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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 205

24 MARCH 2014

PAGES 25170 TO 25330



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<p style="text-align: right;">Page 25170</p> <p>1 [PROCEEDINGS ON 24 FEBRUARY 2014] 2 [09:19] CHAIRPERSON: The Commission resumes. 3 You would have seen me turning off my cell phone. I hope 4 everybody will follow my example. We don't want 5 disturbance that's caused by cell phones going off. 6 Luitenant-Kolonel Vermaak, ek het opgemerk van u 7 verklarings in die lêer dat u nie bereid is om die eed af 8 te lê nie. U verkies, neem ek aan, om 'n opregte en 9 plegtige verklaring te maak. 10 KOLONEL VERMAAK: Dis korrek, ja. 11 VOORSITTER: Sal u asseblief opstaan? 12 Bevestig u opreg en plegtig dat die getuienis wat u sal 13 aflê voor hierdie Kommissie, die waarheid sal wees, die 14 hele waarheid, en niks anders as die waarheid nie? 15 KOLONEL VERMAAK: Dis korrek, ja. 16 VOORSITTER: Sê, "Ek bevestig." 17 SALMON JOHANNES VERMAAK: Ek bevestig. 18 VOORSITTER: Sit, asseblief. Dankie. We 19 have a problem again with people who haven't got their 20 earphones on and so the sound of the translation is coming 21 through, disturbing. Please see that that doesn't happen. 22 I understand, Ms Pillay, that you're going to be leading 23 the witness and that you will ask questions in English, 24 that – ek neem aan u is bereid om die vrae in Engels te 25 kry?</p>	<p style="text-align: right;">Page 25172</p> <p>1 was your rank in August 2012? 2 KOLONEL VERMAAK: Ook luitenant kolonel. 3 MS PILLAY: Now before we start with your 4 evidence-in-chief, Colonel, if we can just briefly look at 5 your statements. I think you're one of the unusual 6 witnesses who has six statements before the Commission. So 7 if we can start by referring to LLL8, which is document 19 8 of the bundle before you. 9 KOLONEL VERMAAK: Ek het hom. 10 MS PILLAY: Now this statement was signed 11 on the 21st of January 2014. Is that correct? 12 KOLONEL VERMAAK: Dis korrek. 13 MS PILLAY: And just to confirm, at the 14 time that this statement was submitted to the Commission 15 you were still represented by the team acting for the South 16 African Police Service? 17 KOLONEL VERMAAK: Dit is korrek. 18 MS PILLAY: And do you confirm the 19 correctness of this statement, LLL18? 20 KOLONEL VERMAAK: Dit is korrek, 21 behalwe – 22 MS PILLAY: There is – sorry, I 23 interrupted you. 24 VOORSITTER: Korrek, behalwe? 25 KOLONEL VERMAAK: Mnr die Voorsitter, 'n</p>
<p style="text-align: right;">Page 25171</p> <p>1 KOLONEL VERMAAK: Dis korrek, Voorsitter. 2 CHAIRPERSON: And the witness will answer 3 in Afrikaans. There will be a simultaneous translation for 4 Mr Nichol and others into English and also simultaneous 5 translation for others who wish to have it translated into 6 Xhosa. Is that correct? 7 MS PILLAY: That's correct, Chair. 8 CHAIRPERSON: Alright, please proceed. 9 EXAMINATION BY MS PILLAY: Thank you, 10 Chair. Good morning, Colonel. 11 COLONEL VERMAAK: Morning. 12 MS PILLAY: Colonel can you please inform 13 the Commission what your current rank is? 14 COLONEL VERMAAK: I'm a lieutenant 15 colonel. 16 MS PILLAY: And where are you stationed? 17 COLONEL VERMAAK: I'm stationed at the 18 Airwing, North West, in Potchefstroom. 19 MS PILLAY: And what was – 20 VOORSITTER: Jammer, ek het vergeet om u 21 te vra vir u volle name. Wat is u volle name, asseblief? 22 KOLONEL VERMAAK: Mnr die Voorsitter, dis 23 Salmon Johannes Vermaak. 24 VOORSITTER: Dankie. 25 MS PILLAY: Thank you, Chair. And what</p>	<p style="text-align: right;">Page 25173</p> <p>1 vorige verklaring wat ek afgelê het op die 30ste van die 2 agste maand, wat gemerk is HHH4, ek per ongeluk 'n sekere 3 detail in die laaste verklaring nagelaat om in die vermelde 4 verklaring in te sit. 5 MS PILLAY: Alright, and if we can then 6 look at the rest of your statements very briefly and just 7 chronologically, the first one would be – Chair, I think 8 that if we could mark the exhibits, there's certain new 9 exhibits which we're going to rely on. 10 CHAIRPERSON: Sorry, you want to do some 11 housekeeping? 12 MS PILLAY: If you don't mind, Chair, 13 yes. 14 CHAIRPERSON: Alright, you want to do 15 some housekeeping before he begins his evidence as such? 16 MS PILLAY: That's correct, Chair. 17 CHAIRPERSON: Alright, now what are the 18 documents you want to put in as exhibits, and what do you 19 suggest – you're normally the keeper of the exhibit 20 numbers, so you'll now handle your own exhibits. 21 MS PILLAY: Chair, the first one is 22 document 1 in the bundle. That's the CV of Lieutenant 23 Colonel Vermaak, which would be 0001. 24 CHAIRPERSON: 0001? 25 MS PILLAY: Yes. Sorry, 0001.</p>

Page 25174

1 CHAIRPERSON: Double O?
 2 MS PILLAY: Triple O. OOO1, yes.
 3 CHAIRPERSON: Triple zero?
 4 MS PILLAY: O.
 5 CHAIRPERSON: O yes, you're quite right,
 6 this is a documentary exhibit so it's got to have a letter
 7 and not a number.
 8 MS PILLAY: That's correct, Chair.
 9 CHAIRPERSON: What the difference is
 10 between zero and O is a matter that linguists and others
 11 can discuss.
 12 MS PILLAY: That is correct.
 13 CHAIRPERSON: So it's not triple zero,
 14 it's –
 15 MS PILLAY: Triple O.
 16 CHAIRPERSON: OOO1.
 17 MS PILLAY: Yes, the second –
 18 CHAIRPERSON: And that's witness's CV, is
 19 it?
 20 MS PILLAY: That's correct, Chair.
 21 CHAIRPERSON: Carry on.
 22 MS PILLAY: The second document, Chair –
 23 CHAIRPERSON: Hang on, let me mark mine.
 24 Yes.
 25 MS PILLAY: The second document is

Page 25175

1 document 2 in the bundle. That's the witness's POP
 2 Operational Commander Certificate.
 3 CHAIRPERSON: OOO2 is witness's –
 4 MS PILLAY: POP Operational Commander
 5 Course –
 6 CHAIRPERSON: POP Operational Commander
 7 Certificate.
 8 MS PILLAY: That's right.
 9 CHAIRPERSON: Then the next one is OOO3.
 10 I'm following the list at the front of my file –
 11 MS PILLAY: Yes.
 12 CHAIRPERSON: - for the benefit of those
 13 who haven't got the advantage of a file. OOO3 is an
 14 email –
 15 MS PILLAY: Dated the 6th of May 2011.
 16 CHAIRPERSON: 6/5/2011.
 17 MS PILLAY: From the witness to the
 18 Provincial Commissioner.
 19 CHAIRPERSON: I see, from witness to PC.
 20 MS PILLAY: That's correct, Chair.
 21 CHAIRPERSON: Next one is OOO4, is –
 22 MS PILLAY: Document 5 in the bundle.
 23 CHAIRPERSON: Yes, that is an SABC.com
 24 article dated 22 May.
 25 MS PILLAY: That's correct, Chair.

Page 25176

1 CHAIRPERSON: 23 May 2012. OOO5 is –
 2 MS PILLAY: Is document 6, Chair.
 3 CHAIRPERSON: Mail & Guardian, is it?
 4 M&G – no, is it just MG, I think? I know it's the Mail &
 5 Guardian but I'm not sure what their website, described as
 6 per the website. Well, it's MG.com –
 7 MS PILLAY: Dot co dot za.
 8 CHAIRPERSON: Dot co dot za, article
 9 22/5/12, it's OOO5. OOO6?
 10 MS PILLAY: Is document 9, Chair.
 11 CHAIRPERSON: Yes, that's a photograph of
 12 the area, incident on the 13th.
 13 MS PILLAY: That's correct, Chair.
 14 CHAIRPERSON: It's an aerial photograph,
 15 isn't it? Aerial photograph, as I can recall. Area near
 16 incident, scene of incident on 13/8/2012. Then OOO7 –
 17 MS PILLAY: Is document –
 18 CHAIRPERSON: - is excerpt from witness's
 19 diary. What dates?
 20 MS PILLAY: They're the 13th and the 16th,
 21 Chair.
 22 CHAIRPERSON: Diary, it's just the 13th
 23 and the 16th?
 24 MS PILLAY: Just the 13th and the 16th.
 25 CHAIRPERSON: Of 13/8/2012 and 16/8/2012.

Page 25177

1 Then we've got a –
 2 MS PILLAY: We've got a typed version of
 3 that –
 4 CHAIRPERSON: OOO7, typed version
 5 thereof.
 6 MS PILLAY: That's 7.1, Chair.
 7 CHAIRPERSON: With addition. There's an
 8 addition on the typed version which is not in the
 9 manuscript version.
 10 MS PILLAY: Okay.
 11 CHAIRPERSON: Typed version thereof, with
 12 addition. Right, then OOO8 –
 13 MS PILLAY: Is document 12, Chair.
 14 CHAIRPERSON: Yes, that's manuscript
 15 statements of witness dated 16/8/2012. OOO8.1 is typed
 16 version thereof. OOO9 is telephone records relating to
 17 calls made and received –
 18 MS PILLAY: That's correct, Chair.
 19 CHAIRPERSON: - by the witness between 30
 20 July 2012 until – OOO10 is –
 21 MS PILLAY: Document 21, Chair.
 22 CHAIRPERSON: And that is report
 23 prepared –
 24 MS PILLAY: By the witness.
 25 CHAIRPERSON: By witness, titled

<p style="text-align: right;">Page 25178</p> <p>1 "Information notes." 2 MS PILLAY: That's correct. 3 CHAIRPERSON: OOO11 is a transcript of 4 Coin chopper video. 5 MS PILLAY: That's correct. That's CC22, 6 Chair. 7 CHAIRPERSON: That's OOO11 of Coin 8 helicopter. 9 MS PILLAY: In brackets, CC22. 10 CHAIRPERSON: Yes, CC22. It's Coin 11 helicopter video soundtrack basically, isn't it? 12 MS PILLAY: It's the audio, yes. 13 CHAIRPERSON: Yes, soundtrack, and that's 14 22C. That's right, 22C? 15 MS PILLAY: CC22. 16 CHAIRPERSON: Oh, CC22, thank you. And 17 then flight logs, OOO12 are flight logs, this is documents 18 23, flight logs OOO12.1 relates to 13 August 2012, OOO12.2 19 is 14, and OOO12.3 is 15, and OOO12.4 is 16 August 2012. I 20 think that's all the housekeeping, is it? 21 MS PILLAY: That is correct, Chair. 22 CHAIRPERSON: So we can now proceed with 23 the evidence. 24 MS PILLAY: Thank you, Chair. 25 CHAIRPERSON: Thank you.</p>	<p style="text-align: right;">Page 25180</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 MS PILLAY: The next statement is HHH5, 3 which is document 17 in the bundle. 4 KOLONEL VERMAAK: Ek het hom. 5 MS PILLAY: That document is dated the 5th 6 of November 2012. 7 KOLONEL VERMAAK: Dis korrek. 8 MS PILLAY: And that deals with the issue 9 of the video equipment on the helicopters which are under 10 your command, mainly the B105 and the R44. 11 KOLONEL VERMAAK: That's correct. 12 MS PILLAY: And then the last statement 13 is HHH6, which is document 18 in the bundle. 14 KOLONEL VERMAAK: Ek het hom. 15 MS PILLAY: That's dated 4th of February 16 2013. Do you confirm that? 17 KOLONEL VERMAAK: Dis positief. 18 MS PILLAY: And that deals basically with 19 further information on what you observed from the air on 20 the 13th of August, specifically after the incident in 21 question. 22 KOLONEL VERMAAK: Dis positief. 23 MS PILLAY: Now we'll go through the 24 content of those statements a little later. I just wanted 25 to get an overview of the statements that you have</p>
<p style="text-align: right;">Page 25179</p> <p>1 MS PILLAY: Colonel, if we can then just 2 very briefly summarise the remaining statements that have 3 been handed in to the Commission, the first is OOO08. Now 4 do you confirm that this statement is dated the 16th of 5 August 2012? 6 KOLONEL VERMAAK: That's correct. 7 MS PILLAY: And that it deals only with 8 the incident of the 13th of August? 9 KOLONEL VERMAAK: Dis positief. 10 MS PILLAY: Then we have GGG17, which is 11 document 15 in the bundle before you. 12 KOLONEL VERMAAK: Ek het hom. 13 MS PILLAY: That's a statement dated 30th 14 of August 2012. 15 KOLONEL VERMAAK: Dis korrek. 16 MS PILLAY: And it deals both with the 17 incidents of the 13th of August, as well as the 16th of 18 August. 19 KOLONEL VERMAAK: Dis korrek. 20 MS PILLAY: The next statement is HHH4, 21 which is document 16 in the bundle. That's also dated the 22 30th of August 2012. 23 KOLONEL VERMAAK: Dis korrek. 24 MS PILLAY: And that deals only with the 25 incident of the 16th of August.</p>	<p style="text-align: right;">Page 25181</p> <p>1 currently before the Commission. 2 If we can then start by looking at OOO01, which is 3 your CV, and can you tell us when did you first join the 4 police service? 5 KOLONEL VERMAAK: Ek het die 11de 6 Desember 1981 by die polisie aangesluit. 7 MS PILLAY: And can you just summarise 8 your experience in SAPS, and specifically if you can touch 9 on your POP experience and training in SAPS? 10 KOLONEL VERMAAK: Direk na my basiese 11 opleiding was ek eers verplaas na Brixton Radiobeheer toe. 12 Daarna was ek verplaas na Klerksdorp Polisiestasie waar ek 13 hoofsaaklik navrae en ondersoek gewerk het. Toe is ek 14 verplaas Orkney toe. Daar het ek die takbevelvoerder 15 gewees van die Ondersoek en Navrae Tak destyds, die Uniform 16 Afdeling gewees, toe is ek verplaas na die Openbare Orde 17 Polisie toe, waar ek 16 jaar was, waarvan ek 15 jaar die 18 bevelvoerder is, gewees het, en ek is toe daarna verplaas 19 na die Lugvleuel Noord Wes toe as bevelvoerder. 20 MS PILLAY: Okay, so in your 15 years 21 experience as a POP commander, can you just give us an 22 indication of the kind of situations you were involved in? 23 KOLONEL VERMAAK: Ek was in baie 24 situasies betrokke gewees, maar daar was 'n paar uitstaande 25 gevalle gewees by die myne waar daar etniese geweld was,</p>

<p style="text-align: right;">Page 25182</p> <p>1 waar 'n groot aantal persone gedood was tydens daardie 2 onluste. Dan was daar ook by Stilfontein 'n geval gewees 3 van etniese geweld waar ook 'n groot aantal persone gedood 4 was, en weereens by Stilfontein waar 'n kontrakteur se 5 werkers in opstand gekom het teen sy werkgewer en daar was 6 deur die polisie opgetree en daar was van die werkers 7 geskiet, asook van die kontrakteurs was daar drie persone 8 deur die werkers vermoor.</p> <p>9 MS PILLAY: Okay, I see, and if you can 10 then turn to OOO2, to document 2 in the bundle that you 11 have.</p> <p>12 KOLONEL VERMAAK: Dis korrek.</p> <p>13 MS PILLAY: Can you just describe what 14 this certificate is about?</p> <p>15 KOLONEL VERMAAK: Dit is die Public Order 16 Police Operational Commanders Training. Ons het dit 17 destyds by verteenwoordigers van België en Frankryk wat dit 18 vir ons kom aanbied het in Suid-Afrika.</p> <p>19 MS PILLAY: And the kind of subject 20 matter that you dealt with during the training course?</p> <p>21 KOLONEL VERMAAK: Die was hoofsaak, in 22 Engels gaan ek sê, legal aspects, policy of changes, use of 23 force in potential violent situations, proactive 24 information gathering assessment and planning in public 25 order – ag, protest policing. The –</p>	<p style="text-align: right;">Page 25184</p> <p>1 was ek bevorder luitenant-kolonel toe, toe het die 2 rangstrukture verander waar 'n luitenant-kolonel 'n 3 superintendent was en toe nou later het hy weer terug 4 verander na luitenant-kolonel.</p> <p>5 MS PILLAY: Colonel, you were describing 6 your experience and training in the handling of 7 negotiations and specifically in the context of POP 8 operations.</p> <p>9 KOLONEL VERMAAK: Dis korrek. Ek het 'n 10 debriefing course gedoen en ek het in '93 'n advanced 11 negotiation course gedoen, in '94 'n internal stability 12 course waar daar ook aandag gegee was aan onderhandelinge. 13 Tydens die public order operational commander course was 14 daar spesifiek ook aandag gegee aan hoe om onderhandelinge 15 te doen en dan 1998 het ek intensive negotiation course 16 gedoen. In 2000 het ek die national trauma debriefing 17 course gedoen. Ja, dit is hoofsaaklik die kursusse rondom 18 onderhandelinge.</p> <p>19 MS PILLAY: And did you have any 20 experience in handling negotiations in the field?</p> <p>21 KOLONEL VERMAAK: Ja, mnr die Voorsitter, 22 baie.</p> <p>23 MS PILLAY: Now can we then go to OOO3?</p> <p>24 KOLONEL VERMAAK: Watter een is hy op die 25 lys?</p>
<p style="text-align: right;">Page 25183</p> <p>1 MS PILLAY: That is philosophy. 2 COLONEL VERMAAK: - philosophy and 3 principles of intervention action modes within intervention 4 frameworks and briefing and debriefing principles.</p> <p>5 MS PILLAY: And after you received this 6 certification, how long did you – did you ever practice as 7 an operational commander? 8 [09:39] Were you ever appointed as an operational 9 commander?</p> <p>10 KOLONEL VERMAAK: Ja, ek het baie 11 opgetree uit hoofde van my posisie as die bevelvoerder van 12 die openbare orde polisie diens in Klerksdorp waar ek 13 meestal van die tyd operasioneel en in owerbevel was.</p> <p>14 MS PILLAY: Now can I ask you in terms of 15 negotiation, pure negotiation and negotiation in a POP 16 context, do you have any experience, any training in the 17 handling of negotiations?</p> <p>18 KOLONEL VERMAAK: Dis korrek, mnr die 19 Voorsitter.</p> <p>20 CHAIRPERSON: Before you go on to that, I 21 see you were then a superintendent. Now since then the 22 ranks have been remilitarised. What was the equivalent, 23 what is the equivalent in remilitarised terms of 24 superintendent?</p> <p>25 KOLONEL VERMAAK: Mnr die Voorsitter, '95</p>	<p style="text-align: right;">Page 25185</p> <p>1 MS PILLAY: That's document 3 under, on 2 the list.</p> <p>3 KOLONEL VERMAAK: Ek het hom.</p> <p>4 MS PILLAY: Can you tell us what this 5 document is?</p> <p>6 KOLONEL VERMAAK: Dis 'n e-pos wat ek 7 gestuur het aan Lieutenant-General Mbombo asook op daardie 8 stadium die Deputy, Policing Operations, generaal Mpembe en 9 brigadier Calitz was in daardie stadium nog 'n kolonel 10 gewees, wat gehandel het oor 'n spesifieke insident wat ons 11 ondervind het in Ottosdal.</p> <p>12 MS PILLAY: So the reference to Colonel 13 Wiehann Calitz, that's Brigadier Calitz?</p> <p>14 KOLONEL VERMAAK: Dis korrek.</p> <p>15 MS PILLAY: Now can you tell us what the 16 background was to you sending this e-mail to the PC and the 17 DPC?</p> <p>18 KOLONEL VERMAAK: Tydens die insident in 19 Ottosdal was dit 'n hofsak wat voorgekom het waar 'n boer 20 vermoor was en die verdagtes wat gearresteer was, het daar 21 voorgekom. Daar was basies twee groepe mense gewees, die 22 boeregemeenskap wat daar was ter ondersteuning van die 23 naasbestaendes van die oorledene en dan was daar uit die 24 gemeenskap ook 'n groep wat dan daar was vir ondersteuning 25 van die gearresteerdes. Nou tydens die dienste, ons was as</p>

<p style="text-align: right;">Page 25186</p> <p>1 lugvleuel versoek om ondersteuning te kom gee tydens 2 daardie hofverrigtinge en daartydens het ek sekere aspekte 3 opgemerk wat redelik vir my kommerwekkend was as 'n oud 4 bevelvoerder van openbare orde polisie en toe het ek gevoel 5 ek moet dit onder die aandag bring van die Provinsiale 6 Kommissaris en generaal Mpembe. 7 MS PILLAY: Before we go to the problems 8 that you identified in this e-mail, can I just take you to 9 point 3 of the e-mail. Can you just explain to us what you 10 meant in point 3 of the e-mail? 11 KOLONEL VERMAAK: Dit was kort na die 12 Ficksburg insident gewees waar die bevelvoerder van die 13 openbare orde polisie daardie tyd ook gearrester was ten 14 tye van die dood van mnr Tatane en het ek spesifiek verwys 15 daarna dat as daar nie korrek opgetree word nie kan 'n mens 16 met dieselfde tipe van insident sit waar seniors 17 verantwoordelik gehou gaan word, sou dinge skeefloop. 18 MS PILLAY: Okay, let's turn to the 19 identified problems then and the first one you mention is 20 the lack of training. Can you just firstly read that 21 paragraph into the record and explain what it is that you 22 meant by it? 23 KOLONEL VERMAAK: "Lack of training," I 24 mentioned, "members are more trained in physical actions as 25 in negotiation skills and also to be more tolerant."</p>	<p style="text-align: right;">Page 25188</p> <p>1 opgetree word, is daar – wat ons ervaar het vanuit 'n 2 lugvleuel oogmerk uit was daar nie opdragte gegee deur 3 bevelvoerders om sekere aksies te stop nie. 4 MS PILLAY: And the point you made that 5 non-commissioned officers and some officers do not have 6 experience to handle crowd unrest situations? 7 KOLONEL VERMAAK: Ja, dis positief. Ons 8 het, mnr die Voorsitter, het ek baie ervaar dat daar 9 insident plaasvind wat binne die raamwerk val van die Wet 10 op Reëling van Byeenkomste en Optogte en volgens my 11 waarneming en ervaring, was daar baie keer insidente waar 12 die mense net gelaat is om voort te gaan met hulle aksies 13 en dan die volgende keer, sou mense dieselfde aksies doen, 14 dan word daar opgetree teen hulle. 15 COMMISSIONER HEMRAJ: I'm sorry to 16 interrupt you. When you say that no action, not action was 17 taken by the officers to stop certain actions, what are you 18 referring to there? 19 KOLONEL VERMAAK: Ons het baie insidente 20 gekry waar daar in die teenwoordigheid van polisie, skade 21 aangerig word aan privaat eiendom en dan het hulle net nie 22 opgetree om daardie skade te probeer verhoed aan privaat 23 eiendom nie. 24 MS PILLAY: And your point at 4.3 that 25 members do not have knowledge of the Gatherings Act,</p>
<p style="text-align: right;">Page 25187</p> <p>1 MS PILLAY: And what did you mean by 2 that? 3 KOLONEL VERMAAK: Mnr die Voorsitter, die 4 laaste onderhandelingskursusse wat formeel aangebied was, 5 dink ek het ek nog terwyl ek in openbare orde polisie was, 6 was dit die laastes wat aangebied was daar. Verder was 7 daar basies net op action modes en dies meer gefokus gewees 8 en dit is hoekom ek gevoel het dit gaan meer oor die 9 fisiese aanwending van die polisiemanne as oor om sekere 10 polisiemanne spesialis op te lei net vir die hantering van 11 openbare orde soos in die verlede. 12 MS PILLAY: And your point that members 13 had to be trained to be more tolerant, what is it that you 14 were referring to? 15 KOLONEL VERMAAK: Ons het baie, terwyl ek 16 in die lugvleuel was, het ons gesien dat daar insidente was 17 waar die skares byvoorbeeld klaar uiteen uit gegaan het, 18 dat die polisiemanne het opgetree, die skare het uitmekaar 19 uit gespat en dan het van die polisie hulle verder 20 geagtervolg en nog steeds opgetree teen hulle. So dit is 21 waar ek gesê het hulle moet meer tolerant wees. 22 MS PILLAY: And 4.2, the point you make 23 about lack of command and control by officers? 24 KOLONEL VERMAAK: Dieselfde voorbeeld kan 25 ek gebruik, is dat dit kom daar ook presies neer waar daar</p>	<p style="text-align: right;">Page 25189</p> <p>1 members at operational level do not have knowledge of the 2 Gatherings Act? 3 KOLONEL VERMAAK: Dit kom terug waar ek 4 sê sekere kere word daar opgetree en ander kere word daar 5 nie opgetree nie. 6 MS PILLAY: At 4.4 you mention that 7 equipment, members do not know when and what to use in 8 different situations. What is it that you were referring 9 to? 10 KOLONEL VERMAAK: Daar sal voorbeelde 11 wees waar die polisiemanne or dan die openbare orde 12 polisie, sekere gevalle sal hulle, hulle Amarillo 13 beskermingsklere aanhê, die volgende keer dan trek hulle 14 dit glad nie aan nie en daar is nie 'n konstante 15 deurlopende – hoe kan ek nou sê - deurlopend is die basis, 16 dit is wat jy moet aanhê, dit is die toerusting wat jy by 17 jou moet hê. In alle opsigte, of dit nou 'n vreedsame en 18 of dit 'n gewelddadige optrede is, dit is jou basiese 19 toerusting wat jy as onlustepolisieman by jou moet hê. 20 MS PILLAY: And from your experience why 21 is it important for public order policeman to have the 22 necessary gear on? 23 KOLONEL VERMAAK: Hulle moet ten alle tye 24 voorbereid wees om enige situasie te kan hanteer. 25 MS PILLAY: Can we then look at 4.5?</p>

<p style="text-align: right;">Page 25190</p> <p>1 That refers to a movable command post.</p> <p>2 KOLONEL VERMAAK: Mnr die Voorsitter, ek</p> <p>3 gaan ongelukkig baie verwys terug na die tydperk wat ek</p> <p>4 bevelvoerder was van openbare orde. In die verlede het</p> <p>5 ons, spesifiek in Klerksdorp het ons 'n onluste bus om</p> <p>6 gebou in 'n operasionele sentrum destyds wat regoor die</p> <p>7 hele provinsie gebruik was waar daar groot insidente of dan</p> <p>8 groot operasies geloods was. In daai voertuig was dan</p> <p>9 genoeg radiokommunikasie gewees op verskillende kanale</p> <p>10 waarop jy dan met jou voertuie en met jou lede kon gepraat</p> <p>11 het. En dan was dit ook 'n punt gewees waar daar behoorlik</p> <p>12 rekord gehou was ten alle tye, so jou opskamer bevelvoerder</p> <p>13 het in die bus gesit, hy het geluister na wat oor die radio</p> <p>14 inkom en hy het ook geluister na die opdragte wat van die</p> <p>15 oorhoofse bevelvoerder of die operasionele bevelvoerder dan</p> <p>16 uitgaan sodat dit ge-rekord kan word en dan agterna die</p> <p>17 hele operasie afgehandel is dan word daar 'n IRIS-verslag</p> <p>18 voltooi, mnr die Voorsitter.</p> <p>19 MS PILLAY: In the example that you give,</p> <p>20 what should the proximity be of the mobile JOC to the</p> <p>21 actual scene?</p> <p>22 KOLONEL VERMAAK: Die voordeel van so 'n</p> <p>23 mobiele ops is waar ons spesifiek verwys na Ottosdal se</p> <p>24 insident, lede het nie behoorlik rekord gehou van wat daar</p> <p>25 gedoen is en wat daar gesê is nie. Ons het geïdentifiseer</p>	<p style="text-align: right;">Page 25192</p> <p>1 spesifiek waar daar dan onderhandelinge plaasgevind het, in</p> <p>2 die verlede het ons altyd dit op video opgeneem sodat daar</p> <p>3 later, sou daar 'n dispuut wees dan kon jy altyd die video</p> <p>4 wys en dit kan makliker opgeklar word.</p> <p>5 MS PILLAY: Now Colonel, if we can turn</p> <p>6 to your suggestions which appear from paragraph 5 onwards,</p> <p>7 5.1, 5.2 and 6 essentially deal very specifically with a</p> <p>8 movable JOC centre that you propose.</p> <p>9 KOLONEL VERMAAK: Dis korrek.</p> <p>10 MS PILLAY: I just want you to turn to 7</p> <p>11 for a moment where you say that you request an appointment</p> <p>12 with the PC and the DPC to explain the abovementioned</p> <p>13 problems and then you mention that it was mentioned to</p> <p>14 General Mpembe and that he suggested that you make an</p> <p>15 appointment with Lieutenant-General Mbombo.</p> <p>16 COLONEL VERMAAK: That's –</p> <p>17 MS PILLAY: Can you just tell us what it</p> <p>18 is that you told General Mpembe at the time?</p> <p>19 KOLONEL VERMAAK: Ek het vir generaal</p> <p>20 Mpembe gemeld van die leemte wat ek geïdentifiseer het,</p> <p>21 veral met die mobiele opskamer, en hy het vir my akkoord</p> <p>22 gegaan dat dit definitief weer 'n behoefte in die provinsie</p> <p>23 is en dat ons dit moet aanspreek en dat ek met generaal</p> <p>24 Mbombo 'n afspraak moet maak sodat ons dit kan bespreek en</p> <p>25 dan die nodige finansiële magtigings te kry en dan voort te</p>
<p style="text-align: right;">Page 25191</p> <p>1 dat generaal Mpembe byvoorbeeld met die een groep in</p> <p>2 gesprek is, maar daar is niemand wat rekord hou van daardie</p> <p>3 gesprekke nie en dan is hy weer by die ander groep, daar</p> <p>4 word ook nie rekord gehou van daardie gesprekke nie en hy</p> <p>5 staan daar eenkant baie, volgens my, onprofessioneel om</p> <p>6 onder 'n boom te staan en onderhandel met spesifieke groepe</p> <p>7 waar ons in die verlede die mobiele ops gehad het waar daar</p> <p>8 dan behoorlik in 'n plek kon gewees het om onderhandelinge</p> <p>9 te pleeg.</p> <p>10 MS PILLAY: If we can then turn to 4.6,</p> <p>11 which is the last identified problem, namely the video</p> <p>12 capturing of the scene.</p> <p>13 KOLONEL VERMAAK: Op dieselfde insident</p> <p>14 het ek dadelik opgemerk dat die persoon wat die video-</p> <p>15 operateur is was ook 'n seksiebevelvoerder gewees. So hy</p> <p>16 moes 'n tweedelige verantwoordelikheid verrig. Hy moes oor</p> <p>17 'n seksie bevel vat maar hy moes terselfdertyd, moet hy ook</p> <p>18 die video-opnames vat wat – dis nie die gewenste manier van</p> <p>19 optrede nie.</p> <p>20 MS PILLAY: And why, in your experience,</p> <p>21 is it important to have a proper capturing of the scene on</p> <p>22 a video?</p> <p>23 KOLONEL VERMAAK: Vir 'n latere verwysing</p> <p>24 as daar spesifieke navrae is, dan kan jy teruggaan op jou</p> <p>25 video-opnames, dis 'n baie goeie rekordhouding en ook</p>	<p style="text-align: right;">Page 25193</p> <p>1 gaan met die projek.</p> <p>2 MS PILLAY: Chair, I believe that the</p> <p>3 interpreter is having a problem with his machine. He's</p> <p>4 just sent a message through, so if we may take a five</p> <p>5 minute adjournment?</p> <p>6 CHAIRPERSON: Do you want a short</p> <p>7 adjournment? Five minutes?</p> <p>8 MS PILLAY: That is so, Chair.</p> <p>9 CHAIRPERSON: Very well, we'll adjourn</p> <p>10 for five minutes so that the machine with which the</p> <p>11 interpreter is working can be fixed up.</p> <p>12 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>13 [10:13] CHAIRPERSON: The Commission resumes. We</p> <p>14 understand that the machine that the interpreter is relying</p> <p>15 on is now working, so we will resume with the evidence of</p> <p>16 the witness. If it turns out that it's not working then</p> <p>17 I'm afraid we're going to have to go back to the old mode</p> <p>18 of consecutive translation, which of course will take a</p> <p>19 long time, with the witness giving his answers in</p> <p>20 Afrikaans, someone here, an interpreter here in the chamber</p> <p>21 interpreting it into English, another interpreter</p> <p>22 thereafter in the chamber interpreting it into Xhosa, but</p> <p>23 if the machine is working we won't have to do that and</p> <p>24 we'll save a lot of time but even the consecutive form of</p> <p>25 translation is better than doing nothing at all. Anyway,</p>

<p style="text-align: right;">Page 25194</p> <p>1 we will endeavour to solve the problem the way I have 2 explained. Ms Pillay, I think – were you asking a question 3 when we had the interruption? I can't remember, I'm 4 afraid.</p> <p>5 MS PILLAY: I'll just pick up from where 6 we left off, thank you, Chair.</p> <p>7 CHAIRPERSON: Alright, pick up from where 8 you were.</p> <p>9 KOLONEL VERMAAK: (bevestig verder)</p> <p>10 CROSS-EXAMINATION BY MS PILLAY (CONTD.): 11 Colonel, we were looking at triple zero 3, sorry, 0003, 12 paragraph 7 and you testified that you raised all of the 13 identified problems with General Mpembe and apart from 14 suggesting that you make an appointment to discuss these 15 issues with the Provincial Commissioner, is any other 16 response, was there any other response from General Mpembe?</p> <p>17 KOLONEL VERMAAK: Ja, hy het op 'n later 18 stadium waar ons op 'n toneel was, het hy vir my gevra hoe 19 ons met die projek vorder en ek het aan hom gemeld dat ek 20 wel 'n skrywe aan generaal Mbombo gestuur het waar ons toe 21 die groen lig gekry het om voort te gaan met die projek.</p> <p>22 MS PILLAY: Now, as I understand what 23 you're referring to, the project is related to the portable 24 JOC, is that correct?</p> <p>25 KOLONEL VERMAAK: Dis positief.</p>	<p style="text-align: right;">Page 25196</p> <p>1 wider period of time?</p> <p>2 KOLONEL VERMAAK: Daar was vorige 3 insidente ook gewees waar ons dit, of waar ek dit opgemerk 4 het maar ek het dit nie dadelik aangespreek nie, maar na 5 die voorval by Ottosdal het ek dit toe nodig geag om die 6 skrywe aan die Provinsiale Kommissaris te stuur, 7 Voorsitter.</p> <p>8 MS PILLAY: Just to clarify, Colonel, we 9 know that this letter 0003, this e-mail was written on the 10 6th of May 2011, which is more than a year before the 11 incident of the 16th of August 2012.</p> <p>12 KOLONEL VERMAAK: Dit is positief.</p> <p>13 MS PILLAY: Now, why was the response of 14 the Provincial Commissioner to the problems that you 15 identified which go beyond the question of the mobile JOC?</p> <p>16 KOLONEL VERMAAK: Op die ander probleme 17 wat ek geïdentifiseer het, het ek geen terugvoering gekry 18 nie. Ek weet nie of hulle dit met brigadier Calitz dalk 19 opgeneem het, wat die provinsiale hoof van ORS is van 20 Noord-Wes nie.</p> <p>21 MS PILLAY: Now we know that the e-mail 22 0003 was addressed to Brigadier Calitz as well. Did you 23 get any feedback from him?</p> <p>24 KOLONEL VERMAAK: Negatief, mnr die 25 Voorsitter, ek het van niemand af enige terugvoering gekry</p>
<p style="text-align: right;">Page 25195</p> <p>1 MS PILLAY: And the other systemic issues 2 that you raised, what was the response to those problems?</p> <p>3 KOLONEL VERMAAK: Op daardie 4 aangeleenthede het ek geen terugvoering gekry nie, 5 Voorsitter.</p> <p>6 CHAIRPERSON: You referred to a letter 7 which you wrote to the Provincial Commissioner. Is that 8 the document which is number 4 in the bundle which is 9 exhibit JJJ137, letter addressed by you to the Provincial 10 Commissioner and I take it Brigadier Calitz, on the 28th of 11 May?</p> <p>12 KOLONEL VERMAAK: Nee, mnr die 13 Voorsitter, dit is maar 'n skrywe wat ons instuur waarop 14 ons finansiële magtiging vra en 'n uiteensetting van al die 15 toerusting wat ons in die waentjie wil sit.</p> <p>16 CHAIRPERSON: That document is not before 17 us.</p> <p>18 KOLONEL VERMAAK: Dis korrek –</p> <p>19 CHAIRPERSON: And the details aren't 20 relevant for our purposes anyway.</p> <p>21 KOLONEL VERMAAK: Nee wat, ek dink ons 22 kan dit meld hierso.</p> <p>23 MS PILLAY: Can I just ask you, Colonel, 24 the problems that you identified, are they relevant just to 25 one or two incidents or do you say that they go back over a</p>	<p style="text-align: right;">Page 25197</p> <p>1 behalwe die projek waarmee ons aangegaan het nie.</p> <p>2 MS PILLAY: Colonel, then can I ask you 3 to look at JJJ137, it's document 4 in the bundle.</p> <p>4 KOLONEL VERMAAK: Ek het hom.</p> <p>5 MS PILLAY: Now we see that this letter 6 is dated the 28th of May 2012, which is more or less a year 7 after 0004, is that correct?</p> <p>8 KOLONEL VERMAAK: Dit is korrek, 9 Voorsitter.</p> <p>10 MS PILLAY: Sorry, I apologise, 0003. 11 And this letter is also addressed to the Provincial 12 Commissioner and to the provincial head of ORS?</p> <p>13 KOLONEL VERMAAK: Dit is korrek.</p> <p>14 MS PILLAY: And who is the provincial 15 head of ORS?</p> <p>16 KOLONEL VERMAAK: Brigadier Calitz.</p> <p>17 MS PILLAY: Now, we see in the subject 18 line of this letter that it refers to an unrest situation 19 in Rustenburg which took place on the 22nd of May 2012.</p> <p>20 KOLONEL VERMAAK: Dis positief.</p> <p>21 MS PILLAY: And before we deal with the 22 content of JJJ137, in order just to contextualise this 23 letter can you tell the Commission what your understanding 24 was of the unrest situation in Rustenburg in May 2012?</p> <p>25 KOLONEL VERMAAK: Mnr die Voorsitter, ons</p>

<p style="text-align: right;">Page 25198</p> <p>1 was weer eens gevra om lugsteun te gee tydens 2 hofverrigtinge wat plaasgevind het waar van die unies se 3 mense gearrester was. Die betrokke dag het ek die 4 Robinson R44 helikopter in die lug gehad met kaptein 5 Oosthuizen as die vlieënier en adjudant-offisier Mentz as 6 die boordbemanning. 7 MS PILLAY: Colonel, can I just interrupt 8 you for a second. You mentioned that there were two 9 members of the union that were arrested – 10 KOLONEL VERMAAK: Dis – 11 MS PILLAY: And were due to appear in 12 court. 13 KOLONEL VERMAAK: Dis reg. 14 MS PILLAY: Now we see from exhibits OOO4 15 and OOO5, which are internet articles from the SABC and the 16 Mail & Guardian, that the two members were AMCU, according 17 to the report the two members were AMCU members who had 18 been arrested for participating in violent clashes between 19 NUM and AMCU. Does that accord with your understanding of 20 what occurred at the time? 21 KOLONEL VERMAAK: Dit is korrek, 22 Voorsitter. 23 MS PILLAY: Now we also see on page 2 of 24 your letter, paragraph 4 thereof, that the marchers on the 25 day, on the 22nd of May, there were approximately 15 000</p>	<p style="text-align: right;">Page 25200</p> <p>1 happened after you had taken the decision to stop the 2 people from going into the industrial area? 3 KOLONEL VERMAAK: Kolonel Merafi het die 4 mense by 'n treinspoor gestop. Direk nadat hy hulle gestop 5 het, het die optoggers die polisiemanne met klippe begin 6 gooi. Daar was 'n baie klein groepie van openbare orde 7 polisiemanne op daardie stadium saam met kolonel Merafi 8 gewees. Hy het toe sy mense opdrag gegee om traanrook te 9 gebruik, waarop hulle met die 40 millimeter launcher na die 10 skare toe geskiet het met die traanrook, maar ongelukkig 11 vir die polisiemanne het die wind verkeerd gewaai en het 12 dit die traanrook teruggewaai tussen die, na die 13 polisiemanne toe in plaas van na die optoggers toe. Die 14 launchers was nie effektief genoeg om dit so ver te skiet 15 dat dit agter die skare kon val om dan enige dinges op 16 hulle te hê nie. 17 MS PILLAY: And apart from the launchers, 18 what else was used? 19 KOLONEL VERMAAK: Daar was rubber rondtes 20 ook gebruik, maar wat ook nie effektief was vir die afstand 21 wat hulle dit moes gebruik het nie. Die polisiemanne kon 22 nie naby genoeg kom dat dit enige invloed op die 23 optoggers het nie. Op 'n stadium het kolonel Merafi vir 24 my gevra ek moet hom behulpsaam wees om nog versterkings 25 deur middel van die JOC by Phokeng te vra dat hulle vir ons</p>
<p style="text-align: right;">Page 25199</p> <p>1 marchers. 2 KOLONEL VERMAAK: Dit is positief. 3 MS PILLAY: And we know from the 4 statement of Lieutenant-Colonel Merafi that they were armed 5 with sticks, with pangas and other assortment of weapons. 6 KOLONEL VERMAAK: Dit is positief. 7 MS PILLAY: Now, can you tell us what the 8 role was of the police on that day? 9 KOLONEL VERMAAK: Kolonel of luitenant- 10 kolonel Merafi was die operasionele bevelvoerder maar ook 11 die eenheidsbevelvoerder van die openbare orde polisie- 12 eenheid wat verantwoordelik is vir die spesifieke area. 13 Daar was gevrees dat die groot groep mense Tlhabane sal 14 inkom van Sondela se kant af, waardeur hulle dan deur die 15 industriële gebied sou gestap het na die hof toe waar die 16 saak sou voorgekom het. Kolonel Merafi het 'n besluit 17 geneem dat hy nie die kans kan waag om daardie skare toe te 18 laat om in die Tlhabane gebied in te gaan nie aangesien hy 19 nie genoegsame mannekrag gehad het om so 'n groot groep 20 mense te beheer nie. Ook was sy vrees gewees dat sou, iets 21 sou gebeur in die industriële gebied, dit moontlik kon 22 gelei het waar privaat besighede skade kon ly en heel 23 moontlik ook 'n konfrontasie tussen die besighede en dan 24 die mense wat deur die gebied dan sou loop. 25 MS PILLAY: And can you tell us what</p>	<p style="text-align: right;">Page 25201</p> <p>1 nog mense stuur, al is dit van die misdaadsvoorkomingsmense 2 wat vir ons tan minste net kan help om na die besighede te 3 kyk, sou dit gebeur dat daar 'n groepie moontlik kan 4 deurkom na die hof se kant toe. Ons het nie veel sukses 5 gehad daarmee nie. Ek het toe probeer om vir generaal 6 Asaneng, wat die cluster commander was, in die hande te 7 kry. Hy was nie beskikbaar nie en ook nie brigadier Calitz 8 nie, waarop ek toe direk die Provinsiale Kommissaris 9 geskakel het en haar kortliks meegedeel het wat die 10 situasie daar is. Kolonel Merafi het toe vir my versoek ek 11 moet die helikopter na sy eenheid stuur om addisionele 12 traanrook en rubber te gaan haal aangesien hulle uit 13 rondtes uit gehardloop het. Ek het toe vir kaptein 14 Oosthuizen en adjudant-offisier Mentz gestuur om dan die 15 ammunisie te gaan haal, aangesien dit die vinnigste metode 16 was om dit weer terug te kry by die lede wat besig was met 17 die operasie. 18 MS PILLAY: And the request for 19 additional members, how was that request received? 20 KOLONEL VERMAAK: Daar het 'n klein 21 groepie tactical response team members opgedaag wat uit die 22 aard van die saak nie onluste toerusting gehad het nie maar 23 noodgedwonge, weens die feit dat daar nie genoeg lede was 24 nie, het hulle 'n gedeelte aan aandag gegee waar daar, waar 25 die OOP of die POPS members op gekonsentreer het op die</p>

<p style="text-align: right;">Page 25202</p> <p>1 groot groep.</p> <p>2 MS PILLAY: You mentioned that the TRT</p> <p>3 members didn't have public order equipment. What equipment</p> <p>4 did they have?</p> <p>5 KOLONEL VERMAAK: Hulle is net toegerus</p> <p>6 met R5 en 9 millimeter pistole. Op 'n stadium het ek skote</p> <p>7 gehoor met R5's wat afgaan, outomaties. Ek was redelik</p> <p>8 geskok gewees en ek het gesien van die lede skiet in die</p> <p>9 grond in, ander lede skiet in die lug in –</p> <p>10 MS PILLAY: Colonel, can I just interrupt</p> <p>11 you there? You testified that you were shocked, why were</p> <p>12 you shocked to see members shooting with R5s?</p> <p>13 KOLONEL VERMAAK: Jy is nie veronderstel</p> <p>14 om by openbare orde protesoptogte met R5 gewere op skares</p> <p>15 te skiet nie. Dit is waarom ek – en veral omdat hulle ook</p> <p>16 in die lug in opgeskiet het, het ek 'n groot vrees gehad</p> <p>17 dat hulle die helikopter kon getref het wat regbo hulle</p> <p>18 was, want nadat hulle die traanrook en die rubber gaan haal</p> <p>19 het, het kolonel Merafi 'n versoek gerig dat die helikopter</p> <p>20 traanrook aan die agterkant van die skare kan gooi sodat</p> <p>21 dit 'n effek op hulle kan hê en dit het hulle toe gedoen en</p> <p>22 dit het die gewenste reaksie gehad dat die skare uitmekaar</p> <p>23 uit gespat het. Ek het, waar die lede van TRT met die R5</p> <p>24 gewere geskiet het, het ek dadelik tussenbeide getree en</p> <p>25 hulle gestop om met die vuurwapens te skiet want ek was</p>	<p style="text-align: right;">Page 25204</p> <p>1 groot gedeelte met die hulp van die helikopter wat</p> <p>2 aangewend was om traanrook aan die agterkant van die skare</p> <p>3 te gooi sodat die wind dit tussen hulle in kon gewaaai het,</p> <p>4 maar die risiko was baie, baie groot gewees dat iemand dalk</p> <p>5 gedood kon geword het met die R5's se afvuur of selfs die</p> <p>6 helikopter wat dan uit die lug uit kon geskiet geword het.</p> <p>7 [10:33] MS PILLAY: Okay, Colonel, can I just get</p> <p>8 back to paragraph A1 of the letter. JJJ137, paragraph A1,</p> <p>9 the first paragraph. Now in that paragraph you mention an</p> <p>10 ORS conference that took place on the 17th of May 2012. Can</p> <p>11 you just tell us what that conference was about, please?</p> <p>12 KOLONEL VERMAAK: Dit was eintlik meer 'n</p> <p>13 inligtingsessie gewees van Brigadier Calitz wat die</p> <p>14 Provinsiale Hoof van ORS is, waar hy al die mense wat onder</p> <p>15 sy bevel val, dit sluit nou Openbare Orde Polisie, TRT,</p> <p>16 Lugvleuel, en Grenspolisiering daarby in, en hy het</p> <p>17 terugvoering gegee op 'n konferensie wat hy bygewoon het in</p> <p>18 Pretoria waar daar sekere opdragte uitgereik was oor die</p> <p>19 aanwending van die rubberhael, of die rubber rondtes. Dit</p> <p>20 is in kort waaroor die inligtingsessie dan gegaan het die</p> <p>21 dag.</p> <p>22 MS PILLAY: And you were present at the</p> <p>23 conference?</p> <p>24 KOLONEL VERMAAK: Dis positief, ja.</p> <p>25 MS PILLAY: Now if we can look at</p>
<p style="text-align: right;">Page 25203</p> <p>1 bevrees gewees mens kannie bepaal waarheen hulle geskiet of</p> <p>2 wat daar kon gebeur met 'n wegsgram koeël wat dalk een van</p> <p>3 die myners of van die optogangere kan tref en dan het 'n</p> <p>4 mens met 'n redelike groot probleem gesit.</p> <p>5 MS PILLAY: Now can you just tell us very</p> <p>6 briefly, Colonel, what ultimately happened in that</p> <p>7 operation?</p> <p>8 KOLONEL VERMAAK: Just repeat again?</p> <p>9 MS PILLAY: What happened in that</p> <p>10 operation ultimately? Were you successful in dispersing</p> <p>11 the crowd?</p> <p>12 KOLONEL VERMAAK: Ja, die skare het</p> <p>13 uiteen uit gegaan, hulle is teruggedryf want op daardie</p> <p>14 stadium toe het die helikopter weer ekstra traanrook en</p> <p>15 rubber rondtes gebring en veral nadat die R5 skote afgegaan</p> <p>16 het, het hulle seker besef dat hulle beseer kan word.</p> <p>17 Hulle het omgedraai en hulle het terugbeweeg in die rigting</p> <p>18 van Sondela en die ander informele nedersettings.</p> <p>19 MS PILLAY: Now can we turn back to</p> <p>20 JJJ137 and if we can then turn to what you say at paragraph</p> <p>21 15? Can you just tell us what you meant in paragraph 15?</p> <p>22 KOLONEL VERMAAK: In daardie</p> <p>23 omstandighede het kolonel Merafi volgens my waarneming dit</p> <p>24 baie goed hanteer, gesien in die lig van die lig van die</p> <p>25 groot hoeveelheid optogangere daar was en ook ek glo 'n</p>	<p style="text-align: right;">Page 25205</p> <p>1 paragraph 3 of JJJ137, you indicate that at the conference</p> <p>2 Lieutenant Colonel Merafe raised certain concerns around</p> <p>3 particularly capacity, POP capacity in his area. Can you</p> <p>4 just take us through those concerns, please?</p> <p>5 KOLONEL VERMAAK: Dit is positief,</p> <p>6 Voorsitter. Kolonel Merafe het spesifiek gekla oor dat hy</p> <p>7 'n tekort aan mannekrag het om al die insidente te hanteer</p> <p>8 wat in sy bedieningsarea plaasvind. Ons weet van</p> <p>9 Januariemaand af in 2012 was daar aaneenlopend by die</p> <p>10 Impala Plats Myne onluste gewees as gevolg van die onmin</p> <p>11 tussen die vermelde twee unies. Hy het verder vermeld dat</p> <p>12 daar opdrag gegee word dat sy lede ingedeel moet word by</p> <p>13 misdadaadvoorkomingsgroepe wat dan die uitwerking is wanneer</p> <p>14 hy dan met so 'n situasie sit dan is van daardie lede af</p> <p>15 met rustyd of hulle het byvoorbeeld reeds 'n 12-ure skof</p> <p>16 gewerk en hulle het afgegaan. Dis moeilik om hulle dan in</p> <p>17 die hande te kry om behulpsaam te wees met hulle primêre</p> <p>18 taak.</p> <p>19 MS PILLAY: And do you recall what the</p> <p>20 response of Brigadier Calitz was to the concerns that</p> <p>21 Merafe had raised?</p> <p>22 KOLONEL VERMAAK: Brigadier Calitz het</p> <p>23 gesê hy sal dit opneem met Generaal Mpembe, wat die</p> <p>24 Provinsiale Hoof oor Operations is.</p> <p>25 MS PILLAY: And are you aware of any</p>

<p style="text-align: right;">Page 25206</p> <p>1 concrete steps that were taken in relation to the serious 2 concerns that were raised by Colonel Merafe? 3 KOLONEL VERMAAK: Negatief, mnr die 4 Voorsitter. 5 MS PILLAY: Thank you, Colonel. Can we 6 now turn to the Marikana incident specifically, and if I 7 can then ask you to look at LLL8, if we can pick up from 8 paragraph 4, can you just describe to us how you came to be 9 involved in policing in Marikana during August 2012? 10 KOLONEL VERMAAK: Mnr die Voorsitter, die 11 Sondag die 12de het Brigadier Calitz vir my in die laat 12 oggend die Sondagoggend, hier by 11 uur, 12 uur, in daardie 13 omgewing gekontak. Hy het my gevra dat ek onmiddellik 'n 14 helikopter moet uitstuur na Marikana toe aangesien daar 15 onluste was en dat twee sekuriteitsbeamptes gedood is, 16 waarop ek toe vir Adjudant Offisier Padayachee, hy was die 17 vlieënier, en Sersant Venter die boordbemanning, het ek 18 hulle twee uitgestuur om die nodige lug steun vir ons te 19 gaan gee daar. 20 MS PILLAY: Now prior to the telephone 21 call from Brigadier Calitz, which we know took place on the 22 12th of August, did you have any knowledge about the 23 situation in Marikana? 24 KOLONEL VERMAAK: Mnr die Voorsitter, nee 25 glad nie. Ons het wel die Donderdag en die Vrydag en die</p>	<p style="text-align: right;">Page 25208</p> <p>1 foto's wat Sersant Venter vir my aangestuur het, wat ek vir 2 Brigadier Calitz gestuur het, het ek ook na Brigadier 3 Garnett se foon toe gestuur. 4 MS PILLAY: Colonel, may I just ask, how 5 did Brigadier Garnett know that he needed to contact you in 6 order to get a sitrep on what was happening? 7 KOLONEL VERMAAK: Mnr die Voorsitter, ek 8 is redelik bekend by van die nasionale offisiere. Hulle 9 weet dat ons uit Lugvleuel se kant uit redelik op hoogte 10 bly met wat in die provinsie aangaan en ek dink dit is maar 11 die rede hoekom hy my dan ook gekontak het. 12 MS PILLAY: Now you mention in paragraph 13 4, around four, five lines from the bottom, that at 13:44 14 you sent a BBM to Brigadier Garnett. Can you just explain 15 to us the circumstances under which you sent the BBM? 16 KOLONEL VERMAAK: Sersant Venter het aan 17 my terugvoering gegee dat daar 'n ritueel aan die gang is 18 waar die mense heeltemal kaal uittrek en dat hulle 19 vermoedelik dan nou met 'n sangoma daar is. Uit ons 20 ondervinding uit, ook uit my ondervinding met die onluste 21 by die myne was dit 'n algemene ding gewees voordat daar 22 tussen die mense "clashes" is dat van hulle dan na sangomas 23 toe gaan, 'n sekere ritueel deurgaen, en dan glo hulle dat 24 hulle onaantasbaar is, en dan het hulle ook geen vrees 25 nadat hulle deur daardie spesifieke rituele is nie, en het</p>
<p style="text-align: right;">Page 25207</p> <p>1 Saterdag, was ons in Rustenburg ontplooi by, met 2 misdaadvoorkomingsdienste en ons het die Saterdag 3 teruggekeer na ons basis toe in Potchefstroom. Die eerste 4 wat ek wel waargeneem het was toe dan op die Sondag wat 5 Brigadier Calitz my gekontak het. 6 MS PILLAY: So we know that you sent out 7 Warrant Officer Padayachee and Sergeant Venter. Can you 8 tell us what was the report-back from the two of them? 9 KOLONEL VERMAAK: Sersant Venter het vir 10 my boodskappe met die BBM BlackBerry gestuur, asook foto's 11 waar daar 'n groepering op Wonderkop was. Later het sy vir 12 my foto's ook gestuur van die sekuriteitsbeamptes, die 13 toneel, wat gedood was. Ek het dit op my beurt weer na 14 Brigadier Calitz toe gestuur. Op 'n stadium deur die loop 15 van die middag het Brigadier Garnett van die NATJOC my 16 gekontak en gevra of ek enige kennis dra van die insidente 17 daar. 18 MS PILLAY: Can I just interrupt you, 19 Colonel? Can you just tell us who Brigadier Garnett is, 20 just who he is and what his involvement was in what was 21 happening in Marikana? 22 KOLONEL VERMAAK: Brigadier Garnett is 23 die Nasionale Joint Operational Centre Commander wat die 24 polisie verteenwoordig daar en ek glo hy was die betrokke 25 naweek diensoffisier vir NATJOC gewees. Ek het dieselfde</p>	<p style="text-align: right;">Page 25209</p> <p>1 ek dit so aan Brigadier Garnett dan gerapporteer. 2 MS PILLAY: Now Colonel, can I just ask 3 how did you know that people had in the past used "muti" 4 and what the effect of the "muti" was on those people? 5 KOLONEL VERMAAK: Ek was baie betrokke by 6 mynonluste gewees. Dit was 'n algemene gebruik gewees waar 7 daar etniese geweld is dat die verskillende partye sangomas 8 gaan besoek waar hulle sekere snytjies maak op hulle, hulle 9 gaan deur 'n ritueel waarmee hulle met water besprinkel 10 word en alles. 11 MS PILLAY: And how did you know what the 12 effect, or what people believed the effect of the "muti" 13 was? 14 CHAIRPERSON: It is more the effect on 15 their state of mind rather than anything else. 16 MS PILLAY: That's correct, Chair. How 17 did you know what their belief was on the effect of the 18 "muti" on them? 19 KOLONEL VERMAAK: Hulle het geglo dat as 20 hulle deur daardie ritueel is dan is hulle, veral waar 21 hulle weet polisie gaan optree en die mynsekuriteit, en ek 22 verwys weer terug na die tydperk waar ek bevelvoerder was, 23 dan het hulle geglo hulle is onsigbaar, hulle is 24 onaantasbaar, en niks kan hulle stop nie. 25 MS PILLAY: Now how did you know that</p>

<p style="text-align: right;">Page 25210</p> <p>1 this is what they thought once they underwent these 2 rituals? 3 KOLONEL VERMAAK: Ag, uit ondervinding 4 uit en ook waar, baie keer waar arrestasies gemaak was het 5 die verdagtes dan aan ons die erkenning gemaak dat hulle by 6 die sangomas was en dat hulle deur sekere rituele was, 7 hulle moes 'n sekere bedrag betaal aan die sangomas om deur 8 daardie ritueel dan ook te gaan. 9 MS PILLAY: Now if we can go back to 10 paragraph 4 of LLL8 and the BBM message that you sent to 11 Brigadier Garnett at 13:44, can you just explain to us what 12 it is that you meant in this message? 13 KOLONEL VERMAAK: Uit die ondervinding 14 wat ek het weet ek dat wanneer hulle kaal uittrek gaan 15 hulle deur daardie ritueel. Hulle staan in 'n reguit lyn. 16 Hulle wag dat elkeen sy beurt kry om by die sangoma deur te 17 gaan en as hulle dan deur daardie proses is dan, hulle is 18 impi's, hulle gaan baklei. Jy kan verseker weet as hulle 19 deur daardie proses gegaan het gaan daar definitief een of 20 ander wyse van opstand wees. 21 MS PILLAY: Now can I specifically ask 22 you "Maak reg om te baklei," what does that refer to? 23 KOLONEL VERMAAK: Wat ek nou gesê het, 24 hulle prepare themselves to go into a fight, sodat, en as 25 hulle in daardie geveg is dan word hulle beskerm deur die</p>	<p style="text-align: right;">Page 25212</p> <p>1 hulle toe hulle geland het met die helikopter by die mense 2 op die toneel gekry het waar die sekuriteit-beamptes dood 3 is. 4 MS PILLAY: And then just explain your 5 last message to Brigadier Garnett. 6 KOLONEL VERMAAK: Dit is maar net vir hom 7 terugvoering te gee van die tyd van die voorval. Toe hy my 8 die eerste keer gekontak het kon ek nie presies vir hom die 9 tyd van insident gee nie en toe het ek dit agterna bekom en 10 dit toe vir hom gestuur. 11 MS PILLAY: Now if we look at paragraph 5 12 of your statement, you mentioned a telephone call that you 13 received from Brigadier Calitz in the evening of the 12th of 14 August. Can you just tell us what that call entailed? 15 KOLONEL VERMAAK: Op daardie stadium het 16 Brigadier Calitz basies twee ampte bekleed. Hy was 17 waarnemende stasiebevelvoerder van Majikeng gewees en hy het 18 nog steeds sy provinsiale verantwoordelikheid gehad oor 19 ORS. Hy het vir my meegedeel dat hy onderweg is van 20 Mafikeng, of Majikeng af na Marikana toe om 'n JOC te gaan 21 stig daar in opdrag van die provinsiale diensoffisier, en 22 het hy my toe versoek dat ek die volgende dag altwee die 23 helikopters moet ontplooi na Marikana toe. 24 MS PILLAY: Was there any indication from 25 Brigadier Calitz as to what exactly your role would be in</p>
<p style="text-align: right;">Page 25211</p> <p>1 "muti" en die sangoma se ritueel. 2 MS PILLAY: But why would the police need 3 to prepare themselves to fight? 4 KOLONEL VERMAAK: No, not the police. 5 Dit was die mense wat daaraan deelgeneem het. 6 MS PILLAY: Oh, I see. So when you said 7 "Maak reg om te baklei," you meant that the strikers were – 8 KOLONEL VERMAAK: The strikers, ja. 9 CHAIRPERSON: So it wasn't an instruction 10 to Brigadier Garnett that the police must get themselves 11 ready to fight; the subject of the sentence was understood, 12 namely "they," i.e. the people who were seen who were 13 pictured on the photographs that you sent by means of the 14 BlackBerry – 15 KOLONEL VERMAAK: Dit is – 16 CHAIRPERSON: - they are the ones who are 17 making ready to fight. Is that – 18 KOLONEL VERMAAK: Dis korrek. 19 CHAIRPERSON: Is that what you meant? 20 KOLONEL VERMAAK: Dis korrek, ja. 21 MS PILLAY: Now can we turn to the next 22 message, and that's the one sent at 13:51. "AMCU en NUM 23 baklei teen makeer." What did you mean by that? 24 KOLONEL VERMAAK: Dit is die terugvoering 25 wat ek van Sersant Venter-hulle af gekry het. Dit is wat</p>	<p style="text-align: right;">Page 25213</p> <p>1 Marikana? 2 KOLONEL VERMAAK: Dit sal maar 3 hoofsaaklik lug steun wees, monitor van groepe, 4 terugvoering gee aan die JOC waar groepe opgemerk word. 5 MS PILLAY: Now that you mention "lug 6 steun" or air support, can you just give us a description 7 of what that entails? 8 KOLONEL VERMAAK: Die primêre taak van, 9 kom ons gebruik by 'n beplande operasie, 'n 10 misdaadvoorkomingsoperasie sal jy byvoorbeeld inligting kry 11 hulle gaan 'n sekere skrootwerf, op hom toeslaan. Dan sal 12 die helikopter uitgaan, hy sal waarneem wat aangaan daar en 13 hy sal terugvoering gee aan die operasionele bevelvoerder 14 dit wat waargeneem is en daarvolgens besluit die 15 operasionele bevelvoerder dan byvoorbeeld watter voertuie 16 moet watter omgewing inbeweeg en dan sal die helikopter dan 17 help om daardie voertuie in te praat na waar hulle die 18 operasie dan gaan hou. 19 So dit is dieselfde met Marikana. Op daardie 20 stadium was dit absoluut net gewees om te gaan monitor, te 21 gaan kyk vir enige moontlike groeperings wat mag plaasvind, 22 veral omdat dit 'n baie groot area is wat geaffekteer was 23 deur die onrus van Januariemaand af. So dis baie makliker 24 as jy 'n boodskap kry van 'n groepie mense om gou die 25 helikopter uit te stuur en in plaas van om 'n voertuig uit</p>

<p style="text-align: right;">Page 25214</p> <p>1 te stuur, wat baie langer vat om by hulle uit te kom. 2 MS PILLAY: As I understand your evidence 3 around what air support entails, there's two aspects to it. 4 The first is that you play the role of an eye-in-the-sky – 5 KOLONEL VERMAAK: Dit is – 6 MS PILLAY: - where you give situational 7 reports. Am I correct? 8 KOLONEL VERMAAK: Dit is korrek. 9 MS PILLAY: And the second you just 10 testified to is carrying out the instructions of the 11 operational commander by directing vehicles in the manner 12 that the operational commander wants you to carry it out. 13 KOLONEL VERMAAK: Dis korrek. 14 MS PILLAY: Am I correct? 15 KOLONEL VERMAAK: Dis korrek, Voorsitter. 16 MS PILLAY: Can we then turn to the 17 incident of the 13th of August. Now what time did you first 18 arrive at the JOC in Marikana? 19 KOLONEL VERMAAK: Gee vir my daardie – 20 kan u net vir my daardie verwysing gee op die lêer? 21 MS PILLAY: I'm sorry, that's paragraph 6 22 of LLL8. 23 KOLONEL VERMAAK: En op die "file"? 24 MS PILLAY: It's document 19. 25 KOLONEL VERMAAK: Thank you.</p>	<p style="text-align: right;">Page 25216</p> <p>1 KOLONEL VERMAAK: Brigadier Seboloke. Ek 2 het per ongeluk in een van die verklarings verwys na 3 Brigadier Pretorius toe, maar dis foutief; dit is Brigadier 4 Seboloke. Brigadier Pretorius het eers later by ons 5 aangesluit by die dienste. 6 MS PILLAY: And do you recall exactly 7 what Brigadier Seboloke had said to you when you arrived at 8 the JOC? 9 KOLONEL VERMAAK: Sy eerste – daar was 10 basies twee takings wat ek daardie dag daar gekry het. Die 11 eerste taking was ons moet oor die koppie gaan vlieg en ons 12 moet vir hulle terugvoering gee van hoeveel mense ongeveer 13 op die koppie was. Dis die eerste gedeelte gewees. Die 14 tweede was dat daar 'n samedromming by die TEBA kantore ook 15 was in Marikana self en dan moes ons ook uitgekyk het vir 16 'n moontlike onwettige optog van 'n groep persone. 17 Nou onderweg na Marikana toe het ons die groepie 18 persone gekry waar hulle in 'n grondpad gesit het langs 'n 19 spoorlyn by 'n brug. Vanuit die lug uit kon ons wel sien 20 dat van hulle tradisionele wapens by hulle gehad het, maar 21 hulle op die oog af – en dis uit die lug uit, ons vlieg op 22 ongeveer 300 voet, het hulle vreedsaam gelyk want hulle het 23 net daar in 'n groepie gesit en ons het toe gaan aandag gee 24 aan die klage ook in Marikana waar ons toe nou vasgestel 25 het dat die mense wat daar vergader is mense wat by die</p>
<p style="text-align: right;">Page 25215</p> <p>1 MS PILLAY: I think we're now at 2 paragraph 6. 3 CHAIRPERSON: You see, you say in the 4 first sentence that when you arrived at the JOC at the 5 emergency services office at Lonmin on Monday the 13th you 6 received an instruction to fly over the area and to give a 7 situation report – 8 KOLONEL VERMAAK: Dis korrek. 9 CHAIRPERSON: - in connection with the 10 group of people who were taking part in a procession. What 11 would the correct translation of "optog" be? I mean it's 12 some kind of a procession. Now the question you were asked 13 is what time did you get to the JOC on the morning of 14 Monday the 13th. 15 [10:53] KOLONEL VERMAAK: Voorsitter, die 12 - 16 nee, ja, die 13de die Maandag het ek die twee helikopters 17 vooruit gestuur. Ek het met die voertuig deurgekom. Ek 18 het, terselfdertyd het ek toe daardie "mobile" JOC projek 19 wat ons geloods het, wat toe nou klaar was, het ek hom 20 saamgebring na Marikana toe. Ek het in die omgewing van so 21 tussen 9 en 10, in daardie omgewing het ek daar gearriveer. 22 MS PILLAY: And you say in paragraph 6 23 that when you arrived at the JOC on the 13th you were given 24 an instruction to fly over the area and to give situational 25 reports. Who issued that instruction to you?</p>	<p style="text-align: right;">Page 25217</p> <p>1 TEBA kantore maar altyd in sulke rye staan daar. 2 MS PILLAY: Now the strikers that you had 3 seen next to the bridge, were you able to see what kind of 4 weapons they were carrying? 5 KOLONEL VERMAAK: Ons kon, uit die lug 6 uit kon ons duidelik stokke en kieries en goed waarneem. 7 MS PILLAY: And once you had gone to the 8 TEBA offices, what did you do next? 9 KOLONEL VERMAAK: Van daar af het ons 10 teruggekeer na die JOC toe by die myn. Terwyl ek, toe ons 11 geland het, het ek teruggegaan na die JOC toe om ook net 12 gou terugvoering te gee. Daar het ek toe gehoor van, oor 13 die radio dat Generaal Mpembe versoek 'n tolk wat kan help 14 om te tolk na Fanagalo toe aangesien hy hulle nie, of hulle 15 hom nie kon verstaan het nie. Brigadier Seboloke het toe 16 vir ons gesê ons moet weer in die lug kom sodat ons daar 17 kan gaan lug steun gee waar die Generaal is. 18 MS PILLAY: Now the JOC commander that 19 you refer to in paragraph 6, I think it's about line 8 on 20 page 2, is that Brigadier Seboloke? 21 KOLONEL VERMAAK: Dis positief. 22 MS PILLAY: You say the "OPS 23 bevelvoerder." 24 KOLONEL VERMAAK: Dis korrek. Dis – 25 MS PILLAY: That's Brigadier Seboloke?</p>

<p style="text-align: right;">Page 25218</p> <p>1 KOLONEL VERMAAK: Dis waar – ja, dis waar 2 ek foutiewelik verwys het na Brigadier Pretorius, maar dit 3 moet eintlik Brigadier Seboloke wees. 4 MS PILLAY: So apart from the instruction 5 from Brigadier Seboloke to provide the JOC with situational 6 reports, were you part of any other briefing on what was to 7 transpire on the 13th? 8 KOLONEL VERMAAK: Nee, negatief. 9 MS PILLAY: Now did you receive either 10 before you took off for the second time or during the 11 course of the day, did you receive any briefing or 12 instructions from the overall commander/operational 13 commander General Mpmembe? 14 KOLONEL VERMAAK: Nee, negatief. Ek het 15 hom nie daardie dag gesien nie, in die oggend nie. 16 MS PILLAY: So prior to the incident 17 taking place did you have any discussions with General 18 Mpmembe? 19 KOLONEL VERMAAK: Nee, negatief, 20 Voorsitter. 21 MS PILLAY: Now we know and you mention 22 this in paragraph 6 that Captain Loest joined you in the 23 Squirrel helicopter. Can you tell us how that came about? 24 KOLONEL VERMAAK: Toe ek na die JOC toe 25 gegaan het om terugvoering te gee nadat ons oor die groep</p>	<p style="text-align: right;">Page 25220</p> <p>1 plaasvind maak die helikopter 'n redelike geraas en ons het 2 maar uit ondervinding uit geleer dat dit redelik steurend 3 is sou hulle met mekaar onderhandel. So ons het 'n draai 4 gevlieg en ons het opgemerk dat die persone reeds in 5 daardie stadium opgestaan het en begin loop het in die 6 rigting van Wonderkop. 7 MS PILLAY: Colonel, I'm sorry, maybe to 8 answer the question of exactly what time you took off, we 9 can look at your flight logs. That's document 23.1. 10 CHAIRPERSON: You've given it an exhibit 11 number, so you may as well refer to the exhibit number. 12 MS PILLAY: Chair, it's 00012.1. 13 KOLONEL VERMAAK: Is it 23 on the file? 14 MS PILLAY: It's 23.1. The document is 15 unfortunately not paginated, but I think if you look at 16 page 5 – 17 KOLONEL VERMAAK: Dis korrek. 18 MS PILLAY: - or page 6 of the document. 19 KOLONEL VERMAAK: Ja. 20 CHAIRPERSON: Isn't the page number 21 upside down at the bottom of these pages? 22 MS PILLAY: I'm indebted to you, Chair, 23 it's page 7, the – 24 KOLONEL VERMAAK: The fax? 25 MS PILLAY: - facsimile page 7, yes. If</p>
<p style="text-align: right;">Page 25219</p> <p>1 gevlieg het en teruggekom het van Marikana af, het Kaptein 2 Loest daar rondgestaan. Ek ken hom baie goed. Ons het 3 baie saamgewerk terwyl ek in Openbare Orde Polisie was, 4 asook in die tyd, nege jaar wat ek by die Lugvleuel is, en 5 het ek hom gevra of hy 'n spesifieke taak op daardie 6 stadium het en hy het aan my bevestig dat hy wag vir 7 opdragte van Brigadier Calitz af, wat nie op daardie 8 stadium toe daar was nie, en toe het ek hom gesê hy moet 9 saam met ons uitvlieg na die toneel toe. 10 MS PILLAY: And do you recall what time 11 it was that you left the JOC? 12 KOLONEL VERMAAK: Mnr die Voorsitter, dit 13 was ek dink in die omgewing van 2 uur rond, as ek net kan 14 bevestig met my verklaring. 15 MS PILLAY: Your statement doesn't 16 mention a specific time. 17 KOLONEL VERMAAK: Nee, hy het nie, maar 18 ek weet dit was in die agtermiddag gewees. 19 MS PILLAY: Can you just describe to us 20 what it is that you witnessed from the air once you had 21 taken off from the JOC? 22 KOLONEL VERMAAK: Kaptein Oosthuizen het 23 toe na die gebied toe gevlieg en soos dit maar normaalweg 24 die gebruik is vlieg 'n mens, of vlieg ons nie altyd direk 25 oor die groep nie. Een kant, sou daar enige onderhandeling</p>	<p style="text-align: right;">Page 25221</p> <p>1 we can please put that document up. I'm sorry, I just see 2 that the – 3 CHAIRPERSON: That's right, the – 4 MS PILLAY: - the technician doesn't have 5 the document. 6 CHAIRPERSON: It looks like page 8 to me. 7 Page 7 seems to deal with the 12th of August, if I read it 8 correctly. 9 MS PILLAY: It's actually the 13th of 10 August. 12 is the year, Chair. 11 CHAIRPERSON: I'm sorry, yes. So it's 12 the 13th you're busy with. 13 MS PILLAY: Chair, if you can just give 14 me a second, I just want to give the technician the 15 document. Maybe we can begin, Colonel, by just explaining 16 to us how the table which appears on page 7 works. 17 KOLONEL VERMAAK: Op die "flight log" sal 18 u sien daar is 'n datum, die "pilot," die "time to, land 19 time, landings, flight time, and route and details." 20 MS PILLAY: Now under landings we see 21 that sometimes you've got a 1 and sometimes 2 and sometimes 22 3. What does that refer to? 23 KOLONEL VERMAAK: Mnr die Voorsitter, as 24 u kyk na "time to," dis wanneer die helikopter "opstart" 25 vir die eerste keer en dit gebeur somtyds dat hy land en</p>

<p style="text-align: right;">Page 25222</p> <p>1 dat hy nie afsit nie, dat hy byvoorbeeld mense aflaai of 2 mense oplaai en hy skakel nie die helikopter af nie, dan 3 word daar net 'n strepie gemaak om te wys hoeveel landings 4 hy gemaak het. Dit het, dit gaan maar oor die geskiedenis 5 en die rekord wat bygehou word vir elke helikopter, soos 6 hulle sê wat bepaal rondom sy "frame time." Dit gaan oor 7 dienste wat bepaal moet word en inspeksies wat op hom gehou 8 moet word. Dan die "land time" is wanneer hy dan land en 9 die helikopter afgeskakel word.</p> <p>10 MS PILLAY: So if we look at the journey 11 which is three lines from the bottom, we see that you took 12 off at 14:10 –</p> <p>13 MS BARNES: Chair, I'm sorry to 14 interrupt. Is this document being put on the screen? 15 Because most of us don't have the document.</p> <p>16 CHAIRPERSON: I understood that copies 17 were going to be given to the operator.</p> <p>18 MS BARNES: It's very difficult to 19 follow; we don't have the document.</p> <p>20 CHAIRPERSON: It hasn't been put on the 21 screen yet, but what has been said by Adv Pillay actually 22 reflects all that those who haven't got the document need 23 to know that there's an entry which reflects under the, in 24 the column T/O time, which is take-off time, that the 25 helicopter - this is page 7; I thought it was page 8, but</p>	<p style="text-align: right;">Page 25224</p> <p>1 eerste landing was dan by die toneel self gewees. Toe het 2 hulle die beseerde polisiebeampte met die helikopter 3 weggevat na die hospitaal toe.</p> <p>4 MS PILLAY: And that explains the second 5 landing at the hospital.</p> <p>6 KOLONEL VERMAAK: Dis die volgende 7 landing, en hy het toe teruggekom na die toneel toe waar hy 8 afgeskakel het; dis die derde landing.</p> <p>9 MS PILLAY: Okay, so we see there that 10 the take-off time was 14:10. Does that accord with your 11 recollection –</p> <p>12 KOLONEL VERMAAK: Ja.</p> <p>13 MS PILLAY: - that you left the JOC at 14 14:10?</p> <p>15 KOLONEL VERMAAK: Dis in daardie 16 omgewing, ja. Dalk 'n twee minute vroeër.</p> <p>17 CHAIRPERSON: I'm sorry to interrupt you, 18 but what exactly happened at 13 – it looks as if it's been 19 changed from 35 to 25, which would be right if you look at 20 the flight time. There was a flight from 13:25 –</p> <p>21 KOLONEL VERMAAK: Dis korrek.</p> <p>22 CHAIRPERSON: - to 13:55, which is 23 described as, the route and details are Marikana Wonderkop. 24 Then there's another flight 15 minutes later, 14:10 to 25 14:40, and the route and details are also given as Marikana</p>
<p style="text-align: right;">Page 25223</p> <p>1 I'm wrong, it is page 7 – the take-off time to which 2 counsel is referring is 14:10 and the land time is 14:40. 3 So the helicopter was about half an hour in the air, and 4 the route and details are given as Marikana Wonderkop. The 5 flight time is given as 035, which I think is probably 6 wrong. The arithmetic is wrong. It seems to be half an 7 hour by my calculations. Am I right –</p> <p>8 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>9 MS PILLAY: Chair, I apologise to my 10 colleagues. We are trying to get the document –</p> <p>11 CHAIRPERSON: Yes, yes, I understand 12 you're trying to give it to the operator. It hasn't come 13 on the screen yet, so I'm trying to help Ms Barnes to 14 follow in the meanwhile. I think she follows.</p> <p>15 MS BARNES: Thank you, Chair.</p> <p>16 MS PILLAY: Colonel, we see that there 17 are three landings referred to during that timeslot where 18 the take-off was at 14:10 and the land time was at 14:40. 19 Now can you explain those three landings?</p> <p>20 KOLONEL VERMAAK: Die eerste landing was 21 gewees direk na die insident waar die polisie aangeval was 22 toe –</p> <p>23 MS PILLAY: That was at the scene of the 24 13th?</p> <p>25 KOLONEL VERMAAK: Dis korrek. Hy, so die</p>	<p style="text-align: right;">Page 25225</p> <p>1 Wonderkop. Now we do know that at some stage you landed 2 and then you went up again. Is that right?</p> <p>3 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>4 CHAIRPERSON: Now the flight where the 5 take-off time was 13:25 –</p> <p>6 KOLONEL VERMAAK: Dis korrek.</p> <p>7 CHAIRPERSON: - what flight was that?</p> <p>8 KOLONEL VERMAAK: Dit is toe ons 9 uitgevlieg het na Marikana toe na die groepering toe by die 10 TEBA kantore. Daardie wat ek hom bietjie dikker geskryf 11 het, Voorsitter, is my lelike handskrif wat nie mooi 12 uitgekom het nie en toe het ek hom net duidelik gemaak.</p> <p>13 CHAIRPERSON: I was interested in that, 14 because the arithmetic was correct, which is something one 15 can't say in respect of the next entry. Now we've got it 16 sideways but – ja, now we've got it clearly.</p> <p>17 MS PILLAY: So we know, Colonel, that you 18 took off from the JOC at round about 14:10</p> <p>19 KOLONEL VERMAAK: Dis positief.</p> <p>20 MS PILLAY: And can you just describe to 21 us what it is that you saw once you came across the 22 strikers, where they were firstly?</p> <p>23 CHAIRPERSON: [Microphone off, inaudible]</p> <p>24 Sorry, my machine hadn't come on. You got the take-off 25 time of 14:10 and you've got the land time of 14:40.</p>

<p style="text-align: right;">Page 25226</p> <p>1 That's half an hour. Now that land time, is that back at 2 the JOC or is that the landing at the scene – 3 COLONEL VERMAAK: At the scene. 4 CHAIRPERSON: At the scene? 5 COLONEL VERMAAK: At the scene. 6 CHAIRPERSON: I see, thank you. 7 MS PILLAY: Alright, if you can just tell 8 us when you, after you had taken off, where it is that you 9 first saw the strikers? 10 KOLONEL VERMAAK: Hulle het deur die veld 11 geloop waar die polisiemanne agter hulle geplaas was, het 12 hulle in die rigting van die koppie geloop waar tussen die 13 koppie en waar hulle was, was daar nedersettings gewees. 14 Op daardie stadium was hulle 'n redelike ent van die naaste 15 – wel, as ek sê ent is dit honderd, paar honderd meters van 16 die eerste, of die naaste nedersetting aan hulle. 17 MS PILLAY: Okay Colonel, maybe just to 18 assist you, could I ask that exhibit B3 be put up on the 19 screen, please? Now is that more or less the area where 20 you saw the strikers walk? 21 KOLONEL VERMAAK: Dis korrek. 22 MS PILLAY: Can you just point out to us, 23 Colonel, the direction in which the strikers were walking? 24 KOLONEL VERMAAK: Voorsitter, as ons daar 25 op die W vat.</p>	<p style="text-align: right;">Page 25228</p> <p>1 CHAIRPERSON: Copy of B? 2 MS PILLAY: B3. 3 CHAIRPERSON: B3? 4 MS PILLAY: Yes. 5 CHAIRPERSON: With direction of the 6 strikers movement on it, depicted is it? 7 MS PILLAY: Now, Colonel does that more 8 or less correspond with your recollection of the direction 9 in which the strikers were walking? 10 KOLONEL VERMAAK: Dit is positief, 11 Voorsitter. 12 CHAIRPERSON: When you reach a suitable 13 stage, we must take the tea adjournment, would you let me 14 know? 15 MS PILLAY: Chair, this is a suitable 16 stage. 17 CHAIRPERSON: We will take a tea 18 adjournment. Try to back by about half past or 25 to 19 twelve. I know it's not always easy with so many people 20 here, but we must try. 21 [COMMISSION ADJOURNS COMMISSION RESUMES] 22 [11:40] MS PILLAY: - picture of B3 just to 23 emphasise, the arrow depicts the direction of the strikers 24 and not the position of the strikers, am I correct? 25 COLONEL VERMAAK: That's correct.</p>
<p style="text-align: right;">Page 25227</p> <p>1 [11:12] Jy vat hom basies in 'n reguit lyn daar na die 2 CAS nommer toe. Was dit die grootste hoeveelheid mense wat 3 in daai rigting geloop het, alhoewel hulle oor die hele 4 area versprei was. 5 CHAIRPERSON: No, I'm sorry, you talked 6 about the CAS number, there are a number of CAS numbers on 7 the photograph. You indicated firstly that they were at 8 more or less the vicinity of the letter W. 9 KOLONEL VERMAAK: Dis korrek. 10 CHAIRPERSON: At the foot of photograph. 11 KOLONEL VERMAAK: Dis korrek. 12 CHAIRPERSON: And you then indicated that 13 they moved in the direction of CAS115/08/2012, correct? 14 KOLONEL VERMAAK: Dis positief. 15 MS PILLAY: Chair, what we've done is 16 that we've asked the Colonel to make that annotation on a 17 picture of – on a photo of B3, so that we could record. If 18 I could just ask the technician to put up B3 with the 19 Colonel's annotation? 20 CHAIRPERSON: Yes, the document you've 21 given, you've got to give the exhibit number too, as well. 22 MS PILLAY: Yes, so that would be 00013. 23 CHAIRPERSON: Is that a copy of exhibit 24 B, is it? With direction of strikers movement. 25 MS PILLAY: That's correct, it's B3.</p>	<p style="text-align: right;">Page 25229</p> <p>1 MS PILLAY: Now where, along the arrow, 2 were the strikers immediately before the incident occurred? 3 KOLONEL VERMAAK: Dit was, as ek – 4 heelwat laer af waar die W begin in die spesifieke foto. 5 MS PILLAY: Okay. And can you just 6 describe to us where you were at the time, where the 7 helicopter was placed at the time? 8 KOLONEL VERMAAK: Ons het in 'n sirkel 9 rondom die toneel gevlieg. 10 MS PILLAY: And what did you observe as 11 you were flying in a circle around the group? 12 KOLONEL VERMAAK: Toe ons van die JOC af 13 gekom het, het ons opgemerk dat die mense alreeds opgestaan 14 het en beginning in loop het. Ons het polisiemanne 15 opgemerk wat agter hulle loop en van die voertuie, 16 pantservoertuie en sagtedopvoertuie wat op die grondpad 17 gery het. 18 MS PILLAY: Now you say in paragraph 6 on 19 page 2 of LLL8, seven lines from the bottom you say that 20 the strikers, "Die groep het rustig aangeloo." Now, what 21 did you mean by that? 22 KOLONEL VERMAAK: Uit die lug uit kon ons 23 sien dat die mense het net reguit aangeloo, daar was geen 24 insidente wat ons uit die lug uit kon, op daardie stadium, 25 waargeneem het nie.</p>

<p style="text-align: right;">Page 25230</p> <p>1 MS PILLAY: And when did things change?</p> <p>2 KOLONEL VERMAAK: Terwyl ons gevlieg het,</p> <p>3 het ons opgemerk dat traanrook en 'n skokgranaat afgegaan</p> <p>4 het aan die – as ons kyk na daardie foto dan sou dit –</p> <p>5 MS PILLAY: OOO13 please, OOO13. Before</p> <p>6 that can you just help us with something on exhibit OOO13 –</p> <p>7 CHAIRPERSON: 13?</p> <p>8 MS PILLAY: 13. Where was the railway</p> <p>9 line there? Chair, I would imagine it's on the right-hand</p> <p>10 side of the picture.</p> <p>11 CHAIRPERSON: Yes, I think that's right</p> <p>12 because W of course is the point of the compass, is west,</p> <p>13 and we can see the S of south and as far as I can remember</p> <p>14 the railway line was from west, was running from west to</p> <p>15 east. So therefore it will be to the right of the</p> <p>16 photograph, running up from the foot of the page to the top</p> <p>17 of the page I would think. Is that right?</p> <p>18 MS PILLAY: That's my understanding,</p> <p>19 Chair.</p> <p>20 CHAIRPERSON: Mr Wesley –</p> <p>21 MR WESLEY: Chair, yes, that's correct.</p> <p>22 The railway line is situated, if one has regard to the</p> <p>23 photograph, it's to the right-hand side of the photograph.</p> <p>24 I can't estimate the distance but it is off the photograph</p> <p>25 and it'll be running approximately east to west, which is</p>	<p style="text-align: right;">Page 25232</p> <p>1 afgaan. Ons was redelik verbaas gewees dat dit gegooi was,</p> <p>2 aangesien volgens ons uit die lug uit het die mense rustig</p> <p>3 aangeloop.</p> <p>4 CHAIRPERSON: Sorry to interrupt you.</p> <p>5 People, the operator and others talking in the far corner</p> <p>6 of the chamber and it's very disturbing. I'm afraid if</p> <p>7 they want to have a conversation they must have it outside</p> <p>8 because it's difficult to concentrate on the evidence while</p> <p>9 that conversation is taking place. Please proceed,</p> <p>10 Lieutenant-Colonel.</p> <p>11 MS PILLAY: Colonel, you were, your</p> <p>12 testimony was that you were surprised because the teargas</p> <p>13 and stun grenade were used.</p> <p>14 KOLONEL VERMAAK: Dis positief,</p> <p>15 Voorsitter.</p> <p>16 MS PILLAY: And why were you surprised?</p> <p>17 KOLONEL VERMAAK: Omdat volgens wat ons</p> <p>18 waargeneem het uit die lug uit op daardie stadium geen rede</p> <p>19 was wat ons kon gesê het dit is wat ons sien uit die lug en</p> <p>20 dit is waarom die traanrook en die skokgranaat gegooi was.</p> <p>21 MS PILLAY: Now, prior to the use of</p> <p>22 teargas or stun grenade, was there any change in the</p> <p>23 movement or the direction of the strikers?</p> <p>24 KOLONEL VERMAAK: Nee, glad nie. Hulle</p> <p>25 het almal in dieselfde rigting in geloop.</p>
<p style="text-align: right;">Page 25231</p> <p>1 approximately from the top of the photograph downwards.</p> <p>2 CHAIRPERSON: Or in the other direction –</p> <p>3 MR WESLEY: Or in the other direction,</p> <p>4 depending which way one is facing, of course.</p> <p>5 MS PILLAY: Thank you, Colonel, you were</p> <p>6 answering when things changed, what did you see before the</p> <p>7 actual incident itself?</p> <p>8 KOLONEL VERMAAK: Before the actual</p> <p>9 incident the people were walking, the police line formed at</p> <p>10 the back of them, vehicles were travelling on the gravel</p> <p>11 road. En dit was toe waar die traanrook en die skokgranate</p> <p>12 afgegaan het. As ons kyk na die foto dan sal dit in 'n</p> <p>13 suidelike rigting wees, basies – ek wil amper sê aan die</p> <p>14 onderkant van die foto in daardie hoek, in daardie</p> <p>15 omgewing.</p> <p>16 MS PILLAY: Alright, now before the</p> <p>17 teargas and stun grenades were used, did you hear any</p> <p>18 command or instruction over the radio?</p> <p>19 KOLONEL VERMAAK: Nee, ons het niks op</p> <p>20 die radio gehoor nie.</p> <p>21 MS PILLAY: And what happened then? You</p> <p>22 see the teargas and stun grenades used, what happened next?</p> <p>23 KOLONEL VERMAAK: Direk nadat – wel, ek</p> <p>24 en kaptein Loest en kaptein Oosthuizen het omtrent</p> <p>25 gelyktydig opgemerk, die traanrook en die skokgranaat wat</p>	<p style="text-align: right;">Page 25233</p> <p>1 MS PILLAY: And immediately after the</p> <p>2 teargas and the stun grenades were used, what else did you</p> <p>3 see?</p> <p>4 KOLONEL VERMAAK: Die optoggers het</p> <p>5 onmiddellik omgedraai en op die polisiemanne afgestorm.</p> <p>6 Ons was in die helikopter redelik verbaas om te sien dat op</p> <p>7 daardie stadium het van die polisiemanne weggehardloop van</p> <p>8 die optoggers af. Alhoewel daar toe traanrook gegooi</p> <p>9 was, het ons eers gesien dat die polisiebeamptes</p> <p>10 weggehardloop en toe is waar ons waargeneem het van die</p> <p>11 polisiemanne wat aangeval was. Kaptein Oosthuizen het my</p> <p>12 aandag gevestig op twee voorvalle wat ons gesien het uit</p> <p>13 die lug uit waar die groepe die polisiemanne aangeval het.</p> <p>14 Kaptein Oosthuizen het laag met die helikopter probeer</p> <p>15 inkom om te kyk of hy op so 'n manier dalk die aanvallers</p> <p>16 kan wegkry van die polisiemanne af. Myself en kaptein</p> <p>17 Loest het toe uit die helikopter uit skokgranate en</p> <p>18 traanrookgranate tussen die groepe waar die polisiemanne</p> <p>19 aangeval was, gegooi, in 'n poging om te kyk of ons nie</p> <p>20 hulle lewens kon red nie. Ons kon ook uit die helikopter</p> <p>21 uit, kon ons nie met enige lewendige ammunisie skiet nie</p> <p>22 want dit is 'n baie groot risiko om dan uit 'n helikopter</p> <p>23 uit te skiet. Daar is 'n hele paar aspekte wat jy in</p> <p>24 aanmerking moet neem maar die kans is ook dat jy jou eie</p> <p>25 mense dan kan raakskiet sou jy dit waag om uit die</p>

<p style="text-align: right;">Page 25234</p> <p>1 helikopter uit te probeer skiet het.</p> <p>2 MS PILLAY: Now can I just take you</p> <p>3 slightly back, Colonel, and refer you to paragraph 7 of</p> <p>4 LLL8? Chair, I'm advised that there's another problem, a</p> <p>5 further problem with the translation machinery so I think</p> <p>6 we may need a five minute adjournment.</p> <p>7 CHAIRPERSON: It's becoming habit-forming</p> <p>8 but I suppose we must do our best to ensure that we make as</p> <p>9 much progress as we can. We'll take a five minute</p> <p>10 adjournment. Let's hope that the success that was</p> <p>11 experiencing previously in getting the machine to work will</p> <p>12 be repeated.</p> <p>13 MS PILLAY: Chair, we were just informed</p> <p>14 that I think everything is now okay.</p> <p>15 CHAIRPERSON: You or I must have said the</p> <p>16 right thing, probably you. Carry on.</p> <p>17 MS PILLAY: Thank you, Chair. Colonel, I</p> <p>18 was referring you to paragraph 7 on page 2 of LLL8 and</p> <p>19 specifically where you say from line 2 onwards, "Kaptein</p> <p>20 Oosthuizen het my aandag gevestig op 'n punt waar die groep</p> <p>21 besig was om 'n polisieman aan te val. Sy kollegas het van</p> <p>22 hom af weggehardloop en was dit vir ons in die helikopter</p> <p>23 'n baie vreemde reaksie van die SAPD lede aangesien hulle</p> <p>24 kon sien dat hulle kollega doodgemaak gaan word." Can you</p> <p>25 just explain to us what it is that you observed –</p>	<p style="text-align: right;">Page 25236</p> <p>1 nie, maar dit is wat ons uit die helikopter uit waargeneem</p> <p>2 het en dit was vir ons nogal redelik skokkend gewees om dit</p> <p>3 te ervaar in die helikopter.</p> <p>4 CHAIRPERSON: But you referred to your</p> <p>5 earlier letters where you had spoken about members of the</p> <p>6 service who were involved in POP operations who weren't</p> <p>7 properly, I think you used the word "aangetrek," they</p> <p>8 weren't properly dressed. In other words, they didn't have</p> <p>9 proper clothing, protective clothing I take it you meant.</p> <p>10 KOLONEL VERMAAK: Dis korrek.</p> <p>11 CHAIRPERSON: Now, how do you relate what</p> <p>12 you've now told us about what you saw to what you had said</p> <p>13 previously in the letters to which you referred?</p> <p>14 KOLONEL VERMAAK: Voorsitter, in die</p> <p>15 eerste plek wat die spesifieke gebeure, het ons nie</p> <p>16 waargeneem dat daar traanrook geskiet was wat die eerste</p> <p>17 ding sou wees om jou mense te beskerm nie. Die tweede ding</p> <p>18 was, ons het waargeneem dat weinig van die polisiemanne wat</p> <p>19 daar was die onlustehelms op hulle koppe gehad het en dan</p> <p>20 het ons ook opgemerk dat daar ook nie polisiemanne was wat</p> <p>21 regtig, soos ons dit noem die lang wapens, jou haelgewere,</p> <p>22 by hulle gehad het nie.</p> <p>23 CHAIRPERSON: I'm not sure if I</p> <p>24 understood you completely. Are you saying that members</p> <p>25 should've been equipped with gas masks against, to use when</p>
<p style="text-align: right;">Page 25235</p> <p>1 CHAIRPERSON: Shall I translate that?</p> <p>2 Captain Oosthuizen drew my attention to a point where the</p> <p>3 group was busy attacking a policeman. His colleagues ran</p> <p>4 away from him and it was, for us in the helicopter it was a</p> <p>5 very strange reaction from the SAPS members in view of the</p> <p>6 fact that they could see that their colleague was going to</p> <p>7 be killed. I and – I can't remember, how far did you go?</p> <p>8 MS PILLAY: That's fine thank you, Chair.</p> <p>9 CHAIRPERSON: That's where you got to,</p> <p>10 alright.</p> <p>11 MS PILLAY: Colonel, can I just ask you</p> <p>12 to explain what it is that you mean in these two sentences?</p> <p>13 KOLONEL VERMAAK: Mnr die Voorsitter,</p> <p>14 normaalweg sou jou polisiemanne bymekaar staan en dit kom</p> <p>15 weer terug na my vorige briewe wat ek geskryf het, wat ek</p> <p>16 gesê het partykeer is die polisiemanne wat aangewend word</p> <p>17 vir openbare orde nie altyd korrek aangetrek en bewapen</p> <p>18 nie.</p> <p>19 MS PILLAY: But what you say here,</p> <p>20 Colonel, is that you witnessed police members running away</p> <p>21 from the attack while their colleagues were being killed.</p> <p>22 KOLONEL VERMAAK: Ja, dis positief.</p> <p>23 Hulle het weggehardloop. Daar was van hulle wat naby dit</p> <p>24 was, het van ons oogpunt van die helikopter af, was daar</p> <p>25 nie 'n optrede gewees om die polisiemanne te probeer help</p>	<p style="text-align: right;">Page 25237</p> <p>1 teargas was being employed?</p> <p>2 KOLONEL VERMAAK: Dis reg –</p> <p>3 CHAIRPERSON: And did you see no gas</p> <p>4 masks at all?</p> <p>5 KOLONEL VERMAAK: Negatief, mnr die</p> <p>6 Voorsitter. Ons het opgemerk dat die polisiemanne het nie</p> <p>7 gasmaskers opgehad nie.</p> <p>8 CHAIRPERSON: Then you said they didn't</p> <p>9 have – you were referring to the helmets, as sort of part</p> <p>10 of the riot gear –</p> <p>11 KOLONEL VERMAAK: Dis deel van die riot</p> <p>12 gear.</p> <p>13 CHAIRPERSON: Special helmets.</p> <p>14 KOLONEL VERMAAK: Dis korrek.</p> <p>15 CHAIRPERSON: And they didn't have those</p> <p>16 either?</p> <p>17 KOLONEL VERMAAK: Dis korrek.</p> <p>18 CHAIRPERSON: Did none of them have them?</p> <p>19 KOLONEL VERMAAK: As daar was, was dit</p> <p>20 enkelinge gewees maar die groot meerderheid het nie gehad</p> <p>21 nie.</p> <p>22 CHAIRPERSON: And then you said that no-</p> <p>23 one had, no-one appeared to be armed with a shotgun, is</p> <p>24 that –</p> <p>25 KOLONEL VERMAAK: Dis korrek.</p>

Page 25238

1 CHAIRPERSON: Yes, thank you.
 2 MS PILLAY: Colonel, the members who ran
 3 away from the attack, were they subsequently identified?
 4 KOLONEL VERMAAK: Nee, negatief.
 5 MS PILLAY: And are you aware of any
 6 investigation into their conduct?
 7 KOLONEL VERMAAK: Nee.
 8 MS PILLAY: And were you ever asked for
 9 any statement pertaining to the deaths of the two
 10 policemen?
 11 KOLONEL VERMAAK: Ek het, brigadier Van
 12 Zyl het op 'n stadium na my toe gekom en vir my net gevra
 13 ek moet kortliks net vinnig 'n verklaring vir hom aflê wat
 14 maar hoofsaaklik daarop neergekom het, dit het gehandel oor
 15 die wetgewing rondom die Wet op Reëling van Byeenkomste en
 16 Optogte, so dit was 'n baie kort verklaring gewees want
 17 hulle moes dit dringend inhandig vir 'n borgeansoek.
 18 MS PILLAY: Can we look at that statement
 19 now, Colonel, that's OOO8 and document 12 in your document
 20 bundle.
 21 KOLONEL VERMAAK: Ek het hom.
 22 MS PILLAY: Is this the statement that
 23 you're referring to?
 24 KOLONEL VERMAAK: Dis korrek, ja.
 25 MS PILLAY: Now, you say that Brigadier

Page 25239

1 Van Zyl asked for the statement and that you deposed to the
 2 statement in a hurry. Can you tell us exactly when the
 3 statement was drafted?
 4 KOLONEL VERMAAK: On the 16th. Op die
 5 16de van die 8ste maand 2012, so half-drie die middag gewees.
 6 MS PILLAY: Now we know that at 3:30,
 7 that was just before the operation itself commenced on the
 8 16th and where were you at the time that you drafted the
 9 statement?
 10 KOLONEL VERMAAK: By die JOC.
 11 MS PILLAY: You were at the JOC, so you
 12 had landed and you were at the JOC.
 13 KOLONEL VERMAAK: Dis korrek.
 14 MS PILLAY: And did you write the
 15 statement yourself?
 16 KOLONEL VERMAAK: Dis korrek.
 17 MS PILLAY: Okay, now if we look at the
 18 statement you'll see that, to a large extent, there's a lot
 19 of the detail which we see in LLL8 which does not appear in
 20 this statement. Can you give an explanation for why that
 21 is?
 22 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 23 Ten tye van die diens te Marikana was ek ook boordbemanning
 24 op Robinson R44 as gevolg van my boordbemanning wat siek
 25 was - adjudant-offisier Kleynhans het 'n hartaanval gehad,

Page 25240

1 hy kon nie daar wees nie, Mentz was met verlof op daardie
 2 stadium so dit was ek en sersant Venter wat op daardie dag
 3 ontplooi was. So ek was tussen die vlieg, die
 4 terugvoering, die hervul met brandstof op die helikopter,
 5 het ek vinnig net die verklaring geskryf met die bedoeling
 6 dit gaan meer oor die uiteensetting dat die Wet op Reëling
 7 van Byeenkomste en Optogte nie nagekom was nie.
 8 MS PILLAY: Now I notice in OOO8 that
 9 there's no mention made of the use of teargas or stun
 10 grenades which precipitated the conduct of the strikers -
 11 KOLONEL VERMAAK: Dis korrek -
 12 MS PILLAY: - why?
 13 KOLONEL VERMAAK: Dit kom maar net weer
 14 eens daarnatoe dat ek op daardie stadium, sy versoek was ek
 15 moet 'n verklaring gee, 'n uiteensetting op die Wet op
 16 Reëling van Byeenkomste en Optogte insover my kennis strek,
 17 dat daar geen aansoek ingedien was vir die hou van 'n optog
 18 nie en dat daar ook geen vooraf beplanning vergadering was
 19 waar die optog sou goedgekeur geword het nie.
 20 CHAIRPERSON: I see you set all that out
 21 in the third paragraph of this statement, about there
 22 should have been an application seven days beforehand -
 23 KOLONEL VERMAAK: Dis korrek.
 24 CHAIRPERSON: - and so on.
 25 KOLONEL VERMAAK: Dis korrek.

Page 25241

1 MS PILLAY: Can we then go back to LLL8,
 2 Colonel, and just to your use of the 20 teargas and 10 stun
 3 grenades? Now, can you tell us what happened after you
 4 threw the teargas and the stun grenades?
 5 [12:00] KOLONEL VERMAAK: Nadat ons dit gegooi
 6 het, het die aanvallers wegbeweeg van die polisiemanne af.
 7 Hulle het oorbeweeg oor die grondpad. Dit sal nou wees in
 8 'n oostelike rigting as ek terugdink aan die foto wat ons
 9 gesien het.
 10 CHAIRPERSON: This is the gravel road
 11 which runs from right to left or left to right whichever
 12 way you look at this, on the - about, it's the lower
 13 portion of the photograph probably about a third of the way
 14 up and it's a gravel road. There's a vehicle on the
 15 photograph -
 16 KOLONEL VERMAAK: Dis korrek.
 17 CHAIRPERSON: It's very close to the
 18 letter N.
 19 KOLONEL VERMAAK: Dis korrek.
 20 CHAIRPERSON: Indicating the north, so
 21 that's the gravel road that they crossed.
 22 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 23 MS PILLAY: And just -
 24 CHAIRPERSON: In the direction of the
 25 river there, I take it? I see there's a river there right

<p style="text-align: right;">Page 25242</p> <p>1 near the –</p> <p>2 KOLONEL VERMAAK: Na die oostekant toe,</p> <p>3 ja.</p> <p>4 CHAIRPERSON: - the head of the arrow.</p> <p>5 KOLONEL VERMAAK: Dis korrek.</p> <p>6 CHAIRPERSON: On the eastern side.</p> <p>7 KOLONEL VERMAAK: Dis korrek, yes.</p> <p>8 MS PILLAY: Now what else did you see</p> <p>9 from the helicopter at this stage?</p> <p>10 KOLONEL VERMAAK: Toe ons op final</p> <p>11 approach gaan om te gaan land, het ek opgemerk dat 'n</p> <p>12 persoon in 'n wit oorpak deur van die ander optoggers</p> <p>13 soort van gesleep-dra word, waar hulle in die rigting van</p> <p>14 dan die pyl se punt beweeg het. Ons het dadelik geland.</p> <p>15 Ek het onmiddellik na die toneel toe gehardloop, wat ek</p> <p>16 agterna dan nou besef of gesien het dat dit adjudant-</p> <p>17 offisier Monene was.</p> <p>18 MS PILLAY: Colonel, before we get to</p> <p>19 what you saw once you landed, just from the air, apart from</p> <p>20 the injured person is there anything else that you saw?</p> <p>21 KOLONEL VERMAAK: Nee, hoofsaaklik was</p> <p>22 dit maar die mense wat toe weggehardloop het van die toneel</p> <p>23 af weg, waar ons gekonsentreer het op die twee polisiemanne</p> <p>24 wat aangeval was.</p> <p>25 MS PILLAY: Alright, so once you landed</p>	<p style="text-align: right;">Page 25244</p> <p>1 net daardie lede.</p> <p>2 MS PILLAY: And you're saying that you</p> <p>3 didn't know who these members were?</p> <p>4 KOLONEL VERMAAK: Nee, ek het nie geweet</p> <p>5 wie hulle is nie.</p> <p>6 MS PILLAY: Now once you had gathered</p> <p>7 these members of Rustenburg POP and TRT members, what</p> <p>8 happened next?</p> <p>9 KOLONEL VERMAAK: Ons het die groep</p> <p>10 agtervolg. Hulle het verder weggehardloop deur die spruit</p> <p>11 wat 'n laagte vorm. As jy deur die spruit gaan op die</p> <p>12 regterkant van die informele nedersetting het ons toe</p> <p>13 opgemerk dat daar – mnr die Voorsitter, daar is iets wat ek</p> <p>14 vergeet het om te noem. Toe ons gevlieg het, het ons</p> <p>15 persone opgemerk met haelgewere en 'n R5 wat vermoedelik</p> <p>16 van die polisiemanne af weggevat was.</p> <p>17 MS PILLAY: Can you just tell us exactly</p> <p>18 what did you see? How many people were involved and what</p> <p>19 is it that they had?</p> <p>20 KOLONEL VERMAAK: Hulle was in die groep</p> <p>21 gewees, dis deel van 'n groep maar hulle was nie baie naby</p> <p>22 aan mekaar nie, hulle was redelik verspreid gewees toe ons</p> <p>23 dit opgemerk het. Hulle was in die groep basies wat ons</p> <p>24 gesien het waar die persoon met die wit oorpak na toe, waar</p> <p>25 hulle hom gesleep het.</p>
<p style="text-align: right;">Page 25243</p> <p>1 you said that you went to where Warrant Officer Monene was.</p> <p>2 KOLONEL VERMAAK: Dis korrek.</p> <p>3 MS PILLAY: And what did you see?</p> <p>4 KOLONEL VERMAAK: Ek het dadelik opgemerk</p> <p>5 dat hy noodlottige wonde opgedoen het. Generaal Mpembe het</p> <p>6 daar aangekom, hy was in 'n staat van skok gewees. Dit was</p> <p>7 vir my op daardie stadium baie duidelik dat hy soort van</p> <p>8 beheer verloor het oor die lede want as gevolg van die feit</p> <p>9 dat al die lede het rond gestaan, jy kon dadelik waarneem</p> <p>10 daar's geen definitiewe persoon wat bevel en beheer vat oor</p> <p>11 hierdie lede nie want Generaal Mpembe het na my toe</p> <p>12 gehardloop en vir my gesê sy polisiemanne is dood, sy</p> <p>13 polisiemanne is dood, en ek het hom toe probeer kalmeer.</p> <p>14 Ek het vir kaptein Loest gevra hy moet vir my polisiemanne</p> <p>15 kry wat saam met my kan gaan daar waar ek gesien het dat</p> <p>16 die persone die persoon met die wit oorpak gesleep het.</p> <p>17 MS PILLAY: So who did you, which members</p> <p>18 did you gather to accompany you?</p> <p>19 KOLONEL VERMAAK: Ek ken hulle glad nie,</p> <p>20 omdat ek nie elke dag saam met die verskillende takke werk</p> <p>21 nie weet ek net dit was TRT en van POP van Rustenburg wat</p> <p>22 daar was.</p> <p>23 MS PILLAY: Were there any NIU members</p> <p>24 that accompanied you?</p> <p>25 KOLONEL VERMAAK: Nee, glad nie. Dit was</p>	<p style="text-align: right;">Page 25245</p> <p>1 MS PILLAY: And at the time that you saw</p> <p>2 this, you were still in the air, this was before you had</p> <p>3 landed?</p> <p>4 KOLONEL VERMAAK: Dis korrek, ja. Ons</p> <p>5 was nog steeds in die lug. Om terug te kom na die</p> <p>6 opvolgoperasie, toe ons nader aan die spruit kom was daar</p> <p>7 van die oorkant af, was daar op ons geskiet met 'n</p> <p>8 haelgeweer en 'n R5. Die lede of 'n lid wat saam met my</p> <p>9 was het die vuur beantwoord, maar die groep het tussen die</p> <p>10 huise verdwyn. Ons is toe deur die spruit en toe ons deur</p> <p>11 die spruit is dat ons weer op gelyk grond kom het ons</p> <p>12 opgemerk dat daar 'n wit – ag, 'n persoon in 'n wit oorpak</p> <p>13 op die grond lê.</p> <p>14 MS PILLAY: Colonel, before we just break</p> <p>15 down the testimony that you just gave us now, if I can ask</p> <p>16 that we put up the transcript for day 103. I just want to</p> <p>17 refer you to General Mpembe's testimony, page 11093 from</p> <p>18 line 13 onwards where he says, "Chairperson, the emotions</p> <p>19 were extremely high but as a senior officer at the scene, I</p> <p>20 did take control, cool up the members and I said that the</p> <p>21 members should not follow the protesters because by that</p> <p>22 time I could see that there is no more any attack and I</p> <p>23 said that we should withdraw and we go back at the JOC."</p> <p>24 Now this was General Mpembe's testimony on what occurred</p> <p>25 immediately after the attack on Warrant Officer Monene and</p>

<p style="text-align: right;">Page 25246</p> <p>1 Lepaaku.</p> <p>2 KOLONEL VERMAAK: Ja. Mnr die</p> <p>3 Voorsitter, ek stem nie daarmee saam nie. Generaal Mpembe</p> <p>4 was, heeltemal geskokte toestand gewees. Soos ek reeds</p> <p>5 vermeld het, het hy tussen die lede rondgehardloop en net</p> <p>6 die heelyd gesê sy polisiemanne is dood, sy polisiemanne</p> <p>7 is dood. Ek het na hom toe gegaan en vir hom gesê ek gaan</p> <p>8 die groep wat die persoon in die wit oorpak sleep, gaan ek</p> <p>9 met 'n groep polisiemanne volg want ek sou daardie toneel</p> <p>10 ook beskerm, as deel gesien het as 'n misdaadtoneel, maar</p> <p>11 weens die feit dat hy in so geskokte toestand was, het ek</p> <p>12 kaptein Loest gevra om vir my die polisiemanne bymekaar te</p> <p>13 maak en ons het toe die groep geagtervolg. Ek het kaptein</p> <p>14 Loest gelos agter by die toneel. Hy het intussen die lede</p> <p>15 bymekaar gemaak sover as wat hy kon.</p> <p>16 MS PILLAY: Did General Mpembe issue an</p> <p>17 instruction that members should not follow the protesters?</p> <p>18 KOLONEL VERMAAK: Nee, ek is nie bewus</p> <p>19 van dit nie.</p> <p>20 MS PILLAY: Alright, Colonel, if we can –</p> <p>21 CHAIRPERSON: I'm sorry to interrupt you.</p> <p>22 Is it possible that he gave such an order before you landed</p> <p>23 and came there?</p> <p>24 KOLONEL VERMAAK: Mnr die Voorsitter, dis</p> <p>25 moontlik –</p>	<p style="text-align: right;">Page 25248</p> <p>1 place sometime later after you'd been to the river and come</p> <p>2 back.</p> <p>3 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>4 MS PILLAY: Colonel, may we pick up then</p> <p>5 from where you testified that the strikers were shooting at</p> <p>6 you and the group that you were part of?</p> <p>7 KOLONEL VERMAAK: Toe die lid saam met my</p> <p>8 teruggeskiet het op die persoon wat ons gesien het wat na</p> <p>9 ons toe skiet, het daardie persoon en die ander deur die</p> <p>10 gebied beweeg tussen die huise in.</p> <p>11 MS PILLAY: Colonel, may I ask that we</p> <p>12 put up OOO6, exhibit OOO6? So will you confirm that this</p> <p>13 is a photograph, an annotated photograph that was prepared</p> <p>14 by you?</p> <p>15 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>16 MS PILLAY: And the portion of the</p> <p>17 photograph towards the dead centre of the photograph where</p> <p>18 it's written "Body" is where we later find Mr Sokanyile's</p> <p>19 body?</p> <p>20 KOLONEL VERMAAK: Dis positief.</p> <p>21 MS PILLAY: Okay, so can you just explain</p> <p>22 with reference to this photograph where you were and where</p> <p>23 the persons who were shooting at you were?</p> <p>24 KOLONEL VERMAAK: As ons op die foto kyk,</p> <p>25 daar waar ek nou lig is dit min of meer die omgewing waar</p>
<p style="text-align: right;">Page 25247</p> <p>1 CHAIRPERSON: I understand –</p> <p>2 KOLONEL VERMAAK: - dat hy dit kon gegee</p> <p>3 het. Ons het nie op die radio enige sodanige instruksie</p> <p>4 gehoor nie. Dat hy dit miskien verbaal aan lede rondom hom</p> <p>5 waar hy op die grond was kon gegee het, dit is 'n</p> <p>6 moontlikheid.</p> <p>7 CHAIRPERSON: Because you see in the next</p> <p>8 paragraph, the next section of this transcript that's on</p> <p>9 the screen at the moment, he refers to your telling him,</p> <p>10 approaching him and telling him his life is in danger and I</p> <p>11 understand from what you're going to tell us now, which I</p> <p>12 think I understand from the statement that's before us,</p> <p>13 that you only said that to him when you came back from the</p> <p>14 spruit, the river.</p> <p>15 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>16 CHAIRPERSON: So there is a gap here.</p> <p>17 KOLONEL VERMAAK: Dis korrek.</p> <p>18 CHAIRPERSON: And it may well be that</p> <p>19 what he's telling us from a chronological point of view,</p> <p>20 it's a bit disjointed. So it is possible he gave that</p> <p>21 order before you arrived on the scene.</p> <p>22 KOLONEL VERMAAK: Dis moontlik.</p> <p>23 CHAIRPERSON: Of course we're going – and</p> <p>24 what he talks about in lines 19 and following is what,</p> <p>25 namely that you told him his life was in danger, that took</p>	<p style="text-align: right;">Page 25249</p> <p>1 die persone was of persoon was wat na ons toe geskiet het.</p> <p>2 Ons was –</p> <p>3 MS PILLAY: Can I just for the purposes</p> <p>4 of the record, you're pointing now to the end of the arrow</p> <p>5 which appears –</p> <p>6 KOLONEL VERMAAK: Dis korrek, na die</p> <p>7 einde van die punt toe. Hier aan die begin, daar waar</p> <p>8 staan SAPS members, dit is min of meer waar ons op daardie</p> <p>9 stadium was.</p> <p>10 MS PILLAY: And as I understand your</p> <p>11 testimony, you were shooting in the direction of the arrow.</p> <p>12 KOLONEL VERMAAK: Dit is positief.</p> <p>13 MS PILLAY: Did any, did you or anyone of</p> <p>14 the members who were with you shoot in any other direction</p> <p>15 in that area?</p> <p>16 KOLONEL VERMAAK: Nee, glad nie. Hoekom</p> <p>17 ek dit kan sê is, ek het seker gemaak toe die</p> <p>18 polisiebeampte wat saam met my geskiet het, dat hy in 'n</p> <p>19 rigting skiet waar daar nie huise is nie. So ons het glad</p> <p>20 nie in 'n ander rigting geskiet nie weens die feit dat daar</p> <p>21 huise aan die agterkant was.</p> <p>22 MS PILLAY: Alright, so after you shot in</p> <p>23 the direction of the shottist, what happened next?</p> <p>24 KOLONEL VERMAAK: Ons het toe deur die</p> <p>25 spruitjie beweeg en toe het ons die liggaam met die wit</p>

<p style="text-align: right;">Page 25250</p> <p>1 oorpak, het ons toe daar by daardie punt gekry.</p> <p>2 MS PILLAY: Now before you had crossed</p> <p>3 the stream, did you see anything, did you see the body of</p> <p>4 Mr Sokanyile?</p> <p>5 KOLONEL VERMAAK: Nee, glad nie.</p> <p>6 MS PILLAY: And when was the first time</p> <p>7 when you saw the body?</p> <p>8 KOLONEL VERMAAK: Toe ons deur die stroom</p> <p>9 op die hoogtetjie kom, toe sien ons sy liggaam daar lê.</p> <p>10 MS PILLAY: And so what happened next?</p> <p>11 CHAIRPERSON: Before you move on, sorry</p> <p>12 to interrupt. From the time when, as you put it, the</p> <p>13 members who were with you returned the fire, from that time</p> <p>14 till the time you found the body, how, what was lapse in</p> <p>15 time?</p> <p>16 KOLONEL VERMAAK: Mnr die Voorsitter, dit</p> <p>17 was minute gewees want ons het vinnig beweeg.</p> <p>18 CHAIRPERSON: I assume it was minutes,</p> <p>19 but how many minutes roughly?</p> <p>20 KOLONEL VERMAAK: Omtrent twee, drie</p> <p>21 minute op die uiterste.</p> <p>22 CHAIRPERSON: I see, thank you.</p> <p>23 MS PILLAY: And once you had come across</p> <p>24 the body of Mr Sokanyile, what happened next?</p> <p>25 KOLONEL VERMAAK: Ek het onmiddellik van</p>	<p style="text-align: right;">Page 25252</p> <p>1 KOLONEL VERMAAK: Toe ons terug loop het</p> <p>2 ek hulle gevra van watter eenheid af hulle is, hulle het</p> <p>3 vir my gesê dat hulle van Rustenburg TRT is. Soos ek gesê</p> <p>4 het, was hulle baie ontsteld gewees. Hulle het toe 'n</p> <p>5 opmerking teenoor my gemaak waarin hulle gesê het hulle</p> <p>6 neem generaal Mpembe kwalik dat die polisiemanne dood is en</p> <p>7 dat hy nog vandag langs daai polisiemanne op die grond gaan</p> <p>8 lê.</p> <p>9 MS PILLAY: Can I just ask, Colonel, the</p> <p>10 members that were with you, the TRT members that were with</p> <p>11 you, were they armed?</p> <p>12 KOLONEL VERMAAK: Ja, dis positief.</p> <p>13 MS PILLAY: And what weapons did they</p> <p>14 carry?</p> <p>15 KOLONEL VERMAAK: R5 en 9 millimeter</p> <p>16 pistole.</p> <p>17 MS PILLAY: And at the point where the</p> <p>18 members were firing at the shottist, what weapons were they</p> <p>19 using?</p> <p>20 KOLONEL VERMAAK: R5.</p> <p>21 MS PILLAY: Alright and when you heard</p> <p>22 the TRT members saying that General Mpembe would lie with</p> <p>23 the deceased policeman, did you take the threat seriously?</p> <p>24 KOLONEL VERMAAK: Ek het dit baie ernstig</p> <p>25 opgeneem want hulle het gesê dat generaal Mpembe by die</p>
<p style="text-align: right;">Page 25251</p> <p>1 die lede daar geplaas om vir my daardie toneel te bewaar.</p> <p>2 Aanvanklik wou van hulle deur die huise gaan en 'n</p> <p>3 opvolgoperasie loods, ek het dit gestop want ek was bang</p> <p>4 dat ons in 'n hinderlaag gelei kan word as ons tussen die</p> <p>5 huise inbeweeg. Nadat ek die groepie daar gelos het, wou</p> <p>6 ek terug, het ons terugbeweeg met die doel om 'n</p> <p>7 pantservoertuig te kry om dan uit te stuur na die</p> <p>8 polisiemanne toe om dan daardie toneel vir ons te bewaar.</p> <p>9 Ek en 'n paar van die lede het terugbeweeg, ek dink dit was</p> <p>10 so vier lede gewees wat terugbeweeg het en hulle was baie</p> <p>11 ontsteld gewees.</p> <p>12 MS PILLAY: Before we deal with that,</p> <p>13 Colonel, the four members that were with you, can you –</p> <p>14 were you able to identify the four members?</p> <p>15 KOLONEL VERMAAK: Nee, ek ken hulle glad</p> <p>16 nie. Ek ken hulle glad nie en ek het op daardie stadium</p> <p>17 ook nie enigsins ag geslaan op hulle naamplaatjies nie want</p> <p>18 dit was, dit was 'n aaneenlopende ding en mens het te doene</p> <p>19 hier met polisiemanne wat dood is jy het te doene met 'n</p> <p>20 persoon wat aan die anderkant van die spruit lê wat dood</p> <p>21 is, so ek het nie eers ag geslaan op hulle naamplaatjies</p> <p>22 nie.</p> <p>23 MS PILLAY: Alright, so as you and the</p> <p>24 four other members walked back towards the initial scene of</p> <p>25 the 13th, what happened?</p>	<p style="text-align: right;">Page 25253</p> <p>1 treinspoor hulle opdrag gegee ht om hulle wapens, hulle</p> <p>2 langwapens, dis nou die haelgewere en die R5'e, te gaan</p> <p>3 bêre in die Nyalas, soos hulle dit gestel het, sodat hulle</p> <p>4 nie die optoggangers kan provoke nie daar waar hulle by die</p> <p>5 spoor was. So dit was vir my 'n baie ernstige aantygung of</p> <p>6 opmerking gewees. Ek het 'n entjie van hulle af wegbeweeg</p> <p>7 en ek het dadelik die Provinsiale Kommissaris geskakel. Ek</p> <p>8 het ook net nadat ons geland het omtrent nadat ek by A/O</p> <p>9 Monene was, het ek ook die Provinsiale Kommissaris geskakel</p> <p>10 en aan haar meegedeel, ek het die woord gebruik, "chaos"</p> <p>11 was. Ek het vir haar gesê hier is chaos en hier is twee</p> <p>12 polisiemanne dood.</p> <p>13 [12:20] Ons het gesukkel met die selfoon opvangs, maar ek</p> <p>14 het haar gevra waar sy is en sy het vir my gesê hulle ry</p> <p>15 nou net by Potch in, maar hulle draai onmiddellik weer om.</p> <p>16 Toe ons terugstap –</p> <p>17 MS PILLAY: Colonel, if I can just</p> <p>18 interrupt you there and take you to exhibit OOO9, which is</p> <p>19 – and that's document 14 in your bundle –</p> <p>20 KOLONEL VERMAAK: Ek het hom.</p> <p>21 MS PILLAY: Now you'll confirm, Colonel,</p> <p>22 that this is your telephone records?</p> <p>23 KOLONEL VERMAAK: Dis korrek.</p> <p>24 MS PILLAY: If you can go to page 3 of</p> <p>25 that document, towards the middle of the page – can I just</p>

<p style="text-align: right;">Page 25254</p> <p>1 ask you the inscriptions that appear on, the handwritten 2 notes on the side, whose notes are those? 3 KOLONEL VERMAAK: Dit is myne. 4 MS PILLAY: Alright, so if we can go to 5 where you indicate that the calls were to General Mbombo – 6 KOLONEL VERMAAK: Ja? 7 MS PILLAY: We see that the first call is 8 on the 13th at 14:34. Do you see that? 9 KOLONEL VERMAAK: Dis korrek. 10 MS PILLAY: And that conversation lasted 11 for a minute and 11 seconds. 12 KOLONEL VERMAAK: Dis die eerste insident 13 waar ek gebel het en aan haar gerapporteer het van die twee 14 polisiebeamptes wat dood is. 15 MS PILLAY: Okay, so that conversation 16 took place shortly after you landed the first – 17 KOLONEL VERMAAK: Dis korrek. 18 MS PILLAY: - shortly after you landed. 19 KOLONEL VERMAAK: Dis korrek. 20 MS PILLAY: Alright, and then we have a 21 second conversation that took place at 14:44 for 51 22 seconds. 23 KOLONEL VERMAAK: Dit is ongeveer die tyd 24 wat ons teruggekome het – nee, nou net sien. Die eerste een 25 is 14:34 en volgende een 14:44, dit is die tyd wat ons</p>	<p style="text-align: right;">Page 25256</p> <p>1 KOLONEL VERMAAK: Daar was die twee 2 spesifieke oproepe waar ek eers gerapporteer het van wat 3 daar gebeur het vinnig, en dan die tweede insident waar ek 4 gebel het is waar ek haar meegedeel het van die bedreiging 5 teen Generaal Mpembe se lewe en dan vir haar gevra het of 6 dit haar goedkeuring wegdra dat ek hom verwyder. 7 MS PILLAY: Now did General Mbombo give 8 you the permission to remove General Mpembe? 9 KOLONEL VERMAAK: Ja, sy het gesê dis, sy 10 gaan akkoord. 11 CHAIRPERSON: I'm sorry to interrupt you. 12 I see you actually had, it looks like four telephone 13 conversations with her. The first one was at 14:34. 14 That's the one for a minute and 11 seconds. That's where 15 you told her two policemen had been killed. 16 KOLONEL VERMAAK: Dis korrek. 17 CHAIRPERSON: Then 10 minutes later you 18 had a conversation with her for 51 seconds. 19 KOLONEL VERMAAK: Dis korrek. 20 CHAIRPERSON: Three minutes after that, 21 almost three and a half minutes after that you had another 22 conversation with her for one minute 32 seconds, and then 23 six minutes thereafter you had another conversation with 24 her for one minute 47 seconds. So you had three 25 conversations –</p>
<p style="text-align: right;">Page 25255</p> <p>1 terugbeweeg het van die spruit af. 2 MS PILLAY: Alright, so 14:44 is when you 3 were walking back with your TRT members? 4 KOLONEL VERMAAK: Dis korrek. 5 MS PILLAY: And they had indicated to you 6 that they were making certain threats against General 7 Mpembe. 8 KOLONEL VERMAAK: Dis korrek. 9 MS PILLAY: So what transpired during 10 that telephone call with the Provincial Commissioner? 11 KOLONEL VERMAAK: Ek het aan haar genoem 12 wat die lede my meegedeel het en ek het vir haar gesê dat 13 ek baie bekommerd is oor die veiligheid van die Generaal en 14 het ek haar gevra of dit haar goedkeuring wegdra as ek die 15 Generaal vir sy eie veiligheid sou verwyder na die JOC toe 16 by Lonmin Myn. 17 MS PILLAY: Now are you clear, Colonel, 18 that you conveyed to General Mbombo that there were members 19 who were making threats against General Mpembe? 20 KOLONEL VERMAAK: Verseker, ja. 21 MS PILLAY: Because General Mbombo 22 testified before this Commission that she understood you to 23 be complaining about General Mpembe's demeanour, but that 24 you did not specifically tell her about threats to General 25 Mpembe.</p>	<p style="text-align: right;">Page 25257</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 CHAIRPERSON: - after the initial one 3 where you reported the death of the two policemen. 4 KOLONEL VERMAAK: Dis korrek. 5 CHAIRPERSON: Now was that due to faulty 6 connection with the – 7 KOLONEL VERMAAK: Dis korrek, Voorsitter. 8 Dit was waar ons gesukkel het waar ons in die leegte was en 9 toe moes ons wag dat ek, u weet, weer op 'n hoogte kom waar 10 ek behoorlike selfoon opvangs het, en die laaste oproep wat 11 ek gemaak het is dat ek aan haar gerapporteer het dat ek 12 hom verwyder het en dat hy veilig is. 13 MS PILLAY: Now once you had arrived back 14 at the scene of the initial violence, what did you do? 15 KOLONEL VERMAAK: Ek het Kaptein Loest 16 gevra om vir my twee lede te kry met 'n Nyala pantser 17 voertuig om my behulpsaam te wees om die Generaal weg te 18 vat. Ek het na, eers na hom toe gestap. Ek het hom 19 meegedeel van die dreigement teen sy lewe en toe het ek 20 gereël vir die Nyala en ek het saam met hom gestap tot by 21 die Nyala waar hy vrywilliglik in die Nyala ingeklim het. 22 Die Nyala het weggetrek en hulle het hom gaan aflaai by die 23 JOC. 24 MS PILLAY: Now when you told General 25 Mpembe about the threats to his life what was his response?</p>

<p style="text-align: right;">Page 25258</p> <p>1 KOLONEL VERMAAK: Hy het, hy was eintlik, 2 soos ek vir u sê hy was in so 'n geskokte toestand dat hy 3 net gevolg het wat ek vir hom gesê het. Ek het vir hom 4 gesê daar is 'n dreigement, ek het met die PK gepraat en hy 5 moet saam met my kom dat ons hom vir sy veiligheid kan 6 verwyder. So was nie rêrig enige, van sy kant af enige 7 kommentaar of weerstand of enigiets in daardie lyn nie. 8 MS PILLAY: Okay Colonel, can I refer you 9 once again to day 103, the transcript of day 103, page 10 11093 – 11 CHAIRPERSON: Day 103, is it? 12 MS PILLAY: That's correct, Chair. 13 CHAIRPERSON: Do we have the right page 14 now? You say 11093? 15 MS PILLAY: Ja, I think if we go down to 16 line 19, yes, where General Mpmembe says, "I need to just 17 state at the moment that I was approached by Lieutenant 18 Colonel Vermaak. Colonel Vermaak said that at the moment 19 my life is in danger. In Afrikaans, 'Generaal se lewe is 20 in gevaar,' and I said back to him, 'Salmon, ek gaan nie 21 nou loop nie, ek sal moet eers die toneel oorhandig aan 22 Brigadier van Zyl.'" Now what is your comment on that 23 testimony? 24 KOLONEL VERMAAK: Nee, hy het dit nie vir 25 my gesê nie. Hy het onmiddellik saam met my beweeg.</p>	<p style="text-align: right;">Page 25260</p> <p>1 exhibit, a new exhibit, which is one of the pictures – 2 before we put it up on the screen, Chair, if we could 3 just – 4 CHAIRPERSON: Will this be OOO14? 5 MS PILLAY: It will be OOO14. 6 CHAIRPERSON: And is a warning required? 7 MS PILLAY: I think it is required, 8 Chair. 9 CHAIRPERSON: Yes, we're going to be 10 shown a photograph – what was the gentleman's name again, 11 the deceased? 12 MS PILLAY: Mr Sokanyile. 13 CHAIRPERSON: Sokanyile. We're going to 14 be shown a picture of the late Mr Sokanyile where he was 15 lying in the veld after the shooting incident on the 13th. 16 Those who knew him and those who were close to him and his 17 relatives and friends, loved ones, will I think experience 18 some emotional distress at seeing this photograph. So I 19 give them an opportunity, if any of them are here, 20 opportunity to leave the chamber before this picture is 21 screen. So I ask that the photograph not be screened until 22 a minute has expired from now. 23 MS PILLAY: Chair, we will shortly 24 thereafter be referring to a slide in exhibit L which shows 25 Mr Jokanisi, Mr Mati and Mr Sokanyile, so if the warning</p>
<p style="text-align: right;">Page 25259</p> <p>1 MS PILLAY: Alright, so once General 2 Mpmembe was removed from the scene, what happened next? 3 KOLONEL VERMAAK: Nadat ek hom weggevat 4 het, of laat wegneem het, het ek agtergebly op die toneel. 5 Ek het Kaptein Loest gevra dat hy my moet help dat ons die 6 lede bymekaar kan kry in hulle verskillende seksies. Op 7 daardie stadium was ek nie bewus van ander ontplooiings van 8 ander provinsies of iets af nie. Ek het aangeneem dis maar 9 alles van ons eie provinsie af. Die doel was om "roll 10 call" te hou om te kyk dat al ons polisiemanne bymekaar is, 11 dat daar nie moontlik een kan vermis raak of iemand beseer 12 is wat ons nie van bewus is nie. Ek en Kolonel Moolman van 13 Regsdienste het toe weer teruggegaan na die toneel toe waar 14 die persoon met die wit oorpak gelê het en net seker te 15 maak dat die toneel bewaar word. Daarna het ons 16 terugbeweeg na die aanvanklike toneel toe. Brigadier 17 Calitz-hulle het opgedaag daar en Brigadier van Zyl, waarop 18 ek die toneel aan hulle oorhandig het. 19 MS PILLAY: Okay Colonel, can we just go 20 back to the point where you can Colonel Moolman visited the 21 scene where Mr Sokanyile's body was. Did you take pictures 22 of the body? 23 KOLONEL VERMAAK: Dis korrek. Ek het 24 foto's van hom geneem. 25 MS PILLAY: Chair, may I just hand up an</p>	<p style="text-align: right;">Page 25261</p> <p>1 could be a more general one. 2 CHAIRPERSON: Yes, I've been asked to 3 amplify the warning to say that relatives and loved ones of 4 all those strikers who were killed on the 13th, there are 5 going to be pictures, or there is going to be a picture 6 from exhibit L which may cause them emotional stress as 7 well, so I give them an opportunity to leave. I did see 8 some people leave already. Well, the minute has expired 9 from the time I first said it would start and we've seen 10 people leaving. If there's anyone else who wants to leave, 11 they must do so now. No, I think we can now carry on. 12 [Microphone off, inaudible] the exhibit OOO14. 13 MS PILLAY: Thank you, Chair, OOO14. 14 Colonel, if we can – 15 CHAIRPERSON: How do I describe it? 16 Photograph of Mr – 17 MS PILLAY: Mr Sokanyile. 18 CHAIRPERSON: Oh, I see, S-O-K-A-N-Y-I-L- 19 E, taken by – did you take the photograph, Lieutenant 20 Colonel? 21 KOLONEL VERMAAK: Dis reg, mnr die 22 Voorsitter. 23 CHAIRPERSON: - on the 13th of August. 24 Yes, I've made a note to that effect in my notebook. 25 MS PILLAY: Thank you, Chair. Colonel,</p>

Page 25262

1 the position in which Mr Sokanyile is lying in this
2 picture, is that the position in which you found him
3 initially before you left the scene?
4 KOLONEL VERMAAK: Dis korrek, Voorsitter.
5 MS PILLAY: Ad this is the same position
6 in which you found him when you came back to the scene?
7 KOLONEL VERMAAK: Dis korrek.
8 MS PILLAY: And that's the point at which
9 you took this photograph?
10 KOLONEL VERMAAK: Dis korrek, Voorsitter.
11 MS PILLAY: And who did you hand the
12 scene over to?
13 KOLONEL VERMAAK: Die spesifieke een –
14 MS PILLAY: That's right –
15 KOLONEL VERMAAK: - het ek aan die lede
16 wat ek met die, aanvanklik daar gelos het, het ek vir hulle
17 die toneel gegee en vir hulle gevra hulle moet hom bewaar
18 totdat die LCRC mense en die speurders dan by hulle oorvat.
19 MS PILLAY: And you were satisfied that
20 Mr Sokanyile was in fact dead?
21 KOLONEL VERMAAK: Ja, dis positief. Ek
22 het self gevoel of daar enige pols of iets was. Daar niks
23 gewees nie.
24 CHAIRPERSON: What exactly did you – we
25 can see from the photograph there was something or some

Page 25263

1 things under the body. Can you tell us what they were?
2 KOLONEL VERMAAK: Voorsitter, ja, onder
3 hom het 'n, lyk soos 'n knopkierie wat daar gelê het en dan
4 was daar ook 'n panga wat onder hom gelê het. Daar is nog
5 foto's wat van die ander kant af geneem is, ek weet nie of
6 hulle beskikbaar is nie, waar ook duidelik kan gesien word
7 waar die panga se punt, sal ek nou sê aan die ander kant,
8 aan sy linkerkant uitgesteek het.
9 CHAIRPERSON: Thank you.
10 MS PILLAY: Now Colonel, may I refer you
11 to exhibit L, slide 56, which is a slide in the SAPS
12 presentation where they seek to indicate the strikers who
13 were killed on the 13th. Now if you look, ignoring for a
14 minute the deceased bodies of Mr Mati and Mr Sokanyile - Mr
15 Jokanisi, if you look at Mr Sokanyile we see that he is now
16 no longer lying on his stomach, but is in fact lying on his
17 back. Do you know when this picture was taken?
18 KOLONEL VERMAAK: Nee, glad nie.
19 MS PILLAY: And you can confirm that by
20 the time you left the body of Mr Sokanyile that he was
21 still lying on his stomach?
22 KOLONEL VERMAAK: Dis positief,
23 Voorsitter. Hy het gelê soos wat ons op die foto gesien
24 het. Die foto wat ek nou daar sien is onbekend aan my.
25 MS PILLAY: Thank you, Colonel. Colonel,

Page 25264

1 if we can then go to 0007, which is document 10 in the
2 bundle –
3 COMMISSIONER HEMRAJ: Before you get
4 there, Colonel, if you'll just go back to the photograph
5 that you took. Did you notice that his hand was around the
6 handle of one of the weapons when you took the photograph
7 that we have as 00014?
8 KOLONEL VERMAAK: Mnr die Voorsitter, sy
9 regterhand was nie, waar ek die foto geneem het was nie om
10 die panga gewees nie.
11 CHAIRPERSON: So whoever took that
12 photograph which is part of exhibit L, or not necessarily
13 the person who took the photograph, but either the person
14 who took the photograph or someone else put the panga into
15 his hand before the photograph was taken?
16 KOLONEL VERMAAK: Voorsitter ja, ek sien
17 – ek moet aanneem dit is moontlik, of dit kan so wees want
18 die foto wat ek geneem het –
19 CHAIRPERSON: [Microphone off, inaudible]
20 anything else?
21 KOLONEL VERMAAK: Dit kan nie iets anders
22 wees nie. Die foto wat ek –
23 CHAIRPERSON: I understand you say that
24 when you took your photograph –
25 KOLONEL VERMAAK: Dis korrek.

Page 25265

1 CHAIRPERSON: - which was taken I take it
2 before the one in exhibit L –
3 KOLONEL VERMAAK: Dis korrek.
4 CHAIRPERSON: - the panga wasn't in his
5 hand.
6 KOLONEL VERMAAK: Dis korrek.
7 CHAIRPERSON: And he was lying, as we can
8 see, on his chest.
9 KOLONEL VERMAAK: Dis korrek. Al twee
10 kere wat ek by hom was is dit die posisie waarin hy gelê
11 het.
12 CHAIRPERSON: So before the other
13 photograph was taken he was turn around and somebody put
14 the panga in his hand. That seems an irresistible
15 conclusion from what you've told us.
16 KOLONEL VERMAAK: Ja, ek kan dit nie
17 weerlê nie.
18 COMMISSIONER HEMRAJ: When you took the
19 photographs did you notice anything at all about his left
20 hand? I know in the photograph you took you can see his
21 right hand. At the time did you notice anything about his
22 left hand?
23 KOLONEL VERMAAK: Dit was onder hom
24 gewees. Ek het hom net so gelaat omdat dit vir my gegaan
25 het oor 'n misdaadtoneel en ek het nie verder enigsins,

<p style="text-align: right;">Page 25266</p> <p>1 behalwe net sy pols gevoel, gekyk of daar enige pols is, en 2 toe ek besef dat daar geen polsslag is nie het ek hom net 3 so gelaat. Ek het hom nie omgedraai om te kyk of hy enige 4 ander wapens of items wat onder hom kon lê nie. 5 CHAIRPERSON: Now from your photograph 6 OOO14 one can see, on that photograph one can see the 7 handle of the panga. 8 KOLONEL VERMAAK: Dis korrek. 9 CHAIRPERSON: It's not in anybody's hand, 10 not in his hand or anybody else's hand. 11 KOLONEL VERMAAK: Dis korrek. 12 CHAIRPERSON: Ja, did you only take this 13 photograph or did you take other photographs from the other 14 side as well? 15 KOLONEL VERMAAK: Daar is foto's van die 16 ander kant af ook geneem, Voorsitter. 17 CHAIRPERSON: Which you took? 18 KOLONEL VERMAAK: I did, ja. 19 CHAIRPERSON: Yes, thanks. 20 MS PILLAY: Thank you, Chair. Colonel, 21 if we can then look at OOO7, which is an excerpt from your 22 diary for the 13th of August. Now can you tell us, Colonel, 23 when these diary entries were made? 24 KOLONEL VERMAAK: Voorsitter, ek het 25 basies twee dagboeke wat ek gewoonlik mee werk. Ek het 'n</p>	<p style="text-align: right;">Page 25268</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 CHAIRPERSON: - "after threat that he was 3 going to be shot by members." 4 KOLONEL VERMAAK: Dis korrek. 5 CHAIRPERSON: Thank you. 6 MS PILLAY: Now do you recall when you 7 made that entry into your diary? 8 KOLONEL VERMAAK: Dit was basies die 9 volgende oggend nadat ons verdaag het van die JOC af. 10 MS PILLAY: Alright, and then the next 11 entry I just wanted to refer you to is at 17:00. Can you 12 just read that entry – 13 CHAIRPERSON: Can I interrupt you? I 14 know those entries were against particular times on the 15 page of your diary. Are they intended to relate to what 16 happened at that time, or is it just where you wrote it on 17 the page? 18 KOLONEL VERMAAK: Mnr die Voorsitter, nee 19 dit is nie die presiese "exactly time" daardie nie. Dit is 20 soos wat jy min of meer kan onthou wat jy dit neerskryf en 21 agterna het ek die tye gaan vergelyk op my selfoon presies 22 wat die tye was wat ek spesifieke foto's geneem het en 23 daarvolgens kon ek redelik goed bepaal wanneer ek waar was, 24 asook die "flight log" wat vir jou kon gesê het ek het, 25 daardie tyd het ons opgestyg, daardie tyd het ons geland,</p>
<p style="text-align: right;">Page 25267</p> <p>1 rof, rowwe ene wat ek saam met my rondvat om vinnig notas 2 te maak, en dan het ek my amptelike dagboek. Ek gaan 3 normaalweg na so 'n insident of so 'n dag sal ek gaan sit 4 en die dagboek opskryf met al die inligting wat ek op 5 daardie stadium het. 6 [12:39] Sou ek op 'n latere stadium addisionele inligting 7 kry wat vir my belangrik is sal ek dit dan op 'n latere 8 stadium soos wat ek dit verkry aanteken net om daarvan 'n 9 rekord te hê en dan ook maar as jy verklarings moet aflê 10 dat jy redelike agtergrond het van dit. 11 MS PILLAY: Now I just want to refer you 12 to two specific entries, Colonel, and the first one appears 13 at 16:00. Can you just read that into the record, please? 14 KOLONEL VERMAAK: "Verwyder Generaal 15 Majoor Mpembe van die toneel na dreigemente dat hy geskiet 16 gaan word deur lede." 17 MS PILLAY: Now do you recall – 18 CHAIRPERSON: That means "Removed Major 19 General Mpembe from the scene after," is it plural or 20 singular? After threat or threats? 21 KOLONEL VERMAAK: No – 22 CHAIRPERSON: That he was going to – 23 KOLONEL VERMAAK: 'n Dreigement. 'n 24 Dreigement. 25 CHAIRPERSON: Singular?</p>	<p style="text-align: right;">Page 25269</p> <p>1 so hierdie is net 'n kort weergawe basies. 2 MS PILLAY: If I can just refer you to 3 the entry against 17:00, can you just read that into the 4 record? 5 KOLONEL VERMAAK: "Agtervolg groep met R1 6 geweer en beseerde" - 7 MS PILLAY: I think it's an R5. 8 KOLONEL VERMAAK: Dis reg, "R5 geweer en 9 'n beseerde het verleen." So dit is, dis net kort ek het 10 die groep agtervolg, ons het hulp verleen. 11 MS PILLAY: Can I just ask, Colonel, in 12 your testimony today you testified that you initially 13 followed the strikers but that on your way back to the 14 scene of the 13th you heard about the threats to General 15 Mpembe and obviously thereafter removed him from the scene. 16 KOLONEL VERMAAK: Dis korrek. 17 MS PILLAY: But in your diary it appears 18 to be in a different order. Can you explain that? 19 KOLONEL VERMAAK: Soos ek verduidelik 20 het, ek het agterna kon ek gaan sit en op die foto's kon ek 21 presies sien wat die kronologiese volgorde van die gebeure 22 is. 23 MS PILLAY: Now what time did you 24 eventually leave the scene of the 13th? 25 KOLONEL VERMAAK: Ons het ongeveer 18:00,</p>

<p style="text-align: right;">Page 25270</p> <p>1 dit is met sonsondergang wat ons die toneel verlaat het 2 omrede die helikopters moet terugkeer na die plek waar ons 3 oorgebly het. Hulle was ongelukkig nie gemagtig om in 4 donkerte te vlieg nie want die helikopters het nie die 5 nodige toerusting vir dit nie.</p> <p>6 MS PILLAY: Now Colonel, can I refer you 7 to HHH6, which is document 18 in your bundle. Now we know 8 that on the 30th of August 2012 you deposed to two 9 statements. Sorry, there were two statements completed by 10 you. The first is HHH6 and the second is GGG14 and as we 11 covered earlier, GGG14 deals both with the incident of the 12 13th and the incident of the 16th, whereas HHH6 specifically 13 deals with what you saw from the helicopter immediately 14 after the strikers had attacked the policemen. Now can you 15 explain to us why there was a need for an additional 16 statement? In other words why was the information, firstly 17 the circumstances under which HHH6 was made?</p> <p>18 KOLONEL VERMAAK: Die regspan van die 19 polisie wat op daardie stadium volgens my, my ook 20 verteenwoordig het, het versoek dat ek 'n aanvullende 21 verklaring moet aflê met spesifiek vermelding na daardie 22 besonderhede.</p> <p>23 MS PILLAY: And this was happening at 24 Potchefstroom?</p> <p>25 KOLONEL VERMAAK: Ja.</p>	<p style="text-align: right;">Page 25272</p> <p>1 turn back to LLL8 and specifically paragraph 9 of that 2 statement, and can you take us to what transpired on the 3 14th –</p> <p>4 CHAIRPERSON: Sorry, before you carry on, 5 I want to say to the cameramen that it's very disturbing 6 when you move around the chamber and you take photographs 7 and we hear the click of the camera going all the time 8 while evidence is being given. I don't think I should 9 allow that. You've taken your photographs now. If you 10 want to take photographs you can do so either from the back 11 or when evidence isn't being given, but it's actually very 12 disturbing. I don't want to cause unnecessary difficulty 13 to you doing your work. It's obviously important that you 14 take photographs, but please try to do so in a way that 15 doesn't cause a disturbance. It makes it difficult for us 16 to follow the evidence. It's difficult for the witness 17 too, I would suspect, to concentrate on his evidence. So 18 if you'll please bear that in mind in the future. And also 19 if you're in close proximity to the witness – anyway, 20 please carry on.</p> <p>21 MS PILLAY: Thank you, Chair. We're 22 looking now, we are at paragraph 9 of LLL8, Colonel, and 23 we're beginning –</p> <p>24 CHAIRPERSON: Before we move on to 25 paragraph 9 I'd like to ask the witness one thing about the</p>
<p style="text-align: right;">Page 25271</p> <p>1 MS PILLAY: Was this during the Roots – 2 KOLONEL VERMAAK: Dis korrek.</p> <p>3 MS PILLAY: And what time did you – was 4 there a big time difference between when you signed GGG14 5 and when you signed HHH6?</p> <p>6 KOLONEL VERMAAK: Jis, ek sal net moet 7 sekermaak. Gee net weer die ander een, asseblief.</p> <p>8 MS PILLAY: It's GGG14. I'm sorry, GGG17 9 - I keep saying 14 – which is document 15 in your bundle.</p> <p>10 CHAIRPERSON: [Microphone off, inaudible]</p> <p>11 MS PILLAY: 17, document 15 in the 12 bundle.</p> <p>13 CHAIRPERSON: Ja.</p> <p>14 MS PILLAY: What I'm trying to 15 understand, Colonel, is why were these observations of 16 yours from the air, which were obviously key observations, 17 why were not included in GGG17 initially?</p> <p>18 KOLONEL VERMAAK: Op die stadium wat ek 19 in 2012 verklarings afgelê het was dit 'n kwessie van jy lê 20 vinnig verklarings af, kort-kort word jy gevra vir 21 addisionele inligting en dies meer en toe is ek gevra, en 22 soos dit aangedui word op die verklaring, die 4de Februarie 23 2013 om dan 'n addisionele verklaring af te lê om 24 duidelikheid te gee op paragraaf 5, lyn 13.</p> <p>25 MS PILLAY: Alright, Colonel, can we then</p>	<p style="text-align: right;">Page 25273</p> <p>1 13th, what happened on the 13th. In your statement, this 2 very statement you're being referred to, LLL8, paragraph 6, 3 I think the passage I'm going to refer you to now is 4 actually also in your earlier statement, which is GGG17 – 5 yes, it is. It's the end of the fourth paragraph there as 6 well. It's four lines from the foot of the paragraph you 7 say, "Ons het opgemerk dat iemand onbekend aan ons aan die 8 regterflank 'n traanrookgranaat afgevuur het in die rigting 9 van die groep wat die grondpad wou oorsteek om sodoende te 10 verhoed" – these are the words I'm stressing – "om sodoende 11 te verhoed dat hulle na die informele plakkerskamp kan 12 beweeg." It can be translated as "We noticed that someone 13 unknown to us on the right flank fired a teargas canister 14 in the direction of the group who wanted to cross the 15 gravel road in order to prevent that they could move to the 16 informal squatters camp."</p> <p>17 Now I take it that from the helicopter you 18 couldn't discern what the reason was why the teargas 19 canister was fired. Am I correct?</p> <p>20 KOLONEL VERMAAK: Dis korrek.</p> <p>21 CHAIRPERSON: So where did you get this 22 phrase "om sodoende te verhoed dat hulle na die informele 23 plakkerskamp kan beweeg"?</p> <p>24 KOLONEL VERMAAK: Mnr die Voorsitter, 25 tydens konsultasie met die regspan was dit 'n</p>

<p style="text-align: right;">Page 25274</p> <p>1 verduideliking gewees dat dit die rede is waarvoor die 2 traanrook en die skokgranaat gegooi was. Dit is wel in die 3 verklaring bygewerk, maar u sal sien ek het in 2014 4 Januarie het ek 'n verklaring opgestel wat ek gesê het 5 "Finale verklaring," want toe het ek beswaar gemaak, die 6 feit dat daar kort-kort aanvullende verklarings en 7 verskillende verklarings en verduidelikings gevra word. So 8 toe het ek gaan sit en ek het die hele ding uiteen uitgesit 9 soos wat ek dit ervaar het en nie wat daar vir my gemeld is 10 'n moontlikheid kan wees hoekom die traanrook en die 11 skokgranaat sou gegooi gewees het nie.</p> <p>12 CHAIRPERSON: What is this final 13 statement? It's not LLL8 because I was reading to you from 14 LLL8 this passage which appeared also in the earlier 15 statement.</p> <p>16 KOLONEL VERMAAK: Die laaste verklaring 17 wat ek afgelê het was die 21ste Januarie 2014, mnr die 18 Voorsitter.</p> <p>19 CHAIRPERSON: So that's LLL8 and LLL8 has 20 that passage that I read to you, transcribed verbatim from 21 the earlier statement HHH4 – sorry, not HHH4 –</p> <p>22 MS PILLAY: GGG17.</p> <p>23 CHAIRPERSON: GGG17. Yes, the end of 24 para 4, but anyway, so I'm not sure that you're right that 25 you left that out of your final statement, but the point I</p>	<p style="text-align: right;">Page 25276</p> <p>1 BBM and in your words, "aangesien ek bekommerd was oor die 2 wyse wat die situasie hanteer word sedert die Sondag." So 3 can you just explain to us exactly what you mean there?</p> <p>4 KOLONEL VERMAAK: Die feit dat sekere 5 aksies deur die betogers geneem was met verwysing na die 6 rituele waardeur hulle gegaan het en die hantering daarvan, 7 en ook die feit dat die mense op die koppie toegelaat was 8 om onwettig bymekaar te kom en ek besef het dat daar 'n 9 konfrontasie kan plaasvind weens die feit dat hierdie mense 10 daar gaan groepeer en dit net 'n groter en groter groep op 11 die einde van die dag kan wees.</p> <p>12 CHAIRPERSON: Yes, I'm sorry, I'm not 13 sure that what Adv Pillay said was translated because the 14 question was partly in Afrikaans. So perhaps I should read 15 in English the first sentence of paragraph 9, just in case 16 it hasn't been translated. "On Tuesday, the 14th of August 17 2012, while I was on the way to the JOC at the Lonmin Mine 18 I sent a BBM message," that's a BlackBerry message, "to 19 Brigadier Garnett because I was worried about the manner in 20 which the situation was being handled since the Sunday."</p> <p>21 KOLONEL VERMAAK: Dis korrek, Voorsitter, 22 ook verwysend na die insident op Maandag wat daar 23 plaasgevind het, die inligting wat aan my oorgedra was 24 rondom die polisiemanne wat gesê het dat Generaal Mpembe 25 hulle opdrag gegee het om hulle wapens in die Nyalas te</p>
<p style="text-align: right;">Page 25275</p> <p>1 wanted to ascertain from you is that phrase that the, which 2 purports to give the reason why the teargas canister was 3 fired was something that you don't know from your own 4 knowledge?</p> <p>5 KOLONEL VERMAAK: Nee, nee, dit is –</p> <p>6 CHAIRPERSON: That is something you were 7 told later.</p> <p>8 KOLONEL VERMAAK: Dis korrek.</p> <p>9 CHAIRPERSON: Whether that was the 10 reason, whether the person who fired it gives that reason 11 is a matter you have no knowledge of.</p> <p>12 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>13 CHAIRPERSON: Alright, thank you. And in 14 fact it appears to conflict with your observation because 15 you commented that you couldn't see any reason why –</p> <p>16 KOLONEL VERMAAK: Dis korrek.</p> <p>17 CHAIRPERSON: - it was fired, and you 18 discussed it with your colleagues who were with you in the 19 helicopter.</p> <p>20 KOLONEL VERMAAK: Dis korrek.</p> <p>21 CHAIRPERSON: Thank you.</p> <p>22 MS PILLAY: Thank you, Colonel, we're at 23 paragraph 9 of your statement LLL8 on the 14th of August and 24 you say at the beginning of that paragraph that while you 25 were on your way to the JOC you sent Brigadier Garnett a</p>	<p style="text-align: right;">Page 25277</p> <p>1 gaan los, was dit vir my redelik kommerwekkend gewees en 2 daarom het ek dit geag om vir Brigadier Garnett wat by 3 NATJOC is die boodskap te stuur.</p> <p>4 CHAIRPERSON: Perhaps – I'm in your 5 hands, Ms Pillay. Do you want to deal with the message 6 that he sent to Brigadier Garnett now or do you want to do 7 it after we take the lunch adjournment?</p> <p>8 MS PILLAY: Chair, I'm happy to do it 9 after the lunch adjournment.</p> <p>10 CHAIRPERSON: Alright, we have a meeting 11 to attend, we the Commissioners, during the lunch hour, so 12 we will adjourn now until 2 o'clock.</p> <p>13 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>14 [14:04] CHAIRPERSON: The Commission resumes. 15 Luitenant-kolonel, u is nog steeds gebind deur die 16 verklaring wat u – die bevestiging wat u gemaak het. Adv 17 Pillay?</p> <p>18 MS PILLAY: Thank you, Chair.</p> <p>19 KOLONEL VERMAAK: (bevestig verder)</p> <p>20 CROSS-EXAMINATION BY MS PILLAY (CONTD.): 21 Colonel, we were looking at the 14th, we had started on 22 paragraph 9 of LLL8. Just a final question that I meant to 23 wrap up on the 13th, just to ask you why was it necessary 24 for you to ask the PC for her permission to remove General 25 Mpembe?</p>

<p style="text-align: right;">Page 25278</p> <p>1 KOLONEL VERMAAK: Mnr die Voorsitter, dit 2 sal heeltemal onvanpas wees dat ek, wat 'n baie laer rang 3 as 'n generaal het, hom sommer net van die toneel af sal 4 verwyder uit my eie uit. Dit is waarom ek die Provinsiale 5 Kommissaris, wat die direkte hoof is van generaal Mpembe, 6 geskakel het en haar meegedeel het van die dreigement teen 7 sy lewe. 8 MS PILLAY: Would you – 9 CHAIRPERSON: Sorry, I take it if the 10 General had refused to go simply on your request that he 11 go, you couldn't have forced him to leave but having 12 cleared it with the Provincial Commissioner and having told 13 him that the Provincial Commissioner agreed with your 14 proposal that he be removed from the scene, he couldn't 15 have argued with you. Is that, was that part of your 16 motivation? 17 KOLONEL VERMAAK: Ja, die feit, mnr die 18 Voorsitter, dat hy glad nie geargumenteer het oor die feit 19 dat ek hom meegedeel het en vir hom gesê het dat ek met die 20 Provinsiale Kommissaris dit bespreek het nie, en hy toe 21 onmiddellik gereageer het om die versoek dat hy saam met my 22 moet gaan dat ons hom na veiligheid kan vat, na die JOC 23 toe. 24 MS PILLAY: Thank you, Colonel, and if we 25 can now go back to the 14th and to paragraph 9 of LLL8, you</p>	<p style="text-align: right;">Page 25280</p> <p>1 MS PILLAY: And before you raised these 2 concerns with Brigadier Garnett, did you raise any concerns 3 with General Mpembe who was the overall commander? 4 KOLONEL VERMAAK: Nee, edelagbare – of 5 mnr die Voorsitter, ekskuus, verskoning. Op daardie 6 stadium het ek nog nie geleentheid – 7 VOORSITTER: U word verskoon. 8 KOLONEL VERMAAK: Dankie. Op daardie 9 stadium was dit nog nie, daar 'n geleentheid wat ek met hom 10 daaroor kon gepraat het nie. Hulle was aanhoudend in 11 vergaderings met die Nasionale Kommissaris en ander senior 12 offisiere die Maandagaand na die insident die middag. 13 MS PILLAY: And what about Brigadier 14 Calitz or even Colonel Merafi? 15 KOLONEL VERMAAK: Ek het hulle ook nie 16 voor die tyd gesien nie. Ek het wel op die JOC vergadering 17 later die oggend, het ek wel 'n bekommernis in die JOC 18 meeting geopper, basies dieselfde as wat die BBM aan 19 Brigadier Garnett was, dat ek bekommerd is oor die 20 hantering van die aangeleentheid of van die onluste en ook 21 dat dit nie vergelyk kan word met jou normale protesoptogte 22 wat jy mee te doene kry in woongebiede waar mense teen 23 dienste en dies, oor betoog nie. 24 MS PILLAY: Alright, now let's look at 25 the message itself which appears from line 5 of paragraph 9</p>
<p style="text-align: right;">Page 25279</p> <p>1 – before we broke for lunch you were dealing with the 2 question of why you were concerned about the manner in 3 which the situation had been handled in the days preceding 4 the 14th, if you can just recap those concerns for us. 5 KOLONEL VERMAAK: Dit het gegaan 6 spesifiek oor die gebeure op die Sondag waarby ons vir die 7 eerste keer ons by betrokke was, die feit dat die twee 8 sekuriteitswagte vermoor was en dan ook die Maandag hoe die 9 hele situasie daar gehanteer was, die inligting wat aan my 10 oorgedra was dat daar vir die lede gesê is dat hulle, hulle 11 wapens moet los in die Nyalas, dan ook die feit dat daar 12 sekere rituele gehou was saam met die sangomas, was dit vir 13 my 'n redelike bekommernis gewees dat indien dit verkeerd 14 sou gehanteer geword het, daar lewensverliese sou wees. 15 MS PILLAY: We see in paragraph 9 that 16 you sent a BBM message to Brigadier Garnett. 17 KOLONEL VERMAAK: Dis korrek. 18 MS PILLAY: Can I understand why was a 19 message sent to Brigadier Garnett in particular? 20 KOLONEL VERMAAK: Omdat hy my op die 21 Sondag gekontak het en vir my gevra het rondom wat aangaan, 22 het ek gevoel die feit dat hy in die NATJOC is, hy 23 onmiddellik skakeling met van die generale op nasionale 24 vlak sal hê en daarom het ek die inligting met hom gedeel 25 rondom my bekommernis oor die hantering van dit.</p>	<p style="text-align: right;">Page 25281</p> <p>1 of exhibit LLL8. If you start from the second sentence, 2 "Hierdie offisiere het geen ondervinding van mynonluste 3 nie." What did you mean by that? 4 KOLONEL VERMAAK: Die blote feit dat 5 hulle glad nie aandag gegee het aan die waarskuwing van die 6 Sondag af nie, dat hierdie mense by rituele betrokke was en 7 ook die Maandag, die wyse hoe die polisiemanne ontplooi was 8 agter die betogers was vir my duidelik dat daar nie veel 9 ondervinding was, want gewoonlik jou onluste op die myne is 10 baie meer aggressief as die wat jy sal kry onder normale 11 protesoptogte, en dies meer. 12 MS PILLAY: You then say, "Hierdie lot 13 sal nou baklei tot die dood toe omdat hulle by die 14 toordokter was en glo hulle dat geen koeël hulle kan 15 doodmaak nie." What does that mean? 16 KOLONEL VERMAAK: Mnr die Voorsitter, dis 17 soos wat ek vroeër getuig het, dat dit algemeen bekend is, 18 as hulle by die sangomas was en hulle sekere rituele deur 19 gegaan het, dan glo hulle dat hulle beskerm word en dat 20 daar met hulle niks sal gebeur nie. In die verlede is dit 21 selfs geglo dat die polisiemanne of sekuriteit se koeëls 22 sal verander in water en ook die feit dat die mense 23 vreesloos die Maandag omgedraai het en tussen die 24 polisiemanne ingestorm het, was vir my baie duidelik dat 25 hierdie mense maar nog steeds aan die spesifieke tradisie</p>

<p style="text-align: right;">Page 25282</p> <p>1 vashou dat as hulle daar by die sangomas was dan word hulle 2 beskerm.</p> <p>3 MS PILLAY: So in your understanding and 4 given what you say your experience is of mine unrest and 5 particularly the use of muti by the strikers, what should 6 have been done differently on the 13th?</p> <p>7 KOLONEL VERMAAK: In die eerste plek sal 8 jy, jou polisiemanne baie meer gereedheidsgrondslag hê, jy 9 sal definitief meer gebruik maak van pantservoertuie om jou 10 lede te beskerm. Jy sal nie jou lede te voet ongewapen 11 agter 'n groep mense sit wat gewapend is met tradisionele 12 wapens en ook die feit dat jy weet die Maandag, ag, die 13 Sondag is daar al twee sekuriteitsbeamptes, vermoedelik ook 14 'n groep van hierdie betogers, deur hulle vermoor. So dit 15 is vir jou 'n definitiewe aanduiding dat dit nie 'n gewone 16 betoging is en dat jy dit baie meer subtiel moet hanteer as 17 'n normale betoging.</p> <p>18 MS PILLAY: Now, you also say in the BBM 19 message that, "Ek het hulle gewaarsku maar hulle het nie 20 gister geluister nie." Now who did you warn the day 21 before?</p> <p>22 KOLONEL VERMAAK: Ek het, toe ek vir 23 Brigadier Garnett die Sondag ook 'n boodskap gestuur, en ek 24 het aangeneem hy sou hierdie waarskuwing ook oordra na die 25 ander mense toe en die aand toe ek Sondagaand met Brigadier</p>	<p style="text-align: right;">Page 25284</p> <p>1 MS PILLAY: Now what was the response of 2 Brigadier Garnett to your message?</p> <p>3 KOLONEL VERMAAK: Hy het net vir my 'n 4 boodskap teruggestuur, dankie, dis al.</p> <p>5 MS PILLAY: And did you convey your 6 concerns to anyone else within the police service?</p> <p>7 KOLONEL VERMAAK: Ja, in die JOC meetings 8 van 14, 15 en 16 die oggende het ek pertinent genoem dat 9 hulle heroorweeg ten opsigte van hulle planne wat hulle 10 voorgehou het aan ons, het ons vir – het ek vir hulle 11 genoem dat hierdie mense nie vrywilliglik enige wapens sal 12 neerlê nie en dit was bevestig deur CIG, kolonel Isaacs van 13 Brigadier Engelbrecht se kantoor af. Hy het dit op een van 14 die vergaderings op die 16de het hy bevestig dat die 15 inligting wat ek vir hulle gee korrek is.</p> <p>16 MS PILLAY: Now before we turn to the 17 JOCCOMs of the 16th, if we can just pick up from the last 18 line on paragraph 9, page 3 of LLL8 where you say that with 19 General Annandale's arrival at the JOC you expressed your 20 concerns to him.</p> <p>21 KOLONEL VERMAAK: Ja, dis korrek. Ek het 22 aan generaal Annandale gemeld dat ek 'n spesifieke 23 bekommernis het oor dit. Daar is ook aan hulle genoem dat 24 die feit dat ons in Januariemaand by Impala ook onluste 25 gehad het, dit algemene gebruik is dat betogers, veral van</p>
<p style="text-align: right;">Page 25283</p> <p>1 Calitz gepraat het, het ek dit spesifiek aan hom genoem ten 2 opsigte van die feit dat die mense by die sangomas was, dat 3 dit 'n rede tot kommer is en mens hulle op 'n heeltemal 4 meer versigtige manier sal moet benader.</p> <p>5 MS PILLAY: And when you say "Selfs 6 taakmag sal hulle vasloop teen hierdie groep," what do you 7 mean by that?</p> <p>8 KOLONEL VERMAAK: Die feit dat die 9 taakmaglede is ook nie opgelei om onluste te hanteer nie. 10 Ons het in die verlede, veral by die myne en omgewing waar 11 daar klandestiene optredes was waar hulle teen onwettige 12 goudhandelaars opgetree het, was daar insidente waar hulle 13 van taakmag se mense gebruik het om die arrestasies uit te 14 voer en dan het hulle in 'n situasie beland waar die 15 gemeenskap opruk omdat daar arrestasies gemaak word en ons 16 van openbare orde polisie se kant af moes ingaan met die 17 nodige onlustetoerusting om die skares uiteen uit te dryf 18 en sodat die gearresterdes en taakmag se mense uit die 19 gebied uit kon kom.</p> <p>20 MS PILLAY: You say in the last line of 21 that message that you'll send a letter through which you 22 sent two months previously, is that letter JJJ137?</p> <p>23 KOLONEL VERMAAK: Dis die een van 24 Meimaand, dis korrek, in verband met Rustenburg se 25 insident.</p>	<p style="text-align: right;">Page 25285</p> <p>1 jou myn se kant af, komberse om hulle draai en dit 2 affekteer die gebruik van rubber rondtes dan op die ou 3 einde van die dag.</p> <p>4 MS PILLAY: And you say in the first line 5 on page 5 that you informed General Annandale that you were 6 concerned and that serious consideration needed to be given 7 to the manner in which the situation was to be handled. 8 What was General Annandale's response to this?</p> <p>9 KOLONEL VERMAAK: Hy het net gesê dat hy 10 kennis neem van my bekommernis.</p> <p>11 MS PILLAY: And did he give any other 12 response to the concerns that you had?</p> <p>13 KOLONEL VERMAAK: Nee, glad nie.</p> <p>14 MS PILLAY: Now, you say that you raised 15 these concerns again on the 15th.</p> <p>16 KOLONEL VERMAAK: Dis reg.</p> <p>17 MS PILLAY: At the JOCCOM of the 15th.</p> <p>18 KOLONEL VERMAAK: Dit is korrek.</p> <p>19 MS PILLAY: Can you just give us a little 20 bit of detail around the context within which you raised 21 these concerns?</p> <p>22 KOLONEL VERMAAK: Dit was nadat kolonel 23 Scott die planne voorgehou het van die stages wat hulle 24 gaan volg om optredes te hou, waarop ek dan my bekommernis 25 uitgespreek het daarvoor dat die groep mense wat bymekaar</p>

<p style="text-align: right;">Page 25286</p> <p>1 kom en die groot getal wat daar is, hulle definitief gaan 2 verset teen enige optrede van die polisie, gesien in die 3 lig van die feit dat hulle die Sondag en opvolgende dae 4 deelgeneem het aan rituele. 5 MS PILLAY: Now, we know that you 6 attended the JOCCOM on the 16th, well, the morning JOCCOM of 7 the 16th. Can you just tell us, at that JOCCOM what was the 8 plan that was presented, in your understanding? 9 KOLONEL VERMAAK: Die plan wat aan ons 10 voorgehou was, is dat die draadkarre uitgegooi sal word, 11 dat hulle omsirkel sou geword het, dat hulle 'n spesifieke 12 deurloop area sou oop laat waar die mense dan die kans 13 gegee sal word om hulle wapens neer te lê en dan daardeur 14 te loop sonder dat daar nou enigsins teen hulle opgetree 15 sou geword het. 16 MS PILLAY: And did you make any comments 17 at that JOCCOM about the encirclement plan? 18 KOLONEL VERMAAK: Ja, ek het weer eens 19 die bekommernis uitgespreek dat die mense nie hulle wapens 20 sal oorgee. Uit ondervinding wat ek gehad het, dit wat ek 21 waargeneem het ten opsigte van die onderhandelinge en die 22 bietjie terugvoering wat ons gekry het van dit was dit vir 23 my duidelik dat die afleiding wat ek maak dat hierdie mense 24 nie sal surrender nie, dat dit in die kol sal wees en ek 25 het hulle gewaarsku.</p>	<p style="text-align: right;">Page 25288</p> <p>1 rejected? 2 KOLONEL VERMAAK: Dis korrek. 3 MS PILLAY: And do you recall 4 specifically who rejected the idea? 5 KOLONEL VERMAAK: Generaal Annandale en 6 kolonel Scott. 7 MS PILLAY: And did you make any other 8 proposals as to how the dispersal should happen? 9 [14:24] KOLONEL VERMAAK: Ek het met hulle 10 gepraat oor die feit dat dit eerder raadsaam sal wees om 11 vroeg in die oggend die koppie te beset met polisiemanne 12 aangesien volgens my daar genoeg polisiemanne was om dit te 13 doen. Ons het in die oggende vroeg oor die koppie gevlieg 14 as ons na die JOC toe gegaan het. Daar was 'n klein 15 groepie van mens gewees, so dit sou baie maklik gewees het 16 vir die polisie om onmiddellik daardie groep te hanteer en 17 dan die boodskap uit te dra dat daar nie enige onwettige 18 bedrywighede toegelaat sal word nie. 19 MS PILLAY: So your suggestion was that 20 the police should take possession of the koppie early while 21 there were a few strikers present? 22 KOLONEL VERMAAK: Dis korrek. 23 MS PILLAY: And you raised this 24 suggestion as well at the JOCCOM on – 25 KOLONEL VERMAAK: Dis korrek.</p>
<p style="text-align: right;">Page 25287</p> <p>1 MS PILLAY: And now that we know that the 2 plan presented at 6 o'clock on the 16th was the encirclement 3 plan, can you tell us what you would have proposed to be 4 done differently in terms of dispersing the strikers? 5 KOLONEL VERMAAK: Ek het van die begin af 6 voorgestel dat uit ondervinding uit het ons altyd met 7 mynonluste, die eerste ding wat jy doen is jy kyk om soveel 8 as moontlik tradisionele wapens te verwyder en dat daar 9 eerder kordon en deursoeking gedoen moet word. Jy begin 10 altyd maar eerste by jou hostel. Die meeste van die mense, 11 soos wat ons waargeneem het uit die lug uit, het vanuit 12 daardie rigting uit na die koppie toe gekom, maar dit was 13 afgekeur gewees en daar was gesê dat dit gesiglose mense is 14 en dat daar nie spesifieke inligting is wat dit dan nou 15 regverdig om die hostel dan te deursoek nie. 16 MS PILLAY: So you specifically proposed 17 a cordon and search operation first – 18 KOLONEL VERMAAK: Dis korrek. 19 MS PILLAY: - before any other part of 20 the operation played out. 21 KOLONEL VERMAAK: Dis korrek. 22 MS PILLAY: You raised this at the 23 JOCCOM? 24 KOLONEL VERMAAK: Dis korrek. 25 MS PILLAY: And this was, this idea was</p>	<p style="text-align: right;">Page 25289</p> <p>1 MS PILLAY: - on the 15th. And do you 2 recall what was said in response to this proposal from you? 3 KOLONEL VERMAAK: Die reaksie was gewees 4 dat daar 'n taak, plan opgestel is en hulle volgens daardie 5 plan gaan werk en die vraag wat gevra was, wat dan nou as 6 hulle dan nou nie op die koppie bymekaarkom nie, waar sou 7 hulle dan bymekaarkom. Die reaksie was van my kant af 8 gewees dan kan jy vooraf vinnig bepaal as hulle weer by 'n 9 plek bymekaarkom dan doen jy dieselfde, jy tree onmiddellik 10 op teen wanneer daar 'n klein groepie mense is en jy stuur 11 dadelik die boodskap uit dat jy dit nie gaan toelaat nie. 12 MS PILLAY: And what was the reaction to 13 your proposal? 14 KOLONEL VERMAAK: Dis nie aanvaar nie. 15 Hulle het gebly by Kolonel Scott se plan wat hy voorgehou 16 het aan die JOC "meetings." 17 MS PILLAY: Alright, let's turn now to 18 the question of your role on the 16th, and if I can refer 19 you to exhibit L, slide 147. Now before we deal with the 20 slide itself, just to let you know that Colonel Scott 21 testified that these slides were compiled after the event, 22 after the 16th, but that the contents of the slides reflect 23 what the briefing was to the affected members. We see 24 something to that effect in slide 135 as well where SAPS 25 acknowledged that the slides were compiled after the fact,</p>

<p style="text-align: right;">Page 25290</p> <p>1 but according to Colonel Scott the content of the slides is 2 what was conveyed to members during the briefing sessions 3 during the 6 o'clock JOCCOM. 4 Now if you look at the slide itself, specifically 5 to the comments which set out what your briefing was, do 6 you agree that this was shared with you at the 6 o'clock 7 JOCCOM? 8 KOLONEL VERMAAK: Die eerste sin "Provide 9 real-time feedback over the police radio into the JOC," dis 10 waar. Dit is ons taak van Lugvleuel se kant af. Die 11 gedeelte "Send cellular photographs from the air via GSM 12 network to enhance situational awareness," dis 'n leuen. 13 Dit is nie deel van die Lugvleuel se verantwoordelikheid 14 nie. Dit was op my en my lede se eie inisiatief gedoen. 15 So daar is nêrens enigsins gesê ons moet dit doen nie. 16 MS PILLAY: So if I understand you 17 correctly, your conduct in taking cellular pictures and 18 then transmitting them via GSM network, in this case BBM to 19 the JOC to enhance situational awareness, that was at your 20 own initiative? 21 KOLONEL VERMAAK: My own initiative, 22 asook met my eie privaat BlackBerry selfoon aangesien my 23 amptelike foon is 'n Nokia wat nie daardie funksies het 24 nie. 25 MS PILLAY: So this didn't form part of</p>	<p style="text-align: right;">Page 25292</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 MS PILLAY: Now can you explain to us 3 what it entails to be Air Wing commander? 4 KOLONEL VERMAAK: As 5 Lugvleuelbevelvoerder is dit my verantwoordelikheid om toe 6 te sien dat waar daar 'n behoefte is vir lug steun om dit 7 sodanig te koordineer, ook om die lede te verteenwoordig in 8 die JOC, vir hulle terugvoering te gee wat van hulle verwag 9 word, of as daar 'n spesifieke operasie is dan sodanige 10 voorligting aan hulle terug te gee. Sou daar verskillende 11 helikopters wees sal ons in 'n vinnige byeenkoms besluit 12 wat die verskillende hoogtes is van die verskillende 13 helikopters. Dit gaan oor vlieg veiligheid. 14 MS PILLAY: So do I understand correctly 15 that as Air Wing commander one of your responsibilities was 16 to allocate flight heights to the various aircraft that 17 were going to be involved in the operation? 18 KOLONEL VERMAAK: Dis korrek, aangesien 19 ons van die polisie se kant af twee helikopters gehad het, 20 daar het op 'n latere stadium het die Oryx aangesluit. 21 Daar was myn, of sekuriteitshelikopters ook gewees, so 'n 22 mens moes al daardie aspekte in aanmerking neem. 23 Ek kan wel meld dat op die 13de het ek 'n gesprek 24 met mnr Sinclair gehad, wat die oorhoofse hoof oor die 25 sekuriteit was op daardie stadium, waar ek en hy</p>
<p style="text-align: right;">Page 25291</p> <p>1 your briefing on the 16th? 2 KOLONEL VERMAAK: Nee. 3 MS PILLAY: The second bullet point, take 4 still cameras and download at JOCCOM landing? 5 KOLONEL VERMAAK: Dit is ook 'n ding wat 6 deur die Noord Wes Lugvleuel begin is. Toe ons beseft het 7 dat daar 'n leemte is met die kameras wat nie werk nie het 8 ek op 'n stadium met die PKRS, LCRC mense gereël dat al die 9 lede van die Lugvleuel by my opgelei word om stillfoto's te 10 neem. Hulle het dan ook vir ons kameras voorsien en dit is 11 maar ook 'n ding wat ons op eie inisiatief gedoen het. 12 MS PILLAY: Now we know that you were 13 part of Chopper 1. That's correct? 14 KOLONEL VERMAAK: Dis korrek. 15 MS PILLAY: And that your task as set out 16 in this slide is to monitor the gathering and provide the 17 JOC with real-time feedback. Is that the traditional role 18 of "lug steun" – 19 KOLONEL VERMAAK: Dis korrek. 20 MS PILLAY: - of air support? 21 KOLONEL VERMAAK: Dis korrek. 22 MS PILLAY: Now apart from being the 23 commander of Chopper 1, in other words being the air 24 support commander, we know that you're also the Air Wing 25 commander.</p>	<p style="text-align: right;">Page 25293</p> <p>1 ooreengekom het dat die sekuriteit se helikopters nie sal 2 vlieg indien hulle nie voor die tyd met my dit bespreek en 3 uitgeklaar het nie, en sou hulle vlieg sal hulle glad nie 4 naby die geaffekteerde gebied by Wonderkop kom nie. Hulle 5 sal konsentreer op hulle ander eiendomme en plekke wat 6 hulle normaalweg voor verantwoordelik is. 7 MS PILLAY: Now we know that apart from 8 the Coin helicopter there were basically three helicopters 9 over the particular area on the 16th. That was the R44, the 10 Squirrel, and the Oryx. 11 KOLONEL VERMAAK: Dis korrek. 12 MS PILLAY: Can you give us an idea of 13 the height allocations for each of these aircraft? 14 KOLONEL VERMAAK: Die naaste aan die 15 toneel was Tjopper 1. Dit is waarin ek was. Ons het op 16 300 voet geopereer. Na die buite parameter toe sou die 17 Squirrel gewees het wat op 500 voet gevlieg het, en dan die 18 Oryx sou op die heel buitekantse sirkel gewees het, wat 19 veronderstel was om op 800 voet te vlieg. 20 MS PILLAY: And just to be clear, the 21 Oryx is the SANDF helicopter? 22 KOLONEL VERMAAK: Dis korrek, ja. 23 MS PILLAY: The big white SANDF 24 helicopter. 25 KOLONEL VERMAAK: Dis korrek.</p>

<p style="text-align: right;">Page 25294</p> <p>1 MS PILLAY: Now can I just ask, in terms 2 of allocation the heights for the various helicopters, did 3 you have to have regard to the plan, the operational plan 4 in order to allocate those various height, flight heights? 5 KOLONEL VERMAAK: Nee, negatief. Dit is 6 uit 'n vlieg veiligheidsogpunt wat ek dit met die 7 vlieëniers bespreek het. Die Oryx was ek bewus daarvan dat 8 hulle 'n reserwe groep sou gehad het wat op die buite areas 9 vlieg, wat in uiters uitsonderlike omstandighede waar dit 10 sou nodig wees om ekstra lede af te laai, sou hulle dan 11 deur die JOC basies aangesê geword het om te reageer na 'n 12 spesifieke punt toe waar dit sou geïdentifiseer geword het. 13 MS PILLAY: Now in this Commission we've 14 seen a number of photographs of the Oryx flying quite low. 15 Was that your experience of what transpired on the day – 16 KOLONEL VERMAAK: Ja. 17 MS PILLAY: - that the Oryx didn't keep 18 to its flight height? 19 KOLONEL VERMAAK: Ons het by twee 20 geleenthede baie noue ontkomings gehad met die Oryx wat 21 glad nie op sy hoogte gebly het waar hy veronderstel was 22 nie, waar hy onder ons, wat op 300 voet was, deurgevlieg 23 het sonder om enigsins vir ons te waarsku. Ons het net die 24 volgende oomblik gesien hier is hierdie Oryx voor ons in. 25 MS PILLAY: And do you know why the Oryx</p>	<p style="text-align: right;">Page 25296</p> <p>1 Daar kan tye wees wat die oorhoofse bevelvoerder 2 van 'n operasie, as ons byvoorbeeld die Squirrel of die 3 B105 beskikbaar het en hy versoek dat hy kan saamvlieg vir 4 die doel van bevel en beheer ten opsigte van die 5 grondmagte, dan word hy in daardie opsig word hy 6 geakkommodeer. Ons het baie - 'n voorbeeld te noem is 7 Generaal Matthews wat in die Klerksdorp "cluster" was, hy 8 het baie kere die helikopter aangevra en as een van die 9 groter helikopters beskikbaar was het hy as die oorhoofse 10 bevelvoerder het hy dan saamgevlieg en hy het die bevel en 11 beheer dan ook van die helikopter afgedoen, alhoewel jou 12 boordbemanning kommunikeer met die voertuie op die grond. 13 So as die Generaal 'n spesifieke versoek het vir 'n 14 spesifieke voertuig sal hy dit dan oordra aan die 15 boordbemanning en die boordbemanning sal dit dan weer 16 herlei na die mense op die grond toe. 17 MS PILLAY: So if I understand your 18 answer, Colonel, you're saying that the aerial commander 19 exercises command and control from the air? 20 KOLONEL VERMAAK: Dis korrek. 21 MS PILLAY: At any point on the 16th did 22 you perform the function of aerial commander? 23 KOLONEL VERMAAK: Nee, glad nie. Ons het 24 net lug steun gegee. 25 MS PILLAY: Alright, can I ask you to</p>
<p style="text-align: right;">Page 25295</p> <p>1 was swooping as low as it was? 2 KOLONEL VERMAAK: Geen idee gehad. Hulle 3 het ook nie, die enigste kommunikasie wat daar sou gewees 4 het tussen ons en die Oryx was deur middel van die lugvaart 5 radio en die vlieëniers het op geen stadium met ons op die 6 lugvaart radio kontak gemaak om te sê hoekom hulle op 7 daardie hoogte ingegaan het nie. 8 MS PILLAY: Now Colonel, we have 9 discussed your role as air support. We've discussed your 10 particular role as Air Wing commander. Can you tell us is 11 there a difference between the Air Wing commander and 12 aerial command? 13 KOLONEL VERMAAK: Die "Air Wing 14 commander" is normaalweg, dis jou bevelvoerder van die 15 eenheid. "Aerial command" is normaalweg die helikopter wat 16 die lug steun sal gee. Nou die situasie wat ons tans in 17 die Noord Wes provinsie het is dat ons nie altyd 'n 18 helikopter beskikbaar het wat passasiers kan vat nie. 19 Byvoorbeeld die Robinson R44, weens veiligheidsredes is 20 daar 'n SOP uit wat bepaal dis net die vlieënier en die 21 boordbemanning wat in die helikopter mag vlieg. Hulle mag 22 geen passasiers vat nie omdat daar addisionele toerusting 23 op hom is wat 'n invloed op sy "weight and balancing" het 24 op die ou einde van die dag. So dis 'n veiligheidsbesluit 25 wat daarop geneem is.</p>	<p style="text-align: right;">Page 25297</p> <p>1 look then at slide 146, which is the slide that deals with 2 Brigadier Fritz's helicopter, which was Chopper 2. We see 3 the task of Chopper 2 being an air command post. Now were 4 you aware that Brigadier Fritz was allocated this task? 5 KOLONEL VERMAAK: Nee, ek was nie bewus 6 daarvan nie. 7 MS PILLAY: So was this allocation 8 discussed at the 6 o'clock JOCCOM? 9 KOLONEL VERMAAK: Dit was nie op ons 10 vergadering om 6 uur bespreek nie. Ek kan dalk net byvoeg 11 daar, op daardie stadium, dit werk in lugvaart so, jou 12 helikopters gaan op verskillende ure in vir sy dienste. 13 Nou die B105 was toe al vir 'n baie lang tyd buite aksie 14 gewees waar hy in was vir 'n diens en daar sekere probleme 15 was dat hy nie kon gediens word nie. 16 So met die gevolg is ons het die Squirrel daar 17 gehad wat nie baie ure gehad het nie en het ons hom uiters 18 gebruik wanneer dit werklik noodsaaklik was om te vlieg en 19 het ons meer op die R44 staatgemaak, wat dan ook meer ure 20 beskikbaar gehad het en baie meer ekonomies is om hom vir 21 algemene "eye in the sky" te gebruik. 22 MS PILLAY: Now you testified earlier 23 that in terms of the flight heights which you as Air Wing 24 commander allocated the Squirrel was to fly at 500 feet on 25 a wider circumference –</p>

<p style="text-align: right;">Page 25298</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 MS PILLAY: - whereas the R44 would fly 3 at 300 feet. 4 KOLONEL VERMAAK: Dis korrek. 5 MS PILLAY: And a closer circumference 6 over the area of the operation. Now had you known that 7 Brigadier Fritz was air command, would that have made a 8 difference to those allocations? 9 KOLONEL VERMAAK: As ons vroeër dit 10 geweet het dan sou ons outomaties die twee omgeruil het, 11 dat die 44 die buite parameter vat en die Squirrel die 12 binne parameter, maar volgens die inligting wat ek gehad 13 het was dat die LCRC, Kolonel Botha moet op die Squirrel 14 wees sodat hy kan foto's neem vanuit die lug uit. 15 MS PILLAY: Now Colonel Scott testified 16 that initially in terms of the plan Brigadier Fritz was to 17 carry out the role of air command, but that you took over 18 the role as the operation unfolded by speaking directly to 19 Brigadier Calitz. What's your response to that? 20 KOLONEL VERMAAK: Dis negatief. Ek het, 21 van die 13de af was ek die senior persoon wat terugvoering 22 aan die JOC gegee het ten opsigte van al die dienste waarby 23 ons as Lugvleuel by betrokke was. Nêrens is daar gesê in 24 'n spesifieke operasie sal Brigadier Fritz die "aerial 25 commander" wees nie.</p>	<p style="text-align: right;">Page 25300</p> <p>1 die oorspronklike plan verander het van die oggend sesuur 2 af nie. 3 [14:44] MS PILLAY: And throughout the operation 4 you were under the impression that you were implementing an 5 encirclement plan. 6 KOLONEL VERMAAK: Dis korrek. 7 MS PILLAY: Now can you just deal very 8 briefly with your conduct in taking pictures of what was 9 transpiring from the air and then BBM-ing it or sending it 10 through to the JOC? Who did you send the images to? 11 KOLONEL VERMAAK: Die enigste kontak wat 12 ek op daardie stadium dan gehad het met die BBM was 13 Brigadier Pretorius gewees. 14 MS PILLAY: And how often would you send 15 the pictures? 16 KOLONEL VERMAAK: Redelik gereeld, veral 17 as ek gesien het daar is iets ongewoons wat gebeur, het ek 18 dadelik foto's geneem en ek het dit deurgestuur na haar 19 foon toe en ons het dan vir die JOC persoon wat op die 20 radio werk, gevra hulle moet net bevestig dat hulle die 21 foto's gekry het. 22 MS PILLAY: And did you receive 23 confirmation that the JOC was receiving your – 24 KOLONEL VERMAAK: Dis korrek. 25 MS PILLAY: - your BBM messages?</p>
<p style="text-align: right;">Page 25299</p> <p>1 MS PILLAY: Now we know that your 2 understanding was that when you initially took off on the 3 16th, that the plan which was to be implemented was the 4 encirclement plan. 5 KOLONEL VERMAAK: Dis korrek. 6 MS PILLAY: During the course of the day, 7 of the 16th, were you ever made aware that there was a 8 change in the plan? 9 KOLONEL VERMAAK: Nee, negatief. Ek kan, 10 mnr die Voorsitter, net noem die spesifieke dag met die R44 11 helikopter het ons 'n totale tyd van 7.3 ure in die lug 12 spandeer. So al wanneer ons basies gaan land het is 13 wanneer ons die helikopter moes gaan hervul het met 14 brandstof. So elke twee, twee en 'n half ure het jy 15 ingegaan, brandstof ingegooi, dieselfde tyd het ek 16 ingehardloop na die JOC toe, foto's wat ek in daardie tyd 17 geneem het, het ek dan oorhandig aan Kolonel Scott en ook 18 op my eie rekenaar wat dan in die JOC was het ek dit 19 afgelaai en dan is ek terug na die helikopter toe en ons 20 het weer in die lug gegaan. 21 MS PILLAY: So at no time either over the 22 radio or when you landed did anyone let you know that the 23 plan had changed from an encirclement – 24 KOLONEL VERMAAK: Op geen stadium was 25 daar enige voorligting aan ons van die Lugvleuel gegee dat</p>	<p style="text-align: right;">Page 25301</p> <p>1 KOLONEL VERMAAK: Dis korrek, Voorsitter. 2 MS PILLAY: And when was the last time 3 that you received confirmation that the JOC was receiving 4 your BBM pictures? 5 KOLONEL VERMAAK: Dit was nadat die 6 eerste skietinsident plaasgevind het, waar ek opgemerk het 7 van die persone wat op die grond gelê het wat ek 8 gerapporteer het aan die JOC dat daar 'n sekere aantal 9 bodies down is en het ek dit deurgestuur en het ek bevestig 10 of hulle dit ontvang het en dit het teruggekom na my toe, 11 ja, hulle het ontvang. 12 MS PILLAY: Now, how did you confirm that 13 they received the picture? 14 KOLONEL VERMAAK: Ek het aanvaar die 15 radio-operateur sou dit bevestig met Brigadier Pretorius en 16 dat hulle dan, as hulle terugvoering gee aan my, dan is dit 17 so, dan het hulle dit ontvang. 18 MS PILLAY: So in your understanding all 19 of the images which you were BBM-ing to the JOC were 20 received by the JOC? 21 KOLONEL VERMAAK: Dis korrek, ek was van 22 daardie onderstelling. 23 MS PILLAY: And can we just deal very 24 quickly with once you're up in the air, what method of 25 communication did you have with the people on the ground?</p>

Page 25302

1 CHAIRPERSON: Before he moves on to that,
 2 can I ask a question flowing from the previous topic just
 3 covered? In your statement LLL8 in paragraph 11 you
 4 describe what happened in the vicinity of the kraal, you
 5 know, the shooting incident at the kraal and line 5, you're
 6 going to come to this in more detail I take it when you
 7 give the narrative but I'm interested in the photograph
 8 part – you say that you repeated Brigadier Calitz's
 9 instruction from the helicopter, by which you saw that the
 10 members were acting. You said groups of attackers,
 11 photograph 1517, ran away in the direction of the
 12 squatters' houses adjacent to the scene. That you said was
 13 15:56 and at 15:58 you said, "We flew over the scene and
 14 noticed a number of people lying on the ground. The
 15 members again, grouped again in a line to be able to handle
 16 any further attacks. Photo 1518." Now did you take a
 17 photograph of the bodies on the ground?
 18 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 19 CHAIRPERSON: And did you send that by
 20 Blackberry?
 21 KOLONEL VERMAAK: Dis korrek.
 22 CHAIRPERSON: To the JOC?
 23 KOLONEL VERMAAK: Dis korrek.
 24 CHAIRPERSON: At what time?
 25 KOLONEL VERMAAK: Direk nadat die

Page 25303

1 insident gebeur het. Ek het probeer om, soos wat ek
 2 terugvoering gee, wat ek sien op die grond, neem ek die
 3 foto en ek stuur hom dadelik vir hulle terug na die
 4 opskamer toe.
 5 CHAIRPERSON: So according to your
 6 statement, and I'm not sure whether this time is what we
 7 call ETV time, you know, the times have been calibrated in
 8 terms of the ETV film but in your statement you say, "At
 9 15:58 we flew over the scene and noticed that a number of
 10 people were lying on the ground." So that's when you took
 11 the photograph?
 12 KOLONEL VERMAAK: Dis korrek.
 13 CHAIRPERSON: And then you say you sent
 14 it immediately to the JOC?
 15 KOLONEL VERMAAK: Dis korrek.
 16 CHAIRPERSON: So at 15:58 you sent the
 17 photograph to the JOC of bodies lying on the ground?
 18 KOLONEL VERMAAK: Dis korrek.
 19 CHAIRPERSON: Thank you.
 20 KOLONEL VERMAAK: Ek kan net noem daardie
 21 tye, mnr die Voorsitter, is die tye op die selfoon.
 22 CHAIRPERSON: Yes, yes, I understand and
 23 Mr Chaskalson has spent a lot of time working out how to
 24 translate the times on the various cell phones and cameras
 25 to ETV time.

Page 25304

1 KOLONEL VERMAAK: Dis korrek.
 2 CHAIRPERSON: But your time, your cell
 3 phone time was 15:58.
 4 KOLONEL VERMAAK: Dis korrek.
 5 CHAIRPERSON: Thank you.
 6 MR CHASKALSON SC: Chairperson, that time
 7 in ETV time is 15:56:239, 15:56:29.
 8 CHAIRPERSON: Thank you. Do we have the
 9 photograph that, to which you refer which you took at that
 10 time which shows the bodies lying on the ground?
 11 MR CHASKALSON SC: Yes, Chairperson.
 12 It's in Lieutenant-Colonel Vermaak's Blackberry series.
 13 It's photo 1518. It's at JJJ11.1518.
 14 CHAIRPERSON: Thank you. While we're on
 15 the topic, is it possible for us to see that now – unless
 16 you want to deal with it at some other time, Adv Pillay?
 17 MS PILLAY: Chairperson, I was planning
 18 to deal with it in greater detail but we can have a look at
 19 it while we're here -
 20 CHAIRPERSON: Well, let me not interrupt
 21 your plan.
 22 MS PILLAY: I think it's almost up, so
 23 it's just a question of clicking.
 24 MS LEWIS: Chair, sorry, can I ask that
 25 the warning be given before we look at the photo?

Page 25305

1 CHAIRPERSON: Certainly but it's just
 2 bodies lying there, you know, from a height but certainly.
 3 We are going to see a picture of bodies of the deceased
 4 lying on the ground at the spot where they were shot and if
 5 anyone here feels that he or she will suffer emotional
 6 distress from seeing this on the screen, I would suggest
 7 that they leave now and I ask that the picture not be put
 8 up on the screen until a minute has expired from now. I
 9 think a minute hasn't expired yet, but I think everyone who
 10 wants to go I think has left, so we can perhaps see the
 11 picture now. What we see in this photograph round bout the
 12 middle of the photograph, a line of members of the police
 13 service – I take it TRT members, were they? You can't see
 14 that from the photograph.
 15 COLONEL VERMAAK: No.
 16 CHAIRPERSON: According to the evidence
 17 they are. There are a number of vehicles and then above
 18 them one can see a road, a gravel road and above that, in
 19 turn, part of the kraal and then to the right of the kraal
 20 as one looks at the photograph, partly on the gravel road
 21 one sees a number of bodies. That's the picture you sent?
 22 COLONEL VERMAAK: That's correct.
 23 CHAIRPERSON: Thank you.
 24 MS PILLAY: Thank you, Colonel. We were
 25 just covering, Colonel, the methods of communication that

<p style="text-align: right;">Page 25306</p> <p>1 you had at your disposal in order to liaise with the people 2 on the ground. We know that one of them were via BBM, your 3 Blackberry. What other methods of communication did you 4 have? 5 KOLONEL VERMAAK: Die enigste ander 6 kommunikasie was die gewone radiokanaal waarop al die 7 voertuie en die lede met handradio's op gewerk het. 8 MS PILLAY: And we know that you also 9 took still photographs. 10 KOLONEL VERMAAK: Dit is korrek, 11 Voorsitter. 12 MS PILLAY: Can you tell us, when you 13 were taking the still photographs as well as the BBM 14 pictures? 15 KOLONEL VERMAAK: Ja. Ek het al die 16 foto's, in fact – of behalwe dié wat kolonel Botha geneem 17 het, was ek die enigste wat van die lugvleuel se kant af, 18 van die 13de af foto's geneem het. 19 MS PILLAY: If we can then start, 20 Colonel, with the run-up to scene 1, even though we've just 21 covered the actual shooting itself. 22 CHAIRPERSON: Sorry, I interrupted your 23 sequence but I thought that was the most important picture, 24 was part of this Blackberry sending story that I wanted to 25 clarify –</p>	<p style="text-align: right;">Page 25308</p> <p>1 deurlopende heen en weer loperij gewees, dat hulle wel 2 gewapen was met tradisionele wapens. 3 MS PILLAY: So at this stage you could 4 see people walking to and from the township. 5 KOLONEL VERMAAK: Dit is korrek. 6 MS PILLAY: If we can then go to 7 JJJ11.1515. We see in this photograph that the strikers 8 had already moved. Maybe what you can do, Colonel, is just 9 describe when you first see movement by the strikers. 10 KOLONEL VERMAAK: Ek het eers 'n groepie, 11 waar die mense op die koppie was, was daar 'n groep op die 12 koppie en dan hierdie klein groepie wat aan die voorkant 13 die heeldyd gebly het. Op 'n stadium het ons opgemerk dat 14 hulle op- en afbeweeg en toe hulle afbeweeg, kom ek sê na 15 die onderkant van die foto toe, het die res van die koppies 16 by hulle aangesluit en in die rigting beweeg soos wat hy 17 daar op die foto verskyn. 18 MS PILLAY: Can I ask us to put up L – 19 can I ask the technician to put up L194? Now this is the 20 same picture but it just has arrows drawn onto them. Can 21 you just describe to us, initially where were the strikers 22 before they moved? Sorry, let's talk about the small group 23 that you refer to. 24 KOLONEL VERMAAK: Die klein groepie sal 25 ek sê was daar waar die geel pyl se agterkant is.</p>
<p style="text-align: right;">Page 25307</p> <p>1 MS PILLAY: No, definitely. 2 CHAIRPERSON: But anyway, but if I 3 interrupted the sequence I apologise. 4 MS PILLAY: No, it actually is the most 5 important picture, Chair. If we can start with JJJ11.1514. 6 Now this is a picture taken on your Blackberry, is that 7 correct? 8 KOLONEL VERMAAK: I have to make sure but 9 I think, yes. 10 MS PILLAY: Ja, I think the JJJ11 series 11 is your Blackberry pictures. 12 KOLONEL VERMAAK: Yes. 13 MS PILLAY: Can you just take us through 14 what you observed from the air at this stage? 15 KOLONEL VERMAAK: At that stage the – die 16 draadkarre was in plek gebring soos wat aanvanklik die 17 oggend gesê is die draadkarre sal ontplooi word. Ek het, 18 op 'n stadium het ek vir die JOC gevra of ten minste ek het 19 vir die Nyala voertuie wat ons daar op die grond gesien het 20 – as jy na die foto kyk op die linkerkant, die twee mees, 21 Nyalas aan die linkerkant met die draadkarre agter hulle – 22 het ek vir hulle gevra die mense wat tussen die Nyalas deur 23 loop, of hulle enigsins gewapen is. En hulle het toe aan 24 my bevestig dat daai persone wat van die woongebied af 25 koppie toe en van die koppie af woongebied toe, daar was 'n</p>	<p style="text-align: right;">Page 25309</p> <p>1 MS PILLAY: So the dark patch just before 2 the short arrow? 3 KOLONEL VERMAAK: Dis korrek. 4 MS PILLAY: And when they moved from 5 there, in which direction did they move? 6 KOLONEL VERMAAK: Hulle het basies 7 afbeweeg soos wat die, op die foto sal u sien die grootste 8 hoeveelheid mense is, het hulle reguit van daar af soontoe 9 beweeg en toe het hulle omgekom. 10 MS PILLAY: So let's start at the short 11 arrow which is supposed to depict movement of that small 12 group from the dark patch at the base of the arrow, the 13 short arrow, to the dotted line. Did you see movement in 14 that direction from the strikers? 15 KOLONEL VERMAAK: Mnr die Voorsitter, 16 nee. Dit het ek nie waargeneem nie. Ons moet net in 17 gedagte hou dat die, ons gesirkel het om die hele omgewing 18 insluitende die nedersetting en die hostel area. So ek kan 19 nie sê dat hulle daar was nie, maar dit wat ek waargeneem 20 het is, hulle het van daar waar ek verduidelik het die 21 klein groepie was, toe die klein groepie afbeweeg het, het 22 die groot groep by hulle aangesluit. 23 MS PILLAY: And you were able to see the 24 small group move at all times? 25 KOLONEL VERMAAK: Dis korrek.</p>

<p style="text-align: right;">Page 25310</p> <p>1 CHAIRPERSON: Can you perhaps indicate to 2 us on the screen – have you still got the gadget that you 3 had before? Indicate on the screen where the small group 4 to which you referred, where they moved along – the route 5 they followed? 6 KOLONEL VERMAAK: Voorsitter, hulle was 7 in daardie omgewing gewees. Hulle het daar op- en 8 afbeweeg. Op 'n stadium het hulle daar omtrent in daardie 9 kruising gesit. Toe het hulle opgestaan en ons het hulle 10 weer gesien toe hulle hierdie kant beweeg, so om beweeg het 11 waar die groep wat van die koppies af gekom het, hier om by 12 hulle aangesluit het. So hulle het basies, die klein 13 groepie het van daar af beweeg en die ander het by hulle 14 aangesluit. 15 CHAIRPERSON: I'm not quite sure how to 16 describe that. The small group was at the bottom of the 17 small yellow arrow and you say they then moved to a point 18 more or less at the end, the curve of the large orange 19 arrow. 20 KOLONEL VERMAAK: Dis korrek. 21 CHAIRPERSON: And that's where they 22 joined the large – that's where they and the larger group 23 were together. 24 KOLONEL VERMAAK: Dis korrek. 25 CHAIRPERSON: And you say they then moved</p>	<p style="text-align: right;">Page 25312</p> <p>1 MS PILLAY: And from – what happened once 2 they were there, at the head of the orange arrow? 3 KOLONEL VERMAAK: Toe hulle daar om 4 beweeg het, het Brigadier Calitz vir die mense opdrag gegee 5 dat hulle moet engage en dat hulle die Nyala se deure moet 6 toemaak en toe het die traanrook, was die traanrook 7 afgevuur en ons het opgemerk dat die waterkanon ook gespuit 8 het daar. 9 MS PILLAY: Chair, we're about to move to 10 – 11 CHAIRPERSON: I was thinking we're going 12 to – I was going to suggest we take the tea adjournment now 13 but perhaps when we resume you can just continue with this 14 aspect because I'm interested in what he has to say in 15 relation to the position of the Nyalas and the wire 16 trailers and so on, but perhaps we can look at that after 17 the tea adjournment. We'll now take the tea adjournment. 18 [COMMISSION ADJOURNS COMMISSION RESUMES] 19 [15:34] CHAIRPERSON: The Commission resumes. I 20 had so far only received three requests, or three 21 applications for leave to cross-examine this witness, from 22 the Human Rights Commission, the family of Warrant Officer 23 Monene, and the Legal Resources Centre, and I have been 24 informed by SERI that they propose bringing an application 25 and they asked for an extension, which I gave them. I</p>
<p style="text-align: right;">Page 25311</p> <p>1 along the line, the lower end, in other words towards the 2 head of the orange arrow, is that – 3 KOLONEL VERMAAK: Dis korrek. 4 CHAIRPERSON: Is that what you describe? 5 KOLONEL VERMAAK: Dis korrek. 6 MS PILLAY: So they moved from the dark 7 patch to the curve of the light yellow – sorry, the orange 8 arrow, and then moved in the way that the orange arrow 9 depicts. 10 KOLONEL VERMAAK: Ja, hulle het basies 11 daarso, as ek moet verduidelik sal ek sê daardie is nie 12 korrek nie. Volgens ons waarneming het hulle daar 13 afbeweeg, die res het daar aangesluit by hulle en toe het 14 hulle om beweeg tot waar die punt daar is. 15 MS PILLAY: So did you see the strikers 16 near the dotted line at any point except right next to the 17 kraal? 18 KOLONEL VERMAAK: Nee. Ons het hulle die 19 eerste keer waargeneem soos wat hulle daar is, dis die foto 20 wat ek met die Blackberry geneem het en onmiddellik na die 21 JOC toe deurgestuur het. 22 MS PILLAY: So the first time you saw 23 them close to the dotted line was at the head of the orange 24 arrow? 25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25313</p> <p>1 don't know what the position is with the other parties, but 2 I expect any applications they may wish to bring before the 3 end of today. U is nog steeds gebind deur die opregte en 4 plegtige verklaring wat u gemaak het. 5 SALMON JOHANNES VERMAAK: Dit is so, 6 Voorsitter. 7 CHAIRPERSON: And also I expect Mr 8 Monene's counsel to be in a position to start cross- 9 examining once the evidence-in-chief is concluded. I'm 10 prepared to grant the Monene family leave to cross-examine 11 on all the topics set out in their application. 12 EXAMINATION BY MS PILLAY (CONTD.): Thank 13 you, Chair. Colonel, if we can pick up from LLL8 at 14 paragraph 10 thereof, 11 lines from the bottom of the page 15 – paragraph 10, Chair, 11 lines from the bottom of the page 16 where you start describing what happens from 15:30 in the 17 afternoon of the 16th. Now if we can start by looking at 18 JJJ11.1506, now you will just confirm, Colonel, that all of 19 the pictures in the JJJ11-series were taken on your 20 BlackBerry. Is that correct? 21 KOLONEL VERMAAK: Dis so, Voorsitter. 22 MS PILLAY: And the JJJ10-series were 23 taken on your Pentax? 24 KOLONEL VERMAAK: Dis korrek. 25 MS PILLAY: Now this is JJJ11.1506, which</p>

<p style="text-align: right;">Page 25314</p> <p>1 means it was taken on your BlackBerry, and if you can just 2 tell us what it is that you see at this stage? 3 KOLONEL VERMAAK: Voorsitter, op daardie 4 stadium was mnr Mathunjwa van AMCU by die groep gewees waar 5 volgens wat ons op die radio verneem het hy nog steeds met 6 die mense onderhandel het. Aan die voorkant by hom was die 7 redelike groepie wat bekend gestaan het as die militante 8 groep. 9 MS PILLAY: So the militant group, as you 10 refer to them, at this stage is in the dark patch on the 11 crossing of the pathways that you described? 12 KOLONEL VERMAAK: Dis positief. 13 MS PILLAY: If we can then go to 14 JJJ11.1507, that's a different angle of the same picture. 15 KOLONEL VERMAAK: Dis korrek. 16 MS PILLAY: Also taken by you on your 17 BlackBerry? 18 KOLONEL VERMAAK: Dis korrek. 19 MS PILLAY: If we can then go to the 20 following sentence, Colonel, in your statement, where you 21 say that the AMCU vehicle moved away at 15:35 and you say 22 the next line, "Die bystandgroepe het die eerste 23 vergaderingpunt genader vir ondersteuning aan die Nyala 24 voertuie om 15:35." That's JJJ10.4533. Can we just see – 25 can you just tell us what that means? 4533, what were you</p>	<p style="text-align: right;">Page 25316</p> <p>1 out with your pointer Mr Mathunjwa's motor car, please? 2 KOLONEL VERMAAK: Dis waar sy voertuig – 3 CHAIRPERSON: It's the vehicle which is 4 below – there's a mast – 5 KOLONEL VERMAAK: Dis korrek, Voorsitter. 6 CHAIRPERSON: - a power mast and it's 7 below that. It looks like two people standing next to it. 8 Is that – 9 KOLONEL VERMAAK: Dis korrek. 10 CHAIRPERSON: Thank you. There's 11 actually three people standing there that I see – 12 KOLONEL VERMAAK: Dis reg. 13 CHAIRPERSON: - and someone walking 14 forward away from it. 15 KOLONEL VERMAAK: Dis korrek. 16 CHAIRPERSON: Yes, thank you. 17 MS PILLAY: And then you refer to 18 JJJ10.4540. Can you describe what the barbed wire trailer 19 is doing here? 20 KOLONEL VERMAAK: U sal sien op die foto 21 aan die linkerkant is dit waar die substasie is. Die 22 eerste Nyala het begin beweeg en tot by die volgende Nyala, 23 so in daardie stadium was hulle besig om die draadkarre uit 24 te gooi. 25 CHAIRPERSON: And can we see Mr</p>
<p style="text-align: right;">Page 25315</p> <p>1 referring to? 2 KOLONEL VERMAAK: Soos wat ons verstaan 3 het is dit "forward holding 1" se voertuie wat inbeweeg 4 het. 5 MS PILLAY: So the vehicles from forward 6 holding area 1 were moving in? 7 KOLONEL VERMAAK: Dis korrek. 8 MS PILLAY: Then we go according to your 9 statement to 15:39 where you refer to JJJ10.4538, and can 10 you just describe what you see here? 11 KOLONEL VERMAAK: Dit is waar die 12 voertuig van mnr Mathunjwa in die rigting van die Nyalas 13 beweeg het, waar Brigadier Calitz-hulle in was. 14 MS PILLAY: Now you say in your statement 15 at this stage you notice that the group on the koppie 16 started moving closer together. 17 KOLONEL VERMAAK: Dis positief. Ons kan 18 sien op die foto, Voorsitter, dat spesifiek daar na die 19 kruising toe is daar 'n groter groepering as wat daar 20 normaalweg was en dan op die linkerkant van die foto kan 21 mens sien is, kan 'n, as 'n mens dit so kan stel, is daar 22 baie minder mense. 23 MS PILLAY: Okay, so we see this on this 24 BlackBerry picture 4538. 25 CHAIRPERSON: Sorry, can you just point</p>	<p style="text-align: right;">Page 25317</p> <p>1 Mathunjwa's vehicle on this photograph? 2 KOLONEL VERMAAK: Nee, mnr die 3 Voorsitter, hy het alreeds vertrek. Ek dink amper, miskien 4 kan in soem, daar aan die agterkant kan dalk – daar's hy. 5 CHAIRPERSON: [Microphone off, inaudible] 6 near the top of the picture it's just under halfway from 7 the left-hand side one can see a dark patch with a path 8 going through it and below the path is Mathunjwa's vehicle. 9 MS PILLAY: Now this picture was taken 10 with your Pentax, but we know that there's a similar 11 picture with your BlackBerry, which is JJJ11.1514, which 12 shows that Nyala 1 has started deploying its barbed wire. 13 KOLONEL VERMAAK: Dis korrek. 14 MS PILLAY: Do you recall having sent 15 this picture to the JOC? 16 KOLONEL VERMAAK: Mnr die Voorsitter, 17 sover ek kan onthou het ek al die foto's wat ek met my 18 BlackBerry geneem het na die JOC toe gestuur. 19 MS PILLAY: Now you say in your statement 20 LLL8, four lines from the bottom of paragraph 10 you say, 21 "Hulle het vir die eerste keer na die Nyalas en die 22 draadkarre toe beweeg." Can you just tell us what it is 23 that you mean by that? 24 KOLONEL VERMAAK: Die militante groep het 25 gewoonlik agter daardie lyn gebly, daardie grondpadjie wat</p>

<p style="text-align: right;">Page 25318</p> <p>1 daar loop. Op daardie stadium toe het hulle oor die 2 grondpadjie beweeg in hierdie omgewing en dit is wat ons 3 gemeld het dat hulle in die rigting beweeg het van waar die 4 Nyalas is want vir die, voor die tyd was dit hulle basiese 5 lyn gewees wat hulle op beweeg het daardie. 6 CHAIRPERSON: If one looks at the picture 7 we're now looking at one sees from a point I suppose 8 between a third and halfway from the left at the bottom of 9 the photograph there's a path moving diagonally up towards 10 the top right-hand corner of the photograph. Some distance 11 up there's a, it comes to a crossing. In fact it 12 intersects with a vehicle, intersects rather with a path 13 more or less parallel with the bottom of the photograph, 14 and just above that one can see the militant group, as you 15 describe them, bunched together at this, that spot. 16 KOLONEL VERMAAK: Dis korrek, Voorsitter. 17 MS PILLAY: Do you recall which of the 18 barbed wire Nyalas – 19 MR NTSEBEZA SC: Mr Chairman, can I just 20 get some direction again from the Chair? I'm made to 21 understand that there came a time in the Commission when 22 the use of the word "militant group," as is the use of the 23 word "massacre" was being discouraged, and I don't know 24 whether we're back to that – 25 CHAIRPERSON: I don't remember militant</p>	<p style="text-align: right;">Page 25320</p> <p>1 the militant group. 2 MR NTSEBEZA SC: They can't all be 3 leaders, then this – 4 CHAIRPERSON: No, no, according to the 5 evidence about 3 to 400 of them, it looks as if you may be 6 getting some assistance from Ms Lewis, or from your 7 attorney- 8 MR NTSEBEZA SC: Or are they called the 9 front group. 10 CHAIRPERSON: Sorry? 11 MR NTSEBEZA SC: They were the front 12 group. You know I mean in pictures you could see that 13 they're usually – 14 CHAIRPERSON: Ja okay, anyway, are you 15 happy to use in Afrikaans the equivalent of – 16 KOLONEL VERMAAK: Dis reg, mnr die 17 Voorsitter. Die voorste groep – 18 CHAIRPERSON: We must avoid using 19 expressions which presuppose findings that the Commission 20 will be called upon to make at the end. 21 KOLONEL VERMAAK: Dis korrek. 22 CHAIRPERSON: That's why I said I didn't 23 approve of the word "massacre" because if the deceased 24 strikers were killed by the police in self-defence it 25 wouldn't be a massacre, but if it wasn't self-defence it</p>
<p style="text-align: right;">Page 25319</p> <p>1 being forbidden, but I specifically said as you describe it 2 to indicate – 3 MR NTSEBEZA SC: No, no, no, that's what 4 also reminds me that in fact, Chair, it's – 5 CHAIRPERSON: You see, I deliberately 6 said that because obviously, and I understand that your 7 clients and Mr Mpofu's clients and probably others don't 8 agree that they were a militant group at all. I understand 9 that. That's why I added the phrase, "the militant group, 10 as you describe them." If you can think – 11 MR NTSEBEZA SC: Maybe the Colonel – 12 CHAIRPERSON: If you can think of a 13 synonym which doesn't convey what you don't want to have 14 conveyed but enables the witness to express himself 15 briefly, I'll gratefully accept it. But- 16 MR NTSEBEZA SC: No, he could call them 17 protesters. 18 CHAIRPERSON: No, no, no, no, no. No, 19 the point is that the argument will be by the police that 20 all 3 000 were protesters. The police argument is that 21 there was a specific group among the – sub-group, if one 22 can call them that, among the protesters whom they describe 23 as the hard hats. You know the – 24 MR NTSEBEZA SC: The leadership group? 25 CHAIRPERSON: They're all described as</p>	<p style="text-align: right;">Page 25321</p> <p>1 might well be a massacre. But we avoid the word "massacre" 2 for the moment because it presupposed a finding, you see. 3 Now Mr Ntsebeza says well, that's a two-edge sword, it cuts 4 the other way as well. The police mustn't then use 5 expressions which have the opposite effect. So if you're 6 happy with the "front group" we can carry on. 7 KOLONEL VERMAAK: Dankie, mnr die 8 Voorsitter. Ek aanvaar dit so. 9 MS PILLAY: Now Colonel, you say at four 10 lines from the bottom of the page, bottom of paragraph 10 11 you say, "Hulle het vir die eerste keer na die Nyala en die 12 draadkarre toe beweeg." Now you've just shown us through 13 the use of the pointer what you meant by that. 14 KOLONEL VERMAAK: Dis korrek. 15 MS PILLAY: And did they approach 16 anywhere close to the actual line of barbed wire Nyalas? 17 KOLONEL VERMAAK: Volgens ons observasie 18 uit die helikopter uit het ons nie gesien dat hulle tot by 19 die Nyalas gegaan het nie, maar ons moet in gedagte hou dat 20 ons die heelyd met die helikopter in 'n ronde sirkel 21 vlieg. So daar kan geleenthede wees wat jy sekere goed nie 22 raaksien nie. So dit gaan net oor presies dit wat ons 23 waargeneem het uit die helikopter uit. 24 MS PILLAY: But we see that during this 25 period you're taking picture with both your BlackBerry and</p>

Page 25322

1 your Pentax.
 2 KOLONEL VERMAAK: Dis korrek.
 3 MS PILLAY: So it's safe to say that you
 4 had your eye on the strikers at all times –
 5 KOLONEL VERMAAK: Dis korrek.
 6 MS PILLAY: - during this period?
 7 KOLONEL VERMAAK: As u kyk na die foto
 8 sal u sien ons het, die rigting wat ons gevlieg het was
 9 basies antikloksgewys. So daar was 'n stadion, en ons moet
 10 in gedagte hou die helikopter vlieg teen ongeveer 110
 11 kilometer 'n uur wat hy in die rondte vlieg, so daar is 'n
 12 moontlikheid dat waar hy gedraai het weer, dat jy sekere
 13 goed nie kon raaksien nie.
 14 MS PILLAY: But you saw the group get up
 15 from the dark spot at the crossing where we see them now on
 16 this picture.
 17 KOLONEL VERMAAK: Dis reg.
 18 MS PILLAY: 1514, and you see them moving
 19 away.
 20 KOLONEL VERMAAK: Dis korrek.
 21 MS PILLAY: Or let's say moving at this
 22 stage.
 23 KOLONEL VERMAAK: Dis reg.
 24 MS PILLAY: Which Nyala was deploying its
 25 barbed wire at that stage when the group first moved?

Page 25323

1 KOLONEL VERMAAK: Op daardie stadion, die
 2 eerste waarneming wat ons gehad het is toe die Nyala naaste
 3 aan die kragstasie sy draad begin uitgooi het.
 4 MS PILLAY: So that's Nyala 1.
 5 KOLONEL VERMAAK: Ja, ek neem aan Nyala
 6 1, het ons dadelik 'n verandering in die groep waargeneem.
 7 Die agterste mense wat op die koppie was het opgestaan en
 8 ons kon duidelik sien dat daar baie meer beweging van die
 9 koppie af was in die rigting van die woongebied.
 10 MS PILLAY: And when the leadership group
 11 – I'm not even sure what the description is at this stage –
 12 when they moved for the first time towards the, what you
 13 say is towards the Nyalas and the "draadkarre," the barbed
 14 wire Nyalas, which Nyala was deploying its barbed wire?
 15 KOLONEL VERMAAK: Ek dink hulle was
 16 basies nog in die proses om uit te gooi. Alles was nog nie
 17 klaar uitgeloop nie. So ek kan nie presies sê watter Nyala
 18 spesifiek besig was om die draad te ontplooi nie, maar dit
 19 was in die proses wat hulle begin die draad uitgooi.
 20 MS PILLAY: Alright, you then say that
 21 Brigadier Calitz informed the members to close the doors
 22 because the group was getting aggressive.
 23 KOLONEL VERMAAK: Dis korrek.
 24 MS PILLAY: And how far were the strikers
 25 from the barbed wire Nyala as this stage?

Page 25324

1 KOLONEL VERMAAK: Op daardie stadion,
 2 soos wat ek vir u verduidelik het was hulle basies net oor
 3 daardie grondpad daar gewees, omtrent daar waar daardie
 4 donker kol is, so hulle was in daardie omgewing gewees.
 5 CHAIRPERSON: The dark patch to which you
 6 refer is, as one looks at the photograph to the left of the
 7 front group, above the, at the section, and to the left of
 8 the path that I referred to earlier as proceeding, moving
 9 diagonally across the photograph, and slightly to the left
 10 of the front group on the photograph we're now looking at.
 11 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 12 MS PILLAY: So if we now look at
 13 JJ11.1515 –
 14 COMMISSIONER HEMRAJ: Before you get
 15 there, in terms of actual distance how far were the
 16 strikers from the Nyalas, or the closest Nyala to you then?
 17 Could you say?
 18 KOLONEL VERMAAK: Voorsitter, ek – dis
 19 nou moeilik om te sê, maar ek skat ongeveer so 40 meter min
 20 of meer gewees.
 21 COMMISSIONER HEMRAJ: Okay, and when you
 22 say here that the order was given by Brigadier Calitz to
 23 close the doors because the group was aggressive, what did
 24 you observe that led you to that conclusion that they were
 25 aggressive?

Page 25325

1 KOLONEL VERMAAK: Die feit dat almal
 2 opgestaan het en jy kon sien daar is in die voorste groep
 3 baie meer beweging gewees. Dit is wat ons uit die lug uit
 4 waargeneem het. Brigadier Calitz het oor die radio gesê
 5 dat die mense moet die deure en goed toemaak want hierdie
 6 mense is baie meer aggressief. Dit is wat na die JOC toe
 7 ook deurgegee was.
 8 COMMISSIONER HEMRAJ: I beg your pardon;
 9 that was not your conclusion that they were aggressive?
 10 KOLONEL VERMAAK: No, no.
 11 COMMISSIONER HEMRAJ: I beg your pardon.
 12 MS PILLAY: We see in –
 13 CHAIRPERSON: Sorry, did you hear him say
 14 that over the radio?
 15 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 16 CHAIRPERSON: Thank you.
 17 MS PILLAY: We see in 1515, at this stage
 18 which Nyala is deploying its barbed wire?
 19 KOLONEL VERMAAK: As ek nou korrek is, is
 20 dit 4.
 21 MS PILLAY: If you can't identify the
 22 Nyala maybe you can just point it out and then we can work
 23 from there.
 24 [15:54] KOLONEL VERMAAK: Op – dit is, daar sal u
 25 sien, daar het die Nyala sy draad uitgeloop. Hy staan daar

<p style="text-align: right;">Page 25326</p> <p>1 by twee Nyalas daar, so daardie ene het sy draad begin 2 uitgooi na die kant toe. 3 MS PILLAY: And in terms of the movement 4 of that Nyala, what did you see? 5 KOLONEL VERMAAK: Toe die Nyala, toe die 6 Nyalas begin die draad uitgooi was daar definitief uit die 7 lug waarneembaar dat daar 'n verandering in die beweging 8 van die groepe was en toe die vierde Nyala, of dan die 9 laaste Nyala wat draad uitgereg het begin beweeg het, het 10 hierdie groep om gekom. Hulle het, soos ek verduidelik het 11 hulle het hier oor gekom. Die res van die mense het by 12 hulle aangesluit van daardie koppie af oor hiernatoe, en 13 dan weer hier het hulle by hulle aangesluit en toe het 14 hulle vorentoe beweeg hierso na die hoek van die kraal toe. 15 CHAIRPERSON: What you refer to is 16 firstly you've referred to the koppie, which is the top of 17 the photograph in the middle. You then indicated they 18 moved towards the dark area, which is to the right of the 19 koppie and lower down, about a quarter of the way down the 20 photograph, and then you indicated they moved to the spot 21 where one can see at the right-hand end of the group of 22 strikers, more or less that – 23 KOLONEL VERMAAK: Dis korrek. 24 CHAIRPERSON: You earlier referred to a 25 particular Nyala which is just beginning to move and throw</p>	<p style="text-align: right;">Page 25328</p> <p>1 CHAIRPERSON: So as one looks at the 2 photograph it looks like what one can call the top right- 3 hand corner of the kraal – 4 KOLONEL VERMAAK: Dis korrek. 5 CHAIRPERSON: - there's a projection 6 there which I think is what you're pointing to. 7 MS PILLAY: Now you heard Brigadier 8 Calitz say that the members, "hulle moet 'n optrede loods." 9 KOLONEL VERMAAK: Dis korrek. 10 MS PILLAY: And how did you understand 11 this instruction? 12 KOLONEL VERMAAK: Uit die oog van 13 ondervinding van Openbare Orde is die normale prosedure dat 14 jy traanrook en skokgranate saamgooi om die gewenste effek 15 te hê en dan ook jou waterkanon te gebruik en sou dit nie 16 effektief genoeg wees nie, dan sal jy oorgaan na rubber 17 rondtes. 18 CHAIRPERSON: What were the words he 19 used? You paraphrase them in Afrikaans as saying, 20 "Brigadier Calitz het opdrag gegee dat die lede 'n optrede 21 moet loods om hulle te beskerm teen die aanval van die 22 massa." Now can you remember more or less the words he 23 used, the exact words he used? 24 KOLONEL VERMAAK: Dis reg, Voorsitter. 25 Sy woorde was, "they must engage."</p>
<p style="text-align: right;">Page 25327</p> <p>1 out its wire. That would appear to be the fourth Nyala 2 because if one starts near the top, top left-hand corner of 3 the photograph, one sees what looks like the first Nyala. 4 KOLONEL VERMAAK: Dis korrek. 5 CHAIRPERSON: And then the second, the 6 third – 7 KOLONEL VERMAAK: And the fourth. 8 CHAIRPERSON: - and then the fourth, ja. 9 MS PILLAY: So you say in the last four 10 lines of paragraph 10, you say that, "Brigadier Calitz het 11 opdrag gegee dat die lede 'n optrede moet loods." Do you 12 recall exactly what stage of the operation this was? How 13 far were the strikers from the Nyalas at this stage? 14 KOLONEL VERMAAK: Dit was - waar daardie 15 groep nou te sien was, was baie nader gewees en op daardie 16 stadium was Nyala 4 ook baie nader aan die hoek gewees. So 17 hulle het mekaar basies kan 'n mens sê gelyk by daardie 18 hoek ontmoet daarso. 19 CHAIRPERSON: By the corner you're 20 referring to the corner of the kraal on the right-hand 21 side. As we look at the photograph, where would it be? 22 Can you perhaps indicate where in the vicinity of the kraal 23 is the spot that you're talking about? 24 KOLONEL VERMAAK: Dis ongeveer in hierdie 25 omgewing, Voorsitter.</p>	<p style="text-align: right;">Page 25329</p> <p>1 CHAIRPERSON: Are you now going to move 2 on to paragraph 11, Ms Pillay? 3 MS PILLAY: Chair, just the last two 4 lines of paragraph 10 and then I'll move on – 5 CHAIRPERSON: Obviously, yes. No, finish 6 those two and then we'll take the adjournment until 7 tomorrow morning. 8 MS PILLAY: And tell us what you 9 witnessed at that stage when, after Brigadier Calitz told 10 the members "dat hulle 'n optrede moet loods"? 11 KOLONEL VERMAAK: Nadat Brigadier Calitz 12 die opdrag gegee het was dit asof die lede getalm het. Dit 13 het amper vir my voorgekom of die boodskap nie by die lede 14 uitgekom het op radio nie en het ek toe dadelik van die 15 helikopter af sy opdrag herhaal. 16 MS PILLAY: And after you repeated the 17 instruction, what happened then? 18 KOLONEL VERMAAK: Die lede het toe 19 opgetree met traanrook en skokgranate, wat ons uit die lug 20 uit kon waargeneem het. As hulle met haelgewere en dies 21 meer optree kan ons ongelukkig nie uit die helikopter dit 22 waarneem nie. Ons kan basies net waarneem as daar 23 traanrook, skokgranate, en dan die waterkanon is wat dan 24 ontplooi word. 25 MS PILLAY: Chair, I'm now at the end of</p>

1 paragraph 10.
2 CHAIRPERSON: Well, we've come to the end
3 of the day's sitting. We'll adjourn till tomorrow morning
4 9 o'clock.
5 [COMMISSION ADJOURNED]
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A				
aanbied 25182:18	aanvanklik 25251:2 25262:16 25307:16	25298:24	aggressief 25281:10 25325:6	allocations 25293:13 25298:8
aand 25282:25	aanvanklike 25259:16	af 25170:7 25196:25	aggressive 25323:22 25324:23,25 25325:9	allow 25272:9
aandag 25184:12,14 25186:5 25201:24 25216:23 25233:12 25234:20 25281:5	aanvullende 25270:20 25274:6	25199:14 25205:9,14 25211:25 25212:20 25213:23 25216:21 25217:9 25219:1,7 25222:2 25229:4,12 25233:8,16 25234:22 25235:24 25241:6 25242:23 25244:16 25245:7 25252:2 25253:6 25255:1 25258:6 25259:8,9 25263:5 25266:16 25268:9 25271:20,23 25278:3 25281:6 25283:16 25284:13 25285:1 25287:5 25289:7 25290:10 25292:19 25294:10 25298:21 25300:2 25306:17,18 25307:24,25 25309:8 25310:11,13 25323:9 25326:12 25329:15	agreed 25278:13	almal 25232:25 25325:1
aanduiding 25282:15	aanwending 25187:9 25204:19	afbeweeg 25308:14,14 25309:7,21 25310:8 25311:13	agste 25173:2	alreeds 25229:13 25317:3
aaneenlopend 25205:9	aard 25201:22	Afdeling 25181:16	agter 25200:15 25226:11 25229:15 25246:14 25281:8 25282:11 25307:21 25317:25	alright 25171:8 25173:5,14,17 25194:7 25226:7 25231:16 25235:10 25242:25 25246:20 25249:22 25251:23 25252:21 25254:4,20 25255:2 25259:1 25268:10 25271:25 25275:13 25277:10 25280:24 25289:17 25296:25 25323:20
aaneenlopende 25251:18	able 25217:3 25251:14 25302:15 25309:23	afdeling 25181:16	agtergebly 25259:4	altwee 25212:22 25265:9
aangaan 25208:10 25213:12 25279:21	abovementioned 25192:12	afgehaal 25299:19	agtergrond 25267:10	altyd 25192:2,3 25217:1 25219:24 25235:17 25287:6,10 25295:17
aangebied 25187:4,6	absoluut 25213:20	afgekeur 25287:13	agterkant 25202:20 25204:2 25249:21 25308:25 25317:4	Amarillo 25189:12
aangedui 25271:22	accept 25319:15	afgelaai 25299:19	agterkand 25202:20 25204:2 25249:21 25308:25 25317:4	AMCU 25198:16,17,19 25211:22 25314:4,21
aangegaan 25197:1	accompanied 25243:24	afgelê 25173:1 25271:19 25274:17	agtermiddag 25219:18	ammunisie 25201:15 25233:21
aangekom 25243:6	accompany 25243:18	afgehandel 25190:17	agterna 25190:16 25212:9 25242:16 25268:21 25269:20	amper 25231:13 25317:3 25329:13
aangeleenthere 25195:4	accord 25198:19 25224:10	afgekeur 25287:13	agterste 25323:7	amplify 25261:3
aangeleentheid 25280:20	acknowledged 25289:25	afgekeur 25287:13	agtervolg 25244:10 25269:5,10	ampte 25212:16
aangeloop 25229:20,23 25232:3	Act 25188:25 25189:2	afgekeur 25287:13	air 25180:19 25213:6 25214:3 25219:20 25223:3 25242:19 25245:2 25271:16 25290:11 25291:20 25291:23,24 25292:3 25292:15 25295:9,10 25295:11,13 25296:19 25297:3,23 25298:7,17 25300:9 25301:24 25307:14	amptelike 25267:2 25290:23
aangeneem 25259:8 25282:24	acting 25172:15 25302:10	afgekeur 25287:13	aircraft 25292:16 25293:13	ander 25189:4 25191:3 25196:16 25202:9 25203:18 25210:20 25242:12 25248:9 25249:20 25259:7,8 25263:5,7 25266:4,16 25271:7 25280:11 25282:25 25293:5 25306:5 25310:13
aangerig 25188:21	action 25183:3 25187:7 25188:16,16	afgekeur 25287:13	Airwing 25171:18	andere 25170:14 25264:21
aangesien 25199:18 25201:12,15 25206:14 25217:14 25232:2 25234:23 25276:1 25288:12 25290:22 25292:18	actions 25186:24 25188:17	afgekeur 25287:13	akkoord 25192:21 25256:10	angle 25314:14
aangesluit 25181:6 25216:5 25292:20 25308:16 25309:22 25310:12,14 25311:13 25326:12 25326:13	actual 25190:21 25231:7,8 25306:21 25321:16 25324:15	afgekeur 25287:13	aksie 25297:13	Annandale 25284:22 25285:5 25288:5
aangespreek 25196:4	Ad 25262:5	afgekeur 25287:13	aksies 25188:3,12,13 25276:5	Annandale's 25284:19 25285:8
aangestuur 25208:1	added 25319:9	afgekeur 25287:13	al 25195:14 25201:1 25204:14 25205:7 25243:9 25259:10 25267:4 25282:13 25284:4 25291:8 25292:22 25297:13 25298:22 25299:12 25306:6,15 25317:17	annotated 25248:13
aangesê 25294:11	addisionele 25201:11 25267:6 25271:21,23 25295:22	afgekeur 25287:13	algemeen 25281:17	annotation 25227:16 25227:19
aangetrek 25235:17 25236:7	addition 25177:7,8,12	afgekeur 25287:13	algemene 25208:21 25209:6 25284:25 25297:21	answer 25171:2 25220:8 25296:18
aangeval 25223:21 25233:11,13,19 25242:24	additional 25201:19 25270:15	afgekeur 25287:13	alhoewel 25227:3 25233:8 25296:11 25190:12	answers 25193:19
aangevra 25296:8	addressed 25195:9 25196:22 25197:11	afgekeur 25287:13	alles 25209:10 25259:9 25323:16	antikloksgewys 25322:9
aangewend 25204:2 25235:16	adjacent 25302:12	afgekeur 25287:13	allocate 25292:16 25294:4	anybody 25266:10 25266:9
aanhoudend 25280:10	adjourn 25193:9 25277:12 25330:3	afgekeur 25287:13	allocated 25297:4,24	anyway 25193:25 25195:20 25272:19
aanhê 25189:13,16	ADJOURNED 25330:5	afgekeur 25287:13	allocation 25294:2 25297:7	
aanmerking 25233:24 25292:22	adjournment 25193:5 25193:7 25228:13,18 25234:6,10 25277:7,9 25312:12,17,17 25329:6	afgekeur 25287:13		
aanneem 25264:17	ADJOURNS 25193:12 25228:21 25277:13 25312:18	afgekeur 25287:13		
aansoek 25240:17	adjutant 25206:16 25242:16	afgekeur 25287:13		
aanspreek 25192:23	adjutant-offisier 25198:5 25201:14 25239:25	afgekeur 25287:13		
aantal 25182:1,3 25301:8	Adv 25222:21 25276:13 25277:16 25304:16	afgekeur 25287:13		
aanteken 25267:8	advanced 25184:10	afgekeur 25287:13		
aantying 25253:5	advantage 25175:13	afgekeur 25287:13		
aanvaar 25289:14 25301:14 25321:8	advised 25234:4	afgekeur 25287:13		
aanval 25328:21	aerial 25176:14,15 25295:12,15 25296:18,22	afgekeur 25287:13		
aanvallers 25233:15 25241:6		afgekeur 25287:13		

25274:24 25307:2 25320:14 apart 25194:13 25200:17 25218:4 25242:19 25291:22 25293:7 apologise 25197:10 25223:9 25307:3 appear 25192:6 25198:11 25239:19 25254:1 25327:1 appeared 25237:23 25274:14 appears 25221:16 25249:5 25267:12 25269:17 25275:14 25280:25 application 25240:22 25312:24 25313:11 applications 25312:21 25313:2 appointed 25183:8 appointment 25192:11 25192:15 25194:14 approach 25242:11 25321:15 approached 25258:17 approaching 25247:10 approve 25320:23 approximately 25198:25 25230:25 25231:1 area 25176:12,15 25199:12 25200:2 25205:3 25213:22 25215:6,24 25226:19 25227:4 25249:15 25286:12 25293:9 25298:6 25309:18 25315:6 25326:18 areas 25294:8 aren't 25195:19 argued 25278:15 argument 25319:19,20 arithmetic 25223:6 25225:14 armed 25199:4 25237:23 25252:11 arrestasies 25210:4 25283:13,15 arrested 25198:9,18 arrival 25284:19 arrive 25214:18 arrived 25215:4,23 25216:7 25247:21 25257:13 arrow 25228:23 25229:1 25242:4 25249:4,11 25309:2 25309:11,12,13 25310:17,19 25311:2 25311:8,8,24 25312:2 arrows 25308:20 article 25175:24 25176:8 articles 25198:15	Asaneng 25201:6 ascertain 25275:1 asked 25215:12 25227:16 25238:8 25239:1 25261:2 25312:25 asking 25194:2 asof 25329:12 asook 25182:7 25185:7 25207:10 25219:4 25268:24 25290:22 aspect 25312:14 aspects 25182:22 25214:3 aspekte 25186:2 25233:23 25292:22 asseblief 25170:11,18 25171:21 25271:7 assessment 25182:24 assist 25226:18 assistance 25320:6 assortment 25199:5 assume 25250:18 attack 25235:21 25238:3 25245:22,25 attacked 25270:14 attackers 25302:10 attacking 25235:3 attacks 25302:16 attend 25277:11 attended 25286:6 attention 25235:2 attorney 25320:7 audio 25178:12 August 25172:1 25178:18,19 25179:5 25179:8,14,17,18,22 25179:25 25180:20 25196:11 25206:9,22 25212:14 25214:17 25221:7,10 25261:23 25266:22 25270:8 25275:23 25276:16 avoid 25320:18 25321:1 aware 25205:25 25238:5 25297:4 25299:7 awareness 25290:12,19 A/O 25253:8 A1 25204:8,8 <hr/> B <hr/> B 25227:24 25228:1 back 25193:17 25195:25 25203:19 25204:8 25210:9 25226:1 25228:18 25231:10 25234:3 25241:1 25245:23 25247:13 25248:2 25251:24 25255:3 25257:13 25258:20 25259:20 25262:6 25263:17 25264:4 25269:13 25272:1,10	25278:25 25318:24 background 25185:16 baie 25181:23 25183:10 25184:22 25187:15 25188:8,11 25188:19 25190:3 25191:5,25 25200:6 25203:24 25204:4,4 25209:5 25210:4 25213:22,23 25214:1 25219:2,3 25233:22 25234:23 25238:16 25243:7 25244:21 25251:10 25252:4,24 25253:5 25255:13 25278:2 25281:10,24 25282:8,16 25288:15 25294:20 25296:6,8 25297:13,17,20 25315:22 25323:8 25325:3,6 25327:15 25327:16 baklei 25210:18,22 25211:7,23 25281:13 balancing 25295:23 bang 25251:3 barbed 25316:18 25317:12 25318:18 25321:16 25322:25 25323:13,14,25 25325:18 Barnes 25222:13,18 25223:13,15 base 25309:12 basically 25178:11 25180:18 25293:8 basies 25185:21 25187:7 25212:16 25216:10 25227:1 25231:13 25244:23 25266:25 25268:8 25269:1 25280:18 25294:11 25299:12 25309:6 25310:12 25311:10 25322:9 25323:16 25324:2 25327:17 25329:22 basiese 25181:10 25189:18 25318:4 basis 25189:15 25207:3 BBM 25207:10 25208:14,15 25210:10 25276:1,18 25279:16 25280:18 25282:18 25290:18 25300:12,25 25301:4 25306:2,13 BBM-ing 25300:9 25301:19 beantwoord 25245:9 bear 25272:18 becoming 25234:7 bedieningsarea 25205:8 bedoeling 25240:5 bedrag 25210:7	bedreiging 25256:4 bedrywighede 25288:18 beg 25325:8,11 beginning 25229:14 25272:23 25275:24 25326:25 begins 25173:15 behalwe 25172:21,24 25197:1 25266:1 25306:16 beheer 25199:20 25243:8,10 25296:4 25296:11 behoefte 25192:22 25292:6 behoorlik 25190:11,24 25191:8 behoorlike 25257:10 behulpzaam 25200:24 25205:17 25257:17 bekend 25208:8 25281:17 25314:7 beklee 25212:16 bekom 25212:9 bekommerd 25255:13 25276:1 25280:19 bekommernis 25279:13,25 25280:17 25284:23 25285:10,24 25286:19 beland 25283:14 belangrik 25267:7 België 25182:17 belief 25209:17 believe 25193:2 believed 25209:12 benader 25283:4 benefit 25175:12 bepaal 25203:1 25222:6,7 25268:23 25289:8 25295:20 beplande 25213:9 beplanning 25240:18 bereid 25170:7,24 beseer 25203:16 25259:11 beseerde 25224:2 25269:6,9 besef 25203:16 25242:16 25266:2 25276:8 25291:6 beset 25288:11 besig 25201:16 25234:21 25316:23 25323:18 besighede 25199:22,23 25201:2 beskerm 25210:25 25236:17 25246:10 25281:19 25282:2,10 25328:21 beskermingsklere 25189:13 beskikbaar 25201:7	25263:6 25295:18 25296:3,9 25297:20 besluit 25199:16 25213:14 25292:11 besoek 25209:8 besonderhede 25270:22 bespreek 25192:24 25278:20 25293:2 25294:7 25297:10 besprinkel 25209:9 best 25234:8 beswaar 25274:5 betaal 25210:7 betogers 25276:5 25281:8 25282:14 25284:25 betoging 25282:16,17 betog 25280:23 betrokke 25181:24 25198:3 25207:24 25209:5 25279:7 25281:6 25298:23 better 25193:25 beurt 25207:13 25210:16 bevel 25191:17 25204:15 25243:10 25296:4,10 bevelvoerder 25181:18 25181:19 25183:11 25186:4,12 25190:4 25190:12,15,15 25199:10 25209:22 25213:13,15 25217:23 25295:14 25296:1,10 bevelvoerders 25188:3 bevestig 25170:12,16 25170:17 25194:9 25219:6,14 25277:19 25284:12,14 25300:20 25301:9,15 25307:24 bevestiging 25277:16 bevorder 25184:1 bevrees 25203:1 bewaar 25251:1,8 25259:15 25262:17 bewapen 25235:17 beweeg 25242:14 25248:10 25249:25 25250:17 25258:25 25273:12,23 25308:16 25309:9 25310:10,10,13 25311:14 25312:4 25315:13 25316:22 25317:22 25318:2,3,5 25321:12 25326:9,14 beweging 25323:8 25325:3 25326:7 bewus 25246:18 25259:7,12 25294:7 25297:5 beyond 25196:15
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<p>bietjie 25225:10 25286:22</p> <p>big 25271:4 25293:23</p> <p>binne 25188:9 25298:12</p> <p>bit 25247:20 25285:20</p> <p>BlackBerry 25207:10 25211:14 25276:18 25290:22 25302:20 25304:12 25306:3,24 25307:6,11 25311:20 25313:20 25314:1,17 25315:24 25317:11 25317:18 25321:25</p> <p>blote 25281:4</p> <p>bly 25208:10</p> <p>bodies 25263:14 25301:9 25302:17 25303:17 25304:10 25305:2,3,21</p> <p>body 25248:18,19 25250:3,7,14,24 25259:21,22 25263:1 25263:20</p> <p>boer 25185:19</p> <p>boeregemeenskap 25185:22</p> <p>boodskap 25213:24 25277:3 25282:23 25284:4 25288:17 25289:11 25329:13</p> <p>boodskappe 25207:10</p> <p>boom 25191:6</p> <p>boordbemanning 25198:6 25206:17 25239:23 25295:21 25296:12,15,15</p> <p>boordbemannings 25239:24</p> <p>borgaansoek 25238:17</p> <p>Botha 25298:13 25306:16</p> <p>bottom 25208:13 25220:21 25222:11 25229:19 25310:16 25313:14,15 25317:20 25318:8,13 25321:10,13</p> <p>bout 25305:11</p> <p>brackets 25178:9</p> <p>brandstof 25240:4 25299:14,15</p> <p>break 25245:14</p> <p>bridge 25217:3</p> <p>briefing 25183:4 25218:6,11 25289:23 25290:2,5 25291:1</p> <p>briefly 25172:4 25173:6 25179:2 25203:6 25300:8 25319:15</p> <p>briewe 25235:15</p> <p>bring 25186:5 25313:2</p> <p>bringing 25312:24</p> <p>Brixton 25181:11</p> <p>broke 25279:1</p>	<p>brug 25216:19</p> <p>buite 25293:16 25294:8 25297:13 25298:11</p> <p>buitekantse 25293:18</p> <p>bullet 25291:3</p> <p>bunched 25318:15</p> <p>bundle 25172:8 25173:22 25175:1,22 25179:11,21 25180:3 25180:13 25182:10 25195:8 25197:3 25238:20 25253:19 25264:2 25270:7 25271:9,12</p> <p>bus 25190:5,13</p> <p>busy 25221:12 25235:3</p> <p>byeenkoms 25292:11</p> <p>Byeenkomste 25188:10 25238:15 25240:7,16</p> <p>bygehou 25222:5</p> <p>bygewerk 25274:3</p> <p>bygewoon 25204:17</p> <p>bymekaar 25235:14 25246:12,15 25259:6 25259:10 25276:8 25285:25</p> <p>bymekaarkom 25289:6 25289:7,9</p> <p>bystandgroepe 25314:22</p> <p>byvoeg 25297:10</p> <p>byvoorbeeld 25187:17 25191:1 25205:15 25213:10,15 25222:1 25295:19 25296:2</p> <p>bêre 25253:3</p> <p>B105 25180:10 25296:3 25297:13</p> <p>B3 25226:18 25227:17 25227:18,25 25228:2 25228:3,22</p> <hr/> <p style="text-align: center;">C</p> <p>calculations 25223:7</p> <p>calibrated 25303:7</p> <p>Calitz 25185:9,13,13 25195:10 25196:18 25196:22 25197:16 25201:7 25204:13 25205:20,22 25206:11,21 25207:5 25207:14 25208:2 25212:13,16,25 25219:7 25280:14 25283:1 25298:19 25312:4 25323:21 25324:22 25325:4 25327:10 25328:8,20 25329:9,11</p> <p>Calitz's 25302:8</p> <p>Calitz-hulle 25259:17 25315:13</p> <p>call 25206:21 25212:12 25212:14 25254:7 25255:10 25259:10 25303:7 25319:16,22</p>	<p>25328:2</p> <p>called 25320:8,20</p> <p>calls 25177:17 25254:5</p> <p>camera 25272:7</p> <p>bullet 25272:5</p> <p>cameramen 25272:5</p> <p>cameras 25291:4 25303:24</p> <p>camp 25273:16</p> <p>canister 25273:13,19 25275:2</p> <p>can't 25194:3 25225:15 25320:2 25325:21</p> <p>capacity 25205:3,3</p> <p>Captain 25218:22 25235:2</p> <p>capturing 25191:12,21</p> <p>car 25316:1</p> <p>carry 25174:21 25214:12 25234:16 25252:14 25261:11 25272:4,20 25298:17 25321:6</p> <p>carrying 25214:10 25217:4</p> <p>CAS 25227:2,6,6</p> <p>case 25276:15 25290:18</p> <p>CAS115/08/2012 25227:13</p> <p>cause 25261:6 25272:12,15</p> <p>caused 25170:5</p> <p>CC22 25178:5,9,10,15 25178:16</p> <p>cell 25170:3,5 25303:24 25304:2</p> <p>cellular 25290:11,17</p> <p>centre 25192:8 25207:23 25248:17 25312:23</p> <p>certain 25173:8 25188:17 25205:2 25255:6</p> <p>certainly 25305:1,2</p> <p>certificate 25175:2,7 25182:14</p> <p>certification 25183:6</p> <p>Chair 25171:7,10,25 25173:7,12,16,21 25174:8,20,22 25175:20,25 25176:2 25176:10,13,21 25177:6,13,18,21 25178:6,21,24 25193:2,8 25194:6 25209:16 25220:12 25220:22 25221:10 25221:13 25222:13 25223:9,15 25227:15 25228:15 25230:9,19 25230:21 25234:4,13 25234:17 25235:8 25258:12 25259:25 25260:2,8,23 25261:13,25 25266:20 25272:21</p>	<p>25277:8,18 25304:24 25307:5 25312:9 25313:13,15 25318:20 25319:4 25329:3,25</p> <p>Chairman 25318:19</p> <p>chamber 25193:20,22 25232:6 25260:20 25272:6</p> <p>change 25230:1 25232:22 25299:8</p> <p>changed 25224:19 25231:6 25299:23</p> <p>changes 25182:22</p> <p>chaos 25253:10,11</p> <p>Chaskalson 25303:23 25304:6,11</p> <p>chest 25265:8</p> <p>chopper 25178:4 25291:13,23 25297:2 25297:3</p> <p>chronological 25247:19</p> <p>chronologically 25173:7</p> <p>CIG 25284:12</p> <p>circle 25229:11</p> <p>circumference 25297:25 25298:5</p> <p>circumstances 25208:15 25270:17</p> <p>clarify 25196:8 25306:25</p> <p>clashes 25198:18 25208:22</p> <p>clear 25255:17 25293:20</p> <p>cleared 25278:12</p> <p>clearly 25225:16</p> <p>click 25272:7</p> <p>clicking 25304:23</p> <p>clients 25319:7,7</p> <p>close 25241:17 25260:16 25272:19 25311:23 25321:16 25323:21 25324:23</p> <p>closer 25298:5 25315:16</p> <p>closest 25324:16</p> <p>clothing 25236:9,9</p> <p>cluster 25201:6 25296:7</p> <p>Coin 25178:4,7,10 25293:8</p> <p>colleague 25235:6</p> <p>colleagues 25223:10 25235:3,21 25275:18</p> <p>Colonel's 25227:19</p> <p>column 25222:24</p> <p>come 25223:12 25225:24 25248:1 25250:23 25302:6 25330:2</p> <p>comes 25318:11</p> <p>coming 25170:20</p> <p>command 25180:10 25187:23 25190:1</p>	<p>25231:18 25295:12 25295:15 25296:19 25297:3 25298:7,17</p> <p>commander 25175:2,4 25175:6 25181:21 25183:7,9 25184:13 25201:6 25207:23 25214:11,12 25217:18 25218:13 25280:3 25291:23,24 25291:25 25292:3,15 25295:10,11,14 25296:18,22 25297:24 25298:25</p> <p>Commanders 25182:16</p> <p>commander/operatio... 25218:12</p> <p>commenced 25239:7</p> <p>comment 25258:22</p> <p>commented 25275:15</p> <p>comments 25286:16 25290:5</p> <p>Commission 25170:2 25171:13 25172:6,14 25179:3 25181:1 25193:12,12,13 25197:23 25228:21 25228:21 25255:22 25277:13,13,14 25294:13 25312:18 25312:18,19,22 25318:21 25320:19 25330:5</p> <p>Commissioner 25175:18 25188:15 25194:15 25195:7,10 25196:14 25197:12 25255:10 25264:3 25265:18 25278:12 25278:13 25324:14 25324:21 25325:8,11</p> <p>Commissioners 25277:11</p> <p>communication 25301:25 25305:25 25306:3</p> <p>compass 25230:12</p> <p>compiled 25289:21,25</p> <p>complaining 25255:23</p> <p>completed 25270:9</p> <p>completely 25236:24</p> <p>concentrate 25232:8 25272:17</p> <p>concerned 25279:2 25285:6</p> <p>concerns 25205:2,4,20 25206:2 25279:4 25280:2,2 25284:6,20 25285:12,15,21</p> <p>concluded 25313:9</p> <p>conclusion 25265:15 25324:24 25325:9</p> <p>concrete 25206:1</p> <p>conduct 25238:6 25240:10 25290:17 25300:8</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>conference 25204:10 25204:11,23 25205:1</p> <p>confirm 25172:13,18 25179:4 25180:16 25248:12 25253:21 25263:19 25301:12 25313:18</p> <p>confirmation 25300:23 25301:3</p> <p>conflict 25275:14</p> <p>connection 25215:9 25257:6</p> <p>consecutive 25193:18 25193:24</p> <p>consideration 25285:6</p> <p>contact 25208:5</p> <p>CONTD 25194:10 25277:20 25313:12</p> <p>content 25180:24 25197:22 25290:1</p> <p>contents 25289:22</p> <p>context 25183:16 25184:7 25285:20</p> <p>contextualise 25197:22</p> <p>continue 25312:13</p> <p>control 25187:23 25245:20 25296:19</p> <p>conversation 25232:7,9 25254:10,15,21 25256:18,22,23</p> <p>conversations 25256:13,25</p> <p>convey 25284:5 25319:13</p> <p>conveyed 25255:18 25290:2 25319:14</p> <p>cool 25245:20</p> <p>copies 25222:16</p> <p>copy 25227:23 25228:1</p> <p>cordon 25287:17</p> <p>corner 25232:5 25318:10 25327:2,19 25327:20 25328:3</p> <p>correct 25171:6,7 25172:11 25173:16 25174:8,12,20 25175:20,25 25176:13 25177:18 25178:2,5,21 25179:6 25180:11 25194:24 25197:7 25209:16 25214:7,14 25215:11 25225:14 25227:13 25227:25 25228:24 25228:25 25230:21 25258:12 25273:19 25291:13 25305:22 25307:7 25313:20</p> <p>correctly 25221:8 25290:17 25292:14</p> <p>correctness 25172:19</p> <p>correspond 25228:8</p> <p>couldn't 25273:18 25275:15 25278:11 25278:14</p> <p>counsel 25223:2</p>	<p>25313:8</p> <p>course 25175:5 25182:20 25184:10 25184:11,12,13,15,17 25193:18 25218:11 25230:12 25231:4 25247:23 25299:6</p> <p>court 25198:12</p> <p>covered 25270:11 25302:3 25306:21</p> <p>covering 25305:25</p> <p>cross 25273:14 25313:8</p> <p>crossed 25241:21 25250:2</p> <p>crossing 25314:11 25318:11 25322:15</p> <p>CROSS-EXAMINA... 25194:10 25277:20</p> <p>cross-examine 25312:21 25313:10</p> <p>crowd 25188:6 25203:11</p> <p>current 25171:13</p> <p>currently 25181:1</p> <p>curve 25310:18 25311:7</p> <p>cuts 25321:3</p> <p>CV 25173:22 25174:18 25181:3</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>daai 25190:8 25227:3 25252:7 25307:24</p> <p>daaraan 25211:5</p> <p>daarby 25204:16</p> <p>daardeur 25286:13</p> <p>daarmee 25201:5 25246:3</p> <p>daarna 25181:12,18 25186:15 25259:15</p> <p>daarnatoe 25240:14</p> <p>daarom 25277:2 25279:24</p> <p>daaroor 25280:10 25285:25</p> <p>daarop 25238:14 25295:25</p> <p>daarso 25311:11 25327:18</p> <p>daartydens 25186:2</p> <p>daarvan 25267:8 25276:6 25294:7 25297:6</p> <p>daarvolgens 25213:14 25268:23</p> <p>daar's 25243:10 25317:4</p> <p>dadelik 25191:14 25196:4 25202:24 25242:14 25243:4,9 25253:7 25289:11 25300:18 25303:3 25323:6 25329:14</p> <p>dae 25286:3</p> <p>dag 25198:3 25204:21 25212:22 25216:10</p>	<p>25218:15 25240:2 25243:20 25267:3 25276:11 25285:3 25295:24 25299:10</p> <p>dagboek 25267:2,4</p> <p>dagboeke 25266:25</p> <p>dalk 25196:18 25203:2 25204:4 25224:16 25233:15 25297:10 25317:4</p> <p>danger 25247:10,25 25258:19</p> <p>dankie 25170:18 25171:24 25280:8 25284:4 25321:7</p> <p>dark 25309:1,12 25311:6 25314:10 25317:7 25322:15 25324:5 25326:18</p> <p>dated 25175:15,24 25177:15 25179:4,13 25179:21 25180:5,15 25197:6</p> <p>dates 25176:19</p> <p>datum 25221:18</p> <p>day 25198:25 25199:8 25218:11 25245:16 25258:9,9,11 25282:20 25294:15 25299:6</p> <p>days 25240:22 25279:3</p> <p>day's 25330:3</p> <p>dead 25248:17 25262:20</p> <p>deal 25192:7 25197:21 25221:7 25251:12 25277:5 25289:19 25300:7 25301:23 25304:16,18</p> <p>dealing 25279:1</p> <p>deals 25179:7,16,24 25180:8,18 25270:11 25270:13 25297:1</p> <p>dealt 25182:20</p> <p>death 25257:3</p> <p>deaths 25238:9</p> <p>debriefing 25183:4 25184:10,16</p> <p>deceased 25252:23 25260:11 25263:14 25305:3 25320:23</p> <p>decision 25200:1</p> <p>deel 25237:11 25244:21 25246:10 25290:13</p> <p>deelnemeem 25211:5 25286:4</p> <p>definitely 25307:1</p> <p>definitief 25192:22 25210:19 25282:9 25286:1 25326:6</p> <p>definitiewe 25243:10 25282:15</p> <p>deliberately 25319:5</p> <p>demeanour 25255:23</p> <p>depending 25231:4</p> <p>depict 25309:11</p>	<p>depicted 25228:6</p> <p>depicts 25228:23 25311:9</p> <p>deploying 25317:12 25322:24 25323:14 25325:18</p> <p>deposed 25239:1 25270:8</p> <p>Deputy 25185:8</p> <p>derde 25224:8</p> <p>describe 25182:13 25206:8 25219:19 25225:20 25229:6 25261:15 25302:4 25308:9,21 25310:16 25311:4 25315:10 25316:18 25318:15 25319:1,10,22</p> <p>described 25176:5 25224:23 25314:11 25319:25</p> <p>describing 25184:5 25313:16</p> <p>description 25213:6 25323:11</p> <p>Desember 25181:6</p> <p>destyds 25181:15 25182:17 25190:6</p> <p>detail 25173:3 25239:19 25285:20 25302:6 25304:18</p> <p>details 25195:19 25221:19 25223:4 25224:23,25</p> <p>deur 25182:6,8 25188:2 25199:14,24 25200:25 25207:14 25208:25 25209:9,20 25210:6,7,15,16,17 25210:19,25 25213:23 25226:10 25242:12 25244:10 25244:11 25245:10 25245:10 25248:9 25249:24 25250:8 25251:2 25267:16 25276:5 25277:15 25281:18 25282:14 25284:12 25291:6 25294:11 25295:4 25307:22 25313:3</p> <p>deure 25312:5 25325:5</p> <p>deurgaan 25208:23</p> <p>deurgegee 25325:7</p> <p>deurgekome 25215:17</p> <p>deurgestuur 25300:18 25301:9 25311:21</p> <p>deurgevlieg 25294:22</p> <p>deurkom 25201:4</p> <p>deurloop 25286:12</p> <p>deurlopend 25189:15</p> <p>deurlopende 25189:15 25308:1</p> <p>deursoek 25287:15</p> <p>deursoeking 25287:9</p> <p>diagonally 25318:9</p>	<p>25324:9</p> <p>diary 25176:19,22 25266:22,23 25268:7 25268:15 25269:17</p> <p>didn't 25202:3 25236:8 25237:8,15 25244:3 25290:25 25294:17 25320:22</p> <p>diens 25239:23 25297:14</p> <p>diensoffisier 25207:25 25212:21</p> <p>dienste 25185:25 25216:5 25222:7 25280:23 25297:12 25298:22</p> <p>dies 25187:7 25271:21 25280:23 25281:11 25329:20</p> <p>dieselfde 25186:16 25187:24 25188:13 25191:13 25207:25 25213:19 25232:25 25280:18 25289:9 25299:15</p> <p>difference 25174:9 25271:4 25295:11 25298:8</p> <p>different 25189:8 25269:18 25314:14</p> <p>differently 25282:6 25287:4</p> <p>difficult 25222:18 25232:8 25272:15,16</p> <p>difficulty 25272:12</p> <p>dikker 25225:10</p> <p>ding 25208:21 25236:17,17 25251:18 25274:8 25287:7 25291:5,11</p> <p>dinge 25186:17</p> <p>dinges 25200:15</p> <p>dink 25187:5 25195:21 25208:10 25219:13 25251:9 25317:3 25323:15</p> <p>directing 25214:11</p> <p>direction 25226:23 25227:13,24 25228:5 25228:8,23 25231:2,3 25232:23 25241:24 25249:11,14,23 25273:14 25302:11 25309:5,14 25318:20</p> <p>directly 25298:18</p> <p>direk 25181:10 25200:4 25201:8 25219:24 25223:21 25231:23 25302:25</p> <p>direkte 25278:5</p> <p>discern 25273:18</p> <p>discouraged 25318:23</p> <p>discuss 25174:11 25194:14</p> <p>discussed 25275:18 25295:9,9 25297:8</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>discussions 25218:17 disjointed 25247:20 dispersal 25288:8 dispersing 25203:10 25287:4 disposal 25306:1 dispuut 25192:3 distance 25230:24 25318:10 25324:15 distress 25260:18 25305:6 disturbance 25170:5 25272:15 disturbing 25170:21 25232:6 25272:5,12 dié 25306:16 document 25172:7 25173:22 25174:22 25174:25 25175:1,22 25176:2,10,17 25177:13,21 25179:11,21 25180:3 25180:5,13 25182:10 25185:1,5 25195:8,16 25197:3 25214:24 25220:9,14,18 25221:1,5,15 25222:14,15,19,22 25223:10 25227:20 25238:19,19 25253:19,25 25264:1 25270:7 25271:9,11 documentary 25174:6 documents 25173:18 25178:17 doel 25251:6 25259:9 25296:4 doen 25184:15 25188:13 25287:7 25288:13 25289:9 25290:15 doene 25251:18,19 25280:22 doesn't 25170:21 25219:15 25221:4 25272:15 25319:13 doing 25193:25 25272:13 25316:19 Donderdag 25206:25 donker 25324:4 donkerte 25270:4 don't 25170:4 25173:12 25222:15 25222:19 25272:8,12 25275:3 25313:1 25318:23,25 25319:7 25319:13 dood 25186:14 25212:2 25243:12,13 25246:6 25246:7 25251:19,20 25252:6 25253:12 25254:14 25281:13 doodgemaak 25234:24 doodmaak 25281:15 doors 25323:21 25324:23</p>	<p>dot 25176:7,7,8,8 dotted 25309:13 25311:16,23 Double 25174:1 download 25291:4 downwards 25231:1 DPC 25185:17 25192:12 dra 25207:16 25288:17 draad 25323:3,18,19 25325:25 25326:1,6,9 draadkarre 25286:10 25307:16,17,21 25316:23 25317:22 25321:12 25323:13 draai 25220:3 25253:15 25285:1 drafted 25239:3,8 drawn 25308:20 dreigement 25257:19 25258:4 25267:23,24 25278:6 dreigemente 25267:15 dressed 25236:8 drew 25235:2 drie 25182:7 25250:20 dringend 25238:17 dryf 25283:17 due 25198:11 25257:5 duidelik 25217:6 25225:12 25243:7 25263:6 25281:8,24 25286:23 25323:8 duidelikheid 25271:24</p> <hr/> <p style="text-align: center;">E</p> <p>E 25261:19 earlier 25236:5 25270:11 25273:4 25274:14,21 25297:22 25324:8 25326:24 early 25288:20 earphones 25170:20 east 25230:15,25 eastern 25242:6 easy 25228:19 edelagbare 25280:4 eed 25170:7 een 25184:24 25191:1 25203:2 25210:19 25216:2 25219:25 25254:24,25 25259:11 25262:13 25271:7 25283:23 25284:13 25296:8 eenheid 25199:12 25201:11 25252:2 25295:15 eenheidsbevelvoerder 25199:11 eenkant 25191:5 eens 25198:1 25240:14 25286:18 eerder 25287:9 25288:10</p>	<p>eers 25181:11 25216:4 25233:9 25251:21 25256:2 25257:18 25258:21 25308:10 eerste 25207:3 25212:8 25216:9,11,13 25221:25 25223:20 25224:1 25226:16 25236:15,16 25254:12,24 25279:7 25282:7 25287:7,10 25290:8 25301:6 25311:19 25314:22 25316:22 25317:21 25321:11 25323:2 effect 25209:4,12,12,14 25209:17 25261:24 25289:24 25321:5 effek 25202:21 25328:14 effektief 25200:14,20 25328:16 eie 25233:24 25255:15 25259:9 25278:4 25290:14,22 25291:11 25299:18 eiendom 25188:21,23 eiendomme 25293:5 einde 25249:7 25276:11 25285:3 25295:24 eintlik 25204:12 25218:3 25258:1 either 25218:9 25237:16 25264:13 25272:10 25299:21 ekonomies 25297:20 ekskuus 25280:5 ekstra 25203:14 25294:10 elke 25222:5 25243:20 25299:14 elkeen 25210:16 else's 25266:10 email 25175:14 emergency 25215:5 emotional 25260:18 25261:6 25305:5 emotions 25245:18 emphasise 25228:23 employed 25237:1 enables 25319:14 encirclement 25286:17 25287:2 25299:4,23 25300:5 endeavour 25194:1 ene 25267:1 25326:1 engage 25312:5 25328:25 Engelbrecht 25284:13 Engels 25170:24 25182:22 English 25170:23 25171:4 25193:21 25276:15 enhance 25290:12,19</p>	<p>enige 25189:24 25196:25 25200:15 25200:22 25207:16 25213:21 25219:25 25233:21 25247:3 25258:6,6 25262:22 25266:1,3 25284:11 25286:2 25288:17 25299:25 enigiets 25258:7 enigsins 25251:17 25265:25 25286:14 25290:15 25294:23 25307:23 enigste 25295:3 25300:11 25306:5,17 enkellinge 25237:20 ensure 25234:8 ent 25226:14,15 entailed 25212:14 entails 25213:7 25214:3 25292:3 entjie 25253:6 entries 25266:23 25267:12 25268:14 entry 25222:23 25225:15 25268:7,11 25268:12 25269:3 equipment 25180:9 25189:7 25202:3,3 equipped 25236:25 equivalent 25183:22,23 25320:15 erkenning 25210:5 ernstig 25252:24 ernstige 25253:5 ervaar 25188:1,8 25236:3 25274:9 ervaring 25188:11 essentially 25192:7 estimate 25230:24 etniese 25181:25 25182:3 25209:7 ETV 25303:7,8,25 25304:7 evening 25212:13 event 25289:21 eventually 25269:24 everybody 25170:4 evidence 25173:15 25178:23 25193:15 25214:2 25232:8 25272:8,11,16,17 25305:16 25320:5 evidence-in-chief 25172:4 25313:9 exact 25328:23 exactly 25212:25 25216:6 25220:8 25224:18 25239:2 25244:17 25262:24 25268:19 25276:3 25327:12 EXAMINATION 25171:9 25313:12 examining 25313:9</p>	<p>example 25170:4 25190:19 excerpt 25176:18 25266:21 exercises 25296:19 exhibit 25173:19 25174:6 25195:9 25220:10,11 25226:18 25227:21 25227:23 25230:6 25248:12 25253:18 25260:1,1,24 25261:6 25261:12 25263:11 25264:12 25265:2 25281:1 25289:19 exhibits 25173:8,9,18 25173:20 25198:14 expect 25313:2,7 experience 25181:8,9 25181:21 25183:16 25184:6,20 25188:6 25189:20 25191:20 25260:17 25282:4 25294:15 experiencing 25234:11 expired 25260:22 25261:8 25305:8,9 explain 25186:9,21 25192:12 25208:14 25210:11 25212:4 25223:19 25234:25 25235:12 25248:21 25269:18 25270:15 25276:3 25292:2 explained 25194:2 explaining 25221:15 explains 25224:4 explanation 25239:20 express 25319:14 expressed 25284:19 expressions 25320:19 25321:5 extension 25312:25 extent 25239:18 extremely 25245:19 eye 25297:21 25322:4 eye-in-the-sky 25214:4 e-mail 25185:16 25186:8,9,10 25196:9 25196:21 e-pos 25185:6</p> <hr/> <p style="text-align: center;">F</p> <p>facing 25231:4 facsimile 25220:25 fact 25235:6 25262:20 25263:16 25275:14 25289:25 25306:16 25318:11 25319:4 family 25312:22 25313:10 Fanagalo 25217:14 far 25230:13 25232:5 25235:7 25312:20 25323:24 25324:15 25327:13</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>faulty 25257:5 fax 25220:24 Februarie 25271:22 February 25170:1 25180:15 feedback 25196:23 25290:9 25291:17 feels 25305:5 feet 25297:24 25298:3 feit 25201:23 25243:8 25246:11 25249:20 25274:6 25276:4,7,9 25278:17,18 25279:7 25279:11,22 25281:4 25281:22 25282:12 25283:2,8 25284:24 25286:3 25288:10 25325:1 Ficksburg 25186:12 field 25184:20 fight 25210:24 25211:3 25211:11,17 file 25175:10,13 25214:23 25220:13 film 25303:8 final 25242:10 25274:12,25 25277:22 Finale 25274:5 finansiële 25192:25 25195:14 find 25248:18 finding 25321:2 findings 25320:19 fine 25235:8 finish 25329:5 fire 25250:13 fired 25273:13,19 25275:3,10,17 firing 25252:18 first 25173:7,21 25179:3 25181:3 25186:19 25204:9 25214:4,17 25215:4 25226:9 25250:6 25254:7,16 25256:13 25261:9 25267:12 25270:10 25276:15 25285:4 25287:17 25308:9 25311:22 25322:25 25323:12 25327:3 firstly 25186:20 25225:22 25227:7 25270:16 25326:16 fisiese 25187:9 five 25193:4,7,10 25208:13 25234:6,9 fixed 25193:11 flank 25273:13 flow 25302:13 25303:9 flight 25178:17,17,18 25220:9 25221:17,19 25223:5 25224:20,20 25224:24 25225:4,7 25268:24 25292:16</p>	<p>25294:4,18 25297:23 flowing 25302:2 fly 25215:6,24 25297:24 25298:2 flying 25229:11 25294:14 follow 25170:4 25222:19 25223:14 25245:21 25246:17 25272:16 followed 25269:13 25310:5 following 25175:10 25247:24 25314:20 follows 25223:14 foon 25208:3 25290:23 25300:19 foot 25227:10 25230:16 25273:6 forbidden 25319:1 force 25182:23 forced 25278:11 form 25193:24 25290:25 formed 25231:9 formeel 25187:4 forward 25315:3,5 25316:14 foto 25229:4 25230:4 25231:12,14 25241:8 25248:24 25263:23 25263:24 25264:9,18 25264:22 25303:3 25307:20 25308:15 25308:17 25309:7 25311:19 25315:18 25315:20 25316:20 25322:7 foto's 25207:10,12 25208:1 25259:24 25263:5 25266:15 25268:22 25269:20 25298:14 25299:16 25300:18,21 25306:16,18 25317:17 found 25250:14 25262:2,6 four 25208:13 25251:13,14,24 25256:12 25273:6 25317:20 25321:9 25327:9 fourth 25273:5 25327:1 25327:7,8 foutief 25216:3 foutielik 25218:2 frame 25222:6 frameworks 25183:4 Frankryk 25182:17 friends 25260:17 Fritz 25297:4 25298:7 25298:16,24 Fritz's 25297:2 front 25175:10 25320:9 25320:11 25321:6</p>	<p>25324:7,10 function 25296:22 funksies 25290:23 further 25180:19 25234:5 25302:16 future 25272:18</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gaan 25182:22 25186:17 25187:8 25188:12 25190:3 25193:1 25194:21 25199:18 25201:12 25201:15 25202:18 25206:19 25208:23 25209:8,9,21 25210:8 25210:14,17,18,19 25212:20 25213:11 25213:18,20,21 25216:11,23 25217:17 25222:4,6 25234:24 25240:6 25242:11,11 25243:15 25244:11 25246:7,8 25251:2 25252:7 25253:2 25256:10 25257:22 25258:20 25267:2,3 25267:16 25268:21 25269:20 25274:8 25276:10 25277:1 25278:22 25285:24 25286:1 25289:5,11 25292:13 25297:12 25299:12,13 25321:22 gadget 25310:2 gang 25208:17 gap 25247:16 Garnett 25207:15,19 25207:22 25208:3,5 25208:14 25209:1 25210:11 25211:10 25212:5 25275:25 25276:19 25277:2,6 25279:16,19 25280:2 25280:19 25282:23 25284:2 gas 25236:25 25237:3 gasmaskers 25237:7 gather 25243:18 gathered 25244:6 gathering 25182:24 25291:16 Gatherings 25188:25 25189:2 geaffekteer 25213:22 geaffekteerde 25293:4 geag 25196:5 25277:2 geagtervolg 25187:20 25246:13 geakkommodeer 25296:6 gear 25189:22 25237:10,12 geargumenteer</p>	<p>25278:18 gearreesteer 25185:20 25186:13 25198:3 gearreesteerdes 25185:25 25283:18 gearriveer 25215:21 gebel 25254:13 25256:4 gebeur 25199:21 25201:3 25203:2 25221:25 25256:3 25281:20 25300:17 25303:1 gebeure 25236:15 25269:21 25279:6 gebied 25199:15,18,21 25199:24 25219:23 25248:10 25283:19 25293:4 gebind 25277:15 25313:3 gebly 25289:15 25294:21 25308:13 25317:25 gebou 25190:6 gebring 25203:15 25307:16 gebruik 25187:25 25190:7 25200:9,20 25200:21 25209:6 25213:9 25219:24 25253:10 25282:9 25283:13 25284:25 25285:2 25297:18,21 25328:15 gedagte 25309:17 25321:19 25322:10 gedeel 25279:24 gedeelte 25201:24 25204:1 25216:13 25290:11 gediens 25297:15 gedoen 25184:10,11,16 25184:17 25190:25 25202:21 25287:9 25290:14 25291:11 gedood 25182:1,3 25204:5 25206:15 25207:13 gedraai 25322:12 gee 25186:1 25198:1 25206:19 25212:7,9 25213:4,13 25214:19 25214:20 25216:12 25216:23 25217:12 25217:17 25218:25 25240:15 25271:7,24 25284:15 25292:8,10 25295:16 25301:16 25303:2 geel 25308:25 geen 25195:4 25196:17 25208:24 25229:23 25232:18 25240:17 25240:18 25243:10 25266:2 25281:2,14 25295:2,5,22</p>	<p>25299:24 gefokus 25187:7 gegaan 25187:17 25192:22 25203:13 25204:20 25210:19 25218:25 25246:7 25265:24 25276:6 25279:5 25281:19 25288:14 25299:20 25321:19 gegee 25184:12,14 25188:2 25200:8 25201:24 25204:17 25205:12 25208:17 25247:2,5 25253:1 25262:17 25276:25 25281:5 25286:13 25296:24 25298:22 25299:25 25312:4 25327:11 25328:20 25329:12 geglo 25209:19,23 25281:21 gegooi 25232:1,20 25233:8,19 25241:5 25274:2,11 gehad 25191:7 25198:4 25199:19 25201:5,22 25202:16,22 25212:18 25216:20 25236:19,22 25237:20 25239:25 25284:25 25286:20 25292:19,24 25294:8 25294:20 25295:2 25297:17,17,20 25298:12 25300:12 25323:2 gehandel 25185:10 25238:14 gehanteer 25279:9,14 gehardloop 25201:13 25242:15 25243:12 gehoor 25202:7 25217:12 25231:20 25247:4 gehou 25186:17 25190:12,24 25191:4 25222:7 25279:12 gekla 25205:6 gekom 25182:5 25229:13 25238:12 25287:12 25310:11 25326:10,11 gekonsentreer 25201:25 25242:23 gekontak 25206:13 25207:5,16 25208:11 25212:8 25279:21 gekry 25188:20 25194:21 25195:4 25196:17,25 25211:25 25212:2 25216:10,18 25250:1 25286:22 25300:21 gekyk 25266:1</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>gelaat 25188:12 25265:24 25266:3</p> <p>geland 25212:1 25217:11 25242:14 25253:8 25268:25</p> <p>geleenthede 25294:20 25321:21</p> <p>geleentheid 25280:6,9</p> <p>geleer 25220:2</p> <p>gelei 25199:22 25251:4</p> <p>geloods 25190:8 25215:19</p> <p>geloop 25226:11,12 25227:3 25232:25</p> <p>gelos 25246:14 25251:5 25262:16</p> <p>geluister 25190:13,14 25282:20</p> <p>gelyk 25216:22 25245:11 25327:17</p> <p>gelyktydig 25231:25</p> <p>gelê 25259:14 25263:3 25263:4,23 25265:10 25301:7</p> <p>gemaak 25210:4,5 25222:3,4 25225:12 25246:15 25249:17 25252:5 25257:11 25274:5 25277:16 25283:15 25295:6 25313:4</p> <p>gemagtig 25270:3</p> <p>gemeenskap 25185:24 25283:15</p> <p>gemeld 25192:20 25194:19 25274:9 25284:22 25318:3</p> <p>gemerk 25173:2</p> <p>genader 25314:23</p> <p>geneem 25199:17 25259:24 25263:5 25264:9,18 25266:16 25268:22 25276:5 25295:25 25299:17 25300:18 25306:16 25306:18 25311:20 25317:18</p> <p>generaal 25185:8 25186:6 25191:1 25192:19,23 25194:20 25201:5 25205:23 25217:13 25217:17 25243:5,11 25246:3 25252:6,25 25255:13,15 25256:5 25257:17 25258:19 25267:14 25276:24 25278:3,5 25284:22 25288:5 25296:7,13</p> <p>general 25192:14,18 25194:13,16 25218:13,17 25245:17,24 25246:16 25252:22 25254:5 25255:6,18 25255:19,21,23,24</p>	<p>25256:7,8 25257:24 25258:16 25259:1 25261:1 25267:19 25269:14 25277:24 25278:10 25280:3 25284:19 25285:5,8</p> <p>generale 25279:23</p> <p>genoeg 25190:9 25200:14,22 25201:23 25288:12 25328:16</p> <p>genoegsame 25199:19</p> <p>genoem 25255:11 25283:1 25284:8,11 25284:23</p> <p>gentleman's 25260:10</p> <p>geopereer 25293:16</p> <p>geopper 25280:18</p> <p>geplaas 25226:11 25251:1</p> <p>gepraat 25190:10 25258:4 25280:10 25283:1 25288:10</p> <p>geraas 25220:1</p> <p>gerapporteer 25209:1 25254:13 25256:2 25257:11 25301:8</p> <p>gereageer 25278:21</p> <p>gereedheidsgrondslag 25282:8</p> <p>gereeld 25300:16</p> <p>gereël 25257:20 25291:8</p> <p>gerig 25202:19</p> <p>gery 25229:17</p> <p>gesien 25187:16 25202:8 25203:24 25218:15 25233:9,12 25241:9 25242:16 25243:15 25244:24 25246:10 25248:8 25263:6,23 25280:16 25286:2 25294:24 25300:17 25307:19 25310:10 25321:18</p> <p>gesiglose 25287:13</p> <p>gesirkel 25309:17</p> <p>gesit 25190:13 25203:4 25216:18,23 25310:9</p> <p>geskakel 25201:9 25253:7,9 25278:6</p> <p>geskiedenis 25222:4</p> <p>geskiet 25182:7 25200:10 25202:24 25203:1 25204:6 25236:16 25245:7 25249:1,18,20 25267:15</p> <p>geskok 25202:8</p> <p>geskokte 25246:4,11 25258:2</p> <p>geskryf 25225:10 25235:15 25240:5</p> <p>geslaan 25251:17,21</p> <p>gesleep 25243:16 25244:25</p>	<p>gesleep-dra 25242:13</p> <p>gespat 25187:19 25202:23</p> <p>gesprek 25191:2 25292:23</p> <p>gesprekke 25191:3,4</p> <p>gespuut 25312:7</p> <p>gestaan 25243:9 25314:7</p> <p>gestap 25199:15 25257:18,20</p> <p>gestel 25253:3</p> <p>gestop 25200:4,4 25202:25 25251:3</p> <p>gestuur 25185:7 25194:20 25201:14 25207:10,12,14 25208:2,3 25212:10 25215:17 25282:23 25317:18</p> <p>gesukkel 25253:13 25257:8</p> <p>gesê 25187:21 25190:25 25205:23 25210:23 25217:16 25219:8 25232:19 25235:16 25243:12 25246:6,7 25252:3,3 25252:5,25 25253:11 25253:14 25255:12 25256:9 25258:3,4,25 25268:24 25274:4 25276:24 25278:19 25279:10 25285:9 25287:13 25290:15 25298:23 25307:17 25325:4</p> <p>getal 25286:1</p> <p>getalm 25329:12</p> <p>getree 25202:24</p> <p>getref 25202:17</p> <p>getting 25234:11 25320:6 25323:22</p> <p>getuienis 25170:12</p> <p>getuig 25281:17</p> <p>gevaar 25258:20</p> <p>geval 25182:2</p> <p>gevalle 25181:25 25189:12</p> <p>geveg 25210:25</p> <p>gevestig 25233:12 25234:20</p> <p>gevlieg 25219:1,23 25220:4 25229:9 25230:2 25244:14 25288:13 25293:17 25322:8</p> <p>gevoel 25186:4 25187:8 25262:22 25266:1 25279:22</p> <p>gevolg 25205:10 25239:24 25243:8 25258:3 25297:16</p> <p>gevra 25194:18 25198:1 25200:24 25206:13 25207:16</p>	<p>25219:5 25238:12 25243:14 25246:12 25252:2 25253:14 25255:14 25256:5 25257:16 25259:5 25262:17 25271:20 25271:21 25274:7 25279:21 25289:5 25300:20 25307:18 25307:22</p> <p>gevrees 25199:13</p> <p>gewaai 25200:11 25204:3</p> <p>gewaarsku 25282:19 25286:25</p> <p>gewapen 25307:23 25308:2</p> <p>gewapend 25282:11</p> <p>geweer 25269:6,8</p> <p>geweet 25244:4 25298:10</p> <p>geweld 25181:25 25182:3 25209:7</p> <p>gewelddadige 25189:18</p> <p>gewenste 25191:18 25202:22 25328:14</p> <p>gewere 25202:14,24</p> <p>gewerk 25181:13 25205:16 25306:7</p> <p>gewone 25282:15 25306:6</p> <p>gewoonlik 25266:25 25281:9 25317:25</p> <p>geword 25204:5,6 25240:19 25279:14 25286:11,15 25294:11,12</p> <p>geïdentifiseer 25190:25 25192:20 25196:17 25294:12</p> <p>ge-rekord 25190:16</p> <p>GGG14 25270:10,11 25271:4,8</p> <p>GGG17 25179:10 25271:8,17 25273:4 25274:22,23</p> <p>gister 25282:20</p> <p>give 25181:21 25190:19 25213:6 25214:6 25215:6,24 25221:13 25221:14 25223:12 25227:21 25239:20 25256:7 25260:19 25261:7 25275:2 25285:11,19 25293:12 25302:7</p> <p>given 25215:23 25220:10 25222:17 25223:4,5 25224:25 25227:21 25272:8,11 25282:4 25285:6 25304:25 25324:22</p> <p>gives 25275:10</p> <p>giving 25193:19</p> <p>glad 25189:14 25206:25 25232:24</p>	<p>25243:19,25 25249:16,19 25250:5 25251:15,16 25263:18 25278:18 25281:5 25285:13 25293:3 25294:21 25296:23</p> <p>glo 25203:25 25207:24 25208:23 25281:14 25281:19</p> <p>go 25180:23 25183:20 25184:23 25186:7 25193:17 25195:25 25196:15 25210:9,24 25235:7 25241:1 25245:23 25253:24 25254:4 25258:15 25259:19 25264:1,4 25278:10,11,25 25305:10 25308:6 25314:13,19 25315:8</p> <p>goed 25203:24 25217:6 25219:2 25268:23 25321:21 25322:13 25325:5</p> <p>goedgekeur 25240:19</p> <p>goedkeuring 25255:14 25256:6</p> <p>goeie 25191:25</p> <p>going 25170:5,22 25173:9 25193:17 25200:2 25222:17 25235:6 25247:11,23 25260:9,13 25261:5,5 25267:22 25268:3 25272:7 25273:3 25292:17 25302:6 25305:3 25312:11,12 25317:8 25329:1</p> <p>Good 25171:10</p> <p>gooi 25200:6 25202:20 25204:3 25316:24 25323:16</p> <p>gou 25213:24 25217:12</p> <p>goudhandelaars 25283:12</p> <p>grant 25313:10</p> <p>gratefully 25319:15</p> <p>gravel 25231:10 25241:10,14,21 25273:15 25305:18 25305:20</p> <p>greater 25304:18</p> <p>grenade 25232:13,22</p> <p>grenades 25231:17,22 25233:2 25240:10 25241:3,4</p> <p>Grenspolisiering 25204:16</p> <p>groen 25194:21</p> <p>groep 25185:24 25191:1,3 25199:13 25199:19 25202:1 25216:16 25218:25 25219:25 25229:20 25234:20 25244:9,20</p>
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---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

25244:21,23 25245:9 25246:8,9,13 25269:5 25269:10 25273:9 25276:10 25282:11 25282:14 25283:6 25285:25 25288:16 25294:8 25308:11 25309:22 25310:11 25314:4,8 25317:24 25320:17 25323:6 25325:2 25326:10 25327:15 groepe 25185:21 25191:6 25213:3,4 25233:13,18 25326:8 groeeper 25276:10 groepering 25207:11 25225:9 25315:19 groeperings 25213:21 groepie 25200:6 25201:3,21 25213:24 25216:17,23 25251:5 25288:15 25289:10 25308:10,12,24 25309:21,21 25310:13 25314:7 grond 25202:9 25245:11,13 25247:5 25252:7 25296:12,16 25301:7 25303:2 25307:19 grondmagte 25296:5 grondpad 25216:18 25229:16 25241:7 25273:9 25324:3 grondpadjie 25317:25 25318:2 groot 25182:1,3 25190:7,8 25199:13 25199:19 25202:1,16 25203:4,25 25204:1,4 25213:22 25233:22 25237:20 25286:1 25309:22 grootste 25227:2 25309:7 groter 25276:10,10 25296:9 25315:19 ground 25301:25 25302:14,17 25303:10,17 25304:10 25305:4 25306:2 group 25215:10 25229:11 25235:3 25248:6 25273:14 25308:22 25309:12 25309:24 25310:3,16 25310:22 25314:9 25315:15 25318:14 25318:22 25319:8,9 25319:21,24 25320:1 25320:9,12 25321:6 25322:14,25 25323:10,22 25324:7 25324:10,23	25326:21 grouped 25302:15 groups 25302:10 GSM 25290:11,18 Guardian 25176:3,5 25198:16 <hr/> H <hr/> haal 25201:12,15 25202:18 haar 25201:9 25253:10 25253:11,14 25254:13 25255:11 25255:12,14,14 25256:4,5,6 25257:11 25278:6 25300:18 habit-forming 25234:7 hadn't 25225:24 haelgeweer 25245:8 haelgewere 25236:21 25244:15 25253:2 25329:20 half 25223:3,6 25226:1 25228:18 25256:21 25299:14 halfway 25317:6 25318:8 half-drie 25239:5 hand 25259:25 25262:11 25264:5,15 25265:5,14,20,21,22 25266:9,10,10 25328:3 hande 25201:6 25205:17 handed 25179:3 handle 25173:20 25188:6 25264:6 25266:7 25302:15 handled 25276:20 25279:3 25285:7 handling 25183:17 25184:6,20 handradio's 25306:7 hands 25277:5 handskrif 25225:11 handwritten 25254:1 Hang 25174:23 hanteer 25189:24 25203:24 25205:7 25276:2 25282:16 25283:9 25288:16 hantering 25187:10 25276:6 25279:25 25280:20 happen 25170:21 25288:8 happened 25200:1 25203:6,9 25224:18 25231:21,22 25241:3 25244:8 25249:23 25250:10,24 25251:25 25259:2 25268:16 25273:1 25302:4 25312:1 25329:17	happening 25207:21 25208:6 25270:23 happens 25313:16 happy 25277:8 25320:15 25321:6 hard 25319:23 hartaanval 25239:25 hasn't 25222:20 25223:12 25276:16 25305:9 hats 25319:23 haven't 25170:19 25175:13 25222:22 head 25197:12,15 25242:4 25311:2,23 25312:2 hear 25231:17 25272:7 25325:13 heard 25252:21 25269:14 25328:7 heel 25199:22 25293:18 heeltemal 25208:18 25246:4 25278:2 25283:3 heelyd 25246:6 25308:13 25321:20 heelwat 25229:4 heen 25308:1 height 25293:13 25294:4,18 25305:2 heights 25292:16 25294:2,4 25297:23 hele 25170:14 25190:7 25190:17 25227:3 25233:23 25274:8 25279:9 25309:17 helicopter 25178:8,11 25218:23 25222:25 25223:3 25229:7 25235:4 25242:9 25270:13 25273:17 25275:19 25293:8,21 25293:24 25297:2 25302:9 helicopters 25180:9 25293:8 25294:2 helikopter 25198:4 25201:11 25202:17 25202:19 25203:14 25204:1,6 25206:14 25212:1 25213:12,16 25213:25 25220:1 25221:24 25222:2,5,9 25224:2 25233:6,14 25233:17,20,22 25234:1,22 25235:24 25236:1,3 25240:4 25295:15,18,21 25296:8,11 25299:11 25299:13,19 25321:18,20,23 25322:10 25329:15 25329:21 helikopters 25212:23 25215:16 25270:2,4 25292:11,13,19	25293:1 25296:9 25297:12 helmets 25237:9,13 help 25201:2 25213:17 25217:13 25223:13 25230:6 25235:25 25259:5 HEMRAJ 25188:15 25264:3 25265:18 25324:14,21 25325:8 25325:11 herhaal 25329:15 herlei 25296:16 heroorweeg 25284:9 hervul 25240:4 25299:13 he's 25193:3 25247:19 HHH4 25173:2 25179:20 25274:21 25274:21 HHH5 25180:2 HHH6 25180:13 25270:7,10,12,17 25271:5 hier 25206:12 25249:7 25251:19 25253:11 25253:11 25294:24 25310:11 25326:11 25326:13 hierdie 25170:13 25243:11 25269:1 25276:9 25281:2,6,12 25281:25 25282:14 25282:24 25283:6 25284:11 25286:23 25294:24 25308:12 25310:10 25318:2 25325:5 25326:10 25327:24 hiernatoe 25326:12 hierso 25195:22 25326:14 high 25245:19 hinderlaag 25251:4 hoe 25184:14 25189:15 25194:18 25279:8 25281:7 hoek 25231:14 25326:14 25327:16 25327:18 hoekom 25187:8 25208:11 25249:16 25274:10 25295:6 hoeveel 25216:12 25222:3 hoeveelheid 25203:25 25227:2 25309:8 hof 25199:15 25201:4 hofsak 25185:19 hofverrigtinge 25186:2 25198:2 holding 25315:3,6 hom 25172:9 25179:12 25180:4,14 25185:3 25194:19 25197:4 25200:24 25212:6,8	25212:10 25213:11 25215:19 25217:15 25218:15 25219:2,5,8 25222:7 25225:10,12 25227:1 25234:22 25238:13,21 25243:13 25244:25 25246:7,7 25247:4 25253:20 25256:6 25257:12,18,18,20,22 25258:3,3,5 25259:3 25259:24 25262:17 25263:3,4 25265:10 25265:23,24 25266:2 25266:3,4 25278:3,19 25278:19,22 25279:24 25280:9 25283:1 25295:23 25297:17,20 25303:3 25314:6 honderd 25226:15,15 hoof 25196:19 25204:14 25205:24 25278:5 25292:24 hoofde 25183:11 hoofsaak 25182:21 hoofsaaklik 25181:13 25184:17 25213:3 25238:14 25242:21 hoogte 25208:9 25257:9 25294:21 25295:7 hoogtes 25292:12 hoogtetjie 25250:9 hope 25170:3 25234:10 hospitaal 25224:3 hospital 25224:5 hostel 25287:10,15 25309:18 hou 25191:2 25213:18 25240:17 25259:10 25285:24 25309:17 25321:19 25322:10 hour 25223:3,7 25226:1 25277:11 housekeeping 25173:11 25173:15 25178:20 houses 25302:12 ht 25253:1 huise 25245:10 25248:10 25249:19 25249:21 25251:2,5 hulp 25204:1 25269:10 Human 25312:22 hurry 25239:2 hê 25189:17,19 25200:16 25202:21 25267:9 25279:24 25282:8 25328:15 <hr/> I <hr/> idea 25287:25 25288:4 25293:12 idee 25295:2 identified 25186:8,19 25191:11 25194:13
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>25195:24 25196:15 25238:3 identify 25251:14 25325:21 iemand 25204:4 25259:11 25273:7 iets 25199:20 25244:13 25259:8 25262:22 25264:21 25300:17 ignoring 25263:13 images 25300:10 25301:19 imagine 25230:9 immediately 25229:2 25233:1 25245:25 25270:13 25303:14 Impala 25205:10 25284:24 impi's 25210:18 implemented 25299:3 implementing 25300:4 important 25189:21 25191:21 25272:13 25306:23 25307:5 impression 25300:4 inaudible 25225:23 25261:12 25264:19 25271:10 25317:5 inbeweeg 25213:16 25251:5 25315:3 incident 25176:12,16 25176:16 25179:8,25 25180:20 25196:11 25206:6 25214:17 25218:16 25229:2 25231:7,9 25260:15 25270:11,12 25302:5 incidents 25179:17 25195:25 included 25271:17 indebted 25220:22 indicate 25205:1 25254:5 25263:12 25310:1,3 25319:2 25327:22 indicated 25227:7,12 25255:5 25326:17,20 Indicating 25241:20 indication 25181:22 25212:24 indien 25279:13 25293:2 industrial 25200:2 industriële 25199:15 25199:21 inform 25171:12 informal 25273:16 information 25178:1 25180:19 25182:24 25270:16 informed 25234:13 25285:5 25312:24 25323:21 informele 25203:18 25244:12 25273:11 25273:22</p>	<p>ingaan 25283:16 ingedeel 25205:12 ingedien 25240:17 ingegaan 25295:7 25299:15 ingegooi 25299:15 ingehardloop 25299:16 ingeklim 25257:21 ingestorm 25281:24 inhandig 25238:17 inisiatief 25290:14 25291:11 initial 25251:24 25257:2,14 initially 25262:3 25269:12 25271:17 25298:16 25299:2 25308:21 initiative 25290:20,21 injured 25242:20 inkom 25190:14 25199:14 25233:15 inligting 25213:10 25267:4,6 25271:21 25276:23 25279:9,24 25284:15 25287:14 25298:12 inligtingssessie 25204:13,20 inscriptions 25254:1 insident 25185:10,18 25186:12,16 25188:9 25190:24 25191:13 25212:9 25223:21 25254:12 25256:3 25267:3 25276:22 25280:12 25283:25 25303:1 insidente 25187:16 25188:11,19 25190:7 25196:3 25205:7 25207:16 25229:24 25283:12 insluitende 25309:18 insover 25240:16 inspeksies 25222:7 instruction 25211:9 25215:6,24,25 25218:4 25231:18 25246:17 25302:9 25328:11 25329:17 instructions 25214:10 25218:12 instruksie 25247:3 instuur 25195:13 intended 25268:15 intensive 25184:15 interested 25225:13 25302:7 25312:14 internal 25184:11 internet 25198:15 interpreter 25193:3,11 25193:14,20,21 interpreting 25193:21 25193:22 interrupt 25188:16</p>	<p>25198:7 25202:10 25207:18 25222:14 25224:17 25232:4 25246:21 25250:12 25253:18 25256:11 25268:13 25304:20 interrupted 25172:23 25306:22 25307:3 interruption 25194:3 intersects 25318:12,12 intervention 25183:3,3 intussen 25246:14 investigation 25238:6 invloed 25200:22 25295:23 involved 25181:22 25206:9 25236:6 25244:18 25292:17 involvement 25207:20 IRIS-verslag 25190:17 irresistible 25265:14 Isaacs 25284:12 isn't 25176:15 25178:11 25220:20 25272:11 issue 25180:8 25246:16 issued 25215:25 issues 25194:15 25195:1 items 25266:4 it'll 25230:25 it's 25174:6,13,14 25176:4,6,9,14,22 25178:10,12 25193:16 25197:3 25214:24 25215:11 25217:19 25220:12 25220:14,23 25221:9 25221:11 25222:18 25224:18 25227:25 25228:19 25230:9,23 25232:6,8 25234:7 25241:12,14,17 25247:20 25248:18 25266:9 25269:7 25271:8 25272:5,11 25272:13,16 25273:5 25273:6 25274:13 25304:12,13,13,22,23 25305:1 25316:3,6 25317:6 25319:4 25322:3 I'd 25272:25 I'll 25319:15 25329:4 I'm 25171:14,17 25175:10 25176:5 25214:21 25220:7,22 25221:1,11 25222:13 25223:1,13 25224:17 25227:5 25256:11 25271:8,14 25273:3 25273:10 25274:24 25276:12,12 25277:4 25277:8 25313:9 25318:20 25323:11 25329:25</p>	<p>I've 25261:2,24 i.e 25211:12</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>ja 25170:10,15 25183:10 25184:17 25184:21 25188:7 25194:17 25203:12 25204:24 25211:8,20 25215:16 25218:1 25220:19 25224:12 25224:16 25225:16 25235:22 25238:24 25242:3 25245:4 25246:2 25252:12 25254:6 25255:20 25256:9 25258:15 25262:21 25263:2 25264:16 25265:16 25266:12,18 25270:25 25271:13 25278:17 25284:7,21 25286:18 25293:22 25294:16 25301:11 25306:15 25307:10 25311:10 25320:14 25323:5 25327:8 jaar 25181:17,17 25219:4 Jammer 25171:20 Januarie 25274:4,17 Januariemaand 25205:9 25213:23 25284:24 January 25172:11 Jis 25271:6 JJJ10-series 25313:22 JJJ10.4533 25314:24 JJJ10.4538 25315:9 JJJ10.4540 25316:18 JJJ11 25307:10 JJJ11-series 25313:19 JJJ11.1506 25313:18 25313:25 JJJ11.1507 25314:14 JJJ11.1514 25307:5 25317:11 JJJ11.1515 25308:7 25324:13 JJJ11.1518 25304:13 JJJ137 25195:9 25197:3,22 25203:20 25204:8 25205:1 25283:22 JOC 25190:20 25192:8 25194:24 25196:15 25200:25 25212:20 25213:4 25214:18 25215:4,13,18,23 25216:8 25217:10,11 25217:18 25218:5,24 25219:11,21 25224:13 25225:18 25226:2 25229:12 25239:10,11,12 25245:23 25255:15</p>	<p>25257:23 25268:9 25275:25 25276:17 25278:22 25280:16 25280:17 25284:7,19 25288:14 25289:16 25290:9,19 25291:17 25292:8 25294:11 25298:22 25299:16 25299:18 25300:10 25300:19,23 25301:3 25301:8,19,20 25302:22 25303:14 25303:17 25307:18 25311:21 25317:15 25317:18 25325:6 JOCCOM 25285:17 25286:6,6,7,17 25287:23 25288:24 25290:3,7 25291:4 25297:8 JOCCOMs 25284:17 Johannes 25170:17 25171:23 25313:5 join 25181:3 joined 25218:22 25310:22 Joint 25207:23 Jokanisi 25260:25 25263:15 jou 25189:17,18,19 25190:10,10,12 25191:24 25233:24 25235:14 25236:17 25236:21 25268:24 25280:21 25281:9 25282:8,9,10,15 25285:1 25287:10 25295:14 25296:11 25297:11 25328:15 journey 25222:10 July 25177:20 ju 25189:16,16,19 25190:10 25191:24 25192:3 25202:13 25210:18 25213:10 25213:24 25227:1 25233:23,24,25 25243:9 25244:11 25251:19 25267:9,10 25268:20,20 25271:19,20 25280:22 25281:10 25282:8,8,10,12,16 25287:7,7,9 25289:8 25289:9,9,10,11 25299:14 25307:20 25321:21 25322:12 25325:2 25328:14,16</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kaal 25208:18 25210:14 kalmeer 25243:13 kameras 25291:7,10 kan 25186:15 25187:24 25189:15,24</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>25190:16 25191:24 25192:4,24 25195:22 25199:17 25201:2,3 25202:20,21 25203:3 25203:16 25209:24 25210:18 25214:20 25217:13,17 25219:13 25233:16 25233:25 25243:15 25249:17 25251:4 25253:4 25258:5 25259:6,11 25263:6 25264:17,21 25265:16 25268:20 25273:11,23 25274:10 25276:9,11 25278:22 25280:21 25281:14 25289:8 25292:23 25295:18 25296:1,3 25297:10 25298:14 25299:9 25303:20 25309:18 25315:17,20,21,21 25317:4,4,17 25321:21 25323:17 25327:17 25329:21 25329:22 kanale 25190:9 kannie 25203:1 kans 25199:17 25233:24 25286:12 kant 25199:14 25201:4 25208:9 25219:25 25258:6 25263:5,7 25266:16 25283:16 25285:1 25289:7 25290:10 25292:19 25306:17 25310:10 25326:2 kantoor 25284:13 kantore 25216:14 25217:1 25225:10 kaptein 25198:4 25201:13 25219:1,22 25231:24,24 25233:11,14,16 25234:19 25243:14 25246:12,13 25257:15 25259:5 keep 25271:9 25294:17 keeper 25173:19 keer 25188:11,13 25189:13 25210:4 25212:8 25221:25 25279:7 25311:19 25317:21 25321:11 ken 25219:2 25243:19 25251:15,16 kennis 25207:16 25240:16 25285:10 kere 25189:4,4 25265:10 25296:8 key 25271:16 kieries 25217:6 killed 25235:7,21 25256:15 25261:4</p>	<p>25263:13 25320:24 kilometer 25322:11 kind 25181:22 25182:19 25215:12 25217:3 klaar 25187:17 25215:19 25323:17 klagte 25216:24 klandestiene 25283:11 klein 25200:6 25201:20 25288:14 25289:10 25308:12,24 25309:21,21 25310:12 Klerksdorp 25181:12 25183:12 25190:5 25296:7 Kleynhans 25239:25 klippe 25200:5 knew 25260:16 knopkierie 25263:3 know 25176:4 25189:7 25196:9,21 25199:3 25206:21 25207:6 25208:5 25209:3,11 25209:17,25 25218:21 25222:23 25225:1,17 25228:14 25228:19 25239:6 25244:3 25263:17 25265:20 25268:14 25270:7 25275:3 25286:5 25287:1 25289:20 25291:12 25291:24 25293:7 25294:25 25299:1,22 25302:5 25303:7 25305:2 25306:2,8 25313:1 25317:10 25318:23 25319:23 25320:12 knowledge 25188:25 25189:1 25206:22 25275:4,11 known 25298:6 koeël 25203:2 25281:14 koeëls 25281:21 kol 25286:24 25324:4 kollega 25234:24 kollegas 25234:21 kom 25182:18 25186:1 25187:25 25189:3 25200:22 25213:9 25214:1 25217:16 25235:14 25240:13 25245:5,6,11 25250:9 25257:9 25258:5 25276:8 25283:19 25286:1 25293:4 25308:14 komberse 25285:1 kommentaar 25258:7 kommer 25283:3 kommerwekkend 25186:3 25277:1 Kommissaris 25186:6</p>	<p>25196:6 25201:8 25253:7,9 25278:5,20 25280:11 Kommissie 25170:13 kommunikasie 25295:3 25306:6 kommunikeer 25296:12 kon 25190:10 25191:8 25192:3 25199:21,22 25200:15,21 25202:17 25203:2 25204:3,5,6 25212:8 25216:19 25217:5,6 25217:15 25229:22 25229:24 25232:19 25233:20,20,21 25234:24 25240:1 25243:9 25246:15 25247:2,5 25266:4 25268:23,24 25269:20,20 25280:10 25283:19 25297:15 25322:13 25323:8 25325:2 25329:20 konferensie 25204:17 konfrontasie 25199:23 25276:9 konsentreer 25293:5 konstante 25189:14 konsultasie 25273:25 kontak 25295:6 25300:11 kontraakteur 25182:4 kontraakteurs 25182:7 koördineer 25292:7 koppe 25236:19 koppie 25216:11,13 25226:12,13 25276:7 25287:12 25288:11 25288:13,20 25289:6 25307:25,25 25308:11,12 25315:15 25323:7,9 25326:12,16,19 koppies 25308:15 25310:11 kordon 25287:9 kort 25186:11 25204:20 25238:16 25269:1,9 kortliks 25201:9 25238:13 kort-kort 25271:20 25274:6 kraal 25302:4,5 25305:19,19 25311:17 25326:14 25327:20,22 25328:3 kragtasie 25323:3 kronologiese 25269:21 kruising 25310:9 25315:19 kry 25170:25 25192:25 25201:7,16 25205:17</p>	<p>25210:16 25213:10 25213:24 25243:15 25251:7 25257:16 25259:6 25267:7 25280:22 25281:10 kursusse 25184:17 kwalik 25252:6 kwessie 25271:19 kyk 25201:3 25213:21 25221:24 25230:4 25231:12 25233:15 25233:19 25248:24 25259:10 25266:3 25287:7 25307:20 25322:7</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L 25260:24 25261:6 25263:11 25264:12 25265:2 25289:19 25308:18 laag 25233:14 laagte 25244:11 laai 25294:10 laaste 25173:3 25187:4 25257:10 25274:16 25326:9 laastes 25187:6 laat 25199:18 25206:11 25259:4 25286:12 lack 25186:20,23 25187:23 laer 25229:4 25278:2 land 25221:18,25 25222:8,8 25223:2,18 25225:25 25226:1 25242:11 25299:12 landed 25225:1 25239:12 25242:19 25242:25 25245:3 25246:22 25254:16 25254:18 25299:22 landing 25223:20 25224:1,5,7,8 25226:2 25291:4 landings 25221:19,20 25222:3 25223:17,19 lang 25236:21 25297:13 langer 25214:1 langs 25216:18 25252:7 langwapens 25253:2 lapse 25250:14 large 25239:18 25310:18,22 larger 25310:22 lasted 25254:10 late 25260:14 latere 25191:23 25267:6,7 25292:20 launcher 25200:9 launchers 25200:14,17 LCRC 25262:18 25291:8 25298:13 leaders 25320:3 leadership 25319:24</p>	<p>25323:10 leading 25170:22 leave 25260:20 25261:7 25261:8,10 25269:24 25278:11 25305:7 25312:21 25313:10 leaving 25261:10 led 25324:24 lede 25190:10,24 25201:16,23 25202:8 25202:9,23 25205:12 25205:14 25234:23 25243:8,9,11 25244:1 25245:8 25246:5,14 25247:4 25251:1,9,10 25255:12 25257:16 25259:6 25262:15 25267:16 25279:10 25282:10,10 25290:14 25291:9 25292:7 25294:10 25306:7 25327:11 25328:20 25329:12 25329:13,18 leegte 25257:8 leemte 25192:20 25291:7 left 25194:6 25219:11 25224:13 25241:11 25241:11 25262:3 25263:20 25265:19 25265:22 25274:25 25305:10 25318:8 25324:6,7,9 left-hand 25317:7 25327:2 legal 25182:22 25312:23 lei 25187:10 lelike 25225:11 Lepaaku 25246:1 letter 25174:6 25195:6 25195:9 25196:9 25197:5,11,18,23 25198:24 25204:8 25227:8 25241:18 25283:21,22 letters 25236:5,13 let's 25186:18 25234:10 25280:24 25289:17 25308:22 25309:10 25322:21 leuen 25290:12 level 25189:1 lewe 25256:5 25257:19 25258:19 25278:7 lewendige 25233:21 lewens 25233:20 lewensverliese 25279:14 Lewis 25304:24 25320:6 liaise 25306:1 lid 25245:8 25248:7 lie 25252:22 lieutenant 25171:14</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>25173:22 25205:2 25258:17 25261:19 Lieutenant-Colonel 25199:4 25232:10 25304:12 Lieutenant-General 25185:7 25192:15 life 25247:10,25 25257:25 25258:19 lig 25194:21 25203:24 25203:24 25248:25 25286:3 liggaam 25249:25 25250:9 light 25311:7 line 25197:18 25217:19 25230:9,14,22 25231:9 25234:19 25245:18 25258:16 25280:25 25283:20 25284:18 25285:4 25302:5,15 25305:12 25309:13 25311:1,16 25311:23 25314:22 25321:16 lines 25208:13 25222:11 25229:19 25247:24 25273:6 25313:14,15 25317:20 25321:10 25327:10 25329:4 linguists 25174:10 linkerkant 25263:8 25307:20,21 25315:20 25316:21 list 25175:10 25185:2 little 25180:24 25285:19 LLL18 25172:19 LLL8 25172:7 25206:7 25210:10 25214:22 25229:19 25234:4,18 25239:19 25241:1 25272:1,22 25273:2 25274:13,14,19,19 25275:23 25277:22 25278:25 25281:1 25284:18 25302:3 25313:13 25317:20 Loest 25218:22 25219:2 25231:24 25233:17 25243:14 25246:12,14 25257:15 25259:5 log 25221:17 25268:24 logs 25178:17,17,18 25220:9 long 25183:6 25193:19 longer 25263:16 Lonmin 25215:5 25255:16 25276:17 loods 25251:3 25327:11 25328:8,21 25329:10 look 25172:4 25173:6 25189:25 25197:3 25204:25 25206:7</p>	<p>25212:11 25220:9,15 25222:10 25224:19 25238:18 25239:17 25241:12 25263:13 25263:15 25266:21 25280:24 25290:4 25297:1 25304:18,25 25312:16 25324:12 25327:21 looking 25181:2 25194:11 25272:22 25277:21 25313:17 25318:7 25324:10 looks 25221:6 25224:18 25256:12 25305:20 25316:7 25318:6 25320:5 25324:6 25327:3 25328:1,2 loop 25199:24 25207:14 25220:5 25229:14,15 25252:1 25258:21 25286:14 25307:23 25318:1 lopery 25308:1 los 25277:1 25279:11 lot 25193:24 25239:18 25281:12 25303:23 loved 25260:17 25261:3 low 25294:14 25295:1 lower 25241:12 25311:1 25326:19 lug 25198:4 25202:9,16 25204:6 25206:18 25213:3,5 25216:19 25216:21 25217:5,16 25217:17 25229:22 25229:24 25232:2,18 25232:19 25233:13 25245:5 25287:11 25291:18 25292:6 25295:16 25296:24 25298:14 25299:11 25299:20 25325:3 25326:7 25329:19 lugsteun 25198:1 lugvaart 25295:4,6 25297:11 lugvleuel 25181:19 25186:1 25187:16 25188:2 25204:16 25208:9 25219:4 25290:10,13 25291:6 25291:9 25298:23 25299:25 25306:17 Lugvleuelbevelvoerder 25292:5 luitenant 25172:2 25199:9 luitenant-kolonel 25170:6 25184:1,2,4 25277:15 lunch 25277:7,9,11 25279:1 ly 25199:22 lying 25260:15 25262:1</p>	<p>25263:16,16,21 25265:7 25302:14 25303:10,17 25304:10 25305:2,4 lyk 25263:3 lyn 25210:15 25227:1 25258:7 25271:24 25317:25 25318:5 lys 25184:25 lê 25170:8 25245:13 25250:9 25251:20 25252:8 25266:4 25271:19,23 25286:13 lêer 25170:7 25214:20 L194 25308:19</p> <hr/> <p style="text-align: center;">M</p> <p>maak 25170:9 25192:24 25209:8 25210:22 25211:7 25220:1 25246:13 25259:15 25267:2 25282:9 25286:23 maand 25173:2 25239:5 Maandag 25215:16 25276:22 25279:8 25281:7,23 25282:12 Maandagaand 25280:12 maar 25181:24 25191:2,17 25195:13 25196:4,4 25199:10 25200:10,20 25201:22 25204:4 25208:10 25212:6 25213:2 25216:3,20 25217:1 25218:2 25219:17,23 25220:2 25222:4 25233:24 25236:1 25237:20 25238:14 25240:13 25242:22 25244:21 25245:9 25246:10 25253:13,15 25259:8 25267:9 25274:3 25281:25 25282:19 25287:10,12 25291:11 25298:12 25309:19 25321:19 25323:18 25324:19 machine 25193:3,10,14 25193:23 25225:24 25234:11 machinery 25234:5 Mafikeng 25212:20 mag 25213:21 25295:21,21 magtiging 25195:14 magtigings 25192:25 Mail 25176:3,4 25198:16 Majikeng 25212:17,20 Majoer 25267:15 Major 25267:18</p>	<p>makeer 25211:23 making 25211:17 25255:6,19 maklik 25288:15 makliker 25192:4 25213:23 manier 25191:18 25233:15 25283:4 mannekrag 25199:19 25205:7 manner 25214:11 25276:19 25279:2 25285:7 manuscript 25177:9,14 marchers 25198:24 25199:1 Marikana 25206:6,9,14 25206:23 25207:21 25212:20,23 25213:1 25213:19 25214:18 25215:20 25216:15 25216:17,24 25219:1 25223:4 25224:23,25 25225:9 25239:23 mark 25173:8 25174:23 masks 25236:25 25237:4 massa 25328:22 massacre 25318:23 25320:23,25 25321:1 25321:1 mast 25316:4,6 Mathunjwa 25314:4 25315:12 Mathunjwa's 25316:1 25317:1,8 Mati 25260:25 25263:14 matter 25174:10 25182:20 25275:11 Matthews 25296:7 Mbombo 25185:7 25192:15,24 25194:20 25254:5 25255:18,21 25256:7 mean 25187:1 25211:23 25215:11 25229:21 25235:12 25276:3 25281:3,15 25283:7 25317:23 25320:12 means 25211:13 25267:18 25314:1,25 meant 25186:10,22 25203:21 25210:12 25211:7,19 25236:9 25277:22 25321:13 mee 25266:25 25280:22 meegedeel 25201:9 25212:19 25253:10 25255:12 25256:4 25257:19 25278:6,19 meer 25187:7,8,21 25204:12 25240:6 25248:25 25249:8</p>	<p>25268:20 25271:21 25281:10,11 25282:8 25282:9,16 25283:4 25297:19,19,20 25323:8 25324:20 25325:3,6 25329:21 meerderheid 25237:20 mees 25307:20 meestal 25183:13 meeste 25287:10 meeting 25277:10 25280:18 meetings 25284:7 25289:16 Meimaand 25283:24 mekaar 25220:3 25244:22 25327:17 meld 25195:22 25292:23 members 25186:24 25187:12 25188:25 25189:1,7 25198:9,16 25198:17,17 25201:19,21,25 25202:3,12 25235:5 25235:20 25236:5,24 25238:2 25243:17,23 25244:3,7,7 25245:20 25245:21 25246:17 25249:8,14 25250:13 25251:13,14,24 25252:10,10,18,22 25255:3,18 25268:3 25289:23 25290:2 25302:10,15 25305:12,13 25323:21 25328:8 25329:10 mens 25186:15 25203:1 25203:4 25219:24 25251:18 25283:3 25288:15 25292:22 25315:21,21 25327:17 mense 25185:21 25188:12,13 25198:3 25199:13,20,24 25200:4,8 25201:1 25204:14 25208:18 25208:22 25211:5 25212:1 25213:24 25216:12,25,25 25222:1,2 25227:2 25229:13,23 25232:2 25233:25 25236:17 25242:22 25262:18 25276:7,9 25280:22 25281:6,22,25 25282:11,25 25283:2 25283:13,18 25284:11 25285:25 25286:12,19,23 25287:10,13 25289:10 25291:8 25296:16 25307:22 25308:11 25309:8</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>25312:4 25314:6 25315:22 25323:7 25325:5,6 25326:11 mention 25186:19 25189:6 25192:13 25204:9 25208:12 25213:5 25218:21 25219:16 25240:9 mentioned 25186:24 25192:13 25198:8 25202:2 25212:12 Mentz 25198:5 25201:14 25240:1 Merafe 25205:2,6,21 25206:2 Merafi 25199:4,10,16 25200:3,7,23 25201:10 25202:19 25203:23 25280:14 message 25193:4 25210:10,12 25211:22 25212:5 25276:18,18 25277:5 25279:16,19 25280:25 25282:19 25283:21 25284:2 messages 25300:25 meter 25324:19 meters 25226:15 method 25301:24 methods 25305:25 25306:3 metode 25201:15 MG 25176:4 MG.com 25176:6 Microphone 25225:23 25261:12 25264:19 25271:10 25317:5 middag 25207:15 25239:5 25280:12 middel 25200:25 25295:4 middle 25253:25 25305:12 25326:17 militant 25314:9 25318:14,22,25 25319:8,9 25320:1 militante 25314:7 25317:24 millimeter 25200:9 25202:6 25252:15 min 25248:25 25249:8 25268:20 25324:19 mind 25173:12 25209:15 25272:18 minder 25315:22 mine 25174:23 25276:17 25282:4 minste 25201:2 25307:18 minute 25193:5 25224:16 25234:6,9 25250:17,21 25254:11 25256:14 25256:22,24 25260:22 25261:8</p>	<p>25263:14 25305:8,9 minutes 25193:7,10 25224:24 25250:18 25250:19 25256:17 25256:20,21,23 misdaadsvoorkomin... 25201:1 misdaadtoneel 25246:10 25265:25 misdaadvoorkoming... 25207:2 misdaadvoorkoming... 25205:13 misdaadvoorkoming... 25213:10 miskien 25247:4 25317:3 mnr 25171:22 25172:25 25183:18 25183:25 25184:21 25186:14 25187:3 25188:8 25190:2,18 25195:12 25196:24 25197:25 25206:3,10 25206:24 25208:7 25219:12 25221:23 25235:13 25237:5 25244:13 25246:2,24 25250:16 25261:21 25264:8 25268:18 25273:24 25274:17 25278:1,17 25280:5 25281:16 25292:24 25299:10 25303:21 25309:15 25314:4 25315:12 25317:2,16 25320:16 25321:7 mobiele 25190:23 25191:7 25192:21 mobile 25190:20 25196:15 25215:18 mode 25193:17 modes 25183:3 25187:7 moelik 25205:16 25324:19 moes 25191:16,16,17 25200:21 25210:7 25216:15 25238:17 25257:9 25283:16 25292:22 25299:13 moet 25186:5 25187:21 25189:16,17,19,23 25191:17 25192:23 25192:24 25200:24 25201:11 25205:12 25206:14 25212:23 25213:16 25216:11 25216:12 25217:16 25218:3 25219:8 25222:7,8 25233:24 25238:13 25240:15 25243:14 25258:5,21 25259:5 25262:17 25264:17 25267:9 25270:2,21 25271:6 25278:22 25279:11</p>	<p>25282:16 25283:4 25287:9 25290:15 25298:13 25300:20 25309:16 25311:11 25312:5,5 25321:19 25322:9 25325:5 25327:11 25328:8,21 25329:10 moment 25192:11 25247:9 25258:17,18 25321:2 Monday 25215:5,14 Monene 25242:17 25243:1 25245:25 25253:9 25312:23 25313:10 Monene's 25313:8 monitor 25213:3,20 25291:16 months 25283:22 mooi 25225:11 Moolman 25259:12,20 moontlik 25199:21,23 25201:3 25246:25 25247:22 25259:11 25264:17 25287:8 moontlike 25213:21 25216:16 moontlikheid 25247:6 25274:10 25322:12 morning 25171:10,11 25215:13 25286:6 25329:7 25330:3 motivation 25278:16 motor 25316:1 movable 25190:1 25192:8 move 25250:11 25272:6,24 25273:15 25309:5,24 25312:9 25326:25 25329:1,4 moved 25227:13 25308:8,22 25309:4 25310:4,17,25 25311:6,8 25314:21 25322:25 25323:12 25326:18,20 movement 25227:24 25228:6 25232:23 25308:9 25309:11,13 25326:3 moves 25302:1 moving 25315:6,16 25318:9 25322:18,21 25324:8 Mpembe 25185:8 25186:6 25191:1 25192:14,18,20 25194:13,16 25205:23 25217:13 25218:13,18 25243:5 25243:11 25246:3,16 25252:6,22,25 25255:7,19,25 25256:5,8 25257:25 25258:16 25259:2</p>	<p>25267:15,19 25269:15 25276:24 25277:25 25278:5 25280:3 Mpembe's 25245:17,24 25255:23 Mpofu's 25319:7 mustn't 25321:4 muti 25209:3,4,12,18 25211:1 25282:5 myn 25217:10 25255:16 25285:1 25292:21 myne 25181:25 25205:10 25208:21 25254:3 25281:9 25283:10 myners 25203:3 mynonluste 25209:6 25281:2 25287:7 mynsekuriteit 25209:21 M&G 25176:4</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>naamplaatjies 25251:17,21 naasbestaandes 25185:23 naaste 25226:14,16 25293:14 25323:2 naby 25200:22 25235:23 25244:21 25293:4 nadat 25200:4 25202:18 25203:15 25208:25 25218:25 25231:23 25241:5 25251:5 25253:8,8 25259:3 25268:9 25285:22 25301:5 25302:25 25329:11 nader 25245:6 25327:15,16 nagekom 25240:7 nagelaat 25173:3 name 25171:21,21 25260:10 narrative 25302:7 nasionale 25207:23 25208:8 25279:23 25280:11 national 25184:16 NATJOC 25207:15,25 25277:3 25279:22 navrae 25181:13,15 25191:24 naweek 25207:25 near 25176:15 25242:1 25311:16 25317:6 25327:2 necessarily 25264:12 necessary 25189:22 25277:23 nedersetting 25226:16 25244:12 25309:18</p>	<p>nedersettings 25203:18 25226:13 nee 25195:12,21 25206:24 25215:16 25218:8,14,19 25219:17 25231:19 25232:24 25238:4,7 25242:21 25243:25 25244:4 25246:18 25249:16 25250:5 25251:15 25254:24 25258:24 25263:18 25268:18 25275:5,5 25280:4 25285:13 25291:2 25294:5 25296:23 25297:5 25299:9 25309:16 25311:18 25317:2 need 25211:2 25222:22 25234:6 25258:16 25270:15 needed 25208:5 25285:6 neem 25170:8,24 25233:24 25252:6 25285:10 25291:10 25292:22 25298:14 25303:2 25323:5 neer 25187:25 25286:13 neergekom 25238:14 neerlê 25284:12 neerskryf 25268:20 negatief 25196:24 25206:3 25218:8,14 25218:19 25237:5 25238:4 25294:5 25298:20 25299:9 nege 25219:4 negotiation 25183:15 25183:15,15 25184:11,15 25186:25 negotiations 25183:17 25184:7,20 net 25187:7,10 25188:12,21 25201:2 25202:5 25212:6 25213:20 25214:20 25216:23 25217:11 25219:13 25222:3 25225:12 25229:23 25238:12,13 25240:5 25240:13 25243:21 25244:1 25246:5 25253:8,15 25254:24 25258:3 25259:14 25265:24 25266:1,2 25267:8 25269:1,9 25271:6,7 25276:10 25278:3 25284:3 25285:9 25294:23 25295:20 25296:24 25297:10 25299:10 25300:20 25303:20 25309:16 25321:22</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>25324:2 25329:22 network 25290:12,18 new 25173:8 25260:1 Nichol 25171:4 niemand 25191:2 25196:25 niks 25170:14 25209:24 25231:19 25262:22 25281:20 NIU 25243:23 nodig 25196:5 25294:10 nodige 25192:25 25206:18 25270:5 25283:17 noem 25236:21 25244:14 25296:6 25299:10 25303:20 nog 25185:9 25187:5 25187:20 25200:24 25201:1 25212:18 25245:5 25252:7 25263:4 25277:15 25280:6,9 25281:25 25313:3 25314:5 25323:16,16 nogal 25236:2 Nokia 25290:23 nommer 25227:2 non-commissioned 25188:5 noodgedwonge 25201:23 noodlottige 25243:5 noodsaaklik 25297:18 Noord 25181:19 25291:6 25295:17 Noord-Wes 25196:20 normaalweg 25219:23 25235:14 25267:3 25293:6 25295:14,15 25315:20 normale 25280:21 25281:10 25282:17 25328:13 normally 25173:19 north 25171:18 25241:20 notas 25267:1 note 25261:24 notebook 25261:24 notes 25178:1 25254:2 25254:2 notice 25240:8 25264:5 25265:19,21 25315:15 noticed 25273:12 25302:14 25303:9 nou 25184:3 25185:25 25189:15,17 25204:15 25208:19 25210:23 25215:19 25216:17,24 25241:7 25242:16 25248:25 25253:2,15 25254:24 25258:21 25263:7,24</p>	<p>25281:13 25286:14 25287:14 25289:5,6 25295:16 25297:13 25324:19 25325:19 25327:15 noue 25294:20 November 25180:6 no-one 25237:23 Ntsebeza 25318:19 25319:3,11,16,24 25320:2,8,11 25321:3 NUM 25198:19 25211:22 number 25174:7 25195:8 25220:11,11 25220:20 25227:6,6 25227:21 25294:14 25302:14 25303:9 25305:17,21 numbers 25173:20 25227:6 Nyala 25257:16,20,21 25257:21,22 25307:19 25312:5 25314:23 25316:22 25316:22 25317:12 25321:11 25322:24 25323:2,4,5,14,17,25 25324:16 25325:18 25325:22,25 25326:4 25326:5,8,9,25 25327:1,3,16 Nyalas 25253:3 25276:25 25279:11 25307:21,22 25312:15 25315:12 25317:21 25318:4,18 25321:16,19 25323:13,14 25324:16 25326:1,6 25327:13 nêrens 25290:15 25298:23</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O 25174:1,2,4,5,10,15 observasie 25321:17 observation 25275:14 observations 25271:15 25271:16 observe 25229:10 25324:24 observed 25180:19 25234:25 25307:14 obviously 25269:15 25271:16 25272:13 25319:6 25329:5 occurred 25198:20 25229:2 25245:24 office 25215:5 officer 25207:7 25243:1 25245:19,25 25312:22 officers 25187:23 25188:5,5,17 offices 25217:8</p>	<p>offisier 25206:16 25242:17 offisiere 25208:8 25280:12 25281:2 oggend 25206:12 25218:15 25268:9 25280:17 25288:11 25300:1 25307:17 oggende 25284:8 25288:13 Oh 25178:16 25211:6 25261:18 okay 25177:10 25181:20 25182:9 25186:18 25204:7 25224:9 25226:17 25229:5 25234:14 25239:17 25248:21 25254:15 25258:8 25259:19 25315:23 25320:14 25324:21 old 25193:17 omdat 25202:15 25213:22 25232:17 25243:20 25265:24 25279:20 25281:13 25283:15 25295:22 omgedraai 25203:17 25233:5 25266:3 25281:23 omgekool 25309:9 omgeruil 25298:10 omgewing 25206:13 25213:16 25215:20 25215:21 25219:13 25224:16 25231:15 25248:25 25283:10 25309:17 25310:7 25318:2 25324:4 25327:25 omrede 25270:2 omsirkel 25286:11 omstandighede 25203:23 25294:9 omtrek 25231:24 25250:20 25253:8 25310:8 25324:3 onaantashaar 25208:24 25209:24 onbekend 25263:24 25273:7 once 25210:1 25217:7 25219:20 25225:21 25242:19,25 25244:6 25250:23 25257:13 25258:9 25259:1 25301:24 25312:1 25313:9 onder 25186:5 25191:6 25204:14 25263:2,4 25265:23 25266:4 25281:10 25294:22 onderhandel 25191:6 25220:3 25314:6 onderhandeling 25219:25</p>	<p>onderhandelinge 25184:12,14,18 25191:8 25192:1 25286:21 onderhandelingskur... 25187:4 onderkant 25231:14 25308:15 ondersoek 25181:13,15 onderstelling 25301:22 ondersteuning 25185:22,24 25186:1 25314:23 ondervind 25185:11 ondervinding 25208:20 25208:20 25210:3,13 25220:2 25281:2,9 25286:20 25287:6 25328:13 onderweg 25212:19 25216:17 ones 25211:16 25260:17 25261:3 ongeluk 25173:2 25216:2 ongelukkig 25190:3 25200:10 25270:3 25329:21 ongeveer 25216:12,22 25254:23 25269:25 25322:10 25324:19 25327:24 ongewapen 25282:10 ongewoons 25300:17 onluste 25182:2 25190:5 25201:22 25205:10 25206:15 25208:20 25280:20 25281:9 25283:9 25284:24 onlustehelms 25236:19 onlustepolisieman 25189:19 onlustetoerusting 25283:17 onmiddellik 25206:13 25233:5 25242:15 25250:25 25253:15 25258:25 25278:21 25279:23 25288:16 25289:9 25311:20 onmin 25205:10 onprofessioneel 25191:5 onrus 25213:23 onsigbaar 25209:23 onthou 25268:20 25317:17 ontkomings 25294:20 ontmoet 25327:18 ontplooi 25207:1 25212:23 25240:3 25281:7 25307:17 25323:18 25329:24 ontplooings 25259:7 ontsteld 25251:11</p>	<p>25252:4 ontvang 25301:10,11 25301:17 onvanpas 25278:2 onwards 25192:6 25234:19 25245:18 onwettig 25276:8 onwettige 25216:16 25283:11 25288:17 oog 25216:21 25328:12 oogmerk 25188:2 oogpunt 25235:24 oomblik 25294:24 OOO1 25173:25 25174:2,16 25181:2 OOO10 25177:20 OOO11 25178:3,7 OOO12 25178:17 OOO12.1 25178:18 25220:12 OOO12.2 25178:18 OOO12.3 25178:19 OOO12.4 25178:19 OOO13 25230:5,5,6 OOO14 25260:4,5 25261:12,13 25264:7 25266:6 OOO2 25175:3 25182:10 OOO3 25175:9,13 25184:23 25194:11 25196:9,22 25197:10 OOO4 25175:21 25197:7 25198:14 OOO5 25176:1,9 25198:15 OOO6 25176:9 25248:12,12 OOO7 25176:16 25177:4 25264:1 25266:21 OOO8 25177:12 25179:3 25238:19 25240:8 OOO8.1 25177:15 OOO9 25177:16 25253:18 oop 25201:25 25286:12 oor 25185:10 25187:8,9 25190:13 25191:16 25204:18 25205:6,24 25212:18 25216:11 25217:12 25218:25 25219:25 25222:4,6 25227:3 25238:14 25240:6 25241:7 25243:8,10 25255:13 25265:25 25276:1 25278:18 25279:6,25 25280:19,23 25284:23 25288:10 25288:13 25292:13 25292:24 25318:1 25321:22 25324:2 25325:4 25326:11,12 oorbeweeg 25241:7</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>oordra 25282:24 25296:14 ooreengekom 25293:1 oorgaan 25328:16 oorgebly 25270:3 oorgedra 25276:23 25279:10 oorgee 25286:20 oorhandig 25258:21 25259:18 25299:17 oorhoofse 25190:15 25292:24 25296:1,9 oorkant 25245:7 oorledene 25185:23 oorpak 25242:12 25243:16 25244:24 25245:12 25246:8 25250:1 25259:14 oorspronklike 25300:1 oorsteek 25273:9 oorvat 25262:18 oostekant 25242:2 oostelike 25241:8 Oosthuizen 25198:5 25201:14 25219:22 25231:24 25233:11 25233:14 25234:20 25235:2 opdrag 25200:8 25205:12 25212:21 25253:1 25276:25 25312:4 25327:11 25328:20 25329:12 25329:15 opdragte 25188:2 25190:14 25204:18 25219:7 openbare 25181:16 25183:12 25186:4,13 25187:5,11 25189:11 25190:4 25199:11 25200:6 25202:14 25204:15 25219:3 25235:17 25283:16 25328:13 operasie 25190:17 25201:17 25213:9,18 25292:9 25296:2 25298:24 operasies 25190:8 operasioneel 25183:13 operasionele 25190:6 25190:15 25199:10 25213:13,15 operateur 25191:15 operation 25203:7,10 25239:7 25287:17,20 25292:17 25298:6,18 25300:3 25327:12 operational 25175:2,4 25175:6 25182:16 25183:7,8 25184:13 25189:1 25207:23 25214:11,12 25294:3 operations 25184:8 25185:8 25205:24</p>	<p>25236:6 operator 25222:17 25223:12 25232:5 opgedaag 25201:21 25259:17 opgedoen 25243:5 opgehad 25237:7 opgeklaar 25192:4 opgelei 25283:9 25291:9 opgemerk 25170:6 25186:3 25191:14 25196:3 25213:4 25220:4 25229:13,15 25230:3 25231:25 25236:20 25237:6 25242:11 25243:4 25244:13,15,23 25245:12 25273:7 25301:6 25308:13 25312:7 opgeneem 25192:2 25196:19 25252:25 opgeskiet 25202:16 opgestaan 25220:5 25229:13 25310:9 25323:7 25325:2 opgestel 25274:4 25289:4 opgestyg 25268:25 opgetree 25182:6 25183:11 25186:15 25187:18,20 25188:1 25188:14,22 25189:4 25189:5 25283:12 25286:14 25329:19 oplaai 25222:2 opleiding 25181:11 opmerking 25252:5 25253:6 opneem 25205:23 opportunity 25260:19 25260:20 25261:7 opposite 25321:5 opreg 25170:12 opregte 25170:8 25313:3 oproep 25257:10 oproepe 25256:2 opruk 25283:15 ops 25190:23 25191:7 25217:22 opsig 25296:5 opsigte 25189:17 25283:2 25284:9 25286:21 25296:4 25298:22 opskamer 25190:12 25192:21 25303:4 opskryf 25267:4 opstaan 25170:11 opstand 25182:5 25210:20 opstart 25221:24 optog 25215:11 25216:16 25240:17</p>	<p>25240:19 optoggangers 25200:5 25200:13,23 25203:3 25203:25 25233:4,8 25242:12 25253:4 Optogte 25188:10 25238:16 25240:7,16 optrede 25189:18 25191:19 25235:25 25286:2 25327:11 25328:8,20 25329:10 optredes 25283:11 25285:24 optree 25209:21 25329:21 opvangs 25253:13 25257:10 opvolgende 25286:3 opvolgoperasie 25245:6 25251:3 orange 25310:18 25311:2,7,8,23 25312:2 orde 25181:16 25183:12 25186:4,13 25187:5,11 25189:11 25190:4 25199:11 25200:6 25202:14 25204:15 25219:3 25235:17 25283:16 25328:13 order 25182:15,25 25184:13 25189:21 25197:22 25202:3 25208:6 25246:22 25247:21 25269:18 25273:15 25294:4 25306:1 25324:22 Orkney 25181:14 ORS 25196:19 25197:12,15 25204:10,14 25212:19 Oryx 25292:20 25293:10,18,21 25294:7,14,17,20,24 25294:25 25295:4 Ottosdal 25185:11,19 25190:23 25196:5 ou 25285:2 25295:24 oud 25186:3 outomaties 25202:7 25298:10 outside 25232:7 overall 25218:12 25280:3 overview 25180:25 owerbevel 25183:13 o'clock 25277:12 25290:3,6 25297:8 25330:4 o'clock 25287:2</p>	<p>25251:9 Padayachee 25206:16 25207:7 page 25198:23 25217:20 25220:16 25220:18,20,23,25 25221:6,7,16 25222:25,25 25223:1 25229:19 25230:16 25230:17 25234:18 25245:17 25253:24 25253:25 25258:9,13 25268:15,17 25284:18 25285:5 25313:14,15 25321:10 pages 25220:21 paginated 25220:15 panga 25263:4,7 25264:10,14 25265:4 25265:14 25266:7 pangas 25199:5 pantser 25257:16 pantservoertuie 25229:16 25282:9 pantservoertuig 25251:7 para 25274:24 paragraaf 25271:24 paragraph 25186:21 25192:6 25194:12 25198:24 25203:20 25203:21 25204:8,8,9 25204:9 25205:1 25206:8 25208:12 25210:10 25212:11 25214:21 25215:2,22 25217:19 25218:22 25229:18 25234:3,18 25240:21 25247:8 25272:1,22,25 25273:2,5,6 25275:23 25275:24 25276:15 25277:22 25278:25 25279:15 25280:25 25284:18 25302:3 25313:14,15 25317:20 25321:10 25327:10 25329:2,4 25330:1 parallel 25318:13 parameter 25293:16 25298:11,12 paraphrase 25328:19 pardon 25325:8,11 part 25215:10 25218:6 25237:9 25248:6 25264:12 25278:15 25287:19 25290:25 25291:13 25302:8 25305:19 25306:24 participating 25198:18 particular 25268:14 25279:19 25293:9 25295:10 25326:25 particularly 25205:3</p>	<p>25282:5 parties 25313:1 partly 25276:14 25305:20 party 25209:7 partykeer 25235:16 passage 25273:3 25274:14,20 passasiers 25295:18,22 patch 25309:1,12 25311:7 25314:10 25317:7 25324:5 path 25317:7,8 25318:9 25318:12 25324:8 pathways 25314:11 PC 25175:19 25185:16 25192:12 25277:24 Pentax 25313:23 25317:10 25322:1 people 25170:19 25200:2 25209:3,4,12 25211:12 25215:10 25228:19 25231:9 25232:5 25244:18 25261:8,10 25301:25 25302:14 25303:10 25306:1 25308:4 25316:7,11 perform 25296:22 period 25196:1 25321:25 25322:6 permission 25256:8 25277:24 person 25242:20 25264:13,13 25275:10 persone 25182:1,3,7 25216:16,18 25220:4 25243:16 25244:15 25249:1 25301:7 25307:24 persons 25248:23 persoon 25191:14 25242:12 25243:10 25243:16 25244:24 25245:12 25246:8 25248:8,9 25249:1 25251:20 25259:14 25298:21 25300:19 pertaining 25238:9 pertinent 25284:8 philosophy 25183:1,2 Phokeng 25200:25 phone 25170:3 25304:3 phones 25170:5 25303:24 photo 25227:17 25302:16 25304:13 25304:25 photograph 25176:11 25176:14,15 25227:7 25227:10 25230:16 25230:23,23,24 25231:1 25241:13,15 25248:13,13,17,17,22 25260:10,18,21</p>
P				
		<p>paar 25181:24 25226:15 25233:23</p>		

<p>25261:16,19 25262:9 25262:25 25264:4,6 25264:12,13,14,15,24 25265:13,20 25266:5 25266:6,13 25302:7 25302:11,17 25303:11,17 25304:9 25305:11,12,14,20 25308:7 25317:1 25318:9,10,13 25324:6,9,10 25326:17,20 25327:3 25327:21 25328:2</p> <p>photographs 25211:13 25265:19 25266:13 25272:6,9,10,14 25290:11 25294:14 25306:9,13</p> <p>phrase 25273:22 25275:1 25319:9</p> <p>physical 25186:24</p> <p>pick 25194:5,7 25206:7 25248:4 25284:17 25313:13</p> <p>picture 25227:17 25228:22 25230:10 25260:14,20 25261:5 25262:2 25263:17 25301:13 25305:3,7 25305:11,21 25306:23 25307:5,6 25308:20 25314:14 25315:24 25317:6,9 25317:11,15 25318:6 25321:25 25322:16</p> <p>pictured 25211:13</p> <p>pictures 25259:21 25260:1 25261:5 25290:17 25300:8,15 25301:4 25306:14 25307:11 25313:19 25320:12</p> <p>pilot 25221:18</p> <p>pistole 25202:6 25252:16</p> <p>PK 25258:4</p> <p>PKRS 25291:8</p> <p>plaas 25200:13 25213:25</p> <p>plaasgevind 25192:1 25198:2 25276:23 25301:6</p> <p>plaasvind 25188:9 25205:8 25213:21 25220:1 25276:9</p> <p>place 25197:19 25204:10 25206:21 25218:17 25232:9 25248:1 25254:16,21</p> <p>placed 25229:7</p> <p>plakkerskamp 25273:11,23</p> <p>plan 25286:8,9,17 25287:2,3 25289:4,5 25289:15 25294:3,3 25298:16 25299:3,4,8</p>	<p>25299:23 25300:1,5 25304:21</p> <p>planne 25284:9 25285:23</p> <p>planning 25182:24 25304:17</p> <p>Plats 25205:10</p> <p>play 25214:4</p> <p>played 25287:20</p> <p>please 25170:21 25171:8,12 25204:11 25205:4 25221:1 25226:19 25230:5 25232:9 25267:13 25272:14,18,20 25316:1</p> <p>pleeg 25191:9</p> <p>plegtig 25170:12</p> <p>plegtige 25170:9 25313:4</p> <p>plek 25191:8 25236:15 25270:2 25282:7 25289:9 25307:16</p> <p>plekke 25293:5</p> <p>plural 25267:19</p> <p>poging 25233:19</p> <p>point 25186:9,10 25187:12,22 25188:4 25188:24 25226:22 25230:12 25235:2 25247:19 25252:17 25259:20 25262:8 25274:25 25291:3 25296:21 25310:17 25311:16 25315:25 25318:7 25319:19 25325:22</p> <p>pointer 25316:1 25321:13</p> <p>pointing 25249:4 25328:6</p> <p>police 25172:16 25181:4 25182:16 25199:8 25211:2,4,10 25231:9 25235:20 25284:6 25288:20 25290:9 25305:12 25319:19,20 25320:24 25321:4</p> <p>policeman 25189:21 25235:3 25252:23</p> <p>policemen 25238:10 25256:15 25257:3 25270:14</p> <p>policing 25182:25 25185:8 25206:9</p> <p>policy 25182:22</p> <p>polisie 25181:6,17 25182:6 25186:4,13 25187:5,19 25188:20 25189:12 25199:11 25204:15 25207:24 25209:21 25219:3 25223:21 25270:19 25283:16 25286:2 25288:16 25292:19</p>	<p>polisiebeampte 25224:2 25249:18</p> <p>polisiebeamptes 25233:9 25254:14</p> <p>polisiediens 25183:12</p> <p>polisiedman 25234:21</p> <p>polisiedmanne 25187:9 25187:10,18 25189:11 25200:5,7 25200:11,13,21 25226:11 25229:14 25233:5,7,11,13,16 25233:18 25235:14 25235:16,25 25236:18,20 25237:6 25241:6 25242:23 25243:12,13,14 25244:16 25246:6,6,9 25246:12 25251:8,19 25252:6,7 25253:12 25259:10 25276:24 25281:7,21,24 25282:8 25288:11,12</p> <p>Polisiestasie 25181:12</p> <p>pols 25262:22 25266:1 25266:1</p> <p>polsslag 25266:2</p> <p>POP 25175:1,4,6 25181:9,21 25183:15 25184:7 25205:3 25236:6 25243:21 25244:7</p> <p>POPS 25201:25</p> <p>portable 25194:23</p> <p>portion 25241:13 25248:16</p> <p>posisie 25183:11 25265:10</p> <p>positief 25179:9 25180:17,22 25188:7 25194:25 25196:12 25197:20 25199:2,6 25204:24 25205:5 25217:21 25225:19 25227:14 25228:10 25232:14 25235:22 25248:20 25249:12 25252:12 25262:21 25263:22 25314:12 25315:17</p> <p>position 25228:24 25262:1,2,5 25312:15 25313:1,8</p> <p>possession 25288:20</p> <p>possible 25246:22 25247:20 25304:15</p> <p>post 25190:1 25297:3</p> <p>Potch 25253:15</p> <p>Potchefstroom 25171:18 25207:3 25270:24</p> <p>potential 25182:23</p> <p>power 25316:6</p> <p>praat 25213:17</p> <p>practice 25183:6</p> <p>preceding 25279:3</p>	<p>precipitated 25240:10</p> <p>prepare 25210:24 25211:3</p> <p>prepared 25177:23 25248:13 25313:10</p> <p>present 25204:22 25288:21</p> <p>presentation 25263:12</p> <p>presented 25286:8 25287:2</p> <p>presies 25187:25 25212:8 25268:21 25269:21 25321:22 25323:17</p> <p>presiese 25268:19</p> <p>presuppose 25320:19</p> <p>presupposed 25321:2</p> <p>Pretoria 25204:18</p> <p>Pretorius 25216:3,4 25218:2 25300:13 25301:15</p> <p>prevent 25273:15</p> <p>previous 25302:2</p> <p>previously 25234:11 25236:13 25283:22</p> <p>primère 25205:17 25213:8</p> <p>principles 25183:3,4</p> <p>prior 25206:20 25218:16 25232:21</p> <p>privaat 25188:21,22 25199:22 25290:22</p> <p>proactive 25182:23</p> <p>probably 25223:5 25234:16 25241:13 25319:7</p> <p>probeer 25188:22 25201:5 25233:14 25234:1 25235:25 25243:13 25303:1</p> <p>probleem 25203:4</p> <p>problem 25170:19 25191:11 25193:3 25194:1 25234:4,5</p> <p>probleme 25196:16 25297:14</p> <p>problems 25186:7,19 25192:13 25194:13 25195:2,24 25196:14</p> <p>proceed 25171:8 25178:22 25232:9</p> <p>proceeding 25324:8</p> <p>PROCEEDINGS 25170:1</p> <p>procession 25215:10,12</p> <p>progress 25234:9</p> <p>project 25194:23</p> <p>projection 25328:5</p> <p>projek 25193:1 25194:19,21 25197:1 25215:18</p> <p>proper 25191:21 25236:9</p> <p>properly 25236:7,8</p> <p>proposal 25278:14 25289:2,13</p>	<p>proposals 25288:8</p> <p>propose 25192:8 25312:24</p> <p>proposed 25287:3,16</p> <p>prosedure 25328:13</p> <p>proses 25210:17,19 25323:16,19</p> <p>protective 25236:9</p> <p>protosoptogte 25202:14 25280:21 25281:11</p> <p>protest 25182:25</p> <p>protesters 25245:21 25246:17 25319:17 25319:20,22</p> <p>provide 25218:5 25290:8 25291:16</p> <p>provincial 25175:18 25194:15 25195:7,9 25196:14 25197:11 25197:12,14 25255:10 25278:12 25278:13</p> <p>provinsiale 25186:5 25196:6,19 25201:8 25204:14 25205:24 25212:18,21 25253:7 25253:9 25278:4,20</p> <p>provinsie 25190:7 25192:22 25208:10 25259:9 25295:17</p> <p>provinsies 25259:8</p> <p>provokate 25253:4</p> <p>proximity 25190:20 25272:19</p> <p>public 25182:15,24 25184:13 25189:21 25202:3</p> <p>punt 25190:11 25234:20 25242:14 25249:7 25250:1 25263:7 25294:12 25311:14</p> <p>pure 25183:15</p> <p>purports 25275:2</p> <p>purposes 25195:20 25249:3</p> <p>put 25173:18 25221:1 25222:14,20 25226:18 25227:18 25245:16 25248:12 25250:12 25260:2 25264:14 25265:13 25305:7 25308:18,19</p> <p>pyl 25242:14 25308:25</p>
Q				
			<p>quarter 25326:19</p> <p>question 25180:21 25194:2 25196:15 25215:12 25220:8 25276:14 25277:22 25279:2 25289:18 25302:2 25304:23</p> <p>questions 25170:23</p> <p>quickly 25301:24</p>	

<p>quite 25174:5 25294:14 25310:15</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raadsaam 25288:10 raak 25259:11 raaksien 25321:22 25322:13 raakskiet 25233:25 raamwerk 25188:9 radio 25190:13 25217:13 25231:18 25231:20 25247:3 25290:9 25295:5,6 25299:22 25300:20 25314:5 25325:4,14 25329:14 Radiobeheer 25181:11 radiokanaal 25306:6 radiokommunikasie 25190:9 radio-operateur 25301:15 railway 25230:8,14,22 raise 25280:2 raised 25194:12 25195:2 25205:2,21 25206:2 25280:1 25285:14,20 25287:22 25288:23 ran 25235:3 25238:2 25302:11 rang 25278:2 rangstrukture 25184:2 rank 25171:13 25172:1 ranks 25183:22 reach 25228:12 reaction 25235:5 25289:12 read 25186:20 25221:7 25267:13 25268:12 25269:3 25274:20 25276:14 reading 25274:13 ready 25211:11,17 reageer 25294:11 reaksie 25202:22 25234:23 25289:3,7 real-time 25290:9 25291:17 reason 25273:18 25275:2,10,10,15 recall 25176:15 25205:19 25216:6 25219:10 25267:17 25268:6 25288:3 25289:2 25317:14 25318:17 25327:12 recap 25279:4 receive 25218:9,11 25300:22 received 25177:17 25183:5 25201:19 25212:13 25215:6 25301:3,13,20 25312:20</p>	<p>receiving 25300:23 25301:3 recollection 25224:11 25228:8 record 25186:21 25227:17 25249:4 25267:13 25269:4 records 25177:16 25253:22 red 25233:20 rede 25208:11 25232:18 25274:1 25283:3 redelik 25186:3 25202:7 25208:8,9 25220:2 25232:1 25233:6 25236:2 25244:22 25268:23 25277:1 25300:16 redelike 25203:4 25220:1 25226:14 25267:10 25279:13 25314:7 reeds 25205:15 25220:4 25246:4 refer 25210:22 25217:19 25220:11 25221:22 25234:3 25245:17 25258:8 25263:10 25267:11 25268:11 25269:2 25270:6 25273:3 25289:18 25304:9 25308:23 25314:10 25315:9 25316:17 25324:6 25326:15 reference 25185:12 25248:22 referred 25195:6 25223:17 25236:4,13 25273:2 25310:4 25324:8 25326:16,24 referring 25172:7 25187:14 25188:18 25189:8 25194:23 25223:2 25234:18 25237:9 25238:23 25260:24 25315:1 25327:20 refers 25190:1 25197:18 25247:9 reflect 25289:22 reflects 25222:22,23 refused 25278:10 reg 25198:13 25210:22 25211:7 25237:2 25261:21 25269:8 25285:16 25316:12 25320:16 25322:17 25322:23 25328:24 regard 25230:22 25294:3 regbo 25202:17 regoor 25190:6 Regsdiens 25259:13 regspan 25270:18</p>	<p>25273:25 regterflank 25273:8 regterhand 25264:9 regterkant 25244:12 regtig 25236:21 reguit 25210:15 25227:1 25229:23 25309:8 regverdig 25287:15 rejected 25288:1,4 rekenaar 25299:18 rekord 25190:12,24 25191:2,4 25222:5 25267:9 rekordhouding 25191:25 relate 25236:11 25268:15 related 25194:23 relates 25178:18 relating 25177:16 relation 25206:1 25312:15 relatives 25260:17 25261:3 relevant 25195:20,24 rely 25173:9 relying 25193:14 remaining 25179:2 remember 25194:3 25230:13 25235:7 25318:25 25328:22 remilitarised 25183:22 25183:23 reminds 25319:4 remove 25256:8 25277:24 removed 25259:2 25267:18 25269:15 25278:14 repeat 25203:8 repeated 25234:12 25302:8 25329:16 report 25177:22 25198:17 25215:7 reported 25257:3 reports 25214:7 25215:25 25218:6 report-back 25207:8 represented 25172:15 request 25192:11 25201:18,19 25278:10 requests 25312:20 required 25260:6,7 res 25308:15 25311:13 25326:11 reserwe 25294:8 Resources 25312:23 respect 25225:15 response 25194:16,16 25195:2 25196:13 25201:21 25205:20 25257:25 25284:1 25285:8,12 25289:2 25298:19</p>	<p>responsibilities 25292:15 rest 25173:6 resume 25193:15 25312:13 resumes 25170:2 25193:12,13 25228:21 25277:13 25277:14 25312:18 25312:19 returned 25250:13 Reëling 25188:10 25238:15 25240:6,16 right 25174:5 25175:8 25177:12 25178:14 25221:3 25223:7 25224:19 25225:2 25230:11,15,17 25234:16 25241:11 25241:11,25 25258:13 25262:14 25265:21 25273:13 25274:24 25305:19 25311:16 25326:18 25328:2 Rights 25312:22 right-hand 25230:9,23 25318:10 25326:21 25327:20 rigting 25203:17 25220:6 25226:12 25227:3 25231:13 25232:25 25241:8 25242:13 25249:19 25249:20 25273:8 25287:12 25308:16 25315:12 25318:3 25322:8 25323:9 riot 25237:10,11 risiko 25204:4 25233:22 rituals 25210:2 ritueel 25208:17,23 25209:9,20 25210:8 25210:15 25211:1 rituele 25208:25 25210:6 25276:6 25279:12 25281:6,18 25286:4 river 25241:25,25 25247:14 25248:1 road 25231:11 25241:10,14,21 25273:15 25305:18 25305:18,20 Robinson 25198:4 25239:24 25295:19 rof 25267:1 role 25199:8 25212:25 25214:4 25289:18 25291:17 25295:9,10 25298:17,18 roll 25259:9 rond 25219:13 25243:9 ronde 25321:20 rondgehardloop</p>	<p>25246:5 rondgestaan 25219:2 rondom 25184:17 25222:6 25229:9 25238:15 25247:4 25276:24 25279:21 25279:25 rondte 25322:11 rondtes 25200:19 25201:13 25203:15 25204:19 25285:2 25328:17 rondvat 25267:1 Roots 25271:1 roughly 25250:19 round 25225:18 25305:11 route 25221:19 25223:4 25224:23,25 25310:4 rowwe 25267:1 rubber 25200:19 25201:12 25202:18 25203:15 25204:19 25285:2 25328:16 rubberhael 25204:19 running 25230:14,16 25230:25 25235:20 runs 25241:11 run-up 25306:20 Rustenburg 25197:19 25197:24 25207:1 25243:21 25244:7 25252:3 25283:24 rustig 25229:20 25232:2 rustyd 25205:15 ry 25253:14 rye 25217:1 rêrig 25258:6 R1 25269:5 R44 25180:10 25198:4 25239:24 25293:9 25295:19 25297:19 25298:2 25299:10 R5 25202:6,14,23 25203:15 25244:15 25245:8 25252:15,20 25269:7,8 R5s 25202:12 R5'e 25253:2 R5's 25202:7 25204:5</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 25230:13 saak 25199:16 25201:22 saam 25200:7 25219:9 25243:15,20 25245:8 25246:3 25248:7 25249:18 25257:20 25258:5,25 25267:1 25278:21 25279:12 saamgebring 25215:20 saamgevlieg 25296:10 saamgewerk 25219:3</p>
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<p>saamgooi 25328:14 saamvlieg 25296:3 SABC 25198:15 SABC.com 25175:23 safe 25322:3 sagtedopvoertuie 25229:16 sal 25170:11,12,13 25189:10,12 25199:13 25205:23 25213:2,10,11,12,13 25213:16 25221:17 25231:12 25241:7 25258:21 25263:7 25267:3,7 25271:6 25274:3 25278:2,3 25279:24 25281:10 25281:13,20,22 25282:7,9,10 25283:4 25283:6 25284:11 25286:10,13,20,24,24 25288:10,18 25292:11 25293:1,3,5 25295:16 25296:14 25296:15 25298:24 25307:17 25308:24 25309:7 25311:11 25316:20 25322:8 25325:24 25328:16 Salmon 25170:17 25171:23 25258:20 25313:5 samedromming 25216:14 SANDF 25293:21,23 sangoma 25208:19 25210:16 25211:1 sangomas 25208:22 25209:7 25210:6,7 25279:12 25281:18 25282:1 25283:2 SAPD 25234:23 SAPS 25181:8,9 25235:5 25249:8 25263:11 25289:24 Saterdag 25207:1,2 satisfied 25262:19 save 25193:24 saw 25225:21 25226:9 25226:20 25236:12 25242:19,20 25245:1 25250:7 25270:13 25302:9 25311:22 25322:14 saying 25236:24 25244:2 25252:22 25271:9 25296:18 25328:19 says 25245:18 25258:16 25321:3 SC 25304:6,11 25318:19 25319:3,11 25319:16,24 25320:2 25320:8,11 scene 25176:16 25190:21 25191:12</p>	<p>25191:21 25223:23 25226:2,3,4,5 25245:19 25247:21 25251:24 25257:14 25259:2,21 25262:3,6 25262:12 25267:19 25269:14,15,24 25278:14 25302:12 25302:13 25303:9 25306:20 Scott 25285:23 25288:6 25289:15,20 25290:1 25298:15 25299:17 screen 25222:14,21 25223:13 25226:19 25247:9 25260:2,21 25305:6,8 25310:2,3 screened 25260:21 se 25182:4 25190:23 25198:2 25199:14 25201:4 25204:5 25208:3,9 25211:1 25242:14 25256:5 25258:19 25263:7 25281:21 25283:13 25283:16,18,24 25284:13 25285:1 25289:15 25290:10 25290:13,14 25292:19 25293:1 25306:17 25308:25 25312:5 25315:3 search 25287:17 Seboloke 25216:1,4,7 25217:15,20,25 25218:3,5 second 25174:17,22,25 25198:8 25214:9 25218:10 25221:14 25224:4 25254:21 25270:10 25281:1 25291:3 25327:5 seconds 25254:11,22 25256:14,18,22,24 section 25247:8 25324:7 sedert 25276:2 seeing 25260:18 25305:6 seek 25263:12 seen 25170:3 25211:12 25217:3 25261:9 25294:14 sees 25305:21 25318:7 25327:3 seker 25203:16 25249:17 25259:14 sekere 25173:2 25186:2 25187:9 25188:3 25189:4,12 25204:18 25208:23 25209:8 25210:6,7 25213:11 25276:4 25279:12 25281:18 25297:14 25301:8 25321:21 25322:12</p>	<p>sekermaak 25271:7 seksie 25191:17 seksiebevelvoerder 25191:15 seksies 25259:6 sekuriteit 25281:21 25292:25 25293:1 sekuriteitsbeamptes 25206:15 25207:12 25282:13 sekuriteitshelikopters 25292:21 sekuriteitswagte 25279:8 sekuriteit-beamptes 25212:2 self 25216:15 25224:1 25262:22 selfoon 25253:13 25257:10 25268:21 25290:22 25303:21 selfs 25204:5 25281:21 25283:5 self-defence 25320:24 25320:25 send 25283:21 25290:11 25300:10 25300:14 25302:19 sending 25185:16 25300:9 25306:24 senior 25245:19 25280:11 25298:21 seniors 25186:16 sent 25193:4 25207:6 25208:14,15 25210:10 25211:13 25211:22 25275:25 25276:18 25277:6 25279:16,19 25283:22 25303:13 25303:16 25305:21 25317:14 sentence 25211:11 25215:4 25276:15 25281:1 25314:20 sentences 25235:12 sentrum 25190:6 sequence 25306:23 25307:3 Sergeant 25207:7 SERI 25312:24 series 25304:12 25307:10 serious 25206:1 25285:6 seriously 25252:23 sersant 25206:17 25207:9 25208:1,16 25211:25 25240:2 service 25172:16 25181:4 25236:6 25284:6 25305:13 services 25215:5 sessions 25290:2 sesuur 25300:1 set 25240:20 25290:5</p>	<p>25291:15 25313:11 seven 25229:19 25240:22 shared 25290:6 shocked 25202:11,12 shoot 25249:14 shooting 25202:12 25248:5,23 25249:11 25260:15 25302:5 25306:21 short 25193:6 25309:2 25309:10,13 shortly 25254:16,18 25260:23 shot 25249:22 25268:3 25305:4 shotgun 25237:23 shottist 25249:23 25252:18 should've 25236:25 shown 25260:10,14 25321:12 shows 25260:24 25304:10 25317:12 side 25230:10,23 25242:6 25254:2 25266:14 25317:7 25327:21 sideways 25225:16 siek 25239:24 sien 25216:19 25221:18 25229:23 25232:19 25233:6 25234:24 25250:9 25254:24 25263:24 25264:16 25269:21 25274:3 25292:6 25303:2 25309:7 25315:18,21 25316:20 25322:8 25323:8 25325:2,25 25327:15 signed 25172:10 25271:4,5 similar 25317:10 simply 25278:10 simultaneous 25171:3 25171:4 sin 25290:8 Sinclair 25292:24 singular 25267:20,25 sirkel 25229:8 25293:18 25321:20 sit 25170:18 25173:4 25186:16 25195:15 25205:14 25267:3 25269:20 25274:8 25282:11 sitrep 25208:6 sitting 25330:3 situasie 25189:24 25201:10 25205:14 25276:2 25279:9 25283:14 25295:16 situasies 25181:24 situated 25230:22 situation 25197:18,24</p>	<p>25206:23 25215:7 25276:20 25279:3 25285:7 situational 25214:6 25215:24 25218:5 25290:12,19 situations 25181:22 25182:23 25188:6 25189:8 six 25172:6 25256:23 skade 25188:20,22 25199:22 skakel 25222:2 skakeling 25279:23 skare 25187:18 25199:17 25200:10 25200:15 25202:20 25202:22 25203:12 25204:2 skares 25187:17 25202:14 25283:17 skat 25324:19 skeefloop 25186:17 skiet 25200:14 25202:8 25202:9,15,25 25233:21,23 25234:1 25248:9 25249:19 skietinsident 25301:6 skills 25186:25 skof 25205:15 skok 25243:6 skokgranaat 25230:3 25231:25 25232:20 25274:2,11 skokgranate 25231:11 25233:17 25328:14 25329:19,23 skokkend 25236:2 skote 25202:6 25203:15 skrootwerf 25213:11 skrywe 25194:20 25195:13 25196:6 sky 25297:21 sleep 25246:8 slide 25260:24 25263:11,11 25289:19,20,24 25290:4 25291:16 25297:1,1 slides 25289:21,22,25 25290:1 slightly 25234:3 25324:9 sluit 25204:15 small 25308:22 25309:11,24 25310:3 25310:16,17 snytjies 25209:8 sodanig 25292:7 sodanige 25247:3 25292:9 sodat 25190:16 25192:2,24 25202:20 25204:3 25210:24 25217:16 25253:3 25283:18 25298:14</p>
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----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>sodoende 25273:9,10 25273:22</p> <p>Sokanyile 25250:4,24 25260:12,13,14,25 25261:17 25262:1,20 25263:14,15,20</p> <p>Sokanyile's 25248:18 25259:21</p> <p>solve 25194:1</p> <p>somebody 25265:13</p> <p>sommer 25278:3</p> <p>somtyds 25221:25</p> <p>Sondag 25206:11 25207:4 25276:2 25279:6,21 25281:6 25282:13,23 25286:3</p> <p>Sondagaand 25282:25</p> <p>Sondagoggend 25206:12</p> <p>Sondela 25199:14 25203:18</p> <p>sonder 25286:14 25294:23</p> <p>sonsondergang 25270:1</p> <p>soontoe 25309:8</p> <p>soort 25242:13 25243:7</p> <p>soos 25187:11 25219:23 25222:5 25236:21 25246:4 25252:3 25253:3 25258:2 25263:3,23 25267:8 25268:20 25269:19 25271:22 25274:9 25281:17 25287:11 25303:1 25307:16 25308:16 25309:7 25311:19 25315:2 25324:2 25326:10</p> <p>SOP 25295:20</p> <p>sorry 25172:22 25173:10,25 25188:15 25194:11 25197:10 25214:21 25220:7 25221:1,11 25222:13 25224:17 25225:24 25227:5 25232:4 25246:21 25250:11 25256:11 25270:9 25271:8 25272:4 25274:21 25276:12 25278:9 25304:24 25306:22 25308:22 25311:7 25315:25 25320:10 25325:13</p> <p>sort 25237:9</p> <p>sou 25186:17 25188:13 25192:3 25199:15,16 25199:20,21,24 25201:3 25219:25 25220:3 25230:4 25233:25 25235:14 25236:17 25240:19 25246:9 25255:15</p>	<p>25267:6 25274:11 25279:14,14</p> <p>25282:24 25286:11 25286:12,15 25288:15 25289:6 25292:10 25293:3,16 25293:18 25294:8,10 25294:10,12 25295:3 25298:10 25301:15 25328:15</p> <p>sound 25170:20</p> <p>soundtrack 25178:11 25178:13</p> <p>south 25172:15 25230:13</p> <p>soveel 25287:7</p> <p>sover 25246:15 25317:17</p> <p>spandeer 25299:12</p> <p>speaking 25298:18</p> <p>Special 25237:13</p> <p>specific 25219:16 25267:12 25319:21</p> <p>specifically 25180:20 25181:8 25184:7 25192:7 25206:6 25210:21 25234:19 25255:24 25270:12 25272:1 25287:16 25288:4 25290:4 25319:1</p> <p>spnt 25303:23</p> <p>spesialis 25187:10</p> <p>spesifiek 25184:14 25186:14 25190:5,23 25192:1 25205:6 25270:21 25279:6 25283:1 25315:18 25323:18</p> <p>spesifieke 25185:10 25191:6,24 25199:12 25208:25 25219:5 25229:4 25236:15 25256:2 25262:13 25268:22 25281:25 25284:22 25286:11 25287:14 25292:9 25294:12 25296:13 25296:14 25298:24 25299:10</p> <p>speurders 25262:18</p> <p>spoken 25236:5</p> <p>spoor 25253:5</p> <p>spoorlyn 25216:19</p> <p>spot 25305:4 25318:15 25322:15 25326:20 25327:23</p> <p>spruit 25244:10,11 25245:6,10,11 25247:14 25251:20 25255:1</p> <p>spruitjie 25249:25</p> <p>squatters 25273:16 25302:12</p> <p>Squirrel 25218:23 25293:10,17 25296:2</p>	<p>25297:16,24 25298:11,13</p> <p>staan 25191:5,6 25210:15 25217:1 25235:14 25249:8 25325:25</p> <p>staat 25243:6</p> <p>staatgemaak 25297:19</p> <p>stability 25184:11</p> <p>stadium 25185:8,9 25194:18 25200:7,23 25202:6 25203:14 25207:14 25212:15 25213:20 25219:6,8 25220:5 25226:14 25229:24 25232:18 25233:7 25238:12 25240:2,14 25243:7 25249:9 25251:16 25259:7 25267:5,6,8 25270:19 25271:18 25280:6,9 25291:8 25292:20,25 25295:5 25297:11 25299:24 25300:12 25307:18 25308:13 25310:8 25314:4 25316:23 25318:1 25322:9 25323:1 25324:1 25327:16</p> <p>stage 25225:1 25228:13 25228:16 25242:9 25307:14,15 25308:3 25314:2,10 25315:15 25322:22,25 25323:11,25 25325:17 25327:12 25327:13 25329:9</p> <p>stages 25285:23</p> <p>standing 25316:7,11</p> <p>start 25172:3,7 25181:2 25261:9 25281:1 25306:19 25307:5 25309:10 25313:8,16 25313:17</p> <p>started 25277:21 25315:16 25317:12</p> <p>starts 25327:2</p> <p>stasiebevelvoer 25212:17</p> <p>state 25209:15 25258:17</p> <p>statement 25172:10,14 25172:19 25179:4,13 25179:20 25180:2,12 25199:4 25212:12 25219:15 25238:9,18 25238:22 25239:1,2,3 25239:9,15,18,20 25240:21 25247:12 25270:16 25272:2 25273:1,2,4 25274:13 25274:15,21,25 25275:23 25302:3 25303:6,8 25314:20 25315:9,14 25317:19</p>	<p>statements 25172:5,6 25173:6 25177:15 25179:2 25180:24,25 25270:9,9</p> <p>stationed 25171:16,17</p> <p>steeds 25187:20 25212:18 25245:5 25277:15 25281:25 25313:3 25314:5</p> <p>stel 25315:21</p> <p>stem 25246:3</p> <p>steps 25206:1</p> <p>steun 25206:18 25213:3,6 25217:17 25291:18 25292:6 25295:16 25296:24</p> <p>steurend 25220:2</p> <p>sticks 25199:5</p> <p>stig 25212:21</p> <p>Stilfontein 25182:2,4</p> <p>stillfoto's 25291:9</p> <p>stokke 25217:6</p> <p>stomach 25263:16,21</p> <p>stop 25188:3,17 25200:1 25209:24</p> <p>story 25306:24</p> <p>strange 25235:5</p> <p>stream 25250:3</p> <p>strek 25240:16</p> <p>strepie 25222:3</p> <p>stress 25261:6</p> <p>stressing 25273:10</p> <p>strikers 25211:7,8 25217:2 25225:22 25226:9,20,23 25227:24 25228:6,9 25228:23,24 25229:2 25229:20 25232:23 25240:10 25248:5 25261:4 25263:12 25269:13 25270:14 25282:5 25287:4 25288:21 25308:7,9 25308:21 25309:14 25311:15 25320:24 25322:4 25323:24 25324:16 25326:22 25327:13</p> <p>stroom 25250:8</p> <p>stun 25231:17,22 25232:13,22 25233:2 25240:9 25241:2,4</p> <p>stuur 25196:6 25201:1 25201:11 25213:25 25214:1 25251:7 25277:3 25289:10 25303:3</p> <p>subject 25182:19 25197:17 25211:11</p> <p>submitted 25172:14</p> <p>subsequently 25238:3</p> <p>substasie 25316:21</p> <p>subtiel 25282:16</p> <p>sub-group 25319:21</p> <p>success 25234:10</p> <p>successful 25203:10</p>	<p>suffer 25305:5</p> <p>suggest 25173:19 25305:6 25312:12</p> <p>suggested 25192:14</p> <p>suggesting 25194:14</p> <p>suggestion 25288:19,24</p> <p>suggestions 25192:6</p> <p>suidelike 25231:13</p> <p>Suid-Afrika 25182:18</p> <p>suitable 25228:12,15</p> <p>sukses 25201:4</p> <p>sulke 25217:1</p> <p>summarise 25179:2 25181:7</p> <p>Sunday 25276:20</p> <p>superintendent 25183:21,24 25184:3</p> <p>support 25213:6 25214:3 25291:20,24 25295:9</p> <p>suppose 25234:8 25318:7</p> <p>supposed 25309:11</p> <p>sure 25176:5 25236:23 25274:24 25276:13 25303:6 25307:8 25310:15 25323:11</p> <p>surprised 25232:12,16</p> <p>surrender 25286:24</p> <p>suspect 25272:17</p> <p>swooping 25295:1</p> <p>sword 25321:3</p> <p>sy 25182:5 25199:20 25200:8 25201:11 25204:15 25205:8,12 25207:11 25210:16 25212:18 25216:9 25222:6 25234:21 25240:14 25243:12 25243:12 25246:6,6 25250:9 25253:14,14 25255:15 25256:9,9 25257:19 25258:5,6 25263:8 25264:8 25266:1 25278:7 25294:21 25295:23 25297:12 25316:2 25323:3 25325:25 25326:1 25328:25 25329:15</p> <p>synonym 25319:13</p> <p>systemic 25195:1</p> <p>sê 25170:16 25182:22 25189:4,15 25222:6 25226:15 25231:13 25249:17 25258:2 25263:7 25295:6 25308:14,25 25309:19 25311:11 25323:17 25324:19 25327:17</p> <p>S-O-K-A-N-Y-I-L 25261:18</p>
T				
taak 25205:18 25213:8				

<p>25219:5 25289:4 25290:10 taakmag 25283:6,13,18 taakmaglede 25283:9 table 25221:16 tactical 25201:21 Tak 25181:15 takbevelvoerder 25181:14 take 25186:8 25193:4 25193:18 25195:10 25205:4 25228:13,17 25234:2,9 25236:9 25241:25 25245:20 25252:23 25253:18 25259:21 25261:19 25265:1 25266:12,13 25272:2,6,10,14 25273:17 25277:7 25278:9 25288:20 25291:3 25302:6,16 25305:13 25307:13 25312:12,17 25329:6 taken 25188:17 25200:1 25206:1 25219:21 25226:8 25261:19 25263:17 25264:15 25265:1,13 25272:9 25307:6 25313:19,23 25314:1 25314:16 25317:9 take-off 25222:24 25223:1,18 25224:10 25225:5,24 takings 25216:10 takke 25243:20 talk 25308:22 talked 25227:5 talking 25232:5 25327:23 talks 25247:24 tan 25201:2 tans 25295:16 task 25291:15 25297:3 25297:4 Tatane 25186:14 tea 25228:13,17 25312:12,17,17 team 25172:15 25201:21 teargas 25231:17,22 25232:12,22 25233:2 25237:1 25240:9 25241:2,4 25273:13 25273:18 25275:2 TEBA 25216:14 25217:1,8 25225:10 technician 25221:4,14 25227:18 25308:19 teen 25182:5 25187:20 25188:14 25211:23 25256:5 25257:19 25278:6 25280:22 25283:6,11 25286:2 25286:14 25289:10 25322:10 25328:21</p>	<p>teenoor 25252:5 teenwoordigheid 25188:20 tekort 25205:7 telephone 25177:16 25206:20 25212:12 25253:22 25255:10 25256:12 tell 25181:3 25185:4,15 25192:17 25197:23 25199:7,25 25203:5 25203:21 25204:11 25207:8,19 25212:14 25218:23 25226:7 25239:2 25241:3 25244:17 25247:11 25255:24 25263:1 25266:22 25286:7 25287:3 25295:10 25306:12 25314:2,25 25317:22 25329:8 telling 25247:9,10,19 ten 25186:13 25189:23 25190:12 25239:23 25283:1 25284:9 25286:21 25296:4 25298:22 25307:18 ter 25185:22 terms 25183:14,23 25287:4 25294:1 25297:23 25298:16 25303:8 25324:15 25326:3 terselfdertyd 25191:17 25215:18 terug 25184:3 25189:3 25190:3 25201:16 25209:22 25235:15 25245:5 25251:6 25252:1 25292:10 25299:19 25303:3 terugbeweeg 25203:17 25251:6,9,10 25255:1 25259:16 terugdink 25241:8 teruggaan 25191:24 teruggedryf 25203:13 teruggegaan 25217:11 teruggekeer 25207:3 25217:10 teruggekom 25219:1 25224:7 25254:24 25301:10 teruggeloop 25259:13 teruggeskiet 25248:8 teruggestuur 25284:4 teruggewaai 25200:12 terugkeer 25270:2 terugstap 25253:16 terugvoering 25195:4 25196:17,25 25204:17 25208:17 25211:24 25212:7 25213:4,13 25216:12 25217:12 25218:25 25240:4 25286:22</p>	<p>25292:8 25298:21 25301:16 25303:2 terwyl 25187:5,15 25217:10 25219:3 25230:2 testified 25194:12 25202:11 25214:10 25248:5 25255:22 25269:12 25289:21 25297:22 25298:15 testimony 25232:12 25245:15,17,24 25249:11 25258:23 25269:12 thank 25171:9,25 25178:16,24,25 25194:6 25206:5 25214:25 25223:15 25226:6 25231:5 25234:17 25235:8 25238:1 25250:22 25261:13,25 25263:9 25263:25 25266:20 25268:5 25272:21 25275:13,21,22 25277:18 25278:24 25303:19 25304:5,8 25304:14 25305:23 25305:24 25313:12 25316:10,16 25325:16 thanks 25266:19 that's 25170:5 25171:7 25173:16,22 25174:8 25174:18,20 25175:1 25175:8,20,25 25176:11,13 25177:6 25177:14,18 25178:2 25178:5,5,7,13,14,20 25179:6,13,21 25180:11,15 25185:1 25185:13 25192:16 25209:16 25211:22 25214:21 25217:25 25220:9 25221:3 25226:1 25227:25 25230:11,18,21 25235:8,9 25238:19 25241:21 25247:8,12 25253:19 25256:14 25256:14 25258:12 25262:8,14 25274:19 25276:18 25291:13 25303:10 25305:21 25310:21,22 25314:14,24 25319:3 25319:9 25320:22 25321:3 25323:4 thereof 25177:5,11,16 25198:24 25313:14 there's 25173:8 25177:7 25214:3 25222:23 25224:24 25234:4 25239:18 25240:9 25241:14,25 25261:10 25316:4,10</p>	<p>25317:10 25318:9,11 25328:5 they're 25176:20 25319:25 25320:13 thing 25234:16 25272:25 things 25230:1 25231:6 25263:1 think 25172:5 25173:7 25176:4 25178:20 25194:2 25215:1 25217:19 25220:15 25223:5,14 25230:11 25230:17 25234:5,14 25236:7 25247:12 25258:15 25260:7,17 25261:11 25269:7 25272:8 25273:3 25304:22 25305:9,9 25305:10 25307:9,10 25319:10,12 25328:6 thinking 25312:11 third 25240:21 25241:13 25318:8 25327:6 thought 25210:1 25222:25 25306:23 threat 25252:23 25267:20 25268:2 threats 25255:6,19,24 25257:25 25267:20 25269:14 three 25222:11 25223:17,19 25256:20,21,24 25293:8 25312:20,20 25316:11 threw 25241:4 throw 25326:25 till 25250:14 25330:3 time 25172:14 25192:18 25193:19 25193:24 25196:1 25198:20 25214:17 25215:13 25218:10 25219:10,16 25220:8 25221:18,19,19,24 25222:6,8,24,24 25223:1,2,5,18 25224:10,20 25225:5 25225:25,25 25226:1 25229:6,7 25239:8 25245:1,22 25250:6 25250:12,13,14,15 25261:9 25263:20 25265:21 25268:16 25268:19 25269:23 25271:3,4 25272:7 25299:21 25301:2 25302:24 25303:6,7 25303:23,25 25304:2 25304:3,6,7,10,16 25311:22 25318:21 25323:12 times 25268:14 25303:7,24 25309:24</p>	<p>25322:4 timeslot 25223:17 tipe 25186:16 titled 25177:25 Tjopper 25293:15 Tlhabane 25199:13,18 today 25269:12 25313:3 toegelaat 25276:7 25288:18 toegerus 25202:5 toelaat 25289:11 toemaak 25312:6 25325:5 toerusting 25189:16,19 25195:15 25201:22 25270:5 25295:22 toeslaan 25213:11 toestand 25246:4,11 25258:2 told 25192:18 25236:12 25247:25 25256:15 25257:24 25265:15 25275:7 25278:12 25329:9 tolerant 25186:25 25187:13,21 tolk 25217:13,14 tomorrow 25329:7 25330:3 toneel 25194:18 25207:13 25212:2 25219:9 25224:1,7 25229:9 25242:15,22 25246:9,14 25251:1,8 25258:21 25259:4,13 25259:15,16,18 25262:17 25267:15 25270:1 25278:3 25293:15 toordokter 25281:14 top 25230:16 25231:1 25317:6 25318:10 25326:16 25327:2,2 25328:2 topic 25302:2 25304:15 topics 25313:11 tot 25257:20 25281:13 25283:3 25311:14 25316:22 25321:18 totale 25299:11 totdat 25262:18 touch 25181:8 township 25308:4 traanrook 25200:8,10 25200:12 25201:12 25202:18,20 25203:14 25204:2 25230:3 25231:11,25 25232:20 25233:8 25236:16 25274:2,10 25312:6,6 25328:14 25329:19,23 traanrookgranaat 25273:8 traanrookgranate</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>25233:18 tradisie 25281:25 tradisionele 25216:20 25282:11 25287:8 25308:2 traditional 25291:17 trailer 25316:18 trailers 25312:16 trained 25186:24 25187:13 training 25181:9 25182:16,20 25183:16 25184:6 25186:20,23 transcribed 25274:20 transcript 25178:3 25245:16 25247:8 25258:9 translate 25235:1 25303:24 translated 25171:5 25273:12 25276:13 25276:16 translation 25170:20 25171:3,5 25193:18 25193:25 25215:11 25234:5 transmitting 25290:18 transpire 25218:7 transpired 25255:9 25272:2 25294:15 transpiring 25300:9 trauma 25184:16 travelling 25231:10 tree 25289:9 tref 25203:3 treinspoor 25200:4 25253:1 trek 25189:13 triple 25174:2,3,13,15 25194:11 TRT 25202:2,23 25204:15 25243:21 25244:7 25252:3,10 25252:22 25255:3 25305:13 try 25228:18,20 25272:14 trying 25223:10,12,13 25271:14 Tuesday 25276:16 turn 25182:10 25186:18 25191:10 25192:5,10 25203:19 25203:20 25206:6 25211:21 25214:16 25265:13 25272:1 25284:16 25289:17 25305:19 turning 25170:3 turns 25193:16 tussen 25199:23 25200:12 25204:3 25205:11 25208:22 25215:21 25226:12 25233:18 25240:3</p>	<p>25245:9 25246:5 25248:10 25251:4 25281:23 25295:4 25307:22 tussenbeide 25202:24 twee 25185:21 25205:11 25206:15 25206:18 25212:16 25215:16 25216:10 25224:16 25233:12 25242:23 25250:20 25253:11 25254:13 25256:1 25257:16 25266:25 25279:7 25282:13 25292:19 25294:19 25298:10 25299:14,14 25307:20 25326:1 tweede 25216:14 25236:17 25256:3 tweedelige 25191:16 twelve 25228:19 two 25195:25 25198:8 25198:16,17 25207:8 25214:3 25235:12 25238:9 25256:15 25257:3 25267:12 25270:8,9 25283:22 25316:7 25329:3,6 two-edge 25321:3 tyd 25183:13 25186:13 25212:7,9 25219:4 25254:23,25 25268:25,25 25280:16 25293:2 25297:13 25299:11 25299:15,16 25318:4 tydens 25182:1 25184:13 25185:18 25185:25 25186:1 25198:1 25273:25 tydperk 25190:3 25209:22 tye 25186:14 25189:23 25190:12 25239:23 25268:21,22 25296:1 25303:21,21 typed 25177:2,4,8,11 25177:15 T/O 25222:24</p> <hr/> <p style="text-align: center;">U</p> <p>u 25170:6,7,8,11,12,12 25170:24 25171:20 25171:21,21 25214:20 25221:18 25221:24 25257:9 25258:2 25274:3 25277:15,16,16 25280:7 25309:7 25313:3,4 25316:20 25322:7,8 25324:2 25325:24 uiteen 25187:17 25203:13 25274:8 25283:17</p>	<p>uiteensetting 25195:14 25240:6,15 uiters 25294:9 25297:17 uiterste 25250:21 uitgaan 25190:16 25213:12 uitgegooi 25286:10 25323:17 25325:25 25326:9 uitgeklaar 25293:3 uitgekom 25225:12 25329:14 uitgekyk 25216:15 uitgereik 25204:18 uitgesit 25274:8 uitgespreek 25285:25 25286:19 uitgesteek 25263:8 uitgestuur 25206:18 uitgevlieg 25225:9 uitgooi 25323:3,19 25326:2,6 uitmekaar 25187:18 25202:22 uitsonderlike 25294:9 uitstaande 25181:24 uitstuur 25206:14 uittrek 25208:18 25210:14 uitvlieg 25219:9 uitwerking 25205:13 ultimately 25203:6,10 understand 25170:22 25193:14 25194:22 25214:2 25223:11 25247:1,11,12 25249:10 25264:23 25271:15 25279:18 25290:16 25292:14 25296:17 25303:22 25318:21 25319:6,8 25328:10 understanding 25197:23 25198:19 25230:18 25282:3 25286:8 25299:2 25301:18 understood 25211:11 25222:16 25236:24 25255:22 underwent 25210:1 unfolded 25298:18 unfortunately 25220:15 unies 25198:2 25205:11 Uniform 25181:15 union 25198:9 unknown 25273:13 unnecessary 25272:12 unrest 25188:6 25197:18,24 25282:4 unusual 25172:5 upside 25220:21 ure 25297:12,17,19 25299:11,14</p>	<p>use 25182:22 25189:7 25232:21 25236:25 25240:9 25241:2 25282:5 25318:22,22 25320:15 25321:4,13 usually 25320:13 uur 25206:12,12 25219:13 25297:10 25322:11</p> <hr/> <p style="text-align: center;">V</p> <p>val 25188:9 25200:15 25204:15 25234:21 vandag 25252:7 vanuit 25188:1 25216:19 25287:11 25298:14 various 25292:16 25294:2,4 25303:24 vasgestel 25216:24 vashou 25282:1 vasloop 25283:6 vat 25191:17,18 25214:1 25226:25 25227:1 25243:10 25257:18 25278:22 25295:18,22 25298:11 veel 25201:4 25281:8 vehicle 25241:14 25314:21 25316:3 25317:1,8 25318:12 vehicles 25214:11 25231:10 25305:17 25315:5 veilig 25257:12 veiligheid 25255:13,15 25258:5 25278:22 25292:13 veiligheidsbesluit 25295:24 veiligheidsoogpunt 25294:6 veiligheidsredes 25295:19 veld 25226:10 25260:15 Venter 25206:17 25207:7,9 25208:1,16 25240:2 Venter-hulle 25211:25 ver 25200:14 veral 25192:21 25202:15 25203:15 25209:20 25213:22 25283:10 25284:25 25300:16 verander 25184:2,4 25281:22 25300:1 verandering 25323:6 25326:7 verantwoordelik 25186:17 25199:12 25293:6 verantwoordelikheid 25191:16 25212:18</p>	<p>25290:13 25292:5 verbaal 25247:4 verbaas 25232:1 25233:6 verband 25283:24 verbatim 25274:20 verdaag 25268:9 verdagtes 25185:20 25210:5 verder 25187:6,19 25194:9 25205:11 25244:10 25265:25 25277:19 verduidelik 25269:19 25309:20 25311:11 25324:2 25326:10 verduideliking 25274:1 verduidelikings 25274:7 verdwyn 25245:10 vergader 25216:25 vergadering 25240:18 25280:16 25297:10 vergaderingpunt 25314:23 vergaderings 25280:11 25284:14 vergeet 25171:20 25244:14 vergelyk 25268:21 25280:21 verhoed 25188:22 25273:10,11,22 verkeerd 25200:11 25279:13 verkies 25170:8 verklaring 25170:9 25173:1,3,4 25219:14 25238:13,16 25240:5 25240:15 25270:21 25271:22,23 25274:3 25274:4,5,16 25277:16 25313:4 verklarings 25170:7 25216:2 25267:9 25271:19,20 25274:6 25274:7 verkry 25267:8 verlaat 25270:1 verlede 25187:11 25190:4 25191:7 25192:2 25281:20 25283:10 verleen 25269:9,10 verlof 25240:1 verloor 25243:8 Vermaak's 25304:12 vermeld 25205:11 25246:5 vermelde 25173:3 25205:11 vermelding 25270:21 vermis 25259:11 vermoedelik 25208:19 25244:15 25282:13 vermoor 25182:8</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

25185:20 25279:8 25282:14 verneem 25314:5 veronderstel 25202:13 25293:19 25294:21 verplaas 25181:11,12 25181:14,16,18 verrig 25191:16 verseker 25210:18 25255:20 verset 25286:2 versigtige 25283:4 version 25177:2,4,8,9 25177:11,16 verskillende 25190:9 25209:7 25243:20 25259:6 25274:7 25292:10,12,12 25297:12 verskoning 25280:5 verskoon 25280:7 verskyn 25308:17 versoek 25186:1 25201:10 25202:19 25212:22 25217:13 25240:14 25270:20 25278:21 25296:3,13 versprei 25227:4 verspreid 25244:22 verstaan 25217:15 25315:2 versterkings 25200:24 verteenwoordig 25207:24 25270:20 25292:7 verteenwoordigers 25182:17 vertrek 25317:3 verwag 25292:8 verwyder 25255:15 25256:6 25257:12 25258:6 25267:14 25278:4 25287:8 verwys 25186:14 25190:3,23 25209:22 25216:2 25218:2 verwysend 25276:22 verwysing 25191:23 25214:20 25276:5 vicinity 25227:8 25302:4 25327:22 video 25178:4,11 25180:9 25191:11,14 25191:22 25192:2,3 video-opnames 25191:18,25 vier 25251:10 vierde 25326:8 view 25235:5 25247:19 vinnig 25238:13 25240:5 25250:17 25256:3 25267:1 25271:20 25289:8 vinnige 25292:11 vinnigste 25201:15 violence 25257:14	violent 25182:23 25198:18 visited 25259:20 vlak 25279:24 vlieg 25216:11,21 25219:24,24 25240:3 25270:4 25292:13 25293:2,3,19 25294:6 25294:9 25295:21 25297:18 25321:21 25322:10,11 vlieënier 25198:5 25206:17 25295:20 vlieëniers 25294:7 25295:5 voer 25283:14 voertuie 25190:10 25213:15,17 25229:15 25296:12 25306:7 25307:19 25314:24 25315:3 voertuig 25190:8 25213:25 25215:17 25257:17 25296:14 25315:12 25316:2 voet 25216:22 25282:10 25293:16 25293:17,19 25294:22 volg 25246:9 25285:24 volgende 25188:13 25189:13 25212:22 25224:6 25254:25 25268:9 25294:24 25316:22 volgens 25188:10 25191:5 25203:23 25232:2,17 25270:19 25288:12 25289:4 25298:12 25311:12 25314:5 25321:17 volgorde 25269:21 volle 25171:21,21 voltooi 25190:18 voor 25170:13 25280:16 25293:2,6 25294:24 25318:4 vooraf 25240:18 25289:8 voorbeeld 25187:24 25296:6 voorbeelde 25189:10 voorbereid 25189:24 voordat 25208:21 voordeel 25190:22 voorgehou 25284:10 25285:23 25286:10 25289:15 voorgekom 25185:19 25185:21 25199:16 25329:13 voorgestel 25287:6 voorkant 25308:12 25314:6 voorligting 25292:10 25299:25	voorsien 25291:10 voorste 25320:17 25325:2 voort 25188:12 25192:25 25194:21 vooruit 25215:17 voorval 25196:5 25212:7 voorvalle 25233:12 vorder 25194:19 vorentoe 25326:14 vorige 25173:1 25196:2 25235:15 vorm 25244:11 vra 25171:21 25195:14 25200:25 vraag 25289:5 vrae 25170:24 vreedsaam 25216:22 vreedsame 25189:17 vreemde 25234:23 vrees 25199:20 25202:16 25208:24 vreesloos 25281:23 vroeg 25288:11,13 vroeër 25224:16 25281:17 25298:9 Vrydag 25206:25 vrywilliglik 25257:21 25284:11 vuur 25245:9 vuurwapens 25202:25	25203:23 25311:12 25323:2 waarom 25202:15 25232:20 25278:4 waaroor 25204:20 waarop 25190:10 25195:13 25200:9 25201:8 25206:16 25259:17 25285:24 25306:6 waarsku 25294:23 waarskuwing 25281:5 25282:24 waarvan 25181:17 waarvoor 25274:1 waentjie 25195:15 wag 25210:16 25219:6 25257:9 walk 25226:20 walked 25251:24 walking 25226:23 25228:9 25231:9 25255:3 25308:4 25316:13 wanneer 25205:13 25210:14 25221:24 25222:8 25268:23 25289:10 25297:18 25299:12,13 want 25170:4 25173:10 25173:14,18 25192:10 25193:6 25202:18,25 25203:13 25216:22 25221:14 25232:7 25233:22 25238:16 25243:8,11 25245:16 25246:9 25250:17 25251:3,17 25252:25 25264:17 25267:11 25270:4 25272:5,10 25272:12 25274:5 25277:5,6 25281:9 25304:16 25318:4 25319:13 25325:5 wanted 25180:24 25268:11 25273:14 25275:1 25306:24 wants 25214:12 25261:10 25305:10 wapens 25216:20 25236:21 25253:1 25266:4 25276:25 25279:11 25282:12 25284:11 25286:13 25286:19 25287:8 25308:2 warn 25282:20 warning 25260:6,25 25261:3 25304:25 Warrant 25207:7 25243:1 25245:25 25312:22 wasn't 25211:9 25265:4 25320:25 water 25209:9	25281:22 waterkanon 25312:7 25328:15 25329:23 watter 25184:24 25213:15,16 25252:2 25323:17 way 25194:1 25231:4 25241:12,13 25269:13 25272:14 25275:25 25276:17 25311:8 25321:4 25326:19 weapons 25199:5 25217:4 25252:13,18 25264:6 website 25176:5,6 weens 25201:23 25246:11 25249:20 25276:9 25295:19 weer 25184:3 25191:3 25192:22 25198:1 25201:16 25203:14 25207:13 25209:22 25217:16 25235:15 25240:13 25245:11 25253:15 25257:9 25259:13 25271:7 25286:18 25289:8 25296:15 25299:20 25308:1 25310:10 25322:12 25326:13 weereens 25182:4 weergawe 25269:1 weerlê 25265:17 weerstand 25258:7 wees 25170:13 25187:21 25189:11 25189:24 25192:3 25200:24 25205:17 25210:20 25213:3 25218:3 25231:13 25236:17 25240:1 25241:7 25257:17 25264:17,22 25274:10 25276:11 25278:2 25279:14 25286:24 25288:10 25292:11 25294:10 25296:1 25298:14,25 25321:21 25328:16 weet 25196:18 25205:8 25208:9 25209:21 25210:14,18 25219:18 25243:21 25257:9 25263:5 25282:12 weg 25242:23 25257:17 wegbeweeg 25241:6 25253:6 wegdra 25255:14 25256:6 weggehardloop 25233:7 25234:22 25235:23 25242:22 25244:10 weggetrek 25257:22
W				
	W 25226:25 25227:8 25229:4 25230:12 waag 25199:17 25233:25 waarby 25279:6 25298:22 waardeur 25199:14 25276:6 waargeneem 25207:4 25213:14 25229:25 25232:18 25233:10 25236:1,16,18 25286:21 25287:11 25309:16,19 25311:19 25321:23 25323:6 25325:4 25329:20 waarheen 25203:1 waarheid 25170:13,14 25170:14 waarin 25252:5 25265:10 25293:15 waarmee 25197:1 25209:9 waarneem 25213:12 25217:6 25243:9 25329:22,22 waarneembaar 25326:7 waarnemende 25212:17 waarneming 25188:11			

<p>weggevat 25224:3 25244:16 25259:3</p> <p>weghardloop 25233:10</p> <p>wegkry 25233:16</p> <p>wegneem 25259:4</p> <p>wegskram 25203:2</p> <p>weight 25295:23</p> <p>weinig 25236:18</p> <p>wel 25194:20 25206:25 25207:4 25216:19 25226:15 25231:23 25274:2 25280:16,17 25292:23 25308:1</p> <p>went 25225:2 25243:1</p> <p>weren't 25236:6,8</p> <p>werk 25243:20 25266:25 25289:5 25291:7 25297:11 25300:20</p> <p>werkers 25182:5,6,8</p> <p>werkgewer 25182:5</p> <p>werklik 25297:18</p> <p>Wes 25181:19 25291:6 25295:17</p> <p>Wesley 25230:20,21 25231:3</p> <p>west 25171:18 25230:12,14,14,25</p> <p>Wet 25188:9 25238:15 25240:6,15</p> <p>wetgewing 25238:15</p> <p>we'll 25180:23 25193:9 25193:24 25234:9 25312:17 25329:6 25330:3</p> <p>we're 25173:9 25193:17 25215:1 25247:23 25260:9,13 25272:21,23 25275:22 25304:14 25304:19 25312:9,11 25318:7,24 25324:10</p> <p>we've 25177:1,2 25225:15,16 25227:15,16 25261:9 25294:13 25295:9 25306:20 25330:2</p> <p>What's 25298:19</p> <p>whichever 25241:11</p> <p>white 25293:23</p> <p>wider 25196:1 25297:25</p> <p>wie 25244:5</p> <p>Wiehann 25185:13</p> <p>wil 25195:15 25231:13</p> <p>wind 25200:11 25204:3</p> <p>Wing 25291:24 25292:3,15 25295:10 25295:11,13 25297:23</p> <p>wire 25312:15 25316:18 25317:12 25318:18 25321:16 25322:25 25323:14 25323:14,25 25325:18 25327:1</p>	<p>wish 25171:5 25313:2</p> <p>wit 25242:12 25243:16 25244:24 25245:12 25245:12 25246:8 25249:25 25259:14</p> <p>withdraw 25245:23</p> <p>witness 25170:23 25171:2 25175:17,19 25177:15,19,24,25 25193:16,19 25272:16,19,25 25312:21 25319:14</p> <p>witnessed 25219:20 25235:20 25329:9</p> <p>witnesses 25172:6</p> <p>witness's 25174:18 25175:1,3 25176:18</p> <p>wonde 25243:5</p> <p>Wonderkop 25207:11 25220:6 25223:4 25224:23 25225:1 25293:4</p> <p>woongebied 25307:24 25307:25 25323:9</p> <p>woongebiede 25280:22</p> <p>woord 25253:10</p> <p>woorde 25328:25</p> <p>word 25186:15,17 25188:1,14,21 25189:4,4 25190:16 25190:17 25191:4 25192:4 25203:16 25205:12,12 25209:10 25210:25 25213:4 25222:3,5,7 25222:8,9 25234:24 25235:16 25236:7 25242:13 25251:4 25259:15 25263:6 25267:16 25271:20 25271:22 25274:7 25276:2 25280:7,21 25281:19 25282:1 25283:15 25286:10 25286:13 25287:9 25288:18 25291:9 25292:9 25296:5,5 25297:15 25307:17 25318:22,23 25320:23 25321:1 25329:24</p> <p>words 25236:8 25270:16 25273:10 25276:1 25291:23 25311:1 25328:18,22 25328:23</p> <p>work 25234:11 25272:13 25325:22</p> <p>working 25193:11,15 25193:16,23 25303:23</p> <p>works 25221:16</p> <p>worried 25276:19</p> <p>wou 25251:2,5 25273:9</p> <p>wouldn't 25320:25</p> <p>wrap 25277:23</p>	<p>write 25239:14</p> <p>written 25196:9 25248:18</p> <p>wrong 25223:1,6,6</p> <p>wrote 25195:7 25268:16</p> <p>wys 25192:4 25222:3</p> <p>wyse 25210:20 25276:2 25281:7</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>Xhosa 25171:6 25193:22</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year 25196:10 25197:6 25221:10</p> <p>years 25181:20</p> <p>yellow 25310:17 25311:7</p> <p>you'll 25173:20 25239:18 25253:21 25264:4 25272:18 25283:21</p> <p>you're 25170:22 25172:5 25173:19 25174:5 25194:23 25221:12 25223:12 25238:23 25244:2 25247:11 25249:4 25272:19 25273:2 25274:24 25291:24 25296:18 25301:24 25302:5 25321:5,25 25327:19,23 25328:6</p> <p>you've 25220:10 25221:21 25225:25 25227:20,21 25236:12 25265:15 25272:9 25321:12 25326:16</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>za 25176:7,8</p> <p>zero 25174:3,10,13 25194:11</p> <p>zoem 25317:4</p> <p>Zyl 25238:12 25239:1 25258:22 25259:17</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>000 25198:25 25319:20</p> <p>0001 25173:23,24</p> <p>00013 25227:22</p> <p>035 25223:5</p> <p>09:19 25170:2</p> <p>09:39 25183:8</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 25173:22 25221:21 25291:13,23 25293:15 25306:20 25315:3,6 25317:12 25323:4,6</p> <p>10 25215:21 25241:2 25256:17 25264:1</p>	<p>25313:14,15 25317:20 25321:10 25327:10 25329:4 25330:1</p> <p>10:13 25193:13</p> <p>10:33 25204:7</p> <p>10:53 25215:15</p> <p>103 25245:16 25258:9,9 25258:11</p> <p>11 25206:12 25254:11 25256:14 25302:3 25313:14,15 25329:2</p> <p>11de 25181:5</p> <p>11:12 25227:1</p> <p>11:40 25228:22</p> <p>110 25322:10</p> <p>11093 25245:17 25258:10,14</p> <p>12 25177:13 25206:12 25215:15 25221:10 25238:19</p> <p>12de 25206:11</p> <p>12th 25206:22 25212:13 25221:7</p> <p>12-ure 25205:15</p> <p>12:00 25241:5</p> <p>12:20 25253:13</p> <p>12:39 25267:6</p> <p>13 25178:18 25224:18 25230:7,8 25245:18 25271:24</p> <p>13de 25215:16 25292:23 25298:21 25306:18</p> <p>13th 25176:12,20,22,24 25179:8,17 25180:20 25214:17 25215:5,14 25215:23 25218:7 25221:9,12 25223:24 25251:25 25254:8 25260:15 25261:4,23 25263:13 25266:22 25269:14,24 25270:12 25273:1,1 25277:23 25282:6</p> <p>13/8/2012 25176:16,25</p> <p>13:25 25224:20 25225:5</p> <p>13:44 25208:13 25210:11</p> <p>13:51 25211:22</p> <p>13:55 25224:22</p> <p>135 25289:24</p> <p>14 25178:19 25253:19 25271:9 25284:8</p> <p>14th 25272:3 25275:23 25276:16 25277:21 25278:25 25279:4</p> <p>14:04 25277:14</p> <p>14:10 25222:12 25223:2,18 25224:10 25224:14,24 25225:18,25</p> <p>14:24 25288:9</p> <p>14:34 25254:8,25 25256:13</p>	<p>14:40 25223:2,18 25224:25 25225:25</p> <p>14:44 25254:21,25 25255:2 25300:3</p> <p>146 25297:1</p> <p>147 25289:19</p> <p>15 25178:19 25179:11 25181:17,20 25198:25 25203:21 25203:21 25224:24 25271:9,11 25284:8</p> <p>15th 25285:15,17 25289:1</p> <p>15:30 25313:16</p> <p>15:34 25312:19</p> <p>15:35 25314:21,24</p> <p>15:39 25315:9</p> <p>15:54 25325:24</p> <p>15:56 25302:13</p> <p>15:56:239 25304:7</p> <p>15:56:29 25304:7</p> <p>15:58 25302:13 25303:9,16 25304:3</p> <p>1514 25322:18</p> <p>1515 25325:17</p> <p>1517 25302:11</p> <p>1518 25302:16 25304:13</p> <p>16 25178:19 25179:21 25181:17 25284:8</p> <p>16de 25239:5 25284:14</p> <p>16th 25176:20,23,24 25179:4,17,25 25196:11 25239:4,8 25270:12 25284:17 25286:6,7 25287:2 25289:18,22 25291:1 25293:9 25296:21 25299:3,7 25313:17</p> <p>16/8/2012 25176:25 25177:15</p> <p>16:00 25267:13</p> <p>17 25180:3 25271:11</p> <p>17th 25204:10</p> <p>17:00 25268:11 25269:3</p> <p>18 25180:13 25270:7</p> <p>18:00 25269:25</p> <p>19 25172:7 25214:24 25247:24 25258:16</p> <p>1981 25181:6</p> <p>1998 25184:15</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 25175:1 25182:10 25198:23 25217:20 25219:13 25221:21 25229:19 25234:18 25234:19 25277:12 25297:2,3</p> <p>20 25241:2</p> <p>2000 25184:16</p> <p>2011 25175:15 25196:10</p> <p>2012 25172:1 25176:1 25177:20 25178:18</p>
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<p>25178:19 25179:5,14 25179:22 25180:6 25196:11 25197:6,19 25197:24 25204:10 25205:9 25206:9 25239:5 25270:8 25271:19 25276:17 2013 25180:16 25271:23 2014 25170:1 25172:11 25274:3,17 21 25177:21 21st 25172:11 21ste 25274:17 22 25175:24 22C 25178:14,14 22nd 25197:19 25198:25 22/5/12 25176:9 23 25176:1 25178:18 25220:13 23.1 25220:9,14 24 25170:1 25 25224:19 25228:18 28th 25195:10 25197:6</p>	<p>25285:5 25302:5 5th 25180:5 5.1 25192:7 5.2 25192:7 500 25293:17 25297:24 51 25254:21 25256:18 56 25263:11</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 25176:2 25192:7 25214:21 25215:2,22 25217:19 25218:22 25220:18 25229:18 25273:2 25287:2 25290:3,6 25297:8,10 6th 25175:15 25196:10 6/5/2011 25175:16</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 25192:10 25194:12 25220:23,25 25221:7 25221:16 25222:25 25223:1 25234:3,18 7.1 25177:6 7.3 25299:11</p>			
<hr/> <p style="text-align: center;">3</p> <hr/> <p>3 25185:1 25186:9,10 25194:11 25205:1 25221:22 25253:24 25284:18 25319:20 25320:5 3:30 25239:6 30 25177:19 30ste 25173:1 30th 25179:13,22 25270:8 300 25216:22 25293:16 25294:22 25298:3 32 25256:22 35 25224:19</p>	<hr/> <p style="text-align: center;">8</p> <hr/> <p>8 25217:19 25221:6 25222:25 8ste 25239:5 800 25293:19</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 25176:10 25202:6 25215:21 25252:15 25272:1,22,25 25275:23 25276:15 25277:22 25278:25 25279:15 25280:25 25284:18 25330:4 93 25184:10 94 25184:11 95 25183:25</p>			
<hr/> <p style="text-align: center;">4</p> <hr/> <p>4 25195:8 25197:3 25198:24 25206:8 25208:13 25210:10 25274:24 25325:20 25327:16 4de 25271:22 4th 25180:15 4.2 25187:22 4.3 25188:24 4.4 25189:6 4.5 25189:25 4.6 25191:10 40 25200:9 25324:19 400 25320:5 44 25298:11 4533 25314:25 4538 25315:24 47 25256:24</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 25175:22 25192:6 25212:11 25220:16 25271:24 25280:25</p>				