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TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 159

2 DECEMBER 2013

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<p style="text-align: right;">Page 18059</p> <p>1 [PROCEEDINGS ON 2 DECEMBER 2013] 2 [09:29] CHAIRPERSON: The Commission resumes. 3 Brigadier, you're still under oath. 4 ADRIAAN MARTHINUS CALITZ: s.u.o. 5 CHAIRPERSON: I understand that some 6 photographs, enlarged photographs have been prepared, but 7 I'm not sure whether they're ready to be used yet. Are you 8 going to carry on with the one you were using on Friday, Mr 9 Chaskalson? 10 MR CHASKALSON SC: I am for now, 11 Chairperson, and hopefully by the time we get to a 12 situation where we need the enlarged photographs they will 13 be here. 14 CHAIRPERSON: I should have said when we 15 came in, we're starting late because of housekeeping 16 matters in chambers. That's the reason and I'm sorry, I 17 apologise for those who were kept waiting. We were 18 scheduled to start at 9. Mr Chaskalson. 19 MR CHASKALSON SC: Chairperson, before we 20 start, if I might revert to Commissioner Hemraj – I 21 undertook to revert with the distance between strikers and 22 the mast, and we measured that on Google Earth and the 23 distance is 52 metres, you know, give or take a few 24 centimetres. 25 COMMISSIONER HEMRAJ: Thank you, Mr</p>	<p style="text-align: right;">Page 18061</p> <p>1 latere een – miskien kan ons later terugkom daarna – bladsy 2 17301 van dieselfde 25ste, my "evidence-in-chief," lyn 3 nommer 9, waar ek dan later getuig het toe Adv Semanya vir 4 my gevra het toe ek om beweeg, en ek het verduidelik van my 5 posisie by die draad, toe het ek eers die persone sien om 6 beweeg. 7 CHAIRPERSON: Sorry, Brigadier, I 8 interrupt you for a moment. If Mr Chaskalson hasn't had an 9 opportunity to look at the passages yet I think it would be 10 fairer to him for us to discuss this topic when he's had 11 the opportunity to make himself acquainted with the 12 transcript. 13 BRIGADIER CALITZ: Ek aanvaar dit so, ja. 14 CHAIRPERSON: I think we will save time 15 that way actually. We'll still do it, but at a time when 16 it can be done more concisely than at the moment, and we 17 also will have had a chance to study the transcript as 18 well. Anyway, shall we carry on with something else in the 19 meanwhile? I take it you can do so, Mr Chaskalson? The 20 witness is obviously ready to deal with you when you deal 21 with the matter. 22 MR CHASKALSON SC: Yes. 23 CHAIRPERSON: But I suggest he keeps his 24 powder dry for the moment and let's carry on – 25 MR CHASKALSON SC: Okay, well we may run</p>
<p style="text-align: right;">Page 18060</p> <p>1 Chaskalson. 2 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.): 3 52. Now Brigadier, when we left off on Friday, I'd asked 4 you some questions about a discrepancy that I said there 5 was between your evidence-in-chief and your evidence under 6 cross-examination in relation to why you moved from your 7 starting position, and we were going to – Mr Semanya had 8 suggested that I'd misheard your evidence under cross- 9 examination. We were going to revert to this topic when 10 the transcript was available. Unfortunately the transcript 11 isn't yet available, so we'll have to do that later. 12 BRIGADIER CALITZ: It is available. 13 MR CHASKALSON SC: Oh, it is available. 14 BRIGADIER CALITZ: Yes, it's available 15 and I went through it, Chair. 16 MR CHASKALSON SC: Well, if I can then – 17 I haven't seen the transcript, but you've read the 18 transcript. Do you accept that there is the discrepancy 19 that I referred to on Friday? 20 BRIGADIER CALITZ: Nee, mnr die 21 Voorsitter, ek kan miskien verwys na sekere paragrawe as 22 ons dit opgooi in my vorige transkripsie, behalwe die een 23 wat ek gelees het, en ek dink ek het duidelik dit 24 geantwoord, die enetjie van 17295 wat oorgeloop het na 296, 25 wat ek dan in detail geantwoord het, maar daar was ook 'n</p>	<p style="text-align: right;">Page 18062</p> <p>1 into a similar difficulty on my next topic, which is I 2 wanted to clarify another potential discrepancy between the 3 evidence – 4 CHAIRPERSON: Mr Chaskalson, if it 5 depends upon a transcript that you haven't seen yet, even 6 if it may be available, again it's best to hold it back, 7 surely. And if it's a topic which this witness hasn't had 8 notice of he won't be prepared for it either. So perhaps 9 you could hold that over, but you could also I suppose 10 indicate possibly now even during the tea adjournment what 11 the topic is so the witness can also prepare himself. 12 MR CHASKALSON SC: Thanks, Chairperson. 13 Brigadier, what I would like to canvass with you is your 14 exact position near the fence at the kraal around the time 15 of the shootings. Now I understood your – or not I 16 understood; your evidence-in-chief at page 17305 to 6 is 17 where you dealt with it in chief and you stated that CALS 18 had got your position incorrectly, that if we go to 19 JJJ178.2 – and I wonder if we can call up annexure GW6B to 20 JJJ178, and if we can go down to page – I think it's 46, in 21 fact the last page of that document, ja. CALS had placed 22 you to the far right, or to the far east of the grouping of 23 Nyalas as Papa1 and I understood from your evidence-in- 24 chief that you said that you were closer in and that you 25 were in fact more or less where Papa7 was, although</p>

<p style="text-align: right;">Page 18063</p> <p>1 oriented towards the wire. That's what your evidence-in- 2 chief at page 17305 suggests. If we can go up to page 43, 3 because that's what you were considering at – one further 4 page up – and you said there when you were asked to place 5 your position, at line 24, the Chairperson asks you at 23 6 what was your position, and at 24 you say, "Waar die geel 7 blokkie 12 is teen die draad," and I presume you're 8 referring to 2, not 12, because there isn't a yellow block 9 12, there's a yellow block 2. "Reg voor die geel blokkie 10 wat 12," 17305, "in lyn met die groen pyl teen die draad." 11 And I wonder if you could just clarify where you say your 12 position was because when we assembled the blocks on Friday 13 you in fact put your position roughly where Papa1 is on 14 this diagram and your Nyala was the Nyala furthest east 15 when we put up the blocks on Friday.</p> <p>16 BRIGADIER CALITZ: Mnr die Voorsitter, 17 dis nou miskien 'n lang – ek neem aan die vraag is waar my 18 posisie was in vergelyking tot die skets wat ons voor ons 19 sien. Verstaan ek u vraag korrek?</p> <p>20 MR CHASKALSON SC: Yes. Yes, Brigadier.</p> <p>21 BRIGADIER CALITZ: Dankie. Waarom ek 22 gesê het toe Adv Semanya vir my gevra het is dit, die 23 skematiese voorstelling korrek, toe het ek gesê nee, ek het 24 my posisie aanvaar uit die CALS dokument uit, maar ek het 25 gesê ek dink hulle het my bietjie uit posisie uit geskuif</p>	<p style="text-align: right;">Page 18065</p> <p>1 that you were more or less between those two poles, or did 2 I misunderstand you?</p> <p>3 BRIGADIER CALITZ: Nee, ek dink daar was 4 miskien op daardie verduideliking net 'n misverstand, mnr 5 die Voorsitter. Die draad wat af gery is wat ek oor getuig 6 het is aan die, soos ons nou kyk, as ek reg wys, tussen die 7 twee pale, as ons vat die paal nader aan die blokkie, geel 8 blokkie 2, die draad dan af gery omtrent in die voorpunt 9 van blokkie 2. So as daar dan 'n misverstand was, dis 10 tussen die twee pale, dan vra ek om verskoning daarvoor. 11 Dit is waar die draad af gery is ondertoe.</p> <p>12 COMMISSIONER HEMRAJ: Brigadier, why 13 don't you use your pointer just to show us exactly where on 14 this photograph you say it is? Because in your evidence it 15 did come across as between the two poles. So can we just 16 clarify that?</p> <p>17 BRIGADIER CALITZ: Omtrent op daardie 18 posisie, daar is 'n bos. Ek sou skat, as ek moet inpas die 19 twee Nyala voertuie wat ook daar was, sou ek skat my 20 posisie is omtrent, dit is waar die draad af gery was, mnr 21 die Voorsitter.</p> <p>22 CHAIRPERSON: Yes, sorry, just remind me, 23 which direction were you travelling when you drove over the 24 fence and knocked it down? Were you inside the fenced 25 enclosure, or were you outside the fenced enclosure, and</p>
<p style="text-align: right;">Page 18064</p> <p>1 as mens kyk Pappa1. Die rede daarvoor is as jy sien ek is 2 verder terug en dit is teen die agterste draad, waar my 3 getuienis was dat ek het beweeg, ek dink op 'n stadium ek 4 het gesê ek was naby die draad en dat ek het beweeg tot 5 voor teen die draad. So my posisie sal dan voor, ek sien 6 2, nie 12, onder korreksie dan, die 2, omtrent reg voor hom 7 om en by in daardie posisie teen die draad wees. Ek het 8 ook gesê die rede daarvoor aan my linkerkant was daar ek 9 dink twee Nyala voertuie, asook dan die Casspir voertuie. 10 So as dit dit dan reg verduidelik; net vorentoe, en miskien 11 bietjie nader, ek sou sê daar rondom voor Nyala 6, tussen 2 12 en 3, as ek nou moet rofweg skat. U vraag was, u "exact 13 position during the time of the shooting"; daardie twee, 14 mnr die Voorsitter, moet ek egter sê ek kan nie sê wat my 15 "exact position" was. Dit is 'n skatting op hierdie 16 stadium en dan die "time of shooting" weet ek nie wanneer 17 dit gebeur het nie.</p> <p>18 CHAIRPERSON: So under Casspir A on the 19 exhibit which is being exhibited at the moment, being shown 20 at the moment, which is JJJ178.2, my understanding is if 21 you look there you can see what appear to be two poles in 22 the fence. Is that correct?</p> <p>23 BRIGADIER CALITZ: Dit is korrek, mnr die 24 Voorsitter.</p> <p>25 CHAIRPERSON: Now I understood you to say</p>	<p style="text-align: right;">Page 18066</p> <p>1 did you drive into the fenced enclosure or did you drive 2 out of the fenced enclosure? You understand what I mean?</p> <p>3 BRIGADIER CALITZ: Ek verstaan, mnr die 4 Voorsitter. Ek was waar my rooi kolletjie nou wys, aan die 5 buitekant van die draad tussen 2 en die draad, en toe ons 6 deurbeweeg het ek omtrent in hierdie rigting waar Pappa11, 7 ek skat dit was omtrent die posisie waar die Nyala was. 8 Toe ek sien hulle breek deur het ek dan so deurbeweeg asook 9 weer deur die draad en dan in die rigting van koppie 2.</p> <p>10 CHAIRPERSON: Okay, so what you are 11 telling us is that you drove over the fence in two 12 positions. The first one you drove into the fenced 13 enclosure. That's from the position you showed us, which 14 is close the Papa2 on this photograph. Then you then drove 15 across the fenced enclosure to a position very close to P11 16 and you then drove over the fence there as well. So you 17 actually destroyed the fence twice, or parts of the fence 18 twice, and that's the direction in which you drove when you 19 were on your way to koppie 2. Am I understanding 20 correctly? Koppie 2, is that right?</p> <p>21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 ja, miskien net om toekomstige onduidelikheid dat ek dalk 23 sê ek het dit – my drywer het my meegedeel dat hy –</p> <p>24 CHAIRPERSON: Yes, I understand.</p> <p>25 BRIGADIER CALITZ: - want ek is bang</p>

<p style="text-align: right;">Page 18067</p> <p>1 hulle sê, u weet, ek het dit gesien of ek het die – so om 2 die presiese woorde te gebruik, my drywer het vir my wel 3 geskreeu “Hier is 'n draad voor my,” en ek het hom dan 4 opdrag gegee, so ook in die ander geval, mnr die 5 Voorsitter. 6 CHAIRPERSON: He drove through it on your 7 instructions. 8 BRIGADIER CALITZ: Korrek, mnr die 9 Voorsitter. 10 CHAIRPERSON: And you are responsible for 11 what he did. 12 BRIGADIER CALITZ: I’m totally 13 responsible for that destruction. 14 MR SEMENYA SC: Chair, perhaps 15 inadvertently you said Pappa2 instead of block 2, which is 16 in yellow. 17 CHAIRPERSON: You’re absolutely right, I 18 was wrong. It is the yellow block 2 was his position very 19 close to that, to the right of it, as one looks at this 20 exhibit, and then he drove through the fence, or rather his 21 driver acting on his express instructions drove through and 22 over the fence, across a portion of the fenced enclosure to 23 a position close to P11, the blue block, where they knocked 24 the fence over again and went through on their way to 25 koppie 2. That’s the position.</p>	<p style="text-align: right;">Page 18069</p> <p>1 die Voorsitter. Dit was op my knieë tussen die drywer en 2 die “commander position” deur waar dan die groep deur gekom 3 en ek het oorgeleun, soos ek reeds getuig het, aan die 4 linkerkant waar ek dan die groep se voerpunt gesien beweeg 5 het. 6 CHAIRPERSON: Ja, thank you. 7 BRIGADIER CALITZ: So ek het nie die 8 heelyd staties die kant – “die kant” bedoel ek regs – 9 uitgekyk nie. 10 MR CHASKALSON SC: Brigadier, a number of 11 follow-up questions; the first is it’s not clear to me 12 whether your evidence is that it’s just your position that 13 is incorrectly marked on this chart, or in fact it’s the 14 whole configuration of Nyalas from Papa9 down to your 15 position, because what I need to understand is are you 16 saying that that yellow block 2, which I think is Papa7, 17 and the yellow block 3, which is Papa18, are correctly 18 positioned, but you were on the other side of them in front 19 of yellow block 2, against the fence, or are you saying 20 that in fact this whole picture was a bit compressed so 21 that you were the Nyala on the far north-eastern side of 22 the arrangement, but that everything was moved closer up 23 towards the green arrows and the kraal? Can you explain 24 that for me? 25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>
<p style="text-align: right;">Page 18068</p> <p>1 BRIGADIER CALITZ: Dit is korrek, mnr die 2 Voorsitter. 3 CHAIRPERSON: Okay, thank you, I 4 understand that now. 5 COMMISSIONER HEMRAJ: Can I just 6 understand how your vehicle was positioned though, in which 7 direction was the nose of the vehicle? You say your 8 vehicle was against the fence on the right of block 2. In 9 which direction was the vehicle, the front of the vehicle 10 facing? 11 BRIGADIER CALITZ: In die rigting van die 12 draad voor ons, Kommissaris. 13 COMMISSIONER HEMRAJ: Thank you. 14 CHAIRPERSON: [Microphone off, inaudible] 15 were at the back, as I understand it. Is that correct? Of 16 the vehicle. 17 BRIGADIER CALITZ: Ek sou met – 18 CHAIRPERSON: Sitting near the back. 19 BRIGADIER CALITZ: Ek sou met ander 20 woorde na die sinkhuis en die rots regs agter my gewees 21 het. 22 CHAIRPERSON: And you could see, you were 23 looking in that direction, were you? 24 BRIGADIER CALITZ: Ek was, op daardie 25 stadium het ek na die skare gekyk, soos ek getuig het, mnr</p>	<p style="text-align: right;">Page 18070</p> <p>1 dit is waar ek na u woord “exactly” verwys het. Ek kan 2 glad nie vir u die posisie presies sê van die ander 3 voertuie nie. Ek weet wel daar was 'n voertuig aan my 4 binnekant. Ek weet wel dat die wit Casspir aan my 5 binnekant, wat ek pertinent soos die groep beweeg het, het 6 ek opgelet. Ek weet dat daar was een voertuig wat ek later 7 verneem het Pappa11 was links voor my. So die posisie van 8 die ander voertuie op die kaart, ek dink die foto wat ek 9 gesien het van Kolonel Vermaak se lugfoto, dit is die 10 enigste een wat ek gesê het in “hindsight” waar ek die 11 voertuie kon waarneem dat hulle in so 'n posisie agter my 12 was. Ek sal glad nie kon sê waar die posisies van die 13 ander voertuie was nie. 14 MR CHASKALSON SC: Were you aware of any 15 vehicle to your outside? 16 BRIGADIER CALITZ: “Outside” bedoel u my 17 regterkant? 18 MR CHASKALSON SC: Yes. 19 BRIGADIER CALITZ: Nee, ek kan nie dink 20 dat daar 'n voertuig aan my regterkant – ek praat onder 21 korreksie. In daardie omstandighede, nee, glo ek nie. 22 MR CHASKALSON SC: So you think that you 23 were the outermost vehicle, as it were, but that your 24 position, and then of course those of the other Nyalas in 25 the green block and the yellow block and also Nyala 6 is</p>

<p style="text-align: right;">Page 18071</p> <p>1 depicted a little too spread out on this diagram, because 2 if you were the outermost Nyala and you place yourself 3 where you had placed yourself, then the other Nyalas would 4 also have to move up closer to the kraal. 5 BRIGADIER CALITZ: Mnr die Voorsitter, as 6 ek moet vra om te bespiegel of 'n voorspelling te maak of 7 my opinie te gee sou ek sê ja, hulle moet dalk bietjie, wat 8 u woord, dis "compressed." Ek dink die posisies moet net 9 nader wees aan die rigting van die klein kraal. 10 MR CHASKALSON SC: But the broad 11 arrangement of vehicles in terms of which one was the 12 outermost and which one was the innermost, you don't 13 dispute that? 14 MR SEMENYA SC: No, Chair, the evidence 15 is that he can't say where the other were, except he's used 16 the aerial photograph by the Colonel to then re-orientate 17 himself. 18 MR CHASKALSON SC: The evidence also was 19 that he didn't think that there was a vehicle to his 20 outside. 21 [09:49] BRIGADIER CALITZ: Mnr die Voorsitter, op 22 daardie stadium, ek het – dit is sekondes. Ek het nie die 23 "luxury" gehad om stil te sit, rondom my miskien waar te 24 neem waar presies watter voertuig – wat hier gebeur het was 25 sekondes en die druk was op, so ek weet daar was voertuie</p>	<p style="text-align: right;">Page 18073</p> <p>1 CHAIRPERSON: Right-hand side, what do 2 you mean, Mr Chaskalson? Do you mean right-facing – 3 MR CHASKALSON SC: The same way that – 4 the same right-hand side that to which the Brigadier refers 5 on the outside of this picture. 6 CHAIRPERSON: Yes. In other words, 7 towards the foot of the page we're looking at? 8 MR CHASKALSON SC: That's correct, 9 Chairperson. 10 CHAIRPERSON: In other words, effectively 11 that's the right-hand side of the vehicle as one faces the 12 front? 13 MR CHASKALSON SC: As one drives the 14 vehicle – 15 CHAIRPERSON: In other words, the 16 driver's right? 17 MR CHASKALSON SC: Driver's right-hand 18 side, indeed, Chairperson. 19 CHAIRPERSON: Okay. 20 BRIGADIER CALITZ: Mnr die Voorsitter, ek 21 moet u woord daarvoor vat en as ek dan vat dat ek al u vrae 22 dan kon reg beantwoord. 23 MR CHASKALSON SC: Brigadier, my second 24 follow-up question flows from your answer to the 25 commissioner's questions about what you could see and where</p>
<p style="text-align: right;">Page 18072</p> <p>1 aan my linkerkant. My posisie – dit is waar ek weereens 2 vir u sê, die "exact position," ek weet ons was met die 3 neus teen die draad. Hoe ek dit weet is dat dit aan my 4 gerapporteer is deur my drywer op daardie stadium. Ek kan 5 nie vir u sê of dit Nyala 6, wat daai draadkar is, direk 6 agter my was, bietjie links agter my, bietjie regs agter 7 my. Ek sal 'N leuen vertel as ek moet vir u vertel waar 8 presies die ander karre was. As daar dan later bewyse kom 9 dat 'n voertuig aan my regterkant was, dan sal ek dit so 10 aanvaar, maar op hierdie stadium sê ek vir u dat ek glo nie 11 daar was nie. 12 CHAIRPERSON: When you say on your right- 13 hand side, you mean looking – you know, right is ambiguous 14 – you mean on your right-hand side, looking to the front of 15 your vehicle, or on your right-hand side as you were 16 sitting in the vehicle? What do you mean? 17 BRIGADIER CALITZ: As ek na die – kom ons 18 sê my posisie in die voertuig, regs agter, as ek reguit het 19 voor my gekyk het, glo ek nie daar was 'n voertuig. Dit 20 beteken na die onderkant van die fotos, soos ons dit nou 21 sien, Mnr die Voorsitter. 22 MR CHASKALSON SC: For what it's worth, 23 Brigadier, we've analysed the electronic evidence fairly 24 thoroughly and we are convinced that you're right, there 25 was no vehicle to your right-hand side.</p>	<p style="text-align: right;">Page 18074</p> <p>1 you were looking, and it seems to me, from your position, 2 that there were broadly three ways in which you could look. 3 You could try to look forward through the front of the 4 Nyala – through the front window of the Nyala, but that 5 would – you'd have fairly limited view through the front 6 window of the Nyala, because you were at the back of the 7 Nyala and there were the people sitting in front of you 8 obscuring your view on the front Nyala – the front of the 9 Nyala. Can you respond to that? 10 BRIGADIER CALITZ: Mnr die Voorsitter, 11 nee, ek het nooit gesê die mense het my visie – wat is 'n 12 beter woord vir obscure – geblok. Ek het wel gesê ek het 13 tussen hulle deur gekyk. Dit is soos 'n gewone sedan 14 voertuig, waar kinders miskien die pad dophou tussen die 15 bestuurder en die passasier voor. Dit is die visie wat ek 16 kon gehad het. 17 MR CHASKALSON SC: You have some view, 18 but it's a partially obscured view. You have the Bakkies 19 Botha-like frame of Colonel McIntosh in your way. 20 BRIGADIER CALITZ: Wat dieselfde grootte 21 van die sitplek is, Mnr die Voorsitter. So, nee, dit is 22 nie dat hy my visie geblok het nie, nee. 23 MR CHASKALSON SC: Well, I'm not 24 suggesting you couldn't see anything, I'm suggesting you 25 had some view out the front, but a partially obscured view.</p>

<p style="text-align: right;">Page 18075</p> <p>1 Do you accept that?</p> <p>2 BRIGADIER CALITZ: As jy verwys</p> <p>3 partially, die persone wat miskien agter die drywer of</p> <p>4 agter die bestuurder vir daardie breedte van sy kop miskien</p> <p>5 kon deurbeweeg het, vir daardie sekond, daardie obscuring,</p> <p>6 dit aanvaar ek nou.</p> <p>7 MR CHASKALSON SC: Then there were</p> <p>8 windows to your left, on the left of the Nyala, which you</p> <p>9 could see, again from the right-hand side, you may have</p> <p>10 some partial obstruction presented by the passengers who</p> <p>11 were on the left-hand side of the vehicle.</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>13 weer dieselfde antwoord. Daar is, onder korreksie, drie</p> <p>14 vensters aan die linkerkant. Ek weet nie die advokaat die</p> <p>15 voorreg gehad het om saam met ons in die Nyala te wees nie.</p> <p>16 As hy het, sal ek verstaan dat as jy omdraai, dat u uit die</p> <p>17 linkerkant uit kan sien verby die persone wat daar sit.</p> <p>18 Die sitplekke is laer en daar is 'n hoër konsole in die</p> <p>19 middel. So indien ek omdraai kan ek sien wat in die</p> <p>20 linkerkant van die voertuig gebeur.</p> <p>21 COMMISSIONER HEMRAJ: Brigadier, would</p> <p>22 the exhibit KKK1, the photograph 5 and 6 assist you in</p> <p>23 demonstrating –</p> <p>24 MR CHASKALSON SC: I wonder if we can</p> <p>25 call up KKK1?</p>	<p style="text-align: right;">Page 18077</p> <p>1 What we see at the moment looks like photo 1 of KKK3. What</p> <p>2 number do you want?</p> <p>3 COMMISSIONER HEMRAJ: 5.</p> <p>4 CHAIRPERSON: We want 5. Can we have 5</p> <p>5 please? That's it, now we're in business I think. 4 and</p> <p>6 5, or 5. And if we move a little bit to the side, yes, and</p> <p>7 then if we moved up slightly, because I think we're going</p> <p>8 to have to see the roof, and then we can read the key which</p> <p>9 tells us who was sitting where. No, no, I think it's going</p> <p>10 to have to be reduced in size, so we can read the key and</p> <p>11 see the photograph at the same time, because the key tells</p> <p>12 us who was sitting where. We don't have to see the inside</p> <p>13 of the roof of the thing. So if the picture can be moved</p> <p>14 up a bit? No, not zoom – not enlarge, but ordinary size</p> <p>15 and then moved up a little bit so we can see the key. You</p> <p>16 can go up right to – ja, that's it I think. There we can</p> <p>17 see. Brigadier is sitting in seat 7, which is near the</p> <p>18 rear of the vehicle. The Bakkies Botha-size frame of</p> <p>19 Lieutenant-Colonel McIntosh is 2, which is the left front</p> <p>20 seat. The driver, Warrant officer Nong is 1, and then we</p> <p>21 can also see where all the other people were sitting, but I</p> <p>22 don't think it's necessary for you to read them out.</p> <p>23 That's surely good enough for your question now, Mr</p> <p>24 Chaskalson.</p> <p>25 MR CHASKALSON SC: It is, Chairperson,</p>
<p style="text-align: right;">Page 18076</p> <p>1 COMMISSIONER HEMRAJ: There's a delay in</p> <p>2 that. Perhaps you can afford the witness a copy of Exhibit</p> <p>3 KKK, photographs 5 and 6 and 7.</p> <p>4 MR CHASKALSON SC: I think we have them</p> <p>5 on screen now. Can we go down to 5, 6 and 7? No, we have</p> <p>6 a different KKK.</p> <p>7 CHAIRPERSON: I think it would be helpful</p> <p>8 for those in the auditorium to have the correct picture on</p> <p>9 screen so they can also follow.</p> <p>10 MR CHASKALSON SC: Can we –</p> <p>11 CHAIRPERSON: Their role here is as</p> <p>12 important as anyone else's in seeing what happened.</p> <p>13 MR CHASKALSON SC: I think it's KKK3.</p> <p>14 Photo 5 of KKK3.</p> <p>15 COMMISSIONER HEMRAJ: Perhaps you can</p> <p>16 start with photograph 5, Brigadier.</p> <p>17 CHAIRPERSON: KKK3 first.</p> <p>18 MR CHASKALSON SC: We might be able to</p> <p>19 get there quicker if we just tilt the camera onto KKK3.</p> <p>20 CHAIRPERSON: KKK3 must be somewhere,</p> <p>21 capable of being accessed, surely. It's far better for us</p> <p>22 to see it on the screen if possible.</p> <p>23 MR CHASKALSON SC: We don't have an</p> <p>24 electronic copy of KKK3 at this stage.</p> <p>25 CHAIRPERSON: Something is happening now.</p>	<p style="text-align: right;">Page 18078</p> <p>1 and again the only proposition I want to put to the</p> <p>2 Brigadier is, he has a view out of those two visible left</p> <p>3 windows and possibly even the passenger seat, but again</p> <p>4 it's a partially obscured view, it's not a blocked view,</p> <p>5 but it is partially obscured by the people sitting there.</p> <p>6 CHAIRPERSON: Brigadier, the point surely</p> <p>7 must be, it depends where the people were you were trying</p> <p>8 to see. If they were all directly in front of the window</p> <p>9 - the front windows of the vehicle, that's the direction</p> <p>10 you looked. If they moved towards the left of the</p> <p>11 photograph and could be better seen from the side window –</p> <p>12 the front side window, I take it you'd look in that</p> <p>13 direction, is that right? If some of them had been visible</p> <p>14 on the right-hand side, as one looks at the photograph,</p> <p>15 that's the direction you'd have looked at. I mean that</p> <p>16 seems common sense, isn't it. Now, where were they and</p> <p>17 where did you look? Were they all just in front or did you</p> <p>18 actually look in all three of those places at various times</p> <p>19 to see the group? A comprehensive question, but I hope you</p> <p>20 can answer it.</p> <p>21 BRIGADIER CALITZ: Dankie, Mnr die</p> <p>22 Voorsitter. Ek weet die persone aan die onderkant was vir</p> <p>23 Mnr die Voorsitter belangrik. Ek wonder tog as ons miskien</p> <p>24 kan in zoom op die foto gaan dit vir my maklik –</p> <p>25 CHAIRPERSON: Now we can – now we can see</p>

<p style="text-align: right;">Page 18079</p> <p>1 the seats –</p> <p>2 BRIGADIER CALITZ: Ja.</p> <p>3 CHAIRPERSON: Now, they can in zoom as</p> <p>4 you wish. Whatever in zooming you want.</p> <p>5 BRIGADIER CALITZ: Miskien net nog nader</p> <p>6 en dan – ja, laat die foto afkom. Die dak hoef nie</p> <p>7 ingesluit te wees nie, so miskien nog so 'n bietjie nader.</p> <p>8 Dit gee vir mens 'n idee van as jy binne die voertuig sit.</p> <p>9 As ek vir u verduidelik het, die breedte van 'n sitplek</p> <p>10 voor, dan sou dit die kant wees van die sitplek. U sal</p> <p>11 sien tot waar die persone dan sit. So die hele – ek wil sê</p> <p>12 aan die buitekante van die ruitveërs voor kan mens sien en</p> <p>13 dan aan die linkerkant, ons weet dat die onderhandelaar het</p> <p>14 hier gesit en ek glo uit latere bewys sal wees dat sy kop</p> <p>15 was af. Hy het nie gekyk – hy was in 'n beskermde posisie,</p> <p>16 so hy was heeltemal onder. 6 en 8 was die twee persone wat</p> <p>17 dan, ek praat onder korreksie, 6 het 'n haelgeweer, 8 het</p> <p>18 die stun granaat gegooi en dan die visie - as ons miskien</p> <p>19 bietjie die foto kan links vat – na die kant. As jy daar</p> <p>20 kan sien aan die buitekant, daar kan jy die bome sien, die</p> <p>21 gras, kaal kolle, dit is die afstand – wel, hierdie is deur</p> <p>22 'n foto, so met die blote oog behoort mens baie meer te</p> <p>23 sien. So dit was baie duidelik om te sien wat links voor</p> <p>24 my aangaan, asook aan die linkerkant deur daai, en beslis</p> <p>25 hierdie kant, waar ek dan opdrag gegee het om hier die</p>	<p style="text-align: right;">Page 18081</p> <p>1 die skietgat is die deur wat oop maak. Daar is egter ook</p> <p>2 'n venster lings van hom. So daardie sig aan my linkerkant</p> <p>3 was vir my heeltemal, glad nie met 'n obstruksie nie. So</p> <p>4 die agterkant wel. As mens na die agterkant kyk, is dit</p> <p>5 nie altyd so duidelik om te sien wat agter gebeur nie.</p> <p>6 MR CHASKALSON SC: But, Brigadier, I</p> <p>7 don't fully understand that question, because if one looks</p> <p>8 at where you were seated, you were seated in a position</p> <p>9 where there was no one inside the Nyala between yourself</p> <p>10 and that rear window. So you had an – the rear window is</p> <p>11 one window, I will grant you that much, but you had an</p> <p>12 impeded view through whatever one could see on the rear</p> <p>13 window.</p> <p>14 BRIGADIER CALITZ: Kan ons miskien net</p> <p>15 weer na slide nommer 5 toe gaan en af beweeg na die name?</p> <p>16 Meneer, as ek u reg verstaan, dan weet ek nie waar 'n</p> <p>17 persoon nommer 9 sou gesit het nie, want daar was nie 'n</p> <p>18 sitplek vir hom nie. Ons noem dit die dog box, en dan het</p> <p>19 ek voorheen daarvoor getuig. So ek verstaan nie u vraag as</p> <p>20 u sê daar was niemand wat daar gesit het nie. Dan weet ek</p> <p>21 nie waar het 9 gesit nie.</p> <p>22 MR CHASKALSON SC: So you're saying</p> <p>23 Captain Greyling impaired your view out the rear window?</p> <p>24 BRIGADIER CALITZ: Dit was op daardie</p> <p>25 stadium, op die 16de, waar die persone hulle geplaas het.</p>
<p style="text-align: right;">Page 18080</p> <p>1 haelgeweer te gebruik en die stun granaat. Op 'n stadium</p> <p>2 het ek gesê ook dat hierdie deur het ons effens oop gehou</p> <p>3 en ek het die persoon vas gehad. Ek het nie op my sitplek</p> <p>4 bly sit nie, ek was fisies hier bo oor die konsole en met</p> <p>5 die twee persone gekommunikeer oor wat hierdie kant</p> <p>6 aangaan.</p> <p>7 MR CHASKALSON SC: And previously, in</p> <p>8 answer to the chairperson, I think, or it may have been</p> <p>9 Commissioner Hemraj, you indicated that if you looked back</p> <p>10 out of the rear window of the vehicle, which one sees in 3</p> <p>11 – if one just clicks on the 3 on the left-hand side. Your</p> <p>12 seat was just to the right of this rear window and if you</p> <p>13 look back out through that rear window, I think you</p> <p>14 indicated you would look back to the shack and the rocks.</p> <p>15 BRIGADIER CALITZ: Nee, op daardie</p> <p>16 stadium het ek gesê ek dink die woord wat ek gebruik het</p> <p>17 was die sink huis en die rotse was – sou regs agter my</p> <p>18 gewees het, nie direk agter my soos u beweer nou nie. Ek</p> <p>19 dink daar is 'n beter foto van die binnekant van die Nyala.</p> <p>20 As ons miskien ek dink op kan beweeg, of foto 6 miskien.</p> <p>21 Miskien een op, 6 daar. Van my posisie af, dit is die</p> <p>22 visie, alhoewel daar nou 'n draad kar aan is, dit is 'n</p> <p>23 baie beperkte nouer visie. Die vensters wat ek vir u aan</p> <p>24 die linkerkant gewys het, u het nou-nou verwys na twee,</p> <p>25 wel, my getuienis was drie. U sal sien aan die regterkant,</p>	<p style="text-align: right;">Page 18082</p> <p>1 Terwyl die aksie plaasgevind het, het ek ook gesê dat ek</p> <p>2 het om beweeg, half bo oor die middel, en dan met 6 en 8</p> <p>3 gekommunikeer. So dit kon wees dat die kaptein agtertoe</p> <p>4 geskuif het. Dit kon wees dat hy weg – ek kan nie vir u sê</p> <p>5 op daardie stadium. Ek het nou nie hom pertinent dop gehou</p> <p>6 nie, maar daar was 'n persoon, aangesien daar net soveel</p> <p>7 sitplekke in die voertuig is.</p> <p>8 MR CHASKALSON SC: While we are waiting</p> <p>9 for the bigger chart to arrive, where we'll actually plot</p> <p>10 the position of your Nyala, relative to other Nyalas, let</p> <p>11 me just understand your evidence about what you saw, and</p> <p>12 it's evidence that you gave in chief from page 17309 to</p> <p>13 17317. 309, 17317.</p> <p>14 COMMISSIONER HEMRAJ: Mr Chaskalson, just</p> <p>15 before you get to this point, from those last few</p> <p>16 questions, is it being suggested to the brigadier that</p> <p>17 where Papa1 Nyala was parked, that through the rear window,</p> <p>18 he should be able to see certain events or happenings or</p> <p>19 places? I'm just not sure what it is that has been</p> <p>20 suggested he should have been able to see through the rear</p> <p>21 window.</p> <p>22 MR CHASKALSON SC: Well, I'd like to take</p> <p>23 the Brigadier through his evidence about what he saw and</p> <p>24 how he followed it, and just to understand from his</p> <p>25 evidence about where he was looking to see what he says he</p>

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1 saw. I'm not suggesting there's anything specifically that
2 he would have seen through one window or another.
3 COMMISSIONER HEMRAJ: I understand, thank
4 you.
5 MR CHASKALSON SC: And if I understand
6 your evidence correctly, you, from your position to the
7 right of the kraal, you say you saw the strikers coming
8 round the kraal and you say at – is that correct?
9 BRIGADIER CALITZ: Mnr die Voorsitter, ek
10 probeer nou net volg waar hy vir my verwys het. As u sê,
11 “when I arrived at the kraal,” is dit nou by insident 3,
12 waar ons nou is?
13 [10:08] MR CHASKALSON SC: Well, I'm not sure
14 what exactly we refer to as incident 3 because there are a
15 range of different things happening simultaneously. So I'd
16 rather not refer to it as incident 3; I'd refer to it as
17 the point at which you took up your position to the right
18 of the kraal, as we've seen on that previous – against the
19 fence.
20 BRIGADIER CALITZ: Goed, mnr die
21 Voorsitter, ja. Dit is waarna ons verwys het na insident
22 3. Ek het reeds getuig – die Advokaat het my gevra op
23 bladsy 17307, ek dink, maar so ver weg soos 17301 was daar
24 reeds vir my gevra “indicated that they were moving away
25 from where you initially were towards the kraal, correct?”

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1 Ek het geantwoord, “Dit is korrek, mnr die Voorsitter. Dit
2 is waar ek gesien het die persone beweeg om die kraal en my
3 gedagte was dan dat ons die Pappa Nyala's kan uitbring en so
4 fase 2 begin met die uiteendrywing.” So ek dink 'n paar
5 bladsye vroeër, 17301, lyn nommer 11, het ek reeds aan my
6 Advokaat geantwoord dat toe ek by daardie posisie kom, dit
7 is toe wat ek gesien het die persone beweeg om die kraal.
8 As u na die – of laat ek net daar antwoord. Ons sal later
9 by die “transcripts” kom.
10 MR CHASKALSON SC: And if we go to 17309,
11 lines 3 to 9, you describe what you saw in the following
12 terms. “Dit is inderdaad wat ek gevind het toe ek omgegaan
13 het met my aankoms by die kraal, of net regs van die kraal,
14 het hierdie formasie, as u sien, die formasie waarvan ek
15 praat, die boonstes, dit was 'n tipiese hurkende nader aan
16 mekaar beweging met wapens in hulle hande, het hulle dan
17 ombeweeg en dan so daardie polisielyn aanval.” And you say
18 that's what you saw.
19 BRIGADIER CALITZ: Dit is die persone wat
20 dan om die kraal, soos ons na verwys, insident 3, en dan
21 die ander sin, die boonstes, die voorstes in 'n tipiese
22 hurkende posisie, dit is waarna ek verwys het van die
23 voerpunt, nader aan mekaar beweeg het, en daardie
24 polisielyn aangeval, is wat ek wel voorheen vir mnr die
25 Voorsitter geantwoord het waar hulle dan op Pappa11, die

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1 voorste Nyala, 'n aksie geloods het.
2 MR CHASKALSON SC: So you saw an attack
3 on Papa11?
4 BRIGADIER CALITZ: Die vraag deur mnr die
5 Voorsitter was voorheen aan my, het ek die aanval gesien.
6 Ek het wel vir hom gesê daar was 'n aksie geloods met die
7 pangas en dan die, sê maar die objekte wat hulle gehad het
8 by hulle soos hulle verby die voertuig beweeg het, ja.
9 CHAIRPERSON: The point is you saw them
10 effectively attacking, I suppose would be the correct word,
11 attacking Papa11. Is that right?
12 BRIGADIER CALITZ: As ek die woord –
13 CHAIRPERSON: Papa or Nyala, I –
14 BRIGADIER CALITZ: Ek het later verneem
15 dit is Pappa11, mnr die Voorsitter –
16 CHAIRPERSON: It is Papa11, okay.
17 BRIGADIER CALITZ: Die Nyala wat links
18 voor my was.
19 CHAIRPERSON: You saw them attacking
20 Papa11 and you indicated they had spears or assegais or
21 something and they were attacking the tyres or whatever.
22 What exactly did you see?
23 BRIGADIER CALITZ: Mnr die Voorsitter,
24 dit is waar die groep aan, kan ek sê die linkerkant van die
25 voertuig soos hy met sy neus gestaan het, die voertuig se

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1 linkerkant verbybeweeg het en dan was daar, soos hulle
2 verbybeweeg het teen dan, teen die voertuig 'n aksie
3 geloods –
4 CHAIRPERSON: Did they actually come into
5 contact with the vehicle, or did they just make striking
6 motions without actually coming into contact with the
7 vehicle, as far as you could see? You may have –
8 BRIGADIER CALITZ: Mnr die Voorsitter,
9 nee, ek kan nie vir u fisies sê omdat die voertuig links
10 van my, ek kan nie sê het hulle die wiele fisies raak
11 gestee of die Nyala, ek het net gesien daar was soos hulle
12 verbybeweeg het, definitief 'n aksie aan wat ek beskou het
13 as 'n aanval.
14 CHAIRPERSON: They may have made
15 threatening gestures towards the vehicle –
16 BRIGADIER CALITZ: Miskien is dit 'n
17 beter –
18 CHAIRPERSON: And they may have, their
19 spears may have moved forward, as it were. Whether they
20 actually came into contact with the vehicle you, from where
21 you were, can't tell us. Is that correct?
22 BRIGADIER CALITZ: Dit is miskien 'n
23 beter beskrywing. Dankie, mnr die Voorsitter.
24 MR CHASKALSON SC: And then if we go over
25 the page at 17310, line 7 onwards, “Ek kon duidelik sien

<p style="text-align: right;">Page 18087</p> <p>1 dat hulle verby die kraal, teen die kraal, tussen die 2 voertuie en die kraal wil deurbreek,” and then Commissioner 3 Hemraj asks, “So you were actually watching them from 4 behind where the strikers were moving?” and you respond, 5 “Ek kon die voorpunt sien, en dan soos hulle deurbeweeg met 6 'n spoed, dit was sekondes waar die voorste groep dan soos 7 op hierdie foto deurbeweeg, reguit deur in 'n lyn na die 8 voetpad toe.” And you say you saw all of that? 9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 weereens nee, dit is nie wat ek gesê het hier en ek het nie 11 gesê ek het dit gesien. As u nou miskien net die – as ek 12 kan verduidelik, of kan sê hoe dit, die taal hier 13 uiteengesit is, “So you were actually watching them from 14 behind where the strikers were moving?” Met ander woorde 15 ek het nie agtertoe gekyk. Ek het vir die Kommissaris gesê 16 ek het die voorpunt gesien en dan soos hulle deurbeweeg met 17 'n spoed, dit was sekondes, waar die voorste groep dan soos 18 op die foto deurbeweeg - daarna het ek na die foto verwys; 19 daar is voorheen gevra oor die foto – reguit deur na die 20 lyn van die voetpad. Die foto is daar vir my gevra wat 21 sien ek in die foto. So my getuienis was dan, as u bietjie 22 boontoe gaan, ek dink u het van 7 af gelees, “As ek miskien 23 net daar sê, Kommissaris, die voorpunt, die voorpunt kan ek 24 nie presies sê hierdie spesifieke foto nie, die rigting 25 waaruit die foto geneem is nie, nee, regs, maar hulle het –</p>	<p style="text-align: right;">Page 18089</p> <p>1 Voorsitter. 2 CHAIRPERSON: So you did indicate, I 3 think, they were moving reasonably fast. I mean they 4 weren't running, I take it, but they were walking fairly 5 fast. You said they were crouching forward. That's the 6 description – that's what you saw yourself. Is that right? 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 ja, op daardie stadium hoekom ek gesê het dat hulle het 9 vinniger – ek het op daardie stadium, as u my vorige 10 getuienis, het ek opdrag gegee vir die persone om op hulle, 11 uiteen te dryf met die haelgeweer asook die “stun” granaat 12 te gooi, en ek het gesien dit het geen effek en daarom het 13 ek geweet dat hulle is oppad na my mense en dit het geen 14 effek. 15 CHAIRPERSON: You know, you say they were 16 on the way to your people. I understand their contention 17 is they were on their way to Nkaneng. So you couldn't 18 yourself, I take it, decide which of those two was correct. 19 All you could say is that's the direction in which they 20 were moving. Is that fair? 21 BRIGADIER CALITZ: Dit is korrek, mnr die 22 Voorsitter. 23 MR CHASKALSON SC: And two follow-up 24 questions, Brigadier; the first is, you understood them to 25 be moving down towards the police line at the path. That's</p>
<p style="text-align: right;">Page 18088</p> <p>1 en ek kon duidelik sien dat hulle verby die kraal, teen die 2 kraal, tussen die voertuie en die kraal wil deurbreek.” 3 “Wil” beteken hulle het dit nog nie gedoen nie, hulle was 4 op die pad, en dit is wat ek bedoel het, mnr die 5 Voorsitter. Die groep wat voor my was, was daar – soos ek 6 gesien het daar het 'n aksie na die Nyala, en dan het ek 7 gesien dat hulle oppad is en hulle wil deurbreek deur 8 hierdie lyn. Die res van my kommentaar was op die foto 9 gewees, wat hulle dan, die vraag was wat het ek gesien op 10 die foto, en ek het gesê dit was dan die tipiese beweging. 11 CHAIRPERSON: So would I be summarising 12 what you say correctly if I were to put it this way; you 13 saw this group coming, and I think there was a white 14 ellipse on one of the photographs we saw on Friday, that 15 indicated the group of strikers. You saw them coming past 16 you. That you saw. You saw the front part of this 17 ellipse-shaped group of people. They then disappeared from 18 your line of sight, but were moving in the direction of 19 the, with the footpath between the vehicles on the one side 20 and the kraal wall on the other. Is that correct? But you 21 saw them moving in that direction; they then went out of 22 the line of sight and you could only work out now what 23 happened thereafter by looking at photographs. Is that 24 correct? 25 BRIGADIER CALITZ: Dit is korrek, mnr die</p>	<p style="text-align: right;">Page 18090</p> <p>1 what you thought they were doing, to attack the police line 2 at the path. 3 BRIGADIER CALITZ: Dit is korrek. Ek het 4 nie gesê op die pad, aanval op die pad nie. Ek het gesê ek 5 het die aanval gesien voor my gebeur op die voertuig en dan 6 my afleiding op die foto is dit is waarnatoe hulle oppad 7 was. 8 MR CHASKALSON SC: Well, can I just 9 clarify that, because on page 17315 Commissioner Hemraj 10 asked you a question, “And that was clear to you at that 11 stage,” – the transcript says “and that stage,” I think it 12 must have been “at that stage” – 13 CHAIRPERSON: Which page are you and 14 which line? 15 MR CHASKALSON SC: 17315, line 15, “And 16 that was clear to you at that stage that the group was 17 moving to that area between the kraal and the shack,” and 18 your answer is, “Ja.” So do you stand by that answer? At 19 that stage was it clear to you that the group was moving to 20 that area between the kraal and the shack? 21 BRIGADIER CALITZ: Mnr die Voorsitter, ek 22 dink nie ons moet ons net bepaal op een woordjie nie. As u 23 na my sin verder kyk dan sê ek, “Ek dink daar is 'n 24 volgende foto wat nog 'n wit stukkie aandui.” U het 25 gepraat van 'n ellipse, there was an ellipse, and then</p>

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1 there was a white portion, another ellipse. So dit is
 2 waarna ek hier verwys het, voor die ovaal. Ek is nie seker
 3 of dit op hierdie "slide" is, en ek het gevra - op daardie
 4 stadium is die "slide" nooit opgebring nie. So die vraag
 5 van die Kommissaris Hemraj was, "And that was clear to you
 6 at that stage that the group was moving in that area
 7 between the kraal and the shack?" So, en dit is die
 8 rigting wat ek dan aangedui het op die foto ook van Kolonel
 9 Vermaak dat die enigste rigting volgens my is dat hulle dan
 10 sou deurbeweeg tussen die kraal en dan die opening, enigste
 11 opening wat beskikbaar was, was die "shack," en dit is hoe
 12 ek dit verstaan het.

13 MR CHASKALSON SC: But my question is,
 14 was it clear to you at that stage? Did you at that stage
 15 subjectively believe that these people were moving down in
 16 the direction of the shack?

17 BRIGADIER CALITZ: Die voorste punt, mnr
 18 die Voorsitter, dit is die enigste rigting in wat hulle kon
 19 beweeg. Hulle het nie wegbeweeg in 'n westelike rigting
 20 nadat hulle reeds "ge-disperse" was op insident 2 nie, en
 21 hulle het om gekom en die aanval was op my voertuig, so ja,
 22 die antwoord is dit is die enigste rigting wat ek op
 23 daardie stadium vir my gesien het dat die mense aanhou en
 24 ons "dispersion action" reeds op insident 2, asook wat daar
 25 plaasgevind het, het geen effek op hulle gehad nie. So as

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1 ek kan sê my afleiding was dit is die enigste rigting wat
 2 die voorste groep dan ingeneem het terwyl die agterste
 3 groep iets anders –

4 MR CHASKALSON SC: Brigadier, I'm just
 5 trying to understand your state of mind at the moment, you
 6 know, at that moment when you see that "voorste groep"
 7 going past you. Did you at that stage think they are going
 8 down in the direction between the kraal and the shack?

9 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 10 dink dis dieselfde vraag, tensy ek dit nou net verkeerd
 11 verstaan. Ek het dit, dis hoe ek dit nou net geantwoord
 12 het.

13 MR CHASKALSON SC: Well, then I
 14 understood your answer to be yes, that was your subjective
 15 state of mind. Have I got it wrong?

16 BRIGADIER CALITZ: Mnr die Voorsitter,
 17 weereens soos ek dit volledig uiteengesit het, dit was my,
 18 nie net die woordjie "ja" nie. Ek het gesê duidelik ons
 19 moenie net kyk na die woordjie "ja" nie en ek het verder
 20 verwys waarom ek so sê.

21 MR CHASKALSON SC: But Brigadier, my
 22 problem with your answers is that I'm asking a simple
 23 question about your state of mind, to which there is a yes
 24 or a no answer. You're giving me a fairly lengthy answer,
 25 which I understand to mean yes, but I'd like you to clarify

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1 that it does mean yes. So was your subjective state of
 2 mind at that moment that this group was moving down past
 3 the kraal in the direction of the zinc hut?

4 CHAIRPERSON: I think he's already said
 5 yes to that. Am I correct?

6 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 7 weet nie wat om nog te antwoord nie –

8 CHAIRPERSON: No, okay, alright, you said
 9 yes.

10 BRIGADIER CALITZ: Dis korrek.

11 CHAIRPERSON: The question is what was
 12 your subjective state of mind, what did you think. Did you
 13 think they were moving in that direction to go past this
 14 zinc house on the one side and the kraal on the other.
 15 That answer, that one is correct as well, I take it.

16 BRIGADIER CALITZ: Mnr die Voorsitter,
 17 ja, wat agter gebeur het tussen die sinkhuis en waar hulle
 18 sou deurbeweeg, dit is miskien die punt wat ek sê ek kon
 19 nie vir u sê waar hulle sou deurbeweeg nie. Wat ek op ja
 20 sê is dat die aanval was wel op ons en hulle het wel, het
 21 ek aangeneem hulle sou tussen die voertuig en dan die kraal
 22 deurbeweeg.

23 CHAIRPERSON: The very fact that you use
 24 the word "aanval" indicates that your statement of mind,
 25 what you thought at the time was that they were going to

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1 attack the police. Is that correct?

2 BRIGADIER CALITZ: Dit is beslis so, mnr
 3 die Voorsitter; na insident 2, asook wat gebeur het by
 4 insident 3.

5 COMMISSIONER HEMRAJ: It's also your
 6 evidence that those in the front of that group, there was
 7 nowhere else that they could have gone at that stage.

8 BRIGADIER CALITZ: Kommissaris, ja, op
 9 daardie stadium toe ek sien dat hulle verbybeweeg was dit
 10 die enigste opening, kan ek sê. Toe ons hulle "ge-
 11 disperse" het by insident 2 en ook daar verder, was die
 12 hele westekant oop, asook die deel na Nkaneng. So dit was
 13 die enigste gedeelte waarnatoe hulle dan kon beweeg, as dit
 14 u vraag antwoord.

15 MR CHASKALSON SC: And I understood your
 16 evidence also to be that you followed the movement of this
 17 lead group. If I can take you to 17313, line 23, "Dit is
 18 korrek, mnr die Voorsitter, ek kon van my posisie teen die
 19 draad, as ek gekyk het in die rigting van die kraal, kon ek
 20 gesien het wat tussen hierdie voertuie aangaan en agter
 21 aan, voor die Casspir, tussen die Casspir en die ander
 22 voertuig." So do I understand you correctly that you were
 23 trying to see, trying to follow what was happening with
 24 this lead group that you understood to be wanting to attack
 25 the police in the direction of the kraal? In the direction

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1 of the kraal and the shack.

2 BRIGADIER CALITZ: 1-7?

3 MR CHASKALSON SC: 17313, line 23,

4 through to 17314, line 2.

5 BRIGADIER CALITZ: Mnr die Voorsitter,

6 weereens ek – as ek die papier uithaal en voor my hou is

7 dit dalk makliker. As u kan kyk, daar word net verwys na

8 pertinent my woorde. Dit is presies met u vorige vraag,

9 met respek gesê. Kyk na die vorige vraag van die

10 Chairperson, "It is an ellipse and as one looks at it on

11 the left-hand side of it, and as one looks at the

12 photograph you were able to see the strikers there. Am I

13 understanding you correctly?" Dit is die ellipse waarna

14 ons verwys het, die wit foto. My antwoord op dit was, "Dit

15 is korrek, mnr die Voorsitter. Ek kon van my posisie teen

16 die draad, as ek gekyk het in die rigting van die kraal,"

17 wat nou links omtrent, parallel links van my is, "kon ek

18 gesien het wat tussen hierdie voertuie aangaan" –

19 CHAIRPERSON: We need the next page now.

20 BRIGADIER CALITZ: Ek het hom,

21 Kommissaris.

22 CHAIRPERSON: The rest of us haven't.

23 Okay, now we've got the connection. "Ek kon gesien het wat

24 tussen hierdie voertuie aangaan," in other words I could

25 see what was going on between these vehicles. Yes, and

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1 then you go on.

2 BRIGADIER CALITZ: - "wat tussen hierdie

3 voertuie aangaan en agter aangaan," byvoorbeeld tussen die

4 voertuie is dan die voorste groep wat gestorm het tussen

5 wat ons nou verwys Pappa11 en dan die ander voertuie wat

6 agter hom staan, en agter aan, met ander woorde ek kan ook

7 sien dat daar 'n groot groep is, die groep is oppad om

8 hierdie groep te volg voor die Casspir, met ander woorde ek

9 het daarna verwys. Tussen die Casspir en die ander

10 voertuig, het ek verwys tussen die Casspir en die ander

11 voertuig, dit is my visie wat ek gehad het op daardie

12 stadium.

13 MR CHASKALSON SC: Brigadier, I don't

14 want to quibble about your evidence. I may have

15 misunderstood it, but what I do want to ask you is surely

16 you tried to follow the movement of this lead group. You

17 thought that they were going to attack your police line.

18 You were in charge of this operation. Surely you would try

19 to see what was happening by looking in the direction in

20 which they were going?

21 BRIGADIER CALITZ: Mnr die Voorsitter,

22 dit is heeltemal korrek. Ek was in bevel daar. My

23 getuienis was baie duidelik; ek het die voorste punt

24 gesien. Toe daar geen aksie op ons uiteendrywing was nie,

25 dis waar ek opdrag gegee het vir my voertuie "Move

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1 forward." Ek kan nie stilsit en agteruit kyk en wag tot ek

2 eendag sien dat chaos is voor ek 'n besluit neem nie. Dit

3 werk nie so in operasionele terme in die polisie nie. As

4 jy sien dat iets sal gebeur is daar voorkomende maatreëls

5 wat ek moet doen. So toe die voorpunt verby my beweeg en

6 ek het dit wel gesien, die afleiding wat ek gemaak het wat

7 ek wel gesê het is dat hulle gaan die lyn aanval, dit

8 beteken die voertuie, aangesien daar geen aksie reaksie was

9 na uiteendrywing nie en dit is waar ek die bevel gegee het

10 beweeg tussen hulle in op daardie stadium. So nee, glad –

11 om u vraag te antwoord, ek het nie omgekyk, stilgesit en

12 gewag tot iets gebeur voor ek opdrag gegee het nie.

13 MR CHASKALSON SC: And did you not look

14 to see if there was any reaction to your order to move out

15 and to your Papa Nyalas to move into this group to disperse

16 them?

17 BRIGADIER CALITZ: Mnr die Voorsitter,

18 presies dit. Weereens, ek kom terug na die punt toe, ek

19 sal graag mnr Chaskalson wil vat vir 'n rit in die Nyala om

20 te sien as ons daar wegtrek en ek skreeu op my mense beweeg

21 deur en gaan links, hulle beweeg regs, hulle beweeg

22 soontoe, om die voertuie te volg, en dan onthou terwyl

23 hulle, terwyl ons tussen hulle inbeweeg het, het groot

24 groep voor my weggehardloop. So my konsentrasie was op die

25 "dispersion" groep. Ek het nie toe nog tyd gehad om weer

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1 miskien om te draai, stil te staan en terug te kyk en te

2 wonder wat die ander doen nie. Reeds in die voorligting

3 het ek vir u gesê, en dit is baie duidelik teen die tyd dat

4 elke bevelvoerder weet wat van hom verwag word as 'n

5 operasionele bevelvoerder 'n opdrag gee.

6 [10:28] CHAIRPERSON: I'm sorry to interrupt you.

7 Did you think that – I think you said you did. Did you

8 think that they were going to, or were intending to attack

9 the police line? Remember we viewed it before, you saw the

10 front part of the group but they moved out of your line of

11 sight, but you were satisfied that they were on their way

12 towards the police group and I think, - police line rather

13 and that was the direction they were moving, and I think

14 you said you thought, if I misunderstood you, you must

15 please correct me, that you thought they were going to try

16 to attack the police line, is that correct?

17 BRIGADIER CALITZ: The police line, mnr

18 die Voorsitter, as ek daardie, dit is die voertuie –

19 CHAIRPERSON: Well, I just want to know –

20 BRIGADIER CALITZ: - wat agter my –

21 CHAIRPERSON: I just want to know what

22 you were thinking, they come around the kraal, they were

23 moving towards the area, I think where the TRT people were

24 and where there was a line of POP people in front with

25 Nyalas, that's where they were moving. Now did you think

<p style="text-align: right;">Page 18099</p> <p>1 they were moving peacefully towards Nkaneng or did you 2 think there was going to be some trouble when they came to 3 the immediate vicinity of the police? 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 beslis nie vreedsaam nie en weereens die aksie wat hulle 6 geloods het nadat ons reeds op hulle gevuur het met rubber 7 op insident 2 asook insident 3 kan ek nie dink daar was 8 enige vreedsame beweging van hulle kant af gewees nie, so 9 die vraag is, mnr die Voorsitter, nee, glad nie vreedsaam 10 nie, definitief 'n aanval. 11 CHAIRPERSON: So you thought they were 12 going to attack the police? 13 BRIGADIER CALITZ: Definitief. 14 CHAIRPERSON: Now originally you said you 15 had thought there might have been an attack although you 16 explained, we had this debate I think on Friday or even 17 Thursday, but you didn't think that the attack on the 18 police would happen until the wire was in place and you 19 were actually perceiving with phase 3, do you remember you 20 said that last week? 21 BRIGADIER CALITZ: Dit is korrek. 22 CHAIRPERSON: But now it looked to you, I 23 take it from you tell us, that there was going to, even 24 though you hadn't moved further into phase 3 the attack 25 that you had feared might happen was going to take place,</p>	<p style="text-align: right;">Page 18101</p> <p>1 he would have to react to whatever was going to happen. 2 CHAIRPERSON: Well, let's ask the 3 question in two parts, you heard my question. The 4 important thing, the thing you'd feared would happen or 5 might happen, not wouldn't happen, might happen, it was 6 happening a little bit earlier than you thought it might 7 but it was going to happen as far as you could see, as you 8 thought. Now the question is, wasn't it important for you 9 to stay around and move forward slightly to get a better 10 view and see what was actually going to happen? That's 11 part of the question, that's the part I would like you to 12 answer now. 13 BRIGADIER CALITZ: Mnr die Voorsitter, 14 dit was wel vir my baie belangrik om 'n besluit te neem op 15 daardie stadium. Die besluit wat ek kon neem, 'n 16 operasionele besluit is om vir my voertuie te sê, beweeg in 17 tussen die skare en dan op daardie manier om die skare 18 uiteen te dryf. Dan ook vir my as bevelvoerder het ek 19 gesien dat die skare begin in die rigting van koppie 2 20 asook 'n westelike rigting hardloop, so ek het aangeneem op 21 daardie stadium my bevelvoerders agter my sou my volg en 22 dat daar wel net 'n klein persentasie persone dan sou 23 deurbeweeg wat dan deur daardie beweging ook sal omdraai en 24 terugbeweeg. Ek het wel toe ek verder beweeg, het ek 25 opdrag gegee dat daar gestop moet word en ge-herorganiseer</p>
<p style="text-align: right;">Page 18100</p> <p>1 is that correct? 2 BRIGADIER CALITZ: Dit is die aanval soos 3 ons dan voorspel het sou moontlik gebeur het by fase 3, 4 waarvoor ons dan die polisiemanne in lyn gesit het en dan 5 aksie sou geloods het, u is korrek, mnr die Voorsitter. 6 CHAIRPERSON: It was apparently going to 7 happen a little bit earlier than you'd expected? 8 BRIGADIER CALITZ: Dit is korrek, mnr die 9 Voorsitter. 10 CHAIRPERSON: And you realised that? 11 BRIGADIER CALITZ: Korrek, mnr die 12 Voorsitter. 13 CHAIRPERSON: Now I think the question 14 you're being asked is, if that was so wasn't it important 15 for you to see how that turned out and what actually 16 happened because this was the important event that was 17 taking place that afternoon. Is that the question, Mr 18 Chaskalson? 19 MR CHASKALSON SC: The question is 20 slightly, - no, it is broadly the question, Chairperson, 21 because beyond that the brigadier was in charge of the 22 operation. 23 CHAIRPERSON: Okay, well, - 24 MR CHASKALSON SC: I mean he would have 25 to, - it is not just it was an important event, it is that</p>	<p style="text-align: right;">Page 18102</p> <p>1 moet word sodat ons kan vasstel dat al my bevelvoerders in 2 'n lyn kom en dat ons kan verder gaan. So, mnr die 3 Voorsitter, nee, op daardie stadium, met daardie sekondes 4 wat ek gehad het, as dit die vraag antwoord, het ek 'n 5 opdrag gegee, beweeg in met die voertuie en dan self het ek 6 waargeneem hoe ons hulle dan verder uiteendryf op daardie 7 stadium. 8 CHAIRPERSON: But you would only have 9 needed to wait for a couple more minutes surely to see what 10 was actually happening just around the corner from you 11 where the attack that you feared might take place was 12 possibly going to happen, isn't that right? Well, you 13 didn't have to stick around for half an hour to see what's 14 going to happen. I understand something was happening or 15 was going to happen at koppie 2 and I understand you had to 16 be there, I understand all that part, but if you'd stayed 17 for say another five minutes where you were and just moved 18 forward slightly so that you could see around the corner, 19 you would actually have seen how this attack that you'd 20 feared might happen, was going to turn out, isn't that 21 correct? 22 BRIGADIER CALITZ: Mnr die Voorsitter, as 23 ek gebly het vir 'n nadere vyf minute, dit is korrek, ek 24 sou kon waarneem wat agter gebeur het. Op daardie stadium 25 het ek getuig dat as operasionele bevelvoerder en dit is</p>

<p style="text-align: right;">Page 18103</p> <p>1 hoe dit werk in die veld, al my jare van ondervinding wat 2 ek het, as ek gesê het "disperse" en ons gaan vorentoe, het 3 ek as operasionele bevelvoerder nooit agtergebly om te sien 4 presies wat gebeur aan die agterkant, operasioneel, in 5 operasionele terme, ek kan nie sê dit is verkeerd nie, mnr 6 die Voorsitter, maar dit werk nie so nie. Ek as 7 operasionele bevelvoerder vat voor en toe ons begin 8 uiteendryf en ek sien die mense hardloop was dit vir my 9 belangrik om dan my voertuie in lyn te kry sodat ons 10 dieselfde met daardie "dispersion" in fase 3 dan kan 11 voortgaan. Ek het ten volle vertrouwe gehad dat my 12 bevelvoerders agter sou dan ook dieselfde kon doen en 13 suksesvol, ek het geensins die aanval agter wat gebeur het, 14 soos ek voorheen ook gesê het, dit voorsien daar nie.</p> <p>15 CHAIRPERSON: Well, I suspect Mr 16 Chaskalson may have some more questions flowing from those 17 answers but shall we take the tea adjournment at this 18 stage? Mr Semenya, sorry, your light is on?</p> <p>19 MR SEMENYA SC: Well, Chair, I was just 20 going to make the observation on record that the law 21 cautions was against the insidiousness of hindsight on 22 these types of matters.</p> <p>23 CHAIRPERSON: Yes, I don't know if that's 24 a proper objection thought, Mr Semenya, but we'll take it 25 aboard and bear it in mind. We now take the tea</p>	<p style="text-align: right;">Page 18105</p> <p>1 radio gevat het en vir die persone agter geskree het die 2 persone kom deur, maar weereens in my gedagte, die 3 bevelvoerders was ge-brief, hulle sou geweet het en ek neem 4 aan hulle het dit gesien. Mnr die Voorsitter, nee, nee, ek 5 dink nie op hierdie stadium is daar enige iets anders wat 6 ek kan sê definitief wat ek kon doen nie, ek sal miskien 7 deur my gedagte, maar nee, nie wat nou by opkom nie, nee.</p> <p>8 COMMISSIONER HEMRAJ: Thank you.</p> <p>9 CHAIRPERSON: Wouldn't it have been 10 possible to have driven the vehicles in front of them, you 11 know threw them and in front of them as it were, to block 12 their advance towards the police line, in other words 13 couldn't they have been stopped not by being fired at as 14 they were, but by being prevented by vehicles blocking 15 their way?</p> <p>16 BRIGADIER CALITZ: Mnr die Voorsitter, 17 soos ek reeds getuig het, teen die tyd wat my voertuig daar 18 aangekom het was die ander voertuie geposisioneer, so ek 19 het verby voertuie gery. Ek dink dit het so vinnig gebeur 20 toe die groep storm dat daar was miskien tyd om vir die 21 ander groep te sê of die Casspir miskien beweeg links en 22 blok hulle, maar ek dink nie die tydsverloop, ons kan kyk 23 op die videos maar ek nie daar sou tyd gewees het om die 24 voertuie anders te posisioneer waar ons wel gesê het, gaan 25 soontoe en blok, ek neem aan die bevelvoerders het dan die</p>
<p style="text-align: right;">Page 18104</p> <p>1 adjournment.</p> <p>2 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>3 [10:55] CHAIRPERSON: The Commission resumes, 4 Brigadier, you're still under oath. Mr Chaskalson?</p> <p>5 COMMISSIONER HEMRAJ: Brigadier, what 6 could you have done when you realised that that group was 7 going, as you say, to attack the police, what could you 8 have done from where you were?</p> <p>9 BRIGADIER CALITZ: Kommissaris, ek weet 10 nie, ek probeer so vinnig dink met dit wat deur my kop 11 gegaan het, ek dink op daardie stadium my enigste besluit 12 was om so ver as moontlik te gaan en dat ons met die 13 voertuie dan die persone uitmekaar uiteendryf, want niks 14 anders het gewerk tot op daardie stadium, die rubber. So 15 nee, ek dink nie daar was iets anders wat ek kon doen op 16 daardie stadium om te verhinder dat daar 'n groter groep 17 deurkom nie.</p> <p>18 COMMISSIONER HEMRAJ: What could you have 19 done about the front of the group that was already 20 progressing towards the police from where you were?</p> <p>21 CHAIRPERSON: To phrase the question 22 differently, was there anything you could have done?</p> <p>23 BRIGADIER CALITZ: Mnr die Voorsitter, 24 met die benefit, soos ons in Engels sê, met die benefit of 25 hindsight, op daardie stadium kan 'n ou miskien die hand</p>	<p style="text-align: right;">Page 18106</p> <p>1 lyn wat ons sou gemaak het as ons uitbeweeg, daardie lyn 2 probeer hou met dan die persone tussenin en nie fisies 3 langs mekaar nie, as dit is wat u bedoel. So nee, ek glo 4 nie daar sou op daardie stadium vir my tyd gewees het 5 vandat ek dit waargeneem het om daardie opdrag te gee en 6 genoeg tyd gewees het vir voertuie om in daardie posisie te 7 kom, ek dink hulle sou in elk geval dan deur gewees het. 8 Ek dink nie daar sou genoeg tyd gewees het daarvoor nie.</p> <p>9 MR CHASKALSON SC: Brigadier, I have a 10 slightly different question and that is, wasn't it 11 important for you to know what was happening with this 12 attack that you anticipated by the militant group on the 13 police line so that you would be in a position to react to 14 that attack?</p> <p>15 BRIGADIER CALITZ: Mnr die Voorsitter, 16 dit is korrek, dit was vir my belangrik.</p> <p>17 MR CHASKALSON SC: So wasn't important 18 for you to try to see where that voorste groep that you 19 describe, was going and what happened to them when they got 20 to where they were going?</p> <p>21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 ja, ek dink dit is wat ek getuig het toe ek ge-regroup and 23 ge-herorganiseer het, het ek wel teruggekyk en gesien daar 24 is 'n groep wat nie opvolg nie en ek het probeer kontak 25 maak om te hoor wat daar gebeur het, dit was, ek dink</p>

<p style="text-align: right;">Page 18107</p> <p>1 minute, sekondes later.</p> <p>2 MR CHASKALSON SC: Well, we can actually</p> <p>3 place that fairly precisely because your communication and</p> <p>4 in due course we'll get to that point, your communication</p> <p>5 was picked up on one of the television cameras and if I can</p> <p>6 give you a pretty exact estimate of when that happened,</p> <p>7 bear with me.</p> <p>8 BRIGADIER CALITZ: Korrek, mnr die</p> <p>9 Voorsitter.</p> <p>10 MR CHASKALSON SC: From, - that radio</p> <p>11 communication appears at 9 minutes and 30 seconds into</p> <p>12 Exhibit EEE16 where you were picked up on the radio saying,</p> <p>13 "TRT, can you hear me?" Maybe if we can play that, I</p> <p>14 wonder if EEE16 is available up there, it wasn't on that</p> <p>15 memory stick that I handed up, so we will get it and before</p> <p>16 we play EEE16, this may, this is a video in respect of</p> <p>17 which a warning must be issued.</p> <p>18 CHAIRPERSON: Mr Chaskalson informs me</p> <p>19 that the video we're going to be showing is one which may</p> <p>20 well cause emotional distress and great sorrow and pain to</p> <p>21 some of the members of the family, families of those who</p> <p>22 are depicted on it and so I will ask that it not be shown</p> <p>23 until two minutes have elapsed from the time that I finish</p> <p>24 speaking, to enable those who wish to leave the Chamber, to</p> <p>25 do so.</p>	<p style="text-align: right;">Page 18109</p> <p>1 pain to anyone remaining in the chamber.</p> <p>2 [VIDEO SHOWN]</p> <p>3 MR CHASKALSON SC: And if we can scroll</p> <p>4 forward to 09:30? My 09:30 may be slightly different from</p> <p>5 yours, so let's go back 5 seconds, we'll pick it up one way</p> <p>6 or the other, and play it from there?</p> <p>7 [VIDEO SHOWN]</p> <p>8 CHAIRPERSON: We are now showing from</p> <p>9 09:23.</p> <p>10 MR CHASKALSON SC: Just stop there. Can</p> <p>11 you replay that, the last 3 seconds?</p> <p>12 [VIDEO SHOWN]</p> <p>13 Did you hear someone saying the TRT listen to the</p> <p>14 radio before, immediately after a radio transmission?</p> <p>15 CHAIRPERSON: Sorry, what's the answer to</p> <p>16 that, did you hear that? Would you like it to be played</p> <p>17 again slowly so that –</p> <p>18 BRIGADIER CALITZ: If we can, I</p> <p>19 definitely heard the TRT, it sounds to me TRT listen or</p> <p>20 TRT, daar 'n sin na dit wat ek nie kon optel nie.</p> <p>21 CHAIRPERSON: Okay, let's have it again,</p> <p>22 let's have it slowly, is it your voice?</p> <p>23 BRIGADIER CALITZ: Ek kan nie op hierdie</p> <p>24 stadium sê, ek sal nou by my getuienis kom, as ek dit net</p> <p>25 kan, op daardie stadium –</p>
<p style="text-align: right;">Page 18108</p> <p>1 MR CHASKALSON SC: And perhaps I should</p> <p>2 give credit to the Human Rights Commission and CALS because</p> <p>3 they were the ones who picked up this communication. It</p> <p>4 wasn't the evidence leaders and I would like to acknowledge</p> <p>5 them in that regard.</p> <p>6 CHAIRPERSON: May I say, you did give a</p> <p>7 time into the video where this happens, is it possible to</p> <p>8 give us, to translate that to ETV time?</p> <p>9 MR CHASKALSON SC: It will be, it is 9</p> <p>10 minutes and 30 seconds into the video which we translate</p> <p>11 into approximately 15:56:18 ETV time, 15:56:18.</p> <p>12 CHAIRPERSON: Remind me again, when did</p> <p>13 the shooting, the fusilier take place?</p> <p>14 MR CHASKALSON SC: At 15:53:50.</p> <p>15 CHAIRPERSON: So is this after the</p> <p>16 shooting?</p> <p>17 MR CHASKALSON SC: It is after the</p> <p>18 shooting, it is –</p> <p>19 CHAIRPERSON: About 4 minutes afterwards?</p> <p>20 MR CHASKALSON SC: Not 4, 2 and a half</p> <p>21 approximately.</p> <p>22 CHAIRPERSON: 2 and a half. Well, no one</p> <p>23 is showing, the two minutes aren't up but no one is showing</p> <p>24 any signs of moving, leaving the Chamber, so I imagine we</p> <p>25 can now proceed without any fear of causing distress and</p>	<p style="text-align: right;">Page 18110</p> <p>1 CHAIRPERSON: And the Nyala we see on the</p> <p>2 screen, do you know what Nyala that is?</p> <p>3 BRIGADIER CALITZ: Dit sou van die</p> <p>4 agterste voertuig gewees het wat dan agtergebly het op die</p> <p>5 toneel 1, verneem ek.</p> <p>6 CHAIRPERSON: Okay, thank you.</p> <p>7 BRIGADIER CALITZ: Ek kan nie vir u sê</p> <p>8 die Papa roep sein nie.</p> <p>9 CHAIRPERSON: Alright, let's listen to it</p> <p>10 again and perhaps, - will it help to slow down slightly for</p> <p>11 him to hear?</p> <p>12 MR CHASKALSON SC: It may if we can slow</p> <p>13 it down, I'm not sure if it is possible on this player.</p> <p>14 Chairperson, that Nyala is, I'm fairly sure Nyala 6 which</p> <p>15 should have, still have a barbed wire trailer behind it.</p> <p>16 [VIDEO SHOWN]</p> <p>17 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>18 wat ek daar gehoor het is, "basic line" en toe iets soos</p> <p>19 "TRT, can you hear me" en toe iets soos, "TRT, listen to</p> <p>20 the radio."</p> <p>21 MR CHASKALSON SC: Is, "TRT, can you hear</p> <p>22 me," is that your voice, the voice that comes over on the</p> <p>23 radio?</p> <p>24 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>25 kan so aanneem, ek kan nie vir u met sekerheid sê nie, ek</p>

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1 het wel in my hoof getuienis gesê, ek dink u vind dit daar
 2 in paragraaf, ek het so vinnig net gekyk, 116, waar ek gesê
 3 het, "I first contacted TRT on the radio to enquire why
 4 they are not following the POP action as per the briefing."
 5 So ja, dit kon baie moontlik ek gewees het wat op daardie
 6 stadium 2 en 'n half minute om gekyk het en gesien het TRT
 7 staan nog waar hulle gestaan het en hulle het nie opgevolg
 8 nie, so dit is moontlik, mnr die Voorsitter.

9 MR CHASKALSON SC: Well, were you aware
 10 of anybody else trying to contact the TRT on the radio
 11 during this operation or after the scene 1 shootings?

12 BRIGADIER CALITZ: Nie waarvan ek bewus
 13 is of wat ek gehoor het nie, mnr die Voorsitter.

14 MR CHASKALSON SC: Maybe we can play it
 15 one more time just so that you can listen again and see if
 16 there is any doubt that it is your voice.

17 [VIDEO SHOWN]

18 BRIGADIER CALITZ: Dit is, - ek het
 19 myself, laat ek dit so stel, mnr die Voorsitter, ek het
 20 myself nog nooit so gehoor nie, so ek het nie ontken dit
 21 kan nie ek wees nie, maar ek kan nie vir u met sekerheid sê
 22 daardie stem is myne nie, nee, maar my getuienis is dat ek
 23 wel TRT gekontak het op 'n stadium op die radio.

24 MR CHASKALSON SC: Well, you see,
 25 Brigadier, my question is, if there was going to be an

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1 attack on the police lines it was important for you to know
 2 as soon as possible whether that attack had succeeded or
 3 not, because if the strikers got through the police line
 4 then there were a range of vulnerable targets very close to
 5 them, is that not right?

6 BRIGADIER CALITZ: Korrek, mnr die
 7 Voorsitter.

8 MR CHASKALSON SC: And so when you were
 9 anticipating this attack on the police lines in the
 10 direction of the position between the kraal and the shack,
 11 it was crucial for you to know almost immediately what the
 12 outcome of that attempted attack was going to be, would you
 13 accept that?

14 BRIGADIER CALITZ: Miskien as u die vraag
 15 kan herhaal, ek verstaan nie die gedeelte, "attack op die
 16 agterste lyn," miskien as u dit net weer kan herhaal dat ek
 17 u net reg verstaan?

18 MR CHASKALSON SC: You've testified
 19 earlier that you saw the lead group of the protestors pass
 20 you, moving in a direction where they were going towards
 21 the gap between the kraal and the shack and you knew
 22 presumably that the police were attempting to seal off that
 23 gap, did you?

24 BRIGADIER CALITZ: Ek weet daar was
 25 voertuie en ek weet daardie voorste groep het verby my

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1 Nyala aan die linkerkant beweeg, dit was my getuienis,
 2 Meneer.

3 MR CHASKALSON SC: So you could
 4 anticipate that there was going to be a confrontation
 5 between the lead group of the strikers and the police in
 6 that gap between the kraal and the shack, do you accept
 7 that?

8 BRIGADIER CALITZ: As u verwys
 9 "confrontation," as dit verwys na die aanval op die
 10 polisiemanne, in daardie geval stem ek saam met u.

11 MR CHASKALSON SC: Well, let's accept it
 12 on that basis for now because that is my point, if you
 13 thought that the police were about to be attacked in that
 14 location, was it not crucial for you to know exactly what
 15 happened with the attack as soon as the attack took place?

16 BRIGADIER CALITZ: Mnr die Voorsitter,
 17 dit is juis toe ek gesien het die sekond wat die persone
 18 verby my beweeg en ek dan getuig het, dit het ek gesien as
 19 die aanval, onmiddellik daar het ek met my voertuie begin
 20 kommunikeer en vir hulle gesê, beweeg vorentoe. Daardie
 21 was nie die enigste kommunikasie, ek sou dan met my
 22 voertuie praat om 'n lyn te maak en sê in watter rigting
 23 die mense hardloop en die eerste geleentheid wat ek dan
 24 gekry het waar die persone wel, ek sien hulle "disperse" en
 25 hulle draai nie om vir nog 'n aanval nie, dan sou ek ge-

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1 hergroepeer, gestop het en dan vasgestel het wat presies
 2 met al my bevelvoerders, dan 'n rapport aan my gee.

3 MR CHASKALSON SC: But surely you needed
 4 to know immediately whether the police had been successful
 5 or unsuccessful in repelling this attack that you
 6 anticipated because if they were unsuccessful the whole
 7 focus of the operation would have to change immediately.

8 BRIGADIER CALITZ: Mnr die Voorsitter,
 9 weereens, in my gedagte was dit suksesvol. Soos ek sê ek
 10 het vorentoe beweeg met die Nyalas, ek kon sien dat die
 11 persone links asook die groot groep omswaai en weghardloop,
 12 so in my gedagtegang was die operasie suksesvol, ons het
 13 die persone begin terug dryf na die voertuie waar daar dan
 14 ook uiteendryf aksies was. So dit is wat deur my gedagte
 15 gegaan het op daardie stadium.

16 MR CHASKALSON SC: And up to the point
 17 that you moved forward were you not attempting to follow
 18 the progress of the militant group at the front through
 19 whatever windows were available in your Nyala?

20 BRIGADIER CALITZ: Nee, mnr die
 21 Voorsitter.

22 MR CHASKALSON SC: Why not?

23 BRIGADIER CALITZ: Ek dink as u net kan
 24 kyk na die kaart voor u, as ek ombeweeg en ek beweeg in die
 25 rigting van die koppies, as ek ombeweeg bedoel ek nou in 'n

<p style="text-align: right;">Page 18115</p> <p>1 westelike rigting om en dan terug in 'n suidelike rigting 2 na die koppies met die kraal wat – 3 COMMISSIONER HEMRAJ: Just a second, 4 Brigadier, you're explaining things on the photograph – 5 BRIGADIER CALITZ: Ekskuus – 6 COMMISSIONER HEMRAJ: - in front of you, 7 but it is not up on the screen, so we can't follow the 8 directions you're pointing to. 9 MR CHASKALSON SC: Commissioner Hemraj, 10 maybe if I can just cut in because I think the brigadier 11 misunderstood my question. He is taking, following it 12 literally, as literally drive your Nyala behind, I'm asking 13 visually follow, look to see where that lead group was 14 going and what was happening to them. 15 CHAIRPERSON: In other words get into a 16 position from which your vision or view would no longer be 17 blocked so that you could see what was happening, is that 18 the question? 19 MR CHASKALSON SC: It is a position 20 within the Nyala. 21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 weereens, my aandag en my opdragte aan die mense en soos ek 23 met die radio gepraat het was links en regs van my om seker 24 te maak my voertuie kom in 'n lyn, om seker te maak die 25 "dispersion" loop, soos ek rond gekyk het, om my gekyk het,</p>	<p style="text-align: right;">Page 18117</p> <p>1 "you say that shortly after incident 2 or just at the point 2 at which SAPS engaged at incident 2," - the last line of 3 18026. 4 "You say shortly after incident 2 or just at the 5 point at which SAPS engaged at incident 2 you moved away 6 from your starting position, can you remember why you did 7 that," and your answer to me was, "Mnr die Voorsitter, ek 8 het die opdrag gegee vir my Openbare Orde, die Papa Nyalas 9 om te gaan disperse." Ek het dop gehou op hierdie stadium 10 tot ek gesien het die persone op die koppie het uitbeweeg 11 en ek het gesien daar is 'n punt wat vorm na my, na die 12 klein kraal se rigting en toe het ek opdrag gegee vir die 13 "dispersion action" en daarna soos enige bevelvoerder moet 14 dan nader beweeg om te gaan sien en self te vergewis wat 15 daar aan die gang is," and I'd put it to you that there was 16 a tension between this answer and your evidence in chief 17 where you said that why you moved from your starting 18 position was to move over to phase 2 of the original 19 operation, the "dispersion action" on page 2 of the 20 original operation. 21 Now I put it to you that your answer to me 22 suggested a need to find out what was going on at incident 23 2 in more detail, which was slightly different from your 24 evidence in chief which was you had understood that 25 incident 2 had been successfully repelled and now the</p>
<p style="text-align: right;">Page 18116</p> <p>1 het ek al die persone in 'n westelike, noordwestelike 2 rigting sien weghardloop. So dit is my visie wat ek op 3 daardie stadium gehad het. 4 [11:15] MR CHASKALSON SC: Chairperson, it is 5 difficult to take this cross-examination further without 6 the big chart at this point, because I think it is now 7 crucial to start – 8 CHAIRPERSON: Is it possible to move on 9 to another topic or do you want me to adjourn until the big 10 chart is available? I'm in your hands. 11 MR CHASKALSON SC: No, it will make for a 12 slightly disjointed cross-examination but let's save the 13 time, I don't if we can – 14 CHAIRPERSON: I would prefer that 15 frankly, to save the time. 16 MR CHASKALSON SC: Maybe we can just 17 quickly come back to where we almost started this morning 18 and the transcript of what was said on Friday, and if we 19 can go to page 18026 and, Brigadier, you'll recall that 20 when we ended on Friday I put it to you that there was a 21 slight tension between evidence that you'd given in answer 22 to a question that I put to you and your evidence in chief, 23 and the evidence to which I was referring you to is that 24 evidence at page, your evidence comes at 18027 in response 25 to my question at 18026, so let's put my question. I say,</p>	<p style="text-align: right;">Page 18118</p> <p>1 Public Order Police were going to embark on phase 2, the 2 dispersion action in phase 2. Do you want to clarify that, 3 what I see as a potential tension there? 4 MR SEMENYA SC: Chair, can die witness be 5 referred to the evidence in chief section where the – 6 CHAIRPERSON: It sounds like a fair 7 request, Mr Chaskalson, the reference, Mr Chaskalson, the 8 passage to which you're referring. 9 MR CHASKALSON SC: No, it was a passage, 10 I started with the passage in the statement. 11 CHAIRPERSON: JJJ107 or was it the other 12 statement? 13 MR CHASKALSON SC: JJJ107, if I can just 14 find my reference. 15 CHAIRPERSON: You're referring to around 16 about paragraph 114? Is that the passage you're looking 17 for? 18 MR CHASKALSON SC: No, Chairperson, I'm 19 sorry, I have lost my reference, it is, - if you'll bear 20 with me for two minutes, I didn't have it lined up because 21 I was expecting to proceed with the other cross-examination 22 on positions around the kraal. 23 CHAIRPERSON: - have the large 24 photograph, is that – 25 MR CHASKALSON SC: It was promised to us</p>

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1 by SAPS by 11, it should be here very soon, I would
2 imagine.

3 CHAIRPERSON: But there is a race between
4 the enlarged photograph and you're finding the reference –

5 MR CHASKALSON SC: Well, -

6 CHAIRPERSON: - for this cross-
7 examination, I don't know which will win.

8 MR CHASKALSON SC: I hope I will win,
9 Chairperson.

10 CHAIRPERSON: Would you like me to take a
11 short adjournment?

12 MR CHASKALSON SC: If you would,
13 Chairperson, I'm sorry.

14 CHAIRPERSON: We'll take a short
15 adjournment and as soon as you are ready to proceed you'll
16 let us know.

17 [COMMISSION ADJOURNS COMMISSION RESUMES]

18 [11:31] CHAIRPERSON: - photograph hasn't arrived
19 yet, so he's won the race, as he said he would. Brigadier,
20 you're under oath still.

21 ADRIAAN MARTHINUS CALITZ: s.u.o.

22 CHAIRPERSON: Mr Chaskalson.

23 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
24 Sorry about that, Chairperson. It's page 17295, if we can
25 call up 17295, and the evidence starts at line 23 where you

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1 say, "maar om terug te kom, mnr die Voorsitter, u sal sien
2 Nyala 4 het op daardie stadium by die kraal gestop. Soos
3 ek voorheen getuig het, die neus van die Nyala is nou teen
4 die kraal en die groep het dan inderdaad wegbeweeg, en toe
5 ek sien – onthou op daardie stadium was my voertuig Pappa1
6 nog omtrent by Nyala 3 – toe ek sien dat die voertuig
7 wegbeweeg het en die groep ombeweeg, het dit in my gedagte
8 dat die groep is besig om te 'disperse.' Hulle gaan
9 uiteen. Met ander woorde hulle beweeg weg in die rigting
10 van die Nkaneng nedersetting. Ek het dan die opdrag gegee
11 vir die Pappa voertuie, omdat ons reeds aksie gehad het by
12 insident 2 en ons reeds hier al van uiteendryf-tegniese
13 gebruik gemaak het, het ons opdrag gegee dat die Pappa
14 Nyalas, dit is die POP met die Openbare Orde
15 Polisiëringspersoneel, my volg en ek het beweeg tussen die
16 – daar is 'n sinkhuisie en die klein kraal is die enigste
17 opening. Ek het toe met my Nyala voertuig beweeg en
18 stelling ingeneem teen 'n draadheining." And then there's
19 a bit of a diversion about where you talk about your
20 position and you finish at line 19, "My voertuig was dan
21 onder die woord 'second' en teen die tyd wat ek daar aankom
22 en die opdrag wou gee vir my Pappa Nyalas om dan 'n lyn te
23 maak soos met die beplanning vir fase 2, dat ons verder kan
24 beweeg, die persone dan uiteendryf, kleiner groepe om hulle
25 te isoleer, te ontwapen, en te arresteer, het ek gevind dat

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1 inderdaad dit nie so gebeur het nie." So your evidence-in-
2 chief was that you moved away from your starting position,
3 thinking that the police had successfully repelled what you
4 call incident 2, and the people were in the process, and
5 the strikers were in the process of dispersing and you then
6 wanted to move over to phase 2. But your evidence in
7 cross-examination was slightly different. It was to
8 suggest that you needed to get closer to incident 2 to see
9 what was going on there because you as leader needed to
10 take control, and that was the evidence that I read to you
11 earlier from page 18026. "You say that shortly after
12 incident 2 or just at the point at which SAPS engaged at
13 incident 2, you moved away from your starting position.
14 Can you say why you did it?" "Mnr die Voorsitter, ek het
15 die opdrag gegee vir my Openbare Orde Polisiëring, die
16 Pappa Nyalas om te gaan 'disperse.' Ek het doggehou op
17 hierdie stadium, toe ek sien die persone op die koppie het
18 uitbeweeg en ek het gesien daar is 'n punt wat vorm na die
19 klein kraal se rigting. Toe het ek opdrag gegee vir die
20 'dispersion action' en daarna soos enige bevelvoerder moet
21 dan naderbeweeg om te gaan sien en self te vergewis wat
22 daar aan die gang is." So can you respond to that and
23 clarify those two parts of your testimony?

24 BRIGADIER CALITZ: Mnr die Voorsitter, ek
25 weet nie of ek nou net na al die dele kan verwys. Weereens

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1 hier word net verwys na een spesifieke woord waar ek gesê
2 het dat hulle het ombeweeg. As ons dan na 17301 toe kan
3 gaan, ek dink op dieselfde, net bietjie ondertoe, en dit in
4 'n "slide," paragraaf 10 –

5 VOORSITTER: Reël 10, neem ek aan, verwys
6 u na.

7 BRIGADIER CALITZ: Reël, reël 10.

8 Ekskuus, mnr die Voorsitter. Die vraag net voor hier was
9 dan waar my posisie bepaal was, ek dink dit vloei uit die
10 gesprek wat u nou net gehad het en waar ek gevra het,
11 "moving away from where you initially were towards the
12 kraal. Correct?" wat my antwoord was, "Dit is korrek, mnr
13 die Voorsitter. Dit is waar ek gesien het dat die persone
14 beweeg om die kraal en my gedagte was dat ons dan die Pappa
15 Nyalas kan uitbring," en dan die res is na fase 2. So wat
16 u na verwys het in Vrydag se transkripsie, as ek die woorde
17 kan aanhaal, "From your standing position and where you saw
18 it at the forces," u het verwys waar ek nog staties was,
19 "you waited, that your forces had successfully repelled
20 incident 2, you then decided to move your Nyala and to come
21 around the kraal." So dit is waar die vraag was dat ek,
22 volgens die aanduiding van die 'evidence leader' dat ek
23 gestaan het en ek het suksesvol eers gesien dat hierdie
24 mense om die kraal beweeg het en toe eers het ek wegbeweeg.
25 Nou "successfully repelled," ek het net hier na een verwys

<p style="text-align: right;">Page 18123</p> <p>1 waar ek vir die eerste keer eers verwys het waar hulle 2 ombeweeg het. As ek dan kan vra dat ons miskien na ander 3 transkripsies in dieselfde dag, dit is gister s'n, wat ons 4 op 'n baie laat stadium gekry het, mnr die Voorsitter – 5 VOORSITTER: Nie gister s'n nie, Vrydag. 6 Vandag is Maandag. 7 BRIGADIER CALITZ: Ekskuus tog. 8 VOORSITTER: Ons was nie gister hier nie. 9 BRIGADIER CALITZ: U is korrek, mnr die 10 Voorsitter. As ons miskien dan daarnatoe kan gaan, waar ek 11 op verskeie kere dan daardie antwoord gegee het, kan ek nie 12 verstaan waarom die afleiding gemaak word. Die eerste een 13 is dan by – laat ek nou net my transkripsie kry, as ek 14 korrek is, mnr die Voorsitter – op 18056, ons hoef nie 15 soontoe te gaan nie; dit is net waar gesê is, “You 16 successfully repelled the incident 2. Then you decided to 17 move,” en waar ek dan wys voor hierdie gesprek was daar 18 verskeie gesprekke op Vrydag s'n waar dit dan anders verwys 19 is. 20 Die eerste een is op bladsy 18007, as ons op 21 18007, lyn 16, daar het mnr Chaskalson my weer gevra en ek 22 het gesê, “Soos ek gesê het, mnr die Voorsitter, dit is 23 korrek. Ek het die groep ‘protestors’ gesien waar hulle by 24 die punt kom en ek het 'n klomp van my voertuie, die 25 beweging gesien na daardie spesifieke punt toe” - die punt</p>	<p style="text-align: right;">Page 18125</p> <p>1 lug.” So daar het ek weer verwys terwyl ek oppad was na 2 insident 3 was die mense reeds by – ag, nog steeds besig. 3 So hulle was nog nie klaar soos beweer nie. 4 Dan miskien 107, of 017, die volgende een, heel 5 onderaan, 24, lyn 24, daar het ek ook gesê, “Wel, toe ek in 6 daardie rigting beweeg het, het ek gesien die rook hang 7 daar.” So dit is toe ek in daardie rigting beweeg het, en 8 toe het ek gesien dat die rook hang daar. So dis weer 'n 9 bewys dat ek al klaar oppad was soontoe. Ek wil net sien 10 waar was ek nou. 17, en dan 18019, lyn 7, ek dink net bo 11 dit het ek gesê, “Mnr die Voorsitter, as daar sulke bewyse 12 is dan sal ek graag wil sien tot wanneer ek hier 13 stilgestaan het,” soos dan beweer word deur die “evidence 14 leaders.” Toe in lyn 7 het ek gesê, “Toe my mense begin 15 optree daar het ek vir my Nyala opdrag gegee om om te 16 beweeg.” So daar was nie klaar opgetree nie, terwyl hulle 17 besig was het ek dan in daardie lyn en in daardie rigting 18 gegaan. 19 Dan by 034, 18034, lyn nommer 19, “As ek dan net 20 kan aandui, op 'n stadium het ons gesien dat daar aksie aan 21 die gang, en dat daar 'n groter groep aan die bokant het 22 dan besef dat die enigste uitgang was tussen die sinkhuis 23 en die kraal wat dan die polisievoertuie kon deurbeweeg.” 24 Dit is waar ek gesê het ook vir die Pappa voertuie op 25 daardie stadium blok die persone, so op daardie stadium het</p>
<p style="text-align: right;">Page 18124</p> <p>1 daar is dan verwysend na insident 2 - “en dit is waarop ek 2 dan vir my drywer gesê het om te beweeg dat ons die Pappa 3 Nyalas kan volg.” Soos nie, soos beweer dat ek het 4 stilgestaan tot na almal om was nie. Dit is die eerste 5 een, en dan as ons na 18015, dieselfde transkripsie, 18015 6 – ekskuus, mnr die Voorsitter, ek het dit eers vanoggend 7 gekry, so ek het nou nie baie tyd gehad om – ek het net 'n 8 paar uitgehaal – 9 CHAIRPERSON: I'm not being critical. 10 Let's just carry on. 11 BRIGADIER CALITZ: Lyn 3 het ek ook 12 getuig, “Dit is my getuienis, mnr die Voorsitter. Ek het 13 gehoor daar is aksie, uiteendryf aksie besig om plaas te 14 vind en dit is ook waar ek die drywer opdrag gegee het om 15 in daardie rigting te beweeg.” So terwyl hulle dan nog 16 besig was om uiteendryf aksie by insident 2, dit is waar ek 17 my drywer opdrag gegee het om om te beweeg. So dit is die 18 tweede een om te bewys ek het nie stilgestaan totdat die 19 hele groep om was, soos beweer is nie. 20 18016, net die volgende bladsy, lyn 11, mnr die 21 Voorsitter, daar het ek ook gesê, “Dit is wat ek nou net 22 gesê het, mnr die Voorsitter, van die posisie af, nee.” 23 Hulle het my gevra kon ek stilstaan – dit is 'n vraag deur 24 die Voorsitter. “Toe ek oppad was na insident 3, terwyl 25 die mense by insident 2 was, ja. Daar was rook in die</p>	<p style="text-align: right;">Page 18126</p> <p>1 ons gesien dat die aksie nog steeds aan die gang was en nie 2 klaar was voor ek beweeg het nie. Dan miskien by 050 – 3 MR CHASKALSON SC: Sorry, Brigadier, I'm 4 not trying to – 5 BRIGADIER CALITZ: Kan ek net klaar maak, 6 asseblief, mnr die Voorsitter? Daar het ek duidelik gesê 7 in lyn 13, 14, het ek wel gesê dat ek het die agterste 8 groep gesien beweeg in daardie rigting, en daarom het ek 9 vir my voertuie opdragte gegee om te blok. Die agterste 10 groep, onthou ek het gesê die voorste groep was steeds by 11 insident 2, die agterste groep het ek wel om gesien beweeg 12 in die rigting van Nkaneng en daarna die fase 3, en – ek is 13 amper klaar, mnr die Voorsitter, dan nog net twee, op 052, 14 lyn 23, “Daardie uiteendrywing het my gelyk toe daar aksie 15 begin plaasvind dat daar wel van die mense ombeweeg het,” 16 en dit is waarna ek verwys. Ek het nie gesê die hele groep 17 het omgedraai, soos u nou net gesê het, en terugbeweeg nie. 18 Daar was weer 'n bewering dat ek gesê het die hele groep. 19 Ek het net gesê die agterste groep het ombeweeg. Die 20 voorste pertinente groep was nog by insident 2, en dan net 21 onder dit, 053, lyn 12, dit is wat ek gesê het die groep 22 aan die agterkant het ombeweeg, die groep aan die 23 agterkant, nie die voorste punt groep. So mnr die 24 Voorsitter, die bewering wat gemaak was dat “Your position 25 when you saw your forces had successfully repelled incident</p>

<p style="text-align: right;">Page 18127</p> <p>1 2, then you decided to move your Nyala," en dit verskil van 2 my "evidence-in-chief." Ek het verwys na "evidence-in- 3 chief" paragraaf 301 waar ek duidelik gesê het dat eers toe 4 ek om kom by insident 3 het ek die groep gesien ombeweeg en 5 nou ek dink nege keer het ek aangedui Vrydag se insident, 6 dat ek wel beweeg het terwyl die insident nog aan die gang 7 was. So daardie bewering, ek verskil van u. Dankie, mnr 8 die Voorsitter.</p> <p>9 MR CHASKALSON SC: Brigadier, I still 10 don't know what you meant at pages 17295 and 17296. I 11 think we can probably leave it on the basis that the record 12 will speak to itself, but I do want to clarify your state 13 of mind. That's where this all started. So are you saying 14 now that when you moved from your position at the starting 15 point, it was not in the belief that you were about to 16 embark on phase 2 of the original plan because –</p> <p>17 CHAIRPERSON: Phase 3 of the original 18 plan.</p> <p>19 MR CHASKALSON SC: Phase 2. Phase 2. 20 CHAIRPERSON: Phase 2? 21 MR CHASKALSON SC: Phase 2 of the 22 original plan, because the strikers were already starting 23 to disperse, but rather it was because you wanted to get 24 closer to incident 2 to see what was going on. Was that 25 your subjective state of mind?</p>	<p style="text-align: right;">Page 18129</p> <p>1 kant wegbeweeg het, wat my gedagtegang dan was nou is die 2 geleë tyd om dan die voertuie om te vat en daarom die 3 woorde "block" het ek die voertuie omgevat en dan die 4 volgende fase in plek te sit. Ek dink dis 'n presiese 5 herhaling wat ek Vrydag vir u gesê het.</p> <p>6 MR CHASKALSON SC: So you had seen people 7 starting to move around and you wanted to get close to 8 observe what they were doing and also to put in place a 9 block to stop them progressing further?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter, 11 met respek, ek weet nie hoe om dit verder te antwoord nie. 12 Ek het opdrag gegee –</p> <p>13 CHAIRPERSON: [Microphone off, 14 inaudible]. Let me put it to you the way I understand. If 15 I'm wrong you can correct me. You started out in the 16 position near Nyala 3 and when you were there you saw the 17 people going towards the small kraal and you thought they 18 would get through before the wire fence was in position, 19 and what you say, what you describe as incident 2 started 20 to take place there. So you decided to move in that 21 direction to see what was happening, as I understand it.</p> <p>22 BRIGADIER CALITZ: Korrek, mnr die 23 Voorsitter.</p> <p>24 CHAIRPERSON: When you did that, you 25 noticed that some people were going around the kraal and on</p>
<p style="text-align: right;">Page 18128</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, 2 nee, ek dink waarna die Advokaat verwys, 295/296, ek het 3 dit per paragraaf Vrydag uiteengesit presies hoe ek dit 4 bedoel het, anders kan ons net weer teruggaan na die – as 5 ek sy versoek kan eerbied dat die rekords maar spreek van 6 wat ons getuig het, as dit moontlik is, mnr die Voorsitter, 7 anders moet ek als herhaal en ek dink dis nou, hierdie raak 8 – ek sê nie uitgereek nie, maar ek bly myself herhaal.</p> <p>9 MR CHASKALSON SC: Well, what was your 10 state of mind? What was your actual state of mind, why did 11 you decide to move from your starting position? What 12 motivated you?</p> <p>13 CHAIRPERSON: What starting position do 14 you mean? You mean starting position near Nyala 3, or 15 starting position near the fence by the –</p> <p>16 MR CHASKALSON SC: No, the starting 17 position near Nyala 3. The first move that you made in 18 this operation.</p> <p>19 BRIGADIER CALITZ: Mnr die Voorsitter, ek 20 het nou verskeie kere getuig dat toe ek beweeg het in 21 daardie rigting is toe my mense betrokke was in 'n aksie. 22 Ek het 'n opdrag gegee dat die persone uiteengedryf moet 23 word. So dit was vir my as bevelvoerder baie belangrik om 24 nader te beweeg, myself te "assess" wat aan die gang was. 25 Terselfdertyd het ek getuig dat daar persone aan die agter</p>	<p style="text-align: right;">Page 18130</p> <p>1 the other side of the kraal. That you said was from what 2 you call the rear group, not the actual people in the front 3 group.</p> <p>4 BRIGADIER CALITZ: Korrek, mnr die 5 Voorsitter.</p> <p>6 CHAIRPERSON: So you thought that if that 7 happens, the sensible thing for you to do is to go on 8 around the kraal yourself on the other side, get to the 9 position past the, that "sinkhuisie," that corrugated iron 10 shack, where you eventually came to stop near that fenced 11 enclosure and you showed us where it was. It was –</p> <p>12 BRIGADIER CALITZ: Korrek, mnr die 13 Voorsitter.</p> <p>14 CHAIRPERSON: - close to the opening with 15 the two poles and you stopped there.</p> <p>16 BRIGADIER CALITZ: Korrek, mnr die 17 Voorsitter.</p> <p>18 CHAIRPERSON: That is the description of 19 what happened.</p> <p>20 BRIGADIER CALITZ: Korrek, mnr die 21 Voorsitter.</p> <p>22 CHAIRPERSON: Alright, so I did 23 understand you correctly.</p> <p>24 BRIGADIER CALITZ: Korrek, mnr die 25 Voorsitter.</p>

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1 MR CHASKALSON SC: Where did the block
2 come into it? What was your intention in relation to the
3 block?
4 BRIGADIER CALITZ: Mnr die Voorsitter,
5 weereens, ek – kom ons wees rustig. Gister is die vraag
6 gevra deur Kommissaris Hemraj as 'n verduideliking wat ek
7 met "block" bedoel. Ek weet nie waar mnr Chaskalson – dit
8 is duidelik dat ek het gesê voor Nyala 4 by die kraal kom
9 sou dan die voertuie in 'n blok posisie inbeweeg sou hulle
10 sien dat daar dalk 'n gaping is, en dan die ander
11 bevelvoerders het daarom hulle voertuie so geposisioneer
12 deur daardie enigste opening, mnr die Voorsitter, wat dan
13 ook aandui dat hulle het opgevorm dan sommige vir 'n
14 "dispersion," sommige vir 'n blok. Dit is onmoontlik vir -
15 ek dink ons het 16 Nyalas op die dag gehad – dat almal net
16 een aksie uitvoer. So daarom elke groepbevelvoerder het sy
17 persone gevat na die beste posisie.
18 CHAIRPERSON: Yes, I must say I thought
19 the problem was that there were actually going to be two
20 block actions. The first one was you wanted to block them
21 from getting past the kraal before Nyala 4 got there with
22 the wire.
23 BRIGADIER CALITZ: Insident 2.
24 CHAIRPERSON: Ja, at what you call
25 incident 2. The second block I think was on the other side

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1 of the kraal because what you call the rear group, you saw
2 them, or thought you saw them – you thought it was they
3 whom you say; you did see people going around the kraal and
4 you thought they might get through there. So there was a
5 second block instruction relating to an attempt, or an
6 endeavour to stop them from getting through, am I
7 understanding that correctly?
8 [11:51] BRIGADIER CALITZ: Kommissaris, heeltemal
9 korrek - Mnr die Voorsitter, ekskuus.
10 CHAIRPERSON: Alright, don't worry, I'm
11 also a commissioner. So it's the first block near where
12 you say was where incident 2 was happening. The second
13 block is round the other of the kraal. Is that right?
14 BRIGADIER CALITZ: That's correct, mnr
15 die Voorsitter.
16 CHAIRPERSON: Now, I think Mr Chaskalson
17 is talking – he's asking about what I've called the second
18 block. Is that correct?
19 MR CHASKALSON SC: That is correct,
20 Chairperson, because the evidence at 17295 is not
21 consistent with an instruction on the first block that
22 would have taken place after the brigadier left his
23 position, because the brigadier says at 17295 that "Nyala 4
24 het op hierdie stadium by die kraal gestop." So Nyala 4
25 was already at the kraal and then at the top of 1296, he

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1 says, "Onthou, op daardie stadium was my voertuig Papa1 nog
2 omtrent by Nyala 3." So he says he was still at Nyala 3
3 when Nyala 4 reached the kraal. So there was no need for
4 any block on the western side of the kraal before the
5 Brigadier moved from his position at Nyala 3. It had
6 already been blocked by Nyala 4, according to his
7 testimony.
8 CHAIRPERSON: You understand the
9 position? May I suggest in future we invent terminology to
10 make it clear? We've talked about the first block and the
11 second block, we know that. And let's talk about your
12 first position and your second position. Your first
13 position was near Nyala 3. Your second position was the
14 one you took up after you had set out to deal further with
15 the situation and that's near that fenced enclosure on the
16 other side of the kraal.
17 BRIGADIER CALITZ: Korrek –
18 CHAIRPERSON: We'll call that the second
19 position. So if we keep that in mind and make it clear if
20 we're talking about the first position or the second
21 position, we talk about the first block or the second
22 block, then I think possibly some of the problems may
23 disappear, but anyway, Mr Chaskalson, can you take it
24 further using that terminology?
25 MR CHASKALSON SC: Yes. Was the first

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1 block complete? Was there any need for the first block at
2 the time that you left your first position?
3 BRIGADIER CALITZ: Voorsitter, dit is
4 waarna ek weereens wil verwys na Vrydag toe ons presies
5 daardie punt ge-bespreek het, ek het gesê Nyala 4 maak toe.
6 Op daardie stadium was my gedagtegang - dieselfde stadium,
7 ek het nie gesê op 'n latere stadium, het ek die opdrag
8 gegee van gaan disperse en blok. Met ander woorde, as
9 Nyala 4 dan te stadig was, het ek gesê Nyala 5 beweeg in.
10 Ek dink advokaat het toe op 'n stadium gesê Papa5, as ek
11 kan reg onthou.
12 CHAIRPERSON: Mr Semenya said, in fact –
13 BRIGADIER CALITZ: Laat dit wel gebeur
14 het.
15 CHAIRPERSON: - Nyala 4 didn't actually
16 reach the kraal –
17 BRIGADIER CALITZ: Dit is korrek.
18 CHAIRPERSON: It appears that the gap
19 between it Nyala the kraal was filled by Nyala 5, but
20 anyway –
21 MR CHASKALSON SC: Mr Chairperson, the
22 electronic evidence suggests otherwise. So we shouldn't be
23 sort of taken to accept that.
24 CHAIRPERSON: He's reminding us what he
25 said on Friday. Anyway, sorry I interrupted you. So you

<p style="text-align: right;">Page 18135</p> <p>1 were at the first position. You instructed that there 2 should be firstly, a blockage and secondly, some kind of 3 dispersal in the vicinity of the small kraal and Nyala 4 4 then accelerated towards the small kraal. 5 BRIGADIER CALITZ: Korrek. 6 CHAIRPERSON: And you at some stage 7 thereafter then moved in that direction – caused your 8 vehicle to move in that direction, so you could see what 9 was going on. Is that right? 10 BRIGADIER CALITZ: Korrek, mnr die 11 Voorsitter. 12 CHAIRPERSON: You then saw what you think 13 are some of the rear group moving around the kraal to go to 14 the side. So you went past the kraal and took up your 15 second position, which is by the fenced enclosure. Is that 16 right? 17 BRIGADIER CALITZ: Korrek, mnr die 18 Voorsitter 19 CHAIRPERSON: And when did you give the 20 second block instruction? 21 BRIGADIER CALITZ: Mnr die Voorsitter, op 22 pad soontoe het ek mos wel gesien dat die groep – die agter 23 groep begin om beweeg en daar het ek vir die voertuie gesê 24 - ek dink op 'n stadium het ek gesê, "Volg my, blok," maar 25 intendeel die volg my, die bevelvoerders het alreeds</p>	<p style="text-align: right;">Page 18137</p> <p>1 kontak gehad het met die groep, het ek dan gesien die 2 pertinente – en dit is hoekom ek aanvanklik die opdrag 3 gegee het blok, wat ek miskien dan voorsien het. 4 MR CHASKALSON SC: But, Brigadier, I 5 understood your evidence earlier that the block instruction 6 was really an instruction, as it were, to follow you to get 7 to the eastern side of the kraal and block there, is that 8 correct? 9 BRIGADIER CALITZ: Dis nie korrek nie, 10 mnr die Voorsitter. 11 MR CHASKALSON SC: So when did you issue 12 your block instruction – the second block instruction? 13 BRIGADIER CALITZ: Toe ek op pad was van 14 posisie Papa1 Nyala, waar ek staties agter die Nyala – wat 15 sal dit wees? – Nyala 3 was. 16 CHAIRPERSON: What I've called the first 17 position? 18 BRIGADIER CALITZ: Die first position. 19 CHAIRPERSON: So while you were on your 20 way from the first position, while you were on your way 21 from the first position - the second position, although you 22 – I don't think you were actually travelling towards the 23 second position originally, but as you proceeded, you 24 decided to go to the second position. So as you were going 25 to the second position, you gave the second block</p>
<p style="text-align: right;">Page 18136</p> <p>1 gereageer. So hulle was in posisie gewees. So ek dink 2 hier by vier, het ek nie vir Papa5 gesê gaan ry Papa5 voor 3 Nyala 4 in nie. Dit was onmoontlik vir my op daardie 4 stadium. Dit was 'n algemene opdrag vir die bevelvoerders 5 om te sien sou 4 dan nie vinnig genoeg toemaak om daar te 6 blok. Die res het ek gesê soos hulle om beweeg, het ek dan 7 die opdrag gegee – ek dink my woorde was, "Volg my." Ek is 8 nie 100% - ek praat onder korreksie, wat ek dan gesê het 9 gaan blok, sodat ons daar dan 'n lyn kan vorm, mnr die 10 Voorsitter, en dan die fase kan verder vat. 11 CHAIRPERSON: You wanted the second 12 blockage to take place in the vicinity of, what I call your 13 second position? 14 BRIGADIER CALITZ: Ek noem dit om 15 insident 3 te keer om plaas te vind, mnr die Voorsitter. 16 MR CHASKALSON SC: And what were you 17 hoping to block with the second block? 18 BRIGADIER CALITZ: Dit is die persone wat 19 om beweeg. Ek het wel nou vir u aangedui in, ek dink dit 20 was 301 – 17301, toe ek, teen die tyd wat my voertuig by 21 die draad gekom het, het ek wel gesien dat dit het nie so 22 gebeur dat van die agterste groep alleen om beweeg, maar 23 dat die voorste groep het dan ook daardie gebukkende 24 posisie om beweeg. So die tyd wat gevat het vir my – ek 25 het gery en teen die tyd wat ek weer die eerste visuele</p>	<p style="text-align: right;">Page 18138</p> <p>1 instruction, is that right? 2 BRIGADIER CALITZ: Korrek, mnr die 3 Voorsitter. 4 MR CHASKALSON SC: And what were you 5 hoping to block with that instruction? What passage were 6 you hoping to block? 7 BRIGADIER CALITZ: The only entrance that 8 is available there. 9 MR CHASKALSON SC: So you wanted your 10 Papa vehicles to block the only entrance around the west 11 side of the kraal? Sorry, I take that back, the east side 12 of the kraal. 13 BRIGADIER CALITZ: I have it north in the 14 direction east, if I'm – 15 MR CHASKALSON SC: I think you're right, 16 northeast is probably the – more accurate than east. So 17 you wanted your Papa vehicles to block the northeast – the 18 opening to the northeast of the kraal? Did you communicate 19 that to them? 20 BRIGADIER CALITZ: Mnr die Voorsitter, ek 21 het deurentyd met my voertuie gepraat. Ek dink later as 22 daar transcripts en selfs video recording is, sal u hoor 23 dat daar was breukdeel van minute of sekondes wat ek stil 24 gebly het. Ek het die heel tyd met my mense gepraat en 25 gesê ry hierdie kant toe, ry daardie kant toe. Dit is wat</p>

<p style="text-align: right;">Page 18139</p> <p>1 'n bevelvoerder doen. Daar is nie een opdrag en dan bly ek 2 stil nie. So ja, ek het dit gekommunikeer met die Papa 3 voertuie.</p> <p>4 CHAIRPERSON: Would I be oversimplifying 5 it if I said that what you wanted to block was the 6 passages, effectively, between the corrugated iron shack on 7 the one side, and the – what I think you've called the 8 north eastern wall of the kraal and the other? Is that 9 correct?</p> <p>10 BRIGADIER CALITZ: Miskien bietjie voor 11 dit, mnr die Voorsitter, daar by die draad aan die –</p> <p>12 MR CHASKALSON SC: Perhaps if the 13 brigadier can just indicate on this map and we can put the 14 camera on, so that we can understand exactly where he 15 wanted the block?</p> <p>16 CHAIRPERSON: So it essentially the 17 passage, if one describes it in a simple form, between the 18 corrugated iron shack, which has been described as the sink 19 huisie, and the wall of the kraal which is facing it, and 20 you've now – is that correct or did you actually want the 21 block to be further back, as you've now indicated it? In 22 other words, along that wall of the kraal, moving across to 23 the fenced enclosure on the other side. Is that right? In 24 other words, so they wouldn't have got to the kraal, they 25 would had to more or less turn around – not around, they</p>	<p style="text-align: right;">Page 18141</p> <p>1 leiers gaan nie sy eie besluite vat nie, hulle gaan op 2 opdrag. So die opdrag wat gegee was en die voorligting is 3 dat die mense moet uitbeweeg in daardie formasie, en dit 4 was die enigste pad wat ons kon uitbeweeg so vroeg as 5 moontlik, maar nie pertinent, het ek vir hulle gesê, in 'n 6 lyn tussen daai kraal en die draad nie, nee, mnr die 7 Voorsitter.</p> <p>8 CHAIRPERSON: I see. So Mr Chaskalson is 9 suggesting that there were two possible places – passages 10 perhaps, where the blockage could take place. The one is 11 the one that he's indicated, which I think is more or less 12 what you've indicated to us.</p> <p>13 BRIGADIER CALITZ: So vroeg as moontlik.</p> <p>14 CHAIRPERSON: From the corner of that 15 fenced enclosure in the middle, which is a larger kraal, 16 and - that's the one end of it, and then proceeds down in 17 line with the wall of the kraal and it crosses that rather 18 wide footpath. That's the first position. And what's the 19 other one you wanted to show, Mr Chaskalson?</p> <p>20 MR CHASKALSON SC: The other one would be 21 the one I'm indicating now, at the base of the kraal.</p> <p>22 CHAIRPERSON: That's the base of the 23 kraal, proceeding more or less parallel with that large 24 footpath and ending up at the corner of the other fenced 25 enclosure. That's the fenced enclosure in which one sees</p>
<p style="text-align: right;">Page 18140</p> <p>1 would have to turn slightly to come further on in the gap 2 between the corrugated iron shack and the kraal. You 3 wanted to stop them from getting there. You wanted 4 actually to stop them from passing between the edge of the 5 kraal and the opposite side, where one sees the corner of 6 the fenced enclosure. Is that correct?</p> <p>7 BRIGADIER CALITZ: Ek dink dit is korrek, 8 mnr die Voorsitter. Die hoek van die draad, as ek nou so 9 vinnig kan sê, en die in lyn met die hoek van die kraal, op 10 so 'n vroeë stadium as moontlik, as ek dit so kan stel?</p> <p>11 MR CHASKALSON SC: And Brigadier, can we 12 just clarify that so that there's no doubt at all? Because 13 it seems to me there are two possible points to block. 14 There's the point that you indicating now, and there's the 15 point at which the confrontation ultimately took place. So 16 if I can move your line? You say that you wanted the block 17 to take place on this piece of wood between my two fingers?</p> <p>18 BRIGADIER CALITZ: Ja, die opdrag was – 19 net versigtig wees, mnr die Voorsitter, en soos u vroeër 20 gesê het, die opdrag was nie vir die voertuie om op te lyn, 21 soos u vroeër tereg opgeroep het nie. Dit was nie, die 22 opdrag was vir die lede, "Move around and block the 23 participants." So die moving around, die lede in die 24 bevelvoerder sal dan terug val op die voorligting wat aan 25 hulle gegee is, omdat elkeen, soos ek gesê het, seksie</p>	<p style="text-align: right;">Page 18142</p> <p>1 the sink huisie, the corrugated iron shack. So let's call 2 the first one, Mr Chaskalson, the first one, the first 3 possible blockage, and the one he is now showing, the 4 second possible blockage, and we use that terminology. 5 Yes, I'm reminded that I've already used the expression 6 first block. Alright, let's do it this way. The block 7 that I refer to, which runs up in – follows the line of the 8 small kraal and then crosses to the passages – well, the 9 gap, to the corner of the fenced enclosure around the large 10 kraal, that we'll call blockage A. And the one that Mr 11 Chaskalson is now showing us, which is parallel with the 12 wide footpath and runs from the corner of the little kraal 13 across to the corner of the fenced enclosure, around the 14 corrugated iron shack, the sink huisie, we'll call that 15 blockage B. That's correct, as you have it, and if we then 16 continue to use that terminology, we're less likely to 17 misunderstand each other.</p> <p>18 COMMISSIONER HEMRAJ: Well, if you say 19 those are the areas that you possibly want to block, is 20 that where you would contemplate that the vehicles are 21 placed?</p> <p>22 BRIGADIER CALITZ: Dit is korrek, die uit 23 beweeg van die voertuie, kommissaris. Mnr die Voorsitter, 24 as ek dan net die tussen die twee kan beskryf, miskien moet 25 ons, terwyl ons op die foto is, soos ek wel sê, om die</p>

<p style="text-align: right;">Page 18143</p> <p>1 persone wat dan hier by incident 2, as ons onthou hier was 2 'n uiteendryf aksie, so die persone het om beweeg en dan te 3 keer – 4 CHAIRPERSON: You are now indicating the 5 position more or less where, what you call, incident 2 took 6 place? 7 BRIGADIER CALITZ: Dit is korrek, mnr die 8 Voorsitter. Hierdie is nou nie – die lyne is nie korrek, 9 maar die uiteendryf aksie. So dit was om die persone te 10 keer om dan om te beweeg en dan deur te beweeg in daardie 11 rigting. 12 CHAIRPERSON: In daardie rigting – 13 BRIGADIER CALITZ: In daardie rigting – 14 CHAIRPERSON: Passage A. 15 BRIGADIER CALITZ: Passage A. Die 16 voorligting aan die groep was dan as die openbare orde 17 polisiëring voertuie om beweeg, sou hulle dan 'n lyn vorm – 18 'n lyn, sou aan die buitekant wees. Die enigste opening is 19 die kraal en die sink huis, die voertuie sou uit beweeg – 20 CHAIRPERSON: Passage B. 21 BRIGADIER CALITZ: Verby passage B, verby 22 passage A en hulle sou dan basies op vorm om my uiteendryf 23 aksie dan in die rigting van koppie 2 te loods. Dit was 24 die aanvanklike – die voorligting aan die lede. 25 CHAIRPERSON: I take it they would then</p>	<p style="text-align: right;">Page 18145</p> <p>1 gehad het. So dit was 'n veilige gebied om hulle eerder in 2 daardie rigting uiteen te dryf. As ons kyk na die tweede 3 opsie, B, en ons het die mense toegelaat om, om te kom en 4 op hierdie stadium die uiteendrywing gedoen, dan beteken 5 dit ons vir die mense fisies in die rigting van die drade 6 gejaag en ek dink nie, soos ek vroeër vir u gesê het, die 7 fout met 'n encirclement, die fout met 'n – jy kies nooit 8 operasioneel, in die polisie, kies jy nie – dit sou 'n 9 totale verkeerde opsie gewees het om vir die mense te sê 10 blok hier en dryf die mense dan uit teen drade vas waar 11 hulle in elk geval nie kan wegkom nie. So die voorligting 12 was, voertuie beweeg om. Hulle het aanvanklik dan om 13 beweeg in so 'n form, wat ek dink sal ons nou-nou uitpak en 14 dan die uiteendryf aksie was dan gewees, sover moontlik. 15 CHAIRPERSON: Are you're referring to a 16 dispersal action at passage A, in the direction of what you 17 call the positive retraction point, which was in the 18 direction of the koppie basically. Is that right? 19 BRIGADIER CALITZ: Dit is korrek, mnr die 20 Voorsitter. 21 MR CHASKALSON SC: Fortunately the new 22 map's arrived, so we don't need to clean this one at this 23 point, but – 24 CHAIRPERSON: We interrupted you, I'm 25 afraid. You were building up to a point, I think. You</p>
<p style="text-align: right;">Page 18144</p> <p>1 have been in front of the advancing group? Because if they 2 were going to drive them back, as it were, then they would 3 have more less had to have been in front of them. Is that 4 correct? In front of the advancing group? 5 BRIGADIER CALITZ: As ek u reg verstaan, 6 mnr die Voorsitter. 7 CHAIRPERSON: Is that right? Look, if 8 they came round at passage A, the group presumably had not 9 reached passage A yet, so they would have been in front of 10 the group? The group would have been in front of them and 11 they were in front of the group, if you know what I mean? 12 Group is coming from one direction, they're coming through 13 passage A from the other direction – 14 BRIGADIER CALITZ: Die polisie. 15 CHAIRPERSON: Oh, ja, the police are. 16 BRIGADIER CALITZ: Ja, ja. 17 CHAIRPERSON: And then they driving – 18 BRIGADIER CALITZ: Ek stem nou saam – 19 CHAIRPERSON: Is that correct? 20 BRIGADIER CALITZ: I just didn't 21 understand the they, ja, die polisie. Ja, dankie, mnr die 22 Voorsitter. Die rigting, hoekom ons altyd moet onthou dat 23 hierdie was die – wat ons noem – die positive attraction 24 area. Daar was vele redes waarom ons genoem het dat ons 25 die persone nie op daardie stadium binne in die gebied wou</p>	<p style="text-align: right;">Page 18146</p> <p>1 were saying there were two possible blockage points, A and 2 B. He's given us his reasons for preferring A, and I take 3 it he would accept – I don't wish to put words in his 4 mouth, but I take it he would accept that if A wouldn't 5 work, because they'd already passed A, then he might have 6 had to settle for B, but first prize would have been 7 blockage A, dispersing them in the direction indicated, 8 which is towards the koppie, but you were going to deal 9 with the two possible blockage points or passages – 10 blocking passages, and that's where we interrupted you. I 11 don't know if you want to continue with that line? 12 MR CHASKALSON SC: No, I do, Chairperson. 13 Brigadier, I just – I want to understand the processes that 14 you're describing, because it seems to me that the block 15 process is a separate process from the dispersal action 16 process. That the block process precedes the dispersal 17 action process. Is that correct? 18 BRIGADIER CALITZ: Daardie opdrag is 19 gelyktydig gegee, Mnr die Voorsitter. U kan nooit sê die 20 een precedes die ander een omdat ek gesê het dit hang af 21 wat voor die bevelvoerder of die groep of die seksie 22 bevelvoerder afspeel. Sou dit op so 'n stadium wees dat 23 hulle op 'n punt kom en daar byvoorbeeld op hulle gevuur 24 word, dan sou hulle glad nie geblok of ge-disperse het, 25 maar in selfverdediging op – so dit, alles hang af wat op</p>

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1 daardie stadium gebeur. So daar was nie twee verskillende
2 gaan blok eers en as die blok nie werk, gaan disperse dan.
3 Dit word as een opdrag gegee, disperse en block, en dan
4 weet die persone presies uit hulle voorligting uit wat om
5 te doen.
6 MR CHASKALSON SC: But you wanted to deny
7 the strikers access through channel A?
8 BRIGADIER CALITZ: Dit is korrek, Mnr die
9 Voorsitter.
10 [12:11] MR CHASKALSON SC: And if there were
11 enough Nyalas to block channel A before the remaining
12 Nyalas that you would need for a full dispersion action had
13 arrived, that short term objective could have been achieved
14 by a block before the dispersion action took place, is that
15 not correct?
16 BRIGADIER CALITZ: Mnr die Voorsitter, as
17 ek die vraag reg verstaan, net die benefit of hindsight kon
18 ons dan, wat ons nou weet, ek dink dit is dieselfde vraag
19 wat mnr die Voorsitter gevra het, om die Nyalas dan in 'n
20 lyn te trek tussen die kraal en die hoek van die draad soos
21 by posisie A, op daardie stadium, daar was nie tyd om
22 daardie briefing vir elke groep bevelvoerder deur te gee
23 sodat dit suksesvol sou verstaan geword het deur die
24 seksies nie. So dit is baie, baie gevaarlik om deurlopend
25 van 'n plan dan te verander. Dit is beter om by die plan

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1 te hou en dan elke bevelvoerder voer dit uit van wat voor
2 hom afspeel.
3 MR CHASKALSON SC: But, Brigadier, -
4 CHAIRPERSON: Sorry, isn't it correct to
5 say that logically it would have been possible to have
6 stopped them advancing at point A until enough forces from
7 your side came up so that you could then start driving them
8 back, but your point is, in the circumstances you gave them
9 what amounted to a double order, your order really
10 effectively amounted this, block them and disperse them, is
11 that fair?
12 BRIGADIER CALITZ: Korrek, mnr die
13 Voorsitter. Kom ons vat sekondes, as ons van die voorkant
14 waar ek was en Papa11 wat aan die buitekant was, Papa11
15 weet ons het klaar opgetree en op die persone gevuur met
16 rubber en met stun grenades. Ons weet nie op hierdie
17 stadium, die lugfoto is geneem toe die persone nader en
18 daarna die enigste ander foto wat ek gesien het is toe die
19 persone naby die voetpad was. Ek kan nie vir u sê indien
20 hulle omgedraai het of suksesvol by Papa11 wat aan die
21 buitekant was, daar sou genoeg tyd gewees het, dan sou my
22 ander bevelvoerders gesien het, maar die mense maak 'n U-
23 draai en beweeg weg, so die logiese gevolg wat ek het van
24 my bevelvoerders en die ondervinding wat ons vir hulle
25 gegee het is dat die Casspirs en die ander voertuie wat dan

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1 in daardie uitbeweeg aksie was, sou genoeg tyd gehad het om
2 uit te beweeg, 'n linie te vorm en daar sou 'n suksesvolle
3 uiteendryf aksie plaasgevind het, maar weens die aanval en
4 die aanhoudende aanval het ons 'n tragiese gevolg gehad.
5 MR CHASKALSON SC: But, Brigadier, you
6 say that I can't with hindsight say there should have been
7 a block there and it would have amounted to a change of the
8 plan. Let's look at what you say happened at incident 2,
9 I'm not suggesting that it did happen, but you say this is
10 what happened, the SAPS version. The SAPS version is that
11 Nyala 4 didn't make it to the kraal, but pursuant to a
12 block instruction other Nyalas, including Colonel Pitsi's
13 Papa5, put themselves into the gap to form the block and
14 that propelled incident 2, that's the SAPS version, is that
15 correct?
16 CHAIRPERSON: Is it Papa5 or Nyala 5, I
17 thought -
18 MR CHASKALSON SC: Papa5 -
19 CHAIRPERSON: I see, you say Papa5,
20 alright.
21 MR CHASKALSON SC: That's correct,
22 Colonel Pitsi's Nyala was Papa5.
23 CHAIRPERSON: Okay.
24 BRIGADIER CALITZ: Mnr die Voorsitter,
25 ja, dit is soos ek dit ook het.

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1 MR CHASKALSON SC: So the SAPS version is
2 Colonel Pitsi saw that there was a potential gap that
3 needed to be blocked, so he drove his Nyala into that gap
4 to block it, is that correct?
5 BRIGADIER CALITZ: Ekskuus, mnr die
6 Voorsitter, ek verstaan dit is soos dit gerapporteer is.
7 Ek kan nie presies sê wat die woorde aan hom was of wat hy
8 gesien het nie, dit kan ek nie op getuig nie.
9 MR CHASKALSON SC: And I presume you as
10 operational commander would have expected a Nyala in the
11 position that Colonel Pitsi says he found himself interact
12 in that way, if there is a gap and you need to block it you
13 would drive into that gap and block it?
14 BRIGADIER CALITZ: Dit is korrek, mnr die
15 Voorsitter.
16 MR CHASKALSON SC: Now you've given an
17 instruction to block and disperse so that the protestors
18 can't gain access through passage A. Why would you not
19 have expected your commanders who got there first to
20 attempt to block passage A?
21 BRIGADIER CALITZ: Mnr die Voorsitter, ek
22 dink, weereens ek kan nie namens my bevelvoerders praat
23 nie, die lyn en die posisie wat ek sien op die lugfoto wat
24 hulle ingeneem het is presies dit wat hulle gedoen het.
25 Papa11 was voor, daar was twee Casspirs, die ronding wat

<p style="text-align: right;">Page 18151</p> <p>1 gevorm is, as ons weereens verwys na die ellipse, die 2 vorige foto, as u sien die ellipse wat, ek weet nie wie het 3 die dokument opgestel nie, toe hulle op pad was soontoe, ek 4 dink mnr die Voorsitter het aan my gevra as ek 'n protester 5 is wat sou ek gesien het. Ek sou 'n lyn van Openbare Orde 6 Polisiëringsvoertuie voor my gesien het wat besig is om 'n 7 aksie teen my te loods, so dit is niks anders as A, om A te 8 blok nie want op daardie stadium, of hulle nou in 'n linie, 9 'n reg lyn was of miskien net in 'n ronding, 'n halfmaan, 10 dit is presies die aksie wat hulle geloods het dan by 11 insident 3.</p> <p>12 MR CHASKALSON SC: With respect, 13 Brigadier Calitz, they are not exactly the same, there is a 14 world of difference between the two of them. If you put in 15 place the half moon that was in place there is space for 16 the protesters to come down into the area which you said in 17 relation to why you didn't choose Papa B, would have been a 18 very bad area to let the strikers advance to –</p> <p>19 CHAIRPERSON: Not Papa B, passage B.</p> <p>20 MR CHASKALSON SC: Passage B, passage B.</p> <p>21 In relation to passage B you said you wanted to keep the 22 strikers away from this area because dispersing them from 23 that area involves driving them into fences, so you wanted 24 to block them off at passage A. Now your half moon 25 configuration didn't prevent them from moving down into the</p>	<p style="text-align: right;">Page 18153</p> <p>1 moment. Your, - what you did in fact, it is being put to 2 you, I think, didn't amount to a blockage of either A or B, 3 it in fact channelled the protesters through an area, past 4 A, towards B. I understand you to say that you thought 5 that the dispersion action, I suppose the teargas and the 6 stun grenades and so on would do the trick, am I 7 understanding you correctly?</p> <p>8 BRIGADIER CALITZ: Dit is korrek, mnr die 9 Voorsitter.</p> <p>10 CHAIRPERSON: Ja, but the point being put 11 to you is, you didn't actually physically as it were, 12 whether you could or not is a matter that presumably we can 13 get to later. You didn't physically block off A or B, you 14 left a channel but in the belief, I take it, this is your 15 evidence, that they wouldn't get through because the 16 teargas and the stun grenades and so forth would do the 17 trick, is that correct?</p> <p>18 BRIGADIER CALITZ: Korrek, mnr die 19 Voorsitter.</p> <p>20 MR CHASKALSON SC: Now, Brigadier, you 21 said you can't speak for your commanders, why they made the 22 decisions that they did to put their vehicles where they 23 did, but you can speak for yourself. Why didn't you 24 attempt to take your vehicle in to block the channel A?</p> <p>25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>
<p style="text-align: right;">Page 18152</p> <p>1 area that you say you wanted to keep them away from, 2 whereas if you had blocked it at channel A they would have 3 been prevented from coming down.</p> <p>4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 nee, daardie afleiding dink ek kan glad nie gemaak word 6 nie. Weereens posisie A is die voorstel wat Advokaat 7 Chaskalson gemaak het en gesê het daar, dit was nie die 8 plan nie. Die vraag was aan my gewees, het ek gedink my 9 mense het so uitbeweeg en ek het vir hom gesê die posisie 10 wat ons Nyalas en die Casspir ingeneem het volgens my, wat 11 dan 'n halfmaan was, was voldoende gewees met die persone 12 tussenin om 'n suksesvolle uiteendryf aksie te loods. Soos 13 ons al in baie, baie gevalle voorheen in my lewe gedoen 14 het, dit was meer as genoeg om persone dan uiteen te dryf, 15 dat hulle omdraai en wegbeweeg van jou af.</p> <p>16 MR CHASKALSON SC: Brigadier Calitz, I 17 must correct you there, passage A wasn't my suggestion, it 18 was your suggestion. I asked you where you wanted the 19 block to be placed, where you wanted them to be blocked and 20 you marked out passage A, not me.</p> <p>21 CHAIRPERSON: He is right, remember you 22 put the piece of wood over A first and you said you 23 preferred that to be and you gave reasons which sound very 24 cogent to us as to why A was better, so you did produce it, 25 but anyway let's not get involved in that fight at the</p>	<p style="text-align: right;">Page 18154</p> <p>1 weereens hierdie ding het gebeur in sekondes, my drywer het 2 bestuur en hy definitief seker gesien wat voor hom aangaan 3 en of hy op die linkerkant en of hy op die regterkant verby 4 'n voertuig is op daardie stadium weet ek nie, ons het om 5 gery en toe ons parkeer toe sê hy vir my hy is teen 'n 6 draad. Dit is waar ek my opgelig het en dit is waar ek 7 gesien het presies wat gebeur het. Om aan te kom en vir 8 die persone te sê, ons vermoed of ek kan in die toekoms 9 sien dat dit is waar hulle gaan deurbreek, nou in hindsight 10 is dit maklik om miskien te sê ons kon hier geblok het of 11 ons kon hier geblok het.</p> <p>12 Die formasie wat ons op gevorm het, ek sê 13 weereens was volgens die voorligting aan die bevelvoerders, 14 mnr die Voorsitter. So hulle het dan, in daardie formasie 15 is my getuienis dat dit was voldoende gewees om 'n groep 16 uiteen te dryf. Channelling, ons het nooit, daar is so, 17 "to channel" is ook een van die aksie modes in Openbare 18 Orde Polisiëring, maar dit waar jy dan fisies mense toelaat 19 om deur te gaan. So om te sê ons het hulle ge-channel, ons 20 het hulle glad nie ge-channel nie, ons het hulle glad nie 21 toegelaat om deur te gaan nie.</p> <p>22 CHAIRPERSON: So you didn't intend to 23 channel them, -</p> <p>24 BRIGADIER CALITZ: Nee, -</p> <p>25 CHAIRPERSON: It will be contended, I</p>

<p style="text-align: right;">Page 18155</p> <p>1 think from the line being put to you –</p> <p>2 BRIGADIER CALITZ: Totally –</p> <p>3 CHAIRPERSON: - that the effect of what</p> <p>4 you did was to cause them to be channelled although you</p> <p>5 didn't intend that consequence, I think that's probably</p> <p>6 fair, is that right, Mr Chaskalson?</p> <p>7 MR CHASKALSON SC: Yes, but there is a</p> <p>8 simpler proposition, Chairperson, which is that it would</p> <p>9 have been possible to block them if a blocking operation</p> <p>10 had been attempted by any one, three or four of these</p> <p>11 Casspirs, there was time to do that.</p> <p>12 CHAIRPERSON: Put it to the witness,</p> <p>13 let's see whether he agree, because I understand his case</p> <p>14 is we're busy with seconds and he says he didn't have time,</p> <p>15 but anyway that may be an important part of the case, so I</p> <p>16 think we must give him a chance to deal with the</p> <p>17 proposition that you're putting. What do you say to the</p> <p>18 proposition which Mr Chaskalson is putting to you, that you</p> <p>19 would in fact have had, - you did in fact have time to</p> <p>20 physically block the whole of passage A to prevent the</p> <p>21 people advancing into that, if you don't like the word</p> <p>22 channel, that gap between A and B, that's Mr Chaskalson's</p> <p>23 proposition. Are you in a position to deal with it now or</p> <p>24 would you like to think about it and come back later? It</p> <p>25 seems to me it may be quite an important point.</p>	<p style="text-align: right;">Page 18157</p> <p>1 going to be focussing on. I think at this point,</p> <p>2 Chairperson, -</p> <p>3 CHAIRPERSON: Alright, we're going to be</p> <p>4 concentrating, as I see the bigger plan has come, it has</p> <p>5 been indicated to me it might be sensible for us to take a</p> <p>6 comfort break at this stage. Everyone's concentrating</p> <p>7 suffers in these matters and a short little break makes all</p> <p>8 the difference, so I think we'll take a comfort break now</p> <p>9 and then you can come back to that point when we resume,</p> <p>10 unless you want to make a point –</p> <p>11 MR CHASKALSON SC: No, not at all, I was</p> <p>12 going to suggest we should now move to the bigger plan and</p> <p>13 to –</p> <p>14 CHAIRPERSON: Alright, let's –</p> <p>15 MR CHASKALSON SC: - a close analysis of</p> <p>16 where –</p> <p>17 CHAIRPERSON: Let's take a comfort break</p> <p>18 –</p> <p>19 MR CHASKALSON SC: - the vehicles moved.</p> <p>20 CHAIRPERSON: Sorry, forgive me for</p> <p>21 talking over you, let's move to the comfort break and move</p> <p>22 to the bigger plan at the same time, or rather let's move</p> <p>23 to the bigger plan during the comfort break.</p> <p>24 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>25 [12:42] CHAIRPERSON: The Commission resumes.</p>
<p style="text-align: right;">Page 18156</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>2 hoor wat u vir my sê, volgens my was daar nie tyd nie en ek</p> <p>3 dink my bevelvoerders kan op daardie stadium miskien beter</p> <p>4 getuig oor wat het hulle fisies voor hulle waargeneem of</p> <p>5 wat hulle gedagtegang dan was, vir my het dit gevoel soos</p> <p>6 sekondes. Ek weet die tydsverloop, daar is 'n timeline</p> <p>7 opgestel, wat ons seker nog sal by kom, maar ek as</p> <p>8 bevelvoerder het, soos ons die mense uitbeweeg het en die</p> <p>9 plan wat gevolg is, volgens my was hulle reg geposisioneer</p> <p>10 om dan 'n suksesvolle uiteendryf aksie te hê wat ek al</p> <p>11 menigde male tevore gedoen het, mnr die Voorsitter. So</p> <p>12 volgens my was daar nie tyd om 'n voertuig te roep en sê</p> <p>13 kom beweeg vir my links om, kom parkeer links van my, nog</p> <p>14 een kom beweeg links van my, ek dink nie die luxury van tyd</p> <p>15 was aan ons kant op hierdie stadium nie, maar weereens</p> <p>16 onder korreksie, mnr die Voorsitter, ek dink my</p> <p>17 bevelvoerders van die verskillende groepe wat daardie</p> <p>18 voertuie daarnatoe gestuur het sal beter kan getuig</p> <p>19 daaroor.</p> <p>20 MR CHASKALSON SC: I just want to</p> <p>21 emphasise one point, Brigadier, you say that your</p> <p>22 instruction wasn't just to commence with the dispersal</p> <p>23 action, you say that as you were driving around from your</p> <p>24 starting position your instruction was to block and then</p> <p>25 to, or to block and to disperse and it is the block I'm</p>	<p style="text-align: right;">Page 18158</p> <p>1 Brigadier, you're still under oath.</p> <p>2 ADRIAAN MARTHINUS CALITZ: s.u.o.</p> <p>3 CHAIRPERSON: I gather that the new</p> <p>4 enlarged photograph is in position. Is that correct?</p> <p>5 MR CHASKALSON SC: That's correct,</p> <p>6 Chairperson, and maybe if we could remove the map</p> <p>7 underneath, because it may be a little misleading.</p> <p>8 CHAIRPERSON: It occurs to me I've been</p> <p>9 remiss up to now; I take it this map should really be an</p> <p>10 exhibit, should it? I suppose both the first one we've</p> <p>11 been using we'd have to mark as an exhibit.</p> <p>12 MR CHASKALSON SC: Yes.</p> <p>13 CHAIRPERSON: And this one also, but</p> <p>14 perhaps that's something the evidence leaders can think</p> <p>15 about –</p> <p>16 MR CHASKALSON SC: Yes, Chairperson –</p> <p>17 CHAIRPERSON: We've got to review the</p> <p>18 whole question of some exhibits that haven't been handed in</p> <p>19 yet and the whole, there's a lot of housekeeping relating</p> <p>20 to the exhibits, but the housekeeping will have to include</p> <p>21 these. Now I see that on this one, this one has got some</p> <p>22 red markings on it. I take it those weren't part of the</p> <p>23 original photograph, so perhaps you could –</p> <p>24 MR CHASKALSON SC: Yes, Chairperson –</p> <p>25 CHAIRPERSON: - give us the Cooks' tour</p>

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1 of those first before we carry on with –

2 MR CHASKALSON SC: The red markings are

3 the fences and it is an enlarged photograph of the area

4 around the kraal where the shootings at scene 1 took place.

5 MR CHASKALSON SC: I'm marking the kraal

6 now. This is the area where the strikers were shot. This

7 is the shack, and the red lines are the fences and north is

8 in the direction I'm pointing the Koki pen.

9 CHAIRPERSON: Yes, thank you. Now the

10 larger fenced area is the area which in fact encloses I

11 think a large kraal. Is that correct? We can't see –

12 MR CHASKALSON SC: That's correct,

13 Chairperson. That's the patch just near the top right-hand

14 corner of the map, which I'll just mark in red as well, is

15 the bottom right-hand side of the large kraal.

16 CHAIRPERSON: Large kraal, and just to

17 orientate us correctly, we'd be grateful if the –

18 MR CHASKALSON SC: I've marked it in

19 black, sorry.

20 CHAIRPERSON: - if the Brigadier before

21 he carries on with his evidence would just indicate where

22 what we call the second position, remember the second

23 position of his Nyala, the first one was near Nyala 3. The

24 second one was here in the vicinity of what's being called

25 incident 3, exactly what we know as, I think as scene 1.

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1 Can he just show us for a moment just where his, the second

2 position of his vehicle was just so we can get our bearings

3 properly? It will also be helpful perhaps if you could

4 draw on the thing an arrow indicating north because I

5 always go into a state of mental panic when people talk

6 about west and east and north and south and so on, because

7 it's not entirely clear to me. You see if that could be

8 marked as an arrow on the map, just – maybe over lunchtime

9 you could come to an agreement as to where north is.

10 MR CHASKALSON SC: We'll get a Google

11 Map, which will give us precise coordinates and we'll mark

12 it exactly.

13 CHAIRPERSON: I'd also like to see where

14 what we've called the second position of the Brigadier's

15 Nyala was, just so I can get some of my bearings, if you

16 could show us on this plan thing that we have. And then he

17 could show us the two points where the fence was knocked

18 over by his driver acting on his instructions.

19 BRIGADIER CALITZ: Mnr die Voorsitter,

20 waar ek hom nou gaan neersit, weereens dit gaan nie die

21 "exact location," maar –

22 CHAIRPERSON: An approximation, yes.

23 BRIGADIER CALITZ: - min of meer waar ek

24 in is en waar ek –

25 MR CHASKALSON SC: Sorry [microphone off,

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1 inaudible].

2 CHAIRPERSON: - now got the right doc.

3 That's what you call the second position. In other words

4 what I call the second position and the description which

5 you accepted, right, and where did it go through – where

6 are the two spots at the fence where it went through?

7 BRIGADIER CALITZ: [Mikrofoon af,

8 onhoorbaar]

9 CHAIRPERSON: So that's where it went

10 through. So what you did was you drove into this larger

11 fenced enclosure through entering at the first spot you've

12 indicated near the second position. You went across the

13 corner, as it were, cut the corner, I suppose, of the

14 larger fenced enclosure and then came out at the other side

15 near Papa11, I think you said. Is that right? More or

16 less.

17 BRIGADIER CALITZ: More or less,

18 Commissioner.

19 CHAIRPERSON: Okay, thank you.

20 MR CHASKALSON SC: I'm not sure it was

21 picked up, but the Brigadier was just emphasising that it

22 was an approximation, possibly a bit further, possibly a

23 bit closer, an approximation.

24 CHAIRPERSON: I don't think anything – if

25 it's not absolutely accurate I don't think anything turns

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1 on that. You've given us a general idea, an approximation,

2 enabling us to follow your evidence.

3 BRIGADIER CALITZ: Korrek, mnr die

4 Voorsitter.

5 MR CHASKALSON SC: Chairperson, at this

6 stage I propose to remove these blocks because what we are

7 going to do now is to chart the movement of the various

8 Nyalas through the three minutes leading up to scene 1. So

9 this is where Papa1 and Papa11 may end up, but we want to

10 do it stage by stage –

11 CHAIRPERSON: Well, carry on doing what

12 you want to do and this is being filmed, is it, so I don't

13 have to describe all the time what's happening.

14 MR CHASKALSON SC: And if we can take as

15 our starting point, possibly to assist us with this

16 process, if I can hand up to the Commissioners and to the

17 Brigadier a timeline which has been prepared by the Human

18 Rights Commission and CALS, which is a timeline off which

19 I'm going to be working when I refer to the various videos.

20 CHAIRPERSON: Has Mr Semanya got one too?

21 I think he should have one. I think Mr Mpofu is putting up

22 his hand; he would also like to be in the handout queue for

23 these things, and that seems a legitimate request.

24 COMMISSIONER HEMRAJ: Are these documents

25 that have been admitted as being correct?

<p style="text-align: right;">Page 18163</p> <p>1 MR CHASKALSON SC: There is certainly one 2 – I think SAPS may want to reserve their position on it. I 3 have indicated how we reconcile the JJJ197-series of times 4 to eTV time. It's a very easy reconciliation –</p> <p>5 CHAIRPERSON: Remind me, JJJ197, are 6 those the videos that have recently become available from 7 Al Jazeera?</p> <p>8 MR CHASKALSON SC: Well, not from Al 9 Jazeera.</p> <p>10 CHAIRPERSON: Well, they've recently 11 become available and it's been suggested in certain 12 quarters that they're originally Al Jazeera videos. Is 13 that correct, or have I got that wrong too?</p> <p>14 MR CHASKALSON SC: Well, we can't say 15 that they were originally Al Jazeera videos. We don't know 16 what they were originally, but we have got their original 17 timestamps on them, which our expert has identified from 18 the embedded time codes in the files, and the –</p> <p>19 CHAIRPERSON: [Microphone off, inaudible] 20 the new ones that surfaced at a press conference given some 21 time ago?</p> <p>22 MR CHASKALSON SC: That's correct, 23 Chairperson.</p> <p>24 CHAIRPERSON: Is that right? And I did 25 hear a suggestion, which may of course be untrue or</p>	<p style="text-align: right;">Page 18165</p> <p>1 involves very detailed analysis, is in this timeline there 2 are two very short clips, from 15:52:08 to 15:52:13, and 3 then from 15:52:20 to 15:52:23, which are the two Channel 4 4 clips that one sees in – I beg your pardon, they are 5 JJJ197. Channel 4 is JJJ197. So –</p> <p>6 CHAIRPERSON: [Microphone off, inaudible] 7 one of us is wrong. If this is not JJJ197, what is it? I 8 wanted to call it the new footage, but we must give it an 9 exhibit number then, must we?</p> <p>10 MR CHASKALSON SC: JJJ194. They're the 11 71 clips that were JJJ194.</p> <p>12 CHAIRPERSON: JJJ194, thank you. Now 13 there's one other thing I'd like to ask you before we carry 14 on, and that is the text says, "The gaps identified and 15 highlighted in red above are not complete gaps." I've got 16 a monochrome edition which doesn't give anything in red. 17 So would you please tell me what the red gaps are that I 18 should be seeing, but can't?</p> <p>19 MR CHASKALSON SC: They are the 20 20 seconds between 15:51:48 and 15:52:08. They're up on 21 screen at this point, Chairperson.</p> <p>22 CHAIRPERSON: [Microphone off, 23 inaudible]. There are two blocks; one has got 20 seconds 24 inside it, it's near the bottom of the page, and the other 25 has got 10 seconds. Those are the two red gaps, are they?</p>
<p style="text-align: right;">Page 18164</p> <p>1 incorrect, but I did hear a suggestion that they may have 2 come from Al Jazeera. Shall we put it like that?</p> <p>3 MR CHASKALSON SC: Well, there is 4 certainly some footage on them which has been broadcast by 5 Al Jazeera. We can put it no higher than that.</p> <p>6 CHAIRPERSON: So we'll just call it the 7 new footage, shall we? That's a neutral term, I would 8 hope.</p> <p>9 MR CHASKALSON SC: We can refer to them 10 as JJJ197.</p> <p>11 CHAIRPERSON: I was interrupting you. I 12 understood you to say you reckon that you can align them at 13 the time on JJJ197 with the timeline that's been agreed by 14 the parties, but you say in respect of one at least or 15 maybe more of these times, the SAPS may wish to reserve its 16 position. Is that correct?</p> <p>17 MR CHASKALSON SC: Yes, Chairperson. The 18 reconciliation of JJJ197 is very simple because there is 19 footage of the shootings. So we can get an exact time of 20 the shootings on JJJ197, translate that into an embedded 21 video time in that series and then work out that I think it 22 is something like 20 seconds behind or ahead of eTV time. 23 We've circulated the calculation to the parties. The issue 24 which is more complicated, which I am happy to explain at a 25 later stage but will take quite some time because it</p>	<p style="text-align: right;">Page 18166</p> <p>1 And there are lines with arrows each end above these two 2 blocks, they're also supposed to be in red. Is that right?</p> <p>3 MR CHASKALSON SC: Yes, Chairperson, and 4 the Rowland Headgear CCTV footage that covers the 20-second 5 gap is identified below on the copy of this exhibit that is 6 being put on the screen. It's not on the hardcopy that 7 we've circulated, and for that I apologise. We'll have to 8 redistribute hardcopies that include this reference, but 9 for the time being can I just ask the parties to fill those 10 times in?</p> <p>11 CHAIRPERSON: Yes, I thought we can do 12 that. When we eventually get updated versions it would be 13 nice if we could get them in Technicolor, so we don't have 14 to guess what the different colours are, because I see 15 there's some blue on it as well, which may or may not have 16 some significant.</p> <p>17 MR CHASKALSON SC: I can't speak for the 18 blue, I'm afraid.</p> <p>19 COMMISSIONER HEMRAJ: May I just enquire 20 what – Mr Semanya, may I just enquire what SAPS' position 21 is? Are these admitted documents? Because I had a 22 question earlier on about other CALS documents as well that 23 were handed in as being admitted, and then differences were 24 pointed out. Can you help me with these?</p> <p>25 MR SEMENYA SC: No, the documents are not</p>

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1 admitted, Commissioner. I'm seeing it for the first time.
 2 MR CHASKALSON SC: Sorry, Chairperson –
 3 MR SEMENYA SC: And I might also indicate
 4 – sorry, Mr Chaskalson – I may also indicate that the copy
 5 I have does not have the rectangular block at the bottom of
 6 that screen on the left.
 7 MR MPOFU: With the blue, ja.
 8 MR SEMENYA SC: And the exhibit number
 9 and the narrative is also not complete.
 10 MR CHASKALSON SC: It seems that the copy
 11 that was printed was an earlier draft, which has all of the
 12 substantive information other than the Rowland Headgear
 13 CCTV. We'll attend to this matter at lunch and print
 14 correct versions.
 15 CHAIRPERSON: If you don't refer to the
 16 Rowland Headgear CCTV block during the question I suppose
 17 there won't be any prejudice to anybody.
 18 MR CHASKALSON SC: Well, I do not intend
 19 to refer to the Rowland Headgear block, but we should have
 20 the correct copy for everybody.
 21 CHAIRPERSON: Adv Hemraj points out we
 22 should give this an exhibit number. Perhaps Ms Pillay can
 23 tell us what it should be, if you don't mind?
 24 MS PILLAY: Chair, it would be KKK8.
 25 CHAIRPERSON: Thank you, and we may have

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1 to substitute a new version of it after lunch, but for the
 2 moment we know what it is; KKK8, thank you. Got that,
 3 Brigadier? It's KKK8.
 4 BRIGADIER CALITZ: Dankie, mnr die
 5 Voorsitter.
 6 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 7 If we can then start at the start of this timeline with
 8 JJJ194.15 and if we can show that video, and I will stop
 9 that video – I'll ask for that video to be stopped at
 10 certain points, and the first point that I'm going to be
 11 asking it to stop on is the first one second into the
 12 video. So can we call that up and stop it at 1 second in?
 13 Can we go back to 1 second in? Sorry, I'll shout out where
 14 I want it stopped. Stop. In the top left-hand corner
 15 which I'm pointing to now is Nyala 4. So this will be,
 16 Nyala 4 is deploying its barbed wire and this will be
 17 before alleged incident 2. It would -
 18 MR MPOFU: I'm sorry, Chairperson, I just
 19 need some clarity from Mr Chaskalson. When he was
 20 referring to JJJ197 earlier, did he mean to refer to 194 or
 21 197 –
 22 CHAIRPERSON: Yes, he said so. He said
 23 he made a mistake. He said he later ascertained he was
 24 wrong –
 25 MR MPOFU: So we delete any reference to

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1 197?
 2 CHAIRPERSON: It's JJJ194 –
 3 MR MPOFU: Ja, as it is shown here, okay.
 4 Thank you.
 5 MR CHASKALSON SC: On the timeline the
 6 references to C4 number 1 and C4 number 2 are in fact
 7 references to JJJ197. The Channel 4 clip is JJJ197.
 8 CHAIRPERSON: JJJ194 is – oh dear, shall
 9 we make it, is "new footage," and JJJ197 is, well it's
 10 really new Channel 4 footage.
 11 MR CHASKALSON SC: Yes, it's footage
 12 taken from the Channel 4 documentary programme.
 13 CHAIRPERSON: [Microphone off, inaudible]
 14 were making when Mr Mpofo raised his query was that on the
 15 screen on the extreme left-hand side is a Nyala, which you
 16 say is Nyala 4.
 17 MR CHASKALSON SC: That's correct,
 18 Chairperson. I think we canvassed this with Colonel Scott,
 19 but if there's any dispute in this regard parties can come
 20 back to us and we'll explain why we can show it's Nyala 4.
 21 If we roll forward one second and stop at 2 seconds – can
 22 we go back a little? A little forward. I want the barbed
 23 wire trailer that will come into picture now. Stop and go
 24 a little bit further forward. That barbed wire trailer is
 25 the trailer of Nyala 5, the barbed wire trailer that we see

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1 to the left of the screen at 1 second in as it is revealed
 2 by the passing Nyala in the foreground of the screen. Then
 3 if we can scroll forward to 4 seconds in. Stop. That is
 4 Nyala 6, which can be identified by its sort of horn-like
 5 markings on its front in blue. So at this point Papa4 has
 6 not yet passed – sorry, Nyala 4 is rolling out its barbed
 7 wire, but it hasn't yet passed Nyala 5 or Nyala 6. If we
 8 can then scroll forward to 6 seconds in, in fact stop there
 9 at this point.
 10 CHAIRPERSON: It's 5 seconds in.
 11 MR CHASKALSON SC: 5 seconds in. One can
 12 see the strikers who I'm marking to the right of Nyala 6
 13 and to the left of the pylon, and they will come further
 14 into focus as we scroll forward for the next second. Stop.
 15 [13:01] This is the point at which we're about to lose
 16 sight of the strikers 7 seconds in as the Nyalas are about
 17 to block our view. ETV time at 7 seconds in is 15:51:44
 18 and I think that translates to 1 second before the
 19 Blackberry photograph of Colonel Vermaak that we have seen
 20 so often in relation to incident 2.
 21 CHAIRPERSON: ??
 22 MR CHASKALSON SC: Incident 2, we're
 23 still a long way before we get to the kraal. If we can
 24 keep scrolling very slowly, the camera is about to be
 25 blocked by passing a Nyala which is Papa11. Papa1 can be

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1 identified by its white lettering in this blue band on the
 2 right hand side of the Nyala, it is the only Nyala with
 3 that lettering. Now if we can, and that time at this 7
 4 seconds in is 15:51:44. Why I refer to this video, the
 5 only reason I refer to this video in the context of what we
 6 are doing now is that Papa11 is moving at high speed from
 7 left to right in the direction of the channel on the right
 8 hand side of the kraal, so Papa11 which is going to be the
 9 Nyala that ends up furthest in front of the Nyala line at
 10 scene 1 is already making its way towards the right hand
 11 side of the kraal.

12 Can we just scroll through the rest of this video
 13 which will end quickly?
 14 [VIDEO SHOWN]

15 And we can see that Papa11 has moved past the
 16 point where the block of Nyalas or the apparent block of
 17 Nyalas is being formed here and has gone off in the
 18 direction of the east where it will soon resurface on the
 19 right hand side of the kraal. Chairperson, we've reached
 20 the end of this video, we're about to, I realise it ten
 21 past one, I'm not sure if you want to take the lunch
 22 adjournment at this point?

23 CHAIRPERSON: Thank you for drawing it to
 24 my attention, we'll now take the lunch adjournment.
 25 [COMMISSION ADJOURNS COMMISSION RESUMES]

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1 [14:09] CHAIRPERSON: The Commission resumes. Brigadier,
 2 you're still under oath.

3 ADRIAAN CALITZ: s.u.o.

4 CHAIRPERSON: Before Mr Chaskalson continues with
 5 his cross-examination, we have decided to grant the
 6 application by the families to cross-examine on the topics
 7 set out in their application and I've spoken to Adv
 8 Chaskalson who says he will do his utmost to finish by
 9 lunch time tomorrow, so the cross-examination by the
 10 families can begin then. Mindful of that promise you made,
 11 Mr Chaskalson, would you like to start?

12 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 13 Thank you, Chairperson. Chairperson, we had finished with
 14 JJJ194.15 just before we broke and the last shot of that
 15 video at 10 seconds on that video matches the slide of, the
 16 Blackberry photograph of Colonel Vermaak that is frequently
 17 used by SAPS to illustrate incident 2. And what I would
 18 like to do at this stage is to go to page 16 of exhibit
 19 JJJ178.2, the movement analysis by the Human Rights
 20 Commission and CALS *01:29 which shows that slide and which
 21 plots the SAPS vehicles on that slide and if we can just
 22 call it up, JJJ178.2.

23 COMMISSIONER HEMRAJ: Which Blackberry
 24 picture of Colonel Vermaak? Is this the same as –
 25 MR CHASKALSON SC: And those are the

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1 identifications of the various Nyalas that the Human Rights
 2 Commission has managed to produce. I can add possibly one
 3 or two more, I can certainly add one more. The Nyala that
 4 I am pointing now, which is cut by the circle of Nyala 6 is
 5 Colonel Pitsi's papa5. The evidence leaders will in due
 6 course prepare a revised version of this document which
 7 will identify the remaining Nyalas. I don't propose to
 8 recreate that picture on this map because we've got it in a
 9 photographic form anyway. The important issue to bear in
 10 mind, if we can just zoom back out, is the time of this
 11 shot, 15:51:47 which is two minutes and three seconds
 12 before the shootings. And I would also like to identify,
 13 we saw on JJJ197.15 papa11 move across the shot, closing
 14 the shot or occluding the shot entirely for a while. There
 15 is papa11 and one can see the direction in which papa11 is
 16 moving is the direction which will take it ultimately up
 17 the right, up the eastern side of the kraal which we will
 18 see in later videos.

19 If we can then move to JJJ194.16 and call up that
 20 video, which is where the detail is going to be important
 21 and if we can just pause – sorry, can we go back to the
 22 very beginning of this video so we can identify the Nyalas
 23 here? The time that this video starts is ETV time
 24 15:52:13. 15:52:13, in other words one minute and 37
 25 seconds before the shootings. That is papa11 turning up

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1 around the kraal on the far right of the picture. That is
 2 papa7 which is going to follow round the kraal behind
 3 papa11 and this is papa18 that is going to come round with
 4 papa7. They are crossing the path or the row, sort of path
 5 in front of the kraal in the shot as it opens. The kraal
 6 will become, if we run this picture the kraal is just
 7 behind these vehicles. So can we roll it forward to –

8 COMMISSIONER HEMRAJ: Before you carry
 9 on, I didn't quite get that. 11 is on the right, which is
 10 the one directly –

11 MR CHASKALSON SC: This is 7, papa7.
 12 COMMISSIONER HEMRAJ: Yes, yes.
 13 CHAIRPERSON: 7 in the middle.
 14 MR CHASKALSON SC: 7 in the middle,
 15 papa18 on the left and the distinction between 7 and 18 is
 16 18 has the luminous yellow stripes around the blue beading,
 17 7 has an orange beading underneath the blue beading. 11
 18 has, in addition to the white lettering through its blue
 19 beading on the side it has something written diagonally
 20 across the back of the Nyala up there. So if we, now we
 21 need to scroll forward slowly through this video and start
 22 getting to three seconds where we'll see them turning up
 23 around the kraal. So 11 has in fact already gone up around
 24 the kraal. If we can just pause here, that is the kraal on
 25 the left, the bushes on the left hand side of the screen

<p style="text-align: right;">Page 18175</p> <p>1 are the kraal and this is the journalist Mr Sibeko whose 2 photographs have been used in the Commission. Can we turn 3 up? Can we continue forward and just run the video and 4 stop it around 15 seconds. At 14 seconds we see the POPS 5 Casspir that has come into view and is going to turn up 6 past the kraal as well. 14 seconds is 15:52:27 and if we 7 can run the video further and stop at this point. That is 8 Nyala 6 which is going to join the Nyala line to the right 9 of the kraal at 19 seconds.</p> <p>10 CHAIRPERSON: We can see the wire trailer behind, 11 or part of it.</p> <p>12 MR CHASKALSON SC: And we're now at 13 15:52:31. We're one minute and 19 seconds away from the 14 shootings. Can we keep rolling? Sorry, can you rewind 15 until 23 seconds? A bit further back, a bit further back. 16 Okay, take it a little bit, take it, let's play it from 17 there and stop at 22. Okay stop, that is papa1. So at 24 18 seconds into this video which is 15:52:36 papa1 is waiting 19 on the south side of the path which I'm marking with a red 20 marker, to move up the east side of the kraal. Can we 21 scroll it very slowly now, one second on? Behind papa1 is 22 papa2, also waiting to the south of the kraal. Stop – 23 stop, go back to 23. That is papa2 and what we, papa1, 24 papa2 and scroll a little bit further – that's papa1 at 24 25 seconds. Stop. Still at 24 seconds we now see the TRT</p>	<p style="text-align: right;">Page 18177</p> <p>1 due course and I'll identify the number plate of the Nyala 2 which is the number plate of papa1.</p> <p>3 MR SEMENYA SC: Yes, but a little earlier 4 you indicated that papa Nyala 1, one where I marked a 5 yellow line, an orange in between and a yellow below it. 6 Now this is reversed now. So you have identified two 7 dissimilar cars as Nyala 1, papa1.</p> <p>8 MR CHASKALSON SC: Well, we can have this 9 dispute out elsewhere. I haven't – I stand by, I know that 10 I've identified these correctly.</p> <p>11 CHAIRPERSON: This could be sorted out, as you 12 say, in chambers as it were as opposed to in the chamber 13 and if you reach agreement you can report it and if you 14 don't, well, then we may have to do something.</p> <p>15 MR CHASKALSON SC: This is 38 seconds 16 into clip 16 which is ETV time 15:52:54. 15:52:54 which is 17 approximately a minute before the shootings, it's 56 18 seconds before the shootings. Chairperson, what we can see 19 in this image is, that is the STF Casspir which has joined 20 – the first three vehicles that we saw going round the 21 kraal were papa11, which has now moved up to the point 22 furthest left on the screen, papas 7 and 18 which are not 23 visible in this picture because they are occluded by Nyala 24 6 and its trailer, but there is an additional STF Casspir 25 which has now moved into position which I'm identifying to</p>
<p style="text-align: right;">Page 18176</p> <p>1 line which is forming up just behind or it has reached the 2 point behind papa2 at 24 seconds. Can we now run forward 3 to about 36 seconds? That is papa1 which has now moved 4 onto the path. Behind it is still papa2 and the TRT line 5 has moved slightly ahead of papa2. Can we scroll a little 6 forward?</p> <p>7 CHAIRPERSON: May I ask, has it not yet reached 8 what we call the second position?</p> <p>9 MR CHASKALSON SC: No, it reaches the 10 second position considerably later. Roll a little bit 11 forward, stop at 39. If we can just, if we can just look. 12 This is now 36. Sorry, if we can go back to 36 and maybe – 13 okay, let's play it from there. We're at 35 then we'll 14 stop. As soon as we can look up the kraal I'd like us to 15 stop. Stop. Brigadier, I've been happily identifying 16 Nyalas but the one Nyala which you ought to be able to 17 identify is papa1. Can you confirm that that is in fact 18 your vehicle papa1?</p> <p>19 BRIGADIER CALITZ: Nee, mnr die 20 Voorsitter, ek sal nie weet – ek sal u woord daarvoor vat. 21 Ek kannie sê dit is presies hoe my Nyala gelyk het nie, so 22 ek kan glad nie sê dit is my voertuig nie, nee.</p> <p>23 MR CHASKALSON SC: Can I then, what we'll 24 do is we'll scroll the – can I just put a proposition to Mr 25 Semenya to contemplate which is, we'll roll the video on in</p>	<p style="text-align: right;">Page 18178</p> <p>1 the right of papa11.</p> <p>2 COMMISSIONER HEMRAJ: You say papa11 is 3 visible on this shot?</p> <p>4 MR CHASKALSON SC: I'm marking papa11. 5 I'm marking what I – I don't want to – that is either 6 papa11 or the Casspir, I'll have to zoom in on a brighter 7 picture, the POPS Casspir that we saw turning in, but I 8 believe it is. In fact I'm certain it is papa11, not the 9 Casspir. Now at this stage, Brigadier, we have papa11, we 10 have the STF Casspir, we have Nyala 6. We have, ahead of 11 Nyala 6, papa7 and papa18 which we'll see shortly. We also 12 have the POPS Casspir. So that's one, two, three, four, 13 five, six armoured vehicles which have moved up to the left 14 of the kraal and the time is at –</p> <p>15 COMMISSIONER HEMRAJ: Sorry, where do you 16 see the POPS Casspir? I'm obviously missing something 17 here.</p> <p>18 MR CHASKALSON SC: Well, the POPS Casspir 19 was – the POPS Casspir, Nyala 6 is blocking a great deal 20 but as we go forward all, what Nyala 6 is blocking will 21 become apparent.</p> <p>22 CHAIRPERSON: You show us it's there but you can't 23 show it to us on this slide because it's obscured by papa– 24 by the Nyala 6.</p> <p>25 MR CHASKALSON SC: We have six armoured</p>

<p style="text-align: right;">Page 18179</p> <p>1 vehicles which are already in the channel and we have two 2 that are waiting behind the channel for a position to move 3 in. Now Brigadier, can I ask you at this point, you are 4 parked here and we'll show in due course that this is your 5 vehicle because your number plate becomes apparent a little 6 later on, the edge of the kraal is here and the channel 7 down which the strikers ultimately come before they are 8 shot is here. There is a wide passage for you to go there 9 if you want to block the strikers. Why didn't you take 10 that passage? 11 CHAIRPERSON: That's a double question. Do you 12 accept that there's a wide passage, because if you don't 13 then the question falls away. Do you accept that there's a 14 wide passage where Mr Chaskalson is - 15 BRIGADIER CALITZ: I wanted to – just 16 before maybe we come to that, Mr Chaskalson said the 17 vehicles moved on the left of the kraal. This is the right 18 of the kraal – 19 MR CHASKALSON SC: If I said on the left 20 of the kraal that was a complete error. It is absolutely 21 the right, the east of the kraal. 22 BRIGADIER CALITZ: Okay, I just want to 23 make sure about that one. And then this one, mnr die 24 Voorsitter, as ons kyk na die posisie wat die drywer het en 25 die visie wat hy het, kan ek nie vir u sê wat was vir hom</p>	<p style="text-align: right;">Page 18181</p> <p>1 dit is baie moeilik op daardie stadium om vir hom te sê 2 waar hy kan sien wat in die pad is, gaan links om hier of 3 gaan regs om daar. Die drywer sien wat voor hom aan die 4 gang is. My posisie agter is baie laer, so ek het hom 'n 5 rigting gegee, algemeen, en gesê gaan om, om die kraal aan 6 die regter – weet, daar waar ons deur is. So nee, ek het 7 nie vir hom elke oomblik gesê links om hierdie bossie of 8 regs om daardie klip nie, nee, mnr die Voorsitter. 9 MR CHASKALSON SC: Did your driver know 10 where you wanted him to take the Nyala? 11 BRIGADIER CALITZ: Mnr die Voorsitter, ek 12 vertrou dit is iets wat hy kan antwoord. My opdrag aan hom 13 was duidelik, ek het gesê beweeg om dat ons die persone kan 14 blok en dan disperse. 15 MR CHASKALSON SC: So he knew that your 16 instruction was to block? 17 [14:29] BRIGADIER CALITZ: Hy het geweet – 18 MR CHASKALSON SC: And then disperse? 19 BRIGADIER CALITZ: Hy het geweet dat ons 20 aan die voorkant moet kom sodat ek kan sien wat aangaan en 21 dan die lede in my voertuig het ook dan geweet om te 22 disperse. 23 MR CHASKALSON SC: And did you know the 24 terrain, did you that channel A was a channel that was the 25 narrowest point at which you could block?</p>
<p style="text-align: right;">Page 18180</p> <p>1 die geleë, links of regs verby daardie Casspir-draad op 2 hierdie stadium nie. Ek sien 'n bos reg agter die draad op 3 hierdie stadium. Ek kan nie vir u op daardie sekonde sê 4 presies watter kant toe ek gekyk het of waar ek was. Ek 5 weet ek was regulations agter, so my view was dié kant toe, 6 maar dit is – dit sal ons maar miskien vir die drywer dan, 7 wat was die beste moontlike manier vir hom om dan in te kom 8 en om te kom daar. Die ander dingetjie wat ek net wil sê, 9 u het gesê ek was daar geparkeer, ek dink hierdie was 'n 10 movement, ons was glad nie geparkeer. Hierdie was soos in 11 ons het beweeg na vorentoe. 12 MR CHASKALSON SC: Well, Brigadier, we 13 can actually watch the video and you'll see that your 14 position doesn't change. If we roll it back to 36 we can 15 see that you pause for a while to the south of the path – 16 CHAIRPERSON: I think the Brigadier is complaining 17 about the word "parked." "Staties" was the word he used 18 previously to indicate a stationary, you know, stationary 19 but there's a difference. I think it's a matter of nuance 20 between a vehicle being stationary and a vehicle being 21 parked. 22 MR CHASKALSON SC: I'm happy to accept 23 stationary, but Brigadier, flowing from your question, were 24 you not directing your driver where to go? 25 BRIGADIER CALITZ: Mnr die Voorsitter ja,</p>	<p style="text-align: right;">Page 18182</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, 2 nee, ek dink nie dit was ooit bespreek in 'n plan of gesê 3 dat daar 'n moontlikheid is dat ons daar 'n blok linie sou 4 vorm nie, so nee, mnr die Voorsitter. 5 MR CHASKALSON SC: But earlier on when we 6 asked you where you wanted the block to take place you 7 identified channel A. 8 BRIGADIER CALITZ: Dit is waar mnr die 9 Voorsitter gesê het ons moenie in daardie, ek dink die 10 woorde is, "onder onsie ingaan of fight ingaan nie." Ek 11 het gesê so vroeg as moontlik, ek het die blokkie wel in 12 daardie lyn gesit maar my woorde was, so vroeg as moontlik 13 om hulle daar te blok, so beslis nie in 'n lyn daar waar 14 dit bedoel is nie. Dit is wat my vorige argument of 15 stelling dan aan u was. 16 MR CHASKALSON SC: But you knew you 17 didn't want to blok on channel B because that would create 18 the risk of driving people into wire fences, so you knew 19 about the wire fences. 20 BRIGADIER CALITZ: Mnr die Voorsitter, 21 nee, ons het 'n scenario uit gespeel tussen twee 22 moontlikhede. Die moontlikhede is deur u voorgestel en u 23 het gesê as daar 'n tweede moontlikheid was, B, en ek het 24 vir u gesê waarom dit operasioneel nie moontlik sou gewees 25 het nie. Dit was glad nie deel van die plan nie en dit was</p>

<p style="text-align: right;">Page 18183</p> <p>1 ook nie in my gedagtegang op daardie stadium nie.</p> <p>2 MR CHASKALSON SC: So you're saying you</p> <p>3 hadn't before the operation familiarised yourself with the</p> <p>4 terrain to the west of the kraal?</p> <p>5 BRIGADIER CALITZ: Nee, dit is glad nie</p> <p>6 wat ek gesê het nie, mnr die Voorsitter.</p> <p>7 MR CHASKALSON SC: Well, I'm asking you</p> <p>8 the question, had you not?</p> <p>9 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>10 was reeds drie dae in onderhandeling met die koppie self,</p> <p>11 toe ons die plan gedoen het, het ons wel daardie area wat</p> <p>12 oop was geïdentifiseer om uit te beweeg en waar ons dan sou</p> <p>13 op vorm. Om te sê ek het uitbeweeg en gaan kyk waar elke</p> <p>14 bossie, elke klip, elke gat was, dit het ons nie gedoen</p> <p>15 nie, nee.</p> <p>16 MR CHASKALSON SC: But you must have</p> <p>17 known if this was your channel to get your dispersion line</p> <p>18 out to the front of koppie 2, which was the original plan,</p> <p>19 that there were fences that you would have to negotiate or</p> <p>20 navigate past when you took your Nyalas out.</p> <p>21 BRIGADIER CALITZ: Dit was wel bekend aan</p> <p>22 ons.</p> <p>23 MR CHASKALSON SC: So were you aware of</p> <p>24 where the fence line was?</p> <p>25 BRIGADIER CALITZ: Ek sal nie sê presies</p>	<p style="text-align: right;">Page 18185</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>2 die vraag was gevra, ek dink Vrydag of gedurende my, en ek</p> <p>3 het wel gesê dat op daardie stadium toe ons die opdrag</p> <p>4 gegee het om te gaan disperse en daar aksie was by insident</p> <p>5 2, sou die TRT lyn iewers op gevorm het. Ek het vir u gesê</p> <p>6 ek was nie bewus presies waar nie, maar dit was my</p> <p>7 getuienis dat ek glo hulle het wel op gevorm en hier kan</p> <p>8 ons dit sien.</p> <p>9 MR CHASKALSON SC: Can we just scroll a</p> <p>10 little bit forward, a little bit further forward so that it</p> <p>11 comes into focus and we see the number of TRT people who</p> <p>12 formed up? So we already see here the number of TRT people</p> <p>13 at 41 seconds who formed up. Are you saying that you</p> <p>14 didn't physically notice them?</p> <p>15 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>16 nee, ek het nie spesifiek na hulle gekyk of gesien in watse</p> <p>17 lyn of watse rigting hulle op vorm nie, dit was my</p> <p>18 getuienis dat hulle wel sou op vorm, ek het hulle nie op</p> <p>19 daardie stadium so pertinent waargeneem soos wat ek dit</p> <p>20 hier sien nie, nee.</p> <p>21 MR CHASKALSON SC: But you did expect</p> <p>22 them to be in the region where we ultimately see them in</p> <p>23 the slide that we see now?</p> <p>24 BRIGADIER CALITZ: Dit was die taking</p> <p>25 gewees van TRT om dan op te volg om dan beskerming te gee</p>
<p style="text-align: right;">Page 18184</p> <p>1 op daardie stadium, ek was bewus, ons was bewus van 'n</p> <p>2 Google map en ons was bewus van die groot krale wat dan</p> <p>3 daar was.</p> <p>4 MR CHASKALSON SC: But were you aware</p> <p>5 that there was a limited channel through which you could</p> <p>6 take your Nyala train out when you were going to form the</p> <p>7 dispersion line?</p> <p>8 BRIGADIER CALITZ: Daar was slegs een</p> <p>9 uitgang, as u bedoel, limited, daar was net die een uitgang</p> <p>10 wat oop gelos was, ja.</p> <p>11 MR CHASKALSON SC: Yes, but it is not</p> <p>12 just an issue of getting through channel B, after channel B</p> <p>13 you had to get through channel A as well.</p> <p>14 BRIGADIER CALITZ: Dit was dan die spasie</p> <p>15 om deur te beweeg, dit is korrek, mnr die Voorsitter.</p> <p>16 MR CHASKALSON SC: And you were aware</p> <p>17 that that was the space through which you would have to</p> <p>18 take your Nyala train?</p> <p>19 BRIGADIER CALITZ: Soos ek reeds</p> <p>20 geantwoord het, mnr die Voorsitter.</p> <p>21 MR CHASKALSON SC: Alright, can we then</p> <p>22 scroll forward on this video and take us to, first to 40</p> <p>23 seconds? Now that I see the TRT line, possibly if I can</p> <p>24 ask you, were you aware of the TRT line forming up to your</p> <p>25 left?</p>	<p style="text-align: right;">Page 18186</p> <p>1 aan die Openbare Orde Polisiëringslyn.</p> <p>2 MR CHASKALSON SC: Okay, can we roll the</p> <p>3 film a little bit further forward, and if we can stop at</p> <p>4 this point, or let's scroll a little bit further forward</p> <p>5 because the number plate will become visible fairly soon.</p> <p>6 CHAIRPERSON: Forget the number plate,</p> <p>7 you might indicate the point at which you stopped, so those</p> <p>8 who follow later on the transcript who want to know what</p> <p>9 video we've been looking at and at what point, you've now</p> <p>10 stopped.</p> <p>11 MR CHASKALSON SC: Let's go through to 50</p> <p>12 seconds where the number plate will become visible, keep</p> <p>13 going, or actually go back to, let's play it from 48 and</p> <p>14 where the number plate comes into view, if you can just</p> <p>15 stop the video. You've overshot it, come back. Well,</p> <p>16 maybe what we can do is, there is on the memory stick that</p> <p>17 I handed up a screen shot taken from above this point which</p> <p>18 focuses in on the number plates, so if you can look for a</p> <p>19 screen shot which says JJJ stop the video, which says JJJ –</p> <p>20 CHAIRPERSON: We can see the number</p> <p>21 plate, is that BHL or BML, BHL297, it looks like a hyphen</p> <p>22 and then a B, am I reading it correctly? Is that BHL297</p> <p>23 hyphen B?</p> <p>24 MR CHASKALSON SC: Yes, Brigadier, can</p> <p>25 you confirm that that was the number plate of Papa1?</p>

<p style="text-align: right;">Page 18187</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, ek 2 sal net na die rekords moet gaan kyk, maar ek glo as dit so 3 bewys is – 4 CHAIRPERSON: So we accept it 5 provisionally and if you find out later we expected it 6 wrongly you can tell us. 7 BRIGADIER CALITZ: Ek het dit iewers, ek 8 sal dit net moet gaan bevestig, die nommer plaat en dan sal 9 ek vir u kan sê, mnr die Voorsitter. 10 MR CHASKALSON SC: Brigadier, at this – 11 CHAIRPERSON: It is fair to take it 12 provisionally at the moment and if it is wrong – 13 BRIGADIER CALITZ: Ek dink – 14 CHAIRPERSON: - you will tell us. 15 BRIGADIER CALITZ: As u my 'n geleentheid 16 gee, mnr die Voorsitter. 17 CHAIRPERSON: Okay, of course, or even 18 tomorrow morning if that's enough time. Alright, let's 19 carry on. 20 MR CHASKALSON SC: Now, Brigadier, we're 21 at 52 seconds into the video. This is now ETV time, 15:53 22 exactly, it is 50, five zero seconds before the shootings. 23 Your Nyala is hugging the right hand fence and maybe at 24 this point it is worth starting to identify the positions 25 of the Nyalas as we see them on our map. So what we can</p>	<p style="text-align: right;">Page 18189</p> <p>1 dit kan voorstel. 2 MR CHASKALSON SC: But that's essentially 3 what I said, so you've got the Papa1, I think more or less 4 up against the wire, a slight angle. 5 BRIGADIER CALITZ: Dit is korrek. 6 MR CHASKALSON SC: And then you've got 7 ahead of it, to its left moving forward is the Nyala 6 with 8 the wire trailer and the wire trailer, the right back 9 corner of the wire trailer is more or less in line with the 10 left front corner of your vehicle, is that right? 11 BRIGADIER CALITZ: Korrek, mnr die 12 Voorsitter, ek dink dit sal verander sekond by sekond, maar 13 op daardie foto is dit hoe ek dit waargeneem het. 14 MR CHASKALSON SC: Can we run it a little 15 bit forward because you'll see that Nyala 6 in fact comes 16 in front of you on the fence? Keep going, and at this 17 point which is 15:54 on the video, we see Nyala 6 coming in 18 front of you and if we roll it forward by 55 Nyala 6 will 19 be in front of you on the fence. Do you accept that? 20 BRIGADIER CALITZ: Die video wat u nou 21 gewys het, dit is korrek, ek het net gereageer op die 22 footage wat ek voorheen gesien het, mnr die Voorsitter. 23 MR CHASKALSON SC: Now can you identify 24 any of the other vehicles in this shot? 25 BRIGADIER CALITZ: Nee, mnr die</p>
<p style="text-align: right;">Page 18188</p> <p>1 see on our map at the moment is just Papa1 which is behind 2 Nyala 6. That is a rough approximation of your position at 3 this stage. 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 nee, ek stem nie saam nie. Ek dink die Nyala 6 se draad 6 was aan die linkerkant van my voertuig, as ek na die foto 7 gekyk het, ek dink nie ek het reg agter hom gestop op 8 daardie stadium nie, ek kan verkeerd wees, as ons net kan 9 teruggaan na die foto? 10 MR CHASKALSON SC: So you would put Nyala 11 6 a little bit – 12 BRIGADIER CALITZ: As u 'n paar sekondes, 13 net 'n sekond of twee, ek is nie bewus van die video se tyd 14 nie, 'n bietjie links teruggaan, net 'n sekond of, u sal 15 sien die draad is aan die linkerkant en ek het nie agter 16 die draad gestop soos wat u die blokkies nou net aangedui 17 het nie, so ek gaan nie, dit lyk of ek aan die regterkant 18 van Nyala 6 op hierdie stadium is. 19 MR CHASKALSON SC: Does it mean that your 20 Papa1 was up against the wire, the fence and Nyala 6 was 21 slightly to your left, facing north – 22 BRIGADIER CALITZ: Miskien as ek net kan 23 – 24 MR CHASKALSON SC: Is that right? 25 BRIGADIER CALITZ: Meer so iets, as ek</p>	<p style="text-align: right;">Page 18190</p> <p>1 Voorsitter, ek sien een, twee en links lyk dit ook soos 'n 2 Nyalas, so drie Nyala voertuie wat dan myne insluit. 3 MR CHASKALSON SC: I think you'll find 4 that the one on the left is in fact the POP's Casspir which 5 we'll see in a couple of minutes, but that is Papa7. This 6 is, - so Papa7 is to the left of your vehicle, further 7 forward and this will be the POP's Casspir that we will see 8 shortly. Can we plot them on our map at this point and can 9 I ask you to help me in this regard? I'm going to put 10 these blocks roughly where I estimate them to be in that 11 imagine Sorry, can we go back to the image before I put my 12 blocks down so that I can reconstruct them? Would you 13 agree broadly with that arrangement? 14 BRIGADIER CALITZ: Mnr die Voorsitter, 15 ja, wat ons daar op die video gesien het, ek dink daardie 16 bossie, ek kon nie heeltemal sien of ons nou in lyn met 17 daardie draad gaan of meer vorentoe nie, maar dit is min of 18 meer soos die video nou uitspeel. 19 CHAIRPERSON: The Papa that we've seen 20 near the opening in the fence through the larger fencing 21 enclosure? 22 MR CHASKALSON SC: That is Papa7 but – 23 CHAIRPERSON: Thank you. 24 MR CHASKALSON SC: Mr Wesley has just 25 pointed out a scaling problem which is, if we go back to</p>

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1 the image it appears that Papa7 is, there is the one post
 2 but Mr Wesley was saying there is another post visible as
 3 well. I think I'm happy to stick with our position, are
 4 you happy with our position relative to those posts?
 5 BRIGADIER CALITZ: Mnr die Voorsitter,
 6 ja, ek dink soos u sê, 'n skaal probleem. Hier lyk dit
 7 baie ver, as ons daar kyk dan dit 'n bietjie relatief 'n
 8 ander prentjie gee, maar ek dink as u aanbeweeg sal ons
 9 sien waarnatoe die voertuie beweeg.
 10 MR CHASKALSON SC: Now if we go ever so
 11 slightly forward, we see a Nyala coming up behind you and
 12 that will be Papa9 and Papa9 is going to pass between you
 13 and the POP's Casspir in another second, if we can just
 14 take that forward? Take that forward to, keep going until
 15 the Casspir becomes visible, keep going, there, can we stop
 16 there? So at 56 seconds in and would you add Papa9 and the
 17 Casspir to the picture, or the Casspir is already in there,
 18 can we add Papa9? The Casspir comes in there and now if we
 19 look forward we can also see that ahead of Nyala 6 is where
 20 Papa18 has ended up on the right hand side of the screen,
 21 and I think Nyala 6 has come a little bit more this way, it
 22 is pulled off the fence a little bit, possibly even more
 23 because you're about to pass it on the right hand side.
 24 Now at this point the strikers still had not come around
 25 the kraal at channel A, they're going to become visible

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1 very soon, but at this point we have, not in this picture,
 2 the STF Casspir and Papa11 north of the channel and we have
 3 another six armoured vehicles which are all moving or
 4 leaving a fairly large channel still open for the strikers
 5 to come down. Can you explain that, Brigadier?
 6 CHAIRPERSON: He must agree with the
 7 proposition that you put by way of introduction to your
 8 question, before you ask him to explain it because if he
 9 doesn't agree with it there isn't anything to explain. Is
 10 that correct what counsel put to you as the introductory
 11 part of his question?
 12 BRIGADIER CALITZ: Mnr die Voorsitter, as
 13 ek dit korrek verstaan, ek weet glad nie op hierdie stadium
 14 wat is die spatie tussen die wit Casspir en die kraal, as u
 15 kyk na die grondpad waarop hy ry en u sien hierdie foto wat
 16 voor ons is, is hierdie Casspir vir my nie in die grondpad
 17 nie, maar hy is uit. So as ek dink dat hy in die grondpad
 18 ry en pertinent, ek sien die bossies en ek sien die rigting
 19 van sy neus in die rigting van die grondpad, dan sou ek sê
 20 die voertuie moet net so 'n bietjie nader aan die
 21 linkerkant van die kraal gaan.
 22 MR CHASKALSON SC: Brigadier, if you look
 23 at the direction of the path and you look at what appears
 24 as a path as opposed to grass on this aerial shot, I think
 25 you'll see that the Casspir is still pointing a little bit

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1 to the right as we've got it now.
 2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 ja, 'n ou wil nie tegnies raak oor die foto nie maar as jy
 4 kyk watter voertuig is in die middel, 9, daar steek 'n
 5 stukkie, ek weet nie of u kan sien op die vloer of op die
 6 grond, 'n stukkie, dit lyk soos 'n oop stukkie grond wat
 7 nie veld is nie.
 8 COMMISSIONER HEMRAJ: I think you must
 9 just point that out because I'm not sure what you're
 10 referring to so that we can see what it is.
 11 MR CHASKALSON SC: With respect not, that
 12 is actually a shadow of Papa7.
 13 BRIGADIER CALITZ: So as dit 'n skadu is
 14 dan beteken dit Nyala 9 en 7 moet dan relatief baie nader
 15 aan mekaar wees, as dit aanvaar is dat dit wel 'n skaduwee
 16 is, wat vir my dieselfde lyk as die grondpad op hierdie
 17 stadium, so daarom sê ek die skaal is net so 'n bietjie –
 18 CHAIRPERSON: There is a problem with the
 19 scale, can see what's on the map, what we can see is the
 20 slide. Now we see it, thank you.
 21 MR CHASKALSON SC: And, Chairperson, this
 22 was, I think at 59 seconds into C16. Can we just go back
 23 to the video so that, we've got an exact time, it is 59
 24 seconds.
 25 [14:48] COMMISSIONER HEMRAJ: 16, you say?

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1 MR CHASKALSON SC: JJJ194.16, and that is
 2 eTV time 15:53:12. Now if we scroll forward two seconds,
 3 we will see, Brigadier, that your Casspir moves off to try
 4 to pass Nyala 6 on the right-hand side. Were you aware, do
 5 you recall doing that?
 6 BRIGADIER CALITZ: Ek het voorheen
 7 getuig, mnr die Voorsitter, dat ek weet nie aan watter kant
 8 die voertuig verby is nie. Ek het wel gesê ek dink op 'n
 9 stadium is ons verby Nyala 6. As ons hier kan sien, as dit
 10 die skaduwee is van – wat het u gesê is voor? Nyala 7?
 11 Pappa7? En dan Pappa18, die skaduwee, daar is 'n klein
 12 spasietjie tussen hom en die skaduwee van Pappa18. So
 13 daarom het ek gesê Pappa18 ek dink is bietjie nader as wat
 14 u dit aangedui het hier, en dan met, en dan die agterkant
 15 van –
 16 MR CHASKALSON SC: Sorry, Brigadier, I'm
 17 not following you. Which way would you like me to move
 18 Papa18?
 19 BRIGADIER CALITZ: Just a little bit
 20 closer to 7, if I see it, if you say it's the shadow there
 21 in front.
 22 MR CHASKALSON SC: It's 7's shadow.
 23 BRIGADIER CALITZ: Yes, then 18 closer to
 24 7, and then this one is, in the middle is, you say it's 9.
 25 MR CHASKALSON SC: That's correct.

<p style="text-align: right;">Page 18195</p> <p>1 BRIGADIER CALITZ: Then you can see the 2 rear left-hand corner of the barbed wire fence, if you can 3 go back to the photograph – 4 MR CHASKALSON SC: Can we go back to the 5 photo – 6 BRIGADIER CALITZ: The rear left-hand 7 back of the barbed wire is, there's a, I predict – 8 MR CHASKALSON SC: Can you just mark that 9 with the pointer? 10 BRIGADIER CALITZ: I predict a metre 11 between the corner and the right-hand corner of that 12 vehicle, so the distance there, if you look to the width of 13 the man's shoulder and I know it's a three-metre vehicle, 14 so that is about one metre. So ek dink jou Nyala 6 moet 15 nader kom aan die agterkant van Pappa9, omtrent so. Ek 16 weet nie in watter rigting Nyala 6 – ons sal nou kyk. This 17 is more or less – 18 MR CHASKALSON SC: Can we go back – 19 BRIGADIER CALITZ: - more or less on the, 20 what I see on the photo. 21 MR CHASKALSON SC: Can we just go back to 22 59 seconds, because it's at this point that the strikers 23 first emerge, coming around the kraal. 24 CHAIRPERSON: Before you do that, can I 25 ask you, is that teargas that we see just beyond the shadow</p>	<p style="text-align: right;">Page 18197</p> <p>1 have been aware of the fact that they were clustering to 2 the right. 3 BRIGADIER CALITZ: Nee, mnr die 4 Voorsitter, as jy kyk, hierdie hele video dink ek is 'n 5 minuut, as ek na die regterkant kyk, 'n minuut en 13 6 sekondes. So dit is, hier gebeur, wat hier gebeur is 7 sekondes. So die oomblik as jy deurbeweeg, was dit toe ek 8 voor beweeg, dit is vir die eerste keer toe ek die groep 9 sien. Onthou ek het ook getuig dat toe die mense ombeweeg 10 het ek gedink dat hulle sal uiteen beweeg en ons gaan oor 11 na die volgende fase, wat ek wel gesien het nie die geval 12 is toe ek by die draad kom nie. Maar ek dink ons sal dit 13 verder nou sien. 14 MR CHASKALSON SC: Well, Brigadier, can I 15 take that further with you? Can we go back to the position 16 where you were stationary on the path, which was back to 40 17 seconds. Now at 40 seconds you are stationary on the path 18 and if we look at this map your position is roughly, if I 19 can just flicker – your position is roughly there. The 20 strikers at this point are presumably coming around the 21 kraal in a clockwise direction from where you say incident 22 2 took place to where they will emerge at, in 20 seconds' 23 time, round about the corner of the kraal, or a bit further 24 north. Are you saying that when you were on the path you 25 were unaware of where the strikers were?</p>
<p style="text-align: right;">Page 18196</p> <p>1 to which you're referring? Is it smoke of some sort? 2 MR CHASKALSON SC: It will be exhaust 3 fumes, Chairperson. We'll show you the different between 4 teargas and exhaust fumes later. 5 CHAIRPERSON: I accept it for the moment. 6 MR CHASKALSON SC: Can we go back to 59 7 and just play it forward slowly so that we can see the 8 movement of Papa1 to the right of Nyala 6 and also the 9 emergence of the strikers on the left-hand side? Now 10 that's 59 seconds, and if we can just play it forward we 11 see your Papa1 at – sorry, Brigadier, can I have that 12 marker? Your Papa1 moves past the right-hand side of Nyala 13 6, so it keeps hugging the fence to get past Nyala 6, and 14 there on the far left-hand side of the picture is the first 15 shot of the strikers coming into the channel. So can I ask 16 you why your Nyala chose to go to the right at this point? 17 BRIGADIER CALITZ: Mnr die Voorsitter, 18 weereens op hierdie stadium lyk dit nie of daar enige ander 19 spasio was waar hy volgens my kan deurgekom het nie, so hy 20 het seker gedink dit is die maklikste om om hulle te beweeg 21 om dan so vinnig as moontlik voor te kom. Weereens die 22 drywer sal daardie vraag beter antwoord. 23 MR CHASKALSON SC: And did you issue any 24 instructions to the armoured vehicle group as a whole to 25 move more left? Because by this stage you must presumably</p>	<p style="text-align: right;">Page 18198</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, my 2 getuie was op daardie stadium toe ek op die pad was, was 3 ek oppad om voor te kom omdat ek gesien het hulle beweeg, 4 die agterste groep, soos ek getuig het, het ombeweeg en ek 5 wou so vinnig as moontlik aan die voorkant kom, aan die 6 ander kant, dat ek myself kan vergewis is hulle besig dan 7 om my teen te gaan, of dat ons gaan voortgaan met 'n 8 volgende fase, en dit is waar ek na die foto verwys het. U 9 sê toe ek op daardie stadium was het die "strikers" om die 10 kraal gekom. Dit is 'n leuen. As jy gaan kyk na die 11 lugfoto, wat duidelik geneem is, sal u sien dat toe die 12 voertuie reeds in posisie was, klaar gevorm, die halfmaan, 13 toe was die "strikers" op 'n 45 "angle" nog aan die bokant 14 gewees en nog glad nie om die kraal nie. 15 COMMISSIONER HEMRAJ: Which photograph 16 are you referring to, Brigadier? 17 MR CHASKALSON SC: I think he's referring 18 to the Colonel Vermaak BlackBerry 1516. 19 COMMISSIONER HEMRAJ: I can't read it 20 from here, but what is the caption on the photograph? Can 21 you just read it out to us? 22 BRIGADIER CALITZ: I don't know if this 23 evidence, or from us, it says "50:50 90 seconds after the 24 second approach incident 3 protesters, third approach to 25 the police line." I believe this is taken from the exhibit</p>

<p style="text-align: right;">Page 18199</p> <p>1 L.</p> <p>2 CHAIRPERSON: I believe that's in exhibit</p> <p>3 L. Can you give us the slide number, Mr Chaskalson?</p> <p>4 BRIGADIER CALITZ: I believe there must</p> <p>5 be evidence to –</p> <p>6 MR CHASKALSON SC: It's slide 205. If we</p> <p>7 can call up 205, because –</p> <p>8 BRIGADIER CALITZ: Ja, it is 205, ja.</p> <p>9 Mnr die Voorsitter, as u net sien dat wat ek hier na</p> <p>10 verwys, as ek net u pointer, of aanduider kan leen,</p> <p>11 asseblief. Ek dink ons was al by die foto waar u vir my</p> <p>12 gesê het hierdie is 'n ellipse. We call it the white</p> <p>13 ellipse where the people was forming, and as ons kyk waar</p> <p>14 die voerpunt van daardie is, toe was die voertuie reeds</p> <p>15 opgevorm in daardie sirkel. As ons nou gaan teruggaan na</p> <p>16 die "map" toe hier voor ons, as ek miskien net kan verwys</p> <p>17 die verskil, kyk hoe staan daardie voertuie opgevorm daar.</p> <p>18 Kyk waar die "strikers" is. Mnr Chaskalson het nou net</p> <p>19 gesê dat terwyl ek in die pad was, met ander woorde daar</p> <p>20 voor die TRT, op daardie stadium het die eerste "strikers"</p> <p>21 alreeds hier om die hoek gekom –</p> <p>22 MR CHASKALSON SC: No, no, Brigadier, I</p> <p>23 think you misunderstood what I was putting to you.</p> <p>24 BRIGADIER CALITZ: Oukei, so –</p> <p>25 MR CHASKALSON SC: If you give me the</p>	<p style="text-align: right;">Page 18201</p> <p>1 COMMISSIONER HEMRAJ: I'd like to hear</p> <p>2 the rest of your answer before Mr Chaskalson corrected the</p> <p>3 proposition. You were explaining your position when the</p> <p>4 first of the strikers came around the corner. I'd like to</p> <p>5 hear the rest of that explanation, please.</p> <p>6 BRIGADIER CALITZ: Dankie, mnr die</p> <p>7 Voorsitter. Wat ek wou gesê het is dat as ons kyk na die</p> <p>8 foto, mnr die Voorsitter, waar die voertuie dan in daardie</p> <p>9 posisie is, u sal onthou op 'n stadium het u vir my gevra</p> <p>10 met u hande was hulle parallel met die TRT groep of het ons</p> <p>11 'n T gevorm, en ek het aangedui dat dit was 'n parallel</p> <p>12 beweging. Nou die rekord sal, die "transcript" sal wys dat</p> <p>13 mnr Chaskalson nou net gesê het dat toe ek staties was op</p> <p>14 die pad het die eerste "protester" reeds sy verskyning</p> <p>15 gemaak. So ek dink nie ons hoef dit te debatteer nie; ons</p> <p>16 kan na die transkripsie gaan, maar my punt wat ek wil maak</p> <p>17 is die voertuie was reeds in daardie halfmaan toe die</p> <p>18 "protesters" op hierdie stadium op 'n 45 "angle" na die</p> <p>19 kraal gekom het. Dit was onmoontlik om daardie kant van</p> <p>20 die kraal te sien. So al wat hulle gesien het, as ek my</p> <p>21 pyl kan vat reguit deur, was die voertuig voor, die twee</p> <p>22 Casspirs, en miskien daardie twee Nyala voertuie daar. So</p> <p>23 as ons nou kan teruggaan na die "map" toe hier voor ons,</p> <p>24 onthou miskien daardie posisie en waar die "strikers" is,</p> <p>25 dat ons net weer teruggaan na waar ons nou die – u sien die</p>
<p style="text-align: right;">Page 18200</p> <p>1 pointer I'll indicate what my proposition was.</p> <p>2 BRIGADIER CALITZ: Dan het ek miskien</p> <p>3 misverstaan, mnr die Voorsitter. Laat ons net weer hoor.</p> <p>4 MR CHASKALSON SC: Alleged incident 2</p> <p>5 took place where I'm pointing out Nyala 4 on the western</p> <p>6 edge of the kraal. What I'm putting to you is from the</p> <p>7 point at which you say alleged incident 2 took place there</p> <p>8 was a movement of strikers not in this wide circle that you</p> <p>9 describe there, but a narrower concentric circle around the</p> <p>10 kraal, and you would have seen strikers –</p> <p>11 BRIGADIER CALITZ: Kan ons hom miskien so</p> <p>12 stap vir stap vat? Ek het nooit in my getuienis enigiets</p> <p>13 gesê van 'n "wide" soos u dit stel nie. Ek het ten alle</p> <p>14 tye gesê die voorste groep het nader beweeg. Die agterste</p> <p>15 groep het ek gesê het wel in 'n wyer groep gegaan –</p> <p>16 MR CHASKALSON SC: Then we're in</p> <p>17 agreement, Brigadier.</p> <p>18 BRIGADIER CALITZ: Dit is dan wat</p> <p>19 oorgegaan –</p> <p>20 MR CHASKALSON SC: I do agree with you.</p> <p>21 BRIGADIER CALITZ: Dankie, mnr die</p> <p>22 Voorsitter.</p> <p>23 CHAIRPERSON: Mr Chaskalson, I think you</p> <p>24 must give the Brigadier a chance to finish his answer</p> <p>25 before you carry on.</p>	<p style="text-align: right;">Page 18202</p> <p>1 groot verskil? As ek weer met my pointer kan wys dat hy</p> <p>2 het gesê terwyl ek hier staties was het die eerste</p> <p>3 "protesters" reeds ombeweeg, waar ek verskil. Op die foto</p> <p>4 is dit baie duidelik dat die halfmaan reeds gevorm was.</p> <p>5 Daarom is dit miskien 'n kwessie van skaal, maar ek het –</p> <p>6 en ek sê nie dit is hierdie voertuie nie; hulle sal vir my</p> <p>7 help met watter voertuie dan wel agter die Casspir, agter</p> <p>8 hierdie en so om gevorm het, maar hier was klaar 'n lyn</p> <p>9 gevorm van OOP voertuie toe die "strikers" se voerpunt</p> <p>10 omtrent gelyk met Pappa11 was en op 'n 45-grade "angle"</p> <p>11 ingekom het volgens die foto. So al wat die "protesters"</p> <p>12 op daardie stadium kon sien was dan maksimum tot op hierdie</p> <p>13 lyn, want hulle kon nie om die hoek sien nie. So dit is</p> <p>14 hoekom ek net sê 'n foto spreek vir my meer waarde as</p> <p>15 miskien 'n video uit verskillende "angles" uit. Dit is die</p> <p>16 foto waarna ek verwys.</p> <p>17 MR CHASKALSON SC: Brigadier, you've</p> <p>18 misunderstood my proposition and it may be that I didn't</p> <p>19 put it clearly enough to you. What my proposition was, was</p> <p>20 that when you were on the path in the position that is</p> <p>21 marked on the map, and if we can just zoom back – can we</p> <p>22 zoom back so that we see the whole of the kraal on the</p> <p>23 screen? As you describe, you would have seen the lead</p> <p>24 group of the strikers moving broadly along the route that</p> <p>25 I'm describing with my red dot here, from the eastern</p>

<p style="text-align: right;">Page 18203</p> <p>1 corner of the kraal past the – sorry, from the western 2 corner of the kraal past the northern corner of the kraal, 3 down towards the eastern corner of the kraal, and you would 4 probably have seen them somewhere around where I'm marking 5 here at the northern corner of the kraal, and can I just 6 illustrate that by going back to C15? Can we call up C15? 7 Or firstly, can you respond to that question? Would you 8 have noticed, did you notice strikers moving along this 9 path that I'm describing? 10 BRIGADIER CALITZ: Nee, mnr die 11 Voorsitter, nie van waar ek hierdie posisie was nie. Soos 12 ek vir u gesê het, toe ek aanbeweeg het ek gesien 'n groter 13 deel beweeg om. My doel was om so vinnig as moontlik voor 14 te kom. Ek het nie vir die drywer gesê linksom regsom nie. 15 Ek wou so vinnig as moontlik voor kom sodat ek kon sien wat 16 hier aangaan en dan met die fase 3 "dispersion" aangaan. 17 Dit was die doel. Die vraag is net waarop ons moet 18 ooreenkom, toe die "protesters" in hierdie omgewing was, 19 wat u nou erken, was hierdie voertuie reeds volgens die 20 foto hier geparkeer en so hierdie was nie die enigste nie. 21 Hier was ook voertuie wat reeds dan hierdie, wat ek noem 22 gaping geblokkeer het. 23 MR CHASKALSON SC: Now Brigadier, do you 24 accept that from within your Nyala you could see over the 25 kraal?</p>	<p style="text-align: right;">Page 18205</p> <p>1 picture, are you suggesting to me that from within a Nyala 2 you couldn't see strikers on the other side of the Nyala? 3 MR SEMENYA SC: Chair, this is obviously 4 not the vantage point where we see seat number 7 with a 5 length of a camera which is outside the Nyala. The two are 6 just totally incomparable. 7 MR CHASKALSON SC: With respect not, 8 Chairperson. The issue is not the length of the lens; the 9 issue is the height from which, the height of the kraal and 10 the height of the person who is looking either through a 11 lens or from within a Nyala – 12 COMMISSIONER HEMRAJ: Do we know where 13 the camera person was? 14 MR CHASKALSON SC: Well, if we follow his 15 movements, he's clearly walking on foot, Commissioner 16 Hemraj. 17 CHAIRPERSON: Was he walking next to the 18 Nyala in which the witness was? 19 MR CHASKALSON SC: Well, he's in a 20 slightly different – I'm not suggesting this is the same 21 position from which Brigadier Calitz was in the, where 22 Brigadier Calitz was sitting. It's not the same angle; 23 it's a slightly different angle, but what it shows is what 24 the height of the kraal is and whether it's possible to see 25 people standing up on the other side of the kraal.</p>
<p style="text-align: right;">Page 18204</p> <p>1 BRIGADIER CALITZ: Nee, mnr die 2 Voorsitter, ek sou nie kan sê nie. Daardie kraal is – toe 3 ons in loco inspeksie gedoen het was van die kraal, moes jy 4 jouself party plekke op lig om oor te kyk binne-in want 5 hulle het gesê van die "protesters" het deur die kraal 6 gehardloop, so ons het probeer sien of daar voorwerpe lê 7 binne-in die kraal, en dan die Nyala se agterste sitplek is 8 ook van so aard dat ek sou nie kan sê dat ek bo-oor die 9 kraal kon sien nie, nee. 10 MR CHASKALSON SC: Brigadier, I find that 11 answer difficult to accept, and let me show you a different 12 video. Can we go back to C15? JJJ194.15, and take it to 13 14 seconds into that video. Sorry, it's 16 that we need, 14 not 15. 15 seconds into 16. If we scroll very slowly past 15 this point, this is a handheld camera by a photographer 16 moving on foot. Can you see what we see at the back of the 17 kraal here? Go back. Can you see strikers, who I'm 18 indicating at 15 seconds just behind the kraal to the left 19 of the Casspir? 20 BRIGADIER CALITZ: Dit lyk wel vir my 21 hier is 'n opening en mens kan deur daardie opening kan ek 22 wel sien daar is persone. Op hierdie stadium kan ek nie sê 23 wie hulle is nie. 24 MR CHASKALSON SC: If a handheld camera 25 can get over the back wall of the kraal to show this</p>	<p style="text-align: right;">Page 18206</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, ek 2 wil – 3 CHAIRPERSON: It sounds a little bit 4 unscientific, if I may say so. I understand the general 5 thrust of the point being put, but perhaps the witness can 6 tell us whether seated where he was in the Nyala, he was 7 able to see over the kraal and whether what he's now seen 8 on the screen persuades him one way or the other in regard 9 to that question. 10 [15:08] BRIGADIER CALITZ: Mnr die Voorsitter, 11 nee, dit oortuig my glad nie. Dit hang af van verskillende 12 waar hierdie persoon was en waar ek was. Ek wil net iets 13 probeer op mnr Chaskalson se eie video, as ek net voordat u 14 in die lug gewys het, is daar 'n skoot. Gaan net so 'n 15 paar sekondes terug. Daar was twee Nyalas wat verby 'n 16 kraal beweeg het. Miskien kan ons net die – ek wil net – 17 gaan nog bietjie terug. Dit is die skoot, ja, voor ons – 18 gaan terug, terug. Nog terug, nog terug, nog terug. Nee, 19 ons is nou, ons gaan nou vorentoe. Terug is, reverse. 20 Reverse, please. As ek miskien sê stop, aan die 21 linkerkant, weet ek nie, as u vir my kan sê dit is 'n kraal 22 of nie 'n kraal nie. Dit is die omgewing waar die kraal 23 was en as ek vir u sê met daardie fotograaf, u het vir my 24 gesê dit is 'n fotograaf, ek neem aan wat in daardie 25 posisie was. Ons sal moet teruggaan na die toneel om te</p>

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1 weet – maar dit is hoe ek die kraal beleef het. Dit is 'n
 2 digte bos wat, soos ek sê toe ons weer teruggegaan het moes
 3 ek fisies op my tone staan om te probeer sien daar van
 4 skoene en artikels binne wat nog daar was. So as u
 5 vergelyk, as ek my pointer kan gebruik en ek kyk hier waar
 6 ek was, dit is die regter agterkant, en u wil hê ek moet
 7 bo-oor die bos sien wat aan die anderkant, daardie kant
 8 gebeur terwyl ons hiernatoe ry en my konsentrasie voor was,
 9 dit is regtig baie moeilik gegewe die tyd wat u my hier gee
 10 van 'n minuut en 13 sekondes om my mense in plek te kry.
 11 So ongelukkig ek kan u nie help daarmee nie.

12 MR CHASKALSON SC: Well Brigadier, will
 13 you accept from this picture that the line of the windows
 14 of the Nyala is higher than the height of the kraal? If
 15 needs be we can sort this out with an inspection in loco
 16 because it's a, there is an objective truth here.

17 BRIGADIER CALITZ: Mnr die Voorsitter,
 18 nee, ons moenie na die hoogte kyk van die vensters nie.
 19 Die sitplekke, as jy op die sitplek kyk, kyk jy nou nie by
 20 die bokant van die venster uit nie. Ek dink dis die derde
 21 keer wat ek mnr Chaskalson miskien uitnooi; binne-in 'n
 22 voertuig, as u onthou, die skietgate wat aan die kant is, u
 23 moet u effens oplik om die haelgeweer dan deur daardie gate
 24 te kry, so die sitplek, u kophoogte gaan miskien nog – as
 25 ek na die skietgate verwys, dit is daardie gate tussen ruit

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1 nommer 1 en 2. So u kophoogte sal dan omtrent bietjie laer
 2 wees as die middel. Weereens as jy kyk na die omgewing en
 3 die kraal – maar mnr die Voorsitter, my antwoord is nee, ek
 4 het dit nie opgelet nie en ek kan nie oor die kraal gesien
 5 het van waar ek was nie.

6 MR CHASKALSON SC: But Brigadier, you did
 7 testify that you saw this ellipse moving around the kraal.
 8 So where did you see it moving around the kraal?

9 BRIGADIER CALITZ: Mnr die Voorsitter,
 10 weereens toe ek voor by die draad gekom het waar my posisie
 11 was, toe ek daar oorgekyk het, het ek gesien dat hierdie
 12 mense het inderdaad nie “ge-disperse” nadat insident 2
 13 plaasgevind het en nadat daar wees opgetree is by insident
 14 3 nie, en daar weer 'n groep oppad was. Dit het ek getuig
 15 toe my voertuig voor by die draad was.

16 CHAIRPERSON: You're talking about what
 17 you saw from what we call the second position.

18 BRIGADIER CALITZ: From the second
 19 position. Toe ek staties was voor. Miskien kan die video
 20 vir my wys waar het ek geëindig, en dan as daar 'n kamera
 21 skoot of 'n kameraman of 'n video man uit my posisie uit in
 22 daardie rigting 'n skoot geneem het sal ek dit aanvaar, wat
 23 ook al ek kan sien.

24 MR CHASKALSON SC: But if we go back to
 25 where we started, this exercise was designed to block off

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1 the strikers and to disperse them to prevent them coming
 2 through channel A. Do you concede that?

3 BRIGADIER CALITZ: Kan u net weer die
 4 vraag herhaal, mnr die Voorsitter?

5 MR SEMENYA SC: No, Chair, when we
 6 started it was a proposition that the Nyala in which he was
 7 would have blocked passage B. That's where this cross-
 8 examination started.

9 MR CHASKALSON SC: No, it isn't where the
 10 cross-examination ever started.

11 CHAIRPERSON: The point I can remember is
 12 you asking him about what could be seen by the witness at
 13 various stages and there was some debate as to where his
 14 vehicle was at various stages, and what we're now talking
 15 about, as I understand it, is what he could have seen or
 16 would have been when his vehicle came to what we call the
 17 second position and was stationary there. Is that not
 18 correct?

19 MR CHASKALSON SC: Not yet, because we
 20 haven't got to the second position yet, Chairperson. I'm
 21 interested in establishing why it is if the purpose of the
 22 Brigadier's – well, this stage of the operation commanded
 23 by the Brigadier was to block the strikers from entering
 24 through channel A, that so little was achieved in that
 25 regard when there was ample opportunity to effect that

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1 block.

2 CHAIRPERSON: You've stated the question.
 3 Perhaps we can take the tea adjournment and then when we
 4 come back we can deal with it fairly comprehensively.

5 [COMMISSION ADJOURNS COMMISSION RESUMES]

6 [15:32] CHAIRPERSON: The Commission resumes,
 7 Brigadier, you're still under oath. Mr Chaskalson?

8 MR CHASKALSON SC: Brigadier, one of the
 9 members of our team has just gone into the Nyala outside
 10 and tells us that if sat in the seat where you sat he has
 11 to bend down a little bit to get his eye line below the top
 12 of the window. He is a shorter man than you. Do you agree
 13 that this is the correct, do you agree that –

14 MR SEMENYA SC: That's really a very
 15 strange way of leading evidence.

16 CHAIRPERSON: I'm sure the question can
 17 be framed in a way which avoids the objection.

18 MR CHASKALSON SC: Well, Brigadier, let
 19 me out the question this way, do you agree first of all
 20 that the height of the top of the Nyala window from the
 21 outside is roughly 6 feet?

22 BRIGADIER CALITZ: No, I can't tell you
 23 but we can measure it.

24 MR CHASKALSON SC: And do you agree that
 25 if you are inside, if you were seated inside the Nyala your

<p style="text-align: right;">Page 18211</p> <p>1 eye line would be at the top of the window of the Nyala?</p> <p>2 BRIGADIER CALITZ: Your eye line will be</p> <p>3 on the top of the Nyala's window.</p> <p>4 MR CHASKALSON SC: Slightly above the</p> <p>5 window of the Nyala, if you were seated in the seat that</p> <p>6 you were seated on the day your eye line would have been</p> <p>7 slightly above the top of the window of the Nyala if you</p> <p>8 were seated straight?</p> <p>9 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>10 kan nie, ek weet nie, ek dink ons kan maar uitgaan en gaan</p> <p>11 toets, maar ek kan nie dink, as jy sit op die sitplek het</p> <p>12 'n mens 'n visie uit buitekant toe, so –</p> <p>13 CHAIRPERSON: Sorry to interrupt you,</p> <p>14 let's do it tomorrow morning before we resume.</p> <p>15 BRIGADIER CALITZ: Ek dink tog 'n mens</p> <p>16 het 'n visie uit, ek dink nie 'n mens hoef spesifiek af te</p> <p>17 buk om by die ruit uit te kyk nie, ek dink as 'n mens sit</p> <p>18 op die sitplek het jy 'n visie voor jou, anders sou dit</p> <p>19 doelloos gewees het as jy in 'n deel van die dak moes</p> <p>20 vaskyk en af buk om by die ruit uit te kyk.</p> <p>21 COMMISSIONER HEMRAJ: Brigadier, actually</p> <p>22 if you look at photo 6 of KKK3 I think you will be able to</p> <p>23 explain that better perhaps? You can have my copy if you</p> <p>24 wish? Oh, good.</p> <p>25 MR CHASKALSON SC: Can we just have it up</p>	<p style="text-align: right;">Page 18213</p> <p>1 CHAIRPERSON: Well, maybe we should put</p> <p>2 it on the screen again.</p> <p>3 MR CHASKALSON SC: And if we follow your</p> <p>4 movements now, from, the last footage that we have of your</p> <p>5 Nyala on JJJ194.16 is around about 59 seconds into that</p> <p>6 video. To follow the further movements of your Nyala we</p> <p>7 have to move at this point to the screen shots from the</p> <p>8 Roland headgear video that are reproduced in JJJ178.2 and</p> <p>9 to do that, if we can go to JJJ178.2, I think it is page</p> <p>10 34, can we go to page 34? In fact let's go back a little</p> <p>11 bit because by that stage your Nyala has already reached</p> <p>12 the fence, - if we can go back another one, 32? Yes, where</p> <p>13 we left off was at ETV time 15:53:13. Now on JJJ178.2 the</p> <p>14 Human Rights Commission and CALS have plotted your</p> <p>15 movements which are marked in the circle P1 from 2 seconds</p> <p>16 previously.</p> <p>17 So from the Roland headgear camera at 15:53:11</p> <p>18 you start to move past Nyala 6 on the right hand side and</p> <p>19 if we can go up, one page further down, by 15:53:18 you</p> <p>20 have now moved past Nyala 6 on the right hand side. So if</p> <p>21 we move you up the channel on our picture we can see that</p> <p>22 at 15:53:18 Nyala 6 has apparently also moved a little bit</p> <p>23 forward from the previous shot and you are turning towards</p> <p>24 the fence. Can you see yourself in the circle P1?</p> <p>25 BRIGADIER CALITZ: Mnr die Voorsitter,</p>
<p style="text-align: right;">Page 18212</p> <p>1 on the screen so that we can all follow the brigadier's</p> <p>2 testimony?</p> <p>3 BRIGADIER CALITZ: If we can maybe just</p> <p>4 enlarge, to take away the names so that only the photo</p> <p>5 appears, a little bit down? Dit is wat ek getuig het, mnr</p> <p>6 die Voorsitter, as u kyk waar die skietgat op die</p> <p>7 linkerkant of die regterkant dan is, skietgat praat ek van,</p> <p>8 call it ventilation hole, skietgate, die gat wat in die</p> <p>9 ruit is, in die middel. As u byvoorbeeld posisie nommer,</p> <p>10 wat is daardie sitplek, 6 of 8, vat en u sit 'n haelgeweer</p> <p>11 in die skouer is dit omtrent die angle wat hy dan skiet.</p> <p>12 So u kop is net bo daardie en dit is wat ek gesê het, om</p> <p>13 uit die skouer uit te skiet is daardie gate juis so ontwerp</p> <p>14 dat u nie moet af buk, wat u nou net vir my sê u mense sê</p> <p>15 dat hulle koppe is gelyk aan die bokant en hy moet fisies</p> <p>16 af buk om by die ruit uit te sien, dan beteken dit hy moet</p> <p>17 op die middel consol sit waar die ratkas is, definitief nie</p> <p>18 op die sitplek nie want as jy op die sitplek sit kan u by</p> <p>19 die ruit uitkyk omtrent die hoogte, 'n bietjie hoër as die</p> <p>20 skietgat, die skietgat is in die ruit.</p> <p>21 CHAIRPERSON: Well, we can do the</p> <p>22 exercise tomorrow morning.</p> <p>23 MR CHASKALSON SC: Brigadier, our</p> <p>24 arrangement of Nyalas has suffered a little bit in the</p> <p>25 break. I think this is broadly where we left it off –</p>	<p style="text-align: right;">Page 18214</p> <p>1 nee, ek kan nie myself sien nie, glad nie.</p> <p>2 MR CHASKALSON SC: Can you see your</p> <p>3 vehicle, can you see the vehicle that is circled as Papa1?</p> <p>4 BRIGADIER CALITZ: Really from this</p> <p>5 distance it looks like sinkhuissies, maar ek moet u woord</p> <p>6 vat dat u sê dit is die voertuig Papa1. Ek kan glad nie</p> <p>7 vir u sê dit is, ek weet ek is daardie kant om, so as dit</p> <p>8 die bewys is dan is dit wat hulle dan vir ons gee.</p> <p>9 MR CHASKALSON SC: You see we saw from</p> <p>10 the JJJ194.16 that you passed Nyala 6 on the right hand</p> <p>11 side and if we look, at the corresponding time, and if we</p> <p>12 look at this CCTV, this series of CCTV shots we see that</p> <p>13 the only vehicle that passes 6 on the right hand side at</p> <p>14 this stage is the one circled as P1.</p> <p>15 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>16 weereens, ek wil nie difficult of probeer stry of iets nie,</p> <p>17 ek sê net wat ek in die foto sien. As u vir my sê dit is</p> <p>18 Nyala 6, ek sien ook daar V3 wat ook miskien aan die kant</p> <p>19 van die kar of daardie kant van die voertuig, so as dit die</p> <p>20 bewys is, maar ek dink nie ek kan sê ek aanvaar dit as 'n</p> <p>21 bewys dat dit wel ons is nie, maar ek verstaan waar dit</p> <p>22 vandaan kom en ek sien die uiteen-leg, ja.</p> <p>23 MR CHASKALSON SC: Well, V2 and V3 turn</p> <p>24 out to be Papa7 and Papa18 which are not identified at this</p> <p>25 stage of this document from SHRC, but their position</p>

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1 relative to Nyala 6 is relatively static, but if we scroll
 2 forward we'll see the point at which you hit the fence.
 3 COMMISSIONER HEMRAJ: Mr Chaskalson,
 4 might I just enquire, what is used to identify these
 5 vehicles as being the different Nyalas? I know in the
 6 previous instances you've shown us different identification
 7 marks. You've pointed them out to us. From this angle in
 8 this distance what is being used here, I don't understand?
 9 MR CHASKALSON SC: There are no
 10 identificatory marks that have been used here beyond
 11 identifying which is a barbed wire Nyala and which is a
 12 regular Nyala, but the movements that one sees on the CCTV
 13 footage are matched to the movements that one sees in
 14 actual television footage where the particular vehicles'
 15 identifying marks can be established. So for instance in
 16 the case of Papa1 one can see from CC16 and some ETV
 17 footage that it is the only vehicle that passes Nyala 6 on
 18 the right hand side. If we run this CCTV footage back we
 19 will see that what is circled as Papa1 passes Nyala 6 on
 20 the right hand side. Nyala 6 is identifiable because it
 21 has a barbed wire trailer and it is the only Nyala on the
 22 line up that has a barbed wire trailer. Now this may not
 23 be a particular sharp picture but there are others in the
 24 CCTV footage that are sharp.
 25 If one studies the CCTV footage and I would SAPS

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1 to do so if they have difficulties with any of these
 2 propositions, it will be born out and that evidence has
 3 been done first by the Human Rights Commission and then by
 4 the evidence leaders. What you're seeing in the shots is
 5 of course a static image or a series of static images.
 6 When one runs the CCTV one sees moving images and the
 7 moving images enable you to match movements that you see on
 8 CCTV with movements that you see on close-up footage that
 9 can identify Nyalas. If we run it further we will see that
 10 you Papa1 eventually does reach the fence. Can we down a
 11 page, and by 15:53:26 you come wide out, the angle of the
 12 Roland headgear is broadly from the bottom right hand
 13 corner of this map and your Nyala is now wide out to the
 14 right of vehicle 3 which is Papa18. It has passed Nyala 6
 15 and if we go a little bit further you'll see that you
 16 actually do come forward again, one more page? At that
 17 point, 15:53:34 you have pretty much reached the fence just
 18 at the point as the first teargas is visible on the CCTV
 19 footage on the left hand side of the screen.
 20 So your final position, your position B on this
 21 CCTV footage is now as we've identified it on the map and I
 22 wonder if we can come down to the map because we can then
 23 chart the movement of the other vehicles that are visible
 24 on the JJJ194 footage to see how this picture changes
 25 slightly up to the same point.

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1 BRIGADIER CALITZ: As u nou die kaart
 2 aanpas, want ek dink daardie Casspir is uit posisie uit,
 3 Papa7 het u nou-nou gesê is teen die draad, die Casspir was
 4 reg agter daardie Casspir.
 5 MR CHASKALSON SC: We'll follow the
 6 movement of that Casspir on the JJJ194 footage now because
 7 it moves later. We –
 8 BRIGADIER CALITZ: Mnr die Voorsitter, as
 9 ek dalk net kan inkom, met respek, hierdie gebeure soos dit
 10 nou is, is na die foto wat ek nou-nou na verwys het, so ek
 11 kan nie verstaan, verskoon my onkunde maar ek glo aan
 12 foto's, miskien die angles wat ons, as u 'n foto van bo af
 13 het en ons wys daar staan die voertuie en dit is die
 14 posisie van die voertuie, die foto's spreek tog, kan ek in
 15 Afrikaans sê, boekdele. 'n Foto kan nie lieg nie.
 16 CHAIRPERSON: Speak volumes, they speak
 17 volumes.
 18 BRIGADIER CALITZ: Maar as u vir my nou
 19 'n angle'tjie hier wys en 'n angle'tjie daar, ons het nie 1
 20 minuut 30 sekondes video klaar gekyk nie, so ek wil graag
 21 die ander karre sien voor ons verder gaan want ek dink ons
 22 mis 'n baie belangrike deel van wat gebeur het op incident
 23 2, as ek mag.
 24 CHAIRPERSON: Incident 1, - well,
 25 incident 3, isn't it? I think that's a reasonable request,

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1 Mr Chaskalson.
 2 MR CHASKALSON SC: But I don't dispute
 3 that when we get to 1515, which is slide 205, that this
 4 Casspir will have moved up to that Casspir and Nyala 11
 5 will be a little bit ahead of the STF Casspir. That will
 6 be broadly what the configuration is subject to movements
 7 for scale, but that movement doesn't come immediately.
 8 That movement is, we can actually see it on the JJJ194
 9 footage, coming up to 1515 and that may be worth charting
 10 because what one sees also is a series of other, is three
 11 other armoured vehicles moving in behind the POP Casspir
 12 which we haven't seen yet.
 13 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 14 stem weer nie saam nie, daar is nie drie nie, daar is drie
 15 plus 'n draad kar, so daar is actually vier wat om kom en
 16 dit is weereens duidelik in die foto, so ek kan nie
 17 verstaan waarom kan ons nie net die foto uitpak en van daar
 18 af verder beweeg nie, want die foto is tog geneem –
 19 CHAIRPERSON: Well, I thought your
 20 request was a reasonable one.
 21 BRIGADIER CALITZ: Ekskuus, mnr die
 22 Voorsitter, ek onttrek.
 23 CHAIRPERSON: No, I'm talking about you,
 24 but I mean I'm just on your side in a way, so –
 25 BRIGADIER CALITZ: Dankie, mnr die

<p style="text-align: right;">Page 18219</p> <p>1 Voorsitter.</p> <p>2 MR CHASKALSON SC: Well, Brigadier, if</p> <p>3 you want to recreate the photo by all means do.</p> <p>4 BRIGADIER CALITZ: Mnr Chaskalson, ek en</p> <p>5 u het ooreengekom Vrydag dat u dit sal doen met die bewyse</p> <p>6 voor u, wat nou nie vandag plaasvind nie, so –</p> <p>7 CHAIRPERSON: Mr Chaskalson, I think –</p> <p>8 BRIGADIER CALITZ: - miskien moet ek dit</p> <p>9 dan net uitpak soos ek dit voor my het.</p> <p>10 CHAIRPERSON: Okay, you put it, pack it</p> <p>11 out as you put it the way you think it should be done and</p> <p>12 if Mr Chaskalson doesn't agree he'll tell us.</p> <p>13 COMMISSIONER HEMRAJ: Mr Chaskalson, -</p> <p>14 CHAIRPERSON: Commissioner Hemraj has got</p> <p>15 a suggestion which she would like to put to –</p> <p>16 COMMISSIONER HEMRAJ: Mr Chaskalson, I</p> <p>17 have a suggestion. If we have to take a different coloured</p> <p>18 pen for each of the vehicles and plot their actual paths on</p> <p>19 that photograph and you could show us at various times</p> <p>20 where each vehicle would be, might that not assist us? So</p> <p>21 we would have the actual path of each vehicle.</p> <p>22 MR CHASKALSON SC: We could try to do</p> <p>23 that, we don't have the, we won't have the actual, - we'll</p> <p>24 have sections of paths of each vehicle and we will have to</p> <p>25 infer particular times because there will be breaks in our</p>	<p style="text-align: right;">Page 18221</p> <p>1 COMMISSIONER HEMRAJ: Well, can he tell</p> <p>2 us what the caption on that photograph is that you've</p> <p>3 created?</p> <p>4 BRIGADIER CALITZ: It is taken from scene</p> <p>5 1, from Vermaak BB, identification of vehicles, en dit was</p> <p>6 die foto wat aangeheg was aan –</p> <p>7 CHAIRPERSON: It will be slide 205,</p> <p>8 Exhibit L –</p> <p>9 BRIGADIER CALITZ: Van die CALS dokument,</p> <p>10 die CALS dokument.</p> <p>11 CHAIRPERSON: Is this also intended to be</p> <p>12 slide 205?</p> <p>13 MR CHASKALSON SC: It is slide 205 –</p> <p>14 CHAIRPERSON: Exhibit L, which is, I</p> <p>15 think –</p> <p>16 BRIGADIER CALITZ: Dit is –</p> <p>17 CHAIRPERSON: That is a Blackberry</p> <p>18 photograph?</p> <p>19 BRIGADIER CALITZ: Korrek, mnr die</p> <p>20 Voorsitter.</p> <p>21 MR CHASKALSON SC: The time of that slide</p> <p>22 is 15:53:21, it is 29 seconds before the shooting.</p> <p>23 [15:52] CHAIRPERSON: There's something wrong</p> <p>24 with my microphone – oh, it's alright, my microphone is now</p> <p>25 working. You're going to go on, or you're going to show us</p>
<p style="text-align: right;">Page 18220</p> <p>1 knowledge of where a particular vehicle is, but we can, -</p> <p>2 what we could try to do is to create a chart which has a</p> <p>3 path for each vehicle with marked time points on each path</p> <p>4 which may be a very useful –</p> <p>5 CHAIRPERSON: That's what Advocate Hemraj</p> <p>6 wants, if that can be done I think that will be very</p> <p>7 helpful.</p> <p>8 MR CHASKALSON SC: Well, let's try to do</p> <p>9 that and then maybe we should abandon this block exercise.</p> <p>10 CHAIRPERSON: He has asked for the block</p> <p>11 exercise, I think he is entitled to it and it gives us a</p> <p>12 general impression of the way the things worked which will</p> <p>13 be helpful. Obviously the finer details will come from a</p> <p>14 later chart but, - now Brigadier, have you now set things</p> <p>15 out the way you want them?</p> <p>16 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>17 ja, ek weet nou nie of hierdie bewysstuk alreeds ingehandig</p> <p>18 nie, maar dit is die posisies op die foto en ek dink dit is</p> <p>19 CALS wat dan die foto geïdentifiseer het –</p> <p>20 CHAIRPERSON: Yes, perhaps –</p> <p>21 BRIGADIER CALITZ: - van hierdie</p> <p>22 voertuie.</p> <p>23 CHAIRPERSON: Yes, yes, perhaps Mr</p> <p>24 Chaskalson can tell us what time this is intended to</p> <p>25 represent?</p>	<p style="text-align: right;">Page 18222</p> <p>1 what happened, where the strikers came from? Now the</p> <p>2 picture, Colonel Vermaak's BlackBerry photograph taken from</p> <p>3 his helicopter. How many seconds before the shooting, Mr</p> <p>4 Chaskalson? 15, you said?</p> <p>5 MR CHASKALSON SC: 29.</p> <p>6 CHAIRPERSON: Sorry, 29, and there we see</p> <p>7 that long piece of wood which represents the advancing</p> <p>8 column of strikers. Is that right?</p> <p>9 BRIGADIER CALITZ: Dis wat ek probeer</p> <p>10 voorstel met die lang stok.</p> <p>11 CHAIRPERSON: And then we've got the</p> <p>12 various vehicles in the positions which they were 29</p> <p>13 seconds before the fusillade began.</p> <p>14 BRIGADIER CALITZ: Die Casspirs is egter</p> <p>15 bietjie uit verhouding uit, so ek dink as hulle bietjie</p> <p>16 kleiner was dan kon ons hom net meer – maar dit is die</p> <p>17 posisie wat ek dan waargeneem het. Dit is soos getuig, 29</p> <p>18 sekondes voor die skietvoerval.</p> <p>19 CHAIRPERSON: You were in Papa1 at the</p> <p>20 time in the position indicated.</p> <p>21 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>22 Voorsitter. Ek sien mnr Chaskalson het my daar geplaas.</p> <p>23 Ek het voorheen gesê ek was omtrent daar, so dis – ek dink</p> <p>24 nie daar is 'n posisie of 'n foto of iets, of die Rowland</p> <p>25 kamera, wat my presies kan aandui waar ek was nie. Maar</p>

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1 ons kan maar gaan kyk op die, waar die draad gebreek was.
 2 Dit was my posisie.
 3 CHAIRPERSON: You've marked on the plan
 4 where the first breaches were of the fenced enclosure, and
 5 then I think the second one we can't see properly now
 6 because it's hidden by one of the Casspirs. Is that right?
 7 BRIGADIER CALITZ: Dis net voor die
 8 Casspir, omtrent by Pappa11, maar ek weet weereens nie, ek
 9 dink dit mag miskien bietjie – want ons het probeer deurry
 10 in die rigting van die groep wat storm.
 11 CHAIRPERSON: It's an approximation,
 12 anyway.
 13 BRIGADIER CALITZ: Dit is korrek, mnr die
 14 Voorsitter.
 15 MR CHASKALSON SC: Now Brigadier, the
 16 position of the strikers is an approximation and I think in
 17 fairness to you I should point out that they are a little
 18 bit further advanced than you've placed them, but they
 19 haven't yet reached channel A yet, reached the point of
 20 channel A. So if one were to zoom in to – maybe if we can
 21 call up either slide 205 or the relevant page of JJJ178,
 22 whichever is easier, and if we zoom in we'll see that – can
 23 we zoom in to the top of that picture? If we were to draw
 24 a line from – or we can see that the strikers haven't yet
 25 passed the eastern edge of the kraal. That's where channel

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1 A starts, which I'm indicating here, the eastern edge of
 2 the kraal, and the strikers haven't yet reached the eastern
 3 edge of the kraal, so channel A hasn't been breached yet.
 4 Would you agree on that?
 5 BRIGADIER CALITZ: Dit is korrek, mnr die
 6 Voorsitter. Op hierdie foto is hulle verby Pappa11 en dit
 7 is waar ek gesien het waar daar dan 'n interaksie was en
 8 net op hierdie stadium, maar hulle was nog nie deur daardie
 9 – wat het ons gesê? A?
 10 MR CHASKALSON SC: Channel A.
 11 BRIGADIER CALITZ: - "channel A" nie.
 12 MR SEMENYA SC: Chair, just to help our
 13 comprehension in the case we are to meet, the evidence
 14 leaders would suggest which car at which point was supposed
 15 to close channel A?
 16 MR CHASKALSON SC: The whole fleet of
 17 Nyalas was supposed to focus on blocking channel A. That
 18 was what we understood the block to be instructed by the
 19 Brigadier to achieve.
 20 MR SEMENYA SC: No, no, no, no, no,
 21 that's precisely my difficulty. This is a proposition that
 22 was placed very early – at which two points was it likely
 23 to achieve a blocking – and the Brigadier, then we had
 24 block A and block B and channel A and B. Now –
 25 CHAIRPERSON: I think I said passage A

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1 and B, but –
 2 MR SEMENYA SC: Passage A and B, yes.
 3 CHAIRPERSON: It doesn't matter whatever
 4 word we use.
 5 MR SEMENYA SC: Now so that we understand
 6 what case we are to answer to, and with the benefit of
 7 these visuals we have, it would be to us enlightening to
 8 know whether the evidence is all those Nyalas we see there
 9 should have lined at channel A, and then we know what case
 10 to meet.
 11 MR CHASKALSON SC: Well, I mean I'm not
 12 the expert. The Brigadier is the expert and if needs be we
 13 will, or we are going to have other experts coming, but
 14 what I would like to put to the Brigadier is that on his
 15 evidence he wanted channel A to be blocked. That you
 16 agree?
 17 MR SEMENYA SC: No, Chair –
 18 BRIGADIER CALITZ: Nee, mnr die
 19 Voorsitter –
 20 CHAIRPERSON: You see, I don't think he
 21 said that. My recollection of it went like this; you said
 22 to him there were two possible places where the passage of
 23 these strikers could be blocked, A and B, and he said he
 24 didn't like A and then he gave reasons if they blocked A
 25 they would then be – sorry, he didn't like B, they'd be

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1 dispersed in the wrong places and get up to all sorts of
 2 mischief, which he didn't want to allow. So he said that
 3 if they were going to be blocked, it should be at A. He
 4 didn't say he would have liked it, but I understand his
 5 case to be – presumably we'll get there – that he didn't
 6 think it practically possible at the time, given the amount
 7 of time available to him, to block them at A. But I think
 8 I'm summarise his evidence correctly; when he was given the
 9 two possible blockage points, he said B was no good for the
 10 reasons that he gave. A would be better, but he didn't
 11 suggest that it was possible. As I understand it he didn't
 12 even suggest this is what he wanted, but I think in due
 13 course he explained to us why – that seems to be the thrust
 14 of his evidence – that he didn't think A –
 15 MR MPOFU: No, that's not –
 16 CHAIRPERSON: - was practically doable in
 17 the circumstances. Am I summarising correctly, Brigadier?
 18 BRIGADIER CALITZ: Ek dink die "passage
 19 A" het ek ook verwys, my spesifieke woorde, mnr die
 20 Voorsitter, so vroeg as moontlik. So, en toe het ons maar
 21 net "agree" dat dit is die enigste aanduiding waar ons dit
 22 miskien kan aandui, maar ek het gesê so vroeg as moontlik.
 23 Maar as dit die, mnr Chaskalson se punt is, glo ek ons sal
 24 later sê daar is enorme probleme met 'n blokkering by A
 25 operasioneel ook. So ek is meer as bereid om dit later te

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1 antwoord.

2 CHAIRPERSON: Sorry to interrupt you. I

3 understood you were going there. Mr Mpofo wants to go

4 somewhere. He turned his light on –

5 MR MPOFU: Yes –

6 MR CHASKALSON SC: Chairperson, can I go

7 before Mr Mpofo, because –

8 CHAIRPERSON: Alright.

9 MR CHASKALSON SC: - what the record will

10 show is I didn't put A and B to the Brigadier initially.

11 My question to the Brigadier was an open-ended question.

12 My question was, where did you want to block the strikers,

13 and the Brigadier identified A. I then said to the

14 Brigadier just to be clear that we're on the same page, as

15 it were, there are two possibilities that I can see; there

16 was A and there was B, you are saying A, and he confirmed

17 that. But he didn't, it wasn't as though I put to the

18 Brigadier the idea that there were two possibilities for a

19 blockage and which one was he going to choose. I said,

20 where did you want to block them, and he identified A.

21 CHAIRPERSON: The record, as you've said

22 before, will speak for itself on that. I don't think we

23 need debate that at the moment. Mr Mpofo, do you want make

24 a contribution at this stage of the –

25 MR MPOFU: Well, Chairperson, after Mr

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1 Chaskalson's latest contribution, not much. I just wanted

2 to place on the record, which obviously will speak for

3 itself, that the exact sequence of how so-called channel A

4 came, it was actually just drawn by the Brigadier himself

5 after an open-ended question, but I suppose we don't have

6 to debate it. We'll look at the record.

7 CHAIRPERSON: You say you want to put it

8 on record. I assume it's already on record.

9 MR MPOFU: Once I say that.

10 CHAIRPERSON: And if it isn't already on

11 record, there is no point in your putting it on record.

12 MR MPOFU: Ja, well I just wanted to put

13 on record my understanding.

14 CHAIRPERSON: No, no, I understand.

15 MR MPOFU: For the first time.

16 CHAIRPERSON: I understand. Alright, Mr

17 Chaskalson, I think we've got – well, it's now 4 o'clock,

18 so do you want to round off this point before we adjourn?

19 MR CHASKALSON SC: Chairperson, it's not

20 a point that's capable of being rounded off in a couple of

21 minutes. I think if I might finish it off tomorrow morning

22 and do my best to meet the time limits that the families'

23 team wants to start their cross-examination thereafter.

24 COMMISSIONER HEMRAJ: Mr Pretorius, do

25 you think we could have a colour copy of KKK3? There's

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1 some features that are not very clear on the black and

2 white.

3 CHAIRPERSON: That housekeeping matter

4 having been attended to, we will now adjourn until 9

5 o'clock tomorrow morning.

6 [COMMISSION ADJOURNED]

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