

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 236

29 MAY 2014

PAGES 29432 TO 29625



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<p style="text-align: right;">Page 29432</p> <p>1 [PROCEEDINGS ON 29 MAY 2014] 2 [09:36] CHAIRPERSON: The Commission resumes. 3 The next witness, whom I'm going to swear in, in a moment, 4 unless he wants to make an affirmation is Colonel Classen. 5 I considered the application for time. He's a witness who, 6 as far as his evidence in chief is concerned, largely 7 covers ground covered by previous witnesses called by the 8 police. He has a full statement that can go in so I've 9 decided he can be led for half an hour in chief. The 10 evidence leaders require an hour and a half, the Legal 11 Resources Centre requires – I'm prepared to grant the 12 evidence leaders the time they ask – the LRC has asked for 13 half an hour, I'm prepared to grant them half an hour and 14 the Human Rights Commission has asked for – is it the Human 15 Rights Commission, no, SERI have asked for two hours and 16 I'm prepared to grant that. Colonel, would you please 17 rise? Mr Wesley, did I get it right? 18 MR WESLEY: Yes, Chair. No, it's the 19 Human Rights Commission that asked for two hours. 20 CHAIRPERSON: Oh sorry, yes. I said that 21 first then I thought it was wrong. 22 MR WESLEY: That's correct. 23 CHAIRPERSON: So let's just go through it 24 again. Half an hour in chief, hour and a half evidence 25 leaders, half an hour Legal Resources Centre, two hours</p>	<p style="text-align: right;">Page 29434</p> <p>1 CHAIRPERSON: Please be seated. 2 COLONEL CLASSEN: Thank you. 3 CHAIRPERSON: Mr Mathibedi? 4 EXAMINATION BY MR MATHIBEDI SC: Thanks, 5 Chairperson. Chair, if we could first start with matters 6 of – 7 CHAIRPERSON: What are your full – yes, 8 sorry, I am reminded by Mr Tokota that I must get the 9 witness's full names. What are your full names? 10 COLONEL CLASSEN: My names are Little Joe 11 Ronnie Classen. 12 CHAIRPERSON: Sorry? 13 COLONEL CLASSEN: Little Joe Ronny – 14 CHAIRPERSON: Little Joe, yes? Yes? 15 COLONEL CLASSEN: Ronnie Classen. 16 CHAIRPERSON: Ronny, R-O-N-N-Y, I 17 believe. 18 COLONEL CLASSEN: That's correct, Mr 19 Chair. 20 CHAIRPERSON: Classen spelt C-L-A-S-S-E- 21 N. 22 COLONEL CLASSEN: That's correct, Mr 23 Chair. 24 CHAIRPERSON: That's correct, thank you. 25 Mr Mathibedi, do we have some housekeeping?</p>
<p style="text-align: right;">Page 29433</p> <p>1 Human – sorry, half an hour LRC and two hours the Human 2 Rights Commission. I think I've finally got it right. 3 MS PILLAY: And Chair, just to indicate 4 that due to availability constraints both the HRC and the 5 LRC have asked to cross-examine before the evidence 6 leaders. 7 CHAIRPERSON: To cross-examine before? 8 MS PILLAY: Before the evidence leaders. 9 CHAIRPERSON: Before the evidence 10 leaders? I see, alright. And the evidence leaders are 11 happy with that? 12 MS PILLAY: We are, Chair. 13 CHAIRPERSON: I see, alright. Are you 14 prepared to take – praat u Engels of Afrikaans? 15 COLONEL CLASSEN: English, English Mr – 16 CHAIRPERSON: Are you prepared to take 17 the oath or do you wish to make an affirmation? 18 COLONEL CLASSEN: I am prepared to take 19 the oath. 20 CHAIRPERSON: Will you swear that the 21 evidence that you're going to give before this Commission 22 will be the truth, the whole truth and nothing but the 23 truth. Will you please raise your right hand and say I 24 swear, so help me God. 25 LITTLE JOE RONNY CLASSEN: (d.s.s.).</p>	<p style="text-align: right;">Page 29435</p> <p>1 MR MATHIBEDI SC: That's correct, Chair. 2 CHAIRPERSON: Yes? What exhibits do you 3 want me to mark? 4 MR MATHIBEDI SC: It will be the first 5 item, CV of Lieutenant-Colonel LR Classen. 6 CHAIRPERSON: We've reached the letter V, 7 I think, VVV is that correct? Am I right, Ms Pillay? 8 MS PILLAY: That's correct, Chair. 9 CHAIRPERSON: I've got that right anyway. 10 VVV1, CV of Lieutenant-Colonel Classen, yes. VVV2 is that 11 the diary entry? 12 MR MATHIBEDI SC: That's correct, Chair. 13 CHAIRPERSON: Yes, there's a gremlin 14 that's been operating in respect of all these diaries, they 15 come out as "dairy." Of course they're diary, D-I-A-R-Y. 16 So diary entry of Lieutenant-Colonel Classen, that's for 17 the 16th of August 2012. 18 MR MATHIBEDI SC: That's correct, Chair. 19 CHAIRPERSON: That's VVV2. Then the – 20 MR MATHIBEDI SC: We go to – 21 CHAIRPERSON: - item 7. 22 MR MATHIBEDI SC: Item 7. 23 CHAIRPERSON: So VVV3 is IPID manuscript 24 statement from, dated 23 August 2012 of Constable Samuel 25 Hlongwane, H-L-O-N-G-W-A-N-E.</p>

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1 MR MATHIBEDI SC: That's correct, Chair.
 2 CHAIRPERSON: Then we'll make that – yes,
 3 that's VVV3.1 and then VVV3.2 will be the typed version.
 4 Is that correct?, Mr Mathibedi?
 5 MR MATHIBEDI SC: That's correct, Chair.
 6 CHAIRPERSON: The typed version of
 7 VVV3.1. Then we have an IPID, it looks like the same thing
 8 again in respect of a statement by Constable Nqabi.
 9 MR MATHIBEDI SC: That's correct, Chair.
 10 CHAIRPERSON: VVV4.1 is IPID manuscript
 11 statement of, a manuscript statement dated 24 August 2012
 12 of Constable Eric Nxidane Nqabi and then VVV4.2 is the typed
 13 version of VVV4.1. And then we have VVV5.1 is an IPID
 14 manuscript statement dated also 23 August 2012 of another
 15 constable, this is Constable Selo Jim Mabaso and then
 16 VVV5.2 will be the typed version -
 17 MR MATHIBEDI SC: Thanks Chair.
 18 CHAIRPERSON: - of VVV5.1. Is that all
 19 the housekeeping done?
 20 MR MATHIBEDI SC: Thanks Chair.
 21 CHAIRPERSON: Alright, thank you. May I
 22 suggest that you start by getting him to confirm his
 23 statement so that whatever else happens, you've got on
 24 record everything in his statement or statements and then
 25 you can carry on after that. That's if he is prepared to

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1 confirm everything in the statement.
 2 MR MATHIBEDI SC: I prefer to deal with
 3 something before that, Chair.
 4 CHAIRPERSON: It's your witness, I won't
 5 dictate to you what to do.
 6 MR MATHIBEDI SC: Thanks, Chair.
 7 Lieutenant-Colonel, did you make a statement to IPID
 8 regarding your deployment at Marikana?
 9 COLONEL CLASSEN: No, I did not, Mr
 10 Chair.
 11 MR MATHIBEDI SC: What was the reason for
 12 not making a statement to IPID?
 13 COLONEL CLASSEN: Only the people that
 14 fired at the day was required or asked to make statements.
 15 MR MATHIBEDI SC: By whom was the request
 16 made that only people who fired should make statements
 17 available?
 18 COLONEL CLASSEN: It was said on parade
 19 by our commanders that the people that shot must come
 20 forward and make statements for IPID.
 21 MR MATHIBEDI SC: Did anyone from IPID
 22 approach you regarding the making of a statement about your
 23 deployment at Marikana?
 24 COLONEL CLASSEN: No, no-one approached
 25 me, of making a statement on Marikana from IPID.

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1 MR MATHIBEDI SC: How many statements did
 2 you make in total?
 3 COLONEL CLASSEN: I made three statements
 4 in total, Mr Chair.
 5 MR MATHIBEDI SC: The first statement,
 6 when did you make it?
 7 COLONEL CLASSEN: My first statement was
 8 made at Roots, Roots in Potchefstroom.
 9 MR MATHIBEDI SC: Who requested that you
 10 should make a statement?
 11 COLONEL CLASSEN: It was, General
 12 Annandale was leading the whole concept there by Roots.
 13 MR MATHIBEDI SC: And what happened to
 14 the statement?
 15 COLONEL CLASSEN: The statement was
 16 handed in to a Captain from task force, the people that
 17 were collecting all the statements from us. I don't know
 18 what happened to it after that.
 19 MR MATHIBEDI SC: Did you keep a copy of
 20 the statement that you made?
 21 COLONEL CLASSEN: No Mr Chair, I did not
 22 keep a copy of the statement that I made.
 23 MR MATHIBEDI SC: Did you try and
 24 establish what happened to the statement that you made and
 25 submitted at Roots?

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1 COLONEL CLASSEN: Yes, I did request,
 2 when they asked me for another statement I said I did make
 3 statement and then they said they will follow it up but
 4 that was about it.
 5 MR MATHIBEDI SC: And the second
 6 statement, when did you make it?
 7 COLONEL CLASSEN: My second statement was
 8 made this year in January, somewhere in January.
 9 MR MATHIBEDI SC: Will you have a look at
 10 exhibit RRR10?
 11 CHAIRPERSON: Item 3 in the bundle that's
 12 been prepared.
 13 COLONEL CLASSEN: Yes, I've got it in
 14 front of me, Mr Chair.
 15 MR MATHIBEDI SC: Do you confirm that
 16 that is a statement that you made? Will you have a look at
 17 the signature at the last page of the statement?
 18 COLONEL CLASSEN: Yes, that's what I am
 19 doing. It is my signature.
 20 MR MATHIBEDI SC: And will you also have
 21 a look at RRR10, that is - 11 sorry – that is item number
 22 4.
 23 COLONEL CLASSEN: Yes, I'm taking and
 24 looking at it.
 25 MR MATHIBEDI SC: Is that the statement

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1 that you made?

2 COLONEL CLASSEN: That's correct, it's

3 also got my signature at the back.

4 MR MATHIBEDI SC: Lieutenant-Colonel,

5 will you please proceed and set out your career path in the

6 South African Police Service?

7 COLONEL CLASSEN: Yes, Mr Chair. I

8 joined the SAPS in 1991/09 on the 18th where I was a student

9 constable at Springs. I went to college '92, '92 on the

10 18th and on the 19th of June I went for my internal

11 stability training at – what's this place called, I'm just

12 trying to think of the place but anyway I went for my

13 internal stability training. It was somewhere in the bush,

14 I just can't remember the name but I'll get back to it.

15 After that I was deployed at unit 19, unit 19. At my

16 internal stability training we did, it includes crowd

17 management, border policing, rural training, rural

18 survival, also urban survival and then that was my

19 training. I came back and I was at –

20 MR MATHIBEDI SC: How long did the

21 training last?

22 COLONEL CLASSEN: My training took about

23 six weeks, six weeks. Can I proceed?

24 MR MATHIBEDI SC: That's correct.

25 COLONEL CLASSEN: Thank you. Ja, my

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1 training took six weeks and then from there we were called

2 back to come and work within the areas. I was then

3 deployed within the area. I worked at unit 19 for 10 years

4 where I also did short courses with, like SWAT,

5 introduction to crowd management or public order policing

6 as it was called. Then 2010 I moved from POPS then and I

7 went to Sandton where I was a Captain and then as a Captain

8 I did visible policing, charge office work. There, I was

9 there for about two, three years – I think make it six

10 years about. From there I was moved to flying squad.

11 Flying squad I was within the radio control centre where we

12 dealt with almost everything but we were just the

13 communicating, communications, how could I say, persons

14 within the SAPS in Gauteng. And from there I was moved to

15 Vosloorus where I again worked in the charge office and

16 then I was moved to TRT where I am recently still

17 stationed.

18 MR MATHIBEDI SC: When did you move over

19 to TRT and what was your rank at that stage?

20 COLONEL CLASSEN: I moved over to TRT

21 three years ago, it was 2011 in August.

22 CHAIRPERSON: Was this in Katlehong?

23 COLONEL CLASSEN: That is correct, Mr

24 Chair.

25 MR MATHIBEDI SC: Lieutenant-Colonel, you

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1 have provided the Commission with a copy of your CV, that

2 is item 1 exhibit VVV1.

3 COLONEL CLASSEN: That is correct.

4 MR MATHIBEDI SC: Now at page 3 of the CV

5 there's an indication that in 1992.07.24, it reads

6 "Binnelandse beveiliging."

7 COLONEL CLASSEN: That is correct.

8 MR MATHIBEDI SC: In-service training

9 department and then results, completed.

10 COLONEL CLASSEN: That's correct, Mr

11 Chair.

12 MR MATHIBEDI SC: Now did this course

13 have something to do with crowd management?

14 COLONEL CLASSEN: Yes, as I've explained

15 earlier on it had to do with crowd management or internal

16 stability also, border policing, rural, urban, anti-

17 terrorism and so forth.

18 MR MATHIBEDI SC: Can we go over to page

19 4 of the same exhibit? At the bottom it's indicated

20 2014.04.18, "Crowd management for platoon commanders,

21 division training, in-service training, operational.

22 Result – completed, passed."

23 COLONEL CLASSEN: Yes, I can see that.

24 MR MATHIBEDI SC: What did the training

25 entail?

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1 COLONEL CLASSEN: Okay, yes Mr Chair. It

2 entails teamwork within crowd management, how to manage

3 your platoon when it comes to crowd management, formations,

4 how to channel crowds, how to deal with hostile crowds, how

5 to deal with demonstrators and also how to handle your

6 resources when it comes to crowd management.

7 MR MATHIBEDI SC: What was the duration

8 of the course?

9 COLONEL CLASSEN: The duration of the

10 course was three weeks.

11 MR MATHIBEDI SC: Lieutenant-Colonel, you

12 have also provided us with a diary dated – that is item

13 number 2, VVV2, is that correct?

14 COLONEL CLASSEN: That's correct, Mr

15 Chair.

16 MR MATHIBEDI SC: Now did you diarise the

17 happening or incident of the 16th?

18 COLONEL CLASSEN: Mr Chair, I only booked

19 on duty and as far as where we moved towards the koppie,

20 that's how far I've diarised it.

21 MR MATHIBEDI SC: No mention is made of

22 the shooting incident, is that correct?

23 COLONEL CLASSEN: That is correct, there

24 is no mention made of the shooting incidents within my

25 diary.

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1 MR MATHIBEDI SC: Is there any reason for
 2 not having mentioned this aspect in your diary?
 3 COLONEL CLASSEN: Yes, Mr Chair. Things
 4 were very hectic that day and we almost, I think we left
 5 the area round about two. We were busy until midnight and
 6 then we left. 2 o'clock I reached home the following
 7 morning and when I woke up we went back to work, where it
 8 just slipped my mind, I never got back to my diary.
 9 MR MATHIBEDI SC: Now you were, is it
 10 correct that you were deployed for the first time on the
 11 16th at Marikana?
 12 COLONEL CLASSEN: That is correct, Mr
 13 Chair. It was the first time that I went to Marikana.
 14 MR MATHIBEDI SC: Did you get any
 15 briefing and if so, from whom, about the activities at
 16 Marikana?
 17 COLONEL CLASSEN: Is that now before or
 18 when I arrived at Marikana?
 19 MR MATHIBEDI SC: Upon your arrival at
 20 Marikana.
 21 COLONEL CLASSEN: Yes, upon my arrival at
 22 Marikana I got my briefing from Captain Kidd because I
 23 arrived late there.
 24 MR MATHIBEDI SC: What did the briefing
 25 entail?

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1 COLONEL CLASSEN: Okay, Captain Kidd just
 2 told me that they already finished the standing parade and
 3 I was posted at forward holding area 1 under General
 4 Naidoo, General Naidoo and we'll be standing off there and
 5 receive our instructions further on. So I should actually
 6 talk to General Naidoo about the whole situation and then
 7 he will fill me in.
 8 MR MATHIBEDI SC: Once you arrived at
 9 forward holding area 1 did you receive any briefing from
 10 General Naidoo?
 11 COLONEL CLASSEN: Yes but not much, only
 12 that we are standing by, we are the backup group for
 13 whatever happens and then we should just stand by and
 14 they'll let us know.
 15 MR MATHIBEDI SC: Did you at any stage
 16 receive any briefing from Colonel Smith, sorry, Scott –
 17 sorry.
 18 COLONEL CLASSEN: Yes, I did receive a
 19 briefing from Colonel Scott but that happened at a later
 20 stage of the day where all commanders were called to
 21 forward holding area 1 where we were all standing. He
 22 briefed us about the operation that will take place once we
 23 move towards the koppies. Can I proceed with this?
 24 MR MATHIBEDI SC: Yes, will you tell us
 25 what was said during the briefing?

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1 COLONEL CLASSEN: Thank you. Mr Chair,
 2 what was said was, Colonel Scott just explained to us that
 3 there was an agreement reached with the strikers that they
 4 will, they would have laid down the weapons nine o'clock
 5 the morning and now we will be going over to a tactical
 6 phase where we will move towards the koppies, where we will
 7 be supporting POPS members, the TRT and barbed wires will
 8 be deployed to a certain point and then there will be a
 9 space left for us to also support POP when they go and
 10 either first give the people a chance, the strikers a
 11 chance to disperse, talk to them, and those that want to
 12 leave should be given an opportunity to leave. And then
 13 from there, these that did not want to go we must disperse
 14 them into smaller groups, encircle and arrest them, also
 15 disarming them within the process and then they should be
 16 arrested.
 17 [09:55] MR MATHIBEDI SC: Now were you briefed
 18 how far were you to stand behind the line of POP members?
 19 COLONEL CLASSEN: Yes, at first we should
 20 have stood about 100 metres behind them, plus-minus 100
 21 metres to give them space and then if we move ahead we
 22 could have closed up the gap and then assist when it comes
 23 to the dispersal and arrest of the people.
 24 MR MATHIBEDI SC: Did you brief the
 25 members under your command?

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1 COLONEL CLASSEN: Yes, just directly
 2 after receiving my briefing I went there to go and brief my
 3 members and I briefed them again twice after that.
 4 MR MATHIBEDI SC: Did you at any stage
 5 see barbed wire being deployed?
 6 COLONEL CLASSEN: Yes. Once we arrived
 7 at the koppie, I think it was just not even a few minutes
 8 after we arrived at the koppie the barbed wire was
 9 deployed.
 10 MR MATHIBEDI SC: Did you see the
 11 reaction of the strikers during the deployment of the
 12 barbed wire?
 13 COLONEL CLASSEN: Yes. During the
 14 deployment of the wires the strikers just started moving
 15 there round by the koppie as I was looking up there.
 16 MR MATHIBEDI SC: Moving towards where?
 17 COLONEL CLASSEN: They were moving down.
 18 They were moving downwards because they were there on top
 19 of the koppie – not on top but right there by the koppie,
 20 let me say almost halfway.
 21 MR MATHIBEDI SC: Yes, I understand but
 22 the question is where were they moving to? That is the
 23 strikers.
 24 COLONEL CLASSEN: The strikers were
 25 moving towards the barbed wire where the Nyala was, towards

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1 us where we are.

2 MR MATHIBEDI SC: Were all, did all the

3 strikers move from the koppie towards where the barbed wire

4 was being deployed?

5 COLONEL CLASSEN: No, not all the

6 strikers. Some others moved another direction and there

7 was just a group that moved towards the Nyalas.

8 MR MATHIBEDI SC: Now the ones that moved

9 towards other directions, did you have a sense or an idea

10 of where they were going?

11 COLONEL CLASSEN: No, I did not have an

12 idea where they were going. I just saw them moving towards

13 the Nyalas. I didn't know where they were going.

14 MR MATHIBEDI SC: Now the strikers that

15 moved towards the Nyalas, what did they do?

16 COLONEL CLASSEN: Well, after the third

17 Nyala was deployed, I think – no, definitely when the third

18 Nyala was deployed I could see that those strikers were

19 moving next to the Nyala in the direction that the Nyala

20 was also moving.

21 MR MATHIBEDI SC: Were they armed, the

22 strikers?

23 COLONEL CLASSEN: Yes, some of them had

24 knobkerries, some had blankets around them with – you can

25 see the spears and all that pointing out.

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1 MR MATHIBEDI SC: Now will you proceed

2 and tell us what happened, what did the strikers that

3 walked along the Nyala do?

4 COLONEL CLASSEN: What I have seen was,

5 as they were walking next to the Nyala there was a time

6 that I could not have a clear view of them. I think it was

7 when they reached some, how could I say, marked place, the

8 kraal as they called it later. They were moving around the

9 Nyalas, it's like they were moving forward, going in front

10 of the Nyala and at a point where they actually achieved to

11 come either around the Nyala – because there was a time

12 that I could not see them where they reached the kraal,

13 when they reached the kraal I could not see them but then

14 suddenly they just appeared behind the kraal or from the

15 side of the kraal and they started coming towards, towards

16 the other Nyalas that were there.

17 MR MATHIBEDI SC: Now before the strikers

18 reached the kraal was there any reaction from members of

19 POP?

20 COLONEL CLASSEN: Yes, there was a time

21 that POP members started shooting with rubber bullets.

22 They shot with rubber bullets and at a later stage I heard

23 stun grenades and then after that there was teargas.

24 MR MATHIBEDI SC: Now why did the POP

25 members react in the manner that you have described? Did

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1 you have any reason or idea?

2 COLONEL CLASSEN: Well, I was under the

3 impression that something was not going right there because

4 I don't think that POPS will just start firing those things

5 at them and when I saw these guys coming around I could

6 actually tell that okay, these guys are, they're starting

7 to run now, they actually want to come around that Nyala

8 where they were trying to be stopped not to go around the

9 Nyala.

10 MR MATHIBEDI SC: There is a suggestion

11 that at the time that the strikers went towards where the

12 police were busy deployed barbed wire the strikers were

13 going home. What is your comment?

14 COLONEL CLASSEN: Just say that again

15 please, sir?

16 MR MATHIBEDI SC: There is a suggestion

17 that when the strikers approached the police line at the

18 time that the barbed wire was being deployed, the strikers

19 were going home. What is your comment?

20 COLONEL CLASSEN: Well, I don't think so

21 because if these guys were just going home they were just

22 going to walk and you know I think we could have actually

23 talked to one another, where there will be no firearms or

24 spears, we wouldn't have to point firearms and they should

25 not have their spears in their hands and they could have

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1 just walked nicely when they talked but I don't think that

2 was the way of going home.

3 MR MATHIBEDI SC: And there is a further

4 suggestion that just before the police fired a volley of

5 shots, the strikers were going home. What is your comment?

6 COLONEL CLASSEN: Just repeat that again,

7 please sir?

8 MR MATHIBEDI SC: There is a suggestion

9 that just before the police fired a volley of shots, the

10 protesters, the strikers were going home. What is your

11 comment?

12 COLONEL CLASSEN: No, if they were going

13 home – again, they would have either have chosen other

14 directions seeing that there are policemen with firearms

15 against them, or they could have just asked us with their

16 arms laid down, as there was not going to be any fighting.

17 That's my comment on that.

18 CHAIRPERSON: Can I ask a question just

19 to get some clarity? What we've heard is that there was,

20 these – a barbed wire barrier was being uncoiled. There

21 were four Nyalas that were involved in that. There were

22 two others as well but they didn't take part in it. And

23 there was the kraal that you mentioned and the fourth Nyala

24 eventually ended up against the side of the kraal and as

25 one faced the koppie that was on the left-hand side of the

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1 kraal. Is that what – do you agree with that?
 2 COLONEL CLASSEN: I agree with that, Mr
 3 Chair.
 4 CHAIRPERSON: And then there's also
 5 evidence that at some stage the strikers went round the
 6 kraal on what one can call the right-hand side of the kraal
 7 as one was facing the koppie and they came towards the
 8 police. That's correct also?
 9 COLONEL CLASSEN: That is correct, Mr
 10 Chair.
 11 CHAIRPERSON: Now where were you? Where
 12 were you initially when you were in the vicinity of the
 13 kraal? Did you stay there the whole time or did you move
 14 somewhere else?
 15 COLONEL CLASSEN: I was facing the kraal.
 16 The koppie would be then on my left-hand side, the big
 17 koppie would be on my left-hand side so I was facing the
 18 kraal. I was facing – the shacks will be on my right-hand
 19 side. That was my position.
 20 CHAIRPERSON: Yes and did you change
 21 position at any stage?
 22 COLONEL CLASSEN: Yes, at a later stage
 23 after the shooting I changed position. I moved forward,
 24 far ahead.
 25 CHAIRPERSON: I see. So up to the

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1 shooting you were in this one position you say, with the
 2 koppie on your left and you were facing the kraal.
 3 COLONEL CLASSEN: That's correct, Mr
 4 Chair.
 5 CHAIRPERSON: Thank you.
 6 MR MATHIBEDI SC: Thanks Chairperson. I
 7 am going to refer to exhibit RRR17, that is the video.
 8 MR WESLEY: Chair, we do need a warning
 9 for this.
 10 MR MATHIBEDI SC: Oh sorry, sorry.
 11 CHAIRPERSON: Do we need a warning for
 12 this? I'm told that the video we're going to see is going
 13 to show scenes which may cause emotional distress to the
 14 relatives and loved ones of some of the people who were
 15 killed on the 16th of August at Marikana. So I ask that the
 16 video not be shown for half a minute after I've finished
 17 speaking, to give those who think that they would prefer to
 18 leave the chamber and not be exposed to the emotional
 19 distress I've referred to – so the 30 seconds starts now.
 20 No-one has left, the 30 has expired so the clip may now be
 21 shown.
 22 MR MATHIBEDI SC: Thanks. The relevant
 23 portion is between six seconds up until 12 seconds.
 24 [VIDEO IS SHOWN]
 25 MR MATHIBEDI SC: Will you please pause?

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1 Lieutenant-Colonel –
 2 CHAIRPERSON: Paused at 12 seconds.
 3 MR MATHIBEDI SC: Did you see two members
 4 of the police getting into the Nyala on that day?
 5 COLONEL CLASSEN: Yes, I did. Not only
 6 two but a few of them but yes, I could see those two guys
 7 getting into the Nyala.
 8 MR MATHIBEDI SC: Now are you in a
 9 position to state why the two members went into the Nyala?
 10 COLONEL CLASSEN: On what we have seen
 11 that day, the miners started moving or the strikers started
 12 moving faster towards, towards POPS members and some of the
 13 POPS members were also fast moving back towards us, so I
 14 think these guys were getting scared.
 15 MR MATHIBEDI SC: Scared of what,
 16 Lieutenant-Colonel?
 17 COLONEL CLASSEN: Well, on how the
 18 strikers were approaching. First they were crouching and
 19 then they started running and that is what I -that's what I
 20 see.
 21 MR MATHIBEDI SC: Did the strikers at any
 22 stage have something in their possession?
 23 COLONEL CLASSEN: Yes, the strikers had
 24 spears and knobkerries that we could see from, that was in
 25 their hands.

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1 MR MATHIBEDI SC: Was it necessary for
 2 the two members to get into the Nyala?
 3 COLONEL CLASSEN: Yes, yes, the way those
 4 miners were coming towards them I – even we were moving
 5 backwards by that time.
 6 MR MATHIBEDI SC: Now why were the
 7 members in your unit moving backwards at that stage?
 8 COLONEL CLASSEN: It was a time when we
 9 actually just moved backwards to ensure that the POPS
 10 members are also moving towards us and we were not certain
 11 on these guys' approach, what were they trying to do.
 12 MR MATHIBEDI SC: Thanks. The next clip
 13 will start at 30 seconds up until 90 seconds.
 14 CHAIRPERSON: Sorry, while that's –
 15 before that is being shown, are you seen, can we see you on
 16 any of these clips? You've seen this clips before you came
 17 to give evidence, Mr Mathibedi took you through them. So
 18 on any of the clips we're going to see, can one see you?
 19 COLONEL CLASSEN: Mr Chair, you can see
 20 me later on –
 21 CHAIRPERSON: Point yourself out when we
 22 get there, thanks.
 23 COLONEL CLASSEN: That is correct, Mr
 24 Chair.
 25 [VIDEO IS SHOWN]

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1 MR MATHIBEDI SC: Will you please pause?
 2 Now Lieutenant –
 3 CHAIRPERSON: You're now stopping at 19
 4 seconds.
 5 MR MATHIBEDI SC: - at that point you can
 6 see on the clip members of the police running. Do you
 7 confirm that?
 8 COLONEL CLASSEN: That is correct, Mr
 9 Chair, they are running.
 10 MR MATHIBEDI SC: Did you witness that on
 11 that day?
 12 COLONEL CLASSEN: Yes Mr Chair, from
 13 where I was standing I could see that.
 14 MR MATHIBEDI SC: Now why were the
 15 members running?
 16 COLONEL CLASSEN: Again it was the
 17 approach from the strikers. They came very quickly or fast
 18 towards them.
 19 MR MATHIBEDI SC: So was it necessary for
 20 the members to run?
 21 COLONEL CLASSEN: Yes. On the approach
 22 from the miners I deem it necessary for them to run away.
 23 MR MATHIBEDI SC: Thanks. Can we go over
 24 to video TT4? Chairperson, I'm told I've got five minutes
 25 but I may have to ask for extra time.

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1 CHAIRPERSON: Well, let's move forward as
 2 quickly as we can.
 3 MR MATHIBEDI SC: Video TT4, one hour
 4 eight minutes and 30 seconds. Will you please play -
 5 [VIDEO IS SHOWN]
 6 CHAIRPERSON: [Microphone off, inaudible]
 7 33.
 8 MR MATHIBEDI SC: The clip shows members
 9 running forward. Did you see that?
 10 COLONEL CLASSEN: Yes, I did see that, Mr
 11 Chair.
 12 MR MATHIBEDI SC: What was happening at
 13 that stage?
 14 COLONEL CLASSEN: We were trying to form
 15 a line where we were going to be backup for POPS to ensure
 16 that when these guys come towards us that they actually
 17 could stop.
 18 CHAIRPERSON: [Microphone off, inaudible]
 19 COLONEL CLASSEN: Sorry, I'm referring to
 20 the strikers, pardon me for saying "guys."
 21 MR MATHIBEDI SC: Alright. Will you
 22 kindly show us a clip from one hour nine minutes and 36
 23 seconds to 47 seconds?
 24 [VIDEO IS SHOWN]
 25 MR MATHIBEDI SC: Now the video shows a

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1 member of the police retreating, did you see that?
 2 COLONEL CLASSEN: I did see that, Mr
 3 Chair.
 4 MR MATHIBEDI SC: Do you know who that
 5 member is?
 6 COLONEL CLASSEN: I found out later that
 7 it was an Inspector Kuhn.
 8 MR MATHIBEDI SC: Why was he retreating?
 9 COLONEL CLASSEN: On the approach of the
 10 miners I think it was good for him to retreat, to go
 11 backwards because those, the miners were charging, were
 12 coming full speed ahead towards him.
 13 MR MATHIBEDI SC: Are you in a position
 14 to state, at the moment that he started retreating how far
 15 were the strikers from him?
 16 COLONEL CLASSEN: From where I was I
 17 would say not more than 10, it could be up to seven, seven
 18 metres. I'm not so sure about that.
 19 MR MATHIBEDI SC: Was it necessary for
 20 the member to fire live ammunition at the approaching
 21 strikers?
 22 COLONEL CLASSEN: At that present moment,
 23 yes, because just before that there was also two shots that
 24 were fired towards the police.
 25 MR MATHIBEDI SC: Now on the video clip

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1 one can see dust, is that correct?
 2 COLONEL CLASSEN: That's correct, Mr
 3 Chair.
 4 MR MATHIBEDI SC: What caused the dust?
 5 COLONEL CLASSEN: The dust was caused by
 6 members of us firing into the ground, firing to the ground.
 7 MR MATHIBEDI SC: Why did members fire
 8 into the ground?
 9 COLONEL CLASSEN: That is a way of giving
 10 warning, you know, firing warning shots towards them, it's
 11 part of the way of rules of engagement before you even fire
 12 at a person, always fire a warning first or shoot into the
 13 ground.
 14 MR MATHIBEDI SC: I'm going to refer you
 15 to the manuscript statement that is VVV3.1 of Constable
 16 Hlongwane, that is item number 7. There is, at page 3 the
 17 last paragraph reads as follows. I'm going to read that –
 18 CHAIRPERSON: Do we have to look at the
 19 handwritten version? If the typed version is correct, is
 20 accurate, then we can look at that. If it's necessary for
 21 us to look at the handwritten one we'll do so.
 22 MR MATHIBEDI SC: Thanks, Chairperson.
 23 It will be paragraph 5 of the typed version, that is item
 24 number 8. It reads –
 25 CHAIRPERSON: Exhibit UUU3.2.

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1 MR MATHIBEDI SC: That's correct. It
 2 reads as follows –
 3 CHAIRPERSON: Sorry, VVV3.2.
 4 MR MATHIBEDI SC: "Members" – that's
 5 paragraph 5 – "Members of CCU stepped back and the miners
 6 approached up until the CCU members engaged with rubber
 7 bullets and the miners used blankets to block the rubber
 8 bullets but still approaching the CCU members. An unknown
 9 black male who was wearing a brown jacket started firing
 10 several shots at the Nyalas that were used to block their
 11 way. The unknown black male came to the direction of the
 12 CCU members and fired again towards them, then started to
 13 run away." Now did you see any person firing at the CCU
 14 members?
 15 [10:15] COLONEL CLASSEN: I did not see the
 16 person personally, no, I did not.
 17 MR MATHIBEDI SC: Then you proceed, it
 18 proceeds –
 19 CHAIRPERSON: The CCU is the old name for
 20 POP, is that correct?
 21 COLONEL CLASSEN: That is correct, that
 22 is correct, Mr Chair.
 23 MR MATHIBEDI SC: "As a backup I realised
 24 that my life was in danger as the miners approached us as
 25 backup (TRT) at least about plus-minus eight metres I fired

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1 seven R5 rounds into the ground to force them to stop but
 2 they didn't fear and kept on approaching. I stepped back."
 3 Now the reason why I'm asking you, it was put to member
 4 Loest that the members of the TRT did not fire any warning
 5 shots prior to firing directly at the strikers. What is
 6 your comment about that?
 7 COLONEL CLASSEN: No, I don't think that
 8 is correct because even in briefing we tell our members
 9 that before you even do that you must fire a warning shot
 10 at those guys to show him that listen, you've got to stop
 11 now.
 12 CHAIRPERSON: One shot, you mean fire one
 13 warning shot?
 14 COLONEL CLASSEN: That's correct, Mr
 15 Chair, fire a warning shot –
 16 CHAIRPERSON: Would this be a shot – did
 17 you say by firing the warning shot, is it into the air or
 18 in the ground or what distinguishes it as a warning shot?
 19 COLONEL CLASSEN: Into the ground, Mr
 20 Chair, into the ground.
 21 MR MATHIBEDI SC: Now I'm also going to
 22 refer you to exhibit VVV4.2, that would be page 4 – sorry,
 23 paragraph 4 which reads as follows. "We were standing as a
 24 backup team and that is when we realised that the situation
 25 is getting worse. After I heard a gunshot from the mob I

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1 then fired one shot from my R5 rifle to the ground in front
 2 of the mob and the second one after realising that they
 3 were still coming to us." You cannot dispute this version
 4 of the member?
 5 COLONEL CLASSEN: No, I cannot dispute
 6 the version of the member.
 7 MR MATHIBEDI SC: Now just before the
 8 volley of shots was discharged by the members of the
 9 police, did the strikers give any indication that they want
 10 to peacefully go home?
 11 COLONEL CLASSEN: No, Mr Chair, they did
 12 not give that indication.
 13 MR MATHIBEDI SC: Was it necessary for
 14 members to fire directly at the strikers?
 15 COLONEL CLASSEN: At that point it was
 16 because the miners did not stop, even after the warning
 17 shots were fired into the ground.
 18 MR MATHIBEDI SC: Was there anything that
 19 you could have done to assist the injured strikers?
 20 COLONEL CLASSEN: From my point
 21 personally, no, because I'm not a medic but later when the
 22 medics arrived, that's when we started helping the medics
 23 to move the people around.
 24 MR MATHIBEDI SC: You've looked at the
 25 videos, there is somewhere where you can see members of the

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1 police, you know, pulling and dragging injured or probably
 2 dead people, strikers, did you see that?
 3 COLONEL CLASSEN: Yes, I did see that, Mr
 4 Chair.
 5 MR MATHIBEDI SC: What is your comment
 6 about that?
 7 COLONEL CLASSEN: When the members were
 8 doing that, they were searching for weapons from the
 9 injured people and they were moving them around and that is
 10 what happened there.
 11 MR MATHIBEDI SC: Now, it was put to some
 12 of the members that the manner in which the police went
 13 about in, you know, trying to retrieve or retrieving
 14 weapons, they acted in an inhuman manner in the sense that
 15 they dragged, pulled and pulled the injured or probably
 16 dead strikers.
 17 COLONEL CLASSEN: Yes, Mr Chair. Under
 18 the circumstances that, all that happened, it wasn't that
 19 easy to really just handle things soft-handedly. There was
 20 a lot of pressure, everybody was way under tension and we
 21 had no other way of approaching the people that were lying
 22 on the floor.
 23 MR MATHIBEDI SC: Were you armed?
 24 COLONEL CLASSEN: Yes, I was armed.
 25 MR MATHIBEDI SC: What kind of weapon did

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1 you have?

2 COLONEL CLASSEN: I had my side weapon

3 with me.

4 MR MATHIBEDI SC: Did you use the side

5 weapon that you had?

6 COLONEL CLASSEN: No, I did not use my

7 firearm.

8 MR MATHIBEDI SC: Why not?

9 COLONEL CLASSEN: I did not use my

10 firearm because my hand was injured.

11 MR MATHIBEDI SC: If your hand was not

12 injured, would you have used that firearm?

13 COLONEL CLASSEN: Yes, I would have used

14 my firearm, on the approach of the miners I was going to

15 use my firearm.

16 MR MATHIBEDI SC: Why would you have used

17 the firearm?

18 COLONEL CLASSEN: First, there was

19 shooting towards us and the miners did not show any way of

20 showing that they're stopping or they're going to stop

21 charging at the policemen. Also they were far too close to

22 Warrant Officer Kuhn.

23 MR MATHIBEDI SC: Would you proceed and

24 show us the clip at one hour 10 minutes 13 seconds?

25 [VIDEO IS SHOWN]

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1 MR MATHIBEDI SC: Just hold it. Are you

2 appearing on that clip?

3 COLONEL CLASSEN: Yes, Mr Chair, I am

4 appearing on the clip.

5 MR MATHIBEDI SC: Will you please proceed

6 and identify yourself on the clip?

7 COLONEL CLASSEN: I am the one person

8 that is standing ahead there with the radio in his left

9 hand with the black strap around my right hand.

10 MR MATHIBEDI SC: What was happening at

11 that stage?

12 COLONEL CLASSEN: At that stage it was

13 just after the shooting of –

14 MR NTSEBEZA SC: Mr Chair, the witness

15 has tried to identify who he is. I don't think –

16 CHAIRPERSON: You can see the person with

17 the black strap around his hand. You see -

18 MR NTSEBEZA SC: Sorry, where?

19 CHAIRPERSON: Start at the bottom left

20 hand corner, there's someone, you can see him with his

21 beret and his badge. You then move to the right, there's a

22 row of policemen and then just to the right further there's

23 a policeman, not in the row, standing more or less by

24 himself.

25 MR NTSEBEZA SC: Yes.

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1 CHAIRPERSON: And he's got a black

2 bandage or black something around his right wrist and right

3 hand.

4 MR NTSEBEZA SC: Ja.

5 CHAIRPERSON: That's the witness.

6 MR MATHIBEDI SC: Thanks, Chairperson.

7 What was happening at that stage?

8 COLONEL CLASSEN: At that stage it was

9 just after the shooting and we were slowly or steadily

10 approaching the – thank you – we were steadily approaching

11 the miners there that was already on the floor, that was

12 already laying there on the floor, the injured miners.

13 CHAIRPERSON: You're pointing to the dead

14 bodies which can be seen on the clip to the right of your,

15 what is effectively your right hand and above. If one goes

16 to the right from your hand, one can see on the picture,

17 and then if one goes up one sees a number of bodies lying

18 on the ground.

19 COLONEL CLASSEN: That's –

20 CHAIRPERSON: Is that what you're

21 referring to?

22 COLONEL CLASSEN: That is correct, that

23 is –

24 CHAIRPERSON: What you're showing us with

25 the pointer.

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1 COLONEL CLASSEN: That is correct. We

2 were approaching them and then that's just before we

3 started searching through, through the people that was

4 lying on the floor.

5 MR MATHIBEDI SC: You had a hand radio

6 with you, is that correct?

7 COLONEL CLASSEN: That is correct, Mr

8 Chair.

9 MR MATHIBEDI SC: Did you advise

10 Brigadier Calitz or the JOC about the shooting incident?

11 COLONEL CLASSEN: No, I did not, Mr

12 Chair. There was no chance. The radio was busy,

13 constantly busy.

14 MR MATHIBEDI SC: Which radio are

15 referring to that it was constantly busy?

16 COLONEL CLASSEN: The channel that we are

17 using, the one that I was trying to listen to. As you can

18 see I kept it by my right ear but there was constant

19 communication within, or on the radio.

20 MR MATHIBEDI SC: I'm going to refer you

21 to exhibit RRR10, that is paragraph 10 which reads as

22 follows, do you have it with you?

23 COLONEL CLASSEN: I've got it with me, Mr

24 Chair.

25 MR MATHIBEDI SC: "In that area we waited

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1 for instructions via radio on what was taking place. While
 2 waiting behind the Nyalas one Nyala started deploying
 3 barbed wire and we were told via radio to be on standby."
 4 Now who told you to be on standby via radio?
 5 COLONEL CLASSEN: I, I knew it was
 6 Brigadier Calitz because he was the operational commander.
 7 MR MATHIBEDI SC: And further it is
 8 stated, "While waiting Brigadier Calitz said on the radio,
 9 'TRT move in" and we adhered, running towards the kraal."
 10 COLONEL CLASSEN: Again the person that
 11 was talking I gathered it as Brigadier Calitz when they
 12 said "move in" and that's when we heard and we moved
 13 towards the kraal.
 14 MR MATHIBEDI SC: Were the instructions
 15 directed at TRT members?
 16 COLONEL CLASSEN: Well, according to the
 17 briefing we were supposed to do that and that is how I took
 18 it, that we should move in.
 19 MR MATHIBEDI SC: But did Brigadier
 20 Calitz specifically use the words "TRT move in?"
 21 COLONEL CLASSEN: No, I don't think he
 22 said specifically TRT but "move in" was used and when POPS
 23 were already ahead I got it that listen, we've got to move
 24 in and I stated to our TRT members to move towards the
 25 kraal.

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1 MR MATHIBEDI SC: Did members of your
 2 unit compile a shooting report?
 3 COLONEL CLASSEN: Yes, they did give the
 4 amount of rounds that they shot.
 5 MR MATHIBEDI SC: When did that happen?
 6 COLONEL CLASSEN: That happened the
 7 Sunday when we were called back.
 8 MR MATHIBEDI SC: And the report was made
 9 to who?
 10 COLONEL CLASSEN: It was made on parade
 11 where we were approached by various commanders that were
 12 taking in the reports that's supposed to be handed in by
 13 JOC.
 14 MR MATHIBEDI SC: Do you know what
 15 happened to the shooting report?
 16 COLONEL CLASSEN: Well, all I know it was
 17 handed by JOC and it was compiled right there and also
 18 later at Roots.
 19 MR MATHIBEDI SC: Now you attended a
 20 meeting at Roots, is that correct?
 21 COLONEL CLASSEN: That's correct, Mr
 22 Chair.
 23 MR MATHIBEDI SC: What was the purpose of
 24 the meeting at Roots?
 25 COLONEL CLASSEN: It was in preparation

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1 for the Commission, to prepare for the Commission.
 2 MR MATHIBEDI SC: Did you give some
 3 inputs during the meeting?
 4 COLONEL CLASSEN: Yes, I did give some
 5 input. We were divided into sections from where we were
 6 standing and then you would give input from where you were.
 7 POPS was divided into their groups and they would give
 8 input from where they were and that's how we did it.
 9 CHAIRPERSON: I'm sorry -
 10 MR MATHIBEDI SC: - for the witness.
 11 CHAIRPERSON: Before you finish, I notice
 12 that in your bundle of documents you've got the manuscript
 13 or the typed, the manuscript version and then the typed
 14 version of a statement of Constable Mabaso. Unless I
 15 missed it, you didn't refer to it. That's VVV5.1 and 5.2,
 16 am I right?
 17 MR MATHIBEDI SC: Thanks, Chairperson.
 18 I'm going to refer you to VVV5.2, that will be paragraph 5.
 19 CHAIRPERSON: Before we get there, you
 20 see in paragraph 4 the person who typed the statement
 21 wasn't able to read the last three words and so all that we
 22 have is some dots and a question mark. As far as I can see
 23 from the original the words that were not typed were
 24 "instead they came" but perhaps the witness could look at
 25 it. It's in exhibit VVV5.1, the last page, the end of

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1 paragraph 5 which is typed as 4 on the typed version but
 2 the last section reads, the last three lines, "I shot three
 3 rounds on the ground as a warning to stop them but they
 4 never stopped" and that's where the typed version ends and
 5 that's where the dots appear. It looks to me as if the
 6 words are "instead they came." Am I correct?
 7 COLONEL CLASSEN: That's correct, Mr
 8 Chair.
 9 CHAIRPERSON: Sorry to interrupt you, Mr
 10 Mathibedi, but I thought it would be helpful to get that
 11 clear.
 12 MR MATHIBEDI SC: Thank you, Chairperson.
 13 At paragraph 5, sorry 4, of the statement the member
 14 indicates that he stopped, he fired into the ground as a
 15 warning shot.
 16 COLONEL CLASSEN: Yes. That is what he
 17 is indicating, yes.
 18 MR MATHIBEDI SC: [Microphone off,
 19 inaudible] – the version of the member?
 20 COLONEL CLASSEN: No, Mr Chair. I cannot
 21 dispute the version of the member.
 22 MR MATHIBEDI SC: Thanks, Chairperson.
 23 CHAIRPERSON: Thank you. Ms Pillay, are
 24 you going to cross-examine on behalf of the evidence
 25 leaders, am I correct?

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1 MS PILLAY: I am, Chair.
 2 CHAIRPERSON: Yes.
 3 MS PILLAY: It will be after –
 4 CHAIRPERSON: Sorry, I've forgotten. You
 5 told me that there was an arrangement whereby some of your
 6 colleagues would cross-examine first. Who is going to
 7 cross-examine first? Ms Le Roux?
 8 MS LE ROUX: Chair, I believe the Human
 9 Rights Commission is starting.
 10 CHAIRPERSON: Mr Bizos, you confirm that
 11 that's the arrangement?
 12 MR BIZOS SC: I'm sorry?
 13 CHAIRPERSON: You confirm that's the
 14 arrangement, Ms Le Roux will cross-examine first before
 15 you?
 16 MR BIZOS SC: I'm prepared to do it, Mr
 17 Chair.
 18 CHAIRPERSON: No, Ms Le Roux says she
 19 understands there's an arrangement that she will cross-
 20 examine before you. I'm just getting –
 21 MR BIZOS SC: Yes, no, I'm happy –
 22 CHAIRPERSON: - that's correct.
 23 MR BIZOS SC: I'm happy to.
 24 CHAIRPERSON: Right, Ms Le Roux?
 25 CROSS-EXAMINATION BY MS LE ROUX: Thank

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1 you, Chair. Chair, if we can start with the –
 2 CHAIRPERSON: Sorry to interrupt, I see
 3 it's half past 10. Shall we take the comfort break now or
 4 at quarter to 11? I mean we did start late but I'm in your
 5 hands.
 6 MS LE ROUX: Chair, I think let's take it
 7 now and then we can just run.
 8 CHAIRPERSON: Alright. We'll take a
 9 comfort break for quarter of an hour.
 10 [COMMISSION ADJOURNS COMMISSION RESUMES]
 11 [10:51] CHAIRPERSON: The Commission resumes.
 12 Lieutenant-Colonel, you're still under oath. Ms Le Roux?
 13 MS LE ROUX: Thank you, Chair. Chair,
 14 before we start with the housekeeping of marking the new
 15 exhibits, I did make an undertaking to the Commission last
 16 week that we would keep you informed with respect to when
 17 we receive reasons or a response from the Presidency. To
 18 date we have not received any response from the Presidency.
 19 You will recall we requested reasons for the two decisions,
 20 the July and the deletion of clause 1.5. We are hopeful
 21 that the reason why we haven't heard is because they're
 22 considering the Commission's request for a further
 23 extension. Of course if we hear anything we will report
 24 back to the Commission.
 25 CHAIRPERSON: Yes. Yes, I'm not sure I

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1 can necessarily reciprocate that undertaking immediately
 2 but what you've said is noted. Thank you very much for
 3 explaining to us.
 4 MS LE ROUX: And then, Chair, you have
 5 been provided with our document list and there six new
 6 exhibits that we need to mark. They were left on your
 7 tables this morning together with the index. They have
 8 been provided to the SAPS yesterday and I'm informed that
 9 the witness has had an opportunity to review those
 10 documents.
 11 CHAIRPERSON: Yes, I see.
 12 MS LE ROUX: Chair, we start with –
 13 CHAIRPERSON: Alright, hang on a second.
 14 Let's start with the new ones so we're at VVV6, aren't we?
 15 MS LE ROUX: Yes, Chair. So we start
 16 with –
 17 CHAIRPERSON: Would that be the statement
 18 of – well, we'll do what we did with the previous one. The
 19 statement of Constable Majombozi, IPID handwritten will be
 20 VVV6.1. The same statement, I assume it's the same
 21 statement typed will be VVV6.2. Then there's another
 22 statement of, there are two more statements of Constable
 23 Majombozi –
 24 MS LE ROUX: Yes.
 25 CHAIRPERSON: One dated the 30th of August

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1 –
 2 MS LE ROUX: Yes Chair, that's the next,
 3 handwritten –
 4 CHAIRPERSON: - 2012, that will be 6.3 I
 5 take it?
 6 MS LE ROUX: Yes and then the final
 7 statement, September, is the typed of that handwritten one.
 8 CHAIRPERSON: Oh, so it's the same sort
 9 of thing. So that will be 6.4 then.
 10 MS LE ROUX: Yes, Chair.
 11 CHAIRPERSON: VVV6.4. Then we've got
 12 Constable Matlopa, that'll be VVV – is the additional
 13 statement a separate statement?
 14 MS LE ROUX: Yes, Chair, which is typed
 15 so we -
 16 CHAIRPERSON: We will stay in the same
 17 sequence. So that'll be 444 6.5 –
 18 COMMISSIONER HEMRAJ: VVV.
 19 CHAIRPERSON: VVV6.5 and the additional
 20 statement of Constable Matlopa –
 21 MS LE ROUX: Chair, we should – there's a
 22 handwritten of Constable Matlopa which is then typed in
 23 September so we should have a 6.5 and a 6.6 and then his
 24 additional statement in December 2012 would be 6.7.
 25 CHAIRPERSON: Alright. Well, we've done

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1 the housekeeping, you can start with your cross-
 2 examination.
 3 MS LE ROUX: Thank you.
 4 CHAIRPERSON: Once I've reminded the
 5 Colonel, in case he's forgotten, you're still under oath.
 6 COLONEL CLASSEN: I am, Chair.
 7 CHAIRPERSON: Ms Le Roux?
 8 LITTLE JOE RONNY CLASSEN: (s.u.o.)
 9 CROSS-EXAMINATION BY MS LE ROUX: Thank
 10 you, Chair. Good morning, Lieutenant-Colonel Classen, I
 11 represent the South African Human Rights Commission in
 12 these proceedings. You have had an opportunity to review
 13 the documents that were provided to your legal team
 14 yesterday, have you?
 15 COLONEL CLASSEN: Yes, I did, Mr Chair.
 16 MS LE ROUX: Thank you. Could we start
 17 by going to exhibit JJJ10.4540? Lieutenant-Colonel
 18 Classen, to orientate you I'd like to start with your
 19 movements on the 16th, so if we can start with JJJ10.4540.
 20 This is a photograph where we can see the TRT lined up
 21 amongst the vehicles towards the bottom half of the
 22 photograph and you can see above that, that Nyala 1 has
 23 begun to deploy its barbed wire and has reached Nyala 2.
 24 Do you recall where you were at this point in proceedings,
 25 once Nyala 1 had started deploying its barbed wire? Do you

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1 recall where you were in the staging area?
 2 COLONEL CLASSEN: Yes, I do recall, Mr
 3 Chair.
 4 MS LE ROUX: And could you indicate where
 5 you were?
 6 COLONEL CLASSEN: At that present moment
 7 I was – is it okay if I point it out?
 8 MS LE ROUX: Yes and then we'll put it on
 9 the record.
 10 COLONEL CLASSEN: Okay. I just also
 11 would like to make sure and get it clear, that will be the
 12 Nyalas deploying there, am I correct?
 13 MS LE ROUX: Yes. So you see in that
 14 line you'll see Nyala 1 is towards Nyala 2 and then if you
 15 carry on that's 3, 4. Where were you at this –
 16 COLONEL CLASSEN: Okay. I was, at this
 17 stage I was right here in this area here where the cars
 18 were.
 19 CHAIRPERSON: You indicate near the
 20 bottom of the page, the foot of the page in the middle one
 21 sees a road has come down from the top. It ends up as a
 22 sort of slight fork in more or less the middle of the foot
 23 of the page and just at that point one sees two vehicles
 24 and above those two vehicles are another two vehicles and I
 25 understand you to be pointing out in the vicinity of the

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1 second set of two vehicles, is that correct?
 2 COLONEL CLASSEN: Okay Mr Chair, can I
 3 just try and clear it again with a bit of questioning there
 4 because this photograph doesn't look that clear but the one
 5 on the side looks a bit clear. What is this here?
 6 MS LE ROUX: Those are the – that's the
 7 TRT line outside of the vehicle.
 8 COLONEL CLASSEN: Alright yes, I was
 9 there within that vicinity. That's where I was with some
 10 of the TRT members.
 11 CHAIRPERSON: I seem to remember Captain
 12 Loest said either it wasn't the TRT line or he said it
 13 wasn't his TRT line but if the witness says he was in it
 14 and he's TRT, well, then that would solve the problem.
 15 MS LE ROUX: And Lieutenant-Colonel
 16 Classen in that line of TRT – and it's true, the screens,
 17 the smaller screens have a clearer image. Perhaps if we
 18 zoom in on that line if you could indicate from your
 19 recollection where you were in that line? Towards the
 20 middle, towards the left, towards the right?
 21 COLONEL CLASSEN: Okay, you've just got
 22 to give me time then, Mr Chair, because I'm also trying to
 23 figure out, my vehicle is there. Okay, there's no clear
 24 indication of my vehicle but what I do know is when we
 25 arrived, what I did within that area, I was also briefing

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1 my members so I could either be there with those guys or
 2 right there, there.
 3 CHAIRPERSON: Now what the witness is
 4 pointing out is that in the longer line of people standing
 5 parallel with the foot of the page, he's either ahead of
 6 them on the left-hand side or there's a shorter line of
 7 people who are to the left and above the first line that
 8 I've referred to, he's either there with the second shorter
 9 line or near the front or at the front of the left hand
 10 portion of the longer line, is that correct?
 11 COLONEL CLASSEN: That is correct, Mr
 12 Chair.
 13 MS LE ROUX: Thank you, Chair.
 14 Lieutenant-Colonel, Captain Loest and Captain Thupe have
 15 given evidence about their move from this position to the
 16 kraal and we'd like to understand your move to your final
 17 position at the kraal by the time of the shooting. Now in
 18 your statement and it was covered briefly in evidence in
 19 chief, RRR11 page 3 paragraph 9, we don't need to go there,
 20 I'd rather stay with the photograph, you say that you heard
 21 Brigadier Calitz on the radio say "TRT move in and we
 22 adhered, running towards the kraal where we formed a basic
 23 line to support POPS." Were you in your position that
 24 you've indicated on this photograph, either to the left of
 25 the longer line or up in the shorter line, is that where

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1 you were when you heard Brigadier Calitz on the radio
 2 saying "Move in?"
 3 COLONEL CLASSEN: That is correct, Mr
 4 Chair.
 5 MS LE ROUX: And where did you understand
 6 you needed to move to when you heard "Move in?"
 7 COLONEL CLASSEN: Move towards the kraal
 8 to form a line there behind POPS because we were going to
 9 move from Nyala 6, the gap between Nyala 6 and the shacks
 10 there to go and support POPS also in front of the barbed
 11 wire.
 12 MS LE ROUX: So in your briefing you were
 13 told that you needed to be at that point between Nyala 6
 14 and the kraal?
 15 COLONEL CLASSEN: Not really to be there
 16 but to move there, to move, to move through there when we
 17 go and sweep the second koppie. So we were supposed to
 18 stand behind POPS after the barbed wire was already, how
 19 could I say, laid down.
 20 MS LE ROUX: But you were specifically
 21 briefed to support Nyala 6?
 22 COLONEL CLASSEN: Negative, ma'am, not to
 23 support Nyala 6 specifically but that was going to be our
 24 way towards the koppies.
 25 MS LE ROUX: Okay. If we could then zoom

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1 out on JJJ10.4540, can you show us on the photograph if we
 2 zoom out now so we can see the kraal and the koppie, can
 3 you indicate on this – and of course to orientate us, this
 4 photograph looks west – can you indicate where you moved to
 5 when you started moving?
 6 COLONEL CLASSEN: Yes, I can do that,
 7 ma'am. I'm just going to – okay, I'm trying to look at
 8 both photographs but I'm trying to point at the bigger one.
 9 Okay, wait, wait. Right from here we moved towards that
 10 direction there.
 11 CHAIRPERSON: What the witness shows is
 12 that from the larger line – from the longer line, what the
 13 witness shows is from the longer line to which I've
 14 referred he moved towards the kraal and he indicates with
 15 the indicator or the pointer a line which is more or less
 16 parallel with what one can describe as the left-hand wall
 17 of the kraal as one sees it on the photograph. Is that
 18 correct, Colonel?
 19 COLONEL CLASSEN: That is correct, Mr
 20 Chair.
 21 CHAIRPERSON: And the line which he
 22 indicated with the pointer to the left-hand side of the
 23 kraal parallel with the left-hand wall, is on the – is to
 24 the left of the road or the pathway which goes past the
 25 left-hand side of the kraal. Did I get that right,

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1 Colonel?
 2 COLONEL CLASSEN: It's almost in line
 3 with that road there –
 4 CHAIRPERSON: Was it actually on the road
 5 or was it between the pathway and the kraal or was it on
 6 the other side of the pathway? The left-hand side of the
 7 pathway as one looks at the photograph, which was it?
 8 COLONEL CLASSEN: Okay, I will say on the
 9 left-hand side of the pathway.
 10 CHAIRPERSON: I thought that's what you
 11 pointed us to us, thank you.
 12 MS LE ROUX: Now if we could zoom in so
 13 that we can see the TRT line and the kraal and the shack,
 14 please. Thanks, that's great. Lieutenant-Colonel Classen,
 15 when you moved what was your target? Were you aiming to
 16 end up in line with the shack, the gap between the shack
 17 and the kraal, the kraal or the other side of the kraal,
 18 the south-west side of the kraal? What was your – where
 19 were you aiming for?
 20 COLONEL CLASSEN: We were aiming to be
 21 almost between the shack and the kraal but just forming a
 22 line far behind, let me just say a bit away from the kraal
 23 to give room for POPS.
 24 MS LE ROUX: Right, so you intended to
 25 end up sort of parallel with the road behind the POPS but

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1 you were shooting to be between, aiming to be between the
 2 kraal and the shack?
 3 COLONEL CLASSEN: That is correct, ma'am.
 4 CHAIRPERSON: To which shack – just show
 5 me, which shack are you referring to?
 6 COLONEL CLASSEN: There's the shack, Mr
 7 Chair.
 8 CHAIRPERSON: As one looks at the
 9 photograph, below the shack as one – sorry, below the kraal
 10 as one sees it on the photograph there is a roadway or a
 11 pathway which is what was described earlier in the evidence
 12 as a corridor and then on, below that on the photograph one
 13 can see the corrugated iron shack.
 14 MS LE ROUX: And Lieutenant-Colonel
 15 Classen, why did you head to that position?
 16 COLONEL CLASSEN: We headed to that
 17 position because as the Nyalas were deploying it was
 18 actually our initial point to go that direction because we
 19 were supposed to go through that direction where Nyala 6
 20 was going to end up and leave us a pathway almost right
 21 there, to go through there.
 22 MS LE ROUX: And where did you understand
 23 Nyala 6 was to end up?
 24 COLONEL CLASSEN: Nyala 6 was supposed to
 25 end up almost close to the shacks that side. There's some

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1 wire there.

2 MS LE ROUX: There's a fence.

3 COLONEL CLASSEN: Ja, a fence.

4 CHAIRPERSON: What you are indicating is,

5 as one looks at this photograph one looks at that shack and

6 then you take the top left-hand corner and you move

7 diagonally to the left, you come to the point at which that

8 corridor road passes and according to the evidence there's

9 actually a fence there.

10 COLONEL CLASSEN: That's correct, Mr

11 Chair.

12 CHAIRPERSON: And that's the spot that

13 you're mentioning and is it correct, I think according to

14 the evidence that the fence runs, if one looks at the

15 photograph, from that point we're talking about which is

16 the top left-hand corner of the area on which the shack is,

17 the fence goes to the right and also downwards on the left-

18 hand side, downwards parallel with the path which one sees

19 running past the shack. Is that correct?

20 COLONEL CLASSEN: Mr Chair, I'm just

21 trying to figure out, are you saying there's a path that

22 runs through there - when you said that it's down there and

23 then down there. Okay, now - sorry for that, Mr Chair.

24 CHAIRPERSON: I indicated on the screen

25 what I'd tried to describe in words. I don't know whether

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1 it was clearer or less clear. Does the witness follow?

2 COLONEL CLASSEN: Well yes, I'm

3 following, Mr Chair.

4 MS LE ROUX: And Lieutenant-Colonel

5 Classen -

6 CHAIRPERSON: So we've got it right?

7 Have I got it right? There's a fence which runs parallel

8 with that road that we should call, between where the shack

9 is and where the kraal is, there's a fence that runs there

10 parallel with that. Then at the corner the fence comes

11 down, is that right? Now - parallel with the road which

12 runs from that corner down to the bottom of the photograph,

13 is that correct?

14 COLONEL CLASSEN: That is correct, Mr

15 Chair.

16 CHAIRPERSON: And you, your understanding

17 was that Nyala 6 was going to end up more or less at that

18 point at the corner where the two sides of the fence met,

19 is that correct?

20 COLONEL CLASSEN: Not directly at that

21 corner, Mr Chair, but a little bit more, when you pass the

22 kraal when you're heading another direction, if you can

23 just see where I'm pointing at.

24 CHAIRPERSON: A little bit to the right

25 of the kraal on the photograph.

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1 COLONEL CLASSEN: That is correct, Mr

2 Chair.

3 MS LE ROUX: Now Lieutenant-Colonel

4 Classen, when you moved to that position did you observe

5 any threat to the police other than that, the location that

6 you were heading for between the shack and the kraal? Did

7 you observe any threat to the police anywhere as you were

8 moving?

9 COLONEL CLASSEN: Yes, when you - if you

10 can zoom out where the - there, where they were busy with

11 the barbed wire, the crowd was already moving towards the,

12 I think Nyala 3, and moving with Nyala 3.

13 CHAIRPERSON: What the witness indicates,

14 as one looks at the photograph one can see the Nyalas with

15 the wire trailers moving along and one can also see the

16 pole which I think carries, has a light of some kind of it.

17 It's been referred to often in the evidence as a sort of

18 landmark. And the witness indicated above that area where

19 the pole is, in fact above the line which had been followed

20 by the were trailer dragging Nyalas, that's where the

21 people were. Am I stating in words correctly what you've

22 indicated?

23 COLONEL CLASSEN: That is correct, Mr

24 Chair.

25 COMMISSIONER HEMRAJ: Sorry, there's

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1 something I don't understand, Colonel, can you help me?

2 Where was POPS going to form up when you were going to be

3 behind them to support them?

4 COLONEL CLASSEN: Mr Chair, according to

5 my understanding after this whole close up there where we

6 were going, POPS were first going to form up here and then

7 they were going to give our operational commander a chance

8 to - I'm just going to point out again, POPS were going to

9 form up here or either there in front of the kraal if the

10 Nyalas were going to complete their whole movement around

11 there.

12 COMMISSIONER HEMRAJ: So the point you're

13 indicating is above the kraal on this photograph?

14 COLONEL CLASSEN: That is correct, Miss.

15 COMMISSIONER HEMRAJ: And I -

16 CHAIRPERSON: I'm sorry to interrupt.

17 You seem to indicate two places. You said here or here.

18 The first one was above the kraal, as Adv Hemraj has said,

19 and the other one was to the right-hand side of the kraal,

20 is that right? That's what you pointed, I don't know

21 whether you -

22 COLONEL CLASSEN: That is correct. Can I

23 just, can I just do that again please, Mr Chair, if you

24 don't mind? Okay, thank you Mr Chair. My understanding

25 was POPS were either going to form up here in a line -

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1 COMMISSIONER HEMRAJ: [Microphone off,
2 inaudible]

3 COLONEL CLASSEN: Alright, but if the
4 thing was whole completed they were going to form up there
5 and we were going to give them space and we were going to
6 form up in that, the line that they were.

7 CHAIRPERSON: What you seem to me to show
8 is POP were going to form up to the left of – in a line to
9 the left of the kraal more or less parallel with the right-
10 hand side of the photograph. That was the one possibility.
11 The other possibility was that they'd form up on the right-
12 hand side of the kraal on the photograph and in that event
13 you people were going to form up effectively I think where
14 the people did form up in the end, to the left-hand side of
15 the kraal as one sees it on the photograph but more or less
16 across what I've called, what's been called in the evidence
17 the corridor.
18 [11:10] That's that pathway which one sees going past the
19 kraal, below the kraal on this photograph.

20 COLONEL CLASSEN: That is correct.

21 COMMISSIONER HEMRAJ: And if the POPs
22 line was going to form up above the kraal, as you pointed
23 out, in that position, how were you as the TRT going to get
24 there?

25 COLONEL CLASSEN: Ma'am, after the

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1 formation, Brigadier Calitz was going to address the crowds
2 and then warn them and give the people a chance to
3 disperse, and then from there behind them, if POPs were
4 going to move around, through the space that was made for
5 the both units to go into the front of the barbed wire – in
6 other words out of safety zone, then we were going to
7 follow up behind them, so we were just going to follow up
8 behind –

9 COMMISSIONER HEMRAJ: So could you show
10 us where that space would be, to where first POPs and then
11 the TRT would get to that spot?

12 COLONEL CLASSEN: Okay, Ma'am, as I
13 explained, I'm just going to point again there. Alright,
14 the Nyalas were going to finish there, almost round about
15 there off the photograph, alright, and then POPs were going
16 to have space to line up there and we were going to line up
17 behind them. So we were all going to move through there
18 around the barbed wire, that was my understanding.

19 CHAIRPERSON: Ja, well what you showed is the
20 Nyalas more or less in line with the kraal, parallel with
21 the kraal, on the right-hand side, more or less of the
22 photograph, beyond the right-hand edge of the photograph.
23 That's where the Nyalas were going to be and in a line
24 parallel with the right-hand side of the photograph, and
25 the POP people, as I understood you, were going to be

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1 parallel with them, but effectively between the kraal and
2 where the Nyalas were going to be, in a line parallel with
3 the Nyalas. And you people were going to be on the other
4 side of the kraal, parallel with that line, is that
5 correct?

6 COLONEL CLASSEN: That is correct, Mr
7 Chair.

8 CHAIRPERSON: Alright, now the immediate question
9 occurs to me is on that basis surely there was going to be
10 some gap in the barbed wire, because the original plan,
11 according to the evidence, I think it fits in with what
12 you've told us, was in Nyala 6 was going to end up in the
13 vicinity, you mentioned. So there was going to be a solid
14 barrier from the power station to the far left right up to
15 where Nyala 6 was going to end up. Plans changed. Nyala 6
16 was moved. Nyala 6 wasn't involved in the uncoiling of the
17 wire, nor was Nyala 5, and what happened in the end of
18 course was that Nyala 4 ended up against the left-hand side
19 somewhere on the photograph of the kraal. But you're now
20 talking about what was going to happen before the plans
21 changed when your understanding was that Nyala 6 was going
22 to end up where you showed us. Now, on that basis would
23 there not have been a solid wire barrier which people had
24 to through, now what do you say to that?

25 COLONEL CLASSEN: Okay, Mr Chair, I'm

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1 trying to figure out the solid wire that you're talking
2 about. I'm under the impression when these guys are doing,
3 moving up to a point here, they were not going to end up
4 where, if there's a solid wire there that I don't know of,
5 we were not going to run into a solid wire there, we were
6 going to have space to move around that right here.

7 CHAIRPERSON: What you are indicating, is the line
8 was going to be followed by the wire uncoiling Nyalas.

9 COLONEL CLASSEN: Okay.

10 CHAIRPERSON: And you indicate they were end up
11 somewhere to the right of the kraal on the photograph.

12 COLONEL CLASSEN: Okay.

13 CHAIRPERSON: And to the right of the kraal and
14 above the kraal, as one looks at the photograph, above the
15 right-hand corner as it were off the kraal, so were you
16 people then going to get through what I called the
17 corridor, that pathway between the kraal and the area with
18 the shack?

19 COLONEL CLASSEN: That is correct.

20 You're referring to what I'm pointing at now, Mr Chair, if
21 – okay let me get -

22 CHAIRPERSON: I think we now understand each
23 other. I hope I haven't interfered unduly with your cross-
24 examination. I was seeking clarity, I don't know whether
25 you agree with that?

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1 MS LE ROUX: No, thank you, Chair. I
 2 just hope Mr Wesley pressed pause on my stop watch for
 3 that. Lieutenant-Colonel Classen were you briefed or
 4 informed that Nyala 6 and Nyala 5 were not going to be used
 5 in the way you understood they would be?
 6 COLONEL CLASSEN: No, I was not briefed?
 7 MS LE ROUX: Did you observe Nyala 4
 8 reach the southwest corner of the kraal? Because, the
 9 reason I am asking is Captain Loest and Captain Thupe
 10 testified that they moved off from the basic line, from the
 11 line position we see on this photograph at around the time
 12 that Nyala 4 reached the kraal. They said they saw that.
 13 Did you see that as well?
 14 COLONEL CLASSEN: Yes, I did see that,
 15 Ma'am?
 16 MS LE ROUX: So you saw Nyala 4 reach the
 17 Southwest corner of the kraal at approximately the time you
 18 moved off from the position we see in 4540, the photograph
 19 that's up at the present.
 20 COLONEL CLASSEN: That's correct?
 21 MS LE ROUX: When you then moved to your
 22 destination, the gap between the kraal and the shack, you
 23 testified in chief that you ended up facing the kraal with
 24 the shack on your right, the koppie on your left, and you
 25 said after the shooting you moved forward. So at the time

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1 of the shooting were you standing on the road or behind the
 2 road that we see running –
 3 CHAIRPERSON: What do you mean behind? It would
 4 be easier to ask to the right or left ?
 5 MS LE ROUX: To the right or left. Using
 6 this photograph where we see the road running vertically
 7 past the shack towards the kraal, were you standing on the
 8 road, to the right of the road towards the shack, or to the
 9 left towards the staging area where the vehicles were?
 10 COLONEL CLASSEN: Is that now during the
 11 shooting, Ma'am?
 12 MS LE ROUX: Yes, during the shooting,
 13 where were you placed?
 14 COLONEL CLASSEN: I was placed almost on
 15 the road, close to the shack. If I should point out again,
 16 almost right about there?
 17 MS LE ROUX: So you were in line with
 18 what's been referred to as the corridor, the road that goes
 19 up between the kraal and the shack?
 20 COLONEL CLASSEN: That's right?
 21 MS LE ROUX: You were at that
 22 intersection.
 23 COLONEL CLASSEN: That's right, Mr Chair?
 24 MS LE ROUX: How many members were to
 25 your right towards the shack?

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1 COLONEL CLASSEN: I cannot recall how
 2 many members were towards my right, but there were a few
 3 members there?
 4 MS LE ROUX: And to your left you had a
 5 line of members, correct?
 6 COLONEL CLASSEN: Yes, Ma'am, I had a
 7 line of members to my left?
 8 MS LE ROUX: And you testified in chief
 9 as well that you couldn't see the strikers when they
 10 reached the kraal, and that you saw them only at the very
 11 end at the time of the shooting, is that correct? You lost
 12 sight of them as they went around the kraal and then you
 13 only saw them pretty much at the time of the shooting, is
 14 that correct?
 15 COLONEL CLASSEN: Yes, not at the time of
 16 the shooting, also before that, just before the shooting
 17 when they came around the kraal from – let me just – sorry,
 18 I need to point out again, when they were around about
 19 there?
 20 MS LE ROUX: You've indicated the north
 21 east corner of the kraal. In the photograph, it's the
 22 bottom right-hand corner of the kraal. So from the moment
 23 they rounded that corner, you could start seeing them?
 24 COLONEL CLASSEN: That's correct, Ma'am?
 25 MS LE ROUX: Okay. If we could then –

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1 Chair, I'd like to play RRR17, the Reuters clip again,
 2 followed by EEE16, which is the Marikana exposed video. I
 3 don't know if we need another warning.
 4 CHAIRPERSON: I have to give a warning, I think.
 5 We're going to be showing some clips, both which have been
 6 seen before, but I think some of the people may wish to
 7 leave the chamber and come back. They show some of the
 8 strikers being killed on the 16th. The sight of them may
 9 cause emotional distress for the relatives and loved ones
 10 of the persons concerned. I ask that it not be shown until
 11 half a minute has expired from the time that I finish
 12 speaking to enable those who feel they would like to avoid
 13 the stress occasioned by seeing this clip to leave the
 14 chamber. We'll start the 30 seconds now. 30 seconds has
 15 expired, the clip may now be shown?
 16 MS LE ROUX: Sorry, III17, the Reuters
 17 clip, if we can go to 17 seconds and watch it in slow
 18 motion. Lieutenant-Colonel, just to orientate, you will
 19 see Warrant Officer Kuhn and then we'll see Papa10 drive
 20 off screen to the right. Chair, it's probably better if we
 21 go back to 15.
 22 CHAIRPERSON: We're now at 15?
 23 MS LE ROUX: So we can see there's
 24 Warrant-Officer Kuhn and then we'll observe Papa10 drive
 25 off screen to the right. If we can just play it in slow

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1 motion, please?
 2 [VIDEO SHOWN]
 3 MS LE ROUX: If we could forward? So
 4 this camera obviously has a –
 5 CHAIRPERSON: Pause to 23 seconds?
 6 MS LE ROUX: Yes, thanks, Chair. So
 7 obviously this camera has a front line view of the strikers
 8 coming around the kraal and we can see the Nyalas that are
 9 encircling the kraal on that side. If we can just play the
 10 next few seconds.
 11 [VIDEO SHOWN]
 12 MS LE ROUX: And if we stop there.
 13 CHAIRPERSON: 27 seconds?
 14 MS LE ROUX: So this camera has a front
 15 on view of the strikers coming at it. We can see the
 16 vehicles to the right-hand side of where they are moving.
 17 It then pans to the right and we can see members in a line.
 18 If we could then show EEE16? Chair, perhaps, just to note,
 19 we can see the shack – oh sorry, on the last image there
 20 you could see the wall of the shack that we've been
 21 referring to.
 22 CHAIRPERSON: Yes, I think we all could?
 23 MS LE ROUX: Right, if we then go to
 24 EEE16, Marikana exposed at 7.16.
 25 [VIDEO SHOWN]

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1 And if we just pause there. And again we'll play
 2 this in slow motion. Chair, this eTV camera was further
 3 down the TRT line. It is –it's very close to the road and
 4 it's basically in line with the corridor and the shack, as
 5 we've identified them on the photograph. So it's much
 6 further down. Lieutenant-Colonel Classen, that's closer to
 7 your actual position on the day, isn't it?
 8 COLONEL CLASSEN: That's correct, Mr
 9 Chair?
 10 MS LE ROUX: So if we could now play in
 11 slow motion the next few seconds of the clip, specifically
 12 if, Lieutenant-Colonel Classen, if you could pay attention
 13 to when we can see the strikers on this clip? We'll see
 14 members getting into the Nyalas and the like, but if you
 15 can specifically focus on when you first can see the
 16 strikers, that would be helpful. If we can play it in slow
 17 motion.
 18 [VIDEO SHOWN]
 19 MS LE ROUX: And if we stop there. Now –
 20 7.20.
 21 CHAIRPERSON: You're stopping at 7.20?
 22 MS LE ROUX: Now, you Lieutenant-Colonel
 23 Classen to the extent this captures your view, we will
 24 submit that you wouldn't have been able to see very much at
 25 all, because like you, our view is blocked by Papa10 moving

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1 up, Papa4 in front of it, and the other vehicles. So it's
 2 only at the very end when the strikers are essentially on
 3 the road and are being shot, that they come into view from
 4 the position that you were placed in. Would you comment on
 5 that?
 6 COLONEL CLASSEN: Yes, Ma'am, I'd like to
 7 comment on that, Mr Chair. From where I was standing, from
 8 the view that we're getting, I was standing far more right
 9 and when it was pointed out that Papa10 was moving, right
 10 from the corner of the left hand side of the Nyala, I could
 11 view, as the Nyala moved, you could see the crowd coming in
 12 there from that space between Papa10 moving and the space
 13 of the kraal at the corner. That is where you can view
 14 them?
 15 MS LE ROUX: So I understand your
 16 evidence that you could see from the front of Papa10, as it
 17 was moving, to the corner of the kraal?
 18 COLONEL CLASSEN: No, negative. I could
 19 have pointed it out for you, if we could just go back a few
 20 -
 21 MS LE ROUX: If we could rewind and play
 22 EEE16, if we play it again from, well, it's paused at 7.14.
 23 Let's play it in slow motion.
 24 [VIDEO SHOWN]
 25 COLONEL CLASSEN: If you pause it right

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1 there.
 2 CHAIRPERSON: 7.17.
 3 COLONEL CLASSEN: Now, I'm going to point
 4 out to you that Nyala there, from where that Nyala was, I'm
 5 right there on the right-hand side. I'm off the screen.
 6 CHAIRPERSON: What he's showing that he is off the
 7 screen to the right-hand side. One can see an Nyala
 8 slightly on the right-hand side of the middle of the
 9 picture – middle from the point of view – more or less in
 10 line with the heads of the policemen who were visible on
 11 it. He says he was to the right of that, but off the
 12 screen.
 13 COLONEL CLASSEN: That's correct, Mr
 14 Chair?
 15 MS LE ROUX: And, Chair, for the record,
 16 the Nyala that Lieutenant-Colonel Classen pointed to is
 17 Papa4. That's Papa10 to the left. Chair, I don't want to
 18 spend more time on this. There is a further clip, which we
 19 can provide, which we will identify for the Commission
 20 later, which is close – is even more further right. But
 21 Lieutenant-Colonel Classen, as I understand your evidence,
 22 the point remains the same, which is why you could see the
 23 strikers come around the corner of the kraal, the northeast
 24 corner of the kraal, your view must have then – you must
 25 have lost sight of them, because of the movement of Papa10

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1 at the crucial moment before the shooting. So you saw them
 2 come around the corner and then you would have lost sight
 3 of them, because of Papa10 moving into its position, and
 4 then the shooting takes place. So at the immediate moments
 5 before the shooting, you couldn't see the lead group of
 6 strikers, because that's what – the video evidence shows
 7 that, and that will be our submission. Would you comment
 8 on that?
 9 COLONEL CLASSEN: Yes, Ma'am. I take the
 10 speed that the Nyalas were moving on, I'm not saying that
 11 they were quite fast, but I could see the front people also
 12 of the miners that were coming around them, I could see
 13 them?
 14 MS LE ROUX: Yes, you could see them as
 15 they came around the kraal, but then you lost sight of them
 16 behind Papa10, and then the shooting took place, but you
 17 didn't see them come around the kraal into the bullets.
 18 COLONEL CLASSEN: No, I didn't see them
 19 totally the whole time, but into the bullets, I cannot say
 20 that I saw them going into the bullets, no, Ma'am?
 21 MS LE ROUX: So you lost sight of them
 22 behind Papa10 in the immediate moments before the shooting
 23 and when the shooting started, you couldn't see the lead
 24 group of strikers?
 25 COLONEL CLASSEN: From where I was, the

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1 Nyala must have passed already, because I could see them?
 2 MS LE ROUX: Okay, Lieutenant-Colonel,
 3 this is a very important point, so we need to be clear.
 4 The front of the group of strikers that came around the
 5 kraal that end up being shot, you lost sight of them behind
 6 the Nyala, you saw them come around the kraal, but you lost
 7 sight of them behind Papa10 and you didn't see them the
 8 moments before and at the time the TRT volleys start. You
 9 couldn't see that front group, could you?
 10 COLONEL CLASSEN: Ma'am, when the
 11 shooting started, I could see. When that shot went off, I
 12 could see the shooting started.
 13 CHAIRPERSON: Is that shot off, are you referring
 14 to a shot fired by Warrant-Officer Kuhn, or are you
 15 referring to some other shot. The first shot, as I
 16 understand the evidence, fired from the side of the police,
 17 was fired by Warrant-Officer Kuhn, I think that's correct.
 18 There is some evidence about other shots, but is that the
 19 shot you're talking about, when that shot went off you say,
 20 is that a police shot fired by Warrant-Officer Kuhn or some
 21 other policeman, or was that some other shot?
 22 COLONEL CLASSEN: Mr Chair, what I'm
 23 referring to is when the first shot from the police side
 24 went off, I could tell that it was from the police and I
 25 could see the miners coming. That's what I say.

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1 MS LE ROUX: But Lieutenant-Colonel
 2 Classen for the four, five seconds immediately before the
 3 shooting, the strikers were behind Papa10. Then they
 4 emerged and you say you saw them at the time of the
 5 shooting, but for the four or five seconds before that you
 6 couldn't see them because they were behind the vehicle,
 7 correct?
 8 [11:30] COLONEL CLASSEN: That is correct but I
 9 wouldn't say it was four or five seconds but that's
 10 correct.
 11 MS LE ROUX: Okay.
 12 CHAIRPERSON: Can I ask you this, what
 13 you are agreeing to or with, to use the correct
 14 preposition, is that there was a period when your view was
 15 obscured by that Nyala, Nyala 10 but you say at the time
 16 the first shot was fired from the police side you could see
 17 the strikers or the front group of strikers. For how long
 18 – I know it's difficult to estimate but for how long prior
 19 to that first shot being fired that you're talking about
 20 could you see the strikers? Was it just a second or so or
 21 just half a second or was it a little bit longer than that?
 22 COLONEL CLASSEN: It could have been
 23 about two seconds because the Nyala was passing.
 24 MS LE ROUX: Chair, perhaps we can
 25 conclude this point, finalise this point if we go to KKK52

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1 slide 9, that's an analysis of the positions of the
 2 vehicles at the time of the shooting. So if we go to slide
 3 8 which is a second before the TRT volley starts –
 4 CHAIRPERSON: Now I understand these, the
 5 yellow and red triangles which you see on this photograph –
 6 sorry, rectangles. I beg your pardon, I meant to say
 7 rectangles, the yellow and red or orange - I am not quite
 8 sure what the colour is – rectangles you see were
 9 superimposed on the photograph by some of the people
 10 involved in this case. You also see circular or really
 11 oval shapes that look almost like clouds, sort of white
 12 shapes. Do you see those? Those are intended to represent
 13 the strikers at various stages, as I understand it. Now
 14 the question that I think that you have to consider is
 15 whether you agree with the positions that are on the
 16 photograph which are what, it is suggested to us, are the
 17 position of those vehicles at what's been described as eTV
 18 time 15:53:49 –
 19 COMMISSIONER HEMRAJ: After the shooting.
 20 CHAIRPERSON: That's just after the
 21 shooting – remind me again what's the exact time –
 22 MS LE ROUX: It's one second before the
 23 shooting. The shooting –
 24 CHAIRPERSON: So one second –
 25 MS LE ROUX: The volley starts at

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1 15:53:50.
 2 CHAIRPERSON: Okay yes, I had it wrong
 3 for a moment. It's a very important fact for us to
 4 remember. 15:53:50 is what's described as eTV time, it's
 5 the time according to the eTV footage we have. 15:53:50 is
 6 when the first shot is fired as part of what one can call
 7 the police volley. So this is, admittedly the photograph
 8 is taken later but what they've done is they have
 9 superimposed onto this photograph the positions of all
 10 those vehicles at the time, a second before the shot was
 11 fired and they've also put in, in those white cloud-like
 12 shapes, where they say the strikers were a second before
 13 the shot was fired, you understand? I just explained that
 14 to you so you could follow what's on the slide. Now where
 15 were you? A second before the shot was fired where were
 16 you standing?
 17 COLONEL CLASSEN: Okay Mr Chair, if I can
 18 just indicate again. There where that vehicle is, I am
 19 somewhere there.
 20 CHAIRPERSON: On the right-hand side of
 21 the photograph fairly – the closest to the road that runs
 22 towards the right-hand side of the photograph in front of
 23 the shack there's a white vehicle and you say you were
 24 close to that?
 25 COLONEL CLASSEN: That's correct, Mr

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1 Chair.
 2 COMMISSIONER HEMRAJ: But had the line
 3 not moved forward at the time of the shooting? This is the
 4 line as it's formed after the shooting. Had the line not
 5 moved forward more towards the road at the time of the
 6 shooting?
 7 COLONEL CLASSEN: Yes, Mr Chair, the line
 8 did move a bit forward and then we moved back. We were
 9 moving forward and backward right there within that
 10 vicinity.
 11 CHAIRPERSON: You see, one of the things
 12 I should have told you about earlier, you see the yellow or
 13 rectangular shape with P19 in it? You see there's a little
 14 asterisk next to the 19. At the foot of the page we're
 15 told that P19 is P10. In other words Nyala 10 is the one
 16 that you see there, it's described as P19 and that's
 17 relevant for, I think, the questions that are going to
 18 follow.
 19 MS LE ROUX: Chair, if we just then for
 20 completeness go to the next slide which is 15:53:50, slide
 21 9.
 22 CHAIRPERSON: 50. This is now 15:53:30
 23 so we need 15:53:50.
 24 MS LE ROUX: Slide 9. That's slide 11,
 25 we need slide 9. Yes, so this is at the time of the

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1 shooting so the two white ovals have moved forward into
 2 their final position. Lieutenant-Colonel Classen, I need
 3 to move on but again just to wrap up this point –
 4 CHAIRPERSON: Sorry, can I just put this
 5 before you move on? Nyala 10, that's the one we're talking
 6 about which is P19, do you accept that the position
 7 reflected on this slide is correct?
 8 COLONEL CLASSEN: Where it's standing
 9 now, yes, Mr Chair.
 10 COMMISSIONER HEMRAJ: Did you see the POP
 11 members on the right-hand side of those yellow rectangles
 12 as the crowd came around?
 13 COLONEL CLASSEN: Yes, lady, Mr Chair.
 14 COMMISSIONER HEMRAJ: Did you see them
 15 shooting?
 16 COLONEL CLASSEN: Yes, I did see them
 17 shooting.
 18 MS LE ROUX: Lieutenant-Colonel, let me
 19 now move on to your statement RRR11 and if we can go to
 20 paragraph 9 of that statement, it's page 3. Now your
 21 paragraph 9 covers the more than two minutes which is from
 22 when you set off from the line to the point of the firing
 23 at the miners by the TRT line and I'd like to just go
 24 through certain features of your account. So to start, you
 25 mentioned that you heard on the radio the order to give

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1 teargas, that's on the second page. So if we go, the last
 2 sentence on the third page, "And the third Nyala deployed
 3 barbed wire on the radio. Brigadier Calitz said to give
 4 teargas because the miners were attacking." Where exactly
 5 were you when you heard an order on the radio to give
 6 teargas?
 7 COLONEL CLASSEN: I was already in
 8 position almost in line by the – close to that shack.
 9 MS LE ROUX: So you were already up at
 10 the road?
 11 COLONEL CLASSEN: Not by the road but
 12 almost there, ma'am.
 13 MS LE ROUX: And if you had to estimate
 14 how far away you were from the road?
 15 COLONEL CLASSEN: Not more than seven
 16 metres round and about.
 17 MS LE ROUX: And at the time you heard
 18 the order on the radio for teargas you were moving towards
 19 the road, you hadn't yet stopped?
 20 COLONEL CLASSEN: That's correct, ma'am.
 21 MS LE ROUX: Okay. And you testified in
 22 chief that you saw the teargas, where were you when you saw
 23 the teargas being deployed?
 24 COLONEL CLASSEN: I was close to the
 25 white vehicle that was parked there.

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1 MS LE ROUX: So when you saw the teargas,
 2 was that after when you heard the order?
 3 COLONEL CLASSEN: Yes, it must have been.
 4 Yes, it was after I got the order, the order was given.
 5 MS LE ROUX: And do you remember where
 6 you were when you saw the teargas?
 7 COLONEL CLASSEN: I was – I'm not so
 8 certain because it was a few years ago – I must have, I was
 9 close, close to the vehicle.
 10 MS LE ROUX: So you were closer to your
 11 final position than when you'd heard it on the radio?
 12 COLONEL CLASSEN: Meaning? When you say
 13 your final position?
 14 MS LE ROUX: So you said when you heard
 15 on the radio "use teargas" you were still moving. When you
 16 actually saw the teargas had you reached your position and
 17 stopped or were you still moving?
 18 COLONEL CLASSEN: Yes, I was already by
 19 the vehicle.
 20 CHAIRPERSON: Was that your, what counsel
 21 calls your final position. I think by that she means where
 22 you were in the basic line when, for example, you later
 23 called cease fire. So you were stationed at that stage,
 24 weren't you?
 25 COLONEL CLASSEN: Yes. When I called

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1 cease fire I was stationed but it was, I already moved
 2 again after that.
 3 CHAIRPERSON: After –
 4 COLONEL CLASSEN: After the teargas, the
 5 teargas was discharged and then just after that I already,
 6 I moved again. So I was –
 7 CHAIRPERSON: - final position where you
 8 were when you called cease fire?
 9 COLONEL CLASSEN: Not when the teargas
 10 was discharged.
 11 CHAIRPERSON: No – no, I think that's
 12 what counsel wants to know. Let's start backwards with
 13 your, quote, your "final position" which is where you were
 14 standing in the line when you called cease fire.
 15 COLONEL CLASSEN: Right.
 16 CHAIRPERSON: Right. That's your, quote,
 17 "final position." Now before you got to your final
 18 position you were still moving towards that position when
 19 you heard Brigadier Calitz say give teargas, is that –
 20 that's correct?
 21 COLONEL CLASSEN: That's correct, Mr
 22 Chair.
 23 CHAIRPERSON: And then sometime
 24 thereafter, presumably fairly shortly thereafter you
 25 actually saw teargas, is that correct?

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1 COLONEL CLASSEN: That's correct, Mr
 2 Chair.
 3 CHAIRPERSON: Now what counsel wants to
 4 know from you, I think, is (a) where were you when you
 5 heard Brigadier Calitz say give teargas, (b) where were you
 6 when you saw the teargas? Am I correct, Ms Le Roux?
 7 MS LE ROUX: Yes, Chair.
 8 CHAIRPERSON: That's what you want.
 9 COLONEL CLASSEN: When I heard teargas I
 10 was still moving towards the vehicle. When I felt the
 11 teargas I was feeling the vehicle also, I was close to the
 12 vehicle in other words. So I wasn't by the vehicle when
 13 the teargas was, I couldn't feel the teargas when it was
 14 discharged, on my way towards the vehicle.
 15 MS LE ROUX: And where was the teargas?
 16 COLONEL CLASSEN: The teargas was in the
 17 air blowing towards us –
 18 MS LE ROUX: Right but do you know where
 19 it was discharged?
 20 COLONEL CLASSEN: No, I don't know where
 21 exactly it was discharged but I could feel it coming
 22 towards us.
 23 MS LE ROUX: Okay and was that the first
 24 time you encountered teargas on the 16th?
 25 COLONEL CLASSEN: First time in my police

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1 career –
 2 MS LE ROUX: No, at – on the 16th, was
 3 that the first teargas you felt the effects of?
 4 COLONEL CLASSEN: That's correct, Mr
 5 Chair.
 6 CHAIRPERSON: Had you seen teargas before
 7 that or was this also the first teargas you saw? The way
 8 it works, I understand, is if teargas, a teargas canister
 9 is fired off, it's as though there's a cloud of smoke, you
 10 can see that from some distance away but if you're close
 11 enough or perhaps some people say too close, you can then
 12 actually feel it and it has a physical effect on you which
 13 is rather unpleasant, isn't that right? Is that what
 14 you're talking about when you say you felt it? It got in
 15 your nostrils, you almost start to cry. Is that – with
 16 tears, is that correct?
 17 COLONEL CLASSEN: That's correct yes, Mr
 18 Chair –
 19 CHAIRPERSON: That's teargas, yes. Now
 20 the question is had you seen, without feeling, had you seen
 21 any teargas earlier that day on the scene or is this the
 22 first teargas you saw and felt?
 23 COLONEL CLASSEN: That was the first
 24 teargas I saw and felt, Mr Chair.
 25 MS LE ROUX: Chair, if we could then go

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1 back to JJJ10.4540 please but keep the statement available
 2 and if we zoom in to the kraal, thanks. Where, at the time
 3 that you felt the teargas where were the front group of the
 4 protesters that you could see? When you first feel the
 5 teargas, where are the protesters?
 6 COLONEL CLASSEN: I'm not so sure about
 7 that, ma'am, but –
 8 MS LE ROUX: Was it before or after you
 9 saw them come around the corner, the south, the north-east
 10 corner? Was it before that or after that?
 11 COLONEL CLASSEN: Clearly I can't
 12 remember, ma'am, I can't actually just say where exactly,
 13 where was the protesters.
 14 CHAIRPERSON: Perhaps there's another
 15 question you should be asked. You told us at some stage
 16 for a while, I'm not sure for very long, your view of the
 17 strikers was obscured by the Nyala. Now at the time when
 18 you first saw and felt the teargas, was that the same time?
 19 You saw and felt the teargas at roughly the same time, is
 20 that correct?
 21 COLONEL CLASSEN: Yes, I felt but that's
 22 not the same time when I did not see the strikers. I'm
 23 trying to figure out your –
 24 CHAIRPERSON: No – no, what I'm asking
 25 you is, at the time you – what we can call your first

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1 teargas moment, if you understand what I mean by that, at
 2 that moment could you see the strikers or were they, was
 3 this part of the time when they were obscured from your
 4 view by the Nyala?
 5 COLONEL CLASSEN: Mr Chair, if I can
 6 think back I don't think that's the time when they were
 7 obscured by the Nyala. They could have been behind the
 8 kraal but I did not see them for a while. In other words
 9 the shooting happened after the teargas.
 10 COMMISSIONER HEMRAJ: After the first
 11 cloud of some you saw from that teargas that came upon the
 12 command being given, did you see other clouds of teargas
 13 smoke going up or was it just the one?
 14 COLONEL CLASSEN: Negative, ma'am, I just
 15 saw the one. After that it was only burning, so I can't
 16 tell honestly.
 17 MS LE ROUX: Lieutenant-Colonel Classen,
 18 did you see the water cannons spray any water before the
 19 shooting?
 20 COLONEL CLASSEN: No, I didn't see the
 21 water cannon personally spraying any water, ma'am.
 22 MS LE ROUX: Now you've seen KKK43 which
 23 is the CALS analysis document about the use of radios at
 24 scene 1 and you've been identified as member 1 in that
 25 presentation and now that we've met you we seem able to

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1 confirm that. You've seen that presentation, have you?
 2 COLONEL CLASSEN: If I can just be
 3 refreshed? I don't know what you're talking about. I
 4 can't just agree on it.
 5 MS LE ROUX: Sorry. KKK43, perhaps we
 6 just put it up on screen quickly. This is a document
 7 prepared by CALS, KKK43I.
 8 CHAIRPERSON: While you put it up, can I
 9 ask you a question arising from an answer you gave a few
 10 minutes ago or a minute or so ago? When you felt, as you
 11 put it, the teargas, was there a time when you closed your
 12 eyes?
 13 COLONEL CLASSEN: Yes I did, Mr Chair.
 14 CHAIRPERSON: I know exactly what you're
 15 describing. How long were your eyes closed?
 16 COLONEL CLASSEN: That I can't tell
 17 because even my nose was burning. I really can't tell how
 18 long they were closed.
 19 CHAIRPERSON: So what follows on that is,
 20 there would have been a time when you didn't see the
 21 strikers not necessarily because your view was obscured by
 22 a Nyala but because your eyes were closed to try to combat
 23 the painful sensation caused by the teargas, is that
 24 correct?
 25 COLONEL CLASSEN: That's correct, Mr

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1 Chair.
 2 MS LE ROUX: If we go to the –
 3 CHAIRPERSON: Perhaps we can take this
 4 point about member 1 and KKK43 after we've had tea? Shall
 5 we take the tea adjournment now? It seems a suitable point
 6 at which to do it without unduly interfering with your
 7 cross-examination but in the meanwhile can I ask you, have
 8 you seen this before? - No, no, have you seen this before?
 9 COLONEL CLASSEN: Yes, I've seen this
 10 before, Mr Chair.
 11 CHAIRPERSON: Okay. Well, we'll take the
 12 tea adjournment. It's not necessary for you to look at
 13 anything in the tea adjournment unless Adv Le Roux wants
 14 you to look at something specifically. We'll take the tea
 15 adjournment now. It's quarter to, let's try to be back at
 16 12 o'clock.
 17 [COMMISSION ADJOURNS COMMISSION RESUMES]
 18 [12:09] CHAIRPERSON: The Commission resumes.
 19 Lieutenant-Colonel, you're still under oath. Ms Le Roux.
 20 MS LE ROUX: Thank you, Chair.
 21 Lieutenant-Colonel, before the tea adjournment we were
 22 dealing with KKK43. I don't intend to spend too long on
 23 this but just to – if we could call up KKK43. If you can
 24 confirm that you are member 1 in the presentation can you?
 25 COLONEL CLASSEN: That's correct, Mr

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1 Chair.

2 MS LE ROUX: Are you able to identify

3 members 2,3 and 4 for us, the other members that are in the

4 presentation?

5 CHAIRPERSON: Well there are a lot of

6 members –

7 MS LE ROUX: Not the ones on the screen

8 now but you said you'd had a look at the presentation. No-

9 one's been able to identify the members 2. 3 and 4 yet.

10 You can't help us with that can you?

11 COLONEL CLASSEN: Let me see what I can

12 do, Mr Chair.

13 MS LE ROUX: Lieutenant-Colonel let me

14 now waste time on that now, we'll do it with you in the

15 lunch adjournment and then put it on the record if you're

16 able to identify them. If I could then ask you to look in

17 your statement RRR11, paragraph 9 of that. You state that,

18 if we go to the second sentence, "I was listening to the

19 radio, I could not tell who was talking but it was people

20 talking to one another. I requested further instructions

21 via the radio from the operational commander but they were

22 busy on air on the radio." Now that's not paragraph 11 on

23 the screen, we need paragraph 11. Yes there we go. And we

24 understand from your evidence in chief, you said this

25 morning the radio was busy, you were listening to the radio

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1 and from your statement – I'm correct that you actually

2 tried to communicate on the radio, you weren't just

3 listening to it?

4 COLONEL CLASSEN: Yes I did try to

5 communicate.

6 MS LE ROUX: And what were you trying to

7 communicate? You say in your statement you requested

8 further instruction. From your recollection what were you

9 asking for on the radio?

10 COLONEL CLASSEN: I wanted to know what

11 else to do now and I also wanted to inform that people have

12 been shot, what can we do now.

13 MS LE ROUX: So you wanted to inform the

14 operational commander and the JOC that people had been

15 shot.

16 COLONEL CLASSEN: That's correct, Chair.

17 MS LE ROUX: And when you weren't able to

18 make that communication because the radio was busy, that's

19 correct right, you never got on the radio to make that

20 communication.

21 COLONEL CLASSEN: Yes, I never got to

22 make the communication.

23 MS LE ROUX: Did you try any other way of

24 communicating with the JOC, did you try to phone them with

25 a cell phone, did you ask any other member to use the radio

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1 or their cell phone to try to contact the JOC and tell them

2 that people had been shot?

3 COLONEL CLASSEN: Not at that moment. I

4 later on talked to Colonel Loest, I mean Captain Loest but

5 I saw he was already busy on the cell phone, so I just left

6 him at it.

7 MS LE ROUX: When did you try to talk to

8 Captain Loest?

9 COLONEL CLASSEN: When I saw Captain

10 Loest around there. He was also with his radio and busy

11 with the cell phone. I didn't have the number of JOC or of

12 the operational commander.

13 MS LE ROUX: When you saw Captain Loest

14 was this immediately after the shooting? Minutes

15 thereafter, it wasn't much later in the day?

16 COLONEL CLASSEN: No it wasn't much later

17 in the day, it was a few minutes. It could have been two,

18 three minutes.

19 MS LE ROUX: After the shooting at scene

20 1.

21 COLONEL CLASSEN: That's correct, Mr

22 Chair.

23 MS LE ROUX: Did you believe that the JOC

24 and the operational commander were aware of the deaths and

25 injuries at scene 1? I understand you had difficulties

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1 communicating with them but did you believe that they had

2 been informed whether from anything you heard on the radio

3 or any other way?

4 COLONEL CLASSEN: No I couldn't tell. I

5 couldn't tell, Mr Chair.

6 MS LE ROUX: Chair, I'd like to go to the

7 statement of Mr Gary White, JJJ178 and if we go to page 106

8 of that, page 106 paragraph 7.4.1 through to 7.4.3 on the

9 following page. This is where Mr White deals with problems

10 with the radio equipment and if we turn over to page 107 Mr

11 White sets out there in response to the evidence that there

12 were radio difficulties. He says that he does not doubt

13 that the problems were genuine. In his experience of large

14 public order operations problems with radios arise very

15 frequently. He finds that it's not rare to have feedback

16 about difficulties with the radio and that when you operate

17 on a single channel without an override button it can be

18 difficult to get on the radio to make a transmission.

19 Whether on numerous role-players and in the operation at

20 Marikana the chances of this problem arising increase. But

21 the alternative of using two or more channels creates it's

22 own problems. He goes on in paragraph 7.4.3 to state the

23 key point is that this is foreseeable in an operation like

24 the one that took place at Marikana. If you don't have an

25 override button on the radio system and you have multiple

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1 units it's almost inevitable that there will be a problem
 2 communicating easily by radio. But that is not an excuse
 3 for failing to communicate. If you cannot communicate by
 4 radio then alternatives need to be used including cell
 5 phones or in person or if necessary via a third party. If
 6 the failure of the radio system was foreseeable then a
 7 contingency should have been in place to deal with this.
 8 Radios might be problematic but they do not justify a
 9 failure to communicate. Lieutenant-Colonel Classen, in
 10 light of your evidence that you had trouble getting on the
 11 radio, at that time did you think of alternative means of
 12 communicating?
 13 COLONEL CLASSEN: Yes, Ma'am, I did think
 14 of it.
 15 MS LE ROUX: And what alternative means
 16 did you think of?
 17 COLONEL CLASSEN: At that time I was more
 18 thinking of the injured people where we could have phoned
 19 ambulances or you know, but I didn't have the number of
 20 JOC. That was my problem.
 21 MS LE ROUX: And did you know of any
 22 third party who had the number of the JOC or the
 23 operational commander?
 24 COLONEL CLASSEN: No as I stated
 25 previously, it was my first time at Marikana. Also I met

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1 Captain Loest right there on the scene.
 2 MS LE ROUX: So you assumed Captain Loest
 3 was communicating with the JOC and the operational
 4 commander.
 5 COLONEL CLASSEN: Yes that's what I
 6 assumed.
 7 MS LE ROUX: Okay. Can we then move onto
 8 what's been marked as VVV2 which is your diary? I just
 9 have a few questions about that. Firstly, the first time
 10 we received that was yesterday. When were you first asked
 11 to provide a copy of your diary for the 16th of August 2012?
 12 COLONEL CLASSEN: A few days after it
 13 happened, the Sunday when I was back at Marikana and when
 14 we were at the Roots.
 15 MS LE ROUX: And when did you provide it?
 16 COLONEL CLASSEN: When they requested it,
 17 Ma'am.
 18 MS LE ROUX: On the Sunday or at Roots?
 19 COLONEL CLASSEN: I can't recall but it
 20 could have been at both situations, so it's both times, but
 21 I'm not certain.
 22 MS LE ROUX: So you provided a copy, you
 23 didn't give the original diary over.
 24 COLONEL CLASSEN: I had the diary with me
 25 so I made copies right there.

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1 MS LE ROUX: Okay and do you recall who
 2 you gave it to?
 3 COLONEL CLASSEN: No once more we just
 4 handed in to a person that must give it to the JOC. Like
 5 at the Roots also it was the same Captain van der Merwe, if
 6 I can recall, at the Roots.
 7 MS LE ROUX: And did you take any other
 8 contemporaneous notes other than the diary entry? And, of
 9 course, we've seen your statement from that point in time.
 10 Did you take any other notes at the time?
 11 COLONEL CLASSEN: At which time was that,
 12 Ma'am?
 13 MS LE ROUX: When you were still on duty
 14 at Marikana or let's say in the week thereafter did you
 15 take any other notes?
 16 COLONEL CLASSEN: No, I did not take any
 17 other minutes. What we did we were busy with statements,
 18 giving in statements, statements was requested, so I was
 19 basically busy with getting statements from my members, the
 20 members that shot to ensure that we hand in the statements,
 21 all of us.
 22 COMMISSIONER HEMRAJ: When did you make
 23 the entries that appear in this diary on the 16th?
 24 COLONEL CLASSEN: On the 16th, it was on
 25 the day of the 16th.

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1 MS LE ROUX: When?
 2 COLONEL CLASSEN: As the time stated
 3 there. Whenever I got time, exactly as it stated on the
 4 time, that's when I made the entries.
 5 COMMISSIONER HEMRAJ: Thank you.
 6 MS LE ROUX: Lieutenant-Colonel Classen,
 7 I'd now like to move onto your movements from the staging
 8 area, sorry to the staging area after your briefing with
 9 Lieutenant-Colonel Scott. So we've spent time this morning
 10 looking at from when you were in the line at the staging
 11 area to the time of the shooting. We're now rewinding to
 12 your movement from when you were first briefed to the
 13 staging area. In RRR11, your supplementary statement, if
 14 we can go back to RRR11, paragraph 6. There you record
 15 that you were briefed by Lieutenant-Colonel Scott at
 16 forward holding area 1 and I'd like us to then use exhibit
 17 MMM1. If we could put that up on the screen, MMM1. Chair,
 18 you will recall that this is a gridded, gridlines have been
 19 put onto slide 148 of exhibit L.
 20 CHAIRPERSON: Yes.
 21 MS LE ROUX: Now, Lieutenant-Colonel
 22 Classen, you were briefed by Lieutenant-Colonel Scott at
 23 forward holding area 1 and that is at the intersection of
 24 I7 and J7, correct? So if you use the gridlines here
 25 you've got the letters across the top, the numbers down the

<p style="text-align: right;">Page 29524</p> <p>1 side. It might be easier if you look at the screen rather 2 than the big screen. Forward holding area 1 is at the 3 intersection of I7 and J7, correct? So it's the bottom 4 right-hand corner of the – 5 COLONEL CLASSEN: Yes I can see it, 6 Ma'am. 7 MS LE ROUX: Okay and that's where 8 forward holding area 1 was and that's where you were 9 briefed by Lieutenant-Colonel Scott right? 10 COLONEL CLASSEN: That's correct, Mr 11 Chair. 12 MS LE ROUX: Okay and then we'll stay on 13 MMM1 but in paragraph 7 of RRR11 you then say "After 14 receiving my briefing I called my members who were then 15 accompanied by PH, TRT and Soweto TRT to be briefed." What 16 does the PH refer to, is that for Phokeng. 17 COLONEL CLASSEN: Negative. 18 MS LE ROUX: What is the PH? 19 COLONEL CLASSEN: It's provincial office. 20 It's the provincial office, TRT. 21 MS LE ROUX: Okay and you said you told 22 them what the plan was and that if anything should go wrong 23 the rules of engagement to be considered strictly and we'll 24 get to the rest of that paragraph now. So you say you then 25 briefed your members and these other members, can you</p>	<p style="text-align: right;">Page 29526</p> <p>1 in your statement at paragraph 8 you say "While waiting 2 General Naidoo passed us, I followed him and just enquire 3 about our position because I don't know the area. He gave 4 me direction and I took my members and went to where we 5 were supposed to be. We found Nyalas as well as well as 6 other TRT members, that group was under Captain Thupe, 7 Captain Loest and Captain Mohlali, I then briefed my 8 members again." So on MMM1, as we understand the 9 chronology in your statement you are at C7 at the time that 10 General Naidoo passes you. Is that correct? 11 COLONEL CLASSEN: That's correct, Ma'am. 12 MS LE ROUX: And when it then says you 13 followed him where did you go? 14 COLONEL CLASSEN: In the direction of A7. 15 MS LE ROUX: In the direction of A7. So 16 when he was travelling along the road that runs at the 17 bottom of the photograph and you followed him down that 18 road in your vehicle. 19 COLONEL CLASSEN: Yes, I can't recall 20 whether I was driving my own vehicle but I was in a 21 vehicle. 22 MS LE ROUX: Okay and when you – so you 23 followed him and then what? He stopped, you stopped and 24 you spoke between the vehicles. 25 COLONEL CLASSEN: Yes, I got out of the</p>
<p style="text-align: right;">Page 29525</p> <p>1 identify on MMM1 where your briefing of them took place? 2 Was it also around forward holding area 1 at the 3 intersection of I7 and J7? 4 COLONEL CLASSEN: That's correct, that's 5 where it was. 6 MS LE ROUX: And then in paragraph 8 of 7 your statement you say that you then moved to the power 8 station where Task Force members and NIU members were 9 standing and joined them there and again I briefed. So 10 using MMM1 and then I can tell you that your AVL records 11 which are the vehicle tracking records from the vehicle you 12 had on the day, they show that you moved to C7. So if you 13 – we seem to have some interference on the microphones, I 14 don't know if we can – oh there we go. 15 CHAIRPERSON: Well whatever it is, it's 16 stopped. 17 MS LE ROUX: So your statement says you 18 moved to the power station where Task Force and NIU members 19 were, you briefed again and your AVL records show that you 20 move to C7 on MMM1 and that are there from approximately 21 15:08 to 15:30. Does that accord with your recollection of 22 your movements on the day? 23 COLONEL CLASSEN: That's correct. 24 MS LE ROUX: Paragraph 8 then continues 25 and says "While waiting General Naidoo," I think, Colonel,</p>	<p style="text-align: right;">Page 29527</p> <p>1 vehicle and I went to go and talk to him. 2 MS LE ROUX: And could you place yourself 3 on MMM1 at the point where you were speaking to General 4 Naidoo about directions? 5 COLONEL CLASSEN: Okay it's not 100% 6 accurate but I can point out. We were somewhere here. 7 MS LE ROUX: You're indicating B7. 8 COLONEL CLASSEN: Yes. 9 CHAIRPERSON: Okay it's on the road in B7 10 more or less towards the left-hand side of B7. It's, of 11 course, in the area covered by that green rectangle. 12 COLONEL CLASSEN: That's correct. 13 MS LE ROUX: And the green rectangle 14 that's in B and C7 is immediate reaction area 1, correct? 15 COLONEL CLASSEN: I wouldn't know, 16 immediate reaction area 1. 17 MS LE ROUX: Okay you've never been 18 briefed about any immediate reaction area 1 on the day. 19 COLONEL CLASSEN: No, not that I know of 20 that was immediate reaction area 1, no. 21 MS LE ROUX: Okay, well as a matter of 22 fact the green oblong represents immediate reaction area 1. 23 So your conversation with Major-General Naidoo takes place 24 at immediate reaction area 1, that's correct. If the green 25 oblong is immediate reaction area 1 which we know it is,</p>

<p style="text-align: right;">Page 29528</p> <p>1 that's the area you were in when you spoke to Major-General 2 Naidoo, correct? 3 COLONEL CLASSEN: Okay that's correct. 4 MS LE ROUX: And is this between 15:08 5 and 15:30? Because you'll recall that's where your vehicle 6 tracker records show that you go to grid C7 and that you're 7 there from around 15:08 to 15:30. Does that accord with 8 your recollection of when you interacted with Major-General 9 Naidoo at IRA1? 10 COLONEL CLASSEN: Yes it's possible, 11 Ma'am, because I didn't check the time but yes, it's 12 possible. 13 MS LE ROUX: Okay, and when Major-General 14 Naidoo passed you and you followed him and stopped him to 15 ask for directions he was coming from forwarding holding 16 area 1 and was driving westwards towards IRA1, correct? He 17 was driving towards C7. 18 COLONEL CLASSEN: That's correct, Ma'am. 19 MS LE ROUX: And after you finished 20 speaking with Major-General Naidoo did you observe where he 21 went? 22 COLONEL CLASSEN: No, no I did not 23 observe where he went. I went back to my members and I 24 just told them that we must move. 25 MS LE ROUX: So you went back on the road</p>	<p style="text-align: right;">Page 29530</p> <p>1 MS LE ROUX: Yes, Chair, and these 2 vehicle tracking records confirm that Lieutenant-Colonel 3 Classen's account is correct and that of Major-General 4 Naidoo – 5 CHAIRPERSON: Well those records are 6 actually records that have to be handed in at some stage 7 and I understand in certain respects to some of them 8 there's a problem of incompleteness but presumably that 9 will all be sorted out by the time they're put before us. 10 MS LE ROUX: Yes, Chair, and the gaps 11 that are being addressed in the earlier records do not 12 affect the point that I've just put on record. Lieutenant- 13 Colonel Classen, when you then drive from C7. 14 [12:28] We know from your vehicle tracking records that 15 you end up at E4 which is the staging area. When you drove 16 from C7 to E4, did you drive alone or were you in convoy? 17 COLONEL CLASSEN: I was in convoy. 18 MS LE ROUX: And who were you in convoy 19 with? 20 COLONEL CLASSEN: I was in convoy with my 21 members and PHO members as well as Soweto TRT. 22 MS LE ROUX: And were you with STF 23 members, were they in the convoy? 24 COLONEL CLASSEN: No, I couldn't see the 25 STF members because we left shortly after that.</p>
<p style="text-align: right;">Page 29529</p> <p>1 from BC7 back up towards IJ7? 2 COLONEL CLASSEN: That's correct. 3 MS LE ROUX: And you didn't observe if 4 Major-General Naidoo was following you or if he was going 5 in some other direction. 6 COLONEL CLASSEN: No, no I did not 7 observe that. 8 MS LE ROUX: Okay so his vehicle didn't – 9 and then did his vehicle come past again before you left 10 IJ7 with your members and moved to the staging area? Did 11 you see Major-General Naidoo again? 12 COLONEL CLASSEN: No, I haven't seen 13 again. 14 MS LE ROUX: Okay. Chair, it's not a 15 question for Lieutenant-Colonel Classen but I must just put 16 a record reference in here for the purposes of the 17 commission which is in light of the evidence of Lieutenant- 18 Colonel Classen. The evidence that Major-General Naidoo 19 gave day 190 at page 23095, line 15 to 20 and 23100, line 7 20 to 8, that's where Major-General Naidoo testified that he 21 had never been to immediate reaction area 1 before the 22 shooting on the 16th of August. So we'll make submissions 23 that that evidence is – 24 CHAIRPERSON: Either he is correct or the 25 witness is correct but we'll have to choose.</p>	<p style="text-align: right;">Page 29531</p> <p>1 MS LE ROUX: So you don't know if the STF 2 Casspir or the STF Scorpion were in the convoy with you? 3 COLONEL CLASSEN: No, I don't know that. 4 MS LE ROUX: Sorry, just to confirm – 5 they left, you left after them so they'd already gone? 6 COLONEL CLASSEN: I wasn't paying 7 attention to task force. After I've received that where to 8 go, I just left. I just took the members and we left. 9 MS LE ROUX: Did you drive with any of 10 the NIU vehicles? 11 COLONEL CLASSEN: Again ma'am, I was just 12 paying attention to my vehicles. 13 MS LE ROUX: How many vehicles were in 14 the convoy that you were in? 15 COLONEL CLASSEN: In total, if I can 16 remember, it could have been nine or eight, somewhere 17 there. 18 MS LE ROUX: And your vehicle is a white 19 Mercedes Benz Vito van, correct? 20 COLONEL CLASSEN: That is correct, Mr 21 Chair. 22 MS LE ROUX: Now we'd like to understand 23 the route you took from where you were up to the staging 24 area. Could you show us on MMM1 which route you took to 25 get to the staging area? We know that you went on the road</p>

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1 between the power station, can you tell us which route you
 2 took to get to the staging area from where you were?
 3 COLONEL CLASSEN: Okay. If I can recall,
 4 ma'am, I'll just point it out to you. We went back this
 5 direction and we headed off there, there, somewhere there.
 6 CHAIRPERSON: Would you like me to try to
 7 describe that? What you indicated was you moved from the
 8 position that you were in that you spoke to us about, to
 9 the right of the photograph, more or less where the forward
 10 holding area 1 but you indicated, if I understood you
 11 correctly, that you turned to the left round about the area
 12 of the forward holding area, this whole area, and did you
 13 go across the veld or did you – one can see there what
 14 looks like a road running up from the top right hand
 15 corner, that blue vehicle on the slide. Did you go along
 16 that road or did you go across the veld?
 17 COLONEL CLASSEN: Mr Chair, we followed
 18 the road a bit and then we went down the veld.
 19 CHAIRPERSON: You went on the veld. And
 20 then you indicate that you proceeded diagonally across to
 21 an area, I imagine it's close to where that row of blue
 22 figures is on the picture, is that correct? Anyway you
 23 proceeded diagonally towards, going in the direction of the
 24 left-hand corner of the photograph and where did you end
 25 up?

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1 COLONEL CLASSEN: I ended up somewhere
 2 here.
 3 CHAIRPERSON: Well what – on the
 4 photograph there are six blue figures and you indicated an
 5 area in front of the blue, in front of, i.e. between those
 6 blue figures and the motor vehicles. You sort of made,
 7 indicated an oval shape more or less in front of the,
 8 proceeding from the bottom the second, third and fourth
 9 blue figures, is that right? And it's in, it's more or
 10 less at the – the line between block, the blocks marked 3
 11 and the blocks marked 4, there's a green line that goes
 12 across the page and the space you indicated again is the
 13 intersection between that line and the line which goes
 14 downwards which is a vertical line – that's a horizontal
 15 line – a vertical line between the D blocks and the E
 16 blocks. So if one gets to the intersection of those two
 17 green lines, the vertical one and the horizontal one,
 18 that's roughly the place you indicated. Is that correct?
 19 COLONEL CLASSEN: That's correct, Mr
 20 Chair.
 21 MS LE ROUX: So Lieutenant-Colonel
 22 Classen, just to round out the point, you didn't take the
 23 road that is in the E blocks on the photograph?
 24 COLONEL CLASSEN: No, not that I can
 25 recall –

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1 CHAIRPERSON: I don't see any road
 2 between the E blocks, do you?
 3 MS LE ROUX: Chair, it runs from E7 to
 4 E4.
 5 CHAIRPERSON: In the E blocks?
 6 MS LE ROUX: Yes, Chair.
 7 CHAIRPERSON: Mm, oh well –
 8 MS LE ROUX: Sorry Chair, sorry, it's F
 9 block. F7 and F4, apologies.
 10 CHAIRPERSON: Yes. No – no, now you're
 11 cooking with gas, I didn't understand what you were doing
 12 before that. You didn't take those roads?
 13 MS LE ROUX: You didn't take the road F7
 14 to F4?
 15 COLONEL CLASSEN: No, not that I can
 16 recall, Mr Chair.
 17 MS LE ROUX: Lieutenant-Colonel Classen,
 18 if we can then move on to the question of some of the
 19 members that were under your command. In RRR11 paragraph 4
 20 you list the eight members that were under your command, if
 21 we can go to that. So there we see the eight members that
 22 were under your command and unfortunately only two of those
 23 have provided any statement to the Commission. We only
 24 have statements by
 25 Constable Majombozi and Constable Matlopa. Just

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1 to give you a sense of the context here, on the 19th of
 2 November 2013 the Human Rights Commission gave the SAPS a
 3 complete list of all of the SAPS members at Marikana on 16
 4 August and the witness statements or the statements that
 5 we've been provided with by each member. We asked for
 6 confirmation of the accuracy of that list, we didn't get a
 7 response. On the 18th of February this year during the
 8 cross-examination of the Provincial Commissioner we used
 9 that list to note that only 43%, that 43% of the TRT
 10 members at Marikana hadn't given any statement – to IPID,
 11 to the Commission, to anyone else and SAPS were asked to
 12 confirm that again and we still haven't received
 13 confirmation on that. Chair, I'd like to request for a
 14 third time that the SAPS confirm the accuracy of those
 15 lists that we've provided but, Lieutenant-Colonel Classen,
 16 what this means is that we don't have statements from the
 17 other six members that are listed in your statement as
 18 being under command and I must just note that there is a PS
 19 Dlamini from Rustenburg POPS but clearly that's not the
 20 same member as the PS Dlamini that you had under your
 21 command because they have different ID numbers. So as the
 22 commander of one of the TRT units at the operation where 34
 23 people died because of shooting by the police, Lieutenant-
 24 Colonel Classen, as far as you're aware the six members
 25 other than Constable Majombozi and Constable Matlopa that

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1 were under your command, you don't know whether they've
 2 provided a statement to IPID, to the Commission or to
 3 anyone else do you, about the events at Marikana?
 4 COLONEL CLASSEN: I believe we all
 5 provided statements at Roots, that's what I can recall.
 6 MS LE ROUX: Were those members at Roots?
 7 COLONEL CLASSEN: Yes, the members did
 8 come to Roots with statements and they gave it all to me
 9 and we gave it in.
 10 MS LE ROUX: These specific members –
 11 CHAIRPERSON: Sorry, Ms Le Roux. Mr
 12 Mathibedi, can you investigate on our behalf (a) whether
 13 the police received statements from the other persons
 14 mentioned in para 4 and if so, if they made statements
 15 would you please make them available to Ms Le Roux ASAP?
 16 MR MATHIBEDI SC: I will, Mr Chairperson.
 17 CHAIRPERSON: Thank you.
 18 MR GOTZ: Chair, not only Ms Le Roux but
 19 certain things are given to the Human Rights Commission
 20 which aren't shared with other –
 21 CHAIRPERSON: Ja – ja, actually to
 22 everybody I suppose. Ms Le Roux will be the prime
 23 recipient but there would be secondary and tertiary and
 24 other recipients as well. Obviously if there are
 25 statements - if there are not, the problem will fall away

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1 but your concern has been noted and will be attended to,
 2 I'm sure.
 3 MS LE ROUX: Thank you, Chair.
 4 Lieutenant-Colonel Classen, did you take any steps to
 5 ensure that all of your members provided statements?
 6 COLONEL CLASSEN: Yes, I did. As I said
 7 earlier on, I was busy getting the statements from the
 8 members to ensure that all the statements are handed in
 9 because it was requested.
 10 MS LE ROUX: And the statements you
 11 recall arranging from your members, the statements that you
 12 recall ensuring were provided, were those for the
 13 Commission or for IPID?
 14 COLONEL CLASSEN: I think it was for the
 15 Commission.
 16 CHAIRPERSON: I think anything – Roots
 17 wasn't an IPID directed operation. Roots was an operation
 18 designed to put information of some sort or other before
 19 the Commission, is that right?
 20 COLONEL CLASSEN: That's correct, Mr
 21 Chair.
 22 CHAIRPERSON: On SAPS's behalf in
 23 relation to information that SAPS could provide, is that
 24 right?
 25 COLONEL CLASSEN: That's correct, Mr

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1 Chair.
 2 MS LE ROUX: If I could then ask you to
 3 turn to the statements provided by Constable Majombozi.
 4 The easiest will be if we looked at the typed version of
 5 the IPID statement which is now VVV6.2, VVV6.2 and if we go
 6 to paragraph 4 of that on the second page. Mr Chair, we've
 7 got the wrong –
 8 CHAIRPERSON: Is what is on the screen
 9 what you want?
 10 MS LE ROUX: No, no, we've got the wrong
 11 –
 12 CHAIRPERSON: That's what I thought.
 13 MS LE ROUX: - Constable Majombozi
 14 statement up. It's the other typed one so it will be 6.4
 15 which is the typed version of his handwritten 30th of August
 16 statement. If you go to paragraph 4 of that, yes. In this
 17 Constable Majombozi notes that he fired "One shot on the
 18 ground between their legs to scare them about and then to
 19 scare them about, four shoot. Then is shoot six straight
 20 to them." So as we understand what Constable Majombozi is
 21 recording here is that he fired 10 shots, four warning
 22 shots and six aimed shots. If we then look at the other
 23 typed statement of Constable Majombozi, so VVV6.2 and if we
 24 go to paragraph 8 of that statement, Constable Majombozi in
 25 the second statement says, "It took me a week and some

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1 several hours to become alright although I went to
 2 counselling 19 Sunday August 2012 at Marikana. I was
 3 traumatised but now I can remember everything after that
 4 incident. I never shoot at all. I stand firm."
 5 Lieutenant-Colonel Classen, I should also tell you but we
 6 don't need to go there, exhibit FFF8 which is the discharge
 7 list of the operation at Marikana, that shows Constable
 8 Majombozi firing 10 nine millimetre rounds. Are you aware
 9 of any steps that have been taken to investigate this
 10 change between the two statements, the one where he says he
 11 fired 10 shots, which is as reflected on the discharge
 12 list, and then his second statement where Constable
 13 Majombozi says he fired no shots. Do you know whether that
 14 has been investigated?
 15 COLONEL CLASSEN: No, ma'am, not that I
 16 know of but I know that almost within this year again
 17 people from Province came to take his statement, so I don't
 18 know is that in regard to this matter.
 19 MS LE ROUX: And do you know whether he
 20 fired shots or not? Do you know whether he fired 10 shots
 21 or not?
 22 COLONEL CLASSEN: At first he did say
 23 that he fired shots and then when he came to Roots he told
 24 me that he did not fire any shots and it was there that I
 25 told him then, then you will give another statement so that

<p style="text-align: right;">Page 29540</p> <p>1 the people should know that you did not do that.</p> <p>2 MS LE ROUX: And when he handed back his</p> <p>3 firearm at the end of the day did he - I mean he would have</p> <p>4 done that, right, and it would have recorded whether he'd</p> <p>5 used any ammunition?</p> <p>6 COLONEL CLASSEN: That's correct, ma'am.</p> <p>7 MS LE ROUX: So you can't help us with</p> <p>8 how this came about, that he said 10 and now says none?</p> <p>9 COLONEL CLASSEN: No, I can't help you</p> <p>10 because he did not hand it in to me. We have a system</p> <p>11 where we book it in at the JOC and then we book it out.</p> <p>12 MS LE ROUX: Now the person from Province</p> <p>13 that you've just testified about who came and took another</p> <p>14 statement, do you know who that was?</p> <p>15 COLONEL CLASSEN: No, ma'am, I don't know</p> <p>16 who it is.</p> <p>17 MS LE ROUX: And was that for the</p> <p>18 purposes of this Commission or the IPID investigation of</p> <p>19 the dockets that are opened against the strikers? Do you</p> <p>20 know why he was interviewed this year by someone from</p> <p>21 Province?</p> <p>22 COLONEL CLASSEN: All I know, it had</p> <p>23 something to do with the Commission and the statement that</p> <p>24 he gave at the Commission because that was said.</p> <p>25 MS LE ROUX: And you don't know what the</p>	<p style="text-align: right;">Page 29542</p> <p>1 time runs out but thank you very much for telling us that.</p> <p>2 Yes, Ms Le Roux?</p> <p>3 COMMISSIONER HEMRAJ: Before that, Ms</p> <p>4 Pillay, can you help us in the lunch adjournment just</p> <p>5 putting these statements into order because none of us seem</p> <p>6 to have all the correct statements and this is getting a</p> <p>7 bit difficult to follow.</p> <p>8 MS PILLAY: I'll attend to it,</p> <p>9 Commissioner.</p> <p>10 COMMISSIONER HEMRAJ: Thank you.</p> <p>11 MS LE ROUX: Chair, I should just note</p> <p>12 for the record that obviously the parties are concerned</p> <p>13 that there are additional statements of shooters, that we</p> <p>14 don't know when they'll be coming, we don't know how many</p> <p>15 are coming –</p> <p>16 CHAIRPERSON: I thought that –</p> <p>17 MS LE ROUX: - we don't know how to deal</p> <p>18 with them in evidence.</p> <p>19 CHAIRPERSON: I thought the comments that</p> <p>20 I made conveyed, succinctly I hope, my own concern about</p> <p>21 the matter.</p> <p>22 MS LE ROUX: If we could then look at the</p> <p>23 statements provided by Constable Matlope, Matlopo. In the</p> <p>24 first statement which is typed in September and has been</p> <p>25 marked VVV6.7, if we can go to paragraph 5 of that. No, we</p>
<p style="text-align: right;">Page 29541</p> <p>1 product of that interview was? You don't know if there's a</p> <p>2 third statement?</p> <p>3 COLONEL CLASSEN: Negative. No, no,</p> <p>4 ma'am, I don't know.</p> <p>5 MS LE ROUX: Chair, we'll follow up with</p> <p>6 our learned friends from SAPS about whether there's a third</p> <p>7 statement on the question of –</p> <p>8 MR MATHIBEDI SC: Chairperson, if I could</p> <p>9 be of assistance –</p> <p>10 MS LE ROUX: - Constable Majombozi.</p> <p>11 MR MATHIBEDI SC: - there was an</p> <p>12 arrangement with the evidence leaders that all members who</p> <p>13 shot would make statements available. That is being done</p> <p>14 by General Johnson. As soon as the statements are</p> <p>15 available, have been completed, we'll make that available.</p> <p>16 CHAIRPERSON: [Microphone off, inaudible]</p> <p>17 – likely to happen, before or after the period of extension</p> <p>18 runs out.</p> <p>19 MR MATHIBEDI SC: I'm aware that</p> <p>20 currently they are busy with the taking down of statements.</p> <p>21 CHAIRPERSON: The taking down of</p> <p>22 statements?</p> <p>23 MR MATHIBEDI SC: Yes.</p> <p>24 CHAIRPERSON: Mm, I see. Well, let's</p> <p>25 hope that we win the race and get the statements before our</p>	<p style="text-align: right;">Page 29543</p> <p>1 have the wrong statement again. Then it will be the other</p> <p>2 typed –</p> <p>3 CHAIRPERSON: I must tell you the</p> <p>4 exhibits we got from you people were, the statements</p> <p>5 together with your list of documents you were going to rely</p> <p>6 on, the statements were – I can't think of a more polite</p> <p>7 English word than higgledy-piggledy. They didn't</p> <p>8 correspond with the original list but that's something</p> <p>9 we'll try to sort out to the best of our limited ability.</p> <p>10 MS LE ROUX: Yes, Chair, I -</p> <p>11 CHAIRPERSON: But this particular</p> <p>12 statement, which one is this now?</p> <p>13 MS LE ROUX: Yes, Chair, I apologise.</p> <p>14 We'll ensure that the description of the exhibits and – are</p> <p>15 all put in order.</p> <p>16 CHAIRPERSON: I'll give them back to you</p> <p>17 at lunch time and you can perhaps get those assisting you</p> <p>18 to –</p> <p>19 MS LE ROUX: So this is VVV7.1 - no, we</p> <p>20 didn't mark anything 7.1. This would be VVV6.5 -</p> <p>21 CHAIRPERSON: None of yours are 7. Your</p> <p>22 exhibits are all triple, your new exhibits are VVV6 point</p> <p>23 whatever.</p> <p>24 MS LE ROUX: Yes, so this would be 6.5.</p> <p>25 CHAIRPERSON: Sorry? This is?</p>

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1 MS LE ROUX: This should be recorded as
 2 VVV6.5.
 3 CHAIRPERSON: Yes, I see, okay.
 4 [12:48] MS LE ROUX: This is the handwritten
 5 statement. If we go to paragraph 6 of that, so on the next
 6 page if we go up to paragraph 6, here we see Constable
 7 Matlopo report, "I saw a need of firing a shot as a
 8 warning. The people, the strikers, never stopped. I fired
 9 another four" and then he has the number 4 in brackets
 10 "rounds as to try and scare those people but not in a
 11 direction of the crowd." And then if we look at his second
 12 statement, the additional statement which is VVV6.7, there
 13 in paragraph 2 he stages – this is after he said in
 14 paragraph 1 that this is the further statement, he says –
 15 "I previously declared that I discharged five rounds at
 16 scene 1. My assumption that my magazine contained 25
 17 rounds is incorrect, it may have contained more. My rifle
 18 was on automatic mode at that time so it is possible that I
 19 may have discharged at least nine rounds. To the extent
 20 that my previous statement is inconsistent with this
 21 statement, it is incorrect." So two things to note there,
 22 the first is that in Constable Motlapo's first statement he
 23 says he only fired five rounds, in the second he says at
 24 least nine and he notes that his rifle was on automatic
 25 fire. If I could then ask that we go to the statement of

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1 Gary White, JJJ178.
 2 CHAIRPERSON: Before you move on, just
 3 let me get some clarity on this. I understand an R5
 4 magazine actually contains 30 rounds, is that correct?
 5 COLONEL CLASSEN: That's correct, Mr
 6 Chair.
 7 CHAIRPERSON: And so he says in his
 8 statement, the first one referred to, which is VVV6.5, he
 9 talks about five rounds and he says "I booked back an R5
 10 rifle with 20 rounds and one stun grenade." So he then
 11 tells us VVV6.7 he thought that the magazine had 25 rounds,
 12 so that's where the discrepancy comes in. So there should
 13 be five more. If he – he thought he had 25 to start with
 14 and he had 20 left, so that's where he got his five from.
 15 If you start from 30 and he's got 20 left then he's fired
 16 10. Is that correct?
 17 COLONEL CLASSEN: That's correct, Mr
 18 Chair.
 19 CHAIRPERSON: And his explanation is that
 20 the rifle was in automatic mode so he didn't know how many
 21 he'd fired, he just worked it out by arithmetic starting
 22 from the wrong premise. Is that – have I got it right?
 23 COLONEL CLASSEN: You've got it right, Mr
 24 Chair.
 25 MS LE ROUX: If we go to Gary White's

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1 statement JJJ178, page 113 paragraph 7.5.10E, here Mr White
 2 notes, "A number of officers have made statements
 3 indicating that their weapons may have been on automatic
 4 fire" and he lists, as you'll see in the footnote,
 5 Constable Matlopo. "I can think of no," he states that he
 6 "can think of no situation where the use of automatic
 7 weapons will be necessary or appropriate in a crowd control
 8 situation. Given the principle of using potentially lethal
 9 force only in circumstances where it is absolutely
 10 necessary, it is normal policing procedure to fire only
 11 aimed shots. Some of the officers who have given
 12 statements indicating that their weapons may have been
 13 firing in automatic mode, have given no statements to
 14 explain why their initial statements under-counted the
 15 number of shots fired. It is difficult to understand how
 16 those members can justify each shot fired as necessary and
 17 proportionate when they did not know how many shots were
 18 fired in the first place." Lieutenant-Colonel Classen,
 19 would you agree with Mr White that it would be grossly
 20 negligent for an officer to have his weapon on automatic
 21 mode in a crowd situation?
 22 COLONEL CLASSEN: Yes, I would.
 23 MS LE ROUX: And you would agree that it
 24 will inevitably mean that the risk of injury or death to
 25 bystanders is increased?

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1 COLONEL CLASSEN: Yes, I would.
 2 MS LE ROUX: You also testified in chief
 3 this morning that in 2010 you did a three week course in
 4 crowd management. Did any part of that course address the
 5 use of firearms in a crowd situation?
 6 COLONEL CLASSEN: Firearms in the sense,
 7 lethal firearms, pump actions or what are you referring to?
 8 MS LE ROUX: Lethal firearms, sharp
 9 pointed ammunition, live ammunition.
 10 COLONEL CLASSEN: Depending on the
 11 situation, depending on the situation.
 12 MS LE ROUX: But Lieutenant-Colonel
 13 Classen, my question was did the course cover using live
 14 ammunition in a crowd situation? Was that part of the
 15 training?
 16 COLONEL CLASSEN: Yes, it does, ma'am.
 17 MS LE ROUX: And what do you recall the
 18 course teaching you about using live ammunition in a crowd
 19 situation?
 20 COLONEL CLASSEN: Identifying the person
 21 with the firearm, probably that's about to utilise it on
 22 SAPS members or on other people, that is when you can use
 23 lethal, this thing, but it's not the intention to kill a
 24 person.
 25 MS LE ROUX: So based on your training

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1 and your experience in crowd management would you agree
 2 that in all situations the use of live ammunition should be
 3 avoided at all costs unless there's absolutely no
 4 alternative and its use is necessary to combat an imminent
 5 threat to life?
 6 COLONEL CLASSEN: That's correct, ma'am.
 7 MS LE ROUX: Would you also agree that
 8 even where there's an imminent threat to life, it's not
 9 justified to fire recklessly in the general direction of a
 10 threat, it would only be justified if each shot is aimed at
 11 the specific target who poses that imminent threat?
 12 COLONEL CLASSEN: That can also be added
 13 with the situational appropriateness, how it is, how the
 14 person is receiving the threat.
 15 CHAIRPERSON: In general I take it, it
 16 would be desirable to have aimed shots because the idea is
 17 to disable the person, the assailant and not to kill him.
 18 Now if you fire, if you don't fire aimed shots but you have
 19 your rifle on automatic, your first shot might disable the
 20 person and if you then go on firing without knowing it,
 21 shots could be fatal. So that must be the reasoning behind
 22 what Mr White says, with which I take it you agree in
 23 general, is that right?
 24 COLONEL CLASSEN: I agree there, in
 25 general, Mr Chair.

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1 MS LE ROUX: And that was what your
 2 training covered, that you should identify the specific
 3 threat and only fire when necessary at that specific person
 4 who posed the threat.
 5 COLONEL CLASSEN: That's correct, Mr
 6 Chair.
 7 MS LE ROUX: Would you also agree that
 8 within a crowd there may be people who pose an imminent
 9 threat to life, for example the person with a gun, but that
 10 they may be standing beside many individuals who do not
 11 pose a threat to life, for example because they're simply
 12 part of the crowd?
 13 COLONEL CLASSEN: Just come again there,
 14 ma'am?
 15 MS LE ROUX: Would you agree that in a
 16 crowd there may be some individuals who pose a threat to
 17 life, for example because they've got a gun, but standing
 18 right next to them would be other people who don't pose an
 19 imminent threat to life because they don't have a gun but
 20 they're just part of the crowd? You'd accept that we must
 21 distinguish between the people in the crowd?
 22 COLONEL CLASSEN: Yes, that's correct.
 23 MS LE ROUX: Would you also agree that it
 24 is not justifiable therefore to shoot generally at a crowd
 25 simply because there may be people within it who pose a

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1 threat to life?
 2 COLONEL CLASSEN: Yes. Again I would
 3 add, with situational appropriateness. It goes with the
 4 situation there.
 5 MS LE ROUX: But Lieutenant-Colonel
 6 Classen, what situational awareness would change that
 7 principle? The principle is, I mean as I understand it, it
 8 should be something you agree with or disagree with.
 9 COLONEL CLASSEN: Yes, ma'am –
 10 MS LE ROUX: Do you agree that you can't
 11 shoot generally at a crowd simply because there may be
 12 people in it that pose a risk to life?
 13 COLONEL CLASSEN: Yes, if they're
 14 standing and not posing a threat to life.
 15 CHAIRPERSON: Surely there's a difference
 16 between shooting generally and aiming specifically? I mean
 17 surely you can never shoot generally at a crowd unless
 18 everyone in the crowd was potentially dangerous, was a
 19 threat. If you have a crowd of 20 people coming, all
 20 firing at you, then you can shoot generally I take it, but
 21 if that isn't the case and you've got a crowd and a limited
 22 number of people in the crowd are firing, using a firearm
 23 and firing in your direction, you can't just shoot
 24 generally at the crowd, clearly. All you'd be entitled to
 25 do, surely, would be to aim specifically at one of the

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1 firearm wielding people, is that right?
 2 COLONEL CLASSEN: That's correct, Mr
 3 Chair. That's why I'm putting it, when it comes to the
 4 situation because if one person comes and a person is just
 5 shooting then you can identify the person but if there's a
 6 crowd of people coming and the shots are fired towards you,
 7 how do you identify that specific person?
 8 CHAIRPERSON: Yes, there are various
 9 situations. If one person comes, shooting, that situation
 10 is easy to find the answer to. If 10 people come and one
 11 person is shooting and you can identify him, that's easy
 12 too. You aim at him, you don't aim at anybody else,
 13 correct? The more difficult question is where 10 people
 14 come and one of them is firing and he could kill you or
 15 those with you, on the other hand the other people coming
 16 with him are not a threat at all, that's a trickier
 17 situation to deal with, isn't it?
 18 COLONEL CLASSEN: That's correct, Mr
 19 Chair.
 20 MS LE ROUX: And Lieutenant-Colonel
 21 Classen, given that a crowd situation may be, to use the
 22 Chair's phrase, tricky, it may be difficult to deal with
 23 the threat, it's very important that there be a plan to
 24 deal with any threat. You would agree with that?
 25 COLONEL CLASSEN: That's correct, Mr

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1 Chair.

2 CHAIRPERSON: When we reach a suitable

3 stage we'll take the lunch adjournment but I don't want to

4 stop you now unless if you want to round off the point

5 you're busy with. I know there's a passage in Mr White's

6 report which, or his statement, which is directly relevant

7 to this point. You may wish to put it to the witness now

8 or give him the reference and ask him to comment after the

9 adjournment, it's your cross-examination, you must do what

10 you think appropriate.

11 MS LE ROUX: Chair, I just have six other

12 principles that I need to put to Lieutenant-Colonel

13 Classen. I'll run through those and then we can take the

14 lunch adjournment. Lieutenant-Colonel Classen, you'll

15 agree, would you not, that even in a crowd situation that

16 any shots that are fired in self or private defence would

17 only be justified if they are aimed at the specific target

18 who poses a threat to life.

19 COLONEL CLASSEN: Just repeat that again,

20 ma'am, please?

21 CHAIRPERSON: It sounds to me as if – I

22 thought you were going to give six principles, one, two,

23 three, four, five, six for him to answer after lunch but if

24 you're going to do it this way I think it'll probably be

25 better for us – I would imagine each principle will take a

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1 few minutes or two minutes or three, so let's do it after

2 lunch. We'll take the lunch adjournment now. I think we

3 must try to be back at quarter to two.

4 [COMMISSION ADJOURNS COMMISSION RESUMES]

5 [14:02] CHAIRPERSON: The Commission resumes.

6 Lieutenant-Colonel, you're still under oath. Ms Le Roux?

7 MS LE ROUX: Thank you, Chair.

8 Lieutenant-Colonel Classen, before the lunch adjournment we

9 were going through some principles, I'd like to complete

10 that exercise. So would you –

11 CHAIRPERSON: Sorry to interrupt you. Someone I

12 think has sorted out my papers for me?

13 MS LE ROUX: Yes, Chair, my instruction

14 attorney has done that.

15 CHAIRPERSON: For which I'm grateful, thank you.

16 Sorry, I interrupted you, please carry on?

17 MS LE ROUX: Lieutenant-Colonel Classen,

18 based on your training and experience, would you agree that

19 in a crowd situation, even where shots are aimed at a

20 specific target, there's a high risk of causing injury or

21 death to bystanders?

22 COLONEL CLASSEN: Yes, I do, Mr Chair?

23 MS LE ROUX: Would you agree that because

24 of this, there's a particularly strong imperative to avoid

25 the use of live ammunition at all costs in a crowd

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1 situation?

2 COLONEL CLASSEN: I also agree with that,

3 Mr Chair?

4 MS LE ROUX: And that accordingly the

5 police should plan an operation carefully to minimise any

6 risk of the need to use live ammunition?

7 COLONEL CLASSEN: I also agree with that?

8 MS LE ROUX: And that during any

9 operation, the police should organise themselves in such a

10 way as to minimise the risk that live ammunition will be

11 necessary?

12 COLONEL CLASSEN: Yes, I agree with that?

13 MS LE ROUX: And finally, that where

14 there is an imminent threat to life and live ammunition is

15 justified, only the minimum number of shots should be fired

16 to eliminate the threat?

17 COLONEL CLASSEN: I agree with that also?

18 MS LE ROUX: Returning then to your

19 evidence and the statement of Constable Molope that his

20 weapon was an automatic fire, did you receive any briefing

21 at Marikana on the 16th that members should not have their

22 weapons on automatic setting? Were you briefed not to have

23 your weapon set to automatic?

24 COLONEL CLASSEN: No, we're not briefed

25 about that, Mr Chair?

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1 MS LE ROUX: And did you brief your

2 members not to have their members on automatic at any one

3 of the three briefings that you gave them?

4 COLONEL CLASSEN: No, I did not brief

5 them about that?

6 MS LE ROUX: So you didn't address the

7 issue of automatic settings at all with your members?

8 COLONEL CLASSEN: No, I did not.

9 COMMISSIONER HEMRAJ: Is such a subject normally

10 covered in the briefing before an operation?

11 COLONEL CLASSEN: No, it's not covered in

12 a operation, Mr Chair.

13 CHAIRPERSON: This course you went to recently

14 about crowd management and so forth, was anything said – I

15 know it's not relevant to the state of your knowledge, and

16 experience and foresight and so forth in August 2012, but

17 looking ahead I'd like to know the answer. Was anything

18 said at the recent course you attended on this topic?

19 COLONEL CLASSEN: On the topic of

20 automatic or what?

21 CHAIRPERSON: Ja.

22 COLONEL CLASSEN: No, nothing was said on

23 it?

24 MS LE ROUX: Lieutenant-Colonel Classen,

25 is the reason that you don't brief your members about not

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1 having their weapons on automatic settings, is because
 2 that's obvious and everyone should know that there weapons
 3 shouldn't be on automatic in a crowd situation?
 4 COLONEL CLASSEN: That's correct, Mr Chair?
 5 MS LE ROUX: Do you know whether the
 6 three shooters at scene 1, whose weapons were on automatic,
 7 and we know of at least one at scene 2 that had their
 8 weapon on automatic, so we know of at least four members
 9 who shot on the day with their weapons in automatic mode.
 10 Do you know whether they've been disciplined at all for
 11 having their weapons on automatic?
 12 COLONEL CLASSEN: No, I don't know that,
 13 Mr Chair?
 14 MS LE ROUX: Do you know of any
 15 investigation into those four members and why their weapons
 16 were on automatic?
 17 COLONEL CLASSEN: No, I don't know of
 18 such.
 19 CHAIRPERSON: I'm sure you can get this
 20 information from the SAPS legal team if you ask for it.
 21 I'm sure they will get it for you. The witness doesn't
 22 know, it may well be an important factor, but I'm sure we
 23 don't have to ask witnesses for the evidence on the matter.
 24 I'm sure Mr Mathibedi and others in the SAPS legal team
 25 will be able to get the information if we ask for it, and I

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1 imagine you are now asking for it?
 2 MS LE ROUX: Chair, we have made this
 3 request before. I'll follow up again.
 4 COMMISSIONER HEMRAJ: Are there
 5 guidelines as to when you may place your weapon on
 6 automatic firing?
 7 COLONEL CLASSEN: Mr Chair, not really.
 8 There's no guidelines when to put it in auto. We're
 9 usually being requested not to put it on auto. The request
 10 not to put on auto to save rounds to ensure that we don't
 11 just fire in a wild direction.
 12 COMMISSIONER HEMRAJ: So is there nothing
 13 in your training that would indicate to you when you may
 14 put it on automatic firing?
 15 COLONEL CLASSEN: Not that I know of,
 16 unless we're trying to cover each other. Cover in the
 17 sense when people are shooting at us and we're just trying
 18 to frustrate them by let them think there's constant firing
 19 upon them.
 20 COMMISSIONER HEMRAJ: And the decision to
 21 do so would be within the discretion of an individual
 22 member?
 23 COLONEL CLASSEN: That's correct, Mr
 24 Chair.
 25 COMMISSIONER HEMRAJ: Thank you?

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1 MS LE ROUX: Lieutenant-Colonel, you also
 2 testified this morning in chief that you told your members
 3 during their briefing that they must fire warning shots, do
 4 you recall which briefing you told them to fire warning
 5 shots or did you include it in each of the briefings you
 6 gave?
 7 COLONEL CLASSEN: It's in all briefings.
 8 It wasn't specifically that fire shots, if we talk about
 9 the rules of engagement, it's where you based it on, you
 10 either warn a person verbally and then you fire a verbal
 11 shot – warning shots?
 12 MS LE ROUX: So in your briefing what did
 13 you say about warning the strikers before shooting?
 14 COLONEL CLASSEN: Exactly as I put it,
 15 when I said to them, guys, don't forget the rules of
 16 engagement, warn the person first, don't just attend to it
 17 and let's not just shoot at people, because I wasn't even
 18 expecting anybody to shoot, it was just mere talking to
 19 them because these guys are still new in the police?
 20 MS LE ROUX: The eight members that were
 21 under your command, do you know they had been involved in a
 22 crowd situation where they had to use live ammunition
 23 before?
 24 COLONEL CLASSEN: No, I don't know of any
 25 situation that they been involved in?

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1 MS LE ROUX: So you don't know if they've
 2 been in that, or you know that they haven't been?
 3 COLONEL CLASSEN: I don't know that they
 4 have been involved in it?
 5 MS LE ROUX: And you'll agree with me
 6 that warning shots are only useful if they occur with
 7 enough time for the person to change their mind. So assume
 8 you've got someone who's a threat coming at you, and you
 9 fire a warning shot, you must then give them enough time to
 10 change their mind before you then fire an aimed shot at
 11 them.
 12 COLONEL CLASSEN: You're just going to
 13 have to repeat that for me, Ma'am, please?
 14 MS LE ROUX: Sure. The purpose of a
 15 warning shot is to warn the person that you intend to fire
 16 an aimed shot if they don't stop doing whatever it is that
 17 you perceive as a threat, correct?
 18 COLONEL CLASSEN: That's correct?
 19 MS LE ROUX: And so a warning shot would
 20 have to have enough time between it and any aimed shots to
 21 give a person an opportunity to change their mind about
 22 their course of conduct.
 23 COLONEL CLASSEN: I agree again, but
 24 based on the situation, what the situation is?
 25 MS LE ROUX: Lieutenant-Colonel Classen,

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1 if I can move then to the statement, RRR10, which is your
 2 statement from the 27th of January this year, and paragraph
 3 8 of that. In that paragraph the last sentence – well,
 4 let’s read the last two sentences. This is your briefing,
 5 and you say that also adding, “that in our case we don’t
 6 act, we react should anything go wrong, which I doubt it.
 7 I also added that should there be a situation where
 8 shooting should occur, that we should go below the knee.”
 9 Could I then ask you to turn to RRR11, which is your
 10 statement from the next day, the 28th of January, and if we
 11 look at paragraph 7 of RRR11, that sentence is deleted. Do
 12 you have any idea why that sentence was deleted from your
 13 later statement?
 14 COLONEL CLASSEN: Okay, Ma’am, when I
 15 look at that date, is that a 25 or 28?
 16 MS LE ROUX: It’s the 28th, because that’s
 17 the date that the file is created when we look at the
 18 electronic information. So I understand that the writing
 19 is a little bit indistinct, but the document – the
 20 electronic details of the document confirm that it’s the
 21 28th of January. So it’s an eight, not a five.
 22 COLONEL CLASSEN: Okay, but that might be
 23 electronic, but I think it should be vice versa, because
 24 when I read this statement, that’s what made me follow up
 25 on this one and say this is what I added.

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1 COMMISSIONER HEMRAJ: The copy I have, it
 2 looks like it’s signed on the 25th of January?
 3 MS LE ROUX: Yes, Lieutenant-Colonel
 4 Classen, it was also produced in an email from your legal
 5 team and it was described as your supplementary statement.
 6 COLONEL CLASSEN: Well, I don’t know
 7 then, Ma’am, but as I say at the dates, when I look at the
 8 dates, that’s what I have it, that’s why I have it?
 9 MS LE ROUX: Okay. So your recollection
 10 is that you added the sentence into the document before it
 11 was provided?
 12 COLONEL CLASSEN: Yes, because when this
 13 one was given to me, I saw that that was not in it, the
 14 typed version, it’s not in it, and that’s why I added it?
 15 MS LE ROUX: Right, and that would be
 16 with Brigadier Pretorius or with your legal team?
 17 COLONEL CLASSEN: That’s correct?
 18 MS LE ROUX: Brigadier Pretorius, we’ll
 19 follow that up then. Chair, we have no further questions.
 20 CHAIRPERSON: Yes, thank you, Ms Le Roux.
 21 You did indicate to me that you would wish to be excused
 22 when you finished your cross-examination. You’re request
 23 is granted?
 24 MS LE ROUX: Thank you, Mr Chair.
 25 CHAIRPERSON: Mr Bizos?

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1 MR BIZOS SC: Thank you, Mr Chair. I
 2 want to take up what our learned friends, Le Roux, finished
 3 off with. Please turn to the first statement that you
 4 made, RRR10, and have a look at the last sentence of
 5 paragraph 7 of that document. “Furthermore, if not,” –
 6 that is if they did not disarm themselves, “We have to
 7 respond as planning by encircling the koppies, disarm the
 8 miners and arrest them. The said TRT will be followed up
 9 to POPs by backing them up. Taskforce to approach the back
 10 koppie and disarm the miners and NIU to take the smaller
 11 koppie and TRT the smaller one.” Do you stand by that
 12 statement?
 13 COLONEL CLASSEN: No, Mr Chair, I think
 14 that should be where we are doing the smaller koppie,
 15 because NIU was supposed to do that with taskforce, the big
 16 koppie.
 17 MR BIZOS SC: Be that as it may, in
 18 substance, was the plan to surround, disarm and arrest?
 19 Was that the plan?
 20 COLONEL CLASSEN: Maybe I got my wording
 21 wrong, but it’s more based on dispersing them into smaller
 22 groups and then encircle and arrest. MR BIZOS SC:
 23 Do you agree that that is a document that you signed and
 24 what you said there under oath was correct?
 25 COLONEL CLASSEN: That’s correct, Mr

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1 Chair.
 2 MR BIZOS SC: Yes. Now can we go to
 3 paragraph 8 of the same document. “After receiving my
 4 briefing, I called my members, who was – who was repeated,
 5 then accompanied by PHTRT and Soweto TRT to be briefed. I
 6 told them what the plan was and that if anything should go
 7 wrong, the rules of engagement must be considered strictly.
 8 Also adding that in our case we don’t act, we react, should
 9 anything go wrong, which I doubted. I also added that
 10 should there be a situation where shooting should occur
 11 that we should go below the knee.” Did you sign the
 12 document and was that correct?
 13 COLONEL CLASSEN: That’s correct, Mr
 14 Chair.
 15 MR BIZOS SC: Yes. Now, and then in
 16 paragraph 9, “The group was under Captain Thupe, Captain
 17 Loest, and Captain Mohlati. I then briefed my members
 18 again.” Did you give the same briefing?
 19 COLONEL CLASSEN: Yes, I did, Mr Chair.
 20 MR BIZOS SC: And can we go to paragraph
 21 7 of exhibit RRR11? Where there is substantially the same
 22 statements made, except with one important, we will submit,
 23 statement, which was omitted. If you compare paragraph 7
 24 with paragraph 8 of the previous statement, the words, “I
 25 also added that should there be a situation where shooting

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1 should occur, that we should go below the knee." Do you
 2 agree that whoever drew up the RRR11, omitted that
 3 important sentence?
 4 CHAIRPERSON: Before you answer the question, I
 5 want to ask you something which may be relevant to the
 6 answer. It seems to have been accepted at this Commission
 7 up to now that RRR10 is the second statement – sorry, is
 8 the first statement and RRR11 is the second statement, in
 9 which case the omission of that sentence would be
 10 important, but I must confess that's not the way I read
 11 it. It seems to me that RRR11 was in fact dated on the 25th
 12 of January and RRR10, on my copy, appears to have been
 13 dated on the 27th. Now, if that's so, that means that RRR11
 14 came first and then RRR10 came, and if that's correct, that
 15 sentence to which Mr Bizos has referred would not have been
 16 omitted, but added. Now can you tell us which – what
 17 happened. Was that sentence, the end of eight of RRR10,
 18 was that added to an earlier statement, or was it deleted
 19 from an earlier statement? In other words – and that
 20 depends upon the question as to whether RRR10 is the first
 21 statement and RRR11 is the second, or vice versa, you
 22 understand the question?
 23 COLONEL CLASSEN: I understand you, Mr
 24 Chair.
 25 CHAIRPERSON: What's the answer?

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1 COLONEL CLASSEN: When I got my statement
 2 back, the one without the last sentence where it's stated
 3 that go below the knee, I saw that it wasn't there and I
 4 said, but that's not my statement. That's not how it is,
 5 and it is therefore that I requested that this is how it
 6 happened and that's what I stated.
 7 CHAIRPERSON: Does that mean then that RRR10 is
 8 the second statement and RRR11 is the first?
 9 COLONEL CLASSEN: Okay, RRR10, being the
 10 one that's written on the –
 11 CHAIRPERSON: RRR10 is the one that's got below
 12 the knee, and according to the date at the end was the 27th
 13 of November.
 14 COLONEL CLASSEN: Yes.
 15 CHAIRPERSON: And RRR10 is the one that hasn't got
 16 below the knee and according to the dates, it was on the
 17 25th of November.
 18 COLONEL CLASSEN: That's correct, Mr
 19 Chair.
 20 CHAIRPERSON: The one is 25 January and the other
 21 is 27 January. The 25 January one is RRR10 and the 27
 22 January one is – no, I've got it wrong. The 25th of January
 23 is RRR11 –
 24 MR BIZOS SC: January 2014, Mr Chairman.
 25 CHAIRPERSON: Yes, they're both 2014. Anyway, let

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1 me try once more and get it right. RRR11 is 25 January
 2 2014, and that doesn't include the below the knee. RRR10
 3 is the 27th of January, both of them 2014 of course, 27th of
 4 January and that does contain below the knee.
 5 COLONEL CLASSEN: That is correct, Mr
 6 Chair.
 7 [14:22] MR BIZOS SC: Well, be that as it may,
 8 have you any explanation why this important sentence is the
 9 one statement and not in the other?
 10 COLONEL CLASSEN: No I have no
 11 explanation to that. It's therefore that I added it when I
 12 saw it wasn't there.
 13 MR BIZOS SC: But you say that the last
 14 sentence of RRR10 is correct, "I also added that should
 15 there be a situation where shooting should occur that we
 16 should go below the knee." You stand by that.
 17 COLONEL CLASSEN: That's correct, Mr
 18 Chair.
 19 MR BIZOS SC: Now didn't you make a
 20 statement shortly after the event? Because I query the
 21 date of 27, it doesn't look – it looks 27-01-24 ja, but I
 22 don't know who may have filled it in because it appears to
 23 be put in not at a place where one would have expected the
 24 date to be put. But be that as it may your acceptance that
 25 shooting should occur that we should go below the knee

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1 shows that you had an understanding of the standing orders
 2 and the caution with which human life has to be protected
 3 as required by the standard orders and the common law. Is
 4 that correct?
 5 COLONEL CLASSEN: That's correct, Mr
 6 Chair.
 7 MR BIZOS SC: Now you know to your
 8 credit, Colonel, that you are, as far as my memory goes,
 9 that actually has said on oath that that was part of the
 10 briefing, your colleagues have not included it in the plan
 11 as far as I can remember. They have not used or they have
 12 not told the Commission that they instructed the people
 13 with the firearms that they have to be used in the manner
 14 in which you say you briefed your team. Can you possibly
 15 explain why this was not done by your colleagues?
 16 COLONEL CLASSEN: No, I cannot explain
 17 why it was not done by my colleagues.
 18 MR BIZOS SC: You were briefed by Colonel
 19 Scott, did he tell you to utter that briefing or did you
 20 rely on your knowledge and experience because I see from
 21 your Curriculum Vitae that you have considerable training
 22 on crowd management. Did Mr Scott, when he briefed you,
 23 remind you of this caution that has to be exercised
 24 shooting below the knee?
 25 COLONEL CLASSEN: No, I was not reminded

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1 by any of my colleagues, Mr Chair.
 2 MR BIZOS SC: Yes. Now you were one of
 3 the commanders were you?
 4 COLONEL CLASSEN: I was, Mr Chair.
 5 MR BIZOS SC: You were?
 6 COLONEL CLASSEN: That's correct, Mr
 7 Chair.
 8 MR BIZOS SC: You didn't fire.
 9 COLONEL CLASSEN: No I did not fire, Mr
 10 Chair.
 11 MR BIZOS SC: You said because your hand
 12 was injured.
 13 COLONEL CLASSEN: That's correct, Mr
 14 Chair.
 15 MR BIZOS SC: If you don't mind, how
 16 serious an injury was it?
 17 COLONEL CLASSEN: So serious that I was
 18 using my left hand only to hold only the hand radio.
 19 MR BIZOS SC: You were the commander of
 20 an important unit armed with arms that could be used to
 21 kill a great number of people yet you couldn't use your arm
 22 but you had a firearm. What was the firearm that you had?
 23 COLONEL CLASSEN: It was a pistol, my
 24 sidearm.
 25 MR BIZOS SC: A personal, is that a

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1 pistol?
 2 COLONEL CLASSEN: That's correct, Mr
 3 Chair.
 4 MR BIZOS SC: Now what would have
 5 happened if your life was in danger?
 6 COLONEL CLASSEN: I was going to attempt
 7 to use it but at that stage I couldn't.
 8 MR BIZOS SC: No, but you accepted
 9 command, you accepted command of being the commander of
 10 people, your life might have been in danger, you must have
 11 been - generally speaking commanders are in the forefront
 12 aren't they?
 13 COLONEL CLASSEN: That's correct, Mr
 14 Chair.
 15 MR BIZOS SC: Who would have protected
 16 you? I would have thought if it was a serious injury
 17 you'd say excuse me, I'll take sick leave. Take off.
 18 You're putting me in a situation where there is a
 19 possibility of my being injured and I am with so sore an
 20 arm that I can't use my defence weapon. Please excuse me,
 21 I will not take part in this.
 22 COLONEL CLASSEN: Is that what you could
 23 have done, Sir?
 24 MR BIZOS SC: I'm asking you whether that
 25 would not have been the sensible thing that you ought to

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1 have done if in fact you were so injured that you couldn't
 2 perform your duties.
 3 COLONEL CLASSEN: Yes, Mr Chair, it could
 4 have been a sensible thing but also again circumstantial.
 5 MR BIZOS SC: I see. Now -
 6 CHAIRPERSON: You haven't answered the
 7 question. What would you have done if you felt your own
 8 life was under threat. Now if you'd been alone, by
 9 yourself, you would have had a problem if you had to try to
 10 shoot with your pistol with your left hand. Is that right?
 11 COLONEL CLASSEN: That's correct, Mr
 12 Chair.
 13 CHAIRPERSON: But in the presence of
 14 colleagues or people under you, did you feel the same
 15 degree of danger that you would have felt if you'd been by
 16 yourself?
 17 COLONEL CLASSEN: No, I know I was
 18 surrounded by colleagues, Mr Chair.
 19 MR BIZOS SC: Yes. Now what is the duty
 20 of a commander in terms of the Standing Orders in relation
 21 to use of force at a gathering?
 22 COLONEL CLASSEN: It's that it should be
 23 proportionate.
 24 MR BIZOS SC: Well we'll come to
 25 proportionality but before we get to proportionality do you

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1 remember the standing order saying that there is not to be
 2 lethal force used without a command from the commander?
 3 COLONEL CLASSEN: I remember that, Mr
 4 Chair.
 5 MR BIZOS SC: If you and your team were
 6 in danger would it have been your duty to direct the manner
 7 in which the lethal force was to be used?
 8 COLONEL CLASSEN: Yes, according to the
 9 Standing Order that's how it should be, Mr Chair.
 10 MR BIZOS SC: Yes. Did you give a
 11 command we are all in danger, shoot?
 12 COLONEL CLASSEN: No, I did not give that
 13 command, Mr Chair.
 14 MR BIZOS SC: Was that because you did
 15 not feel that you were in danger nor your team?
 16 COLONEL CLASSEN: No, that's not the
 17 reason, Mr Chair.
 18 MR BIZOS SC: Why is it not correct? Why
 19 did you leave it to your team when the Standing Orders say
 20 that that is your duty?
 21 CHAIRPERSON: What does the Standing
 22 Order say? Where is the passage in the Standing Order upon
 23 which you rely?
 24 MR BIZOS SC: Oh yes, Mr Chairman. If
 25 you give me a moment I will read it out.

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1 CHAIRPERSON: Of course.
 2 MR BIZOS SC: 11 sub 5. "Force may only
 3 be used on the command or instruction of the CJOC or
 4 operational commander if appointed. Members may never act
 5 individually without receiving command from their
 6 commander."
 7 CHAIRPERSON: So he understands do you
 8 think you should put sub- paragraph 7 to him as well?
 9 MR BIZOS SC: No, Mr Chairman, I will
 10 come to that but it's a matter for argument that common law
 11 principles of self defence properly interpreted a
 12 submission is against the suggestion that the common law
 13 can be ignored by people who act on their own initiative.
 14 And there are cases which we will refer to, Mr Chairman, as
 15 to –
 16 CHAIRPERSON: I understand that but at
 17 the moment you're busy asking the witness a question. I
 18 just thought as a matter of fairness you should put 7 to
 19 him. As a matter of fact you should also put sub 4 to him
 20 also because it may be, I think it will be argued later,
 21 that the word force in 5 means – has to be read in the
 22 context of 4.
 23 MR BIZOS SC: Mr Chairman, with respect,
 24 I don't want to argue with interpretations of our common
 25 law or the interpretations of the – one thing is clear that

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1 reading the sub-paragraphs including 5 and 7 and the cases
 2 that are there for all of us to read, that the force is to
 3 be used the way that the witness understood it as well. He
 4 said that it must proportionate and it must be this, that
 5 and the other and we'll go through the catalogue. But I
 6 submit, with respect, that it is no answer for the witness
 7 to say that in view of paragraph 7 I was not obliged to
 8 make a command if there was danger.
 9 CHAIRPERSON: Well shouldn't we let the
 10 witness give the answer he wants to give and whether it's
 11 an acceptable answer is something that can be argued at the
 12 end of the matter.
 13 MR BIZOS SC: Well, Mr Chairman, I expect
 14 the witness to say on what basis he relinquished the duty
 15 of the commander expected of him under sub 5.
 16 CHAIRPERSON: Yes, you're putting the
 17 question on a basis of an assumption which may not be
 18 correct. You talk about his relinquishing a duty that
 19 presupposes he had a duty and so the first question is
 20 whether he had a duty. If he didn't have a duty the
 21 question falls away. If he did have a duty then the
 22 question can be proceeded with.
 23 MR BIZOS SC: Well the duty, with
 24 respect, Mr Chairman, is may only be used on the command or
 25 instruction of the commander.

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1 CHAIRPERSON: But this order doesn't
 2 apply, it doesn't delegate from or affect the common law
 3 principles of self or private defence, that's what 7 says.
 4 So you've got to read 5 against the background of 7 but
 5 then to further question is what is meant by force in 5.
 6 Force seems to mean that even such things as the use of 37
 7 millimetre stoppers isn't allowed even on the command or
 8 instruction because that's prohibited. The same applies to
 9 the use of firearms and sharp ammunition. That's
 10 prohibited in terms of 4B. So even if you read that
 11 together with 5, even the CJOC or operational commanders,
 12 as I understand, isn't permitted to command someone to use
 13 his firearm because that's prohibited, with live
 14 ammunition. Now that's prohibited under 4B and then having
 15 stated that absolute prohibition which applies even to the
 16 CJOC and the operational commander, 7 then creates an
 17 exception. So when you say he had a duty, you put to him
 18 he had a duty to command if force is to be used then as I
 19 read the – and I must put this to you now, it's obviously a
 20 prima facie to you, but I must put it to you at this stage,
 21 as I see it, never mind the operation commander or CJOC,
 22 this witness, as commander, didn't have the power or
 23 authority to give a command that firearms and sharp
 24 ammunition should be used. That's the way it seems to me
 25 but I don't see how you can put a question to him based on

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1 the assumption that he had a duty which, as I see it, he
 2 didn't have.
 3 MR BIZOS SC: Well may I leave the duty
 4 out of the question? Did you not fear for your own life
 5 and in order to give an order that would protect you and
 6 your team?
 7 COLONEL CLASSEN: Yes I did, Mr Chair.
 8 MR BIZOS SC: Now you see I am going to
 9 suggest to you, Colonel, that the reason why you did not
 10 give an order –
 11 CHAIRPERSON: Mr Bizos, you've got five
 12 minutes but I'll give you an extra five because of this
 13 exchange you and I have had but you've got ten minutes.
 14 MR BIZOS SC: Thank you, Mr Chairman.
 15 Colonel, that none of the commanders that have given
 16 evidence before this Commission have taken personal
 17 responsibility for any of the deaths and I'm going to put
 18 to you that you are joining this group by saying well my
 19 arm was sore. And this is why I didn't shoot. You haven't
 20 got a valid excuse as to why you did not order the shooting
 21 if your life and your team's, members of your team's lives
 22 were in danger.
 23 COLONEL CLASSEN: Yes, Mr Chair, I could
 24 not order that.
 25 MR BIZOS SC: You could not order it.

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1 Then weren't you taking a chance that you may be shot or
 2 hit with a panga?
 3 COLONEL CLASSEN: Just repeat that
 4 please, Mr Chair.
 5 MR BIZOS SC: Were you not scared that
 6 you may be shot or hit with a panga and that your self
 7 defence would be to call on your colleagues to protect you?
 8 COLONEL CLASSEN: I was very scared, Mr
 9 Chair.
 10 MR BIZOS SC: But you didn't call for
 11 people to shoot.
 12 COLONEL CLASSEN: No, I could not do
 13 that, Mr Chair.
 14 MR BIZOS SC: Yes, now also to your
 15 credit you have not told us that part of your briefing was
 16 to describe the crowd as criminals, unruly and other sort
 17 of adjectives of that nature of did you?
 18 COLONEL CLASSEN: No, I did not. I did
 19 not think they were criminals and unruly and whatever you
 20 mention it, no, Sir.
 21 MR BIZOS SC: Now as a person who knows
 22 the Standing Orders and the practise that ought to be, what
 23 do you say is the effect of your colleagues making such
 24 allegations against the crowd as a whole?
 25 COLONEL CLASSEN: I don't know of these

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1 allegations.
 2 CHAIRPERSON: I'm not sure that I should
 3 allow that question, I'm not sure where his opinion is.
 4 Sorry, I'm sure of the relevance of his opinion in relation
 5 to the appropriateness of his colleagues making comments of
 6 that kind. We know some of them did and it will be a
 7 matter for argument later but I'm not sure that his opinion
 8 on the matter and I intend no disrespect to him, but I
 9 don't think his opinion of the matter adds anything to the
 10 discussion. A matter that can be argued fully at the end.
 11 I'm putting it to you so you can deal with it.
 12 [14:41] MR BIZOS SC: Mr Chairman, this is a
 13 person who knows how the crowd should be dealt with and he
 14 has told us that he has the experience and he actually
 15 showed it in some way by saying shoot below the knee. I am
 16 entitled to put to him, what did you think the effect of
 17 that sort of statement would have on a crowd.
 18 CHAIRPERSON: You don't mean on a crowd,
 19 you mean on the police –
 20 MR BIZOS SC: I beg your pardon, on the
 21 police force vis-à-vis the crowd.
 22 COLONEL CLASSEN: Can you just put it
 23 again to me, sir?
 24 CHAIRPERSON: The question is this, you
 25 yourself didn't say to your men who were under your

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1 command, these people are dangerous criminals. You didn't
 2 say that. You said nothing about that at all. Now the
 3 evidence indicates that some of your colleagues, your
 4 fellow commanders did mention that to the people who were
 5 under their command. I'm not sure whether it was done, in
 6 the one case I'm thinking of, whether it was done directly
 7 or whether it was done in answer to a question asked by one
 8 of the members but I'm reminded that the evidence is,
 9 certainly in some cases or one case at least, that it was
 10 actually part of the briefing. Now Mr Bizos says to you,
 11 accepting for the moment that one or more of your fellow
 12 commanders gave a briefing along those lines that these
 13 people are dangerous people, they're in possession of
 14 dangerous weapons and so on, possibly firearms, was that an
 15 appropriate fact or factor to include in the briefing? Is
 16 that your question, Mr Bizos?
 17 MR BIZOS SC: That is the question, Mr
 18 Chairman.
 19 COLONEL CLASSEN: It was but it wasn't
 20 important for me to put it to my members because I want
 21 them to have a clear way of thinking when they're doing
 22 things.
 23 MR BIZOS SC: Yes. Now because of your
 24 repeated, repeated acceptance of the propositions put to
 25 you by my learned friend based upon the statements of Mr

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1 White, have you been told about the statement made by Mr
 2 Hendrickx?
 3 COLONEL CLASSEN: No, I don't know of the
 4 statement but I – no, I don't know of it.
 5 MR BIZOS SC: Well, I want to assure you
 6 that Mr Hendrickx is on the same page of Mr White in a
 7 lengthy statement of 120-odd pages that the conduct of the
 8 police on the 16th was contrary to the expected behaviour of
 9 the police in relation to crowd control.
 10 CHAIRPERSON: Mr Bizos, that question is
 11 very general. I don't know how the witness can be expected
 12 to deal with it unless you particularise.
 13 MR BIZOS SC: Well, let me –
 14 CHAIRPERSON: You've got five minutes
 15 left to particularise if you wish.
 16 MR BIZOS SC: Yes. Well, what I want to
 17 say to you, because you have agreed with Mr White, I want
 18 to inform you that another world expert agrees with those
 19 views. Now accept that for a moment and I want to ask you,
 20 do you think that things went wrong at Marikana on the 16th
 21 or not?
 22 COLONEL CLASSEN: I'm trying to think, at
 23 the specific moment or just in general?
 24 MR BIZOS SC: Well, let's deal with what
 25 happened. 34 deaths, is that a successful operation?

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1 COLONEL CLASSEN: No, because it didn't
 2 go according to the plan. That wasn't the plan, to kill.
 3 MR BIZOS SC: I'm sorry, just repeat
 4 that?
 5 CHAIRPERSON: He says it wasn't a
 6 successful operation because it didn't go according to plan
 7 because it wasn't part of the plan to kill.
 8 MR BIZOS SC: I see.
 9 CHAIRPERSON: So he agrees with your
 10 proposition that it was not a successful operation.
 11 MR BIZOS SC: Very well. You mentioned
 12 the question of proportionality. What do you understand by
 13 proportionality?
 14 COLONEL CLASSEN: Only that the force
 15 used must be almost in line with the threat that comes
 16 towards you.
 17 MR BIZOS SC: Now this group of
 18 protesters consisted of, some say 3 000, some say 4 000,
 19 some even say 5 000. There are general paragraphs in a
 20 number of statements that there were expressly or
 21 impliedly, that they were all armed. Let's start with
 22 that. Was everyone armed that was there on the day?
 23 COLONEL CLASSEN: I wouldn't know because
 24 I did not see all of them, Mr Chair.
 25 MR BIZOS SC: Well, you saw the crowd.

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1 Were they all armed?
 2 COLONEL CLASSEN: As I say again, I did
 3 not see each one of them but the people that I see were
 4 armed, saw that were armed.
 5 MR BIZOS SC: But you see surely, have
 6 you got special sight that only sees people with arms and
 7 you can't see the people who haven't got arms, is that what
 8 you are saying?
 9 COLONEL CLASSEN: No, I don't have that
 10 special sight.
 11 MR BIZOS SC: I beg your pardon?
 12 CHAIRPERSON: He says he hasn't got
 13 special arms. So are you saying that you saw some people
 14 with arms, there were other people there, you couldn't see
 15 whether they had arms or not. Is that what you're saying?
 16 COLONEL CLASSEN: That is what I'm
 17 saying, Mr Chair.
 18 CHAIRPERSON: Mr Bizos, your time is up
 19 but I'll allow you to ask one more question based on the
 20 proportionality that you wanted to ask.
 21 MR BIZOS SC: Yes. Well, you know the
 22 proportionality and the other questions that I would have
 23 asked if I had the time clearly show that there were 34
 24 deaths, 76 serious injuries, not a scratch on any
 25 policeman. How is that for a proportional?

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1 COLONEL CLASSEN: I wish I could answer
 2 that, Mr Chair. I can't say anything based on that.
 3 CHAIRPERSON: That's your time up then,
 4 Mr Bizos, thank you.
 5 MR BIZOS SC: Thank you.
 6 CHAIRPERSON: Ms Pillay, how long are you
 7 likely - you're next, aren't you, how long are you likely
 8 to be?
 9 MS PILLAY: I am, Chair. Probably around
 10 45 minutes, Chair.
 11 CHAIRPERSON: So it's probably sensible
 12 to take tea now.
 13 MS PILLAY: I think -
 14 CHAIRPERSON: And then you can commence
 15 your cross-examination.
 16 MS PILLAY: I think it is, Chair.
 17 CHAIRPERSON: Right, we'll take tea now
 18 and we'll try to be back by five past three.
 19 [COMMISSION ADJOURNS COMMISSION RESUMES]
 20 [15:08] CHAIRPERSON: Lieutenant-Colonel, you're
 21 still under oath.
 22 LITTLE JOE RONNY CLASSEN: (s.u.o.)
 23 CHAIRPERSON: Ms Pillay.
 24 CROSS-EXAMINATION BY MS PILLAY: Thank
 25 you, Chair. Lieutenant-Colonel, I think I'd like to start

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1 with covering just one important general principle with
 2 you, and that is one of the importance of command and
 3 control in an operation. Now you will accept, Colonel,
 4 that effective command and control of an operation is key
 5 to ensuring the success of that operation?
 6 COLONEL CLASSEN: That's correct, Mr
 7 Chair.
 8 MS PILLAY: And centralised control vests
 9 in the operational commander who exercises command and
 10 control over all members by issuing commands to the unit
 11 commanders, who in turn issue commands to the members
 12 within their units.
 13 COLONEL CLASSEN: That's correct, Mr
 14 Chair.
 15 MS PILLAY: And in an operation like the
 16 Marikana operation, which involved specialised units across
 17 the spectrum, the operational commander exercises ultimate
 18 command and control over these units, irrespective of
 19 whether the units are highly specialised or not. So
 20 irrespective of whether the units are STF, TRT, NIU or POP,
 21 he exercises ultimate command and control over all the
 22 units.
 23 COLONEL CLASSEN: That's correct, Mr
 24 Chair.
 25 MS PILLAY: Now bearing this in mind,

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1 Colonel, you will agree that the success of any operation
 2 depends on whether the commands issued by the operational
 3 commander are clear and concise not only in terms of what
 4 is to be done by the specific units, but by who has to do
 5 it.
 6 COLONEL CLASSEN: That is correct, Mr
 7 Chair.
 8 MS PILLAY: Now we know that in the
 9 context of Marikana, which was unusually complex, there
 10 were an unusually high number of members deployed. Do you
 11 agree?
 12 COLONEL CLASSEN: That's correct.
 13 MS PILLAY: And we know that Brigadier
 14 Calitz is a highly experienced operational commander.
 15 COLONEL CLASSEN: That's correct.
 16 MS PILLAY: And in that context we can
 17 accept that Brigadier Calitz would be aware in a
 18 multidisciplinary context that for him to exercise
 19 effective command and control, that his command must be
 20 clear in terms of who it is directed to and what those
 21 people are expected to do.
 22 COLONEL CLASSEN: That is also correct,
 23 Mr Chair.
 24 MS PILLAY: Now Lieutenant-Colonel,
 25 against that background can we just turn to your statements

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1 that you have deposed to, and before we do, can we just
 2 emphasise, Lieutenant-Colonel, that you're a commander in
 3 one of the specialised units?
 4 COLONEL CLASSEN: That's correct.
 5 MS PILLAY: And you are aware of the
 6 importance of this Commission?
 7 COLONEL CLASSEN: I'm aware of that, Mr
 8 Chair.
 9 MS PILLAY: And you're aware that any
 10 outcome of this Commission may have a fundamental impact on
 11 the lives and livelihoods of many people inside and outside
 12 of members of SAPS?
 13 COLONEL CLASSEN: That's correct, Mr
 14 Chair.
 15 MS PILLAY: And you're aware that your
 16 evidence as a commander within a specialised unit of SAPS,
 17 that your evidence is crucial for this Commission?
 18 COLONEL CLASSEN: I'm also aware of that,
 19 Mr Chair.
 20 MS PILLAY: Now when you deposed to RRR10
 21 and RRR11 earlier this year, in January of this year, I am
 22 certain, Colonel, that you did that bearing in mind that
 23 you were producing important evidence for this Commission?
 24 COLONEL CLASSEN: I did so, Mr Chair.
 25 MS PILLAY: And as such you would have

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1 been very careful in your approach to your statements?
 2 COLONEL CLASSEN: That's correct.
 3 MS PILLAY: You would have looked at the
 4 details very carefully?
 5 COLONEL CLASSEN: That's correct.
 6 MS PILLAY: And only once you were
 7 satisfied that the details in your statement, that they
 8 were correct, would you then have put your signature to
 9 those statements?
 10 COLONEL CLASSEN: I also agree with that,
 11 Mr Chair.
 12 MS PILLAY: Now you've already
 13 demonstrated today, Lieutenant-Colonel, that in fact you
 14 are very careful with your statements. We know that you
 15 deposed to RRR10 after you went through RRR11 and picked up
 16 certain things that you wanted to change.
 17 COLONEL CLASSEN: That's correct.
 18 MS PILLAY: So we can be sure when we
 19 look at RRR10 that whatever is in those statements is
 20 exactly what you intended to be there?
 21 COLONEL CLASSEN: That's correct, Ma'am.
 22 MS PILLAY: And specifically, Colonel,
 23 when it comes to the question of a command issued by the
 24 operational commander, that you would be careful to make
 25 sure that you properly portray that command in your

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1 statement?
 2 COLONEL CLASSEN: That correct, Ma'am.
 3 MS PILLAY: Now if we look at RRR10, at
 4 paragraph 10 thereof, and we pick up from the end of line
 5 2, Colonel, we see that you say "While waiting, Brigadier
 6 Calitz said on the radio 'TRT, move in.'" Do you see that?
 7 COLONEL CLASSEN: I see that, Mr Chair.
 8 MS PILLAY: And you will confirm,
 9 Colonel, that this is an important command?
 10 COLONEL CLASSEN: That's correct, Ma'am.
 11 MS PILLAY: That had far-reaching
 12 consequences because of TRT's involvement in the subsequent
 13 shooting.
 14 COLONEL CLASSEN: I agree with that,
 15 Ma'am.
 16 MS PILLAY: So when you deposed to the
 17 statement we can accept that you were correct, that was a
 18 correct reflection of your recollection that Brigadier
 19 Calitz said on the radio, "TRT, move in"?
 20 COLONEL CLASSEN: Yes, it was also based
 21 on the fact that I was under the impression that the
 22 operational commander was talking because he's the only one
 23 that can give these type of commands.
 24 MS PILLAY: So we can accept that your
 25 recollection is that Brigadier Calitz, the operational

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1 commander, said over the radio, "TRT, move in"?

2 COLONEL CLASSEN: I'm not going to go

3 hundred percent on it, but that's what I heard. That's

4 what I heard, Ma'am.

5 MS PILLAY: That's right. We can accept

6 that that's what you heard.

7 COLONEL CLASSEN: That's correct, Ma'am.

8 MS PILLAY: Now can we just turn to a

9 second difference that we pick up in your statements,

10 Lieutenant-Colonel, and that is around the reason that you

11 came to Marikana.

12 COLONEL CLASSEN: Yes, Ma'am.

13 MS PILLAY: Now in your earlier

14 statement, which is RRR11, in paragraph 2 of that statement

15 you say there that you received a call from Warrant Officer

16 Ntombela that he was supposed to report back for duty at

17 Marikana at 6 o'clock in the morning, that you took the

18 view that Warrant Officer Ntombela was tired, that he was

19 exhausted, him and his crew were exhausted and that it was

20 impossible for them to continue. Do you see that?

21 COLONEL CLASSEN: I can see that, Mr

22 Chair.

23 MS PILLAY: And you say that your

24 observation was that it was impossible for him to report

25 for duty the next morning in Marikana and for that reason

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1 you offered to take his place and arrange a crew.

2 COLONEL CLASSEN: That's correct, Chair.

3 MS PILLAY: Now if we look at RRR10,

4 Colonel, which is your subsequent statement, and we go to

5 paragraph 3 of the statement, we see, Colonel, that you

6 offer a reason for coming to Marikana that's related to

7 impossibility rather than exhaustion. You say, "He

8 received a call from Brigadier Woodman telling them to be

9 there the following day at 6 o'clock in the morning. This

10 was not possible because he was called before 11 o'clock

11 and they were still to reach Katilehong and still drop off

12 members of which would leave them only one hour to wash and

13 drive back."

14 COLONEL CLASSEN: That's correct, Ma'am.

15 MS PILLAY: Now can you tell us, Colonel,

16 why you changed the explanation from your assessment that

17 Warrant Officer Ntombela was exhausted and therefore

18 couldn't report for duty at Marikana?

19 COLONEL CLASSEN: Well, I was just trying

20 to make it clear. For me it was still based on the fact

21 that he'd be tired.

22 MS PILLAY: So you maintain the

23 explanation that had it not been for your intervention,

24 that the exhausted Warrant Officer Ntombela would have been

25 expected to report for duty in Marikana the next morning?

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1 COLONEL CLASSEN: That is correct, Ma'am.

2 MS PILLAY: Now can I just get an

3 understanding from you, Colonel; why would you intervene to

4 prevent an exhausted crew from going on duty at 6 o'clock

5 in Marikana?

6 COLONEL CLASSEN: I wouldn't want my

7 members to make mistakes. They were under my command and I

8 just think it's the right thing to do.

9 MS PILLAY: So if I understand your

10 evidence you're saying that an exhausted, if they were

11 exhausted they would be more prone to making mistakes in

12 the field?

13 COLONEL CLASSEN: That is correct, not

14 just in the field, it also includes driving back. We are

15 from Katilehong, which is on the East Rand. So it's a bit

16 far away from us.

17 MS PILLAY: Thank you, Colonel. Now if

18 we can just get back to the operation on the 16th; you say

19 in your statements that you were deployed to Marikana with

20 three vehicles and eight members. Is that correct?

21 COLONEL CLASSEN: That's correct, Ma'am.

22 MS PILLAY: And you say that when you

23 arrived in Marikana you were given a briefing by Captain

24 Kidd?

25 COLONEL CLASSEN: That is also correct,

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1 Ma'am.

2 CHAIRPERSON: But the briefing was a very

3 succinct one; it was merely that you were based in forward

4 holding area 1 with General Naidoo?

5 COLONEL CLASSEN: That's correct, it was

6 very short also.

7 MS PILLAY: And when you arrived in

8 forward holding area 1 you were also given a very short

9 briefing by General Naidoo?

10 COLONEL CLASSEN: Negative – or just

11 repeat that.

12 MS PILLAY: You were given a very short

13 briefing by General Naidoo?

14 COLONEL CLASSEN: Where is that? At

15 forward holding area 1?

16 MS PILLAY: Yes.

17 COLONEL CLASSEN: That's correct, Ma'am.

18 MS PILLAY: And all he said to you was

19 that you were the backup group and if anything goes wrong

20 then you would be required to take action?

21 COLONEL CLASSEN: That is also correct,

22 also to, just to supplement the members of Captain Loest

23 and them because they were standing off right there by the

24 koppie.

25 MS PILLAY: So we know that the first

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1 full and comprehensive briefing you received is the one
 2 that was given at half past 2 by Colonel Scott on the 16th.
 3 COLONEL CLASSEN: That is correct, Ma'am.
 4 MS PILLAY: I'm sorry I have to do this,
 5 but there was a certain lack of clarity earlier around
 6 exactly what was the nature of Colonel Scott's briefing, so
 7 if I can ask you to tell us as clearly as you can the
 8 briefing that was given at half past 2 by Colonel Scott,
 9 what was the role and responsibility of TRT as explained by
 10 Colonel Scott?
 11 COLONEL CLASSEN: The role of TRT was to
 12 give backup to POPS, to assist them within the dispersal,
 13 arrest and encirclement of the crowds after they've been
 14 dispersed into smaller groups, and after that we were
 15 supposed to go and sweep the smaller koppie.
 16 MS PILLAY: Now as it part of the
 17 briefing that the TRT had to form a basic line?
 18 COLONEL CLASSEN: Not that I can recall.
 19 I can't really recall that we had to form a basic line, but
 20 from how we took it, for the mere fact that POPS was going
 21 to be in front of us, it was going to be better for us to
 22 form a basic line behind them.
 23 MS PILLAY: But if I understand your
 24 testimony, your understanding of the plan was that the POP
 25 would go through the small corridor that was created by

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1 Nyala 6 onto the koppies and that the TRT would follow
 2 them.
 3 COLONEL CLASSEN: Yes, Ma'am, POPS was
 4 supposed to go through and then not onto the koppie. We
 5 were supposed to sweep the koppie. The guys were just
 6 supposed to be dispersed round about there at the koppie.
 7 MS PILLAY: So on that understanding of
 8 the plan, where was the basic line to be formed?
 9 COLONEL CLASSEN: Behind POPS.
 10 MS PILLAY: But that's once you had
 11 passed through the corridor?
 12 COLONEL CLASSEN: That is correct, Ma'am.
 13 MS PILLAY: Captain Thupe testified that
 14 his understanding of the briefing by Colonel Scott was that
 15 the basic line was to form after the barbed wire was rolled
 16 out. Do you have the same understanding of the briefing?
 17 COLONEL CLASSEN: Yes, what you need to
 18 understand, Ma'am, it's that remember it was supposed to be
 19 rolled out until 6 and then POPS will be in front of us
 20 also in a basic line and we will be at the back of them.
 21 So it was first before that and then we were going to go
 22 around to give the miners a chance to make a decision
 23 whether they're going to disperse or not.
 24 MS PILLAY: And before the barbed wire
 25 was rolled out, was there to be a basic line formed in

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1 terms of the briefing?
 2 COLONEL CLASSEN: Not that I can
 3 remember, Ma'am.
 4 MS PILLAY: Now in terms of the role of
 5 TRT, Captain Loest testified that your role was purely a
 6 supportive role to POP, that you were merely there as
 7 backup. Does that accord with your understanding of the
 8 briefing?
 9 COLONEL CLASSEN: That is correct, Ma'am.
 10 MS PILLAY: Now you indicate that your
 11 understanding was that each of the three koppies was
 12 allocated to a separate specialised unit. Now was that
 13 also shared during the briefing by Colonel Scott?
 14 COLONEL CLASSEN: Yes, it was shared.
 15 Where I think I made a mistake was when I said three
 16 koppies. We were not aware of the three koppies. We're
 17 actually talking about two koppies.
 18 MS PILLAY: So you've allocated a koppie
 19 to STF, to NIU, and to TRT. So which of the three did you
 20 make a mistake with?
 21 COLONEL CLASSEN: NIU and Task Force were
 22 supposed to take the biggest one and then we were supposed
 23 to take the smaller one.
 24 MS PILLAY: Now can I ask you to look at
 25 RRR11, at paragraph 6 where you discuss the briefing by

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1 Colonel Scott. You say there that you were moving in
 2 tactically, that "By 15:00 we would be moving in
 3 tactically." Now can you tell us what you mean by that?
 4 COLONEL CLASSEN: Tactically in a sense
 5 that now we will be – how could I say? – we're moving over
 6 to stage 3. In other words this is when we will probably
 7 go over to form our lines and then execute our plan.
 8 MS PILLAY: Now this reference to moving
 9 in tactically is one more of the references that we find
 10 missing from RRR10. Can you explain why, Colonel?
 11 COLONEL CLASSEN: Yes, Ma'am, it's a
 12 manner of speaking within the police. You know you'll say
 13 tactically and then you'll try and explain it to people
 14 that look, this is, this is it.
 15 MS PILLAY: Now in terms of the
 16 dispersion that was to take place once the barbed wire was
 17 deployed, can you just give me your understanding of the
 18 briefing that took place? How was the POP to disperse the
 19 people?
 20 COLONEL CLASSEN: Okay, first they were
 21 supposed to talk to the people and inform them, give the
 22 people a chance to, you know, to disperse, and then from
 23 there if they refused water cannon were supposed to be
 24 utilised, rubber rounds, stun grenades and breaking them up
 25 into smaller pieces – not pieces, groups. That is where we

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1 would assist in arrest and putting them in the Canters.
 2 MS PILLAY: Now in terms of your
 3 understanding would people be allowed to disperse with
 4 their weapons? Because I see that you don't mention
 5 disarmament as part of the plan.
 6 COLONEL CLASSEN: Yes, Ma'am, I might
 7 have just left it out but disarmament definitely includes
 8 it. Sorry for that, because I also didn't see it.
 9 MS PILLAY: So would disarmament take
 10 place before or after dispersion? Would people be allowed
 11 to leave with their weapons?
 12 COLONEL CLASSEN: Disarmament would take
 13 place, I'm going to say after dispersal because the people
 14 were already being – how could I say? – warned to leave
 15 their weapons. Some of them that were leaving we were
 16 going to allow them to leave and deal with the people that
 17 don't want to leave.
 18 MS PILLAY: So in terms of the plan and
 19 the briefing by Colonel Scott people would be allowed to
 20 leave with their weapons?
 21 COLONEL CLASSEN: Yes, depending on the
 22 direction that they were going, because we only were to
 23 deal with the people that was left there.
 24 MS PILLAY: Now in terms of the briefing
 25 that was given by Colonel Scott, how long did the entire

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1 briefing last?
 2 COLONEL CLASSEN: I can't really recall,
 3 but it could have been – I'm not sure. I'm just guessing
 4 now. It can be 20 to 30 minutes. I'm not certain.
 5 MS PILLAY: And to your mind was the
 6 briefing crystal clear on what the units were meant to do?
 7 COLONEL CLASSEN: Yes, it was, Ma'am.
 8 MS PILLAY: And was it adequate? Was
 9 there sufficient information given to commanders during the
 10 briefing?
 11 COLONEL CLASSEN: That's correct, Ma'am.
 12 MS PILLAY: Now Captain Loest testified
 13 that the briefing was not adequate either in terms of time
 14 or in terms of detail. Do you have a comment on that?
 15 [15:28] COLONEL CLASSEN: Well, I wouldn't know
 16 how he perceived it, Ma'am.
 17 MS PILLAY: Now you say in RRR11 at
 18 paragraph 7 that when you briefed your members they were
 19 accompanied by - and you said PH stands for the provincial
 20 unit of TRT – they were accompanied by PH, TRT and Soweto
 21 TRT. Does this mean that you briefed all of these TRT
 22 members?
 23 COLONEL CLASSEN: That is correct, Ma'am.
 24 MS PILLAY: And in terms of further
 25 briefings, Captain Loest testified that commanders received

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1 a briefing from Brigadier Calitz once they had arrived on
 2 the scene. Were you part of that briefing?
 3 COLONEL CLASSEN: No, I was not part of
 4 that briefing, Ma'am.
 5 MS PILLAY: And Captain Loest testified
 6 that he then briefed, subsequent to that briefing by
 7 Brigadier Calitz he briefed the members of his unit. Were
 8 you part of that briefing by Captain Loest?
 9 COLONEL CLASSEN: Negative. I wasn't
 10 part of that briefing.
 11 MS PILLAY: So you weren't briefed either
 12 by Brigadier Calitz or by Captain Loest?
 13 COLONEL CLASSEN: That's correct, Ma'am.
 14 MS PILLAY: Now according to your
 15 evidence today when Brigadier Calitz said "TRT, move in,"
 16 you testified that you understood that to mean move towards
 17 the kraal so you could support POP when they moved past the
 18 barbed wire?
 19 COLONEL CLASSEN: That is what I
 20 understood, Ma'am.
 21 MS PILLAY: So in terms of your
 22 understanding the ultimate positioning of TRT would depend
 23 on where POP ended up?
 24 COLONEL CLASSEN: That is how I
 25 understood it.

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1 MS PILLAY: Because TRT was also meant to
 2 be 100 metres behind the POP.
 3 COLONEL CLASSEN: Yes, to support POPS.
 4 MS PILLAY: Now what I'm interested in
 5 finding out, Colonel, is when did things change? In other
 6 words I'm trying to probe when did TRT take a static
 7 position. So in other words where, who commanded TRT not
 8 to go any further and to stop on the other side of the road
 9 between where TRT ultimately was and the kraal?
 10 COLONEL CLASSEN: I don't get you. Just
 11 come again there, please, Ma'am.
 12 MS PILLAY: Maybe we should do it with
 13 reference to a photograph. If we look at JJJ10.4541 –
 14 COMMISSIONER HEMRAJ: Before we get
 15 there, Colonel, can I just ask you, was there anyone who
 16 was in overall command of the entire TRT line?
 17 COLONEL CLASSEN: At that present moment
 18 I thought Captain Loest was the overall commander because I
 19 just came there. I, it was my first day there and I wasn't
 20 put overall in charge of the TRT line.
 21 COMMISSIONER HEMRAJ: So if the TRT line
 22 was going to do anything it would be upon the command of
 23 Captain Loest?
 24 COLONEL CLASSEN: That's also so, Ma'am.
 25 COMMISSIONER HEMRAJ: Thank you.

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1 MS PILLAY: So we know that this picture,
 2 Colonel, is one of Lieutenant-Colonel Vermaak's pictures
 3 and we know that it's taken after the shooting, but it
 4 gives us – just for orientation purposes, it gives us an
 5 idea of where the TRT line was in relation to the road and
 6 to the kraal. Now what I need to find out is how the
 7 members of TRT knew that they should line up at that
 8 particular point before the shooting?
 9 COLONEL CLASSEN: When we were requested
 10 to move in, it was a decision called upon us as commanders
 11 to form a basic line. It was just a decision where,
 12 instant decision where I also said let's form a basic line
 13 here, because we were supposed to be behind POPS, and I
 14 think it also came from the other side.
 15 MS PILLAY: Alright, so when Brigadier
 16 Calitz issues the instruction, "TRT, move in," the TRT
 17 weren't near this position where we see them on this
 18 picture, they were further away?
 19 COLONEL CLASSEN: No, they were further
 20 away, Ma'am.
 21 MS PILLAY: So they move forward, and I
 22 understand that the intention is to ultimately form a basic
 23 line, but what I'm interested in finding out is where do
 24 you decide to place the basic line?
 25 COLONEL CLASSEN: The basic line was just

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1 to be formed behind POPS members. At first it was, we were
 2 just supposed to be a hundred metres away from POPS just to
 3 give them room to do their work, but when things started we
 4 knew that we had to form a basic line behind POPS.
 5 MS PILLAY: So which POP unit was this
 6 basic line formed behind?
 7 COLONEL CLASSEN: Ma'am, there was a lot
 8 of POPS members there, units, so I can't tell basically
 9 which POPS members specifically.
 10 MS PILLAY: And who ultimately stopped
 11 the TRT members when they reached this position?
 12 COLONEL CLASSEN: There wasn't a specific
 13 person. It was just like a formation where we all just
 14 tried to get in line to form some sort of a wall there.
 15 MS PILLAY: So in other words no person
 16 took control of the TRT line and the placement of the basic
 17 line?
 18 COLONEL CLASSEN: What I can say, from
 19 all sides we had about three, four commanders that had the
 20 members next to them and that is how we just, how could I
 21 say, coordinate. We just correlate with each other that
 22 this is how we're doing it.
 23 MS PILLAY: And no individual, one TRT
 24 commander took overall responsibility for where the basic
 25 line would be formed?

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1 COLONEL CLASSEN: That's correct, Ma'am.
 2 MS PILLAY: Now Captain Loest testified
 3 that the basic line was not formed in accordance with the
 4 plan. Do you agree with that?
 5 COLONEL CLASSEN: I agree with that,
 6 Ma'am.
 7 MS PILLAY: So you are unable to tell us
 8 why it was formed at exactly this position?
 9 COLONEL CLASSEN: Well, what I have seen
 10 there was the fact that POPS members were in front of us,
 11 we all just from my side took it that this is where we can
 12 form the line.
 13 MS PILLAY: And we see here in this
 14 particular picture, Colonel, that the basic line is
 15 retained even after the deaths of the people at scene 1.
 16 Can you explain to us why?
 17 COLONEL CLASSEN: Ma'am, we had to form a
 18 line again so we can actually be unified because we were
 19 falling apart within the shooting there.
 20 MS PILLAY: So at this stage where the
 21 TRT maintains the basic line, which commander is taking
 22 control of the basic line?
 23 COLONEL CLASSEN: Again Ma'am, it's more
 24 based on the training where we just, it's like we're
 25 gelling with each other that this is how we're doing it.

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1 So there was no commander that actually take personal, this
 2 thing, over it.
 3 CHAIRPERSON: After somebody called
 4 "cease fire," you were one of those who called "cease
 5 fire," there were others who did as well and then when the
 6 shooting was over and there were these dead bodies and
 7 wounded bodies lying down, did nobody say keep the line,
 8 hold the line, don't move, or anything like that? It was
 9 just done by everybody without a command at all?
 10 COLONEL CLASSEN: No, it was done within
 11 command. I was also one of the people that shouted "Basic
 12 line," but it was also shouted on the other side.
 13 CHAIRPERSON: Yes, who first shouted
 14 "basic line"?
 15 COLONEL CLASSEN: I wouldn't say - I can
 16 take responsibility for it and say I shouted "basic line,"
 17 but I also heard it from the other side.
 18 MS PILLAY: Now Colonel, if we can go to
 19 your statement at paragraph 7, RRR11, and I'm sorry, I seem
 20 to be a bit haphazard but I'm trying not to repeat any of
 21 the cross-examination that we've heard today already. You
 22 mention in paragraph 7, you use the term, "the rules of
 23 engagement." You told them what the plan was and that if
 24 anything should go wrong the rules of engagement to be
 25 considered strictly. Now was that on your own initiative

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1 to tell your members of rules of engagement, or had you
 2 heard it somewhere else?
 3 COLONEL CLASSEN: It was my own
 4 initiative, Ma'am.
 5 MS PILLAY: So in other words you on your
 6 own initiative told your members about the rules of
 7 engagement?
 8 COLONEL CLASSEN: That's correct, Ma'am.
 9 MS PILLAY: And what did you understand
 10 by the rules of engagement?
 11 COLONEL CLASSEN: That we, for the fact
 12 that we are having sharp point ammunition weapons, that we
 13 shouldn't just go shoot at people, we should warn them
 14 first, talk to them, and then fire into the ground and then
 15 from there see how the danger proceeds and then we can take
 16 over by shooting below the knee.
 17 MS PILLAY: Alright, and in terms of your
 18 members were you clear that they understood what the rules
 19 of engagement were?
 20 COLONEL CLASSEN: Yes, I was clear on
 21 that, Ma'am.
 22 MS PILLAY: Did you tell them that the
 23 rules of engagement would apply, or did you explain what
 24 the rules of engagement were?
 25 COLONEL CLASSEN: I told them that "Guys,

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1 don't forget the rules of engagement and this is how it
 2 goes; please, don't just go and shoot at people. We are
 3 not here to shoot people. This is how we do things – warn
 4 the person, shoot into the ground, keep warning the person
 5 and then when you see there's something that should happen,
 6 then go below the knee," but as I said, I also added there
 7 that, which I doubt that anything can go wrong.
 8 MS PILLAY: So did you give quite a
 9 comprehensive idea on what the rules of engagement are and
 10 in which circumstances they're entitled to shoot live
 11 ammunition at someone and which circumstances they are not
 12 entitled to do so?
 13 COLONEL CLASSEN: According to me I think
 14 I made it clear, Ma'am.
 15 MS PILLAY: And how long did it take you
 16 to explain the rules of engagement to your members?
 17 COLONEL CLASSEN: Is it time-wise, or how
 18 do you expect me to answer?
 19 MS PILLAY: In terms of time how long did
 20 it take you to explain to them what the rules of engagement
 21 are?
 22 COLONEL CLASSEN: Well, it could have
 23 been a minute up to two, because I had to put emphasis on
 24 it also that please, I also begged them.
 25 MS PILLAY: Now did Colonel Scott mention

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1 the rules of engagement during the briefing?
 2 COLONEL CLASSEN: There's a possibility
 3 that he might have, but I can't quite recall, Ma'am.
 4 MS PILLAY: Can we look at your diary,
 5 the excerpt from your diary, I think it's –
 6 CHAIRPERSON: Exhibit VVV2.
 7 MS PILLAY: VVV2.
 8 CHAIRPERSON: Perhaps you can read the
 9 entry which you have there against 14:30, because I'm
 10 afraid that I have difficulty in reading it all. Of course
 11 I think this photostat is actually a reduced one, which
 12 makes it more difficult for us, but –
 13 MS PILLAY: No, I think it's on the other
 14 page, that's the 15th. That's the 16th, yes.
 15 CHAIRPERSON: Against 14 – can you see
 16 14:30? It looks like "commanders," it looks like the first
 17 word is "commanders," but I don't suggest, don't look at
 18 the screen, better look at your copy. Can you read it for
 19 us?
 20 COLONEL CLASSEN: Yes, I'm going to do
 21 it, Mr Chair. Let me just find it inside this file also,
 22 please.
 23 CHAIRPERSON: If you've got the same
 24 bundle we have it should be under tab 2.
 25 COLONEL CLASSEN: Yes, I found it, Mr

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1 Chair.
 2 CHAIRPERSON: And the entry in question
 3 is against 14:30. I think that's the one Adv Pillay wants
 4 you to read, on the 16th.
 5 COLONEL CLASSEN: Yes, I'm really trying
 6 to read my own handwriting here. "Commanders being called
 7 to forward holding area 1," I'm also going to look up
 8 there.
 9 CHAIRPERSON: It should be clearer on the
 10 small screen than the bigger one.
 11 COLONEL CLASSEN: Yes, than that one.
 12 CHAIRPERSON: I suspect it is "and we
 13 were briefed," I think.
 14 COLONEL CLASSEN: And ja, "we were called
 15 by Lieutenant-Colonel Scott of Task Force that" –
 16 CHAIRPERSON: Is the first word in the
 17 second line "called" or "briefed"? It looks like "briefed"
 18 to me.
 19 COLONEL CLASSEN: Briefed.
 20 CHAIRPERSON: Yes.
 21 COLONEL CLASSEN: "We were briefed," ja.
 22 Excuse me, "briefed by Lieutenant-Colonel Scott of Task
 23 Force that by," I'm trying to look at the time there, 15:30
 24 or something like that, "we will be moving in and that is"
 25 – oh, - "that is the cut-off time" –

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1 CHAIRPERSON: Ja.

2 COLONEL CLASSEN: - "given to the

3 miners." I'm going to try to read both sides. Excuse me,

4 Mr Chair. "TRT is occupying," let me just see there.

5 CHAIRPERSON: It looks like "occupied."

6 I suspect this –

7 COLONEL CLASSEN: Ja, "occupied the

8 smaller koppie. Also to stand behind POPS and keep in mind

9 the rules of engagement if anything go wrong." Yes, I see

10 that.

11 MS PILLAY: Now can I just ask you,

12 Colonel, earlier today in answer to a question from

13 Commissioner Hemraj about when these entries were made you

14 testified that they were made contemporaneously, in other

15 words they were made at the times indicated in your diary.

16 Do you recall that testimony?

17 COLONEL CLASSEN: I recall that, Ma'am.

18 MS PILLAY: So can we therefore accept

19 that this entry was made immediately after the briefing?

20 COLONEL CLASSEN: That is correct, Ma'am.

21 MS PILLAY: So when you say here that

22 "Keep in mind the rules of engagement," does this mean that

23 it was part of the briefing by Colonel Scott, the rules of

24 engagement?

25 COLONEL CLASSEN: Yes, then it's possible

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1 that Colonel Scott also mentioned the rules of engagement.

2 CHAIRPERSON: Well, I wouldn't have

3 thought it's possible –

4 COLONEL CLASSEN: No, he –

5 CHAIRPERSON: It's clear that he did,

6 because if you made the entry at the time and you said that

7 he said you must keep in mind the rules of engagement, then

8 that means, I take it, that we can accept without any

9 difficulty that that's what Colonel Scott said.

10 COLONEL CLASSEN: Excuse the wording, Mr

11 Chair; that's correct.

12 MS PILLAY: Now can I just ask you around

13 the use of the phase "cut-off time." You said that 15:30

14 is the cut-off time for miners. What did you understand

15 him to mean by that?

16 COLONEL CLASSEN: The cut-off time for

17 them to lay down their arms and that they, you know they

18 should have laid down their arms this morning and that's

19 the cut-off time that's given for them to lay down their

20 arms.

21 MS PILLAY: So in your understanding

22 Colonel Scott's briefing was to the effect that 15:30 was

23 the cut-off time for miners?

24 COLONEL CLASSEN: That is correct, Ma'am.

25 MS PILLAY: Now I'm afraid I'm going to

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1 have to ask you to read the next entry as well, Colonel,

2 because I couldn't decipher quite a bit of it, if you don't

3 mind reading the entry at 14:45 into the record?

4 COLONEL CLASSEN: I'll try, Ma'am. I

5 think I should have gotten glasses after this, but alright.

6 "I briefed my members" – wow, okay. "I briefed my members"

7 – wow, I'm just trying to get there.

8 CHAIRPERSON: Have you still got, or do

9 you have access to your original diary? Because it looks

10 to me, I must say that this photostat looks like a reduced

11 photostat and sometimes these photostats of things written

12 in ink on paper aren't as clear as they should be.

13 COLONEL CLASSEN: I can try and find it.

14 CHAIRPERSON: If you have access to the

15 original and possibly also access to a magnifying glass you

16 might be able to decipher it more accurately.

17 COLONEL CLASSEN: I'm very sorry, Chair,

18 my handwriting – oh, now I can tell I should have focussed

19 on handwriting at school.

20 MS PILLAY: But you will try and get us

21 your original diary so that we can decipher what was

22 written there?

23 COLONEL CLASSEN: I will. I will try my

24 level best, Ma'am.

25 MS PILLAY: Alright, if we can then turn

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1 to the run-up to scene 1, Colonel. As I understood your

2 testimony in chief you had a clear view of the strikers

3 from the time they left the koppie until they reached the

4 kraal. Is that correct?

5 COLONEL CLASSEN: Yes, are you talking

6 about all the miners or are you specifically pointing at –

7 MS PILLAY: Well, the front group of

8 miners. We know that you also testified that many of the

9 miners left and dispersed, but there's one group that

10 walked – according to your testimony it walked along the

11 barbed wire until they reached the kraal.

12 COLONEL CLASSEN: Yes, I could see them,

13 from the third Nyala I could see them clearly that there

14 are guys, miners walking next to the Nyala.

15 MS PILLAY: Alright, and the only time

16 you lost sight of the strikers according to your evidence

17 is when they actually reached the kraal, then you lost

18 sight of them?

19 COLONEL CLASSEN: Yes, behind the kraal,

20 and I can also add with the teargas, because my eyes were

21 closed a bit.

22 MS PILLAY: Alright, so before the use of

23 teargas and before the miners reached the kraal, you were

24 able to see them clearly all the time?

25 COLONEL CLASSEN: That is correct, Ma'am.

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1 MS PILLAY: And you testified that the
 2 miners walked alongside the Nyalas that were deploying the
 3 barbed wire.
 4 COLONEL CLASSEN: That is what I said.
 5 MS PILLAY: And it's quite clear from
 6 your statements and your testimony that you didn't witness
 7 anything unusual other than the miners walking alongside
 8 the Nyalas as they unfolded their barbed wire?
 9 COLONEL CLASSEN: Well, I didn't – not
 10 facially, but as I said along the Nyalas, so I could not
 11 see them facially but I could see people walking on the
 12 side and some people in the front and at the back.
 13 MS PILLAY: And from what you could see
 14 you didn't notice any attack by the miners on the Nyalas as
 15 they were deploying the barbed wire?
 16 COLONEL CLASSEN: I would not say whether
 17 they were attacking or not because the view wasn't as clear
 18 as like I see these guys doing something wrong.
 19 MS PILLAY: No, Colonel, my question was
 20 you didn't see any attack by the strikers on the Nyalas
 21 while they were walking alongside the barbed wire?
 22 COLONEL CLASSEN: No, personally I did
 23 not see that, Ma'am.
 24 MS PILLAY: Colonel, now just to mop up
 25 one issue, I know you were asked earlier to identify your

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1 position in the basic line after the, or just before and
 2 during the shooting. If we can show JJJ194.23, please?
 3 CHAIRPERSON: Before we have it in full,
 4 before it's put in full on the screen, once again it's a
 5 picture of dead bodies of some of those who were shot at
 6 scene 1 on the 16th and I fear that the loved ones and
 7 relations of the persons who were shot there, if they see
 8 this picture it may bring back memories of emotional
 9 distress and unhappiness.
 10 [15:47] So I ask that before it's shown in full on the
 11 screen 30 seconds expire so that those who want to leave
 12 may do so. 30 seconds starts now.
 13 [Microphone off, inaudible] the 30 seconds is
 14 expiring, I've looked at the last section of your diary, it
 15 looks to me as if you're talking about your subsequent
 16 briefings. If one looks at your statement you say – the 30
 17 seconds is up, but before we see the picture, if we look at
 18 your statement we see that after Colonel Scott's briefing
 19 you say you then briefed the members. This is what you say
 20 in paragraph 8 of RRR10, and you then say you then moved to
 21 the power station – this is in para 9, where you say that
 22 the Task Force – this is RRR10, Task Force members and NIU
 23 members were standing. You joined them and again you
 24 briefed – so this is now the second briefing you were given
 25 because you were a larger group to brief, and you then

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1 asked Naidoo where you must go. Naidoo, General Naidoo
 2 tells you where you must go and you then go there and there
 3 you find Nyalas as well as other TRT members and that group
 4 is under Captain Thupe, Captain Loest, and Captain Ntlati,
 5 and you say "I then briefed my members again." So in other
 6 words there were three briefings. Now if one looks at the
 7 passage that one couldn't read in your diary, you will see
 8 that it relates to those three briefings, as far as I can
 9 see, but there's no entry as to what happened after the
 10 third briefing, in other words when the action started.
 11 That you didn't record.
 12 COLONEL CLASSEN: No, I did not record
 13 that –
 14 CHAIRPERSON: Am I correct?
 15 COLONEL CLASSEN: That is correct, Mr
 16 Chair.
 17 CHAIRPERSON: Alright, well now we are
 18 able to look at that clip, that video, that slide that was
 19 previously held back for the reasons I gave. We started at
 20 1 and we're now at 4.
 21 MS PILLAY: Colonel, do you identify
 22 yourself in the picture?
 23 COLONEL CLASSEN: Yes, I can, Ma'am.
 24 MS PILLAY: And we see, Colonel, that you
 25 are standing next to, on the right-hand side of the SAPS

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1 vehicle in the picture.
 2 COLONEL CLASSEN: That is correct, Ma'am.
 3 MS PILLAY: Now is this the position that
 4 you held immediately before and during the shooting as
 5 well?
 6 COLONEL CLASSEN: Yes, that is the
 7 position I took actually just after the teargas.
 8 MS PILLAY: Alright, and you maintained
 9 that position during the shooting and immediately after the
 10 shooting?
 11 COLONEL CLASSEN: After the shooting I
 12 think I went on the other side of the bakkie.
 13 MS PILLAY: Alright, so when you
 14 testified earlier in the day that you were standing on the
 15 left-hand side of the bakkie, is it now clear that you were
 16 actually standing on the right-hand side of the bakkie?
 17 COLONEL CLASSEN: Yes, but again as I
 18 said just after the teargas, this is just after the teargas
 19 also, and I think later on you'll see that everything is
 20 clear there.
 21 MS PILLAY: Alright, so can we just play
 22 this clip to the end just to see where you stand?
 23 [VIDEO IS SHOWN]
 24 Alright, so if we can go to KKK52.8, Colonel,
 25 will you confirm that the vehicle that we see on the right-

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1 hand side of this picture, is that the bakkie that we see
 2 in the video clip?
 3 COLONEL CLASSEN: That is correct, Ma'am.
 4 MS PILLAY: And would you have been
 5 standing on the right-hand side of the bakkie the way it's
 6 positioned in this picture?
 7 COLONEL CLASSEN: That's correct, Ma'am.
 8 MS PILLAY: And you still maintain,
 9 Colonel, that at the critical time, which is one second
 10 after where the annotations are made on this picture, that
 11 you had a clear view of the strikers as they emerged around
 12 the kraal?
 13 COLONEL CLASSEN: Yes, I'm still going
 14 with that one, Ma'am.
 15 MS PILLAY: Alright, now we know,
 16 Colonel, that you didn't discharge your weapon on the day
 17 because you said that's your, you had injured your hand.
 18 Is that correct?
 19 COLONEL CLASSEN: That is correct, Ma'am.
 20 MS PILLAY: But of your eight members,
 21 you weren't the only one that didn't discharge your weapon
 22 on the day.
 23 COLONEL CLASSEN: That is also correct,
 24 Ma'am.
 25 MS PILLAY: In fact, Colonel, six others

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1 – sorry, five others, so it was you and five other of your
 2 Katlehong TRT members didn't discharge their firearms.
 3 COLONEL CLASSEN: That is also correct,
 4 Ma'am.
 5 MS PILLAY: And were you all standing in
 6 a similar position?
 7 COLONEL CLASSEN: No, I would not say
 8 that, Ma'am. I could identify one or two members that was
 9 on my right-hand side, and then some of them were in the
 10 middle, in the middle of that line-up there.
 11 CHAIRPERSON: Near the words, there's a
 12 word "skop" in the middle of an orange rectangle, so your
 13 members were standing round about there. Is that right?
 14 COLONEL CLASSEN: Yes, some of them were
 15 there, and just behind Warrant Officer Kuhn.
 16 MS PILLAY: Now do you know, Colonel,
 17 that apart from yourself, was any other member of your unit
 18 injured?
 19 COLONEL CLASSEN: No, Ma'am.
 20 MS PILLAY: And as commander of that unit
 21 did you ask any of the other members why they didn't shoot
 22 at the miners?
 23 COLONEL CLASSEN: No, Ma'am, I did not
 24 ask them why they did not shoot, Ma'am.
 25 MS PILLAY: Colonel, just two quick

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1 issues that I wanted to raise with you. The first is the
 2 question of your radio. We know that you were unable to
 3 use your radio to contact the JOC or the operational
 4 commander. Did you try using any other method of
 5 communication, your cell phone?
 6 COLONEL CLASSEN: No, Ma'am, I did not
 7 try and use method of cell phone and all that.
 8 MS PILLAY: Did you not consider this an
 9 important enough event to take further steps to notify
 10 either the operational commander or the JOC that the
 11 shooting had resulted in these deaths?
 12 COLONEL CLASSEN: Oh yes, I did take it
 13 as an important event, Ma'am.
 14 MS PILLAY: And yet you made no attempt
 15 to, other attempt to contact either the operational
 16 commander or the JOC?
 17 COLONEL CLASSEN: My attempt was more
 18 based on the radio. I did not know the numbers of the JOC,
 19 neither of the operational commander, Ma'am.
 20 CHAIRPERSON: What you also said, apart
 21 from having said that before, I think you also said you saw
 22 Captain Loest using his cell phone, or radio, I'm not sure.
 23 Did you see him using his radio or his cell phone, or both?
 24 COLONEL CLASSEN: He was on the cell
 25 phone.

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1 CHAIRPERSON: And I think you said you
 2 assumed he was doing what was necessary.
 3 COLONEL CLASSEN: That is correct,
 4 because –
 5 CHAIRPERSON: And you do not say he was
 6 your senior, so you regarded him as being the senior
 7 officer present at this basic line of TRT people?
 8 COLONEL CLASSEN: It wasn't based on the
 9 fact that he was the senior, but also whoever officer was
 10 there, I think that is what they would do and that is what
 11 I suspect that they would do because that is how we'd been
 12 trained.
 13 CHAIRPERSON: You were actually his
 14 senior, but – is that correct? You were a lieutenant-
 15 colonel, he's a captain, but did you regard him as the, is
 16 it appropriate for him to make the necessary communication
 17 to the JOC and the operational commander?
 18 COLONEL CLASSEN: It's not what I
 19 expected of him, Mr Chair. It's just, it's how it works.
 20 When something goes wrong, whoever sees it, who can deal
 21 with it should deal with it, and seeing that I did not have
 22 the means and he was from the area, I, that's what I
 23 expected of him.
 24 MS PILLAY: Did you ask him, Colonel,
 25 whether he contacted either the operational commander or

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1 the JOC?

2 COLONEL CLASSEN: Not under the

3 circumstances, Ma'am.

4 MS PILLAY: Now in relation to your

5 reliance on the radio, we know that Captain Loest testified

6 that he struggled to communicate over the radio because

7 there was interference caused by the power lines. Did you

8 experience a similar problem with the radios?

9 COLONEL CLASSEN: I don't know what the

10 problem was, Ma'am, but yes, I did experience that problem.

11 MS PILLAY: And you experienced those

12 problems before you were trying to use the radio to contact

13 either the JOC or the operational commander?

14 COLONEL CLASSEN: Yes, there were times

15 that there were breakages on the radio.

16 MS PILLAY: Alright, just the second-last

17 issue I wanted to touch on, Colonel, and that's the meeting

18 at Roots. Now we know that you were at Roots and we know

19 that scene 1 was discussed at length at Roots. Can I ask,

20 was there any debate amongst the members who were part of

21 the session that looked at scene 1 about whether or not the

22 members who resorted to live fire in the manner that they

23 did were justified in doing so?

24 COLONEL CLASSEN: Debating – just come

25 again there, Ma'am. I'm trying to understand you.

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1 MS PILLAY: Amongst the members

2 themselves was there any debate, any discussion around

3 whether it was appropriate or justified to resort to live

4 fire in the manner that members of the TRT did?

5 COLONEL CLASSEN: No, there was no debate

6 about it, Ma'am.

7 MS PILLAY: So all of you were of the

8 same mind that it was completely justified? There was

9 absolutely no discussion on whether or not it was

10 appropriate?

11 COLONEL CLASSEN: No, that's not what I

12 think, that we were all of the same mind.

13 CHAIRPERSON: What we do know is a number

14 of you, you and your fellow commanders, shouted "cease

15 fire" at a certain point, right, and up to, how far into

16 the volley did you shout "cease fire"?

17 COLONEL CLASSEN: I must have – no, I

18 shouted three times. That I can recall.

19 CHAIRPERSON: Ja but how – sorry, you

20 didn't understand my question. How far into the volley,

21 approximately – you see the volley lasted about eight

22 seconds I think. Now, so obviously you must have shouted

23 "cease fire" after some seconds. There was firing that

24 took place and then you said "cease fire." That's correct?

25 COLONEL CLASSEN: That is correct, Mr

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1 Chair.

2 CHAIRPERSON: Now does that mean that we

3 can assume that you thought that the firing was necessary

4 until you called "cease fire," because otherwise you would

5 have called "cease fire" earlier? Or is that not a fair

6 assumption?

7 COLONEL CLASSEN: Well, Mr Chair, yes,

8 when I saw that how the people were falling and I didn't

9 see any need for the people to shoot, or fire towards the

10 people anymore, then I just screamed "cease fire."

11 CHAIRPERSON: Yes, but the corollary of

12 that is – well, is the corollary of that that before you

13 saw the people falling you saw a need to fire? Because

14 otherwise you would have shouted "cease fire" earlier.

15 COLONEL CLASSEN: That is correct. Just

16 before the firing there was two shots fired from the

17 crowd's side, that I could hear it's from the crowd's side,

18 so that's what I saw then.

19 CHAIRPERSON: Ms Pillay, I don't know how

20 much longer you –

21 MS PILLAY: I've literally got two

22 questions, two quick questions, Chair.

23 CHAIRPERSON: Alright. Well, would you

24 like to hold them over till tomorrow then?

25 MS PILLAY: Just one last question. I'm

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1 sure the answer is no.

2 CHAIRPERSON: Well, you shouldn't – it's

3 improper to indicate what you think the answer will be.

4 Ask him now.

5 MS PILLAY: Colonel, were you part of the

6 task team, which included Brigadier Mkhwanazi, that was

7 asked to look into the events of Marikana?

8 COLONEL CLASSEN: No, Ma'am, I wasn't.

9 MS PILLAY: Never ask a question when you

10 know the answer, Chair.

11 CHAIRPERSON: No, did you know – you were

12 asked whether you were a part of the team. Now we know you

13 weren't a part of the team because Brigadier Hunter I think

14 was in charge and Brigadier Mkhwanazi and there were three

15 others, I think. But a number of people who were involved

16 in the operation at Marikana on the 16th were requested to

17 appear before that task team to give their version of what

18 happened. Were you one of those people?

19 COLONEL CLASSEN: Yes, I was one of the

20 people.

21 CHAIRPERSON: So I think that's a follow-

22 up, that's an answer which will – do you want to ask any

23 follow-up questions based on that? He was one of those who

24 appeared before the task team and gave his version, or some

25 of it anyway, about what –

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1 MS PILLAY: I'm sorry, Chair, I thought
2 that was the question that I asked. Clearly not.
3 CHAIRPERSON: No, you said were you part
4 of the task team, and he said. Well, he wasn't. He was,
5 the task team was Brigadier Hunter, Brigadier Mkhwanazi and
6 some others. He says yes, he did attend them and he did,
7 as a witness in effect, not as a member of the team.
8 That's your answer, isn't it?
9 COLONEL CLASSEN: That is my answer, Mr
10 Chair.
11 MS PILLAY: Well, in that case, Chair,
12 may I ask a few follow-up questions tomorrow morning?
13 CHAIRPERSON: That's what I was going to
14 suggest might be appropriate. We will adjourn now until
15 tomorrow morning. You will have a go at deciphering that
16 passage. I've given you some assistance, I hope, as to how
17 to decipher it.
18 COLONEL CLASSEN: No, thank you so much,
19 Mr Chair.
20 CHAIRPERSON: I expect to see you at 9
21 o'clock with a copy, perhaps someone can even help you with
22 typing it out, as to what it says. It's your handwriting,
23 and you're not a doctor, so you should be able –
24 MS PILLAY: Chair, I'm sorry, if I may
25 just indicate, I know about the SERI team usually do a lot

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1 of work around the task team and they are still due to
2 cross-examine the Colonel, that rather than bring him here
3 just to answer one or two questions, may I suggest that
4 that be dealt with by the SERI team?
5 CHAIRPERSON: Yes. No, you're quite
6 right, and they will cross-examine before the re-
7 examination takes place, and they're only going to be ready
8 for some reason by Monday, and of course they've actually
9 got to be ready by tomorrow because they've got to tell him
10 what documents and things he must look at.
11 MS PILLAY: That's correct, Chair.
12 CHAIRPERSON: So your point is we
13 shouldn't have to bring him back tomorrow just so we get
14 the pleasure of hearing your follow-up questions and his
15 answers. That pleasure can be deferred until Monday.
16 MS PILLAY: That is so, Chair.
17 CHAIRPERSON: Right, we'll adjourn now
18 till 9 o'clock tomorrow. You don't have to come tomorrow.
19 You've got some homework to do in the meanwhile though, but
20 we'll expect you back on Monday.
21 COLONEL CLASSEN: Thank you, Mr Chair.
22 CHAIRPERSON: We now adjourn until 9
23 o'clock tomorrow.
24 [COMMISSION ADJOURNED]
25 .

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