

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 217

14 APRIL 2014

PAGES 26683 TO 26818



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<p style="text-align: right;">Page 26683</p> <p>1 [PROCEEDINGS ON 14 APRIL 2014] 2 [09:20] CHAIRPERSON: The Commission resumes. 3 Lieutenant-Colonel, you're still under oath. Ms Baloyi? 4 OMPHILE JOSEPH MERAFE: (s.u.o.) 5 EXAMINATION BY MS BALOYI (CONTD.): Thank 6 you, Chair. Colonel Merafe, if you would go back to the 7 statement that we were dealing with last week which is 8 QQQ1. 9 COLONEL MERAFE: Yes? 10 MS BALOYI: And then you go to page 19, 11 page 19. 12 COLONEL MERAFE: I am at page 19, 13 Chairperson. 14 MS BALOYI: And you will recall that at 15 the time of the break we were dealing with paragraph 5.28. 16 COLONEL MERAFE: I remember, Chairperson. 17 MS BALOYI: Yes. Perhaps before we 18 continue with paragraph 5.28 let me refer you to exhibit 19 JJJ186 which is a copy of your diary. Chair, this is item 20 4 in our index. 21 CHAIRPERSON: In your file. Yes and I 22 see it's already been marked as an exhibit. 23 MS BALOYI: It is indeed, Chair. If you 24 go to page 2 of that document which is dated the 13th, 25 Monday, August 2012, do you see that?</p>	<p style="text-align: right;">Page 26685</p> <p>1 that, when exactly on the 13th did you make these notes, 2 Colonel? 3 COLONEL MERAFE: At the evening of the 4 13th, Mr Chairperson, after the operation at the railway 5 crossing. 6 MS BALOYI: Thank you, Chair. That first 7 note, "Barbed wire between koppie and the squatter camp," 8 what is that all about? 9 COLONEL MERAFE: Chairperson, we were 10 thinking that that would be the place where we would put 11 the barbed wire in order to stop the people there coming 12 together with the people from the squatter camps. 13 MS BALOYI: When you say "we," you and 14 who? Who is "we?" 15 COLONEL MERAFE: Me and the leaders, 16 people like Brigadier Calitz and the Colonel Scott of the 17 POP, the TRT, the people who were present in the JOC at 18 that time. 19 MS BALOYI: So am I correct to understand 20 you to be saying that you had a discussion with Brigadier 21 Calitz and other commanders? 22 COLONEL MERAFE: That is so, Chairperson. 23 MS BALOYI: Now, the second entry or 24 rather the second, the third line, "Nyalas for block," what 25 is that, what does that mean?</p>
<p style="text-align: right;">Page 26684</p> <p>1 COLONEL MERAFE: I see, Chairperson. 2 MS BALOYI: Yes. Can I just confirm that 3 these are the diary entries that you made on the 13th of 4 August? 5 COLONEL MERAFE: It is correct, on the 6 evening of the 13th. 7 MS BALOYI: Yes. Now keeping your finger 8 on that diary, if you would then go to exhibit QQQ5, you 9 see the copy of your notebook? Are you there yet? 10 COLONEL MERAFE: I am. 11 MS BALOYI: Now if you look at page 1 of 12 that document, it is dated 13/08/12. Is that the date on 13 which you made this note? 14 COLONEL MERAFE: Correct, Chairperson. 15 MS BALOYI: Now, the first item on that 16 note, it says "Barbed wire between koppie and the squatter 17 camp." Firstly let me ask you, this note, what does it 18 reflect? What is this note all about? 19 COLONEL MERAFE: This is where I was 20 writing some of the notes that would serve as reminders for 21 me when we drew the plan. 22 MS BALOYI: Yes, and the first item 23 there, "Barbed wire between koppie and the squatter camp," 24 what is that all about? 25 COMMISSIONER HEMRAJ: Well, just before</p>	<p style="text-align: right;">Page 26686</p> <p>1 COLONEL MERAFE: These were intended to 2 put in to block the people from meeting the others by using 3 these armoured vehicles. 4 MS BALOYI: Then if you go down to the 5 sixth line it says, "7 Nyalas of POP for blocking." Is 6 that the same point still? 7 COLONEL MERAFE: Still correct, 8 Chairperson. 9 MS BALOYI: Now, what time did you finish 10 work, did you knock off on the 13th? 11 COLONEL MERAFE: Chairperson, I did not 12 knock off on the day, the 13th, because I worked right 13 through until the 14th at about 10 o'clock. 14 MS BALOYI: Now if you turn to the next 15 page, still QQQ5, the next page the heading date is the 16 15/08/12, do you see that? 17 COLONEL MERAFE: I see, Chairperson. 18 MS BALOYI: Yes. In this bundle of 19 documents, these copies, there is no note for the 14th of 20 August, why is that? 21 COLONEL MERAFE: Chairperson, as I said, 22 I reported on duty on the 13th and I went on working. The 23 14th was an ordinary working day. I did not remember to put 24 the date of that day as I was continuing with the job. 25 MS BALOYI: Mr Mahlangu, perhaps let the</p>

<p style="text-align: right;">Page 26687</p> <p>1 witness repeat his answer. I'm not quite sure that that's 2 exactly what he said.</p> <p>3 COLONEL MERAFE: The book I was using was 4 my ordinary scribbling book. Chairperson, as I said, I did 5 not knock off duty on the 13th, as I have already explained. 6 It was a continuation until the 14th when I went off, the 7 evening.</p> <p>8 MS BALOYI: Now if you go back to JJJ186 9 and you look at the entries on the 14th, under the 14th, 10 Tuesday of that 2012, do you see that?</p> <p>11 COLONEL MERAFE: I see, Chairperson.</p> <p>12 MS BALOYI: Yes. Are these the entries 13 that you made on the 14th in your diary?</p> <p>14 COLONEL MERAFE: That is it, yes. I 15 remember this well.</p> <p>16 MS BALOYI: And at the bottom of that it 17 indicates that you knocked off duty at 10PM, you see that?</p> <p>18 COLONEL MERAFE: Correct, Chairperson.</p> <p>19 MS BALOYI: Now, if we go back to QQQ1 20 and 5.28, "After the plan exercise with Colonel Scott, we 21 did a slide presentation and briefed members on the same 22 day about what the plan would be." This was on the 14th, am 23 I correct?</p> <p>24 COLONEL MERAFE: Correct, Chairperson.</p> <p>25 MS BALOYI: Now the slide presentation</p>	<p style="text-align: right;">Page 26689</p> <p>1 day, the 14th and the 15th Colonel Vermaak was part of the 2 people that were meeting in the JOC with the others.</p> <p>3 MS BALOYI: Now we've heard Colonel 4 Vermaak testify before this Commission that at these 5 meetings he expressed concerns about the plan that was 6 proposed for the operation. Did you hear Colonel Vermaak's 7 objections or concerns about the plan?</p> <p>8 COLONEL MERAFE: Chairperson, I did not 9 hear any complaints that were made by Colonel Vermaak on 10 those days and/or any other inputs or suggestions that he 11 made.</p> <p>12 MS BALOYI: Now if you turn to –</p> <p>13 COMMISSIONER HEMRAJ: Apart from 14 complaints, did you hear him make any contribution towards 15 the plan that ought to be drawn up and followed?</p> <p>16 COLONEL MERAFE: Whilst I was there, 17 Chairperson, in the meeting, I did not hear any complaints 18 that came from Colonel Vermaak. If such were made, 19 Chairperson, it could have been together with the 20 commanders whilst people were working because people were 21 discussing things as we were working.</p> <p>22 COMMISSIONER HEMRAJ: The question was 23 whether he made any contribution towards the plan, apart 24 from complaints?</p> <p>25 COLONEL MERAFE: Chairperson, I</p>
<p style="text-align: right;">Page 26688</p> <p>1 and briefing to members on that day, what was it? What did 2 it entail?</p> <p>3 COLONEL MERAFE: They were indicating to 4 the members the place in which the operation was going to 5 take place, showing them roads and where Nyala vehicles 6 would be deployed together with members, they were showing 7 them on the slide, together with the barbed wire.</p> <p>8 MS BALOYI: Now, at paragraph 5.29 you 9 say that you attended the morning JOCCOM on the 15th, is 10 that correct?</p> <p>11 COLONEL MERAFE: Correct, Chairperson.</p> <p>12 MS BALOYI: Yes. For the rest of that 13 day on the 15th, what did you do?</p> <p>14 COLONEL MERAFE: Chairperson, on the 15th 15 we went to see an observation post. This is where the 16 protesters were gathering. At that time there were 17 consultations, that is, that were taking place between the 18 police – negotiations rather, taking place between members 19 of the police and the protesters. Another thing was an 20 endeavour to bring the leaders of the union also to assist 21 in this endeavour.</p> <p>22 MS BALOYI: Now on the 14th and the 15th, 23 did you see Colonel Vermaak at these JOC meetings in the 24 morning?</p> <p>25 COLONEL MERAFE: Chairperson yes, on that</p>	<p style="text-align: right;">Page 26690</p> <p>1 personally, I don't remember taking any such part during 2 the planning.</p> <p>3 CHAIRPERSON: You've worked with him 4 quite a lot, haven't you, over the years? You've worked 5 with him quite a lot over the years, is that right?</p> <p>6 COLONEL MERAFE: Correct, Chairperson.</p> <p>7 CHAIRPERSON: Now he named a lot of ideas 8 of his own about POP work and POP operations, didn't he?</p> <p>9 COLONEL MERAFE: Correct, Chairperson.</p> <p>10 CHAIRPERSON: And he was of course the 11 commander of the POP unit up to 2005, so he had a fair 12 amount of experience as well, is that right?</p> <p>13 COLONEL MERAFE: I agree, Chairperson, 14 yes.</p> <p>15 CHAIRPERSON: Now, the impression I get 16 of him, he's not a man who just sits quietly and keeps his 17 mouth shut. If he's got ideas and he can make a 18 contribution, he makes it, is that right?</p> <p>19 COLONEL MERAFE: Chairperson, I take it 20 if I have a suggestion or I say something in the meeting 21 this would be taken down in writing.</p> <p>22 CHAIRPERSON: Well, yes, except that the 23 minutes don't seem to be very complete about the full 24 discussion but anyway, I'm busy with a different point. 25 When he's at a meeting and he's got ideas on the matters,</p>

<p style="text-align: right;">Page 26691</p> <p>1 the matter being discussed and he's got experience dealing 2 with the matter being discussed, does he make comments and 3 make contributions and come with inputs? 4 COLONEL MERAPE: I'm not saying he did 5 not, Chairperson, but I'm saying if he did that, he 6 possibly did it when I was not in the meeting. 7 CHAIRPERSON: No, but I'm busy with a 8 different point. It's a question of normally, I'm not 9 interested in this particular meeting, normally when you 10 have meetings, when there are meetings and he's there and 11 matters are being discussed about which he has ideas of his 12 own, does he normally raise them? 13 COLONEL MERAPE: That is correct, 14 Chairperson. If there is a meeting, yes, he does speak. 15 CHAIRPERSON: Yes, so he doesn't keep 16 quiet at meetings, does he, and if there's something he 17 doesn't like he writes a letter afterwards, is that right? 18 COLONEL MERAPE: I realise that he does 19 write. 20 CHAIRPERSON: I mean I take it he's quite 21 a prolific letter writer, setting out his comments on 22 various matters, is that right? 23 COLONEL MERAPE: Chairperson, a person 24 feels, does that which he feels. 25 CHAIRPERSON: Thank you.</p>	<p style="text-align: right;">Page 26693</p> <p>1 names, Warrant Officer Kgatshe, Warrant Officer Dinyamo, 2 Constable Motswahae and Constable Dlamini. You see that? 3 In fact the last one is Constable Moraka, you see that? 4 COLONEL MERAPE: I see, Chairperson. 5 MS BALOYI: Who are these people? 6 COLONEL MERAPE: Members of the POP who 7 are trained in the driving of the Nyala vehicle. 8 [09:40] MS BALOYI: Yes. Now we've had, in fact 9 we see in the letter, one of the many letters written by 10 Colonel Vermaak, in the letter of 12 December 2012, that he 11 says people who did not have experience or training in 12 driving Nyalas were deployed to drive Nyalas during the 13 operation. What is your comment to that? 14 COLONEL MERAPE: Chairperson, in the unit 15 in which I work, the public order police in Rustenburg, I 16 don't remember giving keys to people to drive Nyalas who 17 have not been trained. So my comment will be – I can only 18 say when Colonel Vermaak said so, I don't know how, where 19 his words were directed to. 20 MS BALOYI: Now if you go to exhibit 21 JJJ186 again, which is your diary, and you look at the 22 entries on 16 August 2012 and I want to direct you to the 23 entry at 15:30, what is that entry about? 24 COLONEL MERAPE: On this day, the 16th of 25 the month of August in the year 2012, Brigadier Calitz</p>
<p style="text-align: right;">Page 26692</p> <p>1 COMMISSIONER HEMRAJ: Did you leave 2 either of the JOCCOM meetings on the 14th and the 15th prior 3 to them ending? 4 COLONEL MERAPE: The 14th and the 15th I 5 did not leave the meeting whilst it was on. I was in the 6 meetings from the start up to the completion of the 7 meeting. 8 MS BALOYI: Colonel Merafe, did you have 9 any involvement with this operation on the 16th? What was 10 your involvement? 11 COLONEL MERAPE: On the 16th, Chairperson, 12 I did not take part in the operation at Marikana on that 13 day. I was altogether not in Marikana, Chairperson. 14 MS BALOYI: Before we move on to days 15 beyond the 16th, if I may refer you again to QQQ5 and we 16 turn to page 2 of that exhibit. Again this is entries in 17 your notebook and do you see the heading is 15/08/2012 and 18 then in the third line it reads, "Nyala drivers to report 19 to the JOC" and then you have names are that, Lieutenant 20 Khutu, Lieutenant Moloby. Who are these people? 21 COLONEL MERAPE: The two, Lieutenant 22 Khutu and Lieutenant Moloby were commanders of POP which 23 were at Marikana. 24 MS BALOYI: And further down, three lines 25 down you say, the heading is "Nyala drivers" and you have</p>	<p style="text-align: right;">Page 26694</p> <p>1 phoned me at the time mentioned there, Chairperson, asking 2 me to send 4 000 of R5 to the Lonmin JOC. I instructed 3 Lieutenant Kgolibana who is at the ammunition store, to 4 send the 4 000 rounds of ammunition to Marikana. 5 MS BALOYI: Did Brigadier Calitz tell you 6 why he required these 4 000 for R5? 7 COLONEL MERAPE: He only said I should 8 send this and it was an instruction, he did not explain to 9 me why he wanted this ammunition. 10 MS BALOYI: Now you make the entry at 11 15:30. Is there significance to the time at which you make 12 this entry? 13 COLONEL MERAPE: According to what I 14 wrote, I was writing the instruction that was being given 15 to me. More than that, no other explanation save to say, 16 Chairperson, that if I've got to issue things such as 17 ammunition being sent somewhere, I've got to put this down 18 in writing. 19 MS BALOYI: Yes. What I'm asking you is 20 why do you make the entry at 15:30, at half past three in 21 your diary? 22 COLONEL MERAPE: That is the time I 23 received the instruction, Chairperson. 24 MS BALOYI: Now if you would go back – 25 COMMISSIONER HEMRAJ: Sorry, and you</p>

<p style="text-align: right;">Page 26695</p> <p>1 received this instruction telephonically from Brigadier 2 Calitz, did you? 3 COLONEL MERAFA: Correct, Chairperson, 4 because I wasn't near him, that's why he phoned me. 5 COMMISSIONER HEMRAJ: And that was a call 6 on your cell phone, Colonel? 7 COLONEL MERAFA: I think that there would 8 have been reference in my cell phone in connection with 9 this discussion. 10 COMMISSIONER HEMRAJ: So this call did 11 come through on your cell phone? 12 COLONEL MERAFA: Chairperson, yes. On 13 the printout in my cell phone – 14 COMMISSIONER HEMRAJ: Thank you. 15 COLONEL MERAFA: - there would be noted 16 that this conversation did take place. 17 COMMISSIONER HEMRAJ: Yes, thank you. 18 MS BALOYI: Thank you, Chair. Now if you 19 would then turn to page 21 of QQQ1 – 20 COLONEL MERAFA: I have it. 21 MS BALOYI: The paragraph with the 22 heading, "The session at Roots," you see that? 23 COLONEL MERAFA: I see it, Chairperson. 24 MS BALOYI: Yes. Now Colonel, an 25 observation at the outset. You have not in your other</p>	<p style="text-align: right;">Page 26697</p> <p>1 we've looked at page 2. If you would turn to page 3 – 2 COMMISSIONER HEMRAJ: Just before you 3 leave page 2, that entry about Warrant Officer Lepaaku 4 being taken to the hospital which date does that entry 5 refer to, Colonel? 6 COLONEL MERAFA: Chairperson, Warrant 7 Officer Lepaaku was taken to hospital on the 13th of August. 8 As I have already explained, this book is my scribbler. 9 This is not where I'm expected to write everything in 10 accordance with the date and so on. It's my own, it's a 11 personal thing, Chairperson, and not an official document. 12 COMMISSIONER HEMRAJ: Yes, and this note 13 was made when, did you say, Colonel? 14 COLONEL MERAFA: I was just noting here 15 so that I could remember this incident, which hospital 16 Warrant Officer Lepaaku was taken to, in order to assist me 17 later when I was to make a statement so that I am reminded 18 about these things. 19 COMMISSIONER HEMRAJ: Yes, I appreciate 20 that. Could you just tell us when you made this particular 21 entry? 22 COLONEL MERAFA: Chairperson, on the 15th. 23 COMMISSIONER HEMRAJ: Thank you so much. 24 I'm sorry to have interrupted you. 25 MS BALOYI: Thank you. Thank you, Chair.</p>
<p style="text-align: right;">Page 26696</p> <p>1 statements – this is QQQ2, QQQ3 and GGG15 – you have not 2 made any reference to the session at Roots in any of the 3 other statements. Why is that so? 4 COLONEL MERAFA: Chairperson, in my 5 statement QQQ3, this was during the consultation with my 6 legal representative, I was responding to questions that 7 were being asked, put, that were being put to me and I 8 responded directly to questions. 9 MS BALOYI: Colonel Merafa – Mr Mahlangu, 10 perhaps let the witness answer the question again and then 11 you interpret. I'm not sure that that was the correct 12 interpretation. 13 MR MAHLANGU: As it pleases you. I said 14 in QQQ3 I was responding to important questions that were 15 being put to me by evidence leaders. 16 COLONEL MERAFA: Specific questions, 17 actually, not important. 18 MR MAHLANGU: Specific questions – 19 MS BALOYI: Yes. 20 COLONEL MERAFA: Chairperson, in the 21 statement QQQ2 and GGG15, I was making mention of the 22 operations in which I was involved, starting with the 10th 23 of the month of August 2012 to the 15th of August 2012. 24 MS BALOYI: Now if you would go to 25 exhibit QQQ5, that's the notes from your notebook, now</p>	<p style="text-align: right;">Page 26698</p> <p>1 Now if you go to page 3 and you have a date there, the 20 – 2 in the middle, almost in the middle of the page, 21/08/2012 3 Marikana, you see that? 4 COLONEL MERAFA: I can see that, Chair. 5 MS BALOYI: Yes. 6 CHAIRPERSON: [Microphone off, inaudible] 7 – Adv Hemraj asked you about, Andrew Saffy Hospital is in 8 Wonderkop, isn't it? 9 COLONEL MERAFA: Correct, Chairperson, 10 yes. It is in Wonderkop. 11 CHAIRPERSON: In your statement that you 12 made on the 13th, which is exhibit QQQ6, you'd already 13 recorded that on page 3, that Warrant Officer Lepaaku had 14 been taken firstly to the local clinic and thereafter to 15 what you described as the Wonderkop Hospital where he later 16 died. So you'd already recorded in your statement of the 17 13th that Warrant Officer Lepaaku was taken first to the 18 clinic and then to the Andrew Saffy Hospital at Wonderkop – 19 that's the only hospital in Wonderkop, I understand – and 20 that he died there that day. So why did you find it 21 necessary to write it again on the 15th? 22 COLONEL MERAFA: As I have explained, 23 Chairperson, the document that is being referred to that I 24 referred to as a scribbler, which was taken from me, 25 Chairperson, would not give correct dates to answers.</p>

<p style="text-align: right;">Page 26699</p> <p>1 MS BALOYI: Colonel, perhaps just for the 2 record, this document, this statement QQQ6 which is your 3 statement, why was, why did you prepare this statement? 4 What was the purpose? 5 COMMISSIONER HEMRAJ: Are you referring 6 to the statement that has the CAS number at the top – 7 MS BALOYI: It is indeed, Chair. 8 COMMISSIONER HEMRAJ: It must be a 9 criminal investigation of some sort. 10 MS BALOYI: Yes, I just wanted him to 11 confirm on record, Commissioner. 12 COLONEL MERAFAE: I took some time, 13 Chairperson, because I did not want to give a confusion 14 question, I just wanted to make very sure what – Chair, a 15 murder case was being opened. 16 MS BALOYI: Yes. Now if you go back to 17 QQQ5 and you go to page 3 where you have that date, 18 2012/08/21 and then Marikana, do you see that? 19 COLONEL MERAFAE: I see, Chairperson. 20 MS BALOYI: Yes. The entries that you 21 make under that heading of that date, they appear to carry 22 on to the next page 4. What are those entries about? Do 23 they relate to the operation at Marikana? 24 COLONEL MERAFAE: Some of the points that 25 I wrote there, Chairperson, have nothing, are not connected</p>	<p style="text-align: right;">Page 26701</p> <p>1 strike at the municipality of Koster. 2 CHAIRPERSON: Oh, I see. So that's the 3 place where there was a municipal strike and then you go on 4 to say that you received a briefing from the municipal 5 manager and it looks as if the staff were demanding a 6 meeting with management and there's also, there was an 7 unprotected strike. So is the point that Brigadier Calitz 8 didn't want the POP members who had been involved in the 9 Marikana incidents to be deployed to deal with the Koster 10 strike? Is that what you're saying? 11 COLONEL MERAFAE: No, Chairperson, that's 12 not what I'm saying. 13 CHAIRPERSON: Okay. 14 COLONEL MERAFAE: There is a line that is 15 drawn there in the question just below, drawn there, about 16 the question that the Chairperson is asking me about. 17 Chairperson, what I'm saying here is that there was a 18 specific instruction that I should nominate members for 19 firearm training. As we go down, the following where I 20 write about briefing, the municipality, that is something 21 totally different, something happening somewhere else. 22 MS BALOYI: Chairperson, I may have 23 caused confusion in the say that I asked the question at 24 the time. 25 CHAIRPERSON: Anyway, he sorted it out</p>
<p style="text-align: right;">Page 26700</p> <p>1 with the Marikana incident. 2 MS BALOYI: If you look at the first 3 paragraph, though, which says "Members that should attend 4 firearm training, Brigadier Calitz said they need to be 5 replaced if they were involved in Marikana shooting." What 6 is that entry about? What are you talking to there? 7 COLONEL MERAFAE: Chairperson, we were 8 saying here that people that were involved in the Marikana 9 shooting should not be redeployed there and then there was 10 then training in the use of firearms and then there was 11 this instruction from Brigadier Calitz that those people 12 who had been involved in the Marikana incident should not 13 be sent for that, to that training. 14 CHAIRPERSON: Colonel, am I correct in 15 thinking that what that's about is, there was another 16 strike that you were dealing with, another unprotected 17 strike at the municipality, is that right? That's the note 18 that you made at 12:10. Now just above that there's a note 19 that refers to a strike at the municipality, what was that 20 strike? What's that word in front of strike? 21 COLONEL MERAFAE: Koster. 22 CHAIRPERSON: What was the Koster strike? 23 Was it a strike at Koster or what – 24 COLONEL MERAFAE: Chairperson, during the 25 time that there was this problem at Marikana, there was a</p>	<p style="text-align: right;">Page 26702</p> <p>1 but what I want to know is why did Brigadier Calitz say 2 that the members need to be replaced if they were involved 3 in Marikana shooting? I don't understand that. You had to 4 nominate people to attend firearm training, right? Now did 5 Brigadier Calitz not want people who had been involved in 6 Marikana to attend the firearm training or did he want 7 people who had been involved in Marikana to attend the 8 firearm training? I don't understand this entry that 9 you've made, can you please explain it to me? 10 COLONEL MERAFAE: Chairperson, after the 11 Marikana incident some of the police had to undergo 12 counselling. Some policemen's firearms had been taken from 13 them. The position is that if a person, if a policeman's 14 firearm has been taken away from him, we do not give him 15 another firearm at the same time. So we had to let them 16 undergo this process of counselling. 17 MS BALOYI: Now, the rest of the entry in 18 that page which falls under the heading "Koster strike at 19 the municipality" and you carry on to page 4 and it 20 concludes with "Wolmaransstad under administration" and 21 some further writing below that, am I correct that this has 22 nothing to do with the operation in Marikana? 23 COLONEL MERAFAE: That is correct. 24 MS BALOYI: Now still dealing with the, 25 in the same exhibit if you go to page 5 and the, in the</p>

<p style="text-align: right;">Page 26703</p> <p>1 first line 2012/08/29 Marikana presentation, you see that?</p> <p>2 COLONEL MERAFA: I see, Chairperson.</p> <p>3 MS BALOYI: Yes. Now in QQQ1, paragraph</p> <p>4 6.1 you say, "I was called up to Roots on 29 to 31 August</p> <p>5 2012 and 3 to 6 September 2012." Do you see that?</p> <p>6 [10:00] COLONEL MERAFA: I see that part, yes.</p> <p>7 MS BALOYI: So the date that appears on</p> <p>8 page 5 of QQQ5, that is day 1 of your attendance at Roots,</p> <p>9 am I correct?</p> <p>10 COLONEL MERAFA: That's correct.</p> <p>11 MS BALOYI: Now in your, before we deal</p> <p>12 with QQQ5, in your statement under paragraph 6, "The</p> <p>13 session at Roots," you set down in paragraph 6.1 what you</p> <p>14 understood to be the purpose of the meeting at Roots. Do</p> <p>15 you see that?</p> <p>16 COLONEL MERAFA: I see, Chairperson.</p> <p>17 MS BALOYI: Perhaps in your words, what</p> <p>18 did you understand to be the purpose of the meeting?</p> <p>19 COLONEL MERAFA: The meeting at Roots was</p> <p>20 to prepare for the Commission.</p> <p>21 MS BALOYI: And you set out in paragraph</p> <p>22 6.2 what happened on the first day.</p> <p>23 COLONEL MERAFA: That's correct,</p> <p>24 Chairperson.</p> <p>25 MS BALOYI: Now, in paragraph 6.3 you</p>	<p style="text-align: right;">Page 26705</p> <p>1 CHAIRPERSON: Perhaps Ms Pillay can tell</p> <p>2 us what the evidence was.</p> <p>3 MS BALOYI: Yes, it would be helpful if</p> <p>4 she did.</p> <p>5 CHAIRPERSON: Insofar as it's relevant to</p> <p>6 the question.</p> <p>7 MS PILLAY: Chair, the evidence of</p> <p>8 Colonel Vermaak related to the question of the Colonel</p> <p>9 indicating, Colonel Merafe indicating that he was better</p> <p>10 placed to handle the operation rather than General Mpembe.</p> <p>11 It did not relate to any threats to General Mpembe's life.</p> <p>12 MS BALOYI: Chairperson, may I reserve</p> <p>13 this question? I would like to look at the transcript. My</p> <p>14 recollection is as I have put it.</p> <p>15 CHAIRPERSON: Certainly.</p> <p>16 MS BALOYI: Thank you, Chair. Now you</p> <p>17 then say, "I was sitting next to Major-General Mpembe and</p> <p>18 Major-General Mpembe turned and looked at me. I said to</p> <p>19 the Major-General that I didn't know anything of what</p> <p>20 Colonel Vermaak was talking and said that I could not have</p> <p>21 been part of any member that may have made a threat on the</p> <p>22 General due to the fact that I left the scene to take</p> <p>23 Warrant Officer Lepaaku to the clinic and did not speak to</p> <p>24 Colonel Vermaak at the scene." Now, did you, did you at</p> <p>25 any point make a threat – first question, did you at any</p>
<p style="text-align: right;">Page 26704</p> <p>1 say, "Before started in my breakaway group, Major-General</p> <p>2 Mpembe asked Lieutenant-Colonel Vermaak to tell him who</p> <p>3 threatened to kill him on 13 August 2012. Major-General</p> <p>4 Mpembe said to Colonel Vermaak if he did not disclose the</p> <p>5 person that made the threat, he would lay a charge of</p> <p>6 intimidation against Colonel Vermaak." Now please tell the</p> <p>7 Commission what was Colonel Vermaak's reaction? What did</p> <p>8 he say?</p> <p>9 COLONEL MERAFA: Colonel Vermaak said to</p> <p>10 General Mpembe, "Kyk na die man langs jou."</p> <p>11 MR MAHLANGU: That is in Afrikaans. Look</p> <p>12 at the man next to you.</p> <p>13 COLONEL MERAFA: In other words, he was</p> <p>14 saying the person who had said he was going to threaten the</p> <p>15 death of the General was me, was Merafe, because I was</p> <p>16 seated next to the General.</p> <p>17 MS BALOYI: Now we've heard the evidence</p> <p>18 of Colonel Vermaak who says that during a tea break you</p> <p>19 told him that there had been a threat to kill General</p> <p>20 Mpembe. Did you have that conversation?</p> <p>21 MS PILLAY: Chair, just an objection.</p> <p>22 That wasn't the evidence of Colonel Vermaak, Chair.</p> <p>23 MS BALOYI: Chairperson, I put it as best</p> <p>24 as I can remember. I don't pursue it at this point. I'll</p> <p>25 look at the transcript during the tea break for accuracy.</p>	<p style="text-align: right;">Page 26706</p> <p>1 point make a threat during the operation of the 13th or</p> <p>2 afterwards, make a threat to kill General Mpembe?</p> <p>3 COLONEL MERAFA: Chairperson, never did I</p> <p>4 at any stage threaten General Mpembe with death.</p> <p>5 MS BALOYI: Did any person in your</p> <p>6 presence make a threat to kill General Mpembe on the 13th or</p> <p>7 any time after the operation of the 13th?</p> <p>8 COLONEL MERAFA: I did not come across</p> <p>9 anybody who said he wanted to kill General Mpembe.</p> <p>10 MS BALOYI: Did you at any stage hear</p> <p>11 that there was a threat to kill General Mpembe as a result</p> <p>12 of the operation of the 13th?</p> <p>13 COLONEL MERAFA: I was hearing for the</p> <p>14 first time at Roots, Chairperson, when General Mpembe was</p> <p>15 questioning Colonel Vermaak.</p> <p>16 MS BALOYI: Yes. Now, at the Roots –</p> <p>17 CHAIRPERSON: Sorry to interrupt. When</p> <p>18 you were at the scene on the 13th by the railway line where</p> <p>19 the killing took place, were you there when Major Mpembe</p> <p>20 was taken away from the scene or had you already left?</p> <p>21 COLONEL MERAFA: I wasn't present,</p> <p>22 Chairperson.</p> <p>23 CHAIRPERSON: Did you hear later that</p> <p>24 evening that General Mpembe had been taken away from the</p> <p>25 scene after Colonel Vermaak had spoken to the Provincial</p>

<p style="text-align: right;">Page 26707</p> <p>1 Commissioner?</p> <p>2 COLONEL MERAFAE: I did not hear anything,</p> <p>3 Chairperson. What happened is that when I came to the</p> <p>4 scene I was also removed from the scene, I was taken away.</p> <p>5 CHAIRPERSON: Did you hear any</p> <p>6 dissatisfaction before you went away from the scene, did</p> <p>7 you hear any dissatisfaction expressed by any of your</p> <p>8 members about the decision which General Mpembe had taken?</p> <p>9 COLONEL MERAFAE: It's true, Chairperson,</p> <p>10 that the members were not happy that General Mpembe took</p> <p>11 over the control of the operation of the 13th.</p> <p>12 CHAIRPERSON: Was the dissatisfaction</p> <p>13 confined to the fact that General Mpembe had taken over</p> <p>14 control of the operation from you or was the</p> <p>15 dissatisfaction also about the fact that General Mpembe had</p> <p>16 allowed the strikers to leave without any attempt to disarm</p> <p>17 them?</p> <p>18 COLONEL MERAFAE: Chairperson, if the</p> <p>19 operation was not taken away from me, there wouldn't have</p> <p>20 been the eventualities –</p> <p>21 MR MAHLANGU: The dissatisfaction about</p> <p>22 the members, Chairperson, was that if the operation had not</p> <p>23 been taken away from me there would not have been the</p> <p>24 eventualities that happened.</p> <p>25 CHAIRPERSON: Yes, I heard him say that</p>	<p style="text-align: right;">Page 26709</p> <p>1 reaction, response to this, if at all?</p> <p>2 COLONEL MERAFAE: The General was denying</p> <p>3 this but it was obvious, Chairperson, that he's denying</p> <p>4 because he has to deny.</p> <p>5 MS BALOYI: What do you mean by that?</p> <p>6 COLONEL MERAFAE: There are many people</p> <p>7 that would always deny the truth, Chairperson.</p> <p>8 MS BALOYI: Colonel, what does it mean?</p> <p>9 Did you hear General Mpembe give the instruction to fire</p> <p>10 teargas?</p> <p>11 COLONEL MERAFAE: Chairperson, I say Thupe</p> <p>12 was saying this, that he had heard General Mpembe say,</p> <p>13 giving this instruction.</p> <p>14 MS BALOYI: Yes.</p> <p>15 COLONEL MERAFAE: While listening to the</p> <p>16 discussion as they were talking, I could infer there are</p> <p>17 some difficulties there because it would be difficult for a</p> <p>18 person to point at you to say, "I heard you say so" when</p> <p>19 you did not, when he did not hear it.</p> <p>20 MS BALOYI: Yes. Now, the entry on page-</p> <p>21 COMMISSIONER HEMRAJ: Sorry, sorry. Did</p> <p>22 you understand that that order allegedly given by General</p> <p>23 Mpembe was over the radio?</p> <p>24 COLONEL MERAFAE: No, Thupe, Captain Thupe</p> <p>25 said he was walking together with the General at the back.</p>
<p style="text-align: right;">Page 26708</p> <p>1 in English. I'm not sure that I heard him say it in</p> <p>2 Tswana. When did you hear the members say that, what</p> <p>3 you've just told us?</p> <p>4 COLONEL MERAFAE: After the operation of</p> <p>5 the 13th, about the 14th or so, members were mentioning</p> <p>6 their dissatisfaction.</p> <p>7 CHAIRPERSON: They didn't mention it to</p> <p>8 you on the scene on the 13th before you left?</p> <p>9 COLONEL MERAFAE: The 13th, Chairperson,</p> <p>10 after taking Warrant Officer Lepaaku and I came back, I</p> <p>11 wasn't there long to have a discussion with the members.</p> <p>12 MS BALOYI: Thank you, Chair. Now in</p> <p>13 your breakaway group, we're still at Roots, was there any</p> <p>14 discussion at all relating to the firing or the</p> <p>15 circumstances of the firing of teargas, the first teargas</p> <p>16 during the operation?</p> <p>17 COLONEL MERAFAE: Yes, there was. There</p> <p>18 was that discussion, Chairperson.</p> <p>19 MS BALOYI: What was the discussion,</p> <p>20 Colonel?</p> <p>21 COLONEL MERAFAE: The discussion was that</p> <p>22 Captain Thupe had been told by Kuhn that Kuhn heard General</p> <p>23 Mpembe give that instruction. And Thupe also insisted,</p> <p>24 General, "I heard you saying teargas."</p> <p>25 MS BALOYI: And what was General Mpembe's</p>	<p style="text-align: right;">Page 26710</p> <p>1 He also confirms what Kuhn was saying. Kuhn said he heard</p> <p>2 the word "teargas."</p> <p>3 CHAIRPERSON: I understood you to say</p> <p>4 that he also said that Kuhn told him that he heard General</p> <p>5 Mpembe?</p> <p>6 COLONEL MERAFAE: Yes, sir. When they</p> <p>7 started talking about this topic, Chairperson, Thupe said</p> <p>8 "General, I heard Kuhn saying you had said teargas but I</p> <p>9 also heard that word coming from you, teargas."</p> <p>10 MS BALOYI: Thank you, Commissioner. Now</p> <p>11 the notes on page 5, are these notes that you made on the</p> <p>12 29th, on the day itself?</p> <p>13 COLONEL MERAFAE: Correct, Chairperson.</p> <p>14 MS BALOYI: When you look at the second</p> <p>15 line, it says – in fact starting with the first line, it</p> <p>16 says "2012/08/29 Marikana, presentation for the</p> <p>17 16/08/2012." Do you see that?</p> <p>18 COLONEL MERAFAE: I see, Chairperson.</p> <p>19 MS BALOYI: Yes, and you have a list of</p> <p>20 items. What does this note speak to?</p> <p>21 COLONEL MERAFAE: Here we were talking</p> <p>22 about headings of what topics we were going to discuss.</p> <p>23 MS BALOYI: And if you go further down,</p> <p>24 about three-quarters of the page there's a date 2012/08/30,</p> <p>25 you see that?</p>

<p style="text-align: right;">Page 26711</p> <p>1 COLONEL MERAFAE: That's correct, 2 Chairperson. 3 MS BALOYI: Is this still – these notes, 4 do they still pertain, do they still relate to Roots, the 5 session at Roots? 6 COLONEL MERAFAE: Yes, it is so, Chair. 7 MS BALOYI: And then if you turn to page 8 6 you have a date 2012/08/31 Marikana, do you see that? 9 It looks like "Brigadier" at the end, "Presentation at 10 Potchefstroom." The top half of the page, you see that? 11 COLONEL MERAFAE: I see, Chairperson. 12 MS BALOYI: Does that still relate to the 13 session at Roots? 14 COLONEL MERAFAE: It's up there where you 15 start about it, yes, but down here where it refers to the 16 date of the 3rd, I remember having met experts, police 17 experts at the Elgro Hotel – 18 MS BALOYI: Yes, before we get there I 19 would like you to look at the entry 2012/09/03, do you see 20 that? 21 COLONEL MERAFAE: I see, Chairperson. 22 MS BALOYI: Yes, and the first line is 23 "Potchefstroom for debriefing." Is that still the session 24 at Roots? 25 COLONEL MERAFAE: That is correct,</p>	<p style="text-align: right;">Page 26713</p> <p>1 long discussions there, Chairperson, because people would 2 still come to give evidence before the Commission. 3 MS BALOYI: Thank you, Chair. At page 7 4 the first line, "Team of experts" and then you have a list 5 of names there, now is this, at page 7, is that a 6 continuation of the entry that you made on the 4th of 7 September 2012? Is that a continuation of what we see at 8 page 6, or not? 9 COLONEL MERAFAE: Chairperson, no, it is 10 not so. This is where I had met the team of experts. 11 These are people with experience in public order policing 12 who were not part of the people, of the operation at 13 Marikana. 14 MS BALOYI: Is that the team, is that the 15 task team of POP experts that you refer to in paragraph 7 16 of QQQ1? 17 COLONEL MERAFAE: Correct, Chairperson, 18 yes. 19 MS BALOYI: Now Colonel, what did you 20 understand to be the purpose of this meeting or your 21 meeting with this team of experts? 22 [10:19] COLONEL MERAFAE: My meeting with the 23 experts, the team of experts, Chairperson, was to explain 24 to them the part which was played by the POP members at the 25 Marikana operation – instruction, national instruction, the</p>
<p style="text-align: right;">Page 26712</p> <p>1 Chairperson. 2 MS BALOYI: And under that date in the 3 last line you have "application for videos and vehicles" 4 and then "video units," I think it is. What is that entry? 5 COLONEL MERAFAE: This entry refers to 6 that, the allegation that there was, we had a shortage of 7 videos and the video operators mentioning that they were 8 driving around in a marked vehicle which exposed them to 9 danger. 10 MS BALOYI: And the next entry is on the 11 4th. It says "2012/09/04" you see that? 12 COLONEL MERAFAE: I see, Chairperson. 13 MS BALOYI: Is this still the session at 14 Roots? 15 COLONEL MERAFAE: Correct. 16 MS BALOYI: Now in the last line of that 17 entry, you have a line that says "Minimise presentation." 18 What is that about? What is that entry? 19 COLONEL MERAFAE: Chair, we were saying 20 that because there are other people that would come to give 21 evidence, that we should not expatiate broadly on our 22 documents, that we should only write important – or we 23 should not have too long discussions because people will 24 still come and testify before the Commission. 25 MR MAHLANGU: That we should not have</p>	<p style="text-align: right;">Page 26714</p> <p>1 tactical option, execution or – 2 MR MAHLANGU: And to explain what he has 3 said now in terms of the POP, if we did in accordance with 4 national instructions, the tactical option as well as the 5 execution of – 6 CHAIRPERSON: Now, was that about what 7 happened on the 13th or the 16th, or both? 8 COLONEL MERAFAE: They were actually 9 generalising everything that happened in Marikana. They 10 were interested in the role of the POP throughout, from the 11 13th up to the 16th, Chairperson. 12 CHAIRPERSON: You couldn't help them on 13 the 16th at all, could you? 14 COLONEL MERAFAE: Not much, Chairperson, 15 because I was not there. 16 CHAIRPERSON: What could you tell them 17 about the 16th? What could you tell them about what 18 happened on the 16th, you weren't there? 19 COLONEL MERAFAE: As I say, I couldn't be 20 of any help on the 16th, Chairperson, because of my being 21 absent. 22 MS BALOYI: Now, in paragraph 7.2 of QQQ1 23 you set out what they asked you about. Do you see that, 24 7.2 at page 23? 25 COLONEL MERAFAE: I see, I see,</p>

<p style="text-align: right;">Page 26715</p> <p>1 Chairperson, yes.</p> <p>2 MS BALOYI: Yes. And you say they asked</p> <p>3 you about, 1. whether what happened in the operation was</p> <p>4 in accordance with the training of POP.</p> <p>5 COLONEL MERAFAE: Yes.</p> <p>6 MS BALOYI: And 2, about use of barbed</p> <p>7 wire, whether use of barbed wire was wise, you see that?</p> <p>8 COLONEL MERAFAE: I see.</p> <p>9 MS BALOYI: About command and control.</p> <p>10 COLONEL MERAFAE: That's correct.</p> <p>11 MS BALOYI: And then 4, whether there</p> <p>12 were sufficient POP commanders deployed in the operation.</p> <p>13 COLONEL MERAFAE: Yes.</p> <p>14 MS BALOYI: And the use of force on 16</p> <p>15 August.</p> <p>16 COLONEL MERAFAE: Correct.</p> <p>17 MS BALOYI: Your involvement in the</p> <p>18 presentation of the plan.</p> <p>19 COLONEL MERAFAE: Yes.</p> <p>20 MS BALOYI: And why the POP did not draw</p> <p>21 the plan, do you see it?</p> <p>22 COLONEL MERAFAE: It is correct,</p> <p>23 Chairperson.</p> <p>24 MS BALOYI: Yes. And in paragraph 7.3</p> <p>25 you set out what you say your answers were.</p>	<p style="text-align: right;">Page 26717</p> <p>1 the operation, what did you say to that?</p> <p>2 COLONEL MERAFAE: I answered yes, that</p> <p>3 there were people with the necessary expertise and were</p> <p>4 sufficient.</p> <p>5 MS BALOYI: Yes. And then in 7.3</p> <p>6 [indistinct] you say that, "I explained my involvement in</p> <p>7 the drawing of the plan on 14 August. As I was not present</p> <p>8 on the 16th, I was unable to give any comment about issues</p> <p>9 of command and control and the use of force on that day,"</p> <p>10 is that correct?</p> <p>11 COLONEL MERAFAE: That's correct,</p> <p>12 Chairperson.</p> <p>13 MS BALOYI: Now if we look at paragraph</p> <p>14 8, in fact before we do that perhaps let's deal, let's</p> <p>15 continue with QQQ5 just to complete it. In page 7 still,</p> <p>16 the entry under 2012/09/05 at the bottom of that page, you</p> <p>17 see that?</p> <p>18 COLONEL MERAFAE: I see that, Chairperson.</p> <p>19 MS BALOYI: It starts, "Major-General</p> <p>20 Annandale opened the session of the morning." If you turn</p> <p>21 to the next page, what was this discussion on the 5th – in</p> <p>22 fact, perhaps let me ask you first, is this still at Roots,</p> <p>23 this entry?</p> <p>24 COLONEL MERAFAE: This was at the Roots</p> <p>25 session, yes.</p>
<p style="text-align: right;">Page 26716</p> <p>1 COLONEL MERAFAE: That's right. It's</p> <p>2 correct, Chairperson.</p> <p>3 MS BALOYI: Now in 7.3 – perhaps let me</p> <p>4 ask you with regard to whether what happened in the</p> <p>5 operation was in accordance with the training of the POP</p> <p>6 and keeping in mind that you were being asked specifically</p> <p>7 relating to the POP, what did you say? What was your</p> <p>8 answer?</p> <p>9 COLONEL MERAFAE: If you could just repeat</p> <p>10 that question for me to answer correctly?</p> <p>11 MS BALOYI: To the first question, to the</p> <p>12 first question in paragraph 7.2, whether what happened in</p> <p>13 the operation was in accordance with the training of the</p> <p>14 POP, how did you respond to that?</p> <p>15 COLONEL MERAFAE: I explained,</p> <p>16 Chairperson, that in this operation there were other units</p> <p>17 that were not members of the POP that were taking part.</p> <p>18 MS BALOYI: Relating to the POP</p> <p>19 specifically, what did you say when it came to the POP, the</p> <p>20 role of the POP?</p> <p>21 COLONEL MERAFAE: According to me, what</p> <p>22 POP was doing there was what they were trained to do, they</p> <p>23 were acting in accordance with POP training.</p> <p>24 MS BALOYI: And then to the question</p> <p>25 whether there were sufficient POP commanders deployed in</p>	<p style="text-align: right;">Page 26718</p> <p>1 MS BALOYI: Yes, and what does this</p> <p>2 discussion, what does this record, this page?</p> <p>3 COLONEL MERAFAE: This was a discussion</p> <p>4 about the consolidation of the number of rounds used.</p> <p>5 Other questions were about protesters and their songs.</p> <p>6 Mention was also made of the person that was killed there</p> <p>7 and a skull of a beast was put on his chest. I think some</p> <p>8 of the things are self-explanatory, Chair.</p> <p>9 MS BALOYI: Now finally on this exhibit,</p> <p>10 still at page 8 you have the entry on 2012/09/06 and then</p> <p>11 the first line says, "15:11 presentation to the NATCOM," do</p> <p>12 you see that?</p> <p>13 COLONEL MERAFAE: I see that, Chairperson.</p> <p>14 MS BALOYI: NATCOM is who?</p> <p>15 COLONEL MERAFAE: This is referring to the</p> <p>16 National Commissioner of the Police, General Phiyega.</p> <p>17 MS BALOYI: And immediately after that</p> <p>18 entry you have a list of names. Are these people that were</p> <p>19 present at that presentation?</p> <p>20 COLONEL MERAFAE: These were the generals</p> <p>21 as they follow there.</p> <p>22 MS BALOYI: Now if you turn to page 9 of</p> <p>23 that same document –</p> <p>24 CHAIRPERSON: Sorry to interrupt you. Do</p> <p>25 I understand that what ultimately became exhibit L was</p>

<p style="text-align: right;">Page 26719</p> <p>1 presented to the NATCOM? You talk about a presentation to 2 NATCOM. What was being presented to her? 3 COLONEL MERAFAE: Chairperson, everything 4 that was being discussed at Roots at the end of the day had 5 to be explained to the National Commissioner. 6 CHAIRPERSON: You've seen exhibit L, 7 haven't you? Exhibit L was the final product, as I 8 understand it, of what happened at Roots. So it was being 9 prepared and expanded and dealt with during the period of 10 the conference. Now, is what was presented to the NATCOM 11 that evening on the 6th of September, what had been prepared 12 so far, which ultimately went into exhibit L? 13 COLONEL MERAFAE: That is correct, 14 Chairperson. 15 MS BALOYI: [Microphone off, inaudible] – 16 at page 9 at the top you have four names and the last name 17 on that list is General Mpembe. Immediately after that you 18 have General Phiyega, you see that? 19 COLONEL MERAFAE: Correct, Chairperson. 20 MS BALOYI: Now, the notes that follow 21 after you write General Phiyega, you have notes to the end 22 of that page, what is that? 23 COLONEL MERAFAE: These were points that 24 were raised by General Phiyega in the meeting when she came 25 in.</p>	<p style="text-align: right;">Page 26721</p> <p>1 points of discussion, things that we were talking about, 2 that some of the equipment that we were using, that the 3 members that were being used there were trained in the job 4 they were involved in. 5 MS BALOYI: Now – 6 COMMISSIONER HEMRAJ: Sorry, sorry, I 7 missed that. Do you mind repeating it please, Mr Mahlangu, 8 what is the answer? 9 MR MAHLANGU: That we were talking about 10 the equipments that were being used there and that the 11 members that were being used there were people trained in 12 the job. 13 MS BALOYI: Perhaps, Colonel Merafe, if I 14 could ask you to repeat your answer to my question. I 15 asked you, those entries there, what were they about? 16 COLONEL MERAFAE: Let me take them one at 17 a time, Chairperson, to explain them. I was saying there 18 why on the date of the 16th more live ammunition was used 19 than rubber. There's also talk of press conference, press 20 conference that was held by the PC. We also spoke about 21 the involvement of the negotiator, what job he was doing. 22 Also gas masks as part of the equipment of the police, 23 whether this was sufficient during the use of gas. And 24 also trying to find out if the members were properly 25 briefed before going to Marikana and also to talk about</p>
<p style="text-align: right;">Page 26720</p> <p>1 CHAIRPERSON: Some of it, I take it, are 2 the remarks that she made at the meeting, is that correct? 3 COLONEL MERAFAE: Correct, Chairperson. 4 CHAIRPERSON: Ms Baloyi, would it be 5 convenient for us to take the first comfort break at this 6 point? 7 MS BALOYI: It is convenient, Chair. 8 CHAIRPERSON: We'll take the first 9 comfort break. Let's try and be back within 10 – 10 [COMMISSION ADJOURNS COMMISSION RESUMES] 11 [10:54] OMPHILE JOSEPH MERAFAE: (s.u.o.) 12 EXAMINATION BY MS BALOYI (CONTD.): Thank 13 you, Chair. Colonel, we were finishing off the entry in 14 QQQ5 at page 8, that entry of 2012/09/06 and you had just 15 confirmed that the notes that you find on page 9 are notes 16 of what the National Commissioner would have said, am I 17 correct? 18 COLONEL MERAFAE: Correct, Chairperson. 19 MS BALOYI: Now if you look at page 10 of 20 that same document, immediately after the third line which 21 says "Closure," you have "Wearing of bulletproof vest, 22 sharp ammunition, press conference, role of the negotiator, 23 gas mask, briefing to go to Marikana, training." What are 24 those entries about, or those notes? 25 COLONEL MERAFAE: These are some of the</p>	<p style="text-align: right;">Page 26722</p> <p>1 whether the members that were used in Marikana were people 2 that were properly trained for the job they were to do. At 3 the end of the day we then – Chairperson, we were also 4 talking about what it is that was done right and what it is 5 that was done wrong in order to correct that which had been 6 done wrong because this is an organisation that keeps on 7 doing this job. 8 MS BALOYI: Now perhaps for completion, 9 on that page 10 you have an entry 2012/09/10, you see that? 10 COLONEL MERAFAE: I see, Chairperson. 11 MS BALOYI: Am I correct that that entry 12 has nothing to do with the operations from the 10th of 13 August to the 16th August? 14 COLONEL MERAFAE: That is correct. 15 MS BALOYI: Now if you would go back to 16 QQQ1 and we look at paragraph 8 at page 23, now at 17 paragraph 8.2 you deal with the letter of Colonel Vermaak, 18 the letter of 28 May 2012 and that is exhibit JJJ113. 19 Chairperson, it is item 9 on our list of documents. 20 CHAIRPERSON: Thank you. 21 MS BALOYI: Do you have JJJ113 in front 22 of you? It's 137, in fact, Colonel. I do apologise for 23 that. 24 CHAIRPERSON: Item 11? 25 MS BALOYI: Yes.</p>

<p style="text-align: right;">Page 26723</p> <p>1 CHAIRPERSON: Yes.</p> <p>2 MS BALOYI: Yes. Thank you, Chairperson,</p> <p>3 my mistake. Now the letter – you have that letter in front</p> <p>4 of you, JJJ137. In the second – this is a letter from</p> <p>5 Colonel Vermaak to the Provincial Commissioner and to the</p> <p>6 provincial head, operational response services. Now in</p> <p>7 paragraph A1 he says, “This office attends on 17 May 2012 at</p> <p>8 provincial ORS conference at POP Potchefstroom which was</p> <p>9 held by Brigadier Calitz.” And then in paragraph 2 he</p> <p>10 says, “During this conference Brigadier Calitz handles the</p> <p>11 latest instructions from national ORS head office, the use</p> <p>12 of force during unrest situations.” And then he lists in</p> <p>13 paragraph 3 what he says are the concerns. He says there,</p> <p>14 “During the conference Brigadier Calitz handled the latest</p> <p>15 instructions from ORS head office, the use of force during</p> <p>16 unrest situations” and then in 3 he says, “The following</p> <p>17 concerns were raised during the meeting by the POP unit,</p> <p>18 especially by Lieutenant-Colonel Merafe.” Do you see that?</p> <p>19 COLONEL MERAFAE: I see, Chairperson.</p> <p>20 MS BALOYI: Now if you look at exhibit</p> <p>21 JJJ113 or perhaps even before can I just confirm, you were</p> <p>22 present at this meeting?</p> <p>23 COLONEL MERAFAE: That’s correct,</p> <p>24 Chairperson.</p> <p>25 MS BALOYI: And if you look at JJJ113,</p>	<p style="text-align: right;">Page 26725</p> <p>1 meeting was held, Chairperson, some of the members of the</p> <p>2 POP police were taken and put at station level to do crime</p> <p>3 prevention duties and they were divided into shifts, which</p> <p>4 made it difficult for me to use them at the time I needed</p> <p>5 them.</p> <p>6 MS BALOYI: And in paragraph 3.2 where</p> <p>7 you say, “The recourses that are available to POP to handle</p> <p>8 unrest situations are not effective enough,” what were you</p> <p>9 talking to there?</p> <p>10 COLONEL MERAFAE: Chairperson, it was just</p> <p>11 to explain that if you do not have enough members to manage</p> <p>12 and control unrest situations, it makes it difficult.</p> <p>13 MS BALOYI: Now, if you would – and then</p> <p>14 in paragraph 8.3.4, I beg your pardon, if you would go to</p> <p>15 paragraph 8.3, sorry, you also say, “I am also aware of the</p> <p>16 letter of Lieutenant-Colonel Vermaak dated 12 December 2012</p> <p>17 which has been submitted to the Commission.” This is at</p> <p>18 page 24, you see that?</p> <p>19 COLONEL MERAFAE: That is so, Chairperson.</p> <p>20 MS BALOYI: And in the bundle you find</p> <p>21 exhibit HHH68 - Chairperson this is item 11A in our list of</p> <p>22 documents = do you have the letter, Colonel? HHH68?</p> <p>23 CHAIRPERSON: Thank you. What item is</p> <p>24 it? You did tell me.</p> <p>25 COMMISSIONER HEMRAJ: 11A.</p>
<p style="text-align: right;">Page 26724</p> <p>1 the heading of the document is “Minutes of the provincial</p> <p>2 operational response meeting 2012/05/16 at 9H00.” Is that</p> <p>3 the meeting that Colonel Vermaak refers to?</p> <p>4 COLONEL MERAFAE: If we could go through a</p> <p>5 few pages down. I agree, yes it is, Chairperson.</p> <p>6 MS BALOYI: Yes. Now we have discussed</p> <p>7 at some length in your evidence the discussion about the</p> <p>8 operation of the 22nd of May, which Lieutenant-Colonel</p> <p>9 Vermaak refers to in paragraph 4 of this letter. Now I</p> <p>10 would like us to discuss paragraph 3.1 under the concerns</p> <p>11 that he raised and 3.1 he says, “POP members were withdrawn</p> <p>12 from POP units to form part of shifts at station.” And</p> <p>13 then 3.2, “The recourses that are available to POP to</p> <p>14 handle unrest situations are not effective enough.” “3.3</p> <p>15 POP members are divided to assist at different stations,</p> <p>16 areas that are not unrest related,” do you see that?</p> <p>17 COLONEL MERAFAE: I see, Chair.</p> <p>18 MS BALOYI: Yes. Do you confirm that you</p> <p>19 raised these concerns?</p> <p>20 COLONEL MERAFAE: I agree with that. I</p> <p>21 raised some of the concerns.</p> <p>22 MS BALOYI: Perhaps just tell us more</p> <p>23 about what in fact are the concerns under these three.</p> <p>24 What exactly were you raising?</p> <p>25 COLONEL MERAFAE: At Rustenburg when this</p>	<p style="text-align: right;">Page 26726</p> <p>1 CHAIRPERSON: 11A, thank you.</p> <p>2 MS BALOYI: Yes, Chair. Do you have the</p> <p>3 letter?</p> <p>4 COLONEL MERAFAE: I do have it,</p> <p>5 Chairperson.</p> <p>6 MS BALOYI: Now this again is a letter</p> <p>7 from Colonel Vermaak dated 12 December 2012. It’s</p> <p>8 addressed again to the Provincial Commissioner and to the</p> <p>9 provincial head, operational response services. Do you see</p> <p>10 that?</p> <p>11 COLONEL MERAFAE: I see, Chair.</p> <p>12 MS BALOYI: Now if you turn to page 2 of</p> <p>13 that letter and then paragraph 11 thereof, he says, “During</p> <p>14 the unrest at Lonmin, Amplats and Impala, the following</p> <p>15 shortcomings were identified.” Do you see that somewhere</p> <p>16 in the middle of the page?</p> <p>17 COLONEL MERAFAE: I see, Chair.</p> <p>18 MS BALOYI: Yes. Now we know that you</p> <p>19 were involved with the operation in Lonmin until the 15th of</p> <p>20 August. Where he talks about unrest at Amplats, do you</p> <p>21 know what he’s referring to?</p> <p>22 COLONEL MERAFAE: I know about it,</p> <p>23 Chairperson, though I was not personally in charge at the</p> <p>24 Amplats incident.</p> <p>25 MS BALOYI: But were you involved in that</p>

<p style="text-align: right;">Page 26727</p> <p>1 operation?</p> <p>2 COLONEL MERAFAE: I was involved,</p> <p>3 Chairperson.</p> <p>4 MS BALOYI: And where he talks about the</p> <p>5 unrest at Impala, you know what he's referring to?</p> <p>6 COLONEL MERAFAE: I do know, Chair.</p> <p>7 MS BALOYI: Were you involved in that</p> <p>8 operation?</p> <p>9 COLONEL MERAFAE: I was present, working</p> <p>10 there Chairperson.</p> <p>11 MS BALOYI: What was your involvement?</p> <p>12 COLONEL MERAFAE: I was the operational</p> <p>13 commander of that operation, the person in charge there.</p> <p>14 MS BALOYI: Yes. Now, at 11.1 Colonel</p> <p>15 Vermaak says he has identified these shortcomings and from</p> <p>16 this letter it is not clear whether it applies to all three</p> <p>17 operations or not but let me ask you anyway, 11.1 he says</p> <p>18 "Members don't have commanders with experience in charge at</p> <p>19 unrest scenes." Now with respect to Lonmin, with respect</p> <p>20 to Lonmin, what was your observation or your opinion of the</p> <p>21 experience of commanders that were involved in the</p> <p>22 operation in Lonmin, POP commanders?</p> <p>23 COLONEL MERAFAE: Pertaining to Lonmin,</p> <p>24 Chair, the members, the commanders who were in this</p> <p>25 operation are vastly experienced people – I worked with a</p>	<p style="text-align: right;">Page 26729</p> <p>1 involved in this operation, all of them are aware, they</p> <p>2 know the legislation under which they operate. I mean they</p> <p>3 know about the Gatherings Act, the Firearm Control Act, the</p> <p>4 new Dangerous Weapons Act and the Criminal Procedure.</p> <p>5 MS BALOYI: And in paragraph 11.1 he</p> <p>6 says, "Members allow illegal actions at certain areas and</p> <p>7 the next day they take steps again, for example illegal</p> <p>8 strikers or marchers. These actions confuse the public and</p> <p>9 they neglect their responsibility to protect and serve."</p> <p>10 Now with respect to these three operations that we are</p> <p>11 talking about and with specific reference to POP members,</p> <p>12 do you know what Colonel Vermaak is referring to there?</p> <p>13 COLONEL MERAFAE: I don't know where he</p> <p>14 gets his words from, Chairperson. For instance, where he</p> <p>15 speaks of illegal marchers and strike, if he had mentioned</p> <p>16 where, I would at least have an idea where he is referring</p> <p>17 to.</p> <p>18 MS BALOYI: And then at 11.4 –</p> <p>19 [11:13] COMMISSIONER HEMRAJ: But Ms Baloyi,</p> <p>20 Colonel Vermaak did specify what he was referring to in</p> <p>21 respect of illegal actions in certain areas. Are you going</p> <p>22 to put that to the witness?</p> <p>23 MS BALOYI: Commissioner, I – during the</p> <p>24 tea break.</p> <p>25 COMMISSIONER HEMRAJ: Yes.</p>
<p style="text-align: right;">Page 26728</p> <p>1 number of them in a number of operations in KwaZulu-Natal</p> <p>2 and some of them led operations where I know about their</p> <p>3 experience.</p> <p>4 MS BALOYI: And the operation in Amplats?</p> <p>5 COLONEL MERAFAE: At Amplats I had</p> <p>6 captains with whom I had worked for a very long time who</p> <p>7 were commanders and who had worked in operations and did</p> <p>8 not fail us. I'm talking of Captain Sefike and Captain</p> <p>9 Kotsedi who are in our unit in Rustenburg and Captain</p> <p>10 Tebogodi from Mafikeng was sent to come and assist us, he</p> <p>11 is also vastly experienced.</p> <p>12 MS BALOYI: And the operation in Impala?</p> <p>13 COLONEL MERAFAE: As I explained, at</p> <p>14 Impala I had taken control as operational commander.</p> <p>15 MS BALOYI: And in paragraph 11.2 Colonel</p> <p>16 Vermaak says, "Commanders don't know or have the</p> <p>17 legislation under what they can act." Do you know what</p> <p>18 commanders, which commanders he is referring to, which POP</p> <p>19 commanders he is referring to?</p> <p>20 COLONEL MERAFAE: Chairperson, I don't</p> <p>21 know.</p> <p>22 MS BALOYI: And what is your experience,</p> <p>23 of commanders, of POP commanders that would have been</p> <p>24 involved in these operations relating to this allegation?</p> <p>25 COLONEL MERAFAE: Our members who were</p>	<p style="text-align: right;">Page 26730</p> <p>1 MS BALOYI: I wasn't going to be –</p> <p>2 CHAIRPERSON: When did you see this</p> <p>3 letter of Colonel Vermaak for the first time, this letter</p> <p>4 we're looking at at the moment, HHH68?</p> <p>5 COLONEL MERAFAE: Chairperson, this letter</p> <p>6 was forwarded to my unit after it was sent to the</p> <p>7 Commissioner.</p> <p>8 CHAIRPERSON: Did you discuss it with</p> <p>9 Colonel Vermaak at all? Did you ask him about these things</p> <p>10 that you don't understand?</p> <p>11 COLONEL MERAFAE: Chair, I did not sit and</p> <p>12 discuss this with him, Chairperson. Firstly, we did not</p> <p>13 know what areas he was referring to and the letter was not</p> <p>14 directed to me.</p> <p>15 CHAIRPERSON: I understand that but I</p> <p>16 take it you had a fair degree of contact with him during</p> <p>17 the period after the letter was written, which was the 12th</p> <p>18 December 2012, is that right?</p> <p>19 COLONEL MERAFAE: Correct, Chair.</p> <p>20 Chairperson, Colonel Vermaak had written things questioning</p> <p>21 me. I was expecting that I would be questioned about these</p> <p>22 allegations.</p> <p>23 CHAIRPERSON: Yes, well, wasn't it</p> <p>24 sensible then to say to Colonel Vermaak, look here, I'm</p> <p>25 going to be questioned about these matters or I may be. In</p>

<p style="text-align: right;">Page 26731</p> <p>1 order to enable me to comment, can you perhaps give me some 2 details, particulars, so that I understand what it is that 3 you, the point that you're making? 4 COLONEL MERAFAE: Chair, we don't work at 5 the same area, Chairperson. I'm at Rustenburg and this, 6 but we only meet when there are these difficulties. 7 CHAIRPERSON: And did Brigadier Calitz 8 discuss this letter with you at all? 9 COLONEL MERAFAE: I explained some of it - 10 at our meetings, Chairperson, with Brigadier Calitz, we 11 would from time to time touch on these things. 12 MS BALOYI: And at paragraph 11.6 Colonel 13 Vermaak says, "Members are not properly trained at training 14 institutions. Some of the instructors were never exposed 15 to any of the incidents which he must lecture. There is a 16 big difference between book knowledge and experience on the 17 ground." Do you see that? 18 COLONEL MERAFAE: I see that, Chair. 19 MS BALOYI: What is the training that is 20 offered in crowd management? 21 COLONEL MERAFAE: Any policeman that comes 22 from a station and gets involved in the public order unit, 23 undergo what we call a basic public order police training 24 and also a course in crowd management. 25 MS BALOYI: And the basic police training</p>	<p style="text-align: right;">Page 26733</p> <p>1 at unit level, Chairperson. 2 MS BALOYI: Thank you, Commissioner. 3 Colonel Merafe, you deal with this in paragraph 8.3.3 of 4 your statement at page 25 and you say, "I deny that any of 5 our trainers are people without practical experience. In 6 my unit we have experienced trainers who train in crowd 7 management in the province, nationally and SADC countries." 8 Do you see that? 9 COLONEL MERAFAE: That is so, Chairperson. 10 MS BALOYI: And then at paragraph 11.7 11 Colonel Vermaak says, "In the past, video cameras were part 12 of the issued equipment to trained member and every single 13 action and negotiation were recorded for evidence purposes 14 later when needed. POP don't have this capacity anymore." 15 What do you say to that, to the concern or complaint that 16 POP does not have the capacity to record, to record for 17 evidence purposes? What is your comment to that? 18 COLONEL MERAFAE: Chairperson, I would 19 only say that we did not have sufficient of these, but we 20 did have. 21 MS BALOYI: And you deal with this in 22 paragraph 8.34, am I correct where you say - 23 COLONEL MERAFAE: Correct, Chairperson. 24 MS BALOYI: And you say at page 26, 25 "Video cameras are issued to each unit and there are enough</p>
<p style="text-align: right;">Page 26732</p> <p>1 course, who attends that course? Is it a course that is 2 attended only by the POP? 3 COLONEL MERAFAE: Basic POP training is 4 attended only by the POP. Remember the basic police 5 training is for every policeman. So – Chairperson, to say 6 all, each and every member of the police undergoes a basic 7 police training course. So every policeman who is being 8 sent to POP is already aware of that but we then cause them 9 to undergo a basic POP course. 10 COMMISSIONER HEMRAJ: But Colonel, the 11 criticism in that paragraph is really that the instructors 12 on these POP courses do not have practical experience. 13 COLONEL MERAFAE: I see, Chairperson, but 14 I do not agree with that. Why I say so, in the unit where 15 I am I have Warrant Officer Maluleke. This is a person 16 with such experience, Mr Chairperson, that we are able to 17 send him to countries outside South Africa, such as 18 Botswana, to train them in POP and we would not put 19 ourselves at a level where we would send a person that does 20 not have the ability to go and train people in other 21 countries. We also have Warrant Officer Powe, he does this 22 training throughout the country. We have Lieutenant Khutu, 23 they go to train in institutions such as Ulundi and also at 24 the police training in Pretoria and the Moloto training 25 unit, that is where we send our members, I am talking about</p>	<p style="text-align: right;">Page 26734</p> <p>1 trained video operators." Do you see that? 2 COLONEL MERAFAE: That is correct, 3 Chairperson. And to help the Commission, I have got 4 Warrant Officer Masinya, Warrant Officer Ndlovu, Warrant 5 Officer Khumalo, Warrant Officer Tlang and Constable 6 Mahume to name just – and Warrant Officer Lesolang. I have 7 mentioned people, a number of about six people that have 8 been to video training courses. That is not all, Chair. 9 Other units, I know that they do have trained video 10 operators. 11 MS BALOYI: And then at paragraph 11.8 it 12 says, "I never saw any commander anymore with a voice 13 recorder when he negotiates with leaders for reference 14 purposes afterwards." Do you see that? 15 COLONEL MERAFAE: Correct Chair, I see it. 16 MS BALOYI: What do you say to that? 17 What is the complaint and what do you say to it? 18 COLONEL MERAFAE: The video recorder per 19 se, the thing referred to, it's true that we do not have 20 these in our units but we have operational diaries. This 21 is where we keep records of the unfolding events as they 22 happen. When we are involved in negotiations, say I'm 23 talking to somebody and he is talking to me, this would be 24 taken down in writing as it is being done. That is what we 25 would then use after the incident.</p>

<p style="text-align: right;">Page 26735</p> <p>1 MS BALOYI: You deal with this in 2 paragraph 8.3.5 and you say, "I agree that POP should have 3 voice recorders but also point out that as a matter of 4 practice during negotiations there is always a scribe who 5 must keep a full note of what is discussed." Is that 6 correct? 7 COLONEL MERAPE: Correct, Chairperson. 8 MS BALOYI: And then in paragraph 11.9 9 Colonel Vermaak says, "During all this unrest since 10 February 2012 there was not one member of POP that took 11 still photos of the crowd or leaders that could assist the 12 investigating officer to identify them afterwards. In the 13 past every POP unit had a still camera for this purpose." 14 What is your comment to this, if any? 15 COLONEL MERAPE: Chair, in my unit we do 16 have a still camera, Chairperson. It is being used if 17 there are gatherings. Even the people investigating the 18 cases, the detectives, if there's information that they 19 require we hand over the photos to them, that have been 20 taken by the person I've mentioned. 21 MS BALOYI: We have dealt with the 22 complaint in paragraph 11.8 about unqualified people being 23 used to drive Nyalas and then at 11.9 Colonel Vermaak says, 24 "The availability of information before incidents does not 25 exist anymore. In the past there was an information office</p>	<p style="text-align: right;">Page 26737</p> <p>1 COLONEL MERAPE: Yes, but my explanation, 2 sir, is I do not agree with him that people that have 3 undergone this training, to be sent to training 4 institutions – 5 MR MAHLANGU: If I may just correct this 6 again? 7 COLONEL MERAPE: I will try to speak. I 8 said I'm not going to agree with this, with this sentence 9 that in training institutions we have got people without 10 experience. The reason for that is that I have already 11 raised that I've got Warrant Officer Maluleke, I've got 12 Warrant Officer Powe, those two members are stationed at my 13 unit and they are always used at training institutions of 14 POP. 15 CHAIRPERSON: Would you agree with the 16 proposition that POP members should, must undergo training, 17 that it was a problem which existed as late as May in 2012? 18 COLONEL MERAPE: Chairperson, I 19 understand what is being said but what I can bring forth to 20 the Commission, that there is in-service training and that 21 there was a lack of this in-service training part, not 22 necessarily that people were altogether not trained. As 23 people trained and the training should be continuous so 24 that to make the people – to use his words – sharp, to be 25 ready for any action.</p>
<p style="text-align: right;">Page 26736</p> <p>1 at each unit and they managed their own informers. Some of 2 them were attending courses to handle informers." Now 3 dealing with that part where he says "In the past there was 4 an information office," what is the position? What was the 5 position in August 2012 and what is the position today? 6 COLONEL MERAPE: Chairperson, even at 7 this time there is in my office an information office. 8 There are members there, some of them have undergone 9 courses as informer handlers. 10 MS BALOYI: Now, in paragraph 12 Colonel 11 Vermaak makes suggestions. 12 CHAIRPERSON: Before you go on to 13 paragraph 12, can I go back to paragraph 11.6 dealing with 14 the question of training. Now do you not agree with what 15 Lieutenant-Colonel Vermaak says there? Do you not agree, 16 do you not agree with Lieutenant-Colonel Vermaak says in 17 paragraph 11.6? 18 COLONEL MERAPE: Yes, Chairperson, I 19 cannot agree because here, here mention is being made of 20 training institutions. I am at unit level and not in a 21 training institution. I explained that the people in my 22 unit are being trained and the experience that they have. 23 CHAIRPERSON: So you can't, you're not in 24 a position then to disagree with what Colonel Vermaak says 25 about training institutions, am I correct?</p>	<p style="text-align: right;">Page 26738</p> <p>1 CHAIRPERSON: Yes. So as of May 2012 2 there was a problem in relation to the training which POP 3 members had been receiving, is that correct? 4 COLONEL MERAPE: At that time, 5 Chairperson, there were some difficulties to do in-service 6 training because members of POP at POP unit level are 7 trained. What is important, Chairperson, is that we 8 should, on a monthly basis, to keep training POP members to 9 keep them up to date. 10 CHAIRPERSON: You see there's an exhibit 11 which we have before us, exhibit QQQ4 which is the minutes 12 of the public order police conference held in the Manhattan 13 Hotel, Pretoria on the 29th May 2012. You attended that 14 conference, isn't it? 15 COLONEL MERAPE: I was in that meeting, 16 Chair. 17 CHAIRPERSON: Now page 2 – well, firstly, 18 page 2 of the minutes deal with the address by the Deputy 19 National Commissioner for Operations, that was General 20 Masemola and he said that members must come up with 21 solutions, that mistakes had happened to restructuring but 22 they had to be corrected, all units had to be nationalised 23 as agreed in the national management forum, is that right? 24 COLONEL MERAPE: That's correct, 25 Chairperson.</p>

<p style="text-align: right;">Page 26739</p> <p>1 CHAIRPERSON: And once the units had been 2 nationalised, then the units were to be resourced in terms 3 of, amongst other things, training. Do you he said that? 4 COLONEL MERAFAE: It is correct, 5 Chairperson. 6 CHAIRPERSON: And he said that POP 7 members must undergo training stick to public order 8 policing as their primary function and that the OCT course 9 doesn't give members the proper training to deal with 10 protest actions, do you remember that? 11 COLONEL MERAFAE: That's correct, Chair. 12 CHAIRPERSON: And do you agree with what 13 he said? 14 [11:33] COLONEL MERAFAE: As I have explained, 15 yes, Chairperson. It is true that our members did not 16 receive regular training because of the shortage, we did 17 not have sufficient members. POP training, for well known 18 reasons, has got to be continuously in training in order to 19 be ready to face any situation that may exist. 20 CHAIRPERSON: Yes. So it does appear 21 from reading the minutes of the meeting, conference, that 22 there were quite serious problems that had to be dealt with 23 as far as the public order policing function of the SAPS 24 was concerned. Would you agree with that? 25 COLONEL MERAFAE: Chairperson, it's true.</p>	<p style="text-align: right;">Page 26741</p> <p>1 being made now, there are members who are presently 2 involved in these courses. 3 COMMISSIONER HEMRAJ: The Chairman just 4 corrected me to ask you about what was the position as at 5 August 2012? 6 COLONEL MERAFAE: We still had difficulty 7 at that time, Chair. In May the problems were brought to 8 the fore but in August we had not been able to put in the 9 suggestions that were made then. 10 COMMISSIONER HEMRAJ: Yes, thank you, 11 Colonel. 12 MS BALOYI: Thank you, Commissioner. 13 Colonel, we were looking at paragraph 12 where Colonel 14 Vermaak makes suggestions and then in 12.2 he says, "Go 15 back to the basics that worked in the past, for example 16 SAP15s, operational diary for every section, out handing 17 and back handing register for equipment, signed by the 18 platoon/section commander, tasking form issued by the 19 commander, poor shift report where successes are mentioned 20 and all information that the commander must have the 21 knowledge of." Do you see that? 22 COLONEL MERAFAE: I see, Chair. 23 MS BALOYI: Yes, do you agree with – 24 these are recommendations that he is making. Do you agree 25 that these are necessary areas of improvement?</p>
<p style="text-align: right;">Page 26740</p> <p>1 I take it that these meetings that were even held at 2 national level was to show the problem that existed 3 nationally in the public order policing. 4 CHAIRPERSON: Now this meeting was on the 5 29th of May 2012. Do you know whether anything was done to 6 address the concerns expressed by General Masemola before 7 the 13th of August 2012? 8 COLONEL MERAFAE: Chair, no, that was not 9 done. These were things that were being thought were for 10 the future. 11 CHAIRPERSON: Thank you. 12 COMMISSIONER HEMRAJ: General, what is 13 the position with training at unit level, with those POP 14 units under your command? 15 COLONEL MERAFAE: Chair, if the question 16 would be repeated again, if the Commissioner would explain 17 whether she is referring to the present moment or in the 18 past or what the position is. 19 COMMISSIONER HEMRAJ: Well, as at May 20 2012 and as presently as well. 21 COLONEL MERAFAE: Chairperson, as of May 22 2012 it was, we had a difficulty in refreshing or training 23 the members that were – because of the shortage that we had 24 in the public order police members. But as it is, 25 thereafter, as of now there are refresher courses that are</p>	<p style="text-align: right;">Page 26742</p> <p>1 COLONEL MERAFAE: I don't know why he said 2 that – because in my evidence already I have mentioned that 3 we use operational diaries. SAP15, each and every 4 policeman who comes on duty has to sign on, more especially 5 all the non-commissioned officers have to sign the SAP15. 6 We have these, we use them. We also have registers. There 7 is no way in which we can give equipment to people without 8 putting them in the register. I personally, Chairperson, 9 if I post members that are under my control, I write a 10 tasking form which states they should do one, two, three. 11 MS BALOYI: And finally on this letter, 12 you see in paragraph 12.3 and 12.4 that he makes a 13 recommendation that the R5 rifles that are issued to, I 14 think it's section commanders, should be replaced with 15 birdshot, number 5 birdshot shotgun, you see that? 16 COLONEL MERAFAE: I see it there, Chair. 17 MS BALOYI: Yes. Do you agree with this 18 recommendation? 19 COLONEL MERAFAE: Chairperson, I don't 20 agree with it and I am prepared to give reasons why I say 21 so. The first reason, Chairperson, in each and every 22 section of the POP when going out, police would have 23 information that they are going to attend to some rioting. 24 Whilst going there, Chairperson, they could, along the way, 25 come across something say like an armed robbery. In armed</p>

<p style="text-align: right;">Page 26743</p> <p>1 robberies you cannot use, don't use birdshot. Amongst the 2 equipment that is being issued to the members, Chairperson, 3 it is important there must be an R5. 4 COMMISSIONER HEMRAJ: Isn't this 5 situation in the context of crowd management and crowd 6 control? 7 COLONEL MERAFFE: Also in crowd management 8 and control, Chairperson. I have mentioned that our 9 members are trained in the use of all these different kinds 10 of weapons. It's true, yes, an R5 is not being used in 11 crowd management. According to me, Chairperson, in a crowd 12 you don't even need the birdshot because we have used 13 [indistinct] are not legal, they can cause some injuries 14 there and there and so far so good. 15 CHAIRPERSON: Yes, what Colonel Vermaak 16 was suggesting was that you go back to the previous 17 position where, as he says in paragraph 12.4, every POP 18 section which consists of eight members was issued with 19 only one R5 or R1 and the other members were issued with 20 shotguns with rubber rounds and number 5 birdshot. So he 21 wasn't suggesting that there shouldn't be an R5 to deal 22 with, or an R1 to deal with the armed robbery kind of 23 situation you talk about, but what he was saying was it 24 shouldn't just be R1 – sorry, R5 or rubber balls. There 25 should also be the use of birdshot, as had been the case</p>	<p style="text-align: right;">Page 26745</p> <p>1 Marikana, then all you can do is use R5s. This is what 2 happened and 34 people were killed. Now how many people 3 would have been killed if only shotguns, if shotguns with 4 birdshot had been used? 34 as well? 5 COLONEL MERAFFE: Chairperson, I do not 6 want the Chairperson to put pressure on me to agree to what 7 I did say. I'm saying, Chairperson, I have been in the 8 public order policing for 27 years. It's only in Marikana 9 that this incident - to happen – this equipment, rubber 10 bullets, stun grenades, water cannons were capable of 11 controlling the crowd, because I still don't agree with the 12 birdshot. To me, Chairperson, they would cause problems 13 more than anything. 14 CHAIRPERSON: Well, don't R5s cause 15 problems? 16 COLONEL MERAFFE: In POP environment where 17 I was, where I have been, I have never used R5 on the 18 crowd. 19 CHAIRPERSON: If you had been at Marikana 20 at scene 1 on the 16th August, would you not have used R5s 21 on the crowd either? 22 COLONEL MERAFFE: I am please asking 23 Chairperson not to put me at Marikana on the 16th because I 24 wasn't there at all. 25 CHAIRPERSON: That's why I asked you a</p>
<p style="text-align: right;">Page 26744</p> <p>1 previously and he gives a reason. He says if you can't 2 use, as I understand him, if you can't use the rubber 3 balls, the rubber balls don't work – and we know that at 4 Marikana they didn't work – the rubber balls don't work, if 5 teargas doesn't work, it didn't work at Marikana either, 6 then all you can use is an R5 and he says he'd rather hurt 7 or wound a protester with birdshot than kill him with an 8 R5. Now you don't – do you agree with that? 9 COLONEL MERAFFE: Chairperson, I still do 10 not agree. The number 5 and the triple A, the birdshot 11 that he's referring to here, they are capable of killing a 12 person. We recently had cases in Mothotlung where those 13 equipment were used. We have one at Bapong where birdshot 14 was used to kill. In truth, Chairperson, in crowd 15 management we do not go there to kill, we go there to 16 manage and control the crowd, the situation. 17 CHAIRPERSON: Yes, I understand that but 18 if your bird – sorry, if your rubber balls aren't working 19 and your teargas isn't working and your stun grenades 20 aren't working, what can you use? At the moment it would 21 appear, all you can use is an R5, isn't that right? And 22 water cannons, sorry – if water cannons don't work, they 23 didn't work at Marikana, teargas doesn't work, it didn't 24 work at Marikana, rubber balls don't work, didn't work at 25 Marikana, stun grenades don't work, didn't work at</p>	<p style="text-align: right;">Page 26746</p> <p>1 conditional question. I asked you if you had been there – 2 you said you've never used it on a crowd. It was used on 3 the crowd at Marikana on the 16th of August. I know you 4 weren't there but if it had – and it was used on the crowd 5 at Marikana on the 16th with fatal consequences for a lot of 6 people, right? 7 COLONEL MERAFFE: Yes. 8 CHAIRPERSON: Now what we're doing is 9 we're comparing, we're testing what Colonel Vermaak said. 10 I'm not saying it's necessarily right but I'm testing what 11 he said. Now if, instead of R5s, birdshot had been used, 12 are you able, with the benefit of your expertise and expert 13 knowledge built up over the period of years that you've 14 been doing POP work, to tell us what you think would have 15 happened or do you decline to answer the question? 16 COLONEL MERAFFE: I was not the overall 17 commander nor the operational commander at Marikana. I 18 think - who would be able to say what would have happened 19 had we used this equipment on that and this equipment. I 20 don't want to answer on their behalf. 21 CHAIRPERSON: Alright. I can note that 22 you decline to answer the question, thank you. 23 COMMISSIONER HEMRAJ: But let's look at 24 the 22nd of May, the incident of the 22nd of May. None of 25 the, the force available to pops was assisted on that day.</p>

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1 The TRT had to come in and fire live ammunition, isn't that
2 correct?

3 COLONEL MERAFAE: Correct, Chairperson.
4 COMMISSIONER HEMRAJ: Thank you.
5 MR CHASKALSON SC: Chair, I just have a
6 concern that there may be a difficulty with the subsequent
7 transcription of this testimony because there are times
8 when the witness and the interpreter are talking
9 simultaneously and maybe if we could just ask Mr Mahlangu
10 to make sure that the witness has stopped speaking before
11 he interprets.

12 CHAIRPERSON: I know it's difficult, Mr
13 Mahlangu, but please try.
14 MR MAHLANGU: I will try, Chairperson.
15 CHAIRPERSON: It's been suggested to me
16 that this is the appropriate time for us to take the tea
17 adjournment. Let's see if Ms Baloyi gives her consent.
18 MS BALOYI: It is certainly a convenient
19 time.
20 CHAIRPERSON: Thank you, Ms Baloyi.
21 [COMMISSION ADJOURNS COMMISSION RESUMES]
22 [12:21] CHAIRPERSON: The Commission resumes.
23 You're still under oath, Colonel. Ms Baloyi?
24 MR MAHLANGU: Chairperson, I just want to
25 put on record that the interpreter from now on would be

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1 Kasane Elias Mabunda.
2 CHAIRPERSON: You've been working hard
3 all morning. I think it only fair that you should be
4 relieved at your post.
5 MR MAHLANGU: Thank you, Chair.
6 OMPHILE JOSEPH MERAFAE: (s.u.o.)
7 EXAMINATION BY MS BALOYI (CONTD.): Thank
8 you, Chair. Colonel, we were dealing with HHH68 and if you
9 could go back to paragraph 11.2 – point 3, sorry, on page 2
10 of that letter and I asked you about what Vermaak, Colonel
11 Vermaak says about allowing members, "Members allow illegal
12 actions at certain areas and the next day they take steps
13 against, for example, illegal strikers or marchers." Are
14 you there?
15 COLONEL MERAFAE: Ja, I see it.
16 MS BALOYI: Yes. Now Chairperson, if we
17 – we've arranged with the technician, if we refer to day 7,
18 207 rather of the transcript at page 25517 starting at line
19 5, do you see that, Colonel?
20 COLONEL MERAFAE: I see it.
21 MS BALOYI: Yes. Now in line 5 up to
22 line 11, do you see the question that is put to Colonel
23 Vermaak by –
24 COLONEL MERAFAE: I do.
25 MS BALOYI: And Colonel Vermaak is

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1 invited to explain what he is referring to with paragraph
2 11.3 of HHH68 and his answer –
3 CHAIRPERSON: Maybe I should translate it
4 for the benefit of those who –
5 MS BALOYI: Thank you, Chair.
6 CHAIRPERSON: - from the screen. He
7 says, yes – the question is asked, "If you can then turn to
8 11.3" says Ms Pillay, "Colonel, 'Members allow illegal
9 actions at certain areas and the next day they take steps
10 against, for example, illegal strikers or marchers. These
11 actions confuse the public and they neglect their
12 responsibility to protect and serve.'" Then Ms Pillay
13 continues, "In the context of – does this apply to the
14 Marikana operation and if it does, what –" The Colonel
15 says in reply, yes, specifically to the Marikana operation.
16 It's a point which I personally raised that the public were
17 allowed to go from Nkaneng, the informal settlement, to the
18 koppie and to move back with dangerous weapons from the
19 Monday onwards. There was never any attempt made to
20 address these people or to deal with these police officer
21 in respect of the weapons which were being carried to and
22 fro. In the mornings early we flew over the area, then
23 there were very few people on the koppie and according to
24 my opinion these people could have been disarmed with
25 minimal potential for big conflict. It's one of the

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1 aspects which I meant there, that you can't allow people
2 one day to take illegal action and the following day wish
3 to act against them.
4 MS BALOYI: Chair, perhaps just to
5 indicate to Mr Mabunda that he is not required to interpret
6 the questions when they are put to the witness in English,
7 interpret only the answer. Now Colonel Merafe, arising
8 from what the Chairperson has read, I have the following
9 question. On the Monday, 13th August, did the police allow
10 strikers, protesters, marchers, to move around with
11 weapons?
12 COLONEL MERAFAE: Ja, on the 13th the
13 police did not stop those strikers to move around with the
14 weapons. Thus we had the incidents which occurred on the
15 13th.
16 MS BALOYI: And from the 13th up to the
17 15th when you were involved with the operation in Marikana,
18 did the police – did the police engage in discussion and
19 negotiations with the strikers about the carrying on
20 weapons or not?
21 COLONEL MERAFAE: Yes, on the 14th up to
22 the 15th, that is while I was still there at Marikana, yes,
23 the police they had some discussion with the strikers in
24 connection with the weapons.
25 MS BALOYI: In your opinion, should the

<p style="text-align: right;">Page 26751</p> <p>1 police have attempted to disarm the strikers on the 14th and 2 the 15th?</p> <p>3 COLONEL MERAFAE: That time, Mr Chair, we 4 were still in discussion with the strikers, that is till 5 the 14th through to the 15th. The discussions was among 6 ourselves, the police and the strikers. Thereafter we 7 wanted also to involve the members of the unions in order 8 to come and address the strikers. To negotiate in good 9 faith - we could not disarm the strikers because we were 10 still discussing with them otherwise there will be some 11 fighting between us and them. We were still on the 12 negotiation stage, that we could not mix the two things at 13 the same time.</p> <p>14 MS BALOYI: Chairperson, those are our 15 questions.</p> <p>16 CHAIRPERSON: Thank you. Mr Wesley, I 17 believe you're going to cross-examine first on behalf of 18 the evidence leaders, is that correct?</p> <p>19 MR WESLEY: Chair, yes. Thank you very 20 much.</p> <p>21 CROSS-EXAMINATION BY MR WESLEY: Colonel, 22 good morning.</p> <p>23 COLONEL MERAFAE: Good morning, 24 Chairperson.</p> <p>25 CHAIRPERSON: It's already half past 12,</p>	<p style="text-align: right;">Page 26753</p> <p>1 COLONEL MERAFAE: That is so.</p> <p>2 MR WESLEY: And on the 22nd of May 2012, 3 the incident that you were attending, that was a crowd 4 control incident?</p> <p>5 COLONEL MERAFAE: Yes.</p> <p>6 MR WESLEY: And on that day in fact, 7 we'll get to the detail later on, you in fact ordered 8 members of the TRT to open fire with R5 rifles on parts of 9 the crowd.</p> <p>10 COLONEL MERAFAE: No, I disagree with you 11 there.</p> <p>12 MR WESLEY: Okay, we'll deal with that 13 answer. You deny having issued such an order.</p> <p>14 COLONEL MERAFAE: I didn't say to them 15 that they should shoot at the people but I said that they 16 use R5s.</p> <p>17 MR WESLEY: Use them in what manner?</p> <p>18 COLONEL MERAFAE: Just at the ditch where 19 our vehicle has fallen, just to shoot on the ground, just 20 to make some sound so that they shouldn't come closer to 21 the police.</p> <p>22 MR WESLEY: To fire their R5s then into 23 the ground.</p> <p>24 COLONEL MERAFAE: The firearm or the R5 25 was not directed to the people but on the other side, just</p>
<p style="text-align: right;">Page 26752</p> <p>1 Mr Wesley.</p> <p>2 MR WESLEY: Good afternoon, Colonel. 3 Colonel, usually I would begin at the correct place to 4 begin which is the beginning but I want to address two 5 issues which you addressed now at the end yourself in your 6 testimony and the first one is a statement that you made. 7 You were being led on the statements or view by some of 8 your members that, you were in fact asked, would less 9 people have been killed if birdshot had been used rather 10 than R5s – it was by the Chair. You then went on to 11 explain in your answer that you've been in public order 12 policing for 27 years, you explained that – I'm summarising 13 your answer – that Marikana was the first time where you 14 saw that rubber rounds and stun grenades were incapable of 15 controlling crowds. Am I correct so far?</p> <p>16 COLONEL MERAFAE: That is so.</p> <p>17 MR WESLEY: You then made a very emphatic 18 statement. You said, and my note is also cryptic so you 19 may have used more words but you said words to the effect 20 that, in public order policing I have never used R5 rifles 21 on a crowd.</p> <p>22 COLONEL MERAFAE: I spoke the truth, yes.</p> <p>23 MR WESLEY: But Commissioner Hemraj then 24 directed your attention to the events at Tlabane on the 22nd 25 of May 2012, is that not correct?</p>	<p style="text-align: right;">Page 26754</p> <p>1 in the direction where our vehicle fell.</p> <p>2 MR WESLEY: We'll get to that. I'll take 3 you through that and I also want to do it with some 4 photographs which I hope you wil find interesting, where 5 you can explain exactly what happened that day. The second 6 issue I want to deal with you, you mentioned two recent 7 events, Mothotlung, am I correct? Please excuse my 8 pronunciation.</p> <p>9 COLONEL MERAFAE: Mothotlung.</p> <p>10 MR WESLEY: Mothotlung.</p> <p>11 COLONEL MERAFAE: Mothotlung.</p> <p>12 MR WESLEY: As you said it. And Bapong.</p> <p>13 COLONEL MERAFAE: As well as Bapong.</p> <p>14 MR WESLEY: Now you said that these 15 incidents, these were recent. When did they occur?</p> <p>16 COLONEL MERAFAE: At Mothotlung, which 17 happened just some few months ago, just after Marikana and 18 then Bapong it was before Marikana.</p> <p>19 MR WESLEY: Bapong was before Marikana. 20 Mothotlung, did you, were any members of your unit – I just 21 want to get the exact word that you used to describe it – 22 any members under your command present?</p> <p>23 COLONEL MERAFAE: Yes, those who were 24 operating there, they were from my unit, my satellite at 25 Klipgat.</p>

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1 MR WESLEY: Is that public order policing
 2 members?
 3 COLONEL MERAFAE: POP members.
 4 MR WESLEY: You said at this incident
 5 birdshot was used to kill?
 6 COLONEL MERAFAE: Well, according to the
 7 investigation it is how it has been detected.
 8 MR WESLEY: Was the use of birdshot or
 9 has the use of birdshot been authorised in recent times,
 10 the use of birdshot by POP members or any SAPS members for
 11 that matter?
 12 COLONEL MERAFAE: No, it was not permitted
 13 in recent times.
 14 MR WESLEY: Were these members that were
 15 under you, from your command, issued with pellets or
 16 birdshot?
 17 COLONEL MERAFAE: Chair, we are still
 18 investigating how did they find it, who, where did they get
 19 it.
 20 MR WESLEY: I understand but my question
 21 is, officially, you're the commander, were they issued?
 22 MR MABUNDA: According to his knowledge,
 23 Chair, they were not given officially.
 24 MR WESLEY: Yes. Please, all your
 25 answers must be according to your knowledge. These members

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1 still managed to obtain birdshot. These members still
 2 managed to obtain birdshot.
 3 COLONEL MERAFAE: Chair, would you kindly
 4 repeat your question?
 5 MR WESLEY: My question is, we know that
 6 these members weren't issued with birdshot but nevertheless
 7 they still managed to obtain birdshot and we know that they
 8 used it, in your words, to kill?
 9 COLONEL MERAFAE: Well, according to the
 10 investigation they are still questioning them.
 11 MR WESLEY: Yes.
 12 COLONEL MERAFAE: Where did you get them,
 13 because if they were never officially issued to you.
 14 MR WESLEY: Yes.
 15 COLONEL MERAFAE: Or authorised to you.
 16 MR WESLEY: Yes. Now where they obtained
 17 it, we know you say you're still investigating but the fact
 18 is they still managed to get some birdshot and they used it
 19 on the day, in your words, to kill.
 20 COLONEL MERAFAE: That is so, Chair.
 21 MR WESLEY: Now, you say in paragraph 8.1
 22 of –
 23 COMMISSIONER HEMRAJ: Are you moving away
 24 from that that incident, Mr Wesley?
 25 MR WESLEY: M'Lady, yes, if you would

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1 like a question.
 2 COMMISSIONER HEMRAJ: Yes, thank you.
 3 Was your unit from Klipgat the only police members
 4 attending that scene where birdshot was used?
 5 COLONEL MERAFAE: Well, there were some
 6 other police from Mothotlung police station. They were
 7 party, they joined my unit.
 8 COMMISSIONER HEMRAJ: Were there other
 9 POP units present apart from the one from Klipgat?
 10 COLONEL MERAFAE: There were only,
 11 initially they were only from Klipgat but the others they
 12 joined them at a later stage after the incident.
 13 COMMISSIONER HEMRAJ: And the members
 14 from the station that joined your unit, were they in
 15 possession of shotguns?
 16 COLONEL MERAFAE: No.
 17 COMMISSIONER HEMRAJ: Thank you.
 18 MR WESLEY: Now you mention in paragraph
 19 8.1 of exhibit QQQ1 against the words "Use of pellets – I
 20 am aware that there is evidence that some of the strikers
 21 on 16 August 2012 were shot with pellets." Correct?
 22 COLONEL MERAFAE: That is so, Chair.
 23 MR WESLEY: We know of – you can take my
 24 word for it there's four injuries, birdshot, four people
 25 that picked up birdshot injuries and at least one death

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1 that was caused by birdshot. Did you know that, on the 16th
 2 of August?
 3 COLONEL MERAFAE: Well, I hear it from
 4 you.
 5 MR WESLEY: Okay. And at the scene on
 6 the 16th of August – you know the scenes, if we talk about
 7 the scenes, if I talk about the kraal, do you know the
 8 shooting at the kraal, the first shooting? You understand
 9 if I talk about the shooting at the kraal?
 10 COLONEL MERAFAE: I hear and understand.
 11 MR WESLEY: And you know also about the
 12 shooting that occurred, the second incident which is at
 13 koppie 3?
 14 COLONEL MERAFAE: Yes.
 15 MR WESLEY: Okay. You had members at
 16 what we call scene 1, the first shooting, members from your
 17 command.
 18 [12:41] COLONEL MERAFAE: Chair, I don't
 19 understand this, whether it's a statement or it's a
 20 question to me or you're answering me. I don't understand,
 21 it's ambiguous.
 22 MR WESLEY: The information that we have
 23 is that public order policing members, some of who came
 24 from your unit, were present at that shooting.
 25 COLONEL MERAFAE: You tell me. Well, I

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1 was not there, you are just telling me. I hear from that.

2 MR WESLEY: I accept then, but you do say

3 emphatically in paragraph 8.1 that none of the members

4 under your command were issued with pellets.

5 MR MABUNDA: Once, Chair, if we give them

6 the weapons we write down what type of weapons we have

7 given to each individual.

8 COLONEL MERAFAE: Ammunition.

9 MR MABUNDA: Ammunition, we write it

10 down.

11 COLONEL MERAFAE: Well, just before

12 Marikana, it was long ago that it has been, there was some

13 letter which said that we have stopped to use the birdshot,

14 so we wouldn't be in a position to issue them or to

15 authorise it to them because seeing that it has been

16 stopped, the usage of.

17 MR WESLEY: Yes, we'll get to that

18 letter. The simple point I want to actually make after all

19 of that is that at Mothotlung we know that at least your

20 members were not issued with birdshot. Nevertheless, and

21 I'm not saying it was your members that shot, we know that

22 birdshot was used at that place then to kill people. Is it

23 not also feasible, despite the fact what you say, that

24 birdshot was not issued to your members at Marikana, that

25 they could likewise have obtained birdshot elsewhere and

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1 used it to kill on the 16th of August?

2 COLONEL MERAFAE: That is so, yes, Chair.

3 MR WESLEY: Thank you, Colonel. Now we

4 can go to the start. Colonel, I want to take you through

5 your statements just to understand how they came about.

6 Time is an issue, so it's not always necessary for you to

7 refer to the document. If I do feel it is 100% necessary

8 to see a quote or something, then of course I'll refer you

9 to it but for the most part I'm going to try and read from

10 my notes what is in a paragraph just to save some time, if

11 you don't mind. In paragraph 1 of QQ3, now that's your

12 supplementary statement dated 29 November 2013, QQ3 – it's

13 actually QQQ3, I beg your pardon, QQQ3. In paragraph 1 you

14 state that you drafted what is now exhibit QQ2, I see it's

15 up on the screen. You drafted what is referred to there,

16 the unsigned statement that is dated 30 November 2012

17 yourself and you also drafted what is statement GGG15.

18 What's referred to there as the unsigned statement that is

19 dat3d 30 November 2012, that is now what is before this

20 Commission as QQQ3, QQQ2.

21 CHAIRPERSON: The statement you're

22 referring to at the moment is QQQ3 and the unsigned

23 statement which he drafted himself is QQQ2.

24 MR WESLEY: Is that correct?

25 COLONEL MERAFAE: Correct.

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1 MR WESLEY: And in paragraph 1 of QQ3 up

2 on the screen you also state that the content of that

3 statement is true and correct. That's a reference to QQQ2.

4 Do you see that? The whole paragraph reads, "I drafted the

5 unsigned statement that is dated 30 November 2012 myself."

6 COLONEL MERAFAE: Okay, yes.

7 MR WESLEY: And then you say, "The

8 content of that statement is true and correct."

9 COLONEL MERAFAE: Yes.

10 MR WESLEY: Now with regard to QQQ2, when

11 did you begin drafting that?

12 COLONEL MERAFAE: Let me check. I wrote

13 the date on the bottom.

14 MR WESLEY: You can go to the document –

15 COLONEL MERAFAE: The date of the

16 statement, ja, on the bottom of the statement. I've

17 inserted or put down the date on which I drafted it.

18 MR WESLEY: If you go then to the end of

19 the document, I think maybe that's what you're referring

20 to. It's up on the screen now. You made provision in the

21 attestation certificate for the document to be signed at

22 Rustenburg POP on – and the date is 2012-11-30 at time

23 09:45. Okay, so we know that you did that, you wrote that

24 there but when did you start drafting this? Same day?

25 COLONEL MERAFAE: I cannot quite remember

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1 which date when I started to draft it because I will be

2 lying to the court but I will just, estimation that it is

3 around there, that date.

4 MR WESLEY: Was it in the week preceding

5 that, the previous day or the week? Can you try and be a

6 little bit more specific?

7 COLONEL MERAFAE: Well, one has to draft

8 and then you hand it over for typing. It could be in that

9 week.

10 MR WESLEY: Now did you begin drafting

11 QQQ2 out of your own volition or were you told to do so?

12 In other words, did you decide to do it yourself or did

13 somebody come and ask you or tell you to do it?

14 COLONEL MERAFAE: Mr Chair, I wrote this

15 statement on my own. Nobody asked me to do that.

16 MR WESLEY: Okay, so you decided yourself

17 to make, to draft this statement?

18 COLONEL MERAFAE: That is so.

19 MR WESLEY: Now the next question is

20 rather obvious, is when did you finish? Is that on the 30th

21 of November 2012?

22 COLONEL MERAFAE: Chair?

23 MR WESLEY: When you finished drafting

24 it.

25 COLONEL MERAFAE: Well, I said to you that

<p style="text-align: right;">Page 26763</p> <p>1 it was during the course of that week, so I will say that 2 that is the date which I completed it. 3 MR WESLEY: Now, reference has been made 4 to – and I don't want you to go there – to QQQ6. It's a 5 manuscript statement that's dated 13 August 2012. 6 Reference has been made to that but also to another 7 statement that you refer to in your evidence that I just 8 want to touch on quickly. On 11 April you referred to a 9 statement that you drafted before Roots. That's one that 10 neither the Commission nor the evidence leaders nor 11 apparently SAPS had seen and you said you were given an 12 undertaking that this matter would be looked into. Is 13 there such a statement that you drafted before Roots? 14 Don't worry about the statement on the screen. Is there 15 another statement, the one you testified to about on the 16 11th April that you would have drafted before Roots? 17 COLONEL MERAFA: Except the statement 18 which you see before this Commission, I don't remember 19 another one. 20 MR WESLEY: Okay. 21 COMMISSIONER HEMRAJ: Are you referring 22 to a statement made to IPID, Mr Wesley? 23 MR WESLEY: Commissioner, I don't 24 actually know what the statement was because we haven't 25 seen it. All I know from the testimony is that it was made</p>	<p style="text-align: right;">Page 26765</p> <p>1 were then provided with a copy that Mr Wesley – QQQ6. What 2 we've also done, Chair, is we're enquiring with IPID 3 whether there were any statements because the witness 4 doesn't remember. He says he does remember he did a 5 statement for a case but he doesn't quite remember what 6 else he did. So we're waiting for a response from IPID, 7 whether they have any copies of his statement. 8 MR WESLEY: Thank you. Chair, I might 9 also mention, we've checked, we can't find such a statement 10 in our possession but we will also be following this up 11 with IPID. 12 CHAIRPERSON: Are you saying that there 13 was no such, no statement of the kind we're now discussing 14 on the police hard drive? 15 MR WESLEY: We haven't found it. 16 CHAIRPERSON: Well, I presume if there 17 was one – 18 MR WESLEY: It's certainly not on the 19 SAPS hard drive that we were given, it's just not there. 20 We're not saying it doesn't exist and we will follow it up. 21 CHAIRPERSON: Ms Baloyi says she's trying 22 to follow it up too, so – 23 MR WESLEY: And it – 24 CHAIRPERSON: - one of you will get there 25 sooner than the other.</p>
<p style="text-align: right;">Page 26764</p> <p>1 before Roots. QQQ6 was made with regard to, we know that 2 the incident on the 13th, for purposes of opening a docket. 3 I'm not going to be referring to an IPID statement but it 4 could be that there is an IPID statement. Maybe we can ask 5 the Colonel. Colonel, other than the statements that we've 6 seen of yours that are before the Commission now, was there 7 another statement you maybe gave to IPID? 8 COLONEL MERAFA: Well, Chair, I cannot 9 remember but if it is there you can just show, bring it 10 here so that I could see it. 11 COMMISSIONER HEMRAJ: Colonel, I recall 12 you saying that – you were asked whether the statement you 13 made for IPID was a warning statement or a witness 14 statement and you confirmed that you in fact made a witness 15 statement to IPID. 16 COLONEL MERAFA: Chair, there where I 17 work, the people of IPID would come and look for a 18 statement sometimes then I wrote. I cannot be sure but if 19 is there any statement, it could be produced before the 20 Commission – 21 CHAIRPERSON: Ms Baloyi, you've turned 22 your light on, do you want to say something? 23 MS BALOYI: Yes, thank you, Chair. 24 Chair, following the Chairperson's questions to the witness 25 about whether he made a statement or not before GGG15, we</p>	<p style="text-align: right;">Page 26766</p> <p>1 MR WESLEY: And it wasn't either in the 2 IPID documents that we received, Chair, but we'll follow 3 this up. Colonel – 4 CHAIRPERSON: The police archive that 5 wasn't given to the evidence leaders but was on Colonel 6 Scott's computer, was there anything of that kind there? 7 MR WESLEY: Not that we're aware of, 8 Chair, but again we'll make the necessary enquiries. 9 Colonel, to come back to the thrust of what I want to get 10 at, I'm saying forgetting QQQ6 which you see here and the 11 other statements which you may have given to IPID, QQQ2 12 which I refer to as your unsigned statement, that is a 13 statement that we know of that was written by you closest 14 in time to the events before and at Marikana during 10 to 15 16 August than any other statement that you made. 16 MR MABUNDA: He said he doesn't 17 understand your question, that you are referring to the 18 statement is closest to Marikana or what. 19 MR WESLEY: Okay, I'll make it simple. 20 Marikana, if I refer to Marikana, the events there, I'm 21 referring to the events between 10 and 16 August 2012. 22 What I'm putting to you is that – and it's obvious, QQQ2 is 23 the one statement that was written to, that you wrote 24 closest in time to those events. The other statements you 25 wrote later.</p>

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1 COLONEL MERAPE: I don't agree. Chair, I
2 will disagree with that because once I complete my
3 statement I would insert or put a date, then I will say
4 that that is the day on which I made the statement.
5 CHAIRPERSON: Ms Baloyi, you turned your
6 light on. I didn't notice it initially.
7 MS BALOYI: Yes, thank you, Chair.
8 Chair, what is being put to the witness is not factually
9 correct. We have QQQ6 which is a statement prepared by the
10 witness and signed by him and that is closest to the events
11 in Marikana, in theory.
12 MR WESLEY: Chair, may I respond?
13 CHAIRPERSON: Yes, of course.
14 MR WESLEY: I prefaced my question with
15 "leaving aside QQQ6 and the other statement that you
16 referred to," which he may have made and then given to
17 IPID. My question was specifically prefaced leaving those
18 aside.
19 CHAIRPERSON: Yes. I think in those
20 circumstances that the objection must be disallowed. You
21 may proceed, Mr Wesley.
22 MR WESLEY: Colonel –
23 CHAIRPERSON: He's answered the question
24 anyway, so you may as well carry on with the next one.
25 MR WESLEY: Yes. It's not a difficult

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1 matter. Let me maybe ask you this way. Now understand, we
2 know about QQQ6 so put that one aside and forget about it,
3 okay? Will you do so?
4 COLONEL MERAPE: Put it aside won't help
5 me. I should always remember about it.
6 MR MABUNDA: Because some of the things
7 which I've mentioned in the QQQ6, they go into the other
8 statements. As a result I'm not prepared to be told that I
9 should put it aside because it has something to do with the
10 statements which I've just produced -
11 COMMISSIONER HEMRAJ: Colonel, after –
12 COLONEL MERAPE: - that I've got to
13 remember, the things which I have to remember they are
14 contained in QQQ6. Thus I'm saying I won't agree with you
15 that I should put it aside because it has got something
16 with my statements.
17 COMMISSIONER HEMRAJ: Colonel, after you
18 made this statement QQQ6 on the 13th of August, the next
19 statement that we know about that you made is QQQ2 which
20 was made on 30 November 2012, is that right?
21 COLONEL MERAPE: That is correct, Chair.
22 MR WESLEY: Colonel, let me make an
23 agreement with you now. If I ask you a question that you
24 don't understand, will you undertake to say to me, Mr
25 Wesley, I don't understand what you're saying?

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1 COLONEL MERAPE: Well, that is correct,
2 Mr Chair. If I don't understand your question, I will tell
3 you that I don't understand what you are saying but if I
4 see that you are putting the questions, that which mislead
5 me, then I will say no.
6 CHAIRPERSON: Well, with that promise we
7 can take the lunch adjournment.
8 [COMMISSION ADJOURNS COMMISSION RESUMES]
9 [14:08] CHAIRPERSON: The Commission resumes.
10 Colonel, you're still under oath. Yes, Mr Wesley?
11 OMPHILE JOSEPH MERAPE: (s.u.o.)
12 CROSS-EXAMINATION BY MR WESLEY (CONTD.):
13 Thank you, Chair. Colonel, we've established that between
14 16 August and 29 November you didn't draft a statement,
15 another statement other than QQ2, QQQ2.
16 COLONEL MERAPE: I hear.
17 MR WESLEY: Now when you wrote QQQ2, the
18 events at Marikana were fresh in your memory.
19 COLONEL MERAPE: That is so.
20 MR WESLEY: And would you agree that the
21 memory of the events at Marikana that you had was better
22 then that later on because it was closer to the time?
23 COLONEL MERAPE: That is so.
24 MR WESLEY: And in QQQ2 you intended to
25 set out a detailed exposition or version of the events at

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1 Marikana.
2 COLONEL MERAPE: That is so.
3 MR WESLEY: But you also set out a
4 detailed exposition of events before Marikana as well and
5 here specifically you refer to meetings on the 22nd or
6 rather the events on 22nd May and various other meetings
7 that you had prior to the events at Marikana.
8 COLONEL MERAPE: That is so.
9 MR WESLEY: And when you drafted QQQ2 you
10 wanted to give a complete or full exposition of the events
11 at Marikana and before Marikana.
12 COLONEL MERAPE: That is so.
13 MR WESLEY: When you drafted QQQ2, having
14 read it and we'll go through it in detail now-now, you
15 didn't think that you'd have to draft another statement for
16 this Commission. Did you think that while you're drafting
17 this, I'm going to have to draft another one at some point
18 in time?
19 COLONEL MERAPE: Ja, well, I have drafted
20 that one and then if it happened that there will be some
21 other thing which I've forgotten or omitted, I could also
22 write about it.
23 MR WESLEY: But you tried to write it all
24 down in QQQ2, though?
25 COLONEL MERAPE: Chair, I'll say that I

<p style="text-align: right;">Page 26771</p> <p>1 just made all attempt to, the way how I could remember it.</p> <p>2 MR WESLEY: Yes, absolutely. Can the</p> <p>3 Commissioners accept that QQQ2 is the most reliable written</p> <p>4 version of the events at Marikana and before that, made by</p> <p>5 you?</p> <p>6 COLONEL MERAFAE: Chair, all the</p> <p>7 statements which I have just made, as far as I'm concerned</p> <p>8 that they could be admitted in this Commission.</p> <p>9 COMMISSIONER HEMRAJ: Is it the most</p> <p>10 comprehensive statement you've made?</p> <p>11 COLONEL MERAFAE: Te comprehensive</p> <p>12 statement should be allowed as much as other statements</p> <p>13 that I have submitted.</p> <p>14 MR WESLEY: No, the question really is,</p> <p>15 is it the most comprehensive statement that you made?</p> <p>16 COLONEL MERAFAE: As far as I am concerned</p> <p>17 I will say that, yes.</p> <p>18 MR WESLEY: Thank you. Now we heard you</p> <p>19 testify about your professional life in SAPS and your</p> <p>20 experience in public order policing, which I may say is</p> <p>21 extensive and we'll return to that but at Marikana during</p> <p>22 that week 10 to 16 August and please accept, I know you</p> <p>23 weren't there on the 16th of August so let's say, let's be</p> <p>24 specific, let's say 10 to 15 August – you were one of the</p> <p>25 leading exponents of public order policing in the police</p>	<p style="text-align: right;">Page 26773</p> <p>1 COLONEL MERAFAE: I agree with you, Chair.</p> <p>2 MR WESLEY: And your insights about what</p> <p>3 happened at Marikana would also, for the same reason, have</p> <p>4 been extremely important for purposes of the police</p> <p>5 explaining to these Commissioners what happened at</p> <p>6 Marikana.</p> <p>7 COLONEL MERAFAE: I will agree, yes Chair,</p> <p>8 because thus I'm one of the witnesses on behalf of the</p> <p>9 SAPS.</p> <p>10 MR WESLEY: After you drafted QQQ2, what</p> <p>11 did you do with it?</p> <p>12 COLONEL MERAFAE: Chair, I would like to –</p> <p>13 is it the unsigned statement?</p> <p>14 MR WESLEY: Yes. Please forgive me, it's</p> <p>15 the unsigned statement, that's right. What did you do with</p> <p>16 it after you'd finished drafting it?</p> <p>17 COLONEL MERAFAE: Well, I had it, it was</p> <p>18 in my possession but I knew that Pretorius was also in</p> <p>19 possession of the copy of that statement.</p> <p>20 MR WESLEY: Pretorius, sorry, we've got</p> <p>21 several Pretoriuses. Are you referring to Brigadier</p> <p>22 Pretorius?</p> <p>23 COLONEL MERAFAE: Ja, Brigadier Pretorius.</p> <p>24 MR WESLEY: Okay. I'm only asking</p> <p>25 because you'll remember the police's attorney is Mr</p>
<p style="text-align: right;">Page 26772</p> <p>1 that was there.</p> <p>2 COLONEL MERAFAE: I agree, Chair, that I'm</p> <p>3 one of them.</p> <p>4 MR WESLEY: I'd go so far as to say that</p> <p>5 if you look at your experience and the courses that you've</p> <p>6 done as well, so it's your practical learning and your</p> <p>7 theoretical learning, you must be regarded as somewhat of</p> <p>8 an expert on public order policing.</p> <p>9 CHAIRPERSON: An expert on public order –</p> <p>10 you hesitate? If you're not an expert on public order</p> <p>11 policing after 27 years, when are you going to be an</p> <p>12 expert?</p> <p>13 COLONEL MERAFAE: I don't doubt myself,</p> <p>14 your worship, as far – concerning the knowledge of the POP</p> <p>15 but I won't put myself to that title of that aspect.</p> <p>16 MR WESLEY: I accept that. Let me phrase</p> <p>17 it then a little more simply. I understand, you're</p> <p>18 obviously not a vain person. You know the job of public</p> <p>19 order policing very well.</p> <p>20 COLONEL MERAFAE: I know the job, yes.</p> <p>21 MR WESLEY: And being somebody who knows</p> <p>22 the job very well and having been there, your insights</p> <p>23 about what happened at Marikana would have been extremely</p> <p>24 valuable to the police for purposes of understanding their</p> <p>25 own conduct during that week.</p>	<p style="text-align: right;">Page 26774</p> <p>1 Pretorius as well, so we don't want to be confused.</p> <p>2 COLONEL MERAFAE: Brigadier Pretorius.</p> <p>3 MR WESLEY: Brigadier Pretorius. Now you</p> <p>4 must please accept my word for it, what I'm going to put to</p> <p>5 you now. We received what we called, amongst the evidence</p> <p>6 leaders, an IPID hard drive. That was fairly early on in</p> <p>7 the Commission. We received it before 30 November 2012 so</p> <p>8 your statement, we didn't find it on there and it was,</p> <p>9 obviously it wouldn't have been on that hard drive. Do you</p> <p>10 agree?</p> <p>11 COLONEL MERAFAE: Chair, I don't</p> <p>12 understand as to whether you say that would be the hard</p> <p>13 drive of the police or the IPID.</p> <p>14 MR WESLEY: We also then later on</p> <p>15 received what we called initially the SAPS hard drive. We</p> <p>16 didn't find QQQ2 on that either, also probably for the</p> <p>17 reason that we received that prior to 30 November 2012,</p> <p>18 which is when you drafted the document. You accept that?</p> <p>19 COLONEL MERAFAE: Chair, I don't</p> <p>20 understand whether you said you found the statement, you</p> <p>21 received the statement before or at a later stage. That I</p> <p>22 cannot understand very well, what do you mean by that?</p> <p>23 MR WESLEY: Okay, well –</p> <p>24 CHAIRPERSON: What he's saying is he got</p> <p>25 a hard drive containing the IPID, the statements that IPID</p>

<p style="text-align: right;">Page 26775</p> <p>1 had. Your statement, there wasn't a statement from you 2 there. Then they also got a hard drive from the police but 3 they got it before the 30th of November and they didn't get 4 your unsigned statement there either. That's what he's 5 putting to you. You accept that? 6 COLONEL MERAPE: I accept that, yes. 7 MR WESLEY: Now during September last 8 year, 2013, we started obtaining several more hard drives 9 from individual members in SAPS. Did you hear about that 10 process? 11 COLONEL MERAPE: Chair, I heard about 12 that. 13 MR WESLEY: Now will you please accept – 14 I can show you, I can show your legal team as well – we did 15 find your statement which became QQQ2 in two places on the, 16 what we call the SAPS further hard drives. One, as you've 17 indicated, was on Brigadier Pretorius's yellow hard drive 18 in a folder called "Marikana master statements/statements/" 19 and the document there is called "Statement Merafe 7 dot 20 docx" and it has a date modified, 2012/12/03 and time 21 08:48. So we found your statement in that folder on 22 Brigadier Pretorius's yellow hard drive. Do you accept 23 that? 24 COLONEL MERAPE: I have already explained 25 that, ja, I agree.</p>	<p style="text-align: right;">Page 26777</p> <p>1 MR WESLEY: So what we then know is that 2 after you drafted the statement you gave it to Brigadier 3 Pretorius and we know then it was saved by her on at least 4 one of her hard drives and also then saved at some point in 5 time on Colonel Scott's, one of Colonel Scott's hard 6 drives. 7 COLONEL MERAPE: I will say that, well, 8 as far as I know is that it was in Brigadier Pretorius. 9 That he could have forwarded it to somebody, as Scott, I 10 think he will be having the knowledge of saying that who, 11 or he is the one who knows who sent it through to Scott. 12 MR WESLEY: But I heard you use the 13 phrase "nodal point." 14 COLONEL MERAPE: Well, where we make the 15 statement, that's in the office of Brigadier Pretorius, 16 is where the statement has been handed, in his office. 17 MR WESLEY: And are they then distributed 18 from that office again? 19 COLONEL MERAPE: I will say so, yes. 20 MR WESLEY: Now you testified on the 11th 21 of April – let me, before I get to that, do you know if 22 your statement was then distributed after you gave it to 23 Brigadier Pretorius? Do you know anything? 24 COLONEL MERAPE: Yes. Well, I have a 25 knowledge that it can be sent to some other people, yes.</p>
<p style="text-align: right;">Page 26776</p> <p>1 MR WESLEY: Yes. And the date modified, 2 I don't want to argue with you about it, will you accept 3 that the date modified is an indication of when the 4 document was saved on that hard drive for the first time? 5 COLONEL MERAPE: Yes, I understand – 6 CHAIRPERSON: The date, Mr Wesley? 7 MR WESLEY: The 3rd January 2012. 8 CHAIRPERSON: Thank you. 2012 or 2013? 9 MR WESLEY: 2012. 10 CHAIRPERSON: How can that be? 11 MR WESLEY: No, that can't be. 12 CHAIRPERSON: The statement deals with 13 events that took place, amongst other things, in August 14 2012. So it would have required considerable foresight or 15 prescience to have made that statement on the 3rd of January 16 2012. 17 MR WESLEY: Chair, I hadn't picked that 18 up, I do apologise. There must be an error there but 19 you've testified you gave it to Brigadier Pretorius. We 20 found it on her hard drive. 21 COLONEL MERAPE: That is so, Chair. 22 MR WESLEY: We also found it on one of 23 Colonel Scott's hard drive, the same document, "Statement 24 Merafe 7." 25 COLONEL MERAPE: That is so, Chair.</p>	<p style="text-align: right;">Page 26778</p> <p>1 MR WESLEY: Now you testified on the 11th 2 of April that you thought that QQQ2 was drawn from a 3 computer because they, meaning us, the evidence leaders, 4 went through the hard drives. Do you remember that? 5 COLONEL MERAPE: Chair, I admit that 6 they, I overheard when you say that they said you needed 7 some hard drives, so I agree that it could have been 8 distributed in that way. That is the moment when you were 9 looking for the hard drives. 10 MR WESLEY: Do you know why QQQ2 was not 11 provided directly to the Commission or the evidence leaders 12 before it was found on the hard drive? 13 COLONEL MERAPE: Chair, I don't have any 14 knowledge how you didn't receive it before. 15 MR WESLEY: What we were given was the 16 statement that is now GGG15 before the Commission. Do you 17 have that document with you? We're going to have to look 18 at it. 19 COLONEL MERAPE: I have opened it, yes. 20 MR WESLEY: Okay, if you can open that 21 and then – 22 CHAIRPERSON: That's the statement dated 23 the 20th of December 2012, whereas the document to which 24 counsel has been referring you, QQQ2, was, as we've seen, 25 unsigned but appears to have been finally typed on the 30th</p>

<p style="text-align: right;">Page 26779</p> <p>1 of November 2012. So in other words this QQQ2 was finally 2 typed at the end of November 2012. For some reason it 3 wasn't signed but what was done instead was another 4 statement was prepared which is GGG15 and that was actually 5 attested by you on the 20th of December. Sorry, you deposed 6 it actually, you signed it and swore to it on the 20th of 7 December 2012. That's the point counsel is putting to you. 8 Is that right, Mr Wesley? 9 COLONEL MERAPE: That is so, Chair. 10 MR WESLEY: Now if you – well, I've done 11 a very cursory comparison of the content of GGG15 which is 12 the statement which is up there now, and QQQ2 which is the 13 statement that you drafted but never signed. Now I'm going 14 to take you through them but some of the differences 15 between the two on the surface are fairly innocuous and 16 really amount to a change in nuance or accent, but others 17 are not. 18 COLONEL MERAPE: Chair, I would love that 19 the question should be repeated so that I could understand 20 it. 21 MR WESLEY: I asked you please to do that 22 and I'll happily, happily rephrase it. I've looked at 23 GGG15, triple G15. I put it to the one side and I've taken 24 QQQ2 and I've put it on, next to GGG15. I've looked at 25 them, I've compared the content and I see that they're not</p>	<p style="text-align: right;">Page 26781</p> <p>1 numbers, do you see that? 2 COLONEL MERAPE: I see that, Chair. 3 MR WESLEY: Okay. So what I have done, I 4 have inserted paragraph numbers in pencil on my copy and 5 I'm going to be following those if I refer to a paragraph 6 number. Paragraph 1 begins, the sentence there, "I am 7 Lieutenant-Colonel." The second one, "I hereby make the 8 following statement," that's paragraph 3 and so on and so 9 on and so on. 10 COLONEL MERAPE: Yes. 11 MR WESLEY: So I'll be able to lead you 12 through it and you'll be able to follow me. Okay, so "I'm 13 Lieutenant-Colonel," that's paragraph 1 if you've got that. 14 The rest just follow. 15 CHAIRPERSON: Perhaps when you get onto 16 subsequent pages if you can just tell us where on the page 17 the paragraph begins and give us the opening words of the 18 paragraph. 19 MR WESLEY: I'll do so, Chair, I'll do 20 that. Now paragraph 2, well, start with paragraph 1 just 21 to put you in the picture. You say, "I am a Lieutenant- 22 Colonel in the South African Police Service stationed at 23 Rustenburg public order police unit and posted as the unit 24 commander under immediate command of the provincial head 25 ORS, Brigadier Calitz." That's paragraph 1.</p>
<p style="text-align: right;">Page 26780</p> <p>1 the same. Some of the changes aren't so serious, they're 2 not big changes but others, I will argue at the end of the 3 day, are quite serious and are big changes and I want to 4 take you through those now to see if you agree with me. 5 [14:27] COLONEL MERAPE: Chair, I understand. 6 MR WESLEY: If you look at – 7 CHAIRPERSON: Sorry, before you get 8 there, before you ask him anything, can you remember when 9 you signed what is really the second statement, the one of 10 the 20th of December 2012, can you remember when you looked 11 through it that there were bits in it that differed from 12 what had been in the earlier statement, that there were 13 changes that were intentionally made – mistakes or 14 something that you picked up in the first statement that 15 you wanted to make sure weren't repeated in the new one? 16 COLONEL MERAPE: Chair, when I wrote the 17 first statement I wrote it alone and then – while the 18 second statement, I wrote it with the help of my attorneys. 19 CHAIRPERSON: [Microphone off, inaudible] 20 the question, but if that's the best answer you can give, 21 we'll leave it there. 22 MR WESLEY: Chair, I'm going to return to 23 that point. We may get some further information, but let's 24 just look at the two documents. In paragraph 2, or let me 25 explain it to you this way, QQQ2, there aren't paragraph</p>	<p style="text-align: right;">Page 26782</p> <p>1 COLONEL MERAPE: That is so, Chair. 2 MR WESLEY: Now we're at paragraph 2. 3 Paragraph 2, after you have now introduced yourself and 4 remember you wrote this document, you say the following and 5 this explains the purpose of this document. You say, "I 6 hereby make the following statement to give my version in 7 respect of the Marikana Commission of Inquiry held at 8 Rustenburg Civic Centre." Do you see that? 9 COLONEL MERAPE: Yes, I see that. 10 MR WESLEY: You don't have to go and look 11 at GGG15. I can tell you that GGG15 doesn't contain a 12 sentence like that or a statement to that effect. Will you 13 accept that? 14 COLONEL MERAPE: Yes, I see that. GGG15 15 it doesn't contain that statement which, of which you talk. 16 CHAIRPERSON: May I ask you something 17 else before we carry on? Did you give a – you say that the 18 statement which is GGG15, which we'll call the second 19 statement for brevity, that was prepared by you and your 20 attorney, is that correct? 21 COLONEL MERAPE: That is so, Chair. 22 CHAIRPERSON: Did you give your attorney 23 or did your attorney have a copy of your first statement, 24 exhibit QQQ2, before the second statement GGG15 was 25 compiled?</p>

<p style="text-align: right;">Page 26783</p> <p>1 COLONEL MERAPE: Yes, he knew what I 2 wrote in that one.</p> <p>3 CHAIRPERSON: Did he have a copy? 4 COLONEL MERAPE: Yes, the copy was given 5 to him.</p> <p>6 MR WESLEY: Then another difference that 7 I picked up is in paragraph 4. It's actually paragraph 3 8 of GGG15. Right at the bottom, you see there is a 9 difficulty on that document with paragraph numbering 10 because paragraph 3 has got paragraph 3 and then paragraph 11 4.1, 4.2 and 4.3. So it doesn't quite follow but at the 12 bottom of the first page there's a sentence and it reads, 13 "All operational members in my unit are training in crowd 14 management and weapon handling." Do you see that? 15 COLONEL MERAPE: I see that, Chair. 16 MR WESLEY: Now in QQQ2 you don't tell 17 the Commission anything about your members having training 18 in crowd management and weapons handling. 19 COLONEL MERAPE: Chair, I have explained 20 that while writing the GGG15, I was being, I have been 21 helped by my lawyer. So maybe he has discovered that there 22 was something which concerned the law, that is as far, as 23 if Q2 – which it was not there in Q2, that he wanted me to 24 add now at this GGG15. That is when writing the second 25 statement, referring to GGG15.</p>	<p style="text-align: right;">Page 26785</p> <p>1 that it was on advice that you were given that this was 2 then included, this type of material in GGG15.</p> <p>3 COLONEL MERAPE: Ja, it can happen that 4 you give a statement by just a mere estimation, then they 5 will advise you that what would be the precise word to be 6 used. That is the advice which one gets from your lawyer. 7 MS BALOYI: Chair – 8 COLONEL MERAPE: You say it in general – 9 and on the other hand I wrote "resource." 10 MR MABUNDA: I will refer to the 11 resources and resources, just where I mentioned the names 12 and hence in the second one I will say that resources, 13 those are the terminology which help you just to be advised 14 to put them in sequence, thus the difference. 15 MR WESLEY: The difficulty I have with 16 that answer is that in QQQ2 I cannot find an equivalent 17 sentence where you merely say to the Commissioners, POPS 18 Rustenburg, my unit, has resources. I have gone through it 19 many times. 20 COLONEL MERAPE: Paragraph 5, "During all 21 these challenges police management in the province and 22 national made some intervention by providing us with 23 personnel and resources." 24 CHAIRPERSON: I must say, Mr Wesley, I 25 get the impression that paragraph 8 of GGG15 is more or</p>
<p style="text-align: right;">Page 26784</p> <p>1 MR WESLEY: Are you saying you were asked 2 to add something? 3 COLONEL MERAPE: My explanation, Chair, 4 is that when writing GGG15 I have been advised, not that I 5 have been forced that I should add something, but my lawyer 6 advised me, that's different. 7 MR WESLEY: Your lawyer – 8 MS BALOYI: Chairperson, I'm not sure 9 that the interpretation is correct and perhaps the witness 10 should repeat his answer for a proper interpretation. 11 CHAIRPERSON: Repeat your answer please, 12 Colonel, and let's see whether the interpreter got it 13 right. 14 COLONEL MERAPE: Chair, I said that I've 15 been advised with some other points which were needed in 16 the GGG15 by my lawyer, those who could be of importance in 17 front of this Commission to assisting the Commission to 18 make some additions. 19 MR WESLEY: I understand what you're 20 saying. You're also saying GGG15, in the same paragraph 21 you say, "The unit is also in possession of water cannon 22 and armoured vehicles" and that isn't in QQQ2. 23 COLONEL MERAPE: I agree, ja. It is so 24 there, Chair. 25 MR WESLEY: Okay. Now you've explained</p>	<p style="text-align: right;">Page 26786</p> <p>1 less a summary of the fifth unnumbered paragraph on page 1. 2 I don't know if there are any significant changes. They've 3 covered the same ground and in fact to some extent used the 4 same language. 5 MR WESLEY: Yes Chair, they do. Let me 6 take it further because I don't want to debate it with the 7 Colonel. We'll get to the later paragraphs now-now but 8 could you then look at paragraph 3 of QQQ2? I want to show 9 you something else which is troubling. Paragraph 3 of 10 QQQ2, I'll read it to you. It reads as follows, "There 11 have been challenges in how POP units operate in the 12 country due to the changes that was done in the police due 13 to restructuring processes. Some units were closed whereby 14 members were posted to stations and limited resources were 15 left at the units. This challenges led to ineffectiveness 16 in the way public order incidents were policed. It is a 17 known fact that Rustenburg cluster on its own has more 18 mining companies, resorts, factories and venues to host 19 major events and more influx of people from other areas and 20 countries seeking for employment, thus creates more 21 informal settlement near their work place. According to 22 statistics, we are the highest in policing gathering for 23 the past two years." That's correct, that's – the way I've 24 read it? 25 COLONEL MERAPE: That is a point, yes.</p>

<p style="text-align: right;">Page 26787</p> <p>1 MR WESLEY: Yes. Now the Chair just 2 refer to maybe some paragraphs in GGG5 being meant to 3 convey the content. Would I be correct in saying if you 4 read paragraphs 5 and 6 of GGG15, that's meant to convey 5 what I've just read to you? Have a look at paragraphs 5 6 and 6 of GGG15. Let me read them to you. Paragraph 5, 7 "The POP unit at Rustenburg do currently experience a 8 hostage in personnel as members are lost due to 9 restructuring and transfers. These challenges led to 10 additional pressure on the remaining officers as members as 11 the same and more incident must be polices with lesser 12 resources." "6. The Rustenburg policing area is dominated 13 by mining companies, resorts, factories as well as venues 14 that host major events." Were those two paragraphs meant 15 to more or less convey what's in paragraph 3 of QQQ2? 16 COLONEL MERAFAE: Yes, it's the same, 17 Chair. 18 MR WESLEY: You see the really important 19 difference which I picked up from these two texts then is 20 the following. In paragraph 3 of QQQ2 you say something 21 negative, quite negative about the police. It's the 22 following, "These challenges led to ineffectiveness in the 23 way public order incidents were policed." That is, we're 24 going to get to that allegation in future but I will submit 25 to you now, I put it to you it's a damning allegation.</p>	<p style="text-align: right;">Page 26789</p> <p>1 couple of things. One is that SAPS management was aware of 2 the challenges. We know that because otherwise they 3 wouldn't have been able to, wouldn't have known they had to 4 make such interventions. And, two, being aware of these 5 challenges they made some interventions but not all. Do 6 you see that? 7 COLONEL MERAFAE: Yes, Chair, that is so – 8 permanently so. They came for intervention, after that 9 they will go back. That's why it is mentioned that 10 provincial management as well as national management make 11 some interventions. 12 MR WESLEY: Sorry, part of that needs to 13 be translated. 14 MR MABUNDA: They were not being placed 15 on a permanent basis. They were just, the time when I need 16 to be helped they will send some people to come and help 17 me, during those interventions thus. 18 MR WESLEY: So every now and then they'll 19 make some intervention when you need it? 20 [14:47] COLONEL MERAFAE: Well, at the present 21 moment, no, I'll say no because it only depends because 22 there are some changes now. Now there are new members 23 brought in and new vehicles brought at the province. 24 MR WESLEY: I'm going to ask you about 25 the position as it is now.</p>
<p style="text-align: right;">Page 26788</p> <p>1 It's a serious allegation to make. Do you see that 2 allegation there? You wrote it. 3 COLONEL MERAFAE: As far as I'm concerned, 4 Chair, I was just putting down what it is there, showing 5 some points. 6 MR WESLEY: And I've no doubt that – 7 we'll get to that, what you've said there. You've already 8 confirmed it's true. It was true, I'm not fighting with 9 you about that, please understand that, I'm not but what 10 concerns me is if you go and look at GGG15 there's no such 11 allegation in GGG15. 12 COLONEL MERAFAE: Chair, all the points 13 which I've just written in both, GGG15, the unsigned 14 statement, as far as I'm concerned those are the points 15 which I knew myself as Colonel Merafe and I wrote them down 16 as they stand. 17 MR WESLEY: I accept that, I accept that. 18 We're going to get to how GGG15 came about but I accept 19 what you say. Some of the stuff was changed very slightly 20 but I want to get your view on it. Look at paragraph 5 of 21 QQ2, QQQ2, triple Q2. In that there's a part where you 22 tell the Commission the following, "During all these 23 challenges police management in the province and national 24 made some interventions by providing us with additional 25 personnel and resources." What this suggests is that – a</p>	<p style="text-align: right;">Page 26790</p> <p>1 COLONEL MERAFAE: Okay. 2 MS BALOYI: Chairperson, that's not a 3 complete translation of the witness's statement, what he's 4 just said, Chair. 5 MR WESLEY: Chair, might I for the record 6 also say I did ask Ms Baloyi specifically if she does pick 7 up a problem, being a linguist herself, to mention it. 8 CHAIRPERSON: No, I understand that. It 9 isn't a problem. What – I think the best way to do it, 10 let's get the witness to repeat his answer, then listen to 11 the interpretation and then if you think there's a problem 12 then let us know. 13 MS BALOYI: Thank you, Chair. 14 CHAIRPERSON: Colonel, can you please 15 repeat your answer? 16 COLONEL MERAFAE: Chair, first of all 17 there are some processes which are lawful to be followed. 18 For instance, like the vehicles, they buy them but not been 19 bought but there's some procurement that is to be followed 20 in order – processes to be followed when buying the 21 vehicles. As far as the staff itself, the police, are 22 concerned, there is also a training process for the 23 duration of two years. They don't just recruit and bring 24 them there and then. They had to undergo some processes or 25 some training before they are brought over to POP.</p>

<p style="text-align: right;">Page 26791</p> <p>1 MR WESLEY: You mentioned also, if I can 2 just expand a bit, I think you left a part out that, in 3 fairness to you, you said something about as and when you 4 had a need, national or provincial would send it additional 5 personnel or something to that effect, is that correct? 6 COLONEL MERAPE: Chair, I was referring 7 in the previous – that is when I encounter some challenges. 8 It is then that I'll ask the province to help me as well as 9 the national office to help there and then. 10 MR WESLEY: There and then? 11 COLONEL MERAPE: Yes. 12 MR WESLEY: Right. Now you'll remember 13 that the passage we're dealing with here is the following 14 sentence, "During all these challenges police management in 15 province and national made some interventions by providing 16 us with additional personnel and resources." Now I went 17 and had a look at QQQ2 to look now where is this addressed 18 and I found what to me appears to be the sort of opposite 19 or equivalent paragraph which is paragraph 8 in GGG15. Now 20 paragraph 8 reads as follows, "Due to the extent of some of 21 these incidents and to ensure that it is being addressed 22 effectively and sufficiently, provincial and national 23 management had to intervene and provide additional 24 resources from within and from other provinces." Is that 25 correct, what I've read?</p>	<p style="text-align: right;">Page 26793</p> <p>1 I've suggested – 2 CHAIRPERSON: You don't have to tell me – 3 MR WESLEY: We can go through it again. 4 I can do it, it's not a problem. 5 CHAIRPERSON: I think I can see the point 6 but I'm not sure you put it to the witness. 7 MR WESLEY: In paragraph 5 of QQQ2 I said 8 to you, I read it to you and I said to you that this 9 suggests the following, SAPS management was aware of all 10 the challenges that you're facing and being aware of these 11 challenges they made some interventions – not all the 12 interventions, some interventions. That's what paragraph 5 13 of QQQ2 means. You agreed with me. 14 COLONEL MERAPE: I agree. 15 MR WESLEY: But paragraph 8, what that 16 tells us, paragraph 8 of GGG15, what that tells us about 17 SAPS management is that they were aware of the extent, the 18 magnitude of the incidents, that because they were aware of 19 the extent and the magnitude of the incidents they felt 20 compelled - had, you used the word "had" – felt compelled 21 to intervene. Management felt compelled to intervene to 22 ensure that a solution is found and that the intervention 23 that they then did was such as to ensure that after they 24 had intervened, public order policing – you – were able to 25 address those incidents effectively and efficiently.</p>
<p style="text-align: right;">Page 26792</p> <p>1 COLONEL MERAPE: Ja, that is the truth. 2 MR WESLEY: Now this paragraph suggests 3 to me a couple of things which you're trying to say, is 4 that, one, SAPS management was aware of the magnitude or 5 the extent, the whole extent of the problem – of the 6 incidents, rather, the incidents that you're facing. Not 7 the problems, the incidents you're facing. Two, that 8 because of that, SAPS management felt compelled to 9 intervene. You use the word "had," they had to intervene. 10 So they felt compelled to intervene because of all the 11 serious problems you're facing and they did that to 12 "ensure," ensure the solution and that the intervention by 13 the SAPS management was such as to ensure that after the 14 intervention these incident were being addressed by public 15 order policing, your unit, effectively and efficiently. Am 16 I correct in my understanding of the meaning that I have 17 ascribed to paragraph 8? 18 COLONEL MERAPE: Chair, that is so. 19 MR WESLEY: You'll also agree with me 20 then, in as far as SAPS management is concerned they look a 21 lot better if you read paragraph 8 of GGG15 than if you 22 read paragraph 5 of QQQ2. 23 CHAIRPERSON: What do you say about that? 24 Shouldn't you tell him why you say that? 25 MR WESLEY: Chair, the reason is what</p>	<p style="text-align: right;">Page 26794</p> <p>1 COLONEL MERAPE: That is so, sir. 2 MR WESLEY: And I come back to my 3 question, SAPS management look a lot better if you read 4 paragraph 8 of GGG15 than they do if you read paragraph 5 5 of QQQ2. Never mind, don't worry, we'll save that for 6 argument – 7 MS BALOYI: Chair, Chairperson, I think 8 in fairness to the witness Mr Wesley should do what the 9 Chairperson invited him to do, which is to say to the 10 witness in what respect, exactly what does he mean and he's 11 not done that. All that Mr Wesley has done is to repeat 12 the same question. 13 MR WESLEY: Chair, the reasons why I say 14 it is exactly the content of the two paragraphs. The 15 witness has agreed – 16 CHAIRPERSON: In fairness to the witness 17 I think you should put it in a more focused way. 18 MR WESLEY: Chair, in fact I've got 19 sufficient from the witness on this point. Let's not – 20 CHAIRPERSON: No, well, I'd like to ask a 21 question about the same paragraph. You've got QQQ2 in 22 front of you? 23 COLONEL MERAPE: Yes, I have. 24 CHAIRPERSON: Now the fifth paragraph, 25 the one that Mr Wesley has been asking you about, says</p>

<p style="text-align: right;">Page 26795</p> <p>1 "During all these challenges police management in the 2 province and national" – so that's national at head office 3 – 4 COLONEL MERAFAE: Yes. 5 CHAIRPERSON: - and the provincial 6 office, the Provincial Commissioner's office, "they made 7 some interventions by providing us with additional 8 personnel and resources. There has been several meetings 9 held where management raised their concerns regarding the 10 use of force during unrest situations." So that seems to 11 say that management, that must be national management and 12 provincial management, were concerned, they were worried, 13 they were to some extent dissatisfied with the use of force 14 during unrest situations. Am I reading it correctly? 15 COLONEL MERAFAE: Correct, Chair. 16 CHAIRPERSON: Now if I look, however, at 17 GGG15, one sees that that statement has been considerably 18 watered down. The concern has gone. What paragraph 8 says 19 is, "Due to the extent of some of these incidents and to 20 ensure that it's being addressed efficiently and 21 sufficiently – effectively and sufficiently – provincial 22 and national management had to intervene and provide 23 additional resources from within and from other provinces. 24 In addition to above, several meetings were held in order 25 to address the, amongst other, following challenges –</p>	<p style="text-align: right;">Page 26797</p> <p>1 expressing concern about the use of force in suppressing 2 unrest and they are raising that, these are concerns. In 3 GGG15 it's watered down, it's now softer, less critical. 4 COLONEL MERAFAE: Okay. 5 CHAIRPERSON: It's now just challenges 6 that are being address. 7 COLONEL MERAFAE: No, I agree. 8 CHAIRPERSON: You agree with that? 9 COLONEL MERAFAE: I agree to that, yes. 10 CHAIRPERSON: Alright. Of course if 11 you've got both statements it doesn't really matter because 12 the one supplements the other, as you say they talk to each 13 other, but if of course one hasn't got QQQ2 and one only 14 has GGG15, one doesn't know about the concern and the 15 criticism, does one? 16 COLONEL MERAFAE: That is the truth, 17 Chair. 18 CHAIRPERSON: Alright. I think on that 19 note we can take tea. 20 [COMMISSION ADJOURNS COMMISSION RESUMES] 21 [15:21] CHAIRPERSON: The Commission resumes. 22 Now I may as well announce now that at the end of the 23 hearing tomorrow at about half past one I'll be giving the 24 rulings on the application for the in camera, for the 25 Commission to sit in camera and to receive evidence via</p>
<p style="text-align: right;">Page 26796</p> <p>1 insufficient personnel, use of force during uprising, 2 training." So what was previously a matter for concern on 3 the part of management, they were worried and dissatisfied 4 with what was happening, now simply is a challenge that 5 national and provincial management are seeking to address. 6 So there is a difference, isn't there? The full force of 7 the sentence that I read you from QQQ2 has been watered 8 down, it's been diluted. The concern is gone. Now it's 9 just a challenge, the concern on the part of management 10 about the way force was being used in suppressing unrest. 11 What now is simply said is, there's a challenge and they 12 sought to address it. Now why was that watered down? Why 13 was that made less strong, less critical perhaps than was 14 the case in QQQ2? 15 COLONEL MERAFAE: Chair, I will fail to 16 answer but I will make some attempt. At GGG15 I have been 17 helped by my lawyer. I'm trying to compare the two 18 paragraphs - they speak to each other – as far as it's 19 concerned they speak the same language, that's the two – 20 but the direction statement GGG15 and this statement 21 regarding the resources and the awareness that was made to 22 police management seems to be the same things that have 23 been addressed. It's how we understood it, ja, Chair. 24 CHAIRPERSON: No, the difference is in 25 QQQ2 it's the national and provincial management that are</p>	<p style="text-align: right;">Page 26798</p> <p>1 television link and I will merely read the rulings. The 2 reasons will be available from the Secretary of the 3 Commission and he'll be able to send them electronically to 4 anyone who wishes to have them and I think he may even have 5 a couple of hard copies for those who want them in hard 6 copy form. So at about 1:30, just before 1:30 tomorrow 7 I'll be making the, giving the ruling or alternatively 8 refusing the rulings, as the case may be. You're still 9 under oath, Colonel. Mr Wesley? 10 OMPHILE JOSEPH MERAFAE: (s.u.o.) 11 CROSS-EXAMINATION BY MR WESLEY (CONTD.): 12 Chair, thank you. Colonel, before we proceed with other 13 differences between the two documents that we are going 14 through, QQQ2 and GGG15, the subject matter, though, of the 15 paragraphs that I've been dealing with is the same. In 16 paragraph 5 of QQQ2 you're talking about difficulties with 17 personnel and resources, in GGG15 there's mention made of 18 the provision of additional resources. That was the 19 problem in a nutshell and that was, those were – I don't 20 know if it was all, we'll let to other challenges later but 21 certainly some of the challenges that led you to say in 22 paragraph 3 of QQQ2 that these challenges led to 23 ineffectiveness in the way public order incidents were 24 policed. 25 COLONEL MERAFAE: That is so, Chair.</p>

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1 MR WESLEY: Now, just to digress then on
2 that just a little bit, your supplementary statement is
3 QQQ3. Now we will return to this in more detail but I just
4 want to point out to you and ask if I'm correct in this, in
5 paragraph 3 of QQQ3 you address the minutes of a provincial
6 operational response meeting of 16 May 2012 and you say, "I
7 raise my concerns about the shortage of personnel and
8 equipment for POPS in the North-West." It's the same
9 challenge or difficulty that you're referring to in the
10 other paragraphs, personnel and equipment.
11 COLONEL MERAFFE: That is so, Chair.
12 MR WESLEY: And then the last, you deal
13 then with there being insufficient personnel and the
14 equipment problems and then you finish that paragraph by
15 saying the following, "I am still waiting for matters to
16 improve to this day." Do you see that?
17 COLONEL MERAFFE: Yes, I see it.
18 MR WESLEY: And that statement you made
19 on 29 November 2013. You can look at the last page, you'll
20 see it was attested to on 29 November 2013.
21 COLONEL MERAFFE: That is so, sir.
22 MR WESLEY: So from that we can conclude
23 that by 29 November 2013 at least the personnel and
24 resource problems that you'd been complaining about since
25 early 2012 had not been fixed in the North-West Province.

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1 COLONEL MERAFFE: Yes, I – yes, that is
2 so.
3 MR WESLEY: And just to remind you, these
4 were the problems that you said that lead to public order
5 incidents in North-West Province being policed in
6 effectively.
7 COLONEL MERAFFE: That is so, Chair.
8 MR WESLEY: So when there's mention made
9 in paragraph 8 of GGG15 of management ensuring or taking
10 steps to ensure that incidents are policed effectively and
11 sufficiently, that's not correct.
12 COLONEL MERAFFE: Chair, concerning GGG15
13 – management had to intervene or it's a process that
14 management should undergo. It was an ongoing thing. It is
15 not a matter of intervening now and then it's finished -
16 it's a continuation.
17 COMMISSIONER HEMRAJ: Can I just ask you,
18 Colonel, that however GGG15 is worded, you did not seek to
19 take away from that statement that, "This challenges led to
20 ineffectiveness in the way public order incidents were
21 policed." You don't seek to water that down at all?
22 COLONEL MERAFFE: Yes, Chair, by not
23 having enough resources that is a cause that will lack
24 effectiveness of the North-West.
25 COMMISSIONER HEMRAJ: Thank you.

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1 MR WESLEY: There's a question here that
2 I was going to put to you. I'm going to say that, I just
3 want to mention it, if I come back at a later stage and say
4 there's another question, this is it – just for the record.
5 Let's just go back to GGG15. In GGG15 there is no specific
6 mention, and I'm using the word "specific," mention made of
7 the provincial operational response meeting that was held
8 on 16 May 2012.
9 COLONEL MERAFFE: That is so, Chair.
10 MR WESLEY: And it follows from that as
11 well, there's no specific mention of the fact that
12 Brigadier Calitz attended that meeting.
13 COLONEL MERAFFE: That is so, Chair.
14 MR WESLEY: Do you know why reference,
15 specific reference to that meeting was left out of GGG15?
16 COLONEL MERAFFE: I don't know why it has
17 been left out.
18 MR WESLEY: Was it your decision to leave
19 it out?
20 COLONEL MERAFFE: Earlier on when I was in
21 evidence-in-chief – the two statements QQQ2 and GGG15 – I
22 might have not included some facts that I actually have
23 included earlier on. It's possible there.
24 MR MABUNDA: I do agree, your worship,
25 that there could be some left, some omission concerning the

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1 two statements as far as that is concerned, as I explained
2 that earlier in my chief, when testifying in chief.
3 MR WESLEY: I've move on. In paragraph 5
4 of QQQ2 you tell the Commission the following, "There has
5 been several meetings held where management raised their
6 concerns regarding the use of force during unrest
7 situations. The issue of training of members was also
8 raised. Due to workload and lack of personnel it was not
9 possible. This has been communicated with Brigadier Calitz
10 during 16 May 2012 during ORS provincial conference held at
11 Potchefstroom." Now as I read that, I think the Chair
12 touched on it earlier, you don't suggest that the meeting
13 was held for the purpose of addressing those issues. I'll
14 ask you directly, was the meeting held specifically so that
15 management could raise their concerns?
16 COLONEL MERAFFE: Chair, in the meeting of
17 the management and the members of the police, we can raise
18 our concern on the ground level concerning what we need.
19 So the issues – management, they were issues actually
20 raised by some of during the meeting because we needed to
21 inform management of what is happening on the ground level.
22 MR WESLEY: I understand that, there's no
23 translation needed there. So rather than this meeting
24 being called by management or whomever so that management
25 can raise management concerns with you on the ground, you

<p style="text-align: right;">Page 26803</p> <p>1 went to a meeting where you told management, these are my 2 concerns.</p> <p>3 COLONEL MERAFA: Chair, the environment 4 in which we work, there is what we call participative 5 management – that means that we also take part in the 6 environment where we work – up and downwards communication, 7 all of us have to raise points, even management can raise 8 points. Then we engage each other.</p> <p>9 MR MABUNDA: That is the meeting for 10 everybody, for all bodies to raise our concern, from the 11 upper and lower.</p> <p>12 MR WESLEY: I understand what you're 13 saying and I actually see your point here. This difference 14 might not be so important. If I can refer you, the 15 equivalent is paragraph 8 in GGG15. Now in that you say 16 that, "In addition to the above, several meetings were also 17 held in order to address, amongst others, the following 18 challenges – insufficient personnel, use of force during 19 uprisings and training." And what you've just explained is 20 that because of participatory management – is that the 21 term, participatory management?</p> <p>22 COLONEL MERAFA: Participative 23 management.</p> <p>24 MR WESLEY: Participative management.</p> <p>25 COLONEL MERAFA: Yes, yes.</p>	<p style="text-align: right;">Page 26805</p> <p>1 in GGG15 there's no specific mention made of this 2 conference. Do you agree?</p> <p>3 COLONEL MERAFA: I agree, Chairperson - 4 MR WESLEY: Or the attendance of Major- 5 General Mpembe at that meeting.</p> <p>6 COLONEL MERAFA: - totally. 7 COLONEL MERAFA: General Mpembe was 8 present in that meeting.</p> <p>9 MR WESLEY: And it's not mentioned in 10 GGG15.</p> <p>11 COLONEL MERAFA: QQQ2 as well as QQQ, 12 GGG15 – since that meeting or going to my unit or what has 13 happened, now are we trying to resolve so –</p> <p>14 MR MABUNDA: He says that he is 15 explaining both in QQQ2 as well as GGG15, some of the 16 statements are the general, some have something to do with 17 Marikana.</p> <p>18 MR WESLEY: I must ask you again, is 19 there any specific reason that you can give why a specific 20 reference to the POP national conference was not made in 21 GGG15?</p> <p>22 COLONEL MERAFA: Ja, the difference is 23 that I included it in QQQ2 so that's the omission in GGG15, 24 you'll find that I didn't put it.</p> <p>25 MR WESLEY: Now the references to these</p>
<p style="text-align: right;">Page 26804</p> <p>1 MR WESLEY: You complain to management, 2 management can complain to you and that's the way it works.</p> <p>3 COLONEL MERAFA: Not necessarily 4 complaining but engaging –</p> <p>5 MR WESLEY: Engage.</p> <p>6 COLONEL MERAFA: - each other on matters 7 of importance or the matters that have an impact on the 8 work itself.</p> <p>9 MR WESLEY: Ja. I have no difficulty 10 with that. Let's go on in GGG15. In GGG15 no specific 11 mention is again made of another important meeting or 12 conference and that's the POP national conference of 28 or 13 29 May 2012. Now before you answer that, was it 28 or 29 14 May that this conference was held, can you remember? Just 15 clarify that for me because I've got both dates in various 16 documents.</p> <p>17 COLONEL MERAFA: My own statement is 18 dated the 28th of May at Manhattan.</p> <p>19 MR WESLEY: Ja, but that –</p> <p>20 COLONEL MERAFA: The conference was a two 21 day conference.</p> <p>22 MR WESLEY: Okay, that explains it. It was 28 and 23 29 May. Sorry, I just wanted to understand that.</p> <p>24 COLONEL MERAFA: That is so, sir.</p> <p>25 MR WESLEY: The point I'm making is that</p>	<p style="text-align: right;">Page 26806</p> <p>1 meetings and conferences that I've mentioned to you, they 2 give dates, they give the names, type of conferences or the 3 type of meetings and even mention people that were there. 4 That found its way into paragraph – let me just say this, 5 with those names and those references to the people and 6 references to dates and in some places references to where 7 the meetings were held, that enables one to go and ask the 8 direct question for the minutes of meetings, those very 9 meetings. Do you agree with me on that?</p> <p>10 COLONEL MERAFA: I agree with you, 11 Chairperson.</p> <p>12 MR WESLEY: Having that information. Now 13 this information made its way into GGG15 in paragraph 8 and 14 the part that deals with meetings says, is the second part 15 in paragraph 8 and it reads, "In addition to the above, 16 several meetings were also held in order to address the, 17 amongst others, the following challenges – insufficient 18 personnel, use of force during uprising and training." You 19 agree with me?</p> <p>20 COLONEL MERAFA: I agree with you, 21 Chairperson.</p> <p>22 MR WESLEY: And there we're not told the 23 days that these meeting were held, when they were held and 24 the places, people who attended, in this paragraph. None 25 of that information is provided.</p>

<p style="text-align: right;">Page 26807</p> <p>1 COLONEL MERAPE: Yes, Chair. I said I 2 have [indistinct] with GGG2. QQQ2 was written before QQQ – 3 this statement GGG15 was made, so this one I have mentioned 4 specific days, meetings that were held but here, because I 5 already mentioned in the first statement, I wouldn't 6 mention (indistinct) because it will be repetition of what 7 I have already mentioned. 8 [15:41] CHAIRPERSON: That is not going to fly 9 because we've already said that obviously if you have QQQ2 10 then you know all the things that have been left out of 11 GGG15 but if you've only got GGG15 and QQQ3 only appears 12 much later, then the – sorry, QQQ2 only appears much later, 13 then the reader has only got QQQ, sorry, GGG15 hasn't got 14 all that extra information. So it doesn't help to say that 15 you get the information when you look at GGG2 – QQQ2, 16 because if you haven't got QQQ2 you haven't got the 17 information, so that bird is not going to fly but what we 18 do know is there were two very important meetings which you 19 mention in QQQ2 which indicated that there was concern at 20 head office and at provincial level - it's a point we 21 discussed earlier in another context – about a number of 22 matters and one of them was in respect of the use of 23 rubber, I think, and force generally and there were other 24 problems with training and lack of proper resources and so 25 forth. And these are actually spelt out in the minutes of</p>	<p style="text-align: right;">Page 26809</p> <p>1 you before in respect of a slightly different point, I take 2 it the same answer applies here, you can't exactly explain 3 to us why, when your revised statement GGG15 was prepared, 4 all these important things were cut out. Am I right in 5 saying that? 6 COLONEL MERAPE: That is so, Chair. 7 MR WESLEY: Colonel, there's one more 8 difference which I want to point out but before I point 9 that out you must please remember what, when we began your 10 cross-examination, I pointed out to you. This document, 11 your statement, your unsigned statement, we found it on a 12 hard drive. It wasn't given to us amongst a bundle of 13 statements. It wasn't handed in, in Commission, we found 14 it. Do you understand that? That's a concern, but let's 15 just go back to the documents. This is the last one – 16 CHAIRPERSON: Before you go back to the 17 documents, the question I want to ask relating directly to 18 what you've just asked, can you tell us why you never 19 actually signed and deposed to, swore as being correct, the 20 exhibit QQQ2? It remained as an unsigned draft, didn't it? 21 COLONEL MERAPE: I made this statement 22 and then thereafter it has been typed. At a later stage I 23 met with my legal adviser and then we made GGG15. I had 24 not yet signed that statement and sent it through to the 25 Commission –</p>
<p style="text-align: right;">Page 26808</p> <p>1 the Manhattan Hotel conference, which I think actually took 2 place on the – it is the 28th, isn't it? It's the day 3 you've got in your – is that right? 4 MR WESLEY: Chair, he says it's the 28th 5 and 29. 6 CHAIRPERSON: Ja. So we've now got the 7 minutes of that and we can see what happened there. There 8 were some quite strong critical comments being made by 9 General Mawela, for example, who said the police need – I'm 10 quoting from QQQ, it's QQQ4, is it – he said "The police 11 need to change the manner in which they deal with 12 protesters. Police officers are not wearing proper gear, 13 lack of command and control." We hear complaints, similar 14 complaints here about Marikana. Whether they're justified 15 or not is a matter we've got to look at but the very point 16 was made on the 29th of May. "No record of planning for 17 marching to take place." Well that, the planning records 18 we have here are mainly produced afterwards so that's also 19 a bit awkward. And then – so there are a number of quite 20 strongly worded points made here by General Mawela and then 21 also strong points made, I think I put some of them to you, 22 by General Masemola. So we only know about these because 23 we finally got your statement, the unsigned one, sometime 24 after we got the other one, GGG15. So that's really the 25 thrust of this cross-examination. Now I think I did ask</p>	<p style="text-align: right;">Page 26810</p> <p>1 CHAIRPERSON: And is it fair to say that 2 GGG15 was effectively designed to replace QQQ2? QQQ2 was 3 unsigned. It wasn't obviously, it wasn't going to go out 4 in the world because it was unsigned and you made a new 5 statement which included some of the material in QQQ2 and a 6 lot of extra material as well, of course, that hadn't been 7 there before. That's right, isn't it? 8 COLONEL MERAPE: Chair – 9 CHAIRPERSON: So effectively GGG15 was 10 designed to replaced QQQ2, is that right? 11 MS BALOYI: Chairperson, if perhaps I may 12 assist? Mr Mokothedi was involved in taking these 13 statements. My understanding is that the members of the 14 SAPS, some of them went and prepared their own drafts and 15 then subsequently held consultations with the legal teams 16 and the legal teams drafted proper statements to be 17 presented to the Commission. I'm concerned, Chairperson, 18 by the meaning of "replaced," that no improper meaning 19 should be given to it. 20 CHAIRPERSON: Oh, sorry. You're quite 21 right, I didn't use the word precisely. By replaced I 22 meant took the place of a statement that had not yet been 23 issued and was to be the statement that would be published, 24 as it were, to the evidence leaders and the Commission. So 25 there was a draft, as it were, which he prepared himself</p>

<p style="text-align: right;">Page 26811</p> <p>1 and that draft never got beyond being a draft, never made 2 its way to the Commission and evidence leaders and the 3 parties. In its place came the new one that had been – the 4 one you referred to – which was prepared with the 5 assistance of his legal advisers. That seems to be the 6 position, doesn't it?</p> <p>7 MS BALOYI: Yes, Chair.</p> <p>8 MR WESLEY: Could I then go to the last 9 one –</p> <p>10 COMMISSIONER HEMRAJ: Sorry, before you 11 do that. Colonel, at the time you made GGG15, where was 12 this unsigned QQQ2? Where was this statement? Did he have 13 it with him?</p> <p>14 COLONEL MERAFAE: I wrote it on my own. 15 It was there and thereafter we made GGG15, after 16 consultations.</p> <p>17 CHAIRPERSON: And you told us that the 18 lawyer who helped you or the legal person, I'm not sure if 19 it was a practising lawyer who helped you draft GGG15, had 20 a copy of QQQ2, isn't that right?</p> <p>21 COLONEL MERAFAE: That is so, Chair.</p> <p>22 CHAIRPERSON: And one can see that in 23 fact phrases and so on that appear in QQQ2 were taken over 24 and put into GGG15, some of the same words and so on, is 25 that right? Is that right? You nod your head, the</p>	<p style="text-align: right;">Page 26813</p> <p>1 with those people who have got the knowledge of law. 2 CHAIRPERSON: [Microphone off, inaudible] 3 - fair, you were being assisted now by a trained lawyer. 4 Trained lawyer went through your draft and, I imagine, said 5 something like, well, you don't need that, that's 6 unnecessary detail and cut it out. So that's probably – 7 you didn't decide on your own to leave those things out, it 8 was on advice, probably for the reasons I've given. Is 9 that right?</p> <p>10 COLONEL MERAFAE: That is so, Chair.</p> <p>11 MR WESLEY: Colonel, can I point out a 12 difficulty I have with that answer, the answers that you've 13 just given? You say that GGG15, you went through a process 14 and then this was drafted specifically, well, for the 15 Commission or drafted for whatever purpose but dealing only 16 with Marikana and leaving out other stuff, is that correct?</p> <p>17 COLONEL MERAFAE: Matter related to my 18 unit per se – then we talk about Marikana, with involvement 19 of my unit members.</p> <p>20 MR MABUNDA: Well, his unit plus the 21 matters concerning Marikana altogether in, contained in 22 GGG15.</p> <p>23 MR WESLEY: Can I just point out to you 24 that in GGG15, paragraph 7, you deal with the following. 25 You say, "This year 2012 has been the most challenging in</p>
<p style="text-align: right;">Page 26812</p> <p>1 microphone can't see you.</p> <p>2 COLONEL MERAFAE: That is so, Chair.</p> <p>3 CHAIRPERSON: I think you should 4 interpret that, Mr Interpreter. What did he say? I take 5 it he said yes.</p> <p>6 MR MABUNDA: He agrees, he says yes.</p> <p>7 CHAIRPERSON: Alright.</p> <p>8 COMMISSIONER HEMRAJ: Then I don't 9 understand, Colonel, if GGG15 was to replace QQQ2, why is 10 all the detail not repeated in it?</p> <p>11 COLONEL MERAFAE: My answer concerning 12 QQQ2, I took every – I was writing everything in full 13 detail. GGG15, it has something to do solely with 14 Marikana. I was just writing about Marikana.</p> <p>15 CHAIRPERSON: The problem with that 16 argument is that QQQ2 was also intended for this Commission 17 and was also concerned with Marikana, wasn't it?</p> <p>18 COLONEL MERAFAE: Well, it was my 19 intention, your worship, but some people, you get some 20 advice on the way, your worship.</p> <p>21 COMMISSIONER HEMRAJ: So was it your 22 election then to leave out those details that were not 23 repeated? Did you choose not to repeat those instances 24 that appear in QQQ2 and not in GGG15?</p> <p>25 COLONEL MERAFAE: Chair, I've been helped</p>	<p style="text-align: right;">Page 26814</p> <p>1 that there were many incidents of public interest and 2 violence in Rustenburg cluster. This included the 3 following, strikes and unrest at Impala Plats, uprisings at 4 Moreleng, et cetera, et cetera, et cetera." And then you 5 also deal in paragraph 9 with the events of 22nd of May. 6 GGG15, on the face of it, also deals with – well, that 7 matter that you've described there is also dealt with in 8 QQQ2. You do deal with it, you cover both. The difference 9 is that in GGG15 there's a lot less detail than there was 10 in QQQ2.</p> <p>11 COLONEL MERAFAE: I agree, Chair.</p> <p>12 MR WESLEY: Can I just take you then just 13 to the last difference and I've alluded to it now. Have a 14 look at paragraph 9 of GGG15 and I want to ask you a 15 question. I'll read it aloud and then please listen and 16 then I want to ask you a question. "On the 22nd of May 2012 17 there was an illegal march by plus-minus 15 000 miners at 18 Impala Mines where miners intended to proceed to court to 19 release previous arrested miners who were due to appear 20 before court. These miners arrived with pangas, sticks and 21 assortment of weapons. The policing of the march was a 22 huge challenge as the POP unit did not have enough 23 personnel to manage it effectively. Even though we had a 24 lack of personnel, we did manage to control the situation 25 and stop the march, disperse the people. This was done by</p>

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1 utilising our trained tactics, the use of our armoured
 2 vehicles as barriers, use of CS canister and rubber
 3 bullets. We were assisted during the incident by our local
 4 VISPOL and tactical response team members, TRT." Do you
 5 see that? I've read it correctly.

6 COLONEL MERAFAE: Yes, I've seen it.

7 MR WESLEY: Now to make my point can I
 8 ask you, if I read that paragraph how am I going to know
 9 that on the 22nd of May you ordered TRT members to open fire
 10 with R5 rifles? And I'm not saying at crowds, you've said
 11 you told them to shoot into the ground. Am I able to
 12 deduce that from the paragraph I've just read to you?

13 COLONEL MERAFAE: Seeing that I did not
 14 write it there, you wouldn't have found it, that part of
 15 the sentence because it doesn't appear there on there.
 16 It's not contained in that statement.

17 CHAIRPERSON: In fact the statement as we
 18 have it, para 9 is incomplete because it says that you
 19 managed to control the situation – I'm reading from the
 20 third sub-paragraph of 9. "Even though we had a lack of
 21 personnel, we did manage to control the situation and stop
 22 the march, disperse the people. This was done by utilising
 23 our trained tactics, the use of our armoured vehicles as
 24 barriers, use of CS canister and rubber bullets." That's
 25 all it says, but if you look at the other document, the

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1 fuller document QQQ2, you find that that's not a complete
 2 account of what happened. Let me refer you to that and on
 3 the first page, the sixth paragraph, I'm taking you from
 4 about, from about the tenth line from the foot. You
 5 describe how you tried to negotiate with the people, they
 6 wouldn't co-operate and they threw stones at you and the
 7 members. You then say, "I instructed members to use
 8 teargas to disperse the crowd." That's the CS canister you
 9 referred to. "I instructed members to use teargas to
 10 disperse the crowd. It was not effective enough for them
 11 to disperse." So that didn't help. "I communicated with
 12 the air wing commander, Lieutenant-Colonel Vermaak, over
 13 the radio to throw CS canisters," that's teargas canisters,
 14 "to the crowd from the air. The situation was becoming
 15 very tense and I ordered members to use rubber bullets. We
 16 ran short of rubber bullets." So the rubber bullets didn't
 17 do the trick either because you didn't have enough of them,
 18 you ran out of rubber bullets. "One of our armoured
 19 vehicles fell into a hole," it must have been a pothole,
 20 "and participants ran to it, trying to burn it with police
 21 officials inside." So you still haven't managed to solve
 22 the problem yet. "Then I instructed TRT members to make
 23 use of their R5s to scare the people attacking our members
 24 and save lives. VISPOL members," that's visible policemen,
 25 "that were requested from different stations arrived.

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1 There was more visible policing at the scene. We
 2 ultimately managed to restore public order."

3 Now it's quite clear from that fuller account,
 4 which you wrote yourself, that the shortened version which
 5 the lawyer helped you to prepare, doesn't tell the whole
 6 story. It's not correct to say that "We managed to control
 7 the situation, stop the march, disperse the people by
 8 utilising our trained tactics, using our armoured vehicles
 9 as barriers, using CS canisters" – that's teargas canisters
 10 – "and rubber bullets." You actually did the trick, you
 11 saved the situation because when you ran out of rubber
 12 bullets you got the TRT people in, they fired with R5s,
 13 live ammunition but into the ground in front of the
 14 marchers, the marchers obviously thought it was unwise to
 15 stay there with live ammunition being fired at them and
 16 they turned around and retreated, isn't that right? So
 17 that's – I mean you were very lucky actually that no-one
 18 was hurt or killed in the thing but nevertheless you
 19 succeeded, without loss of life or injury, to control the
 20 situation, isn't that right?

21 COLONEL MERAFAE: That is so, Mr Chair.

22 CHAIRPERSON: But you did so not the way
 23 described in para 9, the passage I read, but through the
 24 intervention of the TRT in the manner you described in your
 25 other statement. That's correct too, isn't it?

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1 COLONEL MERAFAE: As I just explained,
 2 Chair, I said to this Commission that I've been assisted in
 3 connection with writing the GGG15 and I agree there are
 4 things that I mentioned in QQQ2 that does not appear here
 5 in length to explain the actual things that happens on the
 6 ground. I do agree totally.

7 CHAIRPERSON: Thank you for that answer.
 8 Mr Wesley, would you object vigorously if we take the
 9 adjournment till tomorrow morning now?

10 MR WESLEY: Can I ask one question?

11 CHAIRPERSON: I don't know what the
 12 question is.

13 MR WESLEY: It's going to be very short.
 14 Colonel, just dealing with this because you testified a lot
 15 about Colonel Vermaak and you've read JJJ137. You must
 16 recall paragraph 15 of that letter, that's his letter of 28
 17 May. Let me read to you what he said about you. He said,
 18 "Lieutenant-Colonel Merafe handled the situation very good
 19 with minimum power." He commended you, do you see that?

20 COLONEL MERAFAE: Okay, Chairperson.

21 MR WESLEY: Thank you, Colonel. Thank
 22 you, Chair.

23 CHAIRPERSON: On that positive note we'll
 24 take the adjournment till tomorrow morning.
 25 [COMMISSION ADJOURNED]

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