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TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 233

23 MAY 2014

PAGES 29016 TO 29161



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<p style="text-align: right;">Page 29016</p> <p>1 [PROCEEDINGS ON 23 MAY 2014] 2 [09:07] CHAIRPERSON: The Commission resumes. 3 Captain, you're still under oath. Ms Baloyi? 4 WAYNE PETER KIDD: (s.u.o.) 5 EXAMINATION BY MS BALOYI (CONTD.): Thank 6 you, Chair. Captain Kidd, if you would go back to that 7 statement, your consolidated statement UUU2, when we 8 finished yesterday we were concluding paragraph 9 of that 9 statement and you were asked questions by the Chair about 10 your failure to call, when you moved from forward holding 11 area 2 your failure to call Brigadier Calitz and inform him 12 that you had moved your position and that you were now – 13 you remember that evidence? 14 CAPTAIN KIDD: Yes, I do, Mr Chairman. 15 MS BALOYI: Okay. Do you wish to add 16 anything to your answer that you gave to the Chairperson in 17 that regard? 18 CAPTAIN KIDD: Yes, Mr Chairman. I just 19 wanted to say that I didn't have the numbers of the JOC or 20 Brigadier Calitz because at that stage when we went to 21 forward holding area 2 I was just a group commander, I 22 wasn't in charge of the whole forward holding area 2, that 23 was the task or role of Lieutenant-Colonel Pitsi. 24 CHAIRPERSON: When you left to go to the 25 other duties for which he was called, did you not ask him,</p>	<p style="text-align: right;">Page 29018</p> <p>1 see that? 2 CAPTAIN KIDD: I do see that. 3 MS BALOYI: You confirm that those are 4 your members in those blue markings there. 5 CAPTAIN KIDD: That's correct, those were 6 my members. 7 MS BALOYI: Yes. Now, in your testimony 8 you said that when you moved from forward holding area 2 9 you moved in a long straight line. You remember you were 10 in a long straight line, you remember that? 11 CAPTAIN KIDD: Yes, the basic line, the 12 long, straight basic line. 13 MS BALOYI: Yes and in your manuscript 14 statement you estimate the length of that line to be 150 15 metres, you remember that? 16 CAPTAIN KIDD: I do remember that. 17 MS BALOYI: Now this depiction that we 18 see here, that is not a straight line. How did you end up, 19 you and your members, how do you end up in that formation? 20 CAPTAIN KIDD: Okay, this was after we 21 were gestured by the person out of the helicopter and also 22 on the information by Colonel Vermaak where he said the 23 people on the left, people on the western side move to your 24 left. This, with those instructions, that caused this. 25 MS BALOYI: Yes and does this, these two</p>
<p style="text-align: right;">Page 29017</p> <p>1 I'm now taking over, you had better give me those telephone 2 numbers? 3 CAPTAIN KIDD: Mr Chairman, you know, I – 4 at that time we actually thought maybe he would return. So 5 ja, it didn't come to my thoughts to take the numbers from 6 him then. 7 MS BALOYI: Now if you would then proceed 8 to deal with paragraph 10 of your statement, you state 9 there that once you "reached the koppie now known as koppie 10 3 which is a rocky and bushy area, we took up positions." 11 Do you see that? 12 CAPTAIN KIDD: Yes, I do see that, Mr 13 Chairman. 14 MS BALOYI: Now if we could have, video 15 operator, if we could have exhibit L235, slide 235? Now 16 you have on that slide, you have two, two markings in blue, 17 you see that? 18 CAPTAIN KIDD: I do. 19 MS BALOYI: One on the western side and 20 the other on the southern. 21 CAPTAIN KIDD: I do see that. 22 MS BALOYI: Okay and the note at the 23 bottom of that slide says, "The photos show the police 24 members from forward holding area 2 converging on koppie 3 25 from two directions, north-west and south-west." Do you</p>	<p style="text-align: right;">Page 29019</p> <p>1 markings, do they depict the complete numbers of your 2 members? Is everyone accounted for there? 3 CAPTAIN KIDD: No, there are still people 4 that are further left. 5 MS BALOYI: Okay. 6 CAPTAIN KIDD: If I say further left I 7 mean more to the northern side of where that circle is. 8 MS BALOYI: Can you just point out with 9 your pointer please, where you're pointing? 10 CAPTAIN KIDD: Mr Chairman, it's more to 11 where the arrow is showing, the north arrow is showing, 12 they're more to that side. 13 MS BALOYI: Yes. 14 CHAIRPERSON: It's not visible on the 15 screen, they're at the top right hand where they are – 16 you're pointing to a spot on the top right-hand side of the 17 picture but off the picture. 18 CAPTAIN KIDD: That's correct, Mr 19 Chairman. 20 CHAIRPERSON: More or less in line with 21 the blue circle, blue, not a circle really, but the blue – 22 what would you call that? It's not exactly a circle but 23 anyway. An oval really, yes, blue oval. 24 MS BALOYI: One is oval. 25 CHAIRPERSON: More or less in line with</p>

<p style="text-align: right;">Page 29020</p> <p>1 that?</p> <p>2 CAPTAIN KIDD: Yes, Mr Chairman.</p> <p>3 MS BALOYI: Thank you, Chair. Now in</p> <p>4 that first sentence there you say "now known as koppie 3."</p> <p>5 When you were there indicated in that circle, the blue</p> <p>6 circle, are you part of that group there, the blue circle?</p> <p>7 CAPTAIN KIDD: That's correct, Mr</p> <p>8 Chairman.</p> <p>9 MS BALOYI: Did you know then that you</p> <p>10 are at koppie 3?</p> <p>11 CAPTAIN KIDD: No, Mr Chairman, myself as</p> <p>12 well as my members, we thought this was koppie 1. We</p> <p>13 thought everything that was happening in the whole</p> <p>14 operation was just on the other side of this koppie.</p> <p>15 MS BALOYI: And then you say, "I</p> <p>16 entrusted" –</p> <p>17 CHAIRPERSON: How did that happen?</p> <p>18 Weren't you briefed at some stage as to the layout of the</p> <p>19 territory, where the different things were that were</p> <p>20 happening, different things were happening?</p> <p>21 CAPTAIN KIDD: Mr Chairman –</p> <p>22 CHAIRPERSON: Or were you just sent to</p> <p>23 forward holding area 2 and say you stay there and look</p> <p>24 after that informal settlement and don't bother about the</p> <p>25 rest of the terrain because you won't get there?</p>	<p style="text-align: right;">Page 29022</p> <p>1 were.</p> <p>2 CHAIRPERSON: The oval to which you are</p> <p>3 referring is the to the left of the demarcation of north on</p> <p>4 the photograph.</p> <p>5 CAPTAIN KIDD: That's correct, Mr</p> <p>6 Chairman.</p> <p>7 MS BALOYI: Yes.</p> <p>8 CHAIRPERSON: What is really the western</p> <p>9 corner of the area depicted on the photograph. Who was in</p> <p>10 charge of the people in the other oval on the left-hand</p> <p>11 side? Was anybody in charge of them?</p> <p>12 CAPTAIN KIDD: Mr Chairman, each –</p> <p>13 because we were different, different units and different,</p> <p>14 like in the TRT there were different people from, they were</p> <p>15 from Gauteng but it was Pretoria TRT, Joburg TRT, Honeydew</p> <p>16 TRT. Each person had their own commander so although they,</p> <p>17 with this splitting up the control of myself was very</p> <p>18 difficult but as I mentioned the people in the beginning,</p> <p>19 each group would still try and command their own people –</p> <p>20 CHAIRPERSON: The answer to my question,</p> <p>21 who is in charge of the – who was in charge of the people</p> <p>22 in the blue oval on the left-hand top corner of the</p> <p>23 photograph?</p> <p>24 CAPTAIN KIDD: At that time I wouldn't</p> <p>25 know, Mr Chairman. I was in charge of the whole line but</p>
<p style="text-align: right;">Page 29021</p> <p>1 CAPTAIN KIDD: No, Mr Chairman, there was</p> <p>2 –</p> <p>3 CHAIRPERSON: A rather strange way of</p> <p>4 going about things.</p> <p>5 CAPTAIN KIDD: You know we were shown on</p> <p>6 a photograph of the different area and koppie 1 was a</p> <p>7 koppie, the other two weren't really koppies, they were</p> <p>8 just like bushy areas with a couple of rocks. They're not</p> <p>9 like a, like you would say a koppie. So you couldn't</p> <p>10 really see the difference in the height or how big the</p> <p>11 different koppies were.</p> <p>12 MS BALOYI: You then say "I instructed</p> <p>13 the members to take cover behind the rocks and bushes as I</p> <p>14 heard gunfire and the sound of bullets flying over our</p> <p>15 heads from the direction of the koppie in front of us." Do</p> <p>16 you see that?</p> <p>17 CAPTAIN KIDD: Yes, I do. It's written</p> <p>18 in the statement.</p> <p>19 MS BALOYI: Now when you tell your</p> <p>20 members to take cover as you describe, where are you at</p> <p>21 that point? Where are the members and where are you?</p> <p>22 CAPTAIN KIDD: Okay, I'm in the – like I</p> <p>23 said earlier, I was in that, this, I was part of this</p> <p>24 middle group. That was the main part, that was the main –</p> <p>25 not the main, I would say where the majority of the members</p>	<p style="text-align: right;">Page 29023</p> <p>1 there, there was probably no-one in charge.</p> <p>2 CHAIRPERSON: You were in charge of the</p> <p>3 whole line but there was, the group had divided up actually</p> <p>4 into three but we'll ignore the one that's not on the</p> <p>5 photograph. The other group was in charge of someone, you</p> <p>6 didn't know who he was so you didn't know how to contact</p> <p>7 him -</p> <p>8 CAPTAIN KIDD: That's –</p> <p>9 CHAIRPERSON: - were nominally in charge</p> <p>10 of the whole lot but practically you could exercise no</p> <p>11 control over the people in the second oval.</p> <p>12 CAPTAIN KIDD: That's correct, Mr</p> <p>13 Chairman.</p> <p>14 CHAIRPERSON: And you didn't even know</p> <p>15 who was your sort of, the person practically or factually</p> <p>16 in charge of those people, if there was anybody. You're</p> <p>17 not even sure there was anybody.</p> <p>18 CAPTAIN KIDD: No, I'm not even sure</p> <p>19 there was.</p> <p>20 CHAIRPERSON: So it does sound like a</p> <p>21 recipe for disaster, doesn't it?</p> <p>22 CAPTAIN KIDD: Mr Chairman, this all</p> <p>23 happened because of the helicopter gesturing for the people</p> <p>24 to split up and also with Colonel Vermaak informing the</p> <p>25 people, move, and that's why everything split –</p>

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1 CHAIRPERSON: No, no, that didn't happen.
 2 When you split up you were in charge and you knew that one
 3 group was going in another direction. Surely you should
 4 have said, right, you will be in charge of this section and
 5 we must stay in contact with each other by cell phone, if
 6 necessary. You could have done that, couldn't you?
 7 CAPTAIN KIDD: Mr Chairman, like I said –
 8 CHAIRPERSON: You could have done it,
 9 couldn't you?
 10 CAPTAIN KIDD: I could have done it, Mr
 11 Chairman.
 12 CHAIRPERSON: You wanted to say, add
 13 something?
 14 CAPTAIN KIDD: Yes, that you know in the
 15 beginning when I explained to the people what was our aim
 16 and what we had to do, I told the group commanders. They
 17 still had to inform their people what to do and try keep
 18 control also.
 19 MS BALOYI: Now Captain Kidd, did you
 20 make the decision – in fact before you deal with that if we
 21 could have slide 249 perhaps to complete this explanation.
 22 Indeed, thank you Chair, L249. Now Captain Kidd, you see
 23 on this e-mail here you have, you have to, what we have
 24 described I think as the southern side at the bottom –
 25 rather let me start this way. At the bottom you've got a

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1 purple box which has in it "forward holding area 2, TRT and
 2 POP," do you see that?
 3 CAPTAIN KIDD: Yes.
 4 CHAIRPERSON: And K9 as well underneath.
 5 MS BALOYI: Yes.
 6 CHAIRPERSON: And K9.
 7 CAPTAIN KIDD: Ja, it's written K9 but
 8 not in the box.
 9 CHAIRPERSON: Yes, I know –
 10 MS BALOYI: Oh yes.
 11 CHAIRPERSON: - I understand that but the
 12 group of people there who were from forward holding area 2
 13 were made up of TRT people, POP people and K9 people.
 14 CAPTAIN KIDD: That's correct, Mr Chair.
 15 CHAIRPERSON: The same applies to the box
 16 which is on the left-hand side just above the middle point
 17 on the left side of the photograph.
 18 CAPTAIN KIDD: That's correct, Mr Chair.
 19 MS BALOYI: Yes and you see in that box
 20 that there are these, all these purple areas that are going
 21 to the south and one to the northern side. Are those all
 22 members that were in your line that you started out with?
 23 CAPTAIN KIDD: That's correct, Mr
 24 Chairman.
 25 MS BALOYI: Yes. Now, when you say that

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1 when you heard gunfire, bullets over your head, you
 2 instructed members to take cover. Which members are you
 3 directing at this point?
 4 CAPTAIN KIDD: The members I was
 5 directing would be at this, if you look on the bottom right
 6 if you're looking at it, that's – it was on the right-hand
 7 side.
 8 MS BALOYI: But when you say on the
 9 right-hand side you mean in that block there at the bottom?
 10 CAPTAIN KIDD: That's correct.
 11 MS BALOYI: Yes, so that is to the left
 12 of the picture.
 13 CAPTAIN KIDD: Ja. If you're looking at
 14 the screen it's to the left of the picture, ja.
 15 MS BALOYI: Yes.
 16 CHAIRPERSON: I'm sorry, I don't
 17 understand that unless I misunderstood the previous slide
 18 we saw, you know, those two ovals. Now, the one on the
 19 left-hand side of the previous slide I understood was the
 20 area, was the group of people who were not under your
 21 practical command at that stage and you indicated the other
 22 oval, the one on the right of that slide which was more or
 23 less near the north was the one that you were in charge of.
 24 Now it looks to me and I'm putting it to you not because I
 25 want to fight with you but I want you to help me to

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1 understand, it looks to me as if the bottom left-hand
 2 corner, FHA2 BOC*09:07/13-06 is the oval that was on the
 3 left-hand side of the slide we saw before or have I got it
 4 wrong?
 5 CAPTAIN KIDD: No, you've got it half
 6 right, Mr Chairman. Those people that were there basically
 7 formed – if we can go back to that slide it will be easier
 8 to explain but those people, like if you look now, those
 9 people that are there, once we heard shots fired they had
 10 to go take cover. There was not enough space here so a lot
 11 of them ran, a lot of them ran to where the word "western"
 12 is, just above, there's rocks there and a lot of them ran
 13 here to come and take cover. These people on this side
 14 were those that are –
 15 CHAIRPERSON: Sorry, you've got to put
 16 that on record.
 17 CAPTAIN KIDD: Okay, so when –
 18 CHAIRPERSON: The ones near the western
 19 side, we have to understand that –
 20 CAPTAIN KIDD: All the people on the
 21 western side were the ones that ran –
 22 CHAIRPERSON: - that ran to the rocky
 23 area –
 24 CAPTAIN KIDD: Where it says "western"
 25 just above that.

<p style="text-align: right;">Page 29028</p> <p>1 CHAIRPERSON: - which is – let's do it 2 slowly. The first group you say took cover near the words 3 "western" on the side. 4 CAPTAIN KIDD: That's correct. 5 CHAIRPERSON: The second group took cover 6 further to the left on that side where – 7 CAPTAIN KIDD: Where it's pointed up – 8 CHAIRPERSON: There's a rocky area – ja, 9 no, but that doesn't mean anything on the transcript – 10 there's a rocky area right near the top of that yellow line 11 that runs from the bottom right-hand corner in a, slightly 12 to the left, angling slightly to the left. 13 CAPTAIN KIDD: That's correct, Mr Chair. 14 CHAIRPERSON: That rocky area is where 15 some of the other people took - 16 CAPTAIN KIDD: That's correct. 17 CHAIRPERSON: Is that right? 18 CAPTAIN KIDD: That's correct. And then 19 those people on the top, on the far top left-hand side – 20 CHAIRPERSON: That's the oval on the top 21 left-hand corner, yes? 22 CAPTAIN KIDD: The oval on the top left- 23 hand side, these were the people that if you see now were 24 the ones that went down to the southern side. So if we can 25 go back to the other side then it sort of – okay, so those</p>	<p style="text-align: right;">Page 29030</p> <p>1 strikers." Please explain, explain your observation of the 2 strikers. 3 CAPTAIN KIDD: Okay, while I told the 4 members to take cover I was standing in a situation, in a 5 place where I could see nicely onto the open area of the 6 koppie. 7 MS BALOYI: Can you just point out when 8 you say, where you were standing and what you describe as 9 the open area of the koppie? 10 CAPTAIN KIDD: If we go back to the 11 previous slide – 12 MS BALOYI: L235. 13 CHAIRPERSON: The slide he wants is 235. 14 MS BALOYI: Yes. 15 CHAIRPERSON: That's now on the screen. 16 CAPTAIN KIDD: Okay, Mr Chairman, I was 17 standing – when everyone had taken cover and I was looking 18 onto the koppie area I was standing round about to the 19 left-hand side of the oval on the western side, the purple 20 oval. 21 MS BALOYI: Okay and – 22 CHAIRPERSON: Can we translate that place 23 into a spot on the next slide, the one we were looking at? 24 CAPTAIN KIDD: It'll be – 25 MS BALOYI: The dam?</p>
<p style="text-align: right;">Page 29029</p> <p>1 that were at the top left-hand oval, they were the ones 2 that went here to the southern side. 3 CHAIRPERSON: Now the people in the line, 4 on the blue lines, those arrows, of course those weren't 5 your people. Those were the I who came there under the 6 command of General Naidoo. 7 CAPTAIN KIDD: That's correct, Mr 8 Chairman. 9 MS BALOYI: Captain, in this line, this 10 long line that you were in charge of, the line of members, 11 did you or did you not have section commanders in that 12 line? 13 CAPTAIN KIDD: Yes. Each of the units 14 that were there had their own commander. Like the POP that 15 came from, for example, Bethlehem, had a commander. The 16 one from Joburg had their commander, TRTs, different ones 17 had their own commanders. 18 MS BALOYI: Yes. Now you talk about 19 firing or shooting that came from the direction of the 20 koppie and then you say it sounded like small calibre 21 firearms. Do you see that? 22 CAPTAIN KIDD: I do see that. 23 MS BALOYI: And then you go on to say, 24 "While we took cover I witnessed strikers running around 25 inside the koppie in a group made up of approximately 100</p>	<p style="text-align: right;">Page 29031</p> <p>1 CAPTAIN KIDD: - where the, you'll see 2 there's like a dry dam wall and I was standing just on the 3 edge about where the – about where the, you could say the 4 first or the third arrow is, the shortest of the arrows. 5 CHAIRPERSON: The purple rectangular, 6 rectangle which is just above the mid-point of the left- 7 hand side of the photograph, that rectangle, that has three 8 arrows coming from it and you say you were near the head of 9 the arrow at the extreme left of the three arrows that we 10 see coming from that rectangle. 11 CAPTAIN KIDD: That's correct, Mr 12 Chairman. 13 CHAIRPERSON: And you indicate that if 14 one looks carefully at the spot below the head of that 15 arrow, one sees a dry dam wall. 16 CAPTAIN KIDD: That's correct, Mr 17 Chairman. 18 MS BALOYI: And the strikers that you 19 see, that you describe, where are they? 20 CAPTAIN KIDD: If you look, if you go 21 straight towards the koppie areas you'll see there's a 22 Nyala situated there. They were just in front of that. 23 Obviously the Nyala wasn't there but it's the area just 24 next to where the bushes or this area here, here – 25 CHAIRPERSON: To describe that perhaps</p>

<p style="text-align: right;">Page 29032</p> <p>1 one could put it this way. Near the top of the photograph 2 is certainly a black line rectangle which has POP in it and 3 there's a vertical arrow pointing down from that rectangle 4 and just below the head of that arrow one can see on this 5 photograph three vehicles, three Nyalas and if one looks at 6 the left – of those three, one looks at the left one, the 7 one at the extreme left – just below that there are some 8 bushes. That seems to be the point you're showing, is that 9 correct?</p> <p>10 CAPTAIN KIDD: That's correct, Mr 11 Chairman.</p> <p>12 MS BALOYI: And if you're able to 13 estimate what do you estimate the distance between where 14 you are and where you see the strikers that you've just 15 described?</p> <p>16 [09:27] CAPTAIN KIDD: I would estimate it to be 17 between 25 and 35 metres away.</p> <p>18 MS BALOYI: And what do you see, what is 19 happening? What do you see the strikers do?</p> <p>20 CAPTAIN KIDD: Okay, the strikers that I 21 saw were first of all running around. Then they gathered 22 in a group. They were, I don't know, they were like making 23 a sound, a sound like a – I mentioned in my statement, a 24 hissing sound, that's how I could explain it, and they were 25 banging their weapons against each other. So whoever had</p>	<p style="text-align: right;">Page 29034</p> <p>1 COMMISSIONER HEMRAJ: - for the record. 2 MS BALOYI: Thank you, Commissioner. 3 Captain Kidd, won't you just describe the place that you've 4 pointed out in relation to the Nyala and where your members 5 are?</p> <p>6 CAPTAIN KIDD: Okay, all this area here 7 is more like a, is an open area. There's no bushes and 8 rocks. If you're just here where the Nyala is, to the 9 right-hand side of the Nyala there's where the bushes 10 start, there's, this group that I was mentioning, they 11 gathered here.</p> <p>12 CHAIRPERSON: What you call the right- 13 hand side of the Nyala, that's the Nyala on the extreme 14 left of the photographs?</p> <p>15 CAPTAIN KIDD: That's correct. 16 CHAIRPERSON: What you call the right- 17 hand side of the Nyala actually is the left-hand side of 18 the photograph because of course the Nyala is facing is and 19 on, to the left of that Nyala there is what appears to be 20 an open area, relatively open area, and just below the 21 Nyala on the photograph there is this bushy area to which 22 you're referring. Is that correct?</p> <p>23 CAPTAIN KIDD: That's correct, Mr 24 Chairman. 25 MS BALOYI: Thank you, Commissioner. And</p>
<p style="text-align: right;">Page 29033</p> <p>1 two were, they were like clapping it against each other. 2 MS BALOYI: And as you're making this 3 observation, as you're looking at this, what is happening 4 with the shooting that you said you were experiencing from 5 the koppie?</p> <p>6 CAPTAIN KIDD: Okay, that was just, that 7 was before that, before I told the people to take cover, 8 that was when we were still, we still, we'd just arrived at 9 the koppie and that's when the, we heard the shooting, or I 10 could hear it clearly coming over our heads.</p> <p>11 MS BALOYI: And then you say, "The 12 strikers who were in front walked in a crouching formation 13 and pointed" – no, let me go back. You say, "The group of 14 strikers made a hissing sound, approached the members on 15 the western side and stopped near the bushes." Will you 16 please indicate that?</p> <p>17 CAPTAIN KIDD: The bushes that I'm 18 pointing at is there where the Nyala is, where the front of 19 that Nyala is, it's those bushes over there.</p> <p>20 MS BALOYI: And the members that you say 21 they were approaching, where are those members?</p> <p>22 COMMISSIONER HEMRAJ: No, Ms Baloyi, I 23 think you must place on record the point he's pointing out 24 on the slide – 25 MS BALOYI: Yes, thank you –</p>	<p style="text-align: right;">Page 29035</p> <p>1 the members that you say this group of strikers approached, 2 where are those members lying?</p> <p>3 CAPTAIN KIDD: There's a little bit of a 4 rocky place in the middle of that dry dam. If you look 5 where one of those arrows from the purple square at the 6 bottom left-hand side – 7 MS BALOYI: Yes? 8 CAPTAIN KIDD: - you'll see one of the 9 arrows points up. There – 10 MS BALOYI: That is the arrow on the 11 extreme left – 12 CAPTAIN KIDD: That's the arrow on the 13 extreme left. 14 MS BALOYI: Yes? So the members that you 15 say the strikers approached were at the head of that arrow, 16 the long arrow on the extreme left? Is that what you're 17 saying? 18 CAPTAIN KIDD: That's correct, that's - 19 and from the square on the bottom left, that's correct. 20 MS BALOYI: Yes. And as this is 21 happening, what are the members doing? 22 CAPTAIN KIDD: Okay, the members at that 23 time, all these members that I pointed out there, as well 24 as the members that are round about just below where that 25 rocky area is, just below where the second arrow comes up</p>

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1 from the bottom square on the left-hand side, there's also
 2 members there. All these members are shouting to the
 3 strikers to, telling them put down the weapons. Okay, they
 4 are busy screaming and shouting at the strikers to put down
 5 their weapons and come out, put down their weapons and come
 6 out.
 7 MS BALOYI: And do the strikers respond
 8 to that?
 9 CAPTAIN KIDD: No, all they, all the
 10 strikers are doing is they are – if I can remember, I can
 11 remember clearly they would tap their weapons once, twice,
 12 and point it forward, once, twice, point it forward. They
 13 were like chanting or singing something, but they would tap
 14 it together twice and point it towards the policemen.
 15 MS BALOYI: And you say there "The
 16 strikers who were in front walked in a crouching formation
 17 and pointed their weapons at the police in an aggressive
 18 manner." Is that what you're describing?
 19 CAPTAIN KIDD: That's what I'm describing
 20 now. They would tap it twice against each other, point it
 21 towards the policemen, tap it twice and point it towards
 22 the policemen.
 23 MS BALOYI: And then in paragraph 11, if
 24 we could go back to UUU2, and then you describe there that
 25 "All of a sudden two of the strikers from the group charged

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1 the police members who were positioned on my right-hand
 2 side. The two strikers made noise and shouted something
 3 that I did not understand because of the barrier language.
 4 They still charged at the police, who shouted at them to
 5 drop their weapons, which they refused to do and they
 6 proceeded to charge at the members." Now if we could go
 7 back to that slide - the previous slide, yes - won't you
 8 point out this action that you are describing in this
 9 paragraph?
 10 CAPTAIN KIDD: From where I mentioned
 11 earlier where they were, where the strikers had gathered
 12 just next to the bushy area, they ran out in that direction
 13 towards where those policemen were lying by the small rock.
 14 It's this bottom square on the left-hand side where the
 15 longer, the first arrow points up.
 16 CHAIRPERSON: Just to the right of the,
 17 of that arrow head that you – bottom left-hand corner
 18 rectangle, if there are five arrows coming from it, the one
 19 on the extreme left, just to the right of the head of the
 20 arrow, is that correct?
 21 CAPTAIN KIDD: That's correct –
 22 CHAIRPERSON: That's where the members
 23 were, had taken cover and were lying –
 24 CAPTAIN KIDD: And that's where the –
 25 CHAIRPERSON: And the strikers rushed at

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1 them from the position that you previously indicated, which
 2 is to the left going down of that Nyala that you pointed
 3 out to us.
 4 CAPTAIN KIDD: That's correct, Mr
 5 Chairman.
 6 CHAIRPERSON: And they rushed – and there
 7 appears to be a flat open area –
 8 CAPTAIN KIDD: That's correct.
 9 CHAIRPERSON: - between the spot where
 10 they were and the spot where your people had taken cover
 11 behind a rock, and they rushed across that area. Is that
 12 correct?
 13 CAPTAIN KIDD: That's all in that dry
 14 dam, Mr Chairman.
 15 CHAIRPERSON: Yes.
 16 MS BALOYI: So the strikers, the two
 17 strikers you describe ran as far as into the dry dam? Is
 18 that what you're saying?
 19 CAPTAIN KIDD: That's correct, they ran
 20 as far as the dam, they ran, the dam, we see, where they
 21 were standing was also where it is, it was quite higher
 22 than where the policemen were, so they ran from there all
 23 the way down.
 24 CHAIRPERSON: Were the policemen actually
 25 taking cover in the dry dam itself?

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1 CAPTAIN KIDD: That's correct, Mr
 2 Chairman.
 3 CHAIRPERSON: Because it looks, if one
 4 looks at the photograph just above the head of that arrow
 5 we were talking about there's something, I think it looks
 6 like a blue object. I'm not sure exactly what it is –
 7 CAPTAIN KIDD: Those are policemen.
 8 CHAIRPERSON: Those are policemen.
 9 CAPTAIN KIDD: That's correct.
 10 CHAIRPERSON: And then to the left of
 11 them, or as one looks on the photograph it does look like a
 12 depression, which I take it is the actual part where the
 13 water was in the days before it became a dry dam. Is that
 14 right?
 15 CAPTAIN KIDD: That's correct, Mr
 16 Chairman.
 17 CHAIRPERSON: And that's where your
 18 members were?
 19 CAPTAIN KIDD: That's correct, Mr
 20 Chairman.
 21 MS BALOYI: Yes, and then you say "I was
 22 next to the protesters and the expressions on their faces
 23 was that of persons who were focussed in what they intended
 24 to do." Will you explain what you mean with that?
 25 CAPTAIN KIDD: Okay, Mr Chairman, what –

<p style="text-align: right;">Page 29040</p> <p>1 when I was looking, I was higher up so I was looking 2 straight at the people and even the people that were in 3 front of this group, they were crouched down, but they 4 weren't looking around. They were focussed straight 5 looking at the policemen that were by that little small 6 rock. They were looking at them, they weren't – what, I 7 know it was a bit far away but I could see they weren't 8 blinking their eyes. They were just looking and tapping 9 their, tapping their weapons, pointing, tapping their 10 weapons and pointing. 11 CHAIRPERSON: Were they standing still or 12 moving forward? 13 CAPTAIN KIDD: They were, the ones at the 14 back were standing still. The two that I mentioned that 15 ran out, they ran out towards – they didn't stand still. 16 They ran out, they had their weapons above their, or their 17 arms above their head and they were also shouting 18 something. I didn't know what it was. 19 CHAIRPERSON: Now were they totally 20 upright when they ran, or – 21 CAPTAIN KIDD: They were upright. 22 CHAIRPERSON: Totally upright? 23 CAPTAIN KIDD: Totally upright. 24 CHAIRPERSON: I see. 25 MS BALOYI: And when these strikers run</p>	<p style="text-align: right;">Page 29042</p> <p>1 myself it looked like it because he, the clothes or the 2 blanket he had on was, you know, if you can, if I can 3 describe it, it was lifting up, so it looked like, for me 4 it looked like of course with all the, with the shots that 5 were fired, that he was hit, but when I saw him run back I 6 thought then maybe I had misjudged that. 7 MS BALOYI: Now these members that were 8 shooting at these, that fired at these two strikers that 9 you described, do you know if they were TRT, POP that 10 fired? 11 CAPTAIN KIDD: At this stage I didn't 12 know who they were when I was there, but afterwards I 13 realised it was mainly POP members. There was no TRT 14 members on that ground that fired there. 15 MS BALOYI: Yes. 16 CHAIRPERSON: So they fired with pistols? 17 I know every unit of POP members, eight members, one has an 18 R5, the other only have pistols. Is that right? Now these 19 shots that were fired that you talked about, do you know 20 whether they were fired by, from an R5, or R5s, plural, or 21 were they fired from pistols or a combination, or don't you 22 know? 23 CAPTAIN KIDD: I do know, Mr Chairman. I 24 found out afterwards, it was 9 millimetre pistols, as well 25 as shotguns.</p>
<p style="text-align: right;">Page 29041</p> <p>1 out towards the members in the way that you describe, what 2 then happens? 3 CAPTAIN KIDD: When they run out the 4 policemen were still screaming in, it was different 5 languages, I presumed, I don't know the languages but I 6 know there was English and there was also other languages, 7 still screaming at the people to drop their weapons. It 8 didn't happen. While they were running out then shots were 9 fired. 10 MS BALOYI: Shots were fired from who? 11 CAPTAIN KIDD: From the policemen. 12 MS BALOYI: Towards? 13 CAPTAIN KIDD: Towards the two strikers 14 that were running out. 15 MS BALOYI: Yes, and what happens? 16 CAPTAIN KIDD: One of the strikers, out 17 of the two strikers that ran out, the one that was closer 18 to me fell to the ground. The other striker that was 19 dressed in the red shirt, he stood there for about three to 20 four seconds, shouted something, turned around and ran back 21 to where he came from. 22 MS BALOYI: Now this striker that you say 23 ran back to where he came from, do you know if at that time 24 he was hit by any of the police shooting at him? 25 CAPTAIN KIDD: You know, according to</p>	<p style="text-align: right;">Page 29043</p> <p>1 CHAIRPERSON: Shotguns would of course 2 have fired rubber bullets, I take it. 3 CAPTAIN KIDD: That's correct, Mr 4 Chairman. 5 CHAIRPERSON: Sorry, rubber balls. 6 CAPTAIN KIDD: Rubber balls, ja. 7 CHAIRPERSON: And R5s weren't used at 8 all? 9 CAPTAIN KIDD: No, R5s weren't used 10 there, Mr Chairman. 11 MS BALOYI: And you say this one striker 12 than ran back to where he came from. 13 CAPTAIN KIDD: That's correct. 14 MS BALOYI: Yes, what happens next? 15 CAPTAIN KIDD: About 20 seconds passed 16 and this same striker that came out previously came out 17 again. I was very surprised because I mean what happened 18 just a couple of seconds before, I mean shots were fired, 19 he ran back, so I was very surprised. He came out again, 20 did the same thing as what he did in the first time, was 21 raised his weapons, was shouting something. More shots 22 were fired and this time this striker fell to the ground. 23 COMMISSIONER HEMRAJ: At the time he was 24 shot, how far was he from the dam where the policemen were? 25 CAPTAIN KIDD: Mr Chairman, if you can</p>

<p style="text-align: right;">Page 29044</p> <p>1 see on the picture there, you can see which I presume is 2 the guy in the red that was shot, but when he was shot he 3 was more closer to where the policemen were and I think 4 after that when the person fell down he still tried to 5 crawl backwards. 6 CHAIRPERSON: Perhaps we could zoom in. 7 Am I correct in thinking as one, if one puts one's pen as 8 it were on the photograph on the dam and then moves to the 9 right towards the area where, the bushy area where the 10 strikers were congregated, halfway there, there is what 11 appears to be a red object, small red object on the 12 photograph. Is that the body of the person, the second 13 striker who was shot – 14 CAPTAIN KIDD: That's correct – 15 CHAIRPERSON: - with the red jacket? 16 CAPTAIN KIDD: That's correct. 17 CHAIRPERSON: Perhaps if we could zoom in 18 we may see it more clearly, but I don't know if it's 19 necessary, Ms Baloyi? 20 MS BALOYI: Chairperson, I was going to 21 propose that we go to slide 237 – 22 CHAIRPERSON: I see. 23 MS BALOYI: - which shows the two bodies 24 on the ground. 25 CHAIRPERSON: Well, I thought if we could</p>	<p style="text-align: right;">Page 29046</p> <p>1 where – 2 CHAIRPERSON: Sorry, can I just put that 3 on record. Where we see the red mark, which you say is the 4 body of the second striker who had a red jacket, and if one 5 goes upwards and to the right one sees another object, 6 another mark, which in fact is the body of the first 7 striker who was shot. Is that what you're telling us? 8 CAPTAIN KIDD: That's correct, Mr 9 Chairman. That's the body, but that was not where he was 10 shot. When he was shot it was further, much further down. 11 That person, while I was standing there, was crawling back 12 up. 13 CHAIRPERSON: Yes, yes, I see. He wasn't 14 shot there. He – 15 CAPTAIN KIDD: No. 16 CHAIRPERSON: That's where he ended up 17 and where he died, I take it. 18 CAPTAIN KIDD: That's correct, Mr 19 Chairman. 20 COMMISSIONER HEMRAJ: That was my initial 21 question; where was the person at the time he was shot in 22 relation to this – 23 CAPTAIN KIDD: No, yes he was further 24 down where the, you could see that one in the red, he was 25 also, he was almost, about one or two metres on, more,</p>
<p style="text-align: right;">Page 29045</p> <p>1 zoom in this one though we could possibly see, you know, 2 before we move to the next one, help us to understand 3 what's happening. No, we've gone off now. We need to go 4 the left. We've gone – the zoomed portion doesn't contain 5 this red – no, a little bit up now, please. 6 CAPTAIN KIDD: Down. 7 CHAIRPERSON: We need the slide to go up, 8 don't we? 9 CAPTAIN KIDD: No, it's down, Mr 10 Chairman. 11 MS BALOYI: Down. 12 CHAIRPERSON: No, it is going up now and 13 the body is on the left, down, but the slide as it was on 14 the screen didn't show the red person at all. We still 15 can't see it, see the red mark on the screen, because it's 16 to the left. So if the slide could be moved then we can 17 see it, the zoomed portion could be moved. A little bit 18 more to the right. Yes, that's the body you say of the – 19 CAPTAIN KIDD: Yes. 20 CHAIRPERSON: - the second striker. Do 21 you know whether the body of the first striker who was shot 22 is visible on this photograph? 23 CAPTAIN KIDD: Yes, he's just above 24 there, Mr Chairman, if you could turn around I can show you 25 on the – there. But, Mr Chairman, I can also say there</p>	<p style="text-align: right;">Page 29047</p> <p>1 above him – 2 COMMISSIONER HEMRAJ: Captain – 3 CAPTAIN KIDD: - when he was shot. 4 COMMISSIONER HEMRAJ: Captain, can you 5 estimate the distance the first striker was from the police 6 at the time he was shot? 7 CAPTAIN KIDD: The first striker from the 8 police, I would estimate less than 10 metres. 9 COMMISSIONER HEMRAJ: And can you 10 estimate the distance that the second striker was from the 11 police at the time he was shot? 12 CAPTAIN KIDD: Also about less, less than 13 10 metres. As I said, Mr Chairman, I was standing on the 14 far left, so they, these policemen were closer than what I 15 was. I was about 20 metres away. 16 COMMISSIONER HEMRAJ: Thank you. 17 CHAIRPERSON: You say less than 10 18 metres. 19 CAPTAIN KIDD: Yes. 20 CHAIRPERSON: Less than 10 metres can 21 mean one metre or nine metres. Now what do you mean by 22 less than 10 metres? 23 CAPTAIN KIDD: Close to about five. 24 CHAIRPERSON: I see. 25 CAPTAIN KIDD: Let me say five metres, Mr</p>

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1 Chairman.

2 CHAIRPERSON: Alright, thank you.

3 MS LE ROUX: Chair, if I could –

4 CHAIRPERSON: By the way, do we know -

5 you know it's unsatisfactory to talk about bodies and red

6 jackets and stuff – do we know the names of the two persons

7 who were killed?

8 MS LE ROUX: Yes, Chair, that's what I

9 was about to place on record. The man in the Arsenal's

10 jacket, we're not too sure of his name, we think it's

11 something like Mr Gadava, G-A-D-A-V-A, is how it's –

12 CHAIRPERSON: G-A-D-A?

13 MS LE ROUX: We're not sure. We just,

14 everyone generally refers to him as the man in the Arsenal

15 shirt, and then –

16 CHAIRPERSON: Arsenal, sorry, for those

17 who don't know, Arsenal colours are red.

18 MS LE ROUX: Yes, and then Chair, that is

19 in the crime scene –

20 CHAIRPERSON: And the other –

21 MS LE ROUX: In the crime scene

22 photographs he is, in the crime scene documents he's

23 referred to as body N, but it's Mr Mkhonjwa.

24 CHAIRPERSON: So what is the letter given

25 to the gentleman in red, the Arsenal supporter?

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1 MS LE ROUX: No, he didn't die –

2 CHAIRPERSON: - Mr Gadava?

3 MS LE ROUX: So he doesn't –

4 CHAIRPERSON: Oh, he didn't die, I see.

5 MS LE ROUX: He survived.

6 CHAIRPERSON: So body N is – what was the

7 name you gave to me?

8 MS LE ROUX: Mkhonjwa.

9 CHAIRPERSON: Spell it.

10 MS LE ROUX: M-K-H-O-N-J-W-A. Mkhonjwa.

11 CHAIRPERSON: And he is described as body

12 N.

13 MS LE ROUX: Correct, Chair.

14 CHAIRPERSON: But I think from now on we

15 should call him, with due respect to the dead, Mr Mkhonjwa.

16 Thank you. The Arsenal supporter we'll call Mr Gadava. Is

17 that the correct name?

18 MS LE ROUX: We're not sure of that. So

19 perhaps we should continue to call him the Arsenal man.

20 MS BALOYI: Chairperson, the –

21 CHAIRPERSON: Alright, carry on, Ms

22 Baloyi.

23 MS BALOYI: Thank you, Chair. Perhaps

24 just to complete that last part of the discussion, Captain

25 Kidd, if we could look at L237, now you see in that slide

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1 you have the two red arrows and then you've got two circles

2 there. Can you see that?

3 CAPTAIN KIDD: I can see that.

4 MS BALOYI: Yes, now the circle closest

5 to the two arrows, which striker do you say that was.

6 [09:47] CAPTAIN KIDD: Mr Chairman, it's the one

7 that they say now is the arsenal one.

8 MS BALOYI: That's the man you described

9 as the man in the red jacket?

10 CAPTAIN KIDD: That's correct, Mr

11 Chairman.

12 MS BALOYI: Yes, and the one in the

13 second circle to the left of that first circle that we've

14 just discussed now is that the striker that you say was

15 shot first?

16 CAPTAIN KIDD: That's correct.

17 CHAIRPERSON: That's Mr Mkhonjwa.

18 MS BALOYI: And that's Mr Mkhonjwa.

19 CHAIRPERSON: Also described as body N.

20 CAPTAIN KIDD: Body N, that's correct, Mr

21 Chairman.

22 MS BALOYI: That's Mr Mkhonjwa.

23 CAPTAIN KIDD: Mkhonjwa.

24 MS BALOYI: yes.

25 CHAIRPERSON: And then immediately above

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1 his body and to the left is a bushy area and that's where

2 you say where a number of the strikers were?

3 CAPTAIN KIDD: That's correct, Mr

4 Chairman.

5 CHAIRPERSON: Can we see the, I suppose

6 we can't see the dry dam on this photograph, can we?

7 CAPTAIN KIDD: There, Mr Chairman, ja

8 there's –

9 MS BALOYI: To the left.

10 CAPTAIN KIDD: The dry dam is this area

11 here. These are the members that were, if you see Mr

12 Chairman, where you mentioned earlier that the water was or

13 the water stain is about there.

14 CHAIRPERSON: What you've shown us is to

15 the right of the body, sorry to the right of the body of

16 the striker in the red jacket who we think is, who, anyway

17 Ms Le Roux thinks is Mr [indistinct], to the right of that

18 there is a white circle, oval really with and that you say

19 is in the depression caused by the dry dam.

20 CAPTAIN KIDD: That's correct.

21 CHAIRPERSON: And immediately to the

22 left of it you say that's actually a patch where there was

23 either water or drying mud or something of that kind.

24 CAPTAIN KIDD: That's correct, Mr

25 Chairman.

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1 CHAIRPERSON: And then to the extreme
 2 right there's another oval and there appear to be men in
 3 that. I take it that there are men, police members in both
 4 of those white ovals, is that –
 5 CAPTAIN KIDD: That's correct, Mr
 6 Chairman.
 7 CHAIRPERSON: And then while we're busy
 8 with it. As one moves towards the centre of the photograph
 9 just above the word western, slightly to the left there's
 10 another oval, white oval and there's an object or something
 11 in the middle of that oval, do you know what it is?
 12 CAPTAIN KIDD: It's also policemen, Mr
 13 Chairman.
 14 CHAIRPERSON: Also police. I see thank
 15 you.
 16 MS BALOYI: Thank you, Chair. Captain
 17 Kidd, where we see Mr Mkhonjwa there is that where he fell
 18 when he was shot?
 19 CAPTAIN KIDD: No, Mr Chairman.
 20 CHAIRPERSON: You've already told us
 21 that he was shot and then he crawled.
 22 MS BALOYI: Yes.
 23 CHAIRPERSON: He crawled forwards
 24 towards the bushy area.
 25 MS BALOYI: Yes.

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1 CHAIRPERSON: And that's where he
 2 appears to have died.
 3 MS BALOYI: And that is his final
 4 position.
 5 CAPTAIN KIDD: That's correct.
 6 CHAIRPERSON: He, I take it was crawling
 7 backwards to the place from which he had come, but he was
 8 crawling forwards from the place where he was shot, is that
 9 correct?
 10 CAPTAIN KIDD: That's correct, Mr
 11 Chairman.
 12 MS BALOYI: Yes.
 13 CHAIRPERSON: I think he told us he was
 14 shot somewhere near the place where the body of, the
 15 injured body of the arsenal supporter can be seen.
 16 CAPTAIN KIDD: That's correct, Mr
 17 Chairman.
 18 MS BALOYI: And after this shooting here
 19 what do you see happen with the strikers that were in the
 20 koppie?
 21 CAPTAIN KIDD: Mr Chairman, they carried
 22 on with their singing or chanting and then they moved
 23 deeper into the bushes behind the rocks. I couldn't see
 24 them anymore.
 25 MS BALOYI: Now except for this shooting

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1 of these two strikers that we've just identified now did
 2 the members that you were within the area, the three blocks
 3 that are indicates, the three white ovals that are
 4 indicated there, did any of those members carry out any
 5 other shooting?
 6 CAPTAIN KIDD: While I was there, no.
 7 MS BALOYI: And then you go on at
 8 paragraph 13 of UUU2. You say "on my left side, on my left
 9 hand side I noticed one of the strikers who came out
 10 running from behind the bushes armed with two spears" you
 11 see that?
 12 CAPTAIN KIDD: I do see that.
 13 MS BALOYI: Yes, now if we could go back
 14 to that slide. To slide –
 15 CHAIRPERSON: Go back to slide 237.
 16 MS BALOYI: 237.
 17 CHAIRPERSON: Now show us again where
 18 you were and show us where this person came out on your
 19 left hand side?
 20 CAPTAIN KIDD: Mr Chairman, I was
 21 standing, if you look where the, that white circle is,
 22 more, there's a bush just on the other side of that bush.
 23 I was standing on that, the edge of the dam wall so I could
 24 be a bit higher.
 25 CHAIRPERSON: You refer to the bush

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1 which is immediately above the word western on the
 2 photograph and you indicate that as one looks at the
 3 photograph you were more or less at the top right hand
 4 corner of that bush standing on the dam wall?
 5 CAPTAIN KIDD: That's correct, Mr
 6 Chairman.
 7 CHAIRPERSON: And now the next thing you
 8 were going to show us is where the striker that you
 9 referred to, who came out on your left hand side where he
 10 came from.
 11 CAPTAIN KIDD: Okay, Mr Chairman, if you
 12 look there's, there was a whole lot of rocks on this side
 13 and there were, I won't say bushes, these were more like
 14 shrubs that you can, it's like sticks, dry shrubs and
 15 stuff, but the person that I saw came in about this
 16 direction and he ran down.
 17 CHAIRPERSON: Alright. It's fairly easy
 18 to describe. On the photograph one can see to the left of
 19 the area you were talking about a number of vehicles, it
 20 looks like three Nyalas I think and a water cannon. The
 21 water cannon is actually shooting out water and immediately
 22 below the water cannon is the area which you referred to
 23 from which the person came, is that correct?
 24 CAPTAIN KIDD: That's correct, Mr
 25 Chairman.

<p style="text-align: right;">Page 29056</p> <p>1 CHAIRPERSON: And which direction did he 2 run?</p> <p>3 CAPTAIN KIDD: He ran more to where it's 4 written the northern side, where it's written northern on 5 the bottom left hand side.</p> <p>6 CHAIRPERSON: He ran towards the, 7 effectively towards the bottom left hand corner of the 8 photograph?</p> <p>9 CAPTAIN KIDD: That's correct, Mr 10 Chairman.</p> <p>11 CHAIRPERSON: And one can see there's a 12 rock there and it looks like two members dressed in blue I 13 think was standing in front of the rock, or on the rock.</p> <p>14 CAPTAIN KIDD: That's correct.</p> <p>15 CHAIRPERSON: And he ran in that 16 direction. Did he run towards the rock or did he run below 17 the rock on the photograph?</p> <p>18 CAPTAIN KIDD: Below, in front of the 19 rock, Mr Chairman.</p> <p>20 CHAIRPERSON: Where there are shrubs of 21 some sort?</p> <p>22 CAPTAIN KIDD: That's correct, Mr 23 Chairman.</p> <p>24 MS BALOYI: Yes, and you say this striker 25 was armed with spears, is that correct?</p>	<p style="text-align: right;">Page 29058</p> <p>1 an open space, when this person started running. Where 2 were they, were they, was the place where they were 3 standing or where they were visible on the photograph?</p> <p>4 CAPTAIN KIDD: Not on this photograph, Mr 5 Chairman, they were more further, if I show it's going to 6 be off the, they were about, it's going to be off –</p> <p>7 CHAIRPERSON: They were off the picture 8 to the left, more or less in line with the word northern 9 which appears?</p> <p>10 CAPTAIN KIDD: That's correct, Mr 11 Chairman.</p> <p>12 CHAIRPERSON: And that's a flat piece of 13 ground is it?</p> <p>14 CAPTAIN KIDD: That's correct.</p> <p>15 CHAIRPERSON: We can see part of it 16 where the word northern is.</p> <p>17 CAPTAIN KIDD: That's correct.</p> <p>18 CHAIRPERSON: On the photograph.</p> <p>19 CAPTAIN KIDD: That's correct.</p> <p>20 MS BALOYI: Perhaps Chair, it might be 21 helpful if we could go to exhibit TTT6 and then slide 10 22 and if you could use that slide to indicate where these 23 policemen that you're shouting at was. Now you see the 24 caption at the top of that slide it says Mr Mpumza's more 25 likely path and the true position of his body. Perhaps let</p>
<p style="text-align: right;">Page 29057</p> <p>1 CAPTAIN KIDD: What I could see he had a 2 spear in each hand.</p> <p>3 MS BALOYI: Yes, and how far are you from 4 this striker, if you could estimate the distance when you 5 see him?</p> <p>6 CAPTAIN KIDD: If I could estimate I was 7 about maybe 25 to 35 metres away.</p> <p>8 MS BALOYI: When you see him?</p> <p>9 CAPTAIN KIDD: When I see him.</p> <p>10 MS BALOYI: Yes, and what happens with 11 this striker?</p> <p>12 CAPTAIN KIDD: Okay, when I see him I see 13 that, he looks in my direction, he sees me and then that's 14 when he changes his direction and goes down where I 15 mentioned earlier in front of those rocks and then I see on 16 the far, to my far left I see policemen standing there in 17 the open and I shout to them you know watch out watch out 18 and then also some other members also shout look there's 19 someone running look to the left, look to the left and 20 that's when people start looking and at that time, Mr 21 Chairman, as the guy was running, as I indicated I start 22 running from this way, I start running down, which is also 23 to the northern side but more in the open space.</p> <p>24 CHAIRPERSON: These policemen to whom 25 you shouted to, the other two might have shouted, there was</p>	<p style="text-align: right;">Page 29059</p> <p>1 me check this first. This striker that you referred to, is 2 this the same person that was referred to initially as 3 Rasta?</p> <p>4 CAPTAIN KIDD: That's correct, Mr 5 Chairman.</p> <p>6 MS BALOYI: And, Chairperson –</p> <p>7 CHAIRPERSON: The person with 8 dreadlocks?</p> <p>9 CAPTAIN KIDD: That's correct, Mr 10 Chairman.</p> <p>11 MS BALOYI: And Chairperson we've 12 established that it is Mr Mpumza that the witness is 13 describing and in the post-mortem, in the crime pack 14 referred to as body C. Now the, when you, when you say you 15 run and you shout at members where are these members if you 16 can just point out with the assistance of this picture.</p> <p>17 CAPTAIN KIDD: There where the red circle 18 is.</p> <p>19 MS BALOYI: They were in that area?</p> <p>20 CAPTAIN KIDD: They were in that area, 21 like, I can't exactly say where on this picture but it's 22 there nearby where the red circle is.</p> <p>23 MS BALOYI: Yes, and when you describe 24 yourself as running, where are you running to with respect 25 to this picture?</p>

<p style="text-align: right;">Page 29060</p> <p>1 CAPTAIN KIDD: I'm running to see where 2 the striker's running to, I'm running basically I'm 3 watching them to see where he's going. 4 MS BALOYI: So you're running in the same 5 direction as him? 6 CAPTAIN KIDD: Same direction but on this 7 side of the bushes, I was running from where I was, I was 8 situated here so I'm running also in the same direction but 9 just on this side of the bushes that you can see. 10 CHAIRPERSON: If one looks at the 11 photograph one sees the red circle, below the red circle is 12 a dotted white circle and on the bottom left hand corner if 13 one can talk about a circle having a corner there's a bush 14 and you were more or less in that area is that correct? 15 CAPTAIN KIDD: That's correct, Mr 16 Chairman. 17 CHAIRPERSON: And where was, in what, at 18 the point you're talking about where was Mr Mpumza running, 19 can you indicate his direction of travel? 20 CAPTAIN KIDD: I saw him when he was in 21 this area, Mr Chairman, and he ran that way. 22 CHAIRPERSON: What you indicate is a 23 spot just above the Nyala which is visible on the 24 photograph there, roughly near the left front door I would 25 think of the vehicle and he is running towards that white</p>	<p style="text-align: right;">Page 29062</p> <p>1 ground. 2 MS BALOYI: And when you say you heard 3 shots and you, did you see that the striker has been shot? 4 CAPTAIN KIDD: No, I didn't see that he's 5 been shot. 6 MS BALOYI: Yes. 7 CAPTAIN KIDD: I was still quite a 8 distance behind, I was still approaching – 9 MS BALOYI: Yes. 10 CHAIRPERSON: How far was – 11 CAPTAIN KIDD: And his back was to me. 12 CHAIRPERSON: Sorry, how far was the 13 striker who fell from the member who fell at the time they 14 both fell? 15 CAPTAIN KIDD: Mr Chairman, when I was 16 looking, it looked like they were basically on top of each 17 other. 18 CHAIRPERSON: So they were very close to 19 each other? 20 CAPTAIN KIDD: Very close, Mr Chairman. 21 CHAIRPERSON: And the time the shots 22 were fired I take it, did the member who fell did he fire 23 shots? 24 CAPTAIN KIDD: He did fire shots. 25 CHAIRPERSON: How far was he from the</p>
<p style="text-align: right;">Page 29061</p> <p>1 broken circle. 2 CAPTAIN KIDD: Towards the red circle. 3 CHAIRPERSON: Towards the red circle. 4 MS BALOYI: Yes, Chair, thank you. 5 CHAIRPERSON: Ms Baloyi would like to 6 carry on. 7 MS BALOYI: Thank you, Chair. Now these 8 members that you say you're running towards and you're 9 shouting at. Do they became aware of the, of Mr Mpumza 10 running in their direction? 11 CAPTAIN KIDD: Yes, they do become aware, 12 I hear them shouting also, now they start shouting to the 13 person or the striker that's running towards them. 14 MS BALOYI: Yes, and what happens? 15 CAPTAIN KIDD: As they're running, I'm 16 also running, I'm trying to see where the person's going. 17 I see that he's in the, he's going in the direction of 18 these members and I stop screaming because obviously they 19 have noticed them, they carry on screaming, shouting to him 20 to drop the weapons. At that time the visual that I got, I 21 can still see the striker with the two weapons that he has, 22 one in each hand, at that time I see him approaching, then 23 he slows down and then the next moment when I'm approaching 24 I see that shots, or I hears shots are fired and then I see 25 the striker as well as the one policeman fall to the</p>	<p style="text-align: right;">Page 29063</p> <p>1 striker at the time he fired shots or when he fired the 2 first shot? 3 CAPTAIN KIDD: Mr Chairman, as I say I 4 was coming from the back, so I could only see basically the 5 back of the striker, to estimate how close or how far the 6 policeman was, it's quite difficult but he was very, he was 7 really close. 8 CHAIRPERSON: Thank you. 9 MS BALOYI: And then you say the, you say 10 "as I approached the member I heard shots being fired and 11 noticed some member, one member together with the striker 12 falling down on the ground. The police member stood up and 13 was unharmed". 14 CAPTAIN KIDD: Yes, when I got there the 15 member had just stood up and I asked are you alright and 16 the member said yes, he's alright, he's alright. 17 MS BALOYI: And then you say "I realised 18 that the protestor had been shot as he laid down on the 19 ground" you see that? 20 CAPTAIN KIDD: I do see that. 21 MS BALOYI: Yes, and then what happened? 22 CAPTAIN KIDD: Okay, when I approached 23 the striker's still lying on the ground, he's got a spear 24 in his one hand and what looked like a stick with like a 25 knobkerrie in the other hand. It's still in his hands.</p>

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1 CHAIRPERSON: The knobkerrie in his
2 right hand and the spear was in his left, if I can judge
3 from the hands that you're showing us at the time you said
4 what you said.

5 CAPTAIN KIDD: That's correct, Mr
6 Chairman, and it was still in, his hands were still moving,
7 what I could see his hands were still moving, he wasn't
8 lying still, his arms were moving up and down.

9 MS BALOYI: Yes, so he was still alive at
10 that point?

11 CAPTAIN KIDD: He was still alive.

12 MS BALOYI: That's what you're saying,
13 yes, and what happened, what did you do when you get there?

14 CAPTAIN KIDD: Okay then I see what is
15 happening, I find out that the policeman is alright, then
16 we see and then at that time I see Colonel McIntosh
17 approaching. He arrives, he asks one of the members for
18 latex gloves, he says, which I assume he's got medical
19 experience and then he tries to see how he can assist.

20 MS BALOYI: Yes, and do you know what
21 happened to these weapons that were in the striker's hands
22 when you got there?

23 CAPTAIN KIDD: No, I don't know what
24 happened after that, with, where the weapon, who took it
25 out of his hands and where they put it.

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1 MS BALOYI: Yes. Now in this same
2 exhibit TTT6, if we could go to slide 9. Now slide 9 is
3 developed from exhibit L247. 247 is the document that was
4 prepared by the SAPS. Now at the top of that document it
5 says Mr Mpumza's more likely path and the true position of
6 his body. Now that is an inscription that is put in by
7 representatives of the family of Mr Mpumza and was this
8 slide, what they've done is if you see where you've got the
9 dotted yellow line, do you see that?

10 CAPTAIN KIDD: I see that, Mr Chairman.

11 MS BALOYI: Okay and according to the
12 family the dotted yellow line indicates the likely path
13 that Mr Mpumza would have taken from when he was first in
14 the koppie and ran up to where you see the small circle in
15 red, to the right of the picture which is where he ended
16 up, which is where he was shot and he fell. Does this
17 accord with your observation of your, your observation of
18 Mr Mpumza?

19 CAPTAIN KIDD: No, it doesn't. The
20 person that I saw which we referred to in the beginning as
21 Rasta but was later as Mr Mpumza didn't run this path.

22 MS BALOYI: Yes, can you just indicate
23 again, just so that there's no doubt on this slide where
24 you, how you observed him?

25 CAPTAIN KIDD: Okay on this slide, Mr

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1 Chairman, I can explain, where the word western is,
2 underneath it there's a Nyala, he ran from that direction
3 straight down to where the red circle is.

4 MS BALOYI: Yes. Now if we could go back
5 to UUU2. You then say "the striker in question at
6 paragraph 14, paragraph 14 you describe that he had a rope
7 fastened around his upper arm and below the knees and then
8 you further go on to describe his weapons and that Colonel
9 McIntosh arrived to attend to him". You see that?

10 CAPTAIN KIDD: I do see that.

11 MS BALOYI: Okay, what do you do, Colonel
12 McIntosh has now arrived at the scene, what do you do after
13 that, do you remain at the scene the whole time?

14 CAPTAIN KIDD: No, I don't remain there,
15 the whole time. I'm standing there and as, with the
16 incident a lot of members are arriving. So I'm just there,
17 I'm telling them they must go back and do whatever they can
18 do to assist.

19 MS BALOYI: So you didn't –

20 CAPTAIN KIDD: In the operation.

21 MS BALOYI: And you didn't stay there
22 while Colonel McIntosh attended to the striker?

23 CAPTAIN KIDD: No, I didn't stay there.

24 MS BALOYI: Yes. So would you know
25 anything about what happened with the position of the

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1 weapons that were in the possession of the striker.

2 [10:07] CAPTAIN KIDD: No.

3 MS BALOYI: And then at paragraph 15 you
4 say you then went to the scene, you then left the scene and
5 went to the area where the protesters were arrested and
6 laying on the ground, do you see that?

7 CAPTAIN KIDD: I do see that.

8 MS BALOYI: Yes, and you saw paramedics
9 there attending to the injured.

10 CAPTAIN KIDD: That's correct.

11 MS BALOYI: Chair, if you would bear with
12 me.

13 CHAIRPERSON: Ms Baloyi, would you like
14 me to take the comfort break now?

15 MS BALOYI: Thank you, Chair.

16 CHAIRPERSON: It gives you a chance then
17 to –

18 MS BALOYI: To see that I've covered
19 everything, thank you, Chair.

20 CHAIRPERSON: To see that you've covered
21 everything. That's probably the sensible way of doing it.

22 MS BALOYI: Thank you, Chair.

23 CHAIRPERSON: It's now just after five
24 past 10, we'll resume at 20 past.

25 MS BALOYI: Thank you, Chair.

<p style="text-align: right;">Page 29068</p> <p>1 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>2 [10:23] CHAIRPERSON: The Commission resumes.</p> <p>3 Captain, you're still under oath.</p> <p>4 WAYNE PETER KIDD: (s.u.o.)</p> <p>5 CHAIRPERSON: Ms Baloyi, you're now in a</p> <p>6 position to proceed?</p> <p>7 EXAMINATION BY MS BALOYI (CONTD.): Thank</p> <p>8 you, Chairperson. Captain Kidd, we were looking at</p> <p>9 paragraph 14 where you talk about the member, I mean Mr</p> <p>10 Mpumza who had a rope fastened around his upper arms and</p> <p>11 below the knees, and the explanation that you say you got</p> <p>12 from an African member, what else happened? Did anything</p> <p>13 else happen in respect of those ropes and the piece of</p> <p>14 cloth that you want to explain?</p> <p>15 CAPTAIN KIDD: Yes, Ma'am, someone wanted</p> <p>16 to touch it, so, and then the people said no, no, no, leave</p> <p>17 it, and then I was curious to ask what it was and that's</p> <p>18 when I was told by one of the African members it's some</p> <p>19 form of muti used by sangomas.</p> <p>20 MS BALOYI: Yes. Now if we could then go</p> <p>21 back to slide 237, to try and finish off, now you've</p> <p>22 explained where you were when the two strikers, the man in</p> <p>23 the red jacket and Mr Mkhonjwa were shot, and you certainly</p> <p>24 were not in the two white circles where you've got the two</p> <p>25 arrows protruding from. You were not part of that?</p>	<p style="text-align: right;">Page 29070</p> <p>1 there was a police session in Roots somewhere towards the</p> <p>2 end of August into September. Did you attend and did you</p> <p>3 participate in that session?</p> <p>4 CAPTAIN KIDD: I did attend and</p> <p>5 participate.</p> <p>6 MS BALOYI: Yes.</p> <p>7 COMMISSIONER HEMRAJ: Sorry, can you just</p> <p>8 help me understand something, Captain. Initially when the</p> <p>9 group under your command left forward holding area 2, how</p> <p>10 did it come about that they went into different directions?</p> <p>11 CAPTAIN KIDD: Mr Chairman, that came</p> <p>12 about when we were gestured by the lady in the helicopter</p> <p>13 and also the comments made by Colonel Vermaak where "The</p> <p>14 people on the west, move to your left, move to your left,"</p> <p>15 and at that time it wasn't only me that had a hand radio.</p> <p>16 The hand radios, we had about 12 hand radios in our whole</p> <p>17 line, so everyone was listening to those radios. So when</p> <p>18 they, these comments, or instructions came over the radio,</p> <p>19 the members just went and started splitting up.</p> <p>20 COMMISSIONER HEMRAJ: Were there section</p> <p>21 leaders among, in that line?</p> <p>22 CAPTAIN KIDD: Yes, there was.</p> <p>23 COMMISSIONER HEMRAJ: Do you know if they</p> <p>24 gave any commands to move out?</p> <p>25 CAPTAIN KIDD: I don't know if they gave</p>
<p style="text-align: right;">Page 29069</p> <p>1 CAPTAIN KIDD: No, I was not.</p> <p>2 MS BALOYI: You were not part of that.</p> <p>3 Now if you had been in one of those circles and the</p> <p>4 strikers that you see there confronted you in the way that</p> <p>5 you've just described, what would you have done?</p> <p>6 CAPTAIN KIDD: I would also have used my</p> <p>7 firearm and shot.</p> <p>8 MS BALOYI: Why?</p> <p>9 CAPTAIN KIDD: Otherwise I would have</p> <p>10 been attacked.</p> <p>11 MS BALOYI: Yes, and then Mr Mpumza that</p> <p>12 you described - we don't need to go to the slide - the</p> <p>13 manner in which you described the attack to the members, if</p> <p>14 you had been one of those members at that confrontation</p> <p>15 with Mr Mpumza, what would you have done?</p> <p>16 CAPTAIN KIDD: I would have used my</p> <p>17 firearm as well, especially in that situation because that</p> <p>18 was very dangerous.</p> <p>19 MS BALOYI: Yes, and in your opinion if</p> <p>20 the members had not shot when they did, what would have</p> <p>21 happened?</p> <p>22 CAPTAIN KIDD: They would have been</p> <p>23 attacked.</p> <p>24 MS BALOYI: And finally, Captain, we know</p> <p>25 that following the events with this operation in Marikana</p>	<p style="text-align: right;">Page 29071</p> <p>1 commands, but I'm sure they also instructed their members</p> <p>2 when they heard over the radio, because if they could see</p> <p>3 that I was distracted or doing something else they would</p> <p>4 give an instruction to their own members.</p> <p>5 COMMISSIONER HEMRAJ: Thank you, Captain.</p> <p>6 CAPTAIN KIDD: Thank you.</p> <p>7 CHAIRPERSON: Ms Baloyi?</p> <p>8 MS BALOYI: Chairperson, that's the</p> <p>9 evidence of Captain Kidd.</p> <p>10 CHAIRPERSON: Thank you. Now I</p> <p>11 understand that it was left to the parties to decide among</p> <p>12 themselves who would cross-examine first. So who is going</p> <p>13 to cross-examine first?</p> <p>14 MS LE ROUX: Yes, Chair, I'll cross-</p> <p>15 examine for the Human Rights Commission, but I believe Mr</p> <p>16 Mpofo wishes to say something first.</p> <p>17 CHAIRPERSON: Yes, well let's hear what</p> <p>18 Mr Mpofo has to say.</p> <p>19 MR MPOFU: Thank you, Chairperson. I</p> <p>20 just wanted to place on record some of the issues that</p> <p>21 affect a matter that we discussed a week or so ago, namely</p> <p>22 around the issue, particularly the issue of the deadline of</p> <p>23 31st July. We have now received instructions, Chairperson,</p> <p>24 to litigate around that matter, but the issue of the date,</p> <p>25 you know, particularly on the basis that we see it as, or</p>

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1 at least our clients see the danger of the proceedings not
2 being able to seek the truth and equitable treatment of the
3 parties. I won't get into details because we've already
4 raised those issues before.

5 Secondly, that the nature of the contemplated
6 proceedings would be review proceedings, Chairperson, on
7 the basis that the decision of the President to impose the
8 deadline was, among other things irrational, was done
9 without applying the mind, motivated by ulterior improper
10 motives, and are unconstitutional.

11 The situation is that, Chairperson, because a
12 positive development in that light is the fact that
13 yesterday we received an indication that there's been an
14 approach for an extension of the date by the Commission
15 itself, which we, at least the parties that had raised the
16 issues before appreciate very much, Chairperson. So that
17 might, depending on when a response is received, as you
18 know, Chairperson, that litigation should always be the
19 last resort. Should there be no developments then
20 obviously we will take that route, but we wanted to place
21 on record that we will try, insofar as it is within our
22 power, expedite, or, well we'll put the pressure on you,
23 Chairperson, to try and get a response so that we can then
24 go back to clients as to whether they should proceed or
25 wait for the outcome of the approach that we appreciate.

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1 The other factor is that the Human Rights
2 Commission - and Ms Le Roux I'm sure will confirm - had in
3 any event sent a letter to the government seeking reasons,
4 which is a precursor to the kind of action that we
5 contemplate, and the deadline for that is today. So that's
6 another, that may well also have a positive outcome or may
7 not, depending on the contents of the reply.

8 The only reason that we are raising this now,
9 Chairperson, really is the quagmire that we explained
10 earlier, in that if it takes too long to respond even to
11 the request of the Commission, then the danger is that we
12 will then be moving at this pace, which our clients find
13 unacceptable, and maybe find out later that the extension
14 is granted when many witnesses would have already been
15 subjected to the current pace that we object to
16 effectively.

17 Specifically now related to my clients, the issue
18 around Mr X is also an important one because Mr X for
19 obvious reasons is a very important witness for the people
20 that we represent. Now should he be called in this hiatus
21 when we don't know whether we are in this fast-pace regime
22 or in a more comfortable regime, then the danger of course
23 is that we might not do justice to his cross-examination
24 and traversing all the issues, and only to find out later
25 that we might have had enough time. I've raised it - we

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1 haven't reached any agreement, but I've raised it with some
2 of my colleagues for SAPS and if we reach an out-of-
3 Commission agreement as it were, it might well affect when
4 Mr X gets called in relation to when we contemplate the
5 answer, and whether it's not more prudent to interpose some
6 of the other witnesses whose fast pace might not really be
7 seen to be adversely affecting that client. So that's a
8 matter that specifically affects us, but the rest of what
9 I've said is in line with what the other colleagues, what
10 we have discussed with the other colleagues. Thank you,
11 Chairperson.

12 CHAIRPERSON: Thank you, Mr Mpofu, for
13 bringing us up to date and giving us that information.
14 Thank you. Ms Le Roux, are you going to commence the
15 cross-examination?

16 MS LE ROUX: Yes, thank you, and in light
17 of Mr Mpofu's statements I probably should just confirm for
18 the record, today is the deadline that the Human Rights
19 Commission asked the President for reasons with respect to
20 both decisions, his July decision, as well as the deletion
21 of 1.5 which affects phase 2. Like Mr Mpofu we welcome the
22 Commissioner's proactive request to the Presidency. We
23 would hope that the time gets used for at least three
24 important things, to hear from shooters, to have more time
25 with the Lonmin witnesses, and obviously for phase 2 as

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1 well.

2 CHAIRPERSON: Yes.

3 MS LE ROUX: We'll keep you updated with
4 respect to any response we receive from the Presidency.

5 CHAIRPERSON: Yes, thank you. Now just
6 for my information, the parties have I understand allocated
7 among themselves the time for cross-examining this witness.
8 Upon you has fallen the chance to cross-examine first.

9 MS LE ROUX: Yes, Chair.

10 CHAIRPERSON: How long has been allocated
11 to you?

12 MS LE ROUX: I have two hours.

13 CHAIRPERSON: Two hours, thank you. Mr
14 Wesley will bear that in mind. Alright, you may begin.

15 CROSS-EXAMINATION BY MS LE ROUX: Thank
16 you, Chair. Good morning, Captain Kidd. I'm the advocate
17 for the Human Rights Commission in these proceedings and we
18 have a few questions for you this morning. First if I
19 could just pick up some of the points that you made in
20 evidence-in-chief when you were being led by my learned
21 friend Ms Baloyi, just to clarify certain aspects of that
22 evidence that we heard yesterday afternoon and this
23 morning. Firstly you testified this morning that you
24 didn't have the cell phone numbers for the other commanders
25 in order to be able to contact the JOC. Whose numbers did

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1 you have in terms of people in the command structure of the
 2 operation on the 16th? Who could you get hold of?
 3 CAPTAIN KIDD: Okay, I had Colonel
 4 Pitsi's number because he was my immediate commander.
 5 MS LE ROUX: And other than Colonel Pitsi
 6 you had no-one else's cell phone number?
 7 CAPTAIN KIDD: I had other TRT members,
 8 but not –
 9 MS LE ROUX: The JOC –
 10 CAPTAIN KIDD: No-one in the JOC, no.
 11 MS LE ROUX: And no other commanders?
 12 CAPTAIN KIDD: No, you must realise I
 13 came from Jo'burg. I didn't know any of these people.
 14 They were from, mainly from the North West.
 15 MS LE ROUX: Right, and the other TRT
 16 units that were in your basic line from forward holding
 17 area 2, did you have those unit commanders' cell phone
 18 numbers?
 19 CAPTAIN KIDD: The unit commanders, no.
 20 I had some of the members, like, as I explained I was from
 21 Jo'burg TRT. I came to the Lonmin and the forward holding
 22 area 2 with my 22 members.
 23 MS LE ROUX: Right. Once the group
 24 split, as you described, if we can focus on that moment, I
 25 just want to confirm the sequence, you were walking in your

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1 basic line, you then observed the gesture from the officer
 2 in the helicopter and that's when the group started
 3 splitting, correct?
 4 CAPTAIN KIDD: That's correct.
 5 MS LE ROUX: Did you give an instruction
 6 for the group to split?
 7 CAPTAIN KIDD: No.
 8 MS LE ROUX: Did you gesture or direct in
 9 any way that the split needed to happen?
 10 CAPTAIN KIDD: No, at that time, you know
 11 when the strikers were running to the northern side some of
 12 my members were, when they heard the incidents over the
 13 radio they started running wherever, like forward to go and
 14 help. I called them back. I ran to the side, I made sure,
 15 I told the people let's stay in the basic line. I had to
 16 try and find out what we had to do. So everyone was still
 17 fine until the helicopter came and showed them to change
 18 and the instructions by Colonel Vermaak.
 19 MS LE ROUX: And was it of concern to you
 20 that the group was just splitting and you hadn't discussed,
 21 you hadn't had an opportunity to discuss with any of those
 22 other unit commanders or the members what they were going
 23 to do when they moved away from you and you wouldn't be
 24 able to be within earshot?
 25 CAPTAIN KIDD: It wasn't, it was a

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1 concern, yes.
 2 MS LE ROUX: Could you do anything in
 3 response?
 4 CAPTAIN KIDD: No, I couldn't because at
 5 that time as we were approaching, that's when the shots
 6 were fired and I just told the people that were around me
 7 just to take cover.
 8 MS LE ROUX: So you at no point had an
 9 opportunity or took the opportunity to discuss with anybody
 10 or give any orders as to how you would move forward even
 11 though you were now going to do it in two distinct groups?
 12 CAPTAIN KIDD: No –
 13 MS LE ROUX: Or at least three distinct
 14 groups, as I understand –
 15 CAPTAIN KIDD: Ja, it was mainly three.
 16 I didn't have any time just to call people and to discuss
 17 the things. As I said, there were shots coming from the
 18 koppie.
 19 MS LE ROUX: But it was difficult for you
 20 that you couldn't communicate with the remainder of your
 21 line from that moment forward?
 22 CAPTAIN KIDD: It was difficult, yes.
 23 COMMISSIONER HEMRAJ: Difficult in the
 24 sense that events took over?
 25 CAPTAIN KIDD: That's correct, Mr

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1 Chairman.
 2 MS LE ROUX: If we could put up slide 237
 3 – no, 235 of exhibit L, the slide you were asked about this
 4 morning, if we slide with slide 235. Captain Kidd, just to
 5 go back to the difficulties with communication once the
 6 group had split, did you at any point discuss these with
 7 anybody either on the day or at any point thereafter? Did
 8 you discuss with anybody that that split made it impossible
 9 for you to communicate with your members?
 10 CAPTAIN KIDD: Yes, it was discussed.
 11 MS LE ROUX: Who did you discuss it with?
 12 CAPTAIN KIDD: I think I did mention in
 13 the meeting the following day.
 14 MS LE ROUX: To whom?
 15 CAPTAIN KIDD: Whoever was there. I
 16 think it was General Annandale, Brigadier Calitz.
 17 MS LE ROUX: And what did you tell them?
 18 CAPTAIN KIDD: I'd said to them that the
 19 communication was impossible, I tried to call on the radio,
 20 kept on being called, being cancelled out, and that when we
 21 were moving forward we were told on two occasions, or – on
 22 two occasions that my line had to split and go more to the
 23 left.
 24 MS LE ROUX: Did you ever discuss it with
 25 Lieutenant-Colonel Pitsi?

<p style="text-align: right;">Page 29080</p> <p>1 CAPTAIN KIDD: No.</p> <p>2 MS LE ROUX: I understand you may not</p> <p>3 have had the time to do this, but did you think that</p> <p>4 perhaps you should try to call Lieutenant-Colonel Pitsi?</p> <p>5 CAPTAIN KIDD: No, at that time I didn't</p> <p>6 because he was nowhere, he wasn't by us and he wasn't there</p> <p>7 by that koppie. He was on the other side.</p> <p>8 MS LE ROUX: Okay. Looking at slide 235,</p> <p>9 we also notice the two water cannons and it's the North</p> <p>10 West water cannon that's in the northern quadrant spraying</p> <p>11 the blue water, and the Johannesburg water cannon that's in</p> <p>12 the southern quadrant spraying clear water. Were you aware</p> <p>13 of the presence and use of the water cannons? Because I</p> <p>14 listened carefully in your evidence-in-chief and you didn't</p> <p>15 say anything about the water cannons being used there. Did</p> <p>16 you observe them – first of all let's start, did you</p> <p>17 observe the water cannons at the koppie?</p> <p>18 CAPTAIN KIDD: I didn't observe them. I</p> <p>19 heard over the radio when command was given between</p> <p>20 Brigadier Calitz and Lieutenant-Colonel Vermaak when they</p> <p>21 were directing the water cannons. But I couldn't see,</p> <p>22 because you can't see it from this picture but it slants</p> <p>23 down. So we couldn't see any water cannons.</p> <p>24 MS LE ROUX: So in slide 235 you recorded</p> <p>25 in your evidence-in-chief, you testified that you were in</p>	<p style="text-align: right;">Page 29082</p> <p>1 which you were also asked about this morning, this is a</p> <p>2 little bit later and here we see the Johannesburg water</p> <p>3 cannon actually spraying and you identified in this slide</p> <p>4 where you were standing, just above where the word</p> <p>5 "western" appears to the right-hand side of the bush that</p> <p>6 appears next to the white oval circling some of the SAPS</p> <p>7 members. From that position could you observe the</p> <p>8 Johannesburg water cannon spraying?</p> <p>9 CAPTAIN KIDD: I wasn't there anymore.</p> <p>10 MS LE ROUX: Okay, so when you were in</p> <p>11 the position at the dry dam the water cannon wasn't –</p> <p>12 CAPTAIN KIDD: No.</p> <p>13 MS LE ROUX: - wasn't there at that time?</p> <p>14 CAPTAIN KIDD: No.</p> <p>15 MS LE ROUX: Okay. So at no point in</p> <p>16 time could you see the water cannons or observe in what</p> <p>17 direction they were spraying?</p> <p>18 CAPTAIN KIDD: No, I, later on I could</p> <p>19 see, when I was running down I could see the water cannon</p> <p>20 coming up.</p> <p>21 MS LE ROUX: When you say later on, at</p> <p>22 what point –</p> <p>23 [10:43] CAPTAIN KIDD: That was when I was</p> <p>24 running where Mr Mpumza was running, that's where I ran. I</p> <p>25 ran down, it was to the – where it's situated where it says</p>
<p style="text-align: right;">Page 29081</p> <p>1 the blue oval that's in the western quadrant. So from that</p> <p>2 position you couldn't observe the water cannons?</p> <p>3 CAPTAIN KIDD: No.</p> <p>4 MS LE ROUX: But you heard about them on</p> <p>5 the radio, and what did you hear on the radio about the</p> <p>6 water cannons?</p> <p>7 CAPTAIN KIDD: As I, if I can recall</p> <p>8 correctly we heard that it was mentioned by Brigadier</p> <p>9 Calitz "Water cannons move in, water cannons move in."</p> <p>10 MS LE ROUX: Did you know where they were</p> <p>11 moving in?</p> <p>12 CAPTAIN KIDD: No, I don't recall.</p> <p>13 MS LE ROUX: So you had no awareness that</p> <p>14 the water cannons were in use at the koppie that you were</p> <p>15 at, koppie 3?</p> <p>16 CAPTAIN KIDD: No, I was aware they were</p> <p>17 at the koppie. I just didn't know where they were.</p> <p>18 MS LE ROUX: So when they say move in,</p> <p>19 you understood that they were at the same koppie as you,</p> <p>20 you just didn't know where they were in relation to you?</p> <p>21 CAPTAIN KIDD: Yes.</p> <p>22 MS LE ROUX: And you were unaware of what</p> <p>23 direction they were spraying or moving in?</p> <p>24 CAPTAIN KIDD: Yes, that's correct.</p> <p>25 MS LE ROUX: And if we go to slide 237,</p>	<p style="text-align: right;">Page 29083</p> <p>1 northern on the slide, when I was running down there and I</p> <p>2 could see this water cannon coming from around –</p> <p>3 MS LE ROUX: And that was the</p> <p>4 Johannesburg water cannon, the one that sprays clear water?</p> <p>5 CAPTAIN KIDD: No, the water cannon, the</p> <p>6 Johannesburg water cannon was on the southern side. To say</p> <p>7 what colour –</p> <p>8 MS LE ROUX: Okay, so that's the North-</p> <p>9 West water cannon, sorry.</p> <p>10 CAPTAIN KIDD: Yes.</p> <p>11 MS LE ROUX: Okay and when you saw the</p> <p>12 water cannon, was it spraying water or was it just there?</p> <p>13 CAPTAIN KIDD: I can't recall.</p> <p>14 COMMISSIONER HEMRAJ: You actually said</p> <p>15 you saw the water cannon coming up.</p> <p>16 CAPTAIN KIDD: Yes –</p> <p>17 COMMISSIONER HEMRAJ: What does that</p> <p>18 mean?</p> <p>19 CAPTAIN KIDD: Where that, where they</p> <p>20 showed the previous slide where the blue, where they were</p> <p>21 showing the blue water, I saw that. I saw a water cannon</p> <p>22 coming up from that side.</p> <p>23 MS LE ROUX: And if we could go back to</p> <p>24 slide 235, Captain Kidd, in the briefing were you told how</p> <p>25 the water cannons would be used? Were you told what role</p>

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1 the water cannons would play in the operation?
 2 CAPTAIN KIDD: It was mentioned but I
 3 don't think, I didn't pay attention about where, because it
 4 was going to be used I think by the koppies and I was
 5 situated forward holding area 2.
 6 MS LE ROUX: So based on your
 7 understanding of your briefing, the water cannons wouldn't
 8 be relevant to your brief in the operation.
 9 CAPTAIN KIDD: Not to mine, no.
 10 MS LE ROUX: When you heard on the radio
 11 that the water cannons, water cannons moved in, I think was
 12 what you testified you heard on the radio, did you, were
 13 you in a position to ask any other members what the water
 14 cannons were going to be used for and how they were going
 15 to be used?
 16 CAPTAIN KIDD: No, I was in no position –
 17 remember at that time we were taking cover, there were
 18 shots being fired, I didn't ask about the water cannon.
 19 MS LE ROUX: Okay. You see, Captain
 20 Kidd, this is important because what the Human Rights
 21 Commission's analysis of the objective evidence shows and
 22 it's supported by some of the statements in the evidence
 23 from other members, is that the two water cannons were on
 24 either side of the koppie spraying in the westerly
 25 direction because they were trying to disperse and move the

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1 strikers to the west, which means they were dispersing the
 2 members precisely into where your line ended up but
 3 obviously because you didn't know they were doing that, you
 4 didn't know that you were blocking what would be the only
 5 escape route for the strikers. Do you have any comment on
 6 that?
 7 CAPTAIN KIDD: Yes, I do have a comment.
 8 There was lots of people that passed us. Whoever wanted to
 9 leave was allowed to leave. They just put down, they were
 10 told put down their weapons, they put down their weapons
 11 and they left. So under my understanding, what I saw or
 12 what I experienced, whoever stayed behind on the koppie
 13 wanted to stay behind, they didn't want to run, they didn't
 14 want to run past us.
 15 CHAIRPERSON: Would the people who stayed
 16 behind on the koppie, as you put it, have been able to see
 17 how you were dealing with those who'd left?
 18 CAPTAIN KIDD: Yes, Mr Chairman, they
 19 could. They could see because there was, even when we were
 20 approaching so close where they were, there were still
 21 people passing us.
 22 MS LE ROUX: But Captain Kidd, you'll
 23 accept there's a possibility that there were strikers who
 24 are being sprayed by the water cannons and driven to the
 25 west and then would see the TRT either on the south-west or

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1 to the west where, in the group that you were in, and think
 2 that they weren't able to pass through that. You'll accept
 3 there's a possibility that there could be strikers who
 4 thought that that escape route was blocked to them.
 5 CAPTAIN KIDD: No, because the area was,
 6 the area was very big so if someone wanted to come 9out and
 7 they were told the whole time, lay down their weapons, if
 8 someone laid down their weapons they walked through. And
 9 it wasn't only TRT, it was also POP members.
 10 MS LE ROUX: Captain Kidd, you'll accept
 11 that once Mr Mkhonjwa and the man in the Arsenal shirt are
 12 shot, strikers would have been in a position, some of the
 13 strikers would have been in a position to observe that and
 14 think because of the shooting that occurred from those
 15 positions in the west, that the western exit was now
 16 blocked to them. You'll surely accept that possibility,
 17 after the shooting of Mr Mkhonjwa and the man in the
 18 Arsenal shirt.
 19 CAPTAIN KIDD: That group that I saw was
 20 banging their weapons against each other, banging them
 21 once, twice, pointing it to the policemen, so there was – I
 22 mean if they saw what had happened on the first occasion
 23 and the second occasion with that guy in the red running
 24 out, then obviously they would have seen there was no way
 25 to go through there.

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1 MS LE ROUX: Right so the answer to my
 2 question is yes, you accept the possibility that strikers
 3 who were in a position to observe the shooting of Mr
 4 Mkhonjwa and the man in the Arsenal shirt would think that
 5 the western exit or the south-western exit from koppie 3
 6 was blocked to them.
 7 CAPTAIN KIDD: At a later stage, yes.
 8 MS LE ROUX: Okay. When you –
 9 COMMISSIONER HEMRAJ: Sorry, even if
 10 they'd laid down their weapons, would that area still be
 11 blocked to them?
 12 CAPTAIN KIDD: No. Mr Chairman, like I
 13 said, it was being said to the people the whole time, lay
 14 down your weapons, come out, lay down your weapons, come
 15 out. If anyone had laid down their weapons and come out
 16 they would have been allowed to pass.
 17 CHAIRPERSON: You say – sorry, no, you –
 18 COMMISSIONER HEMRAJ: Even after
 19 shootings?
 20 CAPTAIN KIDD: Even after the shootings.
 21 COMMISSIONER HEMRAJ: Was that conveyed
 22 to the strikers?
 23 CAPTAIN KIDD: It was, the whole time,
 24 the people were screaming, the people were shouting, the
 25 whole time they were shouting, lay down your weapons, lay

<p style="text-align: right;">Page 29088</p> <p>1 down your weapons, just lay down the weapons. That's what 2 the people were, or the members were shouting. 3 CHAIRPERSON: What language were they 4 using? 5 CAPTAIN KIDD: English was used, Mr 6 Chairman, and there was other languages. I don't 7 understand the languages but I know there was other 8 languages used. 9 CHAIRPERSON: Alright and the people that 10 you were talking about, did any of them have loudhailers? 11 CAPTAIN KIDD: No. 12 CHAIRPERSON: So that it was just 13 ordinary – 14 CAPTAIN KIDD: Verbal voices – 15 CHAIRPERSON: - voices, presumably people 16 shouting as loudly as they could, is that right or not – 17 CAPTAIN KIDD: That's correct, Mr 18 Chairman. 19 CHAIRPERSON: But of course it would have 20 been much better if there had been a loudhailer, someone 21 with a loudhailer had given some kind of warning and told 22 people to lay down their arms. 23 CAPTAIN KIDD: That's - 24 CHAIRPERSON: That didn't happen but 25 anyway that's not your fault because you didn't have a</p>	<p style="text-align: right;">Page 29090</p> <p>1 MS LE ROUX: At any point in time did it 2 occur to you that it must be SAPS members as well? 3 CAPTAIN KIDD: No, as far as I knew I was 4 the first group to arrive there. 5 MS LE ROUX: You testified that you knew 6 the water cannon was already there because you heard on the 7 radio communications the directions for the water cannons 8 to move in. Did you not think that there were any other 9 police units at koppie 3? Did you just think it was 10 yourselves and the two water cannons? 11 CAPTAIN KIDD: At that stage, yes. 12 MS LE ROUX: At what stage did you become 13 aware that the koppie was encircled with five different 14 units of the SAPS? 15 CAPTAIN KIDD: Okay, when we were lying 16 or when the other members were lying and I proceeded back, 17 that's when - the first time I saw other members was the 18 members of TRT when they were coming over – Mr Chairman, if 19 I can show there? In the eastern block there's a big, to 20 the top where it comes, where it meets all in the middle 21 there's that big rock. That was the first time, was when I 22 saw NIU members coming over there. 23 MS LE ROUX: Sorry, NIU or TRT? 24 CAPTAIN KIDD: NIU. 25 MS LE ROUX: NIU, okay.</p>
<p style="text-align: right;">Page 29089</p> <p>1 loudhailer with you, did you? 2 CAPTAIN KIDD: That's correct, Mr Chair. 3 COMMISSIONER HEMRAJ: Did those persons 4 who had put down their weapons and left at any stage, were 5 any of them searched? 6 CAPTAIN KIDD: If? 7 COMMISSIONER HEMRAJ: Those had that put 8 down their weapons and proceeded away from the koppie, were 9 any of them searched? 10 CAPTAIN KIDD: Yes, they were searched. 11 They were searched because you know I still looked at that, 12 the main thing of mind was to still protect the informal 13 settlement behind me. So if the people came past, those 14 that we could, those that we could, when once they lay down 15 their weapons they were searched and they were allowed to 16 pass. 17 COMMISSIONER HEMRAJ: I'm sorry to have 18 interrupted you, Ms Le Roux. 19 MS LE ROUX: No, no, thank you, 20 Commissioner. Captain Kidd, you also testified in chief 21 and obviously it's in your statements that you heard shots. 22 This morning you even spoke about shots flying over your 23 head. Who did you think were shooting? 24 CAPTAIN KIDD: At that time I thought it 25 was the strikers from the koppie.</p>	<p style="text-align: right;">Page 29091</p> <p>1 CHAIRPERSON: Can I ask you a question 2 about that? You weren't aware that other members from 3 other units were there, you only saw them much later you 4 say when, at that big rock where these two lines intersect 5 on this exhibit slide 235 but did you subsequently discover 6 – you told us there was a meeting the next day when you 7 mentioned certain things – did you discover then that in 8 fact unbeknown to you there had, from other side or sides 9 of the koppie, there were other members? 10 CAPTAIN KIDD: Not the next day, Mr 11 Chairman, that same afternoon when the people had been 12 arrested and were busy being placed in the Canters, then I 13 became aware that people were saying to me that on the 14 southern side there was dog unit and General Naidoo, on the 15 other side there was NIU. Then obviously we found out that 16 there were different units. 17 CHAIRPERSON: So the fact that you didn't 18 see them didn't mean they weren't there. 19 CAPTAIN KIDD: Yes, yes. 20 CHAIRPERSON: In fact it now, I take it, 21 became apparent to you from what you've told us that there 22 were people there. 23 CAPTAIN KIDD: That's correct but I think 24 the question put was did I see anyone – 25 CHAIRPERSON: Yes. No – no, I'm not</p>

<p style="text-align: right;">Page 29092</p> <p>1 criticising you, I'm just trying to get the facts. Now the 2 next question linked to the one you were asked is, these 3 shots that were fired that you thought came from the 4 strikers, in the light – using the retrospect scope – in 5 the light of what you now know about the fact that there 6 were other members that you didn't know about, are you able 7 to give us your view as to the probable source of those 8 shots now that you know that these people were on the other 9 side of the mountain, of the hill?</p> <p>10 CAPTAIN KIDD: Mr Chairman, I would still 11 say that I thought it was from the striker because it was 12 like about three or four shots and it was small calibre 13 firearms, not, it wasn't like a burst of fire and high 14 calibre.</p> <p>15 CHAIRPERSON: Did you only hear three or 16 four shots?</p> <p>17 CAPTAIN KIDD: Three or four.</p> <p>18 CHAIRPERSON: And small –</p> <p>19 CAPTAIN KIDD: Small calibre.</p> <p>20 CHAIRPERSON: Small calibre.</p> <p>21 CAPTAIN KIDD: And it's like –</p> <p>22 CHAIRPERSON: So the only shots –</p> <p>23 CAPTAIN KIDD: And it was in our 24 direction.</p> <p>25 CHAIRPERSON: Yes, yes. So the only</p>	<p style="text-align: right;">Page 29094</p> <p>1 CAPTAIN KIDD: That's correct.</p> <p>2 MS LE ROUX: And what did you observe the 3 NIU members doing? How many NIU members did you see?</p> <p>4 CAPTAIN KIDD: I didn't count how many 5 there were but there were quite a few because I noticed 6 them. Or you know, okay, let me say – I said it was NIU 7 because I saw the people with the helmets so I assumed it 8 was the NIU people. So I could be mistaken, it could have 9 been the POP but at that time I thought it was the NIU 10 members.</p> <p>11 MS LE ROUX: Right and the members that 12 you saw, do you estimate more than 10, less than 10 that 13 you saw?</p> <p>14 CAPTAIN KIDD: What I saw, maybe less 15 than 10.</p> <p>16 MS LE ROUX: And what were they doing?</p> <p>17 CAPTAIN KIDD: They were just – no, they 18 were just walking. They were walking also, I think if I 19 can remember correctly, they were also shouting.</p> <p>20 MS LE ROUX: Were they in a line or any 21 particular formation or grouping?</p> <p>22 CAPTAIN KIDD: No, they couldn't have 23 been in a line. It's like a very rocky thing so they were 24 just walking.</p> <p>25 MS LE ROUX: And did you observe if they</p>
<p style="text-align: right;">Page 29093</p> <p>1 shots that you – look, I don't want to put words into your 2 mouth because I want the truth, I don't want to suggest to 3 you what it may be but is it correct that the only shots 4 that you heard that were directed at you as far as you 5 could see were three or four small calibre.</p> <p>6 CAPTAIN KIDD: That's correct, Mr 7 Chairman.</p> <p>8 MS LE ROUX: Captain Kidd, just to try to 9 pin down some of the specifics here, you said that you 10 first became aware of other units other than the two water 11 cannons when you saw the NIU coming over the large boulder 12 which is essentially at the intersection of, in the eastern 13 quadrant close to the intersection of the yellow lines in 14 slide 235. At what point in your progress around the 15 koppie did you become aware of that? Was that after the 16 shootings of Mr Mkhonjwa and the Arsenal man but before you 17 went to Mr Mpumza or –</p> <p>18 CAPTAIN KIDD: That's correct.</p> <p>19 MS LE ROUX: Okay. And where were you 20 when you saw NIU come over that boulder?</p> <p>21 CAPTAIN KIDD: Where that circle is, in 22 the vicinity there. Where that top circle is, sorry, on 23 the western side.</p> <p>24 MS LE ROUX: So you were still in your 25 position at the dry dam.</p>	<p style="text-align: right;">Page 29095</p> <p>1 had weapons out or not?</p> <p>2 CAPTAIN KIDD: I couldn't see.</p> <p>3 MS LE ROUX: Other than seeing the NIU as 4 they came over the boulder, did you observe any other 5 units?</p> <p>6 CAPTAIN KIDD: Yes, that time was, the 7 Nyalas started to arrive with different POP, what I assumed 8 was POP members.</p> <p>9 MS LE ROUX: Right and which Nyalas did 10 you see arrive where? So where were you – this is after 11 you see the NIU members come over the boulder, correct?</p> <p>12 CAPTAIN KIDD: No, I think the POP 13 members I saw first. That was the Nyala that came there by 14 me that you see in the previous slide, I think 237, they 15 arrived there.</p> <p>16 MS LE ROUX: Okay.</p> <p>17 CAPTAIN KIDD: But they were on my side. 18 Like you asked if they were on the other side, they were 19 with, they were there on the western side.</p> <p>20 MS LE ROUX: They were in the western 21 quadrant with you.</p> <p>22 CAPTAIN KIDD: That's correct.</p> <p>23 MS LE ROUX: Right, and they arrived 24 before or after you see, you observe Mr Mkhonjwa and the 25 Arsenal man being shot?</p>

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1 CAPTAIN KIDD: I don't really remember.
 2 I think, you know I don't recall actually when.
 3 MS LE ROUX: But it's around that time
 4 and before you see NIU members?
 5 CAPTAIN KIDD: Yes, it's around that
 6 time.
 7 MS LE ROUX: Okay, what are the next
 8 other SAPS members that you become aware of? Who are the
 9 other SAPS members you become aware of?
 10 CAPTAIN KIDD: Okay, it was the NIU then
 11 it was – when I ran to the side I saw Colonel Vermaak, not
 12 Colonel Vermaak, Colonel McIntosh and then obviously there
 13 I saw different Nyalas.
 14 MS LE ROUX: That's once you are with Mr
 15 Mpumza.
 16 CAPTAIN KIDD: That's correct.
 17 MS LE ROUX: And thereafter, when did you
 18 become aware of any other SAPS members at the koppie?
 19 CAPTAIN KIDD: Then after that when the
 20 members were gathering I told them – then it was all quiet,
 21 people, then I walked back and I saw people were being
 22 arrested, then I saw a whole lot of members, a whole lot of
 23 different members.
 24 MS LE ROUX: Okay. Did you observe K9
 25 members at any point?

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1 CAPTAIN KIDD: I did.
 2 MS LE ROUX: When did you first observe
 3 the K9 members?
 4 CAPTAIN KIDD: Okay, when I went to –
 5 okay, when I was, I went back to my line or where my line
 6 was meant to be where I was situated, where –
 7 MS LE ROUX: Is that in the western
 8 quadrant –
 9 CAPTAIN KIDD: On the western quadrant
 10 where the two people were lying that were shot.
 11 MS LE ROUX: Yes.
 12 CAPTAIN KIDD: Body N and the guy with
 13 the red. I walked further down and then that's when I saw
 14 Warrant Officer Swarts and he told me he had also
 15 discharged a firearm at someone that was charging and then
 16 he also informed me that there was more incidents around
 17 the corner, dog unit was there and also other TRT members.
 18 MS LE ROUX: We'll get to Warrant Officer
 19 Swarts later. And then where did you proceed in the
 20 koppie?
 21 CAPTAIN KIDD: No, I didn't go into the
 22 koppie. I went back, then I went back where the people
 23 where by body C and then from there I went back to where
 24 our vehicles were.
 25 MS LE ROUX: So from Mr Mpumza you went

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1 back to the western quadrant on slide 235.
 2 CAPTAIN KIDD: That's correct and then
 3 from there I went back to forward holding area 2.
 4 MS LE ROUX: Okay. And at what point did
 5 – at any point that afternoon did it occur to you that the
 6 shots you'd fired must have come from other SAPS members,
 7 as the Chair asked you. You became aware that there were
 8 these other units and we've now canvassed how, as you moved
 9 around koppie 3, you became aware of the presence of
 10 different units. Did it ever occur to you that the shots
 11 may have been from other SAPS members?
 12 CAPTAIN KIDD: No, it didn't.
 13 MS LE ROUX: More than 250 live rounds
 14 were fired at koppie 3 and you only heard, you said, two or
 15 three of those.
 16 CAPTAIN KIDD: I said when I approached
 17 the koppie and when, before I even saw anything happening
 18 with the people that were running around. That's when
 19 three or four happened.
 20 MS LE ROUX: Okay.
 21 CAPTAIN KIDD: That's the question that
 22 was asked of where I thought the firearms, the shots came
 23 from those strikers.
 24 MS LE ROUX: Okay –
 25 CAPTAIN KIDD: Other shots were fired

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1 obviously when I said with the incidents where body C, body
 2 N and the with the guy with the red, there were shots
 3 fired. I didn't count all the fire.
 4 MS LE ROUX: Okay but let me just get
 5 this clear. The two to three low calibre shots that you
 6 testified about hearing, that is when you're in the western
 7 quadrant in the blue circle before Mr Mkhonjwa and the
 8 Arsenal man are shot that you heard those.
 9 CAPTAIN KIDD: Mr Chairman asked me, when
 10 I say I heard shots, that was when we first arrived, we had
 11 just arrived and I saw the people running around on the
 12 koppie, that's when the shots came and I told the people to
 13 take cover.
 14 MS LE ROUX: And Captain –
 15 CAPTAIN KIDD: Nothing else had happened
 16 then.
 17 MS LE ROUX: And Captain Kidd, that's the
 18 position depicted at slide 235 when you're in the western,
 19 the blue oval in the western quadrant.
 20 CAPTAIN KIDD: It could -
 21 MS LE ROUX: That's the point where you –
 22 CAPTAIN KIDD: It could have been round
 23 about there, yes.
 24 MS LE ROUX: Round about that time.
 25 CAPTAIN KIDD: That's correct.

<p style="text-align: right;">Page 29100</p> <p>1 MS LE ROUX: Then obviously I understand 2 your evidence around the shooting of Mr Mpumza, you heard 3 those shots. During the entire duration of your time that 4 you're at koppie 3, did you hear continuous shooting for 5 approximately that 20 minute period? 6 CAPTAIN KIDD: Not continuous, I heard 7 shots being fired, then it was quiet, I heard shots being 8 fired, then it was quiet, yes. 9 MS LE ROUX: And the shots that you heard 10 over that period of time, they were – they also sounded 11 like low calibre shots or did you think they were R5s? 12 CAPTAIN KIDD: Both. 13 MS LE ROUX: And what was your estimate 14 of how many shots you heard? 15 CAPTAIN KIDD: I don't know. 16 MS LE ROUX: Are you surprised to hear 17 that more than 250 rounds were fired at koppie 3? 18 CAPTAIN KIDD: I will be surprised, yes, 19 because I didn't think it was so many. 20 MS LE ROUX: Captain Kidd, I'd now like 21 to go back to some of the decision making and the orders 22 and instructions you received and those you gave on the 23 day. I'd like to start with your briefing at forward 24 holding area 1. So in your statement which is exhibited as 25 HHH12.2, HHH12.2 if we could display page 2 paragraph 6.</p>	<p style="text-align: right;">Page 29102</p> <p>1 page 3, paragraph 8, there we see, "I attended the briefing 2 called by Colonel Scott at 2:30 at forward holding area 1. 3 Colonel Scott briefed us that at 3:30 phase 3 would be 4 implemented where the barbed wire would be deployed and the 5 protesters disarmed and arrested. The specific brief to my 6 team" – and could I just pause there? Captain Kidd, did 7 Colonel Scott give you the specific brief to your team, or 8 did Brigadier Calitz then take over and give you your 9 specific brief? 10 CAPTAIN KIDD: Colonel Scott gave me the 11 briefing. 12 MS LE ROUX: So in your first statement 13 where you say Brigadier Calitz briefed you to, that you 14 would get an instruction over the radio to deploy and 15 perform a straight-line walk, when did Brigadier Calitz 16 give you that? 17 CHAIRPERSON: Sorry, he also says in para 18 7 of that statement he received an operational briefing 19 from Colonel Scott, so it appears from that statement, the 20 one he made shortly after the events, to have indicated 21 that he received two briefings, one, the operational 22 briefing from Colonel Scott, and the other briefing which 23 is summarised in para 6. 24 MS LE ROUX: Yes, Chair, I'm just trying 25 to clarify that. Captain Kidd, did you receive one</p>
<p style="text-align: right;">Page 29101</p> <p>1 Captain Kidd, the version of this statement that we have is 2 unsigned but dated September 2012, yet we understand that 3 you provided the statement on the 17th of August. Is that 4 the handwritten version of the statement and it was just 5 typed up a month later or is there a separate statement 6 that we haven't seen from the 17th of August 2012? 7 CAPTAIN KIDD: No, what I can see it's 8 the same statement. 9 MS LE ROUX: So you wrote it on the 17th 10 of August and it was just typed up and given a September 11 date? 12 CAPTAIN KIDD: Ja, I don't know where, 13 where it was typed up. 14 MS LE ROUX: Okay but this statement 15 which is typed is the handwritten version and you did that 16 the day after, the 17th of August? 17 [11:03] CAPTAIN KIDD: That's correct 18 MS LE ROUX: So we'll use the typed 19 version for its legibility. So paragraph 6 says, "I was 20 called to a briefing where information was given to myself 21 by Brigadier Calitz. Instructions would be given over the 22 radios to deploy my 90 members. I was to perform a 23 straight line with members by walking towards the hill 24 area." And then in exhibit HHH12, which is your statement 25 from November 2012, if we could show page 3, paragraph 8,</p>	<p style="text-align: right;">Page 29103</p> <p>1 briefing from Colonel Scott, and then a more specific 2 briefing to your role from Brigadier Calitz? 3 CAPTAIN KIDD: No. What was, what 4 happened was there was a briefing giving by Colonel Scott 5 what we had to do. Then a question was asked by myself 6 just to get clarify, when exactly was I to perform, let my 7 members perform their line. Then it was just mentioned 8 that, Brigadier Calitz said when the barbed wire will be 9 deployed. That was my indication. So it was just a 10 question asked and he just answered it. The briefing was 11 given by Colonel Scott. 12 MS LE ROUX: And the briefing from 13 Colonel Scott was what to your team? 14 CAPTAIN KIDD: That at forward holding 15 area 2 we had to monitor and protect the informal 16 settlement by making a basic line just to cover it, and 17 then to see that any people that walked past were not 18 armed. 19 MS LE ROUX: And you then asked when do 20 we do that? 21 CAPTAIN KIDD: When, I asked when can I 22 form this basic line, and then it was said when the 23 indication was given that the barbed wire would – so 24 obviously they wouldn't say on the radio 'Captain Kidd, you 25 do this, Colonel Pitsi, you do that.' It was just said</p>

<p style="text-align: right;">Page 29104</p> <p>1 that was the indication, when the barbed wire was deployed, 2 that's when each person knew what they had to do. 3 MS LE ROUX: And Brigadier Calitz gave 4 you that answer, that – 5 CAPTAIN KIDD: Yes, he just – 6 MS LE ROUX: - the deployment of the 7 barbed wire would be the trigger for you to form a basic 8 line? 9 CAPTAIN KIDD: He just answered a 10 question that I asked. 11 MS LE ROUX: Okay. Did either Colonel 12 Scott or Brigadier Calitz give you a briefing about how 13 your basic line was to move? 14 CAPTAIN KIDD: Colonel Scott said that 15 the main thing was to cover the whole informal settlement. 16 That was it. 17 MS LE ROUX: So he didn't say to you, you 18 should move, you should be stationary, anything like that? 19 CAPTAIN KIDD: No, what was said was I 20 had to move forward to cover the whole – you see, where, if 21 you understand where forward holding area 2 was, was in the 22 beginning and then we had to move to the edge, make sure 23 that we covered the whole informal settlement, but also 24 facing the koppie area, that anyone that walked past we 25 could still disarm them.</p>	<p style="text-align: right;">Page 29106</p> <p>1 CAPTAIN KIDD: Okay, if you look at the 2 second statement that you're referring to, that, the 3 November one – 4 MS LE ROUX: Yes. 5 CAPTAIN KIDD: - if you read further it 6 says there, "called the members and formed the basic line. 7 I gave the instruction to move forward. Before we reached 8 our intended position," so there was an intended position 9 that we had to reach, before we reached there, then that's 10 when we heard over the radio what was happening and that's 11 when I made the decision to move forward. 12 MS LE ROUX: Okay, and – 13 CHAIRPERSON: [Microphone off, inaudible] 14 from your earlier statement that the members were actually 15 in the vehicles before that. 16 CAPTAIN KIDD: Yes, that's correct. 17 CHAIRPERSON: When you heard that the 18 barbed wire was being uncoiled you then told them to get 19 out, they got out, formed a line, and then moved forward to 20 the intended position. 21 CAPTAIN KIDD: That's correct. 22 CHAIRPERSON: That's the position, is it? 23 CAPTAIN KIDD: That's correct, Mr 24 Chairman, and the reason I used the word "hill" is to give 25 the members an indication where to walk to, otherwise they</p>
<p style="text-align: right;">Page 29105</p> <p>1 MS LE ROUX: And was your understanding 2 of your briefing from Colonel Scott with the clarification 3 from Brigadier Calitz - I understand your members would 4 move from forward holding area 2 to form up their line so 5 as to protect the informal settlement. Did you understand 6 your briefing to be to stay there and just filter people if 7 they returned to the informal settlement, or that you 8 should also move? 9 CAPTAIN KIDD: No, I understood it has to 10 be stationary. 11 MS LE ROUX: Okay. In your statements 12 you then, and if we just compare again HHH12 and HHH12.2, 13 the September statement, well the August statement, the one 14 you wrote the day after, then says you in paragraph 9, you 15 say, "We proceeded to walk towards the hill in the line, 16 facing the hill," and then in your November statement, 17 HHH12, paragraph 10, you say, "At about 15:40 we heard the 18 barbed wire was being deployed. I then called the members, 19 formed a basic line. I gave the instruction to move 20 forward." In both of those statements you seem to indicate 21 that you're going to form the line and then move forward, 22 but that sounds like it's different to what you were 23 briefed to do, which is be stationary, or is this the move 24 from forward holding area 2 to form the line to protect the 25 informal settlement?</p>	<p style="text-align: right;">Page 29107</p> <p>1 would be walking anywhere. 2 MS LE ROUX: So whilst you, looking at 3 the November statement, HHH12, as you've indicated before 4 you reached the intended position you heard the police were 5 being attacked. You then moved towards the power lines on 6 the koppie, arrived at koppie 3 at around 16:05. Again 7 your intention before you heard over the radio that 8 anything was happening at koppie 3, your intention was to 9 move up, form a stationary basic line to protect the 10 informal settlement, and stay there. That was your 11 intention at that point? 12 CAPTAIN KIDD: That was my intention, 13 that's correct. 14 MS LE ROUX: Okay. The briefing at 15 forward holding area 1 as you've described was Colonel 16 Scott and then Brigadier Calitz giving this clarification. 17 You then return to forward holding area 2 and you give a 18 briefing to your members at forward holding area 2, 19 correct? 20 CAPTAIN KIDD: That's correct. 21 MS LE ROUX: Right, did you see General 22 Naidoo at forward holding area 1? 23 CAPTAIN KIDD: Yes, I did. 24 MS LE ROUX: And did he participate in 25 the briefing at all?</p>

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1 CAPTAIN KIDD: Participate by listening
 2 to what was said, yes.
 3 MS LE ROUX: Did he ask any questions?
 4 Did he give any comments?
 5 CAPTAIN KIDD: I'm sure he asked
 6 questions. I don't know what questions or what comments.
 7 MS LE ROUX: Okay, you don't recall any
 8 active participation by General Naidoo in the briefing at
 9 forward holding area 1?
 10 CAPTAIN KIDD: I don't remember what was
 11 said by him, no.
 12 MS LE ROUX: Okay, and approximately what
 13 time did you leave forward holding area 1?
 14 CAPTAIN KIDD: What time the briefing
 15 finished?
 16 MS LE ROUX: Yes. Or what time - did you
 17 leave at the time the briefing finished?
 18 CAPTAIN KIDD: It may, I think it lasted
 19 about half an hour or forty minutes.
 20 MS LE ROUX: Okay, and you stayed for the
 21 whole briefing, you didn't leave before it had finished?
 22 CAPTAIN KIDD: I, when I was told it was
 23 finished, I left.
 24 MS LE ROUX: Okay, and if we use your
 25 estimate in HHH12 that you got to koppie 3 at about 16:05,

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1 working backwards from that, what time would you estimate
 2 that you left the briefing at forward holding area 1 to go
 3 back to forward holding area 2?
 4 CAPTAIN KIDD: I didn't look at the time.
 5 Estimate –
 6 MS LE ROUX: But if you could estimate –
 7 CAPTAIN KIDD: About 10 past 3. That's
 8 when I arrived back at koppie 2 – sorry –
 9 MS LE ROUX: Forward holding area –
 10 CAPTAIN KIDD: - forward holding area 2.
 11 MS LE ROUX: Okay, and did you
 12 immediately brief at forward holding area 2 when you got
 13 there?
 14 CAPTAIN KIDD: I called all my members
 15 and I briefed them what was said to me.
 16 MS LE ROUX: And how long did you brief
 17 for at forward holding area 2?
 18 CAPTAIN KIDD: About 10 minutes.
 19 MS LE ROUX: And what did you tell your
 20 members?
 21 CAPTAIN KIDD: I told my members what was
 22 said to me by Colonel Scott, we had, we were going to form
 23 a basic line. Then I showed the members where we were
 24 standing, this is what we were going to do. I pointed to
 25 the informal settlement, that was our main priority we had

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1 to look after there because it was mentioned there was a
 2 more descriptive about NUM people staying there and all
 3 that stuff. So I just told them this is what we're going
 4 to do, we're going to be moving forward. I pointed to the
 5 informal settlement, showed them how long it was, how big
 6 the informal settlement was. We were going to go to the
 7 intended position, stand there; any people that came past
 8 were, if they put down their weapons they were allowed to
 9 pass.
 10 MS LE ROUX: And when you say you showed
 11 them what to do, is that your gesturing to the informal
 12 settlement, or did you do something about the basic line?
 13 CAPTAIN KIDD: No, I showed them by
 14 pointing to the informal settlement and also indicating
 15 about that we will be making a basic line, pointing to the
 16 koppies and telling them we'll be walking in that
 17 direction.
 18 MS LE ROUX: Did you tell them that you
 19 intended to stop at a point and form the line?
 20 CAPTAIN KIDD: Yes.
 21 MS LE ROUX: Were there any particular
 22 landmarks in the informal settlement that you could see
 23 from your position that you used to explain where you were
 24 going to stop, the way you've described it as your intended
 25 position?

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1 CAPTAIN KIDD: Yes –
 2 MS LE ROUX: Were you able to pinpoint
 3 your intended position in your briefing?
 4 CAPTAIN KIDD: What I can remember saying
 5 is there where the, in the direction of the power lines, we
 6 will walk there to the edge of the – you could see where
 7 the informal settlement stopped, we would walk to there.
 8 MS LE ROUX: And you told your members
 9 that's where you would stop and form your basic line?
 10 CAPTAIN KIDD: We had already formed the
 11 basic line. We would walk up and stop there.
 12 MS LE ROUX: Okay. Did any of your
 13 members ask you any questions?
 14 CAPTAIN KIDD: Yes, the question was
 15 asked about why we had to look after an informal
 16 settlement, so I told them it was indicated that there was
 17 people of NUM staying there and then the strikers maybe
 18 were of a different union and they would walk through and
 19 maybe want to attack anyone that was going to work, and
 20 also the question was asked about what type of weapons they
 21 could experience.
 22 MS LE ROUX: And what did you tell them?
 23 CAPTAIN KIDD: I told them there, they,
 24 we knew from intelligence that there was spears, axes,
 25 sharp pipes, and also that firearms had been taken from

<p style="text-align: right;">Page 29112</p> <p>1 policemen that had been killed on the Monday, and also 2 there was an incident with security guards had been killed 3 and firearms had been taken then. 4 MS LE ROUX: Any other questions put to 5 you at the briefing? 6 CAPTAIN KIDD: No other that I can 7 recall. 8 MS LE ROUX: Okay, do you remember 9 telling your members anything else about what they needed 10 to do? 11 CAPTAIN KIDD: They, what they needed to 12 do was to make sure that no people came past them with 13 dangerous weapons. That's what I said, nothing else. 14 MS LE ROUX: Okay, did you discuss with 15 the unit commanders how you were going to communicate, how 16 you would use radios? Did you discuss anything about 17 staying in contact while you were doing your move? 18 CAPTAIN KIDD: Yes, it was mentioned that 19 – when we made, when I said to the people how we had to do 20 the basic line I made sure between every six or seven 21 people there was a hand radio. So I said communication 22 will be done through the hand radio. 23 MS LE ROUX: Okay, after you left forward 24 holding area 1 did you see General Naidoo again – 25 CAPTAIN KIDD: No.</p>	<p style="text-align: right;">Page 29114</p> <p>1 know, he then goes and checks on other forces that are in 2 other areas. So it seems a bit odd that he would have come 3 to check that forward holding area 2 was there, he was with 4 you for some period of time and he didn't make any contact 5 with you as the commander of the forward holding area 2 6 forces. 7 CAPTAIN KIDD: He was not by me. I was 8 standing in the middle of all my members while I was 9 briefing. He did not come anywhere near where we were. 10 MS LE ROUX: Okay, so you didn't see his 11 vehicle doing – 12 CAPTAIN KIDD: No. 13 MS LE ROUX: - a six-kilometre round 14 trip? 15 CAPTAIN KIDD: No, I didn't see him. 16 MS LE ROUX: Chair, we could – 17 CHAIRPERSON: Ms Le Roux, have you got 18 the exhibit of the AVL record, just to give us the 19 reference to be able to put it on the screen so we can see 20 it, before we adjourn? 21 MS LE ROUX: Chair, we have a CALS 22 analysis document that shows – 23 CHAIRPERSON: No, I'd like – 24 MS LE ROUX: - the movements of Captain 25 Kidd and Major-General Naidoo. We don't have, which is not</p>
<p style="text-align: right;">Page 29113</p> <p>1 MS LE ROUX: - at forward holding area 2? 2 CAPTAIN KIDD: No. 3 MS LE ROUX: Did you see General Naidoo 4 in the vicinity of forward holding area 2 at all? 5 CAPTAIN KIDD: No. 6 MS LE ROUX: Captain Kidd, we've been 7 provided with the AVL records, the vehicle tracking devices 8 that are in the SAPS vehicles, and we can show that General 9 Naidoo came to forward holding area 2 at about 3:30. Are 10 you sure you didn't see him come and check that you were, 11 that your forces were ready, that forward holding area 2 12 was all in order? 13 CAPTAIN KIDD: I didn't see him. 14 CHAIRPERSON: Ms Le Roux, when we've 15 reached a suitable stage I propose taking the tea 16 adjournment, but it's for you to indicate to me when it 17 will fit in conveniently with your cross-examination. 18 MS LE ROUX: Yes, Chair, let me just wrap 19 up the General Naidoo point. Captain Kidd, from what we 20 can see from these tracking records is that General Naidoo 21 comes from forward holding area 1 to where you were 22 briefing members at forward holding area 2, that he's there 23 at about 3:30. That's a six-kilometre round trip. It took 24 him about 20 minutes, and it seems that he was making this 25 journey, because he then goes and checks on other, you</p>	<p style="text-align: right;">Page 29115</p> <p>1 yet exhibited. We can hand that up. The AVL records have 2 not yet been exhibited. We only received them this week. 3 CHAIRPERSON: Oh, they haven't been 4 exhibited, I see. Because I can't remember any evidence on 5 this point from General Naidoo and I can't remember him 6 being asked any questions, but the explanation I think 7 you've now given me by implication that you didn't have the 8 AVL records at the time – 9 MS LE ROUX: Yes. 10 CHAIRPERSON: - so therefore you didn't 11 consider it necessary to ask any questions on it. 12 MS LE ROUX: Yes, and General Naidoo was 13 silent on – 14 CHAIRPERSON: Yes, he didn't mention it – 15 MS LE ROUX: But obviously the AVL record 16 shows him doing this round trip. Chair, perhaps it would 17 then be useful just to mark the exhibit of the CALS 18 analysis of the AVL records of Captain Kidd and Major- 19 General Naidoo – 20 CHAIRPERSON: Alright – 21 MS LE ROUX: - although I don't intend to 22 go through them – 23 CHAIRPERSON: It will be – 24 MS LE ROUX: - with Captain Kidd, since 25 he said he never saw Major-General Naidoo there.</p>

<p style="text-align: right;">Page 29116</p> <p>1 CHAIRPERSON: Ja, it will be UUU5, I 2 think. 3 MS LE ROUX: Yes. Chair, we'll hand 4 those out now in the tea adjournment. 5 CHAIRPERSON: Alright, how do I call it? 6 CALS analysis – 7 MS LE ROUX: CALS analysis: AVL records 8 of Captain Kidd and Major-General Naidoo. 9 COMMISSIONER HEMRAJ: Can I just 10 understand, Ms Le Roux, when you put to the witness that 11 General Naidoo went to check at forward holding area 2, is 12 that based on evidence or is that based on your CALS 13 analysis, or what exactly is the basis of that? 14 MS LE ROUX: That's based on the AVL 15 records of Major-General Naidoo's vehicle. 16 CHAIRPERSON: Of course you know you 17 really – 18 MS LE ROUX: So we – 19 CHAIRPERSON: I'm sorry to interrupt you. 20 It's not as simple as that. AVL records would appear to 21 indicate, if they're correct, correctly analysed and so on, 22 that he went to forward holding area 2. Why he went is 23 something that you're inferring from the fact that he went, 24 if he went. You know you put it that he went to check. 25 Well, you may be right, but the purpose of his visit there,</p>	<p style="text-align: right;">Page 29118</p> <p>1 going and checking. 2 MS LE ROUX: Right. 3 CHAIRPERSON: All that shows, if you've 4 analysed it correctly, is he went. Why he went, what the 5 purpose was, we don't know, do we? 6 MS LE ROUX: Yes, Chair, so – 7 CHAIRPERSON: You're merely inferring. 8 But anyway – 9 MS LE ROUX: And then the AVL records 10 show Major-General Naidoo's vehicle going to forward 11 holding area 2, returning, going to where two other sets of 12 SAPS members were located, and that's what I was putting to 13 Captain Kidd. So we'll exhibit the analysis at tea and 14 then I'll move on to another point. 15 CHAIRPERSON: We'll take the tea 16 adjournment before that. But before we take the tea 17 adjournment, Ms Baloyi's turned her light on, she wants to 18 say something. 19 MS BALOYI: Chairperson, just so that our 20 silence is not misunderstood, we have no idea what Ms Le 21 Roux, what records of General Naidoo she's referring to. 22 They haven't been pointed out to us as part of the 23 documentation that would be discussed with this witness. 24 So we're not admitting anything that she says about that. 25 CHAIRPERSON: Yes, no, I understand. Ms</p>
<p style="text-align: right;">Page 29117</p> <p>1 if it is established from the AVL records, is something we 2 don't know. But anyway, it seems, I'm not sure it's going 3 to help us at the end of the day when we compile our 4 report, answering the points of the terms of reference. 5 But anyway, this witness says he never saw General Naidoo. 6 As far as he's concerned General Naidoo never went there. 7 So anyway, can we perhaps take the tea adjournment now and 8 this matter can be looked at and you can deal with it – 9 MS LE ROUX: Yes, Chair, let me just – 10 CHAIRPERSON: Or unless you want to do 11 something about it before we adjourn – 12 MS LE ROUX: No, no, I think I should 13 just – 14 CHAIRPERSON: I'm in your hands. 15 MS LE ROUX: I think I should just put on 16 record, obviously we, you know Major-General Naidoo's 17 evidence was that he didn't do this. The AVL records of 18 his vehicle that he was in show him going, checking on 19 forward holding area 2, return and – 20 CHAIRPERSON: No, no, no, you're doing it 21 again – 22 MS LE ROUX: - making a journey to 23 forward holding area 2 – 24 CHAIRPERSON: I'm sorry to interrupt you. 25 You're doing it again. You're saying the records show him</p>	<p style="text-align: right;">Page 29119</p> <p>1 Le Roux, I trust you'll forgive me if I say that I'm rather 2 surprised that we weren't given these documents if they're 3 going to be used in cross-examination before the cross- 4 examination started, and I take it – or let me ask, do you 5 know anything about this? Did you see these AVL records 6 before you started your evidence? 7 CAPTAIN KIDD: No, Mr Chairman. 8 CHAIRPERSON: Anyway, where do you get 9 the AVL records – 10 MS LE ROUX: Chair, let me just clarify – 11 CHAIRPERSON: I'm sorry – 12 MS LE ROUX: Let me just clarify what 13 happened – 14 CHAIRPERSON: I don't want to cross- 15 examine you, but we're on – 16 MS LE ROUX: The AVL records were 17 provided by SAPS last week. After months of course of 18 being asked for in discovery requests we finally got them 19 last week. We've been able to do an analysis. 20 CHAIRPERSON: You've answered my 21 question – 22 MS LE ROUX: We've plot the movements of 23 General Naidoo. Captain Kidd has said he never saw General 24 Naidoo, but I then said we managed to look at the AVL 25 records and see him go there. It then came up so it seemed</p>

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1 that I should put the analysis in –

2 CHAIRPERSON: That point's now been

3 clarified.

4 MS LE ROUX: Yes.

5 CHAIRPERSON: But it still doesn't deal

6 with the point I put to you earlier, that the rules of this

7 Commission, designed to expedite matters, are that

8 documents that are going to be relied on in cross-

9 examination should be made available to the witness before

10 the evidence-in-chief commences and should be made

11 available to the Commission so that we can keep up and read

12 the documents beforehand. That hasn't been done. I trust

13 that an omission of that kind will not be repeated. We now

14 take the tea adjournment.

15 [COMMISSION ADJOURNS COMMISSION RESUMES]

16 [12:11] CHAIRPERSON: The Commission resumes. Ms

17 Le Roux, I'm sorry we took up much longer on the tea

18 adjournment than we thought we would because we had

19 housekeeping matters to attend to. You will not be

20 penalised because of that and it'll be borne in mind. You

21 obviously won't be able to finish today as I thought you

22 would have been able to do but if you need more time at the

23 end of today, the period that's been lost now will be added

24 to the time that you would otherwise have had.

25 MS LE ROUX: Yes, Chair.

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1 CHAIRPERSON: That doesn't mean you don't

2 have – it doesn't only mean you have to use it but I'm just

3 telling you I'm trying to be fair to you for once.

4 MS LE ROUX: Yes. Thank you, Chair, I

5 appreciate that. The diff, Chair, is I'm in the Swaziland

6 Appeal Court on Monday so I would like to finish today if I

7 can. I think I should be able to. We might need to go a

8 little bit after 1 o'clock but let me try.

9 CHAIRPERSON: Don't waste time on

10 explanations, start with the cross-examination.

11 MS LE ROUX: Captain Kidd -

12 CHAIRPERSON: No, no, you can't go after

13 1 o'clock. Sorry about that. There are, you know there

14 are the usual complications about that. Captain, you're

15 still under oath.

16 WAYNE PETER KIDD: (s.u.o.)

17 EXAMINATION BY MS LE ROUX (CONTD.):

18 Captain Kidd, I wanted to ask you about your experience at

19 scene 2 between the time of your arrival there at koppie 3

20 and the shooting of Mr Mpumza. You'd been at koppie 3 for,

21 by our count, using the videos and photographs that we have

22 you were at koppie 3 for about 12 minutes by the time Mr

23 Mpumza is shot. You see to arrive at approximately 16:07.

24 We see that in the photograph that we've been using which

25 is exhibit JJJ10.4547. It's the same photograph that

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1 appears in the exhibit L slide we've been using. That's

2 taken 16:07:24 and we see your group in the top right-hand

3 corner. Mr Mpumza is shot at approximately 16:19:49. So

4 you arrive 16:07, he is shot 16:19. In that 12 minutes you

5 also obviously saw Mr Mkhonjwa and the Arsenal man –

6 CHAIRPERSON: I'm sorry to interrupt you,

7 before you carry on. We haven't actually been given the

8 AVL records of Captain Kidd and Major-General Naidoo. What

9 we've been given is your analysis which incorporates

10 material which you say has been taken over from those

11 records. I'm not suggesting for a moment you've done it

12 incorrectly but strictly speaking presumably we can proceed

13 on the assumption for the moment that these figures taken

14 over are correct, but obviously we'll need either – we'll

15 need the AVL records actually to be put in as exhibits to

16 substantiate the –

17 MS LE ROUX: Chair, we'll arrange that

18 you have that underlying data on Monday. Captain Kidd,

19 you'd also, in that 12 minutes you'd also obviously seen Mr

20 Mkhonjwa and the man in the Arsenal shirt shot and you knew

21 that they were badly injured, potentially dead, correct?

22 CAPTAIN KIDD: That's correct.

23 MS LE ROUX: And you were – were you

24 close to Captain Ryland?

25 CAPTAIN KIDD: Yes, I was.

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1 MS LE ROUX: And we've all seen the

2 Ryland footage and that also taken by Mahlatsi and we don't

3 need to go through it now although there's one clip I'll

4 show you shortly but we don't need to go through the

5 entirety of it but the impression we get, which I'd like

6 you to confirm for us, is that the scene was fairly

7 chaotic, that there were people shouting, you can hear

8 shots being fired. It seems as if it's quite clearly a

9 dangerous situation, would you agree with that

10 characterisation?

11 CAPTAIN KIDD: Yes, I would.

12 MS LE ROUX: And had you ever been

13 involved in an operation like that before?

14 CAPTAIN KIDD: No, never.

15 MS LE ROUX: And you'd certainly never

16 been in an operation like that where more than 250 rounds

17 of live ammunition were fired in a crowd situation.

18 CAPTAIN KIDD: No.

19 MS LE ROUX: And presumably the situation

20 that unfolded in that 12 minutes from when you arrive at

21 koppie 3, the shooting of Mr Mpumza as well as the

22 shootings of Mr Mkhonjwa and the man in the Arsenal shirt,

23 none of that was discussed in the briefing you receive from

24 Colonel Scott or Brigadier Calitz, was it, the possibility

25 of something like that happening?

<p style="text-align: right;">Page 29124</p> <p>1 CAPTAIN KIDD: No.</p> <p>2 MS LE ROUX: At any point in that</p> <p>3 briefing, any earlier briefing in the course of the 16th,</p> <p>4 any briefing you gave with your members at forward holding</p> <p>5 area 2, were any of these possibilities discussed?</p> <p>6 CAPTAIN KIDD: No.</p> <p>7 MS LE ROUX: So would it also then be</p> <p>8 fair to say that it was quite clear to you by the time you</p> <p>9 got to koppie 3 and in fact maybe before that, by the time</p> <p>10 you decided to move to koppie 3 when you could hear the</p> <p>11 shooting, that the operation you were briefed on wasn't</p> <p>12 going according to plan?</p> <p>13 CAPTAIN KIDD: That's correct.</p> <p>14 MS LE ROUX: Would you say you thought</p> <p>15 that at the time you took the decision to move forward to</p> <p>16 the koppie or did that only become clear to you when you</p> <p>17 reached the koppie?</p> <p>18 CAPTAIN KIDD: When it was clear on the</p> <p>19 radio that something had happened at koppie 1, that you</p> <p>20 could hear over the radio the commotion, that's when I</p> <p>21 realised that.</p> <p>22 MS LE ROUX: That's when you realised the</p> <p>23 operation wasn't going according to the plan?</p> <p>24 CAPTAIN KIDD: That's correct.</p> <p>25 MS LE ROUX: And would it also then be</p>	<p style="text-align: right;">Page 29126</p> <p>1 in the video – so it's exhibit I2, we're going to play from</p> <p>2 three minutes to three minutes 15. Mr Mpumza was shot at</p> <p>3 16:19:47. What we see in the clip is we see, is we see</p> <p>4 Colonel McIntosh, we see him with the latex gloves that you</p> <p>5 reference in the statement. We see you there in the clip</p> <p>6 at three minutes 06, we see you in the clip and then at</p> <p>7 approximately three minutes 12 in the clip you appear to be</p> <p>8 saying "stay forward, go forward" and then we'll pause at</p> <p>9 three minutes 15. So if we can just play the 15 seconds</p> <p>10 from three. Perhaps if we go back to approximately two</p> <p>11 minutes 50 and then just play until 3:15 so we can get some</p> <p>12 of the context.</p> <p>13 [VIDEO SHOWN]</p> <p>14 MS LE ROUX: So Captain Kidd, had you</p> <p>15 arrived at Mr Mpumza where he was lying sort of at this</p> <p>16 time or had you already been with him or does this record</p> <p>17 your arrival?</p> <p>18 CAPTAIN KIDD: No. Sorry no, I was there</p> <p>19 much earlier, then I'd left and this was the second time</p> <p>20 that I came back.</p> <p>21 MS LE ROUX: Okay and the order that we</p> <p>22 hear or the radio communication that we hear about "stay</p> <p>23 forward, go forward" and you seem to confirm that, was that</p> <p>24 – first of all do you remember that being heard on the</p> <p>25 radio, "stay forward, go forward?"</p>
<p style="text-align: right;">Page 29125</p> <p>1 fair to say that these events were unfolded were among the</p> <p>2 most significant in your career as a policeman?</p> <p>3 CAPTAIN KIDD: That's correct.</p> <p>4 MS LE ROUX: Now I'd like to focus on a</p> <p>5 period of time after Mr Mpumza is shot. Chair, if we could</p> <p>6 play exhibit I2. We do need a warning, though, because you</p> <p>7 will see Mr Mpumza in this clip and we just need to play</p> <p>8 from three minutes –</p> <p>9 CHAIRPERSON: Before –</p> <p>10 MS LE ROUX: We can actually play three</p> <p>11 minutes to three minutes 15.</p> <p>12 CHAIRPERSON: Must I give a warning?</p> <p>13 Must I give a warning?</p> <p>14 MS LE ROUX: Yes, Chair. The clip we</p> <p>15 intend to show has, you can see Mr Mpumza in close-up.</p> <p>16 CHAIRPERSON: I'm told that a clip is</p> <p>17 going to be shown which may cause emotional distress to the</p> <p>18 loved ones and relatives of Mr Mpumza and I ask that the</p> <p>19 clip not be shown until half a minute has expired from the</p> <p>20 time I finish speaking, to give those who wish to leave the</p> <p>21 chamber to avoid the emotional distress to which I've</p> <p>22 referred. Half a minute has expired, the clip may now be</p> <p>23 shown.</p> <p>24 MS LE ROUX: Chair, let me just put it in</p> <p>25 context and, Captain Kidd, what I'd like you to listen for</p>	<p style="text-align: right;">Page 29127</p> <p>1 CAPTAIN KIDD: No, I don't recall, I</p> <p>2 don't recall what was said but that was not said by me.</p> <p>3 MS LE ROUX: Okay. From this moment</p> <p>4 where do you go?</p> <p>5 CAPTAIN KIDD: I go back to – after this</p> <p>6 I went to where Warrant Officer Swarts was.</p> <p>7 MS LE ROUX: And where was that?</p> <p>8 CAPTAIN KIDD: On the western side.</p> <p>9 MS LE ROUX: So we can – we don't need</p> <p>10 the clip on screen anymore. So this "go forward, move</p> <p>11 forward," you didn't move in response to hearing that on</p> <p>12 the radio.</p> <p>13 CAPTAIN KIDD: No.</p> <p>14 MS LE ROUX: So that wasn't an order to</p> <p>15 "go forward, move forward" that you implemented in –</p> <p>16 CAPTAIN KIDD: No, that was just</p> <p>17 something that was on the radio.</p> <p>18 MS LE ROUX: You didn't know who that was</p> <p>19 an order to?</p> <p>20 CAPTAIN KIDD: No – no, no idea.</p> <p>21 MS LE ROUX: And you don't know who said</p> <p>22 it?</p> <p>23 CAPTAIN KIDD: I don't know who said it.</p> <p>24 MS LE ROUX: At any point in time when</p> <p>25 you're at koppie 3, from your arrival until we see you at</p>

<p style="text-align: right;">Page 29128</p> <p>1 Mr Mpumza and when you then go where you meet up with 2 Warrant Officer Swarts, did you seek any guidance from 3 Brigadier Calitz about what you and your members should be 4 doing? 5 CAPTAIN KIDD: I remember seeing 6 Brigadier Calitz and he just said I must just find out what 7 happened, just make notes. 8 MS LE ROUX: When he said to you find out 9 what happened, what did you understand him to be referring 10 to? 11 CAPTAIN KIDD: In the different 12 incidents, the shooting incidents, that's how I – I think 13 he was referring maybe to body C, that incident. 14 MS LE ROUX: And when did he give you 15 that instruction? 16 CAPTAIN KIDD: It was sometime I saw him 17 around there, I can't exactly say when according to the 18 video. 19 MS LE ROUX: Okay, we'll come back to 20 that. We'll just hold that for now. Did you seek any 21 guidance from General Mpembe about what your forces should 22 be doing? 23 CAPTAIN KIDD: No. 24 MS LE ROUX: Did you engage with General 25 Mpembe at all during the course of the operation?</p>	<p style="text-align: right;">Page 29130</p> <p>1 7.6.4. Here Mr White is addressing the movement of members 2 including your own and yourself up to koppie 3 and he says, 3 "Having proceeded with the plan to encircle, disarm and 4 arrest those protesters who had fled to koppies 2 and 3, 5 the decision to do so using an NIU baseline was 6 irresponsible for two reasons. First, if the police 7 believed the protesters were violent, armed and would 8 resist arrest then faced with that resistance the NIU were 9 armed only with live ammunition to ensure compliance. 10 Secondly, if it were true that the protesters on koppie 2 11 and 3 were violent and armed with firearms, the baseline 12 formed by the NIU created a large target for the protesters 13 to fire at, placing the NIU members at undue risk. And 14 then this passage, "In Mr White's view it would have been 15 better to try to contain the crowd within the koppies by 16 surrounding them from a safe distance and then negotiating. 17 If it was not considered safe to enter the koppie because 18 there was a risk of attack, then the decision to send 19 members into the koppie to make arrests placed those 20 members at unreasonable risk and carried huge risks of the 21 need to use lethal force." Do you agree with Mr White 22 where he says it would have been preferable, in hindsight, 23 for the police to retreat to a safe distance and try to 24 negotiate with the strikers that were in the koppie? 25 CAPTAIN KIDD: I don't know if I would</p>
<p style="text-align: right;">Page 29129</p> <p>1 CAPTAIN KIDD: No. 2 MS LE ROUX: Why not? 3 CAPTAIN KIDD: I didn't see him. 4 MS LE ROUX: Did you try to contact him 5 on the radio? 6 CAPTAIN KIDD: In the beginning when I 7 was trying to find out what to do and I didn't have any 8 radio assistance, he was one of the people that were called 9 but thereafter no, nothing. 10 MS LE ROUX: And when you say he was 11 called, do you mean on the radio or a cell phone? 12 CAPTAIN KIDD: Radio. 13 MS LE ROUX: But you didn't get a 14 response? 15 CAPTAIN KIDD: No. 16 MS LE ROUX: If I could then ask you to 17 turn in exhibit JJJ178 which is the statement of Gary White 18 – Captain Kidd, you've seen this statement? We indicated 19 the particular portions you would be directed to. You've 20 had an opportunity to review those? 21 CAPTAIN KIDD: That's correct. 22 MS LE ROUX: JJJ178 and if I could ask 23 you to turn to para, page 116. Chair, this is the section 24 which deals with the events at scene 2 in Mr White's 25 statement, specifically if we could look at paragraph</p>	<p style="text-align: right;">Page 29131</p> <p>1 agree with them. It's just, you know, no-one knew that the 2 people would run to that koppie and to stay there. So you 3 know it wasn't expected of the people or from my side we 4 weren't going to disarm and arrest people, we were just 5 coming forward to see if we could assist the police and 6 that's when shots were fired at us, we took cover and 7 that's when, the charging of the strikers against the 8 members. 9 MS LE ROUX: Chair, it just occurs to me 10 we're not going to use the video again so if we want to 11 call back the people that left, perhaps someone could let 12 them know – 13 CHAIRPERSON: Yes, well, if someone would 14 like to go and tell the people who left that it's safe for 15 them to come back, I'd be grateful if that were done. 16 MS LE ROUX: Thank you. Captain Kidd, I 17 understand your answer given that the people went to a 18 place that you hadn't anticipated in the plan but I'm 19 asking you now as you sit here today with the benefit of 20 hindsight, assume that the people ran and went to koppies 2 21 and 3 the way they did, do you think it would have been a 22 preferable idea for the police to just encircle the koppie 23 from a safe distance and try to negotiate the protesters 24 leaving, rather than have five units encircle, shooting, 25 no-one knowing where anyone else was around the koppie, the</p>

<p style="text-align: right;">Page 29132</p> <p>1 confusion that you've described, the chaotic scene that 2 you've described. Do you think it would have been 3 preferable if the police could have been in a position to 4 just encircle and contain what was happening at the koppie 5 but not actually go in and engage and not shoot anybody. 6 CAPTAIN KIDD: Okay, how I see it, Mr 7 Chairman, is that this is what was tried by koppie 1 and it 8 didn't work. So I mean the way it was going now, if you 9 say in hindsight and we had lots of time to look at it then 10 maybe it would have worked but when we were there it 11 couldn't have worked. 12 MS LE ROUX: Captain Kidd, let me ask in 13 another way. Sitting here today, if I told you that there 14 would be an operation at the kraal and that people would 15 disperse from that area and go and group themselves in 16 koppies 2 and 3, what would you think would be a way for 17 the police to deal with that development? 18 CAPTAIN KIDD: Then Mr White's way would 19 work if you knew from the beginning how the people were 20 going to go. 21 MS LE ROUX: Okay. So taking you out of 22 hindsight now, on the day – I've understood your evidence 23 to be, you moved forward up to the koppie because you 24 wanted to help members, have you heard any other reason why 25 or any explanation for what required the SAPS to move</p>	<p style="text-align: right;">Page 29134</p> <p>1 Mpumza, on the first time you were there or the second 2 time? 3 CAPTAIN KIDD: I think it was more the 4 second time. 5 MS LE ROUX: You don't remember seeing 6 him the first time you were there? 7 CAPTAIN KIDD: I don't remember. I was 8 the one that got there when the members had just stood up, 9 then I went away when – I think Colonel McIntosh came and 10 then I left. 11 MS LE ROUX: And how long was the time 12 from when you left to when you returned to Mr Mpumza? 13 CAPTAIN KIDD: I don't know how long. It 14 wasn't very long. 15 MS LE ROUX: Less than 10 minutes, more 16 than 10 minutes? 17 CAPTAIN KIDD: Ja, less than 10 minutes. 18 MS LE ROUX: Less than 10 minutes. And 19 did you observe where Brigadier Calitz approached from? 20 CAPTAIN KIDD: No, I didn't observe. 21 MS LE ROUX: So the first time you saw 22 Brigadier Calitz, where was he? 23 CAPTAIN KIDD: He was standing there 24 beside the body of Mr Mpumza. 25 MS LE ROUX: Okay, so you didn't see how</p>
<p style="text-align: right;">Page 29133</p> <p>1 forward to make arrests of the people at koppie 3? Have 2 you heard any other explanation for why people moved up and 3 tried to make arrests? 4 CAPTAIN KIDD: I heard of people that 5 were just following to see if they could encircle and 6 arrest, I heard that but no, I can't say any other 7 explanations. 8 MS LE ROUX: And who told you they moved 9 up to try to encircle and arrest? 10 CAPTAIN KIDD: No, that was just what the 11 POP members were saying that were in the Nyalas. 12 MS LE ROUX: When did they say that to 13 you? 14 CAPTAIN KIDD: It was just when people 15 were talking at the parade ground. 16 MS LE ROUX: That was after – 17 CAPTAIN KIDD: Yes. 18 MS LE ROUX: The day after. Was it the 19 day after or – 20 CAPTAIN KIDD: Any time after. 21 MS LE ROUX: Going back to Brigadier 22 Calitz, you mentioned that you saw him at Mr Mpumza, is 23 that correct? 24 CAPTAIN KIDD: That's correct. 25 MS LE ROUX: When did you see him at Mr</p>	<p style="text-align: right;">Page 29135</p> <p>1 he approached? 2 CAPTAIN KIDD: No, I didn't. 3 MS LE ROUX: So you can confirm, you can 4 confirm that when you were at Mr Mpumza the first time 5 Brigadier Calitz was not there. You didn't – 6 CAPTAIN KIDD: I didn't - 7 MS LE ROUX: - don't remember seeing him. 8 CAPTAIN KIDD: No, I don't remember 9 seeing him. 10 MS LE ROUX: And then when you were at Mr 11 Mpumza the second time, Brigadier Calitz was already there 12 or you got there first the second time as well? 13 CAPTAIN KIDD: I don't recall exactly 14 when but he was, he was there in the vicinity and I spoke 15 with him or he spoke with me. 16 MS LE ROUX: Okay. And when did you 17 first see Lieutenant-Colonel Pitsi at Mr Mpumza? 18 CAPTAIN KIDD: I didn't see him. 19 MS LE ROUX: You don't remember seeing 20 Lieutenant-Colonel Pitsi at all, at Mr Mpumza? 21 CAPTAIN KIDD: There was a lot of people 22 there. I didn't take notice who was there. 23 MS LE ROUX: Okay, I understand that but 24 you don't remember Lieutenant-Colonel Pitsi at Mr Mpumza? 25 CAPTAIN KIDD: I didn't see him, no.</p>

<p style="text-align: right;">Page 29136</p> <p>1 MS LE ROUX: Now if we just go back 2 through your evidence, you'd seen Mr Mpumza shot, you heard 3 the continuous – I understand it wasn't continuous, like a 4 volley but you heard continual shooting. It was clear to 5 you by the time you approached the koppie that the 6 operation wasn't going according to the plan. Did you 7 discuss any of this with Brigadier Calitz when you saw him 8 at Mr Mpumza? 9 [12:31] CAPTAIN KIDD: No. 10 MS LE ROUX: Why not? 11 CAPTAIN KIDD: There was no time to 12 discuss things. Things were happening. 13 MS LE ROUX: Brigadier Calitz said that 14 he spoke to you and he spoke to Lieutenant Colonel Pitsi 15 but he had no idea that anything had gone wrong, he didn't 16 know that scene 1 had happened, he didn't know that scene 2 17 had happened, he didn't know that there were any live 18 rounds fired at scene 2 other than those fired at Mr 19 Mpumza. Now we obviously will make submissions about that 20 and whether that evidence should be believed or not. But 21 when you spoke to Brigadier Calitz and you failed to 22 mention any of the things you saw that fact will be 23 something that the Human Rights Commission uses when it 24 says that the operation, you know that you are one of the 25 people who should be held responsible for the failure of</p>	<p style="text-align: right;">Page 29138</p> <p>1 CAPTAIN KIDD: No. 2 MS LE ROUX: Do you know who's hand radio 3 Brigadier Calitz was using? 4 CAPTAIN KIDD: No, there was a lot of 5 people there that had hand radios. 6 MS LE ROUX: Okay. So can you tell the 7 commission again the full extent of your conversation with 8 Brigadier Calitz? 9 CAPTAIN KIDD: The only conversation we 10 had was he said to me find out what happened and that was 11 it. 12 MS LE ROUX: And you understood that to 13 mean find out what happened with Mr Mpumza? 14 CAPTAIN KIDD: That's correct. 15 CHAIRPERSON: Did you, did you? 16 CAPTAIN KIDD: Mr Chairman, yes I 17 witnessed the whole thing. 18 CHAIRPERSON: Oh I see, so you didn't 19 have to ask other people? 20 CAPTAIN KIDD: No, Mr Chairman. 21 CHAIRPERSON: So did you tell him 22 subsequently what you witnessed? 23 CAPTAIN KIDD: Yes, I didn't mention 24 anything then but I knew what had happened. But there was 25 no discussion further.</p>
<p style="text-align: right;">Page 29137</p> <p>1 the operation. That you failed to tell Brigadier Calitz 2 what you knew. Would you care to comment on that? 3 CAPTAIN KIDD: Yes, Brigadier Calitz just 4 said to me see what had happened and then he was again on 5 the radio and speaking to other members. I didn't have 6 time to talk and I have other jobs to go do also. 7 MS LE ROUX: When you say you saw what 8 happened and then was on the radio, what did you observe, 9 tell me what you observed Brigadier Calitz do at Mr Mpumza, 10 when you became aware that he was there? 11 CAPTAIN KIDD: He was talking to other 12 members. 13 MS LE ROUX: Do you remember who he spoke 14 to? 15 CAPTAIN KIDD: No. 16 MS LE ROUX: And then you said he was 17 busy on the radio? 18 CAPTAIN KIDD: Yes. 19 MS LE ROUX: Was that a hand radio? 20 CAPTAIN KIDD: Yes. 21 MS LE ROUX: And what was he doing on the 22 radio? 23 CAPTAIN KIDD: He was talking. 24 MS LE ROUX: Did you overhear any of what 25 he was saying?</p>	<p style="text-align: right;">Page 29139</p> <p>1 CHAIRPERSON: Oh, I see. 2 MS LE ROUX: Did you have any discussion 3 with any of the members that were at Mr Mpumza about what 4 had happened, scene 1, scene 2, the fact that live rounds 5 were used, the fact that the operation hadn't gone 6 according to plan, did you discuss any of that with any one 7 – 8 CAPTAIN KIDD: No, I was still – 9 MS LE ROUX: At Mr Mpumza? 10 CAPTAIN KIDD: Okay, sorry. I was 11 talking with my members to, you know we had to carry on, 12 whatever we, you know with whatever was happening still had 13 to be completed. So about scene 1 no, we didn't know what 14 happened at scene 1, only what we heard over the radio. 15 MS LE ROUX: And did you ask any of the 16 members that you encountered at Mr Mpumza, did you hear the 17 shooting on the radio what happened, did you ask anyone 18 that? 19 CAPTAIN KIDD: No. 20 MS LE ROUX: Did you try to find any of 21 the unit commanders and talk to fellow commanders about 22 what they knew as to what was happening in the operation at 23 that stage? 24 CAPTAIN KIDD: Yes, I was talking to 25 Captain Rayland, I talked to and then I was, then I went to</p>

<p style="text-align: right;">Page 29140</p> <p>1 Warrant Officer Swartz. 2 MS LE ROUX: And what did Captain Rayland 3 report to you about what had happened in the operation? 4 CAPTAIN KIDD: Nothing, he just said, oh 5 he was nearby where I was. So whatever he saw I saw. 6 MS LE ROUX: But the conversation you had 7 with Captain Rayland, what did you discuss? 8 CAPTAIN KIDD: He said to me did I 9 witness what happened with body N and the guy with the red 10 shirt, I said yes I did and that was it. 11 MS LE ROUX: You didn't discuss other 12 shooting at scene 2 or scene 1 at all? 13 CAPTAIN KIDD: No. 14 MS LE ROUX: While you were at Mr Mpumza, 15 did any other commanders come to that location that you 16 saw? 17 CAPTAIN KIDD: Not that I saw. 18 MS LE ROUX: The Johannesburg water 19 cannon video, Chair, we don't need to play it but between 20 16:26:03 and 16:30:24 we see, we count 11 SAPS members that 21 moved from inside koppie 3 towards Mr Mpumza. Did you, 22 were you aware of that traffic between those two locations, 23 were you aware that people were walking in and out? 24 CAPTAIN KIDD: No. 25 MS LE ROUX: And you didn't talk to</p>	<p style="text-align: right;">Page 29142</p> <p>1 told you? 2 CAPTAIN KIDD: I wrote it down, yes. 3 MS LE ROUX: Where did you write it down? 4 CAPTAIN KIDD: I had a piece of paper 5 with me. 6 MS LE ROUX: And what happened to that 7 piece of paper? 8 CAPTAIN KIDD: I think once my statement 9 was written I don't know where the notes are now. 10 MS LE ROUX: Was it a loose piece of 11 paper or was it in a note book? 12 CAPTAIN KIDD: It was loose piece of 13 paper. 14 MS LE ROUX: Did you keep the piece of 15 paper or give it to somebody when you then prepared your 16 statement, what happened to the piece of paper? 17 CAPTAIN KIDD: It was with me until I 18 completed my statement. 19 MS LE ROUX: And then what happened to 20 it? 21 CAPTAIN KIDD: I think I put it somewhere 22 with my other notes and stuff but I don't know where those 23 notes are now. 24 MS LE ROUX: Have you ever been asked for 25 any of your notes?</p>
<p style="text-align: right;">Page 29141</p> <p>1 anybody about what was happening in the koppie? 2 CAPTAIN KIDD: No. 3 MS LE ROUX: With those people, and none 4 of them mentioned anything about what had happened inside 5 the koppie, that people had been shot, people were dead, 6 people were injured. 7 CAPTAIN KIDD: Not that I heard, no. 8 MS LE ROUX: Then you've mentioned that 9 you interacted with Warrant Officer Swartz, what did he, 10 and that was after your first, that's between the two 11 visits to Mr Mpumza, correct, or it was after the second? 12 CAPTAIN KIDD: That's correct. 13 MS LE ROUX: Sorry which is it, between 14 the two visits or after the second visit? 15 CAPTAIN KIDD: I mean it's after the 16 second one, the second time. 17 MS LE ROUX: Okay and you see Warrant 18 Officer Swartz, what does he tell you? 19 CAPTAIN KIDD: He told me he also had an 20 incident where he was behind some rocks, he saw some people 21 that wanted to charge, he gave an instruction for the 22 people to drop their weapons, they didn't and then he fired 23 shots and he said how he had injured the person in the 24 lower body. 25 MS LE ROUX: Did he take notes of what he</p>	<p style="text-align: right;">Page 29143</p> <p>1 CAPTAIN KIDD: My notes, yes by Roots, 2 when we were at Roots we had to give certain information, I 3 still had it then. 4 MS LE ROUX: And since Roots have you 5 been asked for any of your notes? 6 CAPTAIN KIDD: My notes that I had, yes, 7 whatever I had was, I think was given in. 8 MS LE ROUX: Okay but you didn't go and 9 find those other notes – 10 CAPTAIN KIDD: No. 11 MS LE ROUX: That you knew you had when 12 you got the second request for notes? 13 CAPTAIN KIDD: No. 14 MS LE ROUX: After Roots. Captain Kidd, 15 could I ask you to try to locate those notes again bring 16 them with you on Monday? 17 CAPTAIN KIDD: I've been trying to find 18 notes, I don't know, since I've moved stations and I've, 19 you know lots of things have happened and I can't find 20 them. 21 MS LE ROUX: Okay. You said you had them 22 with you when you did your first statement, that's HHH12.2. 23 CAPTAIN KIDD: That's correct. 24 MS LE ROUX: Where were you when you 25 prepared that statement?</p>

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1 CAPTAIN KIDD: At the Lonmin JOC.
 2 MS LE ROUX: And did someone ask you to
 3 prepare that statement?
 4 CAPTAIN KIDD: Yes.
 5 MS LE ROUX: Who asked you?
 6 CAPTAIN KIDD: I was asked for, by oh I
 7 can't remember his name, it was the Brigadier that was in
 8 charge of the investigation of that docket.
 9 MS LE ROUX: And the docket is the docket
 10 against the strikers that were arrested?
 11 CAPTAIN KIDD: That's correct.
 12 MS LE ROUX: And what were you, what were
 13 you asked to do?
 14 CAPTAIN KIDD: To write a statement that
 15 could show the aggressiveness and the violentness of the
 16 strikers.
 17 MS LE ROUX: So you were specifically
 18 asked to explain, make sure that your statement had details
 19 about aggression and the violence of the strikers?
 20 CAPTAIN KIDD: That's correct.
 21 MS LE ROUX: Were you told anything else
 22 about what should be in your statement?
 23 CAPTAIN KIDD: No.
 24 MS LE ROUX: Were you told that the
 25 statement would be used to try to secure convictions of the

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1 strikers?
 2 CAPTAIN KIDD: I was just told that it
 3 must be for the police docket.
 4 MS LE ROUX: Did you discuss what you
 5 would put in the statement with anyone other than this
 6 Brigadier?
 7 CAPTAIN KIDD: No.
 8 MS LE ROUX: If we go back to Warrant
 9 Officer Swartz. Chair, it's the supplementary statement of
 10 Warrant Officer Swartz, I'm just obtaining the exhibit
 11 number. This is a, it gives an account of an interaction
 12 that he had with Sergeant Myburgh.
 13 CAPTAIN KIDD: I think it's LLL14.
 14 MS LE ROUX: Triple, yes thank you LLL14.
 15 LLL14 Warrant Officer Swartz gives an account of an
 16 interaction he had with Sergeant Myburgh in the aftermath
 17 of scene 2 and then at paragraph 36 he says "after a short
 18 time had lapsed Captain Kidd came to me from the left hand
 19 side, I also told him what happened, I specifically told
 20 him what the Sergeant of K9 had told me, that's Sergeant
 21 Myburgh and he made some notes thereof and walked away."
 22 Do you recall Warrant Officer Swartz telling you about
 23 Sergeant Myburgh?
 24 CAPTAIN KIDD: That's correct.
 25 MS LE ROUX: And what did he tell you?

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1 CAPTAIN KIDD: He said to me that an
 2 unknown person of the dog unit had told him that he had
 3 shot someone.
 4 MS LE ROUX: That he had shot someone or
 5 that he saw someone shoot someone?
 6 CAPTAIN KIDD: Warrant Officer Swartz
 7 told me that this Sergeant from the dog unit had told him
 8 that the Sergeant from the dog unit had shot someone.
 9 MS LE ROUX: Okay, and the notes you took
 10 about what Warrant Officer Swartz told you were they on the
 11 same piece of paper that you've been unable to find.
 12 CAPTAIN KIDD: The notes that I took down
 13 that Warrant Officer Swartz is referring to was the
 14 incident that he had had with the encounter, how many shots
 15 he had fired, what firearm he used and where the person was
 16 injured. Then a note was just made that an unknown person,
 17 unknown dog unit had told him about this shooting.
 18 MS LE ROUX: So you did make a note that
 19 he told you that an unknown dog unit member had shot
 20 someone?
 21 CAPTAIN KIDD: Yes, that's correct and I
 22 told him he has to try and find out the name for me.
 23 MS LE ROUX: Did he ever come back to you
 24 and give you a name?
 25 CAPTAIN KIDD: No, it was, I think he

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1 referred it to someone else.
 2 MS LE ROUX: Did you follow up with him
 3 at all to find out if he had found the person's name?
 4 CAPTAIN KIDD: No, because I had found
 5 out that he had informed another officer.
 6 MS LE ROUX: Who was that other officer?
 7 CAPTAIN KIDD: I don't know who it was
 8 but Warrant Officer Swartz and his people sorted the thing
 9 out. I was not involved with that.
 10 MS LE ROUX: In your diary and, Chair,
 11 this is not yet been exhibited, we probably should give it
 12 an exhibit number. I think it will be UUU6.
 13 CHAIRPERSON: It will be UUU6. Diary of
 14 Captain Kidd entries dated, it's only really the 16th.
 15 MS LE ROUX: 16 August. Yes, Chair, it's
 16 a two page exhibit.
 17 CHAIRPERSON: 16-08-2012.
 18 MS LE ROUX: Yes, Chair, it's a two page
 19 exhibit. The first page indicates that it's Captain Kidd's
 20 2012 diary, if we could display UUU6. Chair, we seem to be
 21 having some technical difficulties but I think we're about
 22 to remedy. It was emailed through.
 23 CHAIRPERSON: While that's been done,
 24 can I ask a question, the question has nothing to do with
 25 what you asked, have you looked at exhibit L.

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1 CAPTAIN KIDD: Yes, I have.
 2 CHAIRPERSON: Now would you, have you
 3 got it in front of you?
 4 CAPTAIN KIDD: No.
 5 CHAIRPERSON: I would like you to look
 6 at, you haven't got it?
 7 CAPTAIN KIDD: No, I haven't got it.
 8 CHAIRPERSON: Alright you've been handed
 9 a copy. Now if you look at slide 231 to 233 you'll see 11
 10 incidents are listed as having taken place at koppie 3.
 11 This is the result of the information that was gathered as
 12 I understand it at Roots. Now if you can just tell me
 13 briefly, we've now got your diary entries up on the screen
 14 so I don't want to waste time, but am I correct in thinking
 15 that, have you got it there?
 16 CAPTAIN KIDD: No, I can't find it.
 17 CHAIRPERSON: Look at 231 please. Got
 18 it?
 19 CAPTAIN KIDD: No.
 20 CHAIRPERSON: They put 231 on the screen
 21 for you. Just put 231 on the screen but find it on the
 22 page is easier. Have you got it?
 23 CAPTAIN KIDD: Yes.
 24 CHAIRPERSON: Am I correct in thinking
 25 that incident 1 involves your unit, as does incident 2, as

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1 does incident 10 it looks like, is that right?
 2 CAPTAIN KIDD: Okay, Chairman, not
 3 incident 10.
 4 CHAIRPERSON: Well incident 10 you see
 5 says K9 members approach the bushes on south western side
 6 of koppie 3. So I understood your people came, you had K9
 7 people in your unit, I'm not challenging it, I'm just –
 8 CAPTAIN KIDD: That's –
 9 CHAIRPERSON: I assumed it was your
 10 group.
 11 CAPTAIN KIDD: No that –
 12 CHAIRPERSON: That's koppie, south
 13 western section of koppie 3, that's not your people?
 14 CAPTAIN KIDD: No, that's General Naidoo
 15 –
 16 CHAIRPERSON: Okay –
 17 CAPTAIN KIDD: - members and they didn't
 18 discharge one firearm.
 19 CHAIRPERSON: Alright. So it's only
 20 items, it's only incidents 1 and 2 then, is that right,
 21 just look at the others quickly, you don't have to read
 22 them aloud. Possibly incident 3 as well.
 23 CAPTAIN KIDD: That's correct, incident
 24 3.
 25 CHAIRPERSON: So incident 1, 2 and 3 are

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1 yours, is that correct.
 2 CAPTAIN KIDD: Incident 4.
 3 CHAIRPERSON: And incident 4 is yours as
 4 well.
 5 CAPTAIN KIDD: That's Warrant Officer
 6 Swartz.
 7 CHAIRPERSON: Yes, okay. Alright let's
 8 just make, there's your copy, so 1, 2, 3 and 4 are yours.
 9 CAPTAIN KIDD: That's correct.
 10 CHAIRPERSON: Incident 5 doesn't look
 11 like yours.
 12 CAPTAIN KIDD: No.
 13 CHAIRPERSON: Incident 6 isn't yours
 14 either, I don't think. Incident 7 isn't yours. None of
 15 the others can be yours because they're other K9 people who
 16 shot and you say your K9 people didn't shoot or the NIU
 17 people, you didn't have any NIU people. So we're only
 18 looking then at incidents 1 to 4.
 19 CAPTAIN KIDD: That's correct, Mr
 20 Chairman.
 21 CHAIRPERSON: And then these are
 22 expanded on in the later slides.
 23 CAPTAIN KIDD: That's correct.
 24 CHAIRPERSON: But the information
 25 contained there was that based upon the notes that you gave

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1 which you had with you at Roots?
 2 CAPTAIN KIDD: That's correct, Mr
 3 Chairman.
 4 CHAIRPERSON: I see, thank you. Sorry,
 5 I tried to use up the missing time, the time we're
 6 otherwise going to lose. Can we now have the exhibit UUU6
 7 back on the screen please, that's the very uninformative
 8 diary entries of the witness.
 9 MS LE ROUX: Captain Kidd, that's the
 10 first page of your diary that just records that it's yours.
 11 If we go to the second page, this is 16th of August. It
 12 records "duty on 5:45 21 members" and then down at the
 13 bottom of the page, "duty off 23:00. That's all that's in
 14 your diary for the 16th of August. Other than this page of
 15 notes that you kept, that you cannot locate did you, do you
 16 have any other notes that you made at the time?
 17 CAPTAIN KIDD: There was lots of notes
 18 made on the SAPS15s where, what members, where they were
 19 working, what firearms they had and there was also notes
 20 made where I made, where each member informed me at a later
 21 stage how many rounds they had, what rounds they
 22 discharged.
 23 MS LE ROUX: But did you make any notes
 24 at all other than this note in your diary and the page of
 25 notes that you are unable to locate today, did you make any

<p style="text-align: right;">Page 29152</p> <p>1 other notes?</p> <p>2 CAPTAIN KIDD: No.</p> <p>3 MS LE ROUX: For your own recollection.</p> <p>4 CAPTAIN KIDD: No.</p> <p>5 MS LE ROUX: No.</p> <p>6 COMMISSIONER HEMRAJ: The note you talk</p> <p>7 about, the SAPS15s those are surely available?</p> <p>8 CAPTAIN KIDD: Yes, they are.</p> <p>9 COMMISSIONER HEMRAJ: Wherever it is that</p> <p>10 they are stored?</p> <p>11 CAPTAIN KIDD: Yes, they are.</p> <p>12 MR BIZOS SC: Mr Chairman, with respect</p> <p>13 may we draw attention to item 11 which appears to be, to</p> <p>14 relate to the witness's conduct.</p> <p>15 CHAIRPERSON: I think Mr Bizos is right,</p> <p>16 have a look at incident 11, it's slide 233. You see, let's</p> <p>17 speed it up, so it's clear on the transcript. "NIU members</p> <p>18 on the north eastern side of the koppie on open ground have</p> <p>19 protestors charge at them from the bushes as their</p> <p>20 colleagues on the inside are arresting protestors in the</p> <p>21 same bushes." Now that doesn't involve your unit does it,</p> <p>22 then it goes on. "The NIU members fire warning shots at</p> <p>23 the armed protestor who changes direction turning to the</p> <p>24 FHA2, that's forward holding 2 area members to the west</p> <p>25 where he was fatally wounded when he attempted to stab a</p>	<p style="text-align: right;">Page 29154</p> <p>1 Roots?</p> <p>2 CAPTAIN KIDD: That's correct.</p> <p>3 CHAIRPERSON: Did you hand them in or</p> <p>4 read them out or how would it work, how did it work?</p> <p>5 CAPTAIN KIDD: They were, the notes that</p> <p>6 I had that was handed in was all performed and part of the</p> <p>7 presentation.</p> <p>8 CHAIRPERSON: Well, this is the</p> <p>9 presentation.</p> <p>10 CAPTAIN KIDD: That's correct.</p> <p>11 CHAIRPERSON: This is the presentation.</p> <p>12 Did you have other notes –</p> <p>13 CAPTAIN KIDD: No –</p> <p>14 CHAIRPERSON: - which contained detail</p> <p>15 which would help us to find out what happened at koppie 3</p> <p>16 involving you and your unit, which aren't contained in the</p> <p>17 presentation and which you now can't find or –</p> <p>18 CAPTAIN KIDD: Yes, there's other notes</p> <p>19 where I made little marks and stuff when I was at the</p> <p>20 koppie. I did have those notes.</p> <p>21 CHAIRPERSON: And did you have those at</p> <p>22 Roots?</p> <p>23 CAPTAIN KIDD: I did.</p> <p>24 CHAIRPERSON: But you say they didn't</p> <p>25 find their way, the contents didn't find their way into the</p>
<p style="text-align: right;">Page 29153</p> <p>1 member with his spear." That's one of your incidents?</p> <p>2 CAPTAIN KIDD: That's correct, Mr</p> <p>3 Chairman.</p> <p>4 MS BALOYI: Chairperson, that's incident</p> <p>5 4 in fact if I may assist.</p> <p>6 CAPTAIN KIDD: It's the same as incident</p> <p>7 4.</p> <p>8 CHAIRPERSON: Oh it's a repetition.</p> <p>9 CAPTAIN KIDD: That's correct, Mr</p> <p>10 Chairman.</p> <p>11 CHAIRPERSON: Thanks. What I was</p> <p>12 concerned with, with trying to reconstruct your notes that</p> <p>13 you can't find. The, you said you had your notes at Roots</p> <p>14 so the four incidents in which you were involved were, I'm</p> <p>15 not sure that's an accurate of putting it, were you, you</p> <p>16 were involved in those four incidents any way.</p> <p>17 CAPTAIN KIDD: That's correct.</p> <p>18 CHAIRPERSON: Were you involved in the</p> <p>19 other incidents also?</p> <p>20 CAPTAIN KIDD: No, that's it.</p> <p>21 CHAIRPERSON: Alright. So the four</p> <p>22 incidents you were involved in or your unit was involved in</p> <p>23 were they covered by your notes?</p> <p>24 [12:51] CAPTAIN KIDD: Yes, they were.</p> <p>25 CHAIRPERSON: And you had your notes at</p>	<p style="text-align: right;">Page 29155</p> <p>1 presentation.</p> <p>2 CAPTAIN KIDD: The contents did but the</p> <p>3 papers themselves didn't –</p> <p>4 CHAIRPERSON: Oh no – no, but no, I'm</p> <p>5 interested in the contents.</p> <p>6 CAPTAIN KIDD: Yes.</p> <p>7 CHAIRPERSON: So would it be fair to say</p> <p>8 that the content of your notes which you had with you at</p> <p>9 Roots which you can't now find –</p> <p>10 CAPTAIN KIDD: Yes.</p> <p>11 CHAIRPERSON: - were presented at Roots</p> <p>12 and the contents had found their way into the presentation,</p> <p>13 is that correct?</p> <p>14 CAPTAIN KIDD: That's correct, Mr</p> <p>15 Chairman.</p> <p>16 CHAIRPERSON: Thank you.</p> <p>17 COMMISSIONER HEMRAJ: Can I just ask who</p> <p>18 did the shooting incident report after these shootings?</p> <p>19 CAPTAIN KIDD: Sorry, Mr –</p> <p>20 COMMISSIONER HEMRAJ: Who did the</p> <p>21 shooting incident report, which officer would have attended</p> <p>22 to completing the shooting incident report on the scene?</p> <p>23 CAPTAIN KIDD: I thought it would be the</p> <p>24 senior member, maybe General Naidoo.</p> <p>25 COMMISSIONER HEMRAJ: You don't know?</p>

<p style="text-align: right;">Page 29156</p> <p>1 CAPTAIN KIDD: No, I don't know. That is 2 just a guess but – 3 CHAIRPERSON: Did you give information to 4 whoever it was who was responsible for completing the 5 shooting discharge report? 6 CAPTAIN KIDD: Not me. Each member that 7 was involved in the shooting had to stay there and report 8 that themselves to the person. 9 CHAIRPERSON: Yes, I see. I remember in 10 your statement you said you told them to stay behind. 11 CAPTAIN KIDD: Yes. 12 CHAIRPERSON: That's right. 13 MS LE ROUX: Captain Kidd, the notes that 14 you've been asked about at Roots, who did you hand them to? 15 CAPTAIN KIDD: The notes weren't handed 16 in, it was a presentation. We just had to give the 17 information. 18 MS LE ROUX: The information, so the 19 notes that you had at Roots are the notes that you can't 20 locate today but they remained in your possession, you 21 never handed them in to anybody at Roots or thereafter. 22 CAPTAIN KIDD: Yes, I didn't hand them 23 in, they were mine. 24 MS LE ROUX: Okay. Other than at Roots, 25 have you ever been asked for your input on lessons learnt</p>	<p style="text-align: right;">Page 29158</p> <p>1 Marikana. 2 CHAIRPERSON: No, with due respect, I'm 3 not interested in his view. I don't want to be unkind to 4 him but we've had opinions of other people but he wasn't 5 involved in it, he just heard noises on the radio. The 6 fact that he could hear on the radio what was happening may 7 in itself be significant in relation to other people who 8 could hear the radio but that's a different matter, but I 9 don't – I'm not prepared to allow a question based on his 10 views on what went wrong at scene 1 but I will allow you to 11 ask him what went wrong at scene 2 – 12 MS LE ROUX: The question wasn't relating 13 to scene 1. I asked him about his view, what went wrong at 14 Marikana - 15 CHAIRPERSON: Well, that includes scene 16 1. 17 MS LE ROUX: - on the 16th. 18 CHAIRPERSON: That includes scene 1. 19 MS LE ROUX: It includes scene 1 but it's 20 not limited to scene 1. 21 CHAIRPERSON: Well, insofar as it relates 22 to scene 1, I disallow the question but I'll allow it in 23 respect of scene 2. 24 MS LE ROUX: Captain Kidd, in your view 25 what went wrong?</p>
<p style="text-align: right;">Page 29157</p> <p>1 by the SAPS from the events at Marikana? 2 CAPTAIN KIDD: No. 3 MS LE ROUX: Have you met with Mr De 4 Rover, the SAPS policing expert? 5 CAPTAIN KIDD: I met him once, yes. 6 MS LE ROUX: Was that when he did an 7 inspection in loco? 8 CAPTAIN KIDD: Yes. 9 MS LE ROUX: Other than that you haven't 10 met with Mr De Rover? 11 CAPTAIN KIDD: No. 12 MS LE ROUX: Sitting here today, what do 13 you think went wrong on the 16th of August at Marikana? 14 CAPTAIN KIDD: What I think went wrong? 15 MS LE ROUX: Is there any aspect of the 16 police operation – 17 CHAIRPERSON: You weren't at scene 1, I 18 mean how can you ask him what he thought went wrong at 19 scene 1 - 20 MS LE ROUX: I'm asking for his opinion, 21 Chair – 22 CHAIRPERSON: All he knows about scene 1 23 is what he heard on the radio. 24 MS LE ROUX: - from what he knows in his 25 view, from his experience what does he think went wrong at</p>	<p style="text-align: right;">Page 29159</p> <p>1 CAPTAIN KIDD: At scene 2 the strikers 2 charged at the police. 3 MS LE ROUX: Do you think anything went 4 wrong in terms of how the police conducted themselves? 5 CAPTAIN KIDD: I can talk on behalf of my 6 members and what I saw and I don't think so, no. 7 MS LE ROUX: You don't think your members 8 did anything wrong on the day? 9 CAPTAIN KIDD: No. 10 MS LE ROUX: Do you think any other 11 members at koppies 2 and 3, scene 2, do you think they did 12 anything wrong? 13 CAPTAIN KIDD: I cannot comment on what 14 other people did. 15 MS LE ROUX: What would you recommend 16 could prevent a reoccurrence of what happened on the 16th? 17 Is there anything the police could do differently? 18 CAPTAIN KIDD: My opinion, no. 19 MS LE ROUX: No further questions, Chair. 20 CHAIRPERSON: Thank you. It's now five 21 to one. The next, who was to – I don't propose calling 22 upon the next cross-examiner to cross-examine but who is 23 the next cross-examiner who is going to start on Monday 24 morning? Mr Bizos? 25 MR BIZOS SC: We have –</p>

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1 CHAIRPERSON: Mr Bizos, very well.
 2 MR BIZOS SC: - volunteered to be next,
 3 Mr Chairman.
 4 CHAIRPERSON: We'll hear you –
 5 MR BIZOS SC: As indicated, Mr Chairman,
 6 we agreed to the half an hour on the basis that the
 7 evidence leaders would have, a high degree of probability,
 8 have dealt with matters which we would have wanted to deal
 9 with. Because of Mr –
 10 CHAIRPERSON: Chaskalson.
 11 MR BIZOS SC: - Chaskalson's illness, we
 12 have worked a long time together, I am going to speak to
 13 him during the weekend because he is in bed at home and I
 14 will ask him if he would be prepared to give me an
 15 indication of what portions of his cross-examination I can
 16 take over. As presently advised on the notes that we have
 17 and the documents that we want to deal with half an hour,
 18 Mr Chairman, would not do justice to our presence here.
 19 MS LE ROUX: Chair, I –
 20 MR BIZOS SC: I am going to make such an
 21 application.
 22 MS LE ROUX: Chair, I am advised by my
 23 learned friend Mr Wesley that I have 28 minutes in the
 24 kitty which I will donate to my learned friend Mr Bizos.
 25 CHAIRPERSON: Do you accept the donation,

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1 Mr Bizos?
 2 MR BIZOS SC: If there are others I'll
 3 accept them, Mr Chairman, as well.
 4 CHAIRPERSON: No, you only, I was told –
 5 sorry, forgive me for interrupting you.
 6 MR BIZOS SC: Yes.
 7 CHAIRPERSON: I was told in chambers that
 8 the question I had to consider was whether I should give
 9 you an hour rather than half an hour but you've now, it
 10 sounds as if you've got 58 minutes so let's leave it on
 11 that basis and revisit it at the end of Monday morning if
 12 we have to.
 13 MR BIZOS SC: Thank you, Mr Chairman.
 14 CHAIRPERSON: You may get an extra two
 15 minutes on Monday morning. We'll now adjourn until Monday
 16 morning, 9 o'clock.
 17 MR BIZOS SC: We wish Mr Chaskalson well
 18 on behalf of all of us.
 19 [COMMISSION ADJOURNED]
 20 .
 21 .
 22 .
 23 .
 24 .
 25 .

<p style="text-align: center;">A</p> <p>able 29032:12 29072:2 29075:25 29077:24 29085:16 29086:2 29092:6 29111:2 29114:19 29119:19 29120:21,22 29121:7</p> <p>accept 29085:23 29086:2,10,16 29087:2 29160:25 29161:3</p> <p>accord 29065:17</p> <p>account 29145:11,15</p> <p>accounted 29019:2</p> <p>accurate 29153:15</p> <p>action 29037:8 29073:4</p> <p>active 29108:8</p> <p>actual 29039:12</p> <p>add 29016:15 29024:12</p> <p>added 29120:23</p> <p>addressing 29130:1</p> <p>adjourn 29114:20 29117:11 29161:15</p> <p>ADJOURNED 29161:19</p> <p>adjournment 29113:16 29116:4 29117:7 29118:16,17 29120:14,18</p> <p>ADJOURNS 29068:1 29120:15</p> <p>admitting 29118:24</p> <p>adversely 29074:7</p> <p>advised 29160:16,22</p> <p>advocate 29075:16</p> <p>affect 29071:21 29074:3</p> <p>African 29068:12,18</p> <p>aftermath 29145:16</p> <p>afternoon 29075:22 29091:11 29098:5</p> <p>aggression 29144:19</p> <p>aggressive 29036:17</p> <p>aggressiveness 29144:15</p> <p>ago 29071:21</p> <p>agree 29123:9 29130:21 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