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TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 270

8 AUGUST 2014

PAGES 34302 TO 34402



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<p style="text-align: right;">Page 34302</p> <p>1 [PROCEEDINGS ON 8 AUGUST 2014] 2 [09:08] CHAIRPERSON: The Commission resumes. Mr 3 Wesley, are you going to call the next witness? 4 MR WESLEY: Yes, thank you, Chair. 5 Chair, before we swear the witness in, he is Mr Janse van 6 Vuuren – 7 CHAIRPERSON: Is he prepared to be sworn 8 or does he affirm? 9 MR WESLEY: Prepared to be sworn. Maybe 10 if you would like to do it – 11 CHAIRPERSON: Let's swear him in now and 12 get it over with. 13 MR WESLEY: Very well, Chair. 14 CHAIRPERSON: Mr Van Vuuren, will you 15 stand up please? I understand you're prepared to take the 16 oath and not to affirm, is that correct? 17 MNR VAN VUUREN: In Afrikaans? 18 MNR MAHLANGU: Is u bereid om die eed af 19 te lê? 20 VOORSITTER: Jammer, Mr Van Vuuren, u 21 verklaring was in Engels opgestel. Ek het gedink dat u van 22 plan was om in Engels te getuig, maar as u 23 Afrikaanssprekend is, as dit u huistaal is, u is daarop 24 geregtig om Afrikaans te gebruik as u wil. Ek verstaan u 25 is bereid om te sweer. Dit is nie nodig dat u 'n plegtige,</p>	<p style="text-align: right;">Page 34304</p> <p>1 MR WESLEY: Yes. 2 CHAIRPERSON: I see. 3 MR WESLEY: Chair, for the housekeeping 4 there's a bundle which has been prepared for the 5 Commissioners. Some copies of it have been handed out to 6 the parties. We're having more printed at the moment but 7 will also be made available electronically. The first 8 document in the bundle is a statement of Mr Van Vuuren, 9 Marikana case 109/08/2012, a PDF. The number that's been 10 assigned or the letters that have been assigned to this 11 witness are GGGG, so if that could be GGGG1. 12 CHAIRPERSON: What do I call it? 13 MR WESLEY: Statement of Mr Janse van 14 Vuuren. 15 CHAIRPERSON: Statement of Mr – 16 [microphone off, inaudible]. 17 MR WESLEY: Sorry, Chair, I think you 18 need to turn the microphone on, it's not – 19 CHAIRPERSON: Sorry. The first exhibit 20 is GGGG1, it's a statement of the witness in CAS109/08/2012 21 dated 13 August 2012. The second exhibit is GGGG2, 22 statement of witness in CAS111/08/2012 also dated 23 13/8/2012. Then we have GGGG3 which is, it's a typed 24 statement, is it? 25 MR WESLEY: That's correct, Chair.</p>
<p style="text-align: right;">Page 34303</p> <p>1 u is nie van plan om 'n plegtige bevestiging te maak nie, u 2 is bereid om te sweer, is ek reg? 3 MNR VAN VUUREN: Dit is so. 4 MNR MAHLANGU: Is u bereid om die eed te 5 neem, maar is u bereid om dit te neem? 6 MNR VAN VUUREN: Ja. 7 MR MAHLANGU: Prepared to take the oath. 8 VOORSITTER: Sal u sweer dat die 9 getuienis wat u gaan aflê die waarheid, voor hierdie 10 Kommissie, die waarheid sal wees, die hele waarheid en niks 11 anders as die waarheid nie? Lig u regterhand operation en 12 sê, ek sweer, so help my God. 13 MNR VAN VUUREN: Ek sweer – 14 VOORSITTER: So help my God. 15 MNR VAN VUUREN: So help my god. 16 MNR JANSE VAN VUUREN: (v.o.e.) 17 VOORSITTER: Dankie, u mag sit. Ja, mnr 18 Wesley? 19 MR WESLEY: Thank you, Chair. Sorry, I 20 forgot to mention that the witness will be testifying in 21 Afrikaans and there will be an English translation then. 22 The questions will be posed in English but the answers will 23 be given in Afrikaans. 24 CHAIRPERSON: He is prepared to take 25 questions in English?</p>	<p style="text-align: right;">Page 34305</p> <p>1 CHAIRPERSON: And that is dated the 30th 2 June 2014. 3 MR WESLEY: That's so, Chair. 4 CHAIRPERSON: Then you have a series of 5 photographs, seven photographs. They will be GGGG4.1, .2, 6 .3, .4, .5, .6, .7. Then we have GGGG5 which is a medical 7 certificate by Dr Bouwer. 8 MR WESLEY: Chair, sorry, we seem to be, 9 there's more than – 10 CHAIRPERSON: Oh, I beg your pardon. I 11 counted wrongly, there are eight. So it's GGGG4.1 through 12 to .8. Then a medical certificate by Dr Bouwer is GGGG5. 13 GGGG6 is PM report, post-mortem report regarding the late 14 Mr Mabebe. 15 MR WESLEY: Chair, that doesn't need an 16 exhibit number, it's already part of exhibit A. 17 CHAIRPERSON: Quite right. So what is 18 that then? 19 MR WESLEY: It's simply there, it was 20 going to be referred to – 21 CHAIRPERSON: No, it's A something, we'll 22 give it – 23 MR WESLEY: Yes, it's exhibit A – 24 CHAIRPERSON: A what? 25 MR WESLEY: The pages, Chair, I'll give</p>

<p style="text-align: right;">Page 34306</p> <p>1 you the – it's exhibit A pages 765 to 769.</p> <p>2 CHAIRPERSON: Thank you. Then we have</p> <p>3 two aerial views, so those will be GGGG6.1 and 6.2, aerial,</p> <p>4 the first is an aerial view of the area and the other is an</p> <p>5 aerial view of K4.</p> <p>6 MR WESLEY: And then there's a third one,</p> <p>7 an aerial view of the parking area, Chair, three aerial</p> <p>8 views.</p> <p>9 CHAIRPERSON: So that's GGGG6.3. Then</p> <p>10 GGGG7 will be a bundle of K4 shaft photographs. There</p> <p>11 appear to be –</p> <p>12 MR WESLEY: 40.</p> <p>13 CHAIRPERSON: There are 40 of them, so</p> <p>14 those will go from 7.1 through to 7.40 and that's a bundle</p> <p>15 of K4 shaft photographs.</p> <p>16 MR WESLEY: Yes.</p> <p>17 CHAIRPERSON: Then?</p> <p>18 MR WESLEY: This is, number 18 on the</p> <p>19 list is mentioned merely for parties to go and have a look</p> <p>20 at. 18 is a video, it's already before the Commission, it</p> <p>21 is Y2.</p> <p>22 CHAIRPERSON: Yes, I see.</p> <p>23 MR WESLEY: It's a video of the aftermath</p> <p>24 of the attack at the K4 shaft on the evening of the 12th.</p> <p>25 CHAIRPERSON: Yes. So, but for the</p>	<p style="text-align: right;">Page 34308</p> <p>1 alright, ek –</p> <p>2 VOORSITTER: Nee, maar ek verstaan u</p> <p>3 verkies om Afrikaans te praat.</p> <p>4 MNR VAN VUUREN: Ja, ek sal Afrikaans</p> <p>5 praat.</p> <p>6 VOORSITTER: U is ten volle daarop</p> <p>7 geregtig.</p> <p>8 MNR VAN VUUREN: Okay.</p> <p>9 MR WESLEY: The first document, it runs</p> <p>10 from pages 1, 2 and 3, could you have a look at that? Do</p> <p>11 you recognise that document?</p> <p>12 MR JANSE VAN VUUREN: That's correct,</p> <p>13 Chairperson, I see it.</p> <p>14 MR WESLEY: It's a statement that you</p> <p>15 made on the 13th of August 2012. If you look at the last</p> <p>16 page, on page 3 you can see your signature or just confirm</p> <p>17 that is your signature rather?</p> <p>18 MR JANSE VAN VUUREN: It is my signature,</p> <p>19 sir.</p> <p>20 MR WESLEY: And then if you go to page 4,</p> <p>21 you see the document that runs page 4, 5 and 6 of that</p> <p>22 bundle?</p> <p>23 MR JANSE VAN VUUREN: It's correct,</p> <p>24 Chair, I see it, yes.</p> <p>25 MR WESLEY: That's a statement, it's</p>
<p style="text-align: right;">Page 34307</p> <p>1 purposes of housekeeping we have identified and virtually</p> <p>2 marked, as it were, exhibits GGGG1 to GGGG7.1 to 7.40.</p> <p>3 MR WESLEY: That is so, Chair, that's the</p> <p>4 housekeeping.</p> <p>5 CHAIRPERSON: And you have mentioned that</p> <p>6 the two other exhibits that are already before the</p> <p>7 Commission, A765 to 769 which is the post-mortem report of</p> <p>8 the late Mr Mabebe and Y2 which is a certain video.</p> <p>9 MR WESLEY: That's so, Chair.</p> <p>10 CHAIRPERSON: Okay.</p> <p>11 MR WESLEY: Thank you, Chair.</p> <p>12 CHAIRPERSON: Thank you, please begin</p> <p>13 with leading your evidence.</p> <p>14 EXAMINATION BY MR WESLEY: Mr Van Vuuren,</p> <p>15 the bundle before you, if you could please open it up on</p> <p>16 the first page? If you have a look on the top right hand</p> <p>17 corner you'll see that there are numbers.</p> <p>18 MR JANSE VAN VUUREN: That's correct.</p> <p>19 MR MAHLANGU: Correct, Chairperson.</p> <p>20 MR WESLEY: The first document, I'd like</p> <p>21 you to –</p> <p>22 CHAIRPERSON: Mr Mahlangu, if he speaks</p> <p>23 English you don't have to interpret it. I take it it's</p> <p>24 being interpreted elsewhere into Xhosa.</p> <p>25 MNR VAN VUUREN: Hy kan interpret, dis</p>	<p style="text-align: right;">Page 34309</p> <p>1 exactly the same statement in fact dated 13 August 2012</p> <p>2 with your signature on the last page, do you confirm that?</p> <p>3 MR JANSE VAN VUUREN: That's correct, it</p> <p>4 is my signature.</p> <p>5 MR WESLEY: And Chair, just for the</p> <p>6 record the difference between the two is they were filed</p> <p>7 under two CAS numbers, 109 and 111. If you go to page 7,</p> <p>8 here's your statement, do you see that?</p> <p>9 MR JANSE VAN VUUREN: That's correct.</p> <p>10 MR WESLEY: Your signature is found at</p> <p>11 page 11 of this bundle.</p> <p>12 MR JANSE VAN VUUREN: 100% correct, sir.</p> <p>13 MR WESLEY: Now this is an affidavit so</p> <p>14 you've already sworn that it is true under oath but do you</p> <p>15 confirm the contents of this affidavit?</p> <p>16 MR JANSE VAN VUUREN: That's correct.</p> <p>17 MR WESLEY: You were, on the evening of</p> <p>18 the 12th – I'm not going to take you through every paragraph</p> <p>19 in this affidavit, we take it as read into the record – you</p> <p>20 were driving a Volkswagen Caddy to work that evening, is</p> <p>21 that correct?</p> <p>22 MR JANSE VAN VUUREN: That is correct.</p> <p>23 MR WESLEY: If you can go, we need to</p> <p>24 just identify where you were going, go to page 27 of that</p> <p>25 bundle, do you see that?</p>

<p style="text-align: right;">Page 34310</p> <p>1 MR JANSE VAN VUUREN: 100% correct, yes.</p> <p>2 MR WESLEY: Do you recognise the area</p> <p>3 represented on that photograph?</p> <p>4 MR JANSE VAN VUUREN: Correct,</p> <p>5 Chairperson.</p> <p>6 MR WESLEY: Chair, for the record –</p> <p>7 Craig, could we have it up on screen? It's item 14, Craig.</p> <p>8 I'll proceed in the meantime, Chair. It's not yet upon the</p> <p>9 screen but you'll see from the photograph, Chair, what</p> <p>10 we've identified is - just to place, to orientate</p> <p>11 everybody, you will see in the middle koppie 1 is</p> <p>12 indicated. You'll see to the right of koppie 1 we indicate</p> <p>13 where the Wonderkop hostel is. Below that one finds the</p> <p>14 Rowland shaft. If one then moves to the left which is in</p> <p>15 fact in a westerly direction, one can see there I've</p> <p>16 indicated the field of the 13th of August. That's where the</p> <p>17 confrontation happened on the 13th of August. Now above</p> <p>18 that on the photograph one finds an area which is the K4</p> <p>19 concentrator and then above that is the K4 shaft. Mr Van</p> <p>20 Vuuren, do you confirm where we've indicated K4 shaft?</p> <p>21 That is the K4 shaft?</p> <p>22 MR JANSE VAN VUUREN: 100% correct,</p> <p>23 Chair.</p> <p>24 MR WESLEY: If you can then go over to</p> <p>25 the next photograph, item 15 Craig. That is an aerial view</p>	<p style="text-align: right;">Page 34312</p> <p>1 CHAIRPERSON: The right turn being</p> <p>2 roughly a quarter way up.</p> <p>3 MR WESLEY: A quarter way up.</p> <p>4 CHAIRPERSON: The bottom left hand corner</p> <p>5 of the photograph –</p> <p>6 MR WESLEY: That's correct. He then</p> <p>7 indicates that about a tenth of the way across, down the</p> <p>8 road one sees what appears to be some sort of boom or gate</p> <p>9 across the road and the witness indicated that the two</p> <p>10 white blocks just, or the white block just above that gate</p> <p>11 is a security hut, if I can use that word.</p> <p>12 MR JANSE VAN VUUREN: That's a security</p> <p>13 house, yes.</p> <p>14 CHAIRPERSON: And this is just below a</p> <p>15 blue rectangle which is at the bottom left hand corner of a</p> <p>16 building with a white roof or roofs.</p> <p>17 MR WESLEY: In the shape of an L.</p> <p>18 CHAIRPERSON: A series of – well, yes, in</p> <p>19 the shape of an L. I take it it's white roofs and just</p> <p>20 below that, bottom left hand corner of that L.</p> <p>21 MR WESLEY: Mr Van Vuuren, from there you</p> <p>22 arrived at that gate. Just remind the Commissioners what</p> <p>23 did you do at that gate?</p> <p>24 MR JANSE VAN VUUREN: When I arrived at</p> <p>25 the gate the security officer told me not to get into the</p>
<p style="text-align: right;">Page 34311</p> <p>1 of the K4 shaft, is that correct? Sorry, you must answer.</p> <p>2 MR JANSE VAN VUUREN: That's correct,</p> <p>3 sorry.</p> <p>4 MR WESLEY: And then on the following</p> <p>5 photograph, item 16, that's a closer view. Do you confirm</p> <p>6 that is the parking area at the K4 shaft?</p> <p>7 MR JANSE VAN VUUREN: 100% correct, that</p> <p>8 is the parking area.</p> <p>9 MR WESLEY: Now if you have a look at</p> <p>10 that photograph and you have a pointer in your hand –</p> <p>11 MR JANSE VAN VUUREN: Yes.</p> <p>12 MR WESLEY: - could you indicate where,</p> <p>13 when you drove that evening to the K4 shaft, what road did</p> <p>14 you come in towards the K4 shaft, the parking area?</p> <p>15 MR JANSE VAN VUUREN: I will do so, show</p> <p>16 you, sir. There where the pointer is – sorry, die TV is in</p> <p>17 die pad – the main road come there, then you turn right.</p> <p>18 There is the security.</p> <p>19 MR WESLEY: Okay, if I can stop you</p> <p>20 there. Chair, I will for the record describe it. On the</p> <p>21 left of the photograph there's a road that runs from the</p> <p>22 top, bottom to the top. The witness indicates that he was</p> <p>23 driving on that road. The road then, there's a right turn</p> <p>24 from that road which is indicated. He indicates he took</p> <p>25 that right turn.</p>	<p style="text-align: right;">Page 34313</p> <p>1 area. Then I reversed back and phoned my foreman, Mr</p> <p>2 Jacques Potek, to ask him what is going on, the security –</p> <p>3 MR MAHLANGU: He said we should not go</p> <p>4 into the property because there's presently a strike taking</p> <p>5 place.</p> <p>6 MR WESLEY: When you say you reversed,</p> <p>7 can you indicate with your pointer –</p> <p>8 MR JANSE VAN VUUREN: Yes.</p> <p>9 CHAIRPERSON: - where did you reverse to?</p> <p>10 MR JANSE VAN VUUREN: From the gate up to</p> <p>11 the place where I pointed with the pointer to allow other</p> <p>12 vehicles to go through.</p> <p>13 CHAIRPERSON: He indicates that he moved</p> <p>14 in a westerly direction from the gate, roughly halfway</p> <p>15 between the gate and the road running from the bottom of</p> <p>16 the page to the top of the page and he also indicated that</p> <p>17 he went off the road on the northern side, on the verge I</p> <p>18 take it, to enable other traffic to pass.</p> <p>19 MR WESLEY: Thank you, Chair. And from</p> <p>20 there what did you do then, where did you go?</p> <p>21 MR JANSE VAN VUUREN: After phoning</p> <p>22 Jacques Potek and he said to me that we should go on duty,</p> <p>23 should go to work, I then told the security that my foreman</p> <p>24 instructs me to get onto the premises. So I proceed on</p> <p>25 through the security gate to the sliding gate there – there</p>

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1 at the gate, the rotating gate I had to stop to clock in.
 2 MR WESLEY: Sorry, I think he meant, he
 3 said the sliding gate and if I can indicate that –
 4 MR JANSE VAN VUUREN: Ja.
 5 MR MAHLANGU: Sliding gate.
 6 MR JANSE VAN VUUREN: One has got to
 7 clock in order to have it opened.
 8 MR WESLEY: For the record, the witness
 9 is indicating if one travels along the road that he took,
 10 if you carry on down the road at the security gate, the
 11 building to the left-hand side, the white roof, there's a
 12 gap in it. Just below that is an area where he indicates
 13 there's a security gate and that's where he entered into
 14 and that's the parking area, is that correct?
 15 MR JANSE VAN VUUREN: 100% correct, yes.
 16 MR WESLEY: And then where did you go?
 17 MR JANSE VAN VUUREN: I went through the
 18 gate, turned left as I indicate with the pointer, drove
 19 straight to where that blue roof is at the corner. My van,
 20 my bakkie was overheating and then - I drove under that
 21 roof, I took out my tools. I phoned my other foreman who
 22 was on duty to tell them I'd be a bit late. I then started
 23 repairing the pipe, the water pipe that was leaking.
 24 [09:28] MR WESLEY: You finished repairing the
 25 water pipe, what did you see then?

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1 MR VAN VUUREN: After repairing the water
 2 pipe I put back my instruments and then I went into
 3 reverse, and at that moment when I reverse I want to drive
 4 to that side to look for a parking, there come some people
 5 to here, next to that is – there's some wire there with
 6 razor edges, razor wire.
 7 MR WESLEY: If I can just stop you there
 8 to indicate, would you please point, 1, the direction that
 9 you wanted to travel.
 10 MR VAN VUUREN: Reversed up to that first
 11 area where I indicated and then drove forward.
 12 MR MAHLANGU: He points up in a direction
 13 upwards.
 14 MR WESLEY: For the record what the
 15 witness is indicating, on the left-hand side in the parking
 16 area there are two vertical, long vertical rectangles which
 17 are the roofs of buildings. He's indicating the road which
 18 runs between the left-hand and the middle one of the
 19 vertical buildings, the vertical parts of the buildings,
 20 and then you mention people. Where were the people?
 21 MR VAN VUUREN: When I reversed up to
 22 that point, Chairperson, there were people in that area
 23 which I indicated who threw their blankets over the razor
 24 wire. They trampled the wire and stormed on to me.
 25 CHAIRPERSON: Can you show where the wire

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1 is that they trampled flat?
 2 MR VAN VUUREN: The wire, Mr Chairperson,
 3 is in that line he indicated with the – just on the, next
 4 to those buildings.
 5 CHAIRPERSON: Yes, what the witness has
 6 indicated is what we described earlier as an L, on the
 7 western side of the L running up from that blue roof that's
 8 been described to the top of the L, that's where the wire
 9 was and that was the area that was trampled flat and
 10 through which the people came. He also indicated earlier
 11 before that that he pushed his vehicle back from the area
 12 covered by the blue roof to a position more or less in line
 13 with the rectangle which is on the eastern side of the L
 14 and he was there at the time that this incident he's now
 15 talking about happened, when these people trampled the
 16 fence flat and came rushing through.
 17 MR WESLEY: Is that right?
 18 MR VAN VUUREN: It is 100% correct,
 19 Chairperson.
 20 MR WESLEY: Let's just carry on. You say
 21 the people pushed the fence down in the area where you've
 22 indicated. What did you do then? Where did you move next?
 23 MR VAN VUUREN: I drove from there,
 24 Chairperson, between those two buildings. It was at the
 25 point that I was between the end of the one building then

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1 they started throwing stones at me. It was about 15 people
 2 who stormed over the wire at the same time. Some of them
 3 had balaclavas over their heads, over their faces. Whilst
 4 I was driving to get away from them they throw the stones
 5 and they take a pipe and hit my car's window.
 6 MR WESLEY: Okay, Mr van Vuuren –
 7 MR MAHLANGU: As he said in English.
 8 MR WESLEY: - if you're going to testify
 9 in Afrikaans please stick to Afrikaans. It makes it
 10 easier.
 11 MR VAN VUUREN: Whilst I was driving they
 12 threw stones on the windows of the vehicle and they take a
 13 pipe and hit the windscreen of my vehicle right in front of
 14 my face with a steel pipe. I kept on driving and I came to
 15 stop my vehicle at that point which I indicated at the end
 16 of the building –
 17 CHAIRPERSON: You're indicating the
 18 northern end of the building which is to the right of the
 19 L-section that was referred to earlier and that's the spot
 20 at which he stopped.
 21 MR VAN VUUREN: That's correct,
 22 Chairperson, the L-section, ja.
 23 CHAIRPERSON: We call them buildings. I
 24 understand they're actually open parking areas with a roof
 25 on top. Is that correct?

<p style="text-align: right;">Page 34318</p> <p>1 MR VAN VUUREN: That's correct. It is 2 parking areas, Mr Chairperson, that have got roofing up but 3 no walls in between. 4 CHAIRPERSON: They're really extended 5 carports, aren't they? 6 MR VAN VUUREN: That's correct – 7 CHAIRPERSON: But it's much longer than 8 that. 9 MR VAN VUUREN: Ja, these are long 10 extended parking areas. 11 MR WESLEY: Chair, just for the record, 12 there are photographs which I'll be referring to which 13 would show what they look like close up. You parked at the 14 northern area that you've indicated. Where do you go next? 15 MR VAN VUUREN: They were still throwing 16 stones at me, Chairperson, and at a stage I shout at the 17 people "Stop now with your nonsense." 18 MR MAHLANGU: As he says in English, "I 19 shouted at them to stop the nonsense." 20 MR VAN VUUREN: Stop your nonsense. 21 Whilst they were still throwing at me I went into that 22 point where I'm pointing, in the middle of those parking 23 areas. Under that roof building, at that point, 24 Chairperson, there is what we call a mine turnstile where 25 we clock. One has got to clock there and then proceed</p>	<p style="text-align: right;">Page 34320</p> <p>1 After some time when I heard the starting of the 2 motorcycles I stood up. I then realised that all the 3 lights in that area, the lighting had gone off and I saw 4 motor vehicles which were on fire. I came down in the 5 direction in which I'm indicating, Chairperson – 6 MR WESLEY: Southerly direction. 7 MR VAN VUUREN: That is in a southerly 8 direction. About where the pointer is now, in that 9 vicinity – 10 CHAIRPERSON: About halfway down in a 11 southerly direction. 12 MR WESLEY: Chair, on the photograph one 13 can see a small black smudge almost, that's the point that 14 he's indicating. 15 MR VAN VUUREN: Where there's that black 16 mark there, Chairperson, I saw a person lying there. 17 Whilst coming down, as I indicate in a southerly direction, 18 the vehicle was already on fire. I realised that the 19 person had been chopped on his face and he was lying 20 between the burning cars and I realised I had to drag him 21 away from there – 22 CHAIRPERSON: He also said – 23 MR VAN VUUREN: Because I was – 24 CHAIRPERSON: Sorry to interrupt you. He 25 also said there was blood on his face.</p>
<p style="text-align: right;">Page 34319</p> <p>1 inside into the change - that is the area where we, it's an 2 ablution block, Mr Chairperson. I tried to clock in there 3 but I was unable to. The turnstile wasn't functional. I 4 tried it. I left it and came in that direction which I've 5 indicated, there is a shorter parking space over there. 6 That's where I came to. There was a motorcycle parked 7 there and behind it was a wall, a brick wall. I then hid 8 behind the wall. I was lying there for some time, 9 Chairperson, I didn't look at my watch, and then at that 10 time I heard in that direction which I'm indicating 11 somebody starting up a motorbike. 12 CHAIRPERSON: He indicates near the 13 southern extension, easterly extension at the bottom of the 14 L between that parking garage and the parking garage 15 immediately above it. That's where, it's from there that 16 he heard the motorcycle started up. 17 MR VAN VUUREN: Correct, Chairperson. 18 Over there where I'm indicating that's where the brick wall 19 is. In that area there is also a security razor wire. 20 Some of the people that were parked in this parking area 21 went over this razor wire to the other side. 22 MR MAHLANGU: He points in an easterly 23 direction towards – 24 MR WESLEY: Easterly direction. 25 MR VAN VUUREN: In an easterly direction.</p>	<p style="text-align: right;">Page 34321</p> <p>1 MR VAN VUUREN: Yes. 2 MR MAHLANGU: He said there was blood on 3 his face and lying between the burning cars. 4 MR VAN VUUREN: I realised I had to drag, 5 I had to pull him away from there. I was also afraid of 6 the attackers, but they was not attacking me again because 7 they was now here busy with this guys with the motorbikes. 8 MR MAHLANGU: As he says in English. 9 CHAIRPERSON: What he indicated was that 10 the people who had been attacking him earlier, they were at 11 the – 12 MR VAN VUUREN: But they were not 13 attacking me anymore. 14 CHAIRPERSON: - eastern end of the 15 easterly extension of the L, at that point and that's where 16 they were busy with the people with the motorbikes. 17 MR MAHLANGU: Yes, Chairperson. He also 18 indicated that "At that stage they were not attacking me 19 anymore." 20 MR VAN VUUREN: That's correct, 21 Chairperson. In the meantime they had attacked and hit the 22 person with the motorbike with a pipe, and that guy on the 23 motorbike is Chris Kuiters, I know him personally. He is 24 Kuiters. Ja, Chris Kuiters. The other person, Nico 25 Greyling, was in that area between those two buildings in</p>

<p style="text-align: right;">Page 34322</p> <p>1 the L-shape with his bike.</p> <p>2 CHAIRPERSON: Yes, to the south of the</p> <p>3 first person he mentioned.</p> <p>4 MR VAN VUUREN: South of the end of the</p> <p>5 L-shape, yes. Somewhere in that vicinity, Chairperson,</p> <p>6 there's also the razor wire and there's also a turnstile</p> <p>7 there. Mr Kuitert climbed over the fence, Mr Kuitert. While</p> <p>8 he was climbing over the fence they – I don't know if it</p> <p>9 was a "mes" or a screwdriver or something, they puncture</p> <p>10 him in his rear end.</p> <p>11 MR MAHLANGU: He spoke of a "mes" or a</p> <p>12 screwdriver.</p> <p>13 MR VAN VUUREN: They stabbed him on his</p> <p>14 buttocks with the instrument. Mr Greyling who was in the</p> <p>15 lower area [as he indicates] also ran in the direction</p> <p>16 upwards. There were also in that vicinity on the southern</p> <p>17 side of the end of the L-shape people who were stopping</p> <p>18 those people with the motorbikes from getting away.</p> <p>19 CHAIRPERSON: That is the position you</p> <p>20 previously showed us was where the sliding gate was.</p> <p>21 MR VAN VUUREN: Yes. Just as fast as</p> <p>22 they came in, Chairperson, they went through the gates and</p> <p>23 ran away. After some time somebody came to the turnstiles</p> <p>24 and he broke the key, the lock. My nightshift foreman</p> <p>25 after the breaking of the lock then called me, that's Mr</p>	<p style="text-align: right;">Page 34324</p> <p>1 loaded in together with Mr Kuitert and Nico Greyling and we</p> <p>2 were taken to the mine hospital. I think its name, if I</p> <p>3 remember well, is Saffy Hospital.</p> <p>4 CHAIRPERSON: Andrew Saffy.</p> <p>5 [09:48] MR WESLEY: If I can just interject</p> <p>6 there, Mr Van Vuuren, the remainder is covered in your</p> <p>7 affidavit. If I can ask you to go to the bundle. I want</p> <p>8 you please just to assist us in identifying photographs.</p> <p>9 Could you go the 13th page, page 13?</p> <p>10 MR JANSE VAN VUUREN: That's correct, I</p> <p>11 have it.</p> <p>12 MR WESLEY: What is that photograph?</p> <p>13 MR JANSE VAN VUUREN: That is the photo</p> <p>14 of my Volkswagen caddy bakkie which was hit with an iron</p> <p>15 pipe whilst I was trying to drive away.</p> <p>16 MR WESLEY: It's in fact the windscreen</p> <p>17 is it not?</p> <p>18 MR JANSE VAN VUUREN: That's correct,</p> <p>19 that is the windscreen, the main windscreen.</p> <p>20 MR WESLEY: And page 14, the next page?</p> <p>21 MR JANSE VAN VUUREN: It's also the same</p> <p>22 photo.</p> <p>23 MR WESLEY: Well it's a different photo,</p> <p>24 but it shows the same thing.</p> <p>25 MR JANSE VAN VUUREN: It shows that it</p>
<p style="text-align: right;">Page 34323</p> <p>1 Snyman.</p> <p>2 CHAIRPERSON: Engelbrecht.</p> <p>3 MR VAN VUUREN: Engelbrecht.</p> <p>4 MR MAHLANGU: I'm sorry. I'm sorry.</p> <p>5 Engelbrecht.</p> <p>6 MR VAN VUUREN: And he said we must use</p> <p>7 the fire extinguishers under the, onder die afdakke om die</p> <p>8 kar te extinguish. That's the instructions he gave us, use</p> <p>9 the fire extinguishers to extinguish the burning cars. We</p> <p>10 tried to blast with two fire extinguishers his vehicle.</p> <p>11 The fire was burning fiercely, we could not extinguish it.</p> <p>12 The others cars under the parking areas were also alight,</p> <p>13 they were burning. I did not see, I did not witness how</p> <p>14 they set the vehicles alight. After our endeavours there I</p> <p>15 was taken away to the Murray & Roberts workshops in that</p> <p>16 area.</p> <p>17 CHAIRPERSON: Slightly to the left of the</p> <p>18 K4 Shaft as it's marked on the photograph.</p> <p>19 MR VAN VUUREN: That's correct, Chair.</p> <p>20 Whilst we were there we waited for a very long time for the</p> <p>21 securities and the ambulances to come. Whilst I was under</p> <p>22 the parking shacks, trying to pull Mr Mabebe away, I looked</p> <p>23 for first aid boxes in order to assist him. There were</p> <p>24 none under those buildings, Chairperson. I don't know how</p> <p>25 long it took but the ambulance eventually arrived. I was</p>	<p style="text-align: right;">Page 34325</p> <p>1 was hit very hard.</p> <p>2 MR WESLEY: Page 15? That's another</p> <p>3 photograph of the windscreen isn't it?</p> <p>4 MR JANSE VAN VUUREN: Yes it was a photo</p> <p>5 taken from the side, Chairperson.</p> <p>6 MR WESLEY: Of the windscreen.</p> <p>7 MR JANSE VAN VUUREN: That's right.</p> <p>8 MR WESLEY: Page 16?</p> <p>9 MR JANSE VAN VUUREN: The left window</p> <p>10 which was broken with a stone.</p> <p>11 MR WESLEY: And one can see - on the</p> <p>12 right-hand side of the photograph one can see the remnants</p> <p>13 of what appears to be a window.</p> <p>14 MR JANSE VAN VUUREN: That's correct,</p> <p>15 Chairperson.</p> <p>16 MR WESLEY: The next page, page 17,</p> <p>17 what's that a photograph of?</p> <p>18 MR JANSE VAN VUUREN: The right window</p> <p>19 and the stone which was used for breaking the window.</p> <p>20 MR WESLEY: When you say it's the right</p> <p>21 window is that the glass from the right window?</p> <p>22 MR JANSE VAN VUUREN: The window on the</p> <p>23 left-hand side together with the stone that hit that</p> <p>24 window.</p> <p>25 MR MAHLANGU: And he spoke of that is the</p>

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1 left-side seat.
 2 MR WESLEY: That's a stone that was
 3 thrown at you.
 4 MR JANSE VAN VUUREN: It was thrown
 5 whilst I was driving.
 6 MR WESLEY: The next page is page 18,
 7 that's a similar photograph to page 17. The stone and the
 8 glass on the –
 9 MR JANSE VAN VUUREN: It is also correct,
 10 yes.
 11 MR WESLEY: The next page is page 19.
 12 Could you tell the Commission what is that? It's a
 13 photograph of your left shoulder.
 14 MR JANSE VAN VUUREN: That's correct,
 15 Chairperson.
 16 MR WESLEY: The next page, page 20 in the
 17 bundle?
 18 MR JANSE VAN VUUREN: That is my left
 19 shin, heel. Whilst I was going through the turnstile they
 20 throw me with a rock on my heel. But a stone was thrown on
 21 my left heel.
 22 MR WESLEY: We go to the next document,
 23 item 12, Craig. Would you identify what that is?
 24 MR JANSE VAN VUUREN: That is a sick note
 25 given to me by Doctor Bouer. The following day after my

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1 discharge from the hospital –
 2 MR WESLEY: If I can assist you maybe,
 3 you went to go and see Doctor Bouer.
 4 MR JANSE VAN VUUREN: That's correct,
 5 yes.
 6 MR WESLEY: And he prepared this medical
 7 certificate for you.
 8 MR JANSE VAN VUUREN: 100% correct,
 9 Chair.
 10 MR WESLEY: And if I can read into the
 11 record the injuries that are recorded are laceration head,
 12 bruising left shoulder and left heel and he also records
 13 emotionally traumatised.
 14 MR JANSE VAN VUUREN: That's correct,
 15 Sir.
 16 MR WESLEY: We're going to carry on with
 17 photographs now, but at this point the recording there of
 18 emotionally traumatised, can you explain to the
 19 Commissioners what the experience was like that you went
 20 through, in your own words?
 21 MR JANSE VAN VUUREN: It wasn't a good
 22 experience, Chairperson. I felt like a dog that is caged
 23 up and you get anywhere. Everything was scary, you are in
 24 this area which is totally surrounded by people. I was
 25 very scared, Chairperson. One doesn't know what they are

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1 going to do next. It wasn't a good experience, it wasn't a
 2 good feeling. I must also say I mentioned to the doctor
 3 that I wasn't happy about – she gave me tablets to calm me
 4 down. I'm still on that kind of treatment, tablets.
 5 CHAIRPERSON: Tranquilisers.
 6 MR JANSE VAN VUUREN: Ja, tranquilisers.
 7 CHAIRPERSON: You said she gave it. Is
 8 it a lady doctor.
 9 MR JANSE VAN VUUREN: Yes it is a female
 10 doctor.
 11 CHAIRPERSON: She prescribed
 12 tranquilisers for you.
 13 MR JANSE VAN VUUREN: Ja.
 14 CHAIRPERSON: You're still having to use
 15 them today.
 16 MR JANSE VAN VUUREN: That's correct,
 17 Chairperson.
 18 CHAIRPERSON: Have you been given
 19 counselling as well?
 20 MR JANSE VAN VUUREN: Murray & Roberts
 21 has a program yes, Chairperson, I was part of the program
 22 and we spoke about all these things and so on.
 23 CHAIRPERSON: So was this a counselling
 24 program that lasted for quite some time, for how long did
 25 it last?

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1 MR JANSE VAN VUUREN: It was only two or
 2 three sessions.
 3 CHAIRPERSON: Two or three sessions.
 4 MR JANSE VAN VUUREN: Ja.
 5 CHAIRPERSON: And did you find it
 6 helpful-
 7 MR JANSE VAN VUUREN: Ja.
 8 CHAIRPERSON: To get through of the
 9 horror of the experience –
 10 MR JANSE VAN VUUREN: Ja I told them I'm
 11 not a racist, so it doesn't help me now to get angry and
 12 get a gun or something and shoot sommer anybody, no. I
 13 accept it because it's part of life.
 14 CHAIRPERSON: Mr Wesley, do you have to
 15 go through all the photographs –
 16 MR WESLEY: No Chair, I just want to
 17 actually –
 18 CHAIRPERSON: Perhaps describe them
 19 generally and then focus on one or two.
 20 MR WESLEY: Can we go to page 30 please
 21 of that bundle?
 22 MR JANSE VAN VUUREN: Yes I've got it.
 23 MR WESLEY: That's a bundle of
 24 photographs, you've gone through them. Do you confirm
 25 those are photographs of the parking area and what it

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1 looked like in the days following that attack?
 2 MR JANSE VAN VUUREN: 100% correct,
 3 Chair. These were burnt cars, this is the aftermath of
 4 what happened.
 5 MR WESLEY: Could you go to page 52?
 6 CHAIRPERSON: Before we get there, Mr
 7 Wesley just for the sake of clarity perhaps we could look
 8 at 32 which I think is quite a useful photograph of the
 9 covered parking area which he called the afdak. I was
 10 looking for the correct English but I suppose covered
 11 parking area is the best that we can do. That shows it
 12 quite clearly I think.
 13 MR WESLEY: Mr van Vuuren, the photograph
 14 at page 32, do you see that?
 15 MR JANSE VAN VUUREN: I have it, yes
 16 that's correct, Sir.
 17 MR WESLEY: That shows the parking area
 18 and the covers that are in the parking area.
 19 MR JANSE VAN VUUREN: That's 100% and you
 20 see in the background along the length of the parking cover
 21 there's razor wire.
 22 MR WESLEY: Craig, at 17.3 if it will
 23 assist you, just to orientate you, if you look at that
 24 photograph, Mr Van Vuuren, in the middle of the photograph
 25 there's an area just below a roof, one sees what looks like

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1 a tower, part of a tower sticking out. Do you see that?
 2 I'm pointing to it now on the screen.
 3 MR JANSE VAN VUUREN: It's 32, yes.
 4 MR WESLEY: Yes, that's correct.
 5 MR JANSE VAN VUUREN: Yes, that's the
 6 shaft, the main shaft, ja.
 7 MR WESLEY: Now to orientate us, to know
 8 where we are, Craig could you put up item 16 the aerial
 9 view? That there, where I'm indicating, that'll do, Craig,
 10 thank you very much. The shaft in the middle of this
 11 photograph one sees a vertical structure and one can see
 12 the shadow pointing out to the bottom-left of the
 13 photograph, that's the shaft.
 14 MR JANSE VAN VUUREN: That's 100%
 15 correct.
 16 MR WESLEY: And the parking area is to
 17 the bottom and left-hand side, below left-hand side of
 18 where that shaft is.
 19 MR JANSE VAN VUUREN: 100% correct,
 20 Chair.
 21 MR WESLEY: And this is what the parking
 22 area looks like, those sort of structures.
 23 MR JANSE VAN VUUREN: 100% correct,
 24 Chair.
 25 MR WESLEY: And if you then please go to,

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1 I had you at 52 please, page 52? Do you see it?
 2 MR JANSE VAN VUUREN: 100%, I've got it.
 3 MR WESLEY: That vehicle, can you
 4 identify that vehicle?
 5 MR JANSE VAN VUUREN: It's a Toyota
 6 Avanti.
 7 MR WESLEY: You mentioned in your
 8 statement the Toyota Avanti, is that the Toyota Avanti that
 9 you were talking about?
 10 MR JANSE VAN VUUREN: 100% correct,
 11 Chair.
 12 MR WESLEY: There are photographs of that
 13 Toyota Avanti up until page 56 of the bundle. If you could
 14 then please go to page 58 of the bundle. That's what a
 15 Toyota Avanti looks like, Chair we got this for interest
 16 sake. One knows a Toyota Avanti, the vehicle was burnt
 17 out, but one knows it from the distinctive outline of the
 18 roof, at the rear quarter of the motor vehicle. Thank you,
 19 Craig. If we could go to page 58.
 20 MR JANSE VAN VUUREN: I have it.
 21 MR WESLEY: Craig, I think it's 17, 7.30
 22 if I'm not mistaken, Craig. Go to the following photograph
 23 please, the next one. It might be clearer, okay one back,
 24 there we go.
 25 CHAIRPERSON: That's 58.

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1 MR WESLEY: That's correct, Chair, 58.
 2 Mr van Vuuren, you told me, you explained to me the Toyota
 3 Avanti is in fact more or less – the person who took the
 4 photograph will be standing where the Toyota Avanti was.
 5 Is that correct?
 6 MR JANSE VAN VUUREN: 100%.
 7 MR WESLEY: On the bottom left-hand side
 8 of this one sees what looks like a rock and a large pool of
 9 blood.
 10 MR JANSE VAN VUUREN: That's positive,
 11 Sir.
 12 MR WESLEY: Do you know, what can you
 13 tell the Commissioners about that rock and that pool of
 14 blood?
 15 MR JANSE VAN VUUREN: This is where Mr
 16 Mabebe was lying, Chairperson after the attack on him.
 17 MR WESLEY: The blood is from Mr Mabebe.
 18 MR JANSE VAN VUUREN: 100%, Chair.
 19 MR WESLEY: Now in the background of this
 20 photograph one sees a red bakkie, can you identify that?
 21 MR JANSE VAN VUUREN: That's my red caddy
 22 bakkie.
 23 MR WESLEY: Craig, if you could go to the
 24 very last photograph in this bundle please. Is that a
 25 photograph of the rear end of your bakkie.

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1 MR JANSE VAN VUUREN: 100% correct,
 2 Chairperson.
 3 MR WESLEY: HHW778 –
 4 MR JANSE VAN VUUREN: 100%.
 5 MR WESLEY: Chair, thank you. That's all
 6 I have to ask him.
 7 COMMISSIONER HEMRAJ: Mr van Vuuren, are
 8 you able to tell us how many security guards were on duty
 9 when you arrived there?
 10 MR JANSE VAN VUUREN: There was only one
 11 security officer on duty, Commissioner.
 12 COMMISSIONER HEMRAJ: Was that at the
 13 security gate when you first arrived?
 14 MR JANSE VAN VUUREN: That's positive, at
 15 the gate at which I stopped.
 16 COMMISSIONER HEMRAJ: Thank you.
 17 CHAIRPERSON: Was that a lady or a man?
 18 MR JANSE VAN VUUREN: A black –
 19 CHAIRPERSON: I'm not interested in the
 20 race –
 21 MR JANSE VAN VUUREN: A male.
 22 CHAIRPERSON: Do you know whether he was
 23 armed?
 24 MR JANSE VAN VUUREN: Ekskuus, Meneer.
 25 CHAIRPERSON: Do you know whether he was

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1 armed, whether he had a weapon?
 2 MR JANSE VAN VUUREN: I did not see any
 3 firearm. I saw the bat. Daai wat die polisie gebruik,
 4 daai swart ding wat hulle, hulle self so verdedig. I call
 5 it a bat, I don't what is the -
 6 CHAIRPERSON: They call it a tonfa, it's
 7 a kind of longish baton. Is that right, with a small
 8 handle?
 9 MR JANSE VAN VUUREN: Ja it's got a
 10 handle and then it's about a half metre long, the one known
 11 as a tonfa.
 12 CHAIRPERSON: I think one would call it a
 13 baton, but I understand the technical name is a tonfa.
 14 Anyway we don't have to go there. You've described it, we
 15 understand what it is. You've got no more questions, Mr
 16 Wesley.
 17 MR WESLEY: No more questions, Chair.
 18 CHAIRPERSON: I understand the only
 19 person to cross-examine is Mr Tip.
 20 MR TIP SC: Thank you, Chair. Mr Janse
 21 van Vuuren the description that you've given of the event
 22 and what happened to you is of a nature that I must ask you
 23 whether you felt at any time during it that you might lose
 24 your life?
 25 MR JANSE VAN VUUREN: That's correct.

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1 When my windscreen was hit with the pipe I thought they
 2 were going to hit my head with the steel pipe.
 3 MR TIP SC: If your windscreen had not
 4 been able to withstand that blow it would have struck you
 5 on the head, is that right?
 6 MR JANSE VAN VUUREN: Yes, it was right
 7 where my head was.
 8 MR TIP SC: The Commissioner has just
 9 asked you about the security, was the security present that
 10 evening any different from the security present on previous
 11 nights?
 12 MR JANSE VAN VUUREN: No it's always one.
 13 The place is manned by one security officer.
 14 MR TIP SC: So no additional security was
 15 present anywhere in the vicinity.
 16 MR JANSE VAN VUUREN: Not at all, I
 17 didn't see anything.
 18 MR TIP SC: Can I ask you to go to your
 19 statement, GGGG3? If we could get that on, thank you. Mr
 20 Janse van Vuuren, in paragraph 2 you describe that you were
 21 scheduled to go on shift at the K4 shaft and then in the
 22 second sentence you say prior to 12 August 2012 we had been
 23 briefed by Lonmin and by Murray & Roberts management about
 24 the strike that was taking place and we were warned that we
 25 must be on the lookout for strikers who were walking around

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1 together in a crowd or gang. Do you recall that?
 2 MR JANSE VAN VUUREN: That's 100%
 3 correct, yes.
 4 MR TIP SC: Now I'd like you very much,
 5 if you can think back to that time and tell us when before
 6 12 August this briefing took place.
 7 MR JANSE VAN VUUREN: If I am not making
 8 a mistake, if I'm thinking correctly it was about a week
 9 before this.
 10 MR TIP SC: Who attended that briefing?
 11 You mentioned Lonmin and Murray & Roberts management. Do
 12 you remember who was present there?
 13 MR JANSE VAN VUUREN: The whole mine shaft
 14 employees and management.
 15 MR TIP SC: Is this management employed
 16 and working at the shaft?
 17 MR JANSE VAN VUUREN: 100%, Chair.
 18 [10:08] MR TIP SC: You talk about a warning that
 19 you must be on the lookout for strikers, what exactly where
 20 you told about this, what were you supposed to do?
 21 MR JANSE VAN VUUREN: They did not tell
 22 us what to do, Chairperson. They only said whilst on our
 23 way to work we should look around and see people, see if
 24 there were no people walking in groups.
 25 MR TIP SC: Were you told that there

<p style="text-align: right;">Page 34338</p> <p>1 might be danger to you?</p> <p>2 MR JANSE VAN VUUREN: No.</p> <p>3 MR TIP SC: Did you at any time, from</p> <p>4 anybody, before you went on shift on 12 August, learn that</p> <p>5 it might be risky to report to work?</p> <p>6 MR JANSE VAN VUUREN: Before the evening</p> <p>7 of the attack Murray and Roberts –</p> <p>8 CHAIRPERSON: Management.</p> <p>9 MR MAHLANGU: Management.</p> <p>10 MR JANSE VAN VUUREN: The manager who was</p> <p>11 working on shaft 4.</p> <p>12 CHAIRPERSON: What he says is it's the</p> <p>13 manager of Murray and Roberts who was working on the</p> <p>14 contract at shaft 4.</p> <p>15 MR JANSE VAN VUUREN: Ja.</p> <p>16 MR MAHLANGU: That's correct.</p> <p>17 MR JANSE VAN VUUREN: The contract</p> <p>18 manager of Murray and Roberts.</p> <p>19 MR JANSE VAN VUUREN: I don't remember</p> <p>20 his name. He was a new man there, Chairperson. He walked</p> <p>21 about with a gun, a firearm. He had the firearm in a</p> <p>22 pouch.</p> <p>23 MR MAHLANGU: He indicates on his right</p> <p>24 hip.</p> <p>25 MR JANSE VAN VUUREN: Me and the other</p>	<p style="text-align: right;">Page 34340</p> <p>1 had taken place on me, sir.</p> <p>2 MR TIP SC: Alright, thank you. And on</p> <p>3 your way to K4 shaft that evening, did you at any time come</p> <p>4 across Lonmin security personnel?</p> <p>5 MR JANSE VAN VUUREN: Not at all, sir.</p> <p>6 MR TIP SC: Thank you. I want to ask you</p> <p>7 a few questions now about Mr Mabebe and, Mr Chair, I would</p> <p>8 like just first of all to put on record some basic details</p> <p>9 which are to be found in the post-mortem report which is at</p> <p>10 page 22 of the bundle. Mr Janse van Vuuren, I am just</p> <p>11 going to –</p> <p>12 CHAIRPERSON: Before we carry on –</p> <p>13 MR TIP SC: Yes.</p> <p>14 CHAIRPERSON: Is Mrs Mabebe in the</p> <p>15 chamber? Or if there's anybody in the chamber who is</p> <p>16 related to or a friend or loved one of Mr Mabebe, who feels</p> <p>17 that hearing the details of the injuries he sustained will</p> <p>18 be painful and distressing, I give such person or persons</p> <p>19 an opportunity to leave the chamber. Mrs Mabebe, I see</p> <p>20 you're sitting in the chamber. Do you wish to leave or do</p> <p>21 you wish to stay?</p> <p>22 MR TIP SC: Chair, may I suggest – I</p> <p>23 don't have any instructions from the family of Mr Mabebe</p> <p>24 but I had hoped to have an opportunity before we started</p> <p>25 just to spend two minutes with Mr Mabebe's sister, who is</p>
<p style="text-align: right;">Page 34339</p> <p>1 colleagues were surprised, why he walks about with a gun</p> <p>2 and we are supposed to report on duty, we must come to</p> <p>3 work.</p> <p>4 MR TIP SC: Yes, but nothing specific</p> <p>5 ever reached your ears about any suggestion that it might</p> <p>6 be dangerous to report for your shift that night.</p> <p>7 MR JANSE VAN VUUREN: Anything that was</p> <p>8 heard was only on the radio, the strike and the people</p> <p>9 speaking on the shaft in between. People who were talking</p> <p>10 to, amongst each other in the mine, in the shaft.</p> <p>11 MR TIP SC: Alright. Then if you turn to</p> <p>12 page 2 of your statement, the same statement you deal</p> <p>13 there, Mr Janse van Vuuren, your telephone call to your</p> <p>14 foreman, Mr Jacques Potek.</p> <p>15 MR JANSE VAN VUUREN: 100%, yes.</p> <p>16 MR TIP SC: And I think it's clear there</p> <p>17 but I just want to underline it, when you spoke to him he</p> <p>18 was in fact not even aware that there was a strike that</p> <p>19 might affect K4 shaft.</p> <p>20 MR JANSE VAN VUUREN: I think he was</p> <p>21 aware but he give the instruction we must go and work.</p> <p>22 MR TIP SC: And your shift foreman, Mr</p> <p>23 Johan Engelbrecht, was already inside the shaft on duty?</p> <p>24 MR JANSE VAN VUUREN: I found him inside</p> <p>25 the mine, I saw that he was in the mine after the assault</p>	<p style="text-align: right;">Page 34341</p> <p>1 present, and I wonder if it might be indicated that I have</p> <p>2 that chance –</p> <p>3 CHAIRPERSON: Yes, I take the point. May</p> <p>4 I ask you a question? Is the Mabebe family represented</p> <p>5 before the Commission?</p> <p>6 MR TIP SC: Not present.</p> <p>7 CHAIRPERSON: Are they legally</p> <p>8 represented? Mr Tip, I think let's take the first comfort</p> <p>9 break now. You'll get an opportunity to speak to those to</p> <p>10 whom you wish to speak. You can also ascertain what</p> <p>11 [indistinct] you've got and perhaps –</p> <p>12 MR TIP SC: Yes.</p> <p>13 CHAIRPERSON: And because obviously if</p> <p>14 they're not represented it may be that you could, as some</p> <p>15 kind of amicus curiae or negotiorum gestor or something of</p> <p>16 that kind, perhaps ask questions which are perhaps</p> <p>17 necessary and should be asked in order that their position</p> <p>18 is –</p> <p>19 MR TIP SC: Yes, Chair. I had thought</p> <p>20 that it might assist the Commission if I were to do that.</p> <p>21 CHAIRPERSON: So we'll take the first</p> <p>22 comfort break now, quarter of an hour.</p> <p>23 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>24 [10:39] CHAIRPERSON: The Commission resumes.</p> <p>25 Mnr Janse van Vuuren, u is nog steeds onder eed.</p>

<p style="text-align: right;">Page 34342</p> <p>1 HERMANUS ANDRIES JANSE VAN VUUREN: 2 [s.o.e. deur talk] 3 VOORSITTER: Mnr Tip. 4 MR TIP SC: Thank you, Chair, and may I 5 also say a particular word of gratitude to the Commission 6 for the adjournment which provided an opportunity to 7 discuss the position with a family representative and I 8 just want to put on record what the position is there and I 9 do so in a negotiorum gestor capacity. 10 The elder sister of Mr Mabebe has been in 11 attendance, is here today. She is Ms Esther Mabebe. She 12 in fact because of family circumstances as a teenage girl 13 undertook the raising of Mr Mabebe, so has had an 14 especially close relationship with him. She has elected 15 not to attend the next few minutes where there will be some 16 discussion about what took place that evening. It is very 17 difficult for her. Mrs Fundi will convey to her afterwards 18 just what took place and to the extent necessary I will see 19 that any supplementing of information is transmitted. So 20 we can continue on that basis. 21 CHAIRPERSON: I understand you told me 22 during the adjournment that I was wrong in thinking that Mr 23 Mabebe was married; he wasn't married, so there isn't a Mrs 24 Mabebe here. The lady I thought was Mrs Mabebe is in fact 25 the elder sister to whom you've referred.</p>	<p style="text-align: right;">Page 34344</p> <p>1 the record. Now Mr Janse van Vuuren, what I want to see 2 what you can give us by way of assistance is just some 3 details as best you can recall them on what took place in 4 relation to the assistance given, the medical assistance 5 given to Mr Mabebe after this awful event. 6 MR JANSE VAN VUUREN: Is it at the 7 hospital, Sir? 8 MR TIP SC: But I'm going to take you 9 through it step by step and as I say it doesn't depend on 10 medical knowledge on your part, just to see how far you can 11 help us. First of all it's clear from your statement that 12 you are the first person who went to the assistance of Mr 13 Mabebe. 14 MR JANSE VAN VUUREN: That's correct, 15 Chair. 16 MR TIP SC: You pulled him away from a 17 burning car to prevent him from being burnt as well. 18 MR JANSE VAN VUUREN: It's 100%, Chair. 19 MR TIP SC: And at that stage Mr Mabebe, 20 although he had been severely injured he was still 21 conscious? 22 MR JANSE VAN VUUREN: 100% correct, Sir. 23 MR TIP SC: And indeed he was still able 24 to speak to you? 25 MR JANSE VAN VUUREN: Yes, he mentioned</p>
<p style="text-align: right;">Page 34343</p> <p>1 CROSS-EXAMINATION BY MR TIP SC (CONTD.): 2 Chair, you have that correct, yes. Then let me proceed. 3 Mr Janse van Vuuren, I was just about to just put on record 4 the essential finding of the post mortem examination. You 5 can just listen to it. I'm not going to ask you questions 6 about the medical details; you're not here as a doctor, but 7 this is reflected, Chair, at page – 8 CHAIRPERSON: It's page 22 of the bundle. 9 MR TIP SC: 22 of the bundle, yes, and in 10 fact on that first page it will be sufficient for present 11 purposes to read the chief post mortem findings which were 12 as follows, and I quote, "Black adult male with history of 13 multiple stabs, skull fracture, left parietal occipital 14 with brain extrusion and intracranial haemorrhages. It's 15 not necessary, Chair, for me to give any further 16 explanation on what those entail, but clearly those were 17 very severe injuries. Now Mr – 18 CHAIRPERSON: I'm sorry, while you're 19 reading, on the next page we see the [microphone off, 20 inaudible]. I see on the second page of this report there 21 was this fracture of the left parieto-occipital part of the 22 skull and also the jaw and I take it that that rock we saw 23 with blood on it must have been used to fracture his skull. 24 MR TIP SC: It would appear to be the 25 position, yes. Thank you, Chair, for adding that detail on</p>	<p style="text-align: right;">Page 34345</p> <p>1 that he was having serious pain. 2 MR TIP SC: Yes, now at that stage you 3 had already been behind the wall that you described to us 4 you had jumped over in order to secure your own life. 5 MR JANSE VAN VUUREN: When I spoke to Mr 6 Mabebe I was with him, Chairperson. It was after I had 7 come back from the wall where I was hiding. 8 MR TIP SC: Quite right. I follow that 9 in precisely that way, Mr Janse van Vuuren, and I know that 10 you've told us that you didn't look at your watch, but can 11 you give us any indication at all of how long you might 12 have spent behind that wall before you went to assist Mr 13 Mabebe? 14 MR JANSE VAN VUUREN: To me it looked 15 like it was a very long time, it looks like hours. 16 MR TIP SC: Alright, well hours may be 17 too long. Perhaps let me just put this, put a different 18 question to you. You also told us that after the event, 19 after the attacking group had gone you were in the Murray & 20 Roberts section. 21 MR JANSE VAN VUUREN: That's correct, 22 Chair. 23 MR TIP SC: And then you said that a very 24 long time passed before security and ambulances arrived, or 25 an ambulance.</p>

<p style="text-align: right;">Page 34346</p> <p>1 MR JANSE VAN VUUREN: That's 100%</p> <p>2 correct, yes.</p> <p>3 MR TIP SC: Again I just want to know</p> <p>4 whether you can give us any assistance with a realistic</p> <p>5 assessment of how long that time was.</p> <p>6 MR JANSE VAN VUUREN: If I was to guess I</p> <p>7 would say between an hour, an hour and a half or two hours.</p> <p>8 MR TIP SC: Alright, how many ambulances</p> <p>9 came to the scene?</p> <p>10 MR JANSE VAN VUUREN: The ambulance that</p> <p>11 removed me, there was only one.</p> <p>12 MR TIP SC: And were you able to observe</p> <p>13 how Mr Mabebe was moved from there to the hospital?</p> <p>14 MR JANSE VAN VUUREN: No, first Mr Mabebe</p> <p>15 was loaded into it and then they drove to the back of the</p> <p>16 workshop and picked me up.</p> <p>17 MR TIP SC: Are you saying that Mr Mabebe</p> <p>18 was taken to the hospital and that the ambulance then came</p> <p>19 back for you, or did you all go in the ambulance in one</p> <p>20 trip?</p> <p>21 MR JANSE VAN VUUREN: We go in one trip</p> <p>22 with the ambulance and the security was guarding the</p> <p>23 ambulance.</p> <p>24 MR TIP SC: So you went together with Mr</p> <p>25 Mabebe and the other people who had been injured, Mr Kuiters</p>	<p style="text-align: right;">Page 34348</p> <p>1 working on the stitch on my right of my forehead,</p> <p>2 Chairperson, he was stitching the wound without using any</p> <p>3 anaesthetics to –</p> <p>4 CHAIRPERSON: I think the word is</p> <p>5 "temple." You indicated to the right –</p> <p>6 MR JANSE VAN VUUREN: On the temple.</p> <p>7 CHAIRPERSON: - was where the injury was</p> <p>8 where you received stitches without any anaesthetic.</p> <p>9 MR JANSE VAN VUUREN: Yes, he was using</p> <p>10 the stitches without putting any anaesthetic. I asked him</p> <p>11 why he was doing that. He said because I am diabetic that</p> <p>12 he could not inject me.</p> <p>13 MR TIP SC: Alright. Mr Janse van</p> <p>14 Vuuren, thank you for that detail about yourself. In</p> <p>15 relation to Mr Mabebe are you able to tell us anything</p> <p>16 about his situation or the treatment he got other than that</p> <p>17 a mask was put on his face?</p> <p>18 MR JANSE VAN VUUREN: No, there were no</p> <p>19 drips or any machines to which he was connected to Mr</p> <p>20 Mabebe.</p> <p>21 MR TIP SC: This was just an ordinary</p> <p>22 ward facility, correct?</p> <p>23 MR JANSE VAN VUUREN: That's 100%</p> <p>24 correct, Chair.</p> <p>25 MR TIP SC: I suppose you're familiar</p>
<p style="text-align: right;">Page 34347</p> <p>1 and so on?</p> <p>2 MR JANSE VAN VUUREN: That's correct,</p> <p>3 everybody was at the back.</p> <p>4 MR TIP SC: In the back of the ambulance?</p> <p>5 MR JANSE VAN VUUREN: Correct, Chair.</p> <p>6 MR TIP SC: Were you able to observe</p> <p>7 whether Mr Mabebe was still alive at that stage?</p> <p>8 MR JANSE VAN VUUREN: I did not observe</p> <p>9 that. I did not look.</p> <p>10 MR TIP SC: Was he on a stretcher?</p> <p>11 MR JANSE VAN VUUREN: Yes, he was</p> <p>12 fastened to a stretcher.</p> <p>13 MR TIP SC: And when you got to the</p> <p>14 Andrew Saffy Hospital where you received some treatment?</p> <p>15 MR JANSE VAN VUUREN: Correct,</p> <p>16 Chairperson.</p> <p>17 MR TIP SC: Can you tell us whether Mr</p> <p>18 Mabebe was still alive at that stage?</p> <p>19 MR JANSE VAN VUUREN: Mr Mabebe was lying</p> <p>20 on top of the bed. Over his nose was a gas mask. I saw</p> <p>21 some steam coming out of that gas mask. The people working</p> <p>22 there, I don't know whether it was doctors or who, were</p> <p>23 putting us on the computers. After putting us onto the</p> <p>24 computers they then came to stitch our wounds. They were</p> <p>25 stitching my wound on the right. The person who was</p>	<p style="text-align: right;">Page 34349</p> <p>1 with what an intensive care unit is more or less?</p> <p>2 MR JANSE VAN VUUREN: 100% correct,</p> <p>3 Chair.</p> <p>4 MR TIP SC: And if I understand you</p> <p>5 correctly none of the equipment that one would find in an</p> <p>6 ICU was in this facility?</p> <p>7 MR JANSE VAN VUUREN: I did not see any</p> <p>8 such machines there, Chairperson.</p> <p>9 MR TIP SC: You've also described in your</p> <p>10 statement about how it was you who drew the attention of</p> <p>11 the medical staff to your view that Mr Mabebe had died.</p> <p>12 MR JANSE VAN VUUREN: That's correct.</p> <p>13 After putting the stitches on me, Mr Chairperson, I went to</p> <p>14 Mr Mabebe. I felt on his feet with my hand. I felt that</p> <p>15 his feet were ice cold.</p> <p>16 MR TIP SC: Alright, and just to</p> <p>17 summarise, you drew the attention of some medical personnel</p> <p>18 to that. They said, they apparently were angry with you</p> <p>19 and said well you're not a doctor.</p> <p>20 MR JANSE VAN VUUREN: That 100% correct,</p> <p>21 Chairperson.</p> <p>22 MR TIP SC: And that about 15 minutes</p> <p>23 later a person in a white coat came, apparently a doctor,</p> <p>24 who then confirmed that Mr Mabebe had died.</p> <p>25 MR JANSE VAN VUUREN: 100% correct,</p>

<p style="text-align: right;">Page 34350</p> <p>1 Chairperson.</p> <p>2 MR TIP SC: And at that time the mask was</p> <p>3 still over his face?</p> <p>4 MR JANSE VAN VUUREN: 100%, Chair.</p> <p>5 MR TIP SC: Thank you, Mr Janse van</p> <p>6 Vuuren. Thank you, Chair.</p> <p>7 CHAIRPERSON: Thank you, Mr Tip. Any re-</p> <p>8 examination, Mr Wesley?</p> <p>9 MR WESLEY: Chair, none.</p> <p>10 CHAIRPERSON: Thank you. Baie dankie,</p> <p>11 mnr Janse van Vuuren, vir u getuienis. U word verskoon.</p> <p>12 MR JANSE VAN VUUREN: Thank you,</p> <p>13 Chairperson.</p> <p>14 [NO FURTHER QUESTIONS – WITNESS EXCUSED]</p> <p>15 CHAIRPERSON: Mr Chaskalson, I understand</p> <p>16 you'll be leading the next witness, cross-examining and</p> <p>17 leading the next witness. Is that correct?</p> <p>18 MR CHASKALSON SC: Yes, Chair. Maybe if</p> <p>19 we could attend to some housekeeping while we're waiting</p> <p>20 for the next witness to arrive.</p> <p>21 CHAIRPERSON: I take it she will be HHHH,</p> <p>22 will she? Or rather her distinctive letters of her</p> <p>23 exhibits will be HHHH. Is that correct?</p> <p>24 MR CHASKALSON SC: That's correct, Chair,</p> <p>25 and the witness is Major Lethoko. HHHH.A is her statement,</p>	<p style="text-align: right;">Page 34352</p> <p>1 in respect of the NMF meeting of the 15th of August, and</p> <p>2 over the page, which I propose we make page 36 7.1 and 37</p> <p>3 7.2, 7.2 is the properties of those audio files. Then on</p> <p>4 page 38 there is a table of properties of audio files of</p> <p>5 NMF meetings in 2012, which will be HHHH8. On page 41</p> <p>6 there is an email from Brigadier Mahlalela to Major Lethoko</p> <p>7 on 29 August 2012, that will be HHHH9. On the following</p> <p>8 page 42 is a printout of the file attached to the email</p> <p>9 that was HHHH9.</p> <p>10 CHAIRPERSON: Will this be 9.1 –</p> <p>11 MR CHASKALSON SC: I think that should be</p> <p>12 10.</p> <p>13 CHAIRPERSON: That makes sense.</p> <p>14 MR CHASKALSON SC: Keep it separate.</p> <p>15 CHAIRPERSON: Printout of attachment to</p> <p>16 HHHH9.</p> <p>17 MR CHASKALSON SC: That's correct, and</p> <p>18 then on the following page as 10A is the properties of the</p> <p>19 file that is printed out at –</p> <p>20 CHAIRPERSON: [Microphone off, inaudible]</p> <p>21 should we not make it 10.1 and 10.2? That's what we've</p> <p>22 done up to now.</p> <p>23 MR CHASKALSON SC: 10.1 and 10.2 is fine,</p> <p>24 Chairperson.</p> <p>25 [10:59] CHAIRPERSON: So, it is the properties</p>
<p style="text-align: right;">Page 34351</p> <p>1 which is on the first page of your bundle. 1. 1. HHHH2</p> <p>2 is the statement of, it's the Matthys statement. I forget</p> <p>3 – Cedric Matthys –</p> <p>4 CHAIRPERSON: Hang on, before we get</p> <p>5 there, page 3 of the bundle, that's part of HHHH1 then, is</p> <p>6 it?</p> <p>7 MR CHASKALSON SC: It is. It's annexure</p> <p>8 A to HHHH1.</p> <p>9 CHAIRPERSON: So Cedric Matthys'</p> <p>10 statement is then HHHH2.</p> <p>11 MR CHASKALSON SC: That's correct, Chair.</p> <p>12 Then Colonel Smith's statement is HHHH3 at page 6.</p> <p>13 Brigadier Mahlalela's statement is HHHH4 at page 13.</p> <p>14 Kagiso Tlale's statement is HHHH5 at page 15. From page 16</p> <p>15 is an extract from Brigadier Mahlalela's cell phone records</p> <p>16 over the period 15 to 21 August 2012.</p> <p>17 CHAIRPERSON: Is that going to be HHHH6?</p> <p>18 MR CHASKALSON SC: That's correct,</p> <p>19 Chairperson.</p> <p>20 CHAIRPERSON: So how does one describe</p> <p>21 that?</p> <p>22 MR CHASKALSON SC: Extract from cell</p> <p>23 phone records of Brigadier Mahlalela from 15 to 21 August</p> <p>24 2012. Then HHHH7 starts at page 36 and on 36 is the</p> <p>25 directory of audio files on the computer of Major Lethoko</p>	<p style="text-align: right;">Page 34353</p> <p>1 you say, of?</p> <p>2 MR CHASKALSON SC: Of the file that is</p> <p>3 printed out at 10.1. And then on page 44, which will be</p> <p>4 HHHH11, let's make it 11.1, is a document entitled "South</p> <p>5 African Police Service minutes – National management Forum</p> <p>6 Extraordinary Session, 15 August 2012." And at page 47 we</p> <p>7 have the properties of that document.</p> <p>8 CHAIRPERSON: Would that be HHHH11.2?</p> <p>9 MR CHASKALSON SC: Yes.</p> <p>10 COMMISSIONER HEMRAJ: Mr Chaskalson, page</p> <p>11 43 is properties of which file? I seem to have missed</p> <p>12 that.</p> <p>13 MR CHASKALSON SC: It's properties of the</p> <p>14 file that is printed out on page 42, which was attached to</p> <p>15 the e-mail on page 41 so –</p> <p>16 CHAIRPERSON: I've recorded it as</p> <p>17 properties of file printed at HHHH10.1.</p> <p>18 MR CHASKALSON SC: That's correct,</p> <p>19 Chairperson.</p> <p>20 COMMISSIONER HEMRAJ: There's no 10.1.</p> <p>21 CHAIRPERSON: Yes, 10.1 is the printout</p> <p>22 of the attachment to HHHH9.</p> <p>23 COMMISSIONER HEMRAJ: No, that's HHHH10.</p> <p>24 CHAIRPERSON: 10.1. Where's the witness,</p> <p>25 Mr Chaskalson?</p>

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1 MR CHASKALSON SC: The witness is on her
 2 way, Chairperson, she'll just be a minute or so.
 3 CHAIRPERSON: Is there a set of the
 4 documents for her duly marked?
 5 MR CHASKALSON SC: There is. It hasn't,
 6 they haven't been given the exhibit names but I'll be able
 7 to refer her to bundle numbers.
 8 CHAIRPERSON: Yes.
 9 MR CHASKALSON SC: And I'm told that the
 10 witness will be testifying in Sesotho – oh, Zulu. So we'll
 11 need to interpret.
 12 CHAIRPERSON: Is she prepared to receive
 13 questions in English?
 14 MR CHASKALSON SC: Yes, she's prepared to
 15 receive questions in English.
 16 CHAIRPERSON: Thank you. Major Lethoko,
 17 are you – I understand you're prepared to receive questions
 18 in English but you wish to give your evidence in Zulu, is
 19 that correct? Can I swear you in, in English, or would you
 20 like Mr Mahlangu to do it in Zulu?
 21 MAJOR LETHOKO: No, you can say them in
 22 English, I understand.
 23 CHAIRPERSON: Are you prepared to swear
 24 or do you wish to make an affirmation?
 25 MAJOR LETHOKO: An affirmation.

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1 CHAIRPERSON: Sorry?
 2 MAJOR LETHOKO: An affirmation.
 3 CHAIRPERSON: You want to make an
 4 affirmation?
 5 MAJOR LETHOKO: Mm-mm.
 6 CHAIRPERSON: I see. Will you, do you
 7 affirm that the evidence you will give before this
 8 Commission will be the truth, the whole truth and nothing
 9 but the truth? Would you say, I so affirm?
 10 MAJOR LETHOKO: I so affirm.
 11 CHAIRPERSON: You're aware of the fact,
 12 of course, that a person who testifies under affirmation is
 13 equally subject to the same legal rules as apply to the
 14 people who give evidence under oath?
 15 MAJOR LETHOKO: Sorry, can you say that
 16 again?
 17 CHAIRPERSON: The person who testifies
 18 under affirmation is also subject to the same legal rules
 19 that apply to witnesses, apply –
 20 MAJOR LETHOKO: I understand.
 21 CHAIRPERSON: You may be seated.
 22 MAJOR LETHOKO: Thank you.
 23 EXAMINATION BY MR CHASKALSON SC: Good
 24 morning, Major.
 25 MAJOR LETHOKO: Good morning.

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1 MR CHASKALSON SC: You should just have
 2 been given a bundle of documents which is paginated. These
 3 are your documents which your legal representatives should
 4 have given to you to peruse beforehand. Are you familiar,
 5 do you want quickly to check that there are no documents
 6 there that you haven't seen before?
 7 MAJOR LETHOKO: Okay. No, I have all the
 8 documents, thanks.
 9 MR CHASKALSON SC: The first document in
 10 that bundle, which we've called HHHH1 is an affidavit that
 11 you deposed to on 26 February 2014. Are you familiar with
 12 that affidavit?
 13 MAJOR LETHOKO: Yes.
 14 MR CHASKALSON SC: And can you confirm
 15 for the Commission that the contents of that affidavit are
 16 correct?
 17 MAJOR LETHOKO: True yes, they are
 18 correct.
 19 MR CHASKALSON SC: I'm sorry, Major –
 20 MAJOR LETHOKO: They are correct, yes.
 21 MR CHASKALSON SC: They are correct,
 22 thank you. Then the second document in that bundle is an
 23 affidavit of Mr Cedric Matthys which is HHHH2. The third
 24 is an affidavit of Colonel Smith, HHHH3. The fourth is an
 25 affidavit of Brigadier Mahlalela HHHH4, and the fifth is an

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1 affidavit of Kagiso Tlale, HHHH5. Have you read these
 2 affidavits of Mr Matthys, Colonel Smith, Brigadier
 3 Mahlalela and – sorry, is it Mr or Mrs, Ms Tlale?
 4 MAJOR LETHOKO: Mr Tlale.
 5 MR CHASKALSON SC: Mr Tlale, and Mr
 6 Tlale.
 7 MAJOR LETHOKO: Mm.
 8 MR CHASKALSON SC: Have you read those
 9 affidavits?
 10 MAJOR LETHOKO: Yes, I did.
 11 MR CHASKALSON SC: And is there anything
 12 in any of those affidavits which is inconsistent with what
 13 you remember about the events that they described?
 14 MAJOR LETHOKO: No.
 15 MR CHASKALSON SC: Thank you. Major, I'm
 16 going to start – we called you in connection with the
 17 minutes of the National Management Forum of the 15th and the
 18 extraordinary session that was held thereafter. We'll get
 19 to the specifics of that issue a bit later but to begin
 20 with I just want you to explain to the Commission in
 21 general terms what your role is in relation to meetings of
 22 this nature, so I'm going to ask a few questions directed
 23 to your general role. So to start on that front, you're in
 24 the office of the National Commissioner within the section
 25 executive secretariat and information management, is that

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1 correct?

2 MAJOR LETHOKO: Yes, it is.

3 MR CHASKALSON SC: And to whom do you

4 report?

5 MAJOR LETHOKO: To Brigadier Mahlalela.

6 MR CHASKALSON SC: And that's been the

7 case or that was also the case in August 2012?

8 MAJOR LETHOKO: True.

9 MR CHASKALSON SC: And unbroken since

10 then.

11 MAJOR LETHOKO: Up until July this year.

12 MR CHASKALSON SC: July this year, okay,

13 and what happened in July this year?

14 MAJOR LETHOKO: I'm no longer working in

15 the office of the National Commissioner.

16 MR CHASKALSON SC: Okay. Where is your

17 office physically?

18 MAJOR LETHOKO: Pretorius Street.

19 MR CHASKALSON SC: And is it in the same

20 building as Brigadier Mahlalela's?

21 MAJOR LETHOKO: Yes.

22 MR CHASKALSON SC: Same floor?

23 MAJOR LETHOKO: Same floor, yes.

24 MR CHASKALSON SC: And has, was the same

25 in 2012?

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1 MAJOR LETHOKO: True.

2 MR CHASKALSON SC: One of your functions,

3 we understand, is to take minutes of executive meetings of

4 SAPS. That's what you say in paragraph 2 of your

5 affidavit.

6 MAJOR LETHOKO: True, correct.

7 MR CHASKALSON SC: And that would include

8 all NMF meetings, would it not?

9 MAJOR LETHOKO: Correct, yes.

10 MR CHASKALSON SC: And can you explain to

11 the Commission how you discharged that function while you

12 were in the meeting itself?

13 MAJOR LETHOKO: Okay. What I do is take

14 minutes on my laptop and continue through until the meeting

15 finishes. Once I'm done then I go back to the office where

16 – sometimes the meetings go through until late in the

17 evening, I get tired of typing and sometimes I reduce it in

18 writing, I make notes on a notepad. The meetings are then

19 recorded. Whilst I am taking minutes they are also

20 recorded on the system. When I get back to the office

21 after the meeting I then prepare the minutes, a draft which

22 is then sent to Brigadier Mahlalela to peruse and it's sent

23 to the members of the meeting to adopt in the next meeting.

24 MR CHASKALSON SC: And in terms of the

25 audio recordings of the meetings do you play any role

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1 yourself?

2 MAJOR LETHOKO: No.

3 MR CHASKALSON SC: We understand from the

4 affidavits of, I think Mr Matthys and possibly Colonel

5 Smith that this is done by SAPS IT support –

6 MAJOR LETHOKO: Mm-mm.

7 MR CHASKALSON SC: And occasionally by

8 independent service providers who are brought in for that

9 purpose, is that correct?

10 MAJOR LETHOKO: Yes.

11 MR CHASKALSON SC: Now how does that

12 recording work? Are you aware of the system that is

13 employed in that regard? When you want to get a recording

14 at a later stage - well, let's take a step back, let's ask

15 the first question. I'm not looking for technical details

16 but physically what happens in terms of that recording

17 during the meeting?

18 MAJOR LETHOKO: I don't know how the

19 system works but what I know is that immediately after the

20 meeting we are given a recording of that meeting which is

21 either recorded on a CD or a memory stick.

22 MR CHASKALSON SC: And who would give,

23 when you say we, who –

24 MAJOR LETHOKO: I mean we, members of the

25 executive secretariat from the office of the National

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1 Commissioner.

2 MR CHASKALSON SC: Does it go to any

3 member of the secretariat or –

4 MAJOR LETHOKO: They can give it to any

5 member, either myself, Brigadier Mahlalela or whoever is

6 present at that time.

7 MR CHASKALSON SC: And who gives it to

8 you?

9 MAJOR LETHOKO: The people who are

10 recording, either the IT people from SAPS or the company

11 which is responsible for recording.

12 MR CHASKALSON SC: and that takes place

13 at the end of the meeting itself?

14 MAJOR LETHOKO: At the end of the

15 meeting, yes.

16 MR CHASKALSON SC: And we've been

17 informed that because of the secret nature of these

18 proceedings, the practice is that once the memory stick has

19 been handed over to someone from the secretariat, any

20 original recording on the machine is deleted. Are you

21 aware of that practice? On the recording machine that was

22 recording –

23 MAJOR LETHOKO: Yes.

24 MR CHASKALSON SC: - at the meeting.

25 MAJOR LETHOKO: Yes.

<p style="text-align: right;">Page 34362</p> <p>1 MR CHASKALSON SC: So you are aware of 2 that practice? 3 MAJOR LETHOKO: Mm-mm. 4 MR CHASKALSON SC: Now, presumably 5 because of the confidentiality of the materials, there must 6 be a system in place for the safeguarding of the memory 7 stick that records these meetings, is that correct? 8 MAJOR LETHOKO: Ja, like I said, the 9 people from IT that support us at these meetings, they give 10 it to either myself or anyone from executive secretariat 11 and they know that they can only give it to anyone from 12 executive secretariat, no-one else. 13 MR CHASKALSON SC: But when you have it 14 what is then your, what is the system that is applied to 15 safeguard the stick once it's been handed over either to 16 yourself or to Brigadier Mahlalela? 17 MAJOR LETHOKO: Well, I keep it with 18 myself until I get into the office and I lock it in a 19 cabinet in my office. 20 MR CHASKALSON SC: So you would have 21 sticks locked in a cabinet in your office? 22 MAJOR LETHOKO: Mm-mm. 23 MR CHASKALSON SC: And would every single 24 stick from every NMF meeting be locked in the same cabinet? 25 MAJOR LETHOKO: Not with every single</p>	<p style="text-align: right;">Page 34364</p> <p>1 because I'm going to use it maybe and then I then keep it 2 in a file which is in our office, locked up in our office. 3 MR CHASKALSON SC: And is there any 4 register in relation to these sticks that records who is in 5 possession of them at any particular time? 6 MAJOR LETHOKO: No, we don't have a 7 register. 8 MR CHASKALSON SC: And who has access to 9 the cabinet in which they are kept? 10 MAJOR LETHOKO: It's myself, Brigadier 11 Mahlalela and Colonel Mtombeni in our office, only the 12 people who work with the minutes. 13 CHAIRPERSON: Let's get it clear, who are 14 the people who work with the minutes? Brigadier Mahlalela? 15 MAJOR LETHOKO: Mm-mm. 16 CHAIRPERSON: You and who is the third 17 person? 18 MAJOR LETHOKO: Colonel Mtombeni. 19 CHAIRPERSON: Only the three of you? 20 MAJOR LETHOKO: Yes, yes. 21 CHAIRPERSON: Thank you. 22 MR CHASKALSON SC: And if you want to 23 collect a stick to work on the minutes, you don't have to 24 sign for it or – 25 MAJOR LETHOKO: No, it's in my office so</p>
<p style="text-align: right;">Page 34363</p> <p>1 stick. I don't have all of them. With this one, it was 2 given to Brigadier Mahlalela, she had it with her. 3 CHAIRPERSON: I don't think Mr Chaskalson 4 is asking you about this particular stick at the moment, 5 he's asking you about the system, what normally happens. 6 MAJOR LETHOKO: Mm-mm. 7 CHAIRPERSON: Now, that's why he asks 8 you, apart from this one, you're going to be asked 9 questions about this one in a moment but generally all the 10 other sticks that have been prepared after meetings where 11 you were involved as the member of the secretariat, are 12 those all in this, locked away in this cabinet in your 13 office? 14 MAJOR LETHOKO: Mm-mm. Ja, we kept them 15 in our office, yes, locked away in our office. 16 CHAIRPERSON: Locked away. 17 MR CHASKALSON SC: But are they all in 18 one central place? I mean if the system works, in that 19 cabinet should we be able to find every memory stick from 20 every NMF meeting? 21 MAJOR LETHOKO: What normally happens is 22 sometimes we, from a meeting you can't go back to the 23 office, so you will keep it with you. You go home with it, 24 you keep it at home until you get to the office. Once you 25 get to the office, I normally load it into my laptop</p>	<p style="text-align: right;">Page 34365</p> <p>1 I don't have to sign for it. It's in my office, I can just 2 access it. 3 MR CHASKALSON SC: And Brigadier 4 Mahlalela and Colonel Mtombeni? 5 MAJOR LETHOKO: No, they don't have to 6 sign for it, they can just ask for and I will give it to 7 them but there was never a case where they had to ask for 8 it. 9 MR CHASKALSON SC: And so the stick is 10 ordinarily kept in the cabinet in your office? 11 MAJOR LETHOKO: Mm-mm. 12 MR CHASKALSON SC: And do you have any 13 specific responsibilities for safeguarding the stick or the 14 sticks, plural? 15 [11:19] MAJOR LETHOKO: To some extent, yes. 16 MR CHASKALSON SC: What would those 17 responsibilities be? 18 MAJOR LETHOKO: To make sure that no one 19 else has access to those recordings. 20 COMMISSIONER HEMRAJ: And to ensure that, 21 are they locked in the cabinets and do you have the only 22 key? 23 MAJOR LETHOKO: Yes, I'm the only one who 24 has the key to my office. 25 MR CHASKALSON SC: So the cabinet is –</p>

<p style="text-align: right;">Page 34366</p> <p>1 CHAIRPERSON: You weren't asked key to your 2 office, the key for the cabinet. I don't think you 3 understood the question. They locked the cabinet in your 4 office. 5 MAJOR LETHOKO: Yes. 6 CHAIRPERSON: Are you only person that has the key 7 to the cabinet in which the sticks are locked? 8 MAJOR LETHOKO: I wouldn't know that, I 9 cannot confirm that. 10 MR CHASKALSON SC: So who else may have a 11 key? 12 MAJOR LETHOKO: Brigadier Mahlala might 13 have, actually she is supposed to have, because sometimes 14 when I'm not in the office and she needs to access to 15 cabinet then, she's supposed to have. 16 MR CHASKALSON SC: So just to recap, the 17 system is then the sticks come in, they go into a cabinet 18 in your office – 19 MAJOR LETHOKO: In a file in a cabinet, 20 yes. 21 MR CHASKALSON SC: In a file in a 22 cabinet. The cabinet is locked, and when you're not in 23 your office, presumably your office is also locked? 24 MAJOR LETHOKO: It's locked, yes, but 25 they also have spare keys if they need access, maybe, if</p>	<p style="text-align: right;">Page 34368</p> <p>1 refer to this case, the memory stick did not belong to the 2 office, it belonged Brigadier Mahlalela. So I had to take 3 it back to her. 4 MR CHASKALSON SC: The memory stick – 5 sorry can you just clarify that? 6 MAJOR LETHOKO: Okay. The memory stick 7 that I was given for this one, actually I did not have it 8 with me, so when I was preparing the minutes, I was 9 informed that the memory stick was given to Brigadier 10 Mahlalela. I had to contact her to give me the memory 11 stick so that I can continue working on the minutes. She 12 asked her secretary to collect it at home and bring it to 13 me. When I received it, I loaded the files and I gave it 14 back to the secretary. 15 MR CHASKALSON SC: But why would you give 16 it back to the secretary in those circumstances, why 17 wouldn't you just lock it in the safe? 18 MAJOR LETHOKO: Because I was told it was 19 Brigadier Mahlalela's, or at the my assumption was it 20 belonged to Brigadier Mahlalela. 21 MR CHASKALSON SC: What was that 22 assumption based on? 23 MAJOR LETHOKO: Because she kept it with 24 her, so I assumed, and when I got the memory stick, it's 25 quite a while back, I don't remember how it looked.</p>
<p style="text-align: right;">Page 34367</p> <p>1 they need to access the office and get documents. 2 MR CHASKALSON SC: And they, I presume, 3 is a reference to Brigadier Molalla and Colonel Mtombeni? 4 MAJOR LETHOKO: Yes. 5 MR CHASKALSON SC: Now, you mentioned 6 earlier about copying audio files or copying the stick onto 7 your machine. 8 MAJOR LETHOKO: Yes. 9 MR CHASKALSON SC: Can you describe for 10 the Commission how do that copying exercise? Do you – let 11 me put you two possibilities, do you play the audio files 12 from your memory stick and resave them on your machine, or 13 do you open the memory stick, as it were, and then copy 14 across all the files from the memory stick to your machine? 15 MAJOR LETHOKO: That would the latter. I 16 just open the memory stick, copy the files into my laptop. 17 MR CHASKALSON SC: Right. And then once 18 they're on your laptop, of course you can then listen to 19 them at your convenience whenever you need to? 20 CHAIRPERSON: Correct. 21 MR CHASKALSON SC: But the memory stick 22 is then put back in the locked cabinet? 23 MAJOR LETHOKO: It depends. If it was a 24 memory stick that belongs to us, yes, I do that. If it a 25 CD or memory stick that belongs to us I do that. If I may</p>	<p style="text-align: right;">Page 34369</p> <p>1 Normally the memory sticks that we get are blue, but that 2 one I got I don't remember whether it was blue or it was 3 not, so I gave it back. So if it belonged to the company 4 that was recording, she would have got it back, but it 5 never came back to me. 6 COMMISSIONER HEMRAJ: I'm sorry to 7 interrupt you. The assumption that it belonged to her, was 8 that because there was anything else on the memory stick 9 that was personal to her? 10 MAJOR LETHOKO: I think so, that's I'm 11 saying it was a while back, maybe there were other files, 12 hence I returned it, because I saw other files, so I 13 returned it back to her, but the other files were not 14 recordings of the meeting, it was just other documents. 15 CHAIRPERSON: Do you remember that specifically? 16 MAJOR LETHOKO: I don't remember 17 specifically, but I'm just saying my assumption is that I 18 could have returned it, because there were other files in 19 that memory stick. 20 CHAIRPERSON: So you could have, you can't say 21 positively, under the terms of your affirmation, that 22 that's what you remember and that's why you gave it back to 23 her? You were actually guessing, is that correct? Or 24 making an assumption, which amounts to a guess. 25 MAJOR LETHOKO: I don't remember.</p>

<p style="text-align: right;">Page 34370</p> <p>1 CHAIRPERSON: It might be a correct guess, but am 2 I stating it accurately? 3 MAJOR LETHOKO: Sorry? 4 CHAIRPERSON: Am I stating it accurately? 5 MAJOR LETHOKO: I don't remember what was 6 in that memory stick, that is why I returned it, but I'm 7 guessing, because it's a long time ago, I returned it 8 because it had other files. 9 CHAIRPERSON: Can you remember that specifically 10 if there were other files? 11 MAJOR LETHOKO: No, I'm saying I don't 12 remember, I cannot confirm here that I remember. 13 CHAIRPERSON: I can understand you're asking 14 yourself why did you give it back to the Brigadier. You 15 can't remember why you gave it back to her, but you think 16 that's the explanation, is that the correct summary? 17 MAJOR LETHOKO: I think I gave it back 18 because maybe it had other files. 19 CHAIRPERSON: Maybe it had other files? 20 MAJOR LETHOKO: Sorry? 21 CHAIRPERSON: Is that right, maybe it had other 22 files? 23 MAJOR LETHOKO: Yes. 24 MR CHASKALSON SC: Well, can you say 25 this, something about that disc made you think that it was</p>	<p style="text-align: right;">Page 34372</p> <p>1 other documents, I don't know. 2 MR CHASKALSON SC: Is it practice to put 3 other documents onto a memory stick which was specifically 4 recorded in NMF meetings? Have you encountered that ever 5 before? 6 MAJOR LETHOKO: No. I don't remember us 7 doing that, but sometimes you would need a memory stick and 8 if that is what is available to you, you would use it. I 9 mean it belongs to us, so you can put other documents if 10 you can. 11 MR CHASKALSON SC: If you can – 12 MAJOR LETHOKO: As long it doesn't tamper 13 with the recordings that are in the memory stick. 14 MR CHASKALSON SC: I mean, if we were to 15 go to your, or what was your filing cabinet before you were 16 transferred, would we find any other documents on any of 17 the other files in there? 18 MAJOR LETHOKO: No. 19 COMMISSIONER HEMRAJ: In the transferring 20 of the memory stick onto your laptop, the contents on the 21 memory stick are not edited or changed at all? 22 MAJOR LETHOKO: No, we can't change them, 23 we can't edit, we can't do anything on them. 24 COMMISSIONER HEMRAJ: Thank you. 25 MR CHASKALSON SC: And for the record,</p>
<p style="text-align: right;">Page 34371</p> <p>1 Brigadier Mahlalela's disc as opposed to a disc that had 2 been – sorry, a stick, a stick, Brigadier Mahlalela's stick 3 as opposed to a stick that has been either provided by the 4 service providers or provided by SAPS specifically for the 5 purposes of recording the meeting? 6 MAJOR LETHOKO: Correct. 7 MR CHASKALSON SC: Did you say correct? 8 MAJOR LETHOKO: Can you repeat that 9 again? 10 MR CHASKALSON SC: Something about the 11 disc, whether it was its appearance – the stick, I 12 apologise – something about the stick, whether it was its 13 appearance or the existence of other files on it – 14 MAJOR LETHOKO: It could have been both, 15 either, or it was the appearance of the stick, or that it 16 had other files, that is why I returned it. 17 MR CHASKALSON SC: But the important 18 point that I want to clarify at this stage is that you 19 thought that the stick was not a stick provided by the 20 service providers or a stick possibly provided by SAPS for 21 the purposes of the recording, you thought it was Brigadier 22 Mahlalela's? 23 MAJOR LETHOKO: It could have been a 24 stick that was provided by the service provider, and maybe 25 Brigadier Mahlalela used it after that meeting, and loaded</p>	<p style="text-align: right;">Page 34373</p> <p>1 Major, we can place on record that we took a copy of your 2 hard drive of your laptop, and there was no audio editing 3 software on that hard drive and no trace of audio editing 4 software having been there at any other stage. 5 MAJOR LETHOKO: No, there was no editing. 6 MR CHASKALSON SC: If we can just let's 7 take a step back now, because we sort strayed into the 8 specifics of this particular stick. Chair, I've just 9 realised we're approaching the tea break. I'm happy to 10 proceed, but if we are going to take tea, this would be a 11 convenient point. 12 CHAIRPERSON: Well, I'm in your hands, if it's 13 convenient for the tea break to be taken now, I think we 14 should take it now. 15 MR CHASKALSON SC: Then let us take it. 16 CHAIRPERSON: Well, take the tea break now, a 17 quarter of an hour. 18 [COMMISSION ADJOURNS COMMISSION RESUMES] 19 [11:47] CHAIRPERSON: The Commission resumes. 20 You're still bound by your affirmation, Major. 21 MAJOR LETHOKO: [affirms further] 22 CHAIRPERSON: Mr Chaskalson. 23 EXAMINATION BY MR CHASKALSON SC (CONTD.): 24 Major, I now want us to go to the meeting of the 15th. You 25 were present during the NMF meeting of the 15th, were you</p>

<p style="text-align: right;">Page 34374</p> <p>1 not?</p> <p>2 MAJOR LETHOKO: Yes.</p> <p>3 MR CHASKALSON SC: And you took minutes</p> <p>4 of that meeting on your laptop during the meeting?</p> <p>5 MAJOR LETHOKO: Yes.</p> <p>6 MR CHASKALSON SC: Did you stay for the</p> <p>7 extraordinary session that was held at the end of the</p> <p>8 ordinary meeting?</p> <p>9 MAJOR LETHOKO: No.</p> <p>10 MR CHASKALSON SC: Do you recall what</p> <p>11 time you left?</p> <p>12 MAJOR LETHOKO: Uh-uh.</p> <p>13 MR CHASKALSON SC: The Protea Midrand</p> <p>14 where the meeting was being held.</p> <p>15 MAJOR LETHOKO: I left the following day,</p> <p>16 but I don't remember when the meeting ended. It ended</p> <p>17 late, but I don't remember the time.</p> <p>18 MR CHASKALSON SC: So you stayed over at</p> <p>19 the Protea Midrand on the night of the 15th?</p> <p>20 MAJOR LETHOKO: Mmmm.</p> <p>21 MR CHASKALSON SC: But you left the</p> <p>22 meeting before the extraordinary session was held on</p> <p>23 approximately, or we've been told in the region of 9</p> <p>24 o'clock on the 15th. So you weren't present when the</p> <p>25 extraordinary session was held?</p>	<p style="text-align: right;">Page 34376</p> <p>1 meeting was being held to take the minutes if that had been</p> <p>2 considered necessary.</p> <p>3 MAJOR LETHOKO: Correct.</p> <p>4 CHAIRPERSON: Thank you.</p> <p>5 MR CHASKALSON SC: Now when you left did</p> <p>6 you think that the meeting had finished?</p> <p>7 MAJOR LETHOKO: Yes.</p> <p>8 MR CHASKALSON SC: Did you not make any</p> <p>9 arrangements in relation to the memory stick that would</p> <p>10 recorded that meeting and that you would have needed to</p> <p>11 refer to when you were finalising your minutes?</p> <p>12 MAJOR LETHOKO: Sorry, can I get that</p> <p>13 question again?</p> <p>14 MR CHASKALSON SC: You left the meeting</p> <p>15 thinking that it was finished.</p> <p>16 MAJOR LETHOKO: Mmmm.</p> <p>17 MR TIP SC: Did you not make any</p> <p>18 arrangements to get a memory stick of the meeting that you</p> <p>19 thought had just finished?</p> <p>20 MAJOR LETHOKO: No, I did not at that</p> <p>21 time.</p> <p>22 MR CHASKALSON SC: Why not?</p> <p>23 MAJOR LETHOKO: Because I knew we will</p> <p>24 get it from the IT guys who were assisting us in that</p> <p>25 meeting.</p>
<p style="text-align: right;">Page 34375</p> <p>1 MAJOR LETHOKO: No.</p> <p>2 MR CHASKALSON SC: Do you recall who from</p> <p>3 the secretariat left with you when you left at the end of</p> <p>4 the ordinary meeting?</p> <p>5 MAJOR LETHOKO: No, I don't.</p> <p>6 CHAIRPERSON: You were available in the</p> <p>7 hotel, so when the decision was taken to proceed with the</p> <p>8 extraordinary session it would have been possible for the</p> <p>9 National Commissioner to have summoned you to come back to</p> <p>10 take the minutes. Is that correct?</p> <p>11 MAJOR LETHOKO: No, it was not announced</p> <p>12 in the meeting –</p> <p>13 CHAIRPERSON: No, no, no, you haven't</p> <p>14 answered my question. I said it would have been possible.</p> <p>15 If after you left it was decided to have an extraordinary</p> <p>16 session, you were still in the building, it would have been</p> <p>17 a simple matter for the National Commissioner to have sent</p> <p>18 you a message to say please come back, we're having an</p> <p>19 extraordinary session, please stay for the minutes.</p> <p>20 MAJOR LETHOKO: No one sent me a message</p> <p>21 to come back to the meeting.</p> <p>22 CHAIRPERSON: No, that's not what I asked</p> <p>23 you. Do me a favour, listen to the question and answer it.</p> <p>24 It would have been possible for the National Commissioner</p> <p>25 very easily to have summoned you back to the room where the</p>	<p style="text-align: right;">Page 34377</p> <p>1 MR CHASKALSON SC: So what is the usual</p> <p>2 practice, when do you get the stick from the IT guys?</p> <p>3 MAJOR LETHOKO: Immediately after the</p> <p>4 meeting.</p> <p>5 MR CHASKALSON SC: But as far as you were</p> <p>6 concerned it was now immediately after the meeting, you'd</p> <p>7 left.</p> <p>8 MAJOR LETHOKO: Mmmm.</p> <p>9 MR CHASKALSON SC: Why didn't you get a</p> <p>10 stick?</p> <p>11 MAJOR LETHOKO: I don't remember, but I</p> <p>12 remember asking one of the guys and they told me they gave</p> <p>13 it to Brigadier Mahlalela.</p> <p>14 CHAIRPERSON: When did you ask one of the</p> <p>15 guys who told you that?</p> <p>16 MAJOR LETHOKO: I don't remember when.</p> <p>17 MR CHASKALSON SC: Do you remember which</p> <p>18 guy it was that you asked?</p> <p>19 MAJOR LETHOKO: I think it was Sergeant</p> <p>20 Matthys.</p> <p>21 COMMISSIONER HEMRAJ: Ordinarily, Major,</p> <p>22 would you be given the memory stick immediately after the</p> <p>23 meeting?</p> <p>24 MAJOR LETHOKO: Sometimes, yes. Like I</p> <p>25 said, sometimes it's not given directly to me.</p>

<p style="text-align: right;">Page 34378</p> <p>1 COMMISSIONER HEMRAJ: And if it's not 2 given to you directly – 3 MAJOR LETHOKO: It would be given to 4 anyone of us, like personnel from Executive Secretariat. 5 COMMISSIONER HEMRAJ: And on those 6 occasions when it would not have been given to you directly 7 after the meeting, when would it have been given to anyone? 8 MAJOR LETHOKO: It's usually given 9 immediately after the meeting, because we never see the 10 service provider after that. 11 COMMISSIONER HEMRAJ: I see. 12 MAJOR LETHOKO: And they have to delete 13 the information from their system. 14 COMMISSIONER HEMRAJ: Yes, thank you. 15 CHAIRPERSON: Is it normally done before 16 you leave? In the past you've been at meetings – 17 MAJOR LETHOKO: Normally, yes. 18 CHAIRPERSON: And normally you wait until 19 the recording has been downloaded to a memory stick, I take 20 it, normally? 21 MAJOR LETHOKO: Yes. 22 CHAIRPERSON: And you normally I would 23 imagine as part of your duties make sure that the original 24 recording has been deleted by the contractor who's been 25 responsible for making the recording. Is that also right?</p>	<p style="text-align: right;">Page 34380</p> <p>1 load to mine for compiling the minutes and for filing.” Do 2 you recall who – and it may be the same question that we 3 asked you earlier, but do you recall who told you by the 4 17th that the memory stick had been given to Brigadier 5 Mahlalela? 6 MAJOR LETHOKO: It's Sergeant Matthys. 7 MR CHASKALSON SC: Cedric Matthys? 8 MAJOR LETHOKO: Mmmm. Correct, yes. 9 MR CHASKALSON SC: And when you sent that 10 email at 1:06 on Friday the 17th, when was the last time you 11 had seen Brigadier Mahlalela? 12 MAJOR LETHOKO: On the 15th. 13 MR CHASKALSON SC: On the 15th, you say. 14 MAJOR LETHOKO: Mmmm. 15 MR CHASKALSON SC: Was she not in the 16 office on the 16th? 17 MAJOR LETHOKO: No. 18 MR CHASKALSON SC: Were you in the office 19 on the 16th? 20 MAJOR LETHOKO: If it was not a weekend, 21 yes I was. 22 MR CHASKALSON SC: It was a Thursday. 23 MAJOR LETHOKO: Then I was. 24 MR CHASKALSON SC: You see, we've looked 25 at Brigadier Mahlalela's cell phone records and you'll find</p>
<p style="text-align: right;">Page 34379</p> <p>1 MAJOR LETHOKO: It's not my 2 responsibility to ensure that they delete, but I – 3 CHAIRPERSON: No, but you normally do 4 that, don't you? Or do you? 5 MAJOR LETHOKO: No, I don't wait for them 6 or make them record. I just receive a memory stick, that's 7 all. 8 CHAIRPERSON: I see. So who sees to it 9 then that the – 10 MAJOR LETHOKO: It's the SAPS IT – 11 CHAIRPERSON: - recording is deleted by 12 the recorder? 13 MAJOR LETHOKO: It's the SAPS IT 14 personnel. 15 CHAIRPERSON: I see. 16 MR CHASKALSON SC: So you left the 17 meeting on the 15th thinking that the meeting was over, but 18 as far as you were aware – well, but you didn't make 19 arrangements to get a stick immediately. We've seen an 20 email that you sent on the 17th of August, which is an 21 annexure to your affidavit, which you addressed to 22 Brigadier Mahlalela and you say on the 17th of August, “Dear 23 Brigadier, I've been informed that the recordings for the 24 NMF were loaded into a memory stick and provided to 25 yourself. My humble request to have the stick so I can</p>	<p style="text-align: right;">Page 34381</p> <p>1 them, the relevant part, it's exhibit HHHH6, bundle pages 2 17 to 18, and from those cell phone records it appears that 3 she was in the vicinity of the office from 12 to about 5 on 4 the 16th. If you go to pages 17 and 18 you will see that 5 the cell phone tower that was transmitting her signals was 6 the cell phone tower at Skinner Street. Is Skinner Street 7 nearby the office? 8 MAJOR LETHOKO: Yes, it is. 9 MR CHASKALSON SC: Are you quite clear 10 that you didn't see her at the office on the afternoon of 11 the 16th of August? 12 MAJOR LETHOKO: No, I did not. She might 13 have been attending another meeting, hence I did not see 14 her. I don't know. 15 MR CHASKALSON SC: Another meeting in the 16 building? 17 MAJOR LETHOKO: In the building, yes. 18 MR CHASKALSON SC: At any rate, you got 19 no reply from Brigadier Mahlalela until around midday on 20 Sunday the 19th, if we look at that email chain, when she 21 wrote back to you saying, “Dear Gugu, I will leave it for 22 Kagiso to collect from my house,” referring to the memory 23 stick. Can you confirm that between your sending of the 24 email on the 17th and the receipt of this response on the 25 19th you hadn't had any contact from Brigadier Mahlalela in</p>

<p style="text-align: right;">Page 34382</p> <p>1 relation to the memory stick?</p> <p>2 MAJOR LETHOKO: No, we never had any</p> <p>3 contact.</p> <p>4 MR CHASKALSON SC: Now Brigadier</p> <p>5 Mahlalela suggested that he could collect, that Kagiso</p> <p>6 Tlale could collect the stick from her home. Is it</p> <p>7 customary practice for memory sticks to be held at a home</p> <p>8 for – gosh, that would be four days after an NMF meeting.</p> <p>9 MAJOR LETHOKO: No, it's not.</p> <p>10 MR CHASKALSON SC: Did you expect that</p> <p>11 you would get the memory stick back on the Monday, which</p> <p>12 would be the 20th, after you received Brigadier Mahlalela's</p> <p>13 email?</p> <p>14 MAJOR LETHOKO: Did I expect that?</p> <p>15 MR CHASKALSON SC: That you would get the</p> <p>16 memory stick back the next working day, which was the</p> <p>17 Monday?</p> <p>18 MAJOR LETHOKO: Well, I sent the email</p> <p>19 because she was not in her office. That is why I sent the</p> <p>20 email.</p> <p>21 MR CHASKALSON SC: But she said she would</p> <p>22 leave it for Kagiso to collect from her home.</p> <p>23 MAJOR LETHOKO: Mmmm.</p> <p>24 MR CHASKALSON SC: Were you then</p> <p>25 expecting to receive it on the Monday?</p>	<p style="text-align: right;">Page 34384</p> <p>1 MAJOR LETHOKO: No.</p> <p>2 MR CHASKALSON SC: Now we know from</p> <p>3 Brigadier Mahlalela's affidavit that the stick has now been</p> <p>4 lost. Are you aware of that?</p> <p>5 MAJOR LETHOKO: I read in the statement,</p> <p>6 yes.</p> <p>7 MR CHASKALSON SC: Would we be correct</p> <p>8 that Brigadier Mahlalela would have been the person</p> <p>9 responsible for its safekeeping in the circumstances that</p> <p>10 have been described to us?</p> <p>11 MAJOR LETHOKO: Yes.</p> <p>12 MR CHASKALSON SC: And did you see it at</p> <p>13 any time again after you gave it back to Mr Tlale on the</p> <p>14 21st of August?</p> <p>15 MAJOR LETHOKO: No.</p> <p>16 MR CHASKALSON SC: Are you aware of any</p> <p>17 other original memory stick of an NMF meeting that's been</p> <p>18 lost?</p> <p>19 MAJOR LETHOKO: No.</p> <p>20 MR CHASKALSON SC: We were told by</p> <p>21 Brigadier Mahlalela that the recordings of NMF meetings are</p> <p>22 so secret that we weren't allowed to listen to them and we</p> <p>23 weren't allowed to receive copies of minutes. Of course</p> <p>24 now that she's lost the memory stick with the audio files,</p> <p>25 if any stranger finds that memory stick they'll be able to</p>
<p style="text-align: right;">Page 34383</p> <p>1 MAJOR LETHOKO: The 20th?</p> <p>2 MR CHASKALSON SC: The 20th, yes.</p> <p>3 MAJOR LETHOKO: Yes.</p> <p>4 MR CHASKALSON SC: But in fact it only</p> <p>5 arrived on the 21st. Is that correct?</p> <p>6 MAJOR LETHOKO: Correct, yes.</p> <p>7 MR CHASKALSON SC: Do you recall when on</p> <p>8 the 21st you received the memory stick from Kagiso Tlale?</p> <p>9 MAJOR LETHOKO: No.</p> <p>10 MR CHASKALSON SC: What your computer</p> <p>11 records is that the files were copied across sometime – let</p> <p>12 me get this accurate – in the region of 2 o'clock on Monday</p> <p>13 afternoon. Would that have been the time that you got the</p> <p>14 stick? Did you do the copying as soon as you got the</p> <p>15 stick?</p> <p>16 MAJOR LETHOKO: Possibly, yes. I might</p> <p>17 have received it earlier but maybe because I was busy with</p> <p>18 other things I only loaded it, the recordings at that time.</p> <p>19 MR CHASKALSON SC: And you then, we</p> <p>20 traversed this issue already, having made the copies you</p> <p>21 gave the stick back to Mr Tlale because you thought it was</p> <p>22 Brigadier Mahlalela's stick.</p> <p>23 MAJOR LETHOKO: Correct.</p> <p>24 MR CHASKALSON SC: And you didn't keep it</p> <p>25 safe in the filing cabinet.</p>	<p style="text-align: right;">Page 34385</p> <p>1 listen to this top-top secret information. Do you know if</p> <p>2 any disciplinary proceedings have been instituted against</p> <p>3 Brigadier Mahlalela for losing the stick?</p> <p>4 MAJOR LETHOKO: No, I don't know.</p> <p>5 MR CHASKALSON SC: Do you know whether</p> <p>6 it's the practice of SAPS to conduct disciplinary</p> <p>7 proceedings when people responsible for classified material</p> <p>8 of such a secret nature lose that material?</p> <p>9 MAJOR LETHOKO: No, I don't know.</p> <p>10 MR CHASKALSON SC: And it's not just</p> <p>11 disciplinary proceedings because in our view it would also</p> <p>12 be a criminal offence under section 4(1)(did) of the</p> <p>13 Protection of Information Act 1982 to neglect or fail to</p> <p>14 take proper care of a memory stick of this nature. Do you</p> <p>15 know if any criminal proceedings have been instituted</p> <p>16 against Brigadier Mahlalela in this regard?</p> <p>17 MAJOR LETHOKO: Like I said, I don't</p> <p>18 know.</p> <p>19 MR CHASKALSON SC: Before we move further</p> <p>20 to subsequent matters relating to the minutes of the NMF</p> <p>21 extraordinary session I want to clarify one matter which</p> <p>22 needs to be set straight, and I'll do this very quickly.</p> <p>23 If we can turn to exhibit 7 on page 36, 7.1, what exhibit</p> <p>24 7.1 is, is a printout of the audio files of this meeting</p> <p>25 from your hard drive. Do you confirm that these are the</p>

<p style="text-align: right;">Page 34386</p> <p>1 audio files that were on your hard drive for this meeting? 2 MAJOR LETHOKO: Correct. 3 MR CHASKALSON SC: And over the page on 4 7.2 is the properties of those files. Now if one looks at 5 the properties of those files we see on each one of them, 6 if we look at the modified date, which is the date on 7 which, ordinarily in which they were last changed, that 8 date is 21 August 2012 between 2:13:57 and 2:14:32. 9 Now ordinarily the last modified date of a file 10 reflects the time on which that file was last saved either 11 in its original state or in a changed state, and if you go 12 to exhibit 8, which is a list of the properties of audio 13 files from other NMF meetings, you will see that the last 14 modified date of these files corresponds broadly – well, 15 not broadly, corresponds to the date on which the meeting 16 was held because the file gets saved at the meeting and 17 that's the time that gets recorded on it. So that was an 18 anomaly which we had to investigate. We have investigated 19 it and there is an explanation for it which I need to put 20 on record because I've opened the matter in the first 21 place. 22 The explanation is that the recording equipment 23 used by the service provider who was at the Protea Hotel 24 was of a fairly primitive nature and didn't have its own 25 internal clock in it. So when the memory stick was saved</p>	<p style="text-align: right;">Page 34388</p> <p>1 memory stick that was given to you, you wouldn't know about 2 that. Do you confirm that? 3 MAJOR LETHOKO: No, I wouldn't. 4 MR CHASKALSON SC: And now that the 5 original memory stick, which is the memory stick that was 6 given to you, has been lost, we and our experts have no way 7 of establishing whether there ever was another file on that 8 memory stick because we can't examine that memory stick. I 9 want to move now to other matters relating to the minuting 10 of that extraordinary session. I want you to go to exhibit 11 9 which is at page 41 of the bundle, exhibit HHHH9. That 12 is an e-mail that was sent from Brigadier Mahlalela to you 13 on the 29th of August at 10:47. Now before we discuss the 14 content, will you confirm that this e-mail was sent from 15 Brigadier Mahlalela to you before you had circulated a 16 draft to the members of the NMF for their comments on the 17 draft minutes? 18 MAJOR LETHOKO: Correct. 19 MR CHASKALSON SC: And the text says, 20 "Please receive additional for inclusion in the minutes of 21 the previously held meeting. The session took place 22 shortly after the NMF with delegation as I have indicated 23 in the attachment." If we can go to the attachment which 24 is exhibit HHHH10 at page 42 at 10.1, that is a minute of 25 the extraordinary session and in fact it is verbatim the</p>
<p style="text-align: right;">Page 34387</p> <p>1 on that machine at the Protea Hotel it was saved without a 2 time because the machine on which it saved did not have an 3 internal clock, and what our experts tell us in that regard 4 is that the first time thereafter that a memory stick gets 5 puts into – sorry, that those blank files get saved onto 6 another machine – let me clarify this. The first time that 7 the files on the memory stick get saved onto another 8 machine – let me retreat further. When the files on a 9 memory stick get saved onto another machine the time that 10 will be reflected as the last modified date on that other 11 machine is the time on which they were saved because that 12 other machine will take a file that has no time, save it, 13 and will put the time of the machine onto it as the first 14 time that's recorded. So the 21 August dates on your 15 computer are in fact neutral. They merely reflect that as 16 you have testified the first time that the files were 17 copied from the memory stick onto your computer was 21 18 August between 2:13 and 2:14PM. I do want to put that on 19 record because we have distributed documents that suggest 20 that there may be something sinister about that. There's 21 nothing sinister about that. That's neutral. 22 But I also want to emphasise that it's neutral 23 doesn't point in either direction. 24 [12:06] Because if there was a recording of the 25 extraordinary session and someone had removed it from the</p>	<p style="text-align: right;">Page 34389</p> <p>1 same as the minute that was ultimately included in the 2 draft that was circulated to members of the NMF. Can you 3 confirm that? 4 MAJOR LETHOKO: Mm, it's true, yes. 5 MR CHASKALSON SC: Now if I understand 6 your evidence correctly, and you must correct me if I'm 7 wrong, what Brigadier Mahlalela was doing was giving you an 8 additional item to put onto the minutes in respect of the 9 part of the meeting where you weren't there, is that 10 correct? 11 MAJOR LETHOKO: Correct, yes. 12 MR CHASKALSON SC: And that's why she had 13 to explain to you, "The session took place shortly after 14 the NMF with delegation as I have indicated in the 15 attachment," because you weren't there to witness that. 16 MAJOR LETHOKO: True. 17 MR CHASKALSON SC: If we can go back to 18 the e-mail which is exhibit HHHH9, can we call that up, 19 we'll see that the e-mail was copied to the National 20 Commissioner. Do you see the National Commissioner is cc'd 21 on the top of that e-mail? Is it customary for Brigadier 22 Mahlalela's notes about what you should put into draft 23 minutes of NMF meetings to be copied to the National 24 Commissioner before the draft minutes are circulated to 25 members of the NMF?</p>

<p style="text-align: right;">Page 34390</p> <p>1 MAJOR LETHOKO: It depends. 2 MR CHASKALSON SC: Well, are you aware of 3 any instance where this has happened before? 4 MAJOR LETHOKO: Yes. 5 MR CHASKALSON SC: Can you give us an 6 example? 7 MAJOR LETHOKO: Other documents that we 8 deal with in our office, yes, she copies her. 9 MR CHASKALSON SC: But can you give us a 10 specific example because we actually looked on your hard 11 drive and we were unable to find one. I'm not saying it 12 doesn't exist but – so maybe can you give us a specific 13 example, one you remember? 14 MAJOR LETHOKO: It could be a notice of a 15 meeting where she is also copied. 16 MR CHASKALSON SC: But I'm talking about 17 draft minutes of NMF meetings which are copied to the 18 National Commissioner before draft minutes are circulated 19 to other members of the NMF, that's what I'm asking about. 20 Has that ever happened before? 21 MAJOR LETHOKO: I can't remember now. 22 MR CHASKALSON SC: Well, can I ask you to 23 do this exercise? Like I say, we looked on the hard drive 24 for that and couldn't find it. 25 MAJOR LETHOKO: Mm-mm.</p>	<p style="text-align: right;">Page 34392</p> <p>1 the SAPS legal team to establish that and inform us? Now, 2 if we can then move to JJJ177 which is the draft minute 3 that you ultimately circulated in October 2012 to the 4 meeting of the NMF. In fact we don't need to call that one 5 up, let's rather call up LLL2 where we will need some 6 detail but do you recall that the wording that we've just 7 looked at that originated in that file "Extraordinary 8 session NATCOM/LONMIN" was then included in draft minutes 9 that you prepared and circulated to the next meeting of the 10 NMF in October 2012, do you recall that? 11 MAJOR LETHOKO: Yes, I did include it. 12 MR CHASKALSON SC: And in the minutes of 13 that October NMF meeting LLL2 under item 1.3 at the bottom 14 of paragraph 7 under item point 3 it says, it says under 7, 15 page 20, "Minutes must be adopted until page 19." The 16 minute we're talking about constituted the whole of page 20 17 and if we go over the page, "Lieutenant-General Ludiya 18 suggested that page 20 of the NMF minute be detached from 19 the minutes as they did not form part of the NMF. NATCOM 20 inquired that the minutes should be adopted up to page 19 21 and those who were part of the session will adopt. The 22 forum members agreed. NATCOM concluded the minute should 23 be adopted up to page 19, the extraordinary session would 24 adopt up to page 20." Were you present at the NMF meeting 25 in October 2012?</p>
<p style="text-align: right;">Page 34391</p> <p>1 MR CHASKALSON SC: If you can find an 2 example will you, through your SAPS legal team, draw that 3 to our attention? If we go back to – we still have exhibit 4 10, one can see that the file name of the attachment of 5 exhibit 10 is visible on the e-mail. It's called 6 "Extraordinary session NATCOM/LONMIN." Do you know why 7 NATCOM was included in this title, the title of this file? 8 MAJOR LETHOKO: No, I don't. 9 MR CHASKALSON SC: You didn't create the 10 file yourself obviously, it came to you from Brigadier 11 Mahlalela. 12 MAJOR LETHOKO: Correct, correct. 13 MR CHASKALSON SC: Do you know who did 14 create the file? 15 MAJOR LETHOKO: No, I don't. 16 MR CHASKALSON SC: Well, if we can go to 17 exhibit 10.2, I think it's 10A in the electronic folder 18 that I gave earlier today. Those are the properties of the 19 file and it says that the author is SAPS798872, 798872 was 20 the original author of this document and the document was 21 produced between 6:03AM on the 29th and 6:47AM on the 29th 22 of August. Do you know who has the computer with the code 23 SAPS798872? 24 MAJOR LETHOKO: No, I don't. 25 MR CHASKALSON SC: Well, maybe can we ask</p>	<p style="text-align: right;">Page 34393</p> <p>1 MAJOR LETHOKO: No, I was not. 2 MR CHASKALSON SC: Oh, that stops this 3 line of questioning then. Let's go to the next. Who was 4 responsible for this, for minuting, from the secretariat at 5 that meeting? 6 MAJOR LETHOKO: Brigadier Mahlalela was 7 there. 8 MR CHASKALSON SC: Thanks. If we ever 9 get the opportunity to ask her, we will. Can I then go to 10 exhibit 11, HHHH11, it's the minutes of the – and it's a 11 document called, "South African Police Service minutes, 12 National Management Forum Extraordinary Session 15 August 13 2012, Protea Hotel." Do you recognise that document? 14 MAJOR LETHOKO: Yes. 15 MR CHASKALSON SC: And if we go - well, 16 is it a document that you drew up? 17 MAJOR LETHOKO: Yes. 18 MR CHASKALSON SC: And if we go to the 19 properties of that document, which is on page, it's on the 20 last page of the bundle, you'll see that this document was 21 created on the 9th of August 2013 – sorry, 9th of April 22 2013, 9th of April 2013. Do you confirm that? 23 MAJOR LETHOKO: Yes. 24 MR CHASKALSON SC: Why did you prepare 25 the document on 9 April 2013 which was some eight months</p>

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1 after the meeting to which it related?

2 MAJOR LETHOKO: This was after the

3 meeting in October and I was then asked to separate these

4 minutes, the extraordinary session, into a document that

5 represents minutes. So I compiled it as it is.

6 MR CHASKALSON SC: Well, who asked you?

7 MAJOR LETHOKO: Brigadier Mahlalela.

8 MR CHASKALSON SC: And when did she ask

9 you?

10 MAJOR LETHOKO: I can't remember but it

11 could have been around April.

12 MR CHASKALSON SC: Would you not have

13 been asked closer to October when the meeting took a

14 decision that a minute had to be prepared for adoption

15 specifically by the extraordinary session?

16 MAJOR LETHOKO: It couldn't have been. I

17 was on a course from September until December so I was not

18 in the office.

19 MR CHASKALSON SC: Can we assume that you

20 would have acted on the request fairly promptly when you

21 received it, so that the request must have come sometime

22 shortly before 9 April 2013?

23 MAJOR LETHOKO: Correct.

24 MR CHASKALSON SC: And you hadn't

25 previously received any request of this nature?

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1 MAJOR LETHOKO: No.

2 MR CHASKALSON SC: Now what we've seen is

3 a draft, clearly a draft. It's got question marks and

4 comments to Brigadier Mahlalela. Was a subsequent draft of

5 this document ever prepared?

6 MAJOR LETHOKO: I don't know, I've never

7 seen it again.

8 MR CHASKALSON SC: What did you do with

9 this draft when you did prepare it?

10 MAJOR LETHOKO: I sent it back to

11 Brigadier Mahlalela.

12 MR CHASKALSON SC: And that was the last

13 you heard from her in relation to this?

14 MAJOR LETHOKO: Well, she asked me to

15 remove the attendance, I mean the attendees because some of

16 the people were not part of this meeting.

17 MR CHASKALSON SC: And did you do that?

18 MAJOR LETHOKO: Some of the people that I

19 listed in this document were not part of this meeting.

20 MR CHASKALSON SC: When did that request

21 come?

22 MAJOR LETHOKO: I can't remember now.

23 MR CHASKALSON SC: Was it shortly after 9

24 April 2013?

25 MAJOR LETHOKO: Mm.

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1 MR CHASKALSON SC: Were you aware that 9

2 April 2013 was in a short break in the middle of the

3 National Commissioner's testimony before this Commission –

4 at the time were you aware that the National Commissioner

5 had testified up to 5 April 2013 and then the Commission

6 took a short recess and she came back when the Commission

7 resumed on the 16th of April 2013?

8 MAJOR LETHOKO: No, I wasn't.

9 MR CHASKALSON SC: Were you not aware

10 when the National Commissioner was testifying to this

11 Commission?

12 MAJOR LETHOKO: Well, I was aware but I

13 did not take note of the date.

14 MR CHASKALSON SC: But on the 9th of April

15 you would have been aware that the National Commissioner

16 had been testifying and was going to testify, would you

17 not?

18 MAJOR LETHOKO: I don't remember.

19 MR CHASKALSON SC: Can I get back to your

20 answer to a question a little earlier? You said Brigadier

21 Mahlalela indicated that you had to change the list of

22 attendees because some of the people on your list weren't

23 there.

24 MAJOR LETHOKO: Mm.

25 MR CHASKALSON SC: When did she do that?

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1 MR CHASKALSON SC: It could have been

2 after I submitted the document to her but I don't remember

3 the date.

4 MR CHASKALSON SC: And did you then

5 remove some of the attendees who were listed, who were

6 incorrectly listed on your draft?

7 MAJOR LETHOKO: I don't remember.

8 MR CHASKALSON SC: Well, why would you

9 not have done that if Brigadier Mahlalela asked you to do

10 it?

11 MAJOR LETHOKO: She could have done it

12 herself.

13 MR CHASKALSON SC: And if you, if you had

14 done it would you then have given it back to her?

15 MAJOR LETHOKO: Correct.

16 MR CHASKALSON SC: Can I ask you about

17 some other aspects of this document?

18 MAJOR LETHOKO: Mm.

19 MR CHASKALSON SC: In the column "Person

20 and completion date," which presumably indicates who is

21 responsible, you had filled in National Commissioner. Is

22 there a reason why you had done that, why you did that?

23 MAJOR LETHOKO: On which one?

24 MR CHASKALSON SC: Look at the document,

25 at your draft.

<p style="text-align: right;">Page 34398</p> <p>1 MAJOR LETHOKO: Mm-mm.</p> <p>2 MR CHASKALSON SC: It says, "Responsible</p> <p>3 person(s) and completion date" and it says there, "National</p> <p>4 Commissioner."</p> <p>5 MAJOR LETHOKO: I'm lost, which document</p> <p>6 are you referring to –</p> <p>7 MR CHASKALSON SC: Sorry, exhibit 11.1.</p> <p>8 MAJOR LETHOKO: Which one is 11.1?</p> <p>9 MR CHASKALSON SC: Let me ask the</p> <p>10 question before – did you understand the National</p> <p>11 Commissioner to be responsible for this extraordinary</p> <p>12 session?</p> <p>13 MAJOR LETHOKO: She is the chairperson of</p> <p>14 the management meeting, so I assumed she was responsible.</p> <p>15 MR CHASKALSON SC: And so that's why you</p> <p>16 entered her name there?</p> <p>17 MAJOR LETHOKO: Mm-mm.</p> <p>18 MR CHASKALSON SC: I see also in respect,</p> <p>19 annexed to "Purpose of the session" you put in a few</p> <p>20 question marks and said, "Brigadier, I'm thinking maybe</p> <p>21 here the purpose of the session should be stipulated." Can</p> <p>22 you confirm that that was a comment that you made?</p> <p>23 MAJOR LETHOKO: Correct.</p> <p>24 MR CHASKALSON SC: And did the Brigadier</p> <p>25 ever revert to you to indicate what the purpose of the</p>	<p style="text-align: right;">Page 34400</p> <p>1 CHAIRPERSON: No, no, no, you haven't</p> <p>2 answered my question. Let me ask it again. I take it if</p> <p>3 they had been confirmed while you were still in the office</p> <p>4 before you were transferred, you would have known about it.</p> <p>5 MAJOR LETHOKO: True.</p> <p>6 CHAIRPERSON: And you don't remember it</p> <p>7 ever having happened?</p> <p>8 MAJOR LETHOKO: Mm-mm.</p> <p>9 CHAIRPERSON: Was this the first</p> <p>10 extraordinary session of this kind that you'd ever come</p> <p>11 across in the course of your duties?</p> <p>12 MAJOR LETHOKO: As far as I'm concerned,</p> <p>13 ja.</p> <p>14 CHAIRPERSON: The first one where, at the</p> <p>15 next meeting of the National Management Forum, those</p> <p>16 present declined to confirm the minutes, the special</p> <p>17 minutes of the extraordinary session and left them to be</p> <p>18 confirmed by another extraordinary session if ever one were</p> <p>19 held? Is that, is this the first time you've ever come</p> <p>20 across that as well?</p> <p>21 MAJOR LETHOKO: As far as I'm concerned,</p> <p>22 ja.</p> <p>23 CHAIRPERSON: Thank you.</p> <p>24 MR CHASKALSON SC: Major, when were you</p> <p>25 transferred?</p>
<p style="text-align: right;">Page 34399</p> <p>1 session was?</p> <p>2 MAJOR LETHOKO: I don't remember. I</p> <p>3 never received any response, I think.</p> <p>4 MR CHASKALSON SC: So to this day you</p> <p>5 still haven't been told what the purpose of the</p> <p>6 extraordinary session was?</p> <p>7 MAJOR LETHOKO: No.</p> <p>8 MR CHASKALSON SC: And to the best of</p> <p>9 your knowledge nothing further has ever been done in</p> <p>10 relation to these draft minutes, to the best of your</p> <p>11 knowledge?</p> <p>12 MAJOR LETHOKO: I don't know if anything</p> <p>13 was done. I cannot confirm that.</p> <p>14 CHAIRPERSON: While you were there before</p> <p>15 you were transferred from that office, were these minutes</p> <p>16 ever confirmed?</p> <p>17 MAJOR LETHOKO: These ones?</p> <p>18 CHAIRPERSON: Ja.</p> <p>19 MAJOR LETHOKO: I don't know.</p> <p>20 CHAIRPERSON: Of this extraordinary</p> <p>21 session, while you were there? Presumably –</p> <p>22 MAJOR LETHOKO: No.</p> <p>23 CHAIRPERSON: - if it had been, you'd</p> <p>24 have known about it.</p> <p>25 MAJOR LETHOKO: I don't remember.</p>	<p style="text-align: right;">Page 34401</p> <p>1 MAJOR LETHOKO: Last month.</p> <p>2 MR CHASKALSON SC: And at the time that</p> <p>3 you were transferred was Brigadier Mahlalela still</p> <p>4 attending work at the office, at your old office?</p> <p>5 MAJOR LETHOKO: She's been off sick.</p> <p>6 MR CHASKALSON SC: For how long has she</p> <p>7 been off sick?</p> <p>8 MAJOR LETHOKO: For quite a while, I</p> <p>9 don't remember the exact period but she has been off sick.</p> <p>10 CHAIRPERSON: When you left the office</p> <p>11 was she still off sick, or had she come back already?</p> <p>12 MAJOR LETHOKO: No - no, she came back.</p> <p>13 CHAIRPERSON: So when did she come back?</p> <p>14 MAJOR LETHOKO: I don't remember the</p> <p>15 exact date.</p> <p>16 [12:26] CHAIRPERSON: So you say you were</p> <p>17 transferred this month, does that mean –</p> <p>18 MAJOR LETHOKO: Last month. She was back</p> <p>19 last month.</p> <p>20 CHAIRPERSON: She was back last month.</p> <p>21 So did you – was your last day in this particular office at</p> <p>22 the end of June or was it some time in July?</p> <p>23 MAJOR LETHOKO: In the middle of July.</p> <p>24 CHAIRPERSON: In the middle of July and</p> <p>25 by then Brigadier Mahlalela had come back as you said. How</p>

1 long had she been back for?
2 MAJOR LETHOKO: For a few days.
3 CHAIRPERSON: A few days, thank you.
4 MR CHASKALSON SC: Chairperson, I don't
5 have any further questions.
6 CHAIRPERSON: Thank you very much. Well
7 thank you very much, Major, for coming. You'll be excused
8 from further attendance. Thank you. The Commission will
9 now adjourn and resume at 9am on Monday morning. SMSs have
10 been distributed saying 9:30, but I've decided that we
11 should make a point of starting at 9 o'clock because we may
12 need all the time we can get. So I'd be grateful if
13 another SMS could be sent out saying we'll start at 9
14 o'clock on Monday morning. The next witness, I understand
15 will be the deputy president.
16 [COMMISSION ADJOURNED]
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