

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 206

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64 10th Avenue, Highlands North, Johannesburg
P O Box 721, Highlands North, 2037
Tel: 011-440-3647 Fax: 011-440-9119 Cell: 083 273-5335
E-mail: realtime@pixie.co.za
Web Address: <http://mysite.mweb.co.za/residents/pak06278>



<p style="text-align: right;">Page 25331</p> <p>1 [PROCEEDINGS ON 25 MARCH 2014] 2 [09:07] CHAIRPERSON: The Commission resumes. I 3 hope that all those who have cell phones, please turn them 4 off as I have turned mine off. Luitenant-kolonel, u word 5 nog steeds gebind deur die plegtige verklaring wat u gegee 6 het gister. Adv Pillay, before you resume your 7 examination-in-chief my colleague, Commissioner Hemraj, 8 wants to ask a few questions about the 13th, the topic that 9 you've already – you're already busy with the 16th, aren't 10 you? 11 MS PILLAY: Yes, I am, Chair. 12 KOLONEL VERMAAK: (bevestig verder) 13 COMMISSIONER HEMRAJ: Colonel, the 14 information that General Mpembe said that the members 15 should leave their weapons in the Nyala, where does that 16 information come from? 17 KOLONEL VERMAAK: Mnr die Voorsitter, dit 18 kom, dit het van die lede af gekom wat saam met my 19 teruggestap het, wat toe die dreigement gemaak het dat 20 generaal Mpembe vandag langs daardie lede gaan lê as gevolg 21 van die feit dat hy opdrag gegee het dat hulle hulle wapens 22 in die Nyalas moet los om nie die optogangere te provoke 23 nie. 24 COMMISSIONER HEMRAJ: And was this, did 25 you understand this to be prior to them walking behind them</p>	<p style="text-align: right;">Page 25333</p> <p>1 in your evidence yesterday related to the, what you 2 effectively described as the inadequacies of the training 3 of the POP people. One of the points you made was that the 4 instructors themselves have got book knowledge but they 5 haven't got actual experience in the field of what they, of 6 the subject that they're teaching and giving instruction in 7 and what I want to know from you is, I take it that's not 8 something that was the case before 2005 when you were 9 involved directly in POP work, or am I wrong? 10 KOLONEL VERMAAK: Mnr die Voorsitter, dis 11 eintlik 'n aangeleentheid wat eintlik baie jare alreeds 'n 12 besprekingspunt was, is dat baie van jou lede wat opgelei 13 word as instruktors nooit die ervaring buite reeds gehad 14 het van die aangeleenthede waaroor hulle moet – 15 MS PILLAY: Chair, I'm sorry to interrupt 16 the answer. Apparently there's a problem with the 17 interpretation at the moment, it's not coming through. 18 CHAIRPERSON: Do you want me to adjourn? 19 The last time – 20 MR NTSEBEZA SC: Well, I just heard over 21 the thing, we have a problem with the microphone here from 22 Mr Mahlangu. 23 CHAIRPERSON: I'm sorry, Mr Ntsebeza, 24 would you – I didn't hear you. Would you speak, would you 25 repeat what you said slightly louder?</p>
<p style="text-align: right;">Page 25332</p> <p>1 in that line as they left the railway line? 2 KOLONEL VERMAAK: Dit is korrek. 3 COMMISSIONER HEMRAJ: And the second 4 issue relates to prior to the 13th, the problems and the 5 inadequacies with regard to the training and the equipment, 6 did those exist during the stage when you were commander of 7 POPS up to 2005? 8 KOLONEL VERMAAK: Voorsitter, dit was – 9 dit is goed wat in daardie tyd geïdentifiseer was en die 10 kursusse wat ons gaan bywoon het, het spesifiek gehandel 11 oor die aanwending van jou openbare orde polisie toerusting 12 waar jou standaard uitrusting vir 'n openbare orde 13 polisieman, behalwe sy vuurwapen, is sy skild, sy gasmasker 14 en dan sy helm wat hy moet dra. So dit is die drie basiese 15 belangrike goed asook dan het hy ook dan 'n knuppel wat hy 16 by hom moet hê en dan uit die aard van die saak sal hy dan 17 nou 'n haelgeweer hê wat meer funksioneel is, wat 18 verskillende rondtes kan afvuur. 19 COMMISSIONER HEMRAJ: So if there were 20 any inadequacies during your command you would have 21 addressed them and sought to remedy them? 22 KOLONEL VERMAAK: Dis positief. 23 COMMISSIONER HEMRAJ: Thank you. 24 CHAIRPERSON: I'd like to ask you a 25 question on a similar matter. One of the points you made</p>	<p style="text-align: right;">Page 25334</p> <p>1 MR NTSEBEZA SC: No, Mr Chair, I just – I 2 heard over the earphones from Mr Mahlangu saying we now 3 have a problem with the earphone and then there was 4 silence. 5 CHAIRPERSON: Well, we'd better adjourn 6 then and make sure that the problem is sorted out. What we 7 must do in future is we must remember to have a sort of 8 testing process before we start so that we don't have this 9 kind of problem again but – 10 MR NTSEBEZA SC: Well, it appeared to me 11 that he was indicating that we have a problem now with the 12 microphone. 13 CHAIRPERSON: No, I understand that. I 14 say if we tested it before we started then we would either 15 not have started or we would have, the problem would have 16 been sorted out before we started. We'll take a short 17 adjournment, I hope it'll be a short adjournment and we 18 will resume once we are informed that the system is 19 functioning correctly. 20 [COMMISSION ADJOURNS COMMISSION RESUMES] 21 [09:25] CHAIRPERSON: The Commission resumes. I 22 understand that the equipment was tested before we began 23 and was found to be working and subsequently there was a 24 problem with a plug across the passage there, but that I 25 hope has now been sorted out. Mr Ntsebeza is nodding his</p>

<p style="text-align: right;">Page 25335</p> <p>1 head, so it must have been sorted out, so we'll now resume. 2 I asked you a question – u is nog steeds gebind 3 deur u – 4 SALMON JOHANNES VERMAAK: Dis korrek. 5 VOORSITTER: - u onderneming wat u gegee 6 het gister, u plegtige verklaring. I asked you a question 7 about what your allegation was based that some of the POP 8 instructors didn't have practical experience and you were 9 busy answering that when it was reported to us there's a 10 problem with the interpretation. I don't think you said 11 anything that was material that needs to be repeated and 12 re-translated, so I would suggest carry on from where you 13 were. 14 KOLONEL VERMAAK: Dankie, Voorsitter. 15 Dit is 'n redelike probleem, of 'n probleem wat al lang, 16 geruime tyd deur die lede op die grond geïdentifiseer was, 17 is dat sommige van die instruksies wat by die 18 opleidingsinstitusies gebruik word nog nooit onderworpe was 19 en blootgestel aan die vakke wat hulle teoreties moet 20 aanbied nie. So hulle het absoluut net boeke kennis en geen 21 praktiese ervaring ten opsigte van die aspekte nie. 22 CHAIRPERSON: Sorry, please carry on. 23 KOLONEL VERMAAK: Dis al, dankie 24 Voorsitter. 25 VOORSITTER: My kollega het net iets</p>	<p style="text-align: right;">Page 25337</p> <p>1 moet gestel word dat hy sê vir voorbeeld ten minste sê vyf 2 jaar praktiese ondervinding op die grond het van die 3 aspekte waaroor hy dan ander lede moet oplei. 4 CHAIRPERSON: Thank you. 5 COMMISSIONER HEMRAJ: Colonel, you said 6 yesterday that when one of the policemen were being 7 attacked you saw some policemen running away, that you 8 could not identify them. Approximately how many policemen 9 were there that you actually saw running away from that 10 situation? 11 KOLONEL VERMAAK: Dit is baie moeilik om 12 te, om vir u op hierdie stadium 'n getal te gee. Ons het 13 net gesien hierdie polisielyn wat loop, die "protesters" 14 wat omdraai, terugstorm in die rigting van die polisie waar 15 hulle aangeval was en toe het ons gesien dat die 16 polisielyn, of sekeres van die polisielyn weggehardloop 17 het. Presiese getal sal ek ongelukkig nie vir u kan gee 18 nie, maar ons het dit wel opgemerk dat daar 'n aantal was 19 want ons het dit dadelik, al drie van ons in die helikopter 20 het dit onmiddellik opgemerk toe ons sien dat van die 21 polisiemanne weggehardloop. 22 COMMISSIONER HEMRAJ: Relative to those 23 running away how many strikers were there that were part of 24 the attack? 25 KOLONEL VERMAAK: Daar, dit is moeilik om</p>
<p style="text-align: right;">Page 25336</p> <p>1 onder my aandag gebring, maar ek het nog steeds na u 2 geluister. 3 KOLONEL VERMAAK: Dis korrek. Dit is in 4 kort waaroor daardie opmerking gemaak was, Voorsitter. 5 CHAIRPERSON: The point that interests me 6 is that insofar as it purports to be a statement relating 7 to the present situation – or perhaps I should phrase that 8 more carefully – the situation as existed in 2012, I take 9 it, it must have been based on hearsay. It must have been 10 based on information you got from those who'd been at the 11 courses. Is that correct? 12 KOLONEL VERMAAK: Mnr die Voorsitter, dit 13 is uit eie ondervinding van kursusse wat ek bygewoon het 14 wat dieselfde ervaring was. Agterna het baie van die lede 15 wat op die kursusse is dieselfde bekommernisse uitgespreek 16 teenoor my. 17 CHAIRPERSON: So what suggestion have you 18 made or do you make as to how that problem can be overcome? 19 KOLONEL VERMAAK: Ek het op daardie aspek 20 geen voorstelle gemaak nie omdat daar 'n nasionale beleid 21 is ten opsigte van die opleiding van opleidingsbeamptes en 22 die opleiding wat hulle moet deurloop. Die voorstel sal 23 egter wees dat daarna moet gekyk word voordat 'n persoon 24 aangewend word as 'n instruksie hy in 'n spesifieke veld, 25 veral by Openbare Orde Polisie dat daar 'n riglyn basies</p>	<p style="text-align: right;">Page 25338</p> <p>1 te sê want hulle was deurmekaar gewees. Dit was rêrig 2 redelik, op daardie stadium chaoties gewees, as ek dit so 3 kras kan stel, want toe was dit die polisiemanne en die 4 optoggangers, of die aanvallers wat deurmekaar was en jy 5 kon hulle darem ten minste uitmaak aan die kleredrag van 6 die polisiemanne wat dan wegbeweeg het van die aanval af 7 weg. 8 COMMISSIONER HEMRAJ: Would you say there 9 were more strikers involved in the attack than there were 10 policemen running away? 11 KOLONEL VERMAAK: Ja, definitief. 12 COMMISSIONER HEMRAJ: Thank you, Colonel. 13 CHAIRPERSON: Did any of the police 14 members not run away and stay there and make efforts to 15 defend their colleagues who were being attacked? 16 KOLONEL VERMAAK: Voorsitter nee, ek sal 17 nie vir u op daardie vraag kan antwoord nie. 18 CHAIRPERSON: Yes, Ms Pillay, you may now 19 proceed. We've asked the questions we wanted to ask 20 relating to the 13th that we thought we'd deal with while 21 his evidence about the 13th was fresh in our minds. 22 MS PILLAY: Thank you, Chair. 23 CHAIRPERSON: But please proceed from 24 where you stopped off yesterday – 25 MS PILLAY: Thank you, Chair.</p>

<p style="text-align: right;">Page 25339</p> <p>1 CHAIRPERSON: Or you may yourself wish to 2 revisit the 13th. I don't know. 3 EXAMINATION BY MS PILLAY (CONTD.): No, I 4 think we'll stay with the 16th, Chair. Morning, Colonel. 5 COLONEL VERMAAK: Morning. 6 MS PILLAY: Colonel, yesterday we left 7 off with you describing how you observed members at the 8 small kraal using water cannon, teargas, and stun grenades, 9 on the south-western corner of the kraal where Nyala 4 10 closed the gap. Do you recall that? 11 COLONEL VERMAAK: That's correct. 12 MS PILLAY: Now let's pick up from 13 paragraph 11 of LLL8. Can you tell us what you saw 14 immediately after the teargas, the stun grenades, and the 15 water cannon were used at the corner of the kraal? 16 COLONEL VERMAAK: Voorsitter, direk nadat 17 ons opgemerk het dat daar opgetree was soos vermeld het die 18 aanvallers terugbeweeg weg van daardie kraal van die hoek 19 af, aan, 'n redelike aansienlike ent verder gehegroepeer 20 en toe weer ombeweeg basies na die ander kant van die kraal 21 toe, maar terselfdertyd het daar heelwat van die groep 22 mense wegbeweeg in die rigting van die informele 23 woongebied. 24 MS PILLAY: Colonel, it might be helpful 25 if we have evidence in relation to the picture. May I ask</p>	<p style="text-align: right;">Page 25341</p> <p>1 on the photograph. Some of the people who are lower down 2 the photograph on the lower portion below that path that 3 crosses from left to right on the photograph, halfway down 4 the photograph, some of those people moved to the left and 5 I take it – 6 COLONEL VERMAAK: Dis korrek. 7 CHAIRPERSON: - to a point that's not 8 covered by the photograph. 9 COLONEL VERMAAK: Dis korrek. 10 CHAIRPERSON: Ja, thank you. 11 MS PILLAY: Now you say in line 2 of 12 paragraph 11 that the strikers attacked the police at 13 around 15:55. Can you just tell us with reference to 14 JJJ11.1516 exactly where this attack occurred? 15 COLONEL VERMAAK: Voorsitter, soos wat 16 ons daar gekyk het, die linker bokantste hoek van die 17 kraal, dit is die gedeelte waarna ek verwys het waar hulle 18 op die polisiemanne afgestorm het. 19 MS PILLAY: Alright, now you say that the 20 so-called attack was visible, clearly visible from the air. 21 COLONEL VERMAAK: Dis korrek. 22 MS PILLAY: And can you just describe to 23 us from the air exactly what it is that you saw? 24 COLONEL VERMAAK: Aan die bokant van die 25 foto kan u, agter daardie Nyalas kan u sien daar is 'n lyn</p>
<p style="text-align: right;">Page 25340</p> <p>1 that JJJ11.1516 be put up? Now just with reference to this 2 photograph can you just tell us again how the strikers 3 moved from the south-western corner of the kraal? 4 COLONEL VERMAAK: Voorsitter, as ek net 5 kan aandui, daar waar ek nou lig by die hoek van die kraal 6 waar Nyala 4 met die draadkar ontplooi was het daardie 7 groep terugbeweeg hiernatoe waar u hierdie redelike groep 8 sien en hulle het toe weer ombeweeg amper soos in 'n vorm 9 van 'n pyl na daardie hoek toe en dan baie van hierdie 10 mense wat hier was het die kant toe beweeg, weg van waar 11 daar insidente dan nou was. 12 CHAIRPERSON: Alright, let me try to put 13 that on record. What you showed us was that the people to 14 whom you referred were originally on what one can describe 15 loosely as the right-hand side of the small kraal on the 16 picture. They then moved down towards the bottom of the 17 page. They crossed the, there's a path that runs right 18 across the photograph from left to right, round about 19 halfway down the page. They crossed that and then came to 20 a position below that path, more or less in line with the 21 point from which they'd moved downwards. They then moved 22 towards the left of the photograph more or less to where 23 one can see a group of people on the photograph, moved 24 forward to a position to the left, at the top left corner, 25 if one can call it that, of the small kraal as one sees it</p>	<p style="text-align: right;">Page 25342</p> <p>1 van polisiebeamptes wat daar gestaan het. 2 MS PILLAY: Alright, and in terms of 3 the – 4 COMMISSIONER HEMRAJ: Sorry, can you just 5 show us that point again, please? 6 COLONEL VERMAAK: Voorsitter, daar. 7 Hierso het Nyalas gestaan. Hierdie groep het hierso 8 deurbeweeg en die polisiemanne was daar in daardie agterste 9 gedeelte. U sal sien daar is 'n punt van hulle, maar hulle 10 het ook so om in 'n lyn gestaan. 11 CHAIRPERSON: What you are showing us – 12 sorry, can I have the main picture again because I've got 13 to describe what's on the main picture. As we look at the 14 photograph and one looks at the small kraal, one sees a 15 number of Nyalas there, some of them on the right-hand side 16 of the kraal and some of them on the left. One also sees 17 above the Nyalas to the right, at the top of the kraal on 18 the photograph and near the top right-hand corner one sees 19 a dark line which is, I understand, part of the TRT line 20 and that was the point which the witness indicated, and 21 then he indicated also that that line continued beyond the 22 top of the photograph towards the left, and in fact I think 23 you said you can actually see the end of it on the, to the 24 left of the left-hand corner of the kraal. It was 25 effectively positioned, part of the arc of a circle –</p>

<p style="text-align: right;">Page 25343</p> <p>1 KOLONEL VERMAAK: Dis korrek.</p> <p>2 CHAIRPERSON: - beginning on the right-</p> <p>3 hand side, the part that you indicated, and ending –</p> <p>4 COLONEL VERMAAK: On the left –</p> <p>5 CHAIRPERSON: - on the other side of the</p> <p>6 kraal, on the left-hand side of the kraal as we look at the</p> <p>7 photograph.</p> <p>8 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>9 CHAIRPERSON: I think that's what you</p> <p>10 showed us here.</p> <p>11 MS PILLAY: Thank you, Chair. Now just</p> <p>12 for identification purposes, Colonel, and just to be clear,</p> <p>13 we know that the little line that we see behind the line of</p> <p>14 Nyalas, that's the TRT basic line, and the members forming</p> <p>15 up on the left of the kraal would be the POP line. Now the</p> <p>16 attack that you're describing at 15:55, with reference to</p> <p>17 those two lines can you tell us what it is that you saw</p> <p>18 from the air?</p> <p>19 KOLONEL VERMAAK: Vir ons was dit moeilik</p> <p>20 gewees om te onderskei of dit TRT, NIU, of POP lede was,</p> <p>21 maar ons het, Brigadier Calitz het die lede opdrag gegee om</p> <p>22 te "engage" en weereens het ek opgemerk dat daar 'n</p> <p>23 moontlikheid is dat die mense hom nie op die radio hoor nie</p> <p>24 en het ek op grond van wat ons die Maandag gesien het besef</p> <p>25 dat hierdie groep gaan weer tussen die polisiemanne</p>	<p style="text-align: right;">Page 25345</p> <p>1 following you correctly. Do I understand you to be telling</p> <p>2 us that what one can describe as the first attack – because</p> <p>3 you talk in your, in the second line of paragraph 11 you</p> <p>4 say "dat die groep het die polisiemanne weer aangeval." So</p> <p>5 that's a second attack, right? "Weer" means again.</p> <p>6 KOLONEL VERMAAK: Ja.</p> <p>7 CHAIRPERSON: A second attack. Now, so</p> <p>8 the first attack, that I take it is the one that you're</p> <p>9 referring to towards the end of paragraph 10 of your</p> <p>10 statement.</p> <p>11 KOLONEL VERMAAK: Dis korrek.</p> <p>12 CHAIRPERSON: And do I understand you to</p> <p>13 be saying that that took place at what one can call the</p> <p>14 right-hand side of the small kraal –</p> <p>15 KOLONEL VERMAAK: Dis korrek.</p> <p>16 CHAIRPERSON: - on the photograph.</p> <p>17 KOLONEL VERMAAK: Dis korrek.</p> <p>18 CHAIRPERSON: Right, and that was</p> <p>19 repelled in the sense that the group then left that spot</p> <p>20 and went around the kraal, I think around the kraal on the</p> <p>21 lower side of the kraal as we see it on the photograph –</p> <p>22 KOLONEL VERMAAK: Dis korrek.</p> <p>23 CHAIRPERSON: - to the position on the</p> <p>24 other side, the left-hand side of the kraal.</p> <p>25 KOLONEL VERMAAK: Dis korrek.</p>
<p style="text-align: right;">Page 25344</p> <p>1 inbeweeg en het ek sy opdrag herhaal dat die lede moet</p> <p>2 "engage."</p> <p>3 MS PILLAY: Okay, Colonel, just to be</p> <p>4 clear, in terms of your statement you refer to an attack at</p> <p>5 15:55 and then you refer to Brigadier Calitz issuing the</p> <p>6 instruction "om 'n optrede te loods" and you're repeating</p> <p>7 that instruction.</p> <p>8 KOLONEL VERMAAK: Dis korrek.</p> <p>9 MS PILLAY: So in that sequence what I'm</p> <p>10 asking you to describe is what occurred at 15:55, what you</p> <p>11 saw at 15:55. That is before Brigadier Calitz issued the</p> <p>12 instruction that the members "moet 'n optrede loods."</p> <p>13 KOLONEL VERMAAK: Wat ons gesien het is</p> <p>14 die voorste punt van die groep wat voor beweeg het, het om</p> <p>15 die kraal, daar ombeweeg met die polisiemanne wat dan nou</p> <p>16 basies bietjie nader op daardie stadium was wat dit gebeur</p> <p>17 het. Hierdie foto was, net voor die gebeure was hy geneem</p> <p>18 want op daardie stadium het ek, ek het die BlackBerry</p> <p>19 hanteer, ek het die Pentax hanteer, en ek het die</p> <p>20 polisie-radio terselfdertyd ook beman.</p> <p>21 MS PILLAY: So on your evidence this</p> <p>22 picture was taken immediately before the first attack that</p> <p>23 you describe?</p> <p>24 KOLONEL VERMAAK: Dis korrek.</p> <p>25 CHAIRPERSON: I'm not sure that I'm</p>	<p style="text-align: right;">Page 25346</p> <p>1 CHAIRPERSON: Now, so in that sense the</p> <p>2 attack was repelled. Now what interests me is what exactly</p> <p>3 caused that repelling of the attack? You mention that stun</p> <p>4 grenades were fired. You mention that teargas was used,</p> <p>5 but I think there's also some evidence that the Nyala with</p> <p>6 the wire trailer had succeeded in bringing the wire barrier</p> <p>7 more or less up to the fence of the kraal, in other words</p> <p>8 on the right-hand side of the photograph as we see it. Is</p> <p>9 that correct?</p> <p>10 KOLONEL VERMAAK: Dis korrek.</p> <p>11 CHAIRPERSON: So the position was that</p> <p>12 presumably – I know this is a leading question, if it's</p> <p>13 incorrect what I'm putting to you, please correct me. The</p> <p>14 impression I get is that the kraal, the group weren't able</p> <p>15 to proceed further on the right-hand side of the kraal</p> <p>16 because of the wire.</p> <p>17 KOLONEL VERMAAK: Dis korrek.</p> <p>18 CHAIRPERSON: And what in any event</p> <p>19 encouraged them to go elsewhere was the stun grenades and</p> <p>20 the teargas. Is that –</p> <p>21 KOLONEL VERMAAK: Dis korrek, en die</p> <p>22 waterkanonne.</p> <p>23 CHAIRPERSON: And the water cannon.</p> <p>24 KOLONEL VERMAAK: Dis korrek.</p> <p>25 CHAIRPERSON: So is it those three</p>

<p style="text-align: right;">Page 25347</p> <p>1 things? There's the water cannon, the stun grenades –</p> <p>2 COLONEL VERMAAK: Stun grenades –</p> <p>3 CHAIRPERSON: - and the teargas.</p> <p>4 COLONEL VERMAAK: And teargas.</p> <p>5 CHAIRPERSON: Ja, thank you.</p> <p>6 MS PILLAY: Thank you, Chair. Colonel,</p> <p>7 just to pick up from that question and maybe just to go</p> <p>8 back to the incident at the south-western corner of the</p> <p>9 kraal, or the right-hand side of the corner of the kraal,</p> <p>10 you've described the action that you see from the air that</p> <p>11 you see SAPS taking. Can you describe to us what you see</p> <p>12 from the air in terms of the conduct of the strikers?</p> <p>13 KOLONEL VERMAAK: Al wat ons redelik in</p> <p>14 'n, kon uitgemaak het is dat die persone vooroorgebuig was,</p> <p>15 wat gewys het dat hulle nie normaal loop na die hoek toe</p> <p>16 nie, dat hulle in 'n vooroorgebuigde houding soontoe geloop</p> <p>17 het en nadat daar opgetree is en die groep terugbeweeg het</p> <p>18 en hulle weer na vorentoe gekom het waar verwys dan na die</p> <p>19 tweede aanval was dit weer die posisie waarin hulle, wat</p> <p>20 ons hulle in waargeneem het.</p> <p>21 [09:45] Dit het ooreengestem wat die Maandag gebeur het</p> <p>22 toe die groep omdraai en op die polisiemanne afstorm, was</p> <p>23 dit dieselfde posisie wat hulle ook ingeneem het op daardie</p> <p>24 betrokke dag.</p> <p>25 MS PILLAY: Just to be clear and going</p>	<p style="text-align: right;">Page 25349</p> <p>1 further, further towards the Nyalas, so on the photograph</p> <p>2 further up towards the right. Now that hasn't been placed</p> <p>3 on record. Perhaps we can just ask him to repeat that and</p> <p>4 –</p> <p>5 MS PILLAY: Okay. Colonel, if I can then</p> <p>6 ask you to pick up from when the strikers move away from</p> <p>7 the right-hand corner of the small kraal and you testified</p> <p>8 that they moved further inwards and turned around.</p> <p>9 KOLONEL VERMAAK: Dit is korrek,</p> <p>10 Voorsitter. Soos wat die foto daar aandui het ek aangedui</p> <p>11 dat hulle by die regterkantste hoek nie kon deurgaans nie,</p> <p>12 wat ek aangeneem het as gevolg van die optrede van die</p> <p>13 polisiemanne wat hulle daar geloods het. Toe het hulle</p> <p>14 terugbeweeg, hergroepeer die groep hier waar ek min of meer</p> <p>15 nou lig en vorentoe begin beweeg. Dis waar ek die laaste</p> <p>16 foto van die groep daar geneem het, want toe het ek op die</p> <p>17 radio en ook met die ander kamera probeer foto's neem</p> <p>18 terselfdertyd. Maar ook as gevolg van die beweging van die</p> <p>19 helikopter weer eens op hierdie foto sal die beweging van</p> <p>20 die helikopter antikloksgewys wees.</p> <p>21 MS PILLAY: So the first attack on the</p> <p>22 left-hand side of the kraal, where did that take place?</p> <p>23 KOLONEL VERMAAK: Dit moet ongeveer by</p> <p>24 daardie hoek wees waar ek nou die pointer het. Dit is waar</p> <p>25 ons –</p>
<p style="text-align: right;">Page 25348</p> <p>1 back to the south-western corner of the small kraal, you</p> <p>2 say that you saw the strikers bent over, walking while they</p> <p>3 were bent over and then you said, "toe daar opgeneem was."</p> <p>4 That was on the part of SAPS, that was action on the part</p> <p>5 of SAPS. Apart from the strikers being bent over as they</p> <p>6 walked, anything else that you saw in relation to the</p> <p>7 action of the strikers?</p> <p>8 KOLONEL VERMAAK: Ons kon uit die lug uit</p> <p>9 waargeneem het daar is persone met stokke en kieries, maar</p> <p>10 baie van hulle het ook komberse om hulle gehad wat ons nie</p> <p>11 regtig kon waarneem uit die lug uit wat dan aangaan nie,</p> <p>12 want daar was persone wat ooglopend – ek wil amper sê lang</p> <p>13 voorwerpe wat 'n mens dan aangeneem het stokke en kieries</p> <p>14 moet wees wat hulle in hulle hande gehad het.</p> <p>15 MS PILLAY: Alright –</p> <p>16 COMMISSIONER HEMRAJ: Ms Pillay, the</p> <p>17 witness earlier on used his pointer to show the movement of</p> <p>18 the strikers further down on this, on the photograph but</p> <p>19 further down towards the Nyalas and that hasn't actually</p> <p>20 been placed on record. Perhaps you'd just like to do that.</p> <p>21 MS PILLAY: I'm sorry, Commissioner,</p> <p>22 which point of the picture?</p> <p>23 COMMISSIONER HEMRAJ: Colonel Vermaak was</p> <p>24 using his pointer to show on the photograph the movement of</p> <p>25 the strikers from where the very front persons are,</p>	<p style="text-align: right;">Page 25350</p> <p>1 CHAIRPERSON: The top left-hand, that's</p> <p>2 the top left-hand corner of the small kraal as we see it on</p> <p>3 the photograph.</p> <p>4 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>5 So dit is, dis wat ons waargeneem het uit die lug uit.</p> <p>6 MS PILLAY: Alright and just to cover</p> <p>7 again exactly what you saw in terms of the attack, from the</p> <p>8 air what did you see?</p> <p>9 KOLONEL VERMAAK: Uit die lug uit het</p> <p>10 ons, toe die groep vorentoe beweeg het, ons kon sien daar</p> <p>11 gebeur dinge. Ons kon nie presies sê wat daar gebeur nie</p> <p>12 maar daar was baie stof en rook gewees. So uit die lug uit</p> <p>13 was dit vir ons moeilik want op daardie stadium, soos ek</p> <p>14 vir u verduidelik het, die helikopter beweeg teen 'n</p> <p>15 redelike spoed en as ek met die lig hier kan wys sal die</p> <p>16 helikopter op hierdie stadium omtrent in hierdie omgewing</p> <p>17 gewees het.</p> <p>18 CHAIRPERSON: That's the bottom of the</p> <p>19 photograph –</p> <p>20 KOLONEL VERMAAK: Dis korrek, Voorsitter,</p> <p>21 en hy sal basies so in 'n sirkel ombeweeg het. So ons was</p> <p>22 omtrent heel regs op die foto in die rigting van die</p> <p>23 kragstasie toe ons dan nou opmerk daar word opgetree daar,</p> <p>24 jy sien rook, jy sien stof en alles daar.</p> <p>25 MS PILLAY: Alright, so once the</p>

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1 strikers, after the strikers had passed the left, top left-
 2 hand corner of the small kraal, can you tell us what did
 3 you hear and what did you see then?
 4 CHAIRPERSON: I just want to make sure
 5 I've got it right. You've explained to us how they were
 6 repelled at the top right-hand corner of the small kraal we
 7 see in the photograph. A combination of the wire, the
 8 vehicle was presumably blocking the way, water cannon,
 9 teargas, stun grenade, right? They then left that
 10 position, went round the kraal – you've indicated how they
 11 did – and then they came back as you described in this
 12 arrow formation to the top left-hand corner. Now while all
 13 this was happening you were going around the area in a
 14 clockwise direction in your helicopter.
 15 COLONEL VERMAAK: Anti-clock, dis reg.
 16 CHAIRPERSON: Sorry, I beg your pardon,
 17 anti-clockwise.
 18 COLONEL VERMAAK: Dis korrek, Voorsitter.
 19 CHAIRPERSON: Now what Adv Pillay wants
 20 to know from you is what exactly did you see happening at
 21 the left, at the top left-hand corner of the kraal as we
 22 see it on the photograph? Now you've explained to us, as I
 23 understand, there was a lot of dust, there was smoke, I
 24 take it there was – yes, the smoke would have been teargas
 25 smoke, I take it?

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1 COLONEL VERMAAK: Dis korrek, Voorsitter.
 2 CHAIRPERSON: And there was dust. That
 3 presumably would have made it difficult for you from your
 4 helicopter to see precisely what was happening down below,
 5 is that fair?
 6 COLONEL VERMAAK: Dis korrek. Op daai
 7 stadium het ons glad nie besef wat onder aangaan nie. Daar
 8 was geen radioberigte wat ons ontvang het van enige iemand
 9 wat by die toneel was of daar naby was wat vir enige iemand
 10 'n sitrap gegee het wat daar gebeur nie.
 11 CHAIRPERSON: How high was the helicopter
 12 at that stage, what was its altitude?
 13 COLONEL VERMAAK: Op 300 voet gewees.
 14 CHAIRPERSON: 300 feet, I see. So would
 15 it be fair to say that when you talk about the group
 16 attacking the police again, that is to some extent an
 17 interpretation based upon what you saw?
 18 COLONEL VERMAAK: Dis korrek.
 19 CHAIRPERSON: Subject to the difficulties
 20 and the limitations and the qualifications which flow from
 21 what you told us, that you were 300 feet up, there was a
 22 lot of smoke and dust and so on.
 23 COLONEL VERMAAK: Dis korrek.
 24 CHAIRPERSON: That was your impression,
 25 that was your interpretation?

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1 KOLONEL VERMAAK: Dis korrek.
 2 CHAIRPERSON: Is that fair?
 3 KOLONEL VERMAAK: Dis korrek.
 4 CHAIRPERSON: I don't know whether I've
 5 made things better or worse, Ms Pillay, but I tried to sort
 6 out what you were trying to get –
 7 MS PILLAY: I think better, Chair.
 8 CHAIRPERSON: I hope I succeeded.
 9 MS PILLAY: I think better, Chair, if I
 10 can just pick up from there. Colonel, in line 3 you say
 11 that after what I call the first attack on the left-hand
 12 side of the kraal happened, "Brigadier Calitz het weer vir
 13 die lede opdrag gegee om 'n optrede te loods." How did you
 14 hear that instruction?
 15 KOLONEL VERMAAK: Dit was oor die radio
 16 gewees. Dis waar ek gesê het ek dit weer eens herhaal het
 17 toe ek sien daar kom nie reaksie van die polisiemanne se
 18 kant af op die grond nie en toe het ek sy opdrag weer
 19 herhaal omdat ek aangeneem het daar is 'n moontlikheid dat
 20 sy boodskap nie via die kommunikasiestelsel by die lede met
 21 die handradio's kon uitgekóm het nie.
 22 MS PILLAY: And so you repeated the
 23 instruction to –
 24 COLONEL VERMAAK: Engage.
 25 MS PILLAY: - optrede te loods.

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1 KOLONEL VERMAAK: Dis korrek.
 2 MS PILLAY: And what happens immediately
 3 after you repeat that instruction?
 4 KOLONEL VERMAAK: Ons was nog besig om te
 5 sirkel en dit is waar die insident toe plaasgevind het wat
 6 ons die stof en die rook en alles gesien het. Ek sal sê
 7 dit is omtrent toe, volgens my waarneming waar die twee
 8 groepe, ek sou nou sê polisiemanne en optoggers, dan
 9 bymekaar gekom het.
 10 MS PILLAY: I just want to be clear,
 11 Colonel. We know that you saw dust and smoke the first
 12 time at the top left-hand corner of the kraal. Now that
 13 you're testifying to seeing dust and smoke, is that the
 14 second time that you see dust and smoke?
 15 KOLONEL VERMAAK: Dis korrek.
 16 CHAIRPERSON: - it was continuous, is
 17 that right? The dust and smoke was there, there wasn't a
 18 bit of – it wasn't dust and smoke that stops –
 19 COLONEL VERMAAK: No, no.
 20 CHAIRPERSON: - then clarity and then
 21 dust and smoke again?
 22 COLONEL VERMAAK: Yes.
 23 CHAIRPERSON: It was dust and smoke the
 24 whole time?
 25 COLONEL VERMAAK: That's correct. Op, as

<p style="text-align: right;">Page 25355</p> <p>1 'n mens kan verduidelik, na die eerste optrede wat hulle 2 daar by Nyala 4 gehad het, was daar traanrook en stof en 3 goed gewees en in die proses nog wat hulle ombeweeg het, 4 toe het ons weer basies gesien, wel dit het net meer geword 5 nadat die groepe bymekaar gekom het. 6 MS PILLAY: Now you say, Colonel, in your 7 statement at paragraph, sorry, line 3 of paragraph 11 you 8 say, "Ek het die opdrag herhaal uit die helikopter, waarop 9 ek gesien het dat die lede optree." 10 KOLONEL VERMAAK: Dis korrek. 11 MS PILLAY: Just describe to us in a fair 12 amount of detail, you repeat the instruction, what exactly 13 do you see at that stage? 14 KOLONEL VERMAAK: Die optree, was my 15 afleiding nadat ek traanrook – ekskuus, dat ek uit die lug 16 kon sien daar gaan traanrook en skokgranate af, so dit het 17 vir my 'n indikatie gegee dat daar deur die polisiemanne 18 dan opgetree was. 19 MS PILLAY: So when you say that "Ek het 20 gesien dat die lede optree," are you then referring to the 21 teargas and the stun grenades? 22 KOLONEL VERMAAK: Dis korrek. 23 COMMISSIONER HEMRAJ: You were able to 24 say exactly in which area you saw the stun grenades and the 25 teargas?</p>	<p style="text-align: right;">Page 25357</p> <p>1 and the top left-hand corner of the small kraal in your 2 anti-clockwise movement – 3 KOLONEL VERMAAK: Dis korrek. 4 CHAIRPERSON: - around the area. 5 KOLONEL VERMAAK: Dis korrek. 6 CHAIRPERSON: In the circle which we did. 7 KOLONEL VERMAAK: Dis korrek. 8 CHAIRPERSON: And you must then, I take 9 it, have gone around again more or less towards the bottom 10 of the photograph. 11 KOLONEL VERMAAK: Dis korrek. 12 CHAIRPERSON: Or even further, further 13 off the photograph. 14 KOLONEL VERMAAK: As ons miskien daai 15 foto kan kry, dat hulle vir ons net kan opsit dan kan ek 16 min of meer vir u 'n aanduiding gee wat die posisie van die 17 helikopter was. 18 CHAIRPERSON: Alright, will you do that 19 in a moment? Let me get my question – so you flew in an 20 anti-clockwise circle around the area? 21 KOLONEL VERMAAK: Dis korrek. 22 CHAIRPERSON: And then did you take your, 23 the photograph which you describe as at 15:58 – 24 KOLONEL VERMAAK: Dis korrek. 25 CHAIRPERSON: - of the bodies lying</p>
<p style="text-align: right;">Page 25356</p> <p>1 KOLONEL VERMAAK: Kommissaris, dit is 2 basies in daardie, op daardie hoek sal ek sê, die 3 linkerkant boonste hoek waar die rook en stof en alles was 4 wat toe waargeneem is. 5 CHAIRPERSON: Now, did you at any stage – 6 I don't know whether you would have heard it directly from 7 below over the radio – did you hear gunfire? 8 KOLONEL VERMAAK: Nee, glad nie. 9 Ongelukkig kan jy dit nie in die helikopter hoor nie. 10 CHAIRPERSON: So you wouldn't have heard 11 the gunfire from below, the sound waves coming up from 12 below the helicopter? 13 KOLONEL VERMAAK: Nee. 14 CHAIRPERSON: Did you hear anything over 15 the radio? 16 KOLONEL VERMAAK: Glad nie. 17 CHAIRPERSON: Now you were flying around 18 in an anti-clockwise direction as you've told us, and you 19 took some photographs which we've seen – you saw the 20 photographs, bodies lying on the ground – that, according 21 to the time of your camera was 15:58. We've had it 22 adjusted, Mr Chaskalson told us yesterday how that 23 translates into ETV time but – 15:56, but what I'm 24 interested in is this, where you were you flew, did you fly 25 over what one can call the top side, top right-hand corner</p>	<p style="text-align: right;">Page 25358</p> <p>1 there, did you take that more or less from a position above 2 the small kraal? 3 KOLONEL VERMAAK: Dis korrek, dis korrek, 4 ja. 5 CHAIRPERSON: So there was a gap, there 6 was a period of time when you were flying your circle? 7 KOLONEL VERMAAK: Dis korrek. 8 CHAIRPERSON: Now at the beginning, when 9 you were at the top end of the circle initially when you 10 saw this smoke, dust and so forth and you didn't hear 11 gunfire over the radio and you couldn't hear any gunfire 12 from below but that was because of the problems – 13 KOLONEL VERMAAK: Ja. 14 CHAIRPERSON: - inherent in trying to 15 hear things on the ground if you're 300 feet above in a 16 helicopter but you then, as I say, went in a circle, flew 17 around in a circle and we know that by the time you came 18 back to that spot the shooting had taken place because 19 there dead bodies on the ground. 20 KOLONEL VERMAAK: Dis korrek. 21 CHAIRPERSON: And what I'd be interested 22 in knowing where was Brigadier Calitz's Nyala? Did you 23 see, were you able at any stage – you told us that you 24 heard him give the command "Engage," which you repeated? 25 KOLONEL VERMAAK: Dis korrek.</p>

<p style="text-align: right;">Page 25359</p> <p>1 CHAIRPERSON: Are you able to tell us 2 where his Nyala was at that stage? 3 KOLONEL VERMAAK: Voorsitter, nee. Ek 4 het, op daardie stadium was my konsentrasie nie gewees op 5 die nommers wat op die Nyalas se dakke was nie, dit was 6 meer gekonsentreer op die groep wat daar was en dit wat 7 daar gebeur het nadat ons die stof en traanrook gesien het. 8 Ons het hom wel gehoor, maar ek kan nie op 'n foto nou 9 aandui waar hy was nie. 10 CHAIRPERSON: As you flew to the lower 11 part of the circle were you looking in the direction of the 12 small kraal at that stage or not? 13 KOLONEL VERMAAK: Wel, ons het probeer om 14 na die stof, sal ek nou maar sê, bietjie die kring kleiner 15 te maak want ek het besef daar het iets gebeur en het ek 16 vir die vlieënier gesê hy moet vir my bietjie nader aan die 17 middelpunt, sal ek nou maar sê, vlieg. En dit is waar ek – 18 CHAIRPERSON: In a smaller circle, in 19 effect? 20 KOLONEL VERMAAK: Dis reg ja, dis reg. 21 CHAIRPERSON: And then? Then you came 22 back to the top of the circle? 23 KOLONEL VERMAAK: Dis reg. 24 CHAIRPERSON: As we see it on the 25 photograph.</p>	<p style="text-align: right;">Page 25361</p> <p>1 distress, I suggest that you leave the room now. We won't 2 ask any more questions or do anything further, we'll give 3 you an opportunity to leave. It doesn't look as if anyone 4 wants to move, so I take it we can carry on. 5 MS PILLAY: Thank you, Chair. So if we 6 can have JJJ11.1518? Colonel, if you can tell us where the 7 helicopter was at this stage? 8 KOLONEL VERMAAK: Voorsitter, ja. Ons 9 was, as jy kyk na die foto was ons basies aan die heel 10 onderkant gewees. Daar het ons 'n lyn polisiemanne 11 opgemerk. Daar was 'n lyn polisiemanne. Op 'n stadium, ek 12 kan nie presies sê wanneer nie, het brigadier Calitz gevra 13 waar is die lede wat moet opvolg en ek het aan hom 14 terugvoering gegee, hulle staan daar waar die bodies is. 15 En toe het ek begin tel, maar jy kon nie die presiese getal 16 kry in eenkeer wat jy ombeweeg nie, juis omdat jy nou 17 vinniger beweeg met die kleiner sirkeltjie wat jy vlieg, 18 maar ons was basies hier aan die onderkant van die foto. 19 So daardie sal die bokant wees van ons sig. Die manier hoe 20 ons baie vir die mense aanduiding op die grond gee, as jy 21 hom wil in praat na 'n area toe dan gebruik jy altyd die 22 helicopter se voerpunt as jou 12-uur, sy stert as sy 6-uur, 23 die linkerkant is sy 9-uur en sy regterkant is sy 3-uur. 24 So as ek nou so na die foto kyk sou die helikopter basies 25 in – ekskuus, in daardie rigting beweeg het, want ek het</p>
<p style="text-align: right;">Page 25360</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 CHAIRPERSON: And by this time the 3 shooting had already happened. The shooting only was a few 4 seconds, it wasn't – 5 KOLONEL VERMAAK: Ja, dit was verby 6 gewees. Toe ons weer om kom toe het die, soos ek gesê het, 7 die bodies lying on the ground. 8 CHAIRPERSON: I see. And did you see 9 Brigadier Calitz's Nyala at that stage? 10 KOLONEL VERMAAK: Nee, ek weet nie waar 11 hy was nie. 12 CHAIRPERSON: Thank you. 13 MS PILLAY: Thank you, Chair. Colonel, 14 maybe if we look at JJJ11.1518 you'll be able to orientate 15 us and let us know where the helicopter was at this stage. 16 Sorry, Chair, I'm not sure if it's necessary to issue a 17 warning before we – 18 CHAIRPERSON: Yes, I think we'd better. 19 We're now – it's the associations with the picture that 20 might cause trouble. There's a photograph being shown at 21 the moment of dead bodies lying on the ground taken from 22 300 feet but it's the people who were killed at scene 1, 23 they're lying on the ground. Any, those who were near and 24 dear to them, related to them, friends of theirs who feel 25 that looking at the photographs will cause them emotional</p>	<p style="text-align: right;">Page 25362</p> <p>1 aan die linkerkant gesit en van my kant af het ek dan die 2 foto's geneem. So die helikopter het antikloks in daardie 3 rigting ombeweeg. 4 CHAIRPERSON: This photograph of course 5 shows the scene exactly the opposite direction from the 6 previous photograph we saw. 7 KOLONEL VERMAAK: Dis korrek. 8 CHAIRPERSON: So you are now north on the 9 Nkaneng side, the informal settlement side of the – isn't 10 that right? Am I right? Anyway, the point is – okay, let 11 me get it right. The previous photograph you showed us was 12 taken from the other side, as it were. 13 KOLONEL VERMAAK: Dis korrek. 14 CHAIRPERSON: So we saw the position 15 where the strikers were below the position where the line 16 of TRT people is to be seen. Now we're seeing it from the 17 other direction. 18 KOLONEL VERMAAK: Dis korrek. 19 CHAIRPERSON: We're seeing round about 20 the middle of the photograph, across the photograph, two- 21 thirds of the photograph I suppose, we see the TRT line and 22 we see the dead bodies of the strikers above them towards 23 the top of the photograph. So it's exactly the other way 24 round from the previous photograph. 25 KOLONEL VERMAAK: Ja.</p>

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1 CHAIRPERSON: So you were now, that's
 2 because you'd flown this circle.
 3 KOLONEL VERMAAK: Dis korrek.
 4 CHAIRPERSON: Anti-clockwise circle.
 5 KOLONEL VERMAAK: Dis korrek.
 6 CHAIRPERSON: And you'd come out in a
 7 position effectively above, using the language of the
 8 previous photograph –
 9 COLONEL VERMAAK: Yes, Chair.
 10 CHAIRPERSON: - the group of TRT people
 11 you see –
 12 KOLONEL VERMAAK: Dis korrek.
 13 CHAIRPERSON: Now, I always get my points
 14 of the compass wrong. Can anyone tell me, the bottom of
 15 this photograph in the middle, is that north or west or
 16 what is it?
 17 [10:05] MR CHASKALSON SC: It's sort of south,
 18 south-east.
 19 CHAIRPERSON: South, south-east.
 20 Alright, thank you. So I'm saved from the error there.
 21 Thank you very much.
 22 KOLONEL VERMAAK: Ons kan miskien net,
 23 mnr die Voorsitter, dat waar ons in die vorige foto beduie
 24 het na die linkerkantste boonste hoek van die kraal, as ons
 25 nou na die foto kyk dan is dit die hoek, die naaste. So

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1 dit is die hoek wat ons voor, die vorige foto beskrywe het
 2 en dit is nou net die hoek van die anderkant af.
 3 CHAIRPERSON: That puts it rather well.
 4 What we described previously as the left-hand, the top
 5 left-hand corner of the kraal, of the small kraal, is now
 6 the bottom right-hand corner.
 7 KOLONEL VERMAAK: Dis korrek.
 8 CHAIRPERSON: That explains it clearly.
 9 MS PILLAY: Chair, if I may just
 10 indicate, I don't think that's necessarily the case. I
 11 think the corner of the kraal which we don't see on the
 12 right-hand side is that particular corner which we were
 13 describing as the top left-hand corner of the kraal.
 14 MR CHASKALSON SC: Chairperson, if I can
 15 add my five cents' worth? It may be best to orient
 16 ourselves with reference to the mouth of the kraal because
 17 that's visible on both photographs.
 18 CHAIRPERSON: If you look at, if you take
 19 the mouth of the kraal and you regard the top, on the
 20 previous photograph the top left-hand corner of the kraal
 21 as being in line with the mouth of the kraal, now we look
 22 at it, that same corner is now the bottom right as we see
 23 this photograph and the mouth of the kraal is once again
 24 visible. So – but we're using approximate language to try
 25 to express concepts that aren't easy to express in words.

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1 MS PILLAY: Chair, if we go back to
 2 JJJ1516, JJJ11.1516, the mouth – I don't have – Chair, the
 3 mouth of the kraal is, no, it's towards the right. No,
 4 it's more to the right, there we go.
 5 CHAIRPERSON: Yes, I think you're right,
 6 Ms Pillay. What we were describing on this photograph as
 7 the top – what we were describing as the section of the
 8 kraal, the corner of the kraal nearest the gap between the
 9 kraal and the corrugated iron house on the other side,
 10 that's actually the top right-hand corner of this
 11 photograph, you are correct. And so when we then look at
 12 the other photograph and I think that's 1518, can we see
 13 that? That's what we see, that's surely the bottom right-
 14 hand corner of the kraal as seen on this photograph.
 15 MS PILLAY: That's the opening of the
 16 kraal.
 17 CHAIRPERSON: You're not the witness but
 18 you agree. Let's see if the witness agrees. Colonel, do
 19 you agree?
 20 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 21 CHAIRPERSON: Alright, so we've finally
 22 got it right. I'm sorry to have caused trouble –
 23 COLONEL VERMAAK: No, no.
 24 CHAIRPERSON: - by my obtuseness but I
 25 think it's now been sorted out.

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1 KOLONEL VERMAAK: Dankie, Voorsitter.
 2 MS PILLAY: Colonel, can we now look at
 3 FFF25 which is the occurrence book and specifically page
 4 25? It's the JOC occurrence book and if we can look at
 5 page 25 of this document.
 6 CHAIRPERSON: Sorry, the entry number?
 7 MS PILLAY: If we can pick up from entry
 8 number 1016. Now, we see there, Colonel, that there's a
 9 situation report from chopper 1 who reports that the people
 10 are moving from the koppie. Do you confirm that this is a
 11 situation report from your, from you?
 12 KOLONEL VERMAAK: Ja, dis positief.
 13 MS PILLAY: And if we go through down to
 14 1017, it's a report at 15:55 that the group are moving to
 15 TRT members and they tried to attack them. Now do you know
 16 whether this report –
 17 KOLONEL VERMAAK: Nee.
 18 MS PILLAY: - is one from you or one from
 19 somebody –
 20 KOLONEL VERMAAK: Dit het nie van my af
 21 gekom nie, want soos ek vir u gesê het, ons kon nie uit die
 22 lug uit spesifiek sê wie is TRT, wie is POP of wie is NIU
 23 nie.
 24 MS PILLAY: So this report – and we take
 25 it sentence by sentence – the report that the group are

<p style="text-align: right;">Page 25367</p> <p>1 moving to TRT members and they tried to attack them, that 2 is not a report from your chopper? 3 KOLONEL VERMAAK: No. Papa1 is brigadier 4 Calitz se voertuig. 5 MS PILLAY: No, I'm aware of that but 6 Brigadier Calitz testified that that is an error in the 7 occurrence book and that it should actually refer to 8 chopper 1 and not Papa1. 9 KOLONEL VERMAAK: Nee. 10 MS PILLAY: What's your response to that? 11 KOLONEL VERMAAK: Nee. Ek kan vir u sê 12 sover my geheue strek het ek nie gesê dat TRT aangeval word 13 of nie. 14 MS PILLAY: Did you hear Papa1 issuing a 15 report over the radio at that stage? 16 KOLONEL VERMAAK: Nee, ek het ook nie 'n 17 rapport gehoor nie. 18 MS PILLAY: Did you hear any report 19 around, to the effect that the group are trying to, are 20 moving to TRT members and trying to attack? 21 KOLONEL VERMAAK: Nee, daar was geen 22 rapport wat ons in die helikopter dit waargeneem het nie. 23 MS PILLAY: Alright, let's go to the 24 second line, Papa1 reporting that the people are moving 25 around and some are down, also at more or less 15:55. Do</p>	<p style="text-align: right;">Page 25369</p> <p>1 MS PILLAY: - report. And the next 2 report, water cannon moving forward to the koppie, people 3 are moving out of the koppie. Do you remember whose report 4 that is? 5 KOLONEL VERMAAK: Nee, daardie, daardie 6 berig was baie, baie later by koppie 3 gerapporteer gewees 7 en nie daar by die eerste insident waar die persone geskiet 8 was nie. 9 MS PILLAY: Alright, so that, that entry 10 doesn't relate to scene 1? 11 KOLONEL VERMAAK: Glad nie. 12 MS PILLAY: The next, the next report, 13 Papa1 instructing the members to go to next koppie. Did 14 you hear that over the radio? 15 KOLONEL VERMAAK: Negatief. 16 MS PILLAY: Alright and then the last one 17 I just want to draw your attention to, people are running 18 to the direction of members, Papa5 instructing members to 19 make arrests, six people arrested. Do you recall hearing 20 that over the radio? 21 KOLONEL VERMAAK: Dis reg, dit was Papa1 22 wat daar gerapporteer het. 23 MS PILLAY: Alright and then the chopper 24 2 reporting two bodies down? 25 KOLONEL VERMAAK: Dit was chopper 1.</p>
<p style="text-align: right;">Page 25368</p> <p>1 you remember if that is a report from you or from chopper 2 1? 3 KOLONEL VERMAAK: Ja, dis chopper 1 se 4 rapport daardie gewees. 5 MS PILLAY: So the second sentence is 6 erroneous, it should refer to chopper 1? 7 KOLONEL VERMAAK: Dis korrek. 8 MS PILLAY: Alright, let's look at entry 9 1018. We have another situation report at 15:56 and it 10 states that Papa1 reporting that people are running towards 11 the houses, running to the western side of the koppie. Now 12 do you recall if that – 13 KOLONEL VERMAAK: Chopper 1 gewees. 14 MS PILLAY: Sorry? 15 KOLONEL VERMAAK: Dis chopper 1 gewees. 16 MS PILLAY: That's supposed to be chopper 17 1? 18 KOLONEL VERMAAK: Dis korrek. 19 MS PILLAY: And the next report, 18 20 bodies are down, chopper 1 reporting this is at the back of 21 the koppie, other people are running towards Karee Hostel. 22 KOLONEL VERMAAK: Dis korrek. 23 MS PILLAY: That's correctly reflected as 24 you reported – 25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25370</p> <p>1 MS PILLAY: That's also erroneous, it 2 should be chopper 1 reporting two bodies down. Now 3 Colonel, if we can just deal with your report that there 4 were bodies down. I think it's now the second line that 5 you see on the screen, 18 bodies down. Can you just tell 6 us what it is that you meant when you said that there were 7 18 bodies down? 8 KOLONEL VERMAAK: Voorsitter, op daardie 9 stadium was dit vir my duidelik dat die persone wat daar lê 10 of beseer of gedood moet wees, want hulle het in 'n 11 onnatuurlike, van hulle was dit duidelik dat hulle in 'n 12 onnatuurlike posisie gelê het en ook die feit, as ons kan 13 teruggaan na een, die foto's toe waar die oorledenes gelê 14 het – 15 MS PILLAY: Alright, let's just look at 16 JJJ11.1518. 17 KOLONEL VERMAAK: As daardie persone 18 gearresteer was, die normale optrede is en u sal dit later 19 op van die ander foto's sien, as jy persone gearresteer het 20 dan gaan jy polisiemanne rondom hulle plaas sodat sou dit, 21 daar iemand is wat wil opspring en weghardloop dan kan jy 22 verhoed dat dit gebeur, maar hier het al die polisiemanne 23 in een reguit lyn gestaan. So dit is een van die redes wat 24 my laat vermoed het en dis hoekom ek gesê het bodies down. 25 MS PILLAY: So can I just – so in your</p>

<p style="text-align: right;">Page 25371</p> <p>1 mind you were clear that the people lying down were either 2 seriously injured or dead at the time? 3 KOLONEL VERMAAK: Dis positief. 4 MS PILLAY: Now, when you conveyed this 5 message over the radio, were you satisfied that you were 6 conveying the correct message? 7 KOLONEL VERMAAK: Ja. 8 MS PILLAY: That people would understand 9 what you were – 10 KOLONEL VERMAAK: Dis reg. 11 MS PILLAY: - trying to, what you meant. 12 KOLONEL VERMAAK: Dis korrek. 13 MS PILLAY: Now – 14 CHAIRPERSON: Sorry to interrupt you, am 15 I correct in thinking, based on what you told us yesterday, 16 that you Blackberried, you sent by Blackberry – I don't 17 know what the correct verb is. 18 KOLONEL VERMAAK: Dis korrek. 19 CHAIRPERSON: By Blackberry, that 20 photograph to the JOC. 21 KOLONEL VERMAAK: Dis korrek, Voorsitter. 22 MS PILLAY: Now we know that a number of 23 SAPS members who heard this report over the radio testified 24 before this Commission that they understood that either the 25 protesters were submitting to arrest or were trying to, I</p>	<p style="text-align: right;">Page 25373</p> <p>1 consequence of that would have been dead or seriously 2 injured bodies. 3 KOLONEL VERMAAK: Dis korrek. 4 CHAIRPERSON: So any reasonable person 5 who heard that, what General Mpembe said he heard, would 6 have appreciated these people weren't lying down because 7 they were trying to avoid rubber bullets. The TRT people 8 aren't in the business of firing rubber bullets, are they? 9 KOLONEL VERMAAK: Dis korrek. Ek kan 10 dalk net vermeld, wat u in gedagte moet hou, ons was net 11 die oggend by die aanvanklike JOC meeting gewees. Agterna 12 toe die ander plan in werking gestel was en die lede 13 aangewys is, wie waar gaan werk, was ons glad nie in kennis 14 gestel gewees aan die lugvleuel se kant nie. So ons het 15 absoluut staatgemaak op dit wat ons uit die helikopter uit 16 sigbaar kon sien en dan dit so deurgegee het na die JOC 17 toe. 18 CHAIRPERSON: At the meeting at 6:30, the 19 JOCCOM meeting at 6:30 which you were present at, we have 20 the manuscript notes that were kept at that meeting by, I 21 think it was Captain Moolman and they start off by saying 22 "Today is D-day" and it goes on to elaborate on that and 23 the evidence is that that was probably General Annandale 24 saying it. Can you remember those words being used, "Today 25 is D-day?"</p>
<p style="text-align: right;">Page 25372</p> <p>1 think it was Brigadier Calitz said that there could have 2 been, it could have meant one of two things, either that 3 the strikers were submitting to arrest or that the strikers 4 were trying to avoid being shot at with rubber bullets 5 during the dispersion action. Now what is your response to 6 that? 7 KOLONEL VERMAAK: As ek daar bietjie 8 vooruit kan loop na die volgende koppie 3 toe, sal ons sien 9 dat ons daar gepraat het van suspects or arrestees en het 10 ons nie gepraat van bodies that is lying down nie. Die 11 enigste waar ons of waar ek uit die helikopter uit gepraat 12 het van bodies down, is die twee wat aan die agterkant gelê 13 het wat ek toe ook opgemerk het polisiemanne staan nie by 14 hulle of daar is nie 'n teken dat hulle sê bewaak word om 15 te verhoed dat hulle miskien sou ontsnap of so nie. 16 CHAIRPERSON: If one goes back, of 17 course, to the previous entry which reflects what General 18 Mpembe said he heard as he was getting into the helicopter, 19 a group were moving to the TRT members, they tried to 20 attack them – now if the group had moved towards the TRT 21 members and tried to attack them, the TRT members would 22 have wished to defend themselves. They could only have 23 defended themselves with the R5s they had, is that right? 24 KOLONEL VERMAAK: Dis korrek, Voorsitter. 25 CHAIRPERSON: So the almost inevitable</p>	<p style="text-align: right;">Page 25374</p> <p>1 KOLONEL VERMAAK: Voorsitter, nee, ek kan 2 my nie herinner dat ek daardie spesifieke woorde gehoor het 3 behalwe agterna wat ons op die televisie gesien het toe die 4 Provinsiale Kommissaris 'n media release gemaak het in die 5 loop van die oggend nie. 6 CHAIRPERSON: Did you actually see the 7 television broadcast of the press conference by the 8 Provincial Commissioner? 9 KOLONEL VERMAAK: Dit was baie, 'n paar 10 dae daarna soos wat dit maar kort-kort gebeeldsênd was, het 11 ons maar verneem van die opmerking wat gemaak sou gewees 12 het. 13 CHAIRPERSON: I think you told us 14 yesterday that you were at the JOCCOM meeting at 6 o'clock, 15 as you've told us this morning again and you were told that 16 the plan was encirclement. 17 KOLONEL VERMAAK: Dis korrek, Voorsitter. 18 CHAIRPERSON: And there was also, I take 19 it – well, we have the evidence, I don't know if you can 20 remember it, that the representative of criminal 21 intelligence said that their information was that they 22 weren't going to lay down their arms, they were going to 23 fight to keep their weapons. 24 KOLONEL VERMAAK: Ek het – 25 CHAIRPERSON: Did you hear that?</p>

<p style="text-align: right;">Page 25375</p> <p>1 KOLONEL VERMAAK: Dis reg. Ek het, ek 2 het eerstens die remark weer gemaak soos wat ek die vorige 3 oggend ook gedoen het en toe het kolonel Isaacs, toe dit sy 4 spreekbeurt was toe het hy dit weer beklemtoon presies wat 5 ek gesê het. 6 COMMISSIONER HEMRAJ: Colonel, your 7 message that you transmitted, 18 bodies down, did anyone at 8 all, either from the JOC or anyone else ask for 9 clarification? 10 KOLONEL VERMAAK: Nee, niemand nie. 11 MS PILLAY: And once you had sent the BBM 12 picture through to the JOC depicting what you'd transmitted 13 over the radio that bodies were down, was there any request 14 for clarification either from the JOC or from Brigadier 15 Calitz? 16 KOLONEL VERMAAK: Nee, op daardie stadium 17 was daar geen versoeke gewees om duidelikheid te kry 18 onmiddellik nadat ek die sitrap gemaak het van die bodies 19 down nie. 20 MS PILLAY: Now Colonel, was there any 21 doubt in your mind at the time that the JOC knew that there 22 was a shooting and that the strikers were, at the very 23 least, seriously injured? 24 KOLONEL VERMAAK: Ek het aangeneem dat 25 hulle die erns van die saak sal besef deurdat ek gesê het</p>	<p style="text-align: right;">Page 25377</p> <p>1 MS PILLAY: Now, Colonel, two witnesses – 2 both General Naidoo and General Mpmembe – indicate that 3 after, immediately after the attack at scene 1 there was a 4 fair amount of radio communication between you and 5 Brigadier Calitz and that it was difficult for them to 6 access the radio. Can you describe to us what was 7 happening at that stage? 8 KOLONEL VERMAAK: Nee, op – lank na die 9 eerste insident was daar 'n redelike radiostilte gewees en 10 as 'n mens na die transcript op die Lonmin video-opname kyk 11 ook, dan sal jy agterkom daar was genoeg kans vir enige 12 iemand anders om tussenbeide te kom as hy 'n boodskap wou 13 gestuur het, want dit is maar normaal dat as jy 'n boodskap 14 gestuur het en jy ontvang hom of jy ontvang 'n boodskap 15 terug, wag jy eers 'n wyle en dan sal jy weer 'n boodskap 16 uitstuur om voorsiening te maak sou daar iemand anders dalk 17 wil inbreek op die gesprek. 18 [10:24] MS PILLAY: So can you tell us what 19 communication there was between you and Brigadier Calitz at 20 that stage? 21 KOLONEL VERMAAK: Ons meeste gesprekke 22 het weer gegaan nadat die Nyalas in 'n lyn opgevorm het. 23 As 'n mens na daardie, na 'n foto kyk sal u sien dat dit 24 meer na die oop veld se kant toe was aan die bokant van 25 koppie 2 waar ek vir hom terugvoering gegee het dat die</p>
<p style="text-align: right;">Page 25376</p> <p>1 bodies down en dat ek nie gesê het suspects nie, want as jy 2 verwys na verdagtes wat gearresteer is dan is dit suspects 3 arrested or detained maar as jy verwys na bodies, volgens 4 ons terme, dan is dit of beseerdes of dis persone wat 5 gedood is. 6 COMMISSIONER HEMRAJ: Can I just ask you, 7 Colonel, when you send a message, a BBM message on your 8 phone, do you get a notification that it has been accessed? 9 KOLONEL VERMAAK: Nee, ongelukkig nie, 10 Kommissaris. Ek stuur hom net deur en wat ek gedoen het 11 is, ek het net die radio-operateur gesê ek het 'n foto 12 deurgestuurd en dan versoek of hulle dit ontvang het en dan 13 het hulle vir my bevestig ja, hulle het dit gekry. So in 14 die JOC moes hulle dan nou seker gemaak het voordat hulle 15 terugvoering gegee het aan my dat hulle wel die foto's 16 gekry het. 17 COMMISSIONER TOKOTA: Colonel, that entry 18 which says "Papa1 reporting the group are moving to TRT 19 members and they tried to attack them," you say that was 20 not chopper 1? 21 KOLONEL VERMAAK: No. 22 COMMISSIONER TOKOTA: Is it because it's 23 a reference to TRT or is it because you didn't see it? 24 KOLONEL VERMAAK: Ek het dit nie 25 waargeneem nie, ek het dit ook nie so gerapporteer nie.</p>	<p style="text-align: right;">Page 25378</p> <p>1 groepe weer agter koppie 2 bymekaarkom in 'n lyn. 2 MS PILLAY: Maybe we should look at that 3 picture, Colonel – 4 CHAIRPERSON: Before we get there can I 5 ask a question going a step – as Mr Mpofu would say, take a 6 step back. You talked about what you heard Brigadier 7 Calitz say on the radio, communication with him and so on. 8 There was some evidence that the word "block" was used at 9 some stage at this point before the firing took place, 10 before the bodies were down. Did you hear any command 11 being given about attempts must be made to block? 12 KOLONEL VERMAAK: Nee, dis negatief, 13 Voorsitter. Ek het nie so iets gehoor nie. 14 MS PILLAY: Alright, can we see 15 JJJ10.4543; that's a picture taken with your Pentax. Is 16 this the picture that you were referring to? 17 KOLONEL VERMAAK: Dis reg, Voorsitter. 18 Dis die foto wat ek na verwys. 19 MS PILLAY: Now can I just ask before we 20 reach this point where you see the Nyalas in the 21 reorganisation line and the protesters behind koppie 2, can 22 you tell us what communication there was between you and 23 Brigadier Calitz before this? 24 KOLONEL VERMAAK: Nee, ek kan nie met 25 eerlikheid nou vir u sê presies wat, of daar enige</p>

<p style="text-align: right;">Page 25379</p> <p>1 kommunikasie wel was nie.</p> <p>2 MS PILLAY: And at this stage what was</p> <p>3 the communication between you and Brigadier Calitz?</p> <p>4 KOLONEL VERMAAK: Op hierdie stadium was</p> <p>5 dit waar ek gerapporteer het dat die groep weer agter die</p> <p>6 koppie bymekaarkom.</p> <p>7 MS PILLAY: Now we see the Nyalas here in</p> <p>8 what has been described as the reorganisation line. Can</p> <p>9 you tell us who controlled the movement of the vehicles at</p> <p>10 this stage?</p> <p>11 KOLONEL VERMAAK: Brigadier Calitz het op</p> <p>12 'n stadium die Nyalas geroep wat onder sy groep was en ek</p> <p>13 vermoed dit is die Nyalas wat dan nou almal ontplooi was</p> <p>14 aan die voorpunt op die vorige twee dae waar hulle met die</p> <p>15 mense geonderhandel het. So hulle het aan daardie kant</p> <p>16 hergroepeer. Hy het die voertuie geroep om links en regs</p> <p>17 te ontplooi.</p> <p>18 MS PILLAY: Alright. Chair, I see it's</p> <p>19 10:30.</p> <p>20 CHAIRPERSON: Yes, I was just looking at</p> <p>21 my watch. Are you suggesting we should take a comfort</p> <p>22 break?</p> <p>23 MS PILLAY: I think it's a convenient</p> <p>24 stage is now, Chair.</p> <p>25 CHAIRPERSON: Well, I don't see any heads</p>	<p style="text-align: right;">Page 25381</p> <p>1 in view of the fact that that's going to happen it would be</p> <p>2 unfriendly of me to refuse to extend a similar favour to</p> <p>3 the other parties who wish to apply, if there are any. Mr</p> <p>4 Gumbi?</p> <p>5 MR GUMBI: Yes, Chairperson, on behalf of</p> <p>6 the family of the late Warrant Officer Lepaaku and</p> <p>7 Lieutenant Baloyi we forwarded our application yesterday to</p> <p>8 Adv Kameshni.</p> <p>9 CHAIRPERSON: I haven't got it yet, but</p> <p>10 never mind. So what we will do is close of business today</p> <p>11 I expect all applications to be in. I will then decide the</p> <p>12 matter as soon as I can, and certainly by tomorrow morning</p> <p>13 decide.</p> <p>14 MR GUMBI: Thanks, Chairperson.</p> <p>15 CHAIRPERSON: And I've already indicated</p> <p>16 to Mr Bizos that I'm granting some at least of the LRC's</p> <p>17 application and he has, I understand, given notice in fact</p> <p>18 that he's going to rely on the two reports by Colonel</p> <p>19 Hendrickx which are being printed at this moment for the</p> <p>20 witness to study tonight. So he will be the first cross-</p> <p>21 examiner, but I will then indicate tomorrow who the cross-</p> <p>22 examiners will be and the order and the topics on which I</p> <p>23 will allow cross-examination. So that's the first topic</p> <p>24 which took up some of our time during the comfort break.</p> <p>25 The other relates to the question of Mr X and the</p>
<p style="text-align: right;">Page 25380</p> <p>1 being shaken in signs of disapproval, so we'll take the</p> <p>2 comfort break now. Let's try to be back within about 10</p> <p>3 minutes, if we can, if that's in order with everybody.</p> <p>4 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>5 [10:59] CHAIRPERSON: - came back later than we</p> <p>6 promised, but the reason for it was we had discussions in</p> <p>7 chambers regarding two matters that I'll have to mention</p> <p>8 now. The first relates to the applications to cross-</p> <p>9 examine the present witness. I've received applications</p> <p>10 from the Legal Resources Centre, the Monene family, and the</p> <p>11 Human Rights Commission. Are there any of the other</p> <p>12 parties present who wish to cross-examine the Lieutenant</p> <p>13 Colonel? If so, I would expect to receive their</p> <p>14 applications by lunchtime. I want to make the decision at</p> <p>15 lunchtime as to whether or not the decision should be made,</p> <p>16 except that I have already granted an extension to SERI, I</p> <p>17 think until the end of today. Are SERI not yet in a</p> <p>18 position to file their application?</p> <p>19 MR GOTZ: Chair, we have people working</p> <p>20 on it and not at present, but we will file by close of</p> <p>21 business today.</p> <p>22 CHAIRPERSON: Yes [Microphone off,</p> <p>23 inaudible]</p> <p>24 MR GUMBI: Chairperson –</p> <p>25 CHAIRPERSON: [Microphone off, inaudible]</p>	<p style="text-align: right;">Page 25382</p> <p>1 application to receive his evidence in camera with certain</p> <p>2 other relief that's being sought. Now I understand that</p> <p>3 those parties opposing the application have indicated that</p> <p>4 they wish to file affidavits replying to the affidavit</p> <p>5 filed, or the affidavit handed in actually from the bar by</p> <p>6 Mr Semenya when the application was being argued. Those</p> <p>7 affidavit I understand had not yet been produced, so I want</p> <p>8 to enquire from the parties concerned whether they can give</p> <p>9 us any information about it. Are they filing affidavits or</p> <p>10 aren't they? If they are then clearly the police must get</p> <p>11 an opportunity to reply.</p> <p>12 MR GOTZ: Chair, my understanding was</p> <p>13 that those affidavits were signed and in fact given to</p> <p>14 SAPS' representatives late yesterday afternoon. The actual</p> <p>15 affidavits I have just seen on my iPad has been circulated</p> <p>16 to all parties. So it has been provided to all parties as</p> <p>17 of this moment. It came through about five minutes ago.</p> <p>18 CHAIRPERSON: I was informed by Adv</p> <p>19 Baloyi and Mr Pretorius, who came to see me during the</p> <p>20 comfort break, that they hadn't received them. That's the</p> <p>21 reason I'm raising it now.</p> <p>22 MS BALOYI: Yes.</p> <p>23 CHAIRPERSON: What is the story, Ms</p> <p>24 Baloyi?</p> <p>25 MS BALOYI: Chairperson, we have actually</p>

<p style="text-align: right;">Page 25383</p> <p>1 only five minutes ago received the affidavit. It was never 2 delivered to the SAPS. Mr Gotz is mistaken in that regard. 3 We just got now five minutes ago by email. 4 CHAIRPERSON: So you obviously won't be 5 in a position to give immediate attention to the possible 6 drafting of a reply to those affidavits. Is that correct? 7 MS BALOYI: Indeed so, Chair. 8 CHAIRPERSON: So in the circumstances it 9 seems that it will be impractical for us to – Mr Gotz, are 10 you listening? Are you listening? 11 MR GOTZ: Sorry, I apologise for the 12 misinformation, Chair, but – 13 CHAIRPERSON: Sorry, no, no, sometimes 14 one's instructions aren't always accurate. In the 15 circumstances it seems to me impractical for us to resume 16 the argument in respect of the in-camera application 17 tomorrow morning. Yes 18 MS KEETSE: Mr Chair, Ms Keetse, the 19 instructing attorney for both the injured and arrested. 20 The affidavit was done yesterday. During the lunch break 21 it was given to the evidence leaders, with respect. 22 CHAIRPERSON: I didn't say it was given 23 to the evidence leaders. I said my information from Ms 24 Baloyi and Mr Pretorius was the SAPS didn't have it, but 25 that matter has now been sorted out I think. The point is</p>	<p style="text-align: right;">Page 25385</p> <p>1 something; I want to say something else first, if you'll 2 let me. Also tomorrow it's anticipated that we will 3 conclude the evidence of Major General Naidoo, who has to 4 be re-examined. So what is going to happen tomorrow is – I 5 hope – will be the re-examination of Major General Naidoo 6 and the cross-examination of the present witness, and I 7 hope to be able to indicate tomorrow when the resumed 8 argument in respect of the in-camera application will take 9 place. Mr Gotz, you wanted to say something. 10 MR GOTZ: No, Chair, it was concerning 11 the re-examination of General Naidoo as well. 12 CHAIRPERSON: Alright. So now we've 13 dealt with all the housekeeping. Ms Pillay, are you ready 14 to carry on with the examination-in-chief – 15 MS PILLAY: I am, Chair. 16 CHAIRPERSON: - after I've reminded the 17 witness that he's still bound by his affirmation. U word 18 nog steeds gebind deur u plegtige verklaring wat u gegee 19 het. 20 SALMON JOHANNES VERMAAK: Dis korrek, 21 Voorsitter. 22 EXAMINATION BY MS PILLAY (CONTD.): Thank 23 you, Chair. Colonel, may we now turn to the transcript of 24 the Coin Security chopper video, also known as the Lonmin 25 chopper video, which is exhibit CC22. The transcript is</p>
<p style="text-align: right;">Page 25384</p> <p>1 it doesn't seem practical for us to have resumed argument 2 tomorrow because the police still have to consider whether 3 they will reply to the affidavits, draft the replies and 4 file them. So what I will do is hope to be able tomorrow 5 to announce when it will be appropriate for the argument to 6 resume in respect of the in-camera application. What will 7 be proceeding in the meanwhile will be the cross- 8 examination of the present witness. 9 MS PILLAY: Chair, the examination-in- 10 chief in the meantime. 11 CHAIRPERSON: No, no, the cross- 12 examination will only take place after the examination-in- 13 chief has ended, but it is anticipated according to the 14 information I was given in chambers that the examination- 15 in-chief will end today. So tomorrow the cross-examination 16 will be very much underway. Now as already indicated, Mr 17 Bizos will be the first cross-examiner and I will endeavour 18 to decide either this afternoon or certainly by early 19 tomorrow morning before we resume the hearing as to what 20 the fate of the other applications to cross-examine will be 21 and the order in which cross-examination will take place. 22 MR GOTZ: Chair, we had understood that 23 the reason – 24 CHAIRPERSON: There's also another factor 25 that I'm reminded of – sorry, Mr Gotz, you want to say</p>	<p style="text-align: right;">Page 25386</p> <p>1 exhibit 00011, which is document 22 in the bundle. 2 COLONEL VERMAAK: I've got it. 3 MS PILLAY: Now if we can just confirm, 4 Colonel, that you were given a draft transcript of the Coin 5 Security chopper video and the Ryland video by the evidence 6 leaders? 7 KOLONEL VERMAAK: Dis positief. 8 MS PILLAY: And that you looked only at 9 the portions of the transcript which relate to the Protea 10 Coin Security video? 11 KOLONEL VERMAAK: Dit is positief. 12 MS PILLAY: And not to the Ryland video. 13 KOLONEL VERMAAK: Dis korrek. 14 MS PILLAY: And that you listened 15 carefully a number of times to the audio in relation to – 16 sorry, to the portions of the transcript that relate to 17 that video and that you confirm the correctness of the 18 transcript? 19 KOLONEL VERMAAK: Dis positief. 20 MS PILLAY: And that that accords with 21 what you recall as having heard at the time on the 16th? 22 KOLONEL VERMAAK: Dis korrek. 23 MS PILLAY: Now just to orientate 24 ourselves and to understand where the transcript picks up, 25 Colonel, and if we can go back to JJJ10.4543, this was the</p>

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1 picture we dealt with just before the break, Colonel, and
 2 which shows the strikers in the reorganisation line –
 3 sorry, the strikers in a line behind koppie 2.
 4 KOLONEL VERMAAK: Dis korrek.
 5 MS PILLAY: And the police Nyalas in the
 6 reorganisation line.
 7 KOLONEL VERMAAK: Dis korrek.
 8 MS PILLAY: Now I'm informed by Mr
 9 Chaskalson that the eTV time for this picture is 15:59:40.
 10 Do you accept that?
 11 KOLONEL VERMAAK: Ja, ek sal dit so
 12 aanvaar.
 13 MS PILLAY: Now if we locate this now
 14 onto exhibit OOO11, just to get our bearings, if we go
 15 after the sixth entry on the transcript you'll see the
 16 sixth entry is at 15:59:02. The picture which we just saw,
 17 the JJJ10.4543 would fit in there, the time being 15:59:40.
 18 KOLONEL VERMAAK: Ek het hom.
 19 MS PILLAY: And just for completion if we
 20 go to JJJ10.4545, I'm told by Mr Chaskalson that the eTV
 21 time for this picture is 16:01:46, which means that it
 22 comes just before the seventh entry on the transcript,
 23 which is 16:02:20.
 24 KOLONEL VERMAAK: Aanvaar hom so.
 25 MS PILLAY: Alright, so if we can now

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1 pick up from the transcript itself, and if I can ask that
 2 we play CC22 just to give us a sense of what the video
 3 sounds like.
 4 [VIDEO SHOWN]
 5 Alright, can we play the video from 6:55, please?
 6 That's 6:55 into the video, Chair.
 7 [VIDEO SHOWN]
 8 Now Colonel, can we just confirm whose voice it
 9 is you hear saying "No lethal firearms now unless the
 10 target engage you"?
 11 KOLONEL VERMAAK: Dis Brigadier Calitz.
 12 MS PILLAY: And in terms of the actual
 13 words spoken you're quite clear that the transcript
 14 accurately reflects what was said and what you hear on the
 15 video?
 16 KOLONEL VERMAAK: Dit is korrek.
 17 MS PILLAY: Can I ask the technician just
 18 to play that bit again, please? Say from 6:56 or so, and
 19 the words actually start at 7.
 20 [VIDEO SHOWN]
 21 Thank you. So just to confirm, Colonel, can you
 22 just for the purposes of the record tell us exactly what
 23 you hear Brigadier Calitz saying?
 24 KOLONEL VERMAAK: The first part, dis
 25 waar ek met Pappa1 gepraat het, waar ek aan hom genoem het

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1 dat die groep uit die koppie uitbeweeg en ek die waterkanon
 2 aangedui het om vorentoe te kom. Brigadier Calitz het toe
 3 daarop gereageer, "Nyalas engage on the flank to protect"
 4 en dan die volgende gesprek was weer Brigadier Calitz wat
 5 hy gesê het "No lethal firearms now unless the targets
 6 engage you. No need to shoot while they are running unless
 7 the target engage you." Ek het aangeneem dit is die
 8 persone wat dan nou uiteen uit gedryf word, dat hulle die
 9 "disperse" aksie mee besig is en dis hoekom hy gesê het
 10 hulle moenie enige optrede in daardie hoedanigheid loods
 11 tensy die polisiemanne aangeval word nie.
 12 MS PILLAY: Colonel, just for a clearer
 13 picture for those of us who weren't there at the time,
 14 maybe we can pick up from where the strikers were in a line
 15 behind koppie 2. Can you take us through what you see
 16 next?
 17 KOLONEL VERMAAK: Na die insident –
 18 MS PILLAY: Yes, sorry Colonel, you can
 19 go ahead.
 20 KOLONEL VERMAAK: Na die insident waar
 21 die eerste skietery was het ons opgemerk dat die groep
 22 agter koppie 2 weer bymekaarkom en dit was toe so deurgegee
 23 aan Brigadier Calitz en die JOC.
 24 MS PILLAY: If we can refer to the
 25 transcript, is that where we are at video time 1:21?

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1 KOLONEL VERMAAK: Dis korrek.
 2 MS PILLAY: And which koppie are you
 3 referring to there?
 4 KOLONEL VERMAAK: Koppie 2.
 5 MS PILLAY: Alright, so you relayed to
 6 the JOC and to Brigadier Calitz that they're standing
 7 behind the koppie. What happens next?
 8 KOLONEL VERMAAK: Brigadier Calitz-hulle
 9 het toe opgevorm, die Nyalas. Ons het toe begin om die
 10 waterkanonne nader te bring. Daar was wel 'n stadium
 11 gewees wat ek besef het dat die een waterkanon het nie
 12 radiokommunikasie gehad nie, wat Brigadier Calitz op my,
 13 af, aan my gerapporteer het dat hulle radio aan die mense
 14 gegee het en dat ek met hulle kan praat.
 15 MS PILLAY: Can I just ask why did you
 16 decide to move the water cannons forward?
 17 KOLONEL VERMAAK: Die Nyalas het vorentoe
 18 begin beweeg en omdat jou waterkanon een van jou minste
 19 aggressiewe optredes is, jou eerste linie van optrede, was
 20 dit net logies gewees dat jou waterkanonne moet naderkom
 21 sou dit nodig wees om op te tree.
 22 [11:19] MS PILLAY: Alright, so you direct at
 23 5:00 of the transcript, that the water cannon should go
 24 straight. What happened next?
 25 KOLONEL VERMAAK: Dit is waar ek met die

<p style="text-align: right;">Page 25391</p> <p>1 waterkanon gepraat het om hom deur te vat na die spesifieke 2 punt toe. Op 'n stadium – 3 MS PILLAY: Sorry, can I just interrupt 4 you there, Colonel, you're saying that you wanted to move 5 the water cannon forward to a specific point. Now - 6 KOLONEL VERMAAK: Dis reg. Daar was twee 7 waterkanonne gewees. Die een waterkanon het ons gebruik 8 om, ek sal sê regs om die koppie te gaan en die ander 9 waterkanon het ons gebruik om links om te gaan. 10 MS PILLAY: So what were you using to 11 decide where to position the water cannon? 12 KOLONEL VERMAAK: Brigadier Calitz het 13 gevra ek moet die waterkanonne inbring en op dit het ek toe 14 die waterkanonne ingebring en geposisioneer op dit wat ons 15 uit die lug uit sien, die beste sou gewees het om dan die 16 encirclement te doen met die waterkanonne. 17 MS PILLAY: And at that stage why were 18 you attempting to encircle koppie 3? 19 KOLONEL VERMAAK: Dit was die voorligting 20 wat ons die oggend gekry het terwyl ons by die JOC meeting 21 was. 22 MS PILLAY: Alright, so we're picking up 23 at 5:45 of the transcript where you're saying, "I'm 24 bringing the water cannon around the other side." 25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25393</p> <p>1 MS PILLAY: Alright, so let's go to 6:28 2 where you say, "Papa1, the people is now moving out of the 3 koppie." Which koppie are you referring to? 4 KOLONEL VERMAAK: Dit was koppie 2 gewees 5 waar hulle uitbeweeg – nee, ekskuus, net 'n korreksie, dit 6 was koppie 3 gewees. Ek sê koppie 2 maar dit is koppie 3 7 en dit is waar brigadier Calitz toe vir ons gesê het die 8 waterkanonne moet vorentoe kom. 9 CHAIRPERSON: May I ask, in the 10 transcript we've got in respect of the entry at – Ms 11 Pillay? Ms Pillay, in the transcript we have, the entry 12 from 16:03:58 there's an insertion, "i.e. first scene" on 13 the first line. Now who was responsible for that 14 insertion? Mr Chaskalson? 15 MR CHASKALSON SC: Yes, anything in 16 parentheses in the transcript is not what one hears, it's 17 what I have inserted. 18 CHAIRPERSON: I see. Thank you. Now do 19 you agree, Colonel Vermaak, that that entry there, 20 transcription of what you said at 16:03:58, namely "Papa1, 21 the people is now moving out of the koppie, they are moving 22 out of the koppie," that you were referring to the first 23 scene, because that's what appears in brackets? Do you 24 agree with that? People are moving out of the koppie, now 25 what –</p>
<p style="text-align: right;">Page 25392</p> <p>1 MS PILLAY: Can you tell us what happens 2 next? 3 KOLONEL VERMAAK: Ek het die waterkanon, 4 die een het ek links om gevat, die ander een het ek regs om 5 gevat. Die een wat regs omgegaan het, het nie 'n radio 6 gehad nie so ons kon nie met hom kommunikeer nie. Dit is 7 waar brigadier Calitz my toe gekontak het en aan my genoem 8 het dat hy het 'n radio vir hulle gegee en dat ek nou met 9 hulle direk kon gepraat het. 10 MS PILLAY: Okay, so this is what we see 11 at 5:55 of the transcript. 12 KOLONEL VERMAAK: Dis korrek. 13 MS PILLAY: And what happens next? 14 KOLONEL VERMAAK: Op die transkripsie op 15 5:57 het ons met die waterkanon gepraat wat een van die 16 taakmag se voertuie genader het, om hom in te bring om 17 links te draai en op 6:10 het ek met hulle gepraat om 18 vorentoe te gaan, die Nyala en die Casspir en ek was nie 19 seker van die nommer op die Nyala se dak nie, waar ek ook 20 gesê het dat hulle die nodige beskerming aan die 21 waterkanonne moet gee. Hoekom ek pantservoertuie omgevat 22 het om saam met die waterkanonne te beweeg is dat jou 23 waterkanon-voertuig is nie gepantser nie, so hy moet 24 addisionele hulp staatmaak om hom te beskerm in sodanige 25 situasies waar daar moontlik probleme kan verwag word.</p>	<p style="text-align: right;">Page 25394</p> <p>1 KOLONEL VERMAAK: Voorsitter, daardie 2 koppie wat ek daar van gepraat het is koppie 3 gewees aan 3 die agterkant. 4 CHAIRPERSON: So just as well we've 5 clarified that, that the commentator appears to have erred 6 or certainly the witness disagrees with the commentator. 7 One of them is obviously wrong. 8 MR CHASKALSON SC: I acknowledge that I'm 9 clearly wrong on this one. This was an early insertion. 10 CHAIRPERSON: If it happens again we may 11 have to consider imposing cakes again. We won't do it just 12 yet. 13 MS PILLAY: Can we pick up with CC22, 14 6:28 into the video? 15 CHAIRPERSON: [Microphone off, inaudible] 16 - write in on our transcripts above "i.e. first scene," 17 "second scene." Well, the second scene is koppie 3. 18 Alright, second scene, i.e. K3. I just want to make sure 19 I understand it. Some people were already at koppie 3 and 20 they were now moving out of koppie 3. 21 KOLONEL VERMAAK: Dit is positief. 22 CHAIRPERSON: In which direction were 23 they going, can you remember? 24 KOLONEL VERMAAK: Voorsitter, ja. As ek 25 nou kan verduidelik was dit weg van die Nkaneng woongebied</p>

<p style="text-align: right;">Page 25395</p> <p>1 na die anderkant van hom waar die ander informele 2 nedersetting is, so dit – 3 CHAIRPERSON: As far as I remember, if we 4 now use the points of the compass, there was evidence that 5 Brigadier Calitz at one stage brought his vehicle to a stop 6 at a point near the north-western corner of koppie 3 and 7 there's also evidence, as far as I remember, that if one 8 were to proceed from the north-eastern corner of koppie 3 9 in a north-easterly direction you would come to what was 10 forward holding area 2 and behind forward holding – where 11 Captain Kidd was supposed to be guarding the informal 12 settlement but he didn't stay there, and behind forward 13 holding area 2 there was another informal settlement. Is 14 that the informal settlement we're talking about? 15 KOLONEL VERMAAK: Dis hom wat ek van 16 praat, Voorsitter. 17 CHAIRPERSON: So are you telling us then 18 that this reference here, this transcript, this relates to 19 people who were leaving the koppie at the north-eastern 20 corner or roughly the north-eastern corner and proceeding 21 in a north-easterly direction towards forward holding area 22 2 and beyond it, the second informal settlement. 23 KOLONEL VERMAAK: Dis korrek. 24 CHAIRPERSON: North-east. Is it north- 25 east or north-west? I'm not –</p>	<p style="text-align: right;">Page 25397</p> <p>1 MS PILLAY: Try and zoom in on the koppie 2 itself just so that we could get the Colonel to take us 3 through what's happening there at the moment. 4 CHAIRPERSON: So what are we going to 5 look at now? We're going to zoom in on the koppie? Can 6 that be done? 7 MS PILLAY: If we can zoom in on the 8 koppie – 9 CHAIRPERSON: Are the pixels going to 10 take over the scene – let's see what we can see. 11 [VIDEO IS SHOWN] 12 CHAIRPERSON: If we're zooming, we're not 13 zooming very effectively, are we? Where are we supposed to 14 be zooming to? 15 MS PILLAY: Maybe we should let the video 16 run just a little longer – 17 CHAIRPERSON: Alright, well, you're in 18 charge, Ms Pillay. 19 [VIDEO IS SHOWN] 20 MS PILLAY: Colonel, can you describe to 21 us what is happening at this stage? 22 KOLONEL VERMAAK: Ek moet nou net – ek 23 wil my nou net self orienteer hierso. As ek dit reg het, 24 is daardie die kragstasie. 25 MS PILLAY: That's right, yes.</p>
<p style="text-align: right;">Page 25396</p> <p>1 KOLONEL VERMAAK: Voorsitter, ek gaan vir 2 u eerlikwaar sê – 3 CHAIRPERSON: According to the evidence, 4 according to the evidence Brigadier Calitz was in the 5 north-western corner at koppie 3. That's the evidence that 6 we had. Now am I correct in thinking that forward holding 7 area 2 was to the north-east of the koppie, is that wrong? 8 MR CHASKALSON SC: South-west. 9 CHAIRPERSON: South-west. Okay, alright. 10 Just as well we're getting these things right. So you 11 understand what Mr Chaskalson tells us, so if you agree 12 with it – I see you're nodding your head. 13 KOLONEL VERMAAK: Dis – 14 CHAIRPERSON: So these people were then 15 moving south-west, from the south-western corner of koppie 16 3 in a south-westerly direction towards forward holding 17 area 2 and behind it the other informal settlement, is that 18 – 19 KOLONEL VERMAAK: Dis korrek. 20 CHAIRPERSON: Is that right now? 21 KOLONEL VERMAAK: Dis korrek. 22 CHAIRPERSON: Thank you. 23 MS PILLAY: If we can play CC22 from 24 06:58. 25 [VIDEO IS SHOWN]</p>	<p style="text-align: right;">Page 25398</p> <p>1 KOLONEL VERMAAK: Daardie is die 2 kragstasie. Die eerste insident was daarso gewees. Nee, 3 daar's hy, daar's hy, daar's hy. Nee, nou het ek hom reg. 4 Hierso is koppie 1 en 2 en daar is koppie 3. So op daardie 5 stadium het daardie groep mense inbeweeg hier by die, by 6 hierdie koppie hier en dit is waar ons die waterkanonne en 7 die Casspirs en die taakmagvoertuig in gepraat het en dit 8 is waar ons gerapporteer het dat aan hierdie kant is daar 9 mense wat uitbeweeg uit die koppie uit. 10 CHAIRPERSON: Now how can we put that on 11 record? We're looking at the photograph, where is the 12 south-western corner again? Mr Chaskalson, you seem to be 13 more familiar with this than I am. Would you be kind 14 enough to put on record for me what the witness pointed out 15 and then giving us a couple of south-wests and north-wests 16 in the process so that we can follow it in the light of the 17 evidence we've heard from other witnesses, if you don't 18 mind. 19 MR CHASKALSON SC: Well, the screen that 20 we're looking at is at 7 minutes 33 seconds on the player 21 of CC22. The zoom is a zoomed in area that, on the left- 22 hand side, captures the three kraals around the scene 1 23 area and on the right-hand, on the far right-hand side goes 24 a short distance past the right edge of koppie 3. What the 25 witness has pointed out is that people were leaving koppie</p>

<p style="text-align: right;">Page 25399</p> <p>1 3 towards the south-west, although one doesn't see it on 2 this image he's saying that his radio communication to that 3 effect was in response to people leaving the koppie, koppie 4 3 to the south-west. He has indicated that he and his, 5 "ons," we were bringing in the armoured vehicles and the 6 water cannons which are the white flecks visible around 7 koppie 2 and between koppie 2 and koppie 3. They were 8 being brought in. I forget the Colonel's exact testimony, 9 maybe if you can just repeat, Colonel.</p> <p>10 KOLONEL VERMAAK: Dis korrek. That's 11 correct.</p> <p>12 MR CHASKALSON SC: And presumably were 13 being brought in, into the direction of koppie 3.</p> <p>14 KOLONEL VERMAAK: Dis korrek.</p> <p>15 MR CHASKALSON SC: Beyond that I don't 16 recall the details of the Colonel's evidence but I can – if 17 you, Chairperson, can recall what you would like –</p> <p>18 CHAIRPERSON: I would like you to 19 indicate where the south-west was.</p> <p>20 MR CHASKALSON SC: Oh, sorry.</p> <p>21 CHAIRPERSON: He did – because that is 22 relevant because that's the point from which he says the 23 people were leaving the koppie 3 and also we need the 24 second informal settlement because that's where he says 25 they were going to.</p>	<p style="text-align: right;">Page 25401</p> <p>1 CHAIRPERSON: And they were moving in a 2 south, from the south-western corner of – once we know that 3 south-west is the top right-hand corner we can work out 4 where the south-western corner of koppie 3 was. You say 5 they were leaving there and going in a south-westerly 6 direction –</p> <p>7 COLONEL VERMAAK: That's correct.</p> <p>8 CHAIRPERSON: Towards the second informal 9 settlement.</p> <p>10 COLONEL VERMAAK: That's correct.</p> <p>11 CHAIRPERSON: And that was the forward 12 holding area 2, I think, is that correct, where Captain 13 Kidd was supposed to be?</p> <p>14 COLONEL VERMAAK: Ja, afterwards we 15 realised that he was posted there, ja.</p> <p>16 CHAIRPERSON: Alright. Is daar iets 17 anders wat u vir ons wil aandui wat mnr Chaskalson vir ons 18 kan verduidelik –</p> <p>19 KOLONEL VERMAAK: Nee –</p> <p>20 CHAIRPERSON: - oor wat, hoe 'n mens wat 21 hierdie ding later volg in staat sal stel om te verstaan 22 wat aangaan as hy na die foto kyk?</p> <p>23 KOLONEL VERMAAK: Ek dink met stilfoto's 24 sal 'n mens 'n baie duideliker beeld kan kry, Voorsitter.</p> <p>25 COMMISSIONER HEMRAJ: But Colonel, when</p>
<p style="text-align: right;">Page 25400</p> <p>1 MR CHASKALSON SC: The second, the south- 2 west of the koppie is – I'm trying to get my orientation 3 here –</p> <p>4 CHAIRPERSON: Perhaps the witness can 5 show us again what he showed us and we can then translate 6 that into south-west, north-west and so on.</p> <p>7 MR CHASKALSON SC: I can give the 8 direction of south-west, is to the top right-hand corner of 9 the screen. This screen is oriented with south at the top 10 of the screen, north at the bottom of the screen, in broad 11 terms.</p> <p>12 CHAIRPERSON: Yes.</p> <p>13 COMMISSIONER HEMRAJ: But the witness –</p> <p>14 CHAIRPERSON: Sorry, and then am I 15 correct in saying if one looks at, towards the top right- 16 hand corner, just below the top right-hand corner about a 17 quarter of the way down right close to the edge of the 18 right-hand side, that's what he called the second informal 19 settlement, is that correct? Colonel?</p> <p>20 MR CHASKALSON SC: And –</p> <p>21 CHAIRPERSON: Colonel, am I right?</p> <p>22 COLONEL VERMAAK: That's correct.</p> <p>23 CHAIRPERSON: That's right. And you say 24 that's the direction in which the people were going?</p> <p>25 COLONEL VERMAAK: That's correct.</p>	<p style="text-align: right;">Page 25402</p> <p>1 you were using your pointer earlier on to show the 2 direction of the strikers moving, you were indicating lower 3 down on the photograph, not in the direction that –</p> <p>4 KOLONEL VERMAAK: Voorsitter, daar in 5 daardie omgewing is daar, daar is twee informele 6 nedersettings. Die een is aan die eenkant van die grondpad 7 en die ander een is aan die anderkant van die grondpad. 8 Dis hoekom ek sê as ek net 'n stilfoto kan kry van 'n 9 overview, dan kan 'n mens baie meer akkuraat dit kan 10 aandui.</p> <p>11 CHAIRPERSON: Well, perhaps after the tea 12 adjournment which I'm going to take in a moment, someone 13 can get you a still photograph of it. Thank you, Mr 14 Chaskalson, for your assistance, without which we could not 15 have proceeded as far as we have but in order to celebrate 16 the progress we've made, I suggest we take the tea 17 adjournment now.</p> <p>18 [COMMISSION ADJOURNS COMMISSION RESUMES] 19 [12:01] CHAIRPERSON: The Commission resumes. U 20 is nog steeds gebind deur u verklaring wat u gemaak het 21 gister.</p> <p>22 SALMON JOHANNES VERMAAK: Dankie, 23 Voorsitter.</p> <p>24 CHAIRPERSON: Ms Pillay –</p> <p>25 MS PILLAY: Thank you, Chair –</p>

<p style="text-align: right;">Page 25403</p> <p>1 CHAIRPERSON: I can see you've taken an 2 enormous lot of trouble to prepare this examination-in- 3 chief, moving from one police video material to another and 4 the transcript. Now I fear that in dealing, endeavouring 5 to put on record some of the things the witness was 6 explaining in relation to the video I may have taken you a 7 bit off the track you were intending to follow. So if I 8 did, I apologise, and please feel free to go back to where 9 you were proposing to go from on the track, if I did that.</p> <p>10 EXAMINATION BY MS PILLAY (CONTD.): Not 11 at all, Chair. Colonel, if we can just contextualise where 12 we were immediately before the break, it was at 7:33 on 13 CC22, which would place us at page 2 of the transcript, and 14 just immediately after the second entry. You agree with 15 that?</p> <p>16 COLONEL VERMAAK: 7:28? 17 MS PILLAY: Yes, immediately after 7:28. 18 COLONEL VERMAAK: Okay. 19 MS PILLAY: Because we were at 7:33. 20 That's the still of the video, of CC22 which we were 21 looking at immediately before the break. 22 COLONEL VERMAAK: Okay. 23 MS PILLAY: Alright, so what I propose to 24 do now, Colonel, is just to take you to selected excerpts 25 from CC22 and just to get you to confirm portions of the</p>	<p style="text-align: right;">Page 25405</p> <p>1 that I'm indicating now on the right edge of the 2 photograph. West is towards the top of the photograph, 3 east to the bottom of the photograph, and south to the left 4 of the photograph.</p> <p>5 CHAIRPERSON: That's probably good 6 enough – 7 MR CHASKALSON SC: It's a broad 8 indication. 9 CHAIRPERSON: That's good enough. Where 10 you indicated where west was and east and south and north 11 were you indicated in each case a point in the middle of 12 the edge of the photograph. Is that correct? 13 MR CHASKALSON SC: Yes, that's broadly 14 where – 15 CHAIRPERSON: Just give us north again, 16 please. 17 MR CHASKALSON SC: North is to the right 18 of the photograph, possibly a little bit above the centre 19 on the right-hand side of the photograph. 20 CHAIRPERSON: Once we've got, we know 21 where north is, we should be able to find south, east, and 22 west, without too much difficulty. Thank you. The 23 suggestion is that are we going to be given copies of these 24 still photographs in due course, and if we are then it 25 would be helpful if the wind directions, as the Colonel</p>
<p style="text-align: right;">Page 25404</p> <p>1 transcript, and then we'll do what you initially suggested 2 and that's go to the stills and lead your evidence as to 3 what occurred from the still photographs.</p> <p>4 KOLONEL VERMAAK: Is in die haak dan. 5 MS PILLAY: If we can then start with – 6 or maybe have a look at the first still, which is 7 JJJ10.4546. Now according to Mr Chaskalson this is at 8 16:09:21 eTV time, Colonel, which would place us then on 9 page 3 of the transcript.</p> <p>10 CHAIRPERSON: Page 3? 11 MS PILLAY: Page 3 of the transcript. 12 CHAIRPERSON: So can you just tell me 13 where north, south, east and west are on this? So I find 14 these easier to follow if I know what the basic direction 15 is, but either the witness can tell us or you can tell us. 16 Kan u vir my sê, Luitenant Kolonel, waar noord is en waar 17 suid is? 18 KOLONEL VERMAAK: Nee, mnr die 19 Voorsitter. Ons het, ongelukkig het ons nie gekonsentreer 20 op die windrigtings nie. Ons het gekonsentreer op die 21 helikopter se plasing, soos verduidelik. 22 CHAIRPERSON: Yes, are we going to get – 23 MR CHASKALSON SC: Chair, if I can 24 possibly be of assistance here. North is broadly on the 25 right-hand side of this photograph. North is on the axis</p>	<p style="text-align: right;">Page 25406</p> <p>1 calls them, were indicated. It just helps us to follow it 2 more accurately. Just those you're referring to, obviously 3 not them all, just those that you specifically – 4 MS PILLAY: We'll prepare a bundle of 5 photographs. 6 CHAIRPERSON: Thank you very much. Now I 7 see you people have done an enormous amount of work already 8 but I feel reluctant to place a further burden on you, but 9 if you would be prepared to do it I'd be very grateful. 10 Thank you. 11 MS PILLAY: No, we'll definitely do that, 12 Chair. Colonel, if I can then use this photograph just to 13 orientate ourselves, this is at 16:09:21. Can you just 14 firstly describe to us what's happening in this photograph? 15 KOLONEL VERMAAK: As ek gaan na die tyd 16 op 16:09:17 is dit waar ons die JOC geroep het en gemeld 17 het dat twee "bodies" aan die agterkant, dit is, dit sal 18 nou, as ek nou reg het, aan die westekant basies wees, in 19 daardie omgewing, waar ons die twee "bodies" opgemerk het 20 en ons het aan hulle gerapporteer. 21 MS PILLAY: So before we get to the two 22 bodies, which we see happens at 16:09:32, if you can just 23 describe to us what happens a few seconds before this 24 photograph is taken, which is at 16:08:50 onwards, what it 25 is that you see at that stage?</p>

<p style="text-align: right;">Page 25407</p> <p>1 KOLONEL VERMAAK: Op daardie stadium was, 2 het ons die waterkanonne van albei kante af ingebring om 3 die koppie te omsingel, soos wat die aanvanklike plan was, 4 en soos dit deurlopend met Brigadier Calitz gekommunikeer 5 was waar die waterkanonne en dan ook van die pantser 6 voertuie saam gevat moet word vir beskerming van hulle. 7 Ons het toe op 'n stadium opgemerk dat aan die agterkant 8 van die koppie, dit is nou aan die westekant, is daar mense 9 wat uitgehardloop het wat ons dit aan hulle, aan die JOC 10 gerapporteer het en aan Brigadier Calitz. 11 MS PILLAY: Is this what you're referring 12 to at 16:08:50? 13 KOLONEL VERMAAK: Ja, "They're going to 14 break through." Dis korrek. 15 MS PILLAY: Alright, and after you say 16 they're going to break through, what happens then? 17 KOLONEL VERMAAK: Die mense het, was in 18 die middel van die koppie gewees. Ons het nog steeds die 19 waterkanonne om gebring dat hulle aan weerskante kan wees. 20 Ons het redelik gesukkel met die kommunikasie op daardie 21 stadium met van die voertuie wat nie altyd gereageer het as 22 jy vir hom aanduiding gee watter kant toe hy moet gaan nie. 23 MS PILLAY: Alright, now at 16:09:32 we 24 see you report that you see two bodies down at the back of 25 the second koppie.</p>	<p style="text-align: right;">Page 25409</p> <p>1 commentator put that between brackets after the first bit – 2 KOLONEL VERMAAK: Dis reg. 3 CHAIRPERSON: - to indicate that he'd 4 identified your voice – 5 KOLONEL VERMAAK: Dis korrek, ja. 6 CHAIRPERSON: - as having started to say 7 "JOC chopper" and then you were silent for 15 seconds and 8 then carried on. 9 KOLONEL VERMAAK: Dis korrek. 10 CHAIRPERSON: Is that what it is, or am 11 I misinterpreting – 12 KOLONEL VERMAAK: Ja, dit kan wees, ja. 13 CHAIRPERSON: Okay. 14 MS PILLAY: Chairperson, if I may just 15 correct JJJ10.4546 and just ask to put that on the screen 16 again? I think the correct eTV time for this photograph is 17 16:07:18, which means it then comes in on page 2 of the 18 transcript. 19 CHAIRPERSON: So it's 16:07, how many 20 seconds? 21 MS PILLAY: 16:07:18. 22 CHAIRPERSON: 18. 23 MS PILLAY: Which means it comes in at 24 page 2 of the transcript. 25 CHAIRPERSON: So it's just before</p>
<p style="text-align: right;">Page 25408</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 MS PILLAY: Now can you tell us, did you 3 see anything in terms of how these two people were killed? 4 KOLONEL VERMAAK: Nee, glad nie. Ons het 5 net hulle daar opgemerk. Ons het nie gesien hoe die 6 insident gebeur het nie. 7 COMMISSIONER HEMRAJ: Colonel, the entry 8 at 16:09:17, what does that mean to you? 9 KOLONEL VERMAAK: Ek wil net seker maak, 10 is dit 16:09:17, Kommissaris? 11 COMMISSIONER HEMRAJ: 16:09:17. 12 KOLONEL VERMAAK: Ja, op, ek kan nie 13 onthou wat ek daar – 14 CHAIRPERSON: What appears from the – I'm 15 sorry to interrupt you. What appears from the transcript 16 is you said "JOC chopper," and then stopped for 15 seconds. 17 KOLONEL VERMAAK: Ja. 18 CHAIRPERSON: And then you then said what 19 we see there – 20 KOLONEL VERMAAK: "At the back of the" – 21 CHAIRPERSON: - at 16:09:32 you again 22 said "JOC, JOC chopper, two bodies, two bodies at the back 23 of the second koppie, two bodies." 24 KOLONEL VERMAAK: Yes. 25 CHAIRPERSON: So I take it the</p>	<p style="text-align: right;">Page 25410</p> <p>1 Lieutenant Colonel Vermaak says, "The Nyalas move in, that 2 Nyala there on the point move left, turn left," – 3 MS PILLAY: That's correct. 4 CHAIRPERSON: - just before that. 5 MS PILLAY: That's correct, Chair. 6 CHAIRPERSON: I see. 7 MS PILLAY: Does that make sense to you, 8 Colonel? 9 KOLONEL VERMAAK: Dis korrek. 10 CHAIRPERSON: Now can you show us on this 11 photograph the Nyalas that you were talking to? 12 KOLONEL VERMAAK: Mnr die Voorsitter, by 13 daardie waterkanon op die regterkant as jy na die foto nou 14 voor u kyk, op die regterkant, dis daardie Nyala wat daar 15 moes beskerming gegee het en hier aan die linkerkant is dit 16 die voertuig wat hier by die waterkanon aan die kant 17 beskerming gegee het. 18 CHAIRPERSON: Let's get some clarity on 19 that. What you're telling us is if you look at the left- 20 hand bottom corner, as it were, of the photograph, it's 21 some distance up, about a quarter of the way up there are 22 two white vehicles. 23 KOLONEL VERMAAK: Dis korrek. 24 CHAIRPERSON: The top one is a water 25 cannon.</p>

<p style="text-align: right;">Page 25411</p> <p>1 KOLONEL VERMAAK: Dis korrek.</p> <p>2 CHAIRPERSON: The lower one is a Nyala.</p> <p>3 KOLONEL VERMAAK: Dis korrek.</p> <p>4 CHAIRPERSON: Right, and then if one goes</p> <p>5 across the picture to a point more or less in the middle,</p> <p>6 middle both from top to bottom and from left to right,</p> <p>7 there are again two vehicles. One is clearly a water</p> <p>8 cannon because we see it's –</p> <p>9 COLONEL VERMAAK: Spraying –</p> <p>10 CHAIRPERSON: - spouting forth blue</p> <p>11 water, and below it there's another white vehicle, that's</p> <p>12 another Nyala.</p> <p>13 COLONEL VERMAAK: That's another –</p> <p>14 CHAIRPERSON: So you were talking to</p> <p>15 those two Nyalas. Is that correct?</p> <p>16 COLONEL VERMAAK: That's correct.</p> <p>17 CHAIRPERSON: Alright.</p> <p>18 MS PILLAY: Now at that stage of the</p> <p>19 transcript, Colonel, immediately after JJJ10.4546, which is</p> <p>20 the picture on screen, the next photograph is 4547 –</p> <p>21 CHAIRPERSON: I'm sorry to interrupt you,</p> <p>22 Ms Pillay, please forgive me. That entry we were busy</p> <p>23 with, the Nyalas move in. You told us which two Nyalas</p> <p>24 were. This is now 16:07:36, the Nyalas move in. "That</p> <p>25 Nyala there on the point move left, turn left," now which</p>	<p style="text-align: right;">Page 25413</p> <p>1 out?</p> <p>2 KOLONEL VERMAAK: Voorsitter, dit is daar</p> <p>3 waar daardie Nyala beweeg het, was dit waar die mense van</p> <p>4 hier af uit die koppie uit daarnatoe beweeg het. Hulle het</p> <p>5 uit die, kom ons sê die bos area oor die rotse na die</p> <p>6 middel toe beweeg waar 'n redelike groot oop spasie is.</p> <p>7 COMMISSIONER HEMRAJ: Colonel, the Nyala</p> <p>8 that you are directing to go left, is that the one that</p> <p>9 appears on the right-hand side of the koppie or on the</p> <p>10 left-hand side? Because I don't understand why the one on</p> <p>11 the left would be directed to go left. So which one are</p> <p>12 you actually directing to go left?</p> <p>13 KOLONEL VERMAAK: Die een op die</p> <p>14 linkerkant hierso. Onthou hy was, hy was nie dadelik daar</p> <p>15 gewees nie. Ons het hom ingebring om aan hulle die nodige</p> <p>16 beskerming te gee, Kommissaris.</p> <p>17 COMMISSIONER HEMRAJ: So are you saying</p> <p>18 that that Nyala that's there on the left-hand side of the</p> <p>19 koppie was not there at the time that you were directing it</p> <p>20 to go left?</p> <p>21 KOLONEL VERMAAK: Dis korrek.</p> <p>22 COMMISSIONER HEMRAJ: I understand that.</p> <p>23 CHAIRPERSON: You told it to go left and</p> <p>24 we see it left on the photograph.</p> <p>25 KOLONEL VERMAAK: Ja.</p>
<p style="text-align: right;">Page 25412</p> <p>1 of the two Nyalas was the one that you described as "That</p> <p>2 Nyala there on the point"?</p> <p>3 KOLONEL VERMAAK: Voorsitter, die laaste</p> <p>4 een wat ek ingebring het is hierdie linkerkantste een wat</p> <p>5 ek van daardie kant af ingebring het.</p> <p>6 CHAIRPERSON: Alright, so that's the one</p> <p>7 below the Nyala [Microphone off, inaudible]. I'm sorry,</p> <p>8 that's the Nyala below the water cannon [Microphone off,</p> <p>9 inaudible]</p> <p>10 KOLONEL VERMAAK: Dis korrek.</p> <p>11 CHAIRPERSON: Sorry, I have to repeat</p> <p>12 that. It wasn't recorded. That's the Nyala below the</p> <p>13 water cannon that's not spouting forth water. The dry</p> <p>14 water cannon –</p> <p>15 KOLONEL VERMAAK: Dis korrek.</p> <p>16 CHAIRPERSON: - for the moment. That's</p> <p>17 the one there on the point to who you said "Move left, turn</p> <p>18 left."</p> <p>19 KOLONEL VERMAAK: Dis –</p> <p>20 CHAIRPERSON: Then you said "Where the</p> <p>21 people is getting out now, turn left." Now where were the</p> <p>22 people getting out? Can you indicate that to us? You say,</p> <p>23 "Where the people is getting out now, turn left. Go up in</p> <p>24 the koppie there. You can go with the Nyala." Now those</p> <p>25 people who were "getting out now," where were they getting</p>	<p style="text-align: right;">Page 25414</p> <p>1 CHAIRPERSON: We see it at the place to</p> <p>2 which you had directed it.</p> <p>3 KOLONEL VERMAAK: Ja.</p> <p>4 CHAIRPERSON: Is that correct?</p> <p>5 KOLONEL VERMAAK: Ja, dis korrek.</p> <p>6 CHAIRPERSON: Alright, and then when you</p> <p>7 told us about the people who were getting out now, they</p> <p>8 were in the bush area. Is that right?</p> <p>9 KOLONEL VERMAAK: Dis korrek.</p> <p>10 CHAIRPERSON: The bush area not very far</p> <p>11 from the blue water cannon, the water cannon –</p> <p>12 KOLONEL VERMAAK: Dis korrek.</p> <p>13 CHAIRPERSON: - spouting forth blue</p> <p>14 water.</p> <p>15 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>16 CHAIRPERSON: So they were in the bush</p> <p>17 near there and then they went across the rocks there, you</p> <p>18 say.</p> <p>19 KOLONEL VERMAAK: Dis korrek.</p> <p>20 CHAIRPERSON: And then towards, in the</p> <p>21 direction to the top of the photograph –</p> <p>22 KOLONEL VERMAAK: Dis –</p> <p>23 CHAIRPERSON: - to that, it looks like a</p> <p>24 flat open area –</p> <p>25 KOLONEL VERMAAK: Dis korrek.</p>

<p style="text-align: right;">Page 25415</p> <p>1 CHAIRPERSON: - immediately above the 2 rocks.</p> <p>3 KOLONEL VERMAAK: Dis korrek.</p> <p>4 CHAIRPERSON: They went there.</p> <p>5 KOLONEL VERMAAK: Dis korrek.</p> <p>6 CHAIRPERSON: That's what you were 7 talking about, and then when you said, "The people is 8 getting out now, turn left, go up in the koppie there," was 9 that still directed to the Nyala that you told to go left 10 or was it directed to the other Nyala?</p> <p>11 COLONEL VERMAAK: The one that – dit was 12 die ander Nyala wat, waar die Nyala water gesprei het op 13 daardie stadium.</p> <p>14 CHAIRPERSON: So you were directing the 15 Nyala which is below what I call the blue water cannon, for 16 sake of brevity –</p> <p>17 KOLONEL VERMAAK: Dis korrek.</p> <p>18 CHAIRPERSON: You were intending that 19 Nyala effectively I suppose to go upwards past the water 20 cannon to that flat area –</p> <p>21 KOLONEL VERMAAK: Dis korrek.</p> <p>22 CHAIRPERSON: - to which the people were 23 going. Is that –</p> <p>24 KOLONEL VERMAAK: Dis korrek.</p> <p>25 CHAIRPERSON: Alright, thank you.</p>	<p style="text-align: right;">Page 25417</p> <p>1 MS PILLAY: So if you can then just take 2 us through what happens from this point, and specifically 3 where you say "The people are caught there in the middle 4 now," what it is that you're referring to.</p> <p>5 KOLONEL VERMAAK: Op daardie stadium het 6 ons opgemerk met die waterkanonne wat daar gespuit het, die 7 Nyalas wat ons ingebring het en toe op 'n stadium opgemerk 8 aan die bokant was polisiemanne te voet gewees en dis waar 9 ons vir die Nyalas gesê het hulle moet ophou water spreï, 10 daar is polisiemanne in die koppie in, en dat die koppie 11 omsirkel is, of "encircle" is deur die polisiemanne en dat 12 hulle kan arrestasies uitvoer.</p> <p>13 MS PILLAY: And when you say the people 14 are in the middle of the koppie, where are you referring to 15 on this picture?</p> <p>16 KOLONEL VERMAAK: Op die foto is basies 17 hierdie plat vlakke wat ons netnou na verwys het. Agter 18 hierdie rotse is daar so 'n oop stuk veld, mens sal later 19 op 'n ander foto sien, dit is ook waar die Canter voertuie 20 en die gearresterdes was.</p> <p>21 [12:20] CHAIRPERSON: Am I understanding 22 correctly, what you're pointing out to us now is an area 23 which is a dark area there - exactly in the middle of the 24 photograph are rocks and immediately above those rocks in 25 the middle of the photograph there is an area, presumably a</p>
<p style="text-align: right;">Page 25416</p> <p>1 MS PILLAY: Now Colonel, there's a later 2 photograph taken just six seconds or so after this one. 3 It's 4547, which is still before the entry at 10:06 of 4 CC22.</p> <p>5 COMMISSIONER HEMRAJ: Before you address 6 this photograph, how do the Nyalas that you are conveying 7 these commands to understand which one you're referring to? 8 Do you differentiate between them?</p> <p>9 KOLONEL VERMAAK: Kommissaris, op die dak 10 was nommers geveer gewees wat ons na verwys het, maar u sal 11 sien ons het baie gepraat van die Nyala aan die regterkant 12 of aan die linkerkant van die koppie. So ons het nie 13 windrigtings gebruik nie. Ons het die koppie gebruik as 'n 14 punt van aanduiding omdat hulle ook reguit beweeg het, so 15 as jy vir die een gesê het hy moet links beweeg dan het hy 16 geweet hy moet links om die koppie gaan en die ander een 17 regs om die koppie, dan het hy geweet hy moes aan die 18 regterkant omgaan.</p> <p>19 COMMISSIONER HEMRAJ: Thank you. I'm 20 sorry to have interrupted you, Ms Pillay.</p> <p>21 MS PILLAY: So Colonel, this picture 22 taken with your Pentax camera was at eTV time 16:07:24, 23 which is still 12 seconds before the entry at 10:06 on the 24 transcript. Do you see that, Colonel?</p> <p>25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25418</p> <p>1 flat piece of land but it's a darker colour than the rocks.</p> <p>2 KOLONEL VERMAAK: Dis korrek.</p> <p>3 CHAIRPERSON: And there are some paths 4 that go across it.</p> <p>5 KOLONEL VERMAAK: Dis korrek.</p> <p>6 CHAIRPERSON: People were gathering 7 there, were they?</p> <p>8 KOLONEL VERMAAK: Dis korrek.</p> <p>9 CHAIRPERSON: That's – alright, thank 10 you.</p> <p>11 MS PILLAY: And when you say at 11:12 of 12 the tape, "Alright guys, you've got them in the middle," 13 who were you talking to?</p> <p>14 KOLONEL VERMAAK: Ek het na al die 15 voertuie wat in daardie gebied ontplooi was, dadelik vir 16 hulle laat weet dat die mense is omsirkel van alle kante af 17 deur die polisiebeamptes, soos wat daar aanvanklik tydens 18 die voorligting die oggend vir ons gesê was dat 'n 19 dispersion sal plaasvind, dan encirclement, dan sal hulle 20 die mense ontwapen en daarna sal die arrestasies dan 21 uitgevoer word.</p> <p>22 MS PILLAY: And when you say on the next 23 page of that transcript, "They're going to break through, 24 they're going to break through," can you just describe to 25 us what you were seeing in relation to this?</p>

<p style="text-align: right;">Page 25419</p> <p>1 KOLONEL VERMAAK: Dit was waar 'n 2 groepie, u sal sien dit lyk soos, amper soos 'n droë dam 3 wat daar is aan die linkerkant – of nee, meer in die middel 4 van die foto, so dit lyk soos 'n droë pan of 'n dam wat 5 daar is. In daardie rigting het mense toe begin beweeg en 6 ons het toe vir hulle in kennis gestel – 7 CHAIRPERSON: Near the top of the 8 photograph, slightly on the right-hand side of what one 9 could describe as the middle line there is an area which 10 is, the ground is a lighter colour than the area that I 11 described earlier where the ground is of a darker colour 12 with paths crossing it – that's the area which you say is a 13 dry dam. 14 KOLONEL VERMAAK: Dis korrek. 15 CHAIRPERSON: That's where the people 16 were going. 17 KOLONEL VERMAAK: Dis korrek. 18 MS PILLAY: Now when you say at 12:02 19 that there are two bodies at the back of the second koppie, 20 can you just show us on this photograph where it is that 21 you're referring to? 22 MR NTSEBEZA SC: Excuse me, Chair. Can 23 the witness point out where the Chairman was indicating is 24 a dam? Can you use your pointer to point it out? 25 CHAIRPERSON: You want him to point out</p>	<p style="text-align: right;">Page 25421</p> <p>1 'n aanduiding gee, hy moet na hierdie kant toe basies lê. 2 MS PILLAY: Can we put up KKK16.5137, 3 it's one of Colonel Botha's pictures, and can we zoom in on 4 the area of the dry dam? It will just - which the witness 5 is showing now. Can you now see the two bodies that you 6 were referring to, Colonel? Can we just try and zoom in a 7 bit more? Oh, there we go. So are those the two bodies 8 that you're referring to? 9 KOLONEL VERMAAK: Dis korrek. 10 CHAIRPERSON: Can we go back to the 11 question I asked you a minute ago? I'm sorry, I'm not 12 following and I'm sure it's my fault but please help me. 13 At the entry at 11:47 - no, sorry, at the entry at 12:02, 14 that's 16:09:32 you say "JOC, JOC, chopper, two bodies, two 15 bodies at the back of the second koppie." Now I understood 16 you to indicate a point on the extreme right-hand top 17 corner of the photograph, then I asked where you the second 18 koppie was and you indicated something, bottom left-hand, 19 beyond the bottom left-hand corner of the photograph. So 20 it makes me wonder whether you meant the second koppie in 21 the sense that we've been using up to now. When you said 22 at the back of the second koppie, what did you mean? 23 KOLONEL VERMAAK: Voorsitter, op daardie 24 stadium het ons gepraat van die eerste koppie tydens die 25 operasie en dit het ingesluit koppie 1 en 2, soos wat dit</p>
<p style="text-align: right;">Page 25420</p> <p>1 the dam? 2 MR NTSEBEZA SC: Yes. 3 CHAIRPERSON: Well, the dry dam – I've 4 described that before. If you look at the photograph you 5 will see near the top – 6 MR NTSEBEZA SC: Ja, yes, yes, now I see 7 it. 8 CHAIRPERSON: It's been pointed – 9 MR NTSEBEZA SC: Ja, thank you. 10 MS PILLAY: If you can now show, Colonel, 11 where the two bodies were found at the back of the second 12 koppie? 13 KOLONEL VERMAAK: Voorsitter, as ek reg 14 kan onthou was dit in hierdie omgewing gewees waar hulle 15 was. 16 CHAIRPERSON: How do I put that on 17 record? In the top right-hand corner one moves into the 18 photograph, I suppose about a quarter of the way and down 19 about a quarter of the way, that's the area you're pointing 20 out, is that right? 21 KOLONEL VERMAAK: Dis korrek. 22 CHAIRPERSON: Where is the second koppie 23 on the photograph? 24 KOLONEL VERMAAK: Die tweede koppie is 25 nie sigbaar op hierdie foto nie maar hy is, as ek vir u kan</p>	<p style="text-align: right;">Page 25422</p> <p>1 dan nou later tydens die – 2 CHAIRPERSON: So in other words I am 3 correct, therefore, in assuming that when you said "two 4 bodies, two bodies at the back of the second koppie," you 5 meant koppie 3, i.e. what we describe here as scene 2? 6 KOLONEL VERMAAK: Dis korrek. 7 CHAIRPERSON: That's that clarified, 8 thank you. 9 MS PILLAY: Thank you, Chair. And just 10 also to clarify, at 12:13 Brigadier Calitz says, "There are 11 several people in the small koppie, hiding in the small 12 koppie." So which koppie would that be referring to? 13 KOLONEL VERMAAK: As ons miskien net weer 14 kan bietjie uit zoom kan ons – daar's hy. Dit is hierdie 15 gedeelte wat hier basies is, waar hulle verwys het na die 16 small koppie toe. 17 CHAIRPERSON: So what you're doing is 18 you're pointing out a spot on koppie 3. 19 KOLONEL VERMAAK: On koppie 3. 20 CHAIRPERSON: Koppie 3 actually consists 21 of a number of sort of rocky elevations. 22 KOLONEL VERMAAK: That's correct. 23 CHAIRPERSON: With some flat bits in 24 between and in order to understand what's being said we've 25 got to be clear what we're talking about. So the spot</p>

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1 you're referring to is a spot – just give it to us again?
 2 KOLONEL VERMAAK: Dit sal dan nou volgens
 3 die dokumente koppie 3 wees, alhoewel ons tydens die
 4 insident gepraat het van koppie 2, is dit – vir die
 5 presentation doeleindes het hulle dit toe verander na
 6 koppie 3 toe en dit is hier waar brigadier Calitz na verwys
 7 het.
 8 CHAIRPERSON: Right, well, more or less
 9 in the middle of the photograph one can see a flat area
 10 which is below, in the photograph below probably the
 11 highest rocky elevation visible and in this area are three
 12 vehicles. Are they all Nyalas? One is a water cannon, I
 13 think.
 14 KOLONEL VERMAAK: Een is waterkanon –
 15 CHAIRPERSON: One is a water cannon and
 16 two Nyalas.
 17 KOLONEL VERMAAK: Dis korrek.
 18 CHAIRPERSON: Is that right? And that's
 19 the area that you're talking about?
 20 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 21 MS PILLAY: Can I ask that we now play
 22 CC22 at around 12:33 onwards? I think that's fine, 12:32.
 23 I'm just going to ask –
 24 [VIDEO IS SHOWN]
 25 KOLONEL VERMAAK: Dis brigadier Calitz,

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1 ja.
 2 MS PILLAY: That's Brigadier Calitz.
 3 COLONEL VERMAAK: That's correct.
 4 MS PILLAY: And if look at 12:35 on the
 5 transcript, you will confirm that that is said by Brigadier
 6 Calitz.
 7 COLONEL VERMAAK: That's correct.
 8 CHAIRPERSON: Can I ask a question now
 9 about something that's been puzzling me? Has Brigadier
 10 Naidoo – sorry, has Major-General Naidoo arrived here yet
 11 or is he still on his way and if so, if he is here, where
 12 is he? Well, I'm really asking Ms Pillay. The witness
 13 won't know when Brigadier -
 14 KOLONEL VERMAAK: Ja.
 15 CHAIRPERSON: - when Major-General Naidoo
 16 arrived but –
 17 MR CHASKALSON SC: Sorry, Chairperson, I
 18 thought you were asking whether he was ready for re-
 19 examination.
 20 CHAIRPERSON: Well, I didn't mean that
 21 but it's also a good question but I don't have to, I don't
 22 need the answer to that just at the moment. I'm just
 23 asking because I'm trying to follow this in relation to
 24 some of the other evidence we heard earlier. It just
 25 suddenly struck me, is Brigadier – sorry, is Major-General

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1 Naidoo supposed to be on the scene yet? If so, can we see
 2 him? If not, well, that explains why we can't see him.
 3 MR CHASKALSON SC: Chairperson, we can in
 4 fact see him or we can see his bakkies which – we are at
 5 12:58. If we can move the zoom a little bit to the left,
 6 can we move the zoom a little to the left and stop? Just
 7 pause, pause. The bakkies that Major-General Naidoo
 8 brought in with the K9 unit I'm indicating on the screen
 9 now, which are the white patches on – we're at 13:01 on the
 10 counter. They're at the white patches to the top right-
 11 hand, just near the top right-hand corner of koppie 3 on
 12 this image. They're visible there from 10:06.
 13 CHAIRPERSON: Okay, thank you. Well,
 14 thank you for that. That brings me to the question I want
 15 to ask the Colonel, Lieutenant-Colonel. Were you aware of
 16 the fact that Major-General Naidoo was in the vicinity with
 17 Nyalas and K9 people and firing shots and doing all sorts
 18 of things? Because you see, from what I can see from the
 19 transcript you were talking to the other Nyalas, you were
 20 talking to Brigadier Calitz who said he didn't know Major-
 21 General Naidoo was there, you were talking to the Nyalas
 22 which obviously Brigadier Calitz also knew about. So are
 23 you telling us that you didn't know Brigadier – sorry,
 24 Major-General, I'm sorry, I didn't mean to be unkind – that
 25 you didn't know that Major-General Naidoo was there?

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1 KOLONEL VERMAAK: Dis korrek, Voorsitter.
 2 Ons was nie bewus van ons kant af dat hy daar was nie. Ons
 3 het die heeldyd net gekonsentreer op die Nyalas en die
 4 waterkanonne en dan op 'n latere stadium dan ook toe
 5 brigadier Calitz gevra het ons moet behulpsaam wees met die
 6 Canters om hulle in te begelei na die punt toe waar die
 7 persone gearresteer was.
 8 CHAIRPERSON: Thank you. Sorry, Ms
 9 Pillay, if that took you off your track.
 10 MS PILLAY: No, that's fine.
 11 CHAIRPERSON: It's something that was
 12 worrying me for some time.
 13 MS PILLAY: Just to orientate ourselves,
 14 Colonel, we are now on page 3 of the transcript. CC22 is
 15 at 13:01 which means that we are six entries from the
 16 bottom of the transcript. Now if we can then move on to
 17 14:45 of the video? We're now at 16:12:15 ETV time and I'm
 18 just going to ask you to identify the voice, if you can
 19 identify the voice at 14:45.
 20 [VIDEO IS SHOWN]
 21 MS PILLAY: Take it back a bit to about
 22 14:43. Again Colonel, at 14:45 if you can see if you
 23 identify the voice.
 24 [VIDEO IS SHOWN]
 25 MS PILLAY: The voice saying, "Okay, live

<p style="text-align: right;">Page 25427</p> <p>1 fire," are you able to identify that voice, Colonel? 2 KOLONEL VERMAAK: Dit het, brigadier 3 Calitz se stem. 4 MS PILLAY: The voice saying "Live fire?" 5 KOLONEL VERMAAK: "Live fire," ja. 6 MS PILLAY: Live fire. We see in the 7 transcript at page 4 and the third entry from the top that 8 it's unknown where we've got "Okay, live fire." Are you 9 now saying that that's Brigadier Calitz's voice? 10 KOLONEL VERMAAK: Ja, ja. 11 CHAIRPERSON: Are we going to look at 12 15:11 as well because that couldn't have been General 13 Mpembe surely? Maybe the witness will identify – sorry, if 14 you're going to get there I won't interrupt. 15 MS PILLAY: We'll turn to that now, 16 Chair, 15:11. Can we play 15:11? 17 [VIDEO IS SHOWN] 18 MS PILLAY: Colonel, are you able to 19 identify the voice? 20 KOLONEL VERMAAK: Ja, dis generaal 21 Mpembe. 22 CHAIRPERSON: Can we have that again, 23 please? I'm not quarrelling with the witness, I just want 24 to hear it again? 25 MS PILLAY: Can we replay from 15:11 of</p>	<p style="text-align: right;">Page 25429</p> <p>1 Now did you see that, around about the time this was heard, 2 "They are firing - the dogs," did you see the Protea Coin 3 helicopter in the area? 4 KOLONEL VERMAAK: Mnr die Voorsitter, ons 5 was glad nie bewus van die helikopter wat in die lug was 6 nie. Hy sou volgens die beplanning wat ek as lugvleuel 7 bevelvoerder met die vlieëniers gehad het en hulle 8 verskillende hoogtes gegee het om te vlieg, was daar op 9 daardie stadium geen sprake van dat die Protea Coin se 10 helikopter sou aangewend geword het in daardie spesifieke 11 operasie nie. 12 CHAIRPERSON: Now you told, you were 13 round about 300 feet, is that right? 14 KOLONEL VERMAAK: Dis korrek. 15 CHAIRPERSON: Now do you know, as a 16 result of information you subsequently obtained because you 17 didn't know at the time, but do you know what height the 18 Protea Coin helicopter was flying? 19 KOLONEL VERMAAK: Ek het nie 'n idee 20 gehad nie. 21 CHAIRPERSON: No, you didn't know at the 22 time, do you know now? 23 KOLONEL VERMAAK: Ek het agterna verneem 24 hulle het gepraat van 10 000 voet. 25 CHAIRPERSON: No, well, that would</p>
<p style="text-align: right;">Page 25428</p> <p>1 the transcript, of – 2 [VIDEO IS SHOWN] 3 CHAIRPERSON: Ja, it was, it sounded like 4 General Mpembe, didn't it? Now we know that General Mpembe 5 was in another helicopter. That was the – I think it was 6 the Protea Coin helicopter. 7 KOLONEL VERMAAK: Dis korrek. 8 CHAIRPERSON: With Brigadier Fritz – 9 KOLONEL VERMAAK: Nee, hy was nie daar 10 nie. 11 CHAIRPERSON: No, that's wrong, that's 12 wrong. 13 KOLONEL VERMAAK: Nee. 14 CHAIRPERSON: Sorry, Brigadier Fritz, he 15 was in chopper 2 with Lieutenant-Colonel Botha. 16 KOLONEL VERMAAK: Dis korrek. 17 CHAIRPERSON: General Mpembe, who was 18 with General Mpembe? 19 MR CHASKALSON SC: The Protea Coin people 20 and Brigadier Tsiloane. 21 CHAIRPERSON: That's it. 22 MR CHASKALSON SC: And whoever was making 23 this video because this video is from inside that 24 helicopter. 25 CHAIRPERSON: Yes, yes, I understand.</p>	<p style="text-align: right;">Page 25430</p> <p>1 explain why you weren't aware of them. 2 MS PILLAY: And from this still, Colonel, 3 are you able to tell where the Coin Security helicopter was 4 flying in relation to the koppie? 5 [12:40] KOLONEL VERMAAK: Ja, as ek redelik baie 6 - kan 'n mens sê bo die toneel. As jy kyk na die hoogte 7 wat die foto geneem is in verhouding met die voertuie wat 8 jy in 'n mate kan uitmaak, dan was hy op daardie stadium 9 sal ek sê baie naby aan direk bokant. 10 MS PILLAY: For the purposes of the 11 record, Chair, this is at 15:23 of CC22. 12 CHAIRPERSON: Yes, no, I see that. 13 Judging by the size of the vehicles, based on your 14 experience as an air wing commander, can you tell us more 15 or less how high they were probably going at that stage 16 when that photograph was taken or when that clip was taken? 17 KOLONEL VERMAAK: 'n Mens sal nie met 18 presiese akkuraatheid of aan – dit was, kom ek sê vir u so, 19 dit was definitief volgens my waarneming ver bokant 1 000 20 voet gewees. 21 CHAIRPERSON: Thank you. You see what 22 interests me is, could they have seen dogs at that height? 23 If you see how big a motor, a vehicle is, presumably unless 24 you had enormous great Danes or something, you'd have 25 difficulty seeing them from this height, surely? I don't</p>

<p style="text-align: right;">Page 25431</p> <p>1 understand, but anyway you can't help us on that, it's – 2 MS PILLAY: Now, Colonel, the next still 3 we have – 4 CHAIRPERSON: Could I ask one question 5 before you carry on with the next thing? Did you see any 6 dogs? 7 KOLONEL VERMAAK: Ekskuus, Voorsitter, 8 herhaal? 9 CHAIRPERSON: Did you see any dogs? 10 KOLONEL VERMAAK: Nee, nee, glad nie, 11 Voorsitter. 12 CHAIRPERSON: So you didn't see anyone 13 firing in the direction of the dogs? 14 KOLONEL VERMAAK: Glad nie. 15 CHAIRPERSON: We know that Major-General 16 Naidoo came with some dogs because he came with the K9 17 people from forward holding area 1 and I assume that 18 Captain Kidd had some dogs because he had some K9 people 19 from forward holding area 2. You didn't see any dogs? 20 KOLONEL VERMAAK: Nee. Ek kan dalk net 21 noem, Voorsitter, dat op 'n stadium, ek dink as ons bietjie 22 teruggaan op die video clip dan sal u sien die Oryx 23 helikopter kom onder ons deur en toe het ek besluit dat ons 24 eerder uitwyk meer na die buitekant toe en dan die volgende 25 hoogte toe gaan sodat, dit vir veiligheid belangrik is</p>	<p style="text-align: right;">Page 25433</p> <p>1 MS PILLAY: Can we then look at 4552 2 because we notice that all of the pictures before 4552 are 3 in relation, are pictures of scene 1. So the first scene 4 of scene 2 after that break is 4552 which is ETV time 5 16:53:38. 6 KOLONEL VERMAAK: Dis korrek. 7 MS PILLAY: But before we get – so this 8 is the next time that you were flying over. 9 KOLONEL VERMAAK: Dis korrek, ja. Ons 10 het op daardie stadium, was ons taak ook gewees om oor die 11 informele nedersettings te gaan vlieg om te gaan kyk of 12 daar enige groeperings na hierdie insidente plaasgevind 13 het, om sodoende vroegtydig die JOC te kan waarsku. 14 MS PILLAY: So can you tell us in terms 15 of what you saw happening at this stage, Colonel, from the 16 picture and from your recollection what was happening? 17 KOLONEL VERMAAK: Op hierdie stadium was 18 dit vir my duidelik gewees dat daar persone gearrester was 19 want ons moes die Canter-voertuie inbring. Hulle het 20 redelik gesukkel want eintlik niemand het vooraf kennis 21 gehad van die terrein toe hulle daar ontplooi is nie. So 22 ons het maar uit die lug uit, het ons nou maar 'n paadjie 23 gesoek vir die Canters om hulle in te vat tot by die punt 24 toe waar die arrestasies dan nou uitgevoer was en dit is, 25 dit is wat ons waargeneem het, dat daar arrestasies</p>
<p style="text-align: right;">Page 25432</p> <p>1 aangesien die Oryx baie, baie laag deurgekom het. 2 MS PILLAY: Is that the chopper that's 3 visible on this very video? 4 KOLONEL VERMAAK: Dit is positief, 5 daardie wat – 6 CHAIRPERSON: Is that the one that 7 Brigadier Visser was in? 8 KOLONEL VERMAAK: Nee, negatief. Dit is, 9 ek dink dis waar die reaksie groep NIU – 10 CHAIRPERSON: Oh, I see. 11 KOLONEL VERMAAK: - op was. 12 CHAIRPERSON: Alright, we're getting 13 helicopters in order eventually, getting them all in a row. 14 MS PILLAY: That lapse of time that you 15 testified to now, Colonel, is evident from your still 16 photographs because the next photograph after 4547 is 4548 17 which was taken at ETV time 16:20:04. Can we just look at 18 JJJ10.4548? 19 KOLONEL VERMAAK: Ja, dis met die Pentax 20 geneem agterna. 21 MS PILLAY: And this is at scene 1? 22 KOLONEL VERMAAK: Dis korrek. 23 MS PILLAY: You had moved from scene 2 to 24 scene 1. 25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25434</p> <p>1 uitgevoer is, die Canters was benodig gewees om die 2 verdagtes dan te verwyder van die toneel af. 3 MS PILLAY: And before we move from scene 4 2, Colonel, if I can just take you back to CC2, can we go 5 back to CC22 please, the Coin Security video and can we 6 pick up at 30:05? Now Colonel, I'm going to ask you to 7 identify the voice at 30:07. 8 [VIDEO IS SHOWN] 9 MS PILLAY: So the words "Let them come, 10 the area is secure, let them go through," do you recognise 11 whose voice that is? 12 KOLONEL VERMAAK: Dis brigadier Calitz se 13 stem. 14 MS PILLAY: Alright, so you confirm 15 what's reflected in the transcript, that that's Brigadier 16 Calitz's voice. 17 KOLONEL VERMAAK: Dis korrek. 18 MS PILLAY: And it's on page 6 now of the 19 transcript, Chair. If we can then go to 34:22 of CC22 and 20 if I can ask you to identify the voice at 34 – 21 [VIDEO IS SHOWN] 22 MS PILLAY: Do you recognise that voice, 23 Colonel? 24 KOLONEL VERMAAK: Dis korrek, Voorsitter, 25 dis myne.</p>

<p style="text-align: right;">Page 25435</p> <p>1 MS PILLAY: Now can you – you say there, 2 “Okay, I saw the 105 with the generals also arrived and 3 they are turning above us.” Can you explain to us what you 4 meant by that? 5 KOLONEL VERMAAK: Op die lugvaartradio 6 het die vlieënier wat met die generaal ingekom het op die 7 helikopter, het hy op die lugvaartradio met ons vlieëniers 8 gekommunikeer en hulle ingelig dat hy met hulle van 9 Pretoria af gearriveer het. 10 MS PILLAY: Now you mentioned that the 11 generals were on that helicopter. Which generals are you 12 referring to? 13 KOLONEL VERMAAK: Dit was gewees generaal 14 Mawela en dan later het ek verneem daar was ‘n generaal van 15 die weermag saam gewees. 16 MS PILLAY: Right, maybe it will be 17 useful if I refer you to the flight logs, Colonel, in 18 particular exhibit OOO12.3 which is document 23.4 of your 19 bundle and if we go to the second page of that document and 20 I think this is – I don’t think this is the correct exhibit 21 being shown on the screen. Can we see 12.3? We go further 22 down. 23 KOLONEL VERMAAK: Nog ‘n bietjie, daar’s 24 hy. 25 MS PILLAY: Yes.</p>	<p style="text-align: right;">Page 25437</p> <p>1 nie bewus van hom wat ingekom het nie. Eers nadat ek die 2 Squirrel teruggestuur het, hulle het vir brigadier Fritz 3 gaan aflaai en toe het hulle met die – met ons Squirrel het 4 hy toe teruggekom saam met generaal Mbombo, generaal Mawela 5 en dan generaal Mdutjana van die SANDF. 6 MS PILLAY: Chair, I see it’s now a few 7 minutes to one. May we take the break now so that we can 8 just arrange for the proper exhibits to be put up on the 9 screen when the witness is answering? 10 CHAIRPERSON: It seems a reasonable 11 request in the circumstances, well-motivated, so we’ll take 12 the lunch adjournment at this stage. 13 [COMMISSION ADJOURNS COMMISSION RESUMES] 14 [13:57] CHAIRPERSON: The Commission resumes. 15 Luitenant Kolonel, u is nog steeds gebind, u word nog 16 steeds gebind deur die plegtige verklaring wat u gemaak 17 het. 18 SALMON JOHANNES VERMAAK: Dis korrek, 19 Voorsitter. 20 CHAIRPERSON: Adv Pillay. 21 EXAMINATION BY MS PILLAY (CONTD.): Thank 22 you, Chair. Colonel, before we broke for lunch we were 23 dealing with the entry at 34:25 of page 6 of the transcript 24 where you say, “Okay, I saw the 105 with the Generals also 25 arrived and they are turning above us.” Now can you tell</p>
<p style="text-align: right;">Page 25436</p> <p>1 KOLONEL VERMAAK: Nee, nog. 2 MS PILLAY: Sorry, further down, the 13th. 3 KOLONEL VERMAAK: Nog. 4 MS PILLAY: That’s the page, yes. This 5 is the second page of exhibit OOO12.3. Are you – 6 KOLONEL VERMAAK: Daardie is op die 13de. 7 MS PILLAY: Oh no, this is still on the 8 13th, sorry. Can we go further down? 9 KOLONEL VERMAAK: Hou nog aan. 10 MS PILLAY: Can we try exhibit OOO12.3? 11 I think this is 12.1 that’s open - I thought I saw it as 12 well – 13 CHAIRPERSON: I think it’s the second 14 page of OOO12.3, is what you’ve marked as 23.4 of the 15 documents in the bundle and there, there’s a reference to, 16 in the extreme left-hand corner, to General Mbombo, General 17 Mawela and it looks like General Mdutjana. 18 KOLONEL VERMAAK: Dis hy. 19 CHAIRPERSON: Is that is - 20 KOLONEL VERMAAK: That’s correct. 21 CHAIRPERSON: Is that correct? 22 KOLONEL VERMAAK: That’s correct. 23 MS PILLAY: The generals from the SANDF 24 that you mentioned, is that General Mdutjana? 25 KOLONEL VERMAAK: Dis korrek. Ons was</p>	<p style="text-align: right;">Page 25438</p> <p>1 us at the time that you made this report over the radio, 2 how long had the Generals been circling above you? 3 KOLONEL VERMAAK: No, they was just 4 circling once for the final approach to go and land at the 5 Lonmin Security offices. 6 MS PILLAY: So this is where you saw, 7 this is before they landed at the JOC? 8 KOLONEL VERMAAK: That’s correct. 9 MS PILLAY: Now we see that the report at 10 34:25 is at 16:31:55 eTV time. 11 KOLONEL VERMAAK: I’ve got it. 12 MS PILLAY: And you testified that the 13 Generals, and we know that it’s General Mbombo, General 14 Mawela, and General Mdutjana from the SANDF - or sorry, 15 Mawela and Mdutjana. You testified that they were from 16 Pretoria. 17 KOLONEL VERMAAK: Ja, ons het geweet van 18 Generaal Mawela wat inkom. Ons het agterna verneem, nadat 19 die 105 gaan land het met die Generale het ek die provinsie 20 se Squirrel ook teruggestuur na die JOC toe waar hulle toe 21 vir die Provinsiale Kommissaris en vir Generaal Mawela en 22 dan die generaal van die SANDF gaan optel het. Toe hulle 23 geland het by toneel 2, koppie 3 dan nou, ek was op daardie 24 stadium nog steeds in die R44 gewees. Ons het toe ook daar 25 geland en dis waar ek vir die eerste keer gesien het wie</p>

<p style="text-align: right;">Page 25439</p> <p>1 die ander passasiers saam met Generaal Mawela en Generaal 2 Mbombo is. 3 MS PILLAY: And do you know, Colonel, how 4 long it takes to travel by helicopter from Pretoria to 5 Marikana? 6 KOLONEL VERMAAK: Ag, enigjits, so tussen 7 20 en 25 minute wat dit vat van Pretoria Wes, wat die 8 Lugvleuel daar is, tot dan nou maar hier by Marikana. 9 MS PILLAY: Right, Colonel, just to now 10 round up the first part of our session on scene 2, I just 11 want to take you through the BlackBerry pictures because it 12 seems that after JJJ11.1518, which is obviously the 13 critical picture of scene 1 which we have dealt with both 14 today and yesterday, the first picture of scene 2 on the 15 BlackBerry is JJJ11.1520. Can we just put up JJJ11.1520? 16 Now Mr Chaskalson indicates that the time is 16:54:13 eTV 17 time and it appears that this picture was taken after the 18 arrests had commenced at scene 2. 19 KOLONEL VERMAAK: Dis korrek. 20 MS PILLAY: Now does this mean that there 21 are no other, there were no BlackBerry pictures that were 22 transmitted to the JOC of scene 2 specifically? 23 KOLONEL VERMAAK: Dis korrek, ja. 24 CHAIRPERSON: Was there a reason for 25 that?</p>	<p style="text-align: right;">Page 25441</p> <p>1 MS PILLAY: We have to go just before 2 that. 3 CHAIRPERSON: Yes [Microphone off, 4 inaudible]. 5 MS PILLAY: From 12. 6 CHAIRPERSON: "Because there was an 7 attack and the things from then on went over into a 8 dispersion action and I had communication with him, I was 9 at that stage not in contact in any way with Brigadier 10 Fritz on the chopper, but," I think he means "in relation 11 to the fact to which Mr Chaskalson now referred, but I then 12 was in contact with Colonel Vermaak and I then asked him, 13 knowing that he also is an experienced Public Order Police 14 member for years, I think I testified 20 or 30 years, I 15 then asked him to do the eye-in-the-sky role for me," I 16 suppose "in relation to these vehicles I asked him to do 17 the eye-in-the-sky role for me and then to take command or 18 control over them to that koppie." Then I asked, "What 19 role was Brigadier Fritz playing, which is set out in slide 20 146?" There was a little bit of questioning about that, 21 but the passage that counsel is referring you to 22 specifically is the statement at line 19 that, "I then 23 asked him [that's you] to do the eye-in-the-sky role for 24 me," I think he means "in relation to those vehicles and 25 then to take control over them to that koppie." Is that</p>
<p style="text-align: right;">Page 25440</p> <p>1 KOLONEL VERMAAK: Voorsitter, nee. Op 2 daardie stadium volgens ons, of volgens my waarneming was 3 alles onder beheer. Daar het geen aksies verder 4 plaasgevind behalwe dit wat ons laaste keer geneem het, wat 5 dan ook beskikbaar was nie. 6 MS PILLAY: Thank you, Colonel. Now 7 yesterday we covered the difference between air support, 8 Air Wing commander, and aerial command post. You recall 9 that? 10 KOLONEL VERMAAK: Dis korrek. 11 MS PILLAY: And you testified that in 12 this operation you were never appointed as aerial command 13 post and that you didn't perform the function of an aerial 14 command post. Do you recall that? 15 KOLONEL VERMAAK: Dis korrek. 16 MS PILLAY: Now I'd like to refer you to 17 the testimony of Brigadier Calitz and ask for day 165, page 18 19140 to be put up on the screen. 19140, and specifically 19 line 19 of that transcript of that day. 20 CHAIRPERSON: [Microphone off, inaudible] 21 I'll translate it into English. It seems if we start with 22 [inaudible] the line, line 15 [inaudible] - 23 MS PILLAY: I think if we can pick up 24 from line 15, yes. 25 CHAIRPERSON: Okay.</p>	<p style="text-align: right;">Page 25442</p> <p>1 adequate translation, Ms Pillay? 2 MS PILLAY: Thank you, Chair, it is. 3 CHAIRPERSON: That was the evidence that 4 he gave and I think Ms Pillay wants you to comment whether 5 you agree with that. 6 KOLONEL VERMAAK: Mnr die Voorsitter, op 7 geen stadium was daar enigjins vir my opdrag gegee dat ek 8 beheer of bevel vat van 'n sekere groep of 'n groep 9 voertuie nie. Daar is wel versoek dat ons moet behulpzaam 10 wees om die voertuie in te neem na die plekke toe waar 11 hulle dit benodig het vir dan spesifieke take. Daar verwys 12 ek weer terug na die Nyala voertuie toe wat ons ingepaat 13 het. Ja, op eie inisiatief het ons geweet dat jou pantser 14 – ag, jou waterkanonne is nie gepantser nie en daarom het 15 ons, het ek dit goedgevind om saam met elke waterkar dan 'n 16 pantser voertuig in te stuur om hom te beskerm. Die 17 Canters het ons 'n probleem gehad, die mense was nie 18 vertrouwd met die terrein gewees nie en het ons toe uit die 19 lug uit gekyk wat is die kortste en die beste roete wat ons 20 kon sien om hulle in te praat na die punt toe waar die 21 arrestasies dan uitgevoer was. 22 CHAIRPERSON: Are you going to put 23 another passage to him, because I – 24 MS PILLAY: I am, Chair. I am. 25 CHAIRPERSON: Yes, there was another</p>

<p style="text-align: right;">Page 25443</p> <p>1 passage which takes the point further.</p> <p>2 MS PILLAY: Yes, I am going to take him</p> <p>3 to further passages. Colonel, if I can then go to page</p> <p>4 19142, line 6, 19142, line 6. We see here that Brigadier</p> <p>5 Calitz testified that you were aware that you were aerial</p> <p>6 commander. Let's just pick up with the question from Mr</p> <p>7 Chaskalson at line 6. "Did you inform Lieutenant Colonel</p> <p>8 Vermaak that he was now aerial commander?" and the answer</p> <p>9 from Brigadier Calitz, "Ek het Kolonel Vermaak ingelig toe</p> <p>10 ons gestaan het staties en van daar af het ek en hy</p> <p>11 kommunikasie gehad op die radio en ek het vir hom die</p> <p>12 versoek gestel dat hy vir my die karre moet vat en dan in</p> <p>13 die koppie gaan en beheer vat uit die lug uit."</p> <p>14 CHAIRPERSON: [Microphone off, inaudible]</p> <p>15 Then Mr Chaskalson says, "And so you were saying that</p> <p>16 Lieutenant Colonel Vermaak understood that he was aerial</p> <p>17 commander and in control of the operation at, in command of</p> <p>18 the operation at koppie 3?" And then he says, "Ek sou so</p> <p>19 kan getuig, ja." "I can testify thus, yes."</p> <p>20 MS PILLAY: Colonel, can we just get your</p> <p>21 comment up to that point?</p> <p>22 KOLONEL VERMAAK: Voorsitter, as u kan</p> <p>23 onthou het ek gister vermeld dat ons oor die sewe ure</p> <p>24 fisies in die lug was met die helikopter. Ek het Brigadier</p> <p>25 Calitz laaste die oggend by die JOC "meeting" gesien en</p>	<p style="text-align: right;">Page 25445</p> <p>1 control from out of the air. That's what he said, and then</p> <p>2 when it was then put by Mr Chaskalson, he was saying,</p> <p>3 "Lieutenant Colonel Vermaak understood that he was aerial</p> <p>4 commander and in control of the operation," he agreed that</p> <p>5 that was what he was saying. Now I understand you to say</p> <p>6 that's not correct.</p> <p>7 KOLONEL VERMAAK: Mnr die Voorsitter,</p> <p>8 nee, daar is op geen stadium enige bevel oorgegee aan my</p> <p>9 soos wat dit daar gestel is nie. Sou bevel oorgegee geword</p> <p>10 het aan my sou dit ook dan so deur die operasionele kamer</p> <p>11 se mense in die voorvalleboek dan aangeteken geword het.</p> <p>12 Die rol wat ek gespeel het is om die voertuie in te neem na</p> <p>13 die punte toe waar hulle dit nodig gehad het om die plan</p> <p>14 uit te voer ten opsigte van die "dispersing, encirclement,"</p> <p>15 en op geen stadium was daar opdragte van my kant af gegee</p> <p>16 behalwe in die lig van om aanduidings te gee watter roete</p> <p>17 hulle moet volg nie. Daar was wel baie kere wat ek met</p> <p>18 voertuie gekommunikeer het en dan sou Brigadier Calitz</p> <p>19 agterna dit basies bevestig het en dit omgesit het in 'n</p> <p>20 opdrag.</p> <p>21 MS PILLAY: Now Colonel, we again see</p> <p>22 this theme emerging in Brigadier Calitz's testimony at page</p> <p>23 19146, line 5, where he says, "So ek weet nie of die</p> <p>24 woordjie 'beheer' of wat, maar ek glo Kolonel Vermaak kan</p> <p>25 definitief getuig as hy die woorde presies onthou, maar ek</p>
<p style="text-align: right;">Page 25444</p> <p>1 daarna waar ek persoonlik weer met hom in gesprek getree</p> <p>2 het was by koppie 3 gewees nadat die Provinsiale</p> <p>3 Kommissaris, Generaal Mbombo en Generaal Mawela daar geland</p> <p>4 het en ek saam met hulle geloop het na koppie 3 toe waar</p> <p>5 die arrestasies uitgevoer was en waar daar dan ook</p> <p>6 oorledenes gelê het. Van daardie foto's het ek ook geneem</p> <p>7 wat deel is van die album wat ek bymekaargestel het. So</p> <p>8 nooit gedurende die dag van die oggend 6 uur se JOC</p> <p>9 "meeting" tot die aand wat ons daar geland het, het ons</p> <p>10 ooit staties êrens verkeer om so 'n gesprek te hê nie.</p> <p>11 MS PILLAY: Colonel, I think Brigadier</p> <p>12 Calitz is referring to the fact that the Nyalas were static</p> <p>13 in the reorganisation line and at that point he asked you</p> <p>14 to take control of scene 2.</p> <p>15 CHAIRPERSON: What he says is, "I</p> <p>16 informed Colonel Vermaak when we stood static," he was</p> <p>17 obviously, as Ms Pillay says, referring to himself and his</p> <p>18 Nyala, "and from then on he and I had communication on the</p> <p>19 radio and I put the request to him that he must take the</p> <p>20 cars for me and then go into the koppie and take control</p> <p>21 from out of the air" – "en beheer vat uit die lug uit." So</p> <p>22 what he's saying is that in the course of a radio</p> <p>23 communication with you while his Nyala was stationary in</p> <p>24 the vicinity of koppie 3 he not only asked you to direct</p> <p>25 the vehicles into the koppie, but also asked you to take</p>	<p style="text-align: right;">Page 25446</p> <p>1 het aan hom gesê om beheer te vat van die lug af en dan vir</p> <p>2 my terugvoer te gee." Can you comment on that, Colonel?</p> <p>3 KOLONEL VERMAAK: Die beheer was oor die</p> <p>4 inpraat van die voertuie na die punte toe en dan</p> <p>5 terugvoering te gee wat is die vordering, waar die voertuie</p> <p>6 is, want dit is nie vir hom op die grond altyd moontlik om</p> <p>7 rêrig te besef waar al die voertuie is nie. So ons speel</p> <p>8 die rol van "eye-in-the-sky" vir hom om vir hom</p> <p>9 terugvoering te gee, of vir 'n operasionele bevelvoerder</p> <p>10 terugvoering te gee waar sy voertuie, waar sy "resources,"</p> <p>11 waar sy mense is en op grond daarvan dan maak hy sekere</p> <p>12 operasionele besluite. In hierdie geval waar daar baie</p> <p>13 keer 'n probleem was met radio comms, sou dit dan gebeur</p> <p>14 het as dit vir my klink asof die mense op die grond nie sy</p> <p>15 opdragte hoor nie dan sou ek dit net herhaal het daarna.</p> <p>16 MS PILLAY: So we see, Colonel, that this</p> <p>17 theme of handing over command and control of scene 2 to you</p> <p>18 is developed until page 19149 where the Commission adjourns</p> <p>19 for tea break. Now we know that this transcript we've been</p> <p>20 looking at has been for day 165, which is the 9th of January</p> <p>21 2014. Now can I just find out from you, Colonel, did you</p> <p>22 have any contact with Brigadier Calitz on the 9th of January</p> <p>23 2014?</p> <p>24 KOLONEL VERMAAK: Ek het in my dagboek 'n</p> <p>25 inskrywing gemaak, veral na die Kommissie aangestel is, die</p>

<p style="text-align: right;">Page 25447</p> <p>1 ondersoek van Marikana insident, het ek redelik noukeurig 2 probeer rekord hou van enige meedelings of vergaderings of 3 skrywes wat ek uitgestuur het of ontvang het of persone wat 4 my geskakel het of ek hulle geskakel het. Op die 9de 5 Januarie het ek wel 'n oproep ontvang van Brigadier Calitz 6 af en ek het dit dan ook so in my dagboek die betrokke dag 7 aangeteken.</p> <p>8 MS PILLAY: Chair, we have copies of the 9 excerpt from Colonel Vermaak's diary of the 9th of January. 10 In fact the excerpt we have is of the 9th and 10th of 11 January because both are relevant.</p> <p>12 CHAIRPERSON: [Microphone off, inaudible] 13 new exhibits?</p> <p>14 MS PILLAY: They're new exhibits, Chair.</p> <p>15 CHAIRPERSON: What's their –</p> <p>16 MS PILLAY: It will be exhibit OOO15, 17 OOO15.</p> <p>18 CHAIRPERSON: 15 –</p> <p>19 MS PILLAY: Sorry, 16. OOO16.</p> <p>20 CHAIRPERSON: So OOO15 and 16?</p> <p>21 MS PILLAY: No, just OOO16, Chair.</p> <p>22 CHAIRPERSON: OOO16. These are 23 extracts –</p> <p>24 MS PILLAY: It's a single page, Chair, 25 which has two days on it.</p>	<p style="text-align: right;">Page 25449</p> <p>1 at this stage Brigadier Calitz was under cross-examination 2 by Mr Chaskalson. If you can just tell us exactly what 3 that conversation was about?</p> <p>4 KOLONEL VERMAAK: Dit het basies daaroor 5 gegaan, van die begin af het ek volstaan by die feit dat ek 6 net by die waarheid gaan bly, ek gaan niks verander nie. 7 As daar foute gemaak is, sal dit erken word. As daar nie 8 foute gemaak is nie gaan ek nie erkennings maak nie en het 9 ons gereeld die gesprek gehad van dat ons gaan net by die 10 waarheid bly en niks anderster nie en dit het maar net weer 11 deel gemaak waar hy gesê het dat die indruk sal geskep word 12 dat hy die blaam wil oordra op my vir wat op die betrokke 13 dag dan sou gebeur het. En dit is hoekom ek toe dit nodig 14 geag het om die inskrywing in my dagboek te maak.</p> <p>15 MS PILLAY: And what was your response 16 when he informed you that it may appear as if he is trying 17 to shift the blame to you? What was your response?</p> <p>18 KOLONEL VERMAAK: Ek het maar net aan hom 19 gesê ek bevestig dat ek by die waarheid sal bly en niks 20 anders as dit presies nie.</p> <p>21 MS PILLAY: And why did you feel it 22 necessary to emphasise that you would stick to the truth?</p> <p>23 KOLONEL VERMAAK: Mnr die Voorsitter, 24 tydens konsultasies met die regsspan wat ek op daardie 25 stadium gedog het verteenwoordig my ook, van die polisie,</p>
<p style="text-align: right;">Page 25448</p> <p>1 CHAIRPERSON: Extract from diary of 2 Lieutenant Colonel Vermaak for 9 and 10/1/2014.</p> <p>3 MS PILLAY: Now if we look at OOO16, 4 Colonel, we see that the inclusion we're referring to is 5 against 15:30. 6 [14:17] Is that an accurate reflection of the time during 7 which you referred, you received a call from Brigadier –</p> <p>8 KOLONEL VERMAAK: Dit kan miskien vyf 9 minute of so uit wees, maar dis min of meer die tydstop wat 10 ek die oproep ontvang het.</p> <p>11 MS PILLAY: And it's the 9th of January 12 which is day 165.</p> <p>13 KOLONEL VERMAAK: Dis korrek.</p> <p>14 MS PILLAY: Now, can you read out the 15 insertion please, Colonel?</p> <p>16 KOLONEL VERMAAK: "Oproep ontvang van 17 brigadier Calitz in verband met sy getuienis dat ek in 18 beheer was van koppie 3. Volgens getuienis het hy bevel 19 aan my oorgegee waar ek blykbaar, hy blykbaar gepraat het, 20 rapporteer en gepraat het. Ek was die eye in the sky en 21 het slegs voertuie in gepraat volgens die plan van die 22 oggend van die 16de Augustus 2012."</p> <p>23 MS PILLAY: Now can you just tell us in 24 as much detail as you can, exactly what the telephone 25 conversation was with Brigadier Calitz, just to emphasise</p>	<p style="text-align: right;">Page 25450</p> <p>1 was daar op 'n stadium aan my genoem dat ek die 2 verantwoordelikheid gaan dra vir die feit van die mense wat 3 by koppie 3 doodgeskiet is. My argument was gewees waarop 4 baseer hulle dan nou die bewering wat dan nou teen my 5 gemaak word. Dit het teruggekom na die feit rondom my 6 ondervinding van openbare orde polisiëring en die feit dat 7 daar na miskien gekyk kan word dat ek die optoggers of 8 die protesters doelbewus in die koppie in laat blok het en 9 die oor en weer skietery plaasgevind het en die misverstand 10 wat daar moontlik was, dat die polisiëmanne aan die een 11 kant gedink het dit is dalk vuur wat hulle ontvang vanuit 12 die middel van die koppie uit en dat dit moontlik dan van 13 die anderkant van hulle kollegas af sou wees. En nadat, 14 nadat hierdie mededelings deur die regsspan aan my gemaak 15 is, het ek besef dat ek moet alles notuleer wat verder dan 16 sou gebeur en wat daar gesê word en die skrywes wat 17 ingedien word, vergaderings wat gehou word, gesprekke wat 18 ek met van die regsspanne gehad het van die polisie, 19 individue asook waar hulle in pare bymekaar was waar daar 20 met my gekonsulteer was oor 'n tydperk van 18 maande. En 21 dit was maar die groot oorweging waar ek besef het ek sal 22 op die einde van die dag, sal ek my nodige dokumentasie 23 moet hê. Ek het dit van die begin af, het ek dit duidelik 24 gestel aan die Nasionale Kommissaris en die Provinsiale 25 Kommissaris en die regsspan dat ek net gaan bly by die</p>

<p style="text-align: right;">Page 25451</p> <p>1 feite. Daar is ander goed en ek glo moontlik sal daar vrae 2 rondom dit uitkom, maar daar was ander insidente gewees wat 3 my daarna gevat het om baie noukeurig rekord te hou van 4 alles.</p> <p>5 MS PILLAY: Now when it was put to you 6 that you may ultimately be held responsible for what 7 occurred at scene 2 because you directed the vehicles to 8 encircle scene 2, what was your response to that?</p> <p>9 KOLONEL VERMAAK: Ek was, seker menslik 10 gewys, redelik teleurgesteld oor die feit dat daar nou ewe 11 skielik na soveel maande se konsultasie, vinger na my toe 12 gewys word dat ek met my jare ondervinding in die onluste 13 indirek verantwoordelikheid is dan vir hierdie mense se 14 dood. En ek het my ongelukkigheid uitgespreek daaroor, vir 15 hulle gesê dit is nie vir my aanvaarbaar nie. My vraag aan 16 die regsspan was, as dit nou my skuld is, waar het hulle 17 ooit vir my, behalwe die oggend met die JOC vergadering, 18 enige ander briefing gegee van enige ander plan wat in plek 19 gesit is? En dit kon nie geantwoord word nie.</p> <p>20 MS PILLAY: So in other words the only 21 plan that you were aware of and which you were implementing 22 was the encirclement plan?</p> <p>23 KOLONEL VERMAAK: Dis korrek.</p> <p>24 MS PILLAY: Now apart from – sorry, 25 Chair.</p>	<p style="text-align: right;">Page 25453</p> <p>1 CHAIRPERSON: Were you in the chamber at 2 that point because I know you, Mr Chaskalson - as your 3 junior, is he? I hope you'll give him a red bag when he's 4 finished.</p> <p>5 MS PILLAY: Mr Chaskalson has found a 6 passage, Chair, it's at page 19090.</p> <p>7 CHAIRPERSON: If you think, because 8 you're in charge, if you think that the passage your junior 9 has found is something that should be put on the screen, 10 then I'm sure you can ask for it to be done.</p> <p>11 MS PILLAY: No, absolutely, Chair. It's 12 19090 and we can pick up from line 9, Brigadier Calitz 13 says, "Nee, wat kolonel Vermaak vir my gesê het, en dit is 14 clear in die transcript, miskien moet ons gaan kyk na die 15 presiese woorde, 'Ja, Papa1, if that water cannon can wait 16 there. The people are encircled. You can make arrests now 17 down there.' So dit beteken dat die waterkanonne is 18 gebruik en toe het die, volgens my, het die openbare orde 19 polisiëring reg gekry om die persone dan te encircle, wat 20 ons moes gedoen het, of dit in kleiner groepe is. En dit 21 was waarop ek gesê het, okay, water cannons hold back. Met 22 ander woorde dit is nie meer verder nodig om hulle op te 23 breek nie, that guys get out of your Nyalas under 24 protection and engage. Met ander woorde, gaan maak 25 arrestasies. So dit is die presiese woorde wat daar</p>
<p style="text-align: right;">Page 25452</p> <p>1 CHAIRPERSON: Are you going to put other 2 passages from Brigadier Calitz's evidence to him in this 3 regard?</p> <p>4 MS PILLAY: No, I'm –</p> <p>5 CHAIRPERSON: There was a passage, as far 6 as I remember, where he talks about dispersing of the 7 strikers on the koppie and that he'd received information 8 from Colonel Vermaak that they were encircled and they 9 could be dispersed, as far as I can remember, and they 10 could be arrested and he then said, as I recall, that 11 Colonel Vermaak had then, as it were, taken over and given 12 the necessary instructions and he was questioned by Mr 13 Chaskalson about that and there were problems about whether 14 they had been given a warning before attempts were made to 15 disperse them and so on. It's quite a lengthy passage in 16 his evidence where, as far as I can recall, he did say that 17 he hadn't given the orders, the orders were given by 18 Colonel Vermaak who was, as it were, in charge. I don't 19 know whether that passage can be found. I hope my 20 recollection is correct but anyway, you weren't intending 21 to put such a passage to him?</p> <p>22 MS PILLAY: Chair, but we will find the 23 passage and put it to the witness.</p> <p>24 CHAIRPERSON: I don't know if –</p> <p>25 MS PILLAY: My learned junior –</p>	<p style="text-align: right;">Page 25454</p> <p>1 gebruik is."</p> <p>2 CHAIRPERSON: Then Mr Chaskalson says, "I 3 know what the words are, but I'm trying to understand your 4 state of mind at the time. Did you think you are issuing 5 an order to people to engage in the koppie, or to engage 6 out of the koppie? Did you think that the small groups 7 were inside the koppie or had already been flushed out of 8 the koppie?" then Brigadier Calitz says, "Nee, soos 9 kolonel Vermaak my gepraat het, het dit vir ons die heeltyd 10 geklink dat die persone daar bymekaar was, soos ek 11 geluister het na die gesprek het hy gesê ry in, hier links 12 daar regs." And then – there is a passage, is there not, 13 where he said that Colonel Vermaak gave the order, I 14 didn't?</p> <p>15 MS PILLAY: Chair, we're looking for the 16 relevant passage?</p> <p>17 COMMISSIONER HEMRAJ: If you look at 18 16:11:18 of the – sorry, are you talking about the 19 transcript of the evidence?</p> <p>20 MS PILLAY: Yes.</p> <p>21 COMMISSIONER HEMRAJ: I beg your pardon, 22 I thought you were looking at the Coin transcript.</p> <p>23 CHAIRPERSON: Mr Chaskalson was cross- 24 examining at the time, is his recollection the same as mine 25 that there was evidence to the effect that I have</p>

<p style="text-align: right;">Page 25455</p> <p>1 summarised?</p> <p>2 MR CHASKALSON SC: After – my</p> <p>3 recollection is that after the tea break I put to Brigadier</p> <p>4 Calitz that he was unfairly seeking to put responsibility</p> <p>5 onto Colonel Vermaak and at that point he took issue with</p> <p>6 the proposition and gave, I think, an example where he said</p> <p>7 Lieutenant-Colonel Vermaak was exercising command.</p> <p>8 CHAIRPERSON: Yes, that's my recollection</p> <p>9 too. That's also my recollection. Anyway I suppose that</p> <p>10 it's something that we can check overnight if necessary,</p> <p>11 unless someone else can help us. Mr Gotz looks as if he's</p> <p>12 found something. No, he pleads not guilty, alright.</p> <p>13 KOLONEL VERMAAK: Voorsitter, as ek dalk</p> <p>14 kan help, op 16:11:28 ETV se tyd, dis die transcript van</p> <p>15 die video-opname –</p> <p>16 COMMISSIONER HEMRAJ: It's actually the</p> <p>17 one before that, Colonel, at 16:11:18, if you look at that</p> <p>18 one.</p> <p>19 KOLONEL VERMAAK: Ja, ja. If I can read</p> <p>20 it, "Colonel Vermaak: Ja, Papa1 if the water cannon can</p> <p>21 wait, the people they are encircled and you can make</p> <p>22 arrests now." Then Brigadier Calitz repeats, "Okay, water</p> <p>23 cannons hold back, guys get out of the Nyalas and the</p> <p>24 protection, get out, get out there, engage, get out there</p> <p>25 and engage, those vehicles with the task force." So ek</p>	<p style="text-align: right;">Page 25457</p> <p>1 acting in your capacity as the eye in the sky.</p> <p>2 COLONEL VERMAAK: That's correct.</p> <p>3 MS PILLAY: Chair, if we can put up 19144</p> <p>4 of day 165 at line 17. 19144 –</p> <p>5 CHAIRPERSON: While we're looking at</p> <p>6 that, before we look at that I just want to get clarity on</p> <p>7 something. It does appear from the transcript that at some</p> <p>8 point you were given authority, to use a neutral word, to</p> <p>9 direct the vehicles to particular positions.</p> <p>10 KOLONEL VERMAAK: Dis, dis –</p> <p>11 CHAIRPERSON: So inasmuch as you were</p> <p>12 saying go there and you were directing, go left, go right,</p> <p>13 you were directing them and in that sense, I suppose</p> <p>14 ordering them as to where they were to go, but did the</p> <p>15 authority that you had go any further than merely giving</p> <p>16 what amounts to traffic directions to particular vehicles?</p> <p>17 KOLONEL VERMAAK: Dit is korrek,</p> <p>18 Voorsitter, die verantwoordelikheid was om, soos wat ek</p> <p>19 netnou ook verduidelik het, dat baie min van die mense wat</p> <p>20 daar ontplooi was, was vertrouwd met die omgewing daar. So</p> <p>21 hulle het glad nie die omstandighede daar geken nie en</p> <p>22 daarom het ons die rol oorgevat, as hulle by 'n spesifieke</p> <p>23 punt 'n spesifieke voertuig nodig gehad het, dan het ons</p> <p>24 hom van 'n punt af in gepraat tot waar die voertuig dan nou</p> <p>25 moes gestop het en sy werk gedoen het.</p>
<p style="text-align: right;">Page 25456</p> <p>1 weet nie wie het die opdrag daar gegee nie.</p> <p>2 CHAIRPERSON: It certainly does look as</p> <p>3 if – well, there are two things really. The first is the</p> <p>4 entry at 16:11:18 is you speaking and you appear to be</p> <p>5 speaking to Brigadier Calitz.</p> <p>6 KOLONEL VERMAAK: That's correct.</p> <p>7 CHAIRPERSON: Certainly the first part,</p> <p>8 "If that water cannon can wait, the people are encircled"</p> <p>9 appears to be a remark you were making to him. And then</p> <p>10 "You can make arrests now there" -</p> <p>11 KOLONEL VERMAAK: Dis korrek.</p> <p>12 CHAIRPERSON: To whom was that directed,</p> <p>13 that –</p> <p>14 KOLONEL VERMAAK: Dit was nog steeds met</p> <p>15 brigadier Calitz in gesprek gewees.</p> <p>16 CHAIRPERSON: And then Brigadier Calitz</p> <p>17 responds and seems to be issuing orders based upon what</p> <p>18 you've told him as far as I can see, prima facie, I don't</p> <p>19 know. "Okay, water cannons hold back, guys get out of the</p> <p>20 Nyalas under protection, under protection, get out, get out</p> <p>21 there, engage." They sound like orders to me, are they?</p> <p>22 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>23 CHAIRPERSON: "Get out there and engage,</p> <p>24 those vehicles with the task force." So he's giving the</p> <p>25 orders on the basis, presumably, of what you've told him,</p>	<p style="text-align: right;">Page 25458</p> <p>1 CHAIRPERSON: Look at the passage to</p> <p>2 which Adv Pillay has referred us, 19144. We see Mr</p> <p>3 Chaskalson is asking a question from line –</p> <p>4 MS PILLAY: 17, Chair.</p> <p>5 CHAIRPERSON: 17, I think, yes. We can't</p> <p>6 see the whole of it on the screen at the moment. What he's</p> <p>7 doing is he is reading the passage we just looked at and</p> <p>8 then where do we see the Brigadier's answer to Mr</p> <p>9 Chaskalson's question?</p> <p>10 MS PILLAY: If we go down to 19145 –</p> <p>11 CHAIRPERSON: So the question Mr</p> <p>12 Chaskalson asks, having put the passage we've looked at is,</p> <p>13 "So why would it have been necessary for you to give any</p> <p>14 order like that if Lieutenant-Colonel Vermaak was in charge</p> <p>15 of the operation at koppie 3?" And Brigadier Calitz's</p> <p>16 answer is, Mr Chairman, I think that question can be asked</p> <p>17 for, to Colonel Vermaak because he requests – sorry, Mr</p> <p>18 Chairman, I think that question can be asked to Colonel</p> <p>19 Vermaak why he requested it, is it requested it from me and</p> <p>20 did not give them the instruction himself. If he had given</p> <p>21 that instruction, it was not wrong. He doesn't seem to be</p> <p>22 answering the question directly. Then I ask a question,</p> <p>23 line 17, I don't know what that says. "Did you," the first</p> <p>24 question is, I want to ask you two questions, "May I ask</p> <p>25 you two questions," I said. "The first is did you</p>

<p style="text-align: right;">Page 25459</p> <p>1 specifically say to Lieutenant" – it should be Lieutenant- 2 Colonel – "Vermaak at some stage I'm asking you or 3 authorising you to take command from the air because you 4 can see what's going on and I can't? Did you ever say 5 anything of that kind specifically to him?" And his answer 6 was, Mr Chairman, yes, I can't remember my precise words. 7 It was after we looked back that first time and saw that 8 the TRT were not following up and I, the whole time, only 9 with him could receive communication and then I said to him 10 it looks to me as if it's only you and I who have 11 communication so please take for me control of these 12 vehicles and give me feedback. 13 [14:36] I don't know if the word control or what, but I 14 believe Colonel Vermaak can definitely testify if he 15 remembers these words precisely, but I did say to him to 16 take control from the air and then to give me feedback." 17 And then I asked him, "But what stage was that?" and he 18 said "It was still while we were, when we communicated, 19 when I could not come into contact with the rear group of 20 the TRT and I asked him to fly back for me and to go and 21 see why they were not coming, and that's when he counted, I 22 think his words were that he counted to about 25, but the 23 occurrence book entry says 18 bodies it was at that stage." 24 So I then said to him, "So in other words after scene 1 25 when you were in the vicinity of the dry riverbed," and he</p>	<p style="text-align: right;">Page 25461</p> <p>1 Calitz gevoer het, is dit iets wat hy opgemerk het en hy 2 gesê het, "Salmon, talk to the vehicles in the small 3 koppie. There are several people in the small koppie, 4 hiding in the small koppie." So my, wat ek hom verstaan 5 het is hy sien hierdie mense in die klein koppie. Hy wil 6 voertuie ontplooi soontoe maar hy weet nie presies waar al 7 die voertuie is nie. So dan gaan jy en jy kyk uit die lug 8 uit wat is die naaste voertuig wat jy dan kan gebruik om 9 daardie taak te gaan uitvoer. 10 CHAIRPERSON: When you talk about the 11 "klein koppie," he talked about the "klein koppie," I think 12 you've explained that means one of the sections of the 13 scene 2, the – 14 KOLONEL VERMAAK: Dis reg. 15 CHAIRPERSON: - the so-called koppie 3. 16 KOLONEL VERMAAK: Dis reg. 17 CHAIRPERSON: And then from what you say 18 it seems as if he was merely asking you to give what I'd 19 call traffic directions to the nearest vehicle. Is that 20 correct? 21 KOLONEL VERMAAK: Dis reg. Hy het gevra 22 dat "talk to the vehicles into the small koppie," so dit is 23 "scene 2." Hy het gevra ek moet die voertuie vat waar 24 hulle is en hulle inpraat na daardie punt toe. 25 CHAIRPERSON: The passage Mr Chaskalson</p>
<p style="text-align: right;">Page 25460</p> <p>1 said, "It is after scene 1," and then I went on, "when you 2 were in the vicinity of the dry riverbed, is that right?" 3 and he says, "Yes." That seems to be the passage. 4 Yes, there is a passage in the transcript that 5 we're now busy with, it's page 3, it's an entry at 16:09:43 6 where he says, addresses you by your first name and he 7 says, "Salmon, talk to the vehicles in the small koppie. 8 There are several people in the small koppie, hiding in the 9 small koppie," and you then reply, "Ja, that's why I'm 10 trying to take the Nyalas in, Brigadier, but I'm not very 11 successful with it." That's the passage that has a bearing 12 on it. 13 But anyway, the point that Adv Pillay was putting 14 to you and I'm taking it a bit further, was there is that 15 passage which Mr Chaskalson, who probably does deserve a 16 red bag if he hasn't got one already, which Mr Chaskalson 17 has referred us to does say virtually in express terms what 18 had been put to you and I think what Ms Pillay is trying to 19 get from you is your comment on - is that right, Ms Pillay? 20 - is your comment on that passage. 21 MS PILLAY: That's correct, Chair. 22 KOLONEL VERMAAK: Voorsitter, as ons na 23 daardie spesifieke punt gaan kyk by 16:09:50 sal u opmerk 24 dat dit heelwat later in die gebeure by koppie 3 is. So 25 dit is waar, as u gaan kyk na die gesprek wat hy, Brigadier</p>	<p style="text-align: right;">Page 25462</p> <p>1 referred us to talks about some authority allegedly 2 conferred upon you at the dry river. Now you remember the 3 dry river is a section near koppie 2 where the forces were 4 to reorganise themselves, or be reorganised. Now the 5 transcript that we've got, does that deal with that period? 6 What time – perhaps Mr Chaskalson can tell us that – what 7 time did the so-called reorganisation at the dry riverbed 8 take place? 9 MR CHASKALSON SC: It starts, the 10 reorganisation line forms up at 15:56. Well, our first 11 evidence of it is at 15:56:04 and it stays in place until 12 16:03:51. 13 CHAIRPERSON: So the point that Adv 14 Hemraj is putting to me, is if we look at the beginning of 15 this transcript it starts at 15:57:48. That's after the 16 reorganisation period at the dry riverbed has begun, but 17 the action then seems to move on quite quickly to scene 2, 18 koppie 3. Round about 16:02 it looks – well, I suppose we 19 should ask the witness if he knows. Have you got page 1 20 there of this exhibit OOO11 – 21 KOLONEL VERMAAK: Ek het hom, mnr die 22 Voorsitter. 23 CHAIRPERSON: Entry 16:02:30 you're now 24 talking. Now you're telling them where to go to, past the 25 power lines and go straight and so on. Is this still at a</p>

<p style="text-align: right;">Page 25463</p> <p>1 time when Brigadier Calitz was dealing with the 2 reorganisation at the dry riverbed? 3 KOLONEL VERMAAK: Dit is op daardie 4 stadium wat hulle daar bymekaar gekom het en waar ons van 5 daar af toe die waterkanonne en die Nyalas dan verder 6 ontplooi het na die koppie 3 toe. 7 CHAIRPERSON: And at what point would you 8 say does this transcript begin to deal with things that 9 happened at koppie 3? Because at entry 16:03:15 where you 10 say "Papa1 chopper, I'm bringing the water cannon around 11 the other side," now is that the other side of scene 2 or 12 koppie 3 or where is it? 13 KOLONEL VERMAAK: Koppie 3, dis korrek. 14 So as ons sou – is ons nou alweer met die windrigtings – as 15 jy na die foto kyk waar ons na die koppie, na koppie 3 toe 16 beweeg het was die meeste van die Nyalas aan die 17 regterkant, daar waar hulle oorspronklik opgelyn het en toe 18 moes ek 'n waterkanon van daardie kant af ombring na 19 hierdie kant toe en terselfdertyd ook sorg dat hy die 20 nodige beskerming het en hy – 21 CHAIRPERSON: You say "na hierdie kant 22 toe," you indicate – 23 KOLONEL VERMAAK: Na die linkerkant. 24 CHAIRPERSON: - indicate with your left 25 hand.</p>	<p style="text-align: right;">Page 25465</p> <p>1 ons daardie klas van goed kommunikeer na die operasionele 2 bevelvoerder op die grond, asook na die JOC toe. So dit is 3 'n tweeledige doel is jy rapporteer JOC en outomaties dan 4 is dit maar indirek ook na jou operasionele bevelvoerder 5 toe. 6 CHAIRPERSON: It does seem that that's 7 what he's saying in the passage you recorded on the 10th of 8 January in your diary. I don't think you've dealt with 9 that yet in your evidence, have you? On the right-hand 10 side of OOO16 there's a passage which is I take it a note 11 that you made about a conversation you had on the following 12 day, that's the 10th of January, with the Brigadier. Am I 13 correct? 14 KOLONEL VERMAAK: Dis korrek. 15 CHAIRPERSON: And I don't think you read 16 that for us yet, have you? 17 KOLONEL VERMAAK: Nee, ek het hom nie 18 gelees nie. 19 CHAIRPERSON: Would you like to read it 20 for us? Because you're handwriting I'm afraid – 21 KOLONEL VERMAAK: Dit is my – 22 CHAIRPERSON: Well, a bit better than a 23 doctor's, but not much. So can you perhaps read it for us? 24 KOLONEL VERMAAK: "Oproep ontvang van 25 Brigadier Calitz om my te verduidelik ten opsigte van sy</p>
<p style="text-align: right;">Page 25464</p> <p>1 KOLONEL VERMAAK: Dis korrek. 2 CHAIRPERSON: Alright, so what it amounts 3 to is this; according to the passage that was put to you 4 that Mr Chaskalson found for us, this alleged delegation of 5 authority to you appears to have taken place either shortly 6 before this transcript begins or up until the time, round 7 about 16:02, perhaps 16:03:15, by which time you were 8 clearly busy with what was happening at koppie 3. On the 9 transcript itself at the moment we can't see any delegation 10 of authority in that period and the passage that he refers 11 to later appears to be the passage clearly dealing with 12 something that happened at koppie 3. Would that be a 13 correct understanding? 14 KOLONEL VERMAAK: Dit is korrek. Op geen 15 stadium was daar enige opdrag van enige persoon af aan my 16 oorgedra dat ek uit my hoedanigheid as 'n offisier met 17 ondervinding in die helikopter bevel en beheer oor die 18 operasie moet vat uit die lug uit nie. Ek het absoluut net 19 'n ondersteunende rol gespeel vir die operasionele 20 bevelvoerder om hom behulpsaam te wees, om vir hom 21 aanduiding te gee waar sy voertuie is dat hy kritieke 22 besluite kan neem. 23 Sou daar 'n groepering plaasvind waarvoor hulle 24 moontlik nie voorsiening gemaak het nie en daardie 25 groepering kon opgemerk geword het uit die lug uit, dan sou</p>	<p style="text-align: right;">Page 25466</p> <p>1 getuienis dat ek in bevel was van koppie 3. Volgens hom 2 het hy nie bedoel operasionele bevel op die grond nie maar 3 wel in die lug om voertuie in te praai en opdragte te 4 herlei. Hy het gesê ons het van die begin af ooreengekom 5 dat ons net die waarheid sal praai en daarby gaan bly," en 6 dan het ek bygesit is "Ek sal by dit bly." 7 MS PILLAY: Just to round off this point, 8 Colonel, we've been through FFF25, which is the occurrence 9 book, and as you pointed out earlier from entry 1018 10 onwards, which deals with firstly the shootings at scene 1 11 and then the incidents at scene 2, there's no mention of 12 command and control being shifted from the operational 13 commander to you in Chopper 1. 14 KOLONEL VERMAAK: Onder geen 15 omstandighede was daar so iets gewees nie, Voorsitter. 16 COMMISSIONER HEMRAJ: Colonel, if we look 17 at this transcript of the Protea Coin chopper, was there 18 communication between, radio communication between you and 19 Brigadier Calitz prior to where this commences, where this 20 starts, this transcript? 21 KOLONEL VERMAAK: Voorsitter, die laaste 22 gesprekke voordat hierdie opgeneem was kan ek miskien 23 terugvat na "scene" 1 waar die skietery was, waar ek die 24 opdragte herhaal het van Brigadier Calitz dat hulle moet 25 "engage," waar die groep toe nou die polisie aangeval het</p>

<p style="text-align: right;">Page 25467</p> <p>1 en die polisie terug opgetree het.</p> <p>2 COMMISSIONER HEMRAJ: And thereafter the</p> <p>3 next would be as you're proceeding towards – the next</p> <p>4 communication is as you proceed towards the –</p> <p>5 KOLONEL VERMAAK: Op die transkripsies.</p> <p>6 COMMISSIONER HEMRAJ: I see. Thank you.</p> <p>7 MS PILLAY: Colonel, can you just then</p> <p>8 tell us what happens after you leave scene 2?</p> <p>9 KOLONEL VERMAAK: Nadat ons die Generale</p> <p>10 vergesel het by koppie 3, of "scene 2" dan, moes ons</p> <p>11 ongelukkig die helikopters onttrek. Dit het begin skemer</p> <p>12 raak en die vlieënier wat ek by my gehad het, het nie 'n</p> <p>13 "night rating" op sy lisensie nie, so wetlik gesproke moes</p> <p>14 ek hom terugkry op die basis van waar af ons gewerk het</p> <p>15 voordat dit donker word. Hy mag 'n halfuur na</p> <p>16 sonsondergang en 'n halfuur voor sonsondergang – opkoms,</p> <p>17 mag hy vlieg, maar dan tussenin is hy nie gemagtig om</p> <p>18 wetlik te kan vlieg nie.</p> <p>19 MS PILLAY: Now before we move away</p> <p>20 completely from scene 2, Colonel, can you just explain to</p> <p>21 us, I know that you've had some limited involvement in the</p> <p>22 allegations that Warrant Officer Myburgh made in relation</p> <p>23 to an occurrence at scene 2. Can you just explain to us</p> <p>24 what the extent of your involvement was?</p> <p>25 KOLONEL VERMAAK: Voorsitter, ons was –</p>	<p style="text-align: right;">Page 25469</p> <p>1 gekonsentreer op die insidente van 12, 13, 14, 15 tot 16.</p> <p>2 Die gebeurtenisse tussenin, agterna, was nie op daardie</p> <p>3 stadium vir ons rêrig belangrik nie. Ek weet ek het in my</p> <p>4 dagboek het ek dit wel aangeteken en ook die feit dat ek</p> <p>5 dit oorhandig aan my seniors het ek dit geag dat dit</p> <p>6 genoegsaam van my kant af is om dit onder hulle aandag te</p> <p>7 bring en dat hulle dit dan verder sal hanteer.</p> <p>8 CHAIRPERSON: You say you handed it to</p> <p>9 your seniors. To whom specifically did you hand it?</p> <p>10 KOLONEL VERMAAK: Ek het vir Brigadier</p> <p>11 Calitz geroep en dit aan hom gemeld. Die Adjudant Offisier</p> <p>12 was saam met my. Ek het hom gevra dat hy weer dieselfde</p> <p>13 weergawe wat hy vir my gegee het moet oordra aan Brigadier</p> <p>14 Calitz en daarna het ons gesê maar Brigadier Calitz sal dit</p> <p>15 dan nou verder hanteer met Generaal Naidoo en van die ander</p> <p>16 senior offisiere dan.</p> <p>17 MS PILLAY: Colonel, if we can now turn</p> <p>18 to paragraph 12 of LLL8 where you deal with the meeting in</p> <p>19 Potchefstroom, or Roots as it's now called.</p> <p>20 KOLONEL VERMAAK: Hom net kry.</p> <p>21 CHAIRPERSON: Ms Pillay, I was proposing</p> <p>22 to take tea at 3 o'clock, but I'm in your hands. You must</p> <p>23 tell me whether you want to go on for five minutes with</p> <p>24 this topic and resume after tea, or whether you want me to</p> <p>25 take the adjournment now. It's for you to tell me.</p>
<p style="text-align: right;">Page 25468</p> <p>1 ek het ongelukkig nie die datum nie, maar ons het een aand</p> <p>2 'n vergadering gehad met die Nasionale Kommissaris in</p> <p>3 Rustenburg by, op die dorp gastehuis en terwyl ons daar</p> <p>4 besig was en daar 'n breek was het die Adjudant my genader</p> <p>5 en vir my gevra of hy met my kan praat - ek weet nie, dis</p> <p>6 seker maar omdat ek baie operasioneel saam met die mense op</p> <p>7 die grond is, die feit dat ek toe ek by die Onluste Eenheid</p> <p>8 was het ek oor die hele provinsie oor gewerk en by die</p> <p>9 Lugvleuel dieselfde - en toe het hy 'n mededeling aan my</p> <p>10 gemaak dat daar 'n insident was by die koppie waar hy by 'n</p> <p>11 beseerde verbygeloop het en net nadat hy verbygeloop het,</p> <p>12 het hy 'n skoot hoor klap. Hy het omgedraai; hy het 'n</p> <p>13 persoon gesien staan met 'n vuurwapen. Hy het hom gevra,</p> <p>14 "Nou wat doen jy? Hoekom doen jy dit?" en die persoon het</p> <p>15 vir hom gesê "Hy verdien nie om te lewe nie."</p> <p>16 Ek het besef dat dit 'n baie, baie ernstige ding</p> <p>17 is. Ek het dadelik vir Brigadier Calitz geroep en ek het</p> <p>18 hom gevra om die aangeleentheid oor te vat en verder te</p> <p>19 gaan met Generaal Naidoo en al die ander senior offisiere</p> <p>20 wat daar was.</p> <p>21 MS PILLAY: Now can I ask, Colonel,</p> <p>22 appreciating what an important allegation it was, why</p> <p>23 doesn't it feature in any of your six statements that you</p> <p>24 filed before the Commission?</p> <p>25 KOLONEL VERMAAK: Ek het hoofsaaklik</p>	<p style="text-align: right;">Page 25470</p> <p>1 MS PILLAY: Chair, this is a convenient</p> <p>2 moment because it's a new topic that I'll be starting.</p> <p>3 CHAIRPERSON: We'll take the tea</p> <p>4 adjournment now.</p> <p>5 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>6 [15:20] CHAIRPERSON: The Commission resumes.</p> <p>7 Luitenant-kolonel, u word nog steeds gebind deur die</p> <p>8 plegtige verklaring wat u gemaak het.</p> <p>9 KOLONEL VERMAAK: Dankie, Voorsitter.</p> <p>10 CHAIRPERSON: You were moving on to a new</p> <p>11 topic, I believe.</p> <p>12 MS PILLAY: Thank you, Chair. Chair,</p> <p>13 just a bit of housekeeping before we carry on with the</p> <p>14 examination-in-chief. We've been requested by certain of</p> <p>15 the parties to put together a photograph with annotations</p> <p>16 by the Colonel indicating the movement of the strikers just</p> <p>17 before scene 1 and we've put that together and we need to</p> <p>18 hand it up as an exhibit now, Chair.</p> <p>19 CHAIRPERSON: I see. Right, well, then</p> <p>20 you do want to hand it in? The next exhibit will be?</p> <p>21 MS PILLAY: It's OOO17.</p> <p>22 CHAIRPERSON: OOO17.</p> <p>23 MS PILLAY: Which is –</p> <p>24 CHAIRPERSON: How do I describe it?</p> <p>25 MS PILLAY: It's photograph 1515, JJJ11 –</p>

<p style="text-align: right;">Page 25471</p> <p>1 CHAIRPERSON: Sorry, JJJ?</p> <p>2 MS PILLAY: 11.1515.</p> <p>3 CHAIRPERSON: 11.1515 yes?</p> <p>4 MS PILLAY: With annotations by Colonel</p> <p>5 Vermaak.</p> <p>6 CHAIRPERSON: Very well, I have entered</p> <p>7 it into my book as photograph JJJ11.1518, is that right?</p> <p>8 MS PILLAY: 1515.</p> <p>9 CHAIRPERSON: 1515, can't read my own</p> <p>10 handwriting. 1515 with Colonel Vermaak's annotations.</p> <p>11 MS PILLAY: Thank you, Chair.</p> <p>12 KOLONEL VERMAAK: (bevestig verder)</p> <p>13 EXAMINATION BY MS PILLAY (CONTD.):</p> <p>14 Colonel, if we can just confirm, if you can look at OOO17</p> <p>15 and can you –</p> <p>16 CHAIRPERSON: Are we going to get copies</p> <p>17 too or is that something that we're not going to be</p> <p>18 favoured with?</p> <p>19 MS PILLAY: Chair, we must apologise but</p> <p>20 because of the short notice we don't have colour copies but</p> <p>21 we'll make sure you get colour copies in due course.</p> <p>22 They're black and white for now.</p> <p>23 CHAIRPERSON: Yes, but in glorious</p> <p>24 technicolour but without supersonic sound. Thank you.</p> <p>25 MS PILLAY: Chair, this will be OOO17.</p>	<p style="text-align: right;">Page 25473</p> <p>1 stun grenades and water cannon?</p> <p>2 KOLONEL VERMAAK: And water. Nadat hulle</p> <p>3 daar gestop was, het hulle terugbeweeg soos die pyle dit</p> <p>4 aandui, weer aan die agterkant ge-hergroepeer, basies 'n</p> <p>5 boog gemaak, terugbeweeg langs die kraal aan die linkerkant</p> <p>6 verby soos 'n mens na die foto kyk en ook ongeveer waar die</p> <p>7 laaste pyl se punt is waar die konfrontasie dan plaasgevind</p> <p>8 het.</p> <p>9 CHAIRPERSON: While we're talking about</p> <p>10 that, it occurs to me, you remember you said you couldn't</p> <p>11 see exactly what was happening at that point because of the</p> <p>12 smoke and the dust and so on.</p> <p>13 KOLONEL VERMAAK: Dis korrek.</p> <p>14 CHAIRPERSON: But I take it if one</p> <p>15 accepts that the people in the TRT line stayed more or less</p> <p>16 where they were in the line, and those strikers who</p> <p>17 advanced further forward, advanced more or less where their</p> <p>18 bodies were found and which one can see on your photograph</p> <p>19 which you took a few minutes later –</p> <p>20 KOLONEL VERMAAK: Dis korrek.</p> <p>21 CHAIRPERSON: - it looks as if there</p> <p>22 wasn't actually a contact between the two groups because</p> <p>23 there is a gap, isn't there, between the line where the TRT</p> <p>24 was and then the place where the –</p> <p>25 KOLONEL VERMAAK: Dis korrek –</p>
<p style="text-align: right;">Page 25472</p> <p>1 CHAIRPERSON: I think either you or Ms</p> <p>2 Pillay or the Lieutenant-Colonel had better take us through</p> <p>3 this document.</p> <p>4 MS PILLAY: Yes, Chair. Colonel, can I</p> <p>5 ask you to have a look at OOO17? Yes and can you just</p> <p>6 explain to us what it is that is shown on OOO17?</p> <p>7 KOLONEL VERMAAK: Mnr die Voorsitter,</p> <p>8 daar waar u sien die front, you sal sien dit is by 'n</p> <p>9 kruispad van 'n voetpaadjie daar. Daardie groot gedeelte</p> <p>10 wat donker kleur is waar die woord "front" staan, is die</p> <p>11 gedeelte waarop die voorste groep altyd bymekaar gekom het</p> <p>12 en toe met die ontplooiing van die draadkarre het daardie</p> <p>13 groep basies oor die lyn beweeg daar waar die pyle se punte</p> <p>14 is. Dit is waar ek ook gemeld het dat hulle nader aan die</p> <p>15 Nyalas en die draadkarre beweeg het. Die pyle wat hier na</p> <p>16 die "second" toe wys is die rigting wat die voorste groep</p> <p>17 dan gevolg het en basies op daardie punt het die groep wat</p> <p>18 op koppie 1 en 2 was, by hulle aangesluit waarop van die</p> <p>19 mense wat toe nou nie deel wou wees daar nie kan gesien</p> <p>20 word op die foto's, is daar heelwat persone wat wegloop van</p> <p>21 die toneel af weg. Dan die volgende rigting met die pyle</p> <p>22 na TSW is die eerste insident waar die draadkar nommer 4</p> <p>23 uitgegooi was waar die traanrook en die skokgranate en die</p> <p>24 waterkanon waargeneem was –</p> <p>25 CHAIRPERSON: So TSW stands for teargas,</p>	<p style="text-align: right;">Page 25474</p> <p>1 CHAIRPERSON: - the front, the front</p> <p>2 people –</p> <p>3 KOLONEL VERMAAK: Ja.</p> <p>4 CHAIRPERSON: - of the group who were</p> <p>5 shot.</p> <p>6 KOLONEL VERMAAK: Dis korrek.</p> <p>7 CHAIRPERSON: But you couldn't actually</p> <p>8 see that because of the dust and the smoke, is that right?</p> <p>9 KOLONEL VERMAAK: Dis korrek.</p> <p>10 CHAIRPERSON: Right. Sorry, is there</p> <p>11 anything else you want to ask the witness about this? I</p> <p>12 wanted to ask him about something else before you move on</p> <p>13 to –</p> <p>14 MS PILLAY: Nothing in relation to –</p> <p>15 CHAIRPERSON: - paragraph 12. Adv Hemraj</p> <p>16 wants to ask something. Do you want to ask –</p> <p>17 MS PILLAY: Nothing in relation to this</p> <p>18 exhibit.</p> <p>19 CHAIRPERSON: Right, Adv Hemraj?</p> <p>20 COMMISSIONER HEMRAJ: Thank you.</p> <p>21 Colonel, where those two arrows emanate from the word</p> <p>22 "front" and where they end, did I understand your evidence</p> <p>23 that at that stage your helicopter was on a wide circle to</p> <p>24 the other side and you lost sight of the miners for a short</p> <p>25 while?</p>

<p style="text-align: right;">Page 25475</p> <p>1 KOLONEL VERMAAK: Na ek hierdie foto 2 geneem het, het ons in 'n anti-kloksgewys gedraai. Ons het 3 basies – as ek miskien vir u kan wys op die foto daar op 4 die bord. 5 COMMISSIONER HEMRAJ: Let me rephrase the 6 question. When the miners first moved from the position 7 where they were seated in that group – 8 KOLONEL VERMAAK: Dis reg. 9 COMMISSIONER HEMRAJ: And as they moved 10 straight towards the direction of the wire – 11 KOLONEL VERMAAK: Dis reg. 12 COMMISSIONER HEMRAJ: At that stage did 13 you lose sight of them for a short while? 14 KOLONEL VERMAAK: Dis korrek, met die 15 draai van die helikopter. 16 COMMISSIONER HEMRAJ: Yes. Can I just 17 understand for how long it would have been that you would 18 have lost sight of them, approximately? 19 KOLONEL VERMAAK: Omtrent 'n minuut. 20 COMMISSIONER HEMRAJ: One minute? 21 KOLONEL VERMAAK: Ja. 22 COMMISSIONER HEMRAJ: Thank you very 23 much. 24 CHAIRPERSON: I want to ask a question 25 about something else. At scene 2, you've told us what you</p>	<p style="text-align: right;">Page 25477</p> <p>1 CHAIRPERSON: Now according to the 2 evidence of Major-General Naidoo that was a line of NIU 3 people who were advancing on the koppie – to some extent to 4 the north of the koppie – and he of course was approaching 5 from the bottom of the picture. And there's perhaps, to 6 put it gently, there's a lack of clarity as to precisely 7 when he arrived at the relevant spot compared with the NIU 8 people but you obviously can't help us on that but did you 9 see that line of NIU people at any stage? 10 KOLONEL VERMAAK: Dit is positief, ons 11 het, op 'n stadium het ons daardie lyn opgemerk. Ek sal 12 net gaan seker maak, daar is 'n foto wat van die anderkant 13 af ook geneem is waar 'n mens redelik die lyn kan sien wat 14 hulle opgevorm is, maar ek sal gaan soek presies watter 15 foto dit is – 16 CHAIRPERSON: Perhaps if you can't give 17 it to us today, perhaps you can give it to us tomorrow or 18 something but I'm particularly interested to know at what 19 time you saw that group, that line of people approaching 20 the koppie and what, if anything, you saw them doing. Can 21 you help us on that? 22 KOLONEL VERMAAK: Dis reg. Die eerste 23 keer toe ons hulle opgemerk het, Voorsitter, was basies net 24 nadat hulle – ek kan amper sê hulle het tussen die 25 draadkarre wat ontplooi was, tussen die Nyala en die</p>
<p style="text-align: right;">Page 25476</p> <p>1 saw and you pointed out photographs and so on and you 2 remember I asked a question about Major-General Naidoo. 3 You said you didn't see him and Mr Chaskalson showed us on 4 one of your photographs where he says, judging from the 5 evidence, Major-General Naidoo's vehicles were. According 6 to Major-General Naidoo's evidence and this is shown in a 7 photograph that we were given, there was a time when a line 8 of NIU people were advancing on koppie 3 from the east. 9 Now did you see that at all? 10 KOLONEL VERMAAK: Voorsitter, ja. Daar 11 was 'n lyn wat op 'n stadium, en dit is op een van die 12 foto's, ek kan nou net nie herroep watter een dit was nie, 13 maar as 'n mens hierdie foto as 'n voorbeeld kan gebruik 14 het die lyn omtrent in hierdie omgewing, as ek reg kan 15 onthou, het hulle opgevorm. 16 CHAIRPERSON: Yes, perhaps the operator 17 can give us, I think it's MMM2. I think that's the exhibit 18 I have in mind. I left mine in chambers I'm afraid, but if 19 we could see that, perhaps I can illustrate the point to 20 the Lieutenant-Colonel. Now can you see exhibit MMM2? Now 21 it's got a grid on it, that's just so we can identify 22 positions. Now you'll see at the top, the top row of 23 squares on the border between H and I, can you see there's 24 what appears to be a line of people there? 25 KOLONEL VERMAAK: Dis korrek.</p>	<p style="text-align: right;">Page 25478</p> <p>1 draadkar self is daar 'n spasie, van hulle het daar 2 deurgekom en hulle het toe daar op 'n lyn aangetree. Maar 3 ek sal kyk vir so 'n foto en dan vir u kyk vir die tyd. 4 CHAIRPERSON: I'd appreciate that very 5 much, thank you. Sorry, Ms Pillay, I prevented you from 6 dealing with paragraph 12 and following of the same – 7 MS PILLAY: Thank you, Chair. Chair, 8 could I ask that KKK16.5113 be shown? Colonel, can I ask 9 you to identify where the strikers are coming through, 10 sorry, where the NIU line is coming through? 11 KOLONEL VERMAAK: Op die foto sal u sien, 12 Voorsitter, as jy die ry Nyalas volg hierso, basies in 'n 13 reguit lyn daar lyk soos by een van die pylons, daarso 14 staan die groep mense wat dan daar deurgekom het en hier 15 opgevorm het. 16 CHAIRPERSON: Sorry, where did they form 17 up? 18 KOLONEL VERMAAK: In hierdie omgewing, 19 Voorsitter. 20 CHAIRPERSON: What you have pointed to us 21 is round about, just above the middle of the photograph, 22 slightly in from the left-hand side, in fact very close to 23 a pole which has a vehicle parked in front of, next to it, 24 is a group of people who are to the left as one looks at 25 the photograph, to the left of that vehicle by the pole.</p>

<p style="text-align: right;">Page 25479</p> <p>1 That's where you – that indicates it?</p> <p>2 KOLONEL VERMAAK: Dis korrek.</p> <p>3 CHAIRPERSON: And then you've indicated</p> <p>4 as one moves to the right there's a path that runs up from</p> <p>5 the foot of the page to a point, to the T-junction really.</p> <p>6 KOLONEL VERMAAK: Dis korrek.</p> <p>7 CHAIRPERSON: Just on the, beyond the</p> <p>8 koppie and you indicate that that line moved in a line,</p> <p>9 moved over that path -</p> <p>10 KOLONEL VERMAAK: Dis korrek.</p> <p>11 CHAIRPERSON: - runs up to the bottom –</p> <p>12 KOLONEL VERMAAK: Dis korrek, Voorsitter.</p> <p>13 CHAIRPERSON: Adv Hemraj says could you</p> <p>14 please – she wants to zoom in to see that group by the</p> <p>15 vehicle and the pole. Probably the mast, I think, power</p> <p>16 mast.</p> <p>17 COMMISSIONER HEMRAJ: Are those strikers</p> <p>18 or are they policemen, Colonel?</p> <p>19 COLONEL VERMAAK: That is policemen,</p> <p>20 Commissioner.</p> <p>21 COMMISSIONER HEMRAJ: And you say those</p> <p>22 are which policemen, which unit? Are you able to say?</p> <p>23 KOLONEL VERMAAK: No, I didn't know at</p> <p>24 that stage but we see them coming through there and they're</p> <p>25 lined up on the other side.</p>	<p style="text-align: right;">Page 25481</p> <p>1 somewhere that may help.</p> <p>2 KOLONEL VERMAAK: Ek sal gaan kyk.</p> <p>3 CHAIRPERSON: You may have to give me</p> <p>4 that tomorrow.</p> <p>5 KOLONEL VERMAAK: Ek sal so maak.</p> <p>6 CHAIRPERSON: Alright, but use MMM2 as a</p> <p>7 guide.</p> <p>8 KOLONEL VERMAAK: Okay.</p> <p>9 CHAIRPERSON: Because that's the group</p> <p>10 that Major-General Naidoo was talking about. Yes, Ms</p> <p>11 Pillay, do you want to carry on with your cross-</p> <p>12 examination?</p> <p>13 MS PILLAY: Examination-in-chief, Chair.</p> <p>14 CHAIRPERSON: Oh, did I say cross-</p> <p>15 examination?</p> <p>16 MS PILLAY: You did, Chair.</p> <p>17 CHAIRPERSON: I'm terribly sorry, I</p> <p>18 apologise for that. I meant examination-in-chief. There</p> <p>19 was nothing of a cross-examination nature about it at all.</p> <p>20 MS PILLAY: Colonel, we were dealing with</p> <p>21 Roots and paragraph 12 of LLL8. Can you tell us when you</p> <p>22 first received the call-up instruction to go to Roots?</p> <p>23 KOLONEL VERMAAK: Voorsitter, dit was, as</p> <p>24 ek reg onthou was dit twee dae voor die datum wat ons begin</p> <p>25 het met die vergadering daar. Op daardie stadium was ek</p>
<p style="text-align: right;">Page 25480</p> <p>1 CHAIRPERSON: No, you see, I was</p> <p>2 interested in – I was interested in the NIU. You see what</p> <p>3 Major-General Naidoo told us, and I showed you MMM2 –</p> <p>4 KOLONEL VERMAAK: Ja.</p> <p>5 CHAIRPERSON: He said there was a line of</p> <p>6 NIU people advancing from the east on koppie 3, in fact</p> <p>7 slightly above, slightly to the north, most of them to the</p> <p>8 north of koppie 3 and I was interested to know whether</p> <p>9 you'd seen them, at what stage and where. Now from your</p> <p>10 answer it seems as if you're saying these are NIU people</p> <p>11 but can one be sure that these are NIU people?</p> <p>12 COLONEL VERMAAK: I am not sure if it is</p> <p>13 NIU people, Chairperson.</p> <p>14 CHAIRPERSON: Alright, let's zoom out and</p> <p>15 see if we can see them elsewhere on the photograph.</p> <p>16 anyway, one doesn't seem to see them on that elsewhere in</p> <p>17 the photograph either.</p> <p>18 KOLONEL VERMAAK: Dit is net daar.</p> <p>19 CHAIRPERSON: Sorry?</p> <p>20 KOLONEL VERMAAK: Dis net daar waar ons</p> <p>21 hulle gesien het deur kom en later was daar 'n lyn gewees,</p> <p>22 maar of dit NIU of – ek kan ongelukkig nie sê nie.</p> <p>23 CHAIRPERSON: I understand. Alright it</p> <p>24 sounds as if we can't take it further for the moment but</p> <p>25 you did say you'd look, you think you've got a photograph</p>	<p style="text-align: right;">Page 25482</p> <p>1 nog ontplooi gewees in Rustenburg.</p> <p>2 MS PILLAY: And who issued the call-up</p> <p>3 instruction?</p> <p>4 KOLONEL VERMAAK: Ons het hom van die</p> <p>5 provinsiale hoofkantoor af gekry, ek kan nie vir u sê uit</p> <p>6 die vuus uit wie het hom uitgereik nie.</p> <p>7 MS PILLAY: Now what was your</p> <p>8 understanding at the time and I mean before the conference</p> <p>9 at Roots actually took place? What was your understanding</p> <p>10 of the purpose of the meeting?</p> <p>11 KOLONEL VERMAAK: Daar was vir ons gesê</p> <p>12 dit is om basies al die los drade op te tel sodat daar 'n</p> <p>13 behoorlike voorlegging aan die Nasionale Kommissaris en ook</p> <p>14 aan die President gedoen kan word en dan ook om al die</p> <p>15 inligting wat nog nie geprosesseer is nie en wat nog nie</p> <p>16 verkry is van lede af nie, dit te bekom en dan in die</p> <p>17 voorlegging in te werk.</p> <p>18 MS PILLAY: Now in the second line of</p> <p>19 paragraph 12 you describe it as a nabetragtingsessie.</p> <p>20 KOLONEL VERMAAK: Dis korrek.</p> <p>21 MS PILLAY: Can you tell us what does</p> <p>22 that mean?</p> <p>23 KOLONEL VERMAAK: Dit is basies, dit het</p> <p>24 daarvoor gegaan, bekom al die inligting wat nog nie</p> <p>25 beskikbaar gestel was nie. So die hoofdoel van dit was</p>

<p style="text-align: right;">Page 25483</p> <p>1 gewees om inligting te bekom wat moontlik nog nie 2 ingehandig was nie en dan van daar af dan 'n presentation 3 op te stel.</p> <p>4 MS PILLAY: Now we know that a literal 5 translation of "nabetragting" is a debriefing session.</p> <p>6 KOLONEL VERMAAK: Ja.</p> <p>7 MS PILLAY: Did you understand the 8 purpose of the meeting to be a debriefing session?</p> <p>9 KOLONEL VERMAAK: Nee, dit was nie regtig 10 in die sin van 'n debriefing waar ons gaan sit het en gesê 11 het dis die foute wat ons gemaak het en dit is die wyse wat 12 ons die foute wat ons geïdentifiseer het dan sal aanspreek 13 nie. So dit is, 'n debriefing gaan basies daarvoor jy neem 14 jou hele optrede in heroënskou, jy sit met jou 15 bevelvoerders, jy identifiseer probleme, hulle handig 'n 16 debriefing sertifikaat in na jou as bevelvoerder toe, dit 17 word deur gewerk en best practises word dan uitgehaal 18 daaruit.</p> <p>19 [15:40] MS PILLAY: Now can you describe to us, 20 Colonel, what transpired at Roots?</p> <p>21 KOLONEL VERMAAK: Daar het, Kolonel Scott 22 het aanvanklik al die inligting bekom en verwerk. 23 Naderhand het Kolonel – ek sal nou op sy van kom –</p> <p>24 MS PILLAY: Visser?</p> <p>25 KOLONEL VERMAAK: Visser, Kolonel Visser</p>	<p style="text-align: right;">Page 25485</p> <p>1 Mpembe die betrokke dag sou geneem het op die toneel. Hy 2 was ongelukkig oor die feit dat Generaal Mpembe, wat 3 oorgevat het by 'n POP bevelvoerder teenstrydig met staande 4 orde 262, en dat hy na bewering gesê het die lede moes 5 hulle wapens in die voertuie gaan los het.</p> <p>6 Ek het toe dadelik besef dat die mededeling wat 7 die lede vir my gemaak het toe ons daar van die spruit af 8 teruggekeer het definitief water kan dra, dit kan, dit is 9 'n baie moontlikheid, groot moontlikheid as Kolonel Merafe 10 self ook so 'n mededeling maak teenoor my, maar ek het vir 11 hom gesê ons moet wag tot ons in die groep bymekaarkom en 12 dan moet ons dit bespreek.</p> <p>13 MS PILLAY: Now you mention in paragraph 14 12, nine lines from the top, that the group couldn't get 15 going. "Die groep kon nie aan die gang kom nie."</p> <p>16 KOLONEL VERMAAK: Dis korrek.</p> <p>17 MS PILLAY: What did you mean by that?</p> <p>18 KOLONEL VERMAAK: Hulle kon nie op 'n 19 spesifieke punt begin met die bespreking wat op die 13de 20 begin het nie, hoe dit gebeur het en waar dit begin nie. 21 Toe het ek gesê maar ons moet begin by die begin en dit is 22 waar die groep mense gekry was, eers waar ons hulle gesien 23 het uit die helikopter uit, ons dit gerapporteer het na die 24 JOC toe, Generaal Mpembe-hulle uitgestuur is, of hy met 'n 25 groep mense uit is om aan die klagte te gaan aandag gee.</p>
<p style="text-align: right;">Page 25484</p> <p>1 was ook betrek gewees om behulpsaam te wees met die opstel 2 van die voorlegging. Daar was verskeie, tydens die tydperk 3 wat ons daar was, was daar groepe wat sê byvoorbeeld, om 'n 4 voorbeeld te gebruik, op die 13de betrokke was sou in 'n 5 groep gaan sit het en gaan sit en praat het en gekyk het 6 wat het daar gebeur, wie het nog inligting wat gedeel kan 7 word, en dies meer, sodat dit beskikbaar gestel kan word 8 aan Kolonel Visser-hulle om die voorlegging op te stel.</p> <p>9 Nou op die 5de September was daar 'n insident 10 gewees waar tydens 'n tee breek –</p> <p>11 MS PILLAY: Just before we deal with the 12 5th of September, which group were you part of at Roots?</p> <p>13 KOLONEL VERMAAK: Aanvanklik is jy deel 14 van die hele groep en dan sal hulle vir jou sê orraait, 15 hierdie groepie deel nou op en gaan doen, bespreek dit. Ek 16 was ingedeel op die 5de September in die groep wat op die 17 13de betrokke was waar die polisiemanne gedood is en asook 18 die mynwerkers terselfdertyd.</p> <p>19 MS PILLAY: And what happened on the 5th 20 of September?</p> <p>21 KOLONEL VERMAAK: Tydens 'n tee breek 22 voordat ons vergader het in die groep, waarvan Generaal 23 Mpembe die senior was tussen ons, het Kolonel Merafe na my 24 toe gekom waar ons gestaan en tee drink het en hy het sy 25 ongelukkigheid uitgespreek oor die besluite wat Generaal</p>	<p style="text-align: right;">Page 25486</p> <p>1 So dit was my voorstel dat ons dan van daar af moet begin 2 met die bespreking en dan dit dan op so 'n manier, kan 'n 3 mens sê al die feite bymekaarmaak wat daar sou gebeur het.</p> <p>4 Ek het toe op, 'n opmerking gemaak dat die lede 5 nie gelukkig was met die Generaal se optrede nie, waarop hy 6 hom vreeslik vererg het vir my.</p> <p>7 MS PILLAY: When you say "hy," who are 8 you referring to?</p> <p>9 KOLONEL VERMAAK: Generaal Mpembe. 10 Generaal Mpembe het hom toe verskriklik vererg vir my dat 11 ek die opmerking gemaak het. Ek het toe aan hom 12 verduidelik dat - op daardie stadium het Kolonel Merafe 13 langs hom gesit en ek het vir hom gesê hy moenie vir my 14 kwaad wees nie, hy moet kwaad wees vir die mense wat die 15 beweringe maak. In die eerste plek kan hy net langs hom 16 kyk, sit Kolonel Merafe, en dit is die persoon, die senior 17 persoon van al die mense wat al die aanmerkings gemaak het 18 dat hy verkeerde besluite op die toneel geneem het. Daar 19 het 'n redelike argument uitbreek tussen die lede wat 20 daar is, onder andere was dit myself, Kaptein Loest, 21 Kaptein Thupe, die twee lede van POP wat die video- 22 operateurs was –</p> <p>23 MS PILLAY: Before we get to that, what 24 was Colonel Merafe's response?</p> <p>25 KOLONEL VERMAAK: Hy het aanvanklik het</p>

<p style="text-align: right;">Page 25487</p> <p>1 hy ontken dat hy so iets vir my gesê het en toe het ek vir 2 hom gesê dat dit help nie hy gaan dit nou ontken nie, ons 3 almal gaan voor die Kommissie staan en as jy voor die 4 Kommissie staan dan gaan jy net die waarheid moet praat, en 5 toe het die gesprek van daar af aangegaan. Die kwessie het 6 ook toe ter sprake gekom oor dat ek die Generaal van die 7 toneel af verwyder het en hy was toe baie kwaad vir my. Hy 8 het gesê hy gaan 'n saak teen my maak vir regsverdeling 9 omdat ek nie vir hom kan sê wie die mense is wat die 10 dreigement gemaak het nie. Ek het aan hom probeer 11 verduidelik dat in daardie spesifieke omstandighede is ek 12 dalk skuldig daaraan dat ek nie die mense se name gevat het 13 nie, maar vir my was dit op daardie stadium meer primêr om 14 te kyk na sy veiligheid as om nou eers te loop en mense se 15 name bymekaar te maak.</p> <p>16 Daar het toe verder 'n argument uitgebreek ook 17 oor die gooi van die traanrook en die skokgranaat en 18 Kaptein Thupe van TRT Rustenburg het toe opgestaan en vir 19 die Generaal gesê maar die Generaal was langs hom toe hy 20 daardie opdrag gegee het dat die skokgranaat en die 21 traanrook gegooi moet word. Natuurlik was dit weer maar 22 redelike harde woorde wat geval het. Generaal Mpembe het 23 dit ontken. Later het Kaptein Thupe vir hom gesê maar hy 24 maak nie 'n fout nie, hy weet, hy weet vir 'n feit die 25 Generaal was langs hom gewees toe hy daardie opdrag gegee</p>	<p style="text-align: right;">Page 25489</p> <p>1 onluste toneel oor van 'n opgeleide onluste 2 eenheidbevelvoerder. Sy argument was dat hy is die 3 generaal, hy is die persoon verantwoordelik vir operasies 4 in die provinsie en dat hy nie nodig het om enigiemand se 5 toestemming te vra om 'n toneel oor te vat nie.</p> <p>6 MS PILLAY: Can I just ask on the 7 question of whether or not there was an instruction to use 8 the teargas and the stun grenades, what was the eventual 9 outcome of the discussion on that issue?</p> <p>10 KOLONEL VERMAAK: Hy het dit ontken. 11 Aanvanklik het hy dit heeltemal ontken. Toe het Kaptein 12 Thupe aangegaan en vir hom gesê "Maar jy het dit gesê." Hy 13 het toe op 'n stadium gesê oukei, as hy dit gesê het kan hy 14 dit nie onthou nie, en dit was toe maar net weereens net 15 bevestig en Thupe het op sy punt gestaan dat die Generaal 16 het die opdrag gegee. Op grond van daardie opdrag was die 17 traanrook en die gas afgevuur gewees.</p> <p>18 Ons besprekingsgroep het eerder uitmekaar uit 19 gegaan want die Generaal het toe begin dreigemente maak dat 20 hy ons sal toesluit, dat ons leuens vertel ten opsigte van 21 hom, en dies meer, en ek het toe vir hom gesê ek is nie 22 bereid om enigsins verder aan gesprekke daar deel te neem 23 nie. Ek onttrek my heeltemal daarvan. My getuienis sal ek 24 die dag gee as ek geroep word om voor die Kommissie te kom 25 getuig.</p>
<p style="text-align: right;">Page 25488</p> <p>1 het. Sy woorde was nog gewees nadat hy die opdrag gegee 2 het, het – ons het agterna nou uitgevind A/O Kuhn is die 3 persoon wat dit gegooi het – toe het Kaptein Thupe daar 4 gesê dat A/O Kuhn het nog gevra het hy reg gehoor, en toe 5 het hulle bevestig aan hom dat dit die opdrag was.</p> <p>6 Ja, die gemoedere het baie hoog geloop daarna. 7 Toe het dit ter sprake gekom van die feit dat die lede die 8 beweringe gemaak het dat hulle hulle vuurwapens moes gaan 9 bêre het in die Nyalas. Daar was toe weer 'n argument 10 gewees daaroor en ek het vir Generaal Mpembe daarop gewys 11 dat van die videomateriaal wat ons gesien het wat die 12 polisiemanne geneem het wys baie duidelik dat die 13 polisiemanne wat op die spoorlyn staan sonder van hulle 14 "riot gear" daar staan. Van hulle het nie haelgewere gehad 15 nie. Ek kan nie onthou dat ek een gesien het op daardie 16 video wat byvoorbeeld traangas, of traanrookmaskers gehad 17 het nie. Onluste helms het ek nie gesien nie. Skilde was 18 ook nie daar gewees nie.</p> <p>19 So, en toe is dit vir hom gesê maar dit maak net 20 sin as mens kyk na die video en jy kyk na wat die lede 21 beweer, dan kan 'n mens net die afleiding maak dat hulle 22 beweringe korrek kan wees. Hy was baie, baie kwaad gewees 23 en toe het die video operateurs het hom toe gekonfronteer 24 en vir hom gevra hoekom hy dan nou nie staande orde 262 25 nakom, hy wat 'n generaal is nie, hoekom kom vat hy 'n</p>	<p style="text-align: right;">Page 25490</p> <p>1 MS PILLAY: Okay Colonel, now can I refer 2 you to HHH28, which is the Marikana narrative. We know 3 that's one of the two documents that emerged from Roots, 4 and specifically page 35 and paragraph 3.</p> <p>5 CHAIRPERSON: I think the passage you 6 want is the top paragraph of this page. Sorry, you're 7 quite right. Sorry. I beg your pardon.</p> <p>8 MS PILLAY: If you can just read the last 9 sentence into the record, the last sentence of paragraph 3.</p> <p>10 KOLONEL VERMAAK: "Defending himself and 11 their colleagues" –</p> <p>12 CHAIRPERSON: No, no, no, that's not it. 13 What Ms Pillay wants you to read is the paragraph beginning 14 on the screen, "To prevent people from entering the 15 settlement police used teargas and stun grenades to 16 disperse, discouraging them from their intended path. 17 Major General Mpembe issued a command for stun and teargas, 18 after which Warrant Officer Kuhn fired a shotgun CS rifle 19 grenade." That's the passage, Ms Pillay, is it correct?</p> <p>20 MS PILLAY: That's correct, Chair. Does 21 that accord with your understanding of what eventually was 22 the outcome of that discussion at Roots?</p> <p>23 KOLONEL VERMAAK: Nee, die – nadat ons 24 daar verdaag het, het ek na Generaal Annandale en 25 Brigadier, brigadier van hoofkantoor af wat opgetree het as</p>

<p style="text-align: right;">Page 25491</p> <p>1 fasiliteerder, na hulle toe gegaan en vir hulle gesê die 2 bespreking het op 'n argument uitgeloopt, dat A/O Kuhn 3 daarby bly dat hy die opdrag gekry het, Kaptein Thupe het 4 bevestig dat hy die opdrag gehoor het van die Generaal af. 5 Daar is toe gewerk aan die voorlegging en die voorlegging 6 is verander toe dat Generaal Mpembe die opdrag dan nou 7 uitgereik het.</p> <p>8 MS PILLAY: Which is what we see in the 9 paragraph that you just read.</p> <p>10 KOLONEL VERMAAK: Dis reg.</p> <p>11 MS PILLAY: Were you party to any 12 discussions at Roots in relation to the 16th, the incident 13 of –</p> <p>14 CHAIRPERSON: Are you moving away from 15 this now?</p> <p>16 MS PILLAY: Yes, I am, Chair.</p> <p>17 CHAIRPERSON: Shouldn't you then put 18 slide 47 of exhibit L to him? Because that's the follow-up 19 to it. Can we have that on the screen, please? Slide 47 20 of exhibit L, second bullet. That's the document that 21 ultimately came before the Commission and you'll see 22 there's a significant change. The second sentence, the 23 paragraph that I read to the effect that Major General 24 Mpembe gave the instruction was not there. So at some 25 stage after the session to which you referred a decision</p>	<p style="text-align: right;">Page 25493</p> <p>1 of ek hom nie moet voorskryf hoe hy die "presentation" moet 2 opstel nie. Hy doen dit in konsultasie met die hoër 3 offisiere wat daar teenwoordig is, en ek het dit daarby 4 gelos want ek het gevoel ek het nou al te veel gekrap daar 5 aan die mense.</p> <p>6 MS PILLAY: Now Colonel, we know that 7 your photographs feature quite prominently in exhibit L. 8 Was there any interaction between you and Colonel Scott in 9 relation to your photographs during Roots?</p> <p>10 KOLONEL VERMAAK: Dis positief, 11 Voorsitter. Daar was op 'n stadium – ek kan net nie vir u 12 sê watter foto's dit is en presies watter dag dit was nie - 13 het ek opgemerk dat van die tye verander is.</p> <p>14 [15:59] Waar die foto byvoorbeeld in die "presentation" 15 ingewerk is het hulle 'n tyd bygewerk op die foto en ek het 16 dit gaan vergelyk met die foto se "properties" wat ek het 17 en ek het gesien maar dit verskil drasties van mekaar, en 18 ek het hulle, of hom toe gaan konfronteer en hy het gesê 19 nee, dit is oor die feit dat ons selfone en horlosies en 20 dies nie meer gesinchroniseer is nie. Ek het 'n argument 21 met hom gehad en vir hom gesê hy kan nie foto's verander 22 wat ek geneem het nie. Op die ou einde van die dag gaan 23 dit voorgelê word en dit word daar uitgehaal en daar gaan 24 'n vinger gewys word en gesê iemand het dit verander. So 25 daarin het ons toe ook 'n redelike verskil gehad.</p>
<p style="text-align: right;">Page 25492</p> <p>1 was taken to delete that sentence.</p> <p>2 KOLONEL VERMAAK: Dis korrek, Voorsitter. 3 Ons het op 'n stadium het ons, soos wat hulle deur die 4 voorlegging gewerk het was die gedeelte daar op gewees dat 5 Generaal Mpembe die opdrag wel gegee het en op 'n latere 6 stadium wat daar weer deur dit gegaan was het ons opgemerk 7 dat dit weer verwyder was. Ek het Kolonel Scott 8 gekonfronteer met dit en dit opsigself het weer probleme 9 veroorsaak omdat ek hom gekonfronteer het oor die feit dat 10 dit feitelik deur lede gegee was en hulle dit gehoor het en 11 dat dit in die beplanning – ag, of in die "presentation" 12 was en die volgende oomblik uit die "presentation" 13 uitgehaal was. So –</p> <p>14 MS PILLAY: And what was Colonel Scott's 15 response?</p> <p>16 KOLONEL VERMAAK: Hy was nie baie 17 gelukkig met die feit dat hy gekonfronteer word oor sekere 18 aspekte nie.</p> <p>19 CHAIRPERSON: He wasn't happy, but did he 20 say anything? Or did you just deduce from his body 21 language that he wasn't happy?</p> <p>22 KOLONEL VERMAAK: Nee, hy het dit gesê, 23 Voorsitter.</p> <p>24 CHAIRPERSON: What did he say? 25 KOLONEL VERMAAK: Sy woorde was dat ons,</p>	<p style="text-align: right;">Page 25494</p> <p>1 Generaal Annandale het opdrag gegee dat hy die 2 volgende dag moet hy alles sinchroniseer. Myself en 3 Kaptein Botha moes ons selfone, ons videokameras, kameras, 4 alles wat ons het moes ons na Scott toe bring sodat hy nou 5 kon gesit het en 'n "timeline" uitgewerk het. Maar ek het 6 my heeltemal van dit verder gedistansieer.</p> <p>7 Ek was wel opdrag gegee deur Generaal Annandale 8 en Naidoo dat ons die een dag moes deurry saam met Kaptein 9 Adriaio na SABC toe waar ons moes gaan kyk het na die 10 videomateriaal wat hulle daar het, of daar moontlik is wat 11 nog nie tot die beskikking van die polisie was nie, veral 12 omdat ek die opmerking gemaak het dat die polisiemanne op 13 die spoorlyn gestaan het en hulle nie behoorlik bewapen was 14 nie en het ek die aanname gemaak, en dit ook so gesê, as 15 die polisiemanne daar waar die groep was basies ongewapen 16 staan bevestig dit ook net vir my hoekom het die 17 polisiemanne omgedraai en weggehardloop.</p> <p>18 So ek en Kaptein Adriaio-hulle is toe deur; ons 19 het gaan kyk na die videomateriaal. Eers het die twee 20 video operateurs van POP Rustenburg, Phokeng, het ontken 21 dat dit so is, maar toe ons terugkom het ons saam met hulle 22 gaan sit en weer deur daardie video's gewerk wat hulle 23 geneem het en toe het ons dit waargeneem dat dit wel so is 24 dat die persone wat daar ontplooi was nie korrek bewapen 25 was nie.</p>

<p style="text-align: right;">Page 25495</p> <p>1 MS PILLAY: Now you mentioned that you 2 showed Colonel Scott the properties features on your 3 photographs in order to show him the times that the 4 photographs were taken. Was he familiar with how to look 5 at the properties of the photos? 6 KOLONEL VERMAAK: Ja, dis positief. Hy 7 het die eerste keer vir my gewys waar hy op die 8 "properties" ingaan en om die "timelines" te probeer 9 sinchroniseer. Dis hoekom ek teruggegaan het en ek het my 10 foto's se tye gaan vat. Ek het ook soos wat ek dit 11 uitgedruk het in my lêer het ek, aan die bokant van die 12 foto's het ek die tye wat op die "properties" verskyn het 13 ek toe dit so neergeskryf en die lêer so behou. 14 MS PILLAY: Now apart from – 15 CHAIRPERSON: Someone has got a cell 16 phone or somehow attached, it's either their earphones that 17 are plugged into a radio or someone has got an interesting 18 call sign. Who is it? Mr Mojapelo, if you do that again 19 I'll have you thrown out. I think that's probably a signal 20 that we should stop for the day – 21 MS PILLAY: Chair, I'm just about to – 22 CHAIRPERSON: - and finish off this last 23 piece of evidence. I know you've got a small little piece 24 of evidence you want to give us as a sort of final morsel 25 before we go home, but in the light of this –</p>	<p style="text-align: right;">Page 25497</p> <p>1 question. 2 CHAIRPERSON: Very well. Well, there's 3 something left of paragraph 13 of the statement, but that I 4 think we will have a look at – unless you don't want to 5 lead that, we'll have a look at – 6 MS PILLAY: That's a separate, a discrete 7 topic, Chair. 8 CHAIRPERSON: Yes, I know it's a discrete 9 topic. So two discrete topics we can deal with on the 10 morrow. 11 COMMISSIONER HEMRAJ: Ms Pillay, I know 12 you said that the witness did not look at that part of the 13 video transcript that relates to Captain Rylands. There 14 are instances where he is reported to have said certain 15 things. Are you going to be leading that? 16 MS PILLAY: Commissioner Hemraj, we've 17 discussed that with the witness and he's agreed to look at 18 the Rylands video and to try and confirm the portions that 19 apply to him. 20 COMMISSIONER HEMRAJ: Thank you. 21 CHAIRPERSON: Now tomorrow you're going, 22 when Ms Pillay finally concludes the examination-in-chief 23 you're going to be cross-examined firstly by Mr Bizos for 24 the LRC. Have you received the reference to the documents 25 that you have to study?</p>
<p style="text-align: right;">Page 25496</p> <p>1 MS PILLAY: Just to round the – 2 CHAIRPERSON: Sorry, in the light of this 3 unfortunate interruption wouldn't it be better for us to 4 carry on tomorrow? I'm in your hands, Ms Pillay. 5 MS PILLAY: Chair, it's literally one 6 question to round up Roots and then we can go on to a new 7 topic. It's not an Mpofu "one question." It really is 8 just one question, Chair. 9 CHAIRPERSON: Mr Mpofu, you seem to have 10 picked up a bad reputation in this matter. I don't know 11 whether you deserve it, but anyway, let's not get involved 12 in that one now. 13 MR MPOFU: I don't, Chairperson. 14 CHAIRPERSON: Ms Pillay, you could ask 15 one question. 16 MS PILLAY: Colonel, apart from the 17 photograph in relation to the 16th, were you involved in any 18 other discussions around the 16th at Roots? 19 KOLONEL VERMAAK: Daar was insette gevra 20 van tyd tot tyd oor sekere foto's, maar ek het nie weer in 21 'n groepverband gaan sit en dit bespreek nie. Ek het my 22 gedistansieer van dit af. As hulle vir my oor 'n foto iets 23 gevra het dan sou ek vir hulle gesê het wat ek gesien het 24 en ek het dit daar gelos. 25 MS PILLAY: Thank you, Chair, that's the</p>	<p style="text-align: right;">Page 25498</p> <p>1 COLONEL VERMAAK: I've received it, 2 Chair. 3 CHAIRPERSON: Alright, so will you make 4 sure that you've done that by tomorrow? 5 COLONEL VERMAAK: I will do it tonight. 6 CHAIRPERSON: Alright, and we've also – 7 there's a request on behalf of the Monene family. Have you 8 received – they also refer to some documents. Have you 9 received those as well? 10 COLONEL VERMAAK: They said they will 11 provide it to me, Chair. 12 CHAIRPERSON: Alright, so you'll have 13 study that by tomorrow as well. 14 COLONEL VERMAAK: Not received yet, but 15 if they can give it to me I will do it. 16 CHAIRPERSON: It's really largely the 17 Hendrickx stuff as well, but anyway, I will ask Mr 18 Pretorius if he can see to it that you get the relevant – 19 you've got it, I see. It's been done. 20 COLONEL VERMAAK: I've got it, thank you, 21 Chair. 22 CHAIRPERSON: Alright, problem has fallen 23 away. Very well, you'll study that overnight – sorry to 24 spoil your evening, but you'll have to do it; you may find 25 it interesting reading, and we will carry on tomorrow</p>

1 morning just after 9 o'clock. The Commission will now
2 adjourn.

3 COLONEL VERMAAK: Thank you, Chair.
4 [COMMISSION ADJOURNED]

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