RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 133 19 SEPTEMBER 2013

PAGES 14055 TO 14122



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Marikana Commission of Inquiry

Pretoria

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1	Page 14055 [PROCEEDINGS ON 19 SEPTEMBER 2013]	1	Page 14057 under oath that you've not been party to, or aware of any
2	[10:54] CHAIRPERSON: The Commission resumes,	2	attempt by SAPS to tamper with the electronic evidence in
3	somewhat later, I'm afraid, than the scheduled time, but	3	question.
4	there were matters that had to be discussed in chamber.	4	COLONEL SCOTT: No, I haven't.
5	You're still under oath, Colonel.	5	MR CHASKALSON SC: Well, let me put the
6	DUNCAN GEORGE SCOTT: s.u.o.	6	concerns on record so that you know exactly what it is that
7	CHAIRPERSON: Mr Chaskalson.	7	I want you to confirm. I'll get to that in a minute, just
8	CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):	8	to tell you where I'm going -
9	Thank you, Mr Chairperson. Colonel, I'd like to start off	9	CHAIRPERSON: Sorry to interrupt you.
10	today's cross-examination with an apology to you. When we	10	You may also have some information about these points which
11	were last here on Tuesday the 10th, I cross-examined you on	11	you can give us, even – you've already denied in advance
12	how SAPS had withheld Captain Nel's videos 229 and 230 from	12	that you were involved in any sinister way, but if you have
13	the evidence leaders. You recall those were the videos	13	any information which will help us to find the truth about
14	which showed Sergeant Venter throwing stun grenades from	14	these matters, obviously we would encourage you to tell us
15	the helicopter commanded by Brigadier Fritz, and you'll	15	so we can take the matter forward.
16	also of course recall that in cross-examination I suggested	16	COLONEL SCOTT: Understood, Commissioner.
17	that you may have been responsible for this apparent	17	MR CHASKALSON SC: In relation to Colonel
18	attempt to withhold relevant evidence from the evidence	18	Vermaak's BlackBerry photographs and the water cannon
19	leaders. You denied that that was the case, and to	19	footage, I've got a few clarificatory questions which I'd
20	substantiate your denial you invited us to examine the hard	20	like to put to you, and then I'll put our concerns on
21	drive on your laptop and the two external hard drives that	21	record and again ask you to confirm under oath that you've
22	you've used in relation to Marikana.	22	not been party to or aware of any attempt to tamper with
23	Well, I'm happy to report to the Commission that	23	the evidence. So if we can start then with the Sergeant
24	our experts have examined all three drives, analysed the	24	Mhlatsi videos, and we touched on this earlier in the
25	material on those drives, and the material that has	25	cross-examination last week, and if I can recap; you'll
-			
1	Page 14056 previously been deleted from those drives since August	1	Page 14058 recall that the original set provided to us by SAPS was
2	2012, and I can confirm that the original set of Captain	2	exhibit JJJ25.1, and if we can just put that up on the
3	Nel's videos that was downloaded onto your computer was	3	screen. Page 104 of file 1, Commissioners. 25.1, and
4	missing videos 229 and 30, and that videos 229 and 30 were	4	Colonel, you'll recall that that set was on its face
5	first loaded onto your computer only after the evidence	5	missing video 353, so the evidence asked for 353 and SAPS
6	leaders had requested them. So I would like to apologise	6	provided the evidence leaders on 7 November with not only
7	for suggesting that you were the party within SAPS who was	7	353, but also 348 and 349. So the set after 7 November
8	responsible for the apparent attempt to hide videos 229 and	8	that had been given to the evidence leaders was the set
9	30. I understand that SAPS is now conducting its own	9	that we showed at JJJ25.2 and 25.3. We can move forward
10	investigation to establish who that party was. When the	10	there. 25.2 and 25.3. So we hadn't been aware of the
1			
11	outcome of that investigation is reported to us we'll take	11	existence of 348 and 349 until SAPS volunteered them. We
11 12	outcome of that investigation is reported to us we'll take the matter further with whoever that responsible individual	11 12	existence of 348 and 349 until SAPS volunteered them. We got the 353 for which we'd been looking, but it now appears
12	the matter further with whoever that responsible individual	12	got the 353 for which we'd been looking, but it now appears
12 13	the matter further with whoever that responsible individual is. COLONEL SCOTT: Thank you. MR CHASKALSON SC: There are three	12 13	got the 353 for which we'd been looking, but it now appears that 350 was missing as well because there's now a gap between 348 and 350. If we can shift to the next exhibit, which is –
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12 13 14 15 16 17 18 19 20 21 22 23 24 25	the matter further with whoever that responsible individual is. COLONEL SCOTT: Thank you. MR CHASKALSON SC: There are three remaining concerns I need to traverse with you in relation to possible interference with the video and photographic evidence. They concern Sergeant Mhlatsi's cell phone videos, Lieutenant-Colonel Vermaak's Blackberry photographs of the 16th, and the Johannesburg water cannon footage of the 16th. In the first two of these cases there are ongoing investigations by SAPS; in the third there's an ongoing investigation by the evidence leaders. So at this stage in	12 13 14 15 16 17 18 19 20 21 22 23	got the 353 for which we'd been looking, but it now appears that 350 was missing as well because there's now a gap between 348 and 350. If we can shift to the next exhibit, which is – sorry, well before we get to the next exhibit, we then asked for 350 from SAPS and it was provided shortly after the 7th of November. Can we have the next set, which is 25.4, which will show the full directory. This is a properties view of the directory on the 7th of November. I'm looking for 25.4. So this is the full directory that we received from SAPS that runs continuously from 348 to 365. If we can shift to the properties view, which is

1	Page 14059 download the original files with their original metadata	1	Page 14061 exhibit here. The comparison is the wrong comparison.
2	which would show us the date and time of the files.	2	
2	So you see the files all have dates in October or	2	It's a comparison between the 350 that SAPS gave us and the
4	-		353 that SAPS gave us, which are also the identical video. This cross-examination is running awry. It is the correct
	November, and indeed the three files that were provided to	4	0
5	us on the 7th of November have dates on the 6th of November,	5	comparison, but what I said to you was the $-$ can we go back
6	that's 348, 349, and 353, and the file that came after the	6	to 83.4, which is the – 83.5, 83.5, I'm sorry, 83.5, which
7	7th of November, 350, has a date of the 8th of November. We	7	should be the 353 that was on the SAPS list that was given
8	were interested in the real times, so we asked to see	8	to us. Play 83.5.
9	Sergeant Mhlatsi so that we could download from his cell	9	[VIDEO SHOWN]
10	phone his original files because we were confident we could	10	And again you'll see it's the same video. So
11	get the metadata off his cell phone.	11	there are three identical videos, the 353 that SAPS gave
12	If we can then move to JJJ83, which is the	12	us, the 350 that SAPS gave us, and the 353 that we
13	directory we took from Sergeant Mhlatsi, and that is the	13	retrieved off Sergeant Mhlatsi's cell phone. But if we
14	directory that we ourselves took from Sergeant Mhlatsi's	14	compared the properties of the two identical videos that
15	cell phone and if we can then shift to JJJ83.1 or 83.2,	15	SAPS gave us, that would be the 350 and the 353, they
16	which is the properties view, and you'll see that those	16	weren't the same, and that was what I was hoping to
17	files have the correct original dates. They've got the	17	illustrate with 83.8 and 83.9. So let's go back to 83.8.
18	date and time stamps because we were able to recover that	18	So although the videos show the same images and were given
19	from Sergeant Mhlatsi, but there was something very	19	to us by SAPS as 350, the 8 November file, and 353, the 6
20	significant about what we found on Sergeant Mhlatsi's cell	20	November file, they have different properties. So when you
21	phone, which is illustrated in this list; if we can go back	21	look at them in a directory you won't see that they are
22	to the thumbnails, which is 83.1. There isn't a 350 on	22	identical. The one is 47.4 megabytes, the other is 3.47
23	Sergeant Mhlatsi's cell phone. So when we examined	23	megabytes. One's much bigger than the other, and if we
24	Sergeant Mhlatsi's cell phone there was no 350, but we've	24	look at the details view, which is the next exhibit, 83.9,
25	been given a 350 by SAPS. So we then went back to look at	25	the frame width of the videos is different. The frame
	Dago 14040		Dogo 14040
1	Page 14060		Page 14062
	life 300 lifel we had been given by SAPS and if we can play -	1	width of the one is 1280; the frame width of the other is
2	the 350 that we had been given by SAPS and if we can play – and here I, or if I can ask that we call up 83.3, which is	1 2	width of the one is 1280; the frame width of the other is 480, and then if we look at the thumbnail images on the two
2 3	and here I, or if I can ask that we call up 83.3, which is		480, and then if we look at the thumbnail images on the two
3	and here I, or if I can ask that we call up 83.3, which is the thumbnail of the 350 that we'd been given by SAPS,	2	480, and then if we look at the thumbnail images on the two videos, which are what one would see if one looked at the
3 4	and here I, or if I can ask that we call up 83.3, which is the thumbnail of the 350 that we'd been given by SAPS, exhibit JJJ83.3, or is it a video? Sorry, it's a video.	2 3	480, and then if we look at the thumbnail images on the two videos, which are what one would see if one looked at the thumbnail view of the directory, which is 83.6 and 83.7,
3	and here I, or if I can ask that we call up 83.3, which is the thumbnail of the 350 that we'd been given by SAPS, exhibit JJJ83.3, or is it a video? Sorry, it's a video. If we can play the 350 that we were given by	2 3 4	480, and then if we look at the thumbnail images on the two videos, which are what one would see if one looked at the thumbnail view of the directory, which is 83.6 and 83.7, this is the thumbnail of 350, and one can see the SAPS
3 4 5 6	and here I, or if I can ask that we call up 83.3, which is the thumbnail of the 350 that we'd been given by SAPS, exhibit JJJ83.3, or is it a video? Sorry, it's a video. If we can play the 350 that we were given by SAPS, that's JJJ83.3, a short 17-second video.	2 3 4 5	480, and then if we look at the thumbnail images on the two videos, which are what one would see if one looked at the thumbnail view of the directory, which is 83.6 and 83.7, this is the thumbnail of 350, and one can see the SAPS member standing on the left-hand side of this imagine,
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1	want to ask you a series of questions so that you can	1	us exhibit JJJ15 and maybe if I can ask for JJJ15.2 to be
2	confirm under oath that you have had nothing to do with	2	shown on screen which is a thumbnail view of the directory
3	what appears prima facie at any rate, to be an attempt to	3	holding all three Jo'burg water canon files. It's page 192
4	tamper with the video evidence in Sergeant Mhlatsi's cell	4	of the bundle in file 3. What you see there first is a
5	phone. So the first question I'm going to ask you is have	5	folder called copy 12-11-19, we'll get to that. That is
6	you ever seen the real file 350 on Sergeant Mhlatsi's cell	6	fact the third instalment. The first instalment that came
7	phone?	7	to us on the 12th of November was the file with the name
8	COLONEL SCOTT: No.	8	Jo'burg 2012-08-16, time 15:32:18. Are you familiar with
9	MR CHASKALSON SC: Okay, the second	9	that file?
10	question is, were you involved in any way with the creation	10	COLONEL SCOTT: Yes, I am.
11	of the videos 350 and 353 that were provided by SAPS to the	11	MR CHASKALSON SC: And that file, will
12	evidence leaders?	12	you confirm, has footage from the water canon video on the
13	COLONEL SCOTT: No.	13	water canon camera time that runs from 15:30:28 through to
14	MR CHASKALSON SC: And finally I'm going	14	the end of the operation at Marikana. Can you confirm
15	to ask you, are you aware of the identity of anyone within	15	that?
16	SAPS who's been party to an attempt to tamper with the	16	COLONEL SCOTT: Yes.
17	videos on Sergeant Mhlatsi's cell phone, or to withhold the	17	MR CHASKALSON SC: And can you confirm
18	real file 350 from the evidence leaders?	18	also that the water canon camera clock is just over half an
19	COLONEL SCOTT: No, I'm not aware of that	19	hour slow, so the real time of that footage runs from
20	either.	20	approximately 16h00 in real time which was approximately –
21	MR CHASKALSON SC: Okay. Well at this	21	sorry I've got it as running from approximately six minutes
22	stage I don't want to take the matter further with you	22	after the shootings at scene 1. Would you confirm that?
23	until the –	23	COLONEL SCOTT: I'll take your word on
24	CHAIRPERSON: Do you know anything about	24	that, I haven't checked it up in that way but I'll accept
25	those two items?	25	that, yes.
1	Page 14064	1	Page 14066
1	COLONEL SCOTT: Chairperson, no, and I've	1	MR CHASKALSON SC: Then on – so the
2	COLONEL SCOTT: Chairperson, no, and I've just checked on my computer and the only place that that	2	MR CHASKALSON SC: Then on – so the footage starts from a point after the shootings at scene 1,
2 3	COLONEL SCOTT: Chairperson, no, and I've just checked on my computer and the only place that that file does come up is in the evidence leaders' package that	2 3	MR CHASKALSON SC: Then on – so the footage starts from a point after the shootings at scene 1, you can confirm that?
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1 2 3 4 5	Page 14067 the footages in that file VR movie, do you recognise that file? COLONEL SCOTT: No, but again I'll take your word that is the footage. MR CHASKALSON SC: Well that footage, if	1 2 3 4 5	Page 14069 COLONEL SCOTT: I'll be honest, I didn't – sorry I know, just as a figure of speech, I didn't even know the water canons had a video capability. MR CHASKALSON SC: And when was the first time people brought to your attention that the water canons
6	needs be can be played at some stage, I wouldn't will that	6	had a video capability?
7 8	on anybody though. It shows footage of the water canon from Muldersdrift running through to 10:17:55 in the	7 8	COLONEL SCOTT: That I can recall, we were in consultation in Sandton. There may have been talk
9	morning and then cuts immediately water canon time 15:30:28	9	about it before then but the first time that I can
10	at Marikana which is in fact after the scene 1 shootings.	10	definitely recall was in Sandton where the video operators
11	Are you familiar with the video that does that?	11	or the water canon operators were called in for
12	COLONEL SCOTT: As I say I've watched	12	consultation there to explain why there wasn't video
13	them but I haven't watched those that – I wasn't even aware	13	footage for that matter.
14	there was a build up to - I've only watched those two	14	MR CHASKALSON SC: But presumably when
15	videos from the water canons while they were at Marikana	15	someone's called in to explain the absence of video footage
16	itself. And I recall that because I think one of the	16	or one is aware of the ordinary situation being one where
17	screens was very dirty, I don't know what the issue was	17	there would be video footage –
18	with the other one but there wasn't much to be seen in my	18 19	COLONEL SCOTT: That is so but as I say, I met the members there in – it could have been made known
19 20	opinion. MR CHASKALSON SC: But the Jo'burg water	20	at Roots as well. I'm not sure, this is why I can't
20	canon footage starts only after the scene 1 shootings.	20	remember but the time I can recall being with those members
22	You've never seen footage from the Jo'burg water canon from	22	was in Sandton because they were called at the same time as
23	before the scene 1 shootings have you?	23	me for consultation.
24	COLONEL SCOTT: No, that I can recall,	24	MR CHASKALSON SC: And can you date that
25	no.	25	approximately?
1	Page 14068 MR CHASKALSON SC: I want to ask you	1	Page 14070 COLONEL SCOTT: I'm not sure, we were in
2	questions about the water canon footage. When you were	2	your office, I'm not sure.
3	tasked by General Annandale to collect video footage did		
		3	MR CHASKALSON SC: Then I'll probably be
4	you expect to receive water canon video evidence?	3 4	MR CHASKALSON SC: Then I'll probably be able to date it but that would have been in October.
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		1	
1	Page 14071 gave instruction on the days following that all video	1	Page 14073 Sales?
2	footage should be brought to me. I didn't go out looking	2	COLONEL SCOTT: I can't say with
3	for it thus because you know people would be coming to me	3	certainty, I have heard his name mentioned. As I say I was
4	with what they had. So no I wasn't aware of that, no.	4	there on a day when no one was there. The security guards
5	MR CHASKALSON SC: I'd like to refer you	5	posted at the gates, opened up and were told to give me a
6	to what will be exhibit JJJ166 which is an email from	6	package which was locked inside which I signed for there.
7	SAPS's attorneys on 12 November 2012. Commissioners, I	7	MR CHASKALSON SC: So you, yourself
8	must apologise, a copy of this email is still being printed	8	didn't have any direct dealings with the Hawks' experts who
9	for your files, so we will have them –	9	did the downloading?
10	CHAIRPERSON: But I must give it an	10	COLONEL SCOTT: No.
11	exhibit number mustn't I?	11	MR CHASKALSON SC: You say General
12	MR CHASKALSON SC: JJJ166.	12	Annandale sent you to collect it from the Hawks.
13	CHAIRPERSON: JJJ166, email evidence,	13	COLONEL SCOTT: Yes.
14	this is the SAPS is it? Yes, Mr Pretorius, SAPS attorney	14	MR CHASKALSON SC: To collect the package
15	to evidence leaders.	15	of video footage from the Hawks. At the time prior to
16	MR CHASKALSON SC: To evidence leaders 12	16	General Annandale sending you to the Hawks were you aware
17	November 2012.	17	that video footage had emerged from the water canons?
18	CHAIRPERSON: Yes, that document will be	18	COLONEL SCOTT: I think, as I say there
19	exhibit JJJ166.	19	was the chatter that there was - well obviously I must have
20	MR CHASKALSON SC: This was the	20	been aware because I had heard of the difficulty in the
21	explanation that came to us from the SAPS attorneys for the	21	actual downloading it off the cameras. I'm just trying to
22	initial absence of water canon footage and its subsequent	22	recall but I think they said that they were able to view
23	emergence. "We confirm that the personnel who worked with	23	it, I think inside the water canon and that's how they
24	the water canons indicated they did not use the video	24	became aware of it but they didn't know how to get it off
25	cameras of the water canons due to the following reasons,	25	the device inside the water canon. That's about as much as
-			
1	Page 14072	1	Page 14074
1	 Lack of training in respect of the one water canon. 2. Due to a lack of time caused by the sudden attack by the 	1	I know concerning that. MR CHASKALSON SC: And when did you first
2	protestors the video camera of the second water canon was	2	5
4	not used. One of the commanders of POPs investigated the	4	see footage from the water canons? COLONEL SCOTT: No, it was after the – I
4 5	possibility that the water canon video cameras could have	4 5	think it was maybe a day or two after I delivered it.
6	recorded automatically. We confirm that there are some	6	MR CHASKALSON SC: So you, yourself never
7	video footage available which was downloaded by the experts	7	viewed footage inside a water canon?
8	due to the difficulty and technicality thereof. We confirm	8	COLONEL SCOTT: No.
9	that the available video footage will be submitted to the	9	
			MR CHASKALSON SC Are you tamiliar with
10	-		MR CHASKALSON SC: Are you familiar with the inside of a water canon and a video consol inside a
10 11	evidence leaders as soon as possible." Now the reference	10	the inside of a water canon and a video consol inside a
11	evidence leaders as soon as possible." Now the reference in the penultimate paragraph to footage downloaded by the	10 11	the inside of a water canon and a video consol inside a water canon?
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		I	
	Page 14075		Page 14077
1	MR CHASKALSON SC: And you're clear on	1	sending the photos sporadically over the days from his
2	that?	2	Blackberry to Brigadier Pretorius as situation reports.
3	COLONELS SCOTT: Well to be honest I'm	3	"Brigadier Pretorius would forward these photos to me to
4	taking your word on it. I watched it, I couldn't really	4	assist with keeping me up to date. At the end of each day
5	see what I was seeing. I don't even know if it's the one	5	Lieutenant-Colonel Vermaak would download photos onto my
6	with the dirty screen.	6	computer." And you clarify a couple of pages down at
7	MR CHASKALSON SC: No, no, no it's the	7	paragraph 45.7.1 that this process started on the 15th of
8	one with the clean screen.	8	August where you say "Blackberry photos from Lieutenant-
9	COLONEL SCOTT: I think it would have	9	Colonel Vermaak sporadically sent via GSM networks since
10	made an impact if I had seen it, so I'll agree with you,	10	Wednesday 15 August but fully downloaded sometime in the
11	no.	11	immediate days following 16 August 2012." Now if Colonel
12	MR CHASKALSON SC: And are you aware of	12	Vermaak was sending you situation reports they were
13	any attempt within SAPS either to destroy footage taken by	13	presumably designed to get to you as a planner and to get
14	the Johannesburg Water Canon at scene 1 or to withhold it	14	to the JOC commanders as quickly as possible because
15	from the Commission?	15	there's no purpose in a situation report that arrives after
16	COLONEL SCOTT: No, I'm not aware.	16	the situation has changed materially.
10		10	
17	MR CHASKALSON SC: Alright, Colonel, if we can move to –	17	COLONEL SCOTT: Ja, what I can say is he was BBM-ing them to Brigadier Pretorius and she was
19	CHAIRPERSON: Can I ask a question if	19	emailing them to me. I've looked at them since and there's
20	you're moving on? Was the question of the Johannesburg	20	an actual email how you can see they were sent to me from
21	water canon video footage, the availability thereof or the	21	Brigadier Pretorius. As far as I'm aware she was also
22	non-availability thereof discussed at Roots at all in your	22	giving them to the senior officers in the JOC, the
23	presence?	23	commanders, so I was sort of a CC to it.
24	COLONEL SCOTT: Commissioner, not that I	24	MR CHASKALSON SC: So it would be one
25	can recall. It may have been discussed on side bars when	25	email that would go out from Brigadier Pretorius to
	Dama 1407/		Dage 14070
1	Page 14076 they brought the groupings in to speak about things that –	1	Page 14078 vourself and other members of the JOC.
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		1	
1	Page 14079 CHAIRPERSON: Wasn't one of the things he	1	Page 14081 specific case where you had two or three photographs from
1	5	1 2	Colonel Vermaak describing the movement of the crowd and
2 3	was supposed to be doing taking pictures on his Blackberry and then sending them through to the JOC? Wasn't that one	3	you later called for more.
4	of the reasons he was up there in the helicopter?	4	COLONEL SCOTT: Ja. It was either on
4 5	COLONEL SCOTT: Yes, well, we know that	5	Thursday going into the evening or it could've been Friday
6	he did take pictures with his Blackberry because they're	6	morning. I'm not too sure, but it was definitely before
7	available. Whether they were sent through at the time that	7	the briefing that I had to set up for the national
	he took them I'm unsure, but I could imagine that he got –	8	commissioner because I remember Colonel Vermaak showing me
8 9		9	on his Blackberry these photos of that and, I mean, that
10	you know, there was a lot going on, on the ground. To still sit and want to find and send and – would be a	7 10	was, to us at that time made a lot of sense to what we'd
11	problem.	11	been hearing over the radio, thus necessary for putting
12	CHAIRPERSON: To whom would he have sent	12	into the peace presentation for the national congress media
12	them if he did send them?	12	briefing.
13		14	MR CHASKALSON SC: So do I understand you
	с С	15	correctly that while you were preparing the presentation or
15	he would've probably followed the same chain he had been through the days and that would've been to Brigadier	16	the media briefing Colonel Vermaak was there with his
16 17	Pretorius.	17	Blackberry and you identified certain photographs on his
18	CHAIRPERSON: Thank you.	18	Blackberry that you wanted to use in the presentation?
19	MR CHASKALSON SC: Maybe if I can just	19	COLONEL SCOTT: He actually approached
20	pick up from the chairperson's evidence, you – evidence,	20	and showed certain photographs.
20	question, your evidence in response to the chairperson.	20	MR CHASKALSON SC: And then you
22	CHAIRPERSON: I'm not under oath.	22	downloaded those photographs specifically but not the full
23	MR CHASKALSON SC: If we go to page 97 of	23	set?
23	that statement, paragraph 25.2 – I apologise for that.	23	COLONEL SCOTT: I don't recall how they
25	There you said, "I received input from" and there you were	25	were downloaded. They could've just been passed on via the
			·····
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	Page 14080		Page 14082
1	speaking about the sources at your disposal on the evening	1	Blackberry or - but I know I didn't have the full set at
2	speaking about the sources at your disposal on the evening of the 16th of August for the briefing memo you drafted for	2	Blackberry or – but I know I didn't have the full set at that time, yes.
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1	clock time when a photograph is taken and the date modified	1	that. Are you, will you accept that?
2	records the Blackberry clock time when it is originally	2	COLONEL SCOTT: Ja, I accept that.
3	saved onto the Blackberry memory card or if anything in the	3	MR CHASKALSON SC: The next detail that I
4	photographic file is subsequently modified on computer.	4	need you to accept is that if you change the time in the
5	The date modified field will then record the time on that	5	date taken field you are in a way modifying the file
6	computer's clock when the modification was made.	6	because it's now going to reflect a different time as the
7	COLONEL SCOTT: And then saved on the	7	time taken, so when you then save the file with the new
8	device.	8	date taken time the date modified file will also change.
9	MR CHASKALSON SC: Well, not just saved,	9	It will change to reflect the date on which – the date and
10	modified. Because if one copies a Blackberry file onto a	10	time on which you have modified the date taken field.
11	computer –	11	COLONEL SCOTT: Okay, no, I wasn't aware
12	COLONEL SCOTT: Ja, but I mean saved on	12	of that, no.
13	the source device, onto its own hard drive, internal hard	13	MR CHASKALSON SC: You can accept it from
14	drive. Is that the modified?	14	me.
15	MR CHASKALSON SC: The first modified is	15	COLONEL SCOTT: Yes.
16	that.	16	MR CHASKALSON SC: But there's no simple
17	COLONEL SCOTT: Yes.	17	way of changing the date modified field by just going into
18	MR CHASKALSON SC: Thereafter if you	18	properties and playing around with it. You need some
19	change the file in any way the modified date will change to	19	fairly sophisticated technical expertise to change it to
20	reflect the date on which the file was changed.	20	order.
21	COLONEL SCOTT: To date created I think.	21	COLONEL SCOTT: Okay, I accept that.
22	I'm also learning in these –	22	MR CHASKALSON SC: The date taken field
23	MR CHASKALSON SC: I'm interest in date	23	on the other hand you can change to order by just going
24	taken and date modified at this stage.	24	into the properties and changing the date and time. So if
25	COLONEL SCOTT: I just want to clarify.	25	one wanted to change the date modified field for people
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1	Date taken is when he pushed the button and the shutter	1	like you and me who don't have a great deal of technical
2	went. Date modified is when it saved itself onto the	2	expertise, the only way to do that would be to reset a
3	device that it was taken on.	3	computer clock manually to a time that you want that date
4	MR CHASKALSON SC: That's correct and	4	modified time to reflect and then to resave the file at
5	then –	5	that time on the changed computer clock time and then it
6	COLONEL SCOTT: Date created is when it's	6	would reflect a date modified time of the artificially
7	downloaded onto a second device.	7	changed computer clock time. Will you accept that?
8	MR CHASKALSON SC: I'm not interested in	8	COLONEL SCOTT: Ja, I will accept that,
9	date created at this stage. The date taken field is a	9	yes. You're talking about the device now itself, the
10	field that can be changed by people like you and me	10	Blackberry, or a computer?
11	relatively simply. Are you aware of that?	11	MR CHASKALSON SC: Either.
12	COLONEL SCOTT: The date taken field?	12	COLONEL SCOTT: Alright.
13	MR CHASKALSON SC: Indeed.	13	MR CHASKALSON SC: Because the modified
14	COLONEL SCOTT: No, no, I wasn't.	14	will reflect when the file is altered and saved – saved in
15	MR CHASKALSON SC: Let me –	15	an altered form. Now, I'd like to show you a directory
16	COLONEL SCOTT: If it's the name of the	16	list of the Colonel Vermaak Blackberry photographs of the
17	actual file I'm aware that you can actually – because I	17	afternoon of the 16th and this will be exhibit JJJ11.1 and
18	have put timeframes in front of other names, but if it's in	18	again, Commissioners, I must apologise for the absence of a
19	the details I wasn't aware that you can modify things in	19	file at this stage, a hard copy at this stage. We have
20	the actual details, no.	20	printed out an extract from the directory of Colonel
21	MR CHASKALSON SC: Well, what I'd like to	21	Vermaak's Blackberry photos on which we've made certain
22	clarify before the commission is that if one goes to the	22	annotations, and the date modified and date taken fields
23	file properties and goes to the details tab on the file	23	are described in the last two columns on the right hand
24	properties you can just change the time or the date in the	24	side. Date modified is the second last column.
25	date taken field and anyone can do that once they know	25	Date taken is the last column. Now, as we
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1	described earlier ordinarily date modified and date taken	1	CHAIRPERSON: Mr Chaskalson, how do you
2	would correlate with one another to within a few seconds on	2	respond to that contention?
3	an individual file, but if we look at that directory at a	3	MR CHASKALSON SC: I only want to explain
4	certain point in that directory the date taken entry in	4	what occurred to us, to put the question to Colonel Scott
5	relation to a particular photo, that's the right hand, the	5	whether he was responsible for anything like that or was
6	far right column, correlates not with the date modified of	6	aware of anything like that. If he says no I'm not going
7	that photo but with the date modified of the preceding	7	to take it further at this stage.
8	photo. That's what those diagonal red lines on the	8	CHAIRPERSON: That seems to deal with the
9	document illustrate. So if we run down, to begin with they	9	point, Mr Semenya. Carry on, Mr Chaskalson.
10	correlate.	10	MR CHASKALSON SC: So just to clarify so
11	The first entry is 3.30pm, 3.30pm. Then 3.31,	11	that you understand what I'm asking you to answer a
12	3.30, that might be a difference of a couple of seconds at	12	possibility that occurred to us is that someone tried to
13	the end of the – you know, as the minute, as the seconds	13	change the times on the date taken file then thought better
14	approach the minute. 3.31, 3.31, 3.32, 3.31 which is a bit	14	of it and tried to undo the, his or her handiwork in this
15	odd. Then 3.35, 3.35 correlates. Then we have 3.42, 3.35	15	regard but bungled the re-entering process by re-entering
16	which doesn't correlate, but the 3.42 is picked up in the	16	the times incorrectly so that they are out by one. And I
17	next entry at 3.42. Then we have 3.42 being picked up at	17	have to ask did you do anything like that?
18	the next entry at 3.42 again, 3.43 being picked up at the	18	COLONEL SCOTT: No, I did not, and I'm
19	next entry at 3.43. 3.46 being picked up at the next entry	19	just trying to have a look in the photos that I received at
20	at 3.46 as opposed to the 3.43 on the same entry.	20	that time. I'll tell you now. I received eight BBM
21	3.55 doesn't correlate with 3.46 on the same	21	photographs which were downloaded to me, 08.18, and
22	entry but does correlate with 3.55 on the next entry. 3.56	22	strangely none of them fall within that category.
23	and so on. The pattern isn't consistent, so if we go down	23	MR CHASKALSON SC: Sorry, 08.18?
24	to where the horizontal lines are suddenly the files start	24	COLONEL SCOTT: 08, 2012, 08.18, date
25	correlating – the fields start correlating within the	25	created on my computer.
1	Page 14088	1	Page 14090
1	individual file whereas previously they were correlating	1	CHAIRPERSON: You received them on the
2	individual file whereas previously they were correlating across files. Now, our expert can't offer us an innocent	2	CHAIRPERSON: You received them on the 18th of August.
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		T	
	Page 14091	1	Page 14093
1	COLONEL SCOTT: I also – I'm just looking	1	and modified on the 22nd of May this year. Is that
2	at another file on my hard drive. I have others which	2	something that –
3	include those which are downloaded 08.50am on the 17th, so	3	MR CHASKALSON SC: Chairperson, I can
4	the Friday the 17th at 08.50am. I can't see the properties	4	answer that. That in fact is not a BlackBerry photograph
5	as you have them with – I've only got date. I'm not sure	5	and shouldn't have been in –
6	how to get date modified – or I can look down at the	6	CHAIRPERSON: I see. Okay, no I –
7	bottom.	7	MR CHASKALSON SC: - in that list. It's
8	[12:13] If I go to, one of the contentious ones is 1512,	8	one of Captain Van Heerden's photographs and it was resaved
9	I think it falls within that range. 1512 is one of the	9	on one of the evidence leaders' hard drives on that date.
10	contentious ones, and I have it as date created, but that's	10	CHAIRPERSON: So it's not relevant at
11	on my computer date modified, date taken, 2012-08-16 at	11	all?
12	3:42. Date modified, 2012-08-16 at 3:42.	12	MR CHASKALSON SC: It's not relevant at
13	MR CHASKALSON SC: That's a perfect	13	all.
14	correlation, which is what they should be.	14	CHAIRPERSON: Thank you.
15	COLONEL SCOTT: Ja.	15	COMMISSIONER HEMRAJ: Might a series of
16	MR CHASKALSON SC: Of course that's at a	16	photographs have been taken without being saved and then
17	point in the pattern where a whole series of photographs	17	saved subsequent to three or four photographs being taken?
18	were taken at 03:42.	18	MR CHASKALSON SC: It's not something
19	COLONEL SCOTT: Yes.	19	that we've discussed with our expert, but we can raise that
20	MR CHASKALSON SC: So the line could just	20	with our expert. We'd also have to check to see whether
21	as easily have gone horizontally.	21	that would explain these particular time differences.
22	COLONEL SCOTT: Yes.	22	COMMISSIONER HEMRAJ: There's more than
23	MR SEMENYA SC: Chair, I also am cautious	23	one photograph that appears to be saved at the same time.
24	that the witness is not speaking out of his field of	24	MR CHASKALSON SC: Commissioner, it
25	expertise, and then making comments within which he's not	25	wouldn't be at the same time. It would be within the same
	Page 14092		Page 14094
1	qualified.	1	minute, because if –
1 2	qualified. CHAIRPERSON: That sounds as if it's a	1 2	
	•		minute, because if –
2	CHAIRPERSON: That sounds as if it's a	2	minute, because if – COMMISSIONER HEMRAJ: Yes.
2 3	CHAIRPERSON: That sounds as if it's a point that may have some substance, Mr Chaskalson. What do	2 3	minute, because if – COMMISSIONER HEMRAJ: Yes. MR CHASKALSON SC: If one could see the
2 3 4	CHAIRPERSON: That sounds as if it's a point that may have some substance, Mr Chaskalson. What do you say about that? I mean if you're asking him things	2 3 4	minute, because if – COMMISSIONER HEMRAJ: Yes. MR CHASKALSON SC: If one could see the seconds, they would be different seconds.
2 3 4 5	CHAIRPERSON: That sounds as if it's a point that may have some substance, Mr Chaskalson. What do you say about that? I mean if you're asking him things about things that he doesn't even know about, then his	2 3 4 5	minute, because if – COMMISSIONER HEMRAJ: Yes. MR CHASKALSON SC: If one could see the seconds, they would be different seconds. COMMISSIONER HEMRAJ: Right.
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1	Page 14095 COLONEL SCOTT: Okay.	1	Page 14097 indicate that some attempt may have been made, apparently
2	MR CHASKALSON SC: There are two	2	it would appear ultimately unsuccessfully, to change
3	outstanding issues on –	3	things. But whether that's so or not, this witness is now
4	CHAIRPERSON: No, no, Mr Chaskalson, we	4	being asked if anything of that kind happened, did you do
5	have another objection or comment.	5	it, and he says no, and I think the purpose of the question
6	MR NTSONKOTA: It's not an objection,	6	is simply to exclude him. So if evidence comes later from
7	Chair. I just want to ask for my edification and to be	7	the experts that there was something sinister about this,
8	able to follow the debate, Chair, I understand that my	8	or may have been, one doesn't have to get him back to say
9	learned colleague Mr Chaskalson is asking these questions	9	did you do it. He's already said "I didn't do it." That's
10	really in a probing fashion, but if I may just ask a direct	10	my understanding of it. Is that right, Mr Chaskalson?
11	question. Is it his case that if these inconsistencies	11	MR CHASKALSON SC: Yes, and of course if
12	that he has so meticulously taken us through hadn't	12	Colonel Scott were to put up his hand and say yes, I am
13	occurred, a different picture would have emerged as to what	13	aware of it, you know, so and so tried to do this, well
14	happened on the day, different from what SAPS has up until	14	then we'll pursue that, but Colonel Scott is not aware of
15	now told us was the case on the day in question? In other	15	it.
16	words, I'm just trying to understand where is Mr Chaskalson	16	CHAIRPERSON: Yes, and it's not been
17	taking us to by drawing our attention to all these	17	established that there was anything untoward, but the
18	inconsistencies that he says occurred as to what happened	18	question is if something untoward happened, was it you, and
19	on the day.	19	he says no. That seems to be the answer.
20	CHAIRPERSON: Yes, Mr Chaskalson?	20	MR CHASKALSON SC: Yes.
21	MR CHASKALSON SC: Mr Chairperson, the	21	COLONEL SCOTT: Chairperson, I'm not sure
22	photograph would show what the photograph shows. The time	22	if the, there is possibly a plausible explanation because
23	of the photograph - I must say the evidence leaders' view	23	I'm looking at my computer as well and I've chosen one that
24	at the moment is that the times recorded on these	24	doesn't have a -
25	photographs under "date modified" are in fact the correct	25	MR SEMENYA SC: Chair, I'm trying to stop
	Dama 1400/		Dama 14000
1	Page 14096 times of these photographs. We can see by the time	1	Page 14098
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2	times of these photographs. We can see by the time correlation exercise that we've done against other	2	my witness – COLONEL SCOTT: Okay.
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		1	
1	Page 14099	1	Page 14101
1	CHAIRPERSON: Protea Coin –	1	that's UAV, yes. So it's aerial footage taken from
2	MR CHASKALSON SC: The Protea Coin, so	2	unmanned aerial vehicle on 16 August 2012.
3	those are the Protea Coin videos. Will you confirm that?	3	MR CHASKALSON SC: Indeed, Chairperson.
4	COLONEL SCOTT: Yes.	4	If we could then play the video.
5	MR CHASKALSON SC: The third is a video	5	[VIDEO SHOWN]
6	taken of the 15th with which I don't want to concern myself	6	If we could stop the video at this stage.
7	now. The fourth, that's Marikana 2012-08-16, 12:24 ABI, is	7	Colonel, I understand that Brigadier Fritz was responsible
8	what appears to be footage from the Protea Coin chopper	8	for the arrangement of this particular flight of the UAV,
9	taken at 12:24, approximately 12:24 on the 16th. Would you	9	and if needs be we'll have to pose these questions to him,
10	confirm that?	10	but I wonder if you could just describe to the
11	COLONEL SCOTT: I confirm that, yes.	11	Commissioners in response to my questions certain features
12	MR CHASKALSON SC: Commissioners, in our	12	of what we've seen, because it does seem to us that this
13	view it's – well, it is footage that had previously not	13	might be a very useful means of monitoring gatherings of
14	been made available. In our view it's footage that should	14	this nature for the SAPS. So the first question I need to
15	be evidence before the Commission. We don't need to play	15	ask you, and if you don't know the answers we'll just
16	it now, but we'd like to identify it and to give it an	16	canvass them with Brigadier Fritz; we understand that the
17 18	exhibit number, and can we ask that it be called exhibit JJJ105. It's an aerial, what it provides is aerial footage	17 18	footage that we've seen is from a camera that's mounted on what I would call a remote controlled model aeroplane, what
19	of the koppie at approximately 12:24 on the 16th at the time	19	I've been told is an unmanned aerial vehicle, is that
20	that Mr Mathunjwa was addressing the koppie, but it is	20	correct?
20	aerial footage.	20	COLONEL SCOTT: That's correct.
22	CHAIRPERSON: Yes, very well, it will be	22	MR CHASKALSON SC: And the vehicle in
23	JJJ105, and I've described it as aerial footage of koppie	23	question is small. In fact it is being carried by the man
24	at 12:24 on the 16th of August 2012.	24	whose shadow we see on the image on the screen now.
25	MR CHASKALSON SC: If we can just go back	25	COLONEL SCOTT: That's correct.
	Page 14100		Page 14102
1	to the thumbnail of the directory, the last file, UAV2013-	1	MR CHASKALSON SC: The vehicle that, from
2	08-16 15:19 MOV, will you confirm that this is an aerial		
-		2	which this footage is taken can be pre-programmed to fly a
3	video taken of the koppie and the surrounding areas at	3	particular flight path.
4	approximately 15:19 on the 16th, taken from a remote	3 4	particular flight path. [12:33] COLONEL SCOTT: I don't know that one,
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1	Page 14103 reasons, but they can go up into the millions obviously but	1	Page 14105 limited you become again with weather conditions.
2	you do get those at the lower scale. I think some of them	2	MR CHASKALSON SC: Thank you, Colonel.
3	are actually even produced in South Africa for maybe 100 or	3	CHAIRPERSON: Can I ask you a question
4	200 000, and I think they are getting cheaper as technology	4	about that. Are you moving away from this?
5	gets more available. So, I am not sure if I've answered	5	MR CHASKALSON SC: If I might just -
6	the question for you.	6	CHAIRPERSON: UAV. I want to know, was
7	MR CHASKALSON SC: We, I don't this is	7	any material retained through this particular UAV on the
8	going to be contentious evidence, but we will get details	8	16th of August which helps us?
9	put before this Commission. The advantages that we have	9	COLONEL SCOTT: Other than from what
10	identified in relation to this is, cost and also a live	10	we've seen here, no, Commissioner.
11	video feed.	11	CHAIRPERSON: What we saw didn't tell me
12	COLONEL SCOTT: I agree, yes.	12	anything, but perhaps I missed things that I should have
13	MR CHASKALSON SC: Can you identify any	13	seen. Mr Chaskalson?
14	other advantages?	14	MR CHASKALSON SC: This footage was taken
15	COLONEL SCOTT: Well, for that matter,	15	at 23 minutes past three, which is approximately 20 minutes
16	depending whether you want to be clandestine or not, some	16	before the operation started, so it wouldn't have shown or
17	of these vehicles are made so that they are not easily	17	doesn't show anything of the operation itself, and we have
18	heard running on battery power, thus, you can have it up in	18	established from the person who took this footage that this
19	the air and not know that the group below is being	19	was a test flight and that it was, this was the only
20	monitored for that instance.	20	footage that was taken on that day. We are not showing it
21	MR CHASKALSON SC: There would possibly	21	for the purposes of what it shows in terms of footage, but
22	be an additional advantage which would may have been	22	for the purposes of what it shows in terms of what footage
23	relevant in a situation like Marikana, in circumstances	23	can be obtained from vehicles like this in situations of
24	where there are a whole lot of power lines which would	24	this nature. Colonel Scott, that brings me to the end of
25	impair the mobility of a helicopter. You could pre-	25	the questions I have for you in relation to videos. There
	Page 14104		Page 14106
	Tage 14104		
1	programme the flight of a vehicle like this, to make sure	1	are a series of other topics that I want to canvass with
1 2	programme the flight of a vehicle like this, to make sure that it avoided power lines and could get into places	1 2	0
			are a series of other topics that I want to canvass with
2	that it avoided power lines and could get into places	2	are a series of other topics that I want to canvass with you but due to developments in the last week, the evidence
2 3	that it avoided power lines and could get into places without any risk to human life.	2 3	are a series of other topics that I want to canvass with you but due to developments in the last week, the evidence leaders do not want to canvass those topics with you now.
2 3 4	that it avoided power lines and could get into places without any risk to human life. COLONEL SCOTT: Yes, obviously, it does	2 3 4	are a series of other topics that I want to canvass with you but due to developments in the last week, the evidence leaders do not want to canvass those topics with you now. We will want to canvass those topics with you in the
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1	Page 14107	1	Page 14109
1	been previously disclosed by the SAPS, but were not.	1	before we are ready to continue with the hearing, and of
2	Third, we have obtained documents which give the impression	2	course, it will be necessary for the SAPS legal team to
3	that they are contemporaneous documents, contemporaneous	3	consult with their clients on these matters in order to
4	with the events which they describe, but which appear in	4	obtain their account of the documents in question. So
	fact to have been constructed after those events to which	5	Chairperson, we therefore propose that the –
6	they refer, in some instances at the time of the nine day	6	CHAIRPERSON: I take it you will be
7	Potchefstroom meeting, at which members of the SAPS	7	indicating to the SAPS the points on which you would expect
8	prepared the case which they were to present to this	8	some kind of explanation.
9	Commission. Fourth, we have obtained documents which in	9	MR BUDLENDER SC: Yes, we'll identify the
10	our opinion, demonstrate that the SAPS version of the	10	documents which cause us concern and if they – if it's not
11	events at Marikana as described in the SAPS presentation to	11	clear what the concern is, we will explain what the concern
12	this Commission, and in the evidence of SAPS witnesses in	12	is. Obviously, we wish to play open cards in this regard.
13	this Commission, is in material respects not the truth.	13	These are serious matters and they have to be dealt with in
14	CHAIRPERSON: It is or it may be?	14	a serious and careful manner. We therefore propose that
15	MR BUDLENDER SC: In our opinion, it is	15	the Commission should stand down until Wednesday next week,
16	not the truth.	16	Tuesday being a public holiday, for the evidence leaders to
17	CHAIRPERSON: Well that's a matter we	17	continue their investigation and for the SAPS legal team to
18	will obviously –	18	consult with their clients on these matters. That is our
19	MR BUDLENDER SC: That remains to be	19	proposal, Chair.
20	seen.	20	CHAIRPERSON: Thank you. Mr Semenya?
21	CHAIRPERSON: It may not be so.	21	MR SEMENYA SC: Chair, may we place three
22	MR BUDLENDER SC: But it's a matter of	22	things on record? The address by Mr Budlender seems to
23	course for the Commission to decide ultimately, not for us	23	suggest they obtained documents, but the correct position
24	to decide. We don't -	24	is they obtained them from SAPS. It mustn't convey as
25	CHAIRPERSON: Mr Semenya, so – Mr	25	though they have been going somewhere and obtained these
	Page 14108		Page 14110
1	Semenya's turned his light on, do you want to intervene now	1	documents without the co-operation of SAPS. The second
2	or do you want to wait for Mr Budlender to finish?	2	thing is, it's regrettable. If the evidence leaders
3	MR SEMENYA SC: I will wait.	3	already know what the truth is, maybe they must give it to
4	CHAIRPERSON: Right. Carry on, Mr	4	us. To purport to say there is something untruthful about
5	Budlender.	5	our account, without even the investigation having been
6	MR BUDLENDER SC: Chair, we do not make	6	done, it's unfair. Thirdly, we had agreed in chambers with
7	the statement lightly, and we recognise two things,	7	you, Chair and the Commissioners, that we were going to be
8	firstly, that it is important that the SAPS should have the	8	placed with all the concerns that are raised, to see
9	opportunity to explain the matters which have raised our	9	whether or not we are able to meet them, and if we are
10	concern, and secondly, that it's ultimately for the	10	unable to meet them then this commentary would be
11	Commission to decide whether we are correct in our	11	appropriate, but before we are given an opportunity to see
12	assessment of what we have seen, as I describe it. But we	12	whether or not there is exculpatory information or evidence
13	do say that absence a convincing explanation or a	13	in relation to those concerns, it's entirely prejudicial.
14	satisfactory explanation, this material has serious	14	CHAIRPERSON: You've placed those points
15	consequences for the future conduct of this Commission.	15	on record. What is your attitude to the application which
16	The result is that at this stage, we do not wish to	16	Mr Budlender made?
17	continue the cross-examination of Colonel Scott. We	17	MR SEMENYA SC: If it's a cogent
18	anticipate that it will be necessary for him to recalled at	18	application, we support it.
19	a later stage, but at this stage, in our view, it is	19	CHAIRPERSON: I see, thank you. Mr
	necessary for the matters which we've identified to be	20	Budlender –
20	necessary for the matters which we ve identified to be		
20 21	addressed, because of their consequences for the further	21	MR BUDLENDER SC: Chair, very briefly –
	/ 1 / 120121 64 / /	21 22	MR BUDLENDER SC: Chair, very briefly – CHAIRPERSON: Sorry, perhaps before you
21	addressed, because of their consequences for the further		5 5
21 22	addressed, because of their consequences for the further conduct of the Commission. In the light of the documents	22	CHAIRPERSON: Sorry, perhaps before you
21 22 23 24	addressed, because of their consequences for the further conduct of the Commission. In the light of the documents which we found, it's also necessary for us to work through	22 23	CHAIRPERSON: Sorry, perhaps before you reply, some of the other parties present may wish to say

	Page 14111	
1	present, wish to say something in regard to this	
2	application? No. Yes, Mr Budlender, you only have one	
3	submission to reply to.	
4	MR BUDLENDER SC: Chair, just two points.	
5	Firstly, Mr Semenya is absolutely correct that we obtained	
6	these documents from the SAPS legal team. What's happen is	
7	that we identified files, documents or hard drives which we	
8	wished to see and they made them available to us.	
9	CHAIRPERSON: To be fair, did this not	
10	flow from the attitude expressed by the present witness,	
11	when he was cross-examined? If you want to, you can look	
12	at my computer. Is that correct?	
13	MR BUDLENDER SC: Very largely, yes,	
14	Chairperson. And so that is correct, and I wouldn't want	
15	to correct an impression that we found these materials	
16	anywhere else, they were obtained through the SAPS legal	
17	team. The second thing I wish to say is that I appreciate	
18	that what we are saying is serious, but the reason we say	
19	it is not because we say that these are conclusions which	
20	must now be made, they are matters, as I emphasised to be	
21	decided ultimately by the Commission. Suspicions have been	
22	raised, or concerns have been raised, and it was necessary	
23	for us, we believe, to explain to the Commission why we	
24	seek a postponement now which is something ordinarily we	
25	would never want to do, we all want to get the Commission	
1	Page 14112 moving forward as rapidly as possible but it's only because	
2	of the, what I perhaps should refer to as the potential	
3	seriousness of the matter, that we seek this postponement	
4	now and it was necessary to explain to the Commission and	
5	generally, why we would seek a postponement at this time.	
6	CHAIRPERSON: Thank you. In the	
7	circumstances, the application for a postponement will be	
8	granted. As you say, Tuesday is a public holiday, so we	
9	will resume then – so we will adjourn then until Wednesday	
10	at 09:30. I think it appropriate to place on record these	
11	are at the moment only concerns, there are no findings	
12	made, these are matters that have to be looked at, and we	
13	don't know what the results of the examination of these	
14	points will be, but clearly from what you tell us, these	
15	are matters that require careful consideration, which I am	
16	sure they will receive. So at this stage, we will adjourn	
17	until 09:30 on Wednesday.	
18	[COMMISSION ADJOURNED]	
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