SEMENYA SC:** On the right top of that
12 picture is somebody wielding a very large panga or
13 something.

14 **BRIGADIER CALITZ:** It is Correct, Mr
15 Chairperson.

16 **MR SEMENYA SC:** And at the bottom corner
17 of that we see very sharp instruments that are held there
18 by one of the strikers.

19 **BRIGADIER CALITZ:** It is Correct, Mr
20 Chairperson.

21 **MR SEMENYA SC:** And this is the group
22 that we are seeing in front of Pappa1, as you were on the
23 16th at around 15:43.

24 **BRIGADIER CALITZ:** It is correct, Mr
25 Chairperson.

1 **CHAIRPERSON:** [*Microphone off, inaudible*]

2 there I take it on the Wednesday as well. Did you see the

3 events, which are depicted in these photographs, which were

4 taken on the 15th, did you actually see them?

5 **[10:39] BRIGADIER CALITZ:** Mr Chairperson,

6 I cannot recall in what specific photo it was mentioned,

7 but if you can recall I said that they told us on the Wednesday

8 they will not negotiate with us,

9 is that what were asked, the "change

10 of mood" was that the behaviour.

11 **CHAIRPERSON:** Yes.

12 **BRIGADIER CALITZ:** They showed this

13 behaviour, and then moved in a tight formation from left to right,

14 up and down.

15 **CHAIRPERSON:** No, you were there, you saw

16 this.

17 **BRIGADIER CALITZ:** I was physically there.

18 **CHAIRPERSON:** Can you remember, was it

19 hot, cold, what was the temperature?

20 **BRIGADIER CALITZ:** Mr Chairperson,

21 no, I cannot recall the temperature –

22 **CHAIRPERSON:** Well, no, not the precise

23 temperature, you know what I mean is was it a hot, a warm

24 day or a cold day?

25 **BRIGADIER CALITZ:** I know it was winter

1 and I had my bunny jacket on, so for a person

2 that normally feels hot, it was a

3 chilly day.

4 **CHAIRPERSON:** Well, I noticed they had

5 blankets around them, some of them anyway. Was it a day

6 where it was necessary to have a blanket around your

7 shoulders?

8 **BRIGADIER CALITZ:** Mr Chairperson,

9 no, I am not an expert, but I believe

10 a jacket would have been enough, a blanket could

11 become quite hot for the period we sat there in the sun.

12 I will personally not fold myself in a blanket.

13 -

14 **COMMISSIONER HEMRAJ:** Brigadier, can you

15 tell us what observations you made about the behaviour of

16 that crowd as they approached Nyala 4?

17 **BRIGADIER CALITZ:** Commissioner, yes

18 as we moved behind Nyala 4 in the direction of

19 van Nyala 5, the group of protestors moved down directly towards

20 Nyala 4. What I could see from my vehicle was

21 that they started moving in a tighter

22 formation, if I can put it that way. They looked like they

23 were bending forward and were clicking with their weapons, while

24 singing or making loud noises,

25 which gave me the impression that

1 they were not moving peacefully toward
2 Nyala 4, and therefore I instructed my members
3 to close the door in front, you will see
4 both of the doors of the Nyala vehicle was open due
5 to the extreme heat in the vehicle...
6 I instructed them to close the
7 doors on the left-hand side and that they
8 should move in line with Nyala 4 and therefore
9 would be protected from the right-hand side. At one stage
10 the group were moving so close that I shouted at the
11 members to get back in their vehicles as I felt
12 their lives were in danger.

13 **COMMISSIONER HEMRAJ:** Actually how close
14 did that group get to Nyala 4?

15 **BRIGADIER CALITZ:** Commissioner, it was
16 it was meters from where I was standing,
17 it is difficult to estimate at this stage, but
18 it was very close, maybe the distance between myself
19 and the Commissioner, maybe closer. When
20 Nyala 4 started moving, the group turned and moved parallel
21 with Nyala 5.

22 **CHAIRPERSON:** The distance you point with
23 your hand towards me, between yourself and me is about 4
24 metres at the most, I would think, is that right?

25 **BRIGADIER CALITZ:** It can be a little

1 further, Mr Chairperson, yes.

2 **CHAIRPERSON:** Do you know the length of a
3 cricket pitch, which is 22 yards? Was it as far as a
4 cricket pitch or half a cricket pitch or is that not a
5 measurement that means anything to you?

6 **BRIGADIER CALITZ:** Let us say that
7 distant, Mr Chairperson, I am not a big –

8 **CHAIRPERSON:** A cricket pitch, 20 yards?

9 **BRIGADIER CALITZ:** 11, 22 meters, yes.

10 **CHAIRPERSON:** No, no, a cricket pitch is
11 22 yards, you can mitigate that if you like but –

12 **BRIGADIER CALITZ:** It shows my
13 ignorance, I am just a supporter.

14 **MR SEMENYA SC:** Can I invite us to have a
15 look at how the crowd was now on the 16th and we look at
16 slide 172 of Exhibit L. The picture captures a very large
17 group of people panga wielding, kirie wielding, assegai
18 wielding and a whole potpourri of dangerous weapons being
19 wielded there, does not it?

20 **BRIGADIER CALITZ:** Mr Chairperson,
21 yes, it is what I described as dangerous weapons.

22 **MR SEMENYA SC:** That is the group of
23 people who are going to Nyala 4 now when 2,000, 3,000 odd
24 people have disbursed in their various directions, is that
25 right?

1 **BRIGADIER CALITZ:** It is correct, Mr

2 Chairperson.

3 **MR SEMENYA SC:** And we will be able to

4 have objective evidence about the temperature on the 16th

5 around this time, we will go there.

6 **BRIGADIER CALITZ:** Yes, Mr

7 Chairperson, I cannot recall, but the Weather Bureau

8 would be able to give as an indication.

9 **COMMISSIONER HEMRAJ:** Mr Semenya, any

10 indication -

11 **MR SEMENYA SC:** In -

12 **COMMISSIONER HEMRAJ:** Sorry, any

13 indication of the time that these photographs were taken,

14 if there is I do not seem to recall it? I get the

15 impression this is the photograph taken of the larger group

16 while they were at the hill before any movement was made.

17 **MR SEMENYA SC:** That is correct but we

18 would see at the top of that image the larger group is

19 behind. This is before they dispersed though and I am told,

20 Brigadier, that we have Exhibit EEE9 and Exhibit EEE9 will

21 tell us at around this time the indicated weather was about

22 24 degrees.

23 **BRIGADIER CALITZ:** Mr Chairperson,

24 yes, I did not see it, but if that was the weather

25 report, it must be accurate.

1 **MR SEMENYA SC:** A little difficult would
2 tell that those blankets are worn for weather conditions,
3 would you say, Brigadier?

4 **BRIGADIER CALITZ:** Mr Chairperson, I
5 can only testify to what I would do, 24 degrees,
6 my jacket was beginning to be too hot, so I would not
7 wrap myself in a blanket.

8 **MR SEMENYA SC:** If we go now to Exhibit
9 178.2 and we go page 16 thereof, as the document tells us,
10 Sir, this is approximately or exactly 15:51:47 seconds.
11 The large majority of people who were on the hill are
12 almost gone now, is that correct, Brigadier?

13 **BRIGADIER CALITZ:** It is correct, Mr
14 Chairperson.

15 **MR SEMENYA SC:** But our militant group is
16 still together and now they are going towards the small
17 kraal, are they not? —communications—

18 **BRIGADIER CALITZ:** Mr Chairperson,
19 yes, that is what I explained as incident 2,
20 vehicle 3, my vehicle was
21 on the left-hand side of Nyala, the vehicle
22 that was busy to deploy, rolling out their wire,
23 the dot that is circled.

24 I was standing still the whole time, and the
25 the militant group moved down, in front of the

1 lamppost –

2 **CHAIRPERSON:** This direction -

3 it means nothing –

4 **BRIGADIER CALITZ:** In this direction,

5 sorry, Mr Chairperson,-

6 **CHAIRPERSON:** - so that the people that read the

7 charter later on can understand.

8 **BRIGADIER CALITZ:** I will try my best not to do it again

9 – the group of protestors moved down into the

10 direction of the barbed wire begin rolled out, that was

11 Nyala 4. As you can see, Nyala 4 moved

12 forward and the bigger group moved on to the

13 small kraal, here we refer to incident 2. I am sitting

14 in Pappa1 so I could see that the group moved

15 from incident 1,

16 -

17 moved away from the wire in a western direction,

18 closer to the small kraal, as I know it.

19 **MR SEMENYA SC:** So the evidence leaders

20 tell us that did not happen, what is your observation?

21 **BRIGADIER CALITZ:** No, Mr

22 Chairperson, it definitely happened, I was there,

23 I observed it.

24 **MR SEMENYA SC:** So the picture tells no

25 lies in this instance, Brigadier?

1 **BRIGADIER CALITZ:** Not just the photo,
2 my evidence and my position in Pappa1, it should make it
3 clear that I did actually observe it.

4 **COMMISSIONER HEMRAJ:** Could you actually
5 observe the group after Nyala 4 moving in that arc like
6 formation that is described in one of the slides, could you
7 see them moving in that direction or -

8 **BRIGADIER CALITZ:** Commissioner, if
9 you refer to Nyala 4; it is the one on its way to
10 the small kraal, Nyala 4 is the vehicle
11 inside the circle, clearly marked on the photo,
12 Nyala 5 is the vehicle moving inward,
13 meaning closer to the public
14 order, the TRT vehicles and Nyala 4 passed
15 on the western side of Nyala 5. Nyala 4
16 drove with its nose up to the kraal. I could see
17 it from where I was.

18 **CHAIRPERSON:** I think the question
19 relates really to the arc, if you look at Exhibit L, slide
20 194 you will see what is being portrayed are what is
21 described as three separate organised attempts. Have you
22 got that, Exhibit L?

23 **BRIGADIER CALITZ:** I have it, Mr
24 Chairperson, -

25 **CHAIRPERSON:** Slide 194, there it is on

1 the screen.

2 **BRIGADIER CALITZ:** Yes.

3 **CHAIRPERSON:** Now you see as the legend

4 at the top says there were three separate organised

5 attempts, which were being portrayed on the slides. The

6 first one is a yellow arrow, a straight yellow arrow, the

7 second is an orange arc and the third is a red arc which

8 goes around the small kraal. Now what you are asked is, did

9 you actually see the protestors moving off in that orange

10 arc or is it an inference that you drew from the fact that

11 you, from what you saw? Do you understand the question?

12 **BRIGADIER CALITZ:** I understand the question,

13 Mr Chairperson. From my position, Pappa1, right

14 at the back of the wire, the yellow arrow,

15 I could observe everything, and the question is if the people

16 did move back in that formation. I cannot say if it was the

17 the whole group, including the leaders, that moved back in a horseshoe

18 formation, back to the

19 the hill, opposite hill 2 and then stormed again.

20 I would say the bigger group at the back, I would say we

21 are talking about 700 plus people, they

22 moved further away, that will be further away from

23 the wire, but the militant group in front was

24 very near to the Nyalas, so the militant group,

25 one can almost say they

1 moved with the Nyalas
2 and the group at the back made a bigger circle, and the
3 militant group in front was closer with the
4 vehicles, they moved closer together and then
5 met up as a group again.

6 **CHAIRPERSON:** Colonel Scott, Lieutenant-
7 Colonel Scott, when he was questioned about this it was put
8 to him, I think it is essentially the theory of, or the
9 contention of the Human Rights Commission and they prepared
10 these documents we are looking at, the photographs, the
11 slides we are looking at, when this was being put to Colonel
12 Scott, my understanding of his evidence was that he said he
13 would not actually argue that. The way he saw it, if I
14 understood him correctly, was the militant group were
15 fairly a long line, I think he estimated about 50 metres.
16 So what you might well have been having was one part of the
17 50-metre line attacking at one point and another part
18 further down the line attacking another without the
19 strikers moving in an arc, you know attacking first or
20 trying to attack, approaching is the right word, at the
21 first point and then going in an arc and coming back and
22 approaching the barbed wire, the second point.

23 Do you understand the point I am conveying to you?
24 There was not an arc like movement but there was a long line
25 of at least 50 metres, he estimated of strikers, some of

1 whom were involved in approaching the barbed wire at one
2 point and the others at the other, that is, as I understood
3 his evidence. Are you able to comment on that?

4 **BRIGADIER CALITZ:** Mr Chairperson,

5 yes, I think Colonel Scott made a conclusion on the
6 photos –

7 **CHAIRPERSON:** But he was not there.

8 **BRIGADIER CALITZ:** Yes, the photos –

9 **CHAIRPERSON:** He was not there.

10 **BRIGADIER CALITZ:** Yes.

11 **CHAIRPERSON:** He was just interpreting –

12 **BRIGADIER CALITZ:** Yes –

13 **CHAIRPERSON:** - the photographs and also

14 he had the background, he had been at Roots and he heard

15 people telling their stories but that was his response to

16 the Human Rights Commission's contention that was put to

17 him.

18 **BRIGADIER CALITZ:** Yes.

19 **CHAIRPERSON:** And how do you wish to deal

20 with that?

21 **BRIGADIER CALITZ:** That is where I want to

22 go, Mr Chairperson, I think he observed

23 that on the photos, as well as the driver of the Nyala 4

24 commander of Nyala that can testify

25 that the people attacked his vehicle at that time. So

1 an attack cannot take place with a distance of 50

2 meter or further, but the people, I believe –

3 **CHAIRPERSON:** So you understand what I

4 mean, there was a line 50 metres long –

5 **BRIGADIER CALITZ:** Yes –

6 **CHAIRPERSON:** - of strikers.

7 **BRIGADIER CALITZ:** Yes.

8 **CHAIRPERSON:** And one group of strikers

9 approaches the barbed wire at one point and the other one,

10 further down the line approaches at another, it is not

11 necessarily the same people.

12 **BRIGADIER CALITZ:** It might be, Mr

13 Chairperson.

14 **CHAIRPERSON:** So is that –

15 **BRIGADIER CALITZ:** Operational it is

16 possible, yes.

17 **CHAIRPERSON:** Yes, that is what I wanted

18 to understand, thank you.

19 **BRIGADIER CALITZ:** Yes, no, operational

20 it is possible, yes.

21 **COMMISSIONER HEMRAJ:** And you do say that

22 there was a group of strikers that were walking almost as

23 you describe, parallel to the Nyala?

24 **BRIGADIER CALITZ:** Commissioner, yes,

25 at a stage I could see I could observe Nyala

1 4 moving in in front of us, and it looked like the group bended
2 the Nyala, and moved with the Nyala vehicle
3 in the same direction.

4 **CHAIRPERSON:** You say that they were
5 walking "bending" which I take it means crouching, is that
6 correct? Were they walking in a particular way?

7 **BRIGADIER CALITZ:** Mr Chairperson,
8 yes.

9 **CHAIRPERSON:** Can you describe that for
10 us?

11 **BRIGADIER CALITZ:** It is what I am
12 testifying, Mr Chairperson, they moved closer
13 together in a tight formation, but they were
14 crouching, nearer to the ground with the
15 different –

16 **CHAIRPERSON:** In other words, they were not
17 standing upright?

18 **BRIGADIER CALITZ:** No.

19 **CHAIRPERSON:** The upper part of their
20 bodies was leaning forward, I take it, as they moved
21 forward, is that correct, that seems to be what you are
22 indicating to us, from the chairperson there behind the table?

23 **BRIGADIER CALITZ:** Maybe if I can use
24 a rugby terms, when we say crouch, it is that
25 position we take in when we are near the ground,

1 they moved forward in this position,
2 which was strange to me,
3 **CHAIRPERSON:** Effectively like a rugby
4 scrum, just before the, to use the word that is also being
5 used here, the word "engage" was, so in a rugby scrum the
6 two packs move close to each other because they are
7 crouching.

8 **BRIGADIER CALITZ:** Yes, like that.

9 **CHAIRPERSON:** The referee gives certain
10 instructions, so you say it is almost like that, their body
11 positions, is that correct?

12 **BRIGADIER CALITZ:** It was –

13 **CHAIRPERSON:** They were only one pack,
14 there was not another one on the other side.

15 **BRIGADIER CALITZ:** It was Correct, Mr
16 Chairperson, just without the words "engage" but
17 it was later removed due to the misunderstanding.

18 **MR SEMENYA SC:** With your observation can
19 you help explain what we have at slide 200 of Exhibit L?
20 Again the evidence leaders tell us incident 2 did not
21 happen.

22 **BRIGADIER CALITZ:** No, Mr
23 Chairperson, I can testify that it definitely
24 happened, the photo, the evidence, as well as the people
25 Nyala 4, will testify that it

1 happened.

2 **[10:58] MR SEMENYA SC:** But it is a photo

3 indicating the position of the Nyalas, the barbed wire

4 rolled from Nyala 1, 2, 3, and 4, uncoiling.

5 **BRIGADIER CALITZ:** Mr Chairperson, if

6 I can explain, while

7 communicating, Nyala 4, you will see Nyala 4 had to go up to

8 Nyala 5. Nyala 5 had to hook their wire onto

9 Nyala 4 and move away. At this stage, and because I gave the order

10 the members had to get back

11 in the vehicle, there was no time. It takes

12 two to three minutes to just drop off,

13 which meant Nyala 5, would stand still,

14 which would be endangering the members. Therefore, I gave Nyala

15 4 an order and I told him on the

16 radio to move in, in front of the

17 "protesters" and then move away. So Nyala 4 rolled out

18 the wire until it came to the kraal. So Nyala 4

19 drove past Nyala 5 and Nyala 6 until he reached

20 the kraal, the kraal is thorn tree branches of about

21 one and a half meter high, and the purpose was that

22 the Nyala would then move against

23 the branches, so that there would be no space for the

24 "protesters" to move through, the other alternative

25 was that they would move in a western direction

1 where all the other people was moving in, like we can see
2 here is Nkaneng, and there was a lot of people
3 already moving towards the road, freely,
4 without any interference.

5 **MR SEMENYA SC:** Would this be a
6 convenient stage, Chairperson?

7 **CHAIRPERSON:** Yes, I just want to ask one
8 question before we take the adjournment, and that is the
9 people who you say are freely walking towards Nkaneng, if
10 they were the people on the hill they had actually walked
11 further than, or would have walked further than the group
12 who were in front of the hill and the flat part. Is that
13 right?

14 **BRIGADIER CALITZ:** That is indeed so, Mr
15 Chairperson. They had to come down from the hills
16 to pass the militant group, they had to move behind them
17 to the Nkaneng "village".

18 **CHAIRPERSON:** Thank you. We will take the
19 tea adjournment at this stage.

20 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

21 **[11:20] CHAIRPERSON:** The Commission resumes.

22 Brigadier, you are still under oath.

23 **BRIGADIER CALITZ:** Still under oath.

24 **CHAIRPERSON:** Mr Semanya.

25 **EXAMINATION BY MR SEMENYA SC (CONTD.):**

1 Can I, Brigadier, have you help us understand slide 200 of
2 exhibit L? Sorry, slide 205. There we see that Nyala 4 is
3 against the small kraal.

4 **BRIGADIER CALITZ:** It is Correct, Mr
5 Chairperson.

6 **MR SEMENYA SC:** Did you observe what is
7 depicted there?

8 **BRIGADIER CALITZ:** Mr Chairperson, what I
9 observed was, my vehicle, if we look at the
10 photo, it is north, outside the picture. My
11 vehicle is just – how can I describe it?

12 **CHAIRPERSON:** The way to describe it is
13 your vehicle was virtually under the word "second,"
14 somewhere on the white strip at the top of the photograph.

15 **BRIGADIER CALITZ:** It is correct.

16 **CHAIRPERSON:** Under, more or less under
17 the word "second." I think more or less, as you have
18 indicated more under the "c-o" of second. Is that right?

19 **BRIGADIER CALITZ:** It is correct, Mr
20 Chairperson. I think in the documents later,
21 compiled by CALS, you will see a breakdown of the
22 vehicles at "scene 1" which will show a better picture,
23 but to get back, Mr Chairperson, you will see Nyala
24 4 stopped at the kraal at this stage. Like I testified
25 earlier, the nose of the Nyala is now against the

1 kraal and the groups started moving away,
2- at that stage my vehicle, Pappa1, was almost at the
3 Nyala 3 – when I saw the vehicle move away and
4 group moving around, I started to realise that
5 the group was busy to “disperse.” They were moving
6 in the direction of the
7 Nkaneng settlement. I then gave the instruction that the
8 Pappa vehicles, because of incident 2,
9 and we already used scattering techniques here,
10 we gave an instruction that the Pappa Nyalas, the
11 POP with the Order Policing personnel must
12 follow me – there is a zinc house and the
13 small kraal were the only opening, I then
14 moved my Nyala vehicle and took up position in front of the
15 fence. I think on another photo we can clearly see
16 here at the northern side, under the words “police line”,
17 is a fence. It is not a kraal, like the small
18 kraal, which is round, but also a type of
19 kraal. My vehicle was there under the word “second”,
20 and when I got there to give the order for my
21 Pappa Nyalas to form a line, like with the
22 planning for phase 2, so that we can move further,
23 disperse the people and isolate them in smaller groups to
24 disarm and arrest them, I found that it did
25 not happen. The militant group in front

1 just continued to

2 storm –

3 **MR SEMENYA SC:** Brigadier –

4 **CHAIRPERSON:** That is going to mean

5 nothing on the transcript. When you say, “When I came

6 here,” you are placing your Nyala virtually under the “s-e”

7 of second and you are indicating the group by circling what

8 amounts to the head of that arrow which we see on the

9 slide. Is that correct?

10 **BRIGADIER CALITZ:** It is correct, Mr

11 Chairperson.

12 **MR SEMENYA SC:** Brigadier, I am going to

13 invite you to speak slowly.

14 **BRIGADIER CALITZ:** Okay.

15 **MR SEMENYA SC:** The interpreters tell us

16 that they cannot quite catch up with you.

17 **COMMISSIONER HEMRAJ:** Mr Semenya, while

18 that happens – there is a photograph, and I cannot find the

19 exhibit number right now – which seems to have come off an

20 internet page of a journalist, I am not sure what the

21 exhibit number is, that seems to show certain persons

22 throwing some objects at a Nyala. Does that fit in into

23 this movement of people, and if it does, can you assist me

24 with that, please? Because I would like to know, where it fits

25 in.

1 **MR SEMENYA SC:** Brigadier, if we go to

2 exhibit JJJ206.1 –

3 **CHAIRPERSON:** Are we going to see it on

4 the screen? While they are trying to find it, can I ask the

5 witness to look at slide 209? Where is your vehicle on

6 that slide?

7 **BRIGADIER CALITZ:** Mr Chairperson, my

8 vehicle was, remember the fence I referred to, if

9 can draw your attention to the map behind you, the red

10 dot, I was – I was here

11– if we look at the south side of the photo,

12 although north is at the side, then in an north-western

13 direction – my pointer do not want to work anymore. I do

14 not know if anyone has a pointer for me. The

15 kraal below, Mr Chairperson, it is

16 not a kraal, like the kraal on the top, but it is

17 kraal with two posts and a gate,

18 I was then, if we look at the photo,

19 I was parked at the left-hand side, next to the fence. This

20 photo was taken afterwards, but -

21 **CHAIRPERSON:** Yes, the photo was taken

22 after the event, but what I want to know is –

23 **BRIGADIER CALITZ:** There.

24 **CHAIRPERSON:** - is the position in which

25 your vehicle was parked visible on that photograph?

1 **BRIGADIER CALITZ:** It is correct, Mr
2 Chairperson. My vehicle was parked next to the
3 fence, across the post. Later in my evidence when
4 we said the vehicles must move forward,
5 my Nyala driver told me he could not, as the fence was in front of him,
6 and I gave him the instruction to move through the
7 fence. The Nyala vehicle then
8 drove through the wire and that post.

9 So that –

10 **CHAIRPERSON:** Now we are going to have do
11 something to try to get that on record. As one looks at
12 that slide, bottom left-hand corner there are two
13 arrowheads being in each case the ends of red arrows which
14 come from further up, and what you have indicated is there
15 appear to be shadows of poles, if one goes up some distance
16 up from the arrowheads at the bottom, if one goes some
17 distance up, one notices there are what looks like shadow
18 of two poles. Is that right? And, it is more than two, but
19 two particularly, and then there is also what appears to be
20 a fence of some kind. Is that correct?

21 **BRIGADIER CALITZ:** It is Correct, Mr
22 Chairperson.

23 **CHAIRPERSON:** And you say that your
24 vehicle was parked somewhere near that fence.

25 **BRIGADIER CALITZ:** It is correct, Mr

1 Chairperson. Next to the post, against the fence.

2 **CHAIRPERSON:** The area you are pointing

3 out is in the bottom left-hand corner of the photograph.

4 **BRIGADIER CALITZ:** It is correct, Mr

5 Chairperson.

6 **MR SEMENYA SC:** If we go, Brigadier, to

7 exhibit JJJ178.2 and we go to page 32, it will begin to

8 describe the movements of your vehicle in relation to the

9 others.

10 **COMMISSIONER HEMRAJ:** Before you go to

11 the movement, can we just deal with that photograph that I

12 referred to earlier on, please? If you do not mind. Thank

13 you.

14 **MR BUDLENDER SC:** Chairperson, I do not want to

15 obstruct in relation to the photograph, but I think Colonel

16 Scott's evidence was that he was not able to identify when

17 that photograph was taken and so I think that is the

18 difficulty we have.

19 **COMMISSIONER HEMRAJ:** That is why I asked

20 for clarification, Mr Budlender. Perhaps Mr Semanya can

21 help us with that.

22 **MR SEMENYA SC:** I will try to establish

23 it, but we were not able to time the photograph at all. As

24 the annotation tell us on what is there depicted at

25 15:53:11, that is exhibit JJJ178.2 and we are on page 32 of

1 that exhibit, the annotation tells us **[microphone off,**

2 **inaudible]** Pappa1.

3 **BRIGADIER CALITZ:** It is correct, Mr

4 Chairperson.

5 **MR SEMENYA SC:** And this is now your

6 movement from where you were earlier, but you are indicated

7 there moving away from where you initially were, towards

8 the kraal. Correct?

9 **BRIGADIER CALITZ:** It is correct, Mr

10 Chairperson. That is where I saw the people moving around the

11 kraal and I then thought that we could use the Pappa Nyalas

12 use them like in phase 2 to start with the

13 scattering, disarming and arrests.

14 **MR SEMENYA SC:** And if we go to the next

15 page of that exhibit JJJ178.2, page 33, we see some

16 annotation on the right side of that document, indicating

17 what is happening to Pappa1.

18 **BRIGADIER CALITZ:** It is correct, Mr

19 Chairperson. I testified that I drove in front of the

20 vehicles and then instructed them as the operational manager

21 to follow me, we are going through that space, behind the

22 opening.

23 **CHAIRPERSON:** Can I ask you a question,

24 which indicates my ignorance on this; when you drove, you

25 obviously drove past the small kraal. Is that correct?

1 **BRIGADIER CALITZ:** Between the kraal

2 and the zinc house.

3 **CHAIRPERSON:** Yes, did you drive past the

4 small kraal on the Nkaneng side or on the hillside?

5 **BRIGADIER CALITZ:** Mr Chairperson,

6 no, you cannot go past the hill, because Nyala 4

7 stopped against the fence, so –

8 **CHAIRPERSON:** I thought so. I thought

9 so. So you were between Nkaneng and the kraal when you

10 passed the kraal?

11 **BRIGADIER CALITZ:** Yes, on the Nkaneng side

12 of the fence. Between the “shack,” the zinc house and the

13 kraal.

14 **CHAIRPERSON:** Yes, I see. And

15 approximately how – I know it is just an estimate, but

16 approximately how far beyond the kraal did you go before

17 you stopped? ———communications———

18 **BRIGADIER CALITZ:** Mr Chairperson,

19 no, more in line with the kraal. When I moved out,

20 I will just look for a better photo, –

21 the line is, I think from the kraal,

22 when I went back to the scene, I had a look at where the

23 people, the footpath, were in relation to where I was. I think it is,

24 I measured and it was about 85 meter from where my Nyala was,

25 but the Nyala were near the kraal, at the left-hand side.

1 The "protesters" moved between
2 my Nyala – there were Nyalas on my left-hand side between them and the
3 kraal and the moved through a "tight spot". So
4 I was not too far in front, no. I was on that "bend"
5 that we just saw on the photo.

6 **COMMISSIONER HEMRAJ:** I am sorry, I did not
7 follow that. Can you just explain again where your Nyala
8 was in relation to the kraal?

9 **BRIGADIER CALITZ:** Commissioner, I said
10 when we moved out, I could only pass on the right-hand side of the
11 small kraal, between the kraal and the zinc house
12 and about 50
13 meter in front was another line, and that is where
14 my Nyala stopped. The other Pappa
15 Nyalas followed me in a horseshoe formation and that is the way I
16 positioned them; I think there were one or two in front of me
17 and then a horseshoe formation behind me up to the footpath.
18 So there were not a lot of space between me and their
19 Nyala. It was about a meter or two meters,
20 between them and the kraal was a very tight
21 space where the "protesters" stormed through.

22 **COMMISSIONER HEMRAJ:** Thank you.

23 **MR SEMENYA SC:** And page 34 of that
24 exhibit JJJ178.2 shows us where your Nyala is now, with the
25 annotation on the right side saying, "Pappa1 has continued to

1 drive at right angles to the Casspir and has now stopped

2 beyond vehicle 3.”

3 **BRIGADIER CALITZ:** It is correct, Mr

4 Chairperson.

5 **MR SEMENYA SC:** But before we come to

6 that position, can we deal with what you have on your

7 statement, paragraph 111. That observation you do it

8 whilst you were where?

9 **BRIGADIER CALITZ:** Mr Chairperson,

10 this was incident 2

11 and I was still behind

12 Nyala 3 that was rolling out wire in front of me, I

13 saw the group moving away nearing the

14 Nyala, and when I saw this

15 “approach”, I ordered the Pappa Nyalas,

16 the “dispersion group, to engage.” I think I repeated

17 it two or three times and I used the words

18 “Engage, engage, engage.” During

19 our briefing I told them that we would give them a

20 sign, which was a type of order

21 where everybody was getting ready to move forward,

22 to lodge an action, and I also explained it that way, the

23 word ‘engage’ is used in order to, to order the dispersion

24 group to get involved. I further gave a

25 pertinent order to the Public Order that the “dispersion group”

1 must move forward and block the "strikers," or the
2 "protesters" and that is what Nyala 4 did, he moved
3 forward, and Colonel Pitsi
4 also moved with his Nyala towards incident 2.

5 We will get to his evidence later on, where he claims
6 that they shot at his vehicle, but I know
7 Colonel Pitsi drove there and then at the scene of
8 incident 2, they already dispersed the people.

9 There was a "non-lethal" action lodge in terms of,
10 what we call a "force continuum."

11 **MR SEMENYA SC:** Can we go to the same
12 exhibit, JJJ178.2 and go to page 43 of that exhibit. This
13 is the same as we have JJJ206.1.

14 **[11:39] BRIGADIER CALITZ:** It is correct, Mr
15 Chairperson, I think this is a better indication on the
16 previous question to where my vehicle was,
17 I cannot see on the slide, but I think Pappa1
18 is showed at this position.

19 **CHAIRPERSON:** We see P1, we see P1
20 though, is that your –

21 **BRIGADIER CALITZ:** It was not my position,
22 I think it was an estimate –

23 **CHAIRPERSON:** What was your position?

24 **BRIGADIER CALITZ:** There at the yellow block
25 indicating 12, against the wire,

1 in line with the green arrow against the wire. This white
2 line is the kraal I am talking about, or the
3 fence with the two posts.

4 if I say there, I mean in the middle –

5 **CHAIRPERSON:** The two poles on both
6 sides, both sides is a green arrow, the green arrow is
7 pointing down as one looks at the slide, towards the right
8 hand bottom corner of the slide.

9 **BRIGADIER CALITZ:** It is correct.

10 **CHAIRPERSON:** And the, if one looks very
11 carefully one can see at the point where the green arrow
12 intersects the white line which is the fence, one could see
13 on either side of the green arrow there are the poles, is
14 it Correct?

15 **BRIGADIER CALITZ:** That is correct,

16 Mr Chairperson.

17 **CHAIRPERSON:** And you were near the
18 poles, were you more or less in the gap between the poles
19 or where were you?

20 **BRIGADIER CALITZ:** Between the post
21 on the side of the wire, so we drove the wire off when we
22 went forward through the kraal.

23 So the vehicle on my left-hand side was

24 Pappa11, the Casspir,

25 the other Pappa Nyalas approached in a horseshoe formation, as instructed and

1 the protestors moved

2 the vehicles and the kraal, very near the

3 kraal, in that direction.

4 **COMMISSIONER HEMRAJ:** But why did you put

5 yourself in that position, Brigadier, what was your

6 intention?

7 **BRIGADIER CALITZ:** Commissioner,

8 I stayed behind because an operational commander

9 must observe,

10 one has to orientate

11 oneself and get to know where they are, before one can

12 take action, before one can say, "decision taken and then act

13 on that decision," so I orientated myself

14 and observed my surrounding, that is why I moved

15 forward. Because the group was not on that side

16 I could not see them when they moved

17 to the side. Like I testified earlier, when I saw them

18 moving to the side, I realised that it would be safe for

19 my Pappa vehicles, by that I mean the Public

20 Order Policing to move out. If I am still a little fast, the

21 briefing –

22 **MR SEMENYA SC:** Yes, you are still going

23 too fast for the interpreters, Brigadier.

24 **BRIGADIER CALITZ:** Let me just

25 repeat. As Pappa1 I observed what happened at incident 1 and

1 2, at incident 2 the people moved, in what looked to me,
2 in the direction of the Nkaneng
3 Village. The position of my vehicle was as such
4 that I could not see what was happening when they started
5 moving around the kraal, I gave the order that we proceed
6 with phase 2, where would line-up the vehicles and
7 then move forward at my command, to disperse
8 the people. That is why I moved my vehicle forward
9 and as an operational commander I believe that one always have to
10 you people. I cannot stay behind
11 and tell them to go, as I will not be able to observe
12 what happens, as that would endanger my members.
13 So with my experience over the years, I will tell my
14 members, follow me, and it is better
15 to take command if you can see what happens.

16 **MR SEMENYA SC:** And on that exhibit
17 again, JJJ178.2, can you explain the image on page 42, the
18 top part of what is on the screen now?

19 **BRIGADIER CALITZ:** Mr Chairperson,
20 yes, on the other side,
21 the Casspir vehicle, on the blue part, is
22 the vehicle at the top, the back of that vehicle.
23 It is the white Casspir and its position is shown
24 on the photo below and the I believe the
25 green arrow shows the position from where this photos was

1 taken. So that is what happened
2 on the left-hand side of the fence and the left-hand side of the
3 Casspir. When I got to the
4 kraal, or
5 just on the right-hand side of the kraal, I observed
6 this formation, it was a typical
7 crouching position in which they moved closer together with
8 their weapons in their hands, they moved around and
9 attacked the police line. In the front you can
10 see the Public Order Policing members, the
11 Pappa Nyalas, busy breaking up the group with
12 rubber bullets as a last non-lethal resort.
13 **MR SEMENYA SC:** Brigadier, can I invite
14 you to explain to us what appears on slide 207 of Exhibit
15 L?
16 **BRIGADIER CALITZ:** Mr Chairperson, I
17 think it is a close up photo. The smoke you see is the
18 teargas used to disperse the crowd.
19 We do not see the Public
20 Order Policing Members in this photo, but at this stage they were
21 outside their vehicles trying to disperse the crowd.
22 That is on my left-hand side,
23 I am now on the right-hand side of the vehicle, so that is
24 exactly what I saw, or observed when
25 I arrived at the kraal, and that was the position

1 in which they stormed.

2 **COMMISSIONER HEMRAJ:** Could you see that

3 from where you were?

4 **BRIGADIER CALITZ:** Commissioner,

5 I cannot say it was this specific photo,

6 but the direction in which this photo is taken, I was

7 just at the right-hand side, but I could see clearly

8 that they wanted to get through the

9 vehicles and the kraal.

10 **COMMISSIONER HEMRAJ:** So you were

11 actually watching them from behind where the strikers were

12 moving?

13 **BRIGADIER CALITZ:** I could see the front

14 and I could see them moving at a speed, it was seconds

15 where the group in front moved straight through

16 in a line to the footpath.

17 **CHAIRPERSON:** On the slide we see what

18 amounts to a gap between two Nyalas, is that correct?

19 **BRIGADIER CALITZ:** That is how the vehicle

20 was positioned –

21 **CHAIRPERSON:** Yes, the photographer was

22 obviously slightly further back and standing in line with

23 this gap between the two Nyalas, is that right?

24 **BRIGADIER CALITZ:** It is correct.

25 **CHAIRPERSON:** And he saw them coming

1 past. You were not in line with the gap, so you did not see
2 them actually passing this point, do I understand you
3 correctly?

4 **BRIGADIER CALITZ:** Mr Chairperson,
5 the previous photos showed from what direction the photos was
6 taken, I could clearly observe the two green lines on them,
7 but I do not know from which direction this
8 was taken.

9 **CHAIRPERSON:** Where you were, this
10 little, what we see on this photograph, this is the scene
11 of people walking past in a crouching position, walking
12 past this gap between the two Nyalas, did you see that or
13 were you not able to see that because of your position,
14 that picture we see of these people walking past this gap?

15 **BRIGADIER CALITZ:** Mr Chairperson,
16 the photo we see here, the photo that we look
17 at now, that was not my position. My
18 position was in front more to the left side, but I did
19 observe the people moving between the kraal and the vehicles,
20 between the vehicles in front.

21 **CHAIRPERSON:** So you were to, as we look
22 at the photograph you were to the left, is that what you
23 said, is that right? I thought you said right earlier but
24 now you say left, so I want to make sure I understand you.

25 **BRIGADIER CALITZ:** Not the left,

1 Chairperson.

2 **CHAIRPERSON:** Was it left, left or right?

3 **BRIGADIER CALITZ:** No, no, I was on the

4 right-hand side of the Nyala, the Nyala in front and the

5 Nyala at the back, they were in a horseshoe position and

6 I was at their right-hand side.

7 **CHAIRPERSON:** On this photograph we cannot

8 see you obviously, because you are not in the frame, but were

9 you the, - as you look at the photograph were you on the

10 left hand side or the right?

11 **BRIGADIER CALITZ:** On the right -

12 **CHAIRPERSON:** On the right, I thought

13 that, Brigadier, so you were onto the right of the Nyala we

14 see on the right hand side of this photograph, is that

15 correct?

16 **BRIGADIER CALITZ:** Mr Chairperson,

17 the Nyalas, I do not know if we can go back to the previous

18 photos where the blue vehicles were,

19 if I may ask? It is easier to

20 explain on the photo mentioned, if I have the right angle,

21 maybe it is in that kraal. What I

22 observed, - if I say there, I mean from the corner of the zinc house

23 down towards the kraal, but there I could not see anything.

24 What I could observe from my position, the group

25 in front, on the tip of the white circle,

1 was the point that they moved around, so from my
2 I could see what happened between this vehicle
3 and that vehicle, on the photo that was mentioned
4 here –

5 **CHAIRPERSON:** Those,
6 that means nothing on the record. What you have
7 shown us and in line of what you told us before, I think,
8 was that you were below the lower green arrow, is that
9 right?

10 **BRIGADIER CALITZ:** It is correct, Mr
11 Chairperson.

12 **CHAIRPERSON:** And –

13 **BRIGADIER CALITZ:** Against the wire.

14 **CHAIRPERSON:** Against the wire?

15 **BRIGADIER CALITZ:** That is correct.

16 **CHAIRPERSON:** And this white circle you
17 referred to is actually, not really a circle, it is –

18 **BRIGADIER CALITZ:** An oval –

19 **CHAIRPERSON:** It is an ellipse and as one
20 looks at it, on the left hand side of it, as one looks at
21 the photograph, you were able to see strikers there, am I
22 understanding you correctly?

23 **BRIGADIER CALITZ:** It is correct, Mr
24 Chairperson, I could see the wire from my position,
25 if I looked toward the direction of the kraal, I could see

1 I could see what was happening in between these vehicles, in front of the
2 Casspir, in between the Casspir and the other vehicle.

3 **CHAIRPERSON:** So as one looks at the
4 photograph one sees this ellipse and one sees where you
5 were. There are two blue shapes on the photograph near the
6 left hand edge of the ellipse, what vehicles were they?

7 **BRIGADIER CALITZ:** If we can maybe zoom in,
8 I think it might be two Casspir vehicles.

9 **CHAIRPERSON:** Yes, they are Casspirs, it
10 seems –

11 **BRIGADIER CALITZ:** It is, there
12 is the close-up photo.

13 **CHAIRPERSON:** Two Casspirs, yes.

14 **BRIGADIER CALITZ:** It is correct.

15 **CHAIRPERSON:** Now you were below those
16 Casspirs, if one looks at the photograph, as you said
17 against the wire. _____communications_____

18 **BRIGADIER CALITZ:** It is correct.

19 **CHAIRPERSON:** Against the fence.

20 **BRIGADIER CALITZ:** Yes.

21 **CHAIRPERSON:** You could see through the
22 Casspirs, right, looking towards the kraal, you could see
23 through, in the gap between the Casspirs, I take it?

24 **BRIGADIER CALITZ:** It is correct.

25 **CHAIRPERSON:** And insofar as there were

1 strikers passing there you could see them?

2 **BRIGADIER CALITZ:** It is correct.

3 **CHAIRPERSON:** The photograph we saw

4 however is as if they were around the corner, you could not

5 see that because of the position you were in, is that

6 correct?

7 **BRIGADIER CALITZ:** Not true –

8 **CHAIRPERSON:** In that picture we saw the

9 people passing the gap between the two Nyalas, that you

10 could not see but what you could see is what you mentioned

11 now?

12 **BRIGADIER CALITZ:** It is correct, Mr

13 Chairperson.

14 **CHAIRPERSON:** Yes.

15 **COMMISSIONER HEMRAJ:** And that was clear

16 to you and that stage that that group was moving to that

17 area between the kraal and the shack?

18 **BRIGADIER CALITZ:** Yes, there is another

19 that shows another white piece before this

20 oval, I think it is on the next slide where it shows

21 how the group is moving closer to the kraal,

22 but from my position I could see how they

23 stormed past the vehicles, sort of next to the kraal in

24 at the back and that is when I gave the order that we have to

25 move the vehicles forward immediately and use the

1 vehicles to disperse the group.

2 At that stage I realised that the rubber bullets of the Public Order

3 Policing did not work and the members

4 were retreating tactically, back

5 to the safety of the vehicles.

6 **CHAIRPERSON:** Did I hear you correctly

7 when you said at that stage you thought that they were

8 going towards Nkaneng, did I hear you correctly or did I

9 mishear you?

10 **BRIGADIER CALITZ:** Not at this stage,

11 but at the stage when I was standing

12 behind Nyala 3, where the wire was rolled

13 out, where I observed incident 1 and incident 2,

14 Mr Chairperson, they moved around

15 the corner and it was then that I thought,

16 this is the time to mobilise the vehicles and start

17 with the disperse action.

18 **CHAIRPERSON:** Yes, I understand that.

19 **BRIGADIER CALITZ:** I did not expect

20 them to come around the kraal again, no.

21 **CHAIRPERSON:** No, I understand that but I

22 am busy with something else. When you were parked, because

23 that is how it worked, you were stationary near that fence,

24 just below those two Casspirs we see on the photograph,

25 they had been walking past towards the left of the

1 photograph and they were going along the side of the kraal,
2 what did you think they were up to? I know what you were
3 intending to do with them but what did you think they were
4 up to? What did you think they were going to do?

5 **BRIGADIER CALITZ:** Mr Chairperson, if
6 you say, "they", is that the people -

7 **CHAIRPERSON:** The strikers, the strikers.

8 **BRIGADIER CALITZ:** The militant group
9 in front of the strikers, - they definitely
10 attacked the police line. The group that moved away peacefully was
11 further away, and if I say further away, I mean they were in a
12 north-western direction.

13 **CHAIRPERSON:** That is what I wanted to
14 know.

15 **BRIGADIER CALITZ:** The group -

16 **CHAIRPERSON:** You thought that it is the
17 front group, as you described as the militant group, you
18 thought they were advancing towards the police line to
19 attack the police?

20 **BRIGADIER CALITZ:** Definitely, Mr
21 Chairperson, -

22 **CHAIRPERSON:** The others who were going
23 in the other directions, -

24 **BRIGADIER CALITZ:** It is correct, -

25 **CHAIRPERSON:** - you assumed they were

1 going to Nkaneng, they were leaving –

2 **BRIGADIER CALITZ:** It is correct, –

3 **CHAIRPERSON:** - the area, is that

4 correct?

5 **BRIGADIER CALITZ:** I can only say Pappa11

6 was in front of me and what I saw was that there were

7 definite confrontation between the protestors and Pappa11, the protestors

8 moved passed the vehicle and slammed against the vehicle,

9 I could clearly observe that they came past

10 Pappa11 and was going into the direction of the

11 kraal, so I had no other choice than to give the order for the

12 vehicles to move in between them and to

13 disperse them.

14 **CHAIRPERSON:** I see.

15 **COMMISSIONER HEMRAJ:** Would you say with

16 JJJ178.2, the red dotted line on the top left hand corner,

17 that is the TRT basic line and then below that you have

18 three Nyalas, 13, 14 and 15. Now at that point where those

19 three Nyalas are were there policemen standing outside the

20 vehicles or were there just vehicles positioned there?

21 **BRIGADIER CALITZ:** Commissioner, what I know

22 in hindsight is what

23 I saw on the photo that was taken by Public

24 Order Policing Members between the vehicles that lodged

25 action. I could not observe from where

1 I was, no.

2 **COMMISSIONER HEMRAJ:** And if you were at

3 the front of that white ellipse, if you were standing

4 there, would you have been able to see the police vehicles

5 and the police officers standing between 13, 14 and 15?

6 **BRIGADIER CALITZ:** I believe –

7 **CHAIRPERSON:** I think, - sorry for

8 interrupting, I think at the front, Commissioner Hemraj,

9 has been the –

10 **COMMISSIONER HEMRAJ:** The left hand –

11 **CHAIRPERSON:** The left hand end as it

12 were of the ellipse –

13 **BRIGADIER CALITZ:** If I –

14 **CHAIRPERSON:** - is ambiguous, so if you

15 were at the extreme left hand end, as one looks at the

16 photograph, of that ellipse, if you were a striker walking

17 along there towards those Nyalas 15, 14 and 13, is it, what

18 would you have seen if you had been a striker going that

19 route?

20 **BRIGADIER CALITZ:** Mr Chairperson,

21 if I was a protestors and like in

22 incident 2 I was already shot with rubber bullets and teargas,

23 and I moved around the kraal and saw

24 saw police vehicles with

25 police officers firing at me,

1 so –

2 **CHAIRPERSON:** Hang on, let us take it

3 slowly, so if you had been the striker or if I'd been the

4 striker walking there, I would have seen these three Nyalas

5 ahead of me, I would have seen POP police officers standing

6 between them, is that correct, the two gaps between the

7 two?

8 **BRIGADIER CALITZ:** It is correct.

9 **CHAIRPERSON:** I would have seen, you

10 said, being fired at, but fired at with what, lethal force

11 or with less than lethal force?

12 **BRIGADIER CALITZ:** No, Mr

13 Chairperson, the Public Order Policing never use lethal force,

14 we have rubber that we use –

15 **CHAIRPERSON:** No, no, I –

16 **BRIGADIER CALITZ:** - Scatter the

17 groups –

18 **CHAIRPERSON:** I would have seen –

19 **BRIGADIER CALITZ:** Shotguns –

20 **CHAIRPERSON:** Would there have been

21 teargas already?

22 **BRIGADIER CALITZ:** Teargas was already

23 used at that stage, as well as rubber, during

24 incident 2.

25 **CHAIRPERSON:** No, but we are now coming,

1 we are now walking around this incident 3 already.

2 **BRIGADIER CALITZ:** From –

3 **CHAIRPERSON:** Walking around the kraal.

4 **BRIGADIER CALITZ:** Teargas was already

5 used there.

6 **CHAIRPERSON:** There would be teargas in

7 the air.

8 **BRIGADIER CALITZ:** It is correct, Mr

9 Chairperson.

10 **CHAIRPERSON:** There was no water cannon

11 there of course, was there?

12 **[11:59] BRIGADIER CALITZ:** The water cannons is at the

13 back. They are with the wire line.

14 They were not in front with us –

15 **CHAIRPERSON:** So I would not have – if I

16 had been there, a striker walking around, I would not have

17 been met by a water cannon, but I would have, there would

18 have been teargas in the air and there would have been

19 rubber bullets. Is that right?

20 **BRIGADIER CALITZ:** As well as “stun” –

21 **CHAIRPERSON:** And stun grenades.

22 **BRIGADIER CALITZ:** - we threw out of

23 my vehicle, pertinent towards the people that

24 came down next to the wire,

25 I also gave the people instruction out of my vehicle

1 to fire with rubber bullets with their shotguns. So the

2 "protesters," could see clearly

3 that there was police action taken against them.

4 -

5 **CHAIRPERSON:** If you cannot answer this,

6 please say so, but could a striker in the position we are

7 talking about have seen the TRT basic line, or can you not

8 be sure about that?

9 **BRIGADIER CALITZ:** Me, myself,

10 I could not see what position they were

11 positioned in. Maybe if we can look on

12 the photos, but I cannot say.

13 **COMMISSIONER HEMRAJ:** Could you estimate

14 the distance, please, between the left-hand furthest corner

15 of the ellipse to where the line of 13, 14 and 15 are?

16 **BRIGADIER CALITZ:** The distance?

17 **COMMISSIONER HEMRAJ:** Between the left-

18 hand, the furthest left-hand point of the ellipse, the

19 white ellipse, to where 13, 14, and 15 are, that line of

20 police and vehicles.

21 **BRIGADIER CALITZ:** I just want to assure

22 that you understand correctly, Commissioner. On the left-hand side,

23 you do not mean on the side of the zinc house,

24 between 13 and the kraal?

25 **COMMISSIONER HEMRAJ:** No, if you look at

1 the white ellipse –

2 **BRIGADIER CALITZ:** Yes.

3 **COMMISSIONER HEMRAJ:** - yes, the –

4 **CHAIRPERSON:** It is there up towards –

5 **COMMISSIONER HEMRAJ:** You are doing

6 “there” now.

7 **BRIGADIER CALITZ:** I beg your pardon, Mr

8 Chairperson, I just want to –

9 **CHAIRPERSON:** I said “there” but I was not

10 near the microphone. I indicated to you on the screen the

11 extreme left-hand end of the ellipse –

12 **BRIGADIER CALITZ:** Yes.

13 **CHAIRPERSON:** And then what Commissioner

14 Hemraj wants to know is the distance approximately from

15 there towards that line formed by Nyala 13, 14, and 15,

16 approximately what is the distance?

17 **BRIGADIER CALITZ:** As I testified earlier on

18 it was the distance physically measured by me

19 from where my Nyala was next to the wire up to the

20 gravel road, the footpath –

21 **CHAIRPERSON:** So it would be a little bit

22 shorter than that?

23 **BRIGADIER CALITZ:** It was was 70, about –

24 **CHAIRPERSON:** That was how much?

25 **BRIGADIER CALITZ:** 70 paces.

1 **CHAIRPERSON:** 70. 70 –

2 **BRIGADIER CALITZ:** 70 to 80 –

3 **CHAIRPERSON:** 70 yards, metres.

4 **BRIGADIER CALITZ:** Yes. So what the –

5 **CHAIRPERSON:** Paces. Paces actually.

6 **BRIGADIER CALITZ:** Paces. So regarding the

7 “protesters” and Nyala 13, 14, I would say with

8 the speed they were moving, Nyala 13, Nyala 14 was,

9 I think the picture is not exactly where they was – I

10 think they were closer to the kraal if one looks at the

11 photos. So distance could be 20 meters, maybe less.

12 -

13 **MR SEMENYA SC:** Brigadier, if I invite

14 you to look at paragraph 114 of your statement, you say

15 there that with the attacking armed strikers coming around

16 the small kraal your Nyala was positioned, as we corrected

17 it, east of their approach, “two of the members in your

18 Nyala fired rubber bullets and threw stun grenades at the

19 armed protesters. More importantly, this was done on my

20 instruction.”

21 **BRIGADIER CALITZ:** It is correct, Mr

22 Chairperson.

23 **MR SEMENYA SC:** You gave the command to

24 only those who were in your Nyala?

25 **BRIGADIER CALITZ:** Mr Chairperson,

1 how it works, during incident 2 I already gave the order
2 to the commanders, saying, "Move forward and disperse," so every
3 group commander and section commander, will then disperse the orders to their
4 own Nyalas. So I
5 pertinently order the two members in my vehicle – it is
6 very difficult for me, to give orders to another vehicle,
7 if I cannot see the other vehicle, on how to "disperse"
8 if I cannot see their "angle".

9 **CHAIRPERSON:** Was the dispersal
10 effectively going to be done by the vehicles, or was it
11 envisaged that the members of the service would get out of
12 the vehicles to expedite the dispersal? As you say, you have
13 got a group of people. You drive a vehicle towards them.
14 That normally would make them disperse to get out of the
15 way. Was that what you had in mind, or did you intend that
16 the members would alight from the vehicles and expedite the
17 dispersal?

18 **BRIGADIER CALITZ:** Mr Chairperson,
19 during incident 2 when I gave the command that the Public
20 Order Policing must "disperse," the members
21 would get of their vehicles, form lines
22 and then start with a "force continuum", which included
23 "stun grenades," the teargas and the rubber bullets
24 to try and hold the "protesters" back
25 as far as possible. Even when they got to

1 incident 3, I moved forward
2 I ordered my members not to leave their
3 vehicles, as the distance between us were too close,
4 and we then fired out of the Nyala, with
5 rubber bullets, but we saw that it was ineffective. The
6 different commanders, then ordered their
7 members, to
8 "tactically retreat" and that is where you could see
9 the members, I think there was TV footage
10 on where they turned around and returned to their Nyalas.
11 The second order I gave to "disperse" was
12 when I saw them moving pass the
13 kraal, that was when I realised they
14 were busy breaking my
15 Public Order Policing Line, and that is why I gave the order
16 that they have to use the vehicles to
17 "disperse," the crowd, not to physically hit them with the
18 vehicles, but the idea was that the noise Nyala
19 vehicles would have an intimidating effect,
20 and that they would then turn around and
21 run away, which would make it easier to get them into
22 smaller groups.

23 **COMMISSIONER HEMRAJ:** So would be there
24 some discretion left to the commanders - just after
25 incident 2 when you said disperse, would there be some

1 discretion left to the commanders as to how they would do

2 it?

3 **BRIGADIER CALITZ:** Commissioner, yes, indeed.

4 If I gave the command to "disperse," it does not mean

5 meant that all the members would throw

6 "stun" grenades out of their vehicles or use teargas.

7 The first vehicle on the scene,

8 he will tell his members to use

9 teargas into the crowd, or throw a "stun" grenade.

10 Everybody does not fire at once. Normally there will be a

11 order, I want three rubber bullets fired at

12 the person with the red jacket. No, we have to use

13 discretion of each commander and

14 section commander responsible for their members. If I say

15 "disperse," does not mean free for all, and everyone

16 can just start to fire, no not at all.

17 **MR SEMENYA SC:** And the bottom of

18 paragraph 114 you say, "That had no effect on the group.

19 They still moved forward."

20 **BRIGADIER CALITZ:** It is correct, Mr

21 Chairperson.

22 **MR SEMENYA SC:** It is at that point where

23 you instructed your Nyalas to move in between the group to

24 try and break the group into smaller groups, right?

25 **BRIGADIER CALITZ:** That is where I gave the order,

1 and where Warrant-Officer Nong, my
2 driver told me, "Brigadier, I cannot go here,
3 there is a line wire in front," and
4 I shouted at him to drive through it,
5 so that we can reach the people, so he exhilarated and drove
6 through the wire.

7 **MR SEMENYA SC:** What we are going to have
8 marked as KKK2 would be an attempt at reconstructing what
9 is happening at this time in your Nyala. Is that right?

10 **BRIGADIER CALITZ:** I did not see that KKK
11 but –

12 **MR SEMENYA SC:** You will see it now.

13 **BRIGADIER CALITZ:** - I believe so.

14 **MR SEMENYA SC:** No, you will see it now.

15 **CHAIRPERSON:** Brigadier, the instruction
16 to use the Nyalas to move between the groups was to all the
17 Nyalas?

18 **BRIGADIER CALITZ:** Commissioner, it is
19 Correct. I communicate with my Pappa vehicles,
20 and I instructed them, "Pappa Nyalas,
21 move forward, move" – I just want to make a correction,
22 I instructed the driver to exhilarate the vehicle so that
23 we could move through.

24 **CHAIRPERSON:** Did you then effectively
25 drive off towards hill 2 at that point?

1 **BRIGADIER CALITZ:** Mr Chairperson,
2 yes, when I moved forward, the crowd in front of
3 my Nyala, started to move. I also saw it from the
4 left-hand side, the group moved forward. I
5 tried getting the Nyalas
6 in line while I came from the
7 north, north-western direction - from hill 2,
8 I gave the Nyalas orders to stop and to
9 regroup. At that stage most of the crowd
10 moved in a western direction,
11 north to Nkaneng,
12 but ran in a more western direction. There was a
13 small group behind hill 2 that looked like were not
14 running, but standing still.

15 **CHAIRPERSON:** Yes, but did you go in the
16 direction of hill 2, in effect?

17 **BRIGADIER CALITZ:** Not – towards hill 2?

18 **CHAIRPERSON:** Towards, in the direction,
19 towards.

20 **BRIGADIER CALITZ:** I think the vehicles was
21 lined up in the direction of hill 2. It is – I think there is
22 photo that shows the line. The front of our vehicle
23 was pointed in the direction of hill 2.

24 **CHAIRPERSON:** Yes, alright, we are now
25 being shown a picture that was taken on Friday of an Nyala,

1 taken on an empty plot close to the municipal office in
2 Centurion where we are sitting. It shows the Nyala from the
3 side. The door is open and someone, it looks suspiciously
4 like me, is in the process of getting into the Nyala. It is
5 amazing how one looks from behind. One never sees oneself
6 from that angle.

7 **MR SEMENYA SC:** Yes, it was an attempt at
8 recreating more or less what was happening in your Nyala at
9 this time. The demonstration, as the video will play, I
10 want you to explain to us what you were experiencing at
11 that time. Can you play the video from here?

12 **[VIDEO SHOWN]**

13 **BRIGADIER CALITZ:** Mr Chairperson,
14 must I explain through the video –

15 **CHAIRPERSON:** Let us just play it through
16 and then perhaps they can go back and you can start giving
17 a commentary of what you can see.

18 **[VIDEO SHOWN]**

19 **MR SEMENYA SC:** Well for now we can stop
20 it here. Can you explain what we have just seen?

21 **BRIGADIER CALITZ:** Mr Chairperson,
22 yes, you will see there the
23 white shirt is holding on to the door of the Nyala.
24 Normally the doors are in a “air lock,” so
25 where the video started, we physically had to hold on

1 by hand. This was due to the vehicle being switched off and then
2 turned on again, and when it was turned on again the air pressure
3 did not build up sufficiently and one of the pipes
4 blew off. That is the only difference, normally –

5 **MR SEMENYA SC:** Do not run too fast,
6 Brigadier. The interpreters again.

7 **BRIGADIER CALITZ:** Okay, so that is the only difference
8 on the video, from the beginning. Normally the
9 doors of a Nyala close automatically with air pressure. At the beginning
10 of the video is where we came to a standstill.
11 That was my position. We indicated where at the
12 kraal I was. At that stage I
13 observing at the wire, as well as on the left side where the
14 “protesters” came through
15 on the other side of the white Casspir, like we
16 saw it just now. I immediately ordered the
17 warrant officer, the constables in my vehicle,
18 I think there were three of them – to throw out the
19 stun grenade,
20 at the left-hand side in the direction of the
21 crowd. The idea behind that, as
22 my experience of 15 years with
23 the Public Order Policing has proven, is that
24 the effect of a stun grenade, always let the people turn
25 around and run in the other direction. It is very

1 seldom that you will get the people running into the direction
2 it is from. The action was not effective,
3 when the stun grenade was thrown, we gave the order for the
4 rubber bullets with the shotgun – you can hear it outside the
5 vehicle and the person shooting the rubber bullets with
6 the shotgun was inside the vehicle. The idea
7 was to give the people inside the vehicle
8 and idea of what the noise levels
9 inside the vehicle, when it is fired from inside
10 the vehicle and if the Nyala would move
11 forward with a higher momentum.
12 While moving forward we can see what the
13 momentum of the Nyala is, as well as its
14 “manoeuvrability”. Therefore, I shouted the order out of the Nyala,
15 to the driver – if I talk about
16 shout – it is how it happened on the day.
17 It would not help if I talked in a normal voice because the
18 driver would not hear me. So I
19 had to shout, “Move to the left.
20 Move to the right, and then Nyalas form a line,” and then
21 I shouted over the radio to the other vehicles to go
22 left or right so that we could
23 regroup. That was the purpose of the first part.
24 **MR SEMENYA SC:** Now let us describe the
25 inside of a Nyala.

1 **BRIGADIER CALITZ:** The inside of a
2 Nyala vehicle, a Nyala vehicle is built for squad formation.
3 A Section Formation consist of eight members and a section
4 commander. So in the vehicle you
5 get three seats,
6 on each side.
7 There is a very high console between the three seats at the one side
8 and the three seats at the other side. That is where the
9 hydraulic pipes and the air pressure system are situated. There is
10 also two seats in front, so if you look at a Nyala,
11 that will be the driver's seat and that
12 of the commander on the left-hand side.
13 The photo we see now, position 1, that is where the
14 driver sits.
15 **[12:19]** It is in front the Nyala and position 2 is
16 where the commander will sit, the reason why
17 I did not sit there on the 16th, is because
18 Luitenant Colonel Macintosh sat there. I did it that way
19 because I used the opening that we call the
20 the mosquito hole, to communicate with Mr Noki,
21 on the outside. On top, under the words
22 "front", you can see, maybe not so clearly,
23 hangs a microphone that we used to communicate with, if
24 connect it, the Nyala's speakers on the roof will carry the
25 the sound further together with the sirens and the PA

1 system. If you look at the numbers on the
2 left-hand side, 4, that was where the interpreter sat on
3 that day and he talked to Colonel Macintosh,
4 which sat at number 2, and my position was 7, and then Colonel Macintosh
5 relay to me what was said. I was in position 7,
6 which is at the back of the Nyala, at the bottom of
7 number 7 on the photo is what we call the dog
8 box.

9 It is an open space where the batteries
10 of the vehicle is installed and it is the only place
11 where one could mount a base set radio.
12 Due to the fact that a base set radio uses a lot of power,
13 they need to put the clips directly onto the battery,
14 so my position was 7 and 3, 5, 6, 8 and 9,
15 was the positions of the operational members in
16 my vehicle. The negotiators was number 6 and 8 the members
17 that fired the rubbers bullets and threw the
18 stun grenades through the
19 fire holes on the left-hand side. Numbers 3 and 5, was the other
20 two negotiators, twee captains, that supported
21 Colonel Macintosh during the
22 negotiations process.

23 **MR SEMENYA SC:** And as we see that image,
24 the militant, the group would be which side of the frame?

25 **BRIGADIER CALITZ:** As we look at it now,

1 on the left-hand side of the vehicle.

2 **MR SEMENYA SC:** And we know at that time

3 where you were positioned, as you told us, the front of the
4 group was now behind you.

5 **BRIGADIER CALITZ:** I moved around the kraal,

6 when I reached the front,

7 and the met with the militant group, they appeared

8 within seconds and that is why I gave the orders to

9 use the stun grenades and rubber bullets,

10 but it did not work on them, they were just

11 moving onwards,

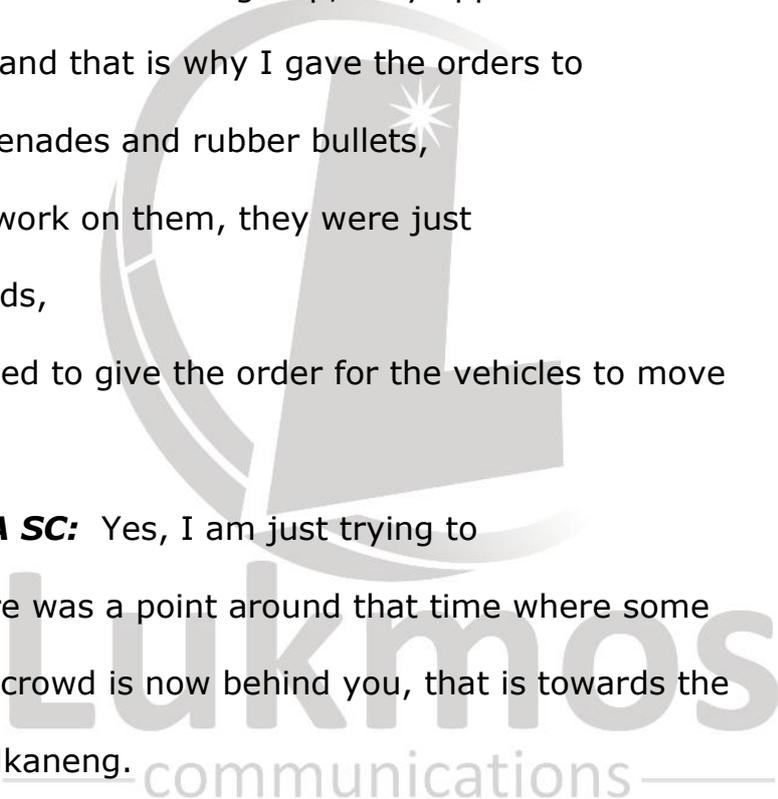
12 and I was forced to give the order for the vehicles to move

13 forward.

14 **MR SEMENYA SC:** Yes, I am just trying to

15 establish, there was a point around that time where some

16 section of the crowd is now behind you, that is towards the

17 little path to Nkaneng. 

18 **BRIGADIER CALITZ:** It is correct, yes, it is

19 the group that did not react on the stun grenades,

20 they just moved on in the direction of the Nyalas

21 behind me.

22 **MR SEMENYA SC:** And you tell us that you

23 did not see the 8 second firing of the TRT, the attacking

24 group?

25 **BRIGADIER CALITZ:** I did not see

1 nor heard it, Mr Chairperson.

2 **MR SEMENYA SC:** The question is, why

3 could not you hear it?

4 **BRIGADIER CALITZ:** Mr Chairperson, if you

5 look at the position of my vehicle and the way we moved

6 forward yesterday and the day before,

7 the vehicle I was driving in made a tremendous

8 noise. As I said, we had to move through a wire fence

9 so the momentum of the Nyala and the noise of the engine

10 were louder than any other vehicle. I cannot say why I could

11 not hear it, because I do not know where and why shots were fired,

12 but I would say the

13 noise in the Nyala was, because of the stun grenades

14 and rubber bullets used by the Public Order Policing,

15 as well as the shots fired on us.

16 They did not fire one or two shots, they continued shooting at

17 us while they were moving forward. So at the time that I

18 shouted at the driver to move forward with the vehicle

19 my vehicle was shooting rubber bullets with the

20 shotgun in the direction of the protestors.

21 With the radio I had on my right-hand side I tried to

22 shout orders to the others to follow me.

23 That was while I was shouting at the driver in which

24 direction he had to move. So if I must say why I could

25 not hear at that stage, I would say it was due to the

1 noise, the shotgun, the sound of the vehicle and the

2 sound of everything happening around us.

3 **CHAIRPERSON:** Was the position where the

4 strikers were shot in that 8 seconds that Mr Semenya talked

5 about, was that out of your line of sight?

6 **BRIGADIER CALITZ:** It was, Mr

7 Chairperson, I think it is

8 in CALS,

9 I think they are referring to

10 vehicle 1 or 2, I may be corrected.

11 I was already

12 moving forward when the incident happened

13 behind me, so I did not observe it at all.

14 **CHAIRPERSON:** As you know, Mr Semenya,

15 we are proposing to sit until two, for the reasons I

16 explained on Friday, so perhaps it would be convenient for

17 us to take a short adjournment at this stage for a comfort

18 break and so forth. We will then be able to continue once

19 the adjournment is over, until two o'clock without further

20 interruption, is that –

21 **MR SEMENYA SC:** Indeed, Chairperson –

22 **CHAIRPERSON:** If that is convenient for

23 you we are going to take the adjournment now. If you want

24 to make some other points first before we go for the

25 adjournment, I am in your hands.

1 **MR SEMENYA SC:** It is a convenient stage.

2 **CHAIRPERSON:** We will take an adjournment

3 for ten minutes.

4 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

5 **[12:45] CHAIRPERSON:** The Commission resumes. We

6 will proceed now until 2, or if we – they are only having

7 their meeting at 3, so we have got a little bit of time after

8 that, in case Mr Semenya is busy with a point he wants to

9 round off, the guillotine blade will not fall directly at 2

10 clock, unless it is convenient for Mr Semenya to take the

11 adjournment then.

12 **MR SEMENYA SC:** Thank you, Chairperson.

13 **CHAIRPERSON:** You are still under oath,

14 Brigadier.

15 **BRIGADIER CALITZ:** Thank you,

16 Commissioner.

17 **CHAIRPERSON:** Mr Semenya.

18 **EXAMINATION BY MR SEMENYA SC (CONTD.):**

19 Now Brigadier, oblivious to the fact that there has just

20 been, the shooting has happened, you proceed at paragraph

21 116 of your statement.

22 **BRIGADIER CALITZ:** Mr Chairperson,

23 yes, it is correct.

24 **MR SEMENYA SC:** In fact, sorry, let me

25 take you a step back. It is at paragraph 115 and you say

1 you then instructed the Nyalas to fall up in a line. This
2 was done until you reached – and formed the line next to
3 hill 2, that is at the, what we now call the dry
4 riverbed. Is that right?

5 **BRIGADIER CALITZ:** It is correct, Mr
6 Chairperson. It is a little in front of the dry riverbed, but it is
7 almost in line.

8 **MR SEMENYA SC:** Then you order your
9 members to regroup.

10 **BRIGADIER CALITZ:** Correct, Mr
11 Chairperson.

12 **MR SEMENYA SC:** Does slide 215 of exhibit
13 L begin to describe the situation then?

14 **BRIGADIER CALITZ:** Yes, It is correct, Mr
15 die Chairperson. On your previous question,
16 around hill 2 – that is approximately the direction that
17 we were positioned in. This photo was
18 taken a little later on, when the water cannons already
19 moved in. However, it was the position that we were in
20 next to hill 2, yes.

21 **MR SEMENYA SC:** But at this time you tell
22 us you then enquire where the TRT is.

23 **BRIGADIER CALITZ:** Mr Chairperson,
24 yes, we were briefed that we would chase the crowd
25 and the Public Order Policing vehicles

1 would move forward. The briefing for the TRT groups was
2 that they would follow up and then search hill 2.
3 That was the briefing. The same was intended for NIU and
4 the Special Force which had to search the bigger hill, hill 1.
5 So when I was at hill 2 and I
6 tried to "regroup", but the idea was that we would wait for
7 TRT and the others to first search the,
8 so that we would know if there was any weapons,
9 possible weapons, dangerous weapons,
10 firearms, or any of that, before we would make a further
11 decision. At that stage I was
12 in one of the Nyala vehicles, I think in
13 one of the other photos one can see it more clearly, but
14 I think I was in the first line, and when I turned around
15 I saw the TRT at the back, in a group at the
16 kraal, I mean at the small kraal, and from
17 my Nyala I looked back and could see
18 the group and I tried to make contact with the
19 commander, Captain Loest, and tried to ask him on the
20 radio why the TRT are not moving
21 upward. At that stage I received no
22 radio communication back,
23 and I asked the helicopter, commanded by Luitenant-
24 Colonel Vermaak is, "Just go check for
25 me what the problem is with TRT and why

1 are they still standing there, why do they not move." I
2 was worried because they were taking too long and the people were
3 moving away. I wanted them to come and
4 search the hill.

5 **MR SEMENYA SC:** Yes, and you deal with
6 that in paragraph 117 of your statement, and Colonel
7 Vermaak then says to you that there were bodies lying on
8 the ground. Is that right?

9 **BRIGADIER CALITZ:** It is correct, Mr
10 Chairperson. Colonel Vermaak circled on top of
11 the TRT and reported that the TRT were standing still and
12 there were "bodies," on the ground
13 It is correct.

14 **MR SEMENYA SC:** And to your mind that
15 conjured an image of people who were dead, or not?

16 **BRIGADIER CALITZ:** No, not at all, Mr
17 Chairperson. At that stage I order my
18 Public Order Policing Vehicles and the Pappa Nyalas to
19 move forward. So what I thought of was the
20 "dispersion" with the shotguns by my men. So my
21 mind-set at that stage were, there are
22 people in the field and they might be harmed by
23 the rubber bullets fired by the shotgun. In my experience in
24 80, 90% of the time that we disperse with
25 rubber bullets, there is always people lying in the field

1 firstly to prevent from being shot
2 with the rubber bullets and secondly to avoid
3 arrest, they hand themselves over and lay down.

4 So typically get it in the Public Order that
5 people will go lie down in the field.

6 **MR SEMENYA SC:** Did you have any sense
7 that sharp ammunition was used?

8 **BRIGADIER CALITZ:** No, I had not
9 knowledge of the sharp ammunition that was used.

10 **MR SEMENYA SC:** You also refer to the
11 helicopter that was hovering above the scene as you were
12 doing the dispersal action, as you saw it.

13 **BRIGADIER CALITZ:** It is correct, Mr
14 Chairperson. I think at that stage there were
15 about three or four helicopters above us, I think
16 the white one in the photo at our left-hand side, is called the
17 Oryx, it is a Airforce helicopter, and then we also had the
18 two police helicopters.

19 **MR SEMENYA SC:** You tell us that while
20 you were waiting next to hill 2 there, you were waiting
21 for the water cannons to join the line, you saw several
22 people running in the northerly and westerly directions.

23 **BRIGADIER CALITZ:** It is correct, Mr
24 Chairperson.

25 **MR SEMENYA SC:** And then you instruct the

1 water cannons to move with some of the Nyala in order to
2 continue with the dispersal action as per their briefing.
3 **BRIGADIER CALITZ:** Mr Chairperson,
4 yes, while we were waiting in that line, I recalled
5 the water cannons. It took a while, you see in the
6 photo of the kraal there is still one of the
7 water cannons in top. If I say on top, I means in line with the kraal,
8 close to the other water cannon. While we were
9 waiting in line and regrouped,
10 we could see many places in the field being set on fire,
11 here in the foreground,
12 and because it was winter and the grass long and dry
13 I was worried and wanted my members to follow it up
14 But I had to wait for the water cannons to return
15 firstly to see if the fires are spreading and secondly so that
16 we can use the water of the water cannons, and
17 also to move forward with the dispersing action.
18 From this line we decided to continue
19 dispersing and started with the "force continuum"
20 again. So from there is will be
21 water cannons,
22 "stun grenades", and tear gas, if possible.
23 -

24 **MR SEMENYA SC:** And then you refer to the
25 POP policy document on crowd management, paragraph 5.2.6.

1 **BRIGADIER CALITZ:** It is correct, Mr

2 Chairperson.

3 **MR SEMENYA SC:** That is where it reads,

4 "After every offensive measure follow-up action must be

5 launched as a proactive measure to prevent groups reforming

6 and continuing the violence."

7 **BRIGADIER CALITZ:** It is correct, Mr

8 Chairperson. It is procedure that during "crowd

9 management" when we will lodge action

10 against any group, either with "stun grenades" or

11 rubber bullets, we have to follow up; we have to make arrests,

12 as it is needless just to fire at

13 people and to leave them running.

14 Secondly we must prevent them from

15 regrouping and returning with a more

16 violent action, which may result in more damage.

17 I made notes that this is what happened in

18 "exhibit" L,

19 I have it here on page 259 of

20 "exhibit" L where the small group broke away

21 and went directly to Wonderkop where they

22 set fire to five vehicles. That is why we tried to

23 "contain" the bigger group and make the

24 arrests.

25 **MR SEMENYA SC:** You then gave an

1 instruction that, "Members do not shoot unless the target
2 engages you." What are you referring to there?
3 **BRIGADIER CALITZ:** Mr Chairperson,
4 I think it can be heard clearly on the video, or the
5 "transcript," of the helicopter, which was already
6 listened to in this commission, the conversation between myself and
7 Colonel Vermaak. The Public Order
8 Policing vehicles moved forward to hill 2
9 in a line, and as they moved forward
10 shots were fired out of the Nyalas and my orders to
11 the Public Order Policing members were not to
12 shoot out of the vehicles, as it had no purpose.
13 We were in an armoured vehicle and the people were running away,
14 so I instructed them not to shoot at the people,
15 except when there was a confrontation between
16 the police and the protestors. However, one can get my precise
17 words in the "transcript". I know I was
18 misquoted in reports to say, "Shoot the
19 target, shoot the target," where the word
20 "not" were conveniently taken out, my exact words were,
21 "Do not shoot unless the target engages you," the "target"
22 referring to a person that runs towards you with a panga or
23 a dangerous weapon, then that person would become
24 a target for you to disperse. That was the
25 meaning around my words.

1 **MR SEMENYA SC:** And the word "shoot," you

2 meant what?

3 **BRIGADIER CALITZ:** Mr Chairperson,

4 we communicate continuously with the Public Order

5 Policing vehicles, with the Pappa Nyalas, and I think my orders

6 were clear; if you listen to the video,

7 you will hear that I told the Nyala vehicles to come forward and

8 Nyala vehicles do this. It was only the Public

9 Order Policing Members that moved forward

10 with me at that stage. I we refer to "shoot" it will mean

11 with rubber bullets from a shotgun.

12 **CHAIRPERSON:** I am sorry to interrupt you,

13 but it is been drawn to my attention that the miscreant air

14 conditioner that caused us trouble last week is leaking

15 again, as I understand it. What happened last week, you

16 remember it was turned off, the doors were opened and then

17 the other portable air condition would be used. I think

18 that is probably a sensible thing to do because there is

19 water leaking on the floor. So we will take a short

20 adjournment. I am sorry to lose time this way, but there is

21 nothing I can do about that. Sort out that problem.

22 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

23 **[13:02] CHAIRPERSON:** I am informed that the air-

24 conditioning problem has been sorted out, so we can carry

25 on, Brigadier, you are still under oath. Mr Semenya?

1 **MR SEMENYA SC:** Thank you, Chairperson. At
2 paragraph 120 of your statement you tell us that Colonel
3 Vermaak was directing the water cannons towards what we now
4 call to be hill 3, correct?

5 **BRIGADIER CALITZ:** It is correct, Mr
6 Chairperson.

7 **MR SEMENYA SC:** And there he is giving
8 instructions from the helicopter?

9 **BRIGADIER CALITZ:** It is correct, Mr
10 Chairperson, as I testified on my first or second day of evidence,
11 Colonel Vermaak has about 19 to 20 years' experience
12 in Public Order Policing, so he was the
13 right person for the task and he has enough
14 experience to know how to give instructions through to the
15 people.

16 **MR SEMENYA SC:** And then you see a large
17 group of people northerly and that is where, and it should
18 be other two Nyalas accompanying you to that point.

19 **BRIGADIER CALITZ:** It is correct, Mr
20 Chairperson, the group was split in two, the bigger group was
21 in a north, north-western direction underneath the power cables,
22 and in a western direction there was a group moving towards
23 what we now refer to as hill 3. I moved my vehicle in
24 in a western direction, toward the group that were running away,
25 and followed them.

1 **MR SEMENYA SC:** And there were arrests

2 affected there, were not there?

3 **BRIGADIER CALITZ:** Various arrests

4 were made as we moved forward and further into the field

5 My group alone, and I may be corrected, made about,

6 20 to 29 arrests, I think on the radio

7 I called 6 arrests at one stage, that was when we got out

8 of the vehicle and made the arrests and waited for the

9 Cantor vehicles and the riot trucks to come and fetch

10 them and as we moved into the field

11 we made several arrests as the people laid down

12 their weapons and lay down in the field.

13 **MR SEMENYA SC:** And Warrant Officer Nong

14 climbed out of the Nyala to go and take some photographs of

15 the arrested strikers.

16 **BRIGADIER CALITZ:** Mr Chairperson,

17 yes, before we let the people get into the riot trucks,

18 it is always better to let the photographer take a photo

19 of them as it makes it easier when we get to the

20 statements, the people arrested and the identification,

21 that was the purpose of Warrant

22 Officer Nong, he was handling the camera and he was

23 also the driver of the vehicle.

24 **MR SEMENYA SC:** Then Lieutenant Colonel

25 Macintosh screams you and informs you that one of your

1 members is under attack.

2 **BRIGADIER CALITZ:** Mr Chairperson,

3 Colonel Macintosh shouted at me and told me he

4 he was going to get out of his vehicle as he saw a protestor

5 directly moving towards a police officer, it was quite a few meters

6 from us and although he saw how the

7 police officer was attacked, I shouted at him,

8 no, do not get out of the vehicle

9 because I did not know what the circumstances was, but Colonel

10 Macintosh jumped out of the vehicle and ran

11 toward them. I then hanged out of my vehicle,

12 and shouted at warrant Officer Nong to come back

13 into the vehicle, so that we could go and have a look

14 at what the danger was.

15 **MR SEMENYA SC:** But you did not witness

16 the incident involving what is marked as victim C?

17 **BRIGADIER CALITZ:** Myself, no, Mr

18 Chairperson, no, from my position in the Nyala,

19 where I was, Colonel Macintosh was more positioned,

20 like you saw in the photos, the

21 drivers and the people in the other seats are higher positioned,

22 so it is easier for them to see and report to me what they

23 saw. I did not see the attack on the

24 police officer from where I was.

25 **MR SEMENYA SC:** And then you hear

1 Lieutenant-Colonel Macintosh, Vermaak rather, saying over
2 the radio that the people were encircled?
3 **BRIGADIER CALITZ:** It is correct, Mr
4 Chairperson, various order made to Colonel Vermaak
5 to get his vehicle back. As we moved in a westerly direction
6 I heard him communicating on the radio, this Nyala go left,
7 this Nyala go right, this water cannon go there, so
8 I thought he was also busy with a dispersing action
9 on that side, and that is why he said to me,
10 "The people are encircled," to me that meant
11 that the people were boxed in by the
12 Nyalas and the water cannons that helped.
13 I then gave a clear instruction on the radio to the Pappa
14 vehicles, the Nyalas, where I said, get out of the
15 vehicles make sure you are protected and "engage", so again
16 I instructed them to get involved. It was not necessary
17 to say, go forward, disperse, use
18 stuns, use this, use that, the members were briefed on what to do.
19 So I instructed them, get out of the Nyalas and disperse,
20 and "engage the hill", I just gave a go ahead and proceed
21 sign to my Public Order
22 Policing Members at that stage and you can hear the whole conversation
23 on the video, where we talk with the Pappa
24 Nyalas, which is then the Public Order Policing members.
25 **MR SEMENYA SC:** Then you see TRT members

1 at hill 3.

2 **BRIGADIER CALITZ:** I saw the TRT at
3 hill 3, at what is now known as body C,
4 that is where I saw the TRT members when we arrived.
5 Warrant Officer Nong came back to the Nyala and
6 we then drove quite a few meters where I found
7 Colonel Macintosh sitting over the person. When
8 I got out, I could see the person's shirt were open, and he
9 told me that the person died, that is where we
10 engaged with the TRT members.

11 **CHAIRPERSON:** I think it might be helpful
12 if we gave a name to body C, I cannot remember at the
13 moment, but I think with respect we should refer to the
14 person by name and not just by a letter. I am sure the
15 evidence leaders can get that information for us, if some
16 of the other parties cannot. I feel uncomfortable and I am
17 sure everyone else does too, including the family,
18 particularly the family of the person concerned. Thank you
19 very much, perhaps we can refer to him as such from now on.

20 **MR SEMENYA SC:** Yes, thank you, Chairperson.
21 Brigadier, you then continue to say that with the TRT there
22 and Captain Kidd there, were you expecting them there?

23 **BRIGADIER CALITZ:** Mr Chairperson,
24 no, I was very surprised to find Captain Kidd there. With
25 the briefing they were posted at holding area 2. It

1 another settlement where they were supposed to make a filter line
2 and move through the people to search them
3 When I saw Captain Kidd there, I ordered him
4 to engage with his people, find out what happen and
5 report to the JOC, immediately, so I did not
6 expect to find the TRT members there at all.

7 **MR SEMENYA SC:** And you referred to
8 Lieutenant-Colonel Pitsi in paragraph 127 in your
9 statement, that he arrives there and reports to you that
10 there were attacks on his Nyala when he was closing the
11 gap.

12 **BRIGADIER CALITZ:** It is correct, Mr
13 Chairperson, Colonel Pitsi reported to me, exactly where we stopped
14 and Colonel Pitsi reported that, during the incident
15 he was trying to close the gap and
16 Nyala 4 moved closer, and then
17 there were shots fired at his
18 Nyala and he had marks on his vehicle
19 where they shot at him. I moved closer and on inspection
20 did see those marks on his vehicle. I told him
21 not to move his vehicle and later that day
22 I gave instructions to the
23 Criminal Record Centre, to go and take
24 photos of the Nyala, in order for us to
25 verify the events.

1 **MR SEMENYA SC:** You then called the JOC

2 to report the event involving Mr Mpumza.

3 **BRIGADIER CALITZ:** It is correct, Mr

4 Chairperson, that was the first time that I

5 I was made aware that life bullets were used.

6 When they informed me of the fatality on the scene

7 I felt it to be of importance to notify the JOC thereof,

8 and my cellphone records can proof

9 I talked to General Annandale at about

10 16:47, and reported the incident to him.

11 **MR SEMENYA SC:** And it is at that time he

12 tells you, this is now General Annandale, of incident 1 or

13 scene 1 rather?

14 **BRIGADIER CALITZ:** It is correct, Mr

15 Chairperson, that was the first time I became

16 aware of the shooting incident, although I cannot

17 if he told me about any fatalities etc.,

18 but he did inform me that there were

19 a shooting incident at the kraal and that is when I became

20 aware of it.

21 **CHAIRPERSON:** I presume spoke

22 Afrikaans to you? Sorry, I assume he spoke

23 Afrikaans to you?

24 **BRIGADIER CALITZ:** It is correct.

25 **CHAIRPERSON:** Did he use the expression

1 as far as you can remember, "shooting" or did he

2 talk about "shooting" or what did he say, can you remember?

3 **BRIGADIER CALITZ:** Mr Chairperson,

4 as far as I can recall, remember it was more than a year ago,

5 he told me that there were a shooting incident at the small kraal

6 and the TRT were involved.

7 **MR SEMENYA SC:** And then you go to the

8 hill?

9 **BRIGADIER CALITZ:** Mr Chairperson,

10 yes, when I arrived at the scene,

11 Colonel Vermaak informed me that the

12 people was encircled and I instructed my Nyala

13 to proceed, make arrests and "engage",

14 they proceeded with the "dispersion action" and

15 arrests as instructed. From my position, I could see movement

16 and it looked like they were making quite

17 a number of arrests, I moved closer to

18 to hill 3 at about,

19 it was just before five.

20 **MR SEMENYA SC:** And it is at hill 3

21 where you find a number of strikers lying on the floor, on

22 the ground rather, with their hands behind their heads and

23 were at that stage under arrest.

24 **BRIGADIER CALITZ:** As I got closer to the

25 hill, Mr Chairperson, I saw a lot of people

1 lying on the ground. There was quite a
2 gap where I could move through. I saw
3 riot trucks, Nyalas and also
4 a water cannon and I could see many people
5 lying on the ground with their hands
6 on their heads, facing down,
7 some of them were searched and subsequently
8 placed under arrest.

9 **MR SEMENYA SC:** It is 16:55 now and you
10 meet with General Naidoo?

11 **BRIGADIER CALITZ:** It is correct, Mr
12 Chairperson.

13 **MR SEMENYA SC:** Were you expecting him
14 there?

15 **BRIGADIER CALITZ:** General Naidoo, no,
16 Mr Chairperson, General Naidoo was in charge of
17 forward holding area 1, so I know he was in charge of the
18 medical personnel, the detective, the Criminal Record
19 Centrum personnel, mounted police and the dog unit, he would the come down
20 to forward holding area 1 and move closer to
21 hill 1 and 2 to assist and support, the dogs would be used with
22 the search operation, but not at
23 hill 3 where I was, no.

24 **MR SEMENYA SC:** And it is there again
25 when you see many weapons, which were on the blanket.

1 **BRIGADIER CALITZ:** It is correct, Mr

2 Chairperson.

3 **MR SEMENYA SC:** Just before we carry on,

4 I am not asking the witness, I am actually asking, perhaps

5 the evidence leaders can help us, or Mr Semenya. I think it

6 is clear from the timeline that the incidents, when the

7 incidents at scene 3 ended, you know the actually

8 fatalities ended, the fateful shootings, do we know what

9 that time is?

10 **MR BUDLENDER SC:** Chairperson, no, I cannot put

11 a time to it but it seems to have been before the brigadier

12 arrived at scene 3.

13 **CHAIRPERSON:** Yes, I do not know whether

14 anyone else has a better memory –

15 **MR BUDLENDER SC:** - to interrupt.

16 **CHAIRPERSON:** Yes, yes, yes, my

17 recollection was that certainly by about half past four it

18 was all over, if I am wrong on that I hope I'll be

19 corrected, but it seems as if by the time this witness got

20 there it was, all the shooting was over, is that correct,

21 it helps us to follow the evidence?

22 **MR SEMENYA SC:** That is indeed correct,

23 Chairperson, if we look at paragraph 128 with –

24 **CHAIRPERSON:** I understand what he says,

25 I just want; I think it would be helpful if we had

1 objective evidence in front of us, which would have helped
2 us to follow and understand it, without any question marks
3 in our heads.

4 **MR SEMENYA SC:** I think Mr Mpumza is the
5 last incident that involves police shooting, am I right?

6 **BRIGADIER CALITZ:** It is correct, Mr
7 Chairperson, if I understood you correctly,
8 you said, "where myself, the witness
9 arrived before it was over."

10 **CHAIRPERSON:** No, no, no, that is exactly
11 the opposite.

12 **BRIGADIER CALITZ:** Yes.

13 **CHAIRPERSON:** You see how easy a
14 misunderstanding can arise.

15 **BRIGADIER CALITZ:** No, I think –

16 **CHAIRPERSON:** I said my understanding
17 was, but obviously those who know more about these things
18 than I do will correct me if I am wrong, but the shooting
19 even at scene 3 were over by about half past four.

20 **BRIGADIER CALITZ:** It is correct.

21 **CHAIRPERSON:** You only got there, it is
22 scene 1, 2 and 3, hill 1, 2 and 3, the shooting seemed to
23 be over before half past four as far as I can remember.
24 That being so, by the time you first heard of the shooting
25 at scene 1, at least quarter of an hour if not more had

1 elapsed, so it follows, you then went to hill 3, that is
2 scene 2, and again all the shooting that had fatal
3 consequences had already taken place, at least a quarter of
4 an hour before, that is what I wanted to be clear on.

5 **BRIGADIER CALITZ:** Thank you, Mr
6 Chairperson.

7 **CHAIRPERSON:** So you must listen
8 carefully. Carry on, Mr Semenya.

9 **MR SEMENYA SC:** Thank you, Chairperson. You
10 did not witness scene 2?

11 **BRIGADIER CALITZ:** No, I just
12 observed it when I arrived at hill 3, but I did not observe
13 any of the shooting incident, no, but I did observe what
14 happened there at that time.

15 **MR SEMENYA SC:** And then you direct that
16 the scene must be preserved as a crime scene, correct?

17 **BRIGADIER CALITZ:** It is correct, Mr
18 Chairperson, when I arrived at the scene I saw the weapons and
19 people, I saw the medical personnel,
20 and I told the surrounding people and members
21 to keep in mind that it is a
22 crime scene, so we had to try and
23 try and protect what was a big and complex
24 crime scene, as it was not a normal crime
25 scene, no.

1 **MR SEMENYA SC:** Unfortunately you then
2 see some of the strikers were mortally wounded or who had
3 appeared to have died?

4 **BRIGADIER CALITZ:** It is correct, Mr
5 Chairperson, I walked through the scene
6 and saw about seven bodies of people that
7 already died, in my opinion, and there was
8 a lot of injuries and wounded people, and while I was standing there
9 some of them were getting medical treatment. I
10 observe that, yes.

11 **MR SEMENYA SC:** To which you give an
12 instruction to Captain Mohlaki to take photographs, is that
13 right?

14 **BRIGADIER CALITZ:** It is correct, Mr
15 Chairperson, Captain Mohlaki was from the Criminal Record
16 Centre.

17 **CHAIRPERSON:** As far as you could see,
18 those who were lying injured at scene 3, was there any
19 indication that they really received medical treatment?

20 **BRIGADIER CALITZ:** At a later stage,
21 Mr Chairperson, when I arrived there I just saw the people
22 lying down in rows with their hands on their heads, but
23 as they were arrested, I saw the personnel coming forward,
24 providing medical treatment. I think there was,
25 and I may be corrected, but I think there was a

1 911 helicopter on the scene, which

2 transported some of the people, yes.

3 **[13:22] CHAIRPERSON:** About what time would you

4 estimate was medical treatment being given to the injured

5 parties?

6 **BRIGADIER CALITZ:** Mr Chairperson, I

7 was there up to about 6. I recall that around 5,

8 my Provincial Commissioner, General Mbombo and my

9 Section chief at head office, General Mawela, arrived with

10 helicopter and we walked through the scene

11 and I could not report to them on what happened, because I

12 did not know, but we went through the whole scene – and they

13 left, because they wanted to take off before dark,

14 I know the medical personnel arrived and the

15 emergency helicopter had its lights on, I guess it was

16 just after 6, well at 6 they were already busy.

17 Why I say at 6 or just after 6, they were already busy

18 taking the people away from hill 3 that was loaded in the riot trucks, and

19 Canters, and I then accompanied them.

20 **CHAIRPERSON:** But you told us that the

21 Provincial Commissioner and Lieutenant-General Mawela, who

22 is the Divisional Commissioner ORS –

23 **BRIGADIER CALITZ:** Divisional

24 Commissioner.

25 **CHAIRPERSON:** Yes, Divisional

1 Commissioner, he's Divisional Commissioner ORS, and of
2 course Lieutenant-General Mbombo who is the Provincial
3 Commissioner in North West –

4 **BRIGADIER CALITZ:** It is Correct.

5 **CHAIRPERSON:** - you said they arrived

6 according to your statement about 5 past 5. So do I

7 understand you to say that by the time they arrived to your

8 knowledge none of the injured parties had received medical
9 treatment?

10 **BRIGADIER CALITZ:** Mr Chairperson,

11 – I think at that stage medical treatment was already

12 being provided – no, I cannot say

13 for sure. I was on the scene for about 10 minutes when the

14 helicopter arrived and I accompanied the

15 General through the scene, but I am almost sure there was already,

16 I cannot recall if it was medical personnel, but

17 I did see some of the injured people lying on the ground,

18 yes.

19 **MR SEMENYA SC:** And Brigadier, it is

20 around 6 o'clock now in the evening where you accompany, as

21 you say, the Canters with those who were arrested.

22 **BRIGADIER CALITZ:** Mr Chairperson,

23 yes, our briefing was

24 disperse, isolate

25 disarm and arrest, and then

1 load them into, what we call, riot trucks and Canters.
2 They were also part of the operation and although I may be corrected,
3 I think there were five or six of them. As the
4 Operational Commander I took command over the
5 vehicles and moved back to
6 "scene" 1, where I requested the TRT to accompany
7 the vehicles further, to provide support and protection.
8 There were approximately 259 arrests made and the
9 all the people had to be processed and moved.
10 I know the generals at the JOC
11 made arrangements for us to take them to a location on the
12 Lonmin premises.
13 I physically accompanied them and remained there until
14 they vehicles were downloaded and when I was
15 sure everything was safe, I left some of the TRT members, just as
16 protection measure, after that I went back to the
17 JOC for the first _____communications_____
18 time.

19 **MR SEMENYA SC:** But before you left you
20 had left scene 1 under the control of Colonel Makhubela and
21 General Naidoo for scene 2.

22 **BRIGADIER CALITZ:** It is correct, Mr
23 Chairperson, I knew General Naidoo was at
24 "scene" 2, although the "crime scene experts" arrived,
25 and I told Captain Matlaka that it was a major

1 crime scene and they had way too little
2 personnel, at which time he assured me that they already arranged fro
3 for personnel from Gauteng.
4 At that stage the mine arranged for
5 lights, it was very dark and at that stage
6 we did not know if there were any other
7 groups. Therefore, we left an element of command.
8 General Naidoo was the senior
9 hill 3, as we know it now, I went to
10 scene 1 and when I stopped I communicated with Colonel Makhubela.
11 I already testified that Colonel Makhubela,
12 was the unit commander from Johannesburg, with about 18 to 20
13 years' experience in Public Order Policing.
14 So I 100% sure that he was capable of handling scene 1.
15 **MR SEMENYA SC:** Just a step back; do you
16 see STF members at hill 3 when you are there?
17 **BRIGADIER CALITZ:** Mr Chairperson,
18 due to the benefit of "hindsight", I know their vehicle was
19 there, but I cannot recall that I physically saw them,
20 no. I know Captain Gaffley and his team were there, but I
21 no, I cannot recall physically seeing them, except for the
22 members who were with us.
23 **MR SEMENYA SC:** And the instruction you
24 leave as you go is that nobody must report off duty and
25 that debriefing sessions would have to be conducted by the

1 EHW, that is the employee health and wellness personnel,

2 right?

3 **BRIGADIER CALITZ:** Mr Chairperson,

4 yes, after such a scene it is normally traumatic. The people on dayshift

5 went home and the nightshift did not know what to

6 expect. It was a hybrid environment with various

7 departments, so it was not easy to explain to the

8 nightshift exactly where they had to go, as it was not

9 an easy situation. They had to go to a scene

10 where people died and where there

11 were still the element of danger, so it

12 took a while, I believe, to explain to the nightshift personnel

13 where to go.

14 That is why I instructed the dayshift personnel to stay

15 put in their positions until

16 they are physically relieved,

17 to ensure that there were no opening or area that was not covered,

18 at that stage.

19 To answer the second part of your question, Mr

20 Chairperson, the "employee wellness centre" is there to

21 accommodate and assist people during a traumatic

22 situation. I think we were all affected by the events.

23 **MR SEMENYA SC:** What do they do? What do

24 you mean by being debriefed by the health and wellness

25 personnel?

1 **BRIGADIER CALITZ:** The purpose of the "health
2 and wellness personnel," Mr Chairperson, they were
3 at the JOC in a
4 office at
5 Lonmin, close by, and as the members returned from
6 the field it is their duty to approach the members and
7 let them "vent,"
8 talk about the events and what happened, because some of the
9 people were really "tensed up." It was a very
10 traumatic event and their experience in the
11 field helps to calm down the people, they can tell the person
12 it is "fine," you are safe, and, and, and -

13 they were giving some kind of support and it is always nice
14 to know that there is somebody willing to listen to them

15 **CHAIRPERSON:** I've been asked to have a
16 short adjournment so that something that is required can be
17 obtained. A very short adjournment, five minutes maximum.

18 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

19 **[13:36] CHAIRPERSON:** After that interruption.

20 Brigadier I do not have to remind you really, you are still
21 under oath. Mr Semenya?

22 **MR SEMENYA SC:** Thank you, Chairperson and you
23 tell us that you did not give any instructions about the
24 removal of weapons or the replacing of any weapons at that
25 scene?

1 **BRIGADIER CALITZ:** No, Mr

2 Chairperson, definitely not.

3 **MR SEMENYA SC:** You then get back at the

4 JOC and you tell all the commanders to get details of

5 members who were involved at, in some action there.

6 **BRIGADIER CALITZ:** It is Correct, Mr

7 Chairperson. I think this is what we refer to as a hot

8 debriefing where the commanders on the ground, of that section,

9 the section commanders and group commanders,

10 have to brief their members on everything that happens in the field,

11 they try find out who have weapons,

12 who used weapons, who saw what, what physically happened,

13 it is why we speak of a hot debriefing, as it is done while still

14 fresh in their minds, and then those commanders will bring all that

15 information and present it to us, the operational commanders.

16 **MR SEMENYA SC:** And that is called a

17 second level debriefing?

18 **BRIGADIER CALITZ:** The second level

19 debriefing is when the group and the section

20 commanders report to us at the JOC,

21 when I say us, I am talking about when I am back

22 the JOC, the joint operations centre, and then

23 the commanders will explain the situation as they experienced it

24 and what they saw happened, and

25 to help us getting a clear picture of what happened, so that we can take

1 it further.

2 **COMMISSIONER HEMRAJ:** It is just an oral

3 process, nothing is written down, is there?

4 **BRIGADIER CALITZ:** I beg your pardon?

5 **COMMISSIONER HEMRAJ:** Is anything written

6 down as regards the debriefing, the information?

7 **BRIGADIER CALITZ:** Commissioner, I am not

8 sure whether notes or minutes were kept of the JOC,

9 at that stage, no. But it was communicated in the

10 joint operations centre.

11 **CHAIRPERSON:** What is the practice at

12 second level debriefings, are notes normally made?

13 **BRIGADIER CALITZ:** Mr. Chairperson, when

14 we have a formal debriefing, yes. We have what we call

15 SWAT analysis, where we look at our strength, weaknesses,

16 opportunities, threats, and then we do a detailed

17 analysis debriefing, but we did not have time to do that,

18 we did go to Roots later on –

19 **CHAIRPERSON:** We know on the night of the

20 16th you were going to go to Roots, did you?

21 **BRIGADIER CALITZ:** No.

22 **CHAIRPERSON:** So what I asked you, was

23 normally in the case of a second level debriefing are notes

24 kept?

25 **BRIGADIER CALITZ:** I presume there could be

1 notes -

2 **CHAIRPERSON:** You are not answering my
3 question. Normally, I understand you say you are not sure
4 if notes were kept, I understand that and I am sure if you
5 did know you would tell us. However, the question is what normally
6 happens when, normally when there is an incident of some
7 kind, some public order policing operation and then
8 presumably after that you have a hot or first level
9 debriefing and then followed by a second level debriefing,
10 normally are notes kept at those debriefings?

11 **BRIGADIER CALITZ:** In that instance you are
12 correct, Mr Chairperson.

13 **MR SEMENYA SC:** And this time why did not
14 that happen?

15 **CHAIRPERSON:** Just a second, he says he
16 does not know if notes were kept or not. Did I hear you
17 correctly?

18 **BRIGADIER CALITZ:** Yes, Mr
19 Chairperson.

20 **MR SEMENYA SC:** You cannot tell us why it
21 did not happen unless you know it did not happen but you say
22 you do not know whether it happened or not, am I right?

23 **BRIGADIER CALITZ:** Mr. Chairperson, I
24 just said, I arrived at the JOC, and at that time one can say,
25 I, I can call it is traumatised, so at

1 that time did not know if and who at the JOC were taking notes,
2 we were just passing on the information as it
3 happened and I cannot say whether notes were taken
4 and if so who took them, I have not taken notes of
5 it, no.

6 **CHAIRPERSON:** Of course Brigadier
7 Pretorius was the responsible person for keeping the records of
8 the JOC, is that right?

9 **BRIGADIER CALITZ:** She was in the JOC.

10 -

11 **CHAIRPERSON:** In the JOC itself, is that
12 right?

13 **BRIGADIER CALITZ:** It is correct, Mr
14 Chairperson.

15 **CHAIRPERSON:** Now can you remember
16 whether she was there when you got back to the JOC and when
17 this second level debriefing took place?

18 **BRIGADIER CALITZ:** Mr Chairperson, if
19 I recall correctly, they were in the JOC on the night of the 16th,
20 yes.

21 **CHAIRPERSON:** And would she have been, in
22 the normal course would she have been the person to take
23 the, make notes of the second level debriefing if notes
24 were taken?

25 **BRIGADIER CALITZ:** Under normal conditions

1 she would have done so, but on that night

2 I do not know if and who took the notes.

3 **CHAIRPERSON:** No, I understand, you do not

4 know if notes were taken, so you do not know if they were,

5 you do not know who took them. Now I am asking you a

6 question in normal practice, normally you say second level

7 debriefings would have been, notes would have been made of

8 them and normally a person in the position of Brigadier

9 Pretorius who was responsible for keeping records and

10 notes, the keeping on - every case but responsible for the

11 notes that were kept and the fact that notes were taken in

12 the JOC that would have been Brigadier Pretorius? So she

13 would have been the person being responsible for it if the

14 notes were made, is that right?

15 **BRIGADIER CALITZ:** Mr. Chairperson, if

16 any notes were taken, she is the only person

17 that might be able to testify thereto.

18 But as the commanders came from the field

19 and pass on information, I do not know if she was tasked to take it down,

20 because it was not a normal JOCCOM meeting,

21 and she was just task with taking down the minutes of such meetings.

22 I do not know.

23 **COMMISSIONER HEMRAJ:** Were any notes

24 taken at the first level debriefings with regard who shot

25 the weapons and how much ammunition they used?

1 **BRIGADIER CALITZ:** Commissioner, I
2 believe so because if the members report it to their
3 immediate commanders, they usually have a
4 operational diary, or a pocket book, or a diary in which
5 they will write these notes. So I believe there would be some degree
6 notes kept otherwise they would not be able to communicate it to JOC.

7 -

8 **MR SEMENYA SC:** So the information was
9 pieced together and to do a report for the national
10 commissioner as well as the president.

11 **BRIGADIER CALITZ:** It is true, Mr.
12 Chairperson, I know Colonel Scott was tasked with that as
13 he was in the JOC, we had to pass on all the information to him
14 so maybe there were notes taken and record keeping,
15 maybe not so much Brigadier Pretorius, but
16 Perhaps, Mr. Duncan Scott may have taken the notes,
17 out of which he then compiled his report to the National Commissioner.

18 -

19 **MR SEMENYA SC:** And the reports were then
20 compiled and the following day the National Commissioner
21 was in the press conference reading out the statement?

22 **BRIGADIER CALITZ:** It is Correct, Mr
23 Chairperson.

24 **MR SEMENYA SC:** You yourself you remained
25 in the JOC until the morning of the Friday?

1 **BRIGADIER CALITZ:** Yes, Mr

2 Chairperson, it is Correct. I was there until early the next

3 morning.

4 **MR SEMENYA SC:** But was not part of the

5 media briefing that was done by the President?

6 **BRIGADIER CALITZ:** No, I did not attend the

7 media briefing.

8 **MR SEMENYA SC:** It is on the 18th though

9 when we see, as the visuals show us that you were addressing

10 a parade?

11 **BRIGADIER CALITZ:** It is correct, Mr

12 Chairperson.

13 **MR SEMENYA SC:** And the video material is

14 what it is, it will tell us what you said but I'd like to

15 focus your attention to where you say the members were 100%

16 correct –

17 **CHAIRPERSON:** I think he said 110%

18 actually.

19 **MR SEMENYA SC:** 110%.

20 **CHAIRPERSON:** Before we get there, can I

21 ask about the previous point. We have been given an exhibit

22 which is JJJ114, there are in fact two copies of JJJ114 but

23 this is the operational diary of Captain Prinsloo who was

24 involved in the operation, in fact, she was on P13, that is

25 one of the Nyalas with wire apparently and in her

1 operational diary, which is a form SAPS 15, I see, on the last
2 page of the copies we have is a section headed debriefing
3 and she's filled that in, is that the kind of thing that
4 would have been filled in by each of the commanders in, on
5 this SAPS 15 form operational, not form, it is actually a
6 book I think, operational diary, is that right?

7 **BRIGADIER CALITZ:** Mr Chairperson,

8 yes, I think the operational diary, which you are referring to, SAPS 15
9 is more of a note sheet,
10 but the operational diary accompanies it and it is typical
11 what I talked about as a hot debriefing. So it
12 is where the members give the detail to their commanders, and if she
13 she was on a vehicle, they would give the detail
14 to her and she would have noted it.

15 -

16 **CHAIRPERSON:** There is space for it as far
17 as I can see, there is a special section heading debriefing
18 and that is what you are talking about.

19 **BRIGADIER CALITZ:** On the form, it is

20 Correct.

21 **CHAIRPERSON:** Yes but are these in, these
22 operational diaries are they in a book or are they loose
23 forms?

24 **BRIGADIER CALITZ:** It is loose forms
25 that is used in the Public Order Policing,

1 Mr Chairperson, every commander has to write

2 all the incidents in his operational diary.

3 **CHAIRPERSON:** Thank you. Sorry, Mr

4 Semenya, you were moving to the next day and the address to

5 the members then.

6 **COMMISSIONER HEMRAJ:** Just before you do

7 that, Mr Semenya. It was put to Colonel Scott that when he

8 presented the plan on Thursday that there were no POPS

9 commanders present, at the JOCCOM, yes. It was put to

10 Colonel Scott that at the time he presented this plan on

11 Thursday there were no POPS commanders present at the JOC.

12 **BRIGADIER CALITZ:** Commissioner, are you talking

13 the afternoon?

14 **COMMISSIONER HEMRAJ:** Yes.

15 **BRIGADIER CALITZ:** At 13:30?

16 **COMMISSIONER HEMRAJ:** That is right.

17 **BRIGADIER CALITZ:** Yes, I was not

18 present, it is correct.

19 **COMMISSIONER HEMRAJ:** Alright. Now the

20 question is, was there anything in this plan at all that

21 placed POPS at a disadvantage, did not understand the way

22 POPS worked or prejudiced the putting into operation of the

23 plan by POPS?

24 **BRIGADIER CALITZ:** Commissioner, no, if

25 they would contact me in the field and

1 requested me to return to the JOC, during the 13:30
2 meeting my suggestions would be, my input
3 would be the same as during the
4 14:30 briefing at the forward holding area 1,
5 when they communicated with us,
6 there was nothing happening in the field which I could take back to them
7 as being positive. If Mr Mathunjwa came to
8 me and told me that he convinced the people to
9 lay down their weapons, or something to that regards,
10 then it would be possible for me as the operational commander
11 to inform the
12 JOC that we would not proceed with action,
13 because we received positive feedback, this is the way
14 forward. In that case, I do not think any other
15 recommendations or feedback could be given
16 because it was a normal
17 dispersion plan and in line with the POP
18 policies and procedures.

19 **COMMISSIONER HEMRAJ:** Just one other
20 question. The water cannon was deployed just prior to
21 scene 1 occurring. Who would have commanded that water
22 cannon at that stage, who would have given that water
23 cannon an instruction?

24 **BRIGADIER CALITZ:** Commissioner,
25 when I saw them to what we now know as

1 incident 2, I ordered the water cannons to
2 move forward as part of the dispersion.
3 Luitenant Colonel Mere was in charge of the POP line and he
4 would then take it further, he stayed behind at the
5 scene, he did not move forward towards hill 2.

6 -

7 **COMMISSIONER HEMRAJ:** Thank you.

8 **MR SEMENYA SC:** In the paragraph,
9 Brigadier, you say the police must give 100% cooperation -

10 **CHAIRPERSON:** Sorry the 110% related to
11 something else to?

12 **MR SEMENYA SC:** Yes. What were you
13 referring to?

14 **BRIGADIER CALITZ:** The 100% cooperation,
15 Mr Chairperson, on the day, it was -

16 **MR SEMENYA SC:** The 18th.

17 **BRIGADIER CALITZ:** It was the 18th and the

18 first time that the police officers had to move
19 back into the area where the incidents took
20 place. On the 17th we did not return as yet,
21 as there were no deployments at hill
22 at that stage. So this was the first time we
23 had to talk to the members again.

24 There were 500 - 600 police members at the parade
25 was addressed by me and I informed them of the

1 message from the President, as well as the press release from the day before
2 by the National police commissioner.

3 President announced that there would be a commission of inquiry,

4 I remember him announcing it on, I think, E-News,

5 the previous night and he said that it

6 is not a time to blame but the commission is going to be appointed.

7 So under those circumstances I tried to

8 motivate the police members by telling them that we will be

9 giving the commission 100% commitment, cooperation, and I

10 also informed the members that there would be nothing that will not be

11 disclosed. As the operational commander

12 I believed it was important to inform the members that we will give a 100%

13 cooperation, like the hot debriefing, the other debriefing, all

14 the notes, everything we could lay our hands on, we needed to

15 make available to the commission.

16 **MR SEMENYA SC:** Then you continued to say

17 at that stage the members did nothing wrong, what are you

18 referring to?

19 **BRIGADIER CALITZ:** On that Saturday,

20 I think it was Saturday the 18th, the morning

21 Mr Chairperson, the previous day there were

22 were messages sent

23 on whatsapp and BBM

24 with rumours that was involved is going to be

25 fired, suspended or arrested.

1 There were an very tense feeling under the police officer
2 as they did not know what was going to happen. As a
3 commander I felt I needed to gather the men and
4 inform them that we did not have any information
5 to our disposal at that stage, we could not say,
6 listen, 1, 2, 3, and 4 went wrong.

7 On the morning of the 18th
8 I made it clear to the police members that they
9 did nothing wrong and at this stage I can give evidence
10 that there is still no proof that there
11 were any wrongdoing on the side of the police.
12 So that is what I meant when I said, the members did
13 nothing wrong.

14 **MR SEMENYA SC:** You say about that, from
15 the planning to the execution their conduct was 100%, 110%.

16 **BRIGADIER CALITZ:** If I can have the
17 transcript – I think the words,
18 in line, was included, if we can -

19 **CHAIRPERSON:** Ms Pillay, if you can
20 perhaps help us. The witness would like the reference to
21 the, the transcript of his -

22 **MS PILLAY:** JJJ82.

23 **CHAIRPERSON:** JJJ?

24 **MS PILLAY:** 82.

25 **CHAIRPERSON:** Thank you.

1 **MR SEMENYA SC:** You will see when you get
2 to that exhibit, Brigadier, we are referring to page number
3 3, they are not numbered but it is the third page and it is
4 against time there 8:07.

5 **BRIGADIER CALITZ:** I have it,
6 thank you, Mr Chairperson. That paragraph reads,
7 "at that stage we did nothing wrong. From the planning to
8 the execution was 110%, is that what you were referring
9 to? I told them, "I have to congratulate you, it went
10 exactly how we planned it and we briefed the commanders,
11 we executed that in that line." Mr Chairperson,
12 if I can explain, if you look at the air photographs that
13 was taken -

14 **CHAIRPERSON:** Sorry to interrupt you.
15 Someone has a cell phone that is going off. There is a
16 tone on the cell phone, which, it must please be turned off.
17 I think the gentlemen with the nosy cell phone is very
18 sensibly leaving the room. Alright now that he's, the
19 gentleman has left the presence of the chamber. We can no
20 longer hear his cell phone. So you can carry on with your
21 evidence.

22 **[13:56] MR SEMENYA SC:** Yes, Brigadier, you can
23 continue.

24 **BRIGADIER CALITZ:** To answer the question,
25 how we exactly planned it from the briefing to

1 the commanders exactly, it was executed in that line, there I
2 talked about my Public Order Policing members. If you
3 look at the group that was present at the parade and the plan
4 we executed, if we look at the aerial photographs,
5 there was no, when we executed the plan the wire were supposed
6 to be rolled out, as it was part of the
7 strategic principals. We eventually rolled out the wire,
8 although it was interrupted,
9 although there were and interruption in the plan, I just talked
10 about the plan. I have not talked about the
11 interruption, or the shooting or any other matters,
12 I just concentrated on the plan. That is why I
13 told the members, exactly, we executed in that line,
14 in other words when I told the members to move out,
15 we moved out in line and when I asked them to regroup,
16 they re-grouped in line.
17 With the aerial photographs, you could see they did exactly that,
18 and that is what I thanked them for, because of the
19 hybrid conditions and trauma that accompanied
20 the events, we could have
21 had a situation where
22 everyone could have gone his own way,
23 but the members
24 kept their lines and I think that was part of the success
25 that lead to the arrests made. I am

1 talking about the Public Order Policing line. Even when we moved
2 in a westerly direction towards the hill
3 they still went forward as instructed in the briefing under the
4 protection of the armoured vehicles and water cannons
5 to execute the plan in the western direction.
6 The encirclement that we talked about took place,
7 the people were disarmed, and
8 arrests were made.
9 When I then refer to,
10 "From the planning to the execution was 110%", I talked about
11 the plan, the four strategic principles of the
12 plan. I know I was quoted very wrong and if
13 I may mention it, on the frontage of the Sowetan, it was said that I
14 said, the perfect massacre, which was pure rubbish. I talked
15 to the Public Order Policing members and tried to
16 motivate my police members to give a 100%
17 cooperation with the commission. I never talked about
18 a shooting,
19 at not stage did I talk about any event where someone
20 died. I was talking about
21 how the plan was executed and how the
22 the plan was briefed to us. That was what
23 I was referring to during the parade.
24 **MR SEMENYA SC:** And in fact in that
25 transcript you do say that, you explain it and say, at the

1 force continuum we did the water cannons, we did the stun
2 grenades, we did the tear smoke, we did the pushback, we
3 tried, that is the 110% that you are addressing there.

4 **BRIGADIER CALITZ:** Correct, Mr

5 Chairperson.

6 **MR SEMENYA SC:** And the congratulations

7 you are giving your members for doing it.

8 **BRIGADIER CALITZ:** Mr Chairperson, if we

9 talk about 110%, we all know everything can only work

10 up to 100%, so if you say

11 110%, it is purely for motivation. These members,

12 if I can explain, the

13 400, 500, 600 members had to move back to the hill.

14 The members were traumatised and did not know what to expect,

15 they were under pressure and under the impression that they were

16 going to be suspended, they were going to have problems, so the 110% was

17 purely used, by me as their commander, to motivate them,

18 I felt it my duty to

19 motivate them, as they did nothing

20 wrong at that stage,

21 we knew what was going to

22 take place on the 18th and

23 I needed positive men in the field and not people that would not

24 listen to orders. The whole thing around the

25 110% was to motivate my members as their

1 commander.

2 **MR SEMENYA SC:** And those policemen who

3 ran away you say it is called a tactical retreat?

4 **BRIGADIER CALITZ:** There was an article in

5 media where it was reported

6 that the police ran away, and that was

7 very far from the truth. I did tell the members,

8 and I quoted in Engels,

9 "Your head and your neck cannot take the blow of the

10 panga." The Public Order Policing members is issued with

11 non-lethal equipment, although we had shields,

12 there is no way that a shield can stop a spear, or a panga,

13 or anything dangerous. The Public Order Policing

14 do not work on a close hand-to-hand combat basis. When

15 the distance between a member and the crowd

16 became too close, there

17 were no other way than for the members to

18 tactically retreat, back to a safe haven, which we call

19 a Nyala, in other phases or stages,

20 the TRT would then be the protection measure for the

21 POP.

22 **MR SEMENYA SC:** Now, Brigadier, if you go

23 –

24 **CHAIRPERSON:** Mr Semanya, sorry, just

25 perhaps, it is a topic that could be taken further tomorrow

1 morning at nine o' clock, unless you want to make a point

2 now before we adjourn, I am in your hands.

3 **MR SEMENYA SC:** If I can just tidy up

4 this one, Chairperson? You also say against, after the bracket

5 9:20 there and that is where the TRT line and the NIU line

6 what is formed and when they become under attack, that is

7 where the command was given by their commanders as well as

8 some of them acting in self-defence, alright. Which

9 commander are you referring to there?

10 **BRIGADIER CALITZ:** Mr Chairperson, in this

11 instance, the TRTs reported to me,

12 remember I was not part of it myself.

13 What I explained to the people was,

14 the group that was under attack, let me just get to the sentence,

15 "And then they will become under attack. That is where the

16 command was given by their commanders," if we can just

17 pause there, that is where the different commanders, Captain

18 Loest, Captain Ntlati and Captain Tupe, was appointed. They

19 had to take command over their members and the TRT members

20 could not just storm forward and said, free for

21 all. *It had to be under control and*

22 in the video one can clearly hear the commanders shouting at their

23 members, "Basic line, keep the basic line, keep the

24 basic line," that was the command given by them and if

25 we read further on, "as well as some of them act in

1 self-defence." That is what the TRT reported to me,
2 while they were moving forward under the order of their
3 commanders, they came under attack and they had to
4 defend themselves, that is the meaning of that
5 sentence.

6 **MR SEMENYA SC:** And for this transcript
7 there is the last thing I would want to ask of you, you then go
8 on to say, "So on that nothing, nothing, nothing was wrong.
9 Okay, you acted. It was justified and that is exactly the
10 commitment and the cooperation that they are going to give
11 the people, so those people that still need to fill the 15s
12 and say how rounds they have." When you talk about the
13 justification there are you referring to the casualties and
14 the fatalities that happened?

15 **BRIGADIER CALITZ:** Mr Chairperson,
16 no, "So those people that still need to fill the 15s and
17 see how many rounds," is precisely what the chairperson has
18 shown us on the operational diary. We
19 had to go back, not because there were not 15s, but at
20 the back of a SAP 15 it is shown how many rounds were
21 issued, the following Saturday we started taking
22 record to see what happened and who shot what.
23 On the 17th it was
24 absolute chaos, we had to find out from each member how many
25 rounds he fired, the rounds had to be replace and

1 before I could replace the rounds, I had to have a statement or a
2 document. The 15s would be
3 that documentation with the purpose
4 to replace the rounds for the members, the rounds that they
5 used on that day.

6 **MR SEMENYA SC:** It may be a convenient
7 stage, thank you.

8 **CHAIRPERSON:** Thank you, Brigadier, we will
9 adjourn now and reconvene tomorrow at nine o' clock.

10 **BRIGADIER CALITZ:** Thank you.

11 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

12 **[14:06] CHAIRPERSON:** - recorded, but I meant to
13 say before we adjourned, you will remember we have new rules
14 in place in relation to cross-examination and these rules
15 we have made under the terms of the Regulations of applying
16 to the Commission, provide that those parties who wish to
17 cross-examine must apply indicating the topics they wish
18 cover, the approximate length that the cross-examination
19 will take and the documents or other items, videos and
20 things that they are going to refer to. Now we have received
21 some applications which only list the documents and do not,
22 as far as I can see deal with the topics or with the
23 period, so those must be amplified. There are other
24 parties who I expected might well wish to cross-examine who
25 haven't made application yet and I am reminding you that we

1 need those applications.
2 I do not know how the witness, I take it he is
3 more or less approaching the end of his examination in
4 chief. I anticipate cross-examination may begin sometime
5 tomorrow and of course the evidence leaders will cross-
6 examine first but those who wish to cross-examine must have
7 their applications in so that we can consider it. In the
8 past, in the case of previous witness, Lieutenant Colonel
9 Scott, who you may remember I allowed certain topics but
10 not others because I thought they would either been dealt with
11 already or were not strictly relevant. So please remember
12 that ruling so that you do not find it embarrassing if you
13 stand up and want to cross-examine and you find your
14 application being refused because you have not made it
15 properly beforehand.
16 I do not know how long people need, I understand,
17 I would imagine that if I make, ask you to please have them
18 in by start of the sitting on Wednesday we will have to time
19 to deal with it. Obviously you may well ask for more than
20 you will in the end require because some of the topics that
21 you asked for other people may cover already or the
22 evidence leaders may cover, but you will bear that in mind
23 when you make the application, of you are reminded to make
24 it.

25 **[COMMISSION ADJOURNED]**