

# RealTime Transcriptions

TRANSCRIPTION OF THE

## COMMISSION OF INQUIRY

### MARIKANA

#### BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON  
MR TOKOTA SC  
MS HEMRAJ SC

#### HELD ON

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<p style="text-align: right;">Page 17388</p> <p>1 [PROCEEDINGS ON 26 NOVEMBER 2013]  2 [09:12] CHAIRPERSON: The Commission resumes.  3 Brigadier, you're still under oath, with your cell phone  4 turned off.  5 ADRIAAN MARTHINUS CALITZ: s.u.o.  6 CHAIRPERSON: Mr Semenya.  7 EXAMINATION BY MR SEMENYA SC (CONTD.):  8 Thank you, Chair. Yesterday we concluded, Brigadier, that  9 you addressed a parade; remember that?  10 BRIGADIER CALITZ: Korrek, mnr die  11 Voorsitter.  12 MR SEMENYA SC: And that was two days  13 after the 16th, being the 18th of August 2012, right?  14 BRIGADIER CALITZ: Korrek, mnr die  15 Voorsitter.  16 MR SEMENYA SC: From paragraph 142 of  17 your statement you begin to deal with what happened at  18 Roots.  19 BRIGADIER CALITZ: Dit is korrek, mnr die  20 Voorsitter.  21 MR SEMENYA SC: And it was reaction from  22 the call-up by the Provincial Commissioner to all of you.  23 BRIGADIER CALITZ: Dit is korrek, mnr die  24 Voorsitter.  25 MR SEMENYA SC: As you say in paragraph</p>	<p style="text-align: right;">Page 17390</p> <p>1 groepies opgebreek soos wat ons die dag geontplooi was op  2 die 16de. Byvoorbeeld, as ek 'n voorbeeld kan noem, die  3 lemmetjiesdraad groep onder Luitenant, ag, Kolonel  4 Makhubela, sou dan na 'n groep toe gegaan het. Kolonel  5 Mere met die Openbare Orde Polisiëringslede saam met  6 Kolonel Pitsi sou in 'n spesifieke wegbreek groepie gewees  7 het, en dan die persone wat in die gesamentlike  8 operasionele sentrum was sou dan na 'n spesiale, 'n sekere  9 wegbreek groepie gegaan het, en die, so ook die  10 onderhandelaars saam met my in die voertuig. Ons het dan  11 al hierdie inligting probeer skematies uitlê op  12 "flipcharts," asook al die inligting wat bymekaar gebring  13 is. Daardie inligting is terug gebring na die, kan ek sê  14 die Roots vergadering wat in 'n groot saal plaasgevind het,  15 en dit is dan deur middel van 'n projektor, al die detail  16 probeer deurgee kronologies, en daaruit het ons die  17 "exhibit" L saamgestel.  18 MR SEMENYA SC: We also deal with various  19 concerns that have been raised around the police operation,  20 commencing at paragraph 146 of your statement.  21 BRIGADIER CALITZ: Korrek, mnr die  22 Voorsitter.  23 MR SEMENYA SC: One of those concerns, if  24 I can ask that we flight slide 181 of exhibit L, you'd  25 recall this is the visuals you had at that 2:30 briefing on</p>
<p style="text-align: right;">Page 17389</p> <p>1 143, those sessions were facilitated by Brigadier Van Graan  2 from national office.  3 BRIGADIER CALITZ: He is a legal officer  4 from national. Dis korrek, mnr die Voorsitter.  5 MR SEMENYA SC: What was your particular  6 role at Roots?  7 BRIGADIER CALITZ: Mnr die Voorsitter, my  8 rol as operasionele bevelvoerder was basies dieselfde as al  9 die bevelvoerders wat na Roots toe opgeroep was. Elke  10 groep bevelvoerder, die oorhoofse bevelvoerder,  11 operasionele bevelvoerder, het dan in daardie dae gesit, ek  12 dink dit was, as ek onder korreksie, nege dae wat ons dan  13 al die feite probeer bymekaar kry het om die, wat ons nou  14 noem as "exhibit" L, asook 'n "narrative" tot "exhibit" L  15 saam te stel.  16 MR SEMENYA SC: Let's take it slowly.  17 You remember again?  18 BRIGADIER CALITZ: Ek vra om verskoning.  19 So my rol daar was om alle moontlike feite en inligting wat  20 van die grond af gegee was, wat ons genoem het aan die  21 bevelvoerders, die bevelvoerders het gekom en dit dan so  22 oorgedra aan die persone in Roots. Kolonel Visser was  23 getaak om al die inligting dan te noteer en dan die  24 "exhibit" L en die "narrative" saam te stel. Die  25 bevelvoerders het dan ook in verskeie, kan ek sê kleiner</p>	<p style="text-align: right;">Page 17391</p> <p>1 the 16th?  2 BRIGADIER CALITZ: Dit is korrek, mnr die  3 Voorsitter.  4 MR SEMENYA SC: But the reason I want us  5 to have that on the screen is that we are having there as  6 Nyala 6 closing that gap between the police line and the  7 small kraal.  8 BRIGADIER CALITZ: Korrek, mnr die  9 Voorsitter.  10 MR SEMENYA SC: And on that formation the  11 dispersal would have happened using the gap between the  12 small kraal and the other kraal with the zinc house on it.  13 BRIGADIER CALITZ: Dit is korrek, mnr die  14 Voorsitter.  15 MR SEMENYA SC: Now one of the concerns  16 raised is that when the militant group came to that, after  17 that gap was closed, it is contended that Nyala 5 ought to  18 have closed that very gap where the dispersal was going to  19 happen, and so the contention goes, the militant group  20 would not have come to the police line. That's one of the  21 criticisms that are raised there.  22 BRIGADIER CALITZ: Mnr die Voorsitter,  23 ja, dit sou egter nie moontlik gewees het. Op daardie  24 stadium tydens die aanval op insident 1, asook wat ons  25 gesien het op insident 2, was Nyala 4 genoodsaak om</p>

<p style="text-align: right;">Page 17392</p> <p>1 vinniger verby Nyala 5 te beweeg. So ek het reeds getuig  2 dat dit sou baie roekeloos en gevaarlik gewees het vir  3 Nyala 5 se persone om uit te klim aangesien 'n  4 draadontploffing nie net gebeur in sekondes nie; dit het  5 fisiese mannekrag nodig om te ontplooi. Dit eerstens, en  6 dan die gebied tussen die klein kraal, wat dan toegemaak is  7 met Nyala 4 wat teen hom geparkeer is, die gebied tussen  8 die klein kraal en die sinkhuisie wat aan die groot kraal  9 geleë is, dit is die enigste opening wat ons dan oop gelos  10 het vir die polisie om na fase 2 te beweeg. Sou Nyala 5  11 daardie spasio toemaak was dit nutteloos gewees en het ons  12 net gesit met die gevolge soos al die vorige dae; ons sal  13 weer van voor af, die groep sou aan die linkerkant gewees  14 het, die polisie aan die regterkant, en hulle sou nog  15 steeds met die gevaarlike wapens onbeheer rondbeweeg het en  16 die dreigemente en die geweld en die insidente wat voorheen  17 plaasgevind het kon heel waarskynlik weer plaasgevind het.  18 Die opdrag wat ons gekry het was wel om die mense te  19 ontwapen en dan te arresteer sou die persone nie gehoor gee  20 aan die waarskuwing nie. So in kort, tussen die klein  21 kraal en die sinkhuisie was die enigste gebied oop gelos  22 vir die polisie dan om uit te beweeg om dan fase 2 deur die  23 voer, asook dan daarna fase 3.</p> <p>24 MR SEMENYA SC: At that time, you told us  25 yesterday where Papa1 was the Nyala in which you were.</p>	<p style="text-align: right;">Page 17394</p> <p>1 BRIGADIER CALITZ: Nie op daardie stadium  2 nie, nee, mnr die Voorsitter.  3 MR SEMENYA SC: Did you know where  4 everybody was? Did you know where everybody was?  5 CHAIRPERSON: Sorry, you repeated it. I  6 didn't hear it the first time. You asked "Did you know  7 where everybody was?" That's your question. By  8 "everybody" you mean among the strikers who had dangerous  9 weapons and so on?  10 MR SEMENYA SC: Those who were armed  11 strikers.  12 BRIGADIER CALITZ: Dankie, mnr die  13 Voorsitter. Die inligting tot ons beskikking, mnr die  14 Voorsitter, is dat die Misdaadintelligensie en die  15 Speurdiens ook na die Maandag insident het, die woorde wat  16 gebruik was, dis "faceless people" en die inligting het  17 deurgekom na ons toe dat hulle het nie op daardie stadium  18 geweet waar presies hierdie persone woonagtig is. Ek weet  19 daar was tussen die generalestaf en die mynbestuur ook  20 gesprek, asook met die speurders wat dan dit opgevolg het.  21 So daar kon met geen sekerheid vir ons gesê word dat  22 persoon A, B, of C, presies in hierdie en hierdie en  23 hierdie vertrek, hostel, of kamer woon nie. So dit sou op  24 daardie stadium vir ons geen doel gedien het om dan 'n  25 spesifieke plek te gaan kordon sonder die nodige inligting</p>
<p style="text-align: right;">Page 17393</p> <p>1 BRIGADIER CALITZ: Pappa1 was my  2 voertuig, korrek, mnr die Voorsitter.  3 MR SEMENYA SC: And you had already  4 driven past where the "sinkhuis" is, is it not?  5 BRIGADIER CALITZ: Dit is korrek, mnr die  6 Voorsitter. Toe ek kom waar ons praat van insident 3 was  7 ek reeds verby die sinkhuisie. Die sinkhuisie was op my  8 regter agterkant, op my 5 uur, in polisietaal.  9 MR SEMENYA SC: So if Nyala 5 was to  10 close that gap, you would have been closed on the side of  11 the protesters, the strikers?  12 BRIGADIER CALITZ: Mnr die Voorsitter,  13 ja, as die bevelvoerder in Nyala 5 wel besluit het en  14 gesien het die mense storm en die draad op 'n manier, wat  15 ek nie glo kan in daardie kort tyd gebeur het nie, maar op  16 'n manier uitgegooi het, sou dit 'n groot risiko gewees het  17 nie net vir my nie, maar ek dink ook die twee Casspir  18 voertuie en Pappa11 wat reeds voor my was. Ek dink ons sou  19 heeltemal geïsoleer gewees het van die res van die groep en  20 ons sou geen hulp gehad het van agter af.  21 MR SEMENYA SC: The other concern raised  22 about the police operation relates to the contention that  23 you ought to have gone through the cordon and search first.  24 Now did the police have adequate intelligence to undertake  25 that as their first tactical option?</p>	<p style="text-align: right;">Page 17395</p> <p>1 nie.  2 MR SEMENYA SC: And post fact we know now  3 that there were other strikers who were sleeping at koppie  4 3. Was this information known to you at the time?  5 BRIGADIER CALITZ: Mnr die Voorsitter,  6 nee. Ek het getuig dat ons het in die aande tot ongeveer  7 10 uur gestaan en wag dat almal uiteengaan, selfs so dat  8 ons van nagsig probeer gebruik gemaak het, flitse om te  9 sien of daar iemand by koppie 1 en 2 is, spesifiek vir die  10 doel om seker te maak dat dit veilig is en almal  11 uiteengaan. In "hindsight" nou het dit tot die inligting  12 gekom dat die persone wel op koppie 3, wat dan agter was,  13 geslaap het in die aande, wat ek na die tyd verneem het.  14 MR SEMENYA SC: The other criticism  15 relates to a contention that the strikers were not warned  16 ahead of the barbed wire being uncoiled.  17 BRIGADIER CALITZ: Dit is korrek, mnr die  18 Voorsitter. Dit is waaroor ek dink ek gister of eergister  19 getuig het.  20 MR SEMENYA SC: Is it accurate though?  21 Is it accurate that they were not warned and explained to  22 what the purpose of the barbed wire was?  23 BRIGADIER CALITZ: Nee, mnr die  24 Voorsitter. Dit is absoluut nie so nie. Ek, as ek reg  25 onthou het ek gesê ek het met die "public address system"</p>

<p style="text-align: right;">Page 17396</p> <p>1 12 keer met hulle gekommunikeer, waarvan ek dink drie of 2 vier keer was pertinent oor die draad en die doel van die 3 draad. So dit was gekommunikeer met die "protesters." 4 MR SEMENYA SC: The entries in the 5 occurrence book relate to saying Papa1, but what's your 6 reaction to that? 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 ja, ons verwys spesifiek na twee, 1017, 1018, waar dit in 9 die voorvalleboek geskryf is Pappa1 rapporteer, ek dink die 10 persone beweeg om die kraal, en op 'n ander stadium Pappa1 11 rapporteer, ek dink 'n aanval of iets – ek het nou nie die 12 VB voor my op hierdie stadium, maar dit was duidelik nie 13 Pappa1 nie. Die persone wat die VB gevat het en die notas 14 gemaak het, ek dink die Pappa1 moet vervang word deur 15 Chopper1, want op daardie stadium, dit was vir my 16 onmoontlik om te sien van waar my posisie was en die wat 17 gerapporteer was in die VB. 18 MR SEMENYA SC: And in fact against entry 19 1017 it says, "Papa1 reporting the group are moving to the 20 TRT members." That you did not witness? 21 BRIGADIER CALITZ: Ek het dit inderdaad 22 nie gesien nie, mnr die Voorsitter. 23 MR SEMENYA SC: It is FFF25, Chair, and – 24 CHAIRPERSON: Ja, I see it's FFF25, and 25 what page are you on?</p>	<p style="text-align: right;">Page 17398</p> <p>1 voertuig se roepsein sou nog steeds gebruik gewees het as 2 Pappa1. Ek kan egter nie sê op daardie stadium wie die 3 persoon was. Ek vermoed dit kan Kolonel McIntosh, wat dan 4 in my voertuig was – 5 CHAIRPERSON: I see. So that situation 6 report appears to have come from your Nyala, but you 7 weren't in the Nyala yourself at the time because the 8 briefing was taking place. Is that – or either was taking 9 place or just finished. Is that correct? 10 BRIGADIER CALITZ: Die voorval het 11 inderdaad plaasgevind waar mnr Mathunjwa daar was en dit is 12 deurgegee. Die roepsein Pappa1 is nie aan my as persoon 13 toegeken nie maar aan die voertuig en die roepsein is dan 14 ook op die dak van die Nyala met verf gemerk P1. 15 CHAIRPERSON: Thank you. 16 MR SEMENYA SC: There is also a concern 17 raised about the arresting methods that were effected on 18 the 16th. In particular there was concern raised about a 19 police officer's boot on the face of one of the people who 20 were arrested. You remember that? 21 BRIGADIER CALITZ: Korrek, mnr die 22 Voorsitter. 23 MR SEMENYA SC: Can you comment about 24 that? 25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>
<p style="text-align: right;">Page 17397</p> <p>1 MR SEMENYA SC: I'm on page 25. 2 CHAIRPERSON: 25, thank you. 3 MR SEMENYA SC: And for the convenience 4 of the Commissioners, when we deal with the evidence of 5 Colonel Vermaak he will himself own up to have been making 6 those reports from Chopper1. 7 CHAIRPERSON: I see they are headed 8 "situation reports," both entry 1016 and entry 1017 and 9 1018, although 1018 in fact is a conflation of a number of 10 reports that were received, so let's leave – presumably 11 from various people, so let's leave 1018 out of it. But 12 1016 specifically says "Chopper1 reported." 1017, 13 "Situation report, Papa1 reporting." Now did you in fact 14 give situation reports back to the JOC? 15 BRIGADIER CALITZ: Nie op daardie stadium 16 nie, nee, mnr die Voorsitter. 17 CHAIRPERSON: There's an earlier 18 reference, 1014, "P1 reported that the union rep wants to 19 go to the koppie to tell the group that the mine management 20 doesn't want to negotiate." Who would have been 21 responsible for that situation report? 22 BRIGADIER CALITZ: Mnr die Voorsitter, 23 uit my getuienis, as u kyk na die tyd, dit was om 14:40, 24 dit was die tyd wat ons by "forward holding area" 1 was met 25 al die bevelvoerders, wat ons dan "gebrief" het. So my</p>	<p style="text-align: right;">Page 17399</p> <p>1 alhoewel ek dit nie self waargeneem het op die dag nie kan 2 ek net uit 'n operasionele bevelvoerder hoe ons normaalweg 3 te werk gaan. Sou ons in 'n normale operasionele situasie 4 "protesters" of persone gewapen benader en die doel was om 5 hulle te ontwapen en dan te arresteer, en sou dan enige van 6 die taktiese lede 'n vuurwapen, veral 'n lang wapen, in die 7 hand gehad het, is dit dan nodig om "either" die voet of 8 die knie te gebruik om die persoon onder bedwang te hou. 9 Dit word gedoen, ek dink ek het dit in my verklaring 10 genoem, "controlled and disciplined way," waar dan ook 11 seksieleiers en bevelvoerders teenwoordig is by elke groep. 12 So indien die persoon benader word met 'n vuurwapen sou dit 13 heeltemal roekeloos wees om die wapen dan neer te sit, of 14 wat ons noem, ons het 'n "sling" aan 'n R5 of 'n 15 aanvalsgeweer, om die "sling" agter die rug te sit en met 16 die hande die persoon te benader. Dit stel jou heeltemal 17 bloot en dit stel u in gevaar. So beheersd kan die persoon 18 dan die voet plaas of met die knie op die persoon se rug 19 terwyl die persoon dan deur 'n ander persoon genader moet 20 word en gedeursoek moet word vir enige gevaarlike wapens, 21 wapens, en op daardie stadium weer wegbeweeg tot die 22 persoon gearresteer is. 23 [09:31] Ons sien dit baie in gevalle waar ons plekke doen 24 soos onwettige tavernes, shebeens, waar daar 'n hele paar 25 mense is en ons vermoed dat van die mense gewapen is, dit</p>

<p style="text-align: right;">Page 17400</p> <p>1 is onmoontlik om al die mense op daardie stadium net onder 2 wapen te hou, so indien iemand beweeg en u vermoed daardie 3 persoon het iets by hom, sou u dan nader gaan en die 4 persoon dan so onder bedwang hou.</p> <p>5 MR SEMENYA SC: I would like us to deal 6 with other criticism which Mr White then direct at you in 7 particular.</p> <p>8 CHAIRPERSON: Paragraph 156 and 9 following, of the statement?</p> <p>10 MR SEMENYA SC: Indeed, indeed Chair. I 11 want to deal with your statement dated 26 October.</p> <p>12 BRIGADIER CALITZ: 26?</p> <p>13 MR SEMENYA SC: Indeed, Chair, or 14 otherwise called Annexure K. Firstly, what provoked the 15 making of this statement in particular?</p> <p>16 BRIGADIER CALITZ: Mnr die Voorsitter, 17 dit is die handgeskrewe, ek was nader gewees om die 18 verklaring te maak rondom 'n ondersoek wat gelei was deur, 19 as ek korrek is Luitenant Generaal Moono van die 20 Speurdiens. Daar was 'n bewering gemaak dat daar op toneel 21 2 by koppie 3 wapens geskuif of neergesit of, daar was 22 verskeie bewerings gemaak en ek was nader gewees om dan vir 23 die ondersoek 'n verklaring te maak oor wat ek waargeneem 24 het op toneel 2, en die verklaring is dan afgeneem, ek dink 25 deur Generaal Johnson van die Speurdiens.</p>	<p style="text-align: right;">Page 17402</p> <p>1 people as one group was a serious problem," paraphrased.</p> <p>2 BRIGADIER CALITZ: Mnr die Voorsitter, 3 dankie. Ek dink egter wat mnr White miskien nie bewus was 4 nie is dat as ons kyk aan die bokant van die verklaring sal 5 ons sien dat daar is 'n handgeskrewe Marikana Mass, ek dink 6 134 van 8/2012, handgeskrewe bo aan die dokument. Hierdie 7 verklaring was nie bedoel vir die Kommissie of vir die 8 sitting soos ons hom nou ken nie, hierdie verklaring was 9 afgeneem en ek verneem my verklaring was een van die heel 10 eerste verklarings twee dae –</p> <p>11 CHAIRPERSON: A15, is it? It is A15, if 12 you look at the top right hand corner it is A15, is that 13 so?</p> <p>14 BRIGADIER CALITZ: Die woorde, dit is 15 korrek.</p> <p>16 CHAIRPERSON: Normally when I was public 17 prosecutor A15 indicated this would have been the 15th 18 statement filed in the docket, is that right?</p> <p>19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 ja, as ek net kan verduidelik hoekom ek die verklaring 21 afgelê het. Die verklaring was wel afgeneem vir 'n 22 dossier, soos ek sê nie as getuie in die Kommissie so 23 seer nie, maar die Mass wat hier aangedui was, was die 24 dossier wat geopen was vir die 259 persone wat gearresteer 25 was op die dag. So my laaste paragraaf 19 is 'n</p>
<p style="text-align: right;">Page 17401</p> <p>1 MR SEMENYA SC: Your other statement is 2 at Exhibit GGG13 where there is a reference about all the 3 people, all the people, can you explain that for us?</p> <p>4 CHAIRPERSON: That's the statement dated 5 the 19th of August, three days after the shooting, is that 6 the first statement that you made?</p> <p>7 BRIGADIER CALITZ: Dit is korrek, mnr die 8 Voorsitter, ek het hom as GGG13, as dit die korrekte een 9 is.</p> <p>10 CHAIRPERSON: Now what is the paragraph 11 to which you're referring, Mr Semenya?</p> <p>12 BRIGADIER CALITZ: Ek dink paragraaf 19, 13 as ek kan help, mnr die Voorsitter.</p> <p>14 CHAIRPERSON: Paragraph 19 and I take it 15 you are referring to essentially the third and fourth 16 sentences, is that correct?</p> <p>17 MR SEMENYA SC: Indeed, Chair, just so 18 that we bring everybody on board, there the statement 19 reads, "The crowd that assembled in the koppie was unruly 20 and very aggressive. They were all armed with extremely 21 dangerous homemade and bought weapons which they clearly 22 intended using to injure or kill SAPS members. They acted 23 as one group and all of them associated themselves with the 24 actions of each other. All of them had the same intention 25 and goal and Mr White says, your treatment of the 3, 4,000</p>	<p style="text-align: right;">Page 17403</p> <p>1 samevatting van die persone wat dan gearresteer was by 2 koppie 2. Dit is waar ons gesê het almal was gewapen, 3 almal het dieselfde doel gehad en dit is dan, soos dit aan 4 my gerapporteer was en ek het dan ook die verklaring gemaak 5 vir die spesifieke dossier wat dan hof toe is.</p> <p>6 MR SEMENYA SC: The other criticism that 7 is levelled is that the briefing ought to have been done by 8 a POP's commander and it was not, what is your reaction to 9 that?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter, 11 net die vraag, die aanvanklike briefing na ons?</p> <p>12 MR SEMENYA SC: Ja, we're dealing with 13 your paragraph 157.</p> <p>14 CHAIRPERSON: Can you repeat the question 15 please, Mr Semenya?</p> <p>16 MR SEMENYA SC: The other criticism is 17 that the briefing of the commanders there was supposed to 18 have been done as required by standing order 262 to be done 19 by a POP commander as an operational commander. You 20 personally had to do it.</p> <p>21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 ja, dit is korrek, waarna hier verwys word is dan order 262 23 in paragraaf 10. As ons onthou en ek neem aan daar is so 24 al getuig, is dat staande order 262 geskryf is vir 'n 25 normale crowd management situasie, so dit sou iets wees wat</p>

<p style="text-align: right;">Page 17404</p> <p>1 vooraf bekend gewees het, wat 'n aaneenlopende gebeurtenis 2 opgehou het waarvoor daar 'n aansoek ingedien was wat ons 3 noem 'n Section 4, waarvoor daar behoorlike beplanning was, 4 waarvoor daar 'n Section 4 vergadering gehou was. Dit is 5 'n vergadering tussen al die rolspelers wat dan insluit die 6 polisie, die organiseerders asook die persone betrokke, die 7 roete sou dan bekend gewees het, die rolspelers sou bekend 8 gewees het en in hierdie geval was daar geen so detail nie 9 en hierdie was 'n hibriede omgewing en situasie en dit is 10 waarom ons vir Luitenant Kolonel Scott ingebring het, omdat 11 dit nie 'n spesifieke 262, net crowd management situasie 12 was nie, maar 'n hibriede situasie waar hy dan die 13 beplanning gedoen het en dit dan oorgegee het aan ons. Ons 14 was almal wel deel van die gesamentlike operasionele 15 sentrum.</p> <p>16 MR SEMENYA SC: And when you say "we were 17 all there" are you referring to who? Were there any POP 18 commanders during that briefing which was done by Colonel 19 Scott at 14:30?</p> <p>20 BRIGADIER CALITZ: Dit is korrek, mnr die 21 Voorsitter, al die vorige Openbare Orde bevelvoerders wat 22 ek genoem het met al die jare diens, was teenwoordig in die 23 gesamentlike operasionele sentrum vergaderings in die 24 oggend tydens die voorligtings, asook tydens die 14:30 25 voorligting.</p>	<p style="text-align: right;">Page 17406</p> <p>1 to give detailed plans to the commanders on how the 2 operation should be done?</p> <p>3 BRIGADIER CALITZ: Mnr die Voorsitter, 4 nee, as ons kyk na die tyds aspek het ek gesê ek is, ek 5 praat onder korreksie, ek dink drieuur terug gewees by die 6 groep voor en indien ek dan sou verwag het dat die groep 7 bevelvoerders teruggegaan het en elke seksie bevelvoerder 8 voorligting gaan gee het en vir die seksie bevelvoerders 9 gewag het om vir my 'n skriftelike beplanning terug te gee 10 of notas, wat presies hulle beplan en hoe hulle takings en 11 waar hulle, hulle mense gaan uitsit, ek dink as dit mnr 12 White is, dit is totaal onmoontlik. Dit word gedoen –</p> <p>13 CHAIRPERSON: But the short point is 14 presumably the sun would almost have gone down by the time 15 they came back with those plans and you couldn't have 16 launched the operation because it was too dark, is that 17 correct? I don't know how long they would have taken to 18 perform this task but presumably it would have taken some 19 time and I understand the approach at sunset was an issue 20 which was a matter of concern, am I correct?</p> <p>21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 ja, aan die eenkant is u korrek dat die operasie sou dan 23 wel nie kon plaasvind nie, die anderkant is dan ook dat ek 24 sê weer, staande order 262 was geskryf spesifiek vir 'n 25 Openbare Orde Polisiëring crowd management situasie waar</p>
<p style="text-align: right;">Page 17405</p> <p>1 CHAIRPERSON: They were in the JOC in die 2 morning, the six o'clock meeting, they weren't there for 3 the 1:30 meeting, but you say they were in the forward 4 holding area 1 at 2:30 when Lieutenant Colonel Scott and 5 Brigadier Pretorius, I think it was, came and the briefing 6 was given in his, on his laptop as it were or via his 7 laptop annexed to his Vito vehicle, is that correct, when 8 all the POP people were there, the commanders were there at 9 2:30, at that point?</p> <p>10 BRIGADIER CALITZ: Dit is korrek, mnr die 11 Voorsitter, al die Openbare Orde Polisiëringpersone wat 12 spesifiek getaak was, ek het gesê, ook getuig, ek dink 13 uitsluitende Luitenant Kolonel Mere, wat ek dan gevoel het 14 moet agterbly indien daar enige iets sou gebeur, maar hy 15 was persoonlik deur myself ge-brief met die terugkeer.</p> <p>16 MR SEMENYA SC: Were there any POP 17 element briefings that were not given at 14:30 relative to 18 your operation? Was there anything that is populated that 19 was not understood by any of your members?</p> <p>20 BRIGADIER CALITZ: Nee, mnr die 21 Voorsitter, soos ek reeds getuig het die voorligting wat 22 gegee was, die planne wat gemaak was asook die fases was 23 baie goed verstaan deur die bevelvoerders, die Openbare 24 Orde Polisiëring bevelvoerders op die grond.</p> <p>25 MR SEMENYA SC: Was there any opportunity</p>	<p style="text-align: right;">Page 17407</p> <p>1 daar genoeg tyd is voor die tyd waar aansoek gedoen word, 2 dat ons 'n behoorlike, wat ons OCT plan opstel en dan uit 3 die plan uit kom die seksie bevelvoerders dan terug met 4 briefing sertifikate wat hulle dan vir ons aandui hoe en 5 waar hulle, hulle mense kan plaas.</p> <p>6 CHAIRPERSON: You say OCT plan, those 7 letters OCT, what do they stand for?</p> <p>8 BRIGADIER CALITZ: Dit is die operational 9 commanders' training, operasionele bevelvoerders opleiding 10 wat ons kry waar elke bevelvoerder spesifiek pertinent 11 opgelei is hoe om 'n detail beplanning te skryf.</p> <p>12 COMMISSIONER HEMRAJ: Is it unusual to 13 have briefings in such a short space of time?</p> <p>14 BRIGADIER CALITZ: Kommissaris, nee, glad 15 nie, dit gebeur baie van die kere dat die polisie word 16 daagliks blootgestel aan gevaarlike en negatiewe kontak 17 situasies waar ons inligting nou kry en ons moet reageer in 18 letterlik sekondes of minute. Ons het daarvoor, wat ons 19 noem mobilisasie orders waar die lede dan gebel word en op 20 'n breukdeel moet reageer en waarop hulle dan wel 21 voorligting gegee word na 'n spesifieke gebied toe. So al 22 die inligting is ongelukkig nooit lank voor die tyd tot ons 23 beskikking nie, nee.</p> <p>24 MR SEMENYA SC: One of the other 25 criticisms is that the briefing was unclear whether there</p>

<p style="text-align: right;">Page 17408</p> <p>1 was going to be a dispersal action or an unsettling action.  2 What was the understanding at 14:30? What was the  3 operation going to be?  4 BRIGADIER CALITZ: Mnr die Voorsitter,  5 beide, ek kan nie dink waar die verwarring ingekom het nie,  6 die voorligting was baie duidelik gewees dat nadat die  7 verdedigingslyn in plek was wat ons genoem het die  8 defensive measure, sou die polisie dan uitbeweeg en hulle  9 sou dan gewag het vir my as 'n operasionele bevelvoerder om  10 dan die nodige waarskuwings te gee, die nodige tyd te gee  11 om uiteen te gaan. Daarna sou dit in my opdrag gewees het  12 om die lede uiteen te dryf, daarna te isoleer want die  13 woord "encircle" aanbetref, daarna te ontwapen en dan te  14 arresteer, so ek dink die vier beginsels, as ek dit so kan  15 noem van die plan, was baie duidelik uiteengesit vir die  16 bevelvoerders en hierdie fases is 'n geruime tyd al onder  17 die bevelvoerders se aandag.  18 CHAIRPERSON: Am I correct in saying your  19 point is that the commanders were shown what we now see as  20 slide 181 in Exhibit L.  21 BRIGADIER CALITZ: Ja.  22 CHAIRPERSON: That's what was on the  23 laptop of Colonel Scott, I think you told us that  24 yesterday?  25 BRIGADIER CALITZ: Dit is korrek.</p>	<p style="text-align: right;">Page 17410</p> <p>1 Nyala 6 nog in 'n westelike rigting gedraai het na die  2 koppie toe. Dit is, ek dink my naam is onderaan een van  3 die slides, ek dink van die bevelvoerders in die JOC het so  4 iets by hulle gehad, maar daardie beplanning was, hoe kan  5 ek sê, van die tafel af toe die nuwe een aan ons  6 verduidelik gewees het, want die uitgooi van die draad,  7 alles het verskil van die vorige een.  8 COMMISSIONER HEMRAJ: Might the confusion  9 have arisen from that early briefing with regards to the  10 encirclement of the koppie and now this new plan where the  11 barbed wire was only used as a defensive measure?  12 BRIGADIER CALITZ: Mnr die Voorsitter, in  13 alle eerlikheid hoe ek verstaan waar ek die onduidelikheid  14 of die confusions vandaan kom oor die woorde "encircle",  15 die barbed wire groep soos ons hulle bekendstel, Kolonel  16 Makhubela se groep, was verantwoordelik om toe te maak  17 sodat die "encirclement" wel kan plaasvind. So die mense  18 verstaan dit verkeerd deur te sê die lemmetjiesdraad moes  19 gebruik gewees het vir die "encirclement". Miskien is dit  20 waar die verwarring inkom in die verklarings of waar die  21 lede verstaan het, maar indien u met hulle in gesprek sal  22 tree sal hulle vir u verduidelik dat hulle moes toemaak  23 sodat die Openbare Orde Polisiëring die "encirclement" kan  24 doen en die arrestasie.  25 CHAIRPERSON: But I think the point is</p>
<p style="text-align: right;">Page 17409</p> <p>1 CHAIRPERSON: And that's what everybody  2 saw, is that correct?  3 BRIGADIER CALITZ: Dit is korrek, mnr die  4 Voorsitter.  5 CHAIRPERSON: And you say it was like in  6 the form in which we see at slide 181?  7 BRIGADIER CALITZ: Dit was inderdaad –  8 CHAIRPERSON: And that indicates phase 1,  9 phase 2 and phase 3, so that anyone who had an opportunity  10 to see that would have had no difficulty in understanding  11 the three phases and the scope for confusion was  12 correspondingly reduced, would that be correct?  13 BRIGADIER CALITZ: Dit is korrek, mnr die  14 Voorsitter, ek het ook gister getuig dat die lede die  15 geleentheid gehad het om dan vrae te vra en daar was  16 interaksie gewees en die verduideliking was 100%.  17 COMMISSIONER HEMRAJ: Were some of the  18 commanders in possession of some hardcopies of a Google  19 Earth Map that had been handed out at some previous stage  20 where the encirclement of the actual koppie was tabled?  21 BRIGADIER CALITZ: Mnr die Voorsitter,  22 nee, ek kan nie presies sê dat hulle was, ek dink nie daar  23 was enige aanduiding van enige encirclement van 'n koppie,  24 ek het nie so iets gesien nie. Die enigste een wat op 'n  25 stadium gegee was, was die eerste voorligting waar die</p>	<p style="text-align: right;">Page 17411</p> <p>1 that this slide 181, that is a Google Earth picture and the  2 question is really whether it is correct that a copy of the  3 same Google Erf picture had been given to the commanders  4 earlier, some time earlier, not on the same day I think but  5 earlier, the previous day, on which a different plan was  6 set out, I think that's the thrust of the question. Are  7 you able to answer it from your own knowledge or don't you  8 know?  9 BRIGADIER CALITZ: Ek dra nie op hierdie  10 stadium kennis daarvan nie, nee.  11 MR SEMENYA SC: But it is easy to explain  12 this, is it not, Brigadier, there is a concept of encircle  13 the koppie with the barbed wire, that is where that word is  14 used, there is another encircling of small groups. Is that  15 done with the barbed wire for the arrest?  16 BRIGADIER CALITZ: Nee, glad nie, mnr die  17 Voorsitter, onder normale omstandighede buiten Marikana, u  18 sal nooit draad gebruik om 'n groep toe te maak en dan te  19 probeer encircle. Sou enige iets gebeur, 'n harde geluid,  20 dit werk dieselfde as in 'n stadion, u gaan kry wat ons  21 noem 'n stampede en die draad sou dan 'n bedreiging gewees  22 het vir die groep, so nee, dit kan nie gebeur nie.  23 COMMISSIONER HEMRAJ: Well, there is  24 another point, isn't it, that there weren't any other  25 Nyalas on the other side of the koppie to complete the</p>

<p style="text-align: right;">Page 17412</p> <p>1 actual encirclement, if that was ever thought, that it was 2 going to be rolled out like that? 3 BRIGADIER CALITZ: Nee, Kommissaris, ons 4 net die ses draad karre gehad op die dag en hulle was 5 aangedui soos op die foto, op slide 181. 6 [09:51] CHAIRPERSON: Another way of making the 7 same point is as follows, if you look at slide 181 you see 8 where the wire is depicted. That's part of phase 1, right. 9 There's then a reference to phase 2 and it seems clear that 10 phase 2 is going to happen more or less where those two 11 white arrows are, the one being, indicating the first line 12 and the other indicating the second line, it was in fact 13 going to be in front of that, I take it. 14 BRIGADIER CALITZ: Korrek, mnr die 15 Voorsitter. 16 CHAIRPERSON: But that was not at the 17 place where the wire would already have been – I don't like 18 that word 'deployed,' but the wire had already been 19 uncoiled as indicated on the slide, which was going to be 20 part of phase 1. So there wouldn't have been – (a), there 21 wouldn't have been any wire left; and (b), the wire, where 22 the wire was going to be put was indicated and the action 23 for phase 2, and I take it phase 3, was going to take place 24 at a point west of the wire. Is that correct? 25 BRIGADIER CALITZ: Dit is korrek, mnr die</p>	<p style="text-align: right;">Page 17414</p> <p>1 waar dit gebeur het. Dit was nêrens voorheen aan ons 2 gerapporteer nie, nie op enige kursusse waar ons was, dat 3 so iets gebeur nie. Ek dink 'n tipiese voorbeeld is wat 4 ons in, ek het daarna verwys, in Meimaand laasjaar waar 5 Kolonel Merafe-hulle in 'n soortgelyke voorval was by 6 Impala Myn, waar die "strikers" ook gestorm het, dieselfde 7 mynwerkers, waar die Openbare Orde Polisiëring geskiet het, 8 waar die TRT genoodsaak was dan om waarskuwingskote in die 9 grond te skiet en dit het ook gewerk, en op daardie stadium 10 het hulle omgedraai en weggehardloop. So nie net die 11 waarskuwingskote nie, maar partykeer die "stun" granate en 12 die traanrook is partykeer meer as genoeg om 'n skare te 13 ontmoedig. Ek kan miskien net sê dat ons het soveel, dis 14 amper ondenkbaar om te sien die getalle wat die polisie en 15 die hulpbronne wat ons gehad het op daardie dag. Ons het 16 redelik 'n "excessive show of force," as ek dit so kan 17 noem, gehad op daardie dag. Dit moes sekerlik 'n afskrik 18 waarde gehad het. Die draad was daar; die waterkanonne, 19 die afstand, die kommunikasie hoeveel keer met die skare 20 oor die "public address system", die sigbaarheid, die 21 patrollies gewees, asook die leiers se pogings om met hulle 22 mense te skakel, wat mnr Mathunjwa dan self te kenne gegee 23 het, lyk my die mense het nie na hom geluister nie. So 24 alles inaggenome, nee, mnr die Voorsitter, ek het glad nie 25 verwag dat daar so iets sou plaasvind nie, nee.</p>
<p style="text-align: right;">Page 17413</p> <p>1 Voorsitter. 2 COMMISSIONER HEMRAJ: And Colonel 3 Makhubela was in charge of all the Nyalas that were going 4 to deploy the barbed wire. That's correct? 5 BRIGADIER CALITZ: Dit is korrek, 6 Kommissaris. Die opdrag het wel, moes deur die 7 operasionele bevelvoerder gekom het wanneer om te begin, 8 maar hy was fisies saam beweeg saam met elke voertuig oor 9 die uitrol van die draad, ja. 10 COMMISSIONER HEMRAJ: And the manner in 11 which it was uncoiled was upon his instructions to the 12 drivers of the Nyalas with the barbed wire? 13 BRIGADIER CALITZ: Dit was definitief 14 gedoen, Kommissaris. 15 MR SEMENYA SC: One of the big criticisms 16 that Mr White launches is that the decision to disperse and 17 disarm the strikers was placing both the police and the 18 strikers at risk. Did you in your entire career, 20 years 19 almost in POP environment, see strikers charge at the 20 police line in the manner that happened on the 16th? 21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 nee, glad nie. Ek dink wat ons hier gesien het, die, wat 23 ek beskryf as 'n volskaalse aanval deur 'n groot getal 24 persone op die polisielyn, dis die eerste keer in my 25 loopbaan, as ook ek dink in Suid-Afrika se geskiedenis,</p>	<p style="text-align: right;">Page 17415</p> <p>1 MR SEMENYA SC: And in your entire 2 experience in the police service have you seen an unfurling 3 of a barbed wire provoke attack on the police? 4 BRIGADIER CALITZ: Nee, mnr die 5 Voorsitter, soos ek reeds getuig het, ek was op 'n, meer as 6 een geleentheid het ons van die draad gebruik gemaak en die 7 draad het altyd gedien as 'n beskermingsmaatreeël of om iets 8 af te sper. Ons het nog nooit draad uitgegooi waarop dan 9 die mense gereageer het en gestorm het in die rigting van 10 die draad nie, nog nooit nie. 11 CHAIRPERSON: Have you ever used the wire 12 in an open rural context such as we had here, as opposed to 13 an urban context or suburban context where the, you know, 14 there were roads and narrower spaces to fence off? You 15 understand the point I'm putting to you? Have you had this 16 kind of rural unrolling of the wiring in areas such as that 17 where the events that we're busy investigating took place? 18 BRIGADIER CALITZ: Mnr die Voorsitter, as 19 ek nou mooi moet dink, miskien die geval van Vryburg waar 20 dit nader aan 'n nedersetting was, maar ek dink op daardie 21 stadium was dit in 'n grondpad gegooi wat dan nie stedelik 22 was nie, nee, as ek so vinnig moet dink. Ek dink die ander 23 gevalle was, die Ventersdorp geval was in 'n dorp. Ek dink 24 Generaal Mpembe het verwys op 'n stadium het ons bo aan die 25 Botswana, tussen Ramatlabama Botswana op 'n stadium was</p>



<p style="text-align: right;">Page 17416</p> <p>1 daar 'n, ek dink 'n probleem – ek kan nie die feite onthou 2 nie, daar was 'n ding met die weermag gewees wat ook wou 3 inbeweeg het op 'n stadium, gaan dit oor lone of “strike,” 4 en daar het hulle ook, weet ek, die draad gegooi wat dan in 5 die veld was, nie soseer op die teerpad om 'n spesifieke 6 pad te blok nie. So dit het al voorheen gebeur, mnr die 7 Voorsitter.</p> <p>8 CHAIRPERSON: Thank you.</p> <p>9 MR SEMENYA SC: Any previous experience 10 of the police where you have 2, 300 strikers with a 11 plethora of weapons and charging at the police before?</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter, 13 ja, dit is waarna ek verwys het in my vorige getuienis oor 14 die Vryburg voorval, asook in Meimaand waar dit gebeur het 15 by Impala Myn. Ons was verskeie kere aangeval met klippe, 16 petrolbomme, daardie tipe van goed, waar die paaie toegepak 17 was en daar gemeenskap ongelukkig was met dienslewering. 18 Myself was aangeval deur verskeie groepe in 'n gebied hier 19 naby Carletonville, wat ons nou ken as Khutsong, daardie 20 jare, ek dink dit was 3, 94, waar ek fisies self in 'n 21 Nyala was wat aangeval was deur persone met petrolbomme, 22 waar op ons geskiet was. So ja, ek was al in sulke 23 omstandighede gewees.</p> <p>24 MR SEMENYA SC: If I show slide 121 of 25 exhibit L, does it remotely reflect past police experience?</p>	<p style="text-align: right;">Page 17418</p> <p>1 MR MPOFU: Oh, okay. 2 CHAIRPERSON: There's no law that tells 3 you what's reasonably foreseeable. 4 MR MPOFU: Okay. 5 CHAIRPERSON: And he can speak from the 6 point of view of a policeman who knows what police can 7 foresee. His answer obviously won't be binding on us, but 8 I don't think I can stop him asking the question. It may 9 help us. 10 MR SEMENYA SC: We acknowledge Mr Mpofu, 11 Chair. 12 CHAIRPERSON: It would be very 13 discourteous of you not to do so. 14 MR SEMENYA SC: Was it anticipated during 15 the planning that something of the nature as we now know it 16 as incident 1 was going to happen? 17 BRIGADIER CALITZ: Mnr die Voorsitter, 18 nee, as ek kan verwys na twee dele in my verklaring, 19 paragraaf 158 waarmee mnr White, die tweede sin sê ek, “I 20 did not foresee that the armed strikers would charge on the 21 police line when the police deployed the barbed wire.” Wat 22 ons wel voorsien het is voorheen in my verklaring, 23 paragraaf 77, waar ons gesê het, “The barbed wire would 24 also delay the advancing strikers should they decide to 25 attack the police by advancing the police line and move in</p>
<p style="text-align: right;">Page 17417</p> <p>1 BRIGADIER CALITZ: Nee, mnr die 2 Voorsitter, ek dink in die geval, die militante groep wat 3 ons hier sien, dit was 'n eerste wat ek dit so beleef het 4 dat die optrede wel so dreigend direk na die polisie toe 5 was.</p> <p>6 MR SEMENYA SC: Slide 172, any previous 7 police experience of that behaviour, slide 172 of exhibit 8 L?</p> <p>9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 nie soseer met die panga in die voorgrond, maar die 11 knopkeries en stokke was al verskeie kere in optogte 12 gebruik, wat ons dan ook die persone gewaarsku het dat u 13 het die reg om in 'n optog deel te neem, maar ongewapen en 14 vreedsaam, waarop dan, wat ons noem die “marshals” vir ons 15 daarna aandag gegee het en meeste van die kere is dit dan 16 tersyde gelê, maar nie met pangas en spiese in 'n optog 17 nie, nee.</p> <p>18 MR SEMENYA SC: Could the police have 19 reasonably foreseen incident 1 happening?</p> <p>20 MR MPOFU: Chairperson – 21 MR SEMENYA SC: Or at least the planners. 22 MR MPOFU: Well, is the witness now going 23 to draw a legal conclusion about reasonable foresight? 24 CHAIRPERSON: No, what is reasonably 25 foreseeable is to some extent a factual question.</p>	<p style="text-align: right;">Page 17419</p> <p>1 between the police members.” Die verskil tussen die twee 2 paragrawe is dat ons het wel voorsien sou ons met fase 2 3 uitbeweeg en ons dan die “protester” groep wat weier om 4 uiteen te gaan begin uiteendryf, dat daar wel 'n 5 konfrontasie kon plaasvind deurdat indien ons die persone 6 uiteendryf, daar is van hulle wat hulle mag teengesit het 7 en daarom sou ons dan van ons “stun grenades,” 8 waterkanonne, rubber, gebruik gemaak word en in so 'n mate 9 die Taktiese Reaksie Eenheid agter ons gehad het wat dan 10 een van hulle doele was om te help om arrestasie tegnieke 11 uit te voer met die persone wat hulle dan sou teësit, maar 12 net tydens die opvolg en die arrestasie. 13 CHAIRPERSON: So what one really should 14 do is to qualify what you say in paragraph 77 - 15 BRIGADIER CALITZ: Ja. 16 CHAIRPERSON: - in the last sentence. 17 BRIGADIER CALITZ: Ja. 18 CHAIRPERSON: By making it clear that the 19 potential attack that you were talking about was one that 20 would possibly take place during the course of the 21 operation and once the phase 2 has commenced. 22 BRIGADIER CALITZ: Korrek, mnr die 23 Voorsitter. 24 CHAIRPERSON: So obviously you didn't 25 foresee that they might decide to attack before you</p>

<p style="text-align: right;">Page 17420</p> <p>1 actually started with phase 2. Is that correct?</p> <p>2 BRIGADIER CALITZ: Dit is wat ek in</p> <p>3 paragraaf 158 –</p> <p>4 CHAIRPERSON: How many threats had you</p> <p>5 received in the course of a day that they would attack you?</p> <p>6 BRIGADIER CALITZ: Sê weer –</p> <p>7 CHAIRPERSON: How many threats had you</p> <p>8 received from them, from their leader, that they would</p> <p>9 attack the police, kill the police, and so on? I think you</p> <p>10 said six yesterday. I wasn't sure where the six came from,</p> <p>11 but -</p> <p>12 BRIGADIER CALITZ: Ek kan teruggaan na my</p> <p>13 verklaring en dit –</p> <p>14 CHAIRPERSON: Yes, please.</p> <p>15 BRIGADIER CALITZ: Ek het dit gemerk as</p> <p>16 ses, mnr die Voorsitter, waar dit aan die media gemaak is,</p> <p>17 die polisie, hulle soek ons nie daar nie, en dan spesifiek</p> <p>18 drie gevalle na ons toe waar ons dan sou doodgaan, 'n</p> <p>19 skrywe of 'n papier wat ons moes teken, die wêreld sal</p> <p>20 sien, asook dat ons voertuie gebrand sou gewees het. Ek</p> <p>21 dink daar is ook media "footage" wat sê dat ek dink hulle</p> <p>22 sal hardloop op die voete, of so iets, het ek op 'n stadium</p> <p>23 gesien.</p> <p>24 CHAIRPERSON: Of course Crime</p> <p>25 Intelligence reported earlier that morning, wasn't there,</p>	<p style="text-align: right;">Page 17422</p> <p>1 CHAIRPERSON: You must have discounted</p> <p>2 those threats that they made and not accepted that they</p> <p>3 were realistic. Am I right, or am I oversimplifying?</p> <p>4 BRIGADIER CALITZ: Nee, mnr die</p> <p>5 Voorsitter, dis korrek. Ek het geglo wat daar gesê is aan</p> <p>6 ons.</p> <p>7 MR SEMENYA SC: But with each and every</p> <p>8 of those threats was it foreseen that stun grenade would</p> <p>9 not dissuade them, teargas would not dissuade them, water</p> <p>10 cannon won't dissuade them, rubber bullets would not</p> <p>11 dissuade any such intentions on their part?</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>13 kan net praat uit my eie ondervinding uit. Soos ek gesê</p> <p>14 het, ek is 19, 20 jaar bevelvoerder van Openbare Orde</p> <p>15 Polisiëring. Dit is nie die eerste keer wat ek 'n opdrag</p> <p>16 gee om uiteen te dryf nie, en dit het nog nooit gebeur nie.</p> <p>17 Waar ons dan "stun" granate gebruik, traangas, water, asook</p> <p>18 wat ons noem 'n "show of force," is dit hoogs onwaarskynlik</p> <p>19 dat enige groep verder sou beweeg het nader aan die</p> <p>20 polisie. Die gewenste uitwerking is altyd om die veilige</p> <p>21 pad te kies en dit is weg van die polisie af so vinnig as</p> <p>22 moontlik, om te verhoed dat daar op hou gevuur word of dat</p> <p>23 jy gearresteer word.</p> <p>24 CHAIRPERSON: Unless they believed that</p> <p>25 they were invulnerable and invincible.</p>
<p style="text-align: right;">Page 17421</p> <p>1 at the JOC meeting at 6 o'clock, didn't it say that they</p> <p>2 wouldn't hand over their weapons and fight or something to</p> <p>3 retain their position on the koppie?</p> <p>4 BRIGADIER CALITZ: Dit is inderdaad so –</p> <p>5 CHAIRPERSON: So the Crime Intelligence</p> <p>6 reported that too?</p> <p>7 BRIGADIER CALITZ: Dit was inderdaad so</p> <p>8 dat hulle nie die wapens sou neerlê nie, en dat hulle sou</p> <p>9 "resist," –</p> <p>10 CHAIRPERSON: Yes.</p> <p>11 BRIGADIER CALITZ: And they were prepared</p> <p>12 to fight. Daarom het ek ook die konfrontasie voorsien sou</p> <p>13 ons hulle begin uiteendryf nadat hulle nie hulle wapens sou</p> <p>14 neerlê nie.</p> <p>15 CHAIRPERSON: Yes, yes, I understand.</p> <p>16 BRIGADIER CALITZ: Glad nie –</p> <p>17 CHAIRPERSON: But you've told us very</p> <p>18 fairly you didn't foresee any earlier that an attack would</p> <p>19 take place before the disperse and disarm operation</p> <p>20 commenced, but you had received threats from them that they</p> <p>21 would attack the police; they were minded to attack the</p> <p>22 police that day. In fact I think they said all the police</p> <p>23 would be killed.</p> <p>24 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>25 Voorsitter.</p>	<p style="text-align: right;">Page 17423</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>2 ja, ons het wel die inligting deur Misdaadintelligensie wat</p> <p>3 gesê is dat die storie rondom die muti, dat hulle wel geglo</p> <p>4 het dat die polisie, die wapen, of niks aan hulle sal kan</p> <p>5 doen nie. So daardie inligting is wel deur</p> <p>6 Misdaadintelligensie aan gestuur op 'n stadium.</p> <p>7 CHAIRPERSON: Did you not believe it? I</p> <p>8 know you didn't believe that they would be invincible and</p> <p>9 invulnerable. I understand that, but did you not believe</p> <p>10 that the information that they, the strikers may well have</p> <p>11 believed that – incorrectly of course – that they would be</p> <p>12 invulnerable and invincible?</p> <p>13 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>14 ja, dit is soos ek gesê het, die polisie word daagliks aan</p> <p>15 sulke situasies blootgestel waar die inligting wel aan ons</p> <p>16 gegee is. Baie transito rooftogte kry die polisie</p> <p>17 dieselfde inligting dat die persone deur 'n muti of 'n</p> <p>18 ritueel gaan en dat hulle niks kan oorkom, maar ons moet</p> <p>19 nog steeds op die einde van die dag ons doel uitvoer en die</p> <p>20 polisietaak uitvoer, alhoewel ek die inligting as ernstig</p> <p>21 beskou het en ons het geglo. Ons het wel na die tyd</p> <p>22 gesien, wat aan my gerapporteer is, dat die persone die</p> <p>23 komberse en die lae klere wat hulle aangehad het was baie</p> <p>24 verskillend van die wat op die koppie gesit het. Dit het</p> <p>25 ek wel na die tyd, nie voor die tyd, raakgesien. Ons het</p>

<p style="text-align: right;">Page 17424</p> <p>1 ook getoets – ek weet nie of ek dit miskien kan noem – dat  2 direk na die voorval het ons dan getoets die uitwerking van  3 rubber waar ons 'n kombes voor 'n teiken gehang het en  4 gesien het die effek wat rubber dan op 'n teiken het, en  5 inderdaad het ons agtergekom dat rubber glad geen effek het  6 selfs op 'n afstand van 10, 20 meter, op 'n kombes nie.  7 So hulle was duidelik voorberei op 'n aanval teen ons.  8 CHAIRPERSON: There's also been the  9 incident of the 13th. Were no lessons learned from that?  10 BRIGADIER CALITZ: Mnr die Voorsitter,  11 ja, ek –  12 CHAIRPERSON: You know the Monday, the  13 13th, two policemen were killed.  14 BRIGADIER CALITZ: Dit is korrek.  15 CHAIRPERSON: I think rubber was used.  16 There weren't water cannons, but stun grenades were used,  17 teargas was used. It didn't help.  18 BRIGADIER CALITZ: Mnr die Voorsitter,  19 alhoewel ek nie daar was nie, daardie inligting is wel met  20 ons gedeel en ek dink dit is waar die hibriede situasie  21 ontstaan het en waar Luitenant-kolonel Scott ingebring is  22 juis vir daardie beplanning. Die bevelvoerders het daardie  23 inligting wat daardie dag gebeur het wel gebring na  24 Luitenant Scott, en ek dink dit is ingebring in die  25 beplanning en dit is waar die fases dan opgebou was.</p>	<p style="text-align: right;">Page 17426</p> <p>1 you may just round up all of these things, is that there  2 was no communication to the strikers about what the police  3 were going to do on the 16th. Is that criticism correct,  4 valid?  5 [10:11] BRIGADIER CALITZ: Mnr die Voorsitter, ek  6 dink dit is waarna ek verwys het, die gesprekke tussen die  7 onderhandelaars en die protesters waar ons meer as een  8 geleentheid vir hulle gesê het dat dit is onwettig, hulle  9 moet hulle wapens neersit en daar was heelwat kommunikasie  10 tussen die onderhandelingspan en die protesters op die  11 koppie.  12 MR SEMENYA SC: Was there a way, as the  13 contention is sponsored, that the strikers, the 300, 400  14 armed strikers misunderstood the purpose of the barbed  15 wire?  16 BRIGADIER CALITZ: Mnr die Voorsitter, ek  17 sou nie getuig dat dit misverstaan is nie. Ek sou getuig  18 dit was meer aspris, deliberate, omdat ons het op hoeveel  19 geleenthede met hulle gekommunikeer en met hulle leiers  20 gekommunikeer, die doel daarvan. Soek dink nie daar was  21 enige misverstand nie. Ek dink dit was 'n beplande aksie  22 wat vooraf beplan was om die polisie so aan te val.  23 CHAIRPERSON: Yes, you're referring to the  24 strikers now, you say your belief is the police – sorry,  25 that the strikers had planned in advance to attack the</p>
<p style="text-align: right;">Page 17425</p> <p>1 MR SEMENYA SC: As opposed to Monday,  2 there was barbed wire on the 16th, was there not?  3 BRIGADIER CALITZ: Daar was op die 16de  4 definitief, die "pre-deployment," asook later die uitrol  5 daarvan.  6 MR SEMENYA SC: There was prior briefing  7 of members before the operation on the 16th, no?  8 BRIGADIER CALITZ: Mnr die Voorsitter,  9 ja, die oggend is gesê ons sou die draad "preposition."  10 Sou daar verder aksie kom, sou dit dan deurgegee wees na  11 die bevelvoerders toe.  12 MR SEMENYA SC: There was a definite  13 agreed formations of where the POP people will be on the  14 16th as opposed to Monday?  15 BRIGADIER CALITZ: Dit is korrek, mnr die  16 Voorsitter.  17 MR SEMENYA SC: Where the TRT would be?  18 BRIGADIER CALITZ: Dit is korrek, mnr die  19 Voorsitter.  20 MR SEMENYA SC: Mounted police, dog unit.  21 BRIGADIER CALITZ: Ja, hulle was nie voor  22 by ons. Hulle sou agter by die "forward holding area" 1  23 wees en hulle het spesifieke take gehad vir die Donderdag,  24 "actually" al van die Woensdag.  25 MR SEMENYA SC: The other criticism, if</p>	<p style="text-align: right;">Page 17427</p> <p>1 police. Is that what you're saying?  2 BRIGADIER CALITZ: Ja, mnr die  3 Voorsitter.  4 CHAIRPERSON: Sorry?  5 BRIGADIER CALITZ: Mnr die Voorsitter ja,  6 en dit was op die vraag om –  7 CHAIRPERSON: Yes – yes, I just want to make sure  8 I understand your answer because it didn't seem to me very  9 clear but I think it's now clear.  10 BRIGADIER CALITZ: Ja, die vraag was of  11 daar 'n misverstand kon gewees het van hulle af, die doel  12 van die – en ek sê daar was nie 'n misverstand nie.  13 CHAIRPERSON: You say there wasn't a  14 misunderstanding and you think they attacked not because of  15 any misunderstanding but because they had planned  16 beforehand to do so.  17 BRIGADIER CALITZ: Ek glo so, mnr die  18 Voorsitter.  19 MR SEMENYA SC: Mr Mpofu says that  20 warning which was given to the media people about the  21 operation coming on should have been extended to the  22 strikers as well. What's your reaction to that?  23 BRIGADIER CALITZ: Ek dink waarna verwys  24 was, was op een van die SABC foto's waar een van die Nyalas  25 gesê het, "Media go away." Ek dink dit was net 'n</p>

<p style="text-align: right;">Page 17428</p> <p>1 waarskuwing. Soos ons ook sal sien, ek dink kaptein Adriaan 2 het media, ek kan nie sê konferensie gehou nie maar 'n 3 media inligtingssessie wat dan beskikbaar is, voor die tyd, 4 waar hy presies aan die media verduidelik het dat ons gaan 5 oor na die fase toe en ons het die media probeer verseker 6 van hulle veiligheid, dat hulle moet net agter die polisie 7 inbeweeg, agter die polisielyn. Ek het dan ook verduidelik 8 dat voor die defensive measure kon ek nie daardie 9 waarskuwing gegee het aan die persone, die protesters op 10 die koppie nie. Dit sou sinneloos gewees het en dan sou 11 fase 2 glad nie plaasgevind het nie. Die insident 1 sou op 12 daardie stadium miskien al plaasgevind het, wat dan die 13 gevaar baie, baie meer blootgestel het aan die media asook 14 die polisielyn.</p> <p>15 MR SEMENYA SC: Just before you ordered 16 that Nyala 1 must deploy the barbed wire, Mr Mathunjwa was 17 leaving the koppie, you remember that?</p> <p>18 BRIGADIER CALITZ: Dit was rondom 15:40 19 op die 16de, dis reg mnr die Voorsitter.</p> <p>20 MR SEMENYA SC: The criticism is that he 21 was not given an opportunity to come and explain to you 22 what efforts he is making and what prospects were there 23 about his communication with the strikers. Remember that 24 criticism?</p> <p>25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>	<p style="text-align: right;">Page 17430</p> <p>1 soos ek gesê het, om 15:30 toe ek daar kom kon ek nie draad 2 uitgooi oor die redes wat ek genoem het. 15:40 het hy in 3 'n silwer Fortuner geklim en in 'n, as ek dit nou reg het, 4 oos-suidelike rigting net wegbeweeg en verder gery –</p> <p>5 CHAIRPERSON: So your point is you didn't deprive 6 him of the opportunity of coming to you to report if he had 7 anything to report, he just drove away?</p> <p>8 BRIGADIER CALITZ: He just drove away.</p> <p>9 CHAIRPERSON: He made no attempt to come to you. 10 Presumably if he'd come towards you, you would have waited 11 to hear what he had to say, is that right?</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter –</p> <p>13 CHAIRPERSON: Or would you have said I'm not 14 interested, you just go away?</p> <p>15 BRIGADIER CALITZ: Nee, mnr die 16 Voorsitter, as operasionele bevelvoerder is dit nog steeds 17 my diskresie op die grond, omdat ek in beheer is daar, sou 18 mnr Mathunjwa na my toe gekom het en gesê het daar was 19 enige suksesvolle onderhandeling of hy het die mense 20 oorreed dat hulle gaan nou die wapens neerlê of enigins 21 daardie geval, was dit vir my baie makliker gewees want dan 22 sou ons nie oorgegaan het tot die uiteendryfaksie, dan sou 23 ons van die Nyalas af nog steeds, soos met die 24 onderhandeling, gekommunikeer het en vir hulle gesê het 25 goed, daar was aan my meegedeel u sou die wapens neerlê,</p>
<p style="text-align: right;">Page 17429</p> <p>1 ja, dit is totaal nie waar nie. Mnr Mathunjwa het op die 2 vorige twee geleenthede, waar op een geleentheid na my 3 asook die vorige geleentheid waarna u verwys het, die 4 voorvalleboekinskrywing ook na papa 1 toe beweeg. So ek 5 dink hy het vry gevoel om die bevelsvoertuig wat hy dan 6 geweet het papa 1 is, na toe te kom en die vorige twee 7 geleenthede kon hy dit doen. So ek kan geen rede sien 8 waarom hy om 15:40 nie weer vir my kon kom en terugvoer gee 9 oor wat die besluit was, suksesvol of onsuksesvol dan nie.</p> <p>10 MR SEMENYA SC: But on probabilities, if 11 he was successful to have them lay down their weapons, he 12 wouldn't have left like that, would he?</p> <p>13 MR MPOFU: Chairperson, who is giving the 14 evidence here? Is it Mr Semenya or the witness?</p> <p>15 CHAIRPERSON: Alright, Mr Semenya it does sound a 16 bit of a leading question but I'll allow it in the 17 circumstances. You realise of course if you ask a leading 18 question it sometimes diminishes the value of the answer, 19 but anyway the question has been asked, we'll get the 20 answer, we'll evaluate it in due course but in any event 21 it's an inference I would have thought from the facts which 22 we'll have to make, but –</p> <p>23 MR SEMENYA SC: What did you see Mr 24 Mathunjwa do? After his address what do you see him do?</p> <p>25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>	<p style="text-align: right;">Page 17431</p> <p>1 laat dit nou gebeur en dan beweeg hulle peaceful weg. En 2 sou dit gebeur het –</p> <p>3 CHAIRPERSON: Yes, I understand. I'm not sure 4 you're answering the question really. The question is, did 5 you deprive, did anything you do amount to a deprivation of 6 the opportunity for Mr Mathunjwa to come to you to report 7 to you the results of his second speech, second speech on 8 that day to the strikers?</p> <p>9 BRIGADIER CALITZ: Ek verstaan nou die 10 vraag, mnr die Voorsitter. Nee, glad nie, mnr die 11 Voorsitter.</p> <p>12 COMMISSIONER HEMRAJ: Was there any 13 indication given by him that he wanted to approach you? 14 Was there any indication given by Mr Mathunjwa that he 15 wanted to approach you?</p> <p>16 BRIGADIER CALITZ: Nee meneer – 17 kommissaris. Hy het heeltemal weggery van my voertuig af 18 en glad nie na my voertuig toe gekom nie, nee.</p> <p>19 MR SEMENYA SC: In fact, Mr Pasha tells 20 us they told Mr Mathunjwa that they are going nowhere, he 21 must leave.</p> <p>22 BRIGADIER CALITZ: Mnr die Voorsitter, 23 dit het ek op daardie stadium nie geweet nie. Ek het dit 24 wel na die tyd verneem en daarom my opmerking dat ek gedink 25 het daar was nie 'n misverstand nie maar 'n beplande aksie</p>

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1 teen ons.

2 MR SEMENYA SC: The other criticism is

3 that there could not have been any real negotiations with

4 Colonel McIntosh because the police had nothing to offer.

5 Were you supposed, as police, to offer anything in your

6 dialogue with the protesters, strikers rather?

7 BRIGADIER CALITZ: Mnr die Voorsitter, in

8 enige onderhandelingsessie, een van die tegnieke is dat die

9 persoon sal eise stel en ons sal mekaar miskien halfpad

10 ontmoet of ons het iets om te gee. In hierdie geval, die

11 polisie was glad nie daar om te onderhandel oor enige

12 loononderhandelings nie, so ons was nie in 'n posisie om

13 hulle enige iets te gee rakende hulle eise van die 12 500

14 en dat hulle mense aanval. Wat hulle wel vir ons gesê het

15 is daar is dreigemente op hulle persone, wat ons wel vir

16 hulle die versekering gegee het dat die polisie se

17 teenwoordigheid daar is, dit is die een ding. Die ander

18 ding wat ons hulle geoffer het is dat indien hulle hulle

19 wapens sou neerlê ons sou voortgaan met 'n peaceful

20 onderhandelingsproses. So ek voel daar is wel gesê dat

21 hulle, hulle wapens kan neerlê en ons sal dan voortgaan in

22 'n vreedsame onderhandelingsproses.

23 CHAIRPERSON: Doesn't it actually – sorry to

24 interrupt you, doesn't it actually go further than that?

25 Originally the first discussions between Colonel McIntosh

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1 and the strikers they asked for a message, as it were, to

2 be conveyed to the employer.

3 BRIGADIER CALITZ: Ek kom by my derde,

4 dit is die derde punt.

5 CHAIRPERSON: Sorry? That's your – I beg your,

6 forgive me. Please proceed with your third point.

7 BRIGADIER CALITZ: Nee, dit was wat ek

8 nou volgende wou gesê het, mnr die Voorsitter. Die derde

9 punt wat ek wou maak is dat mnr Noki het vir ons pertinent

10 gevra dat hy wil nie met die polisie onderhandel nie, maar

11 wel met die mynbestuur en ons het hom dan 'n versekering

12 gegee dat die boodskap wel oorgedra gaan word en ook dat

13 ons die volgende dag dit sou terugbring na hulle toe, wat

14 dan ook so was. Op die volgende dat het ons presies vir

15 hulle teruggebring die boodskap van die mynbestuur in

16 detail, wat nou nie goed ontvang is nie maar dit is die

17 drie, vier goed wat ons wel vir hulle kon offer op daardie

18 stadium.

19 CHAIRPERSON: If there's a criticism that there

20 was nothing that you could really give them by way of a

21 concession or anything of that kind as part of

22 negotiations, it's not a criticism that can be, it seems to

23 me prima facie, that can be levelled against the police.

24 You were asked to convey a message to the employer, which

25 you did. You gave the answer back. The employer wasn't

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1 prepared, whether it's a matter for criticism or not isn't

2 relevant at the moment, the employer wasn't prepared to

3 come to speak to the strikers and certain other messages

4 were conveyed to the strikers, which presumably will be

5 dealt with later when the Lonmin people give evidence – but

6 if it's correct that you had very little to offer the

7 strikers, it's not, it's scarcely a criticism that can be

8 levelled against the police it seems to me, prima facie

9 anyway.

10 BRIGADIER CALITZ: Nee, dit is korrek mnr

11 die Voorsitter. Ek dink miskien, as dit mnr White is,

12 miskien het die verwarring net ingekom deur normaalweg,

13 onder normale omstandighede as 'n mens dan onderhandeling,

14 soos 'n hostage negotiator wat ek dan ook was in my lewe,

15 daar is altyd iets wat jy kan offer, voedsel of water of

16 enige iets maar in hierdie geval, nee, glad nie. U is

17 korrek, mnr die Voorsitter.

18 MR SEMENYA SC: The other criticism is

19 that you should not have used an interpreter, a Fanagolo

20 interpreter from the "enemy camp," in quotes.

21 BRIGADIER CALITZ: Mnr die Voorsitter,

22 die enemy camp, u verwys na Lonmin as ek –

23 CHAIRPERSON: Yes, I imagine so. That's the only

24 possible enemy camp that comes to mind.

25 BRIGADIER CALITZ: Ek is jammer, maar ek

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1 het nie –

2 CHAIRPERSON: No, there was a –

3 BRIGADIER CALITZ: - die term voorheen

4 gehoor –

5 CHAIRPERSON: There was a standoff between the

6 strikers and the employer.

7 BRIGADIER CALITZ: Korrek, ek verstaan.

8 CHAIRPERSON: The Fanagolo interpreter used was

9 supplied by the employer. That's the basis of the

10 criticism.

11 BRIGADIER CALITZ: Dit is korrek.

12 CHAIRPERSON: That's what Mr Semenya wants you to

13 deal with.

14 BRIGADIER CALITZ: Nee, eerstens – nee,

15 ons het hulle glad nie gesien as, die woorde wat gebruik

16 is, "enemy camp" nie, nee. Mnr Sinclair het ek op meer as

17 geleentheid getuig dat hy het 100 persent samewerking gegee

18 van die begin af, die perseel wat hulle beskikbaar gestel

19 het, die wyse waarop hulle hulle inligting met ons gedeel

20 het, die sekuriteitspersoneel wat op sekere plekke op die

21 myn ge-deploy het, wat dan deel was van hulle, hulle werk

22 natuurlik. Maar daar was nooit enige konflik tussen ons

23 nie.

24 CHAIRPERSON: I don't think you're understanding

25 the question. You're explaining why you didn't see Lonmin

<p style="text-align: right;">Page 17436</p> <p>1 as the enemy but what, the criticism which Mr Semenya is 2 dealing with is that in the eyes of the strikers Lonmin 3 were the enemy. 4 BRIGADIER CALITZ: Okay. 5 CHAIRPERSON: And you were, so I presume they 6 contend, you were in a sense siding with the enemy because 7 you were using an interpreter provided by "the enemy" – not 8 your enemy but their enemy, someone they regarded in a 9 hostile way. 10 BRIGADIER CALITZ: Ek verstaan. 11 CHAIRPERSON: Whether those criticisms are valid, 12 whether that's actually the way they saw things is another 13 matter but that's the basis of the criticism that you're 14 being asked to comment on. Am I summarising correctly? 15 MR SEMENYA SC: That is correct, Chair. 16 BRIGADIER CALITZ: Mnr die Voorsitter ja, 17 miskien is my antwoorde wat ek probeer te lank voor ek by 18 die punt uitkom, ek sal dit korter hou. Dit is korrek, op 19 daardie stadium het die polisie niemand gehad wat in die 20 taal Fanagolo dan vir ons kon translate en mnr Sinclair het 21 weer eens aangebied dat hulle het 'n persoon op die myn en 22 dit was vir ons baie belangrik om in daardie taal dan dit 23 so te doen. Sou ons iemand moes kry, ek dink die tydsduur 24 om iemand op te spoor van buite af, veral in die polisie 25 geleedere wat Fanagolo sou praat, sou dalk lank gewees het</p>	<p style="text-align: right;">Page 17438</p> <p>1 anything along those lines? 2 BRIGADIER CALITZ: Glad nie, mnr die 3 Voorsitter. 4 CHAIRPERSON: Did they ever object to the 5 interpreter being used or the particular interpreter or the 6 background of the interpreter or anything of that kind? 7 BRIGADIER CALITZ: Glad nie, mnr die 8 Voorsitter. 9 COMMISSIONER HEMRAJ: When Mr Noki came 10 up to the Nyala and spoke to you through the hole in the 11 front, would he have been able to see who the interpreter 12 was? 13 BRIGADIER CALITZ: Kommissaris, ja, dit 14 is wat ek miskien in die vorige antwoord probeer 15 verduidelik het. Ons het hom so geposisioneer agter 16 kolonel McIntosh, as jy kolonel McIntosh sien en miskien as 17 hy kom getuig sal u sien hy is 'n redelike blok van 'n man 18 en ons het dit juis met 'n spesifieke doel so gedoen. 19 Meneer – 20 CHAIRPERSON: You chose a blok van 'n man so that 21 the interpreter couldn't be seen? 22 BRIGADIER CALITZ: Yes, he's like a 23 Bakkies Botha, if I can explain the word blok van 'n man. 24 And then, but I think he might have seen on the first day 25 during the negotiations, Mr Sinclair, which he might</p>
<p style="text-align: right;">Page 17437</p> <p>1 en daarom het ons die interpreter gebruik van die myn. 2 CHAIRPERSON: Was there any, was there ever any 3 objection raised that, did any one of the strikers ever say 4 to you, look here, we're not prepared to talk to you 5 through this interpreter because he's a Lonmin interpreter, 6 if you want to talk to us through an interpreter get a 7 neutral interpreter. Was that ever conveyed to you? 8 BRIGADIER CALITZ: Mnr die Voorsitter, 9 nee. Ons het in soverre mate moontlik die interpreter 10 agter kolonel McIntosh geposisioneer en ek dink, as ek dit 11 kan sê, dat daar was die fisiese – ek dink nie hulle het 12 gesien op hierdie stadium die identiteit – 13 CHAIRPERSON: You're not answering my question. 14 My question was a different question. That's a point we'll 15 deal with in a minute. The question I was dealing with, 16 did they ever raise an objection? I think you were trying 17 to tell me they couldn't have raised the objection because 18 they didn't know who the interpreter was. 19 BRIGADIER CALITZ: Dis korrek. 20 CHAIRPERSON: But that's not what I'm asking you. 21 Did they ever say, look here, you are using a Lonmin 22 interpreter or you may even, you may be using a Lonmin 23 interpreter, we're not prepared to deal with you if you're 24 using a Lonmin interpreter, get a neutral interpreter and 25 it's a different ballgame. Did they ever say that to you,</p>	<p style="text-align: right;">Page 17439</p> <p>1 recognise. Maar daar was geen objection teen dit nie. 2 CHAIRPERSON: The interpreter, was he used on the 3 Tuesday, the Wednesday and the Thursday? 4 BRIGADIER CALITZ: Dit is korrek, mnr die 5 Voorsitter. 6 CHAIRPERSON: So I suppose if these people went 7 home at night and there was a sort of an information 8 network among the Lonmin employees, it's just possible that 9 by the Wednesday they might have known. It's all 10 speculation but I mean we can't exclude it. They might 11 have known who the interpreter was, that he was a Lonmin 12 man, but the point is you say that that objection was never 13 ever raised. 14 BRIGADIER CALITZ: Glad nie, mnr die 15 Voorsitter. 16 CHAIRPERSON: If the objection had been raised, 17 they said look here, you know, what they might have said to 18 you, would you then have got a neutral interpreter from 19 somewhere? 20 BRIGADIER CALITZ: Mnr die Voorsitter, as 21 operasionele bevelvoerder sou ek dit dan gerapporteer het 22 aan my oorhoofse bevelvoerder, wat dan die CJOC is en die 23 besluit sou dan in die gesamentlike operasionele sentrum 24 gedoen gewees het. Die prosedure is soos met 'n hof, ons 25 sal dan aansoek gedoen het ek glo by Justisie of, u weet,</p>

<p style="text-align: right;">Page 17440</p> <p>1 om iemand te kry om dan die interpreting vir ons te kom 2 doen.</p> <p>3 CHAIRPERSON: [Microphone off, inaudible] 4 MR MPOFU: And he's a block of a man, 5 yes.</p> <p>6 CHAIRPERSON: Sorry, he's a block of a man. He's 7 not exactly in the Bakkies Botha mould but we won't go 8 there now. Anyway you want to say something? 9 MR MPOFU: Thank you, Chairperson. No, I 10 just want to, just for my own clarification, it's not an 11 objection Chairperson. Are these series of questions, is 12 this based on some assumption that Mr Noki knows all the 13 employees of Lonmin or that he would have known that this 14 was not a policeman or anything of that sort? 15 CHAIRPERSON: No, I understand – Mr Semenya can 16 tell us but I understand what Mr Semenya is doing is, he is 17 putting up objections which he understands have been raised 18 and he's giving the witness a chance to answer them. I 19 can't recall whether, who raised the point or even if it 20 was raised because so many points have been raised but I 21 understand that's where Mr Semenya is coming from. Mr 22 Semenya, am I right? Who raised the objection? Was it the 23 - 24 MR SEMENYA SC: It comes from my learned 25 colleague Mr Budlender, but if Mr Mpofo wants the</p>	<p style="text-align: right;">Page 17442</p> <p>1 scene 1 had happened. You were the operational commander. 2 In that position could you have stopped the operation at 3 all? 4 [10:31] BRIGADIER CALITZ: By not knowing? 5 MR SEMENYA SC: Without knowledge of 6 scene 1, would you have had reason to stop the operation 7 and reassess so that you can decide to go or not to go to 8 koppie 3? 9 BRIGADIER CALITZ: Nee, mnr die 10 Voorsitter, dit is waaroor ek getuig het. Ek het wel ge- 11 hergroepeer. Ek het wel die voertuie in 'n linie gekom, 12 ons het wel dit weer bespreek en ons is vorentoe, soos ek 13 getuig het ons policy dokument voorskryf. 14 MR SEMENYA SC: I know this, Colonel 15 Scott has dealt with this, but there is also a criticism of 16 using tactical units in an operation like this – 17 CHAIRPERSON: This is a new point you're moving on 18 to. I was proposing to take the tea adjournment when you 19 finished your previous point. If you want – I'm in your 20 hands. 21 MR SEMENYA SC: No, we can, we can, 22 Chair. I'm almost done. 23 CHAIRPERSON: We'll take the tea adjournment at 24 this stage. 25 [COMMISSION ADJOURNS COMMISSION RESUMES]</p>
<p style="text-align: right;">Page 17441</p> <p>1 transcript line and page I'll give it to him. 2 MR MPOFU: No, Chairperson, I think Mr 3 Semenya is missing the point. He is obviously entitled to 4 challenge the so-called criticisms. All I'm asking is 5 whether this challenge to the criticism is based on some 6 assumption that Mr Noki knows all the employees of Lonmin – 7 CHAIRPERSON: No, no. 8 MR MPOFU: - or not. Or he knows that a 9 particular interpreter is not a policeman, which I think is 10 – I don't think even Mr Budlender would have premised the 11 questions on that basis. 12 CHAIRPERSON: We don't have to go as to what even 13 Mr Budlender would have done but the point is, I think, 14 that Mr Semenya is putting criticisms that were raised and 15 getting answers to them. Whether the criticisms are good 16 or bad, whether the objection that you now raise to the 17 criticism is one that will carry the day, we're not busy 18 with at the moment. He's simply putting criticisms that 19 have been raised to the witness to give him a chance to 20 answer. Am I right, Mr Semenya? 21 MR SEMENYA SC: Indeed, Chair. One of 22 the big criticisms, Brigadier, one of the big criticisms is 23 that after scene 1 had happened and you had reorganised the 24 line at the riverbed you ought not to have gone to koppie 3 25 and you had already told us that you were not aware that</p>	<p style="text-align: right;">Page 17443</p> <p>1 [11:10] CHAIRPERSON: The Commission resumes, 2 Brigadier, you're still under oath. Mr Semenya, you can 3 cross-examine, - sorry, carry on with your examination in 4 chief for the moment. I'm sorry we came back later than we 5 thought we would but I had to swear in some interpreters 6 during the interval. Mr Semenya? 7 MR SEMENYA SC: Thank you, Chair. Can I 8 ask that we play Exhibit KKK2, in particular the section 9 dealing with the unfurling of the barbed wire, that 10 demonstration of simulation? 11 CHAIRPERSON: - record that this is an 12 exhibit, we have already, did we? 13 MR SEMENYA SC: Yes, it is KKK2. 14 CHAIRPERSON: Well, if we did I didn't 15 make a note, so it is K, Exhibit KKK2 and it is really 16 videos taken at demonstration at Centurion on, it was – 17 MR SEMENYA SC: Thursday. 18 CHAIRPERSON: Thursday which was the 21st, 19 on 21 November 2013, do we have to describe it more 20 accurately than that? I take it that indicates what the 21 object, what exactly the exhibit is about, anybody who 22 wants to see further can see? 23 MR SEMENYA SC: That appears adequate, 24 Chair. 25 CHAIRPERSON: It was a demonstration, I</p>

<p style="text-align: right;">Page 17444</p> <p>1 won't mark this exhibit this way but it was a demonstration  2 of a number of things, including the uncoiling of the  3 barbed wire and there were workings of the Nyala and there  4 was the noise of the Nyala and there was the noise of stun  5 grenades, I can't remember, were there rubber bullets as  6 well?  7 MR SEMENYA SC: And the siren –  8 CHAIRPERSON: Yes, but what happened with  9 the siren was that apparently for some reason the voice  10 parts couldn't be activated for us, so we couldn't hear  11 what speech over the loudhailer, what it sounded like but  12 we were told and I presume it would be confirmed in  13 evidence, perhaps the brigadier can do it while he is here  14 in the witness box, that the volume sound of the sirene  15 that we heard which can be heard on the sound track of this  16 video, is the same as the volume of sound of speech over  17 the loudhailer, is that what he said, is that correct,  18 Brigadier, did I get it right?  19 BRIGADIER CALITZ: Dit is korrek, mnr die  20 Voorsitter, dit is deur dieselfde luidspreker.  21 CHAIRPERSON: Yes, that's the volume of  22 sound as the speech would be?  23 BRIGADIER CALITZ: Dit is korrek.  24 CHAIRPERSON: Alright, so now you want  25 us, now that we've had that long preamble we can now see</p>	<p style="text-align: right;">Page 17446</p> <p>1 [VIDEO SHOWN]  2 What we have just is an A frame being collapsed  3 onto the ground from the end of the trailer on which it was  4 of course vertical. It has now collapsed to go horizontal.  5 BRIGADIER CALITZ: Dit is korrek, mnr die  6 Voorsitter, dit is gedoen deur die persoon wat opgeklim het  7 bo op die draad kar, dit moet fisies bo losgemaak word met  8 'n draad voor hy kan afval.  9 CHAIRPERSON: We can see the lower part  10 of the body of someone who I remember was a policeman, who  11 has climbed up the ladder which is near the back of the  12 trailer and in fact it demonstrates to us the untying as it  13 were, of the top of the wire, of the barbed wire coil, is  14 that correct?  15 BRIGADIER CALITZ: Korrek, mnr die  16 Voorsitter.  17 [VIDEO SHOWN]  18 CHAIRPERSON: The Nyala is now moving  19 because a number of policemen, I think about half a dozen,  20 had picked up the A frame and are moving backwards to the  21 front of an Nyala which is parked behind the one which had  22 the white trailer and we are now going to see the A frame  23 being attached to the front of the Nyala, of the second  24 Nyala, is that correct, Brigadier?  25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>
<p style="text-align: right;">Page 17445</p> <p>1 the video.  2 MR SEMENYA SC: Indeed, Chair.  3 COMMISSIONER HEMRAJ: Chair, we should  4 mark it as KKK3, the bundle of the pictures of the inside  5 of the Nyala that was referred to yesterday by the  6 brigadier.  7 CHAIRPERSON: Alright, well, I've changed  8 my notes, it is now KKK3, and someone I hope will duly mark  9 the, it is a disc of some sort, but we can see how  10 challenged I am as far as these matters are concerned, but  11 it is a disc of some kind from which, on which the video is  12 to be found, is that correct?  13 MR SEMENYA SC: That is what it is,  14 Chair.  15 [VIDEO SHOWN]  16 CHAIRPERSON: This one, it says on it  17 KKK2, on the actual screen, so that's going to have to be  18 changed.  19 COMMISSIONER HEMRAJ: Chair, the video of  20 the demonstration is KKK2, KKK3 is the bundle of pictures  21 that was referred to yesterday of the inside of the Nyala.  22 CHAIRPERSON: So in fact, so I was wrong  23 to change it, Mr Semenya was correct, alright. I've  24 changed it back in my notes to KKK2, you know I've changed  25 it back in my notes to KKK2.</p>	<p style="text-align: right;">Page 17447</p> <p>1 ja, dit is hoe dit normaalweg, as een Nyala na 'n ander  2 Nyala toe beweeg dan word die A frame so na as moontlik aan  3 daardie Nyala laat val sodat hulle hom kan vasmaak aan die  4 neus van die, aan 'n voertuig.  5 CHAIRPERSON: And we can see a number of  6 members of the service who are now fastening this A frame  7 with the wire attached to the second Nyala and they've got  8 gloves on, they're using white gloves to protect their  9 hands obviously against the spikes of the barbed wire.  10 BRIGADIER CALITZ: Dit is beskermende  11 handskoene en hy maak hom fisies met 'n stuk draad vas, mnr  12 die Voorsitter.  13 COMMISSIONER HEMRAJ: That A frame looks  14 like it is quite heavy, Brigadier, because four people  15 appear to be exerting a great deal of effort to put it up.  16 BRIGADIER CALITZ: Kommissaris, ja, die  17 presiese gewig weet ek nie, ek weet die draad op die kar  18 het hulle vir my gesê weeg 'n ton, so die A frame, glo ek  19 dit is in die omgewing van 50 plus kilogram, miskien 100,  20 miskien meer. Een persoon sal hom nie kan optel en beweeg  21 nie, nee.  22 CHAIRPERSON: What we can now see on the  23 screen is that two members of the service, both of whom are  24 wearing white protective gloves, have now come to the other  25 side of the Nyala, the one closer to the cameraman and are</p>



<p style="text-align: right;">Page 17448</p> <p>1 presumably going to attach that side of the A frame to the 2 second Nyala also, is that correct, Brigadier? 3 BRIGADIER CALITZ: Mnr die Voorsitter, - 4 CHAIRPERSON: Or are they detaching it, 5 have I got it wrong? 6 BRIGADIER CALITZ: Ja, ek dink wat ons 7 hier probeer doen het, hulle gaan hom nou afhaal en dan sal 8 ons die tweede demonstrasie wys, die afstand, ons was nou 9 besig om hom terug te rol stelselmatig en dan sal ons 10 demonstreer dat indien daar 'n spasië was van, sê 5 of 10 11 meter, die moeilikheidsgraad om dan die A Frame by die 12 Nyala te kry. U sal sien aan die onderkant van die draad 13 verskeie voorwerpe, dit is maar van vorige uitrol, waaraan 14 hy alles vas haak. 15 CHAIRPERSON: So I was wrong, they 16 weren't coming around the near side of the Nyala to detach 17 it, they were actually, - to attach it but to detach it and 18 then to demonstrate to us the process, as it were, of 19 recoiling the barbed wire back onto the trailer, is that 20 correct? 21 BRIGADIER CALITZ: Dit is korrek, mnr die 22 Voorsitter, wat u nou sien is 'n proses. Die persoon wat 23 bo sit, ons het wat ons noem lang hake en dan die draad 24 word dan op gerol, terug op die drie gebuigde pype. 25 CHAIRPERSON: Presumably in the normal</p>	<p style="text-align: right;">Page 17450</p> <p>1 the positions where various people sit, we saw something 2 like this yesterday as well, didn't we? 3 BRIGADIER CALITZ: Dit is korrek. 4 CHAIRPERSON: They were on photographs, I 5 think? 6 BRIGADIER CALITZ: Dit is korrek. 7 CHAIRPERSON: And now we see it in the 8 actual video, but what is known as the skietgate, I don't 9 know what the eloquent English translation of that is but 10 shooting holes does not sound right to me. It is like a 11 porthole except that it is not designed to keep the see out 12 of the cabin, but to enable shots to be fired from inside. 13 BRIGADIER CALITZ: Oor die algemeen 14 gebruik ons dit maar vir 'n lugreëling, mnr die Voorsitter, 15 want die lugreëling werk nie in die voertuie nie, so ja. 16 CHAIRPERSON: Ja, ventilation holes may 17 be an appropriate English translation. 18 MR SEMENYA SC: Those are all the 19 questions we have for the brigadier. 20 CHAIRPERSON: Thank you, Mr Semanya. Mr 21 Budlender, I understand the position is that you're going 22 to cross-examine first. I did indicate that, I thought it 23 appropriate for Ms Le Roux to then be the first cross- 24 examiner from the parties because I understand you were not 25 going to put the whole of Mr White's criticisms to the</p>
<p style="text-align: right;">Page 17449</p> <p>1 practice this process we're now seeing, procedure we now 2 seeing is not performed in the same circumstances of 3 urgency as the unrolling of the wire sometimes takes place? 4 BRIGADIER CALITZ: Nee, mnr die 5 Voorsitter, wat ons nou sien sal gebeur na die tyd, nadat 6 al die geweld ge-deescalate het, daar is vreedsaam, 7 alhoewel daar nog steeds mense sal wees wat dophou, maar 8 nee, die sal gebeur in vreedsame omstandighede. 9 MR SEMENYA SC: What do we see now, 10 Brigadier? 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 wat ons hier probeer voorstel het, sou daar 'n spasië van 5 13 plus meter gewees het, as dit simultaneously, gelyktydig 14 sou uitgegooi gewees het, wys ons net indien die draad dan 15 5 of 10 meter weg gelê het en die res van die draad nou ge- 16 deploy was, wys ons die A frame moet nog steeds aan die 17 Nyala vasgemaak word. U sal nou sien met hoeveel geweld 18 daardie lede probeer trek en soos hulle trek sal u ook 19 waarneem dat die ses rol draad nie meer sy vorm het nie, 20 maar die draad kan ek amper sê verplat na die grond toe, so 21 die draad is baie laer. Hulle trek hom op hierdie stadium, 22 ek dink daar was vyf, ses persone, hy kon nie by die Nyala 23 bykom nie, dit is die spanning, dit is te veel. 24 CHAIRPERSON: Now we're being shown the 25 inside of the Nyala, is that correct, with the seats and</p>	<p style="text-align: right;">Page 17451</p> <p>1 witness, so far as it haven't been already by Mr Semanya 2 and you're leading, and some of that material is going to 3 be covered by Ms Le Roux, so that seems the logical way to 4 proceed, you first and then Ms Le Roux and then they 5 indicated yesterday, I'm not sure if we had proper 6 applications from other parties to cross-examine under the 7 rules, but I also indicated that we expect these 8 applications by tomorrow morning. 9 I understand from what Mr Budlender told me in 10 Chambers, he is not likely to be finished before Thursday 11 in any event, but those who wish to cross-examine must 12 please apply, indicating the topics they wish to cover, the 13 approximate duration of the cross-examination, although 14 that's, I know difficult to estimate, and of course the 15 documents to be relied on. The documents to be relied on 16 will, if I allow the cross-examination on all the topics to 17 which the documents refer, the document list will be made 18 available to the witness, but the witness, he doesn't have 19 to be told or won't be told in advance what the topics will 20 be. I mention that because it was mentioned to me in 21 chambers this morning by Mr Mpofu that there were concerns 22 that the cross-examiners didn't want to show their hands to 23 the witness and I understand that. 24 On the other hand the rules are designed to 25 ensure that cross-examination proceeds fairly and the</p>

<p style="text-align: right;">Page 17452</p> <p>1 witness is taken advantage of and unfairly, but anyway I've  2 indicated what we expect and I trust those who wish to  3 cross-examine will be able to comply by tomorrow morning  4 and we will then in the course of the time thereafter  5 indicate whether the application is allowed and if so  6 whether in full in respect of all the topics or whether  7 certain of the topics I will disallow. Of course I'm not  8 going to allow undue repetition and it is difficult of  9 course for an intending cross-examiner to know what topics  10 other people will cover, but obviously when a cross-  11 examiner in question stands up to cross-examine some of the  12 topics were already been covered, then obviously I'll make  13 a rulings in respect of repetition which I won't allow, but  14 that's something we'll deal with as and when it arises. Mr  15 Budlender, are you ready to begin your cross-examination?  16 Is your microphone on?  17 MR BIZOS SC: Mr Chairman, there has been  18 consultation between ourselves and a number of the other  19 parties, that may want to cross-examine. We want to  20 indicate that we will file a notice tomorrow in accordance  21 with the rules, but Mr Chairman, I want to remind our  22 learned friends for the police that they are not allowed to  23 consult the witness as to what the cross-examination may  24 be. It is a rule which I believe everyone knows, that once  25 a witness has finished his evidence in chief it is not</p>	<p style="text-align: right;">Page 17454</p> <p>1 misconstrued by others that you, and I know you don't  2 intend that to happen but it is not necessary and it, I'm  3 sure they are fully aware of the rules and I don't know  4 that they actually see the notice, in any event. Am I  5 right, Mr Budlender?  6 [11:29] MR BUDLENDER SC: The list of exhibits to  7 be used is distributed to all the parties.  8 CHAIRPERSON: Oh yes, and the witness  9 sees it too. The witness also sees –  10 MR BUDLENDER SC: And to the witness, of  11 course.  12 CHAIRPERSON: Yes, yes. No, but Mr Bizos  13 is concerned with topics. My understanding is that the  14 party calling the witness doesn't see the topics. Am I  15 right?  16 MR BUDLENDER SC: That's correct, Chair.  17 Well, I should say this; there is a view, what they were  18 seeing previously, there is a view by some members on the  19 SAPS team that they ought to be entitled to see the list of  20 topics as well. I think that remains an unresolved  21 question.  22 CHAIRPERSON: At the moment they're not  23 seeing it and if they want it, we'll have to deal with it  24 later. But in any event, the point I'm making is that we  25 have total confidence in the integrity of the members of</p>
<p style="text-align: right;">Page 17453</p> <p>1 proper and I'm not for one moment wanting to make any  2 allegations –  3 CHAIRPERSON: Sorry, Mr Bizos, I don't  4 want to interrupt you but I'm sure we can accept, without  5 any hesitation at all, that the legal team for the police,  6 led as they are by eminent counsel, chairman and general  7 counsel of the bar, that they will adhere strictly to that  8 rule.  9 MR BIZOS SC: The chairman of the bar and  10 now I go far back, Mr Chairman, and I trust him implicitly,  11 but I want to appeal to everyone concerned that these  12 notices are not to be used by anyone in their team or by  13 the police in order to precognise the witness as to what  14 the cross-examination is likely to be. Something that, I'm  15 not blaming anyone in particular, which I have –  16 CHAIRPERSON: I'm sorry, Mr Bizos, I  17 don't want to interrupt you but what you are saying is in  18 fact, I am sure you're not intending to do it, but in fact  19 it is a reflection on your learned friends and I don't know  20 if the reflection is justified, but my understanding is a  21 party calling a witness don't see the notice, so as far as  22 I know they wouldn't even be aware of it but in any event I  23 know you don't intend it, but you know it really does, let  24 me give you my opinion, it does sound like a reflection  25 which I know you don't intend to cast, but it might be</p>	<p style="text-align: right;">Page 17455</p> <p>1 the police team and nothing that's been said must be  2 regarded in any way as detracting from that, and I'm sure  3 everybody here will agree with what I said. But Mr Bizos,  4 anything further you wish to say?  5 MR BIZOS SC: No, thank you, Mr Chairman.  6 CHAIRPERSON: Mr Semenya, do you want to  7 say anything?  8 MR SEMENYA SC: No, nothing to say,  9 Chair.  10 CHAIRPERSON: Right, Mr Budlender, have  11 you got something to say, I take it, in cross-examination?  12 CROSS-EXAMINATION BY MR BUDLENDER SC:  13 Something to ask, not to say, Chair. Brigadier, I'd like  14 to start by clarifying some preliminary matters to make  15 sure we're all talking about the same issues, on the same  16 basis. Firstly, you referred in your evidence-in-chief to  17 the three statements which you've made and you explained  18 that the first one, GGG3, which you made on the 19th of  19 August 2012, was for the purpose of the docket in the  20 criminal case to which you referred. Is that correct?  21 BRIGADIER CALITZ: Good morning,  22 Advocate. Mnr die Voorsitter, dit is korrek.  23 MR BUDLENDER SC: Did you draft that  24 statement personally, or did somebody else draft it?  25 BRIGADIER CALITZ: Die verklaring is deur</p>

<p style="text-align: right;">Page 17456</p> <p>1 my neergeskryf.</p> <p>2 CHAIRPERSON: I'm sorry, are we talking</p> <p>3 about GGG13?</p> <p>4 MR BUDLENDER SC: 13. I'm sorry, I said</p> <p>5 3, I think. GGG13.</p> <p>6 CHAIRPERSON: GGG13, that's the statement</p> <p>7 dated the 19th of August.</p> <p>8 MR BUDLENDER SC: A15 in the docket, as</p> <p>9 the Chair pointed out. Brigadier, who asked you to make</p> <p>10 that statement?</p> <p>11 BRIGADIER CALITZ: Dit was, as ek onder</p> <p>12 korreksie is, Generaal Johnson, as ek die van nie verkeerd</p> <p>13 het, wat hom beëdig het. Dit was vir die dossier wat</p> <p>14 ingehandig is by die hof.</p> <p>15 MR BUDLENDER SC: I think we're at cross</p> <p>16 purposes. GGG13, you told us that the following one was</p> <p>17 taken by General Johnson, the one of the –</p> <p>18 CHAIRPERSON: Mr Budlender, I'm sorry to</p> <p>19 interrupt you. Both these statements, exhibit FFF15, which</p> <p>20 is the statement taken relating to the scene tampering</p> <p>21 investigation, which was under the, which was led by</p> <p>22 Lieutenant-General Moonoo, I think, that statement was</p> <p>23 attested before Major-General Johnson, Charles Johnson, and</p> <p>24 the statement that you're busy with at the moment, which</p> <p>25 went into the docket in respect of which the accused were</p>	<p style="text-align: right;">Page 17458</p> <p>1 MR BUDLENDER SC: We do have the docket,</p> <p>2 so we can check it to make sure it's correct.</p> <p>3 BRIGADIER CALITZ: Dankie.</p> <p>4 MR BUDLENDER SC: And can you recall who</p> <p>5 the investigating officer was who asked you to make that</p> <p>6 statement?</p> <p>7 BRIGADIER CALITZ: Nie op hierdie stadium</p> <p>8 nie, nee.</p> <p>9 MR BUDLENDER SC: Thank you. Then the</p> <p>10 second statement which is FFF15, also called annexure K,</p> <p>11 you've explained you made in response to the allegations of</p> <p>12 tampering with the evidence at scene 2.</p> <p>13 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>14 Voorsitter.</p> <p>15 MR BUDLENDER SC: And you've told the</p> <p>16 Commission that General Johnson, who was investigating the</p> <p>17 matter with General Moonoo, asked you to make that</p> <p>18 statement.</p> <p>19 BRIGADIER CALITZ: Ek weet nie of</p> <p>20 Generaal Johnson self die ondersoek gedoen het nie, mnr die</p> <p>21 Voorsitter. Ek het net gesê dit is in sy teenwoordigheid</p> <p>22 gedoen en Generaal Moonoo was in beheer deur die Nasionale</p> <p>23 Kommissaris om die ondersoek te lei.</p> <p>24 MR BUDLENDER SC: Just looking at it, it</p> <p>25 looks as though it's actually in General Johnson's own</p>
<p style="text-align: right;">Page 17457</p> <p>1 the various arrested persons, if I remember correctly,</p> <p>2 exhibit GGG13, that was also attested before Major-General</p> <p>3 Johnson, but the witness says, if I understand him</p> <p>4 correctly, that he was asked by – well, let him repeat it</p> <p>5 himself. Who asked you to make the statement GGG13, that's</p> <p>6 the statement which was filed in the docket in the case</p> <p>7 against the various arrested persons?</p> <p>8 BRIGADIER CALITZ: Dit was die</p> <p>9 ondersoekbeampies, die speurders.</p> <p>10 MR BUDLENDER SC: Thank you. That's what</p> <p>11 I understood, yes, and that you then attested it before</p> <p>12 General Johnson. You swore it before General Johnson.</p> <p>13 BRIGADIER CALITZ: Dit was in sy</p> <p>14 teenwoordigheid gedoen.</p> <p>15 MR BUDLENDER SC: And can you recall what</p> <p>16 the charges were which the 259 accused were facing?</p> <p>17 BRIGADIER CALITZ: Mnr die Voorsitter, op</p> <p>18 MAS134, ek het dit iewers, as ek reg onthou, dit was</p> <p>19 "possession of dangerous weapons, and public violence," as</p> <p>20 ek praat onder korreksie, ek dink dit is die twee sake op</p> <p>21 die dossier.</p> <p>22 MR BUDLENDER SC: If you're not certain,</p> <p>23 I don't want to press you on it.</p> <p>24 BRIGADIER CALITZ: Ek is seker oor die</p> <p>25 twee; ek is nie seker of daar nog bygevoeg was.</p>	<p style="text-align: right;">Page 17459</p> <p>1 handwriting, that he wrote it down for you. Is that right?</p> <p>2 BRIGADIER CALITZ: Dit is inderdaad sy</p> <p>3 handskrif. Dit is korrek.</p> <p>4 CHAIRPERSON: I understand there was a</p> <p>5 team led by Lieutenant-General Moonoo, who is the head of</p> <p>6 the CID, National Head, team under him who – I think the</p> <p>7 names appear from the report we got, who were involved in</p> <p>8 the scene tampering investigation. Is that correct?</p> <p>9 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>10 Voorsitter.</p> <p>11 CHAIRPERSON: And was he, Major-General</p> <p>12 Johnson, was he a member of that team?</p> <p>13 BRIGADIER CALITZ: Soos ek verstaan het,</p> <p>14 mnr die Voorsitter, dit is korrek.</p> <p>15 MR BUDLENDER SC: And then just for the</p> <p>16 sake of completeness, the third statement, JJJ107, was</p> <p>17 prepared for the purposes of this Commission.</p> <p>18 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>19 Voorsitter.</p> <p>20 MR BUDLENDER SC: Now I want to just go</p> <p>21 to the background to the establishment of the Commission.</p> <p>22 We know that on the 12th of August 2012 four Lonmin</p> <p>23 employees were murdered, apparently by certain of the</p> <p>24 strikers. I know you weren't there, but you're aware that</p> <p>25 that is the evidence?</p>

<p style="text-align: right;">Page 17460</p> <p>1 BRIGADIER CALITZ: Ek het so verneem na 2 dit. 3 MR BUDLENDER SC: And then on the 13th of 4 August 2012 five people died in a clash between members of 5 the South African Police Service and certain of the 6 strikers. 7 BRIGADIER CALITZ: Dit is korrek, mnr die 8 Voorsitter. 9 MR BUDLENDER SC: And then on the 14th of 10 August a further Lonmin employee was murdered allegedly 11 also by certain of the strikers. 12 BRIGADIER CALITZ: Dit is korrek, mnr die 13 Voorsitter. 14 MR BUDLENDER SC: Those were all of 15 course very serious events. I'm sure we'll all agree. But 16 then on the 16th of August a catastrophic event occurred, 17 which was 34 strikers were killed by members of the South 18 African Police Service and 69 were injured, and it led to a 19 national and international attention and questions and 20 criticism. 21 BRIGADIER CALITZ: Dit is korrek, mnr die 22 Voorsitter. 23 MR BUDLENDER SC: It was sufficiently 24 serious that the President, who had been out of the 25 country, immediately came home and announced that there</p>	<p style="text-align: right;">Page 17462</p> <p>1 MR BUDLENDER SC: In fact it was clear 2 that this would probably be the major issue for the 3 Commission as far as the conduct of the police service is 4 concerned. 5 BRIGADIER CALITZ: Ek glo so, mnr die 6 Voorsitter, alhoewel daar verskillende – ek dink daar was 7 vier uiteensettings. Ek weet nie of dit die een, die 8 “major” een is nie, maar ek dink – 9 MR BUDLENDER SC: Now I'm sure we're on 10 common ground there, Brigadier. Then another matter, 11 Colonel Scott gave evidence that at a certain stage it was 12 contemplated that koppie 1 would be encircled probably 13 early in the morning at a time when there was a limited 14 number of strikers on the koppie. You remember that? 15 BRIGADIER CALITZ: Korrek, mnr die 16 Voorsitter. 17 MR BUDLENDER SC: And the essence of the 18 encirclement plan was that the koppie would be encircled 19 and there would be only one exit and the strikers could 20 then be searched and disarmed when they left the koppie 21 through that exit. 22 BRIGADIER CALITZ: Korrek, mnr die 23 Voorsitter. 24 MR BUDLENDER SC: Colonel Scott gave 25 evidence, and your evidence was really the same, as I</p>
<p style="text-align: right;">Page 17461</p> <p>1 would be a commission of inquiry to investigate the events. 2 BRIGADIER CALITZ: Ek het so verneem. Ek 3 dink dit was op die 17de. 4 MR BUDLENDER SC: And I'm sure you 5 understood that it was the deaths and injuries of the 16th 6 of August which was the immediate figure for the 7 establishment of the Commission? 8 BRIGADIER CALITZ: Mnr die Voorsitter, ek 9 is nie seker of ek dink die vorige gevalle is ingesluit by 10 die, nie net die 16de nie. 11 MR BUDLENDER SC: Absolutely. That's why 12 I refer to it as the trigger and why I refer to the 13 previous events. There were previous serious events, but 14 when this catastrophic event happened, then the Commission 15 was established into the whole sequence of events over that 16 week. 17 BRIGADIER CALITZ: Inderdaad so, mnr die 18 Voorsitter. 19 MR BUDLENDER SC: And it was clear that a 20 major question which the Commission would have to answer 21 was whether the members of the South African Police Service 22 were justified in killing 34 strikers and injuring 69 23 strikers on the 16th of August. 24 BRIGADIER CALITZ: Dit is korrek, mnr die 25 Voorsitter.</p>	<p style="text-align: right;">Page 17463</p> <p>1 understood it, that dispersal of a gathering is one of the 2 standard procedures of crowd management. 3 BRIGADIER CALITZ: Mnr die Voorsitter, as 4 jy bedoel die uiteendrywing is dit 'n standaard prosedure, 5 ja. 6 MR BUDLENDER SC: And when the people in 7 the gathering do not disperse voluntarily or on orders, 8 then it becomes necessary to use other methods, teargas, 9 water cannons, or rubber, to get them to disperse. That's 10 also a standard operation. 11 BRIGADIER CALITZ: Dit is korrek, mnr die 12 Voorsitter. 13 MR BUDLENDER SC: And it's also, as you 14 explained, and I think other witnesses have explained, not 15 unusual to have the Public Order Police working in an 16 operation together with the specialised units. 17 BRIGADIER CALITZ: Korrek, mnr die 18 Voorsitter. 19 MR BUDLENDER SC: Right, then can I come 20 on to another matter, Brigadier, another preliminary 21 question. We know that in terms of the SAPS instructions, 22 SAPS members may not use pellets in their shotguns, they 23 may only use rubber rounds. 24 BRIGADIER CALITZ: Mnr die Voorsitter, ek 25 dink nie daar is so 'n instruksie nie want ons het nie</p>

<p style="text-align: right;">Page 17464</p> <p>1 "pellets." Die voorskrif maak net voorsiening en beskryf  2 net rubber. Ek dink nie daar is 'n voorskrif wat iets  3 praat oor "pellets" nie, nee.  4 MR BUDLENDER SC: Well, there was  5 evidence earlier, Brigadier – I hope I'm reflecting it  6 correctly – that there was some correspondence about this,  7 that pellets had been used at a certain point and then it  8 was decided at top level that in future only rubber rounds  9 would be used because of the risk of serious injury or  10 death caused by pellets. Are you aware of that?  11 BRIGADIER CALITZ: Dit is 'n hele klompie  12 jare gelede.  13 CHAIRPERSON: There were letters issued I  14 think by the – one in particular issued by the National  15 Commissioner, which really are a kind of addendum to the  16 Standing Order which relates to crowd management, and the  17 previous permission, if one can call it that, for the use  18 of pellets was withdrawn for the reasons to which Mr  19 Budlender has referred. I take it you're aware of that.  20 BRIGADIER CALITZ: Korrek, mnr die  21 Voorsitter.  22 MR BUDLENDER SC: Thank you, and we know,  23 Brigadier, from our analysis of the medical records of  24 those who were injured or killed on the 16th of August, that  25 at least six strikers were shot with shotgun pellets on the</p>	<p style="text-align: right;">Page 17466</p> <p>1 BRIGADIER CALITZ: Dit is negatief, mnr  2 die Voorsitter.  3 MR BUDLENDER SC: And are you aware that  4 anyone other than members of the South African Police  5 Service fired shots at the strikers at scene 2?  6 BRIGADIER CALITZ: Ek dra glad nie kennis  7 daarvan nie, mnr die Voorsitter.  8 MR BUDLENDER SC: Brigadier, were there  9 any people other than members of the SAPS and the Lonmin  10 interpreter in the Nyalas at scene 1 or scene 2?  11 BRIGADIER CALITZ: Net in my voertuig op  12 die 16de was die "interpreter," geen ander personeel.  13 MR BUDLENDER SC: And the other Nyalas  14 and the other police vehicles I take it also had only  15 members of the police service inside them, or were there  16 other people also inside?  17 BRIGADIER CALITZ: Tot my kennis, mnr die  18 Voorsitter, net polisiebeamptes.  19 MR BUDLENDER SC: So the question becomes  20 how it happened that some of the strikers were shot with  21 shotgun pellets on the 16th of August, I think at both  22 scenes, but I don't want to say that it is so. Is it  23 possible that some police service members had shotgun  24 pellets which they brought with them to Marikana to the  25 scene?</p>
<p style="text-align: right;">Page 17465</p> <p>1 16th of August, and two of them died. Are you aware of  2 that?  3 BRIGADIER CALITZ: Nie op daardie stadium  4 nie, mnr die Voorsitter, maar ek het wel dit so verneem na  5 die tyd.  6 CHAIRPERSON: I don't think the  7 suggestion is you knew at the time. The question is you  8 are aware of it now, it's something that's come out in the  9 course of the investigation –  10 BRIGADIER CALITZ: Korrek.  11 CHAIRPERSON: - particularly as seen from  12 the post mortem report.  13 BRIGADIER CALITZ: Korrek.  14 CHAIRPERSON: And in the case of those  15 who died and the medical examination of those who were  16 injured.  17 BRIGADIER CALITZ: Korrek.  18 CHAIRPERSON: You are aware of that?  19 BRIGADIER CALITZ: Korrek, mnr die  20 Voorsitter.  21 MR BUDLENDER SC: Now Brigadier, you were  22 the operational commander and I want to ask you, did any  23 people other than members of the South African Police  24 Service fire shots at the strikers at scene 1, that you're  25 aware of?</p>	<p style="text-align: right;">Page 17467</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter,  2 nee, ek glo nie dit is moontlik nie. In my vorige  3 getuienis het ek getuig dat die groep en  4 seksiebevelvoerders, deel van hulle take was om dan hulle  5 lede te inspekteer. Die inspekteer van hulle lede sluit in  6 om die wapens, hulle uniform, hulle toerusting en alles na  7 te gaan en dan daardie bevelvoerders sal dan seker maak dat  8 wat die mense in hulle besit het. "Pellets" is baie, baie  9 lank terug onttrek en ek glo glad nie dat daar enige  10 polisiebeampte is wat nog dit in sy besit het nie, nee.  11 MR BUDLENDER SC: I understand. Let me  12 put it differently. If any members of the police service  13 brought shotgun pellets with them to the scene, they would  14 have had to conceal them from their commanders and they  15 would have been acting contrary to instructions?  16 BRIGADIER CALITZ: Korrek, mnr die  17 Voorsitter.  18 MR BUDLENDER SC: Is it possible that  19 someone from outside the police service distributed shotgun  20 pellets to members of the SAPS at scene 1 or scene 2?  21 [Microphone off, inaudible] pellets, sorry.  22 BRIGADIER CALITZ: Nie volgens my kennis  23 nie, mnr die Voorsitter.  24 MR BUDLENDER SC: You've never seen any  25 evidence of that, and you've never heard that that</p>

<p style="text-align: right;">Page 17468</p> <p>1 happened?</p> <p>2 BRIGADIER CALITZ: Nee, mnr die</p> <p>3 Voorsitter.</p> <p>4 MR BUDLENDER SC: So Brigadier, the</p> <p>5 question then arises how does one explain the fact that at</p> <p>6 least six strikers were shot with shotgun pellets at scene</p> <p>7 1 and scene 2?</p> <p>8 BRIGADIER CALITZ: Mnr die Voorsitter, na</p> <p>9 die tyd, as ek my opinie kan gee daarop, is dat ons weet</p> <p>10 dat op die Sondag is die aanval plaasgevind tussen AMCU en</p> <p>11 NUM en ons was –</p> <p>12 CHAIRPERSON: I'm not sure it was between</p> <p>13 AMCU and NUM, but we do know that people who appear to have</p> <p>14 been strikers attacked the two security guards who were in</p> <p>15 the employ of Lonmin and I think may have been members of</p> <p>16 NUM, but anyway, they were Lonmin employees, security</p> <p>17 guards. They were killed at the scene, we know about.</p> <p>18 BRIGADIER CALITZ: Ek onttrek wat ek nou</p> <p>19 gesê het. Die "protesters" het dan die NUM persone, of die</p> <p>20 sekuriteitspersoneel aangeval op die Sondag en ons weet dat</p> <p>21 twee van hulle haelgewere dan geneem is. Daar was ook aan</p> <p>22 my meegedeel dat die personeel van Lonmin wel gebruik maak</p> <p>23 van, soos u dit stel, "pellets." Die afleiding wat ons het</p> <p>24 is dat die groep "protesters" dieselfde groep moontlik kon</p> <p>25 gewees het en dat hulle dit dan gebruik het in die aanval</p>	<p style="text-align: right;">Page 17470</p> <p>1 understood these are preliminary questions intended to</p> <p>2 clear the ground, so Mr Semenya, is there anything further</p> <p>3 you wish to say on the point?</p> <p>4 MR SEMENYA SC: Let's wait for this line</p> <p>5 of questioning, Chair.</p> <p>6 CHAIRPERSON: So you can carry on in the</p> <p>7 meanwhile. I take it you're not going to take it much</p> <p>8 further.</p> <p>9 MR BUDLENDER SC: No, I'm trying to</p> <p>10 explain a mystery and the Brigadier has offered one</p> <p>11 possible explanation of the mystery, and I'm asking whether</p> <p>12 there's any evidence to support that explanation. We can</p> <p>13 come up with other possible explanations, but we're looking</p> <p>14 to see whether there's any evidence and what the Brigadier</p> <p>15 has explained is, as I understand it, is he's not aware of</p> <p>16 any evidence either that it was police members or that it</p> <p>17 was members of, or third parties, as it were, or that it</p> <p>18 was some of the strikers, but he thinks it may have been</p> <p>19 some of the strikers. Is that a fair summary?</p> <p>20 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>21 dit is inderdaad so. Die enigste bewysstuk is dat ons weet</p> <p>22 die haelgewere is geneem. Ons weet dat Lonmin personeel</p> <p>23 wel "pellets" gebruik, en ons weet dat dit is die</p> <p>24 "protesters" wat wel die haelgewere geneem het. So daardie</p> <p>25 bewysstuk is wat voor ons is.</p>
<p style="text-align: right;">Page 17469</p> <p>1 tot die polisie.</p> <p>2 MR BUDLENDER SC: So the explanation</p> <p>3 you're offering is that the strikers who were shot and</p> <p>4 killed with shotgun pellets on the 16th were shot and killed</p> <p>5 by their own people?</p> <p>6 BRIGADIER CALITZ: Korrek, mnr die</p> <p>7 Voorsitter.</p> <p>8 MR BUDLENDER SC: Is there any evidence</p> <p>9 to support that hypothesis?</p> <p>10 MR SEMENYA SC: Chair, it was put as a</p> <p>11 hypothesis. You can't ask for evidence to support a</p> <p>12 hypothesis.</p> <p>13 MR BUDLENDER SC: Chair, with respect, a</p> <p>14 hypothesis is placed. I'm asking –</p> <p>15 [11:49] CHAIRPERSON: I think you're entitled to</p> <p>16 ask if there's any evidence to support it. Of course the</p> <p>17 other point is in this inquiry there's no evidence in</p> <p>18 support of the hypothesis that either a policeman or</p> <p>19 somebody else fired the shotgun pellets and killed and</p> <p>20 injured the other people, but you've established that</p> <p>21 there's no evidence available to us to support the</p> <p>22 suggestion that it was either the police of Lonmin people</p> <p>23 who fired, so I take it it's appropriate to ask the</p> <p>24 corresponding question in respect of the other potential</p> <p>25 persons who fired off the shotgun pellets. But I</p>	<p style="text-align: right;">Page 17471</p> <p>1 MR BUDLENDER SC: I understand that,</p> <p>2 Brigadier, thank you. Right, I now want to move on to a</p> <p>3 separate topic –</p> <p>4 COMMISSIONER HEMRAJ: Can I just clarify</p> <p>5 something before you do? Did you observe any Lonmin</p> <p>6 security personnel in the vicinity of scene 1 or 2 on the</p> <p>7 16th?</p> <p>8 BRIGADIER CALITZ: Nie personeel wat aan</p> <p>9 my bekend is nie, as sekuriteit nie, Kommissaris.</p> <p>10 MR BUDLENDER SC: Well, just following up</p> <p>11 on Commissioner Hemraj's question, did you observe anyone</p> <p>12 other than strikers and members of the South African Police</p> <p>13 Service at scene 1 or scene 2?</p> <p>14 BRIGADIER CALITZ: Mnr die Voorsitter, op</p> <p>15 toneel 2 was verskeie persone met siviele drag, wat op</p> <p>16 toneel 2 was, wat onbekend was aan my. Ek glo Generaal</p> <p>17 Naidoo wat by "forward holding area" 1 is kan verduidelik</p> <p>18 wie die persone is.</p> <p>19 MR BUDLENDER SC: Yes, we know that there</p> <p>20 were medical personnel and other people who came onto the</p> <p>21 scene after the event to deal with the consequences of what</p> <p>22 had happened, but I should have been clear; I'm not</p> <p>23 referring to that. I'm talking about as scene 1 and scene</p> <p>24 2 and the events, the confrontation was playing out, the</p> <p>25 operation was being conducted, were you aware of – let me</p>

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1 ask the question more simply. At the time when the  
 2 operation was being carried out, the dispersal and the  
 3 disarming, did you see any person on the scene who was  
 4 neither one of the strikers, nor a member of the South  
 5 African Police Service?  
 6 BRIGADIER CALITZ: Nee, mnr die  
 7 Voorsitter, nie ten tye van die uitvoering van die operasie  
 8 nie.  
 9 COMMISSIONER HEMRAJ: Of the people you  
 10 saw in civilian clothing on scene 2, were any of them in  
 11 possession of shotguns?  
 12 BRIGADIER CALITZ: Kommissaris, nee, ek  
 13 kan nie spesifiek so iets onthou nie, nee.  
 14 CHAIRPERSON: Would I be correct in  
 15 assuming that the only shotguns you saw were in the  
 16 possession of, I take it POP members, who as far as you  
 17 were concerned were using them to fire rubber balls? I  
 18 don't think rubber bullets, rubber balls, I think. Is that  
 19 correct?  
 20 BRIGADIER CALITZ: Korrek, mnr die  
 21 Voorsitter.  
 22 MR BUDLENDER SC: Brigadier, I now want  
 23 to move on to another preliminary matter, which is the  
 24 barbed wire. Now there has already been some evidence that  
 25 the South African Police Service obtained access to

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1 additional barbed wire through Lonmin. You recall that?  
 2 Perhaps I can show you, it would be easier, fairer to show  
 3 you the exhibit. Could you look at JJJ97.  
 4 CHAIRPERSON: While you're doing that,  
 5 I'm not sure to what extent the witness is aware of the  
 6 evidence that's been led so far. I don't think there's any  
 7 reference to this while he was, since he's been testifying,  
 8 so it's probably better as you suggest to show him the  
 9 exhibit. He has a file in front of him; it seems he may  
 10 well have the exhibit in the file, but in any event – is  
 11 this an exhibit?  
 12 MR BUDLENDER SC: Yes, Chair, JJJ97.  
 13 BRIGADIER CALITZ: Ek het hom as JJJ86.  
 14 MNR BUDLENDER SC: 97, Brigadier, 97.  
 15 COMMISSIONER HEMRAJ: Was this exhibit  
 16 handed in at some stage or other?  
 17 MR BUDLENDER SC: It was handed in during  
 18 the evidence of Colonel Scott, as I understand it, yes.  
 19 CHAIRPERSON: One of the things we've got  
 20 to do is I think some of the future exhibits that were  
 21 marked in the JJJ-series, I think in the end they weren't  
 22 all handed in, so that's why the question is asked, but we  
 23 can review that at some stage and those that haven't yet  
 24 formally been handed in we can consider, but I take it that  
 25 the suggestion is that this one is one of those that was

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1 actually handed in, not one of the ones that was marked in  
 2 advance and not actually handed in. Am I right?  
 3 MR BUDLENDER SC: I understand that it  
 4 was referred to, Chair, yes. But I'm not sure that  
 5 anything turns on that.  
 6 CHAIRPERSON: Well, something may turn on  
 7 it. I mean we've got to get the record in order at some  
 8 stage, but we don't have to worry about it now.  
 9 MR BUDLENDER SC: Brigadier, it's a two-  
 10 page document. There's a letter from DLA Cliffe Dekker  
 11 Hofmeyr with an attachment marked A. Have you been able to  
 12 locate it?  
 13 BRIGADIER CALITZ: Gee net weer vir my  
 14 die verwysingsnommer, asseblief.  
 15 CHAIRPERSON: It's JJJ97, is the exhibit  
 16 number. [Microphone off, inaudible] you were given notice  
 17 of the intention to rely on this document beforehand.  
 18 BRIGADIER CALITZ: Mnr die Voorsitter,  
 19 ja, hy is by my gemerk JJJ197.  
 20 CHAIRPERSON: I see, alright. It is  
 21 wrongly numbered, but anyway, it doesn't matter. You have  
 22 seen the document, so you know what counsel is talking  
 23 about.  
 24 BRIGADIER CALITZ: Dit is korrek, ja, 197  
 25 by my –

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1 MR BUDLENDER SC: I hope I'm right and  
 2 the Brigadier is wrong. Can I just check that? It's  
 3 correct, yes, it is correct. It should be 97. Brigadier,  
 4 I'll read it –  
 5 CHAIRPERSON: I think he's still trying  
 6 to find it. Let's give him a chance.  
 7 BRIGADIER CALITZ: Ek het dit, mnr die  
 8 Voorsitter.  
 9 CHAIRPERSON: You have it?  
 10 BRIGADIER CALITZ: Ja.  
 11 CHAIRPERSON: Alright, okay, so the  
 12 counsel can proceed with the question.  
 13 MR BUDLENDER SC: It's a letter from the  
 14 attorneys for Lonmin to the evidence leaders and paragraph  
 15 1 says, I'll read it, "Following the murders and severe  
 16 damage to property on the weekend of 10 and 11 August 2012,  
 17 our client needed in addition to its normal security  
 18 requirements to secure various areas on its property, for  
 19 example K3, K4, and Wonderkop Technical Services, etcetera.  
 20 This resulted from the most unusual security threats that  
 21 emerged at the time. As part of these measures our client  
 22 placed an order for security fencing comprising flat-wrap  
 23 barrier wiring and large supporting poles, which occurred  
 24 early on 13 August 2012. A quotation was received on 14  
 25 August 2012 and the order was placed for six sets of

<p style="text-align: right;">Page 17476</p> <p>1 coils." Then the letter goes on in paragraph 2, "On or 2 about 15 August 2012 when the security fencing arrived, our 3 client recalls the SAPS approaching it to request making 4 use of some of this fencing. Our client was prepared to 5 oblige if it was on a pay or replace what you use basis. 6 Our client recalls that this was an informal approach and 7 it may have been Brigadier Calitz who made the request." 8 Paragraph 3 says, "As it transpired, SAPS did not make use 9 of any of our client's security fencing and the product 10 orders were used by our client to secure its premises." 11 Now Brigadier, is the author correct, well is Lonmin's 12 recollection correct that it may have been you, that it was 13 you who made the request? 14 BRIGADIER CALITZ: Dit is negatief, nee, 15 mnr die Voorsitter. 16 MR BUDLENDER SC: Do you know who it was 17 who made the request? 18 BRIGADIER CALITZ: Mnr die Voorsitter, 19 dit was bespreek in die gesamentlike operasionele sentrum 20 en dit was aangebied deur mnr Sinclair van Lonmin. 21 MR BUDLENDER SC: So this was discussed, 22 was it at a JOCCOM meeting or in the JOC? 23 BRIGADIER CALITZ: Mnr die Voorsitter, 24 dit was van die begin af waar hulle gesê het daar was nie 25 genoeg draad om al die sleutelpunte te dek nie en die, ek</p>	<p style="text-align: right;">Page 17478</p> <p>1 na "pay or replace what you use." Dit is nie in die 2 mandaat – nie ek nie, nee, glad nie, om aan te vra om draad 3 van 'n buite departement te gebruik vir uitvoering van ons 4 take nie, nee. 5 MR BUDLENDER SC: So you say paragraph 2 6 of the letter is not correct because the SAPS neither 7 requested the additional fencing, nor had any intention of 8 ever using the additional fencing? 9 BRIGADIER CALITZ: Ons het nie daarvoor 10 aangevra nie, nee. 11 MR BUDLENDER SC: No, I understand – 12 CHAIRPERSON: I understand you didn't ask 13 for it, but according to what you say it was in effect 14 offered, or certainly Mr Sinclair said they have it. So 15 presumably, and he offered it, I take it, in the context of 16 discussion in the JOC that there wasn't enough wire. Is 17 that right? 18 BRIGADIER CALITZ: Vir die operasie wat 19 ons toe beplan het, dit is korrek, mnr die Voorsitter. 20 CHAIRPERSON: Yes, yes. Now what Mr 21 Budlender wants to know is when Mr Sinclair offered it, 22 what was the attitude of the SAPS at that stage in regard 23 to the fencing that was offered? I know your case is that 24 that plan was later not proceeded with and replaced by the 25 other one, but for as long as that plan was around, you</p>
<p style="text-align: right;">Page 17477</p> <p>1 weet mnr Sinclair van Lonmin het dan ook die draad wat 2 hulle sekere van hulle sleutelpunte wou "protect," as ek 3 dit so kan stel. 4 MR BUDLENDER SC: And you were present at 5 that discussion? 6 BRIGADIER CALITZ: Dit is korrek, mnr die 7 Voorsitter. 8 MR BUDLENDER SC: I don't think it 9 matters who was the, whether Mr Sinclair offered or whether 10 you requested or someone else requested it; that's not the 11 point. It's simply that an arrangement was made with 12 Lonmin that they would make the barbed wire or security 13 fencing available to the SAPS, as required. 14 BRIGADIER CALITZ: Mnr die Voorsitter, 15 weereens nee, nie deur die polisie versoek nie. Dit is 16 Lonmin wat hulle eie, die sleutelpunte wou beskerm, nie op 17 ons versoek deurdat die polisie hulle draad sou gebruik 18 nie, nee. 19 MR BUDLENDER SC: So I'm not sure that 20 I'm understanding. Are you saying that the police never 21 contemplated using this additional barbed wire? 22 BRIGADIER CALITZ: Soos ek dit verstaan 23 het, mnr die Voorsitter, was dit om sleutelpunte wat 24 aangedui is deur die myn te beskerm. Die polisie sou nie 25 daardie draad in ons besit geneem het soos hier verwys word</p>	<p style="text-align: right;">Page 17479</p> <p>1 know, was on the table, as it were, what was the police's 2 attitude to using the extra fencing that was offered by Mr 3 Sinclair? Am I right, that's your question, Mr Budlender? 4 MR BUDLENDER SC: [Microphone off, 5 inaudible] 6 BRIGADIER CALITZ: Nee, daar was geen 7 objeksie daarteenoor nie. 8 MR BUDLENDER SC: I think we're still not 9 understanding one another, Brigadier. I understand that 10 you say you didn't request it, and I understand that you 11 say you had no objection to the offer, but did the SAPS 12 regard this is some reserve barbed wire which it would use 13 if it was necessary? 14 BRIGADIER CALITZ: U sal wel sien, as ek 15 dit nou nie vooruithardloop nie, op 'n latere stadium na 16 die operasie is dit wel die voorstel gewees, maar nie op 17 daardie stadium van die operasie nie. 18 CHAIRPERSON: Mr Budlender, I was 19 proposing to take a comfort break at noon, at 12 o'clock. 20 I don't know whether it's convenient for me to take it now, 21 or whether you want to round this point off first before we 22 do that? 23 MR BUDLENDER SC: It would be convenient 24 to take it now, Chair, thank you. 25 CHAIRPERSON: Alright, we'll take a</p>



<p style="text-align: right;">Page 17480</p> <p>1 comfort break for 10 minutes.</p> <p>2 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>3 [12:21] CHAIRPERSON: The Commission resumes,</p> <p>4 Brigadier, you're still under oath. Mr Budlender?</p> <p>5 MR BUDLENDER SC: Chair, Brigadier, I</p> <p>6 just want to make sure we understand each other on the</p> <p>7 question of the Lonmin barbed wire. Is your evidence that</p> <p>8 additional barbed wire from Lonmin was or was not available</p> <p>9 to the police on the 15th of August?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>11 soos ek gesê het, op die 15de Augustus soos dit in</p> <p>12 paragraaf 2 aangedui is, dat op die 15de het dit opgedaag,</p> <p>13 so op die 15de, nee, was ek nie bewus, as u reg onthou ek</p> <p>14 was vroeg uit na die koppie toe en ek het die aand 22h00</p> <p>15 omtrent teruggekeer, so op die 15de was ek nie bewus dat</p> <p>16 dit gearriveer het nie, nee.</p> <p>17 MR BUDLENDER SC: And was additional</p> <p>18 barbed wire from Lonmin available to you on the 16th of</p> <p>19 August?</p> <p>20 BRIGADIER CALITZ: Dit is toe wel genoem,</p> <p>21 onder my aandag gebring.</p> <p>22 MR BUDLENDER SC: Sorry?</p> <p>23 CHAIRPERSON: Hy sê onder sy aandag, it</p> <p>24 was brought to his attention, I take it.</p> <p>25 BRIGADIER CALITZ: Ja, onder my aandag</p>	<p style="text-align: right;">Page 17482</p> <p>1 from JJJ97 because we haven't seen Annexure A which is the</p> <p>2 second page? It says, para 4 talks about a copy of the</p> <p>3 price estimate, it is attached marked A and then it goes on</p> <p>4 to say the second item for R198,250 was not ordered or</p> <p>5 supplied, but are we going to see the Annexure A while we,</p> <p>6 - or if you're going to come back to it later, I don't want</p> <p>7 to say how you must run your cross-examination.</p> <p>8 MR BUDLENDER SC: No, not for my</p> <p>9 purposes, Chair, if the members of the Commission would</p> <p>10 like to go there, I'm not planning to go there. Could we</p> <p>11 then have JJJ86 on the screen and, Brigadier, I think you</p> <p>12 won't find that in your, - oh, you've got it, good.</p> <p>13 CHAIRPERSON: Please, may I ask one or</p> <p>14 other members of your team, I think we have seen this</p> <p>15 sketch indeed, whenever a JJJ document is referred to but</p> <p>16 not being put in as an exhibit, I think one of the ones</p> <p>17 that was passed over, to alert me to it so that I can</p> <p>18 officially receive it as an exhibit, but we have seen this</p> <p>19 one, I remember this one.</p> <p>20 MR BUDLENDER SC: Yes, this we have seen.</p> <p>21 This –</p> <p>22 CHAIRPERSON: Just tell the witness what</p> <p>23 it is, unless he knows?</p> <p>24 MR BUDLENDER SC: I'm about to tell him,</p> <p>25 Chair. This is a photograph taken by Lieutenant-Colonel</p>
<p style="text-align: right;">Page 17481</p> <p>1 gebring.</p> <p>2 MR BUDLENDER SC: And who brought it to</p> <p>3 your attention?</p> <p>4 BRIGADIER CALITZ: Nee, ek kan nie nou</p> <p>5 vir u sê nie, maar dit –</p> <p>6 CHAIRPERSON: Would it have been one of</p> <p>7 your colleagues or someone from Lonmin?</p> <p>8 BRIGADIER CALITZ: Ek glo –</p> <p>9 CHAIRPERSON: If you can't remember you</p> <p>10 can't remember, I don't want to be unfair to you.</p> <p>11 BRIGADIER CALITZ: Nee, -</p> <p>12 CHAIRPERSON: But you said it was brought</p> <p>13 to your attention, the question is, was it done by, - you</p> <p>14 can't remember by whom, but was it by one of your</p> <p>15 colleagues or was it by someone from Lonmin or –</p> <p>16 BRIGADIER CALITZ: Ek kan –</p> <p>17 CHAIRPERSON: - one of the other, you are</p> <p>18 not sure?</p> <p>19 BRIGADIER CALITZ: Ek kan verseker nie sê</p> <p>20 nie, ek weet dit was op die terrein neergesit en ek dink</p> <p>21 ons het daarvoor gepraat, maar wie vir my gesê het kan ek</p> <p>22 nie vir u nou noem nie.</p> <p>23 MR BUDLENDER SC: Could I ask the</p> <p>24 operators to put Exhibit JJJ86?</p> <p>25 CHAIRPERSON: JJJ86, are you moving away</p>	<p style="text-align: right;">Page 17483</p> <p>1 Vermaak at 09:38am on the 16th of August and we can see on</p> <p>2 the first photograph with a red circle around it, a stack</p> <p>3 of barbed wire, do you see that, or stacks of barbed wire?</p> <p>4 BRIGADIER CALITZ: Ek sien dit, mnr die</p> <p>5 Voorsitter.</p> <p>6 MR BUDLENDER SC: And we can see it</p> <p>7 better on the next page where we see a large number of</p> <p>8 rolls of barbed wire and what looks like one barbed wire</p> <p>9 trailer, do you see that?</p> <p>10 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>11 Voorsitter.</p> <p>12 CHAIRPERSON: The A frame is</p> <p>13 unmistakable, isn't it? So the A frame is unmistakable of</p> <p>14 the trailer.</p> <p>15 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>16 ja, ek kan nie met sekerheid sê dat dit ons s'n is nie, my</p> <p>17 ses Nyalas staan in die voorgrond met die ses draad karre.</p> <p>18 MR BUDLENDER SC: Now that barbed wire</p> <p>19 and trailer are on what we could describe as part of the</p> <p>20 ground being used by SAPS for its operation, is that fair?</p> <p>21 BRIGADIER CALITZ: Dit is die perseel van</p> <p>22 die Middelkraal waar alles plaasgevind het.</p> <p>23 CHAIRPERSON: The question is, those</p> <p>24 premises were made available to the SAPS and you were using</p> <p>25 them, is that correct?</p>

<p style="text-align: right;">Page 17484</p> <p>1 BRIGADIER CALITZ: Dit is korrek, mnr die 2 Voorsitter. 3 MR BUDLENDER SC: And do you know what 4 the source is, what the source was of those rolls of barbed 5 wire and the trailer? 6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 soos ek reeds getuig het, dit was die kommunikasie van 8 Lonmin om hulle sleutelpunte te beskerm en soos u meegedeel 9 het, dit het die 15de gearriveer, wat ek wel later 10 meegedeel is, maar die doel was, neem ek aan om die 11 sleutelpunte te beskerm. 12 MR BUDLENDER SC: Do you know whose 13 vehicles those are that we see close to the barbed wire and 14 the trailer? 15 BRIGADIER CALITZ: Nee, mnr die 16 Voorsitter, dit lyk vir my na een sedan, 'n bakkie en dan 17 drie mini busse, ek kan nie sê nie, nee. 18 MR BUDLENDER SC: And to the left of the 19 photograph there are two larger vehicles, three or four 20 larger vehicles, do those look like police vehicles to you? 21 BRIGADIER CALITZ: As u verwys na die 22 Nyala voertuie, die drie Nyala voertuie en die Casspir en 23 die scorpion, dit is polisie voertuie, hulle is duidelik 24 gemerk op die dakke, die voertuie wat betrokke was in die 25 operasie is gemerk bo-op.</p>	<p style="text-align: right;">Page 17486</p> <p>1 it can be given an exhibit number to make it easy for us 2 when we read the record later. What's the exhibit number 3 of the – 4 MR BUDLENDER SC: JJJ82. 5 CHAIRPERSON: Thank you, so we're 6 referring to JJJ82, that's the transcript, what you said, 7 and you're referring to a particular paragraph or page, I 8 can't remember how it is done, but it is a page, the second 9 page, is it? 10 BRIGADIER CALITZ: Dit is die tweede 11 bladsy. 12 CHAIRPERSON: And the times are 13 indicated. 14 BRIGADIER CALITZ: En daar is 'n 15.15 op 15 die tweede bladsy, net voor die sin. Ek kan, op die skerm 16 agter u kan ek aandui met die rooi dit is daar. 17 COMMISSIONER HEMRAJ: 15 – 18 CHAIRPERSON: 15.15, do you mean 5:15, 19 like in the case of that exhibit we referred to before, a 1 20 has crept in the front and it shouldn't be there, is that 21 right? 22 BRIGADIER CALITZ: Dankie vir die 23 regstelling – 24 CHAIRPERSON: So it is 5:15? 25 BRIGADIER CALITZ: 5:15.</p>
<p style="text-align: right;">Page 17485</p> <p>1 MR BUDLENDER SC: Yes, again I don't want 2 to argue with you, I just want to make sure I understand 3 your evidence. Is it your evidence that this barbed wire 4 and trailer were placed there by Lonmin for their own use 5 or was it placed there for the possible use by the SAPS? 6 BRIGADIER CALITZ: Op hierdie stadium was 7 dit deur eie gebruik, ek het verneem dit is om hulle eie 8 sleutelpunte dan te beskerm. Op die dag wat die foto 9 geneem is, die 16de, waar ons uitbeweeg het, definitief nie 10 vir ons gebruik op daardie dag nie, nee. 11 MR BUDLENDER SC: No, I know you didn't 12 use it, what I'm asking is whether that was there for your 13 purposes if you required it? 14 BRIGADIER CALITZ: Mnr die Voorsitter, 15 dit is nie met my bespreek in soveel sin nie, maar ek glo 16 indien ons dit miskien sou nodig gehad het was dit daar 17 gestel. 18 MR BUDLENDER SC: We know that on the 18th 19 of August, the Saturday, you did have the use of barbed 20 wire made available by Lonmin. 21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 ja, ek kan verwys, ek weet nie of dit 'n bewysstuk is nie, 23 maar die video transcript van die 18de, ek sien hier staan 24 op 049MTS op bladsy 2, as ek dit miskien kan lees? 25 CHAIRPERSON: It is an exhibit, perhaps</p>	<p style="text-align: right;">Page 17487</p> <p>1 CHAIRPERSON: That's now at the top of 2 the screen? 3 BRIGADIER CALITZ: Dit is korrek, mnr die 4 Voorsitter. 5 CHAIRPERSON: So 5:15, for those who want 6 to find it later, it is right near the end of the line, 7 there are two words after it. What you said was, then in 8 the mine we got additional barbed wire that can cover about 9 1 or 2 kilometres, the other barbed wire, they will also 10 make it available with their vehicles, that's what you 11 said? 12 BRIGADIER CALITZ: Dit is korrek, mnr die 13 Voorsitter, dit is waarna ek voorheen verwys het toe ek 14 gesê het op 'n latere stadium het ons dit wel tot ons 15 beskikking gehad en dit was vir die doel, want ons praat 16 van 'n base camp wat dan uitsluitlik vir die polisie se 17 gebruik is. 18 MR BUDLENDER SC: And just to put beyond 19 doubt that which I think has no doubt, when you talk about, 20 they're making it available, that was Lonmin who made it 21 available? 22 BRIGADIER CALITZ: Dit is korrek. 23 COMMISSIONER HEMRAJ: Had you wanted to 24 use those rolled barbed wire on the 16th, what process would 25 you have had to follow to make it, to put in a position</p>

<p style="text-align: right;">Page 17488</p> <p>1 where you would be able to deploy it?</p> <p>2 BRIGADIER CALITZ: Kommissaris, indien</p> <p>3 ons dit wel sou gebruik het, wat op daardie oggend die</p> <p>4 beplanning was, sou ons dit gebruik het wat ons verwys na</p> <p>5 'n base camp. So ons sou fisies voertuie moes gekry het</p> <p>6 waarop dit gelaai kon wees. Ek dink op daardie stadium was</p> <p>7 daar nie die A frame trailers wat ons nou van weet nie, so</p> <p>8 dit sou fisies met die hand dan uit ge-coil moes gewees het</p> <p>9 om, ek dink ons sou daardie draad gebruik het by koppie 3</p> <p>10 wat bekend staan as scene 2.</p> <p>11 MR BUDLENDER SC: Then, Brigadier, just</p> <p>12 to come back to the answer which you gave to one of</p> <p>13 Commissioner Hemraj's questions, could we have photograph</p> <p>14 223 of Warrant Officer Ramanala on the screen, please?</p> <p>15 CHAIRPERSON: Is this an exhibit or must</p> <p>16 we make it –</p> <p>17 MR BUDLENDER SC: It will have to become</p> <p>18 an exhibit now, Chair.</p> <p>19 CHAIRPERSON: I see.</p> <p>20 MR BUDLENDER SC: No, I'm informed that</p> <p>21 it is in the Ramanala's series already.</p> <p>22 CHAIRPERSON: So what is the exhibit</p> <p>23 number?</p> <p>24 MR BUDLENDER SC: I'm told it is JJJ29,</p> <p>25 Chairperson, point whatever it is and this is number 265.</p>	<p style="text-align: right;">Page 17490</p> <p>1 name, in this case JJJ, what was it, 27. – 29.106 to 300</p> <p>2 and something. Commissioner Hemraj's question relates to a</p> <p>3 different category of the exhibits in the JJJ series, there</p> <p>4 were some JJJ exhibits to which no reference was made at</p> <p>5 all in the evidence of Colonel Scott. At the end of</p> <p>6 Colonel Scott's evidence my learned friend, Mr Semanya and</p> <p>7 I reached an agreement that those exhibits would go in as</p> <p>8 exhibits, but their status at present would be nothing more</p> <p>9 than documents which are described by the evidence leaders</p> <p>10 in the terms in which they are described on the index and</p> <p>11 they certainly wouldn't be accepted as proof of their</p> <p>12 contents at this stage and it would be open to SAPS to</p> <p>13 dispute anything in those exhibits, if at a later stage</p> <p>14 anybody wants to place reliance on them, but they are in</p> <p>15 and will in due course be put to individual witnesses.</p> <p>16 CHAIRPERSON: Well, may I suggest that we</p> <p>17 should have a list of those so that we can make exhibits on</p> <p>18 its own, as it were, for the purposes of housekeeping and</p> <p>19 keeping the record in an easily comprehensible state,</p> <p>20 that's the first point. The second thing is, you referred</p> <p>21 to exhibits that, as you say, which indicated different</p> <p>22 files and we saw a little, I think you called them a thumb</p> <p>23 nail, don't you, a little, a small little rectangles which</p> <p>24 were individual files. Now am I correct in thinking that</p> <p>25 this particular picture we're looking at now is one of</p>
<p style="text-align: right;">Page 17489</p> <p>1 CHAIRPERSON: So it is JJJ?</p> <p>2 MR BUDLENDER SC: 29.265, 29.265.</p> <p>3 CHAIRPERSON: It is one that we've seen</p> <p>4 already or, you know is it one of the JJJ exhibits already</p> <p>5 been put in or is it one of the unused ones which now has</p> <p>6 to be marked?</p> <p>7 MR BUDLENDER SC: Mr Chair, I'm advised</p> <p>8 that the whole series have been put in but I don't think it</p> <p>9 is being specifically referred to.</p> <p>10 COMMISSIONER HEMRAJ: Mr Budlender, I</p> <p>11 raised at some stage that the whole of the JJJ was handed</p> <p>12 in, but Mr Chaskalson referred to certain of them and I was</p> <p>13 a bit concerned about the status of the other documents,</p> <p>14 they haven't been referred to and when I went through them</p> <p>15 it looks like there is a lot of information on them and I</p> <p>16 wasn't quite sure what we were supposed to do with them.</p> <p>17 MR BUDLENDER SC: Thank you,</p> <p>18 Commissioner. Chair, can I, - I don't think this has been</p> <p>19 referred to in evidence and Mr Chaskalson will –</p> <p>20 MR CHASKALSON SC: Chairperson, this is</p> <p>21 one of the exhibits that have in fact been referred to.</p> <p>22 Chairperson, you may recall that all of the photographs and</p> <p>23 videos, a screenshot was put up, that was the physical</p> <p>24 exhibit that was displayed with images of each one of the</p> <p>25 underlying files and the files were also admitted under the</p>	<p style="text-align: right;">Page 17491</p> <p>1 those, in other words it wasn't specifically referred to</p> <p>2 but it was before us as a thumb nail, am I right or have I</p> <p>3 got that wrong?</p> <p>4 MR CHASKALSON SC: That's correct,</p> <p>5 Chairperson, at the time I indicated that the underlying</p> <p>6 electronic files for each one of the photographs or each</p> <p>7 one of the videos would also be exhibits numbered with the</p> <p>8 same JJJ number with the full stop and the photograph</p> <p>9 number afterwards.</p> <p>10 CHAIRPERSON: Alright, well, that would</p> <p>11 better be dealt with, I take it in a similar way to the</p> <p>12 ones I've just talked about, in other words we should have</p> <p>13 another document which reflects each of these numbered</p> <p>14 thumb nails and says shortly what they're supposed to</p> <p>15 represent, because otherwise again we have the situation</p> <p>16 that we've got exhibits before us which we haven't really</p> <p>17 seen, except as little passing thumb nails in the night, as</p> <p>18 it were, but anyway we don't have to debate that further</p> <p>19 now, it is a housekeeping matter which can be sorted out,</p> <p>20 but now that we're looking at this picture can either the</p> <p>21 brigadier or Mr Budlender tell us what it is supposed to</p> <p>22 be? I'm being informed that we're having a JJJ series list</p> <p>23 of each of these things but with a little short cryptic</p> <p>24 note and statement, so we have got that before us already,</p> <p>25 so the little marker I made earlier falls away in respect</p>

<p style="text-align: right;">Page 17492</p> <p>1 of the second category. What number is this one?</p> <p>2 MR BUDLENDER SC: This is JJJ29,</p> <p>3 photograph number 223, Chairperson, 29.223 in other words.</p> <p>4 CHAIRPERSON: You see all we have here</p> <p>5 then on the list is JJJ29, as you said, 29.105 – 29.307, so</p> <p>6 it is simply in as a batch of 203 photographs by Ramanala,</p> <p>7 so obviously we're going to need a little bit more</p> <p>8 narrative about them, so I reinstate what I said a moment</p> <p>9 ago about the second category. Do we know what exactly</p> <p>10 this particular one, what is its number and can either you</p> <p>11 or the witness perhaps tell us what it represents?</p> <p>12 MR BUDLENDER SC: Its number is 223 and,</p> <p>13 Brigadier, this is one of the series of photographs which</p> <p>14 we were given of a series taken by Warrant Officer Ramanala</p> <p>15 at scene 2 late on the afternoon of 16 August. Now does</p> <p>16 that photograph look to you like it is a photograph taken</p> <p>17 at scene 2, late on the afternoon of the 16th of August?</p> <p>18 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>19 ja, ek kan nie sê watse tyd dit geneem is nie, maar dit is</p> <p>20 definitief hoe ek toneel 2 waargeneem het met die persone</p> <p>21 wat voor lê.</p> <p>22 CHAIRPERSON: May I say that if we're</p> <p>23 going to see anymore pictures like this we better have a</p> <p>24 warning beforehand, I take it none of the bodies is really</p> <p>25 recognisable on this one but it may be a problem in respect</p>	<p style="text-align: right;">Page 17494</p> <p>1 Voorsitter.</p> <p>2 MR BUDLENDER SC: The photograph is not</p> <p>3 all together clear but it looks as though he is holding</p> <p>4 something in his hands, a weapon of some kind, can you see</p> <p>5 that?</p> <p>6 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>7 ja, ek kan sien daar is 'n voorwerp in sy hand.</p> <p>8 [12:40] CHAIRPERSON: It is not altogether clear</p> <p>9 what it is, but perhaps we can all draw our own</p> <p>10 conclusions, it's not for you to give evidence about what</p> <p>11 it is, but can we then go to the next one. Before you</p> <p>12 carry on, can I ask you a question? You say he's not</p> <p>13 member of police service, this person?</p> <p>14 BRIGADIER CALITZ: Nee, Mnr die</p> <p>15 Voorsitter, die polisie drag en die rugsak en ek sien ek</p> <p>16 sien hy staan saam met 'n persoon wat lyk soos asof hy</p> <p>17 mediese behandeling gee, so, nee, dit is –</p> <p>18 CHAIRPERSON: There is a person in front</p> <p>19 of him bending over one of the people lying on the ground.</p> <p>20 BRIGADIER CALITZ: Ek dink dit is mediese</p> <p>21 personnel.</p> <p>22 CHAIRPERSON: So have you any idea who</p> <p>23 this person is or may be, the one we're talking about with</p> <p>24 the khaki hat?</p> <p>25 BRIGADIER CALITZ: Glad nie, Mnr die</p>
<p style="text-align: right;">Page 17493</p> <p>1 of any others that you may want to refer to?</p> <p>2 MR MPOFU: No, Chairperson, there is no</p> <p>3 need for a warning, these are arrestees.</p> <p>4 CHAIRPERSON: They're all alive, these</p> <p>5 people, they're all your clients?</p> <p>6 MR MPOFU: Yes, they're all alive,</p> <p>7 Chairperson, if they are our clients they are alive.</p> <p>8 CHAIRPERSON: Alright, so my intention to</p> <p>9 give a warning falls away?</p> <p>10 MR MPOFU: Yes, Chairperson.</p> <p>11 MR BUDLENDER SC: Brigadier, -</p> <p>12 CHAIRPERSON: Please proceed, Mr</p> <p>13 Budlender, sorry?</p> <p>14 MR BUDLENDER SC: Thank you. Brigadier,</p> <p>15 will you look at the person in the middle of the photograph</p> <p>16 with a yellow or orange hat, do you see him?</p> <p>17 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>18 Voorsitter.</p> <p>19 CHAIRPERSON: Kaki hat actually I would</p> <p>20 think, and he has got, - well, it looks like a kind of a</p> <p>21 haversack on his back, is that right?</p> <p>22 MR BUDLENDER SC: I'm colour blind,</p> <p>23 Chair, I accept kaki. Does that look like a member of the</p> <p>24 SAPS to you?</p> <p>25 BRIGADIER CALITZ: Nee, mnr die</p>	<p style="text-align: right;">Page 17495</p> <p>1 Voorsitter.</p> <p>2 CHAIRPERSON: Could it be a paramedic or</p> <p>3 something like that, or weren't the paramedics dressed like</p> <p>4 that?</p> <p>5 BRIGADIER CALITZ: As ek moet 'n</p> <p>6 afleiding maak en ek kyk na sy rugsak en toerusting, dit is</p> <p>7 heel moontlik dat hy dan saam met die paramedici deur</p> <p>8 beweeg het, maar ek dra nie kennis nie.</p> <p>9 MR BUDLENDER SC: Just for completeness</p> <p>10 sake, that's a photograph taken at 16:56, four minutes to</p> <p>11 five that afternoon. You obviously can't comment on that?</p> <p>12 COMMISSIONER HEMRAJ: Are you able to</p> <p>13 identify what that gentleman has in his hand?</p> <p>14 BRIGADIER CALITZ: Kommissaris, nee, ek</p> <p>15 sien dis 'n voorwerp. Dit kan moontlik 'n wapen wees in</p> <p>16 die manier waarvan hy dit vashou, maar ek kan nie</p> <p>17 identifiseer wat hy vashou nie, nee.</p> <p>18 CHAIRPERSON: Can we go to the next one,</p> <p>19 which is 265, which is a bit clearer. This is again</p> <p>20 JJJ29.265. Now, there we see – those two men on the left,</p> <p>21 do they look like members of the police service to you?</p> <p>22 BRIGADIER CALITZ: Dit is negatief, mnr</p> <p>23 die Voorsitter.</p> <p>24 MR BUDLENDER SC: This is photograph</p> <p>25 number 265, can you identify who they are or what</p>

<p style="text-align: right;">Page 17496</p> <p>1 organisation they're working for?</p> <p>2 BRIGADIER CALITZ: Ek dra glad nie kennis</p> <p>3 nie, hulle is glad nie bekend aan my nie.</p> <p>4 CHAIRPERSON: You didn't see those people</p> <p>5 on the scene on the 16th when you were there?</p> <p>6 BRIGADIER CALITZ: Ek het wel getuig, Mnr</p> <p>7 die Voorsitter, dat daar was persone wat siviele drag gehad</p> <p>8 het wat ek nie kan –</p> <p>9 CHAIRPERSON: This may be one of the</p> <p>10 people you were referring to.</p> <p>11 BRIGADIER CALITZ: It might be. As ek</p> <p>12 kyk na hulle uniform of die hemde wat dieselfde is, neem ek</p> <p>13 aan hulle is dan van dieselfde firma.</p> <p>14 CHAIRPERSON: The gentlemen on the left</p> <p>15 has got a cigarette, it looks like a cigarette in the left</p> <p>16 hand, but that's not important. He appears to have a</p> <p>17 weapon of some kind in the right.</p> <p>18 BRIGADIER CALITZ: Aan sy regterhand is</p> <p>19 beslis 'n haelgeweer wat hy dan op sy tone balanseer.</p> <p>20 MR BUDLENDER SC: So that is evidence</p> <p>21 that – sorry, let me just say this. That's a photograph</p> <p>22 taken at 11 minutes past five that afternoon, also by</p> <p>23 Warrant Officer Ramanala. So that evidence of at least one</p> <p>24 person and perhaps the other one is evidence of another</p> <p>25 person, not a member of the South African police service</p>	<p style="text-align: right;">Page 17498</p> <p>1 hierdie – ek kan nie met sekerheid sê dit is wapen nie,</p> <p>2 nee.</p> <p>3 COMMISSIONER HEMRAJ: They both appear to</p> <p>4 be wearing body armour, they have – they look they have</p> <p>5 radios on them as well.</p> <p>6 BRIGADIER CALITZ: Dit is hoekom ek gesê</p> <p>7 het, Kommissaris, ek neem aan hulle is van dieselfde firma</p> <p>8 aan getrek, tipe van dieselfde uniform. Ek is nie seker</p> <p>9 wie dra daai tipe van uniform nie.</p> <p>10 MR BUDLENDER SC: The weapon that the man</p> <p>11 on the left is carrying you said is a haelgeweer, that's a</p> <p>12 shotgun. Is that correct?</p> <p>13 BRIGADIER CALITZ: As ons net kan links</p> <p>14 beweeg op die foto, laat ek sien wat –</p> <p>15 CHAIRPERSON: Could we just move left, so</p> <p>16 that we can see the man on the left again, more fully?</p> <p>17 That looks like a shotgun, doesn't it?</p> <p>18 BRIGADIER CALITZ: Dit is beslis 'n</p> <p>19 haelgeweer.</p> <p>20 CHAIRPERSON: You see his resting on his</p> <p>21 toes.</p> <p>22 BRIGADIER CALITZ: Ja, op sy voet.</p> <p>23 MR BUDLENDER SC: Thank you, Brigadier.</p> <p>24 Now, there's one further photograph in this series, which</p> <p>25 I'd like to show you. If that can be put on the screen?</p>
<p style="text-align: right;">Page 17497</p> <p>1 with a weapon on the scene at scene 2 after the shootings.</p> <p>2 Is that fair enough?</p> <p>3 BRIGADIER CALITZ: Soos ek getuig het,</p> <p>4 mnr die Voorsitter, dit is moontlik. Ek glo die persone</p> <p>5 wat van forward holding 1 af soontoe beweeg het kan getuig</p> <p>6 of die persone saam met hulle was.</p> <p>7 CHAIRPERSON: Yes. Brigadier, the second</p> <p>8 person, the one more or less in the middle of the</p> <p>9 photograph, wearing a similar uniform to the one with his</p> <p>10 shotgun, he appears to have something either in his right</p> <p>11 hand or on his belt near his right hand, are you able to,</p> <p>12 with your knowledge of these matters, to tell us what it</p> <p>13 looks like? Perhaps it could be zoomed into if that's</p> <p>14 possible. Looks like the zooming exercise isn't helping,</p> <p>15 except it shows it is an object of some kind. I would have</p> <p>16 thought, although not an authority on these matters at all,</p> <p>17 it looks to me as if it might be a sidearm of some kind,</p> <p>18 but I would vow to your superior knowledge on the matter.</p> <p>19 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>20 ja, ek kan nie sien of dit in sy hand is en of iets wat in</p> <p>21 sy broek vas is of hang of – ek kan nie duidelik sien nie,</p> <p>22 nee.</p> <p>23 CHAIRPERSON: Does it look like a</p> <p>24 sidearm, or could it be something else?</p> <p>25 BRIGADIER CALITZ: Nee, nee, nie van</p>	<p style="text-align: right;">Page 17499</p> <p>1 It's not in this series, perhaps – oh, there it is.</p> <p>2 CHAIRPERSON: Could you tell us what this</p> <p>3 is for the sake of the record? Is it an exhibit already or</p> <p>4 is it going to be one of the one's that's going to be</p> <p>5 referred to in the list that we I spoke about?</p> <p>6 MR BUDLENDER SC: Can I ask Mr Chaskalson</p> <p>7 to explain what it is, what it's source is, Chair.</p> <p>8 MR CHASKALSON SC: Chairperson, it's</p> <p>9 photograph 9472 of Warrant Officer Barnard's photographs.</p> <p>10 I'm just getting the triple J reference for them.</p> <p>11 CHAIRPERSON: It's one of the pictures of</p> <p>12 which we've had a thumbnail?</p> <p>13 MR CHASKALSON SC: It should be.</p> <p>14 JJJ27.9472.</p> <p>15 MR BUDLENDER SC: The camera is zooming</p> <p>16 in on detail of this photograph. Perhaps Mr Wesley can</p> <p>17 point to whatever – the significant element. This is a</p> <p>18 man, either the same man or another man wearing the same</p> <p>19 sort of khaki hat.</p> <p>20 CHAIRPERSON: It does look like the</p> <p>21 gentleman we saw in one of the earlier photographs, the</p> <p>22 gentleman with the khaki cap or hat or bonnet, and the</p> <p>23 object that we had difficulty in identifying looks more</p> <p>24 like shotgun now than it did before, would you agree with</p> <p>25 that?</p>

<p style="text-align: right;">Page 17500</p> <p>1 BRIGADIER CALITZ: Dis korrek, Mnr die 2 Voorsitter, as ek my opinie kan gee, ek dink dit is 3 miskien, die foto behoort baie naby aan dieselfde tyd 4 geneem het. Ek dink die ander een was net van die ander 5 angle, van die regterkant geneem, want die persoon staan 6 nog steeds voor hom, so dit lyk of hy dan, op hierdie 7 stadium lyk dit of hy beskerming gee vir die mediese 8 personeel voor hom, maar ek ken nog steeds nie die persoon 9 nie en ek kan sien daar is nog steeds iets in sy hand. 10 MR BUDLENDER SC: Yes, we also concluded 11 that it's at about the same time from a different angle – 12 BRIGADIER CALITZ: Ek glo so – 13 MR BUDLENDER SC: If you look at the 14 small screen, you get a much better picture of what he's 15 holding. And now can you see, if you look at the small 16 screen, can you see what he's holding. It looks like 17 shotgun, doesn't it? 18 BRIGADIER CALITZ: Dit is korrek, na die 19 klein screen, dis beter visueel. 20 MR BUDLENDER SC: Thank you – 21 CHAIRPERSON: There's another person just 22 to the right as we look at the picture on the small screen. 23 There are two people with a gap between them and the one on 24 the right-hand side, is that a member of the police 25 service? He has something pointing down to the ground – I</p>	<p style="text-align: right;">Page 17502</p> <p>1 CHAIRPERSON: And then further to the 2 right there is someone with what looks like - is it a 3 shotgun resting on the ground? 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 ja, as ek kan die afleiding maak van sy helmet, dit sal 'n 6 openbare order polisieringslid wees. So dit moet 'n 7 haelgeweer wees, ja. 8 CHAIRPERSON: Yes, thank you. 9 MR BUDLENDER SC: Thank you, Brigadier. 10 I've got no further questions on these photographs, 11 Commissioners, so I plan – propose to move on to another 12 topic. 13 MR MPOFU: Sorry, Chairperson, before we 14 move away from this photograph, I just want to see it not 15 in this perspective, the full photo as it was shown 16 originally. 17 COMMISSIONER HEMRAJ: If you could go to 18 the extreme left of this photograph, please. There might 19 look like there is some gentleman there in civilian clothes 20 as well who might be in that same uniform we saw in the 21 previous photograph. So if you could zoom in to the 22 extreme left-hand side. 23 MR MPOFU: Thank you. 24 CHAIRPERSON: Can you see clearly, Mr 25 Mpfu? My impression is the big screen isn't – doesn't</p>
<p style="text-align: right;">Page 17501</p> <p>1 think actually resting on the ground. That may be a member 2 of the police service. I take it – is that a member of the 3 POP? He seems to have a helmet of some kind with a visor. 4 Am I right? 5 BRIGADIER CALITZ: Mnr die Voorsitter, 6 miskien net as ek kan sien waar – net weer verduidelik waar 7 ek moet kyk? 8 CHAIRPERSON: No, I don't think it helps 9 to look at the big screen, because it's not as clear as it 10 should be, it's better to look at the smaller screen. Now, 11 if you look at the smaller screen, you seen the gentleman 12 with the khaki bonnet or cap or hat? 13 BRIGADIER CALITZ: Korrek. 14 CHAIRPERSON: And then behind his left 15 shoulder is, I take it, that's a member of the police 16 service with a helmet and visor. Is that right? 17 BRIGADIER CALITZ: Dit wil voorkom of hy 18 – 19 CHAIRPERSON: Immediately behind the left 20 shoulder of the gentleman with the khaki headgear. 21 BRIGADIER CALITZ: Dit is korrek. Iets 22 met 'n rooi streep voor. 23 CHAIRPERSON: Yes. And then there's a 24 gap and you can see some vegetation behind the gap. 25 BRIGADIER CALITZ: Dis korrek.</p>	<p style="text-align: right;">Page 17503</p> <p>1 have the same definition. 2 MR MPOFU: Yes – 3 CHAIRPERSON: So you have another screen 4 which is smaller? 5 MR MPOFU: I've got both, Chairperson. I 6 just wanted to see the uniform. 7 CHAIRPERSON: I was concerned that you 8 should have a clear view, but you have. 9 MR MPOFU: Thank you, Chairperson. 10 COMMISSIONER HEMRAJ: Well, the two 11 people that appear just behind the gentleman that's bent 12 over, are they not SAPS personnel, are they? 13 BRIGADIER CALITZ: Kommissaris, nee, die 14 persone wat agter hom staan het weereens die rooi op die 15 skouer – 16 COMMISSIONER HEMRAJ: Yes. 17 BRIGADIER CALITZ: So dis volgens my nie 18 polisieledede nie. As ek kyk na die surgical gloves, neem ek 19 aan dit sal deel wees dan van die mediese span wat die 20 persone dan behandel. 21 COMMISSIONER HEMRAJ: They're also 22 wearing body armour, aren't they? 23 BRIGADIER CALITZ: Dit is van – dit is 24 hoekom ek gesê het van dieselfde firma. So dit mag wees 25 dat hulle dan van die personeel is wat mediese bystand –</p>

<p style="text-align: right;">Page 17504</p> <p>1 MR BUDLENDER SC: Perhaps I can – sorry, 2 I don't mean to interrupt. Just to clarify, our 3 understanding is that that is the uniform worn by Lonmin 4 security. We'll get that confirmed. Perhaps it can be 5 confirmed now. 6 MR CHASKALSON SC: I need to take firm 7 instructions, Mr Commissioner, but I understand it is 8 Lonmin security who accompanied medical personnel onto the 9 koppie, who were not prepared to attend to wounded and 10 injured people, unless they felt the area was secured. If 11 I can confirm that please. 12 CHAIRPERSON: Confirm those – firm up 13 those instructions – that's the correct expression and tell 14 us after lunch. 15 MR CHASKALSON SC: Thank you, Mr 16 Chairman. 17 MR BUDLENDER SC: I now plan to move onto 18 a couple of short matters –are we taking the lunch 19 adjournment at one as usual? 20 CHAIRPERSON: At one or shortly 21 thereafter, but when we reach a suitable stage – it's now 22 ten minutes to one, I think – when we reach 6 minutes 23 according to the screen, when we reach a suitable stage, 24 you can tell me. 25 MR BUDLENDER SC: Thank you, Chair. Now,</p>	<p style="text-align: right;">Page 17506</p> <p>1 planners. So dit sal een van die personeel gewees het. 2 CHAIRPERSON: It sounds then as if you 3 don't know – I mean you're saying it would have been one of 4 the planners from Rustenburg, which means you're making an 5 assumption which may or may not be right, but you're making 6 an assumption, but you don't really know. So you obviously 7 for the question to be asked to, is that right? 8 BRIGADIER CALITZ: Nee, maar ek glo 9 Luitenant-Kolonel Merafe wat die bevelvoerder is sal meer 10 detail hê oor presies wie het die plan saamgestel. 11 MR BUDLENDER SC: You were not one of the 12 people who was part of the team which updated the plan? 13 BRIGADIER CALITZ: Nee, mnr die 14 Voorsitter, nie daardie aand nie. Die plan is wel aan ons 15 voorgelê later. 16 MR BUDLENDER SC: And we – now, just to 17 clear, were you instructed or tasked to update the 18 operational plan after the events of the 13th of August? 19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 verstaan ek die vraag – dis dieselfde vraag wat u nou het? 21 MR BUDLENDER SC: I just want to make 22 sure that I've asked the question clearly and that you 23 haven't misunderstood me. 24 BRIGADIER CALITZ: Nee, dis dieselfde 25 vraag. Ek verstaan hy vra dieselfde vraag. Nee, ek was</p>
<p style="text-align: right;">Page 17505</p> <p>1 Brigadier, after the events of the 13th of August, that's 2 the Monday when five people were killed, the operational 3 plan had to be updated as a result of what had happened. 4 Is that correct? 5 BRIGADIER CALITZ: Dit is korrek. 6 MR BUDLENDER SC: Now, do you know who 7 was instructed or tasked to update the operational plan 8 after the events of the 13th of August? 9 BRIGADIER CALITZ: My getuienis was, mnr 10 die Voorsitter, dat die provinsiale kommissaris die opdrag 11 gegee het dat Generaal Mpembe oorhoofs en ek operasioneel 12 geplaas word, maar ek dra nie kennis wie presies die plan 13 getik het nie. 14 CHAIRPERSON: Who typed the plan? Who – 15 someone had – there was a plan, which you got a copy of, 16 which was a very rudimentary kind of plan, but to be fair 17 it was drafted for a totally different situation really. 18 We know the plan was thereafter substantially amended and 19 amplified and so forth. To your knowledge, was some 20 particular member of the service given the task of doing 21 that, or some member or members given the task of doing 22 that, and if so, who was or were they? 23 BRIGADIER CALITZ: Nee, dit is korrek, 24 Mnr die Voorsitter, By die openbare orde 25 polisiëringseenheid op Rustenburg is daar, wat ons noem</p>	<p style="text-align: right;">Page 17507</p> <p>1 nie. 2 MR BUDLENDER SC: Thank you. My lack of 3 clarity, Brigadier, not yours. Now we know that at a 4 certain stage the phase 3 disperse and disarm plan had to 5 be developed on the 16th of August. You remember that? 6 BRIGADIER CALITZ: Kolonel Scott het die 7 voorligting gegee die oggend van die 16de en daarna verwys 8 net. 9 MR BUDLENDER SC: Did you participate in 10 the development of the phase 3, disperse and disarm plan? 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 soos ons getuig het, dit was nooit in detail bespreek nie, 13 dit was die plan wat Luitenant-Kolonel Scott opgestel het 14 wat op die 16de vir die oggend vir ons gesê is dat ons gaan 15 prepositioned en sou ons by daardie fase kom, sou dit aan 16 ons duidelik gestel het, nee. 17 MR BUDLENDER SC: As I understand your 18 evidence, it was said at the JOCCOM meeting early that 19 morning that the plan – you will go to phase 3 if 20 necessary, and he then subsequently developed that phase 3 21 plan. Is that your evidence? 22 BRIGADIER CALITZ: Ja, Colonel Scott said 23 to us that morning that should we go to phase 3, that will 24 be clearly communicated to us. 25 MR BUDLENDER SC: And he developed for</p>

<p style="text-align: right;">Page 17508</p> <p>1 the plan – the plan for it and you were not part of that 2 process?</p> <p>3 BRIGADIER CALITZ: Nee, Mnr die 4 Voorsitter, hy het al die fases van die begin af saam met 5 die mense wat ons vir hom beskikbaar gestel het om hom by 6 te staan die plan ontwikkel.</p> <p>7 MR BUDLENDER SC: Chair, would this be a 8 convenient time to take the adjournment?</p> <p>9 CHAIRPERSON: Yes, we will take the 10 adjournment. We'll try to come back at quarter to two or 11 soon thereafter, as soon as everybody's ready, but please 12 try to be here by then.</p> <p>13 [COMMISSION ADJOURNS COMMISSION RESUMES] 14 [13:51] CHAIRPERSON: The Commission resumes, 15 you're still under oath, Brigadier. You're still cross- 16 examining, Mr Budlender?</p> <p>17 MR BUDLENDER SC: Thank you, Chair. 18 CHAIRPERSON: I don't know how many 19 minutes of untelevised time you have to ask, oh, carry on.</p> <p>20 MR BUDLENDER SC: Brigadier, I'm now 21 going to a different topic. After the Marikana operation 22 you were asked, you were called to attend an ORS work 23 session, I think in Pretoria, is that correct? No, let me 24 explain which work session, and ORS work session in which 25 Brigadier Mkhwanazi and Mr Alley and various others were</p>	<p style="text-align: right;">Page 17510</p> <p>1 COMMISSIONER HEMRAJ: Does the brigadier 2 perhaps have them?</p> <p>3 MR BUDLENDER SC: No, I was hoping it 4 wasn't necessary to put them in, but there are four call up 5 documents but perhaps I can, - Brigadier, let me just – 6 CHAIRPERSON: Sorry, can I ask a 7 question? The evidence, we had some evidence about it 8 earlier and as far as I can recall it was suggested that 9 one of the members of this panel or work session group was, 10 I think Brigadier Hunter from Natal and can you remember 11 attending a meeting of a group who were doing, who were 12 engaged on an exercise related to Marikana, one of whom was 13 Brigadier Mkhwanazi, one of whom was Brigadier Hunter, is 14 that right?</p> <p>15 MR BUDLENDER SC: I have the names, 16 Chair, perhaps that might help the witness to remember – 17 CHAIRPERSON: Yes, I just think the 18 witness just need his memory jogged a bit and the names may 19 help him.</p> <p>20 BRIGADIER CALITZ: Mnr die Voorsitter, 21 nee, ek dra kennis, ek dink dit is die groep wat reeds, toe 22 ons by Potchefstroom was reeds met ons gekonsulteer het 23 daar, as dit dieselfde groep is. Ek onthou net nie 24 spesifiek die venue waar ons by Pretoria was of waar, maar 25 dit is reg, daar was so 'n groep wat dan met ons in kontak</p>
<p style="text-align: right;">Page 17509</p> <p>1 looking at what happened at Marikana.</p> <p>2 BRIGADIER CALITZ: I can't remember the 3 exact date, but if I can see the documents, yes.</p> <p>4 VOORSITTER: Wil u nou in Engels 5 voortgaan of, verkies u om in Engels voort te gaan van nou 6 af?</p> <p>7 BRIGADIER CALITZ: Ek is jammer, mnr die 8 Voorsitter, -</p> <p>9 VOORSITTER: Dit sal dinge vir ons 'n 10 bietjie vergemaklik, maar u mag later vind dat dit –</p> <p>11 BRIGADIER CALITZ: Ek mag dalk 'n bietjie 12 sukkel, mnr die Voorsitter, ek vra om verskoning.</p> <p>13 VOORSITTER: Nee, nee, u hoef nie 14 verskoning te vra nie.</p> <p>15 BRIGADIER CALITZ: Net op die datum, dan 16 kan ek –</p> <p>17 MR BUDLENDER SC: Brigadier, it went over 18 an extended period of a whole work session, from 29 August 19 until 9 September 2012.</p> <p>20 COMMISSIONER HEMRAJ: Is there not a call 21 up document for this meeting, Mr Budlender?</p> <p>22 MR BUDLENDER SC: Chair, there are four 23 call up documents.</p> <p>24 COMMISSIONER HEMRAJ: Yes, that's right. 25 MR BUDLENDER SC: Yes.</p>	<p style="text-align: right;">Page 17511</p> <p>1 was.</p> <p>2 MR BUDLENDER SC: Just to be clear that 3 we make sure we're talking about the same thing, the 4 members included Brigadier Mkhwanazi, Brigadier Hunter, 5 Colonel Mkhari, Colonel Twala, Colonel Siva and Mr Alley, 6 do you remember that?</p> <p>7 BRIGADIER CALITZ: Mnr die Voorsitter, ek 8 ken almal van hulle, ja.</p> <p>9 CHAIRPERSON: Never mind do you know 10 them, do you remember attending a meeting with them where 11 they were engaged on an exercise of some kind relating to 12 the events at Marikana?</p> <p>13 BRIGADIER CALITZ: Dit is korrek, mnr die 14 Voorsitter.</p> <p>15 COMMISSIONER HEMRAJ: On some of the days 16 there were other additional or fewer members or they have 17 changed, as I recall.</p> <p>18 MR BUDLENDER SC: Yes, Commissioner, 19 there was some change although less change than appears, 20 because one of the people, Mr Alley, was a member and Mr 21 Alley was a former member of the SAPS and he therefore 22 wasn't on the SAPS call up but in fact he was there right 23 through and his name appears on some of the late callers, 24 that's a partial explanation.</p> <p>25 COMMISSIONER HEMRAJ: Yes, but some of</p>



<p style="text-align: right;">Page 17512</p> <p>1 the SAPS members changed as well.</p> <p>2 MR BUDLENDER SC: Yes, yes, Major General</p> <p>3 Geldenhuys attended some but not all and so on.</p> <p>4 CHAIRPERSON: Now that we've identified</p> <p>5 the work session group perhaps you can proceed with your</p> <p>6 questions to the brigadier relating thereto.</p> <p>7 MR BUDLENDER SC: Brigadier, can you</p> <p>8 remember where the meeting you attended took place, in</p> <p>9 which town?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>11 nee, wat ek duidelik kan onthou is dat ek het met die</p> <p>12 spesifieke groep in Potchefstroom by die Elgro Hotel, was</p> <p>13 ons byeen gewees. Ek dink u het melding gemaak van</p> <p>14 Pretoria, ek kan nie onthou in Pretoria nie, maar wel by</p> <p>15 die Elgro Hotel in Potchefstroom.</p> <p>16 MR BUDLENDER SC: Yes, that was one of</p> <p>17 the venues which they used.</p> <p>18 BRIGADIER CALITZ: Dit is waar ek was.</p> <p>19 MR BUDLENDER SC: From the 16th of</p> <p>20 September to the 20th of September was Elgro, in fact there</p> <p>21 were earlier dates as well, quite a bit at Elgro.</p> <p>22 BRIGADIER CALITZ: Ek sal u woord vat</p> <p>23 daarvoor.</p> <p>24 MR BUDLENDER SC: Ja, how many sessions</p> <p>25 did you attend with them, how many meetings did you have</p>	<p style="text-align: right;">Page 17514</p> <p>1 BRIGADIER CALITZ: Beslis so, mnr die</p> <p>2 Voorsitter, dit het vir hulle ook 'n baie duidelike beeld</p> <p>3 geskets van wanneer wat, wat –</p> <p>4 CHAIRPERSON: I'm very envious when I</p> <p>5 hear that and perhaps if we speak very nicely to Mr Semenya</p> <p>6 he can arrange for it or a similar map and models to be</p> <p>7 available to us, because I'm maybe the only one but I find</p> <p>8 it not as easy as I thought it would be to follow some of</p> <p>9 these directions, so it would be very helpful if that could</p> <p>10 be done, Mr Semenya. I hope that's not an unreasonable</p> <p>11 request?</p> <p>12 MR SEMENYA SC: Noted, Chair.</p> <p>13 CHAIRPERSON: - derive something from the</p> <p>14 work session anyway, but carry on, Mr Budlender.</p> <p>15 MR BUDLENDER SC: I understand what they</p> <p>16 showed you, what did they say was the purpose of that work</p> <p>17 group?</p> <p>18 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>19 hulle doel van hoekom hulle daar was, dit is nooit regtig</p> <p>20 aan my verduidelik, die vrae is net aan my gestel, waar was</p> <p>21 ek, my posisie en wat my opdragte aan my personeel en my</p> <p>22 lede was, dit is wat ek verstaan het wat hulle take was.</p> <p>23 Ek het geglo hulle was daar om dan 'n dokument saam te stel</p> <p>24 met die nodige feite.</p> <p>25 MR BUDLENDER SC: Sorry, we lost the last</p>
<p style="text-align: right;">Page 17513</p> <p>1 with them?</p> <p>2 BRIGADIER CALITZ: Myself, net een wat ek</p> <p>3 met hulle gespandeer het.</p> <p>4 MR BUDLENDER SC: And what did they tell</p> <p>5 you was the purpose of what they were doing?</p> <p>6 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>7 van my as operasionele bevelvoerder het hulle, kan ek maar</p> <p>8 sê 'n layout kaart gehad van die gebied waar hulle dan</p> <p>9 aangedui het koppie 1, 2, 3 en hulle wou van my geweet het</p> <p>10 waar en hoe ek my voertuie geposisioneer het. Ek onthou</p> <p>11 spesifiek Alley en Brigadier Mkhwanazi, ek dink daar was 'n</p> <p>12 ander persoon van KwaZulu Natal wat ek nou nie op sy naam</p> <p>13 kan, - hulle het, kan ek dit amper noem speelgoed, klein</p> <p>14 miniatuur hout blokkies wat dan voertuie voorstel, die</p> <p>15 draad karre en ek sou dit dan vir hulle posisioneer, amper</p> <p>16 soos wat ons dan in die slides van Exhibit L gesien het,</p> <p>17 presies waar ek ge-deploy het op die Maandag, die Dinsdag,</p> <p>18 hoe die onderhandeling plaasgevind het, my posisie, die</p> <p>19 karre wat ek geposisioneer het en wat ek tot my beskikking</p> <p>20 gehad het en hoe die layout was. Dit was basies wat hulle</p> <p>21 van my verwag het.</p> <p>22 CHAIRPERSON: And did you find it helpful</p> <p>23 to use the sketch map, I take it, simplified obviously in</p> <p>24 some extent, and these model vehicles, did you find it a</p> <p>25 helpful way of communicating what happened?</p>	<p style="text-align: right;">Page 17515</p> <p>1 few words?</p> <p>2 CHAIRPERSON: U het gesê, ek het</p> <p>3 veronderstel hulle sou 'n dokument saamstel, and then the</p> <p>4 last few words he swallowed and I didn't hear them.</p> <p>5 BRIGADIER CALITZ: Ek het aangeneem hulle</p> <p>6 was daar om 'n dokument saam te stel met al die nodige</p> <p>7 feite van die verskillende rolspelers.</p> <p>8 MR BUDLENDER SC: Did they keep notes of</p> <p>9 what you told them? Let me put it differently, that's not</p> <p>10 a fair question. Did they make notes of what you told</p> <p>11 them?</p> <p>12 CHAIRPERSON: I don't think he can say</p> <p>13 that but what he can say is, they made notes while he was</p> <p>14 speaking. What they were writing down he can't tell us, if</p> <p>15 he saw it.</p> <p>16 MR BUDLENDER SC: Did they make notes</p> <p>17 while you were speaking to them?</p> <p>18 BRIGADIER CALITZ: Elkeen van hulle het</p> <p>19 papier, notas voor hulle gehad, ek het dit waargeneem, mnr</p> <p>20 die Voorsitter.</p> <p>21 MR BUDLENDER SC: But they didn't tell</p> <p>22 you what the purpose was of their exercise?</p> <p>23 BRIGADIER CALITZ: Nee, mnr die</p> <p>24 Voorsitter, nee, dit is nie duidelik aan my gestel gewees</p> <p>25 hoekom dit gedoen is nie.</p>

<p style="text-align: right;">Page 17516</p> <p>1 MR BUDLENDER SC: Were all the questions 2 which were asked to you questions about the events at 3 Marikana? 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 ja, ek dink aan my gestel was, soos ek gesê het, die uit 6 pak van dan die verskillende voorwerpe op die layout kaart, 7 soos ek dit gestel het, so sover dit my aangaan was dit op 8 die dag van die 14de. Ek weet hulle het my gevra oor die 9 13de waar op ek hulle nie spesifieke punte kon wys nie, 10 maar spesifiek die 14de tot die 16de waar ek betrokke was. 11 MR BUDLENDER SC: And would I be correct 12 in saying they were asking you to explain what happened and 13 why it happened, would that be fair? 14 BRIGADIER CALITZ: Mnr die Voorsitter, 15 ja, ek dink hulle het op 'n stadium vir my gevra op watter 16 stadium het die voertuie waarnatoe beweeg, hoekom het ek 17 die besluit gemaak, wat het ek waargeneem, basies wat in 18 die verklaring en wat ons op die slides gesien het is wat 19 ek aan hulle meegedeel het. 20 MR BUDLENDER SC: Did any of them express 21 any doubt about the correctness of anything which you did? 22 BRIGADIER CALITZ: Nee, mnr die 23 Voorsitter, nie wat ek van kan onthou nie, nee, wat my ge- 24 question het nie. 25 MR BUDLENDER SC: Did any of them express</p>	<p style="text-align: right;">Page 17518</p> <p>1 CHAIRPERSON: Are you able to identify 2 the date or more or less ascertain, or estimate the date 3 when your meeting with these people took place? 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 nee, as ek die call up wat hulle het van die Elgro Hotel, 6 ek sal saamstem dat wat ook al in die call up staan, ek het 7 ongelukkig nie die datum nou by my nie, nee. 8 CHAIRPERSON: Was it after the Roots 9 meeting? Do you remember there was a meeting at Roots and 10 you told us about where – 11 BRIGADIER CALITZ: Ek dink dit was – 12 CHAIRPERSON: - the result of which was 13 Exhibit L? 14 BRIGADIER CALITZ: In dieselfde tydperk? 15 CHAIRPERSON: In the same time, in other 16 words it is after the 19th of August? 17 BRIGADIER CALITZ: Na Marikana, ja. 18 CHAIRPERSON: After the 19th of August? 19 BRIGADIER CALITZ: Beslis. 20 CHAIRPERSON: So the statement that you 21 made which is Exhibit GGG13, which is referred to, which 22 was A15 in that docket, you already made that statement? 23 BRIGADIER CALITZ: Ek het daardie 24 verklaring klaar gemaak vir die dossier. 25 CHAIRPERSON: Did they ask you if you</p>
<p style="text-align: right;">Page 17517</p> <p>1 any doubt about the correctness of anything which other 2 members of the SAPS did? 3 BRIGADIER CALITZ: Mnr die Voorsitter, 4 weereens die ander partye is nie met my bespreek nie, of 5 die ander persone wie hulle gesien het, ek was alleen op 6 daardie stadium by hulle in 'n vertrek en geen van die 7 ander persone het regtig met my gedeel nie. 8 CHAIRPERSON: No, no, I understand that 9 but I mean did they at any point say to you, well, we're 10 happy with what you did but we've got problems with other 11 people or did they not discuss their opinions as to what 12 other people had done or told them they had done? 13 BRIGADIER CALITZ: Hulle het glad nie op 14 daardie stadium vir my dit meegedeel nie, wat ek kan onthou 15 nie. 16 MR BUDLENDER SC: And were you asked to 17 submit any written report or other documents to them? 18 BRIGADIER CALITZ: Nee, net die uitleg, 19 ek het geen verklaring of 'n dokument vir hulle gegee nie. 20 MR BUDLENDER SC: I'm not sure what you 21 mean by, die uitleg, what did you, did you present the map? 22 BRIGADIER CALITZ: Nee, die uitleg is die 23 layout, dit was deur hulle verskaf, so my werk was net om 24 die verskillende posisies aan te dui. Ek het glad nie 25 enige dokumente by ons gehad behalwe –</p>	<p style="text-align: right;">Page 17519</p> <p>1 made a statement or did you tender a copy of the statement 2 that you already made within the docket? 3 BRIGADIER CALITZ: Mnr die Voorsitter, 4 nee, ek het glad nie vir hulle 'n kopie gegee nie aangesien 5 dit vir 'n dossier was. Ek kan ook nie onthou of hulle vir 6 my gevra het op daardie stadium of ek 'n verklaring, indien 7 hulle dit sou gevra het sou ek gesê het, ja, dit was nie 'n 8 geheim gewees nie. 9 CHAIRPERSON: If they knew about the 10 statement they wouldn't have had to get a copy via you, 11 they could presumably have got it directly from the 12 investigating officer. 13 BRIGADIER CALITZ: Ek dink van die 14 speurders, mnr die Voorsitter. 15 CHAIRPERSON: Yes. 16 MR BUDLENDER SC: Chair, I think for the 17 sake of completeness it will be sensible for us to hand up 18 all of the call up notices which we've been given and we'll 19 have copies made and deal with that in due course. 20 COMMISSIONER HEMRAJ: They were handed 21 up, Mr Budlender, there are exhibits as far as I know. 22 MR BUDLENDER SC: As I understand it is 23 JJJ203 already. 24 MR BUDLENDER SC: So I understand you 25 have them already.</p>

<p style="text-align: right;">Page 17520</p> <p>1 CHAIRPERSON: Alright.</p> <p>2 MR BUDLENDER SC: And perhaps,</p> <p>3 Commissioners, the witness will not know that but for the</p> <p>4 sake of completeness, the first call up notice commences on</p> <p>5 the 29th of August and the last of the four ends on the 20th</p> <p>6 of September. That is the period covered by the call up</p> <p>7 notices, some in Pretoria and some at the Elgro, E-L-G-R-O,</p> <p>8 Hotel.</p> <p>9 CHAIRPERSON: Sorry, he says he went to</p> <p>10 the Elgro Hotel, E-L-G-R-O, is it? Can you give us the</p> <p>11 dates when the work group, whatever one calls it, sat at</p> <p>12 the Elgro Hotel or met at the Elgro, because one of those</p> <p>13 dates would be the date when he went?</p> <p>14 MR BUDLENDER SC: Yes, the first call up</p> <p>15 notice, Chair, relating to the Elgro Hotel is for 10</p> <p>16 September to 16 September 2012, and then the next one is</p> <p>17 from 16 September to 20 September, again at the Elgro</p> <p>18 Hotel.</p> <p>19 CHAIRPERSON: Thank you.</p> <p>20 MR BUDLENDER SC: Those are call up</p> <p>21 notices 3 and 4.</p> <p>22 CHAIRPERSON: Remind me, when did Roots</p> <p>23 end, the Roots conference?</p> <p>24 MR BUDLENDER SC: There were two, I think</p> <p>25 the first one ended on the 5th, if I'm not mistaken, the 5th</p>	<p style="text-align: right;">Page 17522</p> <p>1 CROSS-EXAMINATION BY MR BUDLENDER SC (CONTD.):</p> <p>2 Brigadier, just four more short matters arising out of your</p> <p>3 evidence on which I seek some clarity. Firstly Standing</p> <p>4 Order 262, we know that it deals –</p> <p>5 CHAIRPERSON: Sorry, before you carry on,</p> <p>6 can I just deal with a matter that was raised before we had</p> <p>7 the power failure? We'd been given a set of documents</p> <p>8 marked JJJ203. They are the call-up instructions, and have</p> <p>9 you seen them?</p> <p>10 BRIGADIER CALITZ: Negatief.</p> <p>11 CHAIRPERSON: Now you told us that you</p> <p>12 were in fact questioned about what happened at Marikana and</p> <p>13 there was a sketch map and there were little models</p> <p>14 indicating vehicles and so forth, and you explained what</p> <p>15 happened and the decisions you took and why you took them,</p> <p>16 and so on. That was what you told us. Now I notice that</p> <p>17 the heading of these call-up instructions relates to</p> <p>18 Operational Response Service policies. So it does appear</p> <p>19 from what you tell us, and I'm asking you, it is correct,</p> <p>20 but it does appear from what you tell us that the</p> <p>21 Operational Response Service policies as such were not</p> <p>22 discussed with you when you were there. All you were asked</p> <p>23 about is what happened at Marikana and what you did. Is</p> <p>24 that right?</p> <p>25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>
<p style="text-align: right;">Page 17521</p> <p>1 of September, but then there was a subsequent meeting as</p> <p>2 well.</p> <p>3 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>4 Roots was van die 27ste Augustus tot die 6de September.</p> <p>5 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>6 [14:19] CHAIRPERSON: The Commission resumes.</p> <p>7 Brigadier, you're still under oath.</p> <p>8 ADRIAAN MARTHINUS CALITZ: s.u.o.</p> <p>9 CHAIRPERSON: Mr Budlender.</p> <p>10 MR VAN AS: Mr Chairman, before Mr</p> <p>11 Budlender continues his cross-examination, if I can just</p> <p>12 place on record on behalf of Lonmin, the two persons in the</p> <p>13 blue uniforms with the red epaulettes on the side are</p> <p>14 indeed Lonmin security personnel who accompanied medical</p> <p>15 personnel to scene 2 after the shooting, due to safety</p> <p>16 concerns for the medical personnel.</p> <p>17 CHAIRPERSON: Thank you very much. Yes,</p> <p>18 I take it you probably haven't got instructions on this</p> <p>19 point and if it's going to be dealt with in the Lonmin</p> <p>20 evidence I suppose it's not so important at this stage, but</p> <p>21 it would be helpful if you could ascertain whether the</p> <p>22 shotguns that they had, had pellets or not.</p> <p>23 MR VAN AS: I'll take instructions and</p> <p>24 revert to the Commission in the morning, Mr Chairman.</p> <p>25 CHAIRPERSON: Thank you.</p>	<p style="text-align: right;">Page 17523</p> <p>1 dit is korrek. Dit is die vroe wat hulle aan my gestel</p> <p>2 het.</p> <p>3 CHAIRPERSON: Thank you.</p> <p>4 MR BUDLENDER SC: Brigadier, Standing</p> <p>5 Order 262 deals with pre-planned and notified events. Is</p> <p>6 that correct?</p> <p>7 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>8 Voorsitter.</p> <p>9 MR BUDLENDER SC: It also regulates the</p> <p>10 conduct of SAPS generally with regard to crowd management</p> <p>11 during gatherings and demonstrations.</p> <p>12 BRIGADIER CALITZ: Dis korrek, mnr die</p> <p>13 Voorsitter.</p> <p>14 MR BUDLENDER SC: And that includes those</p> <p>15 which are not pre-planned and notified events.</p> <p>16 BRIGADIER CALITZ: As ek na 'n spesifiek</p> <p>17 paragraaf daarna verwys, so uit my kop uit sal ek nie net</p> <p>18 kan sê nie, maar ek vertrou dit is so.</p> <p>19 MR BUDLENDER SC: Well, let me put it to</p> <p>20 you this way; the provisions dealing with use of force and</p> <p>21 reporting and recordkeeping and debriefing, they apply to</p> <p>22 all crowd management operations, not just to the pre-</p> <p>23 planned and notified events.</p> <p>24 BRIGADIER CALITZ: Crowd management</p> <p>25 operations, dit is korrek.</p>

<p style="text-align: right;">Page 17524</p> <p>1 MR BUDLENDER SC: Then to move to another 2 topic, you were asked this morning about slide L181 and I 3 just want to clarify the nature of that slide. Could we 4 have the transcript of day 128, page 13494. Page 13494, 5 please. Could you go down to the bottom of, foot of that 6 page, and you'll see – no, a bit up, up a bit, please, 7 other way – 8 CHAIRPERSON: Perhaps you could tell us 9 the line number – 10 MR BUDLENDER SC: Line 12 on page 13494. 11 Thank you. You'll see that Mr Semenya is there asking 12 questions of Colonel Scott and he asks the Colonel, 13 "Colonel, we have up on the screen there slide 181. What 14 message does that convey to you?" and Colonel Scott 15 answers, "What you see on the screen is to the best of my 16 recollection I must state as well, because as I say that 17 day was, but it's what I have shown to the people at 18 forward holding area 1, and to the best of my recollection, 19 it's the same slide as well or the same Google picture that 20 was put into a slide. I may be incorrect in that but this 21 is what I could find, and I know that this comes from that 22 time period, but I know that I did work on the forward 23 holding area 2 slide to better tweak it for the 24 presentation at the front," and then the relevant part, 25 "The inserts that you see in the white blocks and the blue</p>	<p style="text-align: right;">Page 17526</p> <p>1 what your first line would consist of, namely the POP, and 2 what the second line would consist of, the TRT, the NIU, 3 and the STF, and then the last block, white block indicates 4 where forward holding area 2 was, where the members who 5 were there were deployed and why, to protect the informal 6 settlement. So those matters were conveyed to you orally. 7 Is that so? They weren't shown on the slide you saw – or 8 no, you didn't see a slide, sorry. They weren't shown to 9 you on the computer, the laptop computer screen. 10 BRIGADIER CALITZ: Dit is korrek, mnr die 11 Voorsitter. As u onthou in die getuienis het ons gesê dit 12 was nie 'n "presentation" nie, dit was net 'n Google "map" 13 met dan die, soort van die voertuie en die lyne op. Die 14 wit gedeeltes, as u mooi kyk sal u sien dat ook "forward 15 holding area" 1 byvoorbeeld nie op hierdie is nie, maar dit 16 is nie te sê dit is nie voorgelig want "forward holding 17 area" 1, Generaal Naidoo se mense was saam met ons daar, 18 maar byvoorbeeld hulle blok is nie hier nie. So dit is 19 waar wat hy daar gesê het. 20 MR BUDLENDER SC: Thank you, Brigadier. 21 I think we both, you and I need to speak a bit more slowly. 22 We've both been asked to do that. 23 BRIGADIER CALITZ: Ons sal so maak, mnr 24 die Voorsitter. 25 MR BUDLENDER SC: I'm told that I am the</p>
<p style="text-align: right;">Page 17525</p> <p>1 arrows were what I inserted afterwards, after briefing the 2 members at the front, to more accurately depict the 3 briefing that was given to them, and what you can see there 4 is the red icon vehicles along the orange line, and those 5 are Nyalas 1 tot 6 and those Nyala are the razor wire 6 Nyalas." The only point, Brigadier, just for completeness, 7 is that Colonel Scott says that certain parts of that 8 presentation, of that slide, the inserts in the white 9 blocks and the blue arrows were added after the briefing. 10 BRIGADIER CALITZ: Mnr die Voorsitter, 11 ja, toe ons na "slide" 181 verwys het, het ons die rigting 12 van die draad en die voertuie en die fases 1, 2, en 3, was 13 aan ons verduidelik, asook voorgelig tydens die "forward 14 holding area" 1. Ek het nie gesê op daardie stadium dat 15 die, dit wat in die wit blokke was, dit teenwoordig was op 16 daardie stadium nie. So as dit Kolonel Scott se getuienis 17 is, dan is dit so, maar die fases was wel bekend. Die – 18 CHAIRPERSON: So are you saying that he 19 told you verbally what is in the white blocks? 20 BRIGADIER CALITZ: Dit is korrek, mnr die 21 Voorsitter. Dit was deel van die voorligting, die fases 22 waardeur ons gegaan het. 23 CHAIRPERSON: There are five white 24 blocks. Three of them relate to each of the phrases 1, 2, 25 and 3. Actually there are six, and then two of them say</p>	<p style="text-align: right;">Page 17527</p> <p>1 main offender, not you. Brigadier, then a third matter, 2 could we get exhibit JJJ137 up on the screen, please? I 3 don't think that's in your package, Brigadier – oh, it is – 4 no, it's not. But it's something I think you've seen 5 before. If not, and if you need time to study it, of 6 course you're welcome to say so. JJJ137, please. There we 7 are, thank you. Now that is a letter from Lieutenant- 8 Colonel Vermaak dated 28 May 2012, addressed to the 9 Provincial Commissioner North West, and the Provincial Head 10 ORS, I think. Have you seen that letter before? 11 BRIGADIER CALITZ: Dit is korrek, mnr die 12 Voorsitter. 13 MR BUDLENDER SC: I think it may be 14 helpful to the witness if we scroll down a bit so he can 15 see more than just the letterhead. 16 BRIGADIER CALITZ: Ek dra heeltemal 17 kennis van die skrywe. Die skrywe is deur my aangevra. 18 MR BUDLENDER SC: Yes. 19 BRIGADIER CALITZ: So ek dra kennis 20 daarvan. 21 CHAIRPERSON: You are the Provincial 22 Head, Operational Response Services, who was the B- 23 recipient of the letter? 24 BRIGADIER CALITZ: Dit is korrek, mnr die 25 Voorsitter.</p>

<p style="text-align: right;">Page 17528</p> <p>1 MR BUDLENDER SC: Do I understand you 2 correctly to say that you actually requested the letter? U 3 sê aangevra. 4 BRIGADIER CALITZ: Korrek, mnr die 5 Voorsitter. 6 MR BUDLENDER SC: And I'm assuming that 7 you requested the letter because there were concerns about 8 what had happened at the particular event to which the 9 letter refers, and you wanted that on record so that it 10 could be discussed and addressed. Is that right? No? 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 daar was 'n insident wat gerapporteer was aan my as die 13 Provinsiale Hoof op die 22ste Mei. Dit was bespreek met my 14 Provinsiale – ag, die Deputy Provincial Commissioner 15 daardie tyd, Generaal-Majoor Mpembe, en hy het vir my gevra 16 dat hy soek 'n verslag omdat die lede op die grond opgetree 17 het, daar wel 'n skietvoorval was, en Generaal Mpembe het 18 versoek dat hy soek 'n verslag in die verband. Ek het 19 Kolonel Vermaak gekontak en ek het vir hom gevra om vir my 20 die verslag te skryf. 21 CHAIRPERSON: When you got it, did you 22 show it to Major-General Mpembe? He asked you to get it, 23 so when you got it, did you show it to him? 24 BRIGADIER CALITZ: Kommissaris, ja, daar 25 is e-posse tot die effek. Ek het dit ontvang vanaf</p>	<p style="text-align: right;">Page 17530</p> <p>1 page, the purpose of the exercise was to stop the marchers 2 at the railway crossing. That was what the police intended 3 to do, paragraph 5, Lieutenant-Colonel Merafe said. He 4 didn't have enough members to control the group of 15 000 5 angry marchers and decide to stop the marchers at the 6 railway crossing between the industrial site and Gondola. 7 You see that? 8 BRIGADIER CALITZ: Ek sien wat in 9 paragraaf 6 staan, mnr die Voorsitter. 10 MR BUDLENDER SC: Paragraph 5. 11 BRIGADIER CALITZ: Paragraaf 5? 12 MR BUDLENDER SC: Ja. 13 BRIGADIER CALITZ: Dis korrek, mnr die 14 Voorsitter. 15 MR BUDLENDER SC: Then if we can go on 16 further down, paragraph 6, "As the group were walking to 17 the railway crossing, the sit-rep from helicopter was that 18 it is clear that there's two less police members, POP, to 19 handle this big group of marchers." You see that? 20 BRIGADIER CALITZ: Ek sien, mnr die 21 Voorsitter. 22 MR BUDLENDER SC: And there was a request 23 for further manpower, but – paragraph 7 – only the TRT and 24 K9 and Air Wing who were already there responded. You see 25 that?</p>
<p style="text-align: right;">Page 17529</p> <p>1 Generaal – Kolonel Vermaak, en ek dink so iets soos agt 2 minute later het ek dit aangestuur na Generaal Mpembe, 3 waaronder ek vir hom gesê het, 'Generaal, hiermee die 4 dokumente soos versoek, asook die CD van die foto's is 5 beskikbaar.' Daardie "emails" was aangestuur gewees. Ek 6 weet nie of dit 'n bewysstuk is nie. 7 MR BUDLENDER SC: Brigadier, as you are 8 very familiar with it, we can deal with it fairly quickly, 9 I think. This is a letter related to an illegal march from 10 the Impala Mine hostels and Zondela Village to the court in 11 Tlhabane on 22 May 2012. 12 BRIGADIER CALITZ: Dit is korrek. Ek het 13 nou nie al die feite voor my nie, maar dit is soos hy daar 14 was. 15 MR BUDLENDER SC: Could we go down to 16 paragraph 4, please, so that the witness can see it and can 17 follow that I'm correctly representing it. 18 BRIGADIER CALITZ: Dit is korrek, mnr die 19 Voorsitter. 20 MR BUDLENDER SC: And approximately 21 15 000 people took part in the march. 22 BRIGADIER CALITZ: Dit is waarna ek 23 verwys het in my vorige getuienis ook. 24 MR BUDLENDER SC: Ja, and without going 25 through all of this in detail, if we can go to the next</p>	<p style="text-align: right;">Page 17531</p> <p>1 BRIGADIER CALITZ: Ek sien dit, mnr die 2 Voorsitter. 3 MR BUDLENDER SC: And then paragraph 8, 4 "The moment that the group was stopped and before there 5 could" - should be, be – "any negotiations took place, the 6 police were attacked by the participants with stones, where 7 POP had to react immediately with teargas, but due to the 8 direction the wind was blowing, it had not any effect as 9 the 40mm launchers could not shoot the teargas behind the 10 group. The members had to approach the group on foot and 11 put their lives in danger as they were open targets to the 12 attackers." Paragraph 9, "Lieutenant-Colonel Merafe 13 requests the Air Wing to throw teargas and stun grenades 14 from the helicopter into the crowd from above. It did have 15 good results as the crowd was now directly affected by the 16 teargas and stun grenades. Lieutenant-Colonel Merafe 17 then," paragraph 11, "asked for more assistance." 18 Paragraph 11, "The situation were worsened by the minute 19 and the members were running out of rubber bullets and 20 teargas, whereby the TRT members start shooting with live 21 ammunition, R5 rounds, to protect the police and the 22 community." Paragraph 13, "The members put the R5 rifle on 23 automatic when they fire into the ground. I was afraid for 24 a recapitulation of Ficksburg and phoned the Provincial 25 Commissioner and report the situation to her as the cluster</p>

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1 commander was not answering his phone and no other senior  
 2 officer was available. The danger in firing live  
 3 ammunition into the ground is that you cannot predict where  
 4 the projectile will end up. I have to withdraw the  
 5 helicopter as we were afraid that it could be hit by the  
 6 live ammunition that were fired by the members of TRT, as  
 7 well as some of the members were firing shots into the air  
 8 as well." And he concludes, or he doesn't conclude, but he  
 9 goes on to say, paragraph 15, "Lieutenant-Colonel Merafe  
 10 handles the situation very good with minimum manpower, but  
 11 this incident could end in tragedy if the helicopter was  
 12 hit or a marcher was hit by an R5 round." You see all of  
 13 that.

14 BRIGADIER CALITZ: Was killed.

15 MR BUDLENDER SC: Was killed, I'm sorry –  
 16 "a marcher was killed by an R5 round." Now –

17 CHAIRPERSON: I'm sorry, Mr Budlender,  
 18 this is exhibit JJJ137.

19 MR BUDLENDER SC: Yes.

20 CHAIRPERSON: Now the copy we – it's from  
 21 the police hard drive at 001064 and the copy we've got,  
 22 which is the fourth, which was handed in as exhibits, the  
 23 fourth page is the police hard drive 001067, has an extra  
 24 paragraph 17, that this report is not to put any person in  
 25 a negative light. Oh, there it is; it's on the next page.

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1 I see our copies, I suppose the way it's been downloaded  
 2 the pagination differs, but it is actually the same  
 3 document.

4 MR BUDLENDER SC: It is the same  
 5 document, Chair.

6 CHAIRPERSON: I was concerned about that,  
 7 but thank you, my problem has disappeared.

8 MR BUDLENDER SC: Thank you. Now  
 9 Brigadier, what this shows is that it sometimes happens  
 10 that the use of teargas and stun grenades and rubber rounds  
 11 and the threat of TRT shooting R5 weapons doesn't always  
 12 put an end to the trouble and doesn't always subdue people.  
 13 Would that be a fair conclusion?

14 BRIGADIER CALITZ: Miskien as ek die  
 15 "subdue" gedeelte verstaan, maar mnr die Voorsitter, nee,  
 16 ek stem nie saam nie. Dit het gewoonlik in 99% van die  
 17 gevalle waar ons optree met traangas, rubber, asook "stun"  
 18 granate, het dit die gewenste uitwerking. In hierdie geval  
 19 hoekom die lede uitgehardloop het uit ander rondtes uit het  
 20 sy eie verduideliking, en dan die R5 skote in die grond het  
 21 die gewenste uitwerking gehad waar die lede dan omgedraai  
 22 het en weggehardloop het.

23 [14:39] MR BUDLENDER SC: Yes, I think I put the  
 24 question - it was really only, the point is teargas was  
 25 used, stun grenades were used, rubber was used, but it was

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1 only when the TRT started firing that the marchers were  
 2 stopped in their tracks, is that fair?

3 BRIGADIER CALITZ: Mnr die Voorsitter, as  
 4 ons kyk na die feite van wat hier gebeur het is dat die  
 5 wind rigting van die traangas moet in aanmerking geneem  
 6 word. So sou die wind rigting in die rigting van die  
 7 protestors of strikers of aankomende persone gewaai het,  
 8 sou dit definitief 'n effek gehad het. As ons aanneem op  
 9 daardie stadium was die haelgeweer rubber rondtes onttrek  
 10 en het elke een het 'n minimum rondtes tot hulle beskikking  
 11 gehad het, dit was met die vorige skrywe gewees. Ek het  
 12 reeds verduidelik in my vorige verklaring dat dit was vir  
 13 ons as openbare orde polisiëring 'n groot probleem en met  
 14 die beperkte getal rubber wat hy gehad het, dit is waaroor  
 15 TRT ingekom het in hierdie geval.

16 MR BUDLENDER SC: Alright, well I don't  
 17 want to -

18 COMMISSIONER HEMRAJ: Are you saying if  
 19 they had more rubber it might not have been necessary for  
 20 the TRT to intervene?

21 BRIGADIER CALITZ: Kommissaris, ek glo  
 22 wel so, indien die lede wel met die blou rubber, op hierdie  
 23 stadium was dit net die wit en 'n baie beperkte reduced  
 24 shots rubber tot hulle beskikking, wat feitlik, u kan dit  
 25 sien beweeg en direk afstand en effectiveness is nie so

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1 groot nie. So indien hulle blou rubber gehad het en in  
 2 getalle kon hulle definitief 'n verskil gemaak het glo ek.

3 CHAIRPERSON: Brigadier, I'm not sure  
 4 which is easier. Look at para 9, you will see that  
 5 Lieutenant-Colonel Merafe requested the air wing to throw  
 6 teargas and stun grenades from the helicopter into the  
 7 crowd from above. He says it did have good results, as the  
 8 crowd were not directly affected by the teargas and the  
 9 stun grenades. Then he goes on that in the meanwhile  
 10 Lieutenant-Colonel Merafe requested in the meantime, the  
 11 cluster JOC for assistance and he goes on about that. The  
 12 cluster didn't assist with the request and then he says 11,  
 13 para 11, the situation was worsened by the minute, I think  
 14 he means that the situation worsened by the minute. The  
 15 members were running out of rubber bullets and tear gas,  
 16 and then he says the TRT members started shooting with live  
 17 ammunition to protect the police and the community, and the  
 18 R5 rifles were put on automatic and he then deals with that  
 19 further. But it does appear as if stun grenades were used  
 20 from the helicopter, now I understand the problem in  
 21 relation to teargas was the wind on the ground, the wind  
 22 was blowing in the wrong direction, which is why the  
 23 helicopter, the air wing people were asked to throw teargas  
 24 or fire teargas from above, which they did, and that  
 25 apparently had some effect, and they were also asked to

<p style="text-align: right;">Page 17536</p> <p>1 fire stun grenades which they did and we saw the other day  2 what a stun grenade sounds like. But it still appears as  3 if the stun grenades fired from the helicopter, the teargas  4 fired from the helicopter and the rubber bullets that were  5 used, we don't know how many but some were used, none of  6 them, none of those things appear to have been successful.  7 What solved the problem was the firing of live ammunition  8 into the ground, by way of warning shots I take it, that  9 caused the crowd to turn around and move away, but the  10 point Colonel Vermaak makes, is that was a dangerous thing  11 to do, the SAPS were lucky in the sense that none of the  12 bullets injured anybody or killed anybody. So that seems  13 to be the point he is making. So what I'm saying to you is  14 it does look, and obviously I'm asking for your comment,  15 but it does look as if this is an instance where stun  16 grenades didn't deter the people, where teargas didn't seem  17 to be effective either, even when thrown from above, and  18 rubber bullets didn't either, although you say there was a  19 problem in relation to the amount of rubber bullets that  20 were available. So the point that is being made to you, is  21 that this was, if I understand Mr Budlender correctly, this  22 was an incident which should have sent out some kind of  23 warning signal to the SAPS to say that stun grenades,  24 rubber bullets or rubber balls I think, and teargas don't  25 appear to be effective to deal with a particularly angry</p>	<p style="text-align: right;">Page 17538</p> <p>1 CHAIRPERSON: So what you're telling us  2 is that, what amounts to a warning I suppose by Lieutenant-  3 Colonel Vermaak.  4 BRIGADIER CALITZ: Dis korrek.  5 CHAIRPERSON: Was conveyed to the, wasn't  6 just kept in the North-West but was actually conveyed to  7 head office as well, to the national office. So they also  8 were aware of the facts and the, which were set out by  9 Lieutenant-Colonel Vermaak and the warning which he  10 expressed, is that fair too?  11 BRIGADIER CALITZ: Dit is korrek, mnr die  12 Voorsitter. Ek en Generaal Mpembe het die verg bygewoon en  13 dit is geopper by die nasionale vergadering, omdat meeste  14 van die goeters nie in ons hande by die provinsie of op my  15 vlak nie. Maar op 'n baie hoer strategiese vlak waar die  16 besluite geneem moet word om dit terug te bring in die  17 polisie diens.  18 CHAIRPERSON: How high up in head office  19 would this information have been conveyed to you? Can you  20 tell us? I take it you weren't there but do you know?  21 BRIGADIER CALITZ: Meneer die Voorsitter,  22 slegs die nasionale kommissaris kon die opdrag van die  23 vorige nasionale kommissaris herroep, wat dan wel gebeur  24 het op die 20ste Julie.  25 CHAIRPERSON: So this went right up to</p>
<p style="text-align: right;">Page 17537</p> <p>1 determined crowd. Would that be a fair summary of it?  2 BRIGADIER CALITZ: Mnr die Voorsitter, ek  3 stem in 'n mate met u saam. Die, ek was nie op die toneel  4 gewees nie maar soos die mense aan my verduidelik het is  5 dat die stun grenade wat van bo af gegooi word, dit hang af  6 in die rigting. So indien hy in die middel van die skare  7 of die protestors dan sou afgaan, so hulle dan weg beweeg  8 in enige rigting. As Kolonel Merafe het genoeg stun  9 grenades gehad en 'n mens dit van een rigting afgegooi, sou  10 dit 'n effek gehad het in my ondervinding dat die mense sou  11 omgedraai het en weggehardloop het, saam met dan die vuur  12 van rubber, indien hulle dit genoeg gewees het. Dit was my  13 argument, of wat ek verstaan van die verklaring. Om terug  14 te kom na u vraag, dit was aanvanklik ook die rede hoekom  15 ons die verslag aangevra het. Want net die volgende dag is  16 ons na die operasionele reaksie dienste se verg by  17 nasionaal en ons wou ook onder hulle aandag bring pertinent  18 die manne krag, die geval dat ons sukkel omdat die rubber  19 onttrek is en 'n te kort aan openbare orde polisiëring, wat  20 huidiglik nog 'n probleem. Ek het getuig dat ek het 300 in  21 die hele provinsie, 385. So ons manne krag by openbare  22 orde polisiëring is 'n probleem. Die rubber wat onttrek  23 was op daardie stadium was 'n probleem, en dit is dan wat  24 ons ook in die volgende dag gedeel het op die nasionale  25 konferensie.</p>	<p style="text-align: right;">Page 17539</p> <p>1 the top, as far as we know, as far as we can see?  2 BRIGADIER CALITZ: Ek sal nie kan sê wat  3 na die verslag van hoofkantoor maar ek verneem dit is  4 bespreek want daar skrywe, het die vorige skrywe herroep  5 wat bygedra het in 'n groot mate.  6 CHAIRPERSON: Ja, so if there were a  7 whole number of generals in head office who formed part of  8 the national management forum, would this have come to  9 their attention?  10 BRIGADIER CALITZ: Ek glo die mense wat  11 by die vergadering was sou dit onder hulle aandag gebring  12 het, meneer die Voorsitter.  13 CHAIRPERSON: Thank you.  14 MR BUDLENDER SC: Then Brigadier, I would  15 like to turn to another subject briefly. We saw the film  16 this morning of the demonstration or simulation which was  17 carried out a few days ago, and you referred to the fact  18 that the siren was activated so that we could hear how loud  19 it was, does the siren have more than one volume or is it  20 always the same volume?  21 BRIGADIER CALITZ: Dit is, meneer die  22 Voorsitter, dieselfde volume. Op die PA self is 'n knoppie  23 wat mens kan draai harder en sagter, maar ons los hom  24 gewoonlik maksimum oop vir die gesprekke. So die sirene  25 het net verskillende klanke, soos u weet 'n polisie</p>

<p style="text-align: right;">Page 17540</p> <p>1 voertuig of enige nood voertuig het nie net een eentonige 2 toon nie. Maar twee verskillende tone. 3 CHAIRPERSON: Is the siren then at the 4 volume of maximum public address system? 5 BRIGADIER CALITZ: Dit is korrek so. 6 CHAIRPERSON: So if the public address 7 system was softer it would have been even more difficult to 8 hear in the Nyala than it would have been if the public 9 address system was at maximum volume. Because what we 10 heard was effectively maximum volume of the siren, is that 11 right? 12 BRIGADIER CALITZ: Die public address 13 system en die sirene werk op dieselfde kontrole boks kan ek 14 maar sê, meneer die Voorsitter, so die klank sou dieselfde 15 gewees het. 16 MR BUDLENDER SC: The only thing I want 17 to clarify, Brigadier, is when somebody is speaking into 18 the public address system, how loud it is depends on part 19 on how loudly the person speaks. If a person speaks softly 20 it won't be heard very well, if a person shouts it will be 21 heard much better and everything in between. 22 BRIGADIER CALITZ: Dit is so, meneer die 23 Voorsitter, ek kan miskien net noem toe ons aangekom het 24 die dag op die 14de was die groep op die koppie en met ons 25 kennisname en ons het gestaan 'n hele entjie weg en die</p>	<p style="text-align: right;">Page 17542</p> <p>1 CHAIRPERSON: After the rollout? 2 MR BUDLENDER SC: Just after the rollout 3 starts and you have shown us, Brigadier, that your, you 4 were in Papa1 which was the middle one of the five Nyalas 5 in the front line, of the five Nyalas behind the barbed 6 wire line. 7 BRIGADIER CALITZ: Meneer die Voorsitter, 8 ja, ek dink ons het in detail hierop ingegaan gister of 9 eergister. As ons weer met 'n rooi kan aandui agter die 10 mnr die Voorsitter, dit sal die voertuig skuins agter Nyala 11 4. 12 CHAIRPERSON: Yes, well can I ask you 13 this, can you see the power masts in the slide between 14 Nyala 4 and Nyala 5, can you see more or less the middle of 15 those, there is a power mast being indicated? 16 BRIGADIER CALITZ: Dit is korrek, meneer 17 die Voorsitter. 18 CHAIRPERSON: Right, now power masts, I'm 19 not sure if the masts itself or its shadow, moves goes 20 upwards and more or less comes into contact with an Nyala, 21 do you see that? The shadow comes into contact with the 22 Nyala. Now is that your Nyala? 23 BRIGADIER CALITZ: Dit is my Papa1 24 voertuig daardie een. 25 MR BUDLENDER SC: Then can we go to page</p>
<p style="text-align: right;">Page 17541</p> <p>1 onderhandelings span het dan gevra vir five brave men om 2 vorentoe te kom en ons het ons redes en die groep kon dit 3 duidelik verstaan en gehoor het, hulle het daarop gereageer 4 en die vyf manne het wel vorentoe gekom. So ek neem aan 5 dat dit is die voorbeeld wat ek kan gee van die klank. 6 Hulle sou dit definitief kon gehoor het want hulle het 7 gereageer het daarop want dan sou mnr Noki en die ander 8 vier nie vorentoe gestap het nie. 9 MR BUDLENDER SC: Yes, I want it to be 10 clear. Nobody has said to the evidence leaders, no witness 11 has said to the evidence leaders that he didn't hear what 12 was said. I'm just clarifying that when you say the siren 13 is very loud, that may or may not demonstrate that 14 somebody's voice was very loud. That's all I am saying. 15 BRIGADIER CALITZ: Ek verstaan u punt. 16 MR BUDLENDER SC: Right, now I want to 17 turn Brigadier, to something you have dealt with already 18 but I hope I can deal with it briefly. Just to track your 19 movements at scene 1 and scene 2, so could we go to the 20 analysis prepared by CALS for the Human Rights Commission, 21 JJJ178.1 that's the scene 1 analysis. Could that be called 22 up onto the screen, JJJ178.2? Could we go to page 5 23 please? Page 5 is a photograph taken at 15:42:35, that is 24 shortly before the rollout starts, or it's just, the 25 rollout has just started from Nyala 1 according to this.</p>	<p style="text-align: right;">Page 17543</p> <p>1 16 please? This is, sorry, could we just go up a little 2 bit to identify 16, it is a picture taken at 15:51:47, s o 3 that's about nine minutes later and what that shows is what 4 is referred to as incident 2 taking place. Do you see 5 that? 6 BRIGADIER CALITZ: Dit is korrek, meneer 7 die Voorsitter. 8 MR BUDLENDER SC: Alleged incident, and 9 your Nyala, the other Nyalas in your line have all moved 10 off? 11 BRIGADIER CALITZ: Dit is korrek, meneer 12 die Voorsitter. 13 MR BUDLENDER SC: Your Nyala P1 is still 14 at the same point, you are still there observing what is 15 happening? 16 BRIGADIER CALITZ: Dit was my getuienis 17 gister ook gewees, meneer. 18 MR BUDLENDER SC: Then can we go to page 19 24. 24, sorry 24 not 34. Now the numbering has gone out 20 I'm afraid, could you go up, could we please go up one? 21 I'm looking for - 22 CHAIRPERSON: Now 23? 23 MR BUDLENDER SC: Yes. 24 CHAIRPERSON: Page 23. 25 MR BUDLENDER SC: My numbering has gone</p>



<p style="text-align: right;">Page 17544</p> <p>1 out for some reason.</p> <p>2 CHAIRPERSON: Well never mind, as long as</p> <p>3 the one we see on the screen is the one that you are</p> <p>4 referring to, then we can follow it on the transcript</p> <p>5 later. This page 23 of Exhibit JJJ178.2.</p> <p>6 MR BUDLENDER SC: Then could we go two</p> <p>7 pages down from that please? Right, what number is that</p> <p>8 on, that is number page 25, and we see the first picture on</p> <p>9 the top, the top left hand photograph, there is Nyala 6</p> <p>10 circled and that I think is common cause is actually Papa1,</p> <p>11 which is in the background initially and then drives</p> <p>12 forward and then out of the shot. Can you see, can you</p> <p>13 recognise that? No, alright.</p> <p>14 BRIGADIER CALITZ: Nee, meneer die</p> <p>15 Voorsitter, ek dink my voertuig is aangedui as Papa1 en</p> <p>16 later in dieselfde dokument miskien kan ek help op bladsy</p> <p>17 24 is ek aangedui as Vehicle 3, so as ek van hulp kan wees.</p> <p>18 MR BUDLENDER SC: I'm told that I'm wrong</p> <p>19 in saying that it is Nyala 6. Although that was my</p> <p>20 understanding of this analysis, but nothing turns on that.</p> <p>21 Lets move on to what I think will be page 39, page 41 I beg</p> <p>22 your pardon, if we can go to page 41? And that is a plan</p> <p>23 of scene 1. Do you see that?</p> <p>24 BRIGADIER CALITZ: Ek sien, meneer die</p> <p>25 Voorsitter.</p>	<p style="text-align: right;">Page 17546</p> <p>1 BRIGADIER CALITZ: Dit is korrek, meneer</p> <p>2 die Voorsitter.</p> <p>3 MR BUDLENDER SC: Now you say that is</p> <p>4 where you were when the shooting took place at scene 1?</p> <p>5 CHAIRPERSON: I didn't understand him to</p> <p>6 say that, I understood him to say that he moved on.</p> <p>7 MR BUDLENDER SC: You are right, sorry.</p> <p>8 CHAIRPERSON: And in fact he was</p> <p>9 effectively around the corner and he couldn't see what was</p> <p>10 going on. But perhaps you can tell us, you didn't tell us</p> <p>11 before but just so that there is no argument about that.</p> <p>12 Can you tell us where, I take it you have now worked out</p> <p>13 where you were when the shooting took place, eight seconds</p> <p>14 or whatever it was. Now can you tell us where you were -</p> <p>15 MR SEMENYA SC: - and also, Chair, if he</p> <p>16 hadn't heard it or seen it, he can't tell you where he was</p> <p>17 I think.</p> <p>18 [14:59] CHAIRPERSON: No, no that's why I used</p> <p>19 the words "worked out." In other words he must have -</p> <p>20 well, if he didn't he can't answer the question, but if he</p> <p>21 did endeavour to reconstruct, as I would have expected him</p> <p>22 to have done, can he tell us more or less where he was, or</p> <p>23 must have been when the, the eight-seconds fusillade took</p> <p>24 place?</p> <p>25 BRIGADIER CALITZ: Mnr die Voorsitter -</p>
<p style="text-align: right;">Page 17545</p> <p>1 MR BUDLENDER SC: And can you find your</p> <p>2 Nyala on that plan?</p> <p>3 BRIGADIER CALITZ: Meneer die Voorsitter,</p> <p>4 dit is die een wat ons gister in detail deurgegaan het waar</p> <p>5 ek aangedui het dat Papa1 verkeerdlik aangedui is hier</p> <p>6 maar ek was wel teen die draad tussen die twee pale.</p> <p>7 MR BUDLENDER SC: Yes.</p> <p>8 BRIGADIER CALITZ: Aan die voorkant waar</p> <p>9 daar staan Casspir A, tussen Casspir A en die geel blokkie</p> <p>10 12 voor teen die draad. Dit was die posisie van my</p> <p>11 voertuig Papa1.</p> <p>12 MR BUDLENDER SC: Right, you explained</p> <p>13 that yesterday where you say Papa 1 is wrongly depicted and</p> <p>14 you were actually closer to the klein kraal and adjacent to</p> <p>15 the Y arm, to that Y, is that right?</p> <p>16 BRIGADIER CALITZ: Dit is korrek, meneer</p> <p>17 die Voorsitter, ek dink hierdie is 'n vryhand skets</p> <p>18 aangesien die deel uit die foto's uit is. So daar -</p> <p>19 CHAIRPERSON: So what they have done,</p> <p>20 they have taken an aerial photograph and they have put in</p> <p>21 blocks and marked them and I take it P1 is supposed to be</p> <p>22 your Nyala, but then you say it's in the wrong place. You</p> <p>23 say it should be situated where you, as you have told us</p> <p>24 between those two poles and the fence just more or less</p> <p>25 below Casspir A, is that right?</p>	<p style="text-align: right;">Page 17547</p> <p>1 CHAIRPERSON: If you can't, Brigadier,</p> <p>2 then please say you can't, but I'd be grateful if you can</p> <p>3 tell us, but I won't hold it against you if you can't.</p> <p>4 BRIGADIER CALITZ: Geen probleem, mnr die</p> <p>5 Voorsitter. Ek het gister getuig dat ek het van CALS se</p> <p>6 dokumente gebruik gemaak en wat ek gesien het is dat in</p> <p>7 hulle dokumente aandui dat ten tye van die vuurlyn agter</p> <p>8 begin het, het hulle aangedui dat voertuig 1 en 2 dan</p> <p>9 vorentoe beweeg. So ek het dit wel in CALS se dokument</p> <p>10 gesien. Ek probeer nou net, as ons 'n bladsy vinnig kan</p> <p>11 opspoor dan kan ek - daar is blykbaar op die "timeline" 'n</p> <p>12 bewys daarvan, maar ek het op daardie stadium nie geweet</p> <p>13 nie. Ek het dit in die dokumente raakgesien.</p> <p>14 CHAIRPERSON: Well, Mr Budlender, to be</p> <p>15 fair to the witness, it may take him a bit of time to find</p> <p>16 the answer. Can you perhaps return to this point later?</p> <p>17 MR BUDLENDER SC: I don't think I need</p> <p>18 to, Chair. I think I can move on.</p> <p>19 CHAIRPERSON: Alright, very well.</p> <p>20 MR BUDLENDER SC: Let me not delay</p> <p>21 matters, but I'll move on to the point which I wish to -</p> <p>22 CHAIRPERSON: I'm reminded that it's tea</p> <p>23 time. Those who don't want to drink tea may want a comfort</p> <p>24 break, so either way we'll take the adjournment now.</p> <p>25 MR BUDLENDER SC: Thank you, but can I</p>

<p style="text-align: right;">Page 17548</p> <p>1 just say to the Brigadier he doesn't need to chase this 2 material for my purposes. I'm not pursuing this particular 3 question. 4 CHAIRPERSON: Well, then I'll say to him 5 I would be interested [microphone off, inaudible]. 6 BRIGADIER CALITZ: Dankie, mnr die 7 Voorsitter. 8 [COMMISSION ADJOURNS COMMISSION RESUMES] 9 [15:18] CHAIRPERSON: The Commission resumes, 10 Brigadier, you're still under oath. Mr Budlender? 11 MR BUDLENDER SC: Sorry, could we have 12 JJJ178.2 on the screen at page 41? 13 BRIGADIER CALITZ: Mnr die Voorsitter, 14 kan ek dalk inkom? 15 CHAIRPERSON: Mr Witness, if you can't 16 come in then who else can? 17 BRIGADIER CALITZ: U het my 'n taak 18 ingegee net voor ons breuk, ek weet die evidence leaders 19 het dit – 20 CHAIRPERSON: I said you can do it by 21 tomorrow morning, but if you've done already then we'll 22 happy to hear the answer. 23 BRIGADIER CALITZ: Ek wil dit graag net, 24 dit is wel op bladsy 38 van CALS se dokument, ek weet nie, 25 ek dink dit is dieselfde –</p>	<p style="text-align: right;">Page 17550</p> <p>1 BRIGADIER CALITZ: Dis reg. 2 CHAIRPERSON: I don't know if that is the 3 shack, but we can see a shack. No, that can't be the 4 shack. Anyway, we'll have to decide on this photograph 5 later but you say that you reckon that, as far as you can 6 tell you were in the position where P1 is on page 38 of 7 Exhibit JJJ178.2, is that the answer? 8 BRIGADIER CALITZ: Dit is net om die 9 vraag te antwoord, waar ek was ten tye toe die 10 skietvoorval, wat ek nie waargeneem het in die begin nie. 11 Dit is die naaste bewysstuk wat ek kon kry waar my posisie 12 was. 13 CHAIRPERSON: Thank you very much. 14 BRIGADIER CALITZ: Dankie, mnr die 15 Voorsitter. 16 MR BUDLENDER SC: Brigadier, if you can 17 just stay now on page 41, we see, you see the point where 18 Casspir B is, it is parked up at the point where the two 19 fences meet, at the corner. 20 BRIGADIER CALITZ: Dit is korrek, mnr die 21 Voorsitter. 22 MR BUDLENDER SC: Now I want to draw, I 23 want to ask you to draw an imaginary line from where 24 Casspir B is in a southerly direction towards the little 25 kraal, in other words straight up on that diagram. I don't</p>
<p style="text-align: right;">Page 17549</p> <p>1 CHAIRPERSON: If we can please be shown 2 page 38 of the CALS document? 3 BRIGADIER CALITZ: As ons sien daardie 4 tyd bo-aan, 15:53, op die regterkant staan TRT gun fire 5 commences en dan net onder dit is my voertuig, "Papa1 6 started to move," so dit is waar ek gesien het dat uit 7 hulle evidence dan ek reeds begin beweeg het toe die TRT 8 gun fire commenced op daardie stadium. 9 CHAIRPERSON: With respect it is not very 10 clear, where exactly is the small kraal on this picture? 11 BRIGADIER CALITZ: I think in this 12 picture it will be maybe where the second yellow arrow 13 might be from the front, if I'm not mistaken, if I look at 14 the, this photograph is not – 15 CHAIRPERSON: Are you talking about B3, 16 you know B3, the arrow which, upwards to the left from the 17 position about 11 o'clock, if you regard that circle of B3 18 as being a clock, is that right or is that another arrow? 19 BRIGADIER CALITZ: Omtrent op daardie 20 rigting, mnr die Voorsitter, ek kan nie duidelik sien op 21 hierdie foto nie, ja, maar dit is die stadium toe ons begin 22 beweeg het, wat ek net wil sê is, u het gevra toe die TRT 23 lyn – 24 CHAIRPERSON: Because we can see the 25 shack.</p>	<p style="text-align: right;">Page 17551</p> <p>1 want to use – 2 CHAIRPERSON: Is it southerly or 3 northerly? 4 MR BUDLENDER SC: Southerly, did I say 5 northerly, sorry, southerly, yes. 6 CHAIRPERSON: It is southerly. 7 MR BUDLENDER SC: Ja, can you just 8 imagine a line there for a moment? Now what I want to put 9 to you is that if the police vehicles had locked the path 10 in that line then the strikers would not have been able to 11 come around the kraal into the line of TRT fire, is that 12 correct? 13 BRIGADIER CALITZ: Mm – 14 MR BUDLENDER SC: If the vehicles for 15 example, T11 – 16 BRIGADIER CALITZ: Waar die rooi pyl nou 17 is? 18 MR BUDLENDER SC: Dit is reg, ja. 19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 ja, soos ek getuig het, ek was die voorste voertuig wat 21 ombeweeg het en ten tye van my aankoms daar was die 22 voerpunt van die protestors reeds by ons en ek het soort 23 van onmiddellik 'n opdrag gegee om die stun granaat te 24 gooi, rubber te skiet. Op daardie stadium het hulle met 'n 25 spoed teen die kraal verby beweeg. Ek dink dit sou moeilik</p>

<p style="text-align: right;">Page 17552</p> <p>1 gewees het vir my regtig om met my voertuie so te praat en  2 te sê, kom ons probeer bumper aan bumper of kant teen kant  3 die pad te blok. Ek dink die koördinerings sou 'n tydjie  4 gevat het, die protestors sou definitief verby ons gekom  5 het.</p> <p>6 MR BUDLENDER SC: I understand you say  7 the time was such that it wasn't possible to organise, I  8 understand what you're saying.</p> <p>9 BRIGADIER CALITZ: Toe ek arriveer –  10 MR BUDLENDER SC: If it had been possible  11 to organise it, that would have been, that would have  12 prevented scene 1 taking place in fact.</p> <p>13 BRIGADIER CALITZ: Mnr die Voorsitter,  14 dit is amper soos ons op die slide, ek dink dit is daardie  15 181 waar ons gewys het waar ons sou uitbeweeg, so dit sou  16 dieselfde effek gehad het indien ons sou uitbeweeg het en  17 hulle op die koppie was, sou ook niks gebeur het nie, ja.</p> <p>18 CHAIRPERSON: Now I'm not sure, why do  19 you say nothing would have happened? If the, what would  20 the strikers have done? I mean would they have been  21 dispersed, would they have tried to take on the vehicles in  22 the mistaken belief that they were invisible? Would there  23 not still have been some kind of engagement and I suppose  24 the answer is that the fatality figure would have been  25 different? It might well be that no one would have been</p>	<p style="text-align: right;">Page 17554</p> <p>1 some kind, an engagement of some kind, which would  2 presumably have led to some injuries at least or some blood  3 being shed, one can't put it higher than that, is that  4 right?</p> <p>5 BRIGADIER CALITZ: Mnr die Voorsitter,  6 dit hang af of hulle dan deur die linie van die Nyalas kon  7 breek agtertoe. Ons sal nie weet op die stadium nie.</p> <p>8 CHAIRPERSON: You say the whole exercise  9 is futile because from a practical point of view you  10 couldn't get all the vehicles in line at the appropriate  11 place at that time, is that right?</p> <p>12 BRIGADIER CALITZ: As gevolg van die  13 aanval op ons was die tyd te min, dit is korrek, mnr die  14 Voorsitter.</p> <p>15 COMMISSIONER HEMRAJ: The line up of  16 Nyalas and vehicles, surely would not prevent people going  17 amongst the vehicles?</p> <p>18 BRIGADIER CALITZ: Glad nie, Kommissaris,  19 ons kan sien in van die foto's wat nader geneem is, dat  20 daar is fisiese, ek wonder of daar 'n paar meter tussen die  21 Nyalas en die persone was wat dan teen die bos of teen die  22 kraal deurbeweeg het. Soos ek sê hierdie is net 'n  23 skematiese voorstelling, dit lyk ver maar die voertuie was  24 baie nader gewees.</p> <p>25 MR BUDLENDER SC: Brigadier, I've really</p>
<p style="text-align: right;">Page 17553</p> <p>1 killed but I mean there would have been some kind of  2 engagement, I would imagine on the assumption of course, if  3 I'm making - question, that these people were in a  4 belligerent mood and they were wanting to attack the  5 police, I know that's what you say happened.</p> <p>6 BRIGADIER CALITZ: Ek stem saam.  7 CHAIRPERSON: They say they were just  8 walking peacefully to Nkaneng, if they're right on that,  9 well, that's another matter but on the assumption  10 provisionally made at the moment that you were right, that  11 they were minded to attack the police, would they, the  12 vehicles were put in their way, would they just have turned  13 around quietly and walked away or would they, I suppose the  14 answer is, we don't know or can you comment?</p> <p>15 BRIGADIER CALITZ: Mnr die Voorsitter,  16 nee, as die voertuie wel, dit kon regkry om hulle so in lyn  17 te sit ten tye wat ek daar aangekom het en die aanval nog  18 steeds was, hulle sou definitief nog steeds aangeval het op  19 die lyn, op daardie stadium waar die rooi pyl nou was. Die  20 resultaat sou dieselfde gewees het.</p> <p>21 CHAIRPERSON: The result would  22 necessarily have been the same, the same number of  23 fatalities, the same number of injuries and so on, but  24 there would have been something on the assumption that  25 you're making, there would simply have been hostilities of</p>	<p style="text-align: right;">Page 17555</p> <p>1 tried to understand what happened with an open mind because  2 I find the episode puzzling, but one of the things that  3 strikes me is, if we're just leaving that imaginary red  4 arrow there for the moment, once the strikers who are  5 coming around the kraal are past that point there are  6 really only two things that can happen. One is, they can  7 see the TRT line and they can retreat and go back where  8 they came from or they can keep coming straight into the  9 line of TRT fire. By this stage they were, as it were,  10 channelled into the line of TRT fire and they've only got  11 two ways, they've got to come forward or they got to go  12 back, they can't go left or right, they can't disperse in  13 other words.</p> <p>14 BRIGADIER CALITZ: Mnr die Voorsitter, ek  15 weet nie, ek het 'n bietjie wyer foto's wat ons, ek weet  16 nie of dit 'n gepaste tyd is om die foto's te wys nie, maar  17 die hele noord, noord-weste kant, meer noord was oop vir  18 die protestors gewees, so die groep wat van bo af gekom het  19 en om die kraal beweeg het hierin, hulle kon net reguit af  20 beweeg het in 'n noordelike rigting na die Nkaneng  21 nedersetting toe wat heeltemal oop was en glad nie  22 geblokkeer was nie. So die voertuie wat in die posisie  23 was, was glad nie bedoel vir enige channelling nie. Dit  24 is, as u vir die mense sê operasioneel, volg my en ek jaag  25 met my Nyala voertuig na vorentoe en toe ek reeds op die</p>

<p style="text-align: right;">Page 17556</p> <p>1 voerpunt kom toe is die protestors reeds op ons en daarom  2 is die aksie, en dit was hulle keuse gewees om nie te  3 reageer op die stuns of op die rubber nie, maar om dan deur  4 te storm. Ek dink die vraag was gister van die voorsitter  5 aan my gevra, as ek 'n protestor was wat sou ek gesien het,  6 en ek herhaal weer, daar sou Nyala voertuie, die skote word  7 op my geskiet deur die polisie, ek sien die polisie, ek is  8 nie seker op daardie stadium of 'n mens die TRT lyn agter  9 kan sien nie, 'n mens sal nou na die toneel toe moet gaan,  10 maar beslis hier is 'n aanslag teen jou, so die enigste  11 ander opsie is, draai om en gaan terug vanwaar dit veilig  12 is want daar is niemand op die agterkant asook by die  13 village –</p> <p>14 MR BUDLENDER SC: I understand that, I'm  15 truly trying to understand what the people and the strikers  16 coming forward thought what was happening and what they  17 thought their options were, and why they kept moving  18 forward, and it seems to me that they could either come  19 forward towards that line or as I say they could retreat.  20 They had the difficulty where they were being fired at with  21 rubber from Casspirs A and B and Nyala P11, because they  22 were firing teargas and bullets and rubber at them?</p> <p>23 BRIGADIER CALITZ: Dit is korrek, reeds  24 op insident 2 wat sekondes of, ek het nou nie die tydlyn  25 nie, 'n minuut of twee of sekondes, reeds op insident 2 was</p>	<p style="text-align: right;">Page 17558</p> <p>1 think you used the word channelled but possibly funnelled  2 is a better word, they were being funnelled in that space  3 between the fence on the left hand side as we look at the  4 photo and the kraal on the other. So your point is if they  5 decided, they could either move forward and the witness  6 said he thinks that's what they wanted to do because for  7 the reasons he has given, he thinks they were attacking the  8 police, intended to set their vehicles alight, to kill them  9 or chase them away, they could either have done that or  10 possibly gone forward with an innocent motive, because  11 that's something else we must keep an open mind about, or  12 alternatively they could have turned around and gone,  13 retreated backwards as it were, but your point is though  14 those were the only two directions open to them, forward  15 with one or other motive which is a matter we'll have to  16 decide, I suppose, or backwards but there was no other  17 alternative, is that your point?</p> <p>18 MR BUDLENDER SC: That's really the  19 point, Chair, and that as they're coming around they were  20 already under fire with, I understand rubber and teargas  21 and presumably, I don't know what it is actually that has  22 been fired at them, I'm trying to get into the mind of a  23 person coming around the corner.</p> <p>24 CHAIRPERSON: Ja, they're under fire  25 really from both sides, aren't they. The POP, I take it,</p>
<p style="text-align: right;">Page 17557</p> <p>1 daar alreeds op die protestors gevuur waar ek gedink het  2 dit sou 'n effek hê op hulle om, om te draai en dan weg te  3 beweeg, weg van die vuur lyn af. Hulle het wel om die  4 kraal beweeg en as u sien die rigting wat hulle om die  5 kraal na die polisie toe gaan, dit is heeltemal weg van die  6 Nkaneng nedersetting af.</p> <p>7 MR BUDLENDER SC: Ja, I understand that.  8 BRIGADIER CALITZ: So –</p> <p>9 MR BUDLENDER SC: Sorry, I don't want to  10 interrupt you?</p> <p>11 BRIGADIER CALITZ: Nee, nee, my afleiding  12 wat ek net kan maak is, wat ek voorheen gesê het, ek dink  13 nie dit was enige, ek dink die vraag was, kon hulle ons  14 verkeerd verstaan het met die draad, ek dink dit was 'n  15 beplande aksie gewees, die kleredrag, die komberse, wat  16 gesê is. Ek dink daar is getuienis gelewer of daar gaan  17 getuienis voor die kommissie gelewer word waar die mense  18 beslis beplan het en gesê het dat hulle gaan nie die koppie  19 verlaat nie, ons gaan doodgaan op die dag, ons voertuie  20 gaan gebrand word en daar was 'n besliste doel om die  21 polisie aan te val.</p> <p>22 MR BUDLENDER SC: Ja, I understand,  23 sorry, Commissioner.</p> <p>24 CHAIRPERSON: Am I stating your point  25 correctly when you're saying that the strikers were, I</p>	<p style="text-align: right;">Page 17559</p> <p>1 the main line was ahead of them because the TRT basic line  2 was behind that, so the main POP line was in front of them  3 but behind them, as we now can see, were two Casspirs and  4 some Nyalas and rubber balls and teargas and stun grenades  5 were being fired from there. So they were literally  6 between two fires, as it were. In each case until the TRT  7 took over, I take it, non lethal or less than lethal fires,  8 but they were between two none lethal fires, is that  9 correct, Brigadier?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter, -  11 CHAIRPERSON: Am I understanding you  12 correctly, if I'm not I'll be grateful if you put me right?</p> <p>13 BRIGADIER CALITZ: Ek wil net sê dat  14 reeds by insident 2 was hulle in 'n westelike rigting, is  15 daar op hulle, met ander woorde van ons kant af oos, in 'n  16 westelike rigting op hulle geskiet, sodat wes agter hulle  17 was heeltemal oop om weg te beweeg. Die keuse van hulle  18 om, om te beweeg, daarom wil ek miskien vra as ons, ek weet  19 nie of die foto wat voorheen gebruik was, dit is miskien  20 net 'n beter weergawe as hierdie hand skets, mnr die  21 Voorsitter, -</p> <p>22 CHAIRPERSON: Is that –  23 BRIGADIER CALITZ: - dit is 'n lugfoto –  24 CHAIRPERSON: Sorry, I don't want to  25 interrupt, I want to give you a chance to finish your</p>

<p style="text-align: right;">Page 17560</p> <p>1 answer but can I just put this to you? When they got to, 2 where you say incident 2 took place, that is the corner of 3 the kraal? 4 BRIGADIER CALITZ: Dit is korrek, mnr die 5 Voorsitter. 6 CHAIRPERSON: They couldn't move forward 7 in the direction of Nkaneng at that point because the wire, 8 Nyala 4 had got, they got the wire right up to the kraal? 9 BRIGADIER CALITZ: Nee, mnr die 10 Voorsitter, die – 11 CHAIRPERSON: Is that wrong? 12 BRIGADIER CALITZ: Die hele, ek wil 13 miskien twee goed versoek, as ek mag. 14 CHAIRPERSON: It is a very important part 15 of the case, so take your time and take it slowly so that I 16 can understand you and my colleagues may well be there 17 already but just in case they're not, bear them in mind 18 too. 19 MR BUDLENDER SC: Chair, can I just ask 20 while the witness collects himself, works out the full 21 answer, one of the difficulties of course is that Brigadier 22 Calitz didn't see all of these things himself because of 23 where he was located, so perhaps he can be asked to 24 restrict himself to things which he actually saw as opposed 25 to what he heard about afterwards, because otherwise it</p>	<p style="text-align: right;">Page 17562</p> <p>1 CHAIRPERSON: But to answer the question 2 directly I'm afraid he is going to have to conjecture to 3 some extent. We may be criticised later on for asking him 4 conjectural questions but if that criticism is directed 5 against us we'll have to bear it with the fortitude that we 6 can muster. Yes? 7 BRIGADIER CALITZ: Mnr die Voorsitter, as 8 ek mag, ek dink die lugfoto wat ons gister gesien het waar 9 u my gevra het, my voertuig is onder en toe het ons 'n 10 woord gesien wat in die wit is, so ek weet nie, die 11 evidence leaders – 12 CHAIRPERSON: White ellipse, this is the 13 picture with the white ellipse, is that right? 14 BRIGADIER CALITZ: Dit is die vorige 15 foto. 16 CHAIRPERSON: Yes, so perhaps, if someone 17 can remember what the exhibit number of that is, we can 18 then look at them? 19 BRIGADIER CALITZ: It is part of the 20 CALS, the first picture. Maybe, I think it is the same 21 bundle, it is the first photograph on this bundle, mnr die 22 Voorsitter. 23 CHAIRPERSON: What is the exhibit number 24 so that we can see it on the screen? 25 MR BUDLENDER SC: 178.2, yes, 178.2, page</p>
<p style="text-align: right;">Page 17561</p> <p>1 will just confuse matters- 2 CHAIRPERSON: The trouble is of course, 3 you know we're asking him a hypothetical question, I mean 4 if you want to restrict him in that way you won't get an 5 answer at all, because he has been asked what the strikers 6 could see, he couldn't see them, it was one of Mr Semenya's 7 objections at one point, so if we restrict him to what he 8 saw himself he can't answer the question, we shouldn't have 9 asked the question. 10 MR BUDLENDER SC: Well, perhaps – 11 CHAIRPERSON: But we're asking him what 12 would the strikers have seen, what could they have done and 13 he is doing his best to answer in the light of his 14 knowledge both on the field and thereafter, as it were. So 15 I don't think with respect that's one of your better 16 points, Mr Budlender. 17 MR BUDLENDER SC: I'm not trying to make 18 a point, Chair, I'm trying to make sure that we get the 19 evidence clear as to what is conjecture and conclusion and 20 what is observation, and perhaps the witness could be asked 21 to distinguish in his answer to what he actually saw and 22 what he – 23 CHAIRPERSON: Ja, – 24 MR BUDLENDER SC: - conjectures what must 25 have happened.</p>	<p style="text-align: right;">Page 17563</p> <p>1 43. 2 CHAIRPERSON: Two pages on from where we 3 are at the moment. That's the one with the white ellipse? 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 dit is die foto wat deur Kolonel Vermaak geneem is met sy 6 Blackberry van bo af wat gebruik is om hierdie skets saam 7 te stel. Dit is die fisiese fotograaf, die fisiese foto 8 self. 9 VOORSITTER: Die fisiese fotograaf was 10 Kolonel Vermaak gewees. 11 BRIGADIER CALITZ: Die fisiese fotograaf 12 wat die foto geneem het, dit is korrek, mnr die Voorsitter. 13 Mnr die Voorsitter, en dan is daar nog drie foto's, as ek 14 miskien iemand kan vra net om, wat dan wyer skote is, wat 15 ek graag vir u wil verduidelik, die spasie wat hulle gehad 16 het, waarnatoe om te gaan, wat baie duidelik waarneembaar 17 is. 18 [15:37] MR BUDLENDER SC: I think the witness 19 wants to see EEE14.1. I think that's what he's asking for. 20 COMMISSIONER HEMRAJ: We've been handed 21 three photographs. They are marked. Two of them appear to 22 be taken by Lieutenant-Colonel Botha, and the one says 23 Lieutenant-Colonel Vermaak. 24 CHAIRPERSON: But you see the ones that 25 are marked here are police markings - the one I have in my</p>

<p style="text-align: right;">Page 17564</p> <p>1 hand is DSC5108.jpg, we'll give them to Ms Pillay. Ms  2 Pillay, take all three of them and then you can find us –  3 they are exhibits as far as I –  4 MR BUDLENDER SC: [Microphone off,  5 inaudible]  6 CHAIRPERSON: And we can then – there we  7 are. It's EEE14.1 and maybe 14.2 and 14.3. Are those the  8 pictures you want, Brigadier?  9 BRIGADIER CALITZ: Nee, dis –  10 CHAIRPERSON: That picture we're looking  11 at the moment, which is EEE14.1, is that one of the  12 photographs to which you're referring us?  13 BRIGADIER CALITZ: Dit is korrek, mnr die  14 Voorsitter.  15 CHAIRPERSON: Alright.  16 BRIGADIER CALITZ: As ons dan kan begin  17 op hierdie fotograaf – ag, hierdie foto, mnr die  18 Voorsitter, is dat om die klein kraal, as ek weereens met  19 die rooi kolletjie kan verduidelik, soos die "protesters"  20 na insident 2 beweeg het, het hulle uit eie wil, is reeds  21 op hulle gevuur met "stun" granate en rubber op hierdie  22 kol. So die gewenste uitwerking was hier in 'n westelike  23 rigting wat heeltemal oop was.  24 CHAIRPERSON: "Hierdie kol," as you call  25 it, this spot, would that be –</p>	<p style="text-align: right;">Page 17566</p> <p>1 Voorsitter. Dan van daar af waar insident 2 gebeur het,  2 het hulle ombeweeg, wat ons nou genoem het van 'n  3 "horseshoe," maar dit is ombeweeg en hier deurbeweeg. Nou  4 hier, as ek sê "hier deurbeweeg" bedoel ek aan 'n  5 noordelike kant om die klein kraaltjie en dan in die  6 rigting van die polisie. Ons kan sien die blou lyn is die  7 TRT lyn wat daar staan. Wat ek –  8 CHAIRPERSON: And we can also see the  9 shack. Is that right?  10 BRIGADIER CALITZ: Die "shack" is  11 duidelik sigbaar in die prentjie. Mnr die Voorsitter, so  12 soos die groep om beweeg het, ek dink teen die tyd wat,  13 hier is die lyndraad – as ek sê "hier" is dit die lyndraad  14 aan die noordekant van die klein kraaltjie, en my voertuig  15 het geëindig waar ons dit gister duidelik gemaak het, by  16 die lamp – ag, by die paal teen die lyndraad. Die groep  17 wat om beweeg het, het terug beweeg en fisies in hierdie  18 rigting – as ek sê "hierdie rigting" is dit 'n noordelike  19 rigting, gelyk met die, kan ek sê die muur, of die kraal,  20 parallel -  21 CHAIRPERSON: Parallel.  22 BRIGADIER CALITZ: Parallel beweeg. So  23 reeds op hierdie punt het ons dan ook op hulle gevuur. U  24 vraag is –  25 CHAIRPERSON: "Hierdie punt" being the</p>
<p style="text-align: right;">Page 17565</p> <p>1 BRIGADIER CALITZ: Dit is van Nyala 4  2 teen die kraal –  3 CHAIRPERSON: - the small kraal and right  4 next to where Nyala 4 was?  5 BRIGADIER CALITZ: Dit was waar Nyala 4  6 opgeëindig het.  7 CHAIRPERSON: So where it was eventually,  8 ja.  9 BRIGADIER CALITZ: Waar insident 2  10 plaasgevind het.  11 CHAIRPERSON: It was on its way there, on  12 the basis that incident 2 took place as you described it,  13 it was hastening there in Nyala 4, it wasn't there yet, and  14 that's where what you describe as incident 2 took place and  15 you say rubber was fired and teargas. And stun grenade as  16 well?  17 BRIGADIER CALITZ: Dit is korrek, soos  18 aan my gerapporteer.  19 CHAIRPERSON: And that was used to drive  20 away the strikers.  21 BRIGADIER CALITZ: Dit is korrek, mnr die  22 Voorsitter.  23 CHAIRPERSON: And then shortly thereafter  24 Nyala 4 got there and closed the gap with the wire.  25 BRIGADIER CALITZ: Dis korrek, mnr die</p>	<p style="text-align: right;">Page 17567</p> <p>1 corner where the two –  2 BRIGADIER CALITZ: Insident 3.  3 CHAIRPERSON: - the two walls of the,  4 where the two sides of that fence came together. That's  5 "hierdie punt," is it?  6 BRIGADIER CALITZ: Dit is korrek. Ek  7 dink op die foto van Kolonel Vermaak sal ons nou-nou sien  8 dat hulle het so 45 grade "angle" wat hulle in plaas van  9 nie heeltemal parallel, maar inbeweeg na die klein kraal.  10 Die voertuie was reeds hier. Pappa11 het reeds uitbeweeg  11 na die voorkant van die klein kraal en reeds op hierdie  12 punt is hulle dan uiteengedryf met rubber, maar u vraag is  13 dat hulle was "gefunnel" of gelei, dat dit was die enigste  14 pad beskikbaar na die Nkaneng toe. Nkaneng is glad nie in  15 daardie rigting nie. Indien hulle wel by insident 2, of  16 dan hier by insident 3 gereageer het op die uiteendrywing,  17 hier is die hele Nkaneng nedersetting. As ons miskien die  18 foto net kan verder uit zoem kan u sien van die koppie af,  19 die keuse om soontoe te gaan – as ek sê "soontoe,"  20 bedoelende na insident 2, en die keuse om om die kraal te  21 beweeg na insident 3, terwyl die hele nedersetting hier lê.  22 Ons kan reeds sien van die mense wat wegbeweeg het, hier is  23 voetpaaië; daar is 'n pad wat deur 'n voertuig gebruik kan  24 word. So hier is meer as genoeg ingange in die  25 nedersetting, en daar was 'n duidelike – dis hoekom ek sê</p>

<p style="text-align: right;">Page 17568</p> <p>1 dit is 'n duidelike aanval op die polisie om om te beweeg 2 en dan in daardie rigting, wat heeltemal weg is van Nkaneng 3 af - om te sê die verskoning van ons wil net die voetpad 4 gebruik, die hele nedersetting was beskikbaar. Dit is die 5 eerste foto wat ek net wou gewys het. Daar is twee ander 6 foto's.</p> <p>7 MR BUDLENDER SC: I understand the next 8 one is 114.2 - EEE14.2. Is that the one you're looking 9 for, Brigadier?</p> <p>10 BRIGADIER CALITZ: Dit is korrek, mnr die 11 Voorsitter. Ek wil net daar vir u gewys het by koppie 2, 12 dit is reeds waar ons voertuie dan in 'n lyn, dit is waar 13 ons hergroepeer het langs koppie 2. Dit is net 'n ander 14 hoek, 'n aanduiding van indien die groep dan van koppie 1 15 en koppie 2 beweeg het, die meerderheid, die 2 000 plus 16 mense het dan beweeg in 'n noordwestelike rigting na die 17 Nkaneng nedersetting. As ons sien, daar staan ons reeds 18 opgelyn. Daar is 'n groep – as ek sê “daar” is dit aan die 19 suidwestelike kant van koppie 2 waar hulle probeer weer op 20 vorm, maar die groter groep het reeds begin wegbeweeg, 21 asook hier in die veld na die westelike rigting. So indien 22 hulle wel gereageer het op die draad en by die klein kraal 23 kon hulle weereens in die rigting beweeg het na die groter 24 meerderheid toe. Wat duidelik is hier is die ingange na 25 die nedersetting, en ek dink dan die laaste foto is miskien</p>	<p style="text-align: right;">Page 17570</p> <p>1 dan wat ons praat van insident 3, u sal nou sien op Kolonel 2 Vermaak se lugfoto, het hulle op 'n 45-grade hoek inbeweeg 3 na koppie 3 toe waar ons voertuie reeds uitbeweeg het, waar 4 Pappa11, myself, die ander Casspirs, die voertuie reeds 5 hier gestaan het. Op daardie stadium het die voerpunt net 6 aanhou storm en verby ons gekom. Indien hulle gereageer 7 het op hierdie uiteendrywing was daar niks wat hulle gekeer 8 het om om te draai en na Nkaneng toe te gaan nie. So 9 geensins het die polisie hulle geblok of “ge-channel” of 10 gelei in 'n rigting direk na TRT toe, en dit is maar net 11 die bewys van die foto's wat ek wou inhandig. Ek dink dan 12 as ons dan die laaste een van Kolonel Vermaak aandui 13 waaruit ek aanneem die sketsplan vanaf opgestel is, dit sal 14 die eerste –</p> <p>15 CHAIRPERSON: There's something written 16 on that photograph in the right-hand corner to indicate 17 what it is and that will help the evidence leaders to 18 identify it for us.</p> <p>19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 dit is die dokument wat CALS gebruik het om hulle sketsplan 21 mee op te stel, so ek probeer vinnig kyk – ons het dit 22 gister gehad op die skerm. Dit was gister vertoon gewees.</p> <p>23 MR BUDLENDER SC: Could we show page 35 24 of the CALS document, of 178.2?</p> <p>25 BRIGADIER CALITZ: Ek dink die foto is</p>
<p style="text-align: right;">Page 17569</p> <p>1 maar net 'n samevatting van wat ek nou sê.</p> <p>2 MR BUDLENDER SC: The next one is 3 JJJ10.4519.</p> <p>4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 weereens dit is 'n foto wat geneem is, u kan sien die groot 6 groep sit reeds op koppie 1, die ander groep op koppie 2, 7 wat ons na verwys die militante groep aan die voorkant, en 8 u sal opmerk Nyala 6 is die Nyala wat voor 11:30 nog in 9 daardie posisie was. Soos ek reeds getuig het, ons het hom 10 dan inbeweeg, onthou u die klok – die, na die regterkant 11 toe. Die groep, die groter groep het gekies om in die 12 rigting – “die rigting” is 'n noordelike rigting – 13 noordelike rigting te beweeg na die hele Nkaneng “village” 14 wat dan hier lê. Hy gaan verder; hy gaan egter verby, uit 15 die foto uit, lê die nedersetting. Die militante groep het 16 verkies om reguit te storm na die polisielyn toe. Daar is 17 hulle uiteengedryf met rubber. Hulle het verkies om om te 18 beweeg –</p> <p>19 CHAIRPERSON: [Microphone off, inaudible]</p> <p>20 BRIGADIER CALITZ: Daar weereens by 21 insident 2.</p> <p>22 CHAIRPERSON: [Microphone off, inaudible]</p> <p>23 BRIGADIER CALITZ: Ons verwys na insident 24 2 waar Nyala 4 teen die kraal was, mnr die Voorsitter, en 25 van insident 2 af het hulle dan verkies om om te beweeg en</p>	<p style="text-align: right;">Page 17571</p> <p>1 ook in – verskoon my, mnr die Voorsitter, die – ja, ek dink 2 dit is daardie een.</p> <p>3 CHAIRPERSON: That's the picture you 4 want? There's one now being shown on the screen which is – 5 is that right, not right?</p> <p>6 BRIGADIER CALITZ: Dit is reg. Dis nie 7 dieselfde een nie, maar hy is gebruik –</p> <p>8 CHAIRPERSON: That's JJJ178.2, it's page 9 35. Is that the one you're referring to?</p> <p>10 BRIGADIER CALITZ: Hulle het die foto 11 gebruik in hulle “presentation,” maar dit is dieselfde 12 foto, mnr die Voorsitter. As ons daar kan sien waar 13 insident 2, dit is waar Nyala 4 aangedui is, waar Nyala 4 14 reeds teen die kraal staan, dit is waar die eerste keer 15 reeds op hulle gevuur is met rubber. Toe het hulle verkies 16 – soos ek in die groter foto gewys het – nie om uiteen te 17 dryf nie, maar om om die kraal te beweeg en op daardie 18 stadium het ek die opdrag gegee vir die karre om om te kom. 19 U kan sien waar Pappa11 staan. As ons die persone kyk, dit 20 is meters. Die Casspir voertuie en ek was net aan 'n 21 noordelike kant tussen miskien Casspir B en Casspir A, 22 tussen die twee rooi pyle was my voertuig geposisioneer. 23 Soos hulle hier aankom glo ek nie dit was moontlik vir die 24 voorste linie om die TRT lyn te sien nie. As ek nou lynreg 25 moet trek, 'n loodlyn reguit met die groep sou dit in</p>

<p style="text-align: right;">Page 17572</p> <p>1 daardie rigting wees. So wat hulle sou waarnaem op daardie  2 stadium is dat hier is een, twee, drie, vier, vyf, ses,  3 sewe Nyala voertuie met Openbare Orde Polisiëringslede  4 tussenin wat dan op hulle vuur. So hulle het 'n keuse  5 gehad om in die vuurlyn in te hardloop of om om te draai en  6 dan weg te beweeg in 'n westelike rigting, wat heeltemal  7 oop was en waar niemand hulle sou geblokkeer het nie. Ek  8 weet nie of dit net bietjie meer duidelikheid gee op die  9 beweging van die –</p> <p>10 CHAIRPERSON: Thank you.  11 MR BUDLENDER SC: Thank you, Brigadier.  12 That's very helpful. Just one thing, not a point of  13 criticism, just to get it clear; you didn't yourself see  14 incident 2 take place. Incident 2, when you talk about  15 incident 2 you're telling the Commission what you've been  16 told about what happened at incident 2.</p> <p>17 BRIGADIER CALITZ: Mnr die Voorsitter, ek  18 het wel insident 2 gesien. Ek het nie waargeneem wie  19 gevuur het, wie "stun" granate en wie gevuur het op die  20 skare, op die "protesters" nie. Dit is aan my meegedeel,  21 maar van waar my voertuig staties was, Pappa1, het ek  22 insident 1 waargeneem wat reg voor my plaasgevind het. Ek  23 het die mense gesien en ek het ook verduidelik hoe hulle  24 verder beweeg het na insident 2 toe, en nadat hulle  25 wegbeweeg van insident 2 om die kraal het ek vir die Pappa</p>	<p style="text-align: right;">Page 17574</p> <p>1 Voorsitter, is "basic line." Ek het gister getuig dit is  2 die opdrag wat dan gegee is deur die bevelvoerders om 'n  3 TRT, om hulle te aktiveer, dis soos 'n POP se "dispersion  4 line," die TRTs praat van 'n "basic line" en dit is wat  5 daar geskreeu is, "Keep the basic line, basic line." Dit  6 is hoe hulle op beweeg het.</p> <p>7 MR BUDLENDER SC: Now do you know who  8 gave that instruction to form the basic line?  9 BRIGADIER CALITZ: Mnr die Voorsitter,  10 nee, ek kan die stem nie herken nie maar ek glo dit sal  11 Kaptein Loest, Kaptein Ntlati, Kaptein Thupe wees. Ek dink  12 daar was 'n Luitenant-Kolonel Claassens van TRT. Gewoonlik  13 is dit die bevelstrukture, of dan 'n persoon op 'n seksie  14 op die voertuie self wat dan seksieleiers is en nie net die  15 rang van kaptein nie, maar ook adjudant-offisiere, maar  16 nee, ek kan nie sê nie –</p> <p>17 CHAIRPERSON: It is a number of voices,  18 is it? Someone says "Basic line" and then "Keep the basic  19 line," and then it's that message as it was passed down the  20 line for the next person, the next commander to shout at  21 people near him, and then it goes down the line further.  22 Is that how it works?  23 BRIGADIER CALITZ: Beslis so, mnr die  24 Voorsitter. Die TRT werk op 'n "buddy system," so hulle  25 sal nooit voor, met mekaar – daar sal altyd 'n linie wees</p>
<p style="text-align: right;">Page 17573</p> <p>1 Nyalas opdrag gegee, toe het my Pappa Nyalas alreeds  2 vertrek na waar insident 3 plaasgevind het en ek het toe  3 verby hulle gery om aan die voorpunt van hulle te kom. So  4 ja-nee, ek het insident 2 waargeneem.</p> <p>5 MR BUDLENDER SC: Just one further issue  6 which I'd like to raise with you on scene 1, and perhaps we  7 can go back to the plan of scene 1 which we were looking at  8 earlier. It's page 41, I think, page 41 of 178.2,  9 JJJ178.2. There we are. Now the other – we see there the  10 TRT basic line formed up. You see that?  11 BRIGADIER CALITZ: In die skematiese  12 voorstelling, dit is korrek.  13 MR BUDLENDER SC: And we've also seen  14 video material showing the TRT line being formed and  15 somebody in the centre is giving signals with his arms for  16 people to form a line. Have you seen that?  17 BRIGADIER CALITZ: Ek het dit na die tyd  18 gesien op die beeldmateriaal van die TV.  19 MR BUDLENDER SC: We see on the TV  20 material after the event in your case, and in my case –  21 BRIGADIER CALITZ: Dit is korrek, ja.  22 MR BUDLENDER SC: - somebody encouraging  23 the members of the TRT to form the line which was formed at  24 that point.  25 BRIGADIER CALITZ: Die woorde, mnr die</p>	<p style="text-align: right;">Page 17575</p> <p>1 waarin hulle beweeg.</p> <p>2 MR BUDLENDER SC: Did you see the basic  3 line being formed?  4 BRIGADIER CALITZ: Nee, glad nie.  5 MR BUDLENDER SC: So you and I both have  6 to try to work out what happened from what we see. Let me  7 tell you –  8 BRIGADIER CALITZ: Ek glo daar sal mense  9 wees wat –  10 MR BUDLENDER SC: Let me tell you what I  11 see –  12 BRIGADIER CALITZ: - kom getuig –  13 MR BUDLENDER SC: - and then you tell me  14 whether you see something different. What I see is a line,  15 a TRT basic line being formed and it's formed at a place  16 which is directly in front of the strikers if they come  17 around the koppie. Would that be a fair summary?  18 CHAIRPERSON: The kraal, you mean?  19 MR BUDLENDER SC: Come around the kraal.  20 It's a line –  21 CHAIRPERSON: Around the small kraal.  22 MR BUDLENDER SC: It's a line which will  23 confront them if they come around the kraal. Is that a  24 fair summary?  25 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p>



<p style="text-align: right;">Page 17576</p> <p>1 probeer dink aan wat hulle voorligting was. Hulle  2 voorligting was dat hulle sou 'n linie vorm agter die  3 Openbare Orde Polisiëring om die beskerming te verdien,  4 asook dan om arrestasies uit te voer.  5 MR BUDLENDER SC: I'll tell you what I  6 see, Brigadier, and I wasn't there but I'll tell you what I  7 see and you can tell me whether you think that's fair, but  8 what I see is a line being formed in anticipation of the  9 strikers coming around the kraal. Would that be a fair  10 comment?  11 BRIGADIER CALITZ: Mnr die Voorsitter,  12 weereens ek sal nie kon sê op daardie stadium of die  13 bevelvoerders kon sien dat die lyn om kom nie. Ek het wel  14 vir die Pappa Nyalas gesê om om die kraal te beweeg.  15 MR BUDLENDER SC: Well, given where it  16 was formed and when it was formed, it seems to me that what  17 we see is the TRT line, the TRT anticipating that the  18 strikers are going to come around the kraal, and forming a  19 line in anticipation, and when the strikers arrive there  20 they're ready and waiting for them. Is that a fair  21 analysis?  22 CHAIRPERSON: I thought the witness said  23 something different, not necessarily fundamentally  24 different, but I understood him to say – well, if I  25 misunderstood him he'll say so – that their instruction was</p>	<p style="text-align: right;">Page 17578</p> <p>1 waar staan WC Noordwes, dit is die waterkanonne, die res  2 van die voertuie sal almal Openbare Orde Polisiëringselede  3 wees.  4 MR BUDLENDER SC: Then we understand each  5 other or perhaps not for you to understand me, it is for me  6 to understand you. There was no POP line in front of where  7 the TRT basic line was formed, parallel with that for  8 example, rather the TRT line, let me start, - rather the  9 POP line was a line of vehicles including police officers  10 which was more or less at the right angle to the TRT basic  11 line which was formed. Is that a fair summary?  12 BRIGADIER CALITZ: Mnr die Voorsitter, ek  13 wil weereens verwys na die lugfoto van Kolonel Vermaak, ek  14 dink dit is baie meer realisties as die skets wat na die  15 tyd opgestel is.  16 CHAIRPERSON: You can refer to that  17 photograph but the question is, you can illustrate your  18 answer by the photograph but the question is, the POP line,  19 now the POP line as I understand it consisted of Nyalas and  20 POP members who got out of the Nyalas, is that correct?  21 BRIGADIER CALITZ: Dit is korrek, mnr die  22 Voorsitter.  23 CHAIRPERSON: And never mind the Nyalas  24 at the moment, the actual members, the POP members, did  25 they form a line?</p>
<p style="text-align: right;">Page 17577</p> <p>1 really to form a line behind the POP people. So the  2 sequence would then be the POP people formed a line, and it  3 may qualify for the description that you gave, and then  4 because they'd formed a line there, the TRT people formed a  5 line behind them because that was the instruction. Their  6 instruction was to protect the POP people if they needed  7 protection. Have I got it right, Brigadier, or am I on the  8 wrong track?  9 BRIGADIER CALITZ: Korrek so ver, mnr die  10 Voorsitter.  11 CHAIRPERSON: So Mr Budlender, perhaps if  12 you could reformulate your question, substituting the POP  13 line for the TRT line, then we might be in business.  14 BRIGADIER CALITZ: Mnr die Voorsitter,  15 maar miskien kan ek –  16 CHAIRPERSON: I'm explaining the way I  17 understand it. I'm doing that because it's important that  18 if I misunderstand it, that I be put right.  19 BRIGADIER CALITZ: U is korrek, mnr die  20 Voorsitter.  21 MR BUDLENDER SC: Can you describe for us  22 on that photograph where the POP line was?  23 [15:57] BRIGADIER CALITZ: Die POP line, dit is  24 nie 'n spesifieke lyn nie, dit is al die Papa voertuie, die  25 Nyalas, dit is die blou, die geel, alles wat u sien behalwe</p>	<p style="text-align: right;">Page 17579</p> <p>1 BRIGADIER CALITZ: Hulle was buitekant  2 die voertuie en weerskante van die voertuie in 'n linie,  3 dan reguit vorentoe.  4 CHAIRPERSON: Yes, in a line, now what Mr  5 Budlender wants to know from you and you have the fullest  6 right to show us by means of Colonel Vermaak's photograph  7 but what he wants to know from you is, was I correct in  8 thinking that the POP line was parallel with the TRT basic  9 line or was the POP line really at right angles to the TRT  10 basic line so that instead of being like that, I'm  11 indicating by holding my two hands so that they are  12 parallel with each other, was it like that or was it like  13 that, I'm giving you signs so that the TV referee, to give  14 a ruling on whether there is a try or not, in other words  15 the one hand is vertical and the other is on top of it like  16 a "T". Which of the two was it, is that your point, Mr  17 Budlender?  18 MR BUDLENDER SC: Yes, that is, Chair,  19 thank you.  20 BRIGADIER CALITZ: Mnr die Voorsitter,  21 dit is duidelik sigbaar, u eerste twee hande wat parallel  22 is, dit is duidelik sigbaar op Kolonel Vermaak se lugfoto  23 waar die Nyalas dan reg voor die lyn staan, so as ons  24 miskien net weer daardie foto –  25 CHAIRPERSON: So let's have a look at</p>

<p style="text-align: right;">Page 17580</p> <p>1 that photo, what's the reference?  2 BRIGADIER CALITZ: Net die vorige, ek het  3 nou net die verwysing neergeskryf.  4 CHAIRPERSON: I'm sure one of these  5 clever people will be able to give it to us.  6 BRIGADIER CALITZ: Dit is net die vorige  7 foto wat ons na gekyk het.  8 MR BUDLENDER SC: I understand it is  9 GGG11.  10 BRIGADIER CALITZ: Dit is –  11 MR BUDLENDER SC: JJJ11.1516.  12 BRIGADIER CALITZ: Dit is reg, mnr die  13 Voorsitter, as ons miskien kan -  14 CHAIRPERSON: Let's just wait to see it,  15 if the reference is right, what's it, JJJ11?  16 MR BUDLENDER SC: Point 1516.  17 CHAIRPERSON: Point 1516, 1516? Well,  18 alright. Okay, let's see that picture, that photograph and  19 that will probably be the end of the evidence for the day  20 but the brigadier, I think is entitled to ensure that he  21 makes his point clearly by means of that photograph.  22 BRIGADIER CALITZ: Asseblief, mnr die  23 Voorsitter, as ons kan in-zoom, ek weet nie of dit moontlik  24 is nie?  25 CHAIRPERSON: Alright, let's get the</p>	<p style="text-align: right;">Page 17582</p> <p>1 ek bedoel u hande wat gewys het parallel bedoelende, dit  2 was die voertuie wat van POP gestaan het en tussen hierdie  3 voertuie wat POP lede gewees, Openbare Orde Polisiëring,  4 tussen daardie twee was Openbare Orde Polisiëring, tussen  5 daardie voertuie. Die lede was op hierdie stadium  6 buitekant die voertuie gewees, so die groep hier nader  7 beweeg, selfs Papa11 het al 'n aksie geloods op hulle, die  8 Casspir het hulle uiteengedryf, Papa2 het uiteengedryf van  9 my voertuig af wat daar was, het ons probeer uiteendryf.  10 So die Openbare Orde Polisiëring was heeltemal voor die  11 TRT, so dit was nie dat ons heeltemal 'n gaping gelos het  12 en byvoorbeeld net daardie lyn gehad het en hierdie  13 voertuie was glad nie daar nie. Hier kan ons duidelik sien  14 dat daar 'n definitiewe lyn was en ek dink die skote wat ek  15 op die nuus gesien het is dat die Nyala wat wegbeweeg het  16 en ek dink dit is Adjudant Offisier Kuhn wat dan agteruit  17 gehardloop het toe die Nyala voor hom pad gee, het die  18 groep skielik in sy visie verskyn. So dit is 'n duidelik  19 teken dat die Nyalas wel in lyn met die, voor die TRT –  20 CHAIRPERSON: Can we see the TRT line or  21 part of it on this photograph?  22 BRIGADIER CALITZ: Dit is daardie, die  23 donker lyn wat ek verduidelik het, mnr die Voorsitter. Die  24 streep van vehicle 15, die geel pyn van vehicle 15, hy  25 beweeg deur die lyn, so –</p>
<p style="text-align: right;">Page 17581</p> <p>1 photo first and then we can zoom in.  2 BRIGADIER CALITZ: Dit is op die bord.  3 Ek weet nie of dit moontlik is om 'n nader skoot te kry, if  4 you can zoom into the –  5 COMMISSIONER HEMRAJ: What's on the  6 screen is JJJ178.2, that's not the reference Mr Pillay has  7 given us.  8 BRIGADIER CALITZ: Maar dit is die foto  9 wat ons –  10 CHAIRPERSON: It is the same photograph,  11 now the witness has asked that a portion of it being  12 enlarged by zooming in.  13 BRIGADIER CALITZ: Daar is hy.  14 CHAIRPERSON: Alright, now tell us what  15 exactly we must see which illustrates the point, that the  16 point you make is correct?  17 BRIGADIER CALITZ: Dankie, mnr die  18 Voorsitter, die TRT lyn kan duidelik gesien word tussen die  19 twee pyle wat lees, vehicle 14 en vehicle 15. Vehicle 15  20 se geel pyl gaan deur die TRT lyn en hulle rigting is dan  21 na die klein koppie toe. Wat ek bedoel van parallel en nie  22 'n "T" soos u hande –  23 CHAIRPERSON: Klein koppie, I think you  24 mean klein kraal?  25 BRIGADIER CALITZ: Ag, klein kraal, soos</p>	<p style="text-align: right;">Page 17583</p> <p>1 CHAIRPERSON: Sorry, I thought it was  2 that, but I just wanted it clearly on record. So if we  3 look at this photograph we see the words "vehicle 15"  4 indicating one of the vehicles and there is a yellow line,  5 a yellow arrow pointing from the words "vehicle 15" to the  6 circle which indicates the vehicle in question, and that  7 arrow goes through, it is not exactly a line, it is more a  8 thin sort of wedge, a wedge like dark mark but that you say  9 is the TRT line, am I summarising it correctly?  10 BRIGADIER CALITZ: Dit is korrek, mnr die  11 Voorsitter, hier is die korrekte foto wat hulle gebruik het  12 dan, as ons 'n bietjie regs kan beweeg, daar is dit baie  13 duidelik, die –  14 CHAIRPERSON: Yes –  15 BRIGADIER CALITZ: - swart streep.  16 CHAIRPERSON: We are now looking at, I  17 hope I'll be helped and told what exhibit is, what is this  18 exhibit? Is it image 1516, but do we know what the exhibit  19 number of this or we haven't got one yet, but that's the  20 same photograph you say?  21 BRIGADIER CALITZ: Dit is –  22 CHAIRPERSON: And that indicates clearly  23 the POP line with the Nyalas in between the members and  24 behind them is a sort of dark smudge like wedge which is  25 the TRT line in this photograph?</p>

<p style="text-align: right;">Page 17584</p> <p>1 BRIGADIER CALITZ: Dit is korrek, mnr die 2 Voorsitter. 3 CHAIRPERSON: And they support your 4 contention, your statement that the two lines were parallel 5 and the one was not a right angle to the other? 6 BRIGADIER CALITZ: Dit was hulle opdrag 7 en dit is wat hulle uitgevoer het op daardie stadium. 8 COMMISSIONER HEMRAJ: In this photograph, 9 sorry, this photograph is at odd with the CALS sketch that 10 we were just looking at? 11 BRIGADIER CALITZ: Dit is wat ek verneem, 12 dit is die naaste een wat ek kon sien wat CALS gebruik het 13 om dan hulle rowwe skets te doen, wat die Nyalas 'n bietjie 14 verder weg dui van die klein kraal af, Kommissaris. Hier 15 kan ons 'n beter aanduiding kry, as ons die twee voertuie 16 langs mekaar sit sal u sien dat hulle feitlik teen die 17 kraal is en 'n Nyala is maar 2, 3 meter, so hierdie is 'n 18 bietjie meer realistiese prentjie van wat werklik daar 19 gebeur het. 20 MR BUDLENDER SC: Chair, just for the 21 record purposes, that's JJJ11.1516. 22 CHAIRPERSON: Thank you, and this is, 23 when we reach a suitable stage to take the adjournment 24 you'll let me know, Mr Budlender? 25 MR BUDLENDER SC: I think this would be a</p>	
<p style="text-align: right;">Page 17585</p> <p>1 convenient stage, Chair. 2 COMMISSIONER HEMRAJ: Is there no 3 photograph which would encompass that area which is the top 4 end of this photograph? Is there no other photograph which 5 covers that? 6 MR BUDLENDER SC: I'm told there is video 7 footage but no still photographs. 8 COMMISSIONER HEMRAJ: Well, perhaps we 9 can – 10 MR BUDLENDER SC: We might look at some 11 of the video footage tomorrow. 12 COMMISSIONER HEMRAJ: Yes, thank you. 13 MR BUDLENDER SC: This, I'm told is 30 14 seconds before the shooting, but I think what might be 15 helpful to illustrate this is if we now look tomorrow at 16 the video of the shooting itself and we'll see who was 17 where. 18 CHAIRPERSON: Okay, but maybe still we 19 can take this video footage which illustrates clearly 20 without any movement at all what my colleague, Commissioner 21 Hemraj has referred to. So, on that note we'll adjourn 22 until nine o'clock tomorrow morning. 23 [COMMISSION ADJOURNED] 24 . 25 .</p>	

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