

# 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 157

28 NOVEMBER 2013

PAGES 17775 TO 17953



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<p style="text-align: right;">Page 17775</p> <p>1 [PROCEEDINGS ON 28 NOVEMBER 2013]  2 [09:16] CHAIRPERSON: The commission resumes.  3 The main reason why we're late this morning is that we were  4 shown an enlarged photograph of the scene at scene 1 by the  5 police together with some blocks which are intended to  6 represent various vehicles at the scene and which we will  7 be using later in the proceedings to enable us to  8 understand better the movements of the vehicles and people  9 and so forth at the relevant times. But I understand that  10 Adv Budlender is going to resume cross-examination this  11 morning. Doesn't intend to use that, so we will make a  12 plan later when we do use it. Something has to be done to  13 remove the microphones from that table there. I'm sure  14 that's something that the municipality will be able to help  15 us with. Brigadier, you're still under oath. Mr  16 Budlender.  17 CROSS-EXAMINATION BY MR BUDLENDER SC [Contd.]:  18 Thank you, Chair. Brigadier, just to round off the topic  19 we were dealing with yesterday afternoon. Could you look  20 at exhibit HHH45 which is a 10 page document, could we have  21 HHH45 on the screen please. This is the shortened version,  22 I fear that this might happen, I'll move on and I'll come  23 back to it later, Chair. There's a version of it which has  24 another statement attached but this is a two pager, I'll  25 come back to it later. Right can I move on then,</p>	<p style="text-align: right;">Page 17777</p> <p>1 BRIGADIER CALITZ: Korrek, mnr die  2 Voorsitter.  3 MR BUDLENDER SC: And you heard the  4 report, did you?  5 BRIGADIER CALITZ: Sê weer, Meneer?  6 MR BUDLENDER SC: Did you hear the  7 report?  8 BRIGADIER CALITZ: Nee, dit is negatief,  9 mnr die Voorsitter.  10 MR BUDLENDER SC: You didn't? Oh well we  11 know that General Naidoo heard the report and we know what  12 his response was, he knew what he must do when he heard the  13 report, he must send medical assistance, correct?  14 BRIGADIER CALITZ: Ek kan glad nie sê  15 omstandighede waar Generaal Naidoo was en wat die geluide  16 of die omstandighede rondom hom was nie.  17 MR BUDLENDER SC: I'm not asking whether  18 –  19 CHAIRPERSON: You say you know General  20 Naidoo heard it, I take it that's based on a statement  21 which is an exhibit? Perhaps it would help the witness if  22 you drew his attention to that.  23 MR BUDLENDER SC: Could we look at  24 JJJ108. Have you got it, Brigadier?  25 BRIGADIER CALITZ: Ek het hom, mnr die</p>
<p style="text-align: right;">Page 17776</p> <p>1 Brigadier, sorry for that diversion. Now we know,  2 Brigadier, that from the agreed timeline that the shooting  3 at scene 1 took place at 15:53. The shooting took place at  4 at scene 1 according to the agreed time line.  5 BRIGADIER CALITZ: Mnr die Voorsitter, ja  6 ek sal die tydlyn, ek kan nie die tye bevestig nie.  7 MR BUDLENDER SC: Alright and then could  8 you go to FFF25, that is the occurrence book, could we have  9 that on the screen please. FFF25 page 25. Do you have it,  10 Brigadier?  11 BRIGADIER CALITZ: Ek het hom, mnr die  12 Voorsitter.  13 MR BUDLENDER SC: That is a typed version  14 of the JOC occurrence book, correct?  15 BRIGADIER CALITZ: Ek vertrou dit is 'n  16 weergawe daarvan.  17 MR BUDLENDER SC: Yes, and if we go to  18 entry 1017 we, which is at 15:55, that's two minutes after  19 the shootings at scene 1 we see this report, situation  20 report Papa1 reporting the group are moving to TRT member  21 and they tried to attack them. Papa1 reporting that the  22 people are moving around and some are down. Now your  23 evidence yesterday was, or the day before was that that  24 report was actually giving by Colonel Vermaak and not by  25 Papa1, is that correct?</p>	<p style="text-align: right;">Page 17778</p> <p>1 Voorsitter.  2 MR BUDLENDER SC: Page, could you go to  3 paragraph 59 of JJJ108 which, that is the statement of  4 General Naidoo.  5 BRIGADIER CALITZ: Ek het die verkeerde  6 een, sê net weer vir my die verwysingsnommer.  7 MR BUDLENDER SC: JJJ108.  8 BRIGADIER CALITZ: Wie se verklaring is  9 dit?  10 MR BUDLENDER SC: General Naidoo. Thank  11 you, Commissioner.  12 BRIGADIER CALITZ: Ekskuus, mnr die  13 Voorsitter. Dit was nie in my bundel gewees nie.  14 MR BUDLENDER SC: Could you go to, you'll  15 see that is the statement of General Naidoo, do you see  16 that?  17 BRIGADIER CALITZ: Ek sien dit, mnr die  18 Voorsitter.  19 MR BUDLENDER SC: And then paragraph,  20 could you go to paragraph 60.  21 CHAIRPERSON: It appears to be on page  22 10.  23 MR BUDLENDER SC: Do you have it, and  24 this is what General Naidoo says. "My group and I were at  25 IRA 1 and at approximately 15:45 I heard Lieutenant Colonel</p>

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1 Vermaak who was in the police helicopter indicate that  
 2 people were down at koppie 1 and we should get medical  
 3 assistance for them. He added later that the veldt was set  
 4 alight by the strikers and fire trucks should be deployed.  
 5 I immediately activated my reserve group to move towards  
 6 koppie 1 as I had both medical and fire personnel in my  
 7 group". You see that?  
 8 BRIGADIER CALITZ: Ek sien dit, mnr die  
 9 Voorsitter.  
 10 MR BUDLENDER SC: And that appears to be  
 11 a reference to the situation report which I showed you in  
 12 the, in the occurrence book.  
 13 BRIGADIER CALITZ: Mnr die Voorsitter,  
 14 nee ek glo nie want ek dink dit tyd daar wys 15:45. So dit  
 15 kan miskien wees, ek is nie seker as hy -  
 16 CHAIRPERSON: He says 15:45 -  
 17 BRIGADIER CALITZ: 15:50, tien minute  
 18 later maar dit kan verwys na die voorval.  
 19 CHAIRPERSON: Well he says 15:45 what's  
 20 important is that it confirms your evidence or appears to  
 21 confirm your evidence that the entry 1017 is incorrect  
 22 insofar as it says that that report was by Papa1, you say  
 23 the Chopper 1 and what you say in that regard is supported  
 24 by what General Naidoo says in this paragraph.  
 25 BRIGADIER CALITZ: Korrek, mnr die

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1 Voorsitter.  
 2 CHAIRPERSON: It does seem to be talking  
 3 about the same thing because he talks about people were  
 4 down and that is the entry in 1017, Papa1 which should be  
 5 Chopper 1 reporting that the people moving around and some  
 6 are down. So that seems to be the same, I'm not sure it is  
 7 but it looks like it.  
 8 BRIGADIER CALITZ: Dit kan wees.  
 9 MR BUDLENDER SC: Then we, yes he seems  
 10 to be out by 10 minutes on the time. If we then go to  
 11 KKK4, can you get that, that is the cell phone records.  
 12 Could you go to page 7 of that. Do you have it, Brigadier?  
 13 BRIGADIER CALITZ: Ek het, mnr die  
 14 Voorsitter.  
 15 MR BUDLENDER SC: Now we, now Brigadier  
 16 Pretorius was in charge of the JOC, correct?  
 17 CHAIRPERSON: She wasn't in charge of the  
 18 JOC she was the recording things at the JOC.  
 19 MR BUDLENDER SC: She the person, officer  
 20 in charge of the JOC, not the JOCCOM.  
 21 CHAIRPERSON: Ja.  
 22 MR BUDLENDER SC: She was in charge of  
 23 the JOC itself.  
 24 CHAIRPERSON: I see.  
 25 MR BUDLENDER SC: Is that correct,

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1 Brigadier?  
 2 BRIGADIER CALITZ: In so ver die notas  
 3 geneem word, korrek.  
 4 MR BUDLENDER SC: She was in charge of  
 5 the management of the JOC and what went on at the JOC, not  
 6 the JOCCOM. I think she was called JOC Commander. The  
 7 administer head of the, what was going on there.  
 8 BRIGADIER CALITZ: What was going on  
 9 inside the JOC.  
 10 MR BUDLENDER SC: Yes, yes.  
 11 BRIGADIER CALITZ: Reg, mnr die  
 12 Voorsitter.  
 13 MR BUDLENDER SC: And we'll see the, that  
 14 as I've shown you that report by Colonel Vermaak was at  
 15 , would you have a look on page 7 of KKK4, about half  
 16 way, the sixteenth entry, there's an entry at 16:03:34 you  
 17 see that?  
 18 BRIGADIER CALITZ: Mnr die Voorsitter,  
 19 dis 'n SMS, as jy daarna verwys.  
 20 MR BUDLENDER SC: That's correct and it  
 21 says that Brigadier, at 16:03 Brigadier Pretorius sent an  
 22 SMS to IPID, correct?  
 23 BRIGADIER CALITZ: Dit is wat die rekords  
 24 toon, mnr die Voorsitter.  
 25 MR BUDLENDER SC: And if you look at the

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1 entry before that, you'll see at 16:02 General Mbombo sent  
 2 an SMS to the National Commissioner, correct?  
 3 BRIGADIER CALITZ: Korrek, mnr die  
 4 Voorsitter.  
 5 MR BUDLENDER SC: Yes. Now we also know  
 6 what General Mpembe understood the situation to be as a  
 7 result of that report by Colonel Vermaak in, I'm going to  
 8 show you what his evidence was in that regard. Could we go  
 9 to the transcript for day 1 to 7 please. Before we get  
 10 there I accept of course that you don't know what  
 11 precisely, you don't know what Brigadier Pretorius reported  
 12 to IPID and you also don't know what the Provincial  
 13 Commissioner reported to the National Commissioner, what we  
 14 know is that both of them sent SMSs within a few minutes of  
 15 the incident.  
 16 BRIGADIER CALITZ: Ek dra glad nie kennis  
 17 nie, mnr die Voorsitter.  
 18 MR BUDLENDER SC: We see that from the  
 19 cell phone records.  
 20 BRIGADIER CALITZ: Ek sien dit voor my,  
 21 mnr die Voorsitter.  
 22 COMMISSIONER HEMRAJ: But Brigadier  
 23 Pretorius does cover this in her statement.  
 24 MR BUDLENDER SC: Then if you'll go to  
 25 page 13301, could the record be taken to page 13301.

<p style="text-align: right;">Page 17783</p> <p>1 CHAIRPERSON: While we're looking at 2 this, I see from slide 67 of exhibit L that Brigadier 3 Pretorius is described at the operation room commander. 4 MR BUDLENDER SC: Yes. 5 CHAIRPERSON: Which is the titled which 6 she had in support, what you call it. 7 MR BUDLENDER SC: Now the purpose of my 8 showing you this, Brigadier, is to show you what General 9 Mpmembe's evidence was of his understanding of the meaning 10 of the SITREP from Colonel Vermaak, do you understand, do 11 you understand what I'm seeking to do. 12 BRIGADIER CALITZ: Ek sal u volg, mnr die 13 Voorsitter. 14 MR BUDLENDER SC: Alright. So you'll see 15 there at line 7, the Chairperson says "now the fact that 16 this report said that the group are moving to TRT members 17 clearly conveys that the POP people then got out of the 18 way, the TRT people are now in the front line and the note 19 continues they tried to attack them. Now they obviously 20 means the strikers, not the TRT people. Now if the 21 strikers tried to attack the TRT people what would the TRT 22 people have done in response, they would have defended 23 themselves I'll take it, is that right, General Mpmembe says 24 correct Chairperson." Then the Chairperson says, "they 25 would have used their assault rifles and fired at the</p>	<p style="text-align: right;">Page 17785</p> <p>1 correct? 2 BRIGADIER CALITZ: Mnr die Voorsitter, 3 nie met die tweede deel nie, nie dat niks het gebeur nie. 4 Ek het voortgegaan met die operasie soos dit voor my 5 afgespeel het. Ek het getuig dat toe die groep by insident 6 3 verby my beweeg het en ons uit die Nyala uit op hulle 7 gevuur het, ek dan op die drywer geskreeu het en gesê om 8 vorentoe te beweeg. So dit was my getuienis. 9 MR BUDLENDER SC: No, I don't mean as if 10 nothing had happened, you proceeded as if the shooting at 11 scene 1 had not taken place. 12 BRIGADIER CALITZ: Ek was nie bewus van 13 daardie voorval op daardie stadium nie, nee, mnr die 14 Voorsitter. 15 MR BUDLENDER SC: Brigadier, you were 16 sitting next to the radio in Papa1? 17 BRIGADIER CALITZ: Dit is korrek, mnr die 18 Voorsitter. 19 MR BUDLENDER SC: Can we then go to FFF25 20 again, the occurrence book report. The occurrence book and 21 could we look at the next entry 1018. I'll read it, the 22 time given is 15:56 it says "situation report Papa1 23 reporting the people are running towards the houses, 24 running to the western side of the koppie, 18 bodies are 25 down. Chopper 1 reporting that it is at the back of the</p>
<p style="text-align: right;">Page 17784</p> <p>1 advancing strikers, is that right and General Mpmembe says 2 correct Chairperson. Chairperson, I know that wasn't 3 intended as the first part of the plan, the first part of 4 the plan was that the POP people would deal with them, with 5 less than lethal force but obviously that is now, that 6 stage had been passed. The TRT people would have fired 7 their assault rifles, some of the group would have been 8 injured at the very least or possibly killed, is that 9 right, General Mpmembe says correct Chairperson. The 10 Chairperson and that's why when the report went on people 11 moving around and some are down surely that would have 12 indicated to you that there was to put it gently a strong 13 probability that people had been killed, you heard that, 14 you agree with the proposition I put to you and General 15 Mpmembe says Chairperson with a proposition I agree but when 16 it was said by Papa1 I couldn't understand because Papa1, 17 it was Brigadier Calitz". Now he's clearly incorrect in 18 the last comment, it was Colonel Vermaak, not Papa1." Now 19 you see what, how General Mpmembe understood the report 20 from, which was on the radio. 21 BRIGADIER CALITZ: Ek kan sien wat hy 22 getuig het, mnr die Voorsitter. 23 MR BUDLENDER SC: Your evidence is that 24 you didn't hear the report at all and you simply proceeded 25 with the operation as if nothing had happened, is that</p>	<p style="text-align: right;">Page 17786</p> <p>1 koppie other people are running towards the Karee hostel". 2 Now did you hear that report? 3 BRIGADIER CALITZ: Mnr die Voorsitter, ek 4 neem aan dit is die verslag wat ek van Kolonel Vermaak 5 gekry het toe ek vir hom gevra het waarom die TRT persone 6 nie opvolg nie. Waar hy dan wel vir my meegedeel het, ek 7 weet 'n tel dat hy gesê het daar lê verskeie persone in die 8 veld. Ek neem aan dit is op daardie stadium gewees. 9 MR BUDLENDER SC: So you, the report you 10 received, if that's the same report is that 18 bodies were 11 down? 12 BRIGADIER CALITZ: Ek onthou nie die 13 spesifieke getal wat hy wel aan my genoem het nie maar ek 14 dink hy het op 'n stadium getel en terwyl hy getel het, het 15 hy genoem daar is verskeie persone wat dan in die veld lê. 16 MR BUDLENDER SC: Well I assume whoever 17 made the entry in the occurrence book didn't make up the 18 number, that that must be the number which he used. 19 BRIGADIER CALITZ: Dit kan seker wees wat 20 dan in die VB voor geval is, as ons net onder toe kyk in 21 dieselfde inskrywing praat Chopper 2 ook reporting two 22 bodies down en ons weet dat dit wel op 'n baie later 23 stadium was by insident, ag koppie 3. 24 MR BUDLENDER SC: Yes, but the report at 25 15:56 is that 18 bodies are down and you continued to</p>

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1 proceed with the operation.  
 2 BRIGADIER CALITZ: Mnr die Voorsitter, ek  
 3 dink my getuienis was duidelik waarom ek voortgegaan het.  
 4 Uit my ondervinding uit, ek weet nie of ek dit moet herhaal  
 5 nie.  
 6 MR BUDLENDER SC: I'm not, you're welcome  
 7 to expand but I just want to, we'll come back to that,  
 8 we'll come to that in due course.  
 9 BRIGADIER CALITZ: Dankie, Meneer.  
 10 MR BUDLENDER SC: But you knew that 18  
 11 bodies were down and I want to read to you what Mr De Rover  
 12 says, have you met Mr De Rover, the expert the police have  
 13 consulted?  
 14 BRIGADIER CALITZ: Korrek, mnr die  
 15 Voorsitter.  
 16 MR BUDLENDER SC: Alright. Can we go to  
 17 FFF11. That's a statement of Mr De Rover and I'd like you  
 18 to go to paragraph 81 please. Do you have it?  
 19 BRIGADIER CALITZ: Which paragraph?  
 20 [09:36] MR BUDLENDER SC: It's paragraph 81.  
 21 BRIGADIER CALITZ: My De Rover statement  
 22 is going up to paragraph 69 and then it is signed.  
 23 CHAIRPERSON: There were two statements  
 24 that Mr De Rover had given to us, an earlier one and then a  
 25 later one.

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1 BRIGADIER CALITZ: Let me just –  
 2 CHAIRPERSON: Are you looking at exhibit  
 3 FFF11, or are you looking at another one?  
 4 BRIGADIER CALITZ: FFF11, it's marked in  
 5 my –  
 6 MR BUDLENDER SC: 11A, have you got 11A?  
 7 I think I may be mistaken. My apologies.  
 8 CHAIRPERSON: Now, what happened with –  
 9 the second one is FFF11A. So if you haven't –  
 10 BRIGADIER CALITZ: This is what's written  
 11 on top of mine. It's FFF11A.  
 12 MR BUDLENDER SC: Right. And that should  
 13 have –  
 14 BRIGADIER CALITZ: I've only got up to 69  
 15 paragraphs and then it is –  
 16 CHAIRPERSON: Perhaps it actually is  
 17 FFF11. Have you got FFF11 as well?  
 18 MR BUDLENDER SC: Could I ask that the  
 19 witness be given a copy of FFF11. I apologise for the  
 20 confusion that may have been caused by me.  
 21 BRIGADIER CALITZ: In my bundle het hulle  
 22 verwys na paragraaf, mnr De Rover, 11A, in my bundel en dit  
 23 is wat vir my gegee is.  
 24 CHAIRPERSON: That's obviously where the  
 25 misunderstanding came in. Anyway, they're going to

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1 endeavour to sort it our now. If you haven't – I think you  
 2 better be given a short while to read the relevant passage  
 3 in context and so on.  
 4 MR BUDLENDER SC: Brigadier, may I help  
 5 you? We'll start at paragraph 80. You'll see – are you  
 6 there, page 18? You'll see that there Mr De Rover is  
 7 talking about scene 1 and he expresses the view that the  
 8 South African police service acted with restraint at scene  
 9 1, and he believes that the use of a firearm in that  
 10 situation was justified and he goes on to explain why he  
 11 has that view. Then could you go to the next paragraph?  
 12 And he says, "At the timing of scene 1 and immediately  
 13 thereafter, the problems with the analogue radio network  
 14 conspired to prevent the overall commander to stay abreast  
 15 of developments and to call a halt to police operations in  
 16 a bid to regroup and reassess. It virtually goes without  
 17 saying that SAPS doctrine and experience in crowd  
 18 management dictates such a decision." Now, the overall  
 19 commander was of course General Mpmembe, but his evidence  
 20 was that it was for you to call a halt, not for him to call  
 21 a halt. Let me –  
 22 CHAIRPERSON: Perhaps the witness would  
 23 like to look at 82. I haven't got it in front of me, but I  
 24 see from what we see on the screen that there is a  
 25 reference to on-scene commander, which is obviously a

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1 reference to -  
 2 MR BUDLENDER SC: Yes, thank you, Chair,  
 3 that's helpful. So could you look at 82. "In the absence  
 4 of countermanding order, the implementation order at scene  
 5 2 went ahead with the on-scene commander unaware of the  
 6 incidents that had just produced at scene 1." Now, my  
 7 question really is this. Leaving aside the question of  
 8 whose job it was to call a halt, yours or General Mpmembe's,  
 9 we know, from what we've just seen from the OB book, that  
 10 you were aware that there had been an incident in which 18  
 11 bodies were down. Correct?  
 12 BRIGADIER CALITZ: Dit was my getuienis dat ek nie  
 13 geweet het die presiese getal 18 nie. Dit was my getuienis  
 14 dat Kolonel Vermaak wel 'n telling gedoen het in die veld  
 15 en vir my gesê het daar lê persone in die veld.  
 16 MR BUDLENDER SC: We know that he – you  
 17 heard his report, let's put it that way. You heard his  
 18 report?  
 19 BRIGADIER CALITZ: Dit is my getuienis  
 20 gewees en dit is wat ek gevra het vir hom oor die radio.  
 21 Die getal 18 sien ek nou in die voorvalle boek.  
 22 MR BUDLENDER SC: Alright. When he  
 23 counted them, what was the number? Was it like counting  
 24 one, two, three, or was it counting into the teens, or was  
 25 it counting into the twenties?

<p style="text-align: right;">Page 17791</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, ek 2 kan regtig nie nou vir u sê nie. Ek weet hy't gevlieg bo 3 die toneel, en hy het vir my gesê ek sien daar twee, drie, 4 vier, vyf, en hy het so getel, en hy het vir my gesê daar 5 lê verskeie persone in die veld. 6 MR BUDLENDER SC: And you can't remember 7 whether he stopped counting before 10 or after 10? 8 BRIGADIER CALITZ: Mnr die Voorsitter, 9 nee, ek dink die tydperk wat verloop het, dit is vir my 10 onmoontlik om dit presies te onthou. 11 MR BUDLENDER SC: We know that the 12 shooting at scene 2 started about twenty minutes after the 13 shooting at scene 1. Are you aware of that? 14 BRIGADIER CALITZ: Ek dra nie kennis hoe 15 laat dit begin het nie, nee. 16 MR BUDLENDER SC: Well, take that on 17 trust for the moment. If that's correct then there was 18 time to halt the operation to reassess the situation before 19 scene 2 happened. Do you accept that? 20 BRIGADIER CALITZ: Mnr die Voorsitter, 21 dit was my getuienis dat ek na toneel 1 wel gehergroepeer 22 het en ek het die voertuie tot 'n halt geroep. Ek dink 23 daar het sewe of nege minute verloop waar ek die 24 waterkannon laat vorentoe geloop het. So ek het die 25 operasie gehalt. Ons het gehergroepeer en met die</p>	<p style="text-align: right;">Page 17793</p> <p>1 MR BUDLENDER SC: And although you had 2 heard the report that there had been – that bodies were 3 down, you saw no reason to stop the operation? 4 BRIGADIER CALITZ: Nee, geensins nie, mnr 5 die Voorsitter. Dit was my getuienis gewees dat uit my 6 ondervinding uit van 19, 20 jare in openbare order 7 polisiëring, as ek dit kan herhaal, dat daar was verskeie 8 voorvalle waar ons mense uiteen gedryf het, waar daar aan 9 my gerapporteer is dat persone in die veld lê. Ek het ook 10 getuig dat uit my ondervinding uit, dit is persone wat dan 11 gaan lê het, either om nie gearresteer te word nie, of wat 12 dan deur die rubber beseer is in 'n so mate dat hulle wonde 13 dan op hulle bene of liggame opgetel het. Omdat ek opdrag 14 gegee het vir die uiteendrywing, was dit my – wat ek 15 verstaan het en daarom het ek op daardie stadium die 16 besluite geneem. 17 MR BUDLENDER SC: If you had known that 18 the TRT had opened fire on the strikers, would you have 19 stopped the operation? If you had – let me put it, yes, if 20 you had known the TRT had opened fire on the strikers, 21 would you have stopped the operation? 22 BRIGADIER CALITZ: As ek u reg verstaan 23 met "stop the operation," as ek net die vraag kan reg 24 verstaan, bedoel u die hele operasie daar tot 'n halt 25 gebring? Is dit wat u vraag is?</p>
<p style="text-align: right;">Page 17792</p> <p>1 inligting tot my beskikking, het ek dan 'n besluit gemaak 2 om verder vorentoe te gaan. 3 MR BUDLENDER SC: So do you say that in 4 fact you did call a halt to - as Mr De Rover says should 5 happen, you did call a halt to police operations in a bid 6 to regroup and reassess. Is that your evidence? 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 dit was my getuienis gewees dat ek reg langs koppie twee en 9 daar's fotos wat dit kan staaf waar ek gewag het vir die 10 waterkanon om vorentoe te kom, waarna ek dan 'n verdere 11 opdrag gegee het tot die inligting tot my beskikking. 12 MR BUDLENDER SC: So you – if I 13 understand your evidence correctly, and tell me if I'm 14 wrong, you called a halt to police operations, you 15 regrouped, you reassessed and you decided to proceed. Is 16 that what you're saying? 17 BRIGADIER CALITZ: Met die inligting tot 18 my beskikking is dit heeltemal korrek, Mnr die Voorsitter. 19 COMMISSIONER HEMRAJ: But the regrouping 20 that you did was only in respect of the Nyalas that – the 21 five Nyalas that were with you, isn't that so? 22 BRIGADIER CALITZ: Dit was die hele tyd 23 net met die Papa Nyalas, Kommissaris. Ek het gewerk met 24 die dispersing group en dan saam met die waterkanonne en 25 die helikopter bo my.</p>	<p style="text-align: right;">Page 17794</p> <p>1 MR BUDLENDER SC: Well, would you have 2 stopped as really what Mr De Rover says – just read again 3 paragraph 82. He says, "In the absence of a countermanding 4 order, the implementation of the operation at scene 2 went 5 ahead with the on-scene commander unaware of the incidents 6 that had just produced at scene 1." Now, what I'm asking 7 you is if you had known that the TRT had opened fire on the 8 strikers at scene 1, would you have proceeded with the 9 implementation of the operation at scene 2? 10 BRIGADIER CALITZ: Mnr die Voorsitter, 11 indien ek wel bewus was of dit aan my gerapporteer is dat 12 daar persone wel gedood is deur die TRT by toneel 1, sou 13 mens 'n ingeligte besluit geneem het. Dit sou gewees het 14 dat ek met die operasionele sentrum, die JOC, geskakel het. 15 Ek sou dan op 'n stadium vir my mense gesê het om in 16 daardie hergroeperingslyn te wag. Ek sou terug beweeg het 17 na die toneel toe. Ek sou die toneel – 'n beter woord in 18 Afrikaans – ek sou die toneel ge-assess het. Ek het 19 bevelvoerders op die grond wat ek gesê het, Kolonel 20 Makhubela wat 18, 20 jaar ondervinding het in openbare orde 21 polisiëring. Ek het ook forward-holding area een persoon 22 by die naam van Generaal-Majoor Naidoo, met genoeg 23 personeel tot sy beskikking. As ek nou vinnig moet sê wat 24 ek sou doen, ek sou vir Generaal Naidoo miskien ingeroep 25 het en gesê het kom vat vir my beheer oor die toneel,</p>

<p style="text-align: right;">Page 17795</p> <p>1 aangesien die toneel dan klaar verby was. Die crime scene 2 management sou gebeur het daar en ek sal dan met die 3 openbare orde polisiëringslede wat daar was, die groep wat 4 dan ge-disperse het, opgevolg het in so mate dat ons kan 5 verhoed dat daar 'n hergroepering plaasvind of dan verdere 6 skade aan eiendom persele gedoen word, soos my policy 7 dokument wel voorskryf.</p> <p>8 MR BUDLENDER SC: If had known that 9 strikers had shot and killed by the TRT at scene 1, would 10 you have communicated with the overall commander to discuss 11 what should be done?</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter, 13 miskien het u nie gehoor nie, dit was my eerste opdrag – 14 comment, waar ek gesê het ek sou geskakel het met die 15 gesamentlike operasionele sentrum waar die oorhoofse 16 bevelvoerder dan, of volgens my, op daardie stadium was.</p> <p>17 CHAIRPERSON: It appears, from what we 18 know, that the overall commander was in fact not at the JOC 19 at that stage. He left. He was actually on his way to 20 helicopter when he heard that report over the radio, but of 21 course you didn't know that. So you would have endeavoured 22 to contact him, I take it, by communicating with the JOC?</p> <p>23 BRIGADIER CALITZ: Dit is korrek.</p> <p>24 CHAIRPERSON: Would you have done so by 25 radio?</p>	<p style="text-align: right;">Page 17797</p> <p>1 Captain Loest was the commander of one of the TRT units at 2 scene 1. Is that correct?</p> <p>3 BRIGADIER CALITZ: Dit is korrek, Mnr die 4 Voorsitter.</p> <p>5 MR BUDLENDER SC: And I think we've all 6 seen on the film footage, he is the person or the first 7 person who put up his hand and called on the police to 8 cease fire. Have you seen that?</p> <p>9 BRIGADIER CALITZ: Dit is nie korrek nie, 10 mnr die Voorsitter.</p> <p>11 MR BUDLENDER SC: Have you seen him put 12 up his hand and call for a cease fire?</p> <p>13 BRIGADIER CALITZ: Op 'n latere stadium. 14 Ek dink die persoon waarna u verwys wat voor die voertuig 15 gestaan het, cease fire geskreeu het, dit was nie Kaptein 16 Loest nie, Sersant Browning.</p> <p>17 MR BUDLENDER SC: I'm not going to argue 18 with you about that, Brigadier Calitz, we'll deal with it 19 in due course. You were aware that Captain Loest was on 20 the scene and he called for – he was on scene 1 and he 21 called for a ceasefire?</p> <p>22 BRIGADIER CALITZ: Ek weet hy was op die 23 toneel. Ek weet nie op watter stadium hy wel vir 'n 24 ceasefire geroep het nie.</p> <p>25 MR BUDLENDER SC: I didn't ask you at</p>
<p style="text-align: right;">Page 17796</p> <p>1 BRIGADIER CALITZ: Dit is korrek, mnr die 2 Voorsitter, ek sou eers op sy radio gekontak het en dan 3 natuurlik oor die sensitiwiteit sou ons dan kommunikasie 4 gehad het, as die radio 'n probleem gehad het, met die 5 selfone of enige -</p> <p>6 CHAIRPERSON: Yes, so he would have heard 7 you, if you tried to get hold of him – if I could use that 8 expression – at the JOC, you would have done so initially 9 over the radio and he would have heard you, even though he 10 wasn't at the JOC, because he was listening to the radio. 11 That's his evidence. So he could then have come back to 12 you in some way, is that your evidence?</p> <p>13 BRIGADIER CALITZ: Dit is korrek, mnr die 14 Voorsitter.</p> <p>15 MR BUDLENDER SC: Now, I want to show you 16 some evidence as to what may have been the state of 17 knowledge in the JOC, and you obviously don't know that, 18 but I just want to show it to you and then I want to ask 19 you some questions about it. Could you go again to KKK4? 20 That's the cell phone records. Do you have it?</p> <p>21 BRIGADIER CALITZ: Ek het dit nog steeds 22 voor my, mnr die Voorsitter.</p> <p>23 MR BUDLENDER SC: And could you go then 24 again to that same page as we were on a short while ago., I 25 think it's page 7. Now, before we go there, we know that</p>	<p style="text-align: right;">Page 17798</p> <p>1 what stage, I asked you we know that he did call for a 2 ceasefire?</p> <p>3 BRIGADIER CALITZ: Nou, na die tyd, is ek 4 wel bewus gemaak daarvan, meneer.</p> <p>5 MR BUDLENDER SC: Yes. So he knew what 6 was going on at scene 1, because he was right there?</p> <p>7 BRIGADIER CALITZ: Dit is korrek, mnr die 8 Voorsitter.</p> <p>9 MR BUDLENDER SC: Now, let's look at what 10 happened – what the cell phone records show in that regard 11 shortly after the shootings at scene 1. I showed you the 12 SMS from Lieutenant-General Mbombo to General Phiyega, and 13 then from Brigadier Pretorius to IPID, and then the next 14 one, 16:05:44, Captain Loest phones Brigadier Pretorius. 15 You see that?</p> <p>16 BRIGADIER CALITZ: Korrek, mnr die 17 Voorsitter.</p> <p>18 MR BUDLENDER SC: And then at 16:08, 19 Brigadier Pretorius phones Captain Loest. Do you see that?</p> <p>20 BRIGADIER CALITZ: Ek sien dit, Mnr die 21 Voorsitter.</p> <p>22 MR BUDLENDER SC: And two down, 16:13, 23 Brigadier Pretorius again telephones Captain Loest. Do you 24 see that one?</p> <p>25 BRIGADIER CALITZ: Ek sien dit, mnr die</p>

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1 Voorsitter.

2 MR BUDLENDER SC: And a few down, we see

3 at 16:25, Brigadier Pretorius again telephones Captain

4 Loest. Do you see that one?

5 BRIGADIER CALITZ: Ek sien dit, mnr die

6 Voorsitter.

7 MR BUDLENDER SC: Now, you weren't there,

8 I wasn't there, but I put to you that it's unlikely that

9 Captain Loest, having been – who was on the scene and saw

10 what happened, didn't tell Brigadier Pretorius in the

11 course of these conversations that strikers had been shot

12 and killed by TRT members. Do you agree with me, that's a

13 reasonable conclusion to draw from the evidence we see?

14 MR SEMENYA SC: No, I don't think that's

15 a -

16 MR BUDLENDER SC: Well, I'm asking a

17 question, he can answer it.

18 MR SEMENYA SC: Ja, but I'm making the

19 objection. Can I?

20 CHAIRPERSON: Mr Semenya, you want to say

21 something. Please carry on.

22 MR SEMENYA SC: I'm saying that cannot

23 reside in the province of this witness to comment on,

24 whatever his answer is. He's being called to speculate on

25 what the content of the conversation could have been

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1 between two people.

2 MR BUDLENDER SC: Chair, I'm asking – the

3 Brigadier obviously can't give evidence as to what was

4 said. I'm asking him what he thinks was said, because it's

5 going to be – the question will follow, can I just ask the

6 question? The relevance will become apparent immediately

7 afterwards. Obviously, Captain Loest or Brigadier

8 Pretorius or no one else is bound by his answer as to what

9 he thinks that means, but I'm asking his understanding of

10 what it means.

11 CHAIRPERSON: I understand what you are

12 saying is that this leads up to another question and I

13 would imagine the way to solve the problem is tell us what

14 the question is to which it leads up and we can then decide

15 whether it's appropriate to ask him to speculate. Normally

16 speaking, his speculation – we had this – similar occasions

17 with other witnesses, doesn't help us, but if the

18 speculation is relevant for the purposes of your next

19 question and we know what the next question is, I be able

20 to rule on the matter.

21 MR BUDLENDER SC: Thank you, Chair. I'll

22 go to the next question. Brigadier Calitz, if these

23 conversations were in part about the fact that people had

24 been shot and killed at the – scene 1 by the TRT, you say

25 no one at the JOC told you anything about it?

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1 BRIGADIER CALITZ: Dit was my getuienis

2 dat ek eers verneem het op die stadium wat ek wel met die

3 JOC gekontak het en dit was teen 16:47.

4 MR BUDLENDER SC: Yes. The result was

5 that from – yes, let me take a step back. Are you aware

6 that the shootings at scene 1 were shown on television very

7 shortly afterwards in South Africa and I suspect in many

8 parts of the world?

9 BRIGADIER CALITZ: Mnr die Voorsitter, ek

10 neem so aan. Ek het daardie aand, ek dink, 10 uur, 11 uur,

11 teruggekom na die JOC toe. Ek het definitief nie onder my

12 omstandighede lus gewees of tyd gehad om na die TV te kyk

13 nie, nee.

14 MR BUDLENDER SC: Well, I'm going to –

15 let me tell you and if necessary, if it's disputed,

16 evidence will be lead, is that there was an eTV broadcast

17 shortly after 4 o'clock in which shootings were shown at

18 scene 1.

19 BRIGADIER CALITZ: Ek sal u woord vat

20 daarvoor, mnr die Voorsitter.

21 MR BUDLENDER SC: But you were the – so

22 anyone who saw that TV footage, would have known that

23 shootings had taken place, and we know that there were

24 communications between – shortly after the event, between

25 Captain Loest and Brigadier Pretorius, who was in charge of

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1 the JOC. Correct?

2 BRIGADIER CALITZ: Ek kan dit sien uit

3 die telefoon rekords uit, mnr die Voorsitter.

4 MR BUDLENDER SC: But you, as the

5 operational commander, knew nothing about the shootings for

6 nearly an hour. Is that correct. The shootings took place

7 at 15h53 and you first heard about them from General

8 Annandale at 16h47, that's 54 minutes later.

9 CHAIRPERSON: That was evidence

10 yesterday, that the mobile phone records indicate, as far

11 as we can see, that he didn't receive any mobile phone

12 calls for - it looks like from, if I'm reading it

13 correctly, from 15h53, when he had a call of 12 seconds

14 from Major-General Naidoo until –

15 MR BUDLENDER SC: 16h47, as the witness –

16 CHAIRPERSON: Yes.

17 MR BUDLENDER SC: He phoned General

18 Annandale.

19 CHAIRPERSON: Yes, that's right. So he

20 told us why today. So certainly as far as cell phone or

21 mobile phone communications were concerned, the story

22 appears from the document that we're looking at now. Do we

23 have a statement from Captain Loest? I understand there

24 have been interviews with him, I don't know whether they

25 have resulted in a statement yet.



<p style="text-align: right;">Page 17803</p> <p>1 MR SEMENYA SC: They consulted with 2 Captain Loest three weeks ago. 3 MR BUDLENDER SC: A statement is in 4 preparation. It's one of those which is in preparation, 5 Chair. 6 [09:55] COMMISSIONER HEMRAJ: Is there anything 7 from Brigadier Pretorius dealing with the content of, or 8 the subject matter of the conversation, because certainly 9 the two statements that I've seen of hers, it doesn't 10 appear to be covered. 11 MR BUDLENDER SC: As far as I – 12 COMMISSIONER HEMRAJ: It is? 13 MR BUDLENDER SC: I understand it is in 14 the latest statement. These cell phone records have only 15 recently become available and we're now having to retrace 16 our steps – 17 CHAIRPERSON: Are you telling us that the 18 situation in which we now find ourselves is that the record 19 having been, these telephone records are going to become 20 available fairly recently; you haven't yet been able to 21 obtain statements from people like Brigadier Pretorius, 22 dealing with the contents of these conversations. Is that 23 correct? 24 MR BUDLENDER SC: Can I check on that and 25 answer that after tea? I'm not sure. So you knew nothing</p>	<p style="text-align: right;">Page 17805</p> <p>1 kraal," ek het getuig hulle het so op 'n 45-grade hoek 2 ingekom en ek het ook verwys na die foto van Kolonel 3 Vermaak waar ek dan my posisie aangedui het. 4 MR BUDLENDER SC: And they had 5 previously, you say, attacked the police at scene 1 and 6 scene 2. 7 BRIGADIER CALITZ: Dit is ook nie korrek 8 nie, mnr die Voorsitter. Ek het nie gesê hulle is aangeval 9 op "scene" 1 nie. Ek het gesê insident 1 het wel 10 plaasgevind waar hulle naderbeweeg het in die rigting van 11 Nyala 4, waarop ek opdrag gegee het dat die lede moet 12 terugbeweeg. Die aanval het ek wel gesê was, plaasvind by 13 insident 2 waar ek dan opdrag gegee het dat hulle 14 uiteengedryf moet word. 15 MR BUDLENDER SC: Alright, so you say 16 they attacked the police at scene 1. So they had once 17 previously attacked the police. Is that correct? At 18 incident 2, I beg your pardon. Is that correct? 19 BRIGADIER CALITZ: Insident 2, insident 20 3, dit is korrek. 21 MR BUDLENDER SC: And when they came past 22 you they were moving in an aggressive manner, correct? In 23 the crouched manner with their weapons in an aggressive 24 manner? 25 BRIGADIER CALITZ: Korrek, mnr die</p>
<p style="text-align: right;">Page 17804</p> <p>1 about, you did not know about the shootings for just under 2 an hour after they took place. Is that correct? 3 BRIGADIER CALITZ: Mnr die Voorsitter, 4 ja, as die tydlyn korrek is van wanneer dit begin het, ek 5 moet u woord vat daarvoor. Ek het bewus geraak daarvoor, 6 daarvoor om 16:47. 7 MR BUDLENDER SC: Now your evidence is 8 that in relation to scene 1 is that you didn't see or hear 9 what happened there because at that time you were away from 10 the site where it took place? 11 BRIGADIER CALITZ: Nee, mnr die 12 Voorsitter, my getuienis was hoekom ek nie gehoor het nie, 13 ek dink dit was duidelik, ek het gesê die redes in die 14 Nyala; ek dink nie ek hoef dit te herhaal nie, en ek het 15 ook verwys na die, ek dink dit was CALS se dokument wat 16 gewys het op daardie stadium toe die, hulle noem dit die 17 "volley of fire" begin het van TRT het my voertuig vorentoe 18 beweeg. So ek het verwys na ander persone se getuienis 19 omdat ek op daardie stadium nie geweet het. Dit was my 20 getuienis, mnr die Voorsitter. 21 MR BUDLENDER SC: I understand that. You 22 explained to us that at the time that you were parked in 23 Papa1 alongside the wire, you saw the strikers coming 24 around the small kraal. Is that correct? 25 BRIGADIER CALITZ: Ja, "around the small</p>	<p style="text-align: right;">Page 17806</p> <p>1 Voorsitter. 2 MR BUDLENDER SC: They were moving in the 3 direction of the POP line. 4 BRIGADIER CALITZ: As u praat van die POP 5 lyn, die Nyalas en die persone van Openbare Orde 6 Polisieëring wat dan tussen die Nyalas gespaseer is. Hulle 7 het in ons rigting beweeg, korrek, mnr die Voorsitter. 8 MR BUDLENDER SC: And your response was 9 to drive off in the direction of koppie 2. 10 BRIGADIER CALITZ: Kan u net die vraag 11 herhaal, asseblief? 12 MR BUDLENDER SC: You didn't stay to see 13 what happened; you drove away from it. 14 BRIGADIER CALITZ: Nee, weereens nie 15 korrek nie, mnr die Voorsitter. Ek het nie gesê ek het nie 16 agtergebly om nie te sien wat gebeur nie. My getuienis was 17 dat toe die voorste groep verby my Nyala beweeg het, 18 aangesien ek aan die voerpunt was, ek dink daar was een 19 voertuig voor my, Pappa11, wat ons duidelik gesien het was 20 eerste aanslag op hom. Toe die voorste groep verby my 21 Nyala beweeg het op my linkerkant, dit sou nou die 22 westekant wees, het ek opdrag gegee vir my persone om "stun 23 grenades" te gebruik, asook om te "disperse". Dit was dan 24 my getuienis toe die groep verby my beweeg het ek besef op 25 daardie stadium dat die rubber wat ons gebruik oneffektief</p>

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1 was en ek het op daardie stadium opdrag gegee op die radio  
2 vir die Nyala voertuie om dan vorentoe te beweeg en so die  
3 groep uiteen te dryf.  
4 MR BUDLENDER SC: Brigadier, did you  
5 think when the strikers came past you that, as you describe  
6 the 45-degree angle, did you think they were going to  
7 attack the POP line?  
8 BRIGADIER CALITZ: Meneer, op daardie  
9 stadium was die Nyala en die Openbare Orde Polisiëringselede  
10 reeds onder aanval. Dit is hoekom hulle tot die laaste  
11 "resort" oorgegaan het, wat rubber is, en die Openbare Orde  
12 Polisiëringselede het dan niks anders gehad na dit nie en  
13 daarom het ek die opdrag gegee vir die voertuie om dan  
14 tussen hulle in te beweeg met die doel om hulle op te breek  
15 sodat hulle kan in kleiner groepies wees, makliker  
16 beheerbaar.  
17 CHAIRPERSON: Well, that's not a direct  
18 answer to the question, but I think I know what you mean,  
19 but let me just put it to you. You say the POP people were  
20 already under attack by the strikers.  
21 BRIGADIER CALITZ: Korrek, mnr die  
22 Voorsitter.  
23 CHAIRPERSON: So I take it, and you then  
24 said what you did and the instructions you gave. I take it  
25 that you did that because you had assumed, correctly I

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1 would imagine, that the attack was going to continue. Is  
2 that right?  
3 BRIGADIER CALITZ: Dit is beslis so, mnr  
4 die Voorsitter.  
5 CHAIRPERSON: Yes, alright. I think -  
6 yes.  
7 COMMISSIONER HEMRAJ: What exactly do you  
8 mean by the attack? What incidents are you referring to?  
9 BRIGADIER CALITZ: Kommissaris, ek dink  
10 daar sal getuienis wees uit van die ander Nyala  
11 bevelvoerders, soos onder andere by insident 2 waar Kolonel  
12 Pitsi wel beweer het daar is op sy Nyala 'n aanval gewees.  
13 Die persoon van Nyala 4 sal getuig wat hulle dan gedoen het  
14 en wat hulle gesien het uit hulle voertuig uit. Pappa11,  
15 die bevelvoerder daar, en dit was voor ons gewees, sal ons  
16 ook, ek glo daar is getuienis waar hulle gesê het hulle het  
17 die Nyalas met hulle pangas, veral na die wiele van ons  
18 voertuie gekap. So, en ek dink in die getuienis van een  
19 van die persone in ons voertuig het ek gesê hy hoor, ek kan  
20 nie verwys na skote nie, maar goed teen ons Nyala. So ek  
21 verwys, miskien was dit klippe, miskien. Ek het nie die,  
22 gesien nie, maar daar was verskeie aanval op daardie  
23 stadium.  
24 KOMMISSARIS HEMRAJ: Wat het u self  
25 gesien?

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1 BRIGADIER CALITZ: Ekskuus tog,  
2 Kommissaris?  
3 COMMISSIONER HEMRAJ: What part of the  
4 attack did you actually see then?  
5 BRIGADIER CALITZ: By insident 2 was my  
6 Nyala stadies gewees waar ek was ten tye van insident 1 en  
7 2. So insident 2 het ek wel gesien daar is 'n interaksie,  
8 waar ek opdrag gegee hulle moet uiteengedryf word. Die  
9 inligting het tot my beskikking gekom in "hindsight," nie  
10 op daardie stadium nie. Wat ek wel gesien het self was die  
11 aanval op insident 3 en insident 2 waar dan die persone na  
12 ons toe gestorm het.  
13 CHAIRPERSON: "Na ons," do you mean, are  
14 you including yourself in that or are you talking about the  
15 members of the SAPS, the POP people?  
16 BRIGADIER CALITZ: My Nyala was verder  
17 oos -  
18 CHAIRPERSON: Yes, I understand. That's  
19 why I'm saying, your Nyala was further to the east -  
20 BRIGADIER CALITZ: Net langs -  
21 CHAIRPERSON: And you saw the people  
22 coming, you saw incident 2, as you explained to us. They  
23 then walked past, around the kraal towards the scene of  
24 incident 3, which is in fact where the shooting happened.  
25 Isn't that right?

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1 BRIGADIER CALITZ: Hulle het so 'n  
2 bietjie weg beweeg, mnr die Voorsitter, en toe het hulle  
3 gestorm, ja.  
4 CHAIRPERSON: Yes, yes, yes, but did they  
5 come around the kraal and they were advancing towards the  
6 position where incident 3 happened, where the shooting -  
7 BRIGADIER CALITZ: Korrek.  
8 CHAIRPERSON: - actually happened.  
9 BRIGADIER CALITZ: Korrek, mnr die  
10 Voorsitter.  
11 CHAIRPERSON: Now you described to us  
12 what you, of course you didn't see very much of that for  
13 the reasons you've explained. It wasn't in your line of  
14 sight, but you did say that you realised that the POP  
15 people were under attack. I think that was the phrase you  
16 used. Now I think the question that you're being asked -  
17 and I'm not clear in my mind as to what your answer is -  
18 what form did the attack take, what attacking actions were  
19 being taken by the strikers, that you were aware of? I  
20 know you only saw what really was the first part of it, I  
21 suppose, and what was happening at the back I suppose by  
22 way of the advancing group, but what attacking actions did  
23 you see?  
24 BRIGADIER CALITZ: Mnr die Voorsitter,  
25 die wat ek wel waargeneem het is die aggressiewe manier

<p style="text-align: right;">Page 17811</p> <p>1 waarna hulle na ons beweeg het. Ek het getuig dat aan die 2 heel voerpunt, onder korreksie, Pappa11 was daar, en dit is 3 dan die spiese, pangas, die slaan teen die voertuie, die 4 wiele self, asook die voertuig aan my linkerkant. Ek dink 5 weereens onder korreksie, ek moet gaan kyk op die foto, die 6 voertuig wat aan my linkerkant was self, dieselfde aksie 7 toe hulle verby ons beweeg het. So dit is met die 8 voorwerpe wat hulle in hulle hande gehad het wat hulle dan 9 die voertuie – op daardie stadium was die lede van Openbare 10 Orde Polisiëring voor my by Pappa11 reeds terug in die 11 voertuig gewees.</p> <p>12 CHAIRPERSON: So the aggressive acts, if 13 one can call them that, that you saw, I just want to make 14 sure you saw them because I understand you saw things at 15 incident 2 and you would have assumed, I take it, if they 16 walked round the small kraal in aggressive mode, that they 17 were likely to have repeated their conduct at the other 18 side, incident 3. Whether you actually, what exactly you 19 saw and what you assumed was taking place, based upon what 20 you'd seen earlier of course, is really what I'm busy with. 21 Now did you actually see them physically attacking the 22 tyres and so forth of the Nyalas, or is it just something 23 that you assumed – I'm not saying inappropriately assumed, 24 but is it something you assumed must be happening because 25 that's what they were doing at incident 2 and they're going</p>	<p style="text-align: right;">Page 17813</p> <p>1 Openbare Orde Polisiëringseenheid gekeer kon word. 2 MR BUDLENDER SC: I don't want to pursue 3 this line because Mr Chaskalson is going to deal with the 4 movements and I don't want to duplicate. So I just want to 5 go, to round off this aspect, Brigadier Calitz. You've 6 explained to the Commission that for 54 minutes after the 7 shootings at scene 1 you were unaware that those shootings 8 and deaths had taken place. That I think is common cause. 9 I mean that's common cause, that's what your story is, your 10 explanation is. 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 waarop ons ooreengekom het en wat in my getuienis was, om 13 16:47 ja. Ek het nie op die ander tyd "ge-agree" nie. 14 MR BUDLENDER SC: That's fair enough. 15 Now I want to suggest to you that there are two possible 16 explanations of your ignorance, what you say was your 17 ignorance of what happened at scene 1, alright? 18 BRIGADIER CALITZ: Miskien net die regte 19 Afrikaans vir "ignorance," dat ek net – 20 MR BUDLENDER SC: On-kennis, gebrek aan 21 kennis. 22 BRIGADIER CALITZ: Onbewus? 23 MR BUDLENDER SC: Onbewustheid. 24 VOORSITTER: Onbewustheid. U was nie 25 daarvan bewus nie. U het nie daarvan gewet nie.</p>
<p style="text-align: right;">Page 17812</p> <p>1 around the kraal and they, there's no reason to believe 2 they're not repeating it at incident 3. You understand the 3 distinction that I'm making? Did you actually see it, or 4 is it an assumption you made – 5 BRIGADIER CALITZ: Ek verstaan dit, ja – 6 CHAIRPERSON: - which may well have been 7 a correct assumption, but that's another matter. 8 BRIGADIER CALITZ: Nee, ek verstaan, mnr 9 die Voorsitter. Die enigste Nyala voertuig wat voor my 10 was, soos ek gesê het ek dink onder korreksie, Pappa11. 11 Toe hulle teen hom verby beweeg het ek wel gesien daar was 12 'n aksie na die voertuig en die ander wat ek wel waargeneem 13 het waar ek opdrag gegee het vir die twee lede wat in my 14 voertuig was, is toe hulle die "crouching position" reguit 15 aanneem en dit lyk of hulle in ons rigting beweeg, het ek 16 dan die "stun" granaat tussen hulle ingegooi, asook die 17 rubber wat ons fisies op hulle gevuur het, en op daardie 18 stadium het hulle, hulle wapens opgelig en hulle het begin 19 storm. Ek het gesien dit het geen effek op hulle nie en ek 20 het op daardie stadium 'n ingeligte besluit geneem dat die 21 Openbare Orde Polisiëringselede nie op daardie stadium 'n 22 uitwerking, of 'n effek op hulle gaan hê nie en daarom die 23 voertuie tussen hulle inbeweeg sodat die groepie dan kan, 24 ten minste die agterste groep kan opspliet en dat die 25 kleiner groepie wat dan deurbreek wel miskien deur die</p>	<p style="text-align: right;">Page 17814</p> <p>1 MR BUDLENDER SC: I want to suggest to 2 you there are two possible explanations for what you say, 3 or responses. One possibility is that what you've said is 4 not true and that in fact you did know what happened. The 5 other possibility is that what you say is true and in that 6 event I suggest to you it reveals a massive and fundamental 7 failure in the planning and execution of the operation. 8 CHAIRPERSON: If you are going to proceed 9 with that point you'll have to give the detail on which 10 that allegation is based. 11 MR BUDLENDER SC: I'm going to say that. 12 I want to put it to you that this was a big and important 13 operation and you were the operational commander, correct? 14 BRIGADIER CALITZ: Mnr die Voorsitter, ek 15 weet nie of ek moet reageer op die eerste stelling wat 16 gemaak is of op die tweede vraag nou nie. 17 CHAIRPERSON: I take it we can assume he 18 won't deny it was a big operation, he won't deny he was the 19 operational commander, so you put it to him. You don't 20 have to ask him whether he agrees. I'm sure he does. 21 MR BUDLENDER SC: I want to put it to 22 you, Brigadier, that if 16 people were shot dead by members 23 of the South African Police Service and the operational 24 commander knew nothing about that for 54 minutes, that 25 means, that reveals a massive and fundamental failure in</p>

<p style="text-align: right;">Page 17815</p> <p>1 the planning and execution of the operation because the 2 operational commander should have known about it 3 immediately. 4 MR SEMENYA SC: Still, Chair, I don't 5 know whatever answer the witness is giving will be a 6 response to a question which I still don't understand. 7 What is a fundamental and massive failure in the execution 8 of the operation? It's too vague for me to understand. 9 MR BUDLENDER SC: Let me try to be 10 clearer, Chair. For the operational commander to be able 11 to carry out his functions, it's important that he should 12 know what's going on in the operation, correct? 13 BRIGADIER CALITZ: Dit is korrek, mnr die 14 Voorsitter. 15 MR BUDLENDER SC: And if he doesn't know 16 what – if the way the operation is carried out has the 17 result that he doesn't know what is going on, then that is 18 a flaw in the operation, correct? 19 BRIGADIER CALITZ: Mnr die Voorsitter, ek 20 sal nie saamstem nie. Dit hang af wat die voorligting was 21 aan – onthou die operasionele bevelvoerder, weereens wat ek 22 vir u gesê het, is nie in beheer oor die hele toneel van 23 ons praat twee na drie kilometer nie. Dit is onmoontlik. 24 So dit hang af wat die voorligting was, mnr die Voorsitter, 25 en aan ander bevelvoerders. Ek weet nie op daardie stadium</p>	<p style="text-align: right;">Page 17817</p> <p>1 Voorsitter. 2 CHAIRPERSON: Right, now we know from 3 what you've told us that didn't actually happen. You 4 weren't kept up to date. You didn't know what was 5 happening, and a period of about 50 minutes expired before 6 you learned from someone in the JOC, as a matter of fact, 7 that people had been killed at scene 1, right? 8 BRIGADIER CALITZ: Korrek, meneer. 9 CHAIRPERSON: That's correct. Now it 10 does look as if something went wrong because the 11 information which you should have been receiving, which I 12 take it to be fair you expected to receive and assumed you 13 would be receiving if there was such information, wasn't 14 being conveyed to you. Is that correct? 15 BRIGADIER CALITZ: In daardie geval stem 16 ek saam met u, mnr die Voorsitter. 17 CHAIRPERSON: So is it correct, and I 18 don't know if it is, I'm going to ask you; is it correct 19 therefore that your subordinates really were under a duty 20 to keep you up to date with what was going on? Would that 21 be right? 22 BRIGADIER CALITZ: Mnr die Voorsitter, u 23 is korrek en daarom het ek getuig dat ek weet nie op 24 daardie stadium, wel in "hindsight" weet ek daar is persone 25 wat gesê het en kan kom getuig dat hulle my wel probeer</p>
<p style="text-align: right;">Page 17816</p> <p>1 wie het my probeer in die hande kry nie. Ons weet daar was 2 'n probleem met die radio's. So ek kan glad nie saamstem 3 met u stelling nie. Die ander bevelvoerders was heeltemal 4 opgelei en bevoeg om dan toneel 1 te hanteer, waarvan ek 5 nie bewus was nie. 6 MR BUDLENDER SC: Brigadier, are you 7 really telling the Commission that for the operational 8 commander, it is not necessary for him to know that 16 9 people had been killed by members of the South African 10 Police Service? 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 nee, dit is nie, beslis nie wat ek gesê het nie. Ek het 13 nie gesê dit is nie nodig dat ek nie – u eerste vraag was 14 is dit belangrik vir die operasionele bevelvoerder om 15 ingelig te wees. Ek het daardie vraag vir u geantwoord en 16 ek het gesê ja. So u stelling is teen u vraag van die 17 eerste vraag. 18 CHAIRPERSON: Can I perhaps ask you a few 19 questions on this line, which I hope will clear things up. 20 You agreed that it's important, must be so, that the 21 operational commander should know what's going on and he 22 should be kept up to date by his subordinates on the field 23 so that he can exercise his functions as operational 24 commander. You agree with that, I take it? 25 BRIGADIER CALITZ: Ek stem saam, mnr die</p>	<p style="text-align: right;">Page 17818</p> <p>1 kontak het op die radio's en daar is verskeie redes 2 aangegee hoekom hulle beweer het hulle het my nie gekry 3 nie. So dit is korrek, mnr die Voorsitter. 4 CHAIRPERSON: Alright, perhaps I must 5 rephrase my question. It was the duty of your subordinates 6 to try, to do their best to communicate with you to keep 7 you up to date with what's going on. Is that right? 8 BRIGADIER CALITZ: Ek stem saam met u. 9 CHAIRPERSON: And that didn't happen, 10 right. So therefore something went wrong. 11 MR SEMENYA SC: No, no, no, Chair – 12 CHAIRPERSON: No, of course it was. You 13 weren't informed. Okay, I put the question badly. Whether 14 they tried or not, we don't know, but you weren't informed. 15 Either they tried and couldn't get through, or they didn't 16 try, just didn't tell you, one or the other. We don't 17 know, right? But something went wrong in the sense that 18 the communications you'd expect to receive, you didn't 19 receive. Is that right? 20 BRIGADIER CALITZ: Ek stem saam met die 21 laaste stelling. 22 CHAIRPERSON: Right, now I think the 23 point Mr Budlender is busy with is to try to establish what 24 went wrong, why you didn't get that information. He's 25 suggesting that the reason you didn't was because the</p>

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1 planning wasn't right. That's the proposition he's put. I  
 2 see you're shaking your head; you don't agree with that.  
 3 That's correct, you don't agree with that?  
 4 BRIGADIER CALITZ: Dit is nie oor u  
 5 stelling nie, nee. Dit is wat, die voorstel wat gemaak  
 6 was, ek stem glad nie daarmee saam nie.  
 7 CHAIRPERSON: Yes, yes, yes. No, okay,  
 8 fair enough. Yes, I meant you don't agree with the  
 9 proposition he put to you. So what we will investigate  
 10 perhaps is why you weren't informed, because you say you  
 11 should have been and you expected to be, and I take it you  
 12 felt bad about it afterwards that you weren't. Whether  
 13 it's anyone's fault, whether it's due to a combination of  
 14 unhappy circumstances is one of the things we have got to  
 15 investigate. Would you agree with that?  
 16 [10:15] BRIGADIER CALITZ: Korrek, mnr die  
 17 Voorsitter.  
 18 CHAIRPERSON: Alright, perhaps you can  
 19 take it further from there, Mr Budlender?  
 20 MR BUDLENDER SC: Well, thank you, Chair.  
 21 I don't want to belabour the point because it is a matter  
 22 for argument principally at the end. I just want to, let  
 23 me take the adjectives out of it.  
 24 CHAIRPERSON: No, Mr Budlender, with  
 25 respect that isn't quite right. It is a matter we've got

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1 to investigate, he can see something went wrong, the  
 2 question is, why, and there is a number of possible  
 3 explanations, one is poor planning, one is, there were  
 4 problems with the communications, or people didn't try to  
 5 tell him or people did try but they weren't successful,  
 6 there are a number of these possibilities which we may have  
 7 to look at. It may well be that the short point with this  
 8 witness is that he doesn't know the answer and he can't  
 9 help us in that, in which case it may be appropriate to  
 10 move on to some other point, but that's the way I see it.  
 11 I think we should perhaps give him the  
 12 opportunity, are you able to help us with the benefit of  
 13 hindsight and the debriefings you received and that kind of  
 14 thing, as to what actually went wrong and you can see  
 15 something must have gone wrong, because you should have got  
 16 the information and you didn't. Are you able to help us as  
 17 to what the reason was for this, the fact that you weren't  
 18 informed until something like 15 minutes later, or can't  
 19 you help us?  
 20 BRIGADIER CALITZ: Mnr die Voorsitter, as  
 21 ek kan sê, daar sal getuienis ook kan wees dat daar deur  
 22 die persone gepoog is om ons te roep op hulle hand radios  
 23 and dan wel die analoog hand radio wat dan 'n probleem was.  
 24 Ook verder in die getuienis sal u sien weereens dit was die  
 25 grootste rede, die grootste probleem. Die persone wat my

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1 miskien probeer kontak het op die selfone, as dit so was,  
 2 op daardie stadium was ek in en uit, opdragte wat ek gegee  
 3 het, so ek kan nie, u weet ek sal nie weet as iemand my  
 4 probeer kontak het as ek dit nie wel waargeneem het of  
 5 gehoor het op daardie stadium nie. So ek vertrou daar sal  
 6 wel persone gewees het wat my probeer inlig, dit is my  
 7 kort, as dit help, mnr die Voorsitter.  
 8 CHAIRPERSON: I don't know whether these  
 9 mobile phone records we have give missed calls and perhaps  
 10 we will be told about that, but certainly what is clear is  
 11 that you received no mobile phone calls over the period  
 12 that we're talking about until you spoke to General  
 13 Annandale at 16:47, is it? Yes, 16:47, which is when you  
 14 heard why you didn't receive cell phone, mobile phone calls  
 15 is a matter that presumably will become clear later, but  
 16 you can't help us on that either, I suppose, is that right?  
 17 BRIGADIER CALITZ: Korrek, mnr die  
 18 Voorsitter.  
 19 COMMISSIONER HEMRAJ: Did you note that  
 20 you had any missed calls on your cell phone, or didn't you?  
 21 BRIGADIER CALITZ: Kommissaris, nee, ek  
 22 het glad nie op daardie stadium gekyk na my, daar was nie  
 23 tyd vir dit nie, nee.  
 24 MR BUDLENDER SC: Did you look, -  
 25 alright. What I'm putting to you, Brigadier, is that the

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1 way the operation was planned and executed, I'm not putting  
 2 my finger on either planned or executed, but planned and/or  
 3 executed, - planned and executed, had the result you say,  
 4 that for 54 minutes the operational commander did not know  
 5 that 16 people had been killed by the members of the South  
 6 African Police, is that a fair comment, 16 strikers had  
 7 been killed by the police, ja?  
 8 CHAIRPERSON: I think he said that  
 9 several times when I was questioning him, I don't know, he  
 10 is likely to change that answer, I think probably -  
 11 MR BUDLENDER SC: I want to put it you -  
 12 CHAIRPERSON: - or he won't.  
 13 MR BUDLENDER SC: Sorry, Chair, I want to  
 14 put it to you that that reveals that there was a flaw in  
 15 the planning and execution of the operation. Do you agree  
 16 with that?  
 17 BRIGADIER CALITZ: Nee, mnr die  
 18 Voorsitter, ek stem nie saam nie.  
 19 MR BUDLENDER SC: Do you think the  
 20 planning and execution were fine and this, if the planning  
 21 and execution were fine was this result fine, that you  
 22 didn't know for 54 minutes?  
 23 CHAIRPERSON: But he said it wasn't fine.  
 24 BRIGADIER CALITZ: Mnr die Voorsitter,  
 25 nee, ek het op geen stadium gesê die results soos u dit

<p style="text-align: right;">Page 17823</p> <p>1 stel was fine nie. Ek sê ook nie die persone wat gedood 2 was, ons was, soos u dit stel, fine daarmee nie, beslis 3 nie. Dit is 'n tragiese insident, dit was nie 'n maklike 4 voorval nie en ek as operasionele bevelvoerder het dit na 5 die beste van my vermoë hanteer met die inligting tot my 6 beskikking, so die stelling wat u maak totaal en al stem ek 7 nie mee saam nie.</p> <p>8 MR BUDLENDER SC: Sorry, I didn't express 9 myself clearly, I wasn't saying that the killing of 16 or 10 34 people was fine, I was saying the fact that you didn't 11 receive the information was fine, but you said that you 12 should have received the information.</p> <p>13 CHAIRPERSON: But, Mr Budlender, he said 14 in answer to questions I asked him that, he indicated 15 something went wrong and then he said there were various 16 reasons why, possible reasons why it went wrong, he can't 17 himself say what they were, but he says we will hear 18 evidence to the effect that there were problems with the 19 communications, people tried to phone him on his mobile 20 phone and couldn't get through. I understand that, I 21 forgotten that, that we were told by Mr Chaskalson earlier 22 that these mobile phone records do not include missed 23 calls, so that's something that we don't know about, but he 24 has said that there are attempts, he understands, whether 25 that's correct or not he doesn't know, but the attempts</p>	<p style="text-align: right;">Page 17825</p> <p>1 give certain answers when I asked you questions along those 2 lines as well, is there anything further you want to add on 3 that point or have you taken it as far as you can on the 4 basis of your knowledge?</p> <p>5 BRIGADIER CALITZ: Nee, ek dink daar is 6 geen verdere, alles vir my duidelik soos ek dit aan u 7 verduidelik het, mnr die Voorsitter.</p> <p>8 MR BUDLENDER SC: Perhaps let's move on 9 to the next point, Chair, the next topic. Now, Brigadier, 10 your evidence has been that Lieutenant Colonel Scott 11 explained the dispersal and this timing plan to the 12 commanders at the 14:30 briefing on the Friday, - on the 13 Thursday, correct?</p> <p>14 BRIGADIER CALITZ: Dit is korrek, mnr die 15 Voorsitter, my getuienis was, aan myself asook van die 16 bevelvoerders van die ander groepe.</p> <p>17 MR BUDLENDER SC: Did the plan 18 contemplate that when the barbed wire was rolled out some 19 of the strikers would move forward and attack some of the 20 Nyalas in the barbed wire line?</p> <p>21 BRIGADIER CALITZ: Nee, glad nie, mnr die 22 Voorsitter, dit was reeds in my getuienis so genoem.</p> <p>23 MR BUDLENDER SC: Was it part of the 24 police plan that a group of the strikers would move around 25 the kraal in an attempt to attack the police or the police</p>
<p style="text-align: right;">Page 17824</p> <p>1 were made to contact him which were unsuccessful. If 2 they'd been successful then I take it that the point you 3 make would have fallen away, is that correct, Brigadier?</p> <p>4 BRIGADIER CALITZ: Korrek, mnr die 5 Voorsitter.</p> <p>6 MR SEMENYA SC: Chair, the elephant for 7 us is really that up to this point is it contended by the 8 evidence leaders that the attackers had nothing to do with 9 that result?</p> <p>10 MR BUDLENDER SC: Not at all, Chair, but 11 I'm not cross-examining one of the attackers, I'm cross- 12 examining one of the policemen.</p> <p>13 CHAIRPERSON: Now that that's clear 14 perhaps we can carry on. It seems to me, if I may say so, 15 but I think what you're putting, Mr Budlender, is going to 16 be argument. I understand you're putting it to give the 17 witness an opportunity to answer. As far as I can see he 18 has given an answer which is, I don't think he can improve 19 on. He says the matter is beyond his knowledge, it depends 20 upon other evidence we will hear in due course. Let me 21 just wrap it up finally, is there anything else you can 22 contribute at this stage to answering the point that Mr 23 Budlender put to you, that the fact that you didn't get 24 this information for 54 minutes indicates a flaw in either 25 the plan or the execution or both? I understood you to</p>	<p style="text-align: right;">Page 17826</p> <p>1 safe area?</p> <p>2 BRIGADIER CALITZ: Nee, mnr die 3 Voorsitter.</p> <p>4 MR BUDLENDER SC: Was it part of the 5 police plan that 16 strikers would be shot dead at the 6 kraal?</p> <p>7 BRIGADIER CALITZ: Beslis nie, mnr die 8 Voorsitter.</p> <p>9 MR BUDLENDER SC: Was it part of the 10 police plan that they would surround the strikers at koppie 11 3 and shoot at them?</p> <p>12 BRIGADIER CALITZ: Kan u net die vraag 13 herhaal, ekskuus?</p> <p>14 MR BUDLENDER SC: Was it part of the 15 police plan that they would surround the strikers at koppie 16 3 and shoot at them, koppie 3?</p> <p>17 BRIGADIER CALITZ: At koppie 3?</p> <p>18 MR BUDLENDER SC: Yes.</p> <p>19 BRIGADIER CALITZ: Nee, mnr die 20 Voorsitter.</p> <p>21 MR BUDLENDER SC: Was it part of the 22 police plan that some strikers would be killed at koppie 3 23 in crossfire by the police?</p> <p>24 BRIGADIER CALITZ: Nee, mnr die 25 Voorsitter.</p>

<p style="text-align: right;">Page 17827</p> <p>1 MR BUDLENDER SC: Was it part of the 2 police plan that anyone would be shot at koppie 3? 3 BRIGADIER CALITZ: Die moontlikheid het 4 bestaan dat daar wel by koppie 3, aangesien dit 'n gebied 5 is wat die uiteendrywing na die weste kant toe, so die 6 uiteendrywing deur my Openbare Orde Polisiëringsslede kon 7 dit moontlik gewees het dat daar wel persone op gevuur was 8 met haelgeweer rubber. 9 MR BUDLENDER SC: Was it part of the 10 police plan that 14 strikers would be killed at koppie 3 11 and 4 and would die thereafter from wounds received there? 12 BRIGADIER CALITZ: Nee, beslis nie, mnr 13 die Voorsitter. 14 MR BUDLENDER SC: I understand that. Now 15 I want to show you JJJ82. Could we go to page 2 of that? 16 CHAIRPERSON: There are various 17 indications of time, that's the time on the video I take 18 it, in square brackets at the beginning of certain of the 19 sentences, so if you can use those as a marker. Can you 20 direct our attention to the particular passage in this page 21 which you want the witness to talk about? 22 MR BUDLENDER SC: Chair, it is the third 23 line from the foot of the page, the two sentences before 24 7:50. Could we go up a bit, please? 25 CHAIRPERSON: Between -</p>	<p style="text-align: right;">Page 17829</p> <p>1 "The police, we will give our 100% full 2 cooperation, okay, at this stage we did nothing wrong. 3 From the planning to the execution was a 110%, exactly how 4 we planned it and it is not often that this happens in this 5 large group. I have to congratulate you, exactly how we 6 planned it and we briefed the commanders exactly we 7 executed in that line." Now I'm asking you, how could you 8 possibly have said that in the light of everything that 9 went wrong in this operation? 10 BRIGADIER CALITZ: Mnr die Voorsitter, ek 11 het dit reeds in my getuienis genoem, ek kan dit weer vir u 12 noem. Die vrae wat u my gevra het nou voorheen ten opsigte 13 van die plan, het ek vir u gesê dit was glad nie deel van 14 die plan nie. Waarna ek hier verwys het, onthou ek het 15 reeds verwys, mnr die Voorsitter, dat die 110% was 'n 16 motiveringsaspek vir my lede om hulle positief te kry om 17 terug na die veld toe te gaan, wat betref dat die 18 beplanning tot die uitvoering presies hoe ons dit gedoen 19 het, as u miskien na daardie laaste sinnetjie kyk wat u 20 lees, "Exactly how we planned it and we briefed the 21 commanders exactly we executed it in that line." Nou dit 22 was my woorde en my bedoeling, daar vir my bevelvoerders 23 was, dit is presies hoe ons dit opgevolg het. Ek het ook 24 getuig dat dit was die strategiese beginsels gewees van die 25 plan. Die draad moes uitgegooi gewees het, wat ons wel</p>
<p style="text-align: right;">Page 17828</p> <p>1 MR BUDLENDER SC: That's right, Chair. 2 CHAIRPERSON: Between 7:20 and 7:50, yes. 3 MR BUDLENDER SC: Do you have that, 4 Brigadier? You're talking then about, you were talking to 5 the, - this is the parade which you addressed on Saturday, 6 the 18th of August, correct? 7 BRIGADIER CALITZ: Ek het dit aan die 8 onderkant van bladsy 2 tussen 7:05 en 7:20, as ek korrek 9 is, mnr die Voorsitter, dis reg. 10 MR BUDLENDER SC: Yes, and this is what 11 you said at that parade? 12 BRIGADIER CALITZ: Dit is my woorde wat 13 ek tydens die voorligting vir die lede gegee het, dit 14 korrek. 15 MR BUDLENDER SC: Yes, and at the third 16 line you're talking about the briefings and then you say, 17 the third line from the foot of the page, "The president 18 got the same view and you can read it in the papers as what 19 the ministers from the media got. They got the same 20 presentation. Then he announced that there will be a board 21 of inquiry. Some of you might wonder what is now going to 22 happen. Remember after any big action there is now a board 23 of inquiry that will sit and then take it frame by frame, 24 minute by minute of what happened," alright, and then you 25 continue.</p>	<p style="text-align: right;">Page 17830</p> <p>1 gedoen het. Ons het, op geen stadium het ek gepraat van 'n 2 onderbreking in die plan en dat die plan ge-interrupt was 3 nie. 4 Dit was nie my woorde hier nie. Die draad was 5 uitgegooi, nommer een. Die opdrag wat ek gegee het, die 6 voertuie moet in 'n linie uitbeweeg, dit het gebeur. Ons 7 moes die persone uiteendryf wat wel die geval was. Ons 8 moes die persone, - ek neem aan daar is 'n probleem met die 9 translation, mnr die Voorsitter, ek kry baie - 10 CHAIRPERSON: You may have been talking a 11 bit fast, perhaps - 12 BRIGADIER CALITZ: Ek sal - 13 CHAIRPERSON: - you could speak a bit 14 more slowly - 15 BRIGADIER CALITZ: Ek sal weer herhaal. 16 CHAIRPERSON: Yes, perhaps start at the 17 sentence or two back and then proceed and I know that 18 sometimes it is difficult to keep talking slowly, but - 19 BRIGADIER CALITZ: Ek probeer my bes, ja. 20 As ek weer kan - 21 CHAIRPERSON: But I take it that if those 22 counsel who are following on the, through the headphones 23 detected that there is something with the translation in 24 the sense of the interpreters getting stuck, then they will 25 indicate and you will then be able to slow down and perhaps</p>

<p style="text-align: right;">Page 17831</p> <p>1 even repeat the sentence or so, but I don't know who the 2 person is to look at, I think you just carry on with your 3 evidence and if I see desperate signs coming from some of 4 the headphone wearing counsel we will then tell you.</p> <p>5 BRIGADIER CALITZ: Korrek, mnr die 6 Voorsitter, dit was inderdaad die twee blonde dames op my 7 tweeuur wat vir my 'n aanduiding gegee het, baie dankie 8 daarvoor. Soos ek gesê het, mnr die Voorsitter, die plan 9 110% uitvoering was soos ek reeds getuig het, mnr die 10 Voorsitter, 'n motivering. U sal onthou dat dit is die 11 eerste keer wat hierdie groep mense moes terugbeweeg. Baie 12 van hierdie mense wat op die 16de betrokke in 'n 13 verskriklike traumatiese voorval. Ons het wel ons, wat ons 14 na verwys Employee Health and Wellness Services mense gehad 15 wat dan insluit social workers, sielkundiges om met die 16 mense te werk, maar dit is een ding om daaroor te praat, 17 maar dit is 'n ander ding om terug te beweeg na dieselfde 18 toneel toe vir die eerste keer. Ons het nie geweet wat om 19 te verwag nie en daarom die motiveringsaspek van my kant af 20 na my lede toe.</p> <p>21 Dit is die eerste sin wat u aangehaal het, die 22 "100% actually how we planned it and it is not often that 23 it happens in this case in a large group." Wat ek daar 24 bedoel het is, my ondervinding in 20 jaar dat indien daar 25 wel aksies plaasvind, u kry partykeer dat 'n persoon in sy</p>	<p style="text-align: right;">Page 17833</p> <p>1 mnr die Voorsitter, dat op die selfoon boodskappe, die 2 Whatsapp, the BBMs, daar was verskeie berigte al die vorige 3 dag dat die polisiemanne wat betrokke was en my lede onder 4 druk was, dat van hulle sou geskors gewees het, van hulle 5 sou af gedank geword het, daar was druk van baie groepe wat 6 dit vereis het en dit is wat ek vir die lede gesê het. Op 7 daardie stadium, u moet onthou dit was die 18de, dit was 8 twee dae na die voorval, was daar geen inligting tot my 9 beskikking dat enige van my lede iets gross, nalatig gedoen 10 het nie.</p> <p>11 So as 'n bevelvoerder en ek glo as die 12 operasionele bevelvoerder met my jare ondervinding, was dit 13 my taak om my lede te motiveer en as u dan gaan kyk na die 14 uitvoering van wat op daardie dag gebeur het toe ons later 15 kom en mnr Malema wel daar was, was die lede so positief 16 dat niemand het terug gestaan nie. Hulle was bereid gewees 17 om die persoon van die perseel af te verwyder, hulle was 18 bereid gewees om in daardie gevaarlike omstandighede nog 19 steeds die draad te gaan optel. Ons het geen huiwering 20 gehad nie en ek het geen van my polisiemanne op daardie 21 stadium gehad wat af siek geboek het, wat gesê het, nee, ek 22 gaan nie in nie, wat bang was nie, so om die vraag te 23 beantwoord in kort, die plan, die vier beginsels van die 24 plan was vir my 100% uitgevoer, tot op hierdie stadium. 25 Daar was wel 'n onderbreking maar ek het glad nie</p>
<p style="text-align: right;">Page 17832</p> <p>1 eie rigting 'n besluit neem, 'n seksie bevelvoerder, dat hy 2 breek weg of hy gaan links om, waar hy actually in 'n lyn 3 moes beweeg het. U sal onthou die woorde wat u my voorheen 4 gevra het, het ek gesê 'n dispersion line is the Openbare 5 Orde Polisiëringsterme waar 'n basic line die term van TRT 6 is. Die volgende sin, "I have to congratulate you, you did 7 exactly how we planned it and briefed the commanders 8 exactly we executed it in that line," en daardie geval is, 9 "in that line," spesifiek pertinent in daardie sin is, die 10 persone wat hulle lyne gehou het.</p> <p>11 Dit is verskriklik belangrik in enige operasie 12 dat indien 'n bevelvoerder 'n opdrag gee en sê, Papa 13 voertuie, gaan blok vir my, dat jy verwag dat jou voertuie 14 in 'n rigting sal gaan en dan sal blok, ons het sekere 15 action modes wat dit dan sal verduidelik. In hierdie geval 16 het ek opdrag gegee dat die Nyala voertuie tussen die 17 persone inbeweeg en dan ook 'n uiteendrywingslyn vorm. Dit 18 is duidelik sigbaar in foto's wat ons wel gesien het, veral 19 in die geval toe ons langs koppie 2 ge-halt het, is dit 20 presies soos ons voorgelig het voor die traumatiese 21 ervaring, die waterkanonne wat uitbeweeg en dan ook die 22 geval waar ons verder sou gaan vir die uiteendrywing.</p> <p>23 Die motivering verder, hoekom ek vir u gesê het 24 "The police will give its 100% full cooperation, at this 25 stage we did nothing wrong." Dit was my getuienis gewees,</p>	<p style="text-align: right;">Page 17834</p> <p>1 gepraat van die onderbreking nie, ek het nie gepraat van 2 die skietvoorval nie en ek het definitief nie gepraat van 3 die persone wat gedood is nie. Dit is wat ek hier bedoel 4 het, mnr die Voorsitter. Ekskuus as ek te vinnig weer 5 gegaan het.</p> <p>6 CHAIRPERSON: I'm not listening on the 7 headphones, I don't know whether you're going too fast but 8 if we look at the ladies to whom you referred earlier, they 9 don't seem to be in distress, so you can perhaps carry on.</p> <p>10 BRIGADIER CALITZ: They look happier 11 today.</p> <p>12 MR BUDLENDER SC: Brigadier, I understand 13 that on the 18th the morale could be a problem.</p> <p>14 BRIGADIER CALITZ: The morale?</p> <p>15 MR BUDLENDER SC: Morale.</p> <p>16 [10:35] CHAIRPERSON: Mr Budlender, you're now 17 moving onto a new aspect namely the -</p> <p>18 MR BUDLENDER SC: I'm talking, I'm 19 following on the -</p> <p>20 CHAIRPERSON: I'll take the tea 21 adjournment at a stage where you indicate to me is 22 appropriate and convenient. But carry on for the 23 meanwhile.</p> <p>24 MR BUDLENDER SC: Thank you, Chair. 25 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p>



<p style="text-align: right;">Page 17835</p> <p>1 sal nie sê die moraal was 'n probleem nie maar die lede 2 was, die lede was onder geweldige druk, stres as gevolg van 3 die trauma, die twee vorige dae. Geen so toneel kan enige 4 persoon nie raak nie. Dit het definitief beslis almal van 5 ons geraak.</p> <p>6 MR BUDLENDER SC: I don't want to put 7 words into your mouth, Brigadier, as I understood it you 8 said you made the speech in part because morale could be a 9 problem because of the messages that were going around, 10 would that be fair?</p> <p>11 BRIGADIER CALITZ: Dit is korrek, ek het 12 gesê, dit could be, u het my gevra die moraal was laag so 13 dit is die verskil wat ek net vir u probeer uitwys het, mnr 14 die Voorsitter.</p> <p>15 MR BUDLENDER SC: And you were concerned 16 that the rumours were going around that the police officers 17 involved might be fired, dismissed, correct?</p> <p>18 BRIGADIER CALITZ: Dit was my getuienis, 19 korrek, mnr die Voorsitter.</p> <p>20 MR BUDLENDER SC: Do you think they 21 thought they might be fired because they didn't form and 22 hold the dispersion line correctly or did they think they 23 might be fired because 34 people had been killed?</p> <p>24 BRIGADIER CALITZ: Ek kan glad nie namens 25 die lede praat nie. Ek weet wel daar het 'n rondte gedoen</p>	<p style="text-align: right;">Page 17837</p> <p>1 of the 34 strikers was justified. Is that a fair comment, 2 you think?</p> <p>3 BRIGADIER CALITZ: Ek het dit nie so ver 4 gevolg nie. Ek moet u woord vat daarvan.</p> <p>5 MR BUDLENDER SC: But what do you think 6 was the motive for the establishment of the commission, do 7 you think it was because the public wants to know whether 8 34 people, why 34 people had been killed?</p> <p>9 BRIGADIER CALITZ: Mnr die Voorsitter, as 10 ek die dokument voor my kan kry, ek dink daar was vier 11 redes uitgesit om vas te stel presies wat gebeur het en 12 watter partye op hierdie stadium wil dit my lyk dis net die 13 polisie, my verskoning as ek dit sê, maar daar is, ek dink 14 die kommissie moet vasstel watter partye verantwoordelik 15 gehou kan word, wat gedoen kan word om die situasie nie 16 weer te laat herhaal nie. Miskien met voorstelle te kom 17 hoe ons dit kon verbeter, dit wat verkeerd gegaan het. 18 Maar ek dink definitief nie om te blameer nie.</p> <p>19 MR BUDLENDER SC: I'm not talking about 20 blame –</p> <p>21 CHAIRPERSON: I'm sorry the aspect you 22 dealt with were, one of the things that the commission must 23 look at is which parties are responsible. Now that would 24 include I take it obviously not only physical responsible 25 but culpable responsibility those who are to blame for what</p>
<p style="text-align: right;">Page 17836</p> <p>1 dit is die eerste so geval waarvan ek bewus is in Suid 2 Afrika. So ek neem aan om die vraag te antwoorde die lede 3 was dalk geskok oor wat gebeur het, die persone wat dood 4 is, die grootheid van die operasie en miskien was van hulle 5 dan wel onder daardie indruk gebring.</p> <p>6 MR BUDLENDER SC: We discussed this when 7 you started your evidence and we've agreed that the 8 President appointed a commission of inquiry because a 9 shocking event had occurred, 34 people had been killed, you 10 remember that?</p> <p>11 BRIGADIER CALITZ: Dit is korrek, mnr die 12 Voorsitter. My getuienis was dat die President het 13 aangekondig daardie vorige aand op E-News, ek het 'n 14 aantekening gemaak nadat ek dit getuig het was om 19:33 die 15 aand op E-News waar die President aangekondig het van die 16 kommissie wat aangestel is en die President se presies 17 woorde op die nuus was, "this is not a time to blame". So 18 ek het geensins as operasionele bevelvoerder en 'n senior 19 polisie offisier gevoel dat ek moet enige iemand blame 20 indien my President wel die opdrag gegee het dat daar wel 21 'n kommissie sal wees nie.</p> <p>22 MR BUDLENDER SC: The President appointed 23 a commission of inquiry and I think you've agreed already 24 when you, at the outset of your evidence because he and the 25 people of South Africa wanted to know whether the killing</p>	<p style="text-align: right;">Page 17838</p> <p>1 happened. So therefore whether the police or any 2 particular members of the police are to blame, whether any 3 aspect of the police, actions were blameworthy, obviously 4 are part of what we have got to look at. Your message here 5 in your speech as I read it is your view was that the 6 police weren't to blame and you were conveying that to your 7 members and you gave reasons why you say that in your 8 opinion you weren't to blame. So they don't have to worry 9 say you because everything, they did everything they should 10 have done according to the plan. Is that correct?</p> <p>11 BRIGADIER CALITZ: Mnr die Voorsitter, ja 12 sover die plan aangegaan het ons praat geensins die 13 resultaat goed nie en ek dink indien daar enige inligting 14 tot my beskikking kom wat wys dat daar enigets is wat 15 nalatig was sal ons, soos ek gesê het 100% samewerking gee, 16 sodra dit tot my beskikking kom sal ons dit kan herken. 17 Dit was twee dae na die voorval en dit hoe ek op daardie 18 stadium my siening was, mnr die Voorsitter.</p> <p>19 MR BUDLENDER SC: Chair, just one more 20 question before we adjourn if I may. One more short line 21 of questions. You said that there were messages and or 22 rumours that the members of the police who were involved 23 would be fired. Now were those messages that people were 24 going to be fired because the police line was not correctly 25 formed and held or were they, was it that they were going</p>

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1 to be fired because 34 strikers had been killed, what do  
2 you think it was?

3 BRIGADIER CALITZ: Mnr die Voorsitter,  
4 nee ek sal glad nie daai vraag kan antwoord nie. Dit is  
5 maar lede wat onder mekaar gepraat het en gedink dit, ons  
6 is in die moeilikheid, wat nou en ek is 'n bevelvoerder van  
7 openbare polisiëring weet in daardie geval hoe om met my  
8 lede weer positief te kry en hoe om hulle te motiveer. Dit  
9 was my werk gewerk gewees om vir hulle te sê ignoreer die  
10 boodskappe, die media, die berigte, ignoreer dit, kom ons  
11 gaan en ons gee samewerking.

12 MR BUDLENDER SC: Let's be practical and  
13 realistic. The uproar and the outcry and the commission  
14 and the anxiety were focused on the deaths of 34 people,  
15 not on whether a police line had been correctly formed and  
16 held. You must surely agree that that is so.

17 MR SEMENYA SC: I'm sure the people who  
18 died were 40, 44.

19 CHAIRPERSON: 34 died on, as a result of  
20 what happened on the 16th, there were 10 people who died in  
21 the run-up to that starting on the 12th. But let's not get  
22 involved in that. The fact is a good deal of the outrage,  
23 the concern and the shock was caused by the fact that there  
24 was a high mortality rate as a result of what happened, a  
25 lot of people died. I take it, it wasn't, it would be over

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1 simplistic to say that the mere fact that people died was  
2 in itself a cause of the, by itself the cause of the  
3 concern and the shock and the outrage because a lot of  
4 people sometimes are killed in natural disasters. The  
5 problem was it was considered that there was a distinct  
6 possibility whether right or wrong is something we're  
7 investigating but the distinct possibility that those  
8 people wouldn't have died if the correct actions had been  
9 taken and that I take it was a major part of the  
10 motivation, would you, do you see it that?

11 BRIGADIER CALITZ: Mnr die Voorsitter,  
12 dit is korrek. Ek het gesien dat die dood van die  
13 polisiemanne, ag die dood van die protestors op daardie  
14 stadium, die polisieledede wat hulle lede verloor het, asook  
15 die sekuriteits beamptes wel 'n bydraende faktor was. Maar  
16 ek myself sien dit nie as die enigste rede nie. U het  
17 gevra dit is die groter, ek dink die wêreld wil ook gesien  
18 het hoekom het dit gebeur en my siening is dat dit is nie  
19 net die aksie van die dag wat dit plaasgevind het nie, daar  
20 was 'n protes groep gewees, daar's ander partye, daar was  
21 redes hoekom die ding opgebou het tot waar hy opgebou het.  
22 So my persoonlike en nie net persoonlike nie, dis ook wat  
23 ek aan die lede oorgedra het is dat daar's ander rolspelers  
24 rondom dit, die polisie op die dag het, was net daar omdat  
25 lewe en eiendom bedreig was en dit was ons optrede. Maar

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1 daar's 'n groter prentjie rondom dit as net die polisie se  
2 optrede op die dag.

3 CHAIRPERSON: The main point is the terms  
4 of reference, as you indicated in your summary deal inter  
5 alia with responsibility, who is responsible and a number  
6 of possible parties responsible are set out in the terms of  
7 reference, that's part of the, those are the aspects of  
8 some of them that we have to look at. One party possibly  
9 responsible is the police, members of the police, another  
10 was the employer, another was the strikers and another was  
11 the unions. All these are matters that we have to  
12 investigate. But the major thrust of the commission is, or  
13 one of the major thrusts, not the only one, one of the  
14 major thrusts of the commission is to investigate the  
15 question of responsibility and included in that of course  
16 is the responsibility of the members of the SAPS who were  
17 involved and that's correct, isn't?

18 BRIGADIER CALITZ: Ek stem saam met u  
19 stelling, soos u dit stel, mnr die Voorsitter, dis korrek.

20 MR BUDLENDER SC: The last question on  
21 this, Chair, before we adjourn. General, ag Brigadier, you  
22 said you saw television and I take it you also read  
23 newspaper reports about what had happened, there was a  
24 great deal of publicity about the events of the 16th of  
25 August. You're aware of that?

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1 BRIGADIER CALITZ: Daar was heelwat  
2 berigte, korrek, Meneer.

3 MR BUDLENDER SC: Yes, did you, and many  
4 people were saying why were the strikers killed and why  
5 were the previous ten people killed and was the police  
6 conduct correct in shooting the strikers, correct?

7 BRIGADIER CALITZ: Mnr die Voorsitter, ek  
8 weet nie of ek gevra moet word om te reageer op die media  
9 berigte.

10 MR BUDLENDER SC: No, I'm asking what you  
11 saw in the media reports, that's what people were asking.  
12 Was this a justified action by the police?

13 BRIGADIER CALITZ: Dit is daarna ek toe  
14 gaan. As ek die geleentheid gegee word om my sin klaar te  
15 maak, mnr die Voorsitter. Ek weet nie of u my vra om te  
16 reageer of wat ek gelees het nie, dit was gelees het van  
17 die media se kant af is baie eensydig. As ek van myself  
18 kan praat u weet ek was op die Sowetan se voorblad groot  
19 kleur foto, die perfect massacre, wat ek in my lewe nooit  
20 gesê het nie. Ek was verkeerd aangehaal, ek praat van  
21 myself in die media deur te sê shoot the target,  
22 gerieflikheidshalwe was die woordjie not uit gehaal wat dan  
23 ook gepubliseer was. Op verskeie sulke voorvalle wat net  
24 die eensydige storie vertel is en wat die ander storie en  
25 die waarheid wat ons min sien wat uit kom wat totaal is.

<p style="text-align: right;">Page 17843</p> <p>1 So wat ek graag wil sien is, as ek versoek kan rig, 2 dieselfde media, dieselfde koerante miskien dan nou ook ons 3 weergawe publiseer, want op hierdie stadium is dit baie 4 eensydig teen die polisie as, dit is wat ek gelees het in 5 die media. 6 CHAIRPERSON: No, that's your reaction to 7 a number of matters. But the simple question you were 8 asked is it is correct isn't it that at the time there was 9 a lot of publicity, you described it as one sided, that 10 there was a lot of publicity about what happened 11 understandably and a lot of concern was raised by a lot of 12 people as to whether, to go back to the responsibility 13 question, as to whether the killing, whether the police 14 were to blame for the killing and linked of course to that 15 is the other side of the same coin was there justification, 16 legal justification for what the police did which takes us 17 to a number of other questions, which we are not going to 18 deal with at the moment but the main one was can it be said 19 that the police indeed acted in self defence or private 20 defence which would, if they did that would have meant that 21 what they did was not illegal and they weren't legally 22 responsible. But that was certainly one of the issues on 23 the table forming the subject of an extensive debate, 24 national debate, international debate, you're aware of that 25 obviously?</p>	<p style="text-align: right;">Page 17845</p> <p>1 already conceded that that wasn't the point, the subject of 2 the press publicity on the matter. 3 BRIGADIER CALITZ: Nee, mnr die 4 Voorsitter, as ek dit net kan laastens antwoord aangesien 5 dit die laaste vraag is. Ek wil sê dit is korrek, die 6 aanhalings was brutal maar so was die aanvalle op die twee 7 sekuriteits beamptes en beslis so die aanvalle op die 8 polisielede. 9 CHAIRPERSON: I understand what you're 10 saying. 11 BRIGADIER CALITZ: Dit is die media wat 12 ek verstaan het. 13 CHAIRPERSON: Mr Budlender is making a 14 narrow point. You spoke in your speech about exactly we 15 executing that line and you made the point that they kept 16 to the line. His point is that that actual issue wasn't 17 the subject of the press publicity and I think you will 18 agree with that, won't you? 19 BRIGADIER CALITZ: Ek stem saam, mnr die 20 Voorsitter. 21 CHAIRPERSON: Can we adjourn now, Mr 22 Budlender? We'll take the tea adjournment. 23 [COMMISSION ADJOURNS COMMISSION RESUMES] 24 [11:38] CHAIRPERSON: The Commission resumes. 25 I'm sorry about the delay in resumption, but there were</p>
<p style="text-align: right;">Page 17844</p> <p>1 BRIGADIER CALITZ: Ek stem saam met u, 2 mnr die Voorsitter, baie dankie. 3 MR BUDLENDER SC: And in all of that 4 publicity which you saw in the newspapers and on the 5 television and elsewhere did you ever see somebody say the 6 real question is whether the police line was correctly 7 formed and held or is the real question is whether the 8 killings were justified. What did they say? 9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 nee ek het reeds gereageer op die berigte wat ek gelees 11 het. Ek dink dis baie eensydig en dit het gedui op die 12 polisie wat dan die protestors dood geskiet het, as dit die 13 vraag antwoord. Ek dink die media was dalk nie bewus van 14 die plan of wou nie die berigte plaas oor wat actually op 15 die dag moes gebeur het nie. So dit is my, as ek die vraag 16 antwoord. 17 MR BUDLENDER SC: The very last question 18 and the one sided reports were one sided because they said 19 the killings were unjustified or cruel or brutal, they 20 weren't one sided because they said the police line was not 21 correctly formed. 22 MR SEMENYA SC: Chair, I don't know where 23 this is taking us. 24 CHAIRPERSON: It sounds a bit like a 25 debating point, Mr Budlender, but I think the witness has</p>	<p style="text-align: right;">Page 17846</p> <p>1 housekeeping matters we had to attend to in chambers, 2 including the swearing in of an interpreter from English to 3 Setswana, Sesotho, and vice versa, but we're now able to 4 proceed. You're still under oath, Brigadier. 5 ADRIAAN MARTHINUS CALITZ: s.u.o. 6 CHAIRPERSON: Mr Budlender. 7 CROSS-EXAMINATION BY MR BUDLENDER SC (CONTD.): 8 Thank you, Chair. Brigadier, on the morning of 18 August 9 you were speaking to your members before they undertook a 10 new operation. 11 BRIGADIER CALITZ: Dit is korrek, mnr die 12 Voorsitter. 13 MR BUDLENDER SC: And I think you may 14 have said already that many of them had been involved in 15 the operation on the 16th of August in which 34 people had 16 been killed, correct? 17 BRIGADIER CALITZ: Ek het nie die 18 presiese getal nie, maar daar was wel lede gewees. 19 MR BUDLENDER SC: And as you explained 20 that morning when you spoke to them, they were about to go 21 into a potentially difficult situation. I want to take you 22 to how you described it. It's JJJ82, and it's the 23 transcript. Could we go to page 1 against the time 1:21 on 24 the first page. You have that, Brigadier? 25 BRIGADIER CALITZ: Ek het dit, mnr die</p>

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1 Voorsitter.

2 MR BUDLENDER SC: This is what you

3 explained to the members. "Ladies and gentlemen, the

4 information is, and there's no secret, that Mr Julius

5 Malema will visit us today. The purpose of the visit is

6 that they want to take the koppie back." And then if we go

7 down two more lines, "Now the people want to regroup from

8 the village. That is the Crime and Intelligence

9 information. The information is that Mr Malema will come,

10 regroup the mine, and then inform them to go back to the

11 koppie, go back to the strike, and then the information is

12 that they are going to provoke the police. They also sent

13 a message to the media to say 'Come and look how the police

14 is treating us.' Alright, so you will definitely be

15 provoked and then there will be action from there." Now

16 that was a potentially difficult situation. People

17 affected by the events of the 16th of August were going to

18 try to retake the koppie. Many could be expected to be

19 emotional and angry, and they were going to try to provoke

20 the police.

21 BRIGADIER CALITZ: Dit is soos ek dit

22 daar gesê het, mnr die Voorsitter.

23 MR BUDLENDER SC: You said to the members

24 that – we've been through the words; I don't want to debate

25 them again, but you said to the members that from planning

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1 to execution was 100%. You said, "I have to congratulate

2 you," etcetera. Now I have to put it to you because it

3 might have to be argued at some stage that in that

4 situation, this dangerous situation, it was rash to

5 encourage members to behave in the same manner as they had

6 previously when on the previous day 34 people had been

7 killed. Would you like to respond to that?

8 BRIGADIER CALITZ: Mnr die Voorsitter, as

9 die vraag net weer kan herhaal word, miskien opgebreek? Ek

10 verstaan nie die "rush" en die gedeelte nie.

11 MR BUDLENDER SC: Well, I'm looking for a

12 word "rash," ill-advised or reckless or unwise, that it was

13 one of those words, to say to them everything you did last

14 time was fine, just last time was 110%, because they were

15 about to go into a very tricky situation and they should

16 have been told to exercise great caution.

17 BRIGADIER CALITZ: Mnr die Voorsitter,

18 nee, die polisie word daaglik blootgestel aan risiko

19 optrede en dit is ons plig om dan op te tree en lewe en

20 eiendom te beskerm. So dit is 'n daaglikse taak.

21 MR BUDLENDER SC: Alright, now what you

22 said was apparently, there was apparently a journalist

23 nearby who was filming what you said on a video or a

24 camera. You remember that?

25 BRIGADIER CALITZ: Dit is korrek, mnr die

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1 Voorsitter.

2 MR BUDLENDER SC: Can we go to page 3 of

3 the transcript of those events, of that discussion, against

4 the numbers 9:50 in about the middle of the page, and we

5 see that Colonel McIntosh says, "Press behind there," and

6 then you say, "Alright, can somebody of the TRT or somebody

7 of that just move there, the media there, there in the

8 road. Just take his video camera. Okay, don't everybody

9 look around, that's fine. Alright, so guys, not 12 of you,

10 that's fine. There's one person going, it's fine. Come

11 back." Then at 10:26, "Oh Mac, just check the recording

12 that was made. Come to me, you can just bring him so that

13 we can check that recording, possibly just record over."

14 You remember saying that?

15 BRIGADIER CALITZ: Korrek, mnr die

16 Voorsitter.

17 MR BUDLENDER SC: Now what gave you the

18 legal power to remove the video camera from that

19 journalist?

20 BRIGADIER CALITZ: Mnr die Voorsitter, ek

21 het glad nie die opdrag gegee om die kamera te verwyder van

22 die persoon nie. Ek het vir hulle gesê dat ons moet gaan

23 kyk wat op die "footage" is omdat die "briefing" wat ek

24 gegee het op daardie stadium sensitiewe operasionele

25 inligting bevat en ek het dan vir Kolonel McIntosh, nie 'n

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1 groep mense na hom toe gestuur nie, maar een persoon om die

2 persoon te versoek om na ons toe te kom sodat ons kan seker

3 maak dat die inligting wat ons deurgee, wat "ge-record" is,

4 net om seker te maak wat hy het, sodat die inligting nie

5 kan uitlek alvorens die polisie die optrede kan uitvoer

6 nie.

7 MR BUDLENDER SC: Brigadier, I understand

8 the reasoning behind what you did. What I'm asking you is

9 where is, where do you get legal authority to –

10 MR SEMENYA SC: Objection, Chair. That

11 is entirely irrelevant to the terms of reference.

12 MR BUDLENDER SC: Chair, I'm examining

13 the Brigadier's attitude to the performance of his duties

14 and if the Brigadier thinks that he can act without legal

15 authority, that's a material matter which ought to be

16 considered.

17 MR SEMENYA SC: Absolutely outside the

18 terms of reference, Chair.

19 CHAIRPERSON: I think the basis upon

20 which the question is sought to be asked does fall within

21 the terms of reference and I'll allow the question to be

22 asked. But it is to some extent a collateral matter, so I

23 trust there won't be lengthy cross-examination on the

24 point.

25 MR BUDLENDER SC: No, there won't be,

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1 Chair. All I want to know is, is this, Brigadier; are you  
2 aware of any legal authority which you have to take a video  
3 camera from a journalist, look at it, and if you wish to do  
4 so, then to delete the material on it?  
5 BRIGADIER CALITZ: Mnr die Voorsitter, ek  
6 sal verwys daarna as samewerking tussen ons en die media.  
7 Dit het wel later ook gebeur toe Kaptein Adriaao die media  
8 toegespreek het en dit is samewerking tussen ons en die  
9 media om te sien wat is "ge-record" en dan te versoek aan  
10 die media te stel is indien hulle so, enigiets gehad het,  
11 om dit dan nie beskikbaar te stel tot die sensitiwiteit van  
12 die operasie wat volg nie. So in daardie geval verwys ek  
13 na samewerking tussen ons en die media personeel op die  
14 grond.  
15 MR BUDLENDER SC: With respect,  
16 Brigadier, that's not really an answer to my question. Are  
17 you aware of any legal – do you say that the media gave you  
18 the legal right to do that? They said 'We don't mind if  
19 you do this' or are you saying there's other legal  
20 authority? I don't want to spend a long time on it. I  
21 just want to be clear what you were relying on.  
22 BRIGADIER CALITZ: Mnr die Voorsitter,  
23 nee, ek dink my antwoord was duidelik.  
24 MR BUDLENDER SC: You say there was some  
25 sort of contractual agreement between yourselves and the

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1 media –  
2 MR SEMENYA SC: Chair, I must register my  
3 objection again.  
4 CHAIRPERSON: I'm afraid I didn't  
5 understand the answer. I understood the question to be  
6 loosely – but let me take over. This is a collateral issue  
7 relevant only in the very narrow confine as set out by Mr  
8 Budlender. You were asked were you aware of any legal  
9 authority that gave you the power to take someone's video  
10 camera and if necessary record over it. I understood you  
11 to say that you – you didn't mention any legal authority  
12 but I understood you to refer to some kind of cooperation  
13 with the media. So were you relying on that?  
14 BRIGADIER CALITZ: Dit is korrek,  
15 inderdaad wat ek gesê het, mnr die Voorsitter.  
16 CHAIRPERSON: Well, I think that's the  
17 point, then I think we can now move on, Mr Budlender.  
18 MR BUDLENDER SC: I'm happy to move on,  
19 Chair. Thank you. Brigadier, if I understand your  
20 evidence correctly, it is that the R5 rifles were not used  
21 by POP members, they were used by TRT or NIU or STF. Am I  
22 correct in understanding that?  
23 BRIGADIER CALITZ: Nee, mnr die  
24 Voorsitter, ek het nog nie so getuig nie. U vraag aan my  
25 voorheen was is die TRT, NIU en Taakmag in besit van R5e,

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1 en ek het daarop gereageer en gesê ja.  
2 MR BUDLENDER SC: Well, I think the  
3 record will show otherwise, but I don't want to argue with  
4 you about it. I just want to get the facts right. So do  
5 the POP members carry R5 rifles?  
6 BRIGADIER CALITZ: Dit is die korrekte  
7 vraag. In daardie geval, ja.  
8 MR BUDLENDER SC: No, excuse me, it's not  
9 for you to tell me what's the correct question.  
10 CHAIRPERSON: No, he's given you an  
11 answer; he says yes. Is that correct?  
12 BRIGADIER CALITZ: Mnr die Voorsitter ja,  
13 ek wou vir u gesê het dat die vorige vraag het u gestel –  
14 CHAIRPERSON: Let's not have an argument  
15 now. Let's just question, answer –  
16 BRIGADIER CALITZ: Dit is korrek, mnr die  
17 Voorsitter.  
18 CHAIRPERSON: Our task is difficult  
19 enough as it is without – I'm not criticising you, I'm  
20 giving you advice for the future. You've given the answer.  
21 You say yes, they do. Is that right? The POP, they do  
22 carry – I take it not all of them.  
23 BRIGADIER CALITZ: Nee, mnr die  
24 Voorsitter, daar is sekeres in die – een per seksie word  
25 dan uitgereik met 'n R5 –

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1 CHAIRPERSON: Yes, how big is a section?  
2 BRIGADIER CALITZ: Ongeveer agt persone.  
3 CHAIRPERSON: So roughly out of every  
4 eight POP members, that's a section, there will be one with  
5 an R5 rifle. Is that correct?  
6 BRIGADIER CALITZ: Dit is korrek, mnr die  
7 Voorsitter.  
8 CHAIRPERSON: Thank you.  
9 MR BUDLENDER SC: Do you know whether any  
10 of the POP members were involved in shooting at the  
11 strikers at scene 1?  
12 BRIGADIER CALITZ: Mnr die Voorsitter,  
13 nie op daardie stadium nie, maar huidiglik dra ek kennis,  
14 dit is korrek.  
15 MR BUDLENDER SC: Alright. Then we can  
16 avoid troubling the Commissioners with a video which shows  
17 that happening. Right, now I want to go to a further  
18 aspect of what you said at that meeting with your members.  
19 Could we go to page 3, against the time 8:53, and if we can  
20 just go to the second sentence on the, or the fourth  
21 sentence on the third line, you say, "We tactically retreat  
22 and you have to face the Nyala to get in there, so it's  
23 right, your actions was completely right. By retreating  
24 and going back to your safe haven, therefore we got over to  
25 the second phase." And then at 9:20, "And that is where

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1 the TRT and the NIU line was formed and when they become  
 2 under attack, that is where the command was given by their  
 3 commanders, as well as some of them act in self-defence.  
 4 Alright, so on that nothing, nothing, nothing was wrong.  
 5 Okay, you acted, it was justified," etcetera. Now you've  
 6 explained that you – let me just say, this seems to be a  
 7 reference to the events at scene 1. Would that be correct?  
 8 BRIGADIER CALITZ: Korrek, mnr die  
 9 Voorsitter.  
 10 MR BUDLENDER SC: And it's common cause  
 11 that you didn't actually see this yourself. This is what  
 12 you learned about it afterwards.  
 13 BRIGADIER CALITZ: Dit was twee dae na  
 14 die tyd. Ek het, soos aan my meegedeel, korrek, mnr die  
 15 Voorsitter.  
 16 MR BUDLENDER SC: Now you say, "When they  
 17 become under attack, that is where the command was given by  
 18 their commanders, as well as some of them act in self-  
 19 defence." Now who told you that?  
 20 BRIGADIER CALITZ: Mnr die Voorsitter,  
 21 dit is die TRT "commanders" en dit is die bespreking wat  
 22 dan ook plaasgevind het na die voorval. Die "command"  
 23 gedeelte, en ek het reeds in my getuienis daarna verwys, as  
 24 ek na die sin kan verwys, "That is where the command was  
 25 given by the commanders," dit is waar jy duidelik kan hoor

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1 waar die bevelvoerders dan, die seksie groepe vir die TRT  
 2 linie skreeu, "Keep the basic line, keep the basic line."  
 3 Ek dink ons almal het dit op die uitsendings verneem, en  
 4 dan is daar die volgende sin wat sê, "as well as them acted  
 5 in self-defence." Dit is die lede wat dan gesê het dat  
 6 hulle het in self-verdediging opgetree. Dit is –  
 7 MR BUDLENDER SC: I understand. So when  
 8 you say the command was given by the commanders, that  
 9 wasn't the command to shoot, that was the command to form  
 10 the TRT line?  
 11 BRIGADIER CALITZ: Mnr die Voorsitter,  
 12 geen bevelvoerder kan ooit 'n opdrag gee om iemand te skiet  
 13 nie, om 'n "lethal action" te vat nie. Daardie opdrag  
 14 bestaan nie by die TRT –  
 15 CHAIRPERSON: What you're being asked is  
 16 what did you mean by saying the command was given by their  
 17 commanders, and I think what you're saying is – as Mr  
 18 Budlender suggests to you –  
 19 BRIGADIER CALITZ: Dis korrek.  
 20 CHAIRPERSON: - it was, you were  
 21 referring to the command to form the basic line?  
 22 BRIGADIER CALITZ: Dis korrek, mnr die  
 23 Voorsitter.  
 24 CHAIRPERSON: You weren't suggesting that  
 25 any commander gave a command to shoot, and you go on to say

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1 in the rest of the sentence that insofar as shots were  
 2 fired, they were fired by people acting in self-defence,  
 3 and I take it you probably would have added private defence  
 4 if you had been alert to the distinction. Is that correct?  
 5 BRIGADIER CALITZ: Dit is korrek, mnr die  
 6 Voorsitter.  
 7 MR BUDLENDER SC: I just want to ask you  
 8 about that as well. You say someone, you say the TRT  
 9 commanders told you that some of them acted in self-  
 10 defence. Are we to understand from that, that according to  
 11 what you were told some of them did not act in self-  
 12 defence? Somebody told you some of them acted in self-  
 13 defence. What were you told about those others who didn't  
 14 act in self-defence?  
 15 BRIGADIER CALITZ: Mnr die Voorsitter,  
 16 weereens ek dink dit is my woorde, as ek dit kan  
 17 verduidelik. Ek sê, "as well as some of them act in self-  
 18 defence." Daardeur het ek bedoel dat die lede wat wel  
 19 opgetree het en wat hulle vuurwapens gebruik het, het ons  
 20 meegedeel dat hulle in "self-defence" opgetree het. Ek  
 21 verneem daar was baie van die TRT-lede wat nie wapens  
 22 gebruik het nie. So ek het verwys na die wat wel gebruik  
 23 het.  
 24 CHAIRPERSON: So the reference to "some"  
 25 was to those who fired, and the others, the rest, those not

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1 covered by the word "some," they were the people who didn't  
 2 fire.  
 3 BRIGADIER CALITZ: Dit is korrek, mnr die  
 4 Voorsitter.  
 5 MR BUDLENDER SC: Thank you. Now I just  
 6 need to put to you that if we read this passage again, if  
 7 we just read it from 9:20 and that is where the TRT line  
 8 and the NIU line was formed, "and when they become under  
 9 attack, that is where the command was given by their  
 10 commanders, as well as some of them act in self-defence,  
 11 alright. So on that, nothing, nothing, nothing was wrong.  
 12 Okay, you acted, it was justified and that is the  
 13 commitment and the cooperation that we are going to give to  
 14 the people." I want to suggest to you that that statement,  
 15 that "that was justified and that nothing, nothing, nothing  
 16 was wrong," that's clearly a reference to the shootings in  
 17 the context.  
 18 BRIGADIER CALITZ: Dit is korrek, mnr die  
 19 Voorsitter. Dis die optrede deur die TRT soos hulle aan my  
 20 gemeld, in "self-defence."  
 21 MR BUDLENDER SC: And you felt  
 22 comfortable to make that judgment to the members on the  
 23 Saturday before they went out in a difficult operation,  
 24 without the matter having been fully investigated?  
 25 BRIGADIER CALITZ: Dit is korrek, mnr die

<p style="text-align: right;">Page 17859</p> <p>1 Voorsitter, deur die inligting wat vir my gegee is aan my 2 lede, asook op daardie stadium wat ons dan gesien het, was 3 ek gemaklik met my woorde. Dit is korrek, mnr die 4 Voorsitter.</p> <p>5 MR BUDLENDER SC: Do you not think it 6 would have been better to say I'm sure everyone acted with 7 the best of motives, maybe some people acted wrongly, maybe 8 some people acted rightly, that's a matter which the 9 commission will have to investigate?</p> <p>10 BRIGADIER CALITZ: Mnr die Voorsitter, as 11 ek u kan terug voor ons gebreek het, ek het verwys na die 12 President, die gedeelte van "not time to blame," ek het 13 verwys na 'n motivering van my lede; as ek as operasionele 14 bevelvoerder vir my lede gesê het 'Jong, weet jy, miskien 15 sommige van julle het dalk nou verkeerd opgetree', dit sou 16 totaal 'n verkeerde optrede deur enige bevelvoerder gewees 17 het. My werk daar was om vir die lede te sê met die 18 huidige omstandighede, die huidige inligting tot my 19 beskikking, het ek my mense gemotiveer om terug te gaan na 20 die veld en onder moeilike omstandighede dan vir my 100% 21 samewerking te gee en weer die opdragte uit te voer onder 22 my bevel.</p> <p>23 MR BUDLENDER SC: Alright, I'm moving 24 now, Commissioners, on to a different topic. I would now 25 like to go to your statement, JJJ107, and could we go to</p>	<p style="text-align: right;">Page 17861</p> <p>1 L, toe die inligting na die tyd tot ons beskikking gekom 2 het, ek kan nie nou vir u sê nie, nee.</p> <p>3 MR BUDLENDER SC: So is there an 4 Intelligence report which shows that, because we haven't 5 been given it?</p> <p>6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 nee, ek kan nie vir u sê of daar 'n verslag is nie. Soos 8 ek sê dit het tot my ore gekom en dit is wat ek dan in my 9 verklaring gemeld het.</p> <p>10 MR BUDLENDER SC: No, you said you would 11 have to go back and look at it. What do you want to go 12 back and look at?</p> <p>13 BRIGADIER CALITZ: Mnr die Voorsitter, ek 14 het gesê ek sal teruggaan en ons sal by Misdaad 15 Intelligensie hoor op watter stadium dit gerapporteer is, 16 hetsy by Roots of by 'n gewone, ek kan nie onthou op watter 17 stadium dit gerapporteer is nie, ek sal dit moet gaan 18 vasstel.</p> <p>19 COMMISSIONER HEMRAJ: But this statement, 20 Brigadier, is made in the context of the previous statement 21 which deals with the criticism as to why the cordon and 22 search operation was not conducted first. Does that 23 perhaps give you a time frame, the best time frame?</p> <p>24 BRIGADIER CALITZ: Kommissaris, ja, dit 25 is, as u kyk na die vorige paragraaf, het ek dit pertinent</p>
<p style="text-align: right;">Page 17860</p> <p>1 paragraph 150, and let's read it out. It says, "As later 2 information reveals, the group of 200 to 300 armed strikers 3 were in fact sleeping at what is now known as koppie 3. 4 Any cordon and search of the hostels and the settlement 5 would have been fruitless. It must be remembered also that 6 the idea was to give negotiation an opportunity to resolve 7 the unrest." Now when, on which night did you say the 8 strikers were sleeping at koppie 3 – or 2 or 300 armed 9 strikers were sleeping at koppie 3? Do you say it was 10 right through the events, or on the last night or after the 11 shooting of the 16th of August?</p> <p>12 [11:58] BRIGADIER CALITZ: Mnr die Voorsitter, as 13 ek na verwys na die eerste deel van my sin, "As later 14 information received," en dit was by die Crime 15 Intelligence. Ek het dit op daardie stadium as 16 operasionele bevelvoerder nie geweet nie omdat ons die 17 heelyd net na koppie 1 en 2, dit is waar ek my dienste 18 verrig het.</p> <p>19 MR BUDLENDER SC: But, Brigadier, that 20 wasn't the question, the question is, according to the 21 information you were given on which nights were the 22 strikers, or 2 or 300 strikers sleeping on koppie 3?</p> <p>23 BRIGADIER CALITZ: Mnr die Voorsitter, ek 24 sal moet gaan kyk, die Misdaad Intelligensie wat dit dan na 25 die tyd vir ons gegee het, in die samestelling van Exhibit</p>	<p style="text-align: right;">Page 17862</p> <p>1 genoem waarom die deursoekingsaksie wat ons wel op die 16de 2 geteken het, nie plaasgevind het nie. Dit was nie op 3 daardie stadium aan my bekend nie, ek het dit net in 'n 4 volgende paragraaf geskryf dat dit sou fruitless gewees het 5 omdat die onderhandelinge 'n geleentheid gegee word om dan 6 die doel te dien waarvoor dit daar was.</p> <p>7 MR BUDLENDER SC: Brigadier, it doesn't 8 seem to me terribly important but we are, well, I am 9 puzzled by this, because as far as I am aware, I may be 10 wrong and my learned friends will tell us if I'm wrong, but 11 as far as I am aware this is the first time we've seen any 12 statement by any member of the Police Services, that people 13 were sleeping on koppie 3. It was not mentioned in the 14 opening statement of the police, it was not mentioned in 15 the presentation of 282 pages, it wasn't mentioned by 16 General Annandale, it wasn't mentioned by General Mpembe, 17 it wasn't mentioned by Colonel Scott and it wasn't 18 mentioned in any of the Crime Intelligence shots we've 19 been, - Crime Intelligence reports we've been given.</p> <p>20 Well, I'm told Colonel Scott mentioned it, if so 21 I'm wrong, we'll go and check that, but I don't recall any 22 such, - I recall, my recollection is that there was 23 evidence that there were strikers sleeping on the koppie 24 after the events on the 16th of August, but we will check 25 that and we will see what Colonel Scott says.</p>

<p style="text-align: right;">Page 17863</p> <p>1 BRIGADIER CALITZ: Ek kan u ongelukkig 2 nie help in daardie geval nie. 3 MR BUDLENDER SC: Ja, but you say your 4 information you got from Crime Intelligence. 5 BRIGADIER CALITZ: Dit staan nie in my 6 verslag nie, dit was my getuienis dat ek sal by Misdaad 7 Intelligensie hoor op daardie stadium wie die inligting 8 gerapporteer het. 9 MR BUDLENDER SC: When I asked you where 10 you got the information I thought you said you got it from 11 Crime Intelligence, have I misunderstood? 12 BRIGADIER CALITZ: Ek dink u het 13 misverstaan, ek sal by hulle gaan uitvind, normaalweg kry 14 ons die inligting van hulle af. Dit kan wees die 15 observasie pos wat ons gehad het deur Taakmag, dit kan wees 16 deur die Roots informasie, daar is verskeie moontlikhede, 17 mnr die Voorsitter. 18 MR BUDLENDER SC: Alright, thank you. I 19 now want to move onto GGG13 which is the first statement 20 which you made. Do you have it? 21 BRIGADIER CALITZ: Korrek, mnr die 22 Voorsitter. 23 MR BUDLENDER SC: Now I would like you to 24 go to page 3, to paragraph 11, this is the first, - there 25 are several issues I would like to raise with you about</p>	<p style="text-align: right;">Page 17865</p> <p>1 indicates that the mineworkers will not leave the koppie 2 and are prepared to fight if their demands are not met, 3 which includes resisting the police." 4 Now can I suggest to you that that's quite 5 different. That doesn't suggest that they're going to seek 6 a confrontation with the police, it suggests that they're 7 going to resist the police, if the police take some action 8 against them. Would you like to comment on that? 9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 ja, beslis. As ek vir u gaan sê dat ek is bereid om met u 11 te baklei en ek gaan myself teësit, die blote feit dat ek 12 gaan sê ek gaan met u baklei en my gaan teësit is vir my 'n 13 konfrontasie. Dit is hoe ek dit verstaan het in my taal. 14 MR BUDLENDER SC: Do you not see any 15 difference between seeking a confrontation and resisting 16 when somebody comes towards you? 17 BRIGADIER CALITZ: Mnr die Voorsitter, 18 nee, wanneer u dreigemente maak om te baklei en duidelik 19 dit te kenne gee dat u gaan resist, is dit vir my 'n 20 tipiese ding van daar gaan 'n konfrontasie plaasvind. Dit 21 is hoe ek dit sien. Die woorde "fight and resist" is vir 22 my konfrontasie, dit is hoe ek dit sien. 23 MR BUDLENDER SC: Their demands were 24 demands which were addressed to Lonmin, not addressed to 25 the SAPS.</p>
<p style="text-align: right;">Page 17864</p> <p>1 this, let's go to page 3, paragraph 11, the first issue, 2 and you will see the third sentence on the fifth line, 3 well, let's take it from the beginning. "On Thursday, 4 2012/08/16 at about 7:30 we had a meeting in the JOC. We 5 were informed by Major-General Annandale that the meeting 6 between the generals and the respective NUM and AMCU 7 leadership resulted in AMCU President giving us the 8 assurance that the members will in all probability lay down 9 their arms at 09:00 on 2012/08/16." Now this is the part 10 that I want to ask you about. "Further information 11 suggested as per feedback received, that the group gets 12 more agitated and that they seek confrontation with SAPS." 13 Now is that correct? Is that correct what you said there? 14 BRIGADIER CALITZ: Mnr die Voorsitter, 15 dit was my verklaring onder eed gewees, so dit is korrek. 16 MR BUDLENDER SC: I would like you to go 17 to TT4, which are the minutes of that JOCCOM meeting. 18 Let's read what that says. This is, paragraph 2.1 is the 19 Crime Intelligence. Lieutenant-Colonel Isaacs informed the 20 meeting on the following, the first bullet, "that there are 21 currently about 3,000 mineworkers that are gathered at the 22 koppie. Many of these mineworkers are in possession of 23 dangerous weapons, spears, assegai and pangas. According 24 to information received the group will decline to surrender 25 these dangerous weapons to the police. Information also</p>	<p style="text-align: right;">Page 17866</p> <p>1 BRIGADIER CALITZ: Waar is u nou, ekskuus 2 tog? 3 MR BUDLENDER SC: I'm saying to you that 4 the demands which the strikers were making were at their 5 heart a demand addressed at Lonmin, not a demand addressed 6 at the SAPS, is that not correct? 7 BRIGADIER CALITZ: Dit is korrek, ja, die 8 demands was gevra en die polisie was die bemiddelaar om die 9 boodskap aan die myn oor te dra. 10 MR BUDLENDER SC: Yes, I'm just putting 11 to you that there is a difference between seeking a 12 confrontation and resisting, you don't see the difference? 13 BRIGADIER CALITZ: Nee, mnr die 14 Voorsitter, glad nie. Soos ek reeds vir u gesê het, as u 15 vir my gaan sê dat ons gaan hier buitekant, u gaan met my 16 baklei en u teësit, dan beteken dit ek en u gaan in 'n 17 konfrontasie ingaan. 18 MR BUDLENDER SC: Alright, so you stand 19 by what is in paragraph 11 of that statement. 20 BRIGADIER CALITZ: Ek staan by wat ek sê, 21 mnr die Voorsitter. 22 CHAIRPERSON: May I ask you a question 23 about this? You're talking in paragraph 11, as I 24 understand it, about what happened at the JOCCOM meeting 25 early in the morning, is that correct?</p>



<p style="text-align: right;">Page 17867</p> <p>1 BRIGADIER CALITZ: Korrek, mnr die 2 Voorsitter. 3 CHAIRPERSON: Now the sentence that 4 counsel has put to you, Mr Budlender has put to you, the 5 information suggested, etcetera, that sentence, that is 6 your summary, I take it of what you understood to be the 7 information received at that meeting, is that correct? 8 BRIGADIER CALITZ: Dit is korrek, mnr die 9 Voorsitter. 10 CHAIRPERSON: It is not based on anything 11 that happened later, it is based upon the information given 12 by Lieutenant-Colonel Isaacs, I think it was the 13 representative of the Crime Intelligence people at the 14 meeting, based upon your summary of what you understood him 15 to have said, is that correct? 16 BRIGADIER CALITZ: Dit is korrek, mnr die 17 Voorsitter. 18 MR BUDLENDER SC: I would like you to 19 keep that paragraph 11 with you and now go to your 20 consolidated statement, JJJ107, paragraph 75, do you have 21 it? There it says – 22 BRIGADIER CALITZ: Ek het hom, mnr die 23 Voorsitter. 24 MR BUDLENDER SC: "In that meeting Crime 25 Intelligence reported that the strikers were not prepared</p>	<p style="text-align: right;">Page 17869</p> <p>1 verklaring het ek dan gesê wat wel deur Misdaad 2 Intelligensie aan my gerapporteer is en nie my eie 3 afleidings gemaak nie, soos in paragraaf 11. 4 MR BUDLENDER SC: That's what I want to 5 know, I'm asking you, why, why, you say in the original 6 statement you referred to your own afleidings, conclusions 7 from the information which you received from Crime 8 Intelligence and then in paragraph 75 you didn't say it in 9 the same terms. If there is no difference why did you 10 change it? 11 BRIGADIER CALITZ: Mnr die Voorsitter, ek 12 sien geen verandering in dit nie, u vraag aan my was, 13 paragraaf 11, was dit my interpretasie van wat vir my gesê 14 is en ek het gesê, ja, en hier is dit pertinent wat ek 15 verwys het wat Crime Intelligence vir ons gesê het. 16 MR BUDLENDER SC: Can you see if there is 17 a difference? 18 CHAIRPERSON: Sorry, you've answered 19 counsel's question, let him answer mine. 20 MR BUDLENDER SC: Can you see that the 21 words used in the two statements are different? 22 BRIGADIER CALITZ: Die een sê 23 konfrontasie, as u daarna verwys, die verskillende woorde 24 en die een sê, "disarm, resist," ensovoorts, in die – 25 MR BUDLENDER SC: The one say, sorry, but</p>
<p style="text-align: right;">Page 17868</p> <p>1 to disarm and will resist any attempt by the police to 2 disarm them." So you didn't repeat what was in your 3 original, the words which were used in your original 4 statement, is that correct? 5 BRIGADIER CALITZ: Nee, mnr die 6 Voorsitter, dit is nie 'n herhaling nie. As u miskien 7 gehoor het die vraag deur die voorsitter nou net aan my, is 8 dat paragraaf 11 was my afleiding en nie 'n quote wat Crime 9 Intelligence gedoen het nie. Hier verwys ek in die 10 paragraaf, "In that meeting Crime Intelligence reported," 11 so hier het ek gebruik die woorde wat deur Crime 12 Intelligence wel genoem is. Dit verskil van paragraaf 11 13 wat dan my afleiding of my woorde was. 14 MR BUDLENDER SC: What I want to know is, 15 why did you change the account of it which you gave in the 16 original statements to the version, the account which you 17 gave in paragraph 75, if there was no difference between 18 them? 19 BRIGADIER CALITZ: Mnr die Voorsitter, 20 daar was niks verander nie. Paragraaf 11 op daardie 21 stadium, twee, drie dae na die tyd toe ek die verklaring 22 gemaak het vir die dossier was dit my verstandhouding. 23 Daar sou 'n konfrontasie wees en dit was my afleiding wat 24 ons gemaak het. Hierdie verklaring het ek afgelê vir die 25 Kommissie, ek dink dit was onlangs gewees en in hierdie</p>	<p style="text-align: right;">Page 17870</p> <p>1 the one says they will seek confrontation and the other 2 says they will resist any attempt by the police to disarm 3 them. You can see that that was changed. 4 BRIGADIER CALITZ: Ek het nie in 5 paragraaf 11, as ek dit net vir u kan lees, paragraaf 11, 6 nadat "They will in all probability lay down arms," die 7 woorde sê, "Further information suggested as per feedback 8 received that the group gets more agitated and they seek 9 confrontation with the SAPS." Dit is paragraaf 11, "as per 10 feedback received," the more agitated is die negotiation 11 group en dan ook die ander inligting. Hier het ek glad nie 12 Crime Intelligence aangehaal nie, dit is miskien die 13 verskil of miskien iets wat u nie raak sien. In paragraaf 14 75 sê ek wel dat, "The meeting with Crime Intelligence 15 reported," en hier het ek spesifiek verwys na wat Misdaad 16 Intelligensie vir ons genoem het, so as dit is, die verskil 17 waarna u verwys, ja, maar ek het Misdaad Intelligensie 18 pertinent nie aangehaal in paragraaf 11 soos beweer nie. 19 CHAIRPERSON: Sorry, if I can ask a 20 couple of questions on the point, in the earlier statement, 21 I think you said you were giving your account of what 22 happened at the JOCCOM meeting in the morning, the early 23 morning of the 16th. 24 BRIGADIER CALITZ: Korrek, mnr die 25 Voorsitter.</p>

<p style="text-align: right;">Page 17871</p> <p>1 CHAIRPERSON: And the information  2 received about the likely behaviour of the strikers was of  3 course from Crime Intelligence. So it does sound as if you  4 were summarising, I think you said that, summarising what  5 you understood and remembered what Crime Intelligence had  6 said. Now I must tell you there does appear to be a  7 difference, I'm not sure if it is a material difference.  8 Confrontation by the strikers presupposes, I would have  9 thought, some kind of proactive action by the strikers.  10 They take the initiative, they come up and confront the  11 police. Resisting attempts to disarm is more a reaction on  12 the part of the strikers, so there is a difference, but I'm  13 not sure where it takes us because I suspect and I want to  14 ask you, just to see if my suspicion is correct, I suspect  15 that paragraph 75 of your latest statement was based upon  16 looking at the minutes of the meeting, is that right?  17 BRIGADIER CALITZ: Korrek, mnr die  18 Voorsitter, as ek –  19 CHAIRPERSON: So what you were doing in  20 75, you were trying to state as accurately as you could,  21 what Crime Intelligence have said and the source you looked  22 at to get the information was the minutes, is that right?  23 BRIGADIER CALITZ: Korrek, mnr die  24 Voorsitter.  25 CHAIRPERSON: So you may have got it</p>	<p style="text-align: right;">Page 17873</p> <p>1 and deal with the matter as quickly as we can?  2 MR BUDLENDER SC: Could we look at TT5?  3 BRIGADIER CALITZ: Mnr die Voorsitter,  4 kan ek dalk net help om TT4, waarna u reeds verwys het, die  5 laaste sin, "The information indicates that the  6 mineworkers will not leave the koppie and are prepared to  7 fight if their demands are not met, which includes  8 resisting the police." Die woordjie "fight" is wel daar  9 gebruik en as u sien paragraaf 2.1, langs dit staan die  10 woord "Crime Intelligence." Dit beteken dit was hulle  11 input in die oggend vergadering.  12 CHAIRPERSON: Yes, fight could include  13 proactive action by the strikers, you know, so I think we  14 should possibly, probably move on, Mr Budlender.  15 MR BUDLENDER SC: The Crime Intelligence  16 report speaks for itself, Chair, I'm not going to go there.  17 BRIGADIER CALITZ: Dit is inderdaad so,  18 mnr die Voorsitter.  19 MR BUDLENDER SC: Then the next issue I  20 would like you to clarify on that statement is in paragraph  21 18 –  22 CHAIRPERSON: Are you back at GGG13, are  23 you?  24 MR BUDLENDER SC: Yes, I am, Chair.  25 CHAIRPERSON: Have you finished with 11</p>
<p style="text-align: right;">Page 17872</p> <p>1 slightly wrong in your earlier statement and you may have  2 remembered more than actually was said, but here, at 75,  3 you're stuck to what the minutes said they said and that's  4 what you did, is that correct?  5 BRIGADIER CALITZ: Korrek, mnr die  6 Voorsitter, as ek 'n woordjie kan bysit. U het melding  7 gemaak net van die woordjie "resist," as ek dalk net kan sê  8 die woordjie "fight", "fight if their demands are not met,"  9 die woordjie "fight" beteken daar gaan definitief 'n aksie  10 van hulle kant af na ons toe kom, so dit is nie net 'n, dit  11 dui vir my totaal en al op 'n konfrontasie van hulle kan af  12 na ons toe, soos die Crime Intelligence report wel gesê het  13 daardie oggend.  14 MR BUDLENDER SC: Well, I don't think  15 that's what the Crime Intelligence report said, that they  16 were going to go out and fight with you. I may be wrong,  17 but shall we have a look at the Crime Intelligence report?  18 BRIGADIER CALITZ: Mnr die Voorsitter, -  19 MR BUDLENDER SC: I don't want to go on  20 with this issue forever, it seems to me it is a small point  21 but if you say the Crime Intelligence told you that they  22 were going to seek a fight –  23 BRIGADIER CALITZ: Mnr die Voorsitter, -  24 MR BUDLENDER SC: Is that your answer?  25 CHAIRPERSON: Let's look at it quickly</p>	<p style="text-align: right;">Page 17874</p> <p>1 or are you going to come back to it later?  2 MR BUDLENDER SC: Can I just check,  3 Chair? No, I wasn't planning to come back to it.  4 CHAIRPERSON: Alright. Well, perhaps I  5 can ask a question now while I remember it. You've got  6 paragraph 11 of GGG13 in front of you, isn't it?  7 BRIGADIER CALITZ: Korrek, mnr die  8 Voorsitter.  9 CHAIRPERSON: Alright, I think the  10 sensible thing to do is to read it and then take it  11 further. After the sentence that's being debated which  12 begins with "Further information suggested that the group  13 gets more agitated," after that sentence, "A decision was  14 taken we must have a contingency to be in a position that  15 should the call from the AMCU President to lay down arms  16 has failed, if SAPS be in a position to disperse the crowd  17 and to disarm smaller groups and to effect arrests," that's  18 a reference to phase 3, I think, that if they don't lay  19 down their arms, if the AMCU President's call to them to do  20 so doesn't succeed, then the police must be ready to  21 proceed to phase 3, I think that's correct, isn't it?  22 BRIGADIER CALITZ: Korrek, mnr die  23 Voorsitter, dit sluit ook fase 2 in.  24 CHAIRPERSON: Alright –  25 BRIGADIER CALITZ: Die position gedeelte.</p>

<p style="text-align: right;">Page 17875</p> <p>1 CHAIRPERSON: Yes, yes, yes, phase 2 and 2 3. 3 BRIGADIER CALITZ: Korrek, mnr die 4 Voorsitter. 5 CHAIRPERSON: Then you go on, "We were 6 given an operational overview of possible deployment of 7 SAPS members at the koppie." I think the evidence is, or 8 certainly the minutes seem to indicate and even the rough 9 notes, the contemporaneous notes seem to indicate that 10 Colonel Scott set out, he only spoke about phase 2 as far 11 as I can recall, - 12 BRIGADIER CALITZ: Dit is korrek, mnr die 13 Voorsitter. 14 CHAIRPERSON: And there was going to be 15 later information about phase 3 if and when the need arose, 16 that's more or less correct, isn't it? 17 BRIGADIER CALITZ: Fase 3 sou dan verder 18 met ons, indien besluit word sou dit met ons gekommunikeer 19 word op 'n latere stadium. 20 CHAIRPERSON: Ja, okay. Then it goes on, 21 "We also decided that razor wire trailer should be 22 positioned for later deployment in order to be used as a 23 force continuum as part of a show force and to protect our 24 forces." Now I take it that refers to two aspects, firstly 25 the putting of the Nyalas with the trailers in position and</p>	<p style="text-align: right;">Page 17877</p> <p>1 could see you meant business of some kind and the wire 2 wasn't totally uncoiled. You didn't think at all that they 3 might attack at that stage? 4 BRIGADIER CALITZ: Mnr die Voorsitter, u 5 is korrek. Dit is bespreek en ons het dit nooit voorsien 6 op daardie stadium nie, nee. 7 CHAIRPERSON: I see. 8 BRIGADIER CALITZ: Dankie, mnr die 9 Voorsitter. 10 MR BUDLENDER SC: Then, Brigadier, could 11 we go to paragraph 13 of your first statement, GGG13. My 12 apologies, not paragraph 13, paragraph 18. Do you have it? 13 BRIGADIER CALITZ: Ek het hom, mnr die 14 Voorsitter. 15 MR BUDLENDER SC: There you say "later I 16 was informed that several of the attacking men were killed. 17 As we were advancing towards the crowd in the Nyala 18 vehicles I instructed the members to disembark the vehicles 19 and to affect arrests on the men who were part of the 20 crowd. I later found the arrested suspects at a nearby 21 koppie where Major-General Naidoo was in command". Now is 22 that correct that Major-General Naidoo was in command at 23 koppie 3? I take it, sorry let me take a step back. I 24 take it the nearby koppie is koppie 3? 25 BRIGADIER CALITZ: Ek het hier verwys na</p>
<p style="text-align: right;">Page 17876</p> <p>1 when you moved over to protecting the, - the sentence goes 2 on, "It talked about protecting our forces," that I take it 3 refers to the actual uncoiling of the wire, is that right? 4 Is that correct? 5 [12:18] BRIGADIER CALITZ: Korrek, mnr die 6 Voorsitter. 7 CHAIRPERSON: Right. Now the next 8 sentence, "should there be an attack it will put SAPS in a 9 position to delay the advancing group and the SAPS to 10 deploy less then lethal methods." That, I must tell you 11 creates an impression that you foresaw that when the wire 12 was uncoiled the strikers might attack the police. 13 BRIGADIER CALITZ: Mnr die Voorsitter, ek 14 dink in my konsoliderende verklaring het ek ook daarvan 15 verwys, die twee verskille, wat ons wel hier bedoel het is 16 as ons die draad uitgegooi het en ons sou dan die opdrag 17 gegee het vir die uiteendrywing daar het ons wel verwag dat 18 daar resistance of dan a attack sou plaasvind. 19 CHAIRPERSON: So you thought they might 20 attack you if the dispersal and disarming operation 21 started? 22 BRIGADIER CALITZ: Dit is korrek, mnr die 23 Voorsitter. 24 CHAIRPERSON: But you didn't think they 25 might attack you before that actually started, when they</p>	<p style="text-align: right;">Page 17878</p> <p>1 koppie 3, u is korrek. 2 MR BUDLENDER SC: Was Major-General 3 Naidoo in command at koppie 3? 4 BRIGADIER CALITZ: Nie volgens die plan 5 nie, mnr die Voorsitter. Maar ek het hom aan getref toe ek 6 daar aankom en hy was die meer senior offisier wat dan 7 beheer gevat het by koppie 3. 8 MR BUDLENDER SC: Yes. I think you said 9 in your evidence-in-chief you in fact had not expected to 10 find him at koppie 3 when you got there? 11 BRIGADIER CALITZ: Korrek, mnr die 12 Voorsitter. 13 CHAIRPERSON: You mean he was, I take it 14 you mean he was factually in command, he wasn't just 15 standing there with his arm folded as a spectator, he was 16 functioning as the person in command when you arrived 17 there, is that correct, is that what you mean? 18 BRIGADIER CALITZ: Korrek, mnr die 19 Voorsitter. Hy het die persone van forward holding area 1 20 by hom gehad wat dan die speurders is, die crime scene 21 managers, daardie persone was onder sy bevel en beheer en 22 hulle was dan besig op die toneel. 23 MR BUDLENDER SC: That perhaps to avoid 24 any confusion, that was not mentioned in your final 25 statement, you don't refer to him being in command there.</p>

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1 There's no particular reason for that I assume?  
 2 BRIGADIER CALITZ: Nee, ek dra nie  
 3 kennis, ek sal moet deur lees, ek kan nie onthou dat ek  
 4 genoem of uit gelaat het nie.  
 5 MR BUDLENDER SC: I don't think it's a  
 6 critical issue. Now I want to then turn to the third issue  
 7 arising out of these statements. Out of this statement the  
 8 GGG13 and I'd like you to look at paragraph 17 on page 5  
 9 and you say "a group of members were also outside the  
 10 Nyalas. As the group of armed men –  
 11 CHAIRPERSON: I'm sorry, Mr Budlender, I  
 12 think it would be helpful to everybody if we looked at the  
 13 previous sentence, the previous paragraph just to get the  
 14 context of this, because you've gone back now from the  
 15 previous, from paragraph 18 I think. We're now moving at  
 16 17, I think it's important for us to know where in the, in  
 17 the events of the afternoon what is described in para 17  
 18 took place, I think. We'll get that I think by looking at  
 19 16, won't we.  
 20 MR BUDLENDER SC: Thank you, Chair. So  
 21 at 16, paragraph 16 you say "that at about 15:40 the first  
 22 of the barbed wire were deployed." At the same time,  
 23 Chair, would you like me to read the whole thing out?  
 24 CHAIRPERSON: I think it might be helpful  
 25 to us.

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1 MR BUDLENDER SC: "At the same time the  
 2 person with the green blanket approached us, he was very  
 3 aggressive and again said that we will die and that he's  
 4 not returning again. While we were busy deploying the  
 5 barbed wire the whole group, those that were on the ground  
 6 and those on the koppie moved in their identified  
 7 formation. Bended closer to each with the leaders to the  
 8 front towards the SAPS. The group moved in a closed  
 9 formation directly to the last Nyala with the barbed wire  
 10 trailer, not yet deployed. All the men were aggressive and  
 11 were chanting as they moved towards the Nyala. I then  
 12 informed the driver of the Nyala over the radio to close  
 13 the doors" and then that provides the context for the  
 14 passage which I was reading, where you then say, paragraph  
 15 17 "a group of members were also outside the Nyala. As the  
 16 group of armed men advanced towards the SAPS members the  
 17 SAPS members got into the Nyala and the group attacked them  
 18 moving in the direction of the cattle kraal. The plan to  
 19 disperse turned into defensive actions in an attempt to  
 20 preserve life. The group advanced towards members of POP  
 21 and SAPS responded by spraying the group with the water  
 22 cannons, stun grenades were thrown as well tear gas in an  
 23 attempt to disperse the crowd. Some SAPS members fired  
 24 rubber bullets at the crowd but they continued advancing  
 25 towards the SAPS members. We then moved with the Nyala

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1 vehicles in the direction of the cattle kraal in an attempt  
 2 to block and divide the crowd and to disperse them into  
 3 smaller groups in order to disarm and arrest them" and then  
 4 the next paragraph you say "later I was informed that  
 5 several of the attacking men were killed, as we were  
 6 advancing towards the crowd in the Nyala vehicles I  
 7 instructed the members to disembark the vehicles and to  
 8 affect arrests on the men who were part of the crowd. I  
 9 later found the arrested suspects at a nearby koppie where  
 10 Major-General Naidoo was in command."  
 11 CHAIRPERSON: Can I stop you, perhaps we  
 12 can take a comfort break at this point but I just want to  
 13 put something, make sure I understand. It looks to me as  
 14 if 16 and 17 deal with what happened at scene 1 and deal  
 15 effectively what happened before the shooting, right.  
 16 BRIGADIER CALITZ: Korrek.  
 17 CHAIRPERSON: Is that right.  
 18 BRIGADIER CALITZ: Korrek, mnr die  
 19 Voorsitter.  
 20 CHAIRPERSON: And then that's only on 16  
 21 but 17 as well. Then 18 jumps a bit because later I was  
 22 informed that several of the attacking men were killed.  
 23 Now we know that that is a reference to what you heard  
 24 about 16:47 I think from Major-General Annandale, is that  
 25 correct?

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1 BRIGADIER CALITZ: Dit was by koppie 3,  
 2 die paragraaf 18, korrek, mnr die Voorsitter.  
 3 CHAIRPERSON: Yes and what then, you were  
 4 then continuing to narrate what happened after General  
 5 Annandale gave you that information at 16:47 is that right?  
 6 BRIGADIER CALITZ: Mnr die Voorsitter, ja  
 7 ek dink 18 is 'n samevatting.  
 8 CHAIRPERSON: Yes, yes, yes. So 17  
 9 effectively, if we were to write a time next to 17 I  
 10 presume we would write a time just before the actual  
 11 shooting incident at, Mr Budlender, 15:53?  
 12 MR BUDLENDER SC: 15:53.  
 13 CHAIRPERSON: 15:53, so it was before  
 14 that.  
 15 BRIGADIER CALITZ: Insident 1 en insident  
 16 2 as ons daar -  
 17 CHAIRPERSON: Yes, yes, yes. So it's  
 18 before 15:50 because it hadn't happened yet.  
 19 BRIGADIER CALITZ: Korrek.  
 20 CHAIRPERSON: And then if we were to  
 21 write it, a time note next to 18 we would write I take it  
 22 something like 16:47 would actually be your receiving  
 23 information that several of the attacking men were killed  
 24 and the rest of the, of what is in 18 would be what  
 25 happened thereafter, is that correct?

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1 BRIGADIER CALITZ: Nee, mnr die  
 2 Voorsitter, as ek dalk net -  
 3 CHAIRPERSON: Is that not right, okay  
 4 well let's clear that up before we take the adjournment.  
 5 BRIGADIER CALITZ: As ek dalk net kan  
 6 help -  
 7 CHAIRPERSON: We'd be more comfortable if  
 8 you clear it up first.  
 9 BRIGADIER CALITZ: Ekskuus, mnr die  
 10 Voorsitter, na die eerste sin, "later I was informed of  
 11 several attacking men," dit was inderdaad 16:47 die, "as we  
 12 were advancing towards the crowds with the Nyala vehicles,"  
 13 dit is toe ons by, ek verduidelik daar toe ons van koppie 2  
 14 af, waar ons geregroup en hervorm het, waar ons dan  
 15 opgevolg het, die arrestasies waarna ek verwys het en die  
 16 opdragte wat ek hier gegee het vir die persoon in die  
 17 Nyalas is die verskillende opvolg aksies.  
 18 CHAIRPERSON: But that's all after 16:47?  
 19 BRIGADIER CALITZ: Nee, nee, mnr die  
 20 Voorsitter, 16:47 was die heel laaste insident.  
 21 CHAIRPERSON: I thought 16:47 was when  
 22 General Annandale told you that people had been killed, oh  
 23 I see, you say -  
 24 BRIGADIER CALITZ: Dit was -  
 25 CHAIRPERSON: These things that you

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1 describe from as we were advancing -  
 2 BRIGADIER CALITZ: Tussen koppie 2 en  
 3 koppie 3.  
 4 CHAIRPERSON: What time would you, if you  
 5 were asked to write down a time estimate as to when that  
 6 happened, what would you tell us? What would you write?  
 7 BRIGADIER CALITZ: Mnr die Voorsitter, as  
 8 ek daarby, "as we were advancing towards the crowd," dit  
 9 sal gewees het nadat ons daai 7 tot 9 minute staties  
 10 gestaan het langs koppie 2 waar ons gewag het vir die  
 11 persone om te kom. Ek het nie 'n tyd lyn -  
 12 CHAIRPERSON: This is the dry river bed?  
 13 BRIGADIER CALITZ: Ja, dit is korrek, mnr  
 14 die Voorsitter. So van daar af -  
 15 CHAIRPERSON: Okay, I see.  
 16 BRIGADIER CALITZ: Dit is daardie tydyn  
 17 daar.  
 18 CHAIRPERSON: For those who know all  
 19 about the time, the time line will tell us what that time  
 20 is. But we'll take the comfort break and during that time  
 21 they can get that information for us.  
 22 BRIGADIER CALITZ: Korrek, mnr die  
 23 Voorsitter.  
 24 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 25 [12:42] CHAIRPERSON: The Commission resumes.

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1 Now we've sorted out that little timing problem.  
 2 Brigadier, I remind you, you're still under oath.  
 3 ADRIAAN MARTHINUS CALITZ: s.u.o.  
 4 CHAIRPERSON: Mr Budlender.  
 5 MR BUDLENDER SC: Chair, perhaps before  
 6 we get to that, can I just deal with one matter raised by  
 7 Commissioner Hemraj about the, and by you, Chair, also,  
 8 about the statement by Brigadier Pretorius. The position  
 9 is that the latest statement we have, latest signed  
 10 statement we have from Brigadier Pretorius is dated August  
 11 2013. It's an exhibit, it's JJJ187A. We don't yet have a  
 12 further statement arising from the examination of the cell  
 13 phone records, and perhaps I can just read for the sake of  
 14 convenience what she says about the IPID contact. This may  
 15 be helpful now.  
 16 CHAIRPERSON: Before you do that, let me  
 17 check with Mr Semenya, because Mr Semenya indicated a point  
 18 of principle really in respect of this kind of information,  
 19 but if he doesn't mind your reading it then obviously - no,  
 20 sorry, is it actually in the exhibits? Oh, sorry, I beg  
 21 your pardon. What you're reading is from the exhibit, so  
 22 the point I raise - I thought this was some extra  
 23 information you got from her since.  
 24 COMMISSIONER HEMRAJ: She deals in her  
 25 statement, as I recall, with having made contact with IPID,

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1 reporting the deaths. Isn't that so?  
 2 MR BUDLENDER SC: That's absolutely  
 3 correct, Commissioner.  
 4 COMMISSIONER HEMRAJ: But no reference to  
 5 the actual telephone, the contents of the telephone calls -  
 6 MR BUDLENDER SC: No, perhaps I can  
 7 read -  
 8 COMMISSIONER HEMRAJ: Yes.  
 9 MR BUDLENDER SC: Commissioner, you're  
 10 correct. She says paragraph 33 of her statement, I don't  
 11 think it's necessary to call it up, she says, "After I  
 12 received the report of casualties, I phoned Mr Molatsedi,  
 13 the acting Provincial Head of IPID, to inform him about the  
 14 incident. I'm not sure about the time of this call. His  
 15 phone was on voicemail, but he later phoned me back and  
 16 promised to send Mr Motaung of the IPID office at  
 17 Rustenburg to attend to the scene," and then she goes on.  
 18 That would seem, although she refers to phoning and leaving  
 19 a message on the phone, it seems that it was in fact an  
 20 SMS, because she sent an SMS to him at 16:03, and that  
 21 presumably is the, that SMS one presumes corresponds with  
 22 what she says about phoning him. We haven't found any  
 23 record of a phone call from her to him.  
 24 CHAIRPERSON: You understand the point,  
 25 Brigadier; what appears from this is that Brigadier

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1 Pretorius in the JOC knew – what time was it? 16:03?  
 2 MR BUDLENDER SC: 16:03, Chair.  
 3 CHAIRPERSON: 16:03, she knew that there  
 4 were people killed, which is why she immediately contacted  
 5 IPID and one matter obviously we'll have to investigate, I  
 6 hope without spending too much time on it, is how come the  
 7 people in the JOC knew at that stage, but you didn't, and  
 8 you only knew substantially later. But anyway, I don't  
 9 think we need – unless Mr Budlender wants to take it  
 10 further, I don't think we need take it further now.  
 11 BRIGADIER CALITZ: Dankie, mnr die  
 12 Voorsitter  
 13 CROSS-EXAMINATION BY MR BUDLENDER SC (CONTD.):  
 14 Right, Brigadier, then we are now at paragraphs 17 and 18  
 15 of –  
 16 CHAIRPERSON: [Microphone off, inaudible]  
 17 I thought about it during the comfort break and I ask – not  
 18 to do with these paragraphs, it relates to something else.  
 19 It would appear from the mobile telephone information we've  
 20 been given that during the relevant time, you know from  
 21 round about 4 o'clock onwards to about 10 to 5, you weren't  
 22 actually using your cell phone, your mobile phone at all.  
 23 Is that right?  
 24 BRIGADIER CALITZ: Ek kan kyk na my  
 25 rekords, maar ek glo nie –

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1 CHAIRPERSON: Ja, well according to that  
 2 record, according to what we've got you weren't.  
 3 BRIGADIER CALITZ: Ek glo nie ek het hom  
 4 gebruik, nee.  
 5 CHAIRPERSON: It's the election. There  
 6 may be others, but as far as we can see you didn't, but if  
 7 I'm wrong I'll be corrected. So that means that your  
 8 mobile phone wouldn't have been engaged. So if somebody  
 9 tried to get hold of you, wouldn't have failed to get hold  
 10 of you because it was engaged.  
 11 BRIGADIER CALITZ: O ja. No, no, no, ek  
 12 verstaan u korrek. Nee, meneer, dit is so.  
 13 CHAIRPERSON: Am I right?  
 14 BRIGADIER CALITZ: Ek stem saam met u,  
 15 mnr die Voorsitter.  
 16 CHAIRPERSON: Right, so the only reason  
 17 why they couldn't get hold of you, if they tried to get  
 18 hold of you – remember, because you don't know if they did.  
 19 They say they did, but we don't know whether that's true.  
 20 The only reason why they would not have been able to get  
 21 hold of you on your mobile phone would be that you were in  
 22 an area where the network facility wasn't available. I  
 23 don't know what the correct word is, but you know what I  
 24 mean. Very often when one drives a motor car and you go  
 25 around bends there are places where you've got network

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1 connectivity and other places where you suddenly lose it.  
 2 So I take it it's a fair inference therefore that if people  
 3 tried to get hold of you and failed, it would have been  
 4 because where you were was a place where there was no  
 5 network connectivity. The other explanation that the phone  
 6 was engaged doesn't apply. That's correct, isn't it?  
 7 BRIGADIER CALITZ: Dit is baie moontlik,  
 8 mnr die Voorsitter.  
 9 CHAIRPERSON: Are there any other –  
 10 BRIGADIER CALITZ: Ek stem saam met u,  
 11 mnr die Voorsitter.  
 12 CHAIRPERSON: There is no other  
 13 possibility. It's one or the other, and your phone wasn't  
 14 engaged, so it had to be, if they did phone – I mean you  
 15 don't know whether they did. Now while we're on that,  
 16 another point has been suggested to me which I must deal  
 17 with. If your phone wasn't engaged and there was not a  
 18 network connectivity problem and someone had phoned or  
 19 tried to get hold of you, then your phone might have rung  
 20 but because you were busy doing other things and there was  
 21 a lot of noise and activity going on, you mightn't have  
 22 realised it, but then later on you would have seen a missed  
 23 call. That's right, isn't it?  
 24 BRIGADIER CALITZ: Dit is moontlik.  
 25 CHAIRPERSON: Well, I mean I'm not

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1 interested in possibilities. It is so, isn't it?  
 2 BRIGADIER CALITZ: As hulle geskakel het  
 3 sou daar 'n "missed call" gewys het op my foon.  
 4 CHAIRPERSON: Yes, that's the point.  
 5 BRIGADIER CALITZ: Ek kan dit nie  
 6 onthou –  
 7 CHAIRPERSON: No, but I assume also –  
 8 well, I mustn't put it as strongly as that. Would it be  
 9 fair to assume that if later when all the trouble was over  
 10 you'd looked at your phone and seen missed calls, you would  
 11 have noticed that and you, I imagine in all probability  
 12 might even have got hold of the people who tried to get  
 13 hold of you. Is that fair?  
 14 BRIGADIER CALITZ: Ek, dit is "fair."  
 15 CHAIRPERSON: Ja, okay. Thank you.  
 16 COMMISSIONER HEMRAJ: Mr Budlender, there  
 17 was some evidence about the JOC trying to get hold of  
 18 various persons and that's when this whole issue of missed  
 19 calls being placed came up. I just can't place my finger  
 20 on exactly where it was.  
 21 MR BUDLENDER SC: I can't do better than  
 22 you, Commissioner.  
 23 COMMISSIONER HEMRAJ: But I will find it.  
 24 MR BUDLENDER SC: Of that I have no  
 25 doubt. Right, now Brigadier, we're then at your first

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1 statement –

2 CHAIRPERSON: Can I just make one comment

3 before you carry on? I take it, it should be possible to

4 ascertain from the places where he said he was whether

5 there would be network connectivity at those places.

6 That's correct, is it? I'm not an expert on mobile phones,

7 but I'm asking you is that so or not?

8 MR BUDLENDER SC: I assume so, Chair.

9 Perhaps with the help, if –

10 CHAIRPERSON: But anyway, this is a

11 matter that could possibly be looked into, unless it's a

12 "dwaalspoor" and a waste of time, but I mention it because

13 it arose following on various little bits of evidence that

14 he gave, and if there's no substance in the point then

15 obviously I'd be grateful if I was told that, and if there

16 is some substance I'd be grateful if the necessary

17 examinations and tests could be done.

18 MR BUDLENDER SC: We could certainly test

19 it, Chair. There is a difficulty I think, as Mr Semenya

20 remarked to me in passing as this was going on, that cell

21 phone networks, or connectivity is not always consistent.

22 Sometimes it comes and goes, so one would have to be

23 cautious about drawing any –

24 CHAIRPERSON: Well, I take it enquiries

25 could be made of the mobile phone companies who could tell

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1 us, but if the answer is it comes and goes and you can't

2 test on Saturday whether there was connectivity at a place

3 on Tuesday, if the answer is you can't do that, well then

4 the point I've raised is without substance.

5 MR BUDLENDER SC: Brigadier, we've read

6 paragraphs 17 and 18 of your statement, GGG13. The only

7 reference to shooting, or to killing of the protesters or

8 strikers is the first sentence of paragraph 18. Correct?

9 BRIGADIER CALITZ: Korrek, mnr die

10 Voorsitter. Dit was die tyd, 16:47 wat die Voorsitter

11 gevra het.

12 MR BUDLENDER SC: Now of course when you

13 arrived at the nearby koppie, koppie 3, you found that

14 other people had also been killed. Is that correct?

15 BRIGADIER CALITZ: Korrek, mnr die

16 Voorsitter. Ek het gekyk daardie, die vierde sin in

17 daardie paragraaf, volgens my verklaring het ek so 16:55 by

18 die koppie aangekom. Die sinne tussenin wat mnr die

19 Voorsitter gevra het, dit was op 'n, tussen koppie 2 en 3.

20 MR BUDLENDER SC: And then at the end,

21 the last sentence of paragraph 18 you say, "Later I was

22 informed that a total of 34 men that was part of the crowd

23 were killed and that the others who were wounded were

24 transported by ambulance to various hospitals in North West

25 and Gauteng." You see that?

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1 BRIGADIER CALITZ: Korrek, mnr die

2 Voorsitter.

3 MR BUDLENDER SC: Now what puzzles me

4 about this is a person reading this would think there was

5 only incident at which people were killed. Can you see why

6 I think that?

7 BRIGADIER CALITZ: Soos ek reeds getuig

8 het, dit was 'n opsomming van my verklaring, maar dit is

9 moontlik dat u daardie afleiding kan maak.

10 MR BUDLENDER SC: Well, you didn't say

11 there were two separate incidents in which people were

12 killed. It creates the impression there was one incident.

13 BRIGADIER CALITZ: Ek dink tog as mens

14 van paragraaf 16 af lees na 18 toe dan sal mens sien dit

15 praat van verskillende insidente en as mens die sin mooi

16 volg dan sal jy sien ek praat van, einde van paragraaf 17,

17 "When we moved the Nyalas from the direction of the cattle

18 kraal and attempt to block/divide the group to disperse

19 them," daarna het ek verwys na 'n voorval "Later I was

20 informed." So volgens my is dit 'n duidelike opsomming van

21 gebeure op verskillende stadions en nie op een spesifieke

22 plek nie, nee.

23 MR BUDLENDER SC: All I'm suggesting to

24 you, Brigadier, is that anyone reading the statement,

25 taking it at face value, would think that there was only

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1 one scene at which people were killed. Is there any

2 suggestion in the statement that people were killed at a

3 second scene?

4 BRIGADIER CALITZ: Ek het glad nie na 'n

5 toneel 1 of 'n toneel 2 verwys in my verklaring nie, nee

6 mnr die Voorsitter.

7 MR BUDLENDER SC: Is there any

8 suggestion, Brigadier, that – you've told us that the first

9 sentence refers to what you were told by General Annandale;

10 that's scene 1. Is there any suggestion anywhere in the

11 statement where people were also killed at another scene?

12 BRIGADIER CALITZ: Mnr die Voorsitter,

13 dit is net na waar ek u verwys het. Later was ek meegedeel

14 omtrent die 34 persone. So dit is die enigste twee waar ek

15 daarna verwys, glad nie na 'n toneel 1 spesifiek of 'n

16 toneel 2 spesifiek in my verklaring nie, nee.

17 MR BUDLENDER SC: Brigadier, we'll make

18 quicker progress because I think we're not in dispute that

19 you agree that there's nothing in the statement which

20 suggests that there were two separate scenes at which

21 people were killed. You agree with that?

22 BRIGADIER CALITZ: Mnr die Voorsitter,

23 weereens, ek weet nie of ek my miskien verkeerd uitdruk

24 nie. Ek het nie verwys na toneel 1 en toneel 2 nie, maar

25 my verklaring het ek wel opgesom wat gebeur het op een

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1 toneel, volgende toneel, en dan 'n derde toneel –

2 CHAIRPERSON: I don't know, with respect,

3 if that's quite right, but maybe I'm misunderstanding you

4 so I must – let's go through it together. I understood you

5 to say earlier that 17 deals essentially with, I think you

6 said incidents 2 and 3, deals with the cattle kraal and

7 round about scene 1. Is that right?

8 BRIGADIER CALITZ: Korrek, mnr die

9 Voorsitter.

10 CHAIRPERSON: And 17 then ends at the,

11 effectively – more or less actually does before the

12 shooting happens I think, because remember you were around

13 the corner from the kraal, you gave instructions that they

14 must use the Nyalas to disperse the people, and then you

15 went off in another direction. You remember that evidence.

16 Now that's all –

17 BRIGADIER CALITZ: Korrek, mnr die

18 Voorsitter.

19 CHAIRPERSON: That was actually I think

20 just before the shooting took place.

21 BRIGADIER CALITZ: Korrek, mnr die

22 Voorsitter.

23 CHAIRPERSON: That's right. Then 18

24 starts off by telling us what you heard at 16:47, which is

25 what General Annandale told you, and then you talk about,

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1 "As we were advancing towards the crowd," and you remember

2 the – in fact we omitted to ask, we were going to be told

3 by someone what the timeline tells us about that sentence

4 beginning "As we were advancing towards the crowd," but it

5 was actually after scene 2 as well, as far as I remember,

6 where you were more or less at the riverbed at that point,

7 weren't you? Yes, that's right. Alright, then you're

8 advancing towards the crowd and you instructed the members

9 to disembark and effect arrests on the men who were part of

10 the crowd, and then you went to the nearby koppie after

11 some time, later, and you tell us you found arrested

12 suspects there and General Naidoo factually in charge of

13 what was going on. That's right?

14 BRIGADIER CALITZ: Korrek.

15 CHAIRPERSON: And then you talk about how

16 the people had been told to lie on the ground and the

17 Canters came and so forth. But when you got there to the

18 place where General Naidoo was in charge, to what you call

19 the nearby koppie, were there dead bodies there as well?

20 BRIGADIER CALITZ: Op koppie 3?

21 CHAIRPERSON: Yes.

22 BRIGADIER CALITZ: Dit is korrek, mnr die

23 Voorsitter.

24 CHAIRPERSON: But you don't mention that

25 in the statement. I don't want to be critical, but I'm

Page 17897

1 just –

2 BRIGADIER CALITZ: Nee, glad nie. Ek het

3 nie daarna verwys nie, nee.

4 CHAIRPERSON: You didn't mention that,

5 and so the ordinary person who reads your statement

6 wouldn't realise that there were people who were killed at

7 koppie 3 because you don't mention any dead bodies there.

8 What you do mention of course is this incident near, just

9 before scene 1 happened, in the previous paragraph, and

10 then you talk about several people were killed, and then

11 later on - you don't give the number, and then later on you

12 give us the information you received by way of a summary

13 about the 34. Right?

14 BRIGADIER CALITZ: Korrek.

15 CHAIRPERSON: So it does seem as if the

16 point Mr Budlender has put to you is right, that the

17 ordinary reader of this statement wouldn't realise that

18 there were two killing scenes and would be under the

19 impression that there was only one because the second

20 scene, which is the nearby koppie where you actually saw

21 dead bodies, you didn't mention you saw the dead bodies.

22 BRIGADIER CALITZ: Nie in hierdie

23 verklaring nie, nee, mnr die Voorsitter.

24 CHAIRPERSON: No, that I think is the

25 point being made. So it is right. Whether it's a point of

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1 any substance is a matter that can be argued later, but

2 that seems to be the point. Is that right, Mr Budlender?

3 MR BUDLENDER SC: That is so.

4 CHAIRPERSON: Right.

5 MR BUDLENDER SC: And Brigadier, you were

6 never in any doubt that in fact there were two separate

7 scenes some hundreds of metres apart from each other, at

8 which strikers had been shot dead?

9 BRIGADIER CALITZ: Dit is wat aan my

10 bekend gemaak is die eerste toneel om 16:47 en die tweede

11 een het ek self waargeneem toe ek instap daar rondom 5 voor

12 5 na 5 uur toe.

13 MR BUDLENDER SC: Thank you. Chair, I

14 don't know what time the Commission is planning to take a

15 lunch break. I'm going on to a new subject.

16 CHAIRPERSON: I see it's 2 minutes to 1.

17 If you've got a two-minute point you can bring it up, but

18 if you haven't, I'm afraid we'll have to take the

19 adjournment.

20 MR BUDLENDER SC: I have no two-minute

21 points, Chair.

22 CHAIRPERSON: We'll take the lunch

23 adjournment.

24 [COMMISSION ADJOURNS COMMISSION RESUMES]

25 [14:01] CHAIRPERSON: The Commission resumes,



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1 Brigadier, you're still under oath. Mr Budlender?

2 MR BUDLENDER SC: Thank you, Chair.

3 Could we have Exhibit GGG13 on the screen again and could

4 we go to paragraph 19? Thank you, you have it, Brigadier.

5 Now I want to read the passage which I want to discuss with

6 you, from the beginning. "The crowd that assembled on the

7 koppie was unruly and very aggressive. They were all armed

8 with extremely dangerous, homemade and bought weapons which

9 they clearly intended using to injure or kill SAPS members.

10 They acted as one group and all of them associated

11 themselves with the actions of each other. All of them had

12 the same intention and goal. Their actions threatened law

13 and order and constituted crime of public violence. They

14 disturbed public order and peace."

15 Alright, now if I understand your evidence

16 correctly, you say that when you made that part of your

17 statement you were referring to the smaller group at koppie

18 3 and not the whole group of strikers, is that correct?

19 BRIGADIER CALITZ: Dis korrek, mnr die

20 Voorsitter, inderdaad, die hele verklaring was vir 'n

21 dossier aangelê vir die gearresterde persone.

22 MR BUDLENDER SC: Now I want to suggest

23 that there are three reasons why there are difficulties

24 with that explanation. The first difficulty is that, of

25 course we know that you weren't at koppie 3, you were about

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1 a 100 or a 150 metres away until after the confrontation

2 and the shooting and the arrests, is that correct?

3 BRIGADIER CALITZ: Dit is korrek.

4 MR BUDLENDER SC: So you didn't see what

5 happened at koppie 3 in the confrontation and the shootings

6 and the arrests.

7 BRIGADIER CALITZ: Ek het wel gesien

8 tydens die arrestasies, tydens die skietery, nee.

9 MR BUDLENDER SC: You didn't see the

10 confrontation, whatever confrontation there was between the

11 police and the strikers?

12 BRIGADIER CALITZ: As u verwys na die

13 skietvoorval, nee.

14 MR BUDLENDER SC: And as a result,

15 because of the late stage at which you arrived you weren't,

16 - well, at the time when you arrived and that was, I think

17 16:55, correct?

18 BRIGADIER CALITZ: Dit is korrek, mnr die

19 Voorsitter.

20 MR BUDLENDER SC: By that time the

21 shooting was over, the confrontation was over and the

22 strikers were either dead or injured or arrested.

23 BRIGADIER CALITZ: Dit is korrek, mnr die

24 Voorsitter.

25 MR BUDLENDER SC: So you couldn't have

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1 seen whether all of the strikers were using extremely

2 dangerous homemade or bought weapons and what they were

3 doing with them because you weren't there at the time.

4 BRIGADIER CALITZ: Dit is korrek, mnr die

5 Voorsitter, daarom het ek gesê "they were all armed with

6 extremely dangerous homemade weapons," en nie wat hulle

7 daarmee gedoen het nie, nee.

8 MR BUDLENDER SC: Well, you say they

9 acted as one group and all of them associated themselves

10 with the actions of each other. All of them had the same

11 intention and goal, their actions threatened law and order

12 and constituted the crime of public violence. You didn't

13 see that yourself?

14 BRIGADIER CALITZ: Nee, mnr die

15 Voorsitter, weereens wat ek gesê het, hierdie verklaring is

16 gemaak vir 'n dossier van openbare geweld wat aangelê is en

17 dit is ook soos dit aan my gerapporteer is. Ek dink daar

18 is 'n A15, so daar is verskeie verklarings in die dossier

19 en dit is hoe dit dan ook aan my meegedeel is as 'n

20 operasionele bevelvoerder.

21 MR BUDLENDER SC: Brigadier, that's not

22 the question I'm asking you. I'm asking you, did you see

23 the following, "They acted as one group and all of them

24 associated themselves with the actions of each other. All

25 of them had the same intention and goal. Their actions

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1 threatened law and order and constituted the crime of

2 public violence. They disturbed public order and peace."

3 Did you see that?

4 BRIGADIER CALITZ: Soos ek gesê het, nee,

5 mnr die Voorsitter, dit is wat aan my gerapporteer was.

6 MR BUDLENDER SC: Now you're a very

7 experienced policeman, Brigadier Calitz, and you knew as

8 you've just said, that this statement was going to be used

9 in a criminal docket, correct?

10 BRIGADIER CALITZ: Dit was op daardie

11 stadium aan my so meegedeel, mnr die Voorsitter.

12 MR BUDLENDER SC: And the purpose of the

13 statements which are collected for the criminal docket is

14 to lay the basis for the prosecution which is to follow.

15 BRIGADIER CALITZ: Korrek, mnr die

16 Voorsitter.

17 MR BUDLENDER SC: All of that evidence,

18 if it was referring to scene 3, would have been

19 inadmissible because it was hearsay.

20 BRIGADIER CALITZ: Dit sal die beslissing

21 van die hof wees, ek kan dit nie op hierdie stadium sê nie.

22 MR BUDLENDER SC: No, no, you know that,

23 you know that if you give evidence about what you didn't

24 see, if you give evidence about matters you didn't see your

25 evidence about that is inadmissible, it is hearsay, not so?

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1 BRIGADIER CALITZ: Mnr die Voorsitter, as  
 2 iets as 'n operasionele bevelvoerder aan my gerapporteer is  
 3 kan ek in my verklaring net sê wat aan my gerapporteer is,  
 4 as ek die vraag dan reg verstaan.

5 COMMISSIONER HEMRAJ: But, Brigadier, I  
 6 have a difficulty with that answer that you didn't see any  
 7 of this, because as I understood your evidence earlier you  
 8 were there, you saw the crowd, you saw what they had in  
 9 their possession, you've described to us how they behaved,  
 10 so I'm not sure I understand that answer of yours.

11 BRIGADIER CALITZ: Kommissaris, miskien  
 12 het ek die vraag dan verkeerd verstaan. Ek het verstaan  
 13 dat, of ek gesien het die konfrontasie wat in koppie 3  
 14 plaasgevind het tussen die protestors en die polisiemanne,  
 15 ek het pertinent gevra of hy verwys na die skietery en dit  
 16 is waarop ek my antwoord gebaseer het.

17 COMMISSIONER HEMRAJ: I just understand  
 18 your question to refer to koppie 3, Mr Budlender, have I  
 19 mistaken? Have I misunderstood something?

20 MR BUDLENDER SC: It is in relation to  
 21 koppie 3, Commissioner.

22 COMMISSIONER HEMRAJ: I beg your pardon.

23 CHAIRPERSON: Brigadier, your statement  
 24 that you make here in para 19 that Mr Budlender is putting  
 25 to you, talks about the crowd, so as a matter of language

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1 it appears to mean all members of the crowd. Now you're  
 2 making a statement which on the ordinary meaning of the  
 3 word used relates to the crowd that assembled on the  
 4 koppie. So anyone who could be shown to have been a member  
 5 of the crowd who assembled on the koppie, anyone of the  
 6 3,000, could theoretically be arrested in the execution of  
 7 a search warrant granted by a justice of the peace on the  
 8 strength of your affidavit, isn't that right?

9 BRIGADIER CALITZ: As ek u reg verstaan,  
 10 korrek, mnr die Voorsitter.

11 CHAIRPERSON: And you also didn't say,  
 12 I'm informed that, I think elsewhere in your statement you  
 13 say what you were informed, quite properly, and I  
 14 understood you to say 19 was a sort of samevatting, a sort  
 15 of a collection as it were, of all, a summary really of  
 16 what had gone before, but it doesn't according to the  
 17 information I received, I was informed as follows, these  
 18 are plain direct statements which purportedly reflect  
 19 matters within your own knowledge, isn't that correct?

20 BRIGADIER CALITZ: Dit is korrek, mnr die  
 21 Voorsitter.

22 CHAIRPERSON: Ja, that wasn't right, was  
 23 it?

24 BRIGADIER CALITZ: Dit was -

25 CHAIRPERSON: It would have been better

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1 if you, it would have been correct actually to have  
 2 qualified that by saying, this is the information I  
 3 received, is that right?

4 BRIGADIER CALITZ: Nou in hindsight, u is  
 5 korrek, mnr die Voorsitter.

6 CHAIRPERSON: Ja, well, what sort of  
 7 hindsight does a brigadier need to know that when he makes  
 8 an affidavit pertaining hearsay he should indicate it is  
 9 hearsay? What's your answer to that?

10 BRIGADIER CALITZ: Mnr die Voorsitter,  
 11 ja, op daardie stadium het ek nie gedink om daarna te  
 12 verwys dat dit aan my gerapporteer was nie, maar u is  
 13 korrek, mnr die Voorsitter.

14 CHAIRPERSON: Thank you.

15 MR BUDLENDER SC: So if I understand you  
 16 correctly you made the statements about all of the people  
 17 on koppie 3, but you accept that it was in fact not your  
 18 personal knowledge and it was hearsay, is that correct?

19 BRIGADIER CALITZ: Die gebeure op koppie  
 20 3, korrek.

21 MR BUDLENDER SC: And you know from your  
 22 years of experience as a policeman that warrants of arrest  
 23 and search warrants are issued on the basis of the sworn  
 24 statements in the police docket, correct?

25 BRIGADIER CALITZ: Korrek, mnr die

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1 Voorsitter.

2 MR BUDLENDER SC: So people could have  
 3 been arrested, searched or arrested, locked up, charged on  
 4 the basis of a statement which you had made which was  
 5 hearsay and inadmissible, correct?

6 BRIGADIER CALITZ: Mnr die Voorsitter, ek  
 7 het wel getuig dat ek dink daar is vele ander verklarings  
 8 in die dossier wat dit wel gesê het, so ek dink nie my  
 9 verklaring alleen sou gebruik gewees het in die geval nie,  
 10 so nee.

11 MR BUDLENDER SC: That's not the  
 12 question, Brigadier, the question is, when you made the  
 13 statement you were asked to say what you knew and when you  
 14 made it you must have realised that people could be  
 15 arrested and locked up on the strength of the statement  
 16 which you had made which was in fact hearsay.

17 BRIGADIER CALITZ: Onder die wete dat  
 18 daar ander verklarings ook is, mnr die Voorsitter.

19 CHAIRPERSON: Have you read the other  
 20 statements?

21 BRIGADIER CALITZ: Nee, mnr die  
 22 Voorsitter, dit is aan my meegedeel deur die Speurdiens dat  
 23 daar was 'n dossier.

24 CHAIRPERSON: Ja, but you see if there  
 25 were other statements in the docket that said these things

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1 then why did you have to say them, because then your  
 2 statement wasn't needed, is that right?  
 3 BRIGADIER CALITZ: Korrek, mnr die  
 4 Voorsitter.  
 5 CHAIRPERSON: Ja, and the problem I've  
 6 got, it was put to you already, that the way it reads is  
 7 that, "the crowd that assembled," and then you make  
 8 statements about them, they were all armed, so the evidence  
 9 there is, this particular accused was a member of the crowd  
 10 that assembled and then in terms of what you said about  
 11 him, he was armed with an extremely dangerous homemade  
 12 weapon or a bought weapon and you know all the other things  
 13 that follow. So that was inaccurate, was it, but in any  
 14 way I think you've said that already, so there is no point  
 15 in repeating it.  
 16 MR BUDLENDER SC: I want to, - well yes,  
 17 so there is a problem with your explanation that this is a  
 18 statement about koppie 3 because it would be, if it was a  
 19 statement about koppie 3 it would be hearsay for the  
 20 reasons we've discussed and I'm not going to repeat all of  
 21 that. We're agreed on that?  
 22 BRIGADIER CALITZ: Die antwoord is reeds  
 23 gegee, mnr die Voorsitter.  
 24 MR BUDLENDER SC: Now I want to tell you  
 25 why, or the second problem I have with your statement that

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1 this is actually about koppie 3, you'll see in paragraph 19  
 2 that you say, you refer to the crowd that assembled on the  
 3 koppie, alright, and you say that is a reference to koppie  
 4 3, is that correct?  
 5 BRIGADIER CALITZ: Korrek.  
 6 MR BUDLENDER SC: Now I want to take you  
 7 through the statement from the beginning and show you the  
 8 various times in which you refer to the koppie. Can we go  
 9 to page 1, paragraph 4? On the third line you say, "At  
 10 this stage a large group of striking mineworkers are  
 11 gathered on a koppie on the mine premises," and then a few  
 12 lines further down you say, four lines from the foot of  
 13 that, from the end of that paragraph, "The smaller group  
 14 that gathered along the pipeline near Karee was about 200  
 15 men and they were also armed with the same type of homemade  
 16 weapons as the large group that gathered on the koppie."  
 17 Now when you're talking about the koppie there you're  
 18 talking about koppie 1, correct?  
 19 BRIGADIER CALITZ: Dit was korrek, mnr  
 20 die Voorsitter.  
 21 MR BUDLENDER SC: Then can we go to  
 22 paragraph 7 on page 2? You say, "On Tuesday, 2012/08/14  
 23 the police negotiated, Lieutenant Colonel MacIntosh was  
 24 summoned to the JOC as it was decided that he must  
 25 negotiate with the strikers to lay down their weapons and

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1 to end the violence. Later that afternoon when the  
 2 negotiators arrived they were briefed and they went with us  
 3 to the koppie where the group was corrugated." That's  
 4 koppie 1?  
 5 BRIGADIER CALITZ: Korrek, mnr die  
 6 Voorsitter.  
 7 MR BUDLENDER SC: "There were  
 8 approximately 4,500 armed men on the koppie," that's koppie  
 9 1?  
 10 BRIGADIER CALITZ: Dit is korrek, mnr die  
 11 Voorsitter.  
 12 MR BUDLENDER SC: Paragraph 8, "Whilst  
 13 Colonel MacIntosh was still busy negotiating with the men  
 14 we were informed that an unknown male was attacked behind  
 15 the koppie," that's koppie 1?  
 16 BRIGADIER CALITZ: Dit is korrek, mnr die  
 17 Voorsitter.  
 18 MR BUDLENDER SC: And then down to the  
 19 fourth line from the bottom of that, from the foot of that,  
 20 from the end of that paragraph, "A car head skeleton was  
 21 placed on his chest, later the crowd started to move from  
 22 the koppie," that's koppie 1?  
 23 BRIGADIER CALITZ: Dit is korrek, mnr die  
 24 Voorsitter.  
 25 MR BUDLENDER SC: Paragraph 9, "On

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1 Wednesday, 2012/08/15 at about 10:00 the SAPS again went  
 2 back to the koppie," that's koppie 1?  
 3 BRIGADIER CALITZ: Dit is korrek, mnr die  
 4 Voorsitter.  
 5 MR BUDLENDER SC: Paragraph 10, the last  
 6 sentences at the end of the paragraph, "Later the group  
 7 started to leave the koppie," that's koppie 1?  
 8 BRIGADIER CALITZ: Ook korrek, mnr die  
 9 Voorsitter.  
 10 MR BUDLENDER SC: Paragraph 11, the ninth  
 11 line, "We were given an operational overview of possible  
 12 deployment on SAPS members at the koppie," koppie 1?  
 13 BRIGADIER CALITZ: Dit is korrek, mnr die  
 14 Voorsitter.  
 15 MR BUDLENDER SC: Paragraph 12, "The six  
 16 vehicles, Nyalas with the barbed wire trailers were  
 17 positioned ready for deployments, about 80 metres away from  
 18 the koppie," koppie 1?  
 19 BRIGADIER CALITZ: Korrek, mnr die  
 20 Voorsitter.  
 21 MR BUDLENDER SC: The last sentence at  
 22 paragraph 12, at the top of the page, "The rest of the men  
 23 remained," sorry, I take it a bit back, "These men were  
 24 very aggressive and were waving their weapons at us. They  
 25 were about 300 to 400 men. The rest of the men remained on

<p style="text-align: right;">Page 17911</p> <p>1 the koppie from where they were chanting and waving their 2 weapons at us," correct, that's koppie 1 too? 3 BRIGADIER CALITZ: Koppie 1 and 2, yes. 4 MR BUDLENDER SC: I mean that is also 5 koppie 1, koppie 1? 6 BRIGADIER CALITZ: Koppie 1 and 2, ja. 7 MR BUDLENDER SC: Well, I think it is 8 koppie 1, isn't it? I'm sorry, I'm confused here. 9 CHAIRPERSON: So it is one koppie, 10 enkelvoud, so the koppie referred to must be the koppie, 11 namely koppie 1, isn't that correct? 12 BRIGADIER CALITZ: We name it koppie 1, 13 ja. 14 CHAIRPERSON: Yes. 15 MR BUDLENDER SC: Then paragraph 15, "At 16 about 15:10 I arrived back at the koppie." That's koppie 17 1? 18 BRIGADIER CALITZ: Korrek, mnr die 19 Voorsitter. 20 MR BUDLENDER SC: Paragraph 16, the third 21 line, "While we were busy deploying the barbed wire the 22 whole group, those who were on the ground and those on the 23 koppie," koppie 1? 24 BRIGADIER CALITZ: Korrek, mnr die 25 Voorsitter.</p>	<p style="text-align: right;">Page 17913</p> <p>1 aangelê is. Ek het wel nie verwys na koppie 3 nie, maar 2 net weer na die koppie. 3 MR BUDLENDER SC: But in your statements 4 you distinguish clearly between the koppie which is koppie 5 1 and the nearby koppie which is koppie 3. If in paragraph 6 19 you were referring to koppie 3 you would have said, the 7 crowd that assembled on the nearby koppie was unruly and 8 aggressive, surely. 9 BRIGADIER CALITZ: Dit kan u afleiding 10 wees, dit is my verklaring en ek sê vir u wat ek daarby 11 bedoel het. 12 MR BUDLENDER SC: Well, I put it to you 13 that it is simply not possible to accept that explanation, 14 Brigadier. 15 BRIGADIER CALITZ: Mnr die Voorsitter, 16 dit sal u opinie wees, dit is my getuienis dat die 17 verklaring was afgelê en dit was 'n opsomming soos ek reeds 18 in my vorige getuienis gegee het van die persone wat 19 gearreesteer was by koppie 3. 20 MR BUDLENDER SC: Alright, Brigadier, let 21 me take you to the third reason why your claim that this is 22 koppie 3 can't be correct. I would like you to go to 23 paragraph 16. Perhaps we should read the whole of the 24 paragraph. "At about 15:40 the first of the barbed wire 25 was deployed. At the same time the person with the green</p>
<p style="text-align: right;">Page 17912</p> <p>1 MR BUDLENDER SC: And then we come to 2 paragraph 18, the next page, "Later I was informed that 3 several of the attacking men were killed. As we were 4 advancing towards the crowd in Nyala vehicles I instructed 5 the members to disembark the vehicles and to affect arrests 6 on the men who were part of the crowd. I later found the 7 arrested suspects at a nearby koppie," that's koppie 3? 8 BRIGADIER CALITZ: Koppie 3, yes. 9 MR BUDLENDER SC: You distinguished in 10 other words between the koppie which is where all of these 11 events happened and koppie 3 which was the nearby koppie, 12 correct? 13 BRIGADIER CALITZ: Korrek, mnr die 14 Voorsitter. 15 MR BUDLENDER SC: And then paragraph 19, 16 "The crowd that assembled on the koppie was unruly and very 17 aggressive," and I put it to you that it is impossible to 18 read that as referring to koppie 3, that must mean koppie 19 1, which is the koppie which you've referred to throughout 20 the statement, I think 14 times. I put that to you. 21 BRIGADIER CALITZ: Mnr die Voorsitter, 22 dit is my verklaring, soos ek reeds getuig het paragraaf 19 23 was 'n samevatting oor die persone wat gearreesteer was en 24 daarom het ek dan hier verwys na koppie 3. Dit gaan 25 pertinent oor die gearreesteerdes, waarvoor die dossier dan</p>	<p style="text-align: right;">Page 17914</p> <p>1 blanket approached us. He was very aggressive and again 2 said that we will die and that he is not returning again. 3 While we were busy deploying the barbed wire the whole 4 group those that were on the ground and those on the 5 koppie, moved in their identified formation, bended closer 6 to each other with the leaders to the front towards the 7 SAPS. The group moved in a closed formation directly to 8 the last Nyala with the barbed wire trailer not yet 9 deployed. All the men were aggressive and were chanting." 10 Now when you say, "All the men were aggressive and were 11 chanting," you must be referring to the whole group, those 12 on the ground and those on the koppie." 13 [14:20] BRIGADIER CALITZ: Mnr die Voorsitter, 14 daar was definitief die voorste groep wat na ons toe 15 aangekom het, maar daar was ook van die boonste groepe wat 16 afbeweeg het en van my posisie waar ek gesien het, het ek 17 wel gesien van die boonste groep beweeg af en dan hulle het 18 saam met die voorste groep, as jy gaan kyk na die foto wat 19 geneem is, die lugfoto, is dit nie net twee na drie honderd 20 mense wat na die kraal toe gekom het nie, maar daar was 21 aansienlik meer. Ek het na die tyd gesien in die ander 22 fotos dat die mense wel in 'n westelike rigting ook weg 23 beweeg het, maar op daardie stadium was dit nie vir my 24 sigbaar nie. 25 MR BUDLENDER SC: You said under oath</p>

<p style="text-align: right;">Page 17915</p> <p>1 that the whole group, those that were on the ground and 2 those on the koppie, moved in this formation towards the 3 SAPS. You say you didn't know on the 19th of August that 4 in fact most of them moved off the koppie and went to the 5 settlement? 6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 dit het ons later wel in die fotos gesien toe die exhibit L 8 en goed saamgestel was. Toe het ek die fotos eers gesien, 9 ja. 10 MR BUDLENDER SC: Brigadier, you were at 11 – you were – at the time that the barbed wire was deployed, 12 you were parked right in front of koppie 1, observing what 13 happened on the koppie. We've seen where you were. 14 BRIGADIER CALITZ: Dit is korrek, mnr die 15 Voorsitter. 16 MR BUDLENDER SC: And you say you didn't 17 see people moving of the koppie away from the police line 18 and down into the townships or elsewhere. You saw no 19 dispersal? 20 MR BUDLENDER SC: Mnr die Voorsitter, wat 21 ek gesê het wat ek gesien het is dat toe die voorste groep 22 kom en my konsentrasie was op die groep wat na my Nyala toe 23 oppad was, het ek wel gesien van die boonste groep mense 24 het afbeweeg en daardie groep saam met hulle beweeg, ge- 25 join. Ek het nie gesê die agterste groep waar ek hulle</p>	<p style="text-align: right;">Page 17917</p> <p>1 BRIGADIER CALITZ: Die wat ek waargeneem 2 het in daardie geval, ja, Mnr die Voorsitter. 3 MR BUDLENDER SC: Wel, I put it to you 4 Brigadier that that's simply not the evidence and we know 5 it's not the evidence and you know it's not the evidence. 6 BRIGADIER CALITZ: Mnr die Voorsitter, ek 7 dink die fotos, soos u gesê het, spreek vanself, so dit is 8 baie duidelik wie die groep ge-join het aan die voorkant, 9 hoe die groep van 200 na 300 gegroei het en waarnatoe die 10 agterste mense wegbeweeg het. Soos jy self gesê het, ek 11 dink die foto spreek vanself. 12 MR BUDLENDER SC: Well, I want to put a 13 number of propositions to you, Brigadier, so that you can 14 deal with them. I want to put it to that your claim that 15 the statement in paragraph 19, about the crowd on the 16 koppie, was a reference to koppie 3 is simply unsustainable 17 in the light of the analysis which you have just done. 18 Would you like to comment on that? 19 BRIGADIER CALITZ: Nee, ek stem nie saam 20 nie, mnr die Voorsitter. 21 MR BUDLENDER SC: I have to put it to you 22 that you said this because you wanted – well, let me take a 23 step back. Of course, you know about the doctrine of 24 common purpose, don't you? You've heard of the doctrine of 25 common purpose?</p>
<p style="text-align: right;">Page 17916</p> <p>1 gesien het nie en dit is later in fotos wel gesien. 2 MR BUDLENDER SC: Are you saying that 3 sitting there in front of koppie 1, observing the 4 situation, you didn't notice that a large number of 5 strikers left the koppie and didn't come down towards the 6 police line? You didn't see that? 7 BRIGADIER CALITZ: Mnr die Voorsitter, ek 8 kan net sê wat ek uit my voertuig op daardie stadium 9 waargeneem het. As jy op die toneel is, sal jy sien die 10 hele gebied is nie sigbaar presies vanwaar ek was nie. 11 MR BUDLENDER SC: Wel, we can all see the 12 photographs and we can make our own observations, but – 13 BRIGADIER CALITZ: Dit is korrek, Mnr – 14 MR BUDLENDER SC: - but regardless of 15 whether what you said was true or not, the point that I 16 wish to make is that your concern in paragraph 16 was to 17 lump the whole group together, those on the ground and 18 those on the koppie, to say they were moving as one 19 formation and they were acting together. Correct? 20 BRIGADIER CALITZ: Die groep wat ek wel 21 gesien het wat aanbeweeg het na Nyala 4, ek het verwys na 22 daardie groep, ja. 23 MR BUDLENDER SC: Those on the ground and 24 those on the koppie all acted together in this manner – all 25 of those that you saw?</p>	<p style="text-align: right;">Page 17918</p> <p>1 BRIGADIER CALITZ: Korrek, Mnr die 2 Voorsitter. 3 MR BUDLENDER SC: And what you did was 4 you gave a classic statement in your affidavit of common 5 purpose. You said, "They acted as one group and all of 6 them associated themselves with the actions of each other. 7 All of them had the same intention and goal." That's an 8 attempt to create a situation of common purpose, isn't it? 9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 soos ek reeds aan u verduidelik het, dit wat koppie 3 11 gebeur het is aan my verduidelik. Die common purpose, die 12 persone wat ek wel gesien het wat beweeg het van koppie 1 13 en 2 na koppie 3 toe, was wel 'n groep wat in eenvormigheid 14 beweeg het, gewapen na daai koppie toe, asook die persone 15 wat in 'n westelike rigting weg beweeg het van die koppie 16 af. So daar was definitief gesamentlike, soos u dit stel, 17 'n common purpose. 18 MR BUDLENDER SC: We know that about – I 19 don't want to know the precise number, about 260 or 270 20 people were arrested – strikers were arrested that day. 21 Correct? 22 BRIGADIER CALITZ: Die getal wat ons het 23 is 259, Mnr die Voorsitter. 24 MR BUDLENDER SC: I accept that. So 259 25 people arrested, they, of course, weren't all arrested at</p>

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1 koppie 3, as you've explained, people were arrested at  
 2 various places?  
 3 BRIGADIER CALITZ: Dit is gedeelte in my  
 4 verklaring – die middelste gedeelte in die tweede sin in  
 5 paragraaf 18 waarna mnr die Voorsitter verwys het, waar ek  
 6 dan gesê het, "As we were advancing towards the crowd in  
 7 Nyala vehicles, I instructed the members to disembark the  
 8 vehicles and effect arrests." Ek dink dit is ook duidelik  
 9 waarneembaar in my gesprek met Kolonel Vermaak van die  
 10 chopper, kan ons hoor hoe daar verskeie arrestasies in die  
 11 veld gemaak word –  
 12 MR BUDLENDER SC: Yes, some –  
 13 BRIGADIER CALITZ: Kan ek net klaar maak,  
 14 asseblief? Waar die persone dan in groepe was en waar ons  
 15 hulle dan geïsoleer het, geontwapen het en gearresteer het.  
 16 MR BUDLENDER SC: Some of those arrested  
 17 were arrested at koppie 3, as you say, and as you say, some  
 18 of those arrested were arrested in the veld.  
 19 BRIGADIER CALITZ: Almal is aanvanklik in  
 20 die voertuig gelaai en die hele – al die gearresteerdes is  
 21 gesamentlik by koppie 3 gehanteer.  
 22 CHAIRPERSON: No, that's not the  
 23 question. The question is that – is it correct – this is  
 24 the question in my formulation, but I think it's the same  
 25 as Mr Budlender's – were some of the people who were

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1 arrested, arrested in the veld?  
 2 BRIGADIER CALITZ: Korrek –  
 3 CHAIRPERSON: I understand they may have  
 4 been taken to the vicinity of koppie 3 to be processed and  
 5 so on and loaded into the Canters, but some of them were  
 6 arrested in the veld. Is that correct?  
 7 BRIGADIER CALITZ: Korrek, Mnr die  
 8 Voorsitter.  
 9 CHAIRPERSON: Thank you.  
 10 MR BUDLENDER SC: And this statement of  
 11 yours, I put it to you, was intended to cover all of those  
 12 who were arrested, because it was to cover all of those who  
 13 were assembled on the koppie, koppie 1 – who had been  
 14 assembled on koppie 1.  
 15 BRIGADIER CALITZ: U verwys weer na die  
 16 wat op koppie 1 – as u net die vraag kan herhaal?  
 17 MR BUDLENDER SC: Let me put it  
 18 differently. Your – the statement in paragraph 19 is a  
 19 statement which is intended to cover everyone – all the  
 20 protestors who were involved in the protest and who had  
 21 been on koppie 1.  
 22 BRIGADIER CALITZ: As ek die vraag reg  
 23 verstaan, nee, Mnr die Voorsitter.  
 24 MR BUDLENDER SC: But – and it was  
 25 certainly not intended to be apply – apply only to those

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1 who were arrested on the koppie, it was intended to apply  
 2 to all of those who were arrested – sorry, let me ask the –  
 3 take the question back. The statement was not intended to  
 4 apply only to those who were arrested at koppie 3, it was  
 5 intended to apply to all of those who were arrested.  
 6 Correct?  
 7 BRIGADIER CALITZ: Dit is 'n korrekte  
 8 stelling, Meneer.  
 9 MR BUDLENDER SC: And they were all  
 10 governed by that first sentence of paragraph – that first  
 11 passage of paragraph 9, "The crowd that assembled on the  
 12 koppie was unruly and very aggressive. They were all armed  
 13 with extremely dangerous, homemade, and bought weapons,  
 14 etcetera." That was intended to apply to all of those who  
 15 were arrested?  
 16 BRIGADIER CALITZ: Die persone wat  
 17 gearresteer was op die koppie, ja, Meneer.  
 18 MR BUDLENDER SC: No, all of those who  
 19 were arrested, whether at the koppie or in the veld?  
 20 BRIGADIER CALITZ: Mnr die Voorsitter,  
 21 weereens, ek het nagelaat in hierdie spesifieke verklaring,  
 22 paragraaf 19, ons het nie pertinent hier verwys na die  
 23 persone wat in die veld ook gearresteer is nie, nee.  
 24 MR BUDLENDER SC: - refer to those who  
 25 are arrested at the koppie? It refers to those who were

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1 assembled on the koppie?  
 2 BRIGADIER CALITZ: Korrek, Meneer.  
 3 COMMISSIONER HEMRAJ: I would at some  
 4 stage like to have you draw our attention to those  
 5 photographs that you say support the version that you were  
 6 putting, even it's not today, perhaps tomorrow morning, if  
 7 you have time to go through them overnight and draw our  
 8 attention to that. I would like to be referred to those.  
 9 MR BUDLENDER SC: If I can help? Those  
 10 are the photographs which show that at the time of the  
 11 rollout of the barbed wire, one would not expect to see  
 12 from where Brigadier Calitz was parked, that some people  
 13 were dispersing and were not coming down towards the police  
 14 line. Is that correct, Commissioner?  
 15 COMMISSIONER HEMRAJ: Yes, but he's – I  
 16 think he's referring to something else, but perhaps we  
 17 should give him the opportunity, to be fair to him –  
 18 CHAIRPERSON: - he referred to  
 19 photographs, didn't specify exactly what they were, but he  
 20 obviously knows the ones he has in mind, so he can bring  
 21 for us to see, as Advocate Hemraj has requested.  
 22 BRIGADIER CALITZ: Mnr die Voorsitter, ek  
 23 kan – ons het ook gister daarna verwys, die fotos van  
 24 Kolonel Vermaak, die groep wat beweeg is baie meer as net  
 25 die twee tot drie honderd wat voor was. So miskien kan dit

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1 my getuienis wees, die fotos wat ons gister gesien het.  
 2 Ons kan dit weer wys, maar dit is waarna ek verwys het.  
 3 COMMISSIONER HEMRAJ: Well, take your  
 4 time and put them together and we'll have a look at them  
 5 when you're ready.  
 6 BRIGADIER CALITZ: Dankie, Kommissaris.  
 7 MR BUDLENDER SC: And to conclude on  
 8 this, Brigadier, this is why I spent some time this morning  
 9 addressing the question of what you said in your statement,  
 10 that the information at the JOCCOM was that the group were  
 11 seeking confrontation with the police. I want to put it to  
 12 you that that was an overstatement, just as what you say in  
 13 paragraph 19 is a gross overstatement, and that it was not  
 14 a responsible thing for a responsible thing for a Brigadier  
 15 to do.  
 16 BRIGADIER CALITZ: Ek stem nie saam met u  
 17 nie, Mnr die Voorsitter.  
 18 MR BUDLENDER SC: Chair, I have no  
 19 further questions for this witness.  
 20 CHAIRPERSON: I'd just like to ask you  
 21 one question. I may ask you questions later on too, but  
 22 just while we're busy with para 19. You say that this  
 23 paragraph relates to the crowd assembled on koppie 3. Now,  
 24 you say in the third sentence, "They acted as one group and  
 25 all of them associated themselves with the actions of each

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1 other. All of them had same intention and goal." Now,  
 2 what facts were those statements based on? What did they  
 3 do to make it clear that they were acting as one group and  
 4 they were all associating themselves with the actions of  
 5 each other?  
 6 BRIGADIER CALITZ: Kommissaris, soos ek  
 7 vir u voorheen getuig het, dit is soos wat aan my oorgedra  
 8 is, van die persone wat dan betrokke was by koppie 3 en dit  
 9 is die feite wat dit aan my deurgegee is. Ek glo daar sal  
 10 van hulle verklarings – die persone sal wel kom getuig wat  
 11 in bevel was daar of wat die koppie genader het.  
 12 COMMISSIONER HEMRAJ: Brigadier, what -  
 13 the command basic line with TRT, exactly what does that  
 14 mean?  
 15 BRIGADIER CALITZ: Kommissaris, dit is as  
 16 hulle op beweeg 'n toneel of wanneer hulle geaktiveer word,  
 17 beteken dit net "keep the basic line." Met ander woorde,  
 18 hulle moet 'n lang reguit lyn hou en die persone moenie vir  
 19 een groep voor 'n ander gaan nie. So hulle beweeg as 'n  
 20 linie op en dan as hulle optree, sal hulle dan ook in so  
 21 formasie wees. Een, vir 'n show of force. Hulle uniforms  
 22 is anderster. Hulle toerusting is anderster. En ek dink  
 23 twee is dat hulle dan in daardie linie hulle opdragte kry  
 24 om uit te voer.  
 25 CHAIRPERSON: I understood that Adv

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1 Chaskalson was going to be the next cross-examiner. So  
 2 perhaps we can take a short adjournment.  
 3 MR BUDLENDER SC: Yes. The proposal,  
 4 Chair, if it suits the commissioners is that the next step  
 5 should be to lay out that aerial photograph of the area and  
 6 for the brigadier to be asked to demonstrate where the  
 7 various vehicles are to which he refers.  
 8 CHAIRPERSON: There are two points about  
 9 that. The first is this table in front of us, the  
 10 microphones have to be removed, and the second point is, I  
 11 understood that arrangements are going to be made to film  
 12 the demonstration. I don't know whether we're ready to do  
 13 that. Perhaps we can take a short adjournment and that  
 14 matter can be sorted out. As soon as you are ready to  
 15 proceed, then you'll tell us and we'll come back. Ja.  
 16 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 17 [15:14] CHAIRPERSON: The commission resumes. We  
 18 have in the interim while we were outside had an enlarged  
 19 photograph of the area put on the table in front of us  
 20 together with wooden blocks which represent various  
 21 vehicles and I understand it's being, is it being shown  
 22 behind me, also on the screen in front of me. So everyone  
 23 in the chamber can follow and we're going to ask the  
 24 Brigadier to demonstrate to us movements and positions of  
 25 various vehicles and so on during the incidents at koppie

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1 1, scene 1. Mr Budlender, you're going to ask him to  
 2 follow or Mr Chaskalson is going to do it is he? It isn't  
 3 really going to be cross-examination yet. It's going to  
 4 be, as I understand it effectively a demonstration by the  
 5 Brigadier explaining what exactly happened and where and  
 6 then he'll be questioned I think tomorrow further on it. I  
 7 must remind you, you're still under oath, Brigadier. Mr  
 8 Chaskalson?  
 9 MR CHASKALSON SC: Chairperson, I have a  
 10 range of scenes or moments and vehicle movements that I  
 11 would like to see the Brigadier describe. It may be that  
 12 at a certain point in my questioning SAPS feels that  
 13 there's something in between that they would also like to  
 14 point out I invite them to do so if that is the case. This  
 15 is really to almost to amplify the Brigadier's testimony  
 16 that's already been given.  
 17 CHAIRPERSON: Yes.  
 18 MR CHASKALSON SC: With the visual aid.  
 19 CHAIRPERSON: Yes, Brigadier, I take it  
 20 you'll have to stand up next to the table will you, you  
 21 can't do it by remote control from where you are.  
 22 MR CHASKALSON SC: Chairperson, my  
 23 proposal is that we should start this demonstration at the  
 24 point at which the rollout begins. It, that point is  
 25 described in slide 191 of the, of exhibit L and I would

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1 propose that we start there but I don't know if SAPS would  
 2 refer to start earlier. No, SAPS are indicating they're  
 3 happy with that as a starting point. So maybe if we could  
 4 ask the Brigadier to take his exhibit L and briefly set up  
 5 all of the blocks so that we can recreate that picture on  
 6 this chart and can I ask the camera operator just to zoom  
 7 back so that we can see the whole chart in shot.  
 8 MS LE ROUX: Chair, just as a point of  
 9 clarity I assume for purposes of what the Brigadier is  
 10 about to do we disregard the photographed vehicles, we  
 11 should only be taking his demonstration to include wooden  
 12 blocks that he moves around, is that -  
 13 CHAIRPERSON: I think that's correct  
 14 except if you look at 191 it does look as if the  
 15 photographed vehicles which I think were the horseshoe to  
 16 which Mr Mpofu referred they may be in the right position  
 17 but maybe Mr Chaskalson or the Brigadier could help us on  
 18 that.  
 19 MR CHASKALSON SC: No, Chairperson, there  
 20 are very material differences. The shot is taken I would  
 21 estimate round about 10:30 in the morning. So for instance  
 22 Nyala 6 is in its original position and the exact  
 23 configuration of the support vehicles and for instance the  
 24 water cannons which are not visible on this chart has  
 25 changed quite dramatically by -

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1 CHAIRPERSON: So Ms Le Roux is right  
 2 then, we ignore the photographed positions of the vehicles  
 3 on this enlarged photograph. We just have regard to the  
 4 physical features of the terrain as depicted on the  
 5 photographs, is that correct? Alright, so, Brigadier, now  
 6 you've got to set out your toys in the right position for  
 7 us please.  
 8 BRIGADIER CALITZ: Thank you, Chair. May  
 9 I just request to remove my jacket, please, I think it will  
 10 be - Chair, if we go to I think what Mr Chaskalson referred  
 11 to 191, I just heard 197 but I think it's the same picture  
 12 and just orientate myself quickly. This is the morning  
 13 around about before Nyala 6 was moved. So now I don't know  
 14 how I'm going to indicate with a pointer or -  
 15 CHAIRPERSON: I think you can take the  
 16 toys [inaudible, microphone off].  
 17 BRIGADIER CALITZ: At this stage, Chair,  
 18 if they can zoom in there, that was Nyala 6, Nyala 5, Nyala  
 19 4. The rest of the Nyalas is out of picture on this map  
 20 that they provide me here.  
 21 CHAIRPERSON: So we can't see the power  
 22 station?  
 23 BRIGADIER CALITZ: The power station will  
 24 be behind Nyala 4.  
 25 CHAIRPERSON: Yes, yes. It's to the left

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1 really off picture.  
 2 BRIGADIER CALITZ: To the back of Nyala  
 3 4, yes.  
 4 MR CHASKALSON SC: Chairperson, I think  
 5 the Brigadier and I may be at cross purposes. What the  
 6 Brigadier is doing is recreating the scene that we have in  
 7 the photograph. I think it may take quite a lot of time  
 8 and take us, not be a useful, a sensible use of time I  
 9 would prefer to start at the beginning of the rollout which  
 10 is 191.  
 11 CHAIRPERSON: Well all he's got to do  
 12 surely is to move Nyala 6 to the correct position where it  
 13 was at the rollout stage, isn't it?  
 14 MR CHASKALSON SC: There are other  
 15 movements as well but we've got the photograph.  
 16 CHAIRPERSON: Brigadier, happy with that,  
 17 to show us position as it was just before, just before the  
 18 rollout, around about what 15:40 round about there.  
 19 COMMISSIONER HEMRAJ: Brigadier, have you  
 20 got photograph 191, Brigadier?  
 21 BRIGADIER CALITZ: It's here with me,  
 22 Commissioner, yes. So that will be basically the position  
 23 where Nyala 6 went to, that is slide 191, 197 is the same  
 24 except that the distances is not indicated in that picture.  
 25 So Nyala 5 moved to the, what they call the voetpad en dan

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1 Nyala 6 het na die binnekant toe beweeg na die rigting van  
 2 die klein kraal. Is dit wat u wil -  
 3 MR CHASKALSON SC: Thank you, Brigadier,  
 4 yes. But can we show the positions of the other vehicles  
 5 including the Papa Nyalas as well because they're going to  
 6 start moving once things happen.  
 7 BRIGADIER CALITZ: Dit is korrek, mnr die  
 8 Voorsitter. Die een wat ek gemerk is Papa1, dit is my  
 9 voertuig. Die ander het ek na die, nie nommers op nie,  
 10 maar hulle is dan hierdie blokkies tot my beskikking, dit  
 11 is die vyf Nyalas soos hulle voor gestaan het en dan die  
 12 TRT, alhoewel hier staan TRT line op die blokkie maar  
 13 hierdie is die TRT voertuie wat dan gestaan het op daardie  
 14 stadium. As ons kan gaan na die agterkant, dit is nou nie  
 15 op die foto nie. Aan die agterkant van die TRT line as ons  
 16 kyk op slide 197, ek weet nie of u dit miskien voor u het,  
 17 dit is net miskien makliker om dan te volg, mnr die  
 18 Voorsitter. Dan het ons ook vier Nyalas en 'n Casspir wat  
 19 ons dan ingeroep het vir die doel om noord te monitor, ek  
 20 wil net sien waar is hulle, te posisioneer en dan was daar  
 21 'n Casspir, 'n wit Casspir, dit is die hout blokkie waarop  
 22 staan Casspir. Hy was op die regter kant van die vier  
 23 Nyalas, die groep was Luitenant Kolonel Pitsi, myself in  
 24 die onderhandeling's Nyala en die was Luitenant Kolonel  
 25 Mere met die openbare orde polisiëring en dit was die



<p style="text-align: right;">Page 17931</p> <p>1 posisie van Nyala 4, Nyala 5, Nyala 6 het binnekant toe 2 beweeg. Agter die TRT lyn het dan die kontingent van die 3 opper trokke gestaan asook die twee water kanonne, as ek 4 hulle so uit beeld uit kan sit. Dit was basies die posisie 5 gewees voor die uitrol. 6 MR CHASKALSON SC: And, Brigadier, to 7 assist us once we get to pictures that start moving, I 8 wonder if we can try to agree on the numbering of the 9 various Nyalas in, first in the POPS line and then from the 10 reserves that were called up facing north. 11 CHAIRPERSON: He's got pens so perhaps he 12 can, I don't know if they can be marked. It might help if 13 they were. 14 MR CHASKALSON SC: I'm just looking at my 15 notes now. I had assumed that they would be numbers on it. 16 But on my notes I've got in your negotiation Nyala line of 17 five, on the far left is Papa11, I don't know if you can 18 confirm this at this stage or if we need to refer you to – 19 BRIGADIER CALITZ: I must take your word 20 for it. So I thought we would mark as I said, I know where 21 I moved the other vehicles, you will tell me, the call 22 signs according to the photographs or the zooms that you 23 have. 24 MR CHASKALSON SC: Papa11 on the left. 25 BRIGADIER CALITZ: This one?</p>	<p style="text-align: right;">Page 17933</p> <p>1 COMMISSIONER HEMRAJ: Just before you 2 continue, Brigadier, when, in the line up with you in the 3 middle was Papa11 on your right or your left? Papa11 was 4 on your right or on your left in the line up? 5 BRIGADIER CALITZ: To my left, on the far 6 left. Here's Papa1. 7 COMMISSIONER HEMRAJ: Yes. 8 BRIGADIER CALITZ: You're asking on this 9 line it was to my far left. 10 COMMISSIONER HEMRAJ: Alright. 11 CHAIRPERSON: As you were facing the 12 koppie? 13 BRIGADIER CALITZ: As I was facing the 14 koppie 1. 15 MR CHASKALSON SC: Then the Casspir that 16 you called Casspir is the POPS Casspir, is that correct? 17 BRIGADIER CALITZ: Dit is korrek, Meneer. 18 MR CHASKALSON SC: There's also the STF 19 Casspir and the STF Scorpion and the STF Casspir was back 20 in the reserve area facing north with a pretty clear run of 21 the kraal, that may be visible in this photograph. 22 BRIGADIER CALITZ: Can I mark it for this 23 purpose Casspir 2? 24 MR CHASKALSON SC: Maybe Casspir S. 25 BRIGADIER CALITZ: Casspir?</p>
<p style="text-align: right;">Page 17932</p> <p>1 MR CHASKALSON SC: That's correct, yes. 2 BRIGADIER CALITZ: Next thing. 3 MR CHASKALSON SC: Papa9. 4 CHAIRPERSON: The next one's marked 5 already that's P1. 6 MR CHASKALSON SC: To your right is Papa7 7 and the last is Papa3. Now if we look at exhibit L191 8 again you'll see there's one Nyala that's still in reserve 9 back where the water cannons and the, you may not see it 10 but you'll have to trust me that when you zoom in you'll 11 see it. Back where the water cannons and behind the TRT, I 12 think it's in fact next to the two water cannons. That was 13 Papa2. If we then go to the four Nyalas that have been 14 brought up from reserve, on the left is Papa5. Then – 15 CHAIRPERSON: The numbers of the other 16 three? 17 MR CHASKALSON SC: I do, the next one had 18 a call sign on its roof Papa19 but it was actually referred 19 to as Papa10. So the, that should be, call it Papa10/19 20 because when one looks at aerial photos what one sees is 21 Papa19 although the actual Nyala I understand was known as 22 Papa10. 23 BRIGADIER CALITZ: Correct. 24 MR CHASKALSON SC: To its right was 25 Papa18 and on the far right was Papa 4.</p>	<p style="text-align: right;">Page 17934</p> <p>1 MR CHASKALSON SC: Casspir S for STF. 2 BRIGADIER CALITZ: Let's put it – 3 CHAIRPERSON: You can put it on the side, 4 I think you've written Casspir on the whole of the top but 5 you can put an S on the side. 6 BRIGADIER CALITZ: I'll just put it in 7 another colour. You said in your zoom it was – 8 MR CHASKALSON SC: Alongside it was the – 9 CHAIRPERSON: No, he wanted to know where 10 it was in the zoom? 11 MR CHASKALSON SC: I've got notes and I'm 12 trying to see off a high resolution photograph. 13 BRIGADIER CALITZ: I see it on slide 193 14 of the exhibit L you can see them almost to the nearest to 15 the footpath if I'm not mistaken behind the, it seems 16 there's a line there, there's two vehicles there. One is a 17 Scorpion then the one is the Casspir. 18 MR CHASKALSON SC: So the Scorpion is 19 inside the Casspir both of them have a free ride north 20 towards the kraal, they're at the northern edge of what you 21 got as the TRT line. Our problem is that this picture is 22 not quite to scale really because the TRT line ought to be, 23 you know maybe 10 centimetres further south and off the, 24 further south and off the, yes, because if you look at 193 25 you'll see that the white Casspir, the end of the TRT line</p>

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1 is roughly parallel to your, should be roughly parallel to  
 2 your Nyala if you, Papa1, yes. So you take it down, down,  
 3 take it down the line of white vehicles and, to a point  
 4 roughly parallel to where your vehicle is.  
 5 BRIGADIER CALITZ: That's correct, if you  
 6 look at the Nyalas facing, can I say the kraal you'll see  
 7 that the middle one is actually in front of the vehicle of  
 8 TRT. If you look at -  
 9 MR CHASKALSON SC: Yes, but the TRT  
 10 personnel who are out of their vehicle are in fact to the  
 11 east of that line of vehicles parallel, in a line parallel  
 12 with you. So drop that down so that the edge of that, the  
 13 edge of what you say is TRT line is parallel to Papa1, is  
 14 on the line with Papa1. So pull that almost off the, off  
 15 the chart, down, down, down, no towards you. Come down,  
 16 come down a bit further, no in still, ja, that's about  
 17 where the TRT line was and then the Scorpion and the  
 18 Casspir were, the Scorpion is roughly, bring it a little  
 19 bit closer to the TRT line and a little bit down a bit. If  
 20 you look at 193.  
 21 BRIGADIER CALITZ: I just want to  
 22 position, they were close to this.  
 23 MR CHASKALSON SC: But you've got them  
 24 facing the wrong way. They're pointing up to the north.  
 25 Ja, the Casspir is actually pointing almost due north, the

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1 Scorpion is still a bit, if you look at 193. But that's  
 2 broadly, we don't need that level of detail. So that's  
 3 when things were when the rollout started and it may be  
 4 useful to follow what we're doing with the assistance of  
 5 the human rights commissioner annexure GW6B because they  
 6 have a series of shots which chart the movement going  
 7 forward and the next movement is the start of the rollout  
 8 when Nyala 1 reaches Nyala 2 but that's not on our screen.  
 9 So we can't see that. That's behind us. To the best of my  
 10 knowledge the only change from this picture that we see  
 11 once the rollout begins, Nyala 1 reaches Nyala 2 which is  
 12 what is described on 193 and PW6B, page 6, is that Nyala 6,  
 13 - sorry Brigadier, you've moved Nyala 2 to Nyala 3, Nyala 2  
 14 hasn't got there yet, so if you can just retreat Nyala 2  
 15 back to its starting position.  
 16 [15:34] BRIGADIER CALITZ: No, I indicated here  
 17 is Nyala 3, it is out of the picture and it is just  
 18 indicated, it was off the picture, Nyala 1 to Nyala 2.  
 19 MR CHASKALSON SC: Yes, okay, so again  
 20 we're not - that should be a little bit further to our  
 21 left?  
 22 BRIGADIER CALITZ: Ja, 3 is out of the  
 23 picture.  
 24 MR CHASKALSON SC: So 6 has come now down  
 25 to the south of the path. Now the Human Rights Commission,

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1 - so we now have 6 a little bit south of the path, the TRT,  
 2 everything else is more or less unchanged. I don't know at  
 3 this stage if it would be helpful to the commissioners, I  
 4 must ask your, I must take instruction from you,  
 5 Commissioners, if we should try to go through this process  
 6 literally, you know stage by stage right through the  
 7 rollout, if that would be helpful. It will be laborious  
 8 but it may be a helpful way of visualising what was  
 9 happening.  
 10 CHAIRPERSON: Well, how long will it  
 11 take, you say it will be laborious, how long will it take?  
 12 MR CHASKALSON SC: We probably won't get  
 13 to the shootings today, if we do that, but what it will do  
 14 at the end of it all is give us a visual representation  
 15 slide by slide of what's happening. The alternative is to  
 16 ask the brigadier at this point to describe his movements  
 17 as he recollects them at particular times and then we can  
 18 possibly do that exercise off photographs at a later stage.  
 19 It probably doesn't even have to be done in open  
 20 Commission, it can be done by the parties and filmed. I  
 21 don't know if we need to use open Commission time with the  
 22 witness for that purpose.  
 23 CHAIRPERSON: - views on the point, which  
 24 of the two we should do, after all it is your evidence?  
 25 BRIGADIER CALITZ: Mnr die Voorsitter,

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1 ja, ek dink in my getuienis het ek reeds verwys na die  
 2 foto's van CALS en ek het verwys waar ek was, so ek dink  
 3 ons is deur die foto's, so miskien as mnr Chaskalson dan  
 4 vir my kan, soos hulle dit dan het, ek sal nie kan sê  
 5 byvoorbeeld Papa9 het in hierdie rigting, onthou ek weet  
 6 waar ek was en dan waarnatoe ek beweeg het -  
 7 CHAIRPERSON: Are you suggesting that his  
 8 second alternative proposal is the one we should take  
 9 because you can't from your own knowledge -  
 10 BRIGADIER CALITZ: As hulle vir my kan  
 11 aandui waar Papa9 op daardie stadium was, waar Papa10 heen  
 12 beweeg het, so ek dink dan gaan ons 'n meer direkte  
 13 weergawe kry van die foto soos die beeld was. Ek kan wel  
 14 getuig van Papa1 af, maar dit -  
 15 CHAIRPERSON: Alright -  
 16 BRIGADIER CALITZ: - gaan u dalk nie help  
 17 om te sien waar die ander voertuie was nie.  
 18 CHAIRPERSON: Alright, so we'll use Mr  
 19 Chaskalson's second proposal, which I think is essentially  
 20 the one you prefer because you can speak to where you were,  
 21 you can't speak to where the others were, that's got to be  
 22 derived from photographs, is that right?  
 23 BRIGADIER CALITZ: Korrek, mnr die  
 24 Voorsitter.  
 25 MR CHASKALSON SC: Sorry, Chairperson,

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1 I'm not sure what the first was and what was the second,  
2 are we going to jump to a point –  
3 CHAIRPERSON: The first one was  
4 everything, you know movement by movement, and you said we  
5 wouldn't get to the shooting by the end of the day. The  
6 other one was just that he concentrates on his movements  
7 because that's what he knows about. The others he will be  
8 dependent on you to some extent, to tell him where the  
9 other vehicles were and the suggestion was that the first  
10 process could be done later by the parties out of the  
11 chamber and that could be filmed or something. That's, I  
12 think the second one seems better for the moment, because  
13 that's something he can deal with to some extent, or to a  
14 substantial extent from his own knowledge.  
15 BRIGADIER CALITZ: Mnr die Voorsitter,  
16 ja, ek kan aandui, toe die Nyalas uitgerol was waar Papa1  
17 was en tot by insident 2 waarnatoe ek beweeg het, as mnr  
18 Chaskalson dan kan help en dan vir my sê, skuif die  
19 voertuig in daardie rigting, so, so, so, net om die res van  
20 die prentjie vol te maak, so dit is miskien 'n kombinasie  
21 van die twee.  
22 COMMISSIONER HEMRAJ: But Mr Chaskalson,  
23 won't it depend on what it is that you want to put before  
24 us as regards to the movement of the vehicles?  
25 MR CHASKALSON SC: Ultimately what I

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1 would like to put before the Commission is the complete  
2 picture.  
3 COMMISSIONER HEMRAJ: Yes.  
4 MR CHASKALSON SC: But I don't think we  
5 need to waste time in open Commission and in particular  
6 with Brigadier Calitz who won't be able to speak to 90% of  
7 what I would want to put to the Commission from the  
8 photographs. I think that is an exercise that would more  
9 helpfully be done by the parties out of Commission time  
10 with a series of photographs, possibly filmed so that the  
11 Commission can then see slide, you know the first position  
12 at whatever, 15:43, the position at 15:43 and 30 seconds  
13 and so on at a later stage. I don't think it would be a  
14 productive use of time to do it in open Commission time,  
15 unless –  
16 CHAIRPERSON: - the second way, but still  
17 doing the other thing later out of the Commission, out of  
18 the Chamber and have it being filmed and so, having it  
19 filmed thereafter, so we'll still get that information but  
20 we're not going to get it today and we're going to spend  
21 the time largely on things the brigadier knows about  
22 himself.  
23 MR CHASKALSON SC: And if I understand  
24 the brigadier's evidence correctly, the first point of  
25 interest at which the brigadier can testify is really

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1 incident 1. So, Brigadier, if you can describe the  
2 situation, if you can move the blocks to where they should  
3 be, accepting of course that you won't aware of the  
4 movement of any Nyalas behind you and so on, but I presume  
5 that you were aware of the position of the barbed wire  
6 Nyalas at incident 1, so –  
7 BRIGADIER CALITZ: Korrek.  
8 MR CHASKALSON SC: If you can now take us  
9 through the movement of the Nyalas up to the point at which  
10 you say incident 1 took place?  
11 BRIGADIER CALITZ: Mnr die Voorsitter,  
12 dankie, rondom my tyd 15:40, het ek opdrag gegee, Nyala 1  
13 het dan na Nyala 2 toe beweeg. Op daardie stadium, ek weet  
14 nie of ons deur die hele getuienis moet gaan nie, het mnr  
15 Noki vorentoe beweeg na my Nyala toe. Ons is deur die  
16 gesprek, terugbeweeg, Nyala 2 het na 3 toe beweeg en Nyala  
17 3 het na 4 toe beweeg. Ek dink hierdie was Nyala 4 op  
18 hierdie prentjie, en soos Nyala 3 by Nyala 4 kom en Nyala 4  
19 begin het die militante groep, die voorste groep het dan  
20 nader beweeg aan wat ek gesien het. Ek dink hierdie is  
21 die, dit is, wat noem 'n mens dit, die paal.  
22 CHAIRPERSON: The pole mast, I think it  
23 is called.  
24 BRIGADIER CALITZ: Wat op van die foto's  
25 verskyn, ja.

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1 MR CHASKALSON SC: Brigadier, if I can  
2 just interrupt, before we get to incident 1 there are two  
3 issues about which I would like to question you. The first  
4 relates to a video which shows Nyala 4 moving quite a long  
5 time before its rollout takes place and maybe if I can ask  
6 for that video to be played? Sorry, Brigadier, having  
7 stopped you I've now lost my notes. Yes, and I know  
8 exactly what I'm looking for, I just can't find my note of  
9 which video it is, it is in the JJJ194 series, so if I can  
10 ask the video people to get the JJJ194 series out. It is  
11 JJJ194.10, if we can just show 10 and the time, if I can  
12 contextualise this, the ETV time at which this video starts  
13 is 15:47:50 and if we can just play this video, sorry,  
14 again if I can contextualise, the rollout has proceeded so  
15 that Nyala 2 has reached Nyala 3, but Nyala 3 hasn't  
16 started moving off yet, and what we are seeing is Nyala 4  
17 and if we can just play the video?  
18 [VIDEO SHOWN]  
19 If we can just pause it at this point, if you can  
20 just go back because I'll ask the brigadier just to  
21 identify it as Nyala 4, can we go back to the start of the  
22 video?  
23 [VIDEO SHOWN]  
24 Brigadier, do you see that sort of, what look  
25 like either dirt or rust marks running down the back right

<p style="text-align: right;">Page 17943</p> <p>1 hand side of the Nyala?</p> <p>2 BRIGADIER CALITZ: Ek sien, mnr die</p> <p>3 Voorsitter.</p> <p>4 MR CHASKALSON SC: Those identified as</p> <p>5 Nyala 4, I'm not sure if you are able to confirm that, but</p> <p>6 they do, that's what Nyala 4, - that Nyala 4 is the only</p> <p>7 vehicle with those marks on it.</p> <p>8 BRIGADIER CALITZ: Ek sal die woorde van</p> <p>9 jou vat, mnr die Voorsitter.</p> <p>10 MR CHASKALSON SC: And if we –</p> <p>11 CHAIRPERSON: We are now going to see the</p> <p>12 video again with the Nyala moving forward but the wire not</p> <p>13 being yet uncoiled?</p> <p>14 MR CHASKALSON SC: And again that Nyala</p> <p>15 that we can see, the BHR134 is Papa9, that's Papa9's</p> <p>16 registration number, so if we go back now to where we are</p> <p>17 on the chart we can locate what we're looking at and we can</p> <p>18 see where Nyala 4 is edging forward.</p> <p>19 [VIDEO SHOWN]</p> <p>20 That's it, so Nyala 4 is starting to move forward</p> <p>21 past Papa9 and were you aware of this, was this something</p> <p>22 that you instructed? It was during the rollout.</p> <p>23 BRIGADIER CALITZ: Nee, mnr die</p> <p>24 Voorsitter, soos ek sê, Kolonel Makubela was in beheer van</p> <p>25 die uitrol van die draad, so hy sou met sy mense</p>	<p style="text-align: right;">Page 17945</p> <p>1 deploying its wire?</p> <p>2 BRIGADIER CALITZ: Dit is korrek, mnr die</p> <p>3 Voorsitter.</p> <p>4 MR CHASKALSON SC: But I'm now asking you</p> <p>5 about what you remember seeing yourself, not what's sitting</p> <p>6 in Exhibit L.</p> <p>7 BRIGADIER CALITZ: Die –</p> <p>8 CHAIRPERSON: Carry on, Brigadier?</p> <p>9 BRIGADIER CALITZ: Ek dink net die</p> <p>10 formasie het nie voor hulle inbeweeg op hierdie stadium</p> <p>11 nie, ek dink soos hy ontplooi het so het die formasie nader</p> <p>12 gekom.</p> <p>13 CHAIRPERSON: Well, that is something</p> <p>14 that does waive my question, because we were told that</p> <p>15 Nyala 4 moved forward for a distance without uncoiling any</p> <p>16 wire at all, you know with three behind it and then it, -</p> <p>17 and I think it went up to the mast, is that right?</p> <p>18 MR CHASKALSON SC: That is correct,</p> <p>19 Chairperson.</p> <p>20 CHAIRPERSON: Presumably started</p> <p>21 deploying, started uncoiling its wire at the mast. Now you</p> <p>22 say this group of armed strikers in formation moved</p> <p>23 forward, tried to enter the police enclosure in front of</p> <p>24 Nyala 4. Was this before Nyala 4 got to the mast or when</p> <p>25 it already got past the mast and was already uncoiling</p>
<p style="text-align: right;">Page 17944</p> <p>1 gekommunikeer het.</p> <p>2 MR CHASKALSON SC: Then before you get to</p> <p>3 describe what, - you say you saw at incident 1, when,</p> <p>4 sometime after this Nyala 3 reaches Nyala 4 they moved off</p> <p>5 in tandem together and then stopped at the mast, so Nyala 4</p> <p>6 eventually stopped at the mast with three behind it, do you</p> <p>7 recall that?</p> <p>8 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>9 ja, soos ek gesê het, toe 3 by 4 kom, toe 4 begin deploy,</p> <p>10 dit is waar ek gesê het waar die persone dan afbeweeg het.</p> <p>11 MR CHASKALSON SC: And that would have</p> <p>12 been right in front of you, if we look at these blocks.</p> <p>13 Can you just point out where you are for the purposes of</p> <p>14 the Commission? Of course the blocks are not to scale, so</p> <p>15 it may be that Nyala 3 and 4 together with their barbed</p> <p>16 wire wouldn't have stretched as far back, you know</p> <p>17 potentially obstructing your viewers as we see here, but</p> <p>18 that is broadly where it, given the scale, save for the</p> <p>19 scale consideration that's where it happened. Now,</p> <p>20 Brigadier, incident 1 is described in Exhibit L at slide</p> <p>21 196, and it says, "Nyala 1 to 3 deployed without any</p> <p>22 interference, but before Nyala 4 started deploying its wire</p> <p>23 a group of armed protestors' formation moved forward and</p> <p>24 tried to enter the police enclosure in front of Nyala 4."</p> <p>25 Do you confirm that that is correct, before Nyala 4 started</p>	<p style="text-align: right;">Page 17946</p> <p>1 wire?</p> <p>2 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>3 kan nie nou presies vir u sê dat ek onthou presies of hulle</p> <p>4 verby die paal, onder daardie omstandighede nie, ek dink as</p> <p>5 daar 'n video is kan ek miskien beter verduidelik. Wat ek</p> <p>6 gesê het is toe Nyala 4 begin beweeg voor my het ek gesien</p> <p>7 dat die groep afkom en dit is waar ek vir Nyala 4 se</p> <p>8 persone gesê het om terug te beweeg, so ek neem aan toe ek</p> <p>9 met hulle gepraat het was hulle draad dan reeds begin</p> <p>10 afgooi.</p> <p>11 MR CHASKALSON SC: And, Brigadier, can</p> <p>12 you tell the Commission exactly what you saw? First of all</p> <p>13 where were you seated inside the Nyala? I wasn't there for</p> <p>14 the exhibition, I was told by people at the exhibition that</p> <p>15 you were sitting at the back –</p> <p>16 CHAIRPERSON: I think demonstration is a</p> <p>17 more accurate word.</p> <p>18 MR CHASKALSON SC: Demonstration, that</p> <p>19 you were at the back of the Nyala next to the radio, but</p> <p>20 were you on the left or right hand side?</p> <p>21 BRIGADIER CALITZ: As u na die foto kyk,</p> <p>22 aan die regter agterkant, soos die Nyala na die koppie toe</p> <p>23 wys, daar is drie sitplekke, regs agter.</p> <p>24 MR CHASKALSON SC: So you were at the</p> <p>25 back right of the Nyala and were you on a bench at the back</p>

<p style="text-align: right;">Page 17947</p> <p>1 right or a seat or, - you gesture to your seat, is there a 2 seat there? 3 BRIGADIER CALITZ: It is normal rubber 4 seats, yes, not comfortable ones but normal seats. 5 MR CHASKALSON SC: And were you seated on 6 that seat through this whole period that were you going to 7 be describing what happened at incident 1? 8 BRIGADIER CALITZ: Mnr die Voorsitter, 9 nee, ek dink op 'n stadium, 'n ou het seker maar op, jy 10 weet probeer lig om te sien want om bo uit te sien moet 'n 11 ou redelik jouself lig, dan kan jy tussen die drywer en die 12 commander position wat op die linkerkant is deurkyk, asook 13 op daardie stadium was my regterkantste deur oop gewees, so 14 dit was vir my baie maklik gewees om die Nyala 4 se mense 15 te sien en dan ook, waar ek gesê het ek het hulle op hulle 16 geskree, dit was aan die buitekant van die voertuig. 17 MR CHASKALSON SC: And while we're on 18 your positions inside the Nyala and what you can see from 19 the Nyala, you've got a window to your right, you've got a 20 window to your left, but that's on the other side of the 21 Nyala. There is also a window at the back, obviously it is 22 not going to be relevant for now but it may be relevant 23 later. Did you have any vision out of the window at the 24 back from your position? 25 BRIGADIER CALITZ: As jy omdraai kan jy</p>	<p style="text-align: right;">Page 17949</p> <p>1 direction. Is that what you saw? 2 BRIGADIER CALITZ: Dit is omtrent die 3 rigting van die voorste groepie wat in daardie rigting 4 beweeg het, mnr die Voorsitter. 5 MR CHASKALSON SC: And while we've got 6 197 up, if you can just mark your position on 197? Maybe I 7 can point it out for you. That's Papa1. 8 BRIGADIER CALITZ: Dit is korrek, mnr die 9 Voorsitter. 10 MR CHASKALSON SC: I'm circling the Nyala 11 that is at the end of the shadow of the mast. 12 BRIGADIER CALITZ: Op hierdie foto, ja. 13 Dit was nog toe, dis voor - o, ek sien die tyd is daar bo, 14 ja. Dis voor Nyala 1 ontplooi het. 15 MR CHASKALSON SC: Yes, yes, it's an 16 earlier photo, but your position hadn't moved by the time 17 that incident 1 allegedly happened. 18 BRIGADIER CALITZ: Dit is korrek, mnr die 19 Voorsitter. 20 MR CHASKALSON SC: Now you said that you 21 were looking out the right-hand side, or the open right 22 door to where Nyala 4 was essentially at the mast and you'd 23 be looking broadly down the line of the shadow of the mast. 24 Is that correct? 25 BRIGADIER CALITZ: Dis omtrent in daardie</p>
<p style="text-align: right;">Page 17948</p> <p>1 wel daar uit sien, beperk, maar jy kan daar uit sien, ja. 2 MR CHASKALSON SC: Now when you saw Nyala 3 4 at incident 1, do you recall whether you were looking 4 through the windscreen in front, past the Bakkie Botha like 5 frame of Colonel MacIntosh or through your right hand 6 window or open door? 7 BRIGADIER CALITZ: Ek dink dit is meer 8 soos ek die blokkies miskien nou geskuif het, dat Nyala 4 9 het verby die paal beweeg en hulle was soort van voor my, 10 meer na die regterkant toe. So ek het op daardie stadium 11 by my deur wat die lugdruk bo is, op daardie stadium daar 12 uit gekyk en met hulle gekommunikeer. 13 MR CHASKALSON SC: So you communicated 14 through your open door and they were on a line where you 15 could do that, talking through your open door you would be 16 talking at them? 17 BRIGADIER CALITZ: Dit is korrek, mnr die 18 Voorsitter. 19 [15:53] MR CHASKALSON SC: And what exactly did 20 you see? Was there any - what's described in exhibit L is 21 "A group of armed protesters in formation moved forward and 22 tried to enter the police enclosure in front of Nyala 4." 23 And then if we go back, or if we go forward to the next 24 slide we see an arrow, which is I presume designed to 25 depict the movement of the strikers forward in that</p>	<p style="text-align: right;">Page 17950</p> <p>1 rigting, ja, mnr die Voorsitter. 2 MR CHASKALSON SC: And my question was, 3 did you see people on the koppie in formation moving down 4 in the direction of the arrow, trying to get into the 5 police enclosure at that point? 6 CHAIRPERSON: So are you deliberately 7 asking from the koppie, because what we can see now, I mean 8 of course - 9 MR CHASKALSON SC: Yes. 10 CHAIRPERSON: - it's a picture from a 11 different time, but the evidence has been there were people 12 on the koppie and then on the sort of flat area in front of 13 the koppie there were other people. 14 MR CHASKALSON SC: Thank you, 15 Chairperson, my question was wrong. 16 CHAIRPERSON: Which are you referring to? 17 MR CHASKALSON SC: What I understand 18 incident 1 to be describing is - or let's ask; is this 19 group that I am circling with my pointer just behind the 20 arrow on slide 197 what you would describe as the militant 21 group? 22 BRIGADIER CALITZ: Ja, die, u rigting was 23 bietjie groot gewees. Dit is daardie groepie voor, die 24 tweede - nie die hele groep nie, daardie groepie daar voor. 25 Ek, my pointer is maar net agter die geel pyltjie, die 2</p>

<p style="text-align: right;">Page 17951</p> <p>1 tot 300 kleiner groepie.</p> <p>2 MR CHASKALSON SC: And Brigadier, did you</p> <p>3 see that group then move down in the direction described by</p> <p>4 the arrow and attempt to get into the police enclosure just</p> <p>5 north of the mast?</p> <p>6 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>7 ja, nie net daardie groepie nie. Soos hulle begin beweeg</p> <p>8 het, dit is wat die vorige getuie was, het ek gesien dat</p> <p>9 van die groter groepe mense saam met hulle, agter hulle,</p> <p>10 kan ek maar sê in dieselfde rigting op 'n afstand nader</p> <p>11 beweeg, maar die voorste militante groepie het die</p> <p>12 spesifieke formasie gehad wat ek dan van getuig het.</p> <p>13 MR CHASKALSON SC: But I'm interested in</p> <p>14 where you saw them move. Did you see them move along the</p> <p>15 arrow that we see on slide 197?</p> <p>16 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>17 ja, of hulle presies na die paal toe beweeg het, ek het</p> <p>18 gesien Nyala 4 het gery voor my en ek het gesien hulle kom</p> <p>19 af direk na Nyala 4 toe, waarop ek vir Nyala 4 gesê het se</p> <p>20 lede, spring terug in die voertuig. Of hulle op daardie</p> <p>21 stadium verby die paal was, voor die paal was, dit kan ek</p> <p>22 nou nie vir u, presies onthou nie.</p> <p>23 MR CHASKALSON SC: And did you see any</p> <p>24 movement before Nyala 4 had reached the mast?</p> <p>25 CHAIRPERSON: By whom? Movement by whom?</p>	<p style="text-align: right;">Page 17953</p> <p>1 around, also in the vicinity of the pole. They're going</p> <p>2 towards the pole. The Nyala is more or less at the</p> <p>3 position of the pole, and it's shortly going to accelerate</p> <p>4 towards the small kraal, but that's something you can tell</p> <p>5 us about tomorrow morning, if you're prepared to do so.</p> <p>6 BRIGADIER CALITZ: Enige tyd,</p> <p>7 Kommissaris.</p> <p>8 CHAIRPERSON: So we'll adjourn now until</p> <p>9 9 o'clock tomorrow morning. Mr Chaskalson, unless there's</p> <p>10 something you want to say before that?</p> <p>11 MR CHASKALSON SC: Chairperson, just to</p> <p>12 help proceedings tomorrow, can we ask the camera operator</p> <p>13 just to take a picture of the map with the blocks on it now</p> <p>14 so that we can recreate it tomorrow morning and pick up at</p> <p>15 that point and – we'll leave it, but we don't know who's</p> <p>16 going to be in this room overnight and whether someone</p> <p>17 might helpfully sort of tidy it all up and put it back in a</p> <p>18 corner.</p> <p>19 CHAIRPERSON: Well, your request has been</p> <p>20 heard, I trust, and I'm sure it will be complied with. We</p> <p>21 will adjourn now - unless there's some other housekeeping</p> <p>22 we have to attend to - adjourn now until 9 o'clock tomorrow</p> <p>23 morning.</p> <p>24 [COMMISSION ADJOURNED]</p> <p>25 .</p>
<p style="text-align: right;">Page 17952</p> <p>1 MR CHASKALSON SC: Movement by the</p> <p>2 protesters, or by the militant group.</p> <p>3 BRIGADIER CALITZ: U praat van "the</p> <p>4 mast," praat u van die paal?</p> <p>5 MR CHASKALSON SC: Yes.</p> <p>6 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>7 dit is wat ek nou net gesê het in my antwoord dat ek kan</p> <p>8 nie presies onthou toe die Nyala voor of na die paal was.</p> <p>9 Ek het nie spesifiek opgelet na die paal op daardie stadium</p> <p>10 nie, nee. Ek het net gesien die groep beweeg in die</p> <p>11 rigting van die draad wat ons uitrol. So jammer, nee, ek</p> <p>12 kan nie vir u daar help nie.</p> <p>13 COMMISSIONER HEMRAJ: But that group of</p> <p>14 people would have had to traverse that area where the</p> <p>15 yellow arrow is to reach the Nyala at the pole.</p> <p>16 BRIGADIER CALITZ: Dit moet in daardie</p> <p>17 rigting gewees het. Hulle het direk afgekome van die koppie</p> <p>18 af, direk na die voertuig toe, Kommissaris.</p> <p>19 MR CHASKALSON SC: Chairperson, I've</p> <p>20 noticed it's now 4 o'clock. I'm about to move on to ask</p> <p>21 the Brigadier to describe what he saw at incident 2, but</p> <p>22 that's going to –</p> <p>23 CHAIRPERSON: It sounds a logical point</p> <p>24 to take the adjournment. He's got the group moving forward</p> <p>25 towards the, in the vicinity of the pole. The Nyala 4 is</p>	

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