

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

**Lukmos**  
communications

24 MARCH 2014

TRANSCRIPT PAGES 25169 TO 25329

1 **[PROCEEDINGS ON 24 MARCH 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 do not want

5 disturbance that is caused by cell phones going off.

6 Luitenant-Kolonel Vermaak, I noticed your

7 statement in the file that you are not willing to take

8 the oath, you prefer, I suppose, to make an sincere

9 and solemn statement.

10 **COLONEL VERMAAK:** That is correct, yes.

11 **CHAIRPERSON:** Will you please stand up?

12 confirm and sincerely affirm that the testimony you will travel

13 to the commission, the truth will be the whole truth, and

14 and nothing but the truth?

15 **COLONEL VERMAAK:** That is correct, yes.

16 **CHAIRPERSON:** Say, "I confirm."

17 **COLONEL VERMAAK:** I confirm.

18 **CHAIRPERSON:** Sit, please, thank you. We

19 have a problem again with people who have not got their

20 earphones on and so the sound of the translation is coming

21 through, disturbing. Please see that that does not happen.

22 I understand, Ms Pillay, that you are going to be leading

23 the witness and that you will ask questions in English,

24 that – I assume you are willing to answer the questions in

25 English?

1 **COLONEL VERMAAK:** That is correct, Mr chairperson.

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 is correct, Chairperson.

8 **CHAIRPERSON:** Alright, please proceed.

9 **EXAMINATION BY MS PILLAY:** Thank you,

10 Chairperson. 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 am a lieutenant

15 colonel.

16 **MS PILLAY:** And where are you stationed?

17 **COLONEL VERMAAK:** I am stationed at the

18 Airwing, North West, in Potchefstroom.

19 **MS PILLAY:** And what was –

20 **CHAIRPERSON:** Sorry, I forgot to ask you for your

21 full names. What is your full name, please?

22 **COLONEL VERMAAK:** Mr Chairperson, that is

23 Salmon Johannes Vermaak.

24 **CHAIRPERSON:** Thank you.

25 **MS PILLAY:** Thank you, Chairperson. And what

1 was your rank in August 2012?

2 **COLONEL VERMAAK:** Also lieutenant Colonel.

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 are 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 **COLONEL VERMAAK:** I got it.

10 **MS PILLAY:** Now this statement was signed

11 on the 21st of January 2014. Is that correct?

12 **COLONEL VERMAAK:** That is correct.

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 **COLONEL VERMAAK:** That is correct.

18 **MS PILLAY:** And do you confirm the

19 correctness of this statement, LLL18?

20 **COLONEL VERMAAK:** That is correct,

21 except–

22 **MS PILLAY:** There is – sorry, I

23 interrupted you.

24 **CHAIRPERSON:** Correct, except?

25 **COLONEL VERMAAK:** Mr Chairperson, in previous evidence

1 regarding the statement I made on the 30<sup>th</sup> of August,  
2 which were marked HHH4, I accidentally left out some detail  
3 in that  
4 statement.

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 – Chairperson, I think  
8 that if we could mark the exhibits, there is certain new  
9 exhibits which we are going to rely on.

10 **CHAIRPERSON:** Sorry, you want to do some  
11 housekeeping?

12 **MS PILLAY:** If you do not mind, Chairperson,  
13 yes.

14 **CHAIRPERSON:** Alright, you want to do  
15 some housekeeping before he begins his evidence as such?

16 **MS PILLAY:** That is correct, Chairperson.

17 **CHAIRPERSON:** Alright, now what are the  
18 documents you want to put in as exhibits, and what do you  
19 suggest – you are normally the keeper of the exhibit  
20 numbers, so you will now handle your own exhibits.

21 **MS PILLAY:** Chairperson, the first one is  
22 document 1 in the bundle. That is the CV of Lieutenant  
23 Colonel Vermaak, which would be 0001.

24 **CHAIRPERSON:** 0001?

25 **MS PILLAY:** Yes. Sorry, 0001.

1 **CHAIRPERSON:** Double O?

2 **MS PILLAY:** Triple O. 0001, yes.

3 **CHAIRPERSON:** Triple zero?

4 **MS PILLAY:** O.

5 **CHAIRPERSON:** O yes, you are quite right,

6 this is a documentary exhibit so it is got to have a letter

7 and not a number.

8 **MS PILLAY:** That is correct, Chairperson.

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 is not triple zero,

14 it is –

15 **MS PILLAY:** Triple O.

16 **CHAIRPERSON:** 0001.

17 **MS PILLAY:** Yes, the second –

18 **CHAIRPERSON:** And that is witness's CV, is

19 it?

20 **MS PILLAY:** That is correct, Chairperson.

21 **CHAIRPERSON:** Carry on.

22 **MS PILLAY:** The second document, Chairperson –

23 **CHAIRPERSON:** Hang on, let me mark mine.

24 Yes.

25 **MS PILLAY:** The second document is

1 document 2 in the bundle. That is the witness's POP

2 Operational Commander Certificate.

3 **CHAIRPERSON:** 0002 is witness's –

4 **MS PILLAY:** POP Operational Commander

5 Course –

6 **CHAIRPERSON:** POP Operational Commander

7 Certificate.

8 **MS PILLAY:** That is right.

9 **CHAIRPERSON:** Then the next one is 0003.

10 I am following the list at the front of my file –

11 **MS PILLAY:** Yes.

12 **CHAIRPERSON:** - for the benefit of those

13 who have not got the advantage of a file. 0003 is an

14 email –

15 **MS PILLAY:** Dated the 6<sup>th</sup> 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 is correct, Chairperson.

21 **CHAIRPERSON:** Next one is 0004, 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 is correct, Chairperson.

- 1 **CHAIRPERSON:** 23 May 2012. 0005 is –
- 2 **MS PILLAY:** Is document 6, Chairperson.
- 3 **CHAIRPERSON:** Mail & Guardian, is it?
- 4 M&G – no, is it just MG, I think? I know it is the Mail &
- 5 Guardian but I am not sure what their website, described as
- 6 per the website. Well, it is MG.com –
- 7 **MS PILLAY:** Dot co dot za.
- 8 **CHAIRPERSON:** Dot “co” dot “za”, article
- 9 22/5/12, it is 0005. 0006?
- 10 **MS PILLAY:** Is document 9, Chairperson.
- 11 **CHAIRPERSON:** Yes, that is a photograph of
- 12 the area, incident on the 13<sup>th</sup>.
- 13 **MS PILLAY:** That is correct, Chairperson.
- 14 **CHAIRPERSON:** It is 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 0007 –
- 17 **MS PILLAY:** Is document –
- 18 **CHAIRPERSON:** - is excerpt from witness's
- 19 diary. What dates?
- 20 **MS PILLAY:** They are the 13<sup>th</sup> and the 16<sup>th</sup>,
- 21 Chairperson.
- 22 **CHAIRPERSON:** Diary, it is just the 13<sup>th</sup>
- 23 and the 16<sup>th</sup>?
- 24 **MS PILLAY:** Just the 13<sup>th</sup> and the 16<sup>th</sup>.
- 25 **CHAIRPERSON:** Of 13/8/2012 and 16/8/2012.



1 Then we have got a –

2 **MS PILLAY:** We have got a typed version of

3 that –

4 **CHAIRPERSON:** 0007, typed version

5 thereof.

6 **MS PILLAY:** That is 7.1, Chairperson.

7 **CHAIRPERSON:** With addition. There is 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 0008 –

13 **MS PILLAY:** Is document 12, Chairperson.

14 **CHAIRPERSON:** Yes, that is manuscript

15 statements of witness dated 16/8/2012. 0008.1 is typed

16 version thereof. 0009 is telephone records relating to

17 calls made and received –

18 **MS PILLAY:** That is correct, Chairperson.

19 **CHAIRPERSON:** - by the witness between 30

20 July 2012 until – 00010 is –

21 **MS PILLAY:** Document 21, Chairperson.

22 **CHAIRPERSON:** And that is report

23 prepared –

24 **MS PILLAY:** By the witness.

25 **CHAIRPERSON:** By witness, titled

1 "Information notes."

2 **MS PILLAY:** That is correct.

3 **CHAIRPERSON:** OOO11 is a transcript of  
4 Coin chopper video.

5 **MS PILLAY:** That is correct. That is CC22,  
6 Chairperson.

7 **CHAIRPERSON:** That is OOO11 of Coin  
8 helicopter.

9 **MS PILLAY:** In brackets, CC22.

10 **CHAIRPERSON:** Yes, CC22. It is Coin  
11 helicopter video soundtrack basically, isn't it?

12 **MS PILLAY:** It is the audio, yes.

13 **CHAIRPERSON:** Yes, soundtrack, and that is  
14 22C. That is 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 is all the housekeeping, is it?

21 **MS PILLAY:** That is correct, Chairperson.

22 **CHAIRPERSON:** So we can now proceed with  
23 the evidence?

24 **MS PILLAY:** Thank you, Chairperson.

25 **CHAIRPERSON:** Thank you.

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 OOO8. Now  
4 do you confirm that this statement is dated the 16<sup>th</sup> of  
5 August 2012?

6 **COLONEL VERMAAK:** That is correct.

7 **MS PILLAY:** And that it deals only with  
8 the incident of the 13<sup>th</sup> of August?

9 **COLONEL VERMAAK:** It is positive.

10 **MS PILLAY:** Then we have GGG17, which is  
11 document 15 in the bundle before you.

12 **COLONEL VERMAAK:** I got it.

13 **MS PILLAY:** That is a statement dated 30<sup>th</sup>  
14 of August 2012.

15 **COLONEL VERMAAK:** That is correct.

16 **MS PILLAY:** And it deals both with the  
17 incidents of the 13<sup>th</sup> of August, as well as the 16<sup>th</sup> of  
18 August.

19 **COLONEL VERMAAK:** That is correct.

20 **MS PILLAY:** The next statement is HHH4,  
21 which is document 16 in the bundle. That is also dated the  
22 30<sup>th</sup> of August 2012.

23 **COLONEL VERMAAK:** That is correct.

24 **MS PILLAY:** And that deals only with the  
25 incident of the 16<sup>th</sup> of August.

1 **COLONEL VERMAAK:** That is correct.

2 **MS PILLAY:** The next statement is HHH5,

3 which is document 17 in the bundle.

4 **COLONEL VERMAAK:** I got it.

5 **MS PILLAY:** That document is dated the 5th

6 of November 2012.

7 **COLONEL VERMAAK:** That is correct.

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 **COLONEL VERMAAK:** That is correct.

12 **MS PILLAY:** And then the last statement

13 is HHH6, which is document 18 in the bundle.

14 **COLONEL VERMAAK:** I got it.

15 **MS PILLAY:** That is dated 4<sup>th</sup> of February

16 2013. Do you confirm that?

17 **COLONEL VERMAAK:** Its positive.

18 **MS PILLAY:** And that deals basically with

19 further information on what you observed from the air on

20 the 13<sup>th</sup> of August, specifically after the incident in

21 question.

22 **COLONEL VERMAAK:** It is positive.

23 **MS PILLAY:** Now we will 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

1 currently before the Commission.

2 If we can then start by looking at OOO1, which is

3 your CV, and can you tell us when did you first join the

4 police service?

5 **COLONEL VERMAAK:** On the 11<sup>th</sup> of December

6 1981, I joined the police.

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 **COLONEL VERMAAK:** Directly after my basic

11 training I was first transferred to Brixton radio control.

12 I was then transferred to Klerksdorp police station

13 where I mainly worked inquiries and investigations. Then I

14 was transferred to Orkney. I was the commander of the

15 Investigation and Query Department of the then Uniform

16 Division, I was then transferred to the Public Order

17 Police, where I was 16 years, 15 years of which I was

18 the commander, I was then transferred to the

19 Air Wing Unit in the North West as the commander.

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 **COLONEL VERMAAK:** I have been involved in

24 many situations, but there was some outstanding cases

25 at the mines where there have been ethnic violence,

1 where a large number of people died during those  
2 riots. Then there was also a case in Stilfontein of  
3 ethnic violence where also a large number of people  
4 died, and again at Stilfontein where a contractor's workers  
5 rebelled against their employer and then  
6 the police interfered and then some of the workers got  
7 shot, the contractors got involved as well and there were three  
8 killed by the workers.

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.

12 **COLONEL VERMAAK:** That is correct.

13 **MS PILLAY:** Can you just describe what  
14 this certificate is about?

15 **COLONEL VERMAAK:** It is the Public Order  
16 Police Operational Commanders Training. We received the  
17 training from representatives from Belgium and France, which came to  
18 South Africa to present the course.

19 **MS PILLAY:** And the kind of subject  
20 matter that you dealt with during the training course?

21 **COLONEL VERMAAK:** This was the main objects, in  
22 English I will say, legal aspects, changed policies, use of  
23 force in potential violent situations, proactive  
24 information gathering assessments and planning in public  
25 order – protest policing. The –

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.

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?

10 **COLONEL VERMAAK:** Yes, I have acted many times in

11 my position as the commandor of the public

12 order police service in Klerksdorp, where I

13 was the commander and overall commander in most cases.

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?

18 **COLONEL VERMAAK:** That is correct, Mr

19 Chairperson.

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?

25 **COLONEL VERMAAK:** Mr chairperson, in 1995

1 I was promoted as Lieutenant-Colonel, I then  
2 changed the order structures where a lieutenant-Colonel was  
3 a superintendent now and then later he changed back  
4 to Lieutenant-Colonel.

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.

9 **COLONEL VERMAAK:** That is correct. I have done  
10 a debriefing course and in 1993 I had an advanced  
11 negotiation course done, in 1994 an internal stability  
12 course where there was also attention given to negotiation.  
13 During the Public Order Operational Commander Course we  
14 specifically gave attention to the aspect of negotiations,  
15 and in 1998 I did an Intensive Negotiation Course  
16 In 2000 I did a National Trauma Debriefing  
17 Course gedoen. Yes, that is basically the courses linked to  
18 negotiations.

19 **MS PILLAY:** And did you have any  
20 experience in handling negotiations in the field?

21 **COLONEL VERMAAK:** Yes, Mr Chairperson,  
22 a lot.

23 **MS PILLAY:** Now can we then go to OOO3?

24 **COLONEL VERMAAK:** Wahich one will that be on the  
25 list?



1 **MS PILLAY:** That is document 3 under, on  
2 the list.

3 **COLONEL VERMAAK:** I have it.

4 **MS PILLAY:** Can you tell us what this  
5 document is?

6 **COLONEL VERMAAK:** Dis `n e-pos wat ek

7 gestuur het aan Lieutenant-General Mbombo asook op daardie  
8 stadium die Deputy, Policing Operations, General 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.

12 **MS PILLAY:** So the reference to Colonel  
13 Wiehann Calitz, that is Brigadier Calitz?

14 **COLONEL VERMAAK:** It is correct.

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?

18 **COLONEL VERMAAK:** Tydens die insident in  
19 Ottosdal was dit `n hofsaak wat voorgekom het waar `n boer  
20 vermoor was en die verdagtes wat gearrester was, het daar  
21 voorgekom. Daar was basies twee groepe mense gewees, die  
22 boeregemeenskap wat daar was ter ondersteuning van die  
23 naasbestaandes van die oorledene en dan was daar uit die  
24 gemeenskap ook `n groep wat dan daar was vir ondersteuning  
25 van die gearresterdes. Nou tydens die dienste, ons was as

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 General 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 **COLONEL VERMAAK:** Dit was kort na die  
12 Ficksburg insident gewees waar die bevelvoerder van die  
13 openbare orde polisie daardie tyd ook gearresteer 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 **COLONEL 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."

1 **MS PILLAY:** And what did you mean by

2 that?

3 **COLONEL VERMAAK:** Mr Chairperson, 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 **COLONEL 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 **COLONEL VERMAAK:** Dieselfde voorbeeld kan

25 ek gebruik, is dat dit kom daar ook presies neer waar daar

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 **COLONEL VERMAAK:** Yes, it is correct. Ons

8 het, Mr Chairperson, 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 am 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 **COLONEL 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,

1 members at operational level do not have knowledge of the  
2 Gatherings Act?

3 **COLONEL 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 **COLONEL 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 **COLONEL 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?

1 That refers to a movable command post.

2 **COLONEL VERMAAK:** Mr Chairperson, ek

3 gaan ongelukkig baie verwys terug na die tydperk wat ek

4 bevelvoerder was van openbare orde. In die verlede het

5 ons, spesifiek in Klerksdorp het ons 'n onluste bus om

6 gebou in 'n operasionele sentrum destyds wat regoor die

7 hele provinsie gebruik was waar daar groot insidente of dan

8 groot operasies geloods was. In daai voertuig was dan

9 genoeg radiokommunikasie gewees op verskillende kanale

10 waarop jy dan met jou voertuie en met jou lede kon gepraat

11 het. En dan was dit ook 'n punt gewees waar daar behoorlik

12 rekord gehou was ten alle tye, so jou opskamer bevelvoerder

13 het in die bus gesit, hy het geluister na wat oor die radio

14 inkom en hy het ook geluister na die opdragte wat van die

15 oorhoofse bevelvoerder of die operasionele bevelvoerder dan

16 uitgaan sodat dit ge-rekord kan word en dan agterna die

17 hele operasie afgehandel is dan word daar 'n IRIS-verslag

18 voltooi, Mr Chairperson.

19 **MS PILLAY:** In the example that you give,

20 what should the proximity be of the mobile JOC to the

21 actual scene?

22 **COLONEL VERMAAK:** Die voordeel van so 'n

23 mobiele ops is waar ons spesifiek verwys na Ottosdal se

24 insident, lede het nie behoorlik rekord gehou van wat daar

25 gedoen is en wat daar gesê is nie. Ons het geïdentifiseer

1 dat General Mpembe byvoorbeeld met die een groep in  
2 gesprek is, maar daar is niemand wat rekord hou van daardie  
3 gesprekke nie en dan is hy weer by die ander groep, daar  
4 word ook nie rekord gehou van daardie gesprekke nie en hy  
5 staan daar eenkant baie, volgens my, onprofessioneel om  
6 onder 'n boom te staan en onderhandel met spesifieke groepe  
7 waar ons in die verlede die mobiele ops gehad het waar daar  
8 dan behoorlik in 'n plek kon gewees het om onderhandelinge  
9 te pleeg.

10 **MS PILLAY:** If we can then turn to 4.6,  
11 which is the last identified problem, namely the video  
12 capturing of the scene.

13 **COLONEL VERMAAK:** Op dieselfde insident  
14 het ek dadelik opgemerk dat die persoon wat die video-  
15 operateur is was ook 'n seksiebevelvoerder gewees. So hy  
16 moes 'n tweedelige verantwoordelikheid verrig. Hy moes oor  
17 'n seksie bevel vat maar hy moes terselfdertyd, moet hy ook  
18 die video-opnames vat wat – dis nie die gewenste manier van  
19 optrede nie.

20 **MS PILLAY:** And why, in your experience,  
21 is it important to have a proper capturing of the scene on  
22 a video?

23 **COLONEL VERMAAK:** Vir 'n latere verwysing  
24 as daar spesifieke navrae is, dan kan jy teruggaan op jou  
25 video-opnames, dis 'n baie goeie rekordhouding en ook

1 spesifiek waar daar dan onderhandelinge plaasgevind het, in  
2 die verlede het ons altyd dit op video opgeneem sodat daar  
3 later, sou daar 'n dispuut wees dan kon jy altyd die video  
4 wys en dit kan makliker opgeklaar word.

5 **MS PILLAY:** Now Colonel, if we can turn  
6 to your suggestions which appear from paragraph 5 onwards,  
7 5.1, 5.2 and 6 essentially deal very specifically with a  
8 movable JOC centre that you propose.

9 **COLONEL VERMAAK:** It is correct.

10 **MS PILLAY:** I just want you to turn to 7  
11 for a moment where you say that you request an appointment  
12 with the PC and the DPC to explain the abovementioned  
13 problems and then you mention that it was mentioned to  
14 General Mpembe and that he suggested that you make an  
15 appointment with Lieutenant-General Mbombo.

16 **COLONEL VERMAAK:** That is –

17 **MS PILLAY:** Can you just tell us what it  
18 is that you told General Mpembe at the time?

19 **COLONEL VERMAAK:** Ek het vir General  
20 Mpembe gemeld van die leemte wat ek geïdentifiseer het,  
21 veral met die mobiele opskamer, en hy het vir my akkoord  
22 gegaan dat dit definitief weer 'n behoefte in die provinsie  
23 is en dat ons dit moet aanspreek en dat ek met General  
24 Mbombo 'n afspraak moet maak sodat ons dit kan bespreek en  
25 dan die nodige finansiële magtigings te kry en dan voort te



1 gaan met die projek.

2 **MS PILLAY:** Chairperson, I believe that the

3 interpreter is having a problem with his machine. He's

4 just sent a message through, so if we may take a five

5 minute adjournment?

6 **CHAIRPERSON:** Do you want a short

7 adjournment? Five minutes?

8 **MS PILLAY:** That is so, Chairperson.

9 **CHAIRPERSON:** Very well, we will adjourn

10 for five minutes so that the machine with which the

11 interpreter is working can be fixed up.

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

13 **[10:13] CHAIRPERSON:** The Commission resumes. We

14 understand that the machine that the interpreter is relying

15 on is now working, so we will resume with the evidence of

16 the witness. If it turns out that it is not working then

17 I am afraid we are going to have to go back to the old mode

18 of consecutive translation, which of course will take a

19 long time, with the witness giving his answers in

20 Afrikaans, someone here, an interpreter here in the chamber

21 interpreting it into English, another interpreter

22 thereafter in the chamber interpreting it into Xhosa, but

23 if the machine is working we won't have to do that and

24 we will save a lot of time but even the consecutive form of

25 translation is better than doing nothing at all. Anyway,

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 cannot remember, I am  
4 afraid.

5 **MS PILLAY:** I will just pick up from where  
6 we left off, thank you, Chairperson.

7 **CHAIRPERSON:** Alright, pick up from where  
8 you were.

9 **COLONEL VERMAAK:** *(continue affirmation)*

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?

17 **COLONEL VERMAAK:** Yes, 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 General Mbombo gestuur het waar ons toe  
21 die groen lig gekry het om voort te gaan met die projek.

22 **MS PILLAY:** Now, as I understand what  
23 you are referring to, the project is related to the portable  
24 JOC, is that correct?

25 **COLONEL VERMAAK:** It is correct.

1 **MS PILLAY:** And the other systemic issues

2 that you raised, what was the response to those problems?

3 **COLONEL VERMAAK:** Op daardie

4 aangeleenthede het ek geen terugvoering gekry nie,

5 Chairperson.

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?

12 **COLONEL VERMAAK:** no, Mr

13 Chairperson, 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.

16 **CHAIRPERSON:** That document is not before

17 us.

18 **COLONEL VERMAAK:** It is correct –

19 **CHAIRPERSON:** And the details are not

20 relevant for our purposes anyway.

21 **COLONEL VERMAAK:** no wat, ek dink ons

22 kan dit meld hierso.

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

1 wider period of time?

2 **COLONEL 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 Chairperson.

8 **MS PILLAY:** Just to clarify, Colonel, we

9 know that this letter OOO3, 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.

12 **COLONEL VERMAAK:** It is correct.

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?

16 **COLONEL 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.

21 **MS PILLAY:** Now we know that the e-mail

22 OOO3 was addressed to Brigadier Calitz as well. Did you

23 get any feedback from him?

24 **COLONEL VERMAAK:** Negative, Mr

25 Chairperson, ek het van niemand af enige terugvoering gekry

1 behalwe die projek waarmee ons aangegaan het nie.

2 **MS PILLAY:** Colonel, then can I ask you

3 to look at JJJ137, it is document 4 in the bundle.

4 **COLONEL VERMAAK:** I have it.

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?

8 **COLONEL VERMAAK:** It is correct,

9 Chairperson.

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?

13 **COLONEL VERMAAK:** It is correct.

14 **MS PILLAY:** And who is the provincial

15 head of ORS?

16 **COLONEL VERMAAK:** Brigadier Calitz.

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.

20 **COLONEL VERMAAK:** It is correct.

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?

25 **COLONEL VERMAAK:** Mr Chairperson, ons

1 was weer eens gevra om lugsteun te gee tydens  
2 hofverrigtinge wat plaasgevind het waar van die unies se  
3 mense gearresteer 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 **COLONEL VERMAAK:** Dis –

11 **MS PILLAY:** And were due to appear in  
12 court.

13 **COLONEL 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 **COLONEL VERMAAK:** It is correct,  
22 Chairperson.

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

1 marchers.

2 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** It is correct.

7 **MS PILLAY:** Now, can you tell us what the

8 role was of the police on that day?

9 **COLONEL 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

1 happened after you had taken the decision to stop the

2 people from going into the industrial area?

3 **COLONEL VERMAAK:** Kolonel Merafi het die

4 mense by 'n treinspoor gestop. Direk nadat hy hulle gestop

5 het, het die optogangers 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 optogangers 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 **COLONEL 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 optogangers 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



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 General  
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 **COLONEL 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

1 groot groep.

2 **MS PILLAY:** You mentioned that the TRT

3 members didn't have Public Order equipment. What equipment  
4 did they have?

5 **COLONEL VERMAAK:** Hulle is net toegerus

6 met R5 en 9 millimeter pistole. Op 'n stadium het ek skote

7 gehoor met R5's wat afgaan, outomaties. Ek was redelik

8 geskok gewees en ek het gesien van die lede skiet in die

9 grond in, ander lede skiet in die lug in –

10 **MS PILLAY:** Colonel, can I just interrupt

11 you there? You testified that you were shocked, why were

12 you shocked to see members shooting with R5s?

13 **COLONEL VERMAAK:** Jy is nie veronderstel

14 om by openbare orde protesoptogte met R5 gewere op skares

15 te skiet nie. Dit is waarom ek – en veral omdat hulle ook

16 in die lug in opgeskiet het, het ek 'n groot vrees gehad

17 dat hulle die helikopter kon getref het wat regbo hulle

18 was, want nadat hulle die traanrook en die rubber gaan haal

19 het, het kolonel Merafi 'n versoek gerig dat die helikopter

20 traanrook aan die agterkant van die skare kan gooi sodat

21 dit 'n effek op hulle kan hê en dit het hulle toe gedoen en

22 dit het die gewenste reaksie gehad dat die skare uitmekaar

23 uit gespat het. Ek het, waar die lede van TRT met die R5

24 gewere geskiet het, het ek dadelik tussenbeide getree en

25 hulle gestop om met die vuurwapens te skiet want ek was

1 bevrees gewees mens kannie bepaal waarheen hulle geskiet of  
2 wat daar kon gebeur met 'n wegskram koeël wat dalk een van  
3 die myners of van die optogangers kan tref en dan het 'n  
4 mens met 'n redelike groot probleem gesit.

5 **MS PILLAY:** Now can you just tell us very  
6 briefly, Colonel, what ultimately happened in that  
7 operation?

8 **COLONEL VERMAAK:** Just repeat again?

9 **MS PILLAY:** What happened in that  
10 operation ultimately? Were you successful in dispersing  
11 the crowd?

12 **COLONEL VERMAAK:** Yes, die skare het  
13 uiteen uit gegaan, hulle is teruggedryf want op daardie  
14 stadium toe het die helikopter weer ekstra traanrook en  
15 rubber rondtes gebring en veral nadat die R5 skote afgegaan  
16 het, het hulle seker besef dat hulle beseer kan word.  
17 Hulle het omgedraai en hulle het terugbeweeg in die rigting  
18 van Sondela en die ander informele nedersettings.

19 **MS PILLAY:** Now can we turn back to  
20 JJJ137 and if we can then turn to what you say at paragraph  
21 15? Can you just tell us what you meant in paragraph 15?

22 **COLONEL VERMAAK:** In daardie  
23 omstandighede het kolonel Merafi volgens my waarneming dit  
24 baie goed hanteer, gesien in die lig van die lig van die  
25 groot hoeveelheid optogangers daar was en ook ek glo 'n

1 groot gedeelte met die hulp van die helikopter wat  
2 aangewend was om traanrook aan die agterkant van die skare  
3 te gooi sodat die wind dit tussen hulle in kon gewaai het,  
4 maar die risiko was baie, baie groot gewees dat iemand dalk  
5 gedood kon geword het met die R5's se afvuur of selfs die  
6 helikopter wat dan uit die lug uit kon geskiet geword het.

7 **[10:33] MS PILLAY:** Okay, Colonel, can I just get  
8 back to paragraph A1 of the letter. JJJ137, paragraph A1,  
9 the first paragraph. Now in that paragraph you mention an  
10 ORS conference that took place on the 17th of May 2012. Can  
11 you just tell us what that conference was about, please?

12 **COLONEL VERMAAK:** Dit was eintlik meer 'n  
13 inligtingsessie gewees van Brigadier Calitz wat die  
14 Provinsiale Hoof van ORS is, waar hy al die mense wat onder  
15 sy bevel val, dit sluit nou Openbare Orde Polisie, TRT,  
16 Lugvleuel, en Grenspolisiëring daarby in, en hy het  
17 terugvoering gegee op 'n konferensie wat hy bygewoon het in  
18 Pretoria waar daar sekere opdragte uitgereik was oor die  
19 aanwending van die rubberhael, of die rubber rondtes. Dit  
20 is in kort waaroor die inligtingsessie dan gegaan het die  
21 dag.

22 **MS PILLAY:** And you were present at the  
23 conference?

24 **COLONEL VERMAAK:** It is correct, yes.

25 **MS PILLAY:** Now if we can look at

1 paragraph 3 of JJJ137, you indicate that at the conference  
2 Lieutenant Colonel Merafe raised certain concerns around  
3 particularly capacity, POP capacity in his area. Can you  
4 just take us through those concerns, please?

5 **COLONEL VERMAAK:** It is correct,  
6 Chairperson. Kolonel Merafe het spesifiek gekla oor dat hy  
7 'n tekort aan mannekrag het om al die insidente te hanteer  
8 wat in sy bedieningsarea plaasvind. Ons weet van  
9 Januariemaand af in 2012 was daar aaneenlopend by die  
10 Impala Plats Myne onluste gewees as gevolg van die onmin  
11 tussen die vermelde twee unies. Hy het verder vermeld dat  
12 daar opdrag gegee word dat sy lede ingedeel moet word by  
13 misdaadvoorkomingsgroepe wat dan die uitwerking is wanneer  
14 hy dan met so 'n situasie sit dan is van daardie lede af  
15 met rustyd of hulle het byvoorbeeld reeds 'n 12-ure skof  
16 gewerk en hulle het afgegaan. Dis moeilik om hulle dan in  
17 die hande te kry om behulpsaam te wees met hulle primêre  
18 taak.

19 **MS PILLAY:** And do you recall what the  
20 response of Brigadier Calitz was to the concerns that  
21 Merafe had raised?

22 **COLONEL VERMAAK:** Brigadier Calitz het  
23 gesê hy sal dit opneem met General Mpembe, wat die  
24 Provinsiale Hoof oor Operations is.

25 **MS PILLAY:** And are you aware of any

1 concrete steps that were taken in relation to the serious

2 concerns that were raised by Colonel Merafe?

3 **COLONEL VERMAAK:** Negative, Mr

4 Chairperson.

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 **COLONEL VERMAAK:** Mr Chairperson, 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 **COLONEL VERMAAK:** Mr Chairperson, no

25 glad nie. Ons het wel die Donderdag en die Vrydag en die

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 **COLONEL 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 **COLONEL 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

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 **COLONEL VERMAAK:** Mr Chairperson, 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 **COLONEL 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



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 **COLONEL 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 is correct, Chairperson. How

17 did you know what their belief was on the effect of the

18 "muti" on them?

19 **COLONEL 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

1 this is what they thought once they underwent these  
2 rituals?

3 **COLONEL 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 **COLONEL 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 **COLONEL 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

1 "muti" en die sangoma se ritueel.

2 **MS PILLAY:** But why would the police need

3 to prepare themselves to fight?

4 **COLONEL 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 **COLONEL VERMAAK:** The strikers, yes.

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 **COLONEL VERMAAK:** Dit is –

16 **CHAIRPERSON:** - they are the ones who are

17 making ready to fight. Is that –

18 **COLONEL VERMAAK:** It is correct.

19 **CHAIRPERSON:** Is that what you meant?

20 **COLONEL VERMAAK:** It is correct, yes.

21 **MS PILLAY:** Now can we turn to the next

22 message, and that is the one sent at 13:51. "AMCU en NUM

23 baklei teen makeer." What did you mean by that?

24 **COLONEL VERMAAK:** Dit is die terugvoering

25 wat ek van Sersant Venter-hulle af gekry het. Dit is wat

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 **COLONEL 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 **COLONEL 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

1 Marikana?

2 **COLONEL 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 **COLONEL 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

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 is two aspects to it.

4 The first is that you play the role of an eye-in-the-sky –

5 **COLONEL VERMAAK:** Dit is –

6 **MS PILLAY:** - where you give situational

7 reports. Am I correct?

8 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** It is correct.

14 **MS PILLAY:** Am I correct?

15 **COLONEL VERMAAK:** It is correct, Chairperson.

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 **COLONEL VERMAAK:** Gee vir my daardie –

20 kan u net vir my daardie verwysing gee op die lêer?

21 **MS PILLAY:** I am sorry, that is paragraph 6

22 of LLL8.

23 **COLONEL VERMAAK:** En op die "file"?

24 **MS PILLAY:** It is document 19.

25 **COLONEL VERMAAK:** Thank you.

1 **MS PILLAY:** I think we are 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 **COLONEL VERMAAK:** It is correct.

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 is

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] COLONEL VERMAAK:** Chairperson, die 12 -

16 no, yes, 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?

1 **COLONEL 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 **COLONEL 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 klagte ook in Marikana waar ons toe nou vasgestel  
25 het dat die mense wat daar vergader is mense wat by die



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 **COLONEL 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 **COLONEL 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 General 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 General is.

18 **MS PILLAY:** Now the JOC commander that

19 you refer to in paragraph 6, I think it is about line 8 on

20 page 2, is that Brigadier Seboloke?

21 **COLONEL VERMAAK:** It is correct.

22 **MS PILLAY:** You say the "OPS

23 bevelvoerder."

24 **COLONEL VERMAAK:** It is correct. Dis –

25 **MS PILLAY:** That is Brigadier Seboloke?

1 **COLONEL VERMAAK:** Dis waar – yes, 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 **COLONEL VERMAAK:** no, 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 Mpembe?

14 **COLONEL VERMAAK:** no, 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 Mpembe?

19 **COLONEL VERMAAK:** no, negatief,

20 Chairperson.

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 **COLONEL VERMAAK:** Toe ek na die JOC toe

25 gegaan het om terugvoering te gee nadat ons oor die groep

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 **COLONEL VERMAAK:** Mr Chairperson, 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 does not  
16 mention a specific time.

17 **COLONEL VERMAAK:** no, 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 **COLONEL 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

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 am sorry, maybe to  
8 answer the question of exactly what time you took off, we  
9 can look at your flight logs. That is 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:** Chairperson, it is OOO12.1.

13 **COLONEL VERMAAK:** Is it 23 on the file?

14 **MS PILLAY:** It is 23.1. The document is  
15 unfortunately not paginated, but I think if you look at  
16 page 5 -

17 **COLONEL VERMAAK:** It is correct.

18 **MS PILLAY:** - or page 6 of the document.

19 **COLONEL VERMAAK:** Yes.

20 **CHAIRPERSON:** Isn't the page number  
21 upside down at the bottom of these pages?

22 **MS PILLAY:** I am indebted to you, Chairperson,  
23 it is page 7, the -

24 **COLONEL VERMAAK:** The fax?

25 **MS PILLAY:** - facsimile page 7, yes. If

1 we can please put that document up. I am sorry, I just see

2 that the –

3 **CHAIRPERSON:** That is right, the –

4 **MS PILLAY:** - the technician does not 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 is actually the 13th of

10 August. 12 is the year, Chairperson.

11 **CHAIRPERSON:** I am sorry, yes. So it is

12 the 13th you are busy with.

13 **MS PILLAY:** Chairperson, 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 **COLONEL 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 **COLONEL VERMAAK:** Mr Chairperson, 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

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.

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 –

13 MS BARNES: Chairperson, I am sorry to  
14 interrupt. Is this document being put on the screen?  
15 Because most of us do not have the document.

16 **CHAIRPERSON:** I understood that copies  
17 were going to be given to the operator.

18 MS BARNES: It is very difficult to  
19 follow; we do not have the document.

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 have not got the document need  
23 to know that there is 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

1 I am 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 –

8 **COLONEL VERMAAK:** It is correct, Chairperson.

9 **MS PILLAY:** Chairperson, I apologise to my  
10 colleagues. We are trying to get the document –

11 **CHAIRPERSON:** Yes, yes, I understand  
12 you are trying to give it to the operator. It hasn't come  
13 on the screen yet, so I am trying to help Ms Barnes to  
14 follow in the meanwhile. I think she follows.

15 MS BARNES: Thank you, Chairperson.

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?

20 **COLONEL VERMAAK:** Die eerste landing was  
21 gewees direk na die insident waar die polisie aangeval was  
22 toe –

23 **MS PILLAY:** That was at the scene of the  
24 13th?

25 **COLONEL VERMAAK:** It is correct. Hy, so die

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.

4 **MS PILLAY:** And that explains the second

5 landing at the hospital.

6 **COLONEL VERMAAK:** Dis die volgende

7 landing, en hy het toe teruggekom na die toneel toe waar hy

8 afgeskakel het; dis die derde landing.

9 **MS PILLAY:** Okay, so we see there that

10 the take-off time was 14:10. Does that accord with your

11 recollection –

12 **COLONEL VERMAAK:** Yes.

13 **MS PILLAY:** - that you left the JOC at

14 14:10?

15 **COLONEL VERMAAK:** Dis in daardie

16 omgewing, yes. Dalk 'n twee minute vroeër.

17 **CHAIRPERSON:** I am sorry to interrupt you,

18 but what exactly happened at 13 – it looks as if it is 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 –

21 **COLONEL VERMAAK:** It is correct.

22 **CHAIRPERSON:** - to 13:55, which is

23 described as, the route and details are Marikana Wonderkop.

24 Then there is another flight 15 minutes later, 14:10 to

25 14:40, and the route and details are also given as Marikana



1 Wonderkop. Now we do know that at some stage you landed

2 and then you went up again. Is that right?

3 **COLONEL VERMAAK:** It is correct, Chairperson.

4 **CHAIRPERSON:** Now the flight where the

5 take-off time was 13:25 –

6 **COLONEL VERMAAK:** It is correct.

7 **CHAIRPERSON:** - what flight was that?

8 **COLONEL 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, Chairperson, is my lelike handskrif wat nie mooi

12 uitgekom het nie en toe het ek hom net duidelik gemaak.

13 **CHAIRPERSON:** I was interested in that,

14 because the arithmetic was correct, which is something one

15 cannot say in respect of the next entry. Now we have got it

16 sideways but – yes, now we have got it clearly.

17 **MS PILLAY:** So we know, Colonel, that you

18 took off from the JOC at round about 14:10

19 **COLONEL VERMAAK:** It is correct.

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?

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

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.

1 That is 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 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

22 **MS PILLAY:** Can you just point out to us,

23 Colonel, the direction in which the strikers were walking?

24 **COLONEL VERMAAK:** Chairperson, as ons daar

25 op die W vat.

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 am 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 **COLONEL VERMAAK:** It is correct.

10 **CHAIRPERSON:** At the foot of photograph.

11 **COLONEL VERMAAK:** It is correct.

12 **CHAIRPERSON:** And you then indicated that  
13 they moved in the direction of CAS115/08/2012, correct?

14 **COLONEL VERMAAK:** It is correct.

15 **MS PILLAY:** Chairperson, what we have done is  
16 that we have 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 is correct, it is B3.

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 **COLONEL VERMAAK:** It is correct,  
11 Chairperson.

12 **CHAIRPERSON:** When you reach a suitable  
13 stage, we must take the tea adjournment, would you let me  
14 know?

15 **MS PILLAY:** Chairperson, 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 is 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 is correct.

1 **MS PILLAY:** Now where, along the arrow,  
2 were the strikers immediately before the incident occurred?

3 **COLONEL 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 **COLONEL 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 **COLONEL 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 **COLONEL 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.

1 **MS PILLAY:** And when did things change?

2 **COLONEL VERMAAK:** Terwyl ons gevlieg het,

3 het ons opgemerk dat traanrook en 'n skokgranaat afgegaan

4 het aan die – as ons kyk na daardie foto dan sou dit –

5 **MS PILLAY:** OOO13 please, OOO13. Before

6 that can you just help us with something on exhibit OOO13 –

7 **CHAIRPERSON:** 13?

8 **MS PILLAY:** 13. Where was the railway

9 line there? Chairperson, I would imagine it is on the right-hand

10 side of the picture.

11 **CHAIRPERSON:** Yes, I think that is right

12 because W of course is the point of the compass, is west,

13 and we can see the S of south and as far as I can remember

14 the railway line was from west, was running from west to

15 east. So therefore it will be to the right of the

16 photograph, running up from the foot of the page to the top

17 of the page I would think. Is that right?

18 **MS PILLAY:** That is my understanding,

19 Chairperson.

20 **CHAIRPERSON:** Mr Wesley –

21 MR WESLEY: Chairperson, yes, that is correct.

22 The railway line is situated, if one has regard to the

23 photograph, it is to the right-hand side of the photograph.

24 I cannot estimate the distance but it is off the photograph

25 and it'll be running approximately east to west, which is

1 approximately from the top of the photograph downwards.

2 **CHAIRPERSON:** Or in the other direction –

3 MR WESLEY: Or in the other direction,

4 depending which way one is facing, of course.

5 **MS PILLAY:** Thank you, Colonel, you were

6 answering when things changed, what did you see before the

7 actual incident itself?

8 **COLONEL VERMAAK:** Before the actual

9 incident the people were walking, the police line formed at

10 the back of them, vehicles were travelling on the gravel

11 road. En dit was toe waar die traanrook en die skokgranate

12 afgegaan het. As ons kyk na die foto dan sal dit in 'n

13 suidelike rigting wees, basies – ek wil amper sê aan die

14 onderkant van die foto in daardie hoek, in daardie

15 omgewing.

16 **MS PILLAY:** Alright, now before the

17 teargas and stun grenades were used, did you hear any

18 command or instruction over the radio?

19 **COLONEL VERMAAK:** no, ons het niks op

20 die radio gehoor nie.

21 **MS PILLAY:** And what happened then? You

22 see the teargas and stun grenades used, what happened next?

23 **COLONEL VERMAAK:** Direk nadat – wel, ek

24 en kaptein Loest en kaptein Oosthuizen het omtrent

25 gelyktydig opgemerk, die traanrook en die skokgranaat wat

1 afgaan. Ons was redelik verbaas gewees dat dit gegooi was,  
2 aangesien volgens ons uit die lug uit het die mense rustig  
3 aangeloop.

4 **CHAIRPERSON:** Sorry to interrupt you.

5 People, the operator and others talking in the far corner  
6 of the chamber and it is very disturbing. I am afraid if  
7 they want to have a conversation they must have it outside  
8 because it is difficult to concentrate on the evidence while  
9 that conversation is taking place. Please proceed,  
10 Lieutenant-Colonel.

11 **MS PILLAY:** Colonel, you were, your  
12 testimony was that you were surprised because the teargas  
13 and stun grenade were used.

14 **COLONEL VERMAAK:** It is correct,  
15 Chairperson.

16 **MS PILLAY:** And why were you surprised?

17 **COLONEL VERMAAK:** Omdat volgens wat ons  
18 waargeneem het uit die lug uit op daardie stadium geen rede  
19 was wat ons kon gesê het dit is wat ons sien uit die lug en  
20 dit is waarom die traanrook en die skokgranaat gegooi was.

21 **MS PILLAY:** Now, prior to the use of  
22 teargas or stun grenade, was there any change in the  
23 movement or the direction of the strikers?

24 **COLONEL VERMAAK:** no, glad nie. Hulle  
25 het almal in dieselfde rigting in geloop.



1 **MS PILLAY:** And immediately after the  
2 teargas and the stun grenades were used, what else did you  
3 see?  
4 **COLONEL VERMAAK:** Die optogangers het  
5 onmiddellik omgedraai en op die polisiemanne afgestorm.  
6 Ons was in the helikopter redelik verbaas om te sien dat op  
7 daardie stadium het van die polisiemanne weggehardloop van  
8 die optogangers af. Alhoewel daar toe traanrook gegooi  
9 was, het ons eers gesien dat die polisiebeamptes  
10 weggehardloop en toe is waar ons waargeneem het van die  
11 polisiemanne wat aangeval was. Kaptein Oosthuizen het my  
12 aandag gevestig op twee voorvalle wat ons gesien het uit  
13 die lug uit waar die groepe die polisiemanne aangeval het.  
14 Kaptein Oosthuizen het laag met die helikopter probeer  
15 inkom om te kyk of hy op so 'n manier dalk die aanvallers  
16 kan wegkry van die polisiemanne af. Myself en kaptein  
17 Loest het toe uit die helikopter uit skokgranate en  
18 traanrookgranate tussen die groepe waar die polisiemanne  
19 aangeval was, gegooi, in 'n poging om te kyk of ons nie  
20 hulle lewens kon red nie. Ons kon ook uit die helikopter  
21 uit, kon ons nie met enige lewendige ammunisie skiet nie  
22 want dit is 'n baie groot risiko om dan uit 'n helikopter  
23 uit te skiet. Daar is 'n hele paar aspekte wat jy in  
24 aanmerking moet neem maar die kans is ook dat jy jou eie  
25 mense dan kan raakskiet sou jy dit waag om uit die

1 helikopter uit te probeer skiet het.

2 **MS PILLAY:** Now can I just take you

3 slightly back, Colonel, and refer you to paragraph 7 of

4 LLL8? Chairperson, I am advised that there is another problem, a

5 further problem with the translation machinery so I think

6 we may need a five minute adjournment.

7 **CHAIRPERSON:** It is becoming habit-forming

8 but I suppose we must do our best to ensure that we make as

9 much progress as we can. We will take a five minute

10 adjournment. Let's hope that the success that was

11 experiencing previously in getting the machine to work will

12 be repeated.

13 **MS PILLAY:** Chairperson, we were just informed

14 that I think everything is now okay.

15 **CHAIRPERSON:** You or I must have said the

16 right thing, probably you. Carry on.

17 **MS PILLAY:** Thank you, Chairperson. Colonel, I

18 was referring you to paragraph 7 on page 2 of LLL8 and

19 specifically where you say from line 2 onwards, "Kaptein

20 Oosthuizen het my aandag gevestig op 'n punt waar die groep

21 besig was om 'n polisieman aan te val. Sy kollegas het van

22 hom af weggehardloop en was dit vir ons in die helikopter

23 'n baie vreemde reaksie van die SAPD lede aangesien hulle

24 kon sien dat hulle kollega doodgemaak gaan word." Can you

25 just explain to us what it is that you observed –

1 **CHAIRPERSON:** Shall I translate that?

2 Captain Oosthuizen drew my attention to a point where the  
3 group was busy attacking a policeman. His colleagues ran  
4 away from him and it was, for us in the helicopter it was a  
5 very strange reaction from the SAPS members in view of the  
6 fact that they could see that their colleague was going to  
7 be killed. I and – I cannot remember, how far did you go?

8 **MS PILLAY:** That is fine thank you, Chairperson.

9 **CHAIRPERSON:** That is where you got to,  
10 alright.

11 **MS PILLAY:** Colonel, can I just ask you  
12 to explain what it is that you mean in these two sentences?

13 **COLONEL VERMAAK:** Mr Chairperson,  
14 normaalweg sou jou polisiemanne bymekaar staan en dit kom  
15 weer terug na my vorige briewe wat ek geskryf het, wat ek  
16 gesê het partykeer is die polisiemanne wat aangewend word  
17 vir openbare orde nie altyd korrek aangetrek en bewapen  
18 nie.

19 **MS PILLAY:** But what you say here,  
20 Colonel, is that you witnessed police members running away  
21 from the attack while their colleagues were being killed.

22 **COLONEL VERMAAK:** Yes, it is correct.

23 Hulle het weggehardloop. Daar was van hulle wat naby dit  
24 was, het van ons oogpunt van die helikopter af, was daar  
25 nie `n optrede gewees om die polisiemanne te probeer help

1 nie, maar dit is wat ons uit die helikopter uit waargeneem  
2 het en dit was vir ons nogal redelik skokkend gewees om dit  
3 te ervaar in die helikopter.

4 **CHAIRPERSON:** But you referred to your  
5 earlier letters where you had spoken about members of the  
6 service who were involved in POP operations who weren't  
7 properly, I think you used the word "aangetrek," they  
8 weren't properly dressed. In other words, they didn't have  
9 proper clothing, protective clothing I take it you meant.

10 **COLONEL VERMAAK:** It is correct.

11 **CHAIRPERSON:** Now, how do you relate what  
12 you've now told us about what you saw to what you had said  
13 previously in the letters to which you referred?

14 **COLONEL VERMAAK:** Chairperson, in die  
15 eerste plek wat die spesifieke gebeure, het ons nie  
16 waargeneem dat daar traanrook geskiet was wat die eerste  
17 ding sou wees om jou mense te beskerm nie. Die tweede ding  
18 was, ons het waargeneem dat weinig van die polisiemanne wat  
19 daar was die onlustehelms op hulle koppe gehad het en dan  
20 het ons ook opgemerk dat daar ook nie polisiemanne was wat  
21 regtig, soos ons dit noem die lang wapens, jou haelgewere,  
22 by hulle gehad het nie.

23 **CHAIRPERSON:** I am not sure if I  
24 understood you completely. Are you saying that members  
25 should've been equipped with gas masks against, to use when

1 teargas was being employed?

2 **COLONEL VERMAAK:** Dis reg –

3 **CHAIRPERSON:** And did you see no gas

4 masks at all?

5 **COLONEL VERMAAK:** Negative, Mr

6 Chairperson. Ons het opgemerk dat die polisiemanne het nie

7 gasmaskers opgehad nie.

8 **CHAIRPERSON:** Then you said they didn't

9 have – you were referring to the helmets, as sort of part

10 of the riot gear –

11 **COLONEL VERMAAK:** Dis deel van die riot

12 gear.

13 **CHAIRPERSON:** Special helmets.

14 **COLONEL VERMAAK:** It is correct.

15 **CHAIRPERSON:** And they didn't have those

16 either?

17 **COLONEL VERMAAK:** It is correct.

18 **CHAIRPERSON:** Did none of them have them?

19 **COLONEL VERMAAK:** As daar was, was dit

20 enkelinge gewees maar die groot meerderheid het nie gehad

21 nie.

22 **CHAIRPERSON:** And then you said that no-

23 one had, no-one appeared to be armed with a shotgun, is

24 that –

25 **COLONEL VERMAAK:** It is correct.

1 **CHAIRPERSON:** Yes, thank you.

2 **MS PILLAY:** Colonel, the members who ran  
3 away from the attack, were they subsequently identified?

4 **COLONEL VERMAAK:** no, negatief.

5 **MS PILLAY:** And are you aware of any  
6 investigation into their conduct?

7 **COLONEL VERMAAK:** no.

8 **MS PILLAY:** And were you ever asked for  
9 any statement pertaining to the deaths of the two  
10 policemen?

11 **COLONEL 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 borgaansoek.

18 **MS PILLAY:** Can we look at that statement  
19 now, Colonel, that is OOO8 and document 12 in your document  
20 bundle.

21 **COLONEL VERMAAK:** I have it.

22 **MS PILLAY:** Is this the statement that  
23 you are referring to?

24 **COLONEL VERMAAK:** It is correct, yes.

25 **MS PILLAY:** Now, you say that Brigadier

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 **COLONEL 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 **COLONEL VERMAAK:** By die JOC.

11 **MS PILLAY:** You were at the JOC, so you  
12 had landed and you were at the JOC.

13 **COLONEL VERMAAK:** It is correct.

14 **MS PILLAY:** And did you write the  
15 statement yourself?

16 **COLONEL VERMAAK:** It is correct.

17 **MS PILLAY:** Okay, now if we look at the  
18 statement you will see that, to a large extent, there is 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 **COLONEL VERMAAK:** It is correct, Chairperson.

23 Ten tye van die diens te Marikana was ek ook boordbemanning  
24 op Robinson R44 as gevolg van my boordbemannings wat siek  
25 was - adjudant-offisier Kleynhans het 'n hartaanval gehad,

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 is no mention made of the use of teargas or stun  
10 grenades which precipitated the conduct of the strikers -

11 **COLONEL VERMAAK:** It is correct -

12 **MS PILLAY:** - why?

13 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

24 **CHAIRPERSON:** - and so on.

25 **COLONEL VERMAAK:** It is correct.



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] COLONEL 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 is the lower  
13 portion of the photograph probably about a third of the way  
14 up and it is a gravel road. There is a vehicle on the  
15 photograph –

16 **COLONEL VERMAAK:** It is correct.

17 **CHAIRPERSON:** It is very close to the  
18 letter N.

19 **COLONEL VERMAAK:** It is correct.

20 **CHAIRPERSON:** Indicating the north, so  
21 that is the gravel road that they crossed.

22 **COLONEL VERMAAK:** It is correct, Chairperson.

23 **MS PILLAY:** And just –

24 **CHAIRPERSON:** In the direction of the  
25 river there, I take it? I see there is a river there right

1 near the –

2 **COLONEL VERMAAK:** Na die oostekant toe,

3 yes.

4 **CHAIRPERSON:** - the head of the arrow.

5 **COLONEL VERMAAK:** It is correct.

6 **CHAIRPERSON:** On the eastern side.

7 **COLONEL VERMAAK:** It is correct, yes.

8 **MS PILLAY:** Now what else did you see

9 from the helicopter at this stage?

10 **COLONEL VERMAAK:** Toe ons op final

11 approach gaan om te gaan land, het ek opgemerk dat 'n

12 persoon in 'n wit oorpak deur van die ander optoggers

13 soort van gesleep-dra word, waar hulle in die rigting van

14 dan die pyl se punt beweeg het. Ons het dadelik geland.

15 Ek het onmiddellik na die toneel toe gehardloop, wat ek

16 agterna dan nou besef of gesien het dat dit adjudant-

17 offisier Monene was.

18 **MS PILLAY:** Colonel, before we get to

19 what you saw once you landed, just from the air, apart from

20 the injured person is there anything else that you saw?

21 **COLONEL VERMAAK:** no, hoofsaaklik was

22 dit maar die mense wat toe weggehardloop het van die toneel

23 af weg, waar ons gekonsentreer het op die twee polisiemanne

24 wat aangeval was.

25 **MS PILLAY:** Alright, so once you landed

1 you said that you went to where Warrant Officer Monene was.

2 **COLONEL VERMAAK:** It is correct.

3 **MS PILLAY:** And what did you see?

4 **COLONEL VERMAAK:** Ek het dadelik opgemerk

5 dat hy noodlottige wonde opgedoen het. General Mpembe het

6 daar aangekom, hy was in 'n staat van skok gewees. Dit was

7 vir my op daardie stadium baie duidelik dat hy soort van

8 beheer verloor het oor die lede want as gevolg van die feit

9 dat al die lede het rond gestaan, jy kon dadelik waarneem

10 daar's geen definitiewe persoon wat bevel en beheer vat oor

11 hierdie lede nie want General Mpembe het na my toe

12 gehardloop en vir my gesê sy polisiemanne is dood, sy

13 polisiemanne is dood, en ek het hom toe probeer kalmeer.

14 Ek het vir kaptein Loest gevra hy moet vir my polisiemanne

15 kry wat saam met my kan gaan daar waar ek gesien het dat

16 die persone die persoon met die wit oorpak gesleep het.

17 **MS PILLAY:** So who did you, which members

18 did you gather to accompany you?

19 **COLONEL VERMAAK:** Ek ken hulle glad nie,

20 omdat ek nie elke dag saam met die verskillende takke werk

21 nie weet ek net dit was TRT en van POP van Rustenburg wat

22 daar was.

23 **MS PILLAY:** Were there any NIU members

24 that accompanied you?

25 **COLONEL VERMAAK:** no, glad nie. Dit was

1 net daardie lede.

2 **MS PILLAY:** And you are saying that you

3 didn't know who these members were?

4 **COLONEL VERMAAK:** no, ek het nie geweet

5 wie hulle is nie.

6 **MS PILLAY:** Now once you had gathered

7 these members of Rustenburg POP and TRT members, what

8 happened next?

9 **COLONEL VERMAAK:** Ons het die groep

10 agtervolg. Hulle het verder weggehardloop deur die spruit

11 wat 'n laagte vorm. As jy deur die spruit gaan op die

12 regterkant van die informele nedersetting het ons toe

13 opgemerk dat daar – Mr Chairperson, daar is iets wat ek

14 vergeet het om te noem. Toe ons gevlieg het, het ons

15 persone opgemerk met haelgewere en 'n R5 wat vermoedelik

16 van die polisiemanne af weggevat was.

17 **MS PILLAY:** Can you just tell us exactly

18 what did you see? How many people were involved and what

19 is it that they had?

20 **COLONEL VERMAAK:** Hulle was in die groep

21 gewees, dis deel van 'n groep maar hulle was nie baie naby

22 aan mekaar nie, hulle was redelik verspreid gewees toe ons

23 dit opgemerk het. Hulle was in die groep basies wat ons

24 gesien het waar die persoon met die wit oorpak na toe, waar

25 hulle hom gesleep het.

1 **MS PILLAY:** And at the time that you saw  
2 this, you were still in the air, this was before you had  
3 landed?

4 **COLONEL VERMAAK:** It is correct, yes. Ons  
5 was nog steeds in die lug. Om terug te kom na die  
6 opvolgoperasie, toe ons nader aan die spruit kom was daar  
7 van die oorkant af, was daar op ons geskiet met 'n  
8 haelgeweer en 'n R5. Die lede of 'n lid wat saam met my  
9 was het die vuur beantwoord, maar die groep het tussen die  
10 huise verdwyn. Ons is toe deur die spruit en toe ons deur  
11 die spruit is dat ons weer op gelyk grond kom het ons  
12 opgemerk dat daar 'n wit – ag, 'n persoon in 'n wit oorpak  
13 op die grond lê.

14 **MS PILLAY:** Colonel, before we just break  
15 down the testimony that you just gave us now, if I can ask  
16 that we put up the transcript for day 103. I just want to  
17 refer you to General Mpmembe's testimony, page 11093 from  
18 line 13 onwards where he says, "Chairperson, the emotions  
19 were extremely high but as a senior officer at the scene, I  
20 did take control, cool up the members and I said that the  
21 members should not follow the protesters because by that  
22 time I could see that there is no more any attack and I  
23 said that we should withdraw and we go back at the JOC."  
24 Now this was General Mpmembe's testimony on what occurred  
25 immediately after the attack on Warrant Officer Monene and

1 Lepaaku.

2 **COLONEL VERMAAK:** Yes. Mnr die

3 Chairperson, ek stem nie daarmee saam nie. General Mpembe

4 was, heeltemal geskokte toestand gewees. Soos ek reeds

5 vermeld het, het hy tussen die lede rondgehardloop en net

6 die heelyd gesê sy polisiemanne is dood, sy polisiemanne

7 is dood. Ek het na hom toe gegaan en vir hom gesê ek gaan

8 die groep wat die persoon in die wit oorpak sleep, gaan ek

9 met 'n groep polisiemanne volg want ek sou daardie toneel

10 ook beskerm, as deel gesien het as 'n misdaadtoneel, maar

11 weens die feit dat hy in so geskokte toestand was, het ek

12 kaptein Loest gevra om vir my die polisiemanne bymekaar te

13 maak en ons het toe die groep geagtervolg. Ek het kaptein

14 Loest gelos agter by die toneel. Hy het intussen die lede

15 bymekaar gemaak sover as wat hy kon.

16 **MS PILLAY:** Did General Mpembe issue an

17 instruction that members should not follow the protesters?

18 **COLONEL VERMAAK:** no, ek is nie bewus

19 van dit nie.

20 **MS PILLAY:** Alright, Colonel, if we can –

21 **CHAIRPERSON:** I am sorry to interrupt you.

22 Is it possible that he gave such an order before you landed

23 and came there?

24 **COLONEL VERMAAK:** Mr Chairperson, dis

25 moontlik –

1 **CHAIRPERSON:** I understand –

2 **COLONEL VERMAAK:** - dat hy dit kon gegee

3 het. Ons het nie op die radio enige sodanige instruksie

4 gehoor nie. Dat hy dit miskien verbaal aan lede rondom hom

5 waar hy op die grond was kon gegee het, dit is `n

6 moontlikheid.

7 **CHAIRPERSON:** Because you see in the next

8 paragraph, the next section of this transcript that is on

9 the screen at the moment, he refers to your telling him,

10 approaching him and telling him his life is in danger and I

11 understand from what you are going to tell us now, which I

12 think I understand from the statement that is before us,

13 that you only said that to him when you came back from the

14 spruit, the river.

15 **COLONEL VERMAAK:** It is correct, Chairperson.

16 **CHAIRPERSON:** So there is a gap here.

17 **COLONEL VERMAAK:** It is correct.

18 **CHAIRPERSON:** And it may well be that

19 what he's telling us from a chronological point of view,

20 it is a bit disjointed. So it is possible he gave that

21 order before you arrived on the scene.

22 **COLONEL VERMAAK:** Dis moontlik.

23 **CHAIRPERSON:** Of course we are going – and

24 what he talks about in lines 19 and following is what,

25 namely that you told him his life was in danger, that took

1 place sometime later after you'd been to the river and come  
2 back.

3 **COLONEL VERMAAK:** It is correct, Chairperson.

4 **MS PILLAY:** Colonel, may we pick up then  
5 from where you testified that the strikers were shooting at  
6 you and the group that you were part of?

7 **COLONEL VERMAAK:** Toe die lid saam met my  
8 teruggeskiet het op die persoon wat ons gesien het wat na  
9 ons toe skiet, het daardie persoon en die ander deur die  
10 gebied beweeg tussen die huise in.

11 **MS PILLAY:** Colonel, may I ask that we  
12 put up OOO6, exhibit OOO6? So will you confirm that this  
13 is a photograph, an annotated photograph that was prepared  
14 by you?

15 **COLONEL VERMAAK:** It is correct, Chairperson.

16 **MS PILLAY:** And the portion of the  
17 photograph towards the dead centre of the photograph where  
18 it is written "Body" is where we later find Mr Sokanyile's  
19 body?

20 **COLONEL VERMAAK:** It is correct.

21 **MS PILLAY:** Okay, so can you just explain  
22 with reference to this photograph where you were and where  
23 the persons who were shooting at you were?

24 **COLONEL VERMAAK:** As ons op die foto kyk,  
25 daar waar ek nou lig is dit min of meer die omgewing waar



1 die persone was of persoon was wat na ons toe geskiet het.

2 Ons was –

3 **MS PILLAY:** Can I just for the purposes

4 of the record, you are pointing now to the end of the arrow

5 which appears –

6 **COLONEL VERMAAK:** It is correct, na die

7 einde van die punt toe. Hier aan die begin, daar waar

8 staan SAPS members, dit is min of meer waar ons op daardie

9 stadium was.

10 **MS PILLAY:** And as I understand your

11 testimony, you were shooting in the direction of the arrow.

12 **COLONEL VERMAAK:** It is correct.

13 **MS PILLAY:** Did any, did you or anyone of

14 the members who were with you shoot in any other direction

15 in that area?

16 **COLONEL VERMAAK:** no, glad nie. Hoekom

17 ek dit kan sê is, ek het seker gemaak toe die

18 polisiebeampte wat saam met my geskiet het, dat hy in 'n

19 rigting skiet waar daar nie huise is nie. So ons het glad

20 nie in 'n ander rigting geskiet nie weens die feit dat daar

21 huise aan die agterkant was.

22 **MS PILLAY:** Alright, so after you shot in

23 the direction of the shottist, what happened next?

24 **COLONEL VERMAAK:** Ons het toe deur die

25 spuitjie beweeg en toe het ons die liggaam met die wit

1 oorpak, het ons toe daar by daardie punt gekry.

2 **MS PILLAY:** Now before you had crossed

3 the stream, did you see anything, did you see the body of

4 Mr Sokanyile?

5 **COLONEL VERMAAK:** no, glad nie.

6 **MS PILLAY:** And when was the first time

7 when you saw the body?

8 **COLONEL VERMAAK:** Toe ons deur die stroom

9 op die hoogtetjie kom, toe sien ons sy liggaam daar lê.

10 **MS PILLAY:** And so what happened next?

11 **CHAIRPERSON:** Before you move on, sorry

12 to interrupt. From the time when, as you put it, the

13 members who were with you returned the fire, from that time

14 till the time you found the body, how, what was lapse in

15 time?

16 **COLONEL VERMAAK:** Mr Chairperson, dit

17 was minute gewees want ons het vinnig beweeg.

18 **CHAIRPERSON:** I assume it was minutes,

19 but how many minutes roughly?

20 **COLONEL VERMAAK:** Omtrent twee, drie

21 minute op die uiterste.

22 **CHAIRPERSON:** I see, thank you.

23 **MS PILLAY:** And once you had come across

24 the body of Mr Sokanyile, what happened next?

25 **COLONEL VERMAAK:** Ek het onmiddellik van

1 die lede daar geplaas om vir my daardie toneel te bewaar.

2 Aanvanklik wou van hulle deur die huise gaan en 'n

3 opvolgoperasie loods, ek het dit gestop want ek was bang

4 dat ons in 'n hinderlaag gelei kan word as ons tussen die

5 huise inbeweeg. Nadat ek die groepie daar gelos het, wou

6 ek terug, het ons terugbeweeg met die doel om 'n

7 pantservoertuig te kry om dan uit te stuur na die

8 polisiemanne toe om dan daardie toneel vir ons te bewaar.

9 Ek en 'n paar van die lede het terugbeweeg, ek dink dit was

10 so vier lede gewees wat terugbeweeg het en hulle was baie

11 ontsteld gewees.

12 **MS PILLAY:** Before we deal with that,

13 Colonel, the four members that were with you, can you –

14 were you able to identify the four members?

15 **COLONEL VERMAAK:** no, ek ken hulle glad

16 nie. Ek ken hulle glad nie en ek het op daardie stadium

17 ook nie enigsins ag geslaan op hulle naamplaatjies nie want

18 dit was, dit was 'n aaneenlopende ding en mens het te doene

19 hier met polisiemanne wat dood is jy het te doene met 'n

20 persoon wat aan die anderkant van die spruit lê wat dood

21 is, so ek het nie eers ag geslaan op hulle naamplaatjies

22 nie.

23 **MS PILLAY:** Alright, so as you and the

24 four other members walked back towards the initial scene of

25 the 13th, what happened?

1 **COLONEL VERMAAK:** Toe ons terug loop het  
2 ek hulle gevra van watter eenheid af hulle is, hulle het  
3 vir my gesê dat hulle van Rustenburg TRT is. Soos ek gesê  
4 het, was hulle baie ontsteld gewees. Hulle het toe 'n  
5 opmerking teenoor my gemaak waarin hulle gesê het hulle  
6 neem General Mpembe kwalik dat die polisiemanne dood is en  
7 dat hy nog vandag langs daai polisiemanne op die grond gaan  
8 lê.

9 **MS PILLAY:** Can I just ask, Colonel, the  
10 members that were with you, the TRT members that were with  
11 you, were they armed?

12 **COLONEL VERMAAK:** Yes, it is correct.

13 **MS PILLAY:** And what weapons did they  
14 carry?

15 **COLONEL VERMAAK:** R5 en 9 millimeter  
16 pistole.

17 **MS PILLAY:** And at the point where the  
18 members were firing at the shottist, what weapons were they  
19 using?

20 **COLONEL VERMAAK:** R5.

21 **MS PILLAY:** Alright and when you heard  
22 the TRT members saying that General Mpembe would lie with  
23 the deceased policeman, did you take the threat seriously?

24 **COLONEL VERMAAK:** Ek het dit baie ernstig  
25 opgeneem want hulle het gesê dat General Mpembe by die

1 treinspoor hulle opdrag gegee ht om hulle wapens, hulle  
2 langwapens, dis nou die haelgewere en die R5'e, te gaan  
3 bêre in die Nyalas, soos hulle dit gestel het, sodat hulle  
4 nie die optoggers kan provoke nie daar waar hulle by die  
5 spoor was. So dit was vir my 'n baie ernstige aantyging of  
6 opmerking gewees. Ek het 'n entjie van hulle af wegbeweeg  
7 en ek het dadelik die Provinsiale Kommissaris geskakel. Ek  
8 het ook net nadat ons geland het omtrent nadat ek by A/O  
9 Monene was, het ek ook die Provinsiale Kommissaris geskakel  
10 en aan haar meegedeel, ek het die woord gebruik, "chaos"  
11 was. Ek het vir haar gesê hier is chaos en hier is twee  
12 polisiemanne dood.

13 [12:20] Ons het gesukkel met die selfoon opvangs, maar ek  
14 het haar gevra waar sy is en sy het vir my gesê hulle ry  
15 nou net by Potch in, maar hulle draai onmiddellik weer om.

16 Toe ons terugstap –

17 **MS PILLAY:** Colonel, if I can just

18 interrupt you there and take you to exhibit 0009, which is

19 – and that is document 14 in your bundle –

20 **COLONEL VERMAAK:** I have it.

21 **MS PILLAY:** Now you will confirm, Colonel,

22 that this is your telephone records?

23 **COLONEL VERMAAK:** It is correct.

24 **MS PILLAY:** If you can go to page 3 of

25 that document, towards the middle of the page – can I just

1 ask you the inscriptions that appear on, the handwritten

2 notes on the side, whose notes are those?

3 **COLONEL 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 **COLONEL VERMAAK:** Yes?

7 **MS PILLAY:** We see that the first call is

8 on the 13th at 14:34. Do you see that?

9 **COLONEL VERMAAK:** It is correct.

10 **MS PILLAY:** And that conversation lasted

11 for a minute and 11 seconds.

12 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

18 **MS PILLAY:** - shortly after you landed.

19 **COLONEL VERMAAK:** It is correct.

20 **MS PILLAY:** Alright, and then we have a

21 second conversation that took place at 14:44 for 51

22 seconds.

23 **COLONEL VERMAAK:** Dit is ongeveer die tyd

24 wat ons teruggekome het – no, nou net sien. Die eerste een

25 is 14:34 en volgende een 14:44, dit is die tyd wat ons

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 **COLONEL VERMAAK:** It is correct.

5 **MS PILLAY:** And they had indicated to you  
6 that they were making certain threats against General  
7 Mpembe.

8 **COLONEL VERMAAK:** It is correct.

9 **MS PILLAY:** So what transpired during  
10 that telephone call with the Provincial Commissioner?

11 **COLONEL 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 General en  
14 het ek haar gevra of dit haar goedkeuring wegdra as ek die  
15 General 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 **COLONEL VERMAAK:** Verseker, yes.

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.

1 **COLONEL 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 General 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 **COLONEL VERMAAK:** Yes, sy het gesê dis, sy  
10 gaan akkoord.

11 **CHAIRPERSON:** I am 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 is the one for a minute and 11 seconds. That is where  
15 you told her two policemen had been killed.

16 **COLONEL VERMAAK:** It is correct.

17 **CHAIRPERSON:** Then 10 minutes later you  
18 had a conversation with her for 51 seconds.

19 **COLONEL VERMAAK:** It is correct.

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 –



1 **COLONEL VERMAAK:** It is correct.

2 **CHAIRPERSON:** - after the initial one

3 where you reported the death of the two policemen.

4 **COLONEL VERMAAK:** It is correct.

5 **CHAIRPERSON:** Now was that due to faulty

6 connection with the –

7 **COLONEL VERMAAK:** It is correct, Chairperson.

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 **COLONEL 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 General weg te

18 vat. Ek het na, eers na hom toe gestap. I have it

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?

1 **COLONEL 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 is correct, Chairperson.

13 **CHAIRPERSON:** Do we have the right page  
14 now? You say 11093?

15 **MS PILLAY:** Yes, I think if we go down to  
16 line 19, yes, where General Mpembe 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, 'General 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 **COLONEL VERMAAK:** no, hy het dit nie vir  
25 my gesê nie. Hy het onmiddellik saam met my beweeg.

1 **MS PILLAY:** Alright, so once General  
2 Mpmembe was removed from the scene, what happened next?  
3 **COLONEL 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 **COLONEL VERMAAK:** It is correct. Ek het  
24 foto's van hom geneem.

25 **MS PILLAY:** Chairperson, may I just hand up an

1 exhibit, a new exhibit, which is one of the pictures –

2 before we put it up on the screen, Chairperson, 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 Chairperson.

9 **CHAIRPERSON:** Yes, we are 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 are 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:** Chairperson, 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

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 have seen

10 people leaving. If there is 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, Chairperson, 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 **COLONEL VERMAAK:** Dis reg, Mr

22 Chairperson.

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, Chairperson. Colonel,

- 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 **COLONEL VERMAAK:** It is correct, Chairperson.
- 5 **MS PILLAY:** And this is the same position  
6 in which you found him when you came back to the scene?
- 7 **COLONEL VERMAAK:** It is correct.
- 8 **MS PILLAY:** And that is the point at which  
9 you took this photograph?
- 10 **COLONEL VERMAAK:** It is correct, Chairperson.
- 11 **MS PILLAY:** And who did you hand the  
12 scene over to?
- 13 **COLONEL VERMAAK:** Die spesifieke een –
- 14 **MS PILLAY:** That is right –
- 15 **COLONEL 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 **COLONEL VERMAAK:** Yes, it is correct. 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

1 things under the body. Can you tell us what they were?

2 **COLONEL VERMAAK:** Chairperson, yes, 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 **COLONEL VERMAAK:** no, 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 **COLONEL VERMAAK:** It is correct,

23 Chairperson. 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,

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 will 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 **COLONEL VERMAAK:** Mr Chairperson, 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 **COLONEL VERMAAK:** Chairperson yes, 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 **COLONEL 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 **COLONEL VERMAAK:** It is correct.



1 **CHAIRPERSON:** - which was taken I take it

2 before the one in exhibit L -

3 **COLONEL VERMAAK:** It is correct.

4 **CHAIRPERSON:** - the panga wasn't in his

5 hand.

6 **COLONEL VERMAAK:** It is correct.

7 **CHAIRPERSON:** And he was lying, as we can

8 see, on his chest.

9 **COLONEL VERMAAK:** It is correct. 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 **COLONEL VERMAAK:** Yes, 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 **COLONEL VERMAAK:** Dit was onder hom

24 gewees. I have it net so gelaat omdat dit vir my gegaan

25 het oor 'n misdad toneel en ek het nie verder enigsins,

1 behalwe net sy pols gevoel, gekyk of daar enige pols is, en  
2 toe ek beseft dat daar geen polsslag is nie het ek hom net  
3 so gelaat. I have it 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 00014 one can see, on that photograph one can see the  
7 handle of the panga.

8 **COLONEL VERMAAK:** It is correct.

9 **CHAIRPERSON:** It is not in anybody's hand,  
10 not in his hand or anybody else's hand.

11 **COLONEL VERMAAK:** It is correct.

12 **CHAIRPERSON:** Yes, did you only take this  
13 photograph or did you take other photographs from the other  
14 side as well?

15 **COLONEL VERMAAK:** Daar is foto's van die  
16 ander kant af ook geneem, Chairperson.

17 **CHAIRPERSON:** Which you took?

18 **COLONEL VERMAAK:** I did, yes.

19 **CHAIRPERSON:** Yes, thanks.

20 **MS PILLAY:** Thank you, Chairperson. Colonel,  
21 if we can then look at 0007, 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 **COLONEL VERMAAK:** Chairperson, ek het  
25 basies twee dagboeke wat ek gewoonlik mee werk. Ek het 'n

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 **COLONEL VERMAAK:** "Verwyder General  
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 **COLONEL VERMAAK:** No –

22 **CHAIRPERSON:** That he was going to –

23 **COLONEL VERMAAK:** 'n Dreigement. 'n  
24 Dreigement.

25 **CHAIRPERSON:** Singular?

1 **COLONEL VERMAAK:** It is correct.

2 **CHAIRPERSON:** - "after threat that he was

3 going to be shot by members."

4 **COLONEL VERMAAK:** It is correct.

5 **CHAIRPERSON:** Thank you.

6 **MS PILLAY:** Now do you recall when you

7 made that entry into your diary?

8 **COLONEL 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 **COLONEL VERMAAK:** Mr Chairperson, no

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,

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 **COLONEL VERMAAK:** "Agtervolg groep met R1  
6 geweer en beseerde" -

7 **MS PILLAY:** I think it is an R5.

8 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

17 **MS PILLAY:** But in your diary it appears  
18 to be in a different order. Can you explain that?

19 **COLONEL 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 **COLONEL VERMAAK:** Ons het ongeveer 18:00,

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.

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?

18 **COLONEL 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.

23 **MS PILLAY:** And this was happening at  
24 Potchefstroom?

25 **COLONEL VERMAAK:** Yes.

1 **MS PILLAY:** Was this during the Roots –

2 **COLONEL VERMAAK:** It is correct.

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?

6 **COLONEL VERMAAK:** Jis, ek sal net moet

7 sekermaak. Gee net weer die ander een, asseblief.

8 **MS PILLAY:** It is GGG14. I am sorry, GGG17

9 - I keep saying 14 – which is document 15 in your bundle.

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

11 **MS PILLAY:** 17, document 15 in the

12 bundle.

13 **CHAIRPERSON:** Yes.

14 **MS PILLAY:** What I am 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?

18 **COLONEL 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.

25 **MS PILLAY:** Alright, Colonel, can we then

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 –

4 **CHAIRPERSON:** Sorry, before you carry on,  
5 I want to say to the cameramen that it is 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 do not 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 is actually very  
12 disturbing. I do not want to cause unnecessary difficulty  
13 to you doing your work. It is obviously important that you  
14 take photographs, but please try to do so in a way that  
15 does not cause a disturbance. It makes it difficult for us  
16 to follow the evidence. It is difficult for the witness  
17 too, I would suspect, to concentrate on his evidence. So  
18 if you will please bear that in mind in the future. And also  
19 if you are in close proximity to the witness – anyway,  
20 please carry on.

21 **MS PILLAY:** Thank you, Chairperson. We are  
22 looking now, we are at paragraph 9 of LLL8, Colonel, and  
23 we are beginning –

24 **CHAIRPERSON:** Before we move on to  
25 paragraph 9 I'd like to ask the witness one thing about the



1 13th, what happened on the 13th. In your statement, this  
2 very statement you are being referred to, LLL8, paragraph 6,  
3 I think the passage I am going to refer you to now is  
4 actually also in your earlier statement, which is GGG17 –  
5 yes, it is. It is the end of the fourth paragraph there as  
6 well. It is 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 am 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.”  
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?

20 **COLONEL VERMAAK:** It is correct.

21 **CHAIRPERSON:** So where did you get this  
22 phrase “om sodoende te verhoed dat hulle na die informele  
23 plakkerskamp kan beweeg”?

24 **COLONEL VERMAAK:** Mr Chairperson,  
25 tydens konsultasie met die regspan was dit 'n

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.

12 **CHAIRPERSON:** What is this final  
13 statement? It is not LLL8 because I was reading to you from  
14 LLL8 this passage which appeared also in the earlier  
15 statement.

16 **COLONEL VERMAAK:** Die laaste verklaring  
17 wat ek afgelê het was die 21ste Januarie 2014, Mr  
18 Chairperson.

19 **CHAIRPERSON:** So that is LLL8 and LLL8 has  
20 that passage that I read to you, transcribed verbatim from  
21 the earlier statement HHH4 – sorry, not HHH4 –

22 **MS PILLAY:** GGG17.

23 **CHAIRPERSON:** GGG17. Yes, the end of  
24 para 4, but anyway, so I am not sure that you are right that  
25 you left that out of your final statement, but the point I

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 do not know from your own  
4 knowledge?

5 **COLONEL VERMAAK:** no, no, dit is –

6 **CHAIRPERSON:** That is something you were  
7 told later.

8 **COLONEL VERMAAK:** It is correct.

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.

12 **COLONEL VERMAAK:** It is correct, Chairperson.

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 –

16 **COLONEL VERMAAK:** It is correct.

17 **CHAIRPERSON:** - it was fired, and you  
18 discussed it with your colleagues who were with you in the  
19 helicopter.

20 **COLONEL VERMAAK:** It is correct.

21 **CHAIRPERSON:** Thank you.

22 **MS PILLAY:** Thank you, Colonel, we are 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

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?

4 **COLONEL 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 beseft 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.

12 **CHAIRPERSON:** Yes, I am sorry, I am 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 is 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."

21 **COLONEL VERMAAK:** It is correct, Chairperson,  
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 General Mpmembe  
25 hulle opdrag gegee het om hulle wapens in die Nyalas te

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.

4 **CHAIRPERSON:** Perhaps – I am 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?

8 **MS PILLAY:** Chairperson, I am happy to do it  
9 after the lunch adjournment.

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.

13 **[COMMISSION ADJOURNS / COMMISSION RESUMES]**

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?

18 **MS PILLAY:** Thank you, Chairperson.

19 **COLONEL VERMAAK:** (bevestig verder)

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?

1 **COLONEL VERMAAK:** Mr Chairperson, dit  
2 sal heeltemal onvanpas wees dat ek, wat 'n baie laer rang  
3 as 'n General 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 General 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 **COLONEL VERMAAK:** Yes, die feit, Mr  
18 Chairperson, 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

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 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

18 **MS PILLAY:** Can I understand why was a  
19 message sent to Brigadier Garnett in particular?

20 **COLONEL 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.

1 **MS PILLAY:** And before you raised these  
2 concerns with Brigadier Garnett, did you raise any concerns  
3 with General Mphembe who was the overall commander?

4 **COLONEL VERMAAK:** no, edelagbare – of  
5 Mr Chairperson, ekskuus, verskoning. Op daardie  
6 stadium het ek nog nie geleentheid –

7 **CHAIRPERSON:** U word verskoon.

8 **COLONEL 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 **COLONEL 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



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 **COLONEL 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 **COLONEL VERMAAK:** Mr Chairperson, 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

1 vashou dat as hulle daar by die sangomas was dan word hulle  
2 beskerm.

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?

7 **COLONEL 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 sekuriteitsbeampes, 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.

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?

22 **COLONEL 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

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.

5 **MS PILLAY:** And when you say "Selfs  
6 taakmag sal hulle vasloop teen hierdie groep," what do you  
7 mean by that?

8 **COLONEL 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.

20 **MS PILLAY:** You say in the last line of  
21 that message that you will send a letter through which you  
22 sent two months previously, is that letter JJJ137?

23 **COLONEL VERMAAK:** Dis die een van  
24 Meimaand, dis korrek, in verband met Rustenburg se  
25 insident.

1 **MS PILLAY:** Now what was the response of

2 Brigadier Garnett to your message?

3 **COLONEL VERMAAK:** Hy het net vir my 'n

4 boodskap teruggestuur, dankie, dis al.

5 **MS PILLAY:** And did you convey your

6 concerns to anyone else within the police service?

7 **COLONEL VERMAAK:** Yes, 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.

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.

21 **COLONEL VERMAAK:** Yes, dis korrek. Ek het

22 aan General 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

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.

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?

9 **COLONEL VERMAAK:** Hy het net gesê dat hy

10 kennis neem van my bekommernis.

11 **MS PILLAY:** And did he give any other

12 response to the concerns that you had?

13 **COLONEL VERMAAK:** no, glad nie.

14 **MS PILLAY:** Now, you say that you raised

15 these concerns again on the 15th.

16 **COLONEL VERMAAK:** Dis reg.

17 **MS PILLAY:** At the JOCCOM of the 15th.

18 **COLONEL VERMAAK:** It is correct.

19 **MS PILLAY:** Can you just give us a little

20 bit of detail around the context within which you raised

21 these concerns?

22 **COLONEL 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

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 **COLONEL 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 **COLONEL VERMAAK:** Yes, 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.

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 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

19 **MS PILLAY:** - before any other part of  
20 the operation played out.

21 **COLONEL VERMAAK:** It is correct.

22 **MS PILLAY:** You raised this at the  
23 JOCCOM?

24 **COLONEL VERMAAK:** It is correct.

25 **MS PILLAY:** And this was, this idea was

1 rejected?

2 **COLONEL VERMAAK:** It is correct.

3 **MS PILLAY:** And do you recall

4 specifically who rejected the idea?

5 **COLONEL VERMAAK:** General 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] **COLONEL 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 **COLONEL VERMAAK:** It is correct.

23 **MS PILLAY:** And you raised this

24 suggestion as well at the JOCCOM on –

25 **COLONEL VERMAAK:** It is correct.



1 **MS PILLAY:** - on the 15th. And do you

2 recall what was said in response to this proposal from you?

3 **COLONEL 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 **COLONEL 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,

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 **COLONEL 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 **COLONEL 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

1 your briefing on the 16th?

2 **COLONEL VERMAAK:** no.

3 **MS PILLAY:** The second bullet point, take

4 still cameras and download at JOCCOM landing?

5 **COLONEL VERMAAK:** Dit is ook 'n ding wat

6 deur die Noord Wes Lugvleuel begin is. Toe ons besef 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 stilfoto'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 is correct?

14 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** It is correct.

20 **MS PILLAY:** - of air support?

21 **COLONEL VERMAAK:** It is correct.

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 are also the Air Wing

25 commander.

1 **COLONEL VERMAAK:** It is correct.

2 **MS PILLAY:** Now can you explain to us

3 what it entails to be Air Wing commander?

4 **COLONEL 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 **COLONEL VERMAAK:** It is correct, 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

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 **COLONEL VERMAAK:** It is correct.

12 **MS PILLAY:** Can you give us an idea of  
13 the height allocations for each of these aircraft?

14 **COLONEL 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 **COLONEL VERMAAK:** It is correct, yes.

23 **MS PILLAY:** The big white SANDF  
24 helicopter.

25 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** no, negatief. Dit is

6 uit 'n vlieg veiligheidsoogpunt 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 have

14 seen a number of photographs of the Oryx flying quite low.

15 Was that your experience of what transpired on the day –

16 **COLONEL VERMAAK:** Yes.

17 **MS PILLAY:** - that the Oryx didn't keep

18 to its flight height?

19 **COLONEL 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

1 was swooping as low as it was?

2 **COLONEL 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 have 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 **COLONEL 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.

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 General 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 General '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 are saying that the aerial commander  
19 exercises command and control from the air?

20 **COLONEL VERMAAK:** It is correct.

21 **MS PILLAY:** At any point on the 16th did  
22 you perform the function of aerial commander?

23 **COLONEL VERMAAK:** no, glad nie. Ons het  
24 net lug steun gegee.

25 **MS PILLAY:** Alright, can I ask you to



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 **COLONEL VERMAAK:** no, ek was nie bewus  
6 daarvan nie.

7 **MS PILLAY:** So was this allocation  
8 discussed at the 6 o'clock JOCCOM?

9 **COLONEL 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 –

1 **COLONEL VERMAAK:** It is correct.

2 **MS PILLAY:** - whereas the R44 would fly  
3 at 300 feet.

4 **COLONEL VERMAAK:** It is correct.

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 **COLONEL 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 **COLONEL 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.

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 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** no, negatief. Ek kan,  
10 Mr Chairperson, 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 **COLONEL VERMAAK:** Op geen stadium was  
25 daar enige voorligting aan ons van die Lugvleuel gegee dat

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 **COLONEL VERMAAK:** It is correct.

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 **COLONEL 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 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

25 **MS PILLAY:** - your BBM messages?

1 **COLONEL VERMAAK:** It is correct, Chairperson.

2 **MS PILLAY:** And when was the last time

3 that you received confirmation that the JOC was receiving

4 your BBM pictures?

5 **COLONEL 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 yes, hulle het ontvang.

12 **MS PILLAY:** Now, how did you confirm that

13 they received the picture?

14 **COLONEL 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 **COLONEL VERMAAK:** It is correct, ek was van

22 daardie onderstelling.

23 **MS PILLAY:** And can we just deal very

24 quickly with once you are up in the air, what method of

25 communication did you have with the people on the ground?

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 are  
6 going to come to this in more detail I take it when you  
7 give the narrative but I am 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 **COLONEL VERMAAK:** It is correct, Chairperson.

19 **CHAIRPERSON:** And did you send that by  
20 Blackberry?

21 **COLONEL VERMAAK:** It is correct.

22 **CHAIRPERSON:** To the JOC?

23 **COLONEL VERMAAK:** It is correct.

24 **CHAIRPERSON:** At what time?

25 **COLONEL VERMAAK:** Direk nadat die

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 am 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 is when you took  
11 the photograph?

12 **COLONEL VERMAAK:** It is correct.

13 **CHAIRPERSON:** And then you say you sent  
14 it immediately to the JOC?

15 **COLONEL VERMAAK:** It is correct.

16 **CHAIRPERSON:** So at 15:58 you sent the  
17 photograph to the JOC of bodies lying on the ground?

18 **COLONEL VERMAAK:** It is correct.

19 **CHAIRPERSON:** Thank you.

20 **COLONEL VERMAAK:** Ek kan net noem daardie  
21 tye, Mr Chairperson, 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.

1 **COLONEL VERMAAK:** It is correct.

2 **CHAIRPERSON:** But your time, your cell

3 phone time was 15:58.

4 **COLONEL VERMAAK:** It is correct.

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 is in Lieutenant-Colonel Vermaak's Blackberry series.

13 It is photo 1518. It is at JJJ11.1518.

14 **CHAIRPERSON:** Thank you. While we are 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 are here -

20 **CHAIRPERSON:** Well, let me not interrupt

21 your plan.

22 **MS PILLAY:** I think it is almost up, so

23 it is just a question of clicking.

24 MS LEWIS: Chairperson, sorry, can I ask that

25 the warning be given before we look at the photo?



1 **CHAIRPERSON:** Certainly but it is 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 about the  
12 middle of the photograph, a line of members of the police  
13 service – I take it TRT members, were they? You cannot 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 is the picture you sent?

22 **COLONEL VERMAAK:** That is correct.

23 **CHAIRPERSON:** Thank you.

24 **MS PILLAY:** Thank you, Colonel. We were  
25 just covering, Colonel, the methods of communication that

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 **COLONEL 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 **COLONEL VERMAAK:** It is correct,  
11 Chairperson.

12 **MS PILLAY:** Can you tell us, when you  
13 were taking the still photographs as well as the BBM  
14 pictures?

15 **COLONEL VERMAAK:** Yes. 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 have 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 –

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, Chairperson. If we can start with JJJ11.1514.

6 Now this is a picture taken on your Blackberry, is that

7 correct?

8 **COLONEL VERMAAK:** I have to make sure but

9 I think, yes.

10 **MS PILLAY:** Yes, I think the JJJ11 series

11 is your Blackberry pictures.

12 **COLONEL VERMAAK:** Yes.

13 **MS PILLAY:** Can you just take us through

14 what you observed from the air at this stage?

15 **COLONEL 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

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 **COLONEL VERMAAK:** It is correct.

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 **COLONEL 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 healtyd 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 **COLONEL VERMAAK:** Die klein groepie sal

25 ek sê was daar waar die geel pyl se agterkant is.

1 **MS PILLAY:** So the dark patch just before

2 the short arrow?

3 **COLONEL VERMAAK:** It is correct.

4 **MS PILLAY:** And when they moved from

5 there, in which direction did they move?

6 **COLONEL 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 **COLONEL VERMAAK:** Mr Chairperson,

16 no. 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 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** Chairperson, 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 am 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 **COLONEL VERMAAK:** It is correct.

21 **CHAIRPERSON:** And that is where they  
22 joined the large – that is where they and the larger group  
23 were together.

24 **COLONEL VERMAAK:** It is correct.

25 **CHAIRPERSON:** And you say they then moved

1 along the line, the lower end, in other words towards the

2 head of the orange arrow, is that –

3 **COLONEL VERMAAK:** It is correct.

4 **CHAIRPERSON:** Is that what you describe?

5 **COLONEL VERMAAK:** It is correct.

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 **COLONEL VERMAAK:** Yes, 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 **COLONEL VERMAAK:** no. 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 **COLONEL VERMAAK:** It is correct.

1 **MS PILLAY:** And from – what happened once

2 they were there, at the head of the orange arrow?

3 **COLONEL 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:** Chairperson, we are about to move to

10 –

11 **CHAIRPERSON:** I was thinking we are 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 am 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 will 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



1 do not 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 **COLONEL VERMAAK:** Dit is so,  
6 Chairperson.

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 am  
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, Chairperson. Colonel, if we can pick up from LLL8 at  
14 paragraph 10 thereof, 11 lines from the bottom of the page  
15 – paragraph 10, Chairperson, 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 **COLONEL VERMAAK:** Dis so, Chairperson.

22 **MS PILLAY:** And the JJJ10-series were  
23 taken on your Pentax?

24 **COLONEL VERMAAK:** It is correct.

25 **MS PILLAY:** Now this is JJJ11.1506, which

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 **COLONEL VERMAAK:** Chairperson, 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 **COLONEL VERMAAK:** It is correct.

13 **MS PILLAY:** If we can then go to

14 JJJ11.1507, that is a different angle of the same picture.

15 **COLONEL VERMAAK:** It is correct.

16 **MS PILLAY:** Also taken by you on your

17 BlackBerry?

18 **COLONEL VERMAAK:** It is correct.

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 is JJJ10.4533. Can we just see –

25 can you just tell us what that means? 4533, what were you

1 referring to?

2 **COLONEL 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 **COLONEL VERMAAK:** It is correct.

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 **COLONEL 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 **COLONEL VERMAAK:** It is correct. Ons kan

18 sien op die foto, Chairperson, 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

1 out with your pointer Mr Mathunjwa's motor car, please?

2 **COLONEL VERMAAK:** Dis waar sy voertuig –

3 **CHAIRPERSON:** It is the vehicle which is

4 below – there is a mast –

5 **COLONEL VERMAAK:** It is correct, Chairperson.

6 **CHAIRPERSON:** - a power mast and it is

7 below that. It looks like two people standing next to it.

8 Is that –

9 **COLONEL VERMAAK:** It is correct.

10 **CHAIRPERSON:** Thank you. There is

11 actually three people standing there that I see –

12 **COLONEL VERMAAK:** Dis reg.

13 **CHAIRPERSON:** - and someone walking

14 forward away from it.

15 **COLONEL VERMAAK:** It is correct.

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 **COLONEL 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

1 Mathunjwa's vehicle on this photograph?

2 **COLONEL VERMAAK:** no, Mr

3 Chairperson, hy het alreeds vertrek. Ek dink amper, miskien

4 kan in zoem, daar aan die agterkant kan dalk – daar's hy.

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

6 near the top of the picture it is 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 is a similar

11 picture with your BlackBerry, which is JJJ11.1514, which

12 shows that Nyala 1 has started deploying its barbed wire.

13 **COLONEL VERMAAK:** It is correct.

14 **MS PILLAY:** Do you recall having sent

15 this picture to the JOC?

16 **COLONEL VERMAAK:** Mr Chairperson,

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 **COLONEL VERMAAK:** Die militante groep het

25 gewoonlik agter daardie lyn gebly, daardie grondpadjie wat

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 are 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 is a path moving diagonally up towards  
10 the top right-hand corner of the photograph. Some distance  
11 up there is 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 **COLONEL VERMAAK:** It is correct, Chairperson.

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 Chairperson? I am 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 do not know

24 whether we are back to that –

25 **CHAIRPERSON:** I do not remember militant

1 being forbidden, but I specifically said as you describe it

2 to indicate –

3 MR NTSEBEZA SC: No, no, no, that is what

4 also reminds me that in fact, Chairperson, it is –

5 **CHAIRPERSON:** You see, I deliberately

6 said that because obviously, and I understand that your

7 clients and Mr Mpfu's clients and probably others do not

8 agree that they were a militant group at all. I understand

9 that. That is 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 does not convey what you do not want to have

14 conveyed but enables the witness to express himself

15 briefly, I will 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 are all described as

1 the militant group.

2 MR NTSEBEZA SC: They cannot 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:** Yes okay, anyway, are you

15 happy to use in Afrikaans the equivalent of –

16 **COLONEL VERMAAK:** Dis reg, Mr

17 Chairperson. 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 **COLONEL VERMAAK:** It is correct.

22 **CHAIRPERSON:** That is 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



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 is 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 are  
6 happy with the "front group" we can carry on.

7 **COLONEL VERMAAK:** Dankie, Mr

8 Chairperson. 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 **COLONEL VERMAAK:** It is correct.

15 **MS PILLAY:** And did they approach

16 anywhere close to the actual line of barbed wire Nyalas?

17 **COLONEL 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 are taking picture with both your BlackBerry and

1 your Pentax.

2 **COLONEL VERMAAK:** It is correct.

3 **MS PILLAY:** So it is safe to say that you

4 had your eye on the strikers at all times –

5 **COLONEL VERMAAK:** It is correct.

6 **MS PILLAY:** - during this period?

7 **COLONEL 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 stadium, 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 **COLONEL VERMAAK:** Dis reg.

18 **MS PILLAY:** 1514, and you see them moving

19 away.

20 **COLONEL VERMAAK:** It is correct.

21 **MS PILLAY:** Or let's say moving at this

22 stage.

23 **COLONEL VERMAAK:** Dis reg.

24 **MS PILLAY:** Which Nyala was deploying its

25 barbed wire at that stage when the group first moved?

1 **COLONEL VERMAAK:** Op daardie stadium, 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 is Nyala 1.

5 **COLONEL VERMAAK:** Yes, 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 am 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 **COLONEL VERMAAK:** Ek dink hulle was  
16 basies nog in die proses om uit te gooi. Alles was nog nie  
17 klaar uitgereg 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 **COLONEL VERMAAK:** It is correct.

24 **MS PILLAY:** And how far were the strikers  
25 from the barbed wire Nyala as this stage?

1 **COLONEL VERMAAK:** Op daardie stadium,  
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 are now looking at.

11 **COLONEL VERMAAK:** It is correct, Chairperson.

12 **MS PILLAY:** So if we now look at

13 JJJ11.1515 –

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? \_\_\_\_\_communications\_\_\_\_\_

18 **COLONEL VERMAAK:** Chairperson, 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?

1 **COLONEL 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 **COLONEL 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 **COLONEL VERMAAK:** It is correct, Chairperson.

16 **CHAIRPERSON:** Thank you.

17 **MS PILLAY:** We see in 1515, at this stage

18 which Nyala is deploying its barbed wire?

19 **COLONEL VERMAAK:** As ek nou korrek is, is  
20 dit 4.

21 **MS PILLAY:** If you cannot identify the  
22 Nyala maybe you can just point it out and then we can work  
23 from there.

24 [15:54] **COLONEL VERMAAK:** Op – dit is, daar sal u  
25 sien, daar het die Nyala sy draad uitgegooi. Hy staan daar

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 **COLONEL 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 uitgegooi 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 **COLONEL VERMAAK:** It is correct.

24 **CHAIRPERSON:** You earlier referred to a

25 particular Nyala which is just beginning to move and throw

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 **COLONEL VERMAAK:** It is correct.

5 **CHAIRPERSON:** And then the second, the  
6 third –

7 **COLONEL VERMAAK:** And the fourth.

8 **CHAIRPERSON:** - and then the fourth, yes.

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 **COLONEL 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 are  
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 are talking about?

24 **COLONEL VERMAAK:** Dis ongeveer in hierdie  
25 omgewing, Chairperson.

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 **COLONEL VERMAAK:** It is correct.

5 **CHAIRPERSON:** - there is a projection  
6 there which I think is what you are pointing to.

7 **MS PILLAY:** Now you heard Brigadier  
8 Calitz say that the members, "hulle moet 'n optrede loods."

9 **COLONEL VERMAAK:** It is correct.

10 **MS PILLAY:** And how did you understand  
11 this instruction?

12 **COLONEL 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 **COLONEL VERMAAK:** Dis reg, Chairperson.

25 Sy woorde was, "they must engage."



1 **CHAIRPERSON:** Are you now going to move

2 on to paragraph 11, Ms Pillay?

3 **MS PILLAY:** Chairperson, just the last two

4 lines of paragraph 10 and then I will move on –

5 **CHAIRPERSON:** Obviously, yes. No, finish

6 those two and then we will 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 **COLONEL 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 **COLONEL VERMAAK:** Die lede het toe

19 opgetree met traanrook en skokgrante, 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, skokgrante, en dan die waterkanon is wat dan

24 ontplooi word.

25 **MS PILLAY:** Chairperson, I am now at the end of

1 paragraph 10.

2 **CHAIRPERSON:** Well, we have come to the end

3 of the day's sitting. We will adjourn till tomorrow morning

4 9 o'clock.

5 **[COMMISSION ADJOURNED]**

