

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 158

29 NOVEMBER 2013

PAGES 17954 TO 18058



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1 [PROCEEDINGS ON 29 NOVEMBER 2013]
 2 [09:10] CHAIRPERSON: The Commission resumes.
 3 Brigadier, you're still under oath.
 4 ADRIAAN MARTHINUS CALITZ: s.u.o.
 5 CHAIRPERSON: Mr Chaskalson, you're
 6 continuing with your questioning about the positioning of
 7 the vehicles, and so forth?
 8 MR CHASKALSON SC: I am. I wonder if I
 9 should change my positioning so that the Brigadier and I
 10 can see each other, or I suppose the Brigadier will be up
 11 at the chart, so we will end up seeing each other.
 12 CHAIRPERSON: May I make a suggestion; as
 13 we sit here facing the table with the, what amounts to the
 14 enlarged photograph, on our right-hand side is a chair
 15 where the Brigadier is sitting and he's going to have a
 16 microphone there, I take it. Is it not possible for you to
 17 sit on the other side, on the left side, so you can then
 18 have a direct view of what's going on, and you can have a
 19 microphone as well? Would that not make it easier? He
 20 sits next to where he's now standing and you sit opposite
 21 him on the other side. Is that possible?
 22 MR CHASKALSON SC: I'll need to get a
 23 microphone though.
 24 CHAIRPERSON: Possibly attempts can be
 25 made, or endeavours can be made to get a microphone for you

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1 that works. So both of you obviously must have microphones
 2 that record properly. The advantage of that is that if
 3 necessary you may, it may be convenient for you to move the
 4 odd block yourself to indicate something to the Brigadier
 5 for him either to agree with or not. Is there space for
 6 your notes?
 7 MR CHASKALSON SC: There will be.
 8 CHAIRPERSON: Yes, good.
 9 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 10 Thank you, Chairperson. We've recreated the –
 11 CHAIRPERSON: I don't think I reminded
 12 the witness he's still under oath. You're still under
 13 oath, Brigadier, just in case I didn't remind you.
 14 BRIGADIER CALITZ: Dankie.
 15 MR CHASKALSON SC: And I wonder if we can
 16 just get the camera to display the image again so that
 17 everyone can see – great. We've recreated the picture
 18 where we left it last night and it struck me overnight that
 19 what we have to add to this picture is of course the
 20 movement of the strikers and what we have now is what the
 21 Brigadier has put together, the position of the Nyalas at
 22 incident 1, and what I'd ask the Brigadier to describe now
 23 is how the strikers moved at incident 1.
 24 CHAIRPERSON: You've got some wooden
 25 blocks over the photographs of the strikers on the, which

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1 we can now see on the screen. Are those intended to
 2 represent some of the strikers?
 3 MR CHASKALSON SC: Yes. They've been
 4 bumped in the furniture rearrangement, so they should be a
 5 little bit like that. They were on a line with a clear
 6 road up past the right-hand side of the kraal. This is not
 7 absolutely precise. We can go back to - I forget which
 8 slide it was – I think it's 191. But they're not going to
 9 be relevant to incident 1. They become relevant much
 10 later. That's roughly the configuration that we see on
 11 191, if we can zoom in to the top left-hand corner of the
 12 slide. And if I can just point out the position of the
 13 Scorpion and the, if we can just stay in one position for a
 14 moment and get rid of the image edits. Can you just click
 15 again, or press escape? Can we take it back to where it
 16 should be? Yes, great. There is the Casspir and there is
 17 the Scorpion. I'm marking with a red dot just to the east
 18 of the intersection of the two black lines, let's say 100
 19 metres and 110 metres on the other side of the TRT officers
 20 who are on foot, who I'm indicating now. Now if we can try
 21 to describe the movement of the protesters, Brigadier, I
 22 went back to your evidence-in-chief to look at how you
 23 describe the point at which they moved, and the relevant
 24 passage is to be found at page 17277 on day 154 where
 25 Commissioner Hemraj asked you, "May I just understand,

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1 Brigadier" - you're describing incident 1 and Commissioner
 2 Hemraj says, "May I just understand, Brigadier, that at the
 3 time the group reached Nyala 4, had Nyala 4 already begun
 4 to deploy the wire?" and you say, "Kommissaris, ja, soos ek
 5 dit gesien het, Nyala 4 het begin beweeg toe 3 by 4 kom, en
 6 soos Nyala 4 begin beweeg het ek die groep gesien af beweeg
 7 in die rigting van Nyala 4." So as Nyala 4 begins to move
 8 you see the group move in the direction of Nyala 4, and if
 9 you can just describe on the chart the movement that you
 10 saw.
 11 BRIGADIER CALITZ: Kommissaris, as ek so
 12 staan – dankie, mnr die Voorsitter. Toe Nyala 3 by Nyala 4
 13 kom, ek dink die paal is prominent in die – Nyala 4 se
 14 draad het begin gooi waar die paal is, volgens wat ek
 15 waargeneem het. Die "uncoiling" en toe hulle besig was en
 16 toe Nyala 4 begin beweeg tydens, kan ek sê die afhaak van
 17 die "A-frame" en wat daar gebeur het, het die groep,
 18 miskien die drie blokkies aan die voorkant, het ek gesien
 19 dat hulle in die rigting van Nyala 4 – hulle was meer
 20 "close bend" formasie, soos ons reeds gesê het, en dan die
 21 groter groep het af gekom en dit het gelyk asof hulle so in
 22 so formasie dan hulle volg. Nyala 4 het vorentoe beweeg.
 23 Die groep het asof hulle nader beweeg het aan 4 en dit is –
 24 CHAIRPERSON: I'm sorry to interrupt you
 25 for a moment. Is this being filmed? So when you talk

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1 about "this formation" and "that formation" and so on, we
 2 don't have to describe it because it's being recorded. Is
 3 that correct? Yes okay, that's fine. So we don't have to
 4 stop every now and again, saying this means that, you know,
 5 this is what this means and this is what that means.
 6 Alright, so please carry on. I'm sorry to have interrupted
 7 you. You were saying that you've got the three blocks
 8 which represent, I presume, the front line or front lines
 9 of the group. You've shown them in position, and then
 10 you've also shown another five blocks which represent other
 11 members of the, of other strikers who were further back,
 12 but adopted the position you have shown us.
 13 BRIGADIER CALITZ: Korrek, mnr die
 14 Voorsitter. Die groep was nie so in die formasie, maar die
 15 voorste groep het ek maar nader aan mekaar probeer sit om
 16 aan te dui dit was die voorste protes groep waarna ons
 17 verwys, die militante groep. Die afstand mag miskien nou
 18 op die kaart nou nie wees nie, maar hulle het toe, soos
 19 Nyala 4 beweeg het hulle in die rigting van Nyala 4 – ek
 20 het op daardie stadium vir Nyala 4 kontak gemaak en
 21 geskreeu dat die lede wat buitekant was wat nog besig was
 22 moet terugbeweeg en dan in die voertuig. Ek het ook oor
 23 die radio dan vir hulle opdrag gegee om terug te klim in
 24 die voertuig in want ek was nie seker wat die intensie van
 25 die groep was wat direk na Nyala 4 beweeg het.

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1 MR CHASKALSON SC: Thanks, Brigadier.
 2 Before we move off here can I just ask a couple of
 3 questions for clarification? The first is did you, you
 4 speak of the militant group. Did you recognise any
 5 individuals in that group from the people who had been part
 6 of the negotiation process with you? For instance Mr Noki
 7 who presumably you could identify by that stage.
 8 BRIGADIER CALITZ: Mnr die Voorsitter, as
 9 ek moet sê spesifiek gesig identifisering, op daardie
 10 stadium waar ek was, ek dink die afstand was baie moeilik
 11 om te identifiseer, maar die groen van mnr Noki, daar was –
 12 CHAIRPERSON: This is the green blanket.
 13 Did you see one of the people with a green blanket and was
 14 that the green blanket you'd seen earlier having been worn
 15 by -
 16 BRIGADIER CALITZ: Die groen – ek kan nie
 17 sê dat dit 'n kombers was of 'n ander persoon met 'n ander
 18 baadjie.
 19 CHAIRPERSON: Ja, there were two actually
 20 with green –
 21 BRIGADIER CALITZ: Ek kon nie spesifiek
 22 sê dit is mnr Noki, ja, maar daar was definitief 'n groep
 23 persone wat tipe van 'n, kan ek sê 'n spiesformasie gemaak
 24 het, die voorste groep. So die leierfigure het dan aan die
 25 voorste punt volgens my beweeg, van die groep.

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1 MR CHASKALSON SC: And then Brigadier,
 2 just to clarify an issue which wasn't clear to me from your
 3 evidence-in-chief read with your statement; in your
 4 evidence-in-chief you say that you actually jumped out of
 5 your Nyala and shouted at members to get back into Nyala 4.
 6 It's 17277, lines 3 to 4. Do you recall – is that correct?
 7 Have I understood the evidence-in-chief correctly?
 8 BRIGADIER CALITZ: Mnr die Voorsitter,
 9 korrek, as ek sê "jumped out," die deur was oop van die
 10 regterkant agter, so "jumped out" beteken nie uitspring en
 11 hardloop iewers heen. Dit is uitgeleun en op hulle
 12 geskreeu dat hulle my kan hoor en daarna terug en toe op
 13 die radio met hulle gekommunikeer. So dit is nie 'n
 14 kwessie dat ek uitgespring het en buitekant die voertuig
 15 gehardloop het nie, nee.
 16 MR CHASKALSON SC: And can you give us a
 17 rough indication of where Nyala 4 was when this happened,
 18 again on this chart?
 19 BRIGADIER CALITZ: Mnr die Voorsitter
 20 nee, ek kan nie vir u sê op daardie stadium. Ek dink dit
 21 is toe ek die groep sien af beweeg het. Dit kon miskien
 22 net toe Nyala 4 begin uitrol het. Ek het gesien die groep
 23 beweeg af. My bekommernis was die lede van die polisie wat
 24 nog steeds aan die buitekant was, wou ek net gesê het hulle
 25 moet terugbeweeg en terug klim in die voertuig.

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1 MR CHASKALSON SC: And then can you
 2 describe the rest of what you say was incident, what you
 3 understand incident 1 to have been?
 4 BRIGADIER CALITZ: Mnr die Voorsitter,
 5 van my posisie, Pappa1, het ek dan net waargeneem dat Nyala
 6 4 beweeg en die groep het parallel, asof hulle parallel
 7 beweeg het met 4. Nyala 5 het na binnekant – as ek sê
 8 "binnekant" is dit na die oostekant basies gedraai en Nyala
 9 4 het aanhou beweeg en ek het vir hom gesê dan om vinnig
 10 vorentoe te beweeg sodat die groep nie kan deurbreek nie.
 11 So dit was die insident 1.
 12 MR CHASKALSON SC: And can we take it
 13 step by step so that we see the movement of the group and
 14 Nyalas 4 and 5 at each stage of the process as you remember
 15 it?
 16 BRIGADIER CALITZ: Dit is omtrent soos ek
 17 dit so pas aan u gestel het. Stap vir stap, ek het nie
 18 sekonde by sekonde, kan ek nie vir u sê presies waar na.
 19 Die groep het parallel volgens my begin beweeg na Nyala 4
 20 en ek het gesien dat hulle in dieselfde tipe van rigting,
 21 en die idee was hulle sou voor hulle insny en daarom het ek
 22 vir 4 gesê, Nyala 4, om vinniger te beweeg en die groep so
 23 af te sny. Op watter stadium Nyala 5 spesifiek inbeweeg
 24 het kan ek nie vir u sê nie, en ek sien Nyala 6 het op 'n
 25 stadium ook op, inwaarts beweeg. Dit kan ek ook nie vir u

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1 sê van waar my posisie was nie.

2 CHAIRPERSON: What then happened was that

3 Nyala 4 then I take it picked up speed, accelerated, and

4 then went past Nyala 5, passing, it looks like from what

5 you've shown us, the left back corner of Nyala 5. Is that

6 more or less right?

7 BRIGADIER CALITZ: Dit is korrek, mnr die

8 Voorsitter. Ek kan egter nie vir u sê wat die posisie van

9 Nyala 5 was toe Nyala 4 begin ontplooi het. Ek weet Nyala

10 5, as ons kyk op die foto, het hy gestaan en hy het op 'n

11 stadium inbeweeg. So Nyala 4 het dan aan die westekant van

12 die Nyala 5 verby beweeg in die rigting van die klein

13 kraal.

14 MR CHASKALSON SC: And if we go back to

15 where incident 1 started, can I ask you, was this the first

16 movement that you noticed of the militant group off their

17 starting position in the direction, in an easterly

18 direction?

19 BRIGADIER CALITZ: Op daardie stadium

20 nadat ek die opdrag gegee het dat die draad uitgegooi was,

21 was dit die eerste bewering vorentoe in ons rigting,

22 korrek, mnr die Voorsitter.

23 MR CHASKALSON SC: And again just to

24 confirm, your evidence-in-chief was that this was a

25 movement in what we call the crouched position. I think

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1 the adjective that you used was "gebukkend" at page 12780,

2 lines 22 to 24.

3 BRIGADIER CALITZ: Dit is korrek, mnr die

4 Voorsitter. Dit is daardie drie voorste blokkies wat teen

5 mekaar is. Daar was 'n baie prominente nader aan mekaar

6 groepie voor met dan hierdie wat meer uitgespreid gevolg

7 het.

8 CHAIRPERSON: So they were a compact

9 group, and they were moving forward, crouching, bending

10 forward, with the upper parts of their body leaning

11 forward. Is that correct?

12 BRIGADIER CALITZ: Dit is korrek, mnr die

13 Voorsitter.

14 [09:30] MR CHASKALSON SC: And against, jus to –

15 sorry can we take those blocks back to their starting

16 position, because I just want to clarify another aspect of

17 your evidence in chief?

18 CHAIRPERSON: I'm sorry, there is a path,

19 a clearly defined path which is more or less parallel with

20 the direction of the wire that was uncoiled and it looks as

21 if the militant group was originally on the other side, the

22 koppie side as it were, of that path, they crossed the path

23 and moved over in the direction that you've shown us and

24 the rest of the group, the ones that you said were not so

25 compact, did they remain on the koppie side of that path?

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1 At the moment you'll see there, you've got all the blocks

2 on that side of the path but you indicated that the compact

3 front group clearly moved over and approached Nyala 4.

4 BRIGADIER CALITZ: Korrek.

5 CHAIRPERSON: The other lot, did they

6 stay on the koppie side of the path or did they also move

7 over the path?

8 BRIGADIER CALITZ: Nee, mnr die

9 Voorsitter, dit is die groep wat ek gesê het wat meer uit

10 gesprei is in die agterkant, hulle het die voorste groep

11 gevolg maar op 'n afstand.

12 CHAIRPERSON: So what's being called the

13 left compact group also followed the front compact group,

14 they did follow them over the path as well?

15 BRIGADIER CALITZ: Waar ons verwys die

16 militant groep voor?

17 CHAIRPERSON: Yes, yes, yes.

18 BRIGADIER CALITZ: Ja.

19 CHAIRPERSON: Well, I thought, - I'm not

20 sure whether the left compact group also consisted of

21 people who can be described as militant or not, but –

22 BRIGADIER CALITZ: Nee, mnr die

23 Voorsitter, daar was 'n distinct verskil gewees tussen die

24 voorstes wat definitief gebukkend in daardie posisie was en

25 die agterste groep glad nie.

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1 CHAIRPERSON: Okay, so the compact group,

2 you would describe as the militant group, and you've

3 described they were in this leaning forward posture. The

4 other group were less compact and did they not have that

5 leaning forward posture?

6 BRIGADIER CALITZ: Nie wat ek waargeneem

7 het nie, nee.

8 CHAIRPERSON: Alright, thank you.

9 MR CHASKALSON SC: Then, Brigadier, you

10 indicated in your evidence in chief that this militant

11 group got, you said as close to Nyala 4 as the distance

12 between you in your usual chair and the commissioner's. I

13 imagine you were in your usual chair, I think the

14 chairperson estimated it at 4 metres and you said it might

15 have been a little bit longer than that but it was

16 certainly, - well, was it less than 10 metres?

17 BRIGADIER CALITZ: As ons kan teruggaan

18 na my transcript, ek het dit nie voor my nie, ek dink mnr

19 die Voorsitter het vir my gevra van hier af na die evidence

20 leaders, ek het gesê verder en ek dink die afstand wat ek

21 gebruik het was 20 meter. Ek dink my transkripsie sal sê

22 dit was in daardie afstand, maar ek kon nie verseker sê wat

23 die afstand was nie.

24 CHAIRPERSON: I think I talked about a

25 cricket pitch, 20 metres is about a cricket pitch but there

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1 was a measurement from where you were sitting to more or
 2 less where I am sitting and I did estimate that as being
 3 about 4 metres and you thought that I'd been a bit
 4 parsimonious in my estimation and you said it was a bit
 5 longer and I think that's the point that Mr –
 6 BRIGADIER CALITZ: Ek onthou nou die
 7 krieket, dit is korrek.
 8 CHAIRPERSON: But that's the bit I think
 9 that Mr Chaskalson is referring to. What was the cricket
 10 pitch length, the 20 metre length? Well, anyway we can
 11 find it in the record, it is not important.
 12 MR CHASKALSON SC: Sorry, Mr Chairperson,
 13 I just need to switch on my computer to do that. I've
 14 discovered a problem with my new seating arrangements,
 15 Chairperson, if you can –
 16 CHAIRPERSON: Would you like a short
 17 adjournment so that you can sort it out?
 18 MR CHASKALSON SC: Well, we don't need
 19 one now but if my battery threatens to die on me we may
 20 need one later.
 21 CHAIRPERSON: Alright, I understand that.
 22 MR CHASKALSON SC: Thank you,
 23 Chairperson. The passage in the brigadier's evidence in
 24 chief was, it starts at 17281 in response to a question
 25 from Commissioner Hemraj, actually how close that group

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1 gets to Nyala 4 and the brigadier's answer was,
 2 "Kommissaris, dit was meters gewees vanwaar ek gestaan het,
 3 so dit is moeilik nou om 'n afstand te skat anderkant maar
 4 baie, baie, baie, baie naby, soveel so dat, dit is miskien
 5 die afstand van my af na Kommissaris toe, ja, dit was
 6 nader. Hulle het, toe Nyala 4 beweeg het, het die groep
 7 gedraai en dan parallel saam met hulle na Nyala 5 beweeg."
 8 That was at lines 15 to 21 at page 17281, and then the
 9 chairperson said, "The distance you point with your hand
 10 towards me, between yourself and me is about 4 metres at
 11 most I would think, is that right," and the brigadier said,
 12 "Dit kan dalk 'n bietjie verder wees, mnr die Voorsitter,
 13 ja," and Chairperson, you introduced the cricket pitch.
 14 "Do you know the length of a cricket pitch which
 15 is 22 yards, was it as far as a cricket pitch or half a
 16 cricket pitch or is that not a measurement that means
 17 anything to you," and then the brigadier said, "Kom ons sê
 18 daai afstand, mnr die Voorsitter, ek is self nie 'n
 19 vreeslike," and the chairperson said, "A cricket pitch, 20
 20 yards. 11 meter, 22, ja. No, no, a cricket pitch is 22
 21 yards but you can mitigate," and the conversation then got
 22 stalled and Mr Semenya took us elsewhere, but maybe we
 23 should just ask the brigadier now. How far do you estimate
 24 that the group got to Nyala 4?
 25 BRIGADIER CALITZ: Mnr die Voorsitter,

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1 weereens, toe die draad begin uitgerol is toe het hulle
 2 begin beweeg van die koppie, so op 'n stadium, ek neem aan
 3 waar hulle dan by Nyala 5 verby gekom het, hulle het al hoe
 4 nader begin beweeg hoe verder Nyala 4 vorentoe gegaan het.
 5 So die afstand het al hoe nader gekom en op 'n stadium was
 6 hulle dan baie naby aan waar 4, ek neem aan by 5 verby
 7 gegaan het want hulle het hulle afgesny en die bevelvoerder
 8 het aan my aangedui dat die groep het amper voor hulle in
 9 gesny. So om dit reg te gekry het moes dit omtrent –
 10 CHAIRPERSON: Well, it sounds like less
 11 than 4 metres at that point obviously, it must have been
 12 less than 4 metres at that point.
 13 BRIGADIER CALITZ: Ek dink op 'n stadium
 14 –
 15 CHAIRPERSON: You say they were actually
 16 cutting in in front?
 17 BRIGADIER CALITZ: Mnr die Voorsitter,
 18 ja, ek kan nie sê ek het dit self, presies daardie afstand
 19 waargeneem vanwaar ek was, ek het net gesien die groep
 20 beweeg al nader. Ek het opdrag gegee hulle moet vorentoe
 21 beweeg en ek het gesien aan die agterkant van hulle het
 22 hulle dan parallel beweeg. Dit was moeilik om die heeltyd
 23 met die Nyala tussen my en die groep te sien presies hoe na
 24 hulle aan mekaar was. Ek kan nie sê ek kan daarvoor beslis
 25 getuig nie.

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1 MR CHASKALSON SC: Brigadier, just to go
 2 back, the point that I'm interested in is when they first
 3 advanced on Nyala 4, the point at which you first noticed
 4 their advance, the arrow that we see described as incident
 5 1 in Exhibit L, how close to Nyala 4 did they reach?
 6 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 7 het gesê toe Nyala 4 begin beweeg by die paal, toe die
 8 draad uitgegooi was en hulle begin beweeg, dit is toe die
 9 groep van die koppie vorentoe begin beweeg het. So as
 10 iemand die afstand tussen die paal en die voorste militante
 11 groep miskien het, ek het nie die meters om dit vir u te sê
 12 nie.
 13 CHAIRPERSON: I am sure we can get it
 14 later, ja.
 15 MR CHASKALSON SC: You see part of what I
 16 think maybe the differences between the evidence leaders
 17 and the SAPS on incidents 1 and 2, is that what you're
 18 describing as incident 1 is really what the presentation
 19 describes as both incident 1 and 2, if I understand it
 20 correctly. So if you look at slide 200 of the
 21 presentation, can we go to slide 200? This is under the
 22 heading, incident 2 protestors' second approach to Nyala 4.
 23 Now if you look at this diagram and if I can point out
 24 Nyala 4, you'll see that Nyala 4 hasn't yet cut off the
 25 protestors. It will only cut off the protestors by

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1 reaching the kraal which it does at a certain point. Now
 2 you've been describing the distance between the protestors
 3 and Nyala 4 as the distance for the purposes of incident 1
 4 and you've been describing Nyala 4 as cutting off the
 5 protestors as incident 1. We've always understood that to
 6 be incident 2. Am I correct in understanding that what you
 7 have been describing as incident 1 is really what we see in
 8 part on the photograph ahead of us?
 9 BRIGADIER CALITZ: Mnr die Voorsitter,
 10 soos ek dit verstaan het, as ek maar die rooi kolletjie kan
 11 gebruik, die paal waar insident of die Nyala dan begin gooi
 12 het, het die voorste militante groep wat op die donker kol
 13 voor koppie 1 en 2 beweeg in die rigting van en dan hier by
 14 die paal omtrent het ek begin skree op die mense om terug
 15 te klim. Daar was nie 'n rede vir my om vir hulle te sê
 16 klim terug. As die groep van daar af, ek weet nie, as u
 17 sien die rigting wat hulle nou is, dit beteken dat hulle
 18 moes hiernatoe kom en dan soontoe loop, dan was daar geen
 19 rede vir my om, soos dit op die radio kommunikasie duidelik
 20 is, om vir hulle te sê klim terug nie. Die rede waarom ek
 21 op die groep of my lede gewaarsku het om terug te klim in
 22 die Nyala, is dat ek het die militante, die voorste groepie
 23 gesien in die rigting beweeg en dan die groot groep op
 24 koppie 1 asook koppie 2 het as it ware gevolg maar op 'n
 25 afstand en op 'n stadium het hulle asof hulle gelyk wil

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1 begin beweeg het en dit is wat ek sê, my visie was beperk
 2 want hulle was agter Nyala 4. Toe, wat ons hier sien is
 3 wat ek beskryf as insident 2, het ek gesien die persone
 4 beweeg asof hulle terugbeweeg.
 5 Ek dink die vorige vraag van die kommissaris was,
 6 het hulle almal terugbeweeg, weg gehardloop en toe
 7 teruggekome? Ek het gesê, nee, meer soos 'n, as ek die
 8 woord pendulum kan gebruik, die voorste groep daar en die
 9 agterste groep het basies geswaai, so die voorste groep het
 10 net vinniger die kant beweeg en die agterste groep het
 11 soort van in 'n, soos noord aandui, hier na die kraal toe
 12 agter hulle inbeweeg en dan insident 2 is waar hulle dan
 13 pertinent af gestorm het om hier voor die voertuig in te
 14 kom. So dit is wat ons na verwys, as ek tot hulp kan wees,
 15 insident 1 en 2.
 16 CHAIRPERSON: Sir, may I ask you a
 17 question, the question I get from you, if I'm wrong you
 18 must please help me. If one looks at slide 197 in Exhibit
 19 L, that is the so called incident 1 and that what you've
 20 described to us, I think, and by showing us the blocks
 21 moving forward, that the militant group, the compact group
 22 moved forward in this forward bending posture, came towards
 23 Nyala 4, more or less straight to it as is indicated on
 24 that arrow on 197.
 25 MR CHASKALSON SC: Yes, Chairperson,

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1 maybe –
 2 CHAIRPERSON: That's correct, is it?
 3 BRIGADIER CALITZ: Dit is korrek, mnr die
 4 Voorsitter.
 5 CHAIRPERSON: So what then happened was
 6 Nyala 4 started moving in the direction of Nyala 5
 7 uncoiling the wire and what then happened was, the group,
 8 you say may have moved slightly away from the direction of
 9 travel of Nyala 4, but they more or less were moving in
 10 parallel with it. I mean it would have been crazy for them
 11 to describe that wide arc, because they would have lost a
 12 lot of time and in fact what happened was they more or less
 13 kept up, and not only did they keep up with Nyala 4, they
 14 actually, according to what you were told because you
 15 didn't see this, they actually were beginning to cut in
 16 front of it and then you then instructed them to, "om
 17 petrol te gee," I think that's what you said, to
 18 accelerate, which they did effectively. I think those
 19 words, and they accelerated and then shot passed them and
 20 got to the point at the edge of the small kraal, is that
 21 right?
 22 BRIGADIER CALITZ: Korrek, mnr die
 23 Voorsitter.
 24 CHAIRPERSON: And then what you
 25 described, I think is incident 2, is really what happened.

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1 They tried to get in front but because the Nyala was
 2 moving, I take it quite fast at that stage, it won the race
 3 and got to the kraal first, is that correct?
 4 BRIGADIER CALITZ: Dit is korrek, mnr die
 5 Voorsitter.
 6 CHAIRPERSON: So the bottom line of all
 7 this is this arc, if you look at 194 which supposedly
 8 represents the three incidents, that we can see at 194, the
 9 first yellow arrow is right, that's what you saw, alright.
 10 The arc isn't quite right, what really happened was, there
 11 was a slight little arc but basically they stayed in a
 12 direction parallel to the direction and travel of the Nyala
 13 4 and that must have been so otherwise Nyala 4 would have
 14 won the race much more easier than it did, isn't that so?
 15 And then as they approached it and nearly cut in front of
 16 it, it accelerated and got to the corner of the kraal and
 17 that's where incident 2 happened. So the point is that
 18 that wide arc, the orange arc isn't correct.
 19 BRIGADIER CALITZ: Mnr die Voorsitter,
 20 ja, dit is waar ek na 'n pendulum, miskien as ek die TRT,
 21 soos die voorste groep, dit is amper so 'n tipe van aksie
 22 waar jou voorste groep vas, ek weet nie of pendulum die
 23 regte woord is nie.
 24 CHAIRPERSON: We better now leave slide
 25 194 which has been shown and get back to our picture of

<p style="text-align: right;">Page 17974</p> <p>1 your demonstration.</p> <p>2 BRIGADIER CALITZ: Miskien –</p> <p>3 CHAIRPERSON: And then you can show us</p> <p>4 and that would then be recorded.</p> <p>5 BRIGADIER CALITZ: Miskien waar hulle dan</p> <p>6 parallel, die verhouding is dalk nou nie reg nie, maar die</p> <p>7 groepie wat parallel beweeg, die groter groep is asof ons,</p> <p>8 - okay, ek gaan dan nie so ver soos by die kraal kan kom</p> <p>9 nie, maar die idee wat ek wil skep is, as ek nou net uit</p> <p>10 die kamera se, - is dat die voorste groep het so met die</p> <p>11 agterste groep wat dan net in 'n wyer sirkel hulle gevolg</p> <p>12 het. So dit is nie dat die voorste militante groep</p> <p>13 heeltemal weggehardloop het nie, soos u sê anderste was die</p> <p>14 Nyala daar lank voor hulle.</p> <p>15 CHAIRPERSON: It is not quite a circle,</p> <p>16 it is more a semi circle, but they moved away slightly in a</p> <p>17 semi circle, you say some of the other people joined them,</p> <p>18 -</p> <p>19 BRIGADIER CALITZ: Die agterste –</p> <p>20 CHAIRPERSON: - but basically they were</p> <p>21 running in parallel with Nyala 4, they almost got in front</p> <p>22 and then Nyala 4 shot ahead, is that the story?</p> <p>23 BRIGADIER CALITZ: Dit is so, mnr die</p> <p>24 Voorsitter.</p> <p>25 CHAIRPERSON: I don't know whether that</p>	<p style="text-align: right;">Page 17976</p> <p>1 were aggressive, tapping their weapons against each other</p> <p>2 and went into an attack formation. Nyala 4 cut the</p> <p>3 protestors off by driving towards the kraal quickly passing</p> <p>4 Nyala 5 while deploying its wire." Now that is described</p> <p>5 as incident 1 when Nyala 4 cuts off the protestors the</p> <p>6 first time, did you see that?</p> <p>7 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>8 dit is inderdaad waaroor ek nou-nou getuig het, ja, toe ek</p> <p>9 gesê het parallel. Ek het wel gesê ek kon nie op 'n</p> <p>10 stadium sien toe hulle by 5 verbygaan aan daardie kant hoe</p> <p>11 ver hulle was nie.</p> <p>12 CHAIRPERSON: And you've explained that,</p> <p>13 can I just ask a question about this? This statement in</p> <p>14 the second bullet on slide 196, that they tried to enter</p> <p>15 the police enclosure in front of Nyala 4, and then in the</p> <p>16 last bullet they talk about Nyala 4 cut them off. Now I</p> <p>17 take it the statement that they try to enter the police</p> <p>18 enclosure is interpretation. I mean they might have been</p> <p>19 trying to attack Nyala 4 for all we know, if they were</p> <p>20 trying to stop the, - and this is speculation obviously,</p> <p>21 but I mean this is what I'm saying according to you, the</p> <p>22 bullet comment is also a speculation. They were either</p> <p>23 trying to get past Nyala 4 and past the wire into the</p> <p>24 police enclosure.</p> <p>25 [09:50] Or they were trying to attack Nyala 4 for some</p>
<p style="text-align: right;">Page 17975</p> <p>1 is what Mr Chaskalson understands and if it isn't he'll</p> <p>2 correct me, but that's what I understand you to be telling</p> <p>3 us.</p> <p>4 BRIGADIER CALITZ: Korrek, mnr die</p> <p>5 Voorsitter.</p> <p>6 MR CHASKALSON SC: Can we then go back to</p> <p>7 the presentation and see if we agree with what's in the</p> <p>8 presentation, or not see if we agree, see if you agree with</p> <p>9 what's in the presentation. If you go to slide 196 which</p> <p>10 is the narrative of incident 1, "Nyala 1 to 3 deployed wire</p> <p>11 without any interference from the protestors. Before Nyala</p> <p>12 4 started deploying its wire a group of armed protestors'</p> <p>13 formation moved forward and tried to enter the police</p> <p>14 enclosure in front of Nyala 4," and I understood your</p> <p>15 evidence to be that that was more or less at the mast, is</p> <p>16 that correct, where the arrow is on the presentation?</p> <p>17 BRIGADIER CALITZ: Dit is waar hulle</p> <p>18 begin beweeg het van die koppie af.</p> <p>19 MR CHASKALSON SC: But they moved down</p> <p>20 the arrow on the presentation.</p> <p>21 BRIGADIER CALITZ: In die rigting van</p> <p>22 Nyala 4, korrek, mnr die Voorsitter.</p> <p>23 MR CHASKALSON SC: "At this stage</p> <p>24 Brigadier Calitz gave command for the water cannons to come</p> <p>25 in behind the line of negotiating teams. The protestors</p>	<p style="text-align: right;">Page 17977</p> <p>1 reason. We don't know which it was because wherever they</p> <p>2 tried to do they were prevented from doing, they were</p> <p>3 frustrated because Nyala 4 moved forward, cut them off so</p> <p>4 if they were trying to get into the enclosure they couldn't</p> <p>5 at that point. The Nyala 4, whether they were trying to</p> <p>6 attack Nyala 4 we don't quite know either, because Nyala 4</p> <p>7 got away from them. Is there a suggestion that they did do</p> <p>8 something aggressive towards Nyala 4?</p> <p>9 BRIGADIER CALITZ: Mnr die Voorsitter, ek</p> <p>10 glo en so ver ek met die bevelvoerders na die tyd</p> <p>11 gekommunikeer het ek glo daar's verklaring tot die effek</p> <p>12 wat die bevelvoerder van Nyala 4 wel in daardie verband kan</p> <p>13 getuig.</p> <p>14 CHAIRPERSON: Well just give it some, did</p> <p>15 they do, show aggressive intentions towards Nyala 4?</p> <p>16 BRIGADIER CALITZ: Daar was definitief</p> <p>17 aggressie wat die persone verneem het wat in Nyala 4 was.</p> <p>18 CHAIRPERSON: Alright.</p> <p>19 BRIGADIER CALITZ: Wat presies gebeur het</p> <p>20 kan ek nie -</p> <p>21 CHAIRPERSON: Anyway –</p> <p>22 MR CHASKALSON SC: Chairperson, I would</p> <p>23 caution against speculation because there is at least a</p> <p>24 third option as well.</p> <p>25 CHAIRPERSON: Mr Chaskalson, all I was</p>

<p style="text-align: right;">Page 17978</p> <p>1 trying to say was that it seemed to me that the statement 2 in the second bullet that they tried to enter the police 3 enclosure in front of Nyala 4 maybe correct but there may 4 be other interpretations, the point is its interpretation. 5 We may have to, I don't know whether we will, we may have 6 to decide whether it's correct but it can't be made as a 7 statement of objective fact because one doesn't know what 8 they tried to do and on what we can see they tried to do 9 one, I thought one of two things that Mr Chaskalson will in 10 due course tell us, reveal to us what the third thing is 11 maybe. But I don't think we need to worry about that for 12 the moment because we tried to get from you the objective 13 facts, matters of interpretation can come up later. 14 MR MPOFU: Mr Chairperson, ja I'm sorry I 15 think I also just want to support what Mr Chaskalson says. 16 If we're going to make speculation about what the 17 protestors were trying to do we must include what they say 18 they wanted to do which is on the record. Remember there's 19 a version by Mr Magidiwana that they were trying to do 20 which is to go to Nkaneng. 21 CHAIRPERSON: No, you see I'm aware of 22 that. I was busy with something different and that was to 23 establish that the last part of the second bullet is in 24 fact interpretation and I was trying to say we must 25 eliminate interpretation, we must stick to the objective</p>	<p style="text-align: right;">Page 17980</p> <p>1 starting position to the kraal, did Nyala 4 cut off the 2 protestors once or twice because as I read the presentation 3 together with what I understand your evidence to be today 4 you're suggesting that there were really two occasions when 5 Nyala 4 cut off the protestors. 6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 nee ek glo nie dit was my evidence nie, ek het gesê dat ek 8 het opdrag gegee vir Nyala 4 om hulle af te sny. Wat dan 9 aan die einde van die dag gebeur het. Of dit een keer was, 10 twee keer was, drie keer was, ek het nie, hulle het 11 parallel met hulle beweeg en ek het opdrag gegee hulle moet 12 vinniger ry, die protestors soos ek sê het in 'n pendulum 13 om beweeg en Nyala 4 het voor hulle by die kraal uitgekom. 14 Die getal kan ek nie u mee help nie, Meneer. 15 COMMISSIONER HEMRAJ: The description of 16 both incidents one and two in slides 196 and 199 both speak 17 of a cutting in front of Nyala 4. That just supports what 18 Mr Chaskalson is saying. That both incidents have the same 19 description in the two slides, 196 and 199. Do you see the 20 second bulletin 199, Brigadier? 21 BRIGADIER CALITZ: Yes. 22 COMMISSIONER HEMRAJ: And it's described 23 in the same way in 196, tried to enter the police enclosure 24 in front of Nyala 4. 25 BRIGADIER CALITZ: Ek verstaan dit as</p>
<p style="text-align: right;">Page 17979</p> <p>1 facts to which the witness can speak and I didn't 2 understand you to quarrel with that, Mr Mpofu. 3 MR MPOFU: No. 4 CHAIRPERSON: So I have your support. 5 Shall we carry on, Brigadier. 6 MR MPOFU: No, Chairperson, I'm sorry. 7 All I'm saying is that the, when that speculation is done 8 the only thing, all that must be speculation in the air but 9 there's one thing that is evidence is that they were trying 10 to go home, to go to Nkaneng. So we can't exclude the only 11 thing that is evidence and only remain with sensible 12 speculation. 13 CHAIRPERSON: I did hear you say that. 14 It's a matter which will be, I'm sure very pertinently 15 dealt with when we reach the stage of trying to find out 16 what they were doing. But at the moment we're not busy 17 with that exercise. I'm simply saying we must eliminate 18 interpretation and I'm suggesting that the second part of 19 the second bullet is interpretation. So but any way you 20 and I are on the same page at the moment, Mr Mpofu. Let's 21 stay there and let's see the Brigadier and Mr Chaskalson 22 can proceed. 23 MR CHASKALSON SC: Brigadier, the 24 question that I still require clarified is did Nyala 4 cut 25 off the protestors in the course of moving from its</p>	<p style="text-align: right;">Page 17981</p> <p>1 dieselfde, mnr die Voorsitter, hulle het gelyk beweeg, 2 probeer voor hulle ingaan en soos ek die ander een lees, as 3 jy my net 'n geleentheid gee daar, the approaching group of 4 protestors attempt to enter in front of Nyala 4 before it 5 reached the kraal. So ek neem aan die eerste een was dan 6 die waar hulle gelyk beweeg het en waar ek opdrag gegee het 7 laat hulle moet vinniger beweeg en soos ek dit lees 199 is 8 waar hulle dan by insident 2 aankom. So dit is twee 9 verskille wat ek verstaan. Kommissaris. 10 COMMISSIONER HEMRAJ: It's just that in 11 exhibit L it's described under incident 1 and incident 2. 12 BRIGADIER CALITZ: Ek glo dit was die 13 bedoeling daarvan. 14 MR CHASKALSON SC: So if we go back up to 15 196 on, which is the description of incident 1 that bottom 16 bullet point, the protestors were aggressive, tapping their 17 weapons against each other and went into an attack 18 formation the last sentence Nyala 4 cut the protestors off 19 by driving towards the kraal quickly passing Nyala 5 while 20 deploying its wire. Would you accept that that was not 21 where Nyala 4 cut off the protestors but that they were cut 22 off in what you describe as incident 2? 23 BRIGADIER CALITZ: Mnr die Voorsitter, 24 weereens as ek die vraag reg verstaan ek het verstaan hulle 25 het na Nyala 4 gegaan, Nyala 4 het verby 5 beweeg. So die</p>

<p style="text-align: right;">Page 17982</p> <p>1 eerste attempt was daar gewees en volgens my Nyala 4 het 2 die kraal bereik waar hulle dan definitief op 'n punt na 3 Nyala 4 toe beweeg het. So ek sal sê dit is die twee 4 insidente as ek dit so na kan verwys.</p> <p>5 MR CHASKALSON SC: Ja, but my question 6 is, you see one of the difficulties I've always had with 7 this narrative is it suggested for the narrative to make 8 sense Nyala 4 would have had to have cut off the protestors 9 twice which would have meant that the protestors would have 10 had to have overtaken Nyala 4 at least once and that didn't 11 make sense to me. Now can you help me with that.</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter, of 13 hulle, hulle ge-overtake het soos in u woorde is dit kan ek 14 nie vir u sê nie. Ek het wel vir u gesê dat hulle het 15 gelyk met Nyala 4 beweeg en Nyala 4 op daardie stadium het 16 ek opdrag gegee om dan vinniger te beweeg en dit was die 17 rede gewees want indien hy, u het gesien met die met uitrol 18 van die draad dit is 'n, u stap langs dit, dit is 'n, ek 19 kan nie afstand skat nie, maar u kan langs die Nyala loop 20 soos die draad normaalweg uitgegooi word en op daardie 21 proses indien u in 'n aanvalsposisie kom is dit baie maklik 22 om voor Nyala 4 dan in te gegaan het so daarom het ek 23 opdrag gegee vir Nyala 4 oor die radio om vinniger te 24 beweeg sodat hulle, hulle kan afsny, ek neem aan dit is 25 waar ek verwys het na die eerste keer en dan die tweede</p>	<p style="text-align: right;">Page 17984</p> <p>1 daardie vorm as parallel. Die kleiner groepie voor, die 2 militante groep was in my view tussen die Nyala en die 3 draad kar en hulle het so beweeg maar die agterste groep 4 het meer in 'n westelike rigting gelê. Die hele groep het 5 nie parallel met ander woorde soos 'n parallel liniaal met 6 hulle beweeg nee, die groepie wat die militante groep voor 7 wat ek gesien het was fisies na die Nyala en dan die groep 8 was uit gesprei agter na die koppie toe en daarom sê ek 9 nader aan insident 2 het daai groep dan verder weg beweeg 10 maar hierdie voorste groep u het asof hulle gebly het toe 11 Nyala 4, ek neem aan op 'n stadium by 5 verby gaan was die 12 punt van die groep voor. Hulle was nie die heeltyd, die 13 hele groep was nie parallel nie, mnr die Voorsitter.</p> <p>14 CHAIRPERSON: I understand that but what 15 I'm interested in and I'm not suggesting it was a square or 16 rectangle or anything of that kind, the militant group but 17 there would have been a, what one could always call a front 18 end of the militant group as they approached. Now whatever 19 the shape of the group was, they're behind the front end as 20 it were, but can you give me approximate as to what the 21 approximation is to the length of the front group, ja, the 22 front line as it, the front edge end of the front group.</p> <p>23 BRIGADIER CALITZ: Mnr die Voorsitter, ek 24 sou sê ek kon hulle nie sien uitsteek voor die Nyala en ook 25 nie met die draad nie. So ek het hulle verneem aan die</p>
<p style="text-align: right;">Page 17983</p> <p>1 keer was toe hy reeds by die kraal was.</p> <p>2 CHAIRPERSON: Can I ask you a question 3 about that. The front line of the militant group can you 4 estimate more or less how long that was? I take it, it 5 wasn't just the length of the front line wasn't the 6 equivalent of the side of the Nyala 4. You understand, 7 Brigadier, if Nyala 4 is the, if the width of Nyala 4 is 8 the same as the width of my glass that I'm holding, and if 9 the width of the front line, sorry it's the length of the 10 front line of the militant group, is pretty small, it was 11 the same as the width of my glass, that's one thing, if on 12 the other hand it was much longer then you'd have a 13 situation that depending which part of the group came up 14 near the Nyala you had another section sticking out as it 15 were, if you can see what I am showing you who were not in 16 the immediate vicinity of the Nyala 4 because they were an 17 extension of the front line of the militant group, you 18 understand my problem. So can you tell me an estimate what 19 the length of the advancing front line was because that 20 might help us in relation to the point that Mr Chaskalson 21 is putting to you.</p> <p>22 BRIGADIER CALITZ: Mnr die Voorsitter, 23 soos ek getuig het ek het probeer om die, of die lang, die 24 TRT line vir u neer te sit. As u die glas gehou het tussen 25 u en mnr die Voorsitter se gesig dan was dit meer in</p>	<p style="text-align: right;">Page 17985</p> <p>1 weste kant van die, so approximate length sal dan wees die 2 Nyala tot by die draad kar. Ek het nou nie die estimate 3 nie maar sê maar 'n Nyala is vier meter die draad kar vier. 4 So agt meter om en by.</p> <p>5 CHAIRPERSON: Thank you.</p> <p>6 MR CHASKALSON SC: And, Brigadier, when I 7 asked you about my difficulties with the group overtaking 8 the Nyala. You said that when a Nyala is throwing out wire 9 in the ordinary course of events it goes slowly and you can 10 essentially keep pace with it by walking. Maybe if we go 11 to slide 197 which shows our distances. If we look at the 12 starting position of the various Nyalas you can see Nyala 1 13 up against the fence, then Nyala 2 at the end of the first 14 arrow, Nyala 3 at the end of the second arrow, can you 15 estimate how long once you've rigged up the A-frame and 16 once the Nyalas actually throwing the wire can you estimate 17 how long it would take Nyala 2 to reach Nyala 3 in the 18 ordinary course and Nyala 3 to reach Nyala 4 in the 19 ordinary course.</p> <p>20 BRIGADIER CALITZ: Mnr die Voorsitter, 21 nee u kan nooit voorspel met draad nie. Dit kan wees as jy 22 die draad vasmaak met die A-frame en die Nyala beweeg teen 23 'n redelike spoed soos normaalweg uitgegooi ek dink ons het 24 dit gesien op die video wat ons gedoen het, met draad kan 25 'n mens nooit seker wees omdat die coils wat afval kan</p>

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1 haak, dit kan die terrein wees, dit kan in 'n graspol
 2 vashaak. So daar is nooit 'n estimate, ek dink op die dag
 3 het een van die persone vir die senior instrukteur
 4 dieselfde vraag gevra en ek dink die antwoord was dieselfde
 5 daar. Daar is nie 'n vasgestel wat sê dit moet binne
 6 minute wees of dit moet binne vyf minute wees. Dit hang
 7 van die terrein af, dit hang van die omstandighede af, dit
 8 hang van die lede se reaksie af, dit hang af hoe vinnig die
 9 draad bo losgemaak kan word. Daar's verskeie faktore, mnr
 10 die Voorsitter.

11 CHAIRPERSON: So you can't estimate?
 12 BRIGADIER CALITZ: Ek kan regtig nie vir
 13 u sê nie.

14 CHAIRPERSON: I think we'll take a
 15 comfort break for five minutes at this point.

16 BRIGADIER CALITZ: Baie dankie, mnr die
 17 Voorsitter.

18 [COMMISSION ADJOURNS COMMISSION RESUMES]
 19 [11:07] CHAIRPERSON: The Commission resumes. We
 20 came back a lot later than we thought we would because
 21 there was a meeting in chambers. You're still under oath,
 22 Brigadier.

23 ADRIAAN MARTHINUS CALITZ: s.u.o.
 24 CHAIRPERSON: Mr Chaskalson.
 25 COMMISSIONER HEMRAJ: Can you just help

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1 me with one thing, Mr Chaskalson? The distance between
 2 where the – if you look at 197 –
 3 MR CHASKALSON SC: Yes, Commissioner.
 4 COMMISSIONER HEMRAJ: The distance where
 5 that small group of, what are called the militant strikers
 6 are, the distance from there to where the yellow dotted
 7 line is where the Nyalas are, what is that approximate
 8 distance?
 9 MR CHASKALSON SC: We can do an estimate
 10 on Google Maps and give you a fairly accurate estimate. I
 11 wouldn't –
 12 COMMISSIONER HEMRAJ: The strikers would
 13 have to traverse that are and I was just looking at it in
 14 terms of time that they would take.
 15 MR CHASKALSON SC: Yes. We'll get that
 16 distance.
 17 COMMISSIONER HEMRAJ: Thank you very
 18 much.
 19 CHAIRPERSON: Maybe we can more or less
 20 estimate if we look at 191, can't we, because we know what
 21 is 80 metres. It's not all of 80 metres, but it's a
 22 fraction of that 80 metres, it's at least three-quarters, I
 23 would say. That's a guess. It's probably about – but
 24 anyway, it looks like at least 60 metres, but we can get
 25 accurate information via Google in due course.

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1 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 2 We'll do it and we'll come back with a precise figure.
 3 Brigadier, it feels like quite a long time ago, but I was
 4 asking you to estimate how long it would ordinarily take to
 5 roll out the barbed wire between Nyalas 2 and 3 after the
 6 triangle is up and the vehicle starts moving. You said
 7 there is no ordinary because there are too many variables,
 8 but earlier on you said ordinarily one can walk alongside a
 9 Nyala while it's rolling out barbed wire, and that is an
 10 estimate that, I suppose some sort of an estimate of a pace
 11 that all things being equal, a Nyala would go. Do you want
 12 to qualify that in any way?
 13 BRIGADIER CALITZ: Mnr die Voorsitter, as
 14 ek u reg, die vraag reg verstaan, u vraag was nou hoe lank
 15 het dit gevat, as ons net kan teruggaan, van 1 na 2, 2 na
 16 3. Ek het gesê dat dit hang af van die terrein, dit hang
 17 af van die lede wat op die voertuie is hoe lank dit vat om
 18 byvoorbeeld die "A-frame" wat agter aan die draad is af te
 19 haak en vas te maak aan die Nyala. As ek net kan, toe 2
 20 beweeg het, ons het ook nie geweet die afstand wat die
 21 draad dan vat nie. As jy sien op 'n stadium toe 3 beweeg
 22 het en 3 gaan vorentoe, het hy vir 'n geruime tydjie saam
 23 met Nyala 4 beweeg want die draad het toe op daardie
 24 stadium wat ons afgemeet het verder uitgerol, waar dit op
 25 'n stadium weer korter uitgerol is. So hierdie twee

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1 voertuie sou byvoorbeeld dan saam beweeg het tot waar die
 2 draad sy lengte bereik en dan die volgende draad sou dan
 3 afgerol gewees het waar ek getuig het Nyala 4 het begin
 4 draad afgooi by die paal wat duidelik sigbaar is. So die
 5 terrein, die lede op die voertuig, die spoed waarmee dit
 6 gedoen word, as gevolg van die terrein self, of die draad
 7 dan haak, daar is verskeie faktore, soos ek gesê het.
 8 MR CHASKALSON SC: No, Brigadier, I'm not
 9 sure you understood my question. Maybe I didn't frame it
 10 properly. I'm interested in – I mean because I'm still
 11 interested in this question of whether it would have been
 12 possible for Nyala 4 to cut off the protesters twice, and
 13 for that to happen the protesters had to overtake Nyala 4
 14 after it started rolling out its barbed wire. Now in the
 15 ordinary course of events, after the A-frame has been
 16 attached, after the rollout process has begun, as it were,
 17 so once the next Nyala is pulling away from the previous
 18 Nyala, does a Nyala travel at a speed that is roughly the
 19 same as a walking man?
 20 BRIGADIER CALITZ: The Nyala can travel
 21 faster than that. It can travel slower than that,
 22 depending on, it's not the speed of the Nyala; it depends
 23 on the uncoiling of the wire. So the wire itself will
 24 determine the speed of the Nyala. So if that is your
 25 question, to cut off twice, yes you can walk next to a

<p style="text-align: right;">Page 17990</p> <p>1 Nyala fast pace, but also a Nyala can then out – can I say 2 outrun you, but then the coil at the back becomes a problem 3 because it doesn't stay as it's designed. It will go flat 4 and longer, if you can understand what I mean. 5 COMMISSIONER HEMRAJ: I don't understand 6 how the uncoiling of the wire determines the speed of the 7 Nyala. 8 BRIGADIER CALITZ: Kommissaris, as ek dan 9 kan – 10 CHAIRPERSON: I want to say something, 11 but answer the question Adv Hemraj asked you first and then 12 I'll make my little contribution, which may be helpful or 13 may not. 14 BRIGADIER CALITZ: Kommissaris, wat ek 15 bedoel het, die spoed van die Nyala word "determine," of 16 word aangedui deur die uitgooi van die draad. As ons die 17 draad uitgooi en die voertuig beweeg sal u sien daar is 18 altyd polisieleda aan die buitekant wat dan in beheer is om 19 die draad af te kry van die draadkar af, en dan is daar 20 altyd 'n persoon wat beweeg langs die drywer om vir hom te 21 sê nee, stadiger, stadiger, vinniger, vinniger. As die 22 draad byvoorbeeld vashaak bo-aan die "frame" is dit baie 23 gevaarlik omdat die polisiemanne met handskoene werk, so 24 sou dit gebeur dat die draad vashaak en skielik losruk, kan 25 dit beserings veroorsaak aan die polisiemanne wat help,</p>	<p style="text-align: right;">Page 17992</p> <p>1 Nyalas on the due cut the corner, so it didn't follow the 2 410-metre planned route. 3 CHAIRPERSON: Well, in other words 4 there's an error which goes in the way of increasing 5 accuracy, I think, in my calculation. If you take 410 6 metres as the distance covered, and I think the evidence is 7 it was about 12 minutes, and we also know that – I think 8 there were six routes, weren't there? I mean there were 9 six Nyalas and therefore each section of the relay race, if 10 one can call them that, was – there were six sections of 11 the relay race. 12 MR CHASKALSON SC: Four on the day, 13 Chairperson. 14 CHAIRPERSON: No, I know that. I know 15 that, but there were going to be six because there were 16 going to be six Nyalas. So we're talking about the normal 17 thing. We're not talking about what happened, the 18 extraordinary circumstances. So the six relay distances 19 took 12 minutes, so therefore it looks as if, I'm taking a 20 very rough figure, something of the order of two minutes 21 per relay section, and in fact Colonel Scott's evidence was 22 he wanted it done simultaneously and he estimated – but we 23 know, you say that wasn't conveyed to you and you say if it 24 had you'd have said to him it can't work, but anyway, he 25 was working apparently on a figure of something of the</p>
<p style="text-align: right;">Page 17991</p> <p>1 omdat dit is lemmetjiesdraad, dis vreeslike skerp draad. 2 So wat ek bedoel is as die draad dan sou vashaak of as hy 3 sou "coil" op die draad self, sou daar vir die drywer gesê 4 is staan bietjie stadiger dat hulle hom met die hakke net 5 kan aftrek en dan sou hulle vir hom sê gaan weer vorentoe. 6 So dit is wat ek bedoel met die draad bepaal die spoed van 7 die voertuig. 8 COMMISSIONER HEMRAJ: Thank you, 9 Brigadier. 10 CHAIRPERSON: Now what I'm going to say 11 is I appreciate very unscientific, but I'll explain why I 12 say that in a minute. According to one of the slides the 13 distance which the wire was supposed to be uncoiled over, 14 I'm talking about 191, appears to be something of the order 15 of 410 metres. If you look at 191, or is it further than 16 that? Do we know the distance over which the – we can work 17 it out, but – 18 MR CHASKALSON SC: In actual fact it was 19 slightly less because the corner was cut – 20 CHAIRPERSON: No, no, no, what I've done 21 is I've added 330 together with 80, you see. So that's – 22 but I say it's unscientific but let me tell you how I get – 23 because I'm looking for a ballpark figure – 24 MR CHASKALSON SC: If I might just 25 interrupt, Chairperson; the actual route adopted by the</p>	<p style="text-align: right;">Page 17993</p> <p>1 order of two minutes effectively per each relay section, 2 the six being done simultaneously. So on that basis, a 3 rough approximation of the time taken per section was about 4 two minutes, but if you work again on 410 as being the 5 approximation of what the distance was supposed to be and 6 you divide it by 12, because on 12 minutes, you get 34 7 metres per minute, and if you work on the basis of six 8 relay spaces and you divided that into 410, each distance 9 is approximately 68 metres. So those figures seem to me to 10 be not so far away from the correct ones. In other words 11 something of the order of 70 metres is more or less the 12 distance which each relay section was supposed to take up, 13 and each one of those would probably on a normal day with 14 the sun shining and not anything unusual causing a problem, 15 would have taken about two minutes. Is that a – I accept 16 that it's unscientific, but I'm trying to get a, what's 17 known in the classics as a ballpark figure and not a 18 precise scientific estimation. Do you go along with my 19 rough calculations, or is there something that I've 20 overlooked? 21 BRIGADIER CALITZ: Ek vertrou u wiskunde 22 is korrek, mnr die Voorsitter. Ek sal saamstem. 23 CHAIRPERSON: You can accept, even though 24 I didn't use a calculator you can accept my arithmetic, but 25 my reasoning may be defective.</p>

<p style="text-align: right;">Page 17994</p> <p>1 BRIGADIER CALITZ: Ek stem saam met u, 2 mnr die Voorsitter. 3 MNR CHASKALSON SC: Ek stem ook saam, 4 because I'm afraid the reasoning is defective, Chairperson. 5 The distances that are measured here for the six Nyalas 6 don't take into account where Nyala 6 was supposed to go. 7 So you've used a base of 410 when the base should probably 8 have been somewhere around 460 or 450 – 9 CHAIRPERSON: You can adjust the 10 calculation to – we were trying, we were looking, as I 11 understand it, for approximation. Is that correct? And I 12 made my humble effort. If it's defective, I apologise. I 13 won't sulk and withdraw it. It can simply be improved by 14 putting in more accurate figures. 15 MR CHASKALSON SC: But Chairperson, I 16 haven't been making myself clear because the speed that I'm 17 interested in is the speed of the Nyala once it's deploying 18 the barbed wire, not the speed over a, you know from the 19 moment that the previous Nyala arrives to the moment that 20 that Nyala ends, because a large part of that two-minute 21 slot that we estimate for each leg, as it were, is in fact 22 time that's taken to take off the triangle at the back, 23 secure it, lay the wire out – well, take off the triangle, 24 go a bit forward, lay the wire out, pick the triangle up 25 and secure it. I'm interested in the time when the Nyala</p>	<p style="text-align: right;">Page 17996</p> <p>1 As dit u is, ek stem saam. 2 CHAIRPERSON: That wasn't, as you say, it 3 wasn't being done under pressure and presumably it can be 4 done much quicker if it has to be, and if you had a whole 5 series of Nyalas and you had a competition as to who could 6 do it quicker, with a substantial prize at the end, it 7 would take much less than four minutes, wouldn't it? 8 MR CHASKALSON SC: Well, maybe we can 9 look at what distances Nyalas, what time it took Nyala 2 to 10 reach Nyala 3 once Nyala 2 had started moving and what time 11 it took Nyala 3 to reach Nyala 4 once they had started 12 moving. 13 CHAIRPERSON: Have you got that 14 information? 15 MR CHASKALSON SC: We do have that 16 information from the Rowland Headgear. We may be a second 17 or two out here, but we have Nyala 2 starting to roll out 18 its barbed wire at 16:09:09 on the Rowland Headgear clock, 19 and reach Nyala 3 on the Rowland Headgear clock at 20 16:09:27. So it's 18 seconds. 21 CHAIRPERSON: What's the distance 22 covered? 23 MR CHASKALSON SC: The distance will be 24 slightly less than the 80 metres that was planned. This is 25 after it has started moving. It's not for the whole</p>
<p style="text-align: right;">Page 17995</p> <p>1 is moving because that's the time that's relevant to 2 whether the protesters could have passed Nyala 4 once it 3 had started moving. So how much of that two-minute leg is 4 ordinarily taken up by changeover business of taking the 5 triangle out, securing it, and so on? 6 BRIGADIER CALITZ: Mnr die Voorsitter, 7 nee, ek is jammer as ek – ek sal moet raai en dit gaan van 8 omstandighede ahang. Op die dag van die "display," wat ek 9 dink dit is ingegee as "exhibit," het iemand 'n opmerking 10 gemaak – ek kan nie onthou wie – dat die vasmaak en die 11 aflaaai van die draad het op daardie stadium vier tot vyf 12 minute gevat. So, en oukei, die lede was nie onder druk of 13 was, maar dit was die poging om daar, op daardie stadium 14 die draad af te kry en die mense wat daar was kon sien dat 15 daardie persone nou nie, u weet, dit "deliberate" stadig 16 gedoen het nie. So ek is jammer, ek kan u nie miskien van 17 raad wees op daardie stadium hoe lank dit vat om dit af te 18 haal nie, nee. 19 COMMISSIONER HEMRAJ: It was an 20 observation I made to you at the demonstration, Brigadier, 21 that just the taking off of the A-frame, dropping it down 22 and tying it to the Nyala behind it, took almost four to 23 five minutes. 24 BRIGADIER CALITZ: I apologise not 25 remembering – ja, Kommissaris, ek weet iemand het my gevra.</p>	<p style="text-align: right;">Page 17997</p> <p>1 changeover, but once it starts moving to the point at which 2 it reaches Nyala 3 is 18 seconds. 3 CHAIRPERSON: So what speed is that? 18 4 seconds to traverse what? 5 MR CHASKALSON SC: To traverse, call it – 6 again we haven't measured it exactly, but call it say 65, 7 70 metres. That is four metres per second, and – 8 CHAIRPERSON: And four metres a second is 9 how many kilometres an hour? It can be worked out, people 10 who – 11 MR CHASKALSON SC: I think you multiply 12 by 3.6 – 13 CHAIRPERSON: People who do running-down 14 cases can do these things in their head. I haven't done 15 one for a long time. Is there anyone in the house who's 16 recently done a running-down case? 17 MR CHASKALSON SC: And the numbers for 18 Nyala 3 to Nyala 4 are roughly the same. 19 CHAIRPERSON: Forgive me, how many metres 20 a second? 21 MR CHASKALSON SC: Four metres per 22 second. 23 CHAIRPERSON: Okay. 24 MR VAN AS: Mr Chairperson – 25 CHAIRPERSON: Yes.</p>

<p style="text-align: right;">Page 17998</p> <p>1 MR VAN AS: Roughly 15 kilometres an 2 hour, if my maths is not wrong. 3 CHAIRPERSON: Are you a running-down case 4 practitioner? 5 MR VAN AS: No, Mr Chairman. 6 CHAIRPERSON: You're a labour lawyer. 7 Alright, 15 kilometres an hour. Alright, okay, we'll 8 accept that offer for the moment until there's a better 9 one, which there may never be. Thank you. 10 BRIGADIER CALITZ: I just want to 11 position, you said Nyala 3 now reached Nyala 4. Is that 12 where they start moving along or where they end up? I just 13 want to move the blocks as you explained. 14 MR CHASKALSON SC: Put Nyala 4 back to 15 where it was at the beginning. 16 BRIGADIER CALITZ: Here, there's the 17 picture, and there it was. 18 MR CHASKALSON SC: But it has already 19 moved a little bit forward, Nyala 4, remember, from the – 20 BRIGADIER CALITZ: As Nyala 3 approached 21 they – 22 MR CHASKALSON SC: No, no, Nyala 4 had 23 moved forward quite a long time before Nyala 3 approached. 24 We saw that on a video. 25 BRIGADIER CALITZ: Yes. I mean there was</p>	<p style="text-align: right;">Page 18000</p> <p>1 already were there, or where they were cut off? If I'm 2 just understanding you correctly. 3 MR CHASKALSON SC: Well, maybe you can 4 describe what you understand incident 2 to be. 5 [11:27] BRIGADIER CALITZ: Mnr die Voorsitter, ek 6 sal twee van ons Exhibit L slides gebruik is, 197, en ek 7 dink dan 194, dit dui dalk nou die posisie aan, 197 dink ek 8 het ons klaar op die bord gehad, dit is die geel pyl wat 9 dan na die, - van die protestors af reguit gewys het. Op 10 daardie stadium was Nyala 5, soos hy nou staan, ek kan 11 miskien so verwys, op die, noem dit die voetpad en Nyala 6 12 was in daardie posisie gewees, soos hy daar was. Toe Nyala 13 3 en Nyala 4 saam beweeg het tot op 'n punt waar Nyala 3 14 gestop het, die draad was op 'n lengte, Nyala 4 het die 15 draad begin afgooi by, hoe kan ek sê, die paal. Toe hulle 16 beweeg het het ek gesê dat die groep het afbeweeg in 'n 17 tight formation. 18 Ek het ook getuig dat die span agter, die mense 19 wat op koppie 1 en 2 gesit het, het hulle gevolg. Nyala 4 20 het dan vorentoe beweeg en as u dan kyk na slide 194, 194, 21 dit is voor hulle insident 2 bereik het, sal u sien dat 22 Nyala 4, ek wil nou net sy posisie presies aandui, net voor 23 die grondpad was, - ag, die voetpad. 24 MR CHASKALSON SC: Sorry, Brigadier, we 25 can get to the photograph later but at this stage I just</p>
<p style="text-align: right;">Page 17999</p> <p>1 a time that they moved together, ja. 2 MR CHASKALSON SC: Look, I'm not sure 3 that we need to do this with blocks because it's really 4 just to give an estimate of what speed Nyalas were 5 travelling on the day when they were rolling out barbed 6 wire. 7 CHAIRPERSON: Mr Van As, I make it 14.4 8 kilometres an hour. 9 MR VAN AS: Correct, Mr Chairman. 10 MR CHASKALSON SC: But if we can leave 11 this point for now - we may come back to it later - and go 12 to incident 2 and at this stage if we can look, your 13 evidence is that your Nyala was still stationary when you 14 witnessed what you were able to see at incident 2. It was 15 still in the same position. 16 BRIGADIER CALITZ: Yes, I used, and I 17 referred to the CALS position – 18 MR CHASKALSON SC: Photograph, yes. 19 BRIGADIER CALITZ: Photograph, ja. 20 MR CHASKALSON SC: Now the Nyalas will 21 have changed quite dramatically at incident 2, but at this 22 stage I don't want us to reconstruct the scene for incident 23 2 yet based on photographs. I want you to tell us what you 24 saw and what you can remember seeing at incident 2. 25 BRIGADIER CALITZ: Incident 2, where they</p>	<p style="text-align: right;">Page 18001</p> <p>1 want you to tell us what you remember seeing. We can 2 reconstruct the photograph quite easily but I don't want us 3 – 4 BRIGADIER CALITZ: Ek gaan daarby kom, ek 5 wil die voertuie plaas waar ek hulle sien en dan sal ek vir 6 u sê waar ek was en wat ek kon sien. 7 MR CHASKALSON SC: Okay, but what we 8 would really like is for you to tell us what you can 9 remember seeing, not what you can reconstruct off the 10 photograph. 11 CHAIRPERSON: You see, Brigadier, your 12 memory also has to be tested because, so it is important 13 for us to know what you remember. 14 BRIGADIER CALITZ: Dit is reg, mnr die 15 Voorsitter, ek wou net gesê het dat Nyala 4 het op 'n 16 stadium vorentoe beweeg. U het vir my gevra, ek weet nie 17 waar Nyala 5 op daardie stadium, sê maar hy was so, en toe 18 die groep vorentoe beweeg, parallel, half met Nyala 4 het 19 ek opdrag gegee dat Nyala 4 vinniger beweeg en hy het op 20 die einde van die dag daar geëindig. Die groep, nadat 21 hulle so en hierdie groep the basies in, hoe kan ek sê, in 22 'n westelike noordelike rigting agter hulle aan gesprei in 23 daardie vorm en hulle het weer nader beweeg. Ek dink dit 24 was omtrent die sig wat ek gehad het. Toe ek gesien het 25 dat hulle na insident 2 toe beweeg het ek opdrag gegee vir</p>

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1 die Papa voertuie en vir die waterkanonne en dit is waar ek
 2 gesê het, die opdrag gegee het, al die persone "engage, the
 3 Papa Nyalas move forward and disperse," en ek het ook vir
 4 die waterkanonne opdrag gegee om vorentoe te gaan en dan
 5 die groep wat op pas was hiernatoe, die uiteendrywing te
 6 doen.

7 MR CHASKALSON SC: Now if we go back to
 8 the presentation, if we go to slide 196 it says that you
 9 called up the water cannons at incident 1. It is just up
 10 on the screen in front of you. It is the third bullet
 11 point and we're talking incident 1. "At this stage
 12 Brigadier Calitz gave a command for the water cannons to
 13 come in behind the line of the negotiating teams," and then
 14 if we go down to slide 199, we see on the fourth bullet
 15 point that it says, "Water cannon started spraying the
 16 attacking protestors to prevent them from entering the
 17 police enclosure." Did you see that?

18 BRIGADIER CALITZ: Mnr die Voorsitter, op
 19 die eerste punt, dit was negatief. Dit was nie tydens die
 20 eerste, ek het in my verklaring gesê, in 111 dat "The group
 21 then moved back in that shape," en vir die tweede keer en
 22 dit is toe hulle die tweede keer beweeg na die kraal, dit
 23 is daar waar ek opdrag gegee het vir die waterkanonne en ek
 24 sien wat in Exhibit L staan, maar my getuienis is dat ek
 25 het, toe hulle die tweede keer daarnatoe beweeg, want op

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1 hierdie stadium het hulle net afgekom en ek het gedink
 2 Nyala 4 was genoeg om die persone af te sny, so –

3 CHAIRPERSON: Alright, so may I ask,
 4 sorry to interrupt.

5 BRIGADIER CALITZ: Ekskuus.

6 CHAIRPERSON: May I ask whether this has
 7 been filmed because I haven't adopted the practice of
 8 saying what this and that means, because I understood it is
 9 being filmed. If it is not being filmed then we'll have to
 10 say what this and that mean, you know because people will
 11 follow, we who will read it ourselves later won't know what
 12 exactly you're saying.

13 BRIGADIER CALITZ: As ek mag herhaal, mnr
 14 die Voorsitter.

15 CHAIRPERSON: So what's happening, if it
 16 is not being filmed I think we better go back to –

17 MR CHASKALSON SC: It is being recorded,
 18 it has been recorded.

19 CHAIRPERSON: No, has it been recorded
 20 visually as well - I see, okay. Oh, one of the problems is
 21 that while you were explaining, even though it was being
 22 filmed we of course didn't see it on the screen at that
 23 time, but anyway, perhaps you can go back a couple of steps
 24 as it were and start telling again for the benefit of
 25 everybody here in the Chamber, so that they can follow,

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1 including us.

2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 ja, dankie. Ek het gesê die slide waarna die advokaat
 4 verwys het, ek kan nie onthou die nommer nou nie, bo aan
 5 het gestaan dat ek opdrag gegee het vir hulle om by
 6 insident 1, dit sou wees Papa1 hier en dit is waar die
 7 groep dan sou afbeweeg. Daar was geen rede vir my om dit
 8 te doen omdat die draad genoeg op daardie stadium was om
 9 hierdie persone dan te keer om af te beweeg. Nyala 4 het
 10 verder beweeg en dit is waar hy geëindig het, daar nader
 11 aan die kraal en toe ek sien dat die groep, die protestors
 12 voor, die kleiner groepie asook hierdie groter groep wat se
 13 foto ons dan duidelik in slide 194 van Exhibit L kan sien,
 14 ek dink dit is 'n baie duidelike foto as ek kan verwys na
 15 'n foto.

16 Dit is dan waar hulle op daardie stadium gesien
 17 het dat hulle nie in 'n westelike rigting wegbeweeg nie.
 18 Ek het ook besef my draad gaan nie genoeg wees om die
 19 persone te keer nie en ons het oorgegaan na die volgende
 20 stap waar ek dan opdrag gegee het vir die waterkanonne om
 21 vorentoe te beweeg, vir my Papa Nyalas om te gaan hulp
 22 verleen en dan die groep uiteen te dryf volgens ons force
 23 continuum.

24 MR CHASKALSON SC: And, Brigadier, did
 25 the water cannons respond in time to engage the strikers at

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1 incident 2?

2 BRIGADIER CALITZ: Ek kan nie vir u
 3 presies sê by insident 2 dat ek hulle waargeneem het nie,
 4 nee. Ek dink ek het beweeg op 'n stadium meer na insident
 5 3 toe, toe ek van hier af, as ek sê hier is dit my posisie
 6 Papa2 aan die oostekant van die klein kraal beweeg het waar
 7 ek die water kanonne waargeneem het. Dit is later aan my –

8 CHAIRPERSON: We see that at some stage
 9 where you went, but anyway I don't want to interrupt the
 10 narratives as yet.

11 BRIGADIER CALITZ: Dit is later vir my
 12 weer gegee dat die waterkanonne wel gesprei het, waar
 13 presies kon ek nie waarneem op daardie stadium nie, nee.

14 CHAIRPERSON: As we understand you were
 15 travelling, as it were, from the place where Papa1 had been
 16 situated to a spot on the other side of the small, -

17 BRIGADIER CALITZ: Ek sal –

18 CHAIRPERSON: In the vicinity of the
 19 small kraal?

20 BRIGADIER CALITZ: Ek sal dit aandui, ja.

21 CHAIRPERSON: And so therefore you didn't
 22 actually see what was happening in insident 2 but, did you
 23 not see it at all or did you not see some of it, what is
 24 the position because you were travelling, as I understand
 25 it?

<p style="text-align: right;">Page 18006</p> <p>1 BRIGADIER CALITZ: Mnr die Voorsitter, 2 toe die groep daar kom het ek wel die protestors gesien in 3 daardie formasie by die klein kraal en ek het op daardie 4 stadium glad nie waargeneem byvoorbeeld waar Papa9, Papa7, 5 Papa3, die verskillende voertuie, die roep sein is op die 6 dak, so van die kant af, al die Nyalas, almal lyk dieselfde 7 en die enigste verskil is die twee waterkanonne wat dan in 8 posisie gekom het op 'n stadium. Ek kan nie vir u sê het 9 ek verby hulle gery op watter stadium, die tyd daarvan en 10 waar presies hulle geposisioneer is toe hulle gesprei het 11 nie. Ek is met 'n redelike spoed van hierdie kant af uit 12 na insident2 maar ek dink –</p> <p>13 CHAIRPERSON: You gave the instruction 14 that water cannons should be employed and so forth and 15 after you'd given those instructions or possibly while you 16 were giving it, you then proceeded to a spot near the small 17 kraal which you're going to show us in a minute?</p> <p>18 BRIGADIER CALITZ: Mnr die Voorsitter, - 19 CHAIRPERSON: Is that correct? 20 BRIGADIER CALITZ: - ja, ingevolge 21 staande orde 262, ons policy, hoe die opdrag gegee word vir 22 enige uiteendryf aksie en dan die waterkanonne sou dan deel 23 wees van daardie force continuum. Dit hang af van die 24 aanval, dit kan direk dalk nou maar oorgaan en die 25 waterkanon nie gebruik en direk oorgaan na die stun</p>	<p style="text-align: right;">Page 18008</p> <p>1 started spraying the attacking protestors to prevent them 2 from entering the police enclosure. I understood your 3 evidence to be that you yourself didn't see that. 4 BRIGADIER CALITZ: Nie op daardie 5 stadium, nee, mnr die Voorsitter. 6 MR CHASKALSON SC: Now can I ask you, you 7 pointed out that water cannons are readily distinguishable 8 from Nyalas, whereas, we can understand if you won't know 9 which was Papa9 and which Papa8 and which was Papa5, you 10 would be able to distinguish between a water cannon and a 11 Nyala at the distance from which you were looking. 12 BRIGADIER CALITZ: Mnr die Voorsitter, 13 verskoon my as ek dit so stel, maar in die omstandighede 14 gebeur dit nie soos ons hier sit, minuut vir minuut en ons 15 het baie tyd nie. In die omstandighede het ek my karre 16 opdrag gegee, ek het gesê gaan disperse, ek het vir my 17 drywer geskree, beweeg in daardie rigting, ek het na 18 verskeie rigtings gekyk op 'n stadium waar die groep is, 19 die druk was op, - ek kan nie vir u presies sê het ek 'n 20 waterkanon waargeneem, was hy aan my linkerkant, 21 regterkant. Regtig daar was nie tyd, waar ek regs agter 22 gesit het verneem ek ook as die Nyala dan in die rigting 23 beweeg en die waterkanonne was byvoorbeeld aan my 24 linkerkant sou ek hulle nie kon sien nie. As hulle aan my 25 regterkant was miskien, ek kan nie vir u sê nie, nee, die</p>
<p style="text-align: right;">Page 18007</p> <p>1 grenade, dit hang van die afstand, dit hang van die aksie 2 wat teen u geloods word, maar die opdrag was gegee aan die 3 Papa Nyalas, die waterkanonne en ek het ook vir hulle gesê 4 disperse. 5 MR CHASKALSON SC: Brigadier, I just want 6 to clarify some confusion in my own mind because I always 7 understood your evidence to have been that, I must put it 8 to you that if it is as I understood it, it would be 9 correct in terms of the photographic evidence, that you 10 were in your position, your original Papa1 position until 11 after insident 2, you didn't leave, you saw insident 2 from 12 your Papa1 position, I understood that to be your evidence 13 and I must put to you that's what the photographic and 14 video evidence also confirms. 15 BRIGADIER CALITZ: Soos ek gesê het, mnr 16 die Voorsitter, dit is korrek. Ek het die groep protestors 17 gesien waar hulle by die punt kom en ek het 'n klomp van my 18 voertuie, die beweging gesien na daardie spesifieke punt 19 toe en dit is waarop ek dan vir my drywer gesê het om om te 20 beweeg dat ons die Papa Nyalas kan volg. 21 MR CHASKALSON SC: Nou in insident 2 that 22 we see described in the presentation, - 23 CHAIRPERSON: At 119? 24 MR CHASKALSON SC: 119, can we call that 25 up? We've dealt with the fourth bullet point, water cannon</p>	<p style="text-align: right;">Page 18009</p> <p>1 omstandighede op daardie dag was nie so gemaklik om rustig 2 rond te kyk nie. 3 MR CHASKALSON SC: But, Brigadier, your 4 attention would have been focused on the insident where the 5 strikers were allegedly trying to break into the police 6 enclosure, surely? 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 ja, ek het reeds daarvoor getuig, ek het gesê ek het gesien 9 die groep het in daardie rigting, ek het verwys na 194 waar 10 ek dan gesien word. Dit is nog voor Nyala4 by die kraal 11 kom waar ek nog staties gestaan het en gesien het dat die 12 groep op pad was. 13 MR CHASKALSON SC: And when a water 14 cannon sprays that's obviously visible from a distance, is 15 it not? 16 CHAIRPERSON: Can we please now, if we're 17 not looking at slide 109, can we go back to seeing what is 18 happening on the, with the models? 19 MR CHASKALSON SC: In fairness to the 20 brigadier, I think the model is now a little misleading 21 because the original position he hasn't attempted to change 22 and I haven't asked him to change. 23 CHAIRPERSON: No, but he was 24 demonstrating something which we couldn't see, that's the 25 reason why I raised the question.</p>

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1 BRIGADIER CALITZ: That is why I wanted
2 to set it up, I attempted to but I was stopped by my
3 learned colleague to do that. I wanted to set it up.
4 CHAIRPERSON: You're running the cross-
5 examination, but your learned colleague points out that he
6 wanted to do something different.
7 MR CHASKALSON SC: Well, he wanted to
8 recreate the image on slide 194 which is the slide of
9 incident 2. If he wants to do that by all means, I wanted,
10 before we got there just to ask the brigadier what he could
11 remember seeing because I would like to test his memory.
12 CHAIRPERSON: I think that was the point
13 being made, one of the things that is being done is testing
14 your memory and you know we can't test your memory if you
15 look at slide 194 and put on the board what is on slide
16 194, because that's not your memory, you're just taking it
17 from 194, do you understand? So Mr Chaskalson will repeat
18 his question, you'll answer it and then I take it that
19 after that you can move the box around.
20 BRIGADIER CALITZ: Ek aanvaar dit so, mnr
21 die Voorsitter.
22 MR CHASKALSON SC: So I was asking about
23 the visibility of a water cannon spraying and I was putting
24 to you that if a water cannon had sprayed, that is
25 something that is visible from a long distance away, would

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1 you accept that?
2 BRIGADIER CALITZ: Mnr die Voorsitter, ek
3 aanvaar dit met die woorde by, dit hang af vanwaar af u kyk
4 en of daar enige obstruksie tussen dit is. As daar geen
5 obstruksie is tussen dit nie is dit baie maklik om waar te
6 neem oor 'n afstand, korrek.
7 MR CHASKALSON SC: Well, can we put it
8 this way, the cannon of a water cannon is mounted at a
9 height that is higher than a Nyala, would you accept that?
10 BRIGADIER CALITZ: Ek kan nie vir u met
11 sekerheid sê nie, ek weet hy is op die dak, ek het nou nie
12 die hoogtes gaan meet nie maar ek neem aan dit is baie
13 moontlik.
14 MR CHASKALSON SC: And if the water
15 cannon spray one will see something coming out of the water
16 cannon.
17 BRIGADIER CALITZ: Weereens sê ek vir u
18 dit is so, u kan die water waarneem, die water kanon het
19 verskillende evaluasies waarvolgens hy sprei. Hy kan sprei
20 direk voor die neus wat dan 'n meter voor die Nyala is, ek
21 kan hom op lig en ek kan sprei wat 18, 20 meter verder is,
22 so op daardie stadium as hy gesprei het kan ek nie vir u sê
23 nie, as hy 'n meter voor die waterkanon dan, ek dink nie
24 die persone agter hom of langs hom sou dit miskien kon
25 waarneem nie, so dit hang af. Die kanon is nie op 'n fixed

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1 position, as ek dit so kan stel, ten alle tye nie.
2 MR CHASKALSON SC: Well, the cannon is on
3 a fixed position, the angle of the cannon changes, the base
4 of the cannon is always fixed.
5 BRIGADIER CALITZ: Ons kan dit
6 demonstree vir die advokaat op 'n stadium, mnr die
7 Voorsitter. Hy kan draai, hy kan links, regs, op, af,
8 alhoewel hy gemonteer is bo maar die spuit aksie, u het
9 pertinent verwys vir my as daar gespuit word kom daar iets
10 uit en ek het verwys na u vraag. As daar iets uitkom,
11 water, traangas, gekleurde water, of dit gemeng is, dit wel
12 sal op 'n rigting of 'n evaluasie wees.
13 MR CHASKALSON SC: But you saw no water
14 cannon spraying at your incident 2?
15 BRIGADIER CALITZ: Dit is wat ek reeds
16 getuig het, mnr die Voorsitter.
17 MR CHASKALSON SC: Can we go back to
18 slide 199 to see what the next stage in the bullet point
19 is? So according to the slide after the water cannons had
20 sprayed this action had no affect on the protestors and
21 they kept on coming forward. POP members applied the less
22 than lethal measures including stun and tear grenades,
23 let's stop there. Did you see any stun grenades being used
24 at incident 2?
25 BRIGADIER CALITZ: Ek het wel ten tye van

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1 die insident gehoor die geluid van 'n stun granaat, dit is
2 korrek. Ek kan nie sê van watter rigting af nie, maar die
3 geluid was daar.
4 MR CHASKALSON SC: Now when a stun
5 grenade is thrown one doesn't only hear it, one sees it as
6 well, is that not correct?
7 BRIGADIER CALITZ: Daar kan rook wees,
8 dit hang weereens af van die omstandighede op die dag.
9 MR CHASKALSON SC: Well, when does one
10 not see smoke from a stun grenade?
11 BRIGADIER CALITZ: Soos ek vir u sê dit
12 hang van die omstandighede van die dag af, as die wind
13 waai, die rigting wat die wind waai, hoe sterk die wind
14 waai, dit is nie soos traangas wat 'n groot wolk maak nie,
15 nee.
16 MR CHASKALSON SC: But the stun grenade
17 in mid smoke, the question is whether it emits it high
18 enough for you to see?
19 BRIGADIER CALITZ: Dit sal ek nie vir u
20 kan sê, dit gaan hoër as 'n Nyala of my visie op daardie
21 stadium, ek kan nie sê dat ek dit gesien het nie, mnr die
22 Voorsitter.
23 [11:46] CHAIRPERSON: Sorry to interrupt you.
24 There are two points, aren't there? The one is whether
25 there's visible smoke when a stun grenade is fired off.

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1 Second question is if there is visible smoke, could a
2 particular person see it because his or her vision is
3 obscured by something else? The first question is, when a
4 stun grenade is fired, is there always visible smoke? If
5 you were standing right next to the shotgun – you use a
6 shotgun for stun grenade, don't you? So if you were
7 standing next to the shotgun, or you were firing the
8 shotgun yourself, would you see some smoke at least every
9 time a stun grenade is fired off?

10 BRIGADIER CALITZ: Ek glo daar sal wees,
11 mnr die Voorsitter.

12 CHAIRPERSON: Right, that's the first
13 point. The next question is whether someone else at a
14 distance or an angle could see the stun grenade smoke,
15 would depend I suppose (a), on the amount of smoke there
16 was and the wind direction and so forth, but also on
17 whether his or her vision was obscured by something else.
18 Is that correct?

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

21 CHAIRPERSON: Right, now I think that's
22 where Mr Chaskalson is at the moment. Is that correct, Mr
23 Chaskalson?

24 MR CHASKALSON SC: It is correct,
25 Chairperson. So you say you heard something that you

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1 identified as a stun grenade, but you didn't see any smoke
2 from a stun grenade.

3 BRIGADIER CALITZ: Dit is my getuienis,
4 mnr die Voorsitter. Ek het gehoor daar is aksie,
5 uiteendryf aksie besig om plaas te vind en dit is ook waar
6 ek die drywer opdrag gegee het ons moet in daardie rigting
7 beweeg.

8 MR CHASKALSON SC: But Brigadier, I have
9 to ask you to confine yourself to answering my question,
10 which was you heard something which you identified as a
11 stun grenade. Is that correct?

12 BRIGADIER CALITZ: Korrek.

13 MR CHASKALSON SC: But you didn't see any
14 evidence of that in the form of smoke from the stun
15 grenade?

16 BRIGADIER CALITZ: Korrek, mnr die
17 Voorsitter.

18 COMMISSIONER HEMRAJ: A stun grenade.
19 Did you just hear a single stun grenade, or did you hear
20 more than that?

21 BRIGADIER CALITZ: Kommissaris nee, ek
22 kan regtig nie minuut tot minuut – ek het gehoor daar was
23 wel geluid van daardie rigting af, en daarna het ek op my
24 drywer, soos wat ons in die Nyala voertuig beweeg het en ek
25 vir u aangedui het, het ek begin skreeu op die drywer en u

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1 sal self weet, wie wat in die Nyala voertuig was, van daar
2 af is dit maar min dat mens hoor wat buite om jou aangaan.

3 CHAIRPERSON: Teargas, did you see
4 teargas smoke?

5 BRIGADIER CALITZ: Mnr die Voorsitter, ek
6 het wel toe ek by insident, ek dink ons kom by insident 3 –

7 CHAIRPERSON: No, we're busy with
8 incident 2 now. Did you at incident 2 see, roughly about
9 the time when you heard the stun grenade that you mentioned
10 to Mr Chaskalson, did you see teargas smoke?

11 BRIGADIER CALITZ: Dit is wat ek wou gesê
12 het, mnr die Voorsitter, van die posisie af, nee. Toe ek
13 oppad was insident 3, terwyl die mense by insident 2 was,
14 ja. Daar was rook in die lug.

15 MR CHASKALSON SC: Sorry, Brigadier, I
16 didn't follow that answer. You say while you were on the
17 way, on the move, you then saw tear smoke in the air?

18 BRIGADIER CALITZ: Kan ek sê tussen die
19 "shack" en die – ag, die sinkhuis en die klein kraal toe ek
20 daar verby beweeg om, het ek wel gesien daar is rook in die
21 lug.

22 MR CHASKALSON SC: Yes, but that's quite
23 a long time after the alleged incident 2. While you were
24 stationary in that position, did you see any tear smoke?

25 BRIGADIER CALITZ: Nie terwyl ek

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1 stilgestaan het nie, nee.

2 MR CHASKALSON SC: Is it possible that
3 tear smoke would have been fired at incident 2 while your
4 vision was trained on incident 2, without your noticing the
5 tear smoke?

6 BRIGADIER CALITZ: Dit is moontlik, mnr
7 die Voorsitter.

8 MR CHASKALSON SC: You say it's possible.
9 Could you explain to me how that may be possible?

10 BRIGADIER CALITZ: U het die vraag
11 gestel, as u die vraag miskien net weer kan stel. U het
12 genoem daar is "visual obstruction," as ek u reg verstaan
13 het, of iets in die pad, as ek reg –

14 MR CHASKALSON SC: But smoke rises, does
15 it not?

16 BRIGADIER CALITZ: Dit is korrek, mnr die
17 Voorsitter.

18 MR CHASKALSON SC: And even if you didn't
19 see the tear smoke canister immediately, I would have
20 thought that after about five seconds there would be a tear
21 smoke cloud above incident 2 if tear smoke had been fired.

22 BRIGADIER CALITZ: Ek kan nie onder eed
23 sê dat ek dit daar gesien het nie, nee. Wel toe ek in
24 daardie rigting beweeg het, het ek gesien die rook hang
25 daar.

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1 MR CHASKALSON SC: You've said that
 2 already, Brigadier, but again my question is, is it
 3 possible that tear smoke would have been fired at incident
 4 2 without your seeing it?
 5 BRIGADIER CALITZ: Ek glo so, mnr die
 6 Voorsitter.
 7 MR CHASKALSON SC: Well, can you explain
 8 how it would have been possible for you not to see tear
 9 smoke that was fired at incident 2?
 10 BRIGADIER CALITZ: Dit hang af op watter
 11 stadium die traangas gegooi was, mnr die Voorsitter, en dit
 12 hang ook af op watter stadium ek wel wegbeweeg het van
 13 Pappa1 af in die rigting daar. So ek kan nie vir u sê
 14 terwyl ek stilgestaan het, het dit voor my gebeur en ek het
 15 in daardie rigting gekyk, kon ek dit gesien het. Ek het
 16 gesê ek het op die drywer geskreeu en ons het in daardie
 17 rigting beweeg. Dit kan my beste verduideliking wees.
 18 MR CHASKALSON SC: But you see,
 19 Brigadier, I have this difficulty about trying to pin down
 20 your movements relative to incident 2 because at some
 21 stages your testimony is that, or your basic testimony is
 22 that you were stationary in that starting position until
 23 after incident 2, and I have said to you that the
 24 photographic and video evidence confirms that basic
 25 testimony. Now assuming that to be the case, how would it

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1 have been possible for you to miss tear smoke that had been
 2 fired at incident 2?
 3 BRIGADIER CALITZ: Mnr die Voorsitter, as
 4 daar sulke bewyse is dan sal ek wil sien tot wanneer ek
 5 hier gestaan het. My, hoe ek dit onthou is die groep het
 6 gevorm daar, soos ek gesê het in "slide" 194 van die
 7 "presentation," toe my mense begin optree daar het ek vir
 8 my Nyala opdrag gegee om om te beweeg. So dit is na my
 9 wete die beste verduideliking, tensy daar ander "footage"
 10 of bewyse is dat van my posisie af in daardie rigting
 11 miskien 'n foto geneem is en daar rook is en die bewys is
 12 dat ek aan die buitekant gestaan het en in daardie rigting
 13 gekyk het. Maar ek kan definitief nie vir u sekonde vir
 14 sekonde sê hoe dit en waar dit plaasgevind het en op watter
 15 stadium dit gegooi is nie. Dit kan ek nie vir u doen nie.
 16 MR CHASKALSON SC: You see, I'm wondering
 17 how this narrative of incident 2 came into the presentation
 18 about stun grenades in respect of which smoke wasn't
 19 visible and tear grenades in respect of which clouds of
 20 smoke weren't visible to someone who was looking at
 21 incident 2. Do you know who gave the information on the
 22 basis of which this part of the presentation was included?
 23 BRIGADIER CALITZ: Mnr die Voorsitter,
 24 ja, dit is, die "narrative," as die Advokaat gevra het hy
 25 weet nie hoe dit saamgestel is; ek was nie die enigste

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1 persoon wat inligting gegee het op die dag as operasionele
 2 bevelvoerder nie. Daar sal getuienis wees van die
 3 bestuurders van elke voertuig. Daar is ook verklarings van
 4 die persone wat hulle wapens afgevuur het. Daar is
 5 verklarings van persone wat die "stun grenades" asook die
 6 traangas gegooi het, en ek neem aan in hulle verklarings
 7 sal hulle dan gesê het op watter stadium hulle dit gedoen
 8 het. Onthou ek het ook gesê by Roots in Potchefstroom was
 9 al die bevelvoerders bymekaar geroep. Hulle het dan in
 10 groepe opgebreek. Die, kan ek sê Luitenant-kolonel Pitsi
 11 se groep was in 'n groep, Luitenant-kolonel Mere se groep,
 12 asook die Nyala groep. So om die vraag, as ek dit kan reg
 13 antwoord, mnr die Voorsitter, glo ek daar is verskeie
 14 verklarings en insette gebruik om dan vas te stel op watter
 15 stadium het wat gebeur.
 16 MR CHASKALSON SC: But did you have
 17 anything to do with the narrative that we see under this
 18 fourth bullet point?
 19 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 20 kan nie sê nou daardie "fourth bullet point" waarna verwys
 21 word nie. Ek het beslis insae gehad na Roots toe en ek het
 22 dan ook my gedeelte, wat die onderhandelinge was en wat ek
 23 gesien het op die toneel en my opdragte wat ek gegee het,
 24 was dan ook meegedeel op daardie vergaderings.
 25 CHAIRPERSON: Mr Chaskalson, I'm sorry, I

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1 think it's the fifth bullet point. It's the one beginning
 2 with "This action had no effect."
 3 MR CHASKALSON SC: Yes, well it's the
 4 fourth and the fifth in fact -
 5 CHAIRPERSON: The fourth is the water
 6 cannon -
 7 MR CHASKALSON SC: It was the fifth to
 8 which I should have been referring.
 9 CHAIRPERSON: I'm sorry to speak over
 10 you. The fourth relates to the water cannons. You say you
 11 didn't see the water, but you've explained how that could
 12 have been. But so you couldn't have said the water cannon
 13 started spraying from your own knowledge because you didn't
 14 see water. Is that correct? But others obviously, if
 15 water was indeed sprayed there, would be able to give that
 16 information, but the information couldn't have come from
 17 you. Is that correct?
 18 BRIGADIER CALITZ: Daardie inligting is
 19 nie van my nie, nee.
 20 CHAIRPERSON: That's right, and then when
 21 we move on to the next bullet point the stun grenades, you
 22 say you heard stun grenades, a stun grenade, you can't say
 23 whether it was more than that. You didn't see stun grenade
 24 smoke, but that doesn't mean there wasn't but it means you
 25 can't, the information couldn't come from you, although you

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1 could have talked about a stun grenade, from what you tell
 2 us. You didn't see at that stage, as I understand you,
 3 teargas smoke which was necessarily part of that. You did
 4 see teargas smoke in the area at some stage, as I
 5 understand you. Is that correct?
 6 BRIGADIER CALITZ: Korrek, mnr die
 7 Voorsitter.
 8 CHAIRPERSON: And you didn't know, I take
 9 it you don't know anything about the firing of rubber
 10 rounds because you didn't see that, did you?
 11 BRIGADIER CALITZ: Dit sal nie van my
 12 inligting af kom nie.
 13 CHAIRPERSON: Ja, so the source or
 14 sources of the information contained in the fifth bullet
 15 point would be some person or persons other than you. Is
 16 that right?
 17 BRIGADIER CALITZ: Korrek, mnr die
 18 Voorsitter.
 19 MR CHASKALSON SC: Well, what about the
 20 conduct of the strikers? Did you see any of that?
 21 BRIGADIER CALITZ: In my getuienis, mnr
 22 die Voorsitter, het ek net gesê ek sien die groep het
 23 gestorm in 'n "attacking position." Van waar ek gestaan
 24 het kon ek die voorste groep sien, die gebukkende, asook
 25 die groot groep agter wat hulle gevolg het, en daarom het

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1 ek vir Nyala 4 opdrag gegee om vinniger te ry en ek het dan
 2 ook die opdrag gegee vir die Pappa Nyalas om te gaan
 3 "disperse" reeds oor die gedrag van die "protesters" wat ek
 4 gesien het met 'n, op daardie "angle" van die voorste
 5 blokkies na die klein kraal toe, het ek dan vir die
 6 Openbare Orde Polisiëringslede gaan, opdrag gegee en vir
 7 die waterkanonne op daardie stadium te gaan uiteendryf.
 8 CHAIRPERSON: In the fourth bullet point
 9 it said "Water cannon started spraying the attacking
 10 protesters." Now it seems from what you've told us that
 11 you didn't see any attacking protesters at that stage and
 12 you didn't see them being sprayed by water cannon in the
 13 sense you didn't see the streams of water coming into
 14 contact with any of the strikers. Is that, from your own
 15 knowledge you can't tell us that. Is that correct? So
 16 that information also must have come from some other person
 17 or persons. Is that correct?
 18 BRIGADIER CALITZ: Nee, mnr die
 19 Voorsitter, ja, die eerste deel; ek het wel gesien die
 20 groep wat in daardie posisie nader hardloop, as ek verwys
 21 na die "attacking," voorste groep, maar ek het glad nie
 22 gesien die waterkanon toe hy "gespray" het na hulle toe
 23 nie. Dit is korrek, mnr die Voorsitter.
 24 CHAIRPERSON: I understand you would have
 25 been able to have seen the strikers at some stage, but

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1 whether they were attacking is something that you can't
 2 tell us from your own knowledge. Is that right? You may
 3 have received information about it, but you can't from your
 4 own knowledge tell us. Am I correct?
 5 BRIGADIER CALITZ: Die fisiese daad nee,
 6 net die posisie waarin hulle was. U is korrek, mnr die
 7 Voorsitter.
 8 MR CHASKALSON SC: Now Brigadier, the
 9 verbs that you used were "gestorm en gehardloop." Can I
 10 assume then that what you saw were people who were running,
 11 moving fast?
 12 BRIGADIER CALITZ: Wel, ek dink ons het
 13 verskeie video's al gesien van die formasie. Ek sal nie sê
 14 hardloop soos vroeër in sekondes per meters nie, nee, maar
 15 die gehurkende posisie, "clinging," en dan vorentoe beweeg
 16 in daardie formasie, sê dit dan nou maar 'n formasie wat
 17 gebukkend vorentoe beweeg.
 18 MR CHASKALSON SC: So "gehardloop" is
 19 probably not a good word to use to describe them.
 20 BRIGADIER CALITZ: Ja, in Afrikaans, nee
 21 ek sou sê gehurkend nader beweeg, as dit 'n beter woord sal
 22 wees.
 23 CHAIRPERSON: Without an indication of
 24 speed.
 25 BRIGADIER CALITZ: Ja, nou ek het nie na

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1 die spoed verwys regtig nie.
 2 MR CHASKALSON SC: So why did you use the
 3 words "gestorm en gehardloop"?
 4 BRIGADIER CALITZ: Ek kan nie onthou op
 5 watter stadium ek dit gesê het of wat die vraag aan my was
 6 nie. Ek het wel gesien dat die groep het nader beweeg hier
 7 en nader beweeg daar. Miskien kan u my help daarmee.
 8 MR CHASKALSON SC: Well, you used
 9 "gestorm" in response to my question. I think "gehardloop"
 10 was in response to the Chairperson's question, but why did
 11 you – well, let's start with "gehardloop." Why did you say
 12 they were running when in fact you now say they weren't
 13 running?
 14 BRIGADIER CALITZ: Ek dink u het my nou
 15 'n verduideliking gevra vir die woord, asook die
 16 Voorsitter, en ek het vir u gesê die formasie waarin hulle
 17 was en hoe hulle beweeg het. So op daardie stadium die
 18 hardloop het nie gedui fisies op 'n honderd meter "relay"
 19 nie, nee. Dit het net gedui op 'n groep wat in 'n formasie
 20 beweeg in 'n rigting met 'n sekere doel.
 21 MR CHASKALSON SC: Now was this group
 22 moving quickly or slowly?
 23 BRIGADIER CALITZ: Mnr die Voorsitter,
 24 weereens, as ek na spoed moet verwys, as ons in 'n groep is
 25 en ons buk saam en ons stap vorentoe, die spoed wat daardie

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1 groep kan beweeg, dit sal die spoed wees. Dit was nie 'n
2 gehardloop, storm, dat hulle wegbeweeg het van die
3 agterstes af. Hulle het as 'n groep saam beweeg in daardie
4 posisie.

5 MR CHASKALSON SC: And the verb "storm,"
6 why did you use that verb?

7 BRIGADIER CALITZ: Mnr die Voorsitter, ek
8 sal dieselfde verduideliking – storm, hardloop, in my taal
9 is dit miskien dieselfde wat ek bedoel het. So dieselfde
10 verduideliking, as ek dit so kan stel.

11 MR CHASKALSON SC: And you from your
12 position could see them, you say, in this "gebukkend"
13 position, the crouched position?

14 BRIGADIER CALITZ: Dit is wat hulle nader
15 beweeg het op die eerste insident, toe was die visie geblok
16 en ek het ook die spesifieke punt gesien verder weg,
17 insident 2.

18 MR CHASKALSON SC: At this stage I'm
19 interested in incident 2 alone. You could see them in this
20 "gebukkend" position at incident 2.

21 BRIGADIER CALITZ: Van die voorste
22 persone, korrek.

23 MR CHASKALSON SC: Let's then follow your
24 movements a little further before we get to photographs and
25 videos. You say that shortly after incident 2, or just at

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1 the point at which the SAPS engaged at incident 2, you
2 moved away from your starting position. Can you remember
3 why you did that?

4 BRIGADIER CALITZ: Mnr die Voorsitter, ek
5 het die opdrag gegee vir my Openbare Orde, die Pappa
6 Nyalas, om te gaan "disperse". Ek het dopgehou op hierdie
7 stadium tot ek sien die persone op die koppie het uitbeweeg
8 en ek het gesien daar is 'n punt wat vorm na my, na die
9 klein kraal se rigting. Toe het ek opdrag gegee vir die
10 "dispersion action" en daarna soos enige bevelvoerder moet
11 dan nader beweeg om te gaan sien en self te vergewis wat
12 daar aan die gang is.

13 CHAIRPERSON: Mr Chaskalson, when it's
14 convenient we'll take another comfort break, but I'm in
15 your hands to indicate when it will be.

16 MR CHASKALSON SC: Now is a convenient –

17 CHAIRPERSON: Alright, we'll take a
18 comfort break for 10 minutes.

19 [COMMISSION ADJOURNS COMMISSION RESUMES]

20 [12:21] CHAIRPERSON: The Commission resumes,
21 Brigadier, you're still under oath.

22 MR CHASKALSON SC: Thank you,
23 Chairperson. Brigadier, we were, you had just given us
24 your reason for moving from your starting position and if I
25 heard your testimony correctly, you said you had been

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1 watching the koppie, in other words the main koppie, koppie
2 1 and you saw that everyone had now left that. You noticed
3 and I think your words were, "n punt wat vorm na 'n
4 rigting van die klein koppie," I think that's what you
5 said, that's my note of it, and you then gave an
6 instruction to your Papa Nyalas to a dispersion action and
7 like every commander must do, you moved to get closer to
8 that position so that you could make yourself better aware
9 of what was going on. Did I understand your evidence
10 correctly?

11 BRIGADIER CALITZ: Min of meer, mnr die
12 Voorsitter, ja, byvoorbeeld op die koppie, ek het nie gewag
13 tot almal, daar was sekere persone nog daar, maar die punt
14 is, stem ek saam.

15 MR CHASKALSON SC: Now is this before or
16 after you've seen the Papa Nyalas at insident 2 essentially
17 repel the strikers?

18 BRIGADIER CALITZ: As u sê, this, waarna
19 verwys u?

20 MR CHASKALSON SC: Well, when you took
21 the decision to move from your position?

22 BRIGADIER CALITZ: Mnr die Voorsitter,
23 nee, ek dog ek het dit nou-nou verduidelik, ek het besluit
24 om die posisie te verlaat aangesien ek vir my Openbare Orde
25 Polisiëringslede opdrag gegee het om op te gaan en op die

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1 punt wat hulle daar was en aksie geneem het, het ek reeds
2 vir die drywer gesê om vir my in daardie rigting te ry
3 sodat ek kan self gaan waarneem wat daar gebeur.

4 MR CHASKALSON SC: So you were looking,
5 you were telling your driver to go in the direction of
6 where insident 2 was happening at the kraal?

7 BRIGADIER CALITZ: Ja, miskien nie by die
8 punt nie, nee, mnr die Voorsitter, maar in daardie rigting.

9 CHAIRPERSON: In a direction which would
10 bring you to a point from which you could see what was
11 happening in the vicinity of the kraal, is that correct?

12 BRIGADIER CALITZ: Net om miskien 'n
13 beter posisie te kry, mnr die Voorsitter, -

14 CHAIRPERSON: As I understand it you had
15 a difficulty from where you were in seeing what was going
16 on at the kraal, isn't that so? You explained that, I
17 think?

18 BRIGADIER CALITZ: Korrek.

19 CHAIRPERSON: So you decided, you'd given
20 instructions that certain things were to be done, so you
21 decided to go closer so that you would be in a position to
22 see what was happening and presumably give further
23 instructions as and when they were required, is that
24 correct?

25 BRIGADIER CALITZ: Korrek, mnr die

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1 Voorsitter.

2 COMMISSIONER HEMRAJ: What was the

3 instruction that you gave to the Papa Nyalas, to do what?

4 BRIGADIER CALITZ: Kommissaris, toe ek

5 hier was het ek vir die Papa Nyalas gesê het, die woord

6 aanvanklik, toe ons afgekome het was die woord "engage" en

7 dit was 'n toespring teken wat ons gebruik het, dat almal

8 moet wees ons nou gaan oor tot aksie, hulle moet betrokke

9 raak. Toe het ek pertinent vir die waterkanonne gesê,

10 "Move forward, disperse," en vir die Papa Nyalas, "Go and

11 assist and disperse the crowd," so dit sal dan 'n teken

12 wees vir elke groep bevelvoerder om dan sy eie, byvoorbeeld

13 elke Nyala voertuig het 'n groep bevelvoerder wat dan

14 verder sal opdragte gee aan hulle lede.

15 MR CHASKALSON SC: Now, Brigadier, two

16 things, firstly I think I said klein koppie, what I meant

17 to say was klein kraal, is that correct?

18 CHAIRPERSON: I think we all understood

19 you to mean klein kraal, did you understand him, Brigadier?

20 BRIGADIER CALITZ: Ek het dit verstaan.

21 CHAIRPERSON: That -

22 BRIGADIER CALITZ: Korrek, mnr die

23 Voorsitter.

24 MR CHASKALSON SC: But your answer to

25 Commissioner Hemraj, you said that you, after using the

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1 instruction "engage" you asked the Papa Nyalas to disperse

2 and you called up the water cannons to engage in a

3 dispersion action, so were the water cannons called up for

4 your dispersion action only at about the point at which you

5 left your starting position?

6 BRIGADIER CALITZ: Nee, weereens kan ek

7 nie vir u sê op die tyd nie, mnr die Voorsitter, ek sou

8 daardie opdrag gegee het. Toe ek die mense sien beweeg was

9 dit 'n gelyktydige opdrag wat ek vir die kanonne gesê het,

10 beweeg vorentoe, disperse en die Papa Nyalas gaan vorentoe

11 en disperse, begin met die dispersion action. So dit sou

12 gewees het, ek dink op hierdie stadium toe ek staties was,

13 waar ek was.

14 MR CHASKALSON SC: Okay, so you've

15 already given that dispersion instruction and then at a

16 certain point you decided to move. Is it because you want

17 to get closer to where the dispersion action is going to

18 take place so that you can see what's going on and control

19 it?

20 BRIGADIER CALITZ: Mnr die Voorsitter, ek

21 dink ons het al die vraag 'n paar keer geantwoord, dit was

22 vir die bevelvoerder, ek persoonlik as 'n operasionele

23 bevelvoerder, om nader te beweeg waar enige aksie plaasvind

24 sodat ek myself kan vergewis wat daar aan die gang is.

25 MR CHASKALSON SC: And at that stage the

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1 action that was happening was on the west edge of the small

2 kraal, is that correct?

3 BRIGADIER CALITZ: Op die hoek waar Nyala

4 4 dan by die kraal gekom het, as dit is waarna u verwys,

5 die westelike rigting, ja.

6 MR CHASKALSON SC: And -

7 CHAIRPERSON: May I ask a question before

8 you proceed to the next one? Did you actually see Nyala 4

9 reaching that corner of the small kraal or was that

10 something that you assumed had happened and you know later,

11 from what you heard later did happen, but did you not

12 actually see it?

13 BRIGADIER CALITZ: Nee, mnr die

14 Voorsitter, dit is wat ek 'n paar vrae terug gesê het, toe

15 die groep storm en dit was voor Nyala 4 die kraal bereik,

16 het ek dan vir hom gesê, ry vinniger, en in daardie geval

17 het ek dan ook vir die waterkanonne en die dispersion

18 action 'n opdrag gegee om te gaan disperse want ek het op

19 daardie stadium gesien daar is 'n moontlikheid dat hulle

20 kan deurbreek en om die verskeie redes wou ons nie gehad

21 het hulle moes dan deurbreek nie, as dit die vraag

22 antwoord.

23 CHAIRPERSON: You haven't actually

24 answered directly but never mind, I take it what you mean

25 is, you didn't actually see the, I don't think it is

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1 disputed that it did happen, but you didn't actually see

2 Nyala 4 reaching the corner of the little kraal, is that

3 right?

4 BRIGADIER CALITZ: U is korrek, mnr die

5 Voorsitter.

6 MR CHASKALSON SC: Now, Brigadier, while

7 your vehicle was moving where were you, first of all, where

8 were you? Were you still seated in the back right seat?

9 BRIGADIER CALITZ: Korrek, mnr die

10 Voorsitter.

11 MR CHASKALSON SC: And where were you

12 looking?

13 BRIGADIER CALITZ: Mnr die Voorsitter,

14 uit die sitplek uit voor die, na die bestuurder, toe ek vir

15 hom opdrag gegee het, u probeer maar observeer soveel as

16 wat 'n mens kan uit 'n Nyala uit, die sig is redelik

17 beperk, so -

18 MR CHASKALSON SC: But presumably you

19 were trying to see what you could of where the action point

20 was because that's where you wanted to, that's the

21 direction in which you wanted to move?

22 BRIGADIER CALITZ: As Papa1 wel in 'n

23 noordelike rigting beweeg en ek sit aan die regter

24 agterkant sou ek byvoorbeeld moes opgestaan het of op my

25 knieë gestaan het om dan bo oor die drywer en bo oor, wat

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1 ons noem 'n commander seat, te kan sien. Hulle is redelik
 2 ge-raise, vanwaar ons agter sit is you sig baie beperk van
 3 wat voor aangaan.
 4 MR CHASKALSON SC: So you saw very little
 5 while you were on the move?
 6 BRIGADIER CALITZ: Korrek, mnr die
 7 Voorsitter.
 8 MR CHASKALSON SC: Can you now tell us
 9 the, - try to reconstruct your movements and maybe for this
 10 we should take the four reserve Nyalas out the way because
 11 they were nowhere near there anymore, but can you show us
 12 roughly the movement that you made when you left your
 13 starting position?
 14 BRIGADIER CALITZ: Mnr die Voorsitter,
 15 ja, Papa1 was hierdie voertuig en ek het dan beweeg in 'n
 16 noord oostelike rigting. Die voertuig het dan, sou reguit
 17 beweeg. Ek kan nie vir u sê of dit die pad is wat ek
 18 gevolg het nie, soos ek om verskeie redes vir u sê. As ek
 19 dan net kan aandui, op 'n stadium het ons gesien dat daar
 20 is aksie aan die gang en dat daar is 'n groter groep aan
 21 die bokant en ek het dan besef dat die enigste uitgang was
 22 tussen die sinkhuis en die kraal waar dan die polisie
 23 voertuie kon deurbeweeg en dit is waar ek dan gesê het ook
 24 vir die Papa voertuie op daardie stadium, blok die persone.
 25 Ek het verby beweeg en ek het op geëindig omtrent in

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1 daardie posisie, daar waar, as dit opgevang word waar die
 2 kontrole lê en tussen my Papa1, daar is 'n draad wat daar
 3 loop. Dit was die posisie omtrent waar ek op geëindig het.
 4 CHAIRPERSON: For my benefit, can you
 5 indicate where that wire was, do you remember there was a
 6 wire and there were two poles, I think and there was an
 7 entrance that you could go through? Can you more or less
 8 indicate where that is?
 9 BRIGADIER CALITZ: Ons het ooreengekom
 10 dat –
 11 CHAIRPERSON: I understood you to say at
 12 point you were between the two poles as it were, the fence,
 13 at a gap in the fence, is that correct?
 14 BRIGADIER CALITZ: Aan die regterkant van
 15 die –
 16 CHAIRPERSON: Yes, you can mark that,
 17 show that to us.
 18 BRIGADIER CALITZ: Mnr die Voorsitter,
 19 ons het ooreengekom, mnr Chaskalson sal my net, - ek sal
 20 vir hom aandui, ek kan net nie bykom daar nie.
 21 CHAIRPERSON: That's the wire fence.
 22 BRIGADIER CALITZ: I'm not a 100% sure
 23 about this fence here but, daardie draad is, daar.
 24 CHAIRPERSON: So which fence are you not
 25 entirely sure about? It is either the fence with the gap

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1 in it that we can see, or the fence which surrounds the
 2 plots on which the shack is situated, which is the one
 3 you're not entirely sure of?
 4 BRIGADIER CALITZ: Nee, mnr die
 5 Voorsitter, dit is reg, daar waar my Nyala geposisioneer
 6 is, daardie draad is korrek, die een wat agter die shack,
 7 ek is nie heeltemal seker hoe ver hy gaan na die, - maar ek
 8 dink nie dit is van toepassing nie.
 9 CHAIRPERSON: The fence doesn't appear to
 10 play any role in your actions, is that right?
 11 BRIGADIER CALITZ: Ek verstaan so.
 12 CHAIRPERSON: As long as the fence with
 13 the gap in it is correct, then we can follow your story.
 14 BRIGADIER CALITZ: Korrek, mnr die
 15 Voorsitter.
 16 CHAIRPERSON: As you said, thank you.
 17 COMMISSIONER HEMRAJ: And Papa1, facing
 18 in which direction in that position, Brigadier?
 19 BRIGADIER CALITZ: Towards the, can we
 20 call it the kraal on the north, Kommissaris, ek sal dit
 21 moet aandui.
 22 CHAIRPERSON: I think there are three
 23 kraals there, aren't there and the biggest one is the one
 24 that you are referring to, is that correct?
 25 BRIGADIER CALITZ: Ja, daar was ander

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1 voertuie aan my binnekant, twee Casspir voertuie en ek dink
 2 nog 'n voertuig.
 3 CHAIRPERSON: I think we better move the
 4 Casspirs now so that we can see where they were.
 5 BRIGADIER CALITZ: Ek sal net –
 6 CHAIRPERSON: We've got some Casspirs
 7 there, I believe?
 8 BRIGADIER CALITZ: Dit is waar ek die
 9 ondersteuning gevra het van die persone wat, aangesien ek
 10 nie vir u kan sê, ek weet aan my binnekant was, ek dink
 11 twee Casspir voertuie, - ag, 'n Nyala voertuig en die
 12 Casspir voertuie het op die hoek gestaan en om die hoek. U
 13 kan dit sien in die foto ek dink, van Kolonel Vermaak se
 14 foto wat ons gebruik het. As ek die voertuie miskien kan
 15 beweeg soos die foto is –
 16 CHAIRPERSON: Hopefully if we had them
 17 where they were because –
 18 BRIGADIER CALITZ: Ek gaan dit nou vir u
 19 –
 20 CHAIRPERSON: - it is quite important for
 21 us in order to follow your story.
 22 BRIGADIER CALITZ: Papa11 was heel voor,
 23 hy was aan die linkerkant van die draad gewees, heel voor,
 24 nog vorentoe, ja, dit was die posisie van Papa11, dan was
 25 die Scorpion voertuig agter hom.

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1 CHAIRPERSON: The Casspir, sorry, that's
2 the Scorpion? Is that the Special Task Force Casspir? So
3 where was the Scorpion or was it where no –
4 BRIGADIER CALITZ: Ek het hom, ja, nee,
5 dit is die Casspir, miskien, ek weet nie of almal gaan
6 inkom, dan sien ek op die foto Papa2, Papa4. Mnr die
7 Voorsitter, as ons hom nou omtrent so het, volgens –
8 CHAIRPERSON: Put the Casspirs in
9 position and the Nyalas and so on. Have we got yet, - has
10 the TRT line being formed yet or are we going to see that
11 later, and the POP line as well? You know these are all
12 going to be shown to us in due course, I think?
13 BRIGADIER CALITZ: Mnr die Voorsitter,
14 dit is omtrent hoe ons daar,-
15 MR CHASKALSON SC: Sorry, Brigadier, my
16 concern is we're reconstructing possibly across two
17 separate times, so let's start with the reconstruction of
18 when you arrived, at the point that you arrived at the
19 kraal?
20 BRIGADIER CALITZ: At the point that I
21 arrived at the kraal, a lot of these vehicles were moving
22 in that direction, I think Nyala 6 was also, I remember
23 well, passing because that was a barbed wire Nyala, that
24 the driver said and we passed the barbed wire Nyala and
25 then to the far right I parked my vehicle. The other

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1 vehicles there were –
2 CHAIRPERSON: I'm sorry to interrupt, did
3 you park your vehicle where we see it at the moment or did
4 you park it somewhere else?
5 BRIGADIER CALITZ: Nee, in daardie, teen
6 die draad, mnr die Voorsitter. Die Casspir blocks is 'n
7 bietjie groot, dit moet nou kleiner, ek weet nie of ons dit
8 kan vervang met –
9 CHAIRPERSON: I suspect one Casspir block
10 will cover the area covered by two Casspirs, is that
11 correct?
12 BRIGADIER CALITZ: Ek wil net hê dit moet
13 lyk of die view obstruct is, daar was redelike, daar was
14 spasies tussen die voertuie, as ons kyk na die foto.
15 MR CHASKALSON SC: We've got a real
16 problem with scale because even the blocks behind are too
17 big for the scale, so the length that they stretch over is
18 longer than the actual length.
19 CHAIRPERSON: The scale isn't so
20 important, it is the position really at this stage.
21 BRIGADIER CALITZ: Mnr die Voorsitter, as
22 ek dan kyk daar, -
23 COMMISSIONER HEMRAJ: Mr Chaskalson,
24 because of the problem with the scale will it help for next
25 week to have a photograph of just that area that we're

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1 dealing with which encompasses scene 1 and then try and set
2 that up for Monday to better understand perhaps the area
3 and the scale in particular.
4 CHAIRPERSON: Have that blown up you see,
5 so then the blocks most probably will be the right size, to
6 scale.
7 MR CHASKALSON SC: I think –
8 CHAIRPERSON: I understand we have to
9 have a bigger photograph to get the whole area, but if
10 we're going to concentrate now on what happened at scene 1,
11 which is effectively incident 3, we can presumably do it
12 more easily with the blown up picture of that portion of
13 the terrain.
14 MR CHASKALSON SC: No, I think that's an
15 excellent suggestion, Commissioners, we'll, between us and
16 SAPS we'll ensure that that happens. Maybe to avoid the
17 problems of scale now, Brigadier, if we could just talk
18 about the movements that you remember before you entered
19 the kraal area and I've just flicked your Papa1 back. You
20 moved across, as you were saying, driving broadly in a
21 north/north-easterly direction. Can you recall as you came
22 by whether you passed any TRT members forming up?
23 [12:41] BRIGADIER CALITZ: Mnr die Voorsitter, ek
24 kan dit nou nie onthou nie, maar dit kan moontlik wees.
25 MR CHASKALSON SC: So would you have

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1 noticed them if they were forming up as you passed them?
2 BRIGADIER CALITZ: In die spesifieke lyn
3 waar hulle gestaan het, definitief. Dit sou beteken ek
4 moes dan deur hulle ry. So as hulle opgevorm het sou dit
5 dan heel moontlik hier by die voertuie gewees het, Kaptein
6 Loest se voertuig voor. So ek verneem op daardie stadium
7 toe hulle die aksie sien wat daar gebeur sou hulle beslis
8 dan iewers opgevorm het.
9 CHAIRPERSON: It sounds as if you're
10 speculating a bit. You said "dit is wat hulle sou gedoen
11 het" –
12 BRIGADIER CALITZ: Ek het dit nie gesien
13 nie –
14 CHAIRPERSON: You can't from your own
15 knowledge say –
16 BRIGADIER CALITZ: Ek het dit nie gesien
17 nie, mnr die Voorsitter.
18 CHAIRPERSON: When Captain Loest comes, I
19 take it he can explain.
20 BRIGADIER CALITZ: Dis wat ek probeer –
21 ja.
22 CHAIRPERSON: He will have the benefit of
23 this plan as well, of these blocks and so on, so he can
24 show us.
25 BRIGADIER CALITZ: Hulle sal beslis kan

<p style="text-align: right;">Page 18042</p> <p>1 sê, mnr die Voorsitter.</p> <p>2 MR CHASKALSON SC: And Brigadier, you</p> <p>3 said that you had given an instruction to your POPS Nyalas</p> <p>4 to block the, I presume the strikers. Where were they to</p> <p>5 do the block, and where were the strikers that needed to be</p> <p>6 blocked?</p> <p>7 BRIGADIER CALITZ: Dit was by insident 2.</p> <p>8 Onthou op 'n stadium het ek gesê Nyala 4 was nog nie by die</p> <p>9 kraal, so terwyl ek dan die opdrag gegee het vir die Nyalas</p> <p>10 "disperse," het ek dan ook vir hulle gesê gaan "assist" en</p> <p>11 "block". Wat ek daarby bedoel het is dat die voertuie, wat</p> <p>12 ons bedoeling by "blocking," die Nyalas probeer dan hulp</p> <p>13 verleen aan die draad. Sou die draad om een of ander rede</p> <p>14 nie by die kraal gekom het, dan was dit dan nodig vir die</p> <p>15 Nyalas om posisie in te neem van waar hulle dan 'n</p> <p>16 "dispersion action" sal kan loods.</p> <p>17 COMMISSIONER HEMRAJ: I'm sorry, I don't</p> <p>18 understand that blocking. Can you explain it again for me,</p> <p>19 please?</p> <p>20 BRIGADIER CALITZ: Kommissaris, as Nyala</p> <p>21 4 op die stadium, en hy het nog nie daar gekom, het ek</p> <p>22 opdrag gegee vir die Pappa Nyalas om dan nader te beweeg en</p> <p>23 te gaan "disperse". In dieselfde asem het ek dan vir hulle</p> <p>24 gesê "disperse and block." Blok is ook een van ons force</p> <p>25 kontinuums. As die Nyala dan op 'n stadium sou wees, die</p>	<p style="text-align: right;">Page 18044</p> <p>1 series of aerial photographs that show it right up against</p> <p>2 the kraal. Whether Colonel Pitsi got there first or not</p> <p>3 may or may not be relevant to later evidence. So</p> <p>4 Brigadier, you were intending, when you mentioned the block</p> <p>5 you were talking about still incident 2 to the west of the</p> <p>6 kraal, but you then drove up to the east of the kraal.</p> <p>7 BRIGADIER CALITZ: Ja, ek het nooit die</p> <p>8 opdrag gegee na die weste van die kraal of gaan om die</p> <p>9 kraal. Ek het net vir die "commanders" gesê "Move forward</p> <p>10 and block." Onthou die aanvanklike voorligting wat ons vir</p> <p>11 hulle gegee het, mnr die Voorsitter, was ons sou uit beweeg</p> <p>12 het tussen die sinkhuisie en die klein kraal – ons het</p> <p>13 nooit daarby gekom nie – waar die polisie dan aanvanklik</p> <p>14 sou opgevorm het en waarvandaan ons dan hulle sou</p> <p>15 uiteengedryf het met ons aksie. So die groepbevelvoerders</p> <p>16 sou dan self besluit het. Dit is onmoontlik vir – ek dink</p> <p>17 ons het 16 Nyalas op die dag gehad – vir almal om na een</p> <p>18 punt toe te jaag, so die groepbevelvoerders sal dan sien</p> <p>19 hier word 'n spasio toegemaak, hier word 'n spasio</p> <p>20 toegemaak, daar is 'n opening aan hierdie kant, en ons het</p> <p>21 geweet dat dit is die enigste uitgang opening waar ons dan</p> <p>22 kan uit beweeg, so die groepbevelvoerders sou hulle eie</p> <p>23 besluit maak om dan ook so om te beweeg. Ek het getuig toe</p> <p>24 Pappa1 deurbeweeg was daar reeds voertuie om die, tussen</p> <p>25 die sinkhuisie en die klein kraal wat reeds daar</p>
<p style="text-align: right;">Page 18043</p> <p>1 groepbevelvoerders sal dit dan verstaan deur te sê, en ek</p> <p>2 dink dit is – onder korreksie, Pappa5, ek dink dis Kolonel</p> <p>3 Pitsi wat gesê het inderdaad is wat hy gedoen het, wat hy</p> <p>4 so in beweeg het en dan hulp verleen het met die voertuie,</p> <p>5 waar dan die "dispersion action" en goed plaasvind. Ek</p> <p>6 praat onder korreksie, maar daar sal getuienis wees. So om</p> <p>7 te blok beteken die voertuie maak 'n spasio toe wat dalk</p> <p>8 nie gedek kon word deur die draad. Dit is wat die woordjie</p> <p>9 blok –</p> <p>10 COMMISSIONER HEMRAJ: Thank you.</p> <p>11 MR SEMENYA SC: Yes, Chair, we must state</p> <p>12 for the record as well, we haven't interfered with the</p> <p>13 evidence that Nyala 4 is hitting the corner of the kraal.</p> <p>14 The evidence is it's Colonel Pitsi who does that. Nyala 4</p> <p>15 did not get up to the corner of the kraal.</p> <p>16 CHAIRPERSON: Nyala 4 didn't actually</p> <p>17 reach the kraal and the space between its front and the</p> <p>18 kraal was occupied by Colonel Pitsi –</p> <p>19 MR SEMENYA SC: Colonel Pitsi's Nyala.</p> <p>20 CHAIRPERSON: His Nyala, yes. Thank you.</p> <p>21 Just remind me what was his number?</p> <p>22 MR CHASKALSON SC: 5.</p> <p>23 CHAIRPERSON: 5, I see, thank you.</p> <p>24 MR CHASKALSON SC: Chairperson, at some</p> <p>25 stage Nyala 4 did reach the kraal because there are a</p>	<p style="text-align: right;">Page 18045</p> <p>1 geposisioneer was. So die blok sou ek dan verstaan hulle</p> <p>2 sou, soos Pappa5 tereg gedoen het, ek het op daardie</p> <p>3 stadium nie waargeneem dat Nyala 4 daar was nie, maar dit</p> <p>4 is toe nou bevestig, en dan om die kraal sou die ander</p> <p>5 bevelvoerders dan die besluit neem om hulle blok aksies in</p> <p>6 te neem, blok weereens om die voertuie in 'n lyn te trek,</p> <p>7 die Openbare Orde Polisiëringseenhede te "deploy" aan die</p> <p>8 kante, en dan van daar af 'n uiteendryf aksie te doen.</p> <p>9 CHAIRPERSON: Am I correct in thinking</p> <p>10 that one of the reasons why you went to the position that</p> <p>11 you showed us was because you thought that the disperse and</p> <p>12 disarm operation was going to take place and this would be</p> <p>13 a good place to see the disperse and disarm operation from,</p> <p>14 or am I misunderstanding?</p> <p>15 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>16 dit was die enigste plek waar ek kon deurbeweeg het en waar</p> <p>17 dit van die beste posisie was –</p> <p>18 CHAIRPERSON: Yes, but the reason you</p> <p>19 went was you thought that eventually in due course that</p> <p>20 day, that afternoon, the disperse and disarm operation was</p> <p>21 going to take place –</p> <p>22 BRIGADIER CALITZ: Ja.</p> <p>23 CHAIRPERSON: And is that why you chose</p> <p>24 to go to that spot?</p> <p>25 BRIGADIER CALITZ: Dit is korrek, mnr die</p>

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1 Voorsitter, om voor te vat.

2 CHAIRPERSON: And then presumably when

3 you gave the warnings and so on, you would have given them

4 from there.

5 BRIGADIER CALITZ: Dit is korrek, mnr die

6 Voorsitter.

7 CHAIRPERSON: Is that correct? I see.

8 BRIGADIER CALITZ: As dit gewerk het.

9 COMMISSIONER HEMRAJ: And were you the

10 first Nyala to go then through that gap between the small

11 kraal and the shack?

12 BRIGADIER CALITZ: Nee, Kommissaris, ek

13 het getuig tussen die klein kraal en die sinkhuisie was

14 reeds verskeie groepbevelvoerders wat hulle Nyala voertuie

15 deur gevat het. Ek dink die heel voorste een was Pappa11,

16 die persoon wat heel aan my ver linkerkant gestaan het toe

17 ons gestasioneer was. So Pappa11 was heel voor, wat

18 duidelik te sien is op die lugfoto's van Kolonel Vermaak.

19 Hy het die verste uitbeweeg en hy is ook dan die Nyala wat

20 ons later getuig het wat aangeval was, as ek miskien net

21 weer kan wys. Waar is 11? Dit is waar Pappa11 reeds

22 geposisioneer was en toe ek by die draad kom, die groep wat

23 om gekom het, maar ek neem aan ons is nog nie by insident 3

24 nie, maar daar was reeds voertuie geposisioneer –

25 CHAIRPERSON: I'm trying to get your

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1 state of mind at the time you got to the positions you

2 showed us. So you said that's where you, from that

3 position you were going to give the warning before the

4 disarm and disperse operation began. From that position

5 you could best see what was going to happen in that area

6 where the disarm and disperse operation was to take place,

7 and did you think – this is your state of mind – did you

8 think that the blocking instruction that you had given

9 would be successful, in other words that the strikers

10 wouldn't be able to move through; they would be confined to

11 the space on the other side of the small kraal, the space

12 where you intended them to be when the warning was to be

13 given and the disperse and disarm operation was going to

14 take place. Is that correct?

15 BRIGADIER CALITZ: Beslis so, mnr die

16 Voorsitter. Dit was die gedagte gewees en ek het werklik

17 geglo dat hulle sou omdraai en in 'n westelike rigting, wat

18 'n 200-grade plus oop area is agter hulle, of dan om na die

19 nedersetting toe. Ek het werklik geglo dat die blok en die

20 "dispersion" sal die effek hê op die persone.

21 MR CHASKALSON SC: Picking up from the

22 Chairperson's question, Brigadier, I just want to put to

23 you what seems to me a slight inconsistency in your

24 testimony today and your testimony in chief, because in

25 chief, if I understand your testimony correctly, you said

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1 that you stayed in your starting position until Nyala 4 had

2 reached the kraal and you had seen the people turn around;

3 you had seen the strikers turn around at the kraal and you

4 thought that they were in the process of moving away, and

5 at that point you wanted to mount the dispersion action.

6 Can I take you to the relevant passage? It's page 17295,

7 at the bottom of the page, I'll just read, "Soos ek

8 voorheen getuig het, die neus van die Nyala is nou teen die

9 kraal en die groep het dan inderdaad wegbeweeg," and the

10 Nyala you're talking about I think is Nyala 4, "en toe ek

11 sien," and you say, "onthou op daardie stadium was my

12 voertuig Pappa1 nog omtrent by Nyala 3," in other words at

13 your original position, "toe ek sien dat die voertuig weg

14 beweeg het en die groep om beweeg het, het dit in my

15 gedagte dat die groep is besig om te 'disperse,' hulle gaan

16 uiteen. Met ander woorde hulle beweeg weg in die rigting

17 van Nkaneng nedersetting. Ek het dan die opdrag gegee vir

18 die Pappa voertuie, omdat ons reeds aksie gehad het by

19 insident 2 en ons reeds hier al van uiteendryf-tegniese

20 gebruik gemaak het, het ons opdrag gegee dat die Pappa

21 Nyalas, dit is die POP met die Openbare Orde

22 Polisiëringpersoneel, my volg en ek het beweeg tussen die

23 – daar is 'n sinkhuis en die klein kraal is die enigste

24 opening, het ek toe met my Nyala voertuig beweeg en

25 stelling ingeneem teen 'n draadheining." Now if I

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1 understand that correctly, what it's suggesting is several

2 things; the first is that you only left your starting

3 position after you had seen the strikers turn around and

4 essentially be repelled at incident 2.

5 CHAIRPERSON: And after the Nyala 4 had

6 reached the corner of the small kraal.

7 MR CHASKALSON SC: Yes, I don't want to

8 say it's Nyala 4 because it may be Colonel Pitsi's Nyala.

9 I said Nyala 4; I should possibly withdraw that –

10 CHAIRPERSON: Okay, after the, whatever

11 Nyala it was that came into contact with the corner of the

12 small kraal, came into contact with the corner of the small

13 kraal. So it's either 4 or 5. Perhaps you can say after

14 either Nyala 4 or 5 came into contact with the corner of

15 the small kraal, and the strikers turn around. That's

16 correct, isn't it?

17 MR CHASKALSON SC: And when you gave the

18 disperse order, it wasn't an order to disperse the strikers

19 at incident 2; it was in fact an order to embark on the

20 dispersion action that had previously been planned, which

21 was to disperse all of the strikers, disperse, disarm, and

22 arrest, as it were.

23 CHAIRPERSON: That's the continuation of

24 phase 3.

25 MR CHASKALSON SC: Indeed, Chairperson.

<p style="text-align: right;">Page 18050</p> <p>1 CHAIRPERSON: The first part of phase 3 2 was the uncoiling of the wire and thereafter things would 3 happen, but of course he first had to be in position to 4 give the warning and allow time for the people to go and 5 that sort of thing. 6 BRIGADIER CALITZ: Mnr die Voorsitter, as 7 ek dan net die vraag in fases kan antwoord soos ek dit 8 neergeskryf het, u het eerste gesê dat ek het gesê dat ek 9 het staties gestaan totdat ek die mense gesien omdraai het 10 en weghardloop, het ek gesê die voorste punt omgedraai en 11 weggehardloop? Want ek het nou-nou getuig dat ek het die 12 voorste punt gesien en toe die persone, toe het ek gesien 13 daar was 'n "dispersion" aksie aan die gang, en ek het wel 14 gesê dat ek het die agterste groep gesien beweeg in daardie 15 rigting en daarom het ek vir my voertuie die opdrag gegee 16 om te blok. So ek kan nie onthou dat ek gesê het ek het 17 die voorste punt gesien die hele groep terugbeweeg in 'n 18 westelike rigting nie, nee. 19 MR CHASKALSON SC: Brigadier, I think it 20 would be fairer to you if you had an opportunity to read 21 what you said at pages 17295 and 296, so I can't put it up, 22 unfortunately, so can I – 23 BRIGADIER CALITZ: Ek vertrou u woorde, 24 as u net vir my – 25 MNR CHASKALSON SC: Ja, maar dit net een</p>	<p style="text-align: right;">Page 18052</p> <p>1 Voorsitter, u sal sien." 2 BRIGADIER CALITZ: Lyn nommer? 3 MNR CHASKALSON SC: 23. 4 BRIGADIER CALITZ: "U sal sien Nyala 4 5 het op hierdie stadium by die kraal gestop." Onthou van my 6 posisie af, dit is wat ek hom opdrag gegee het om soontoe 7 te gaan. Ek het wel getuig dat ek gesien het hy gaan in 8 daardie rigting en was my afleiding dat hy by die kraal 9 gestop het. Ons het nou gehoor dat hy dit nie bereik nie, 10 so dit bevestig wat ek daar gesê het. "Soos ek voorheen 11 getuig het, die neus van die Nyala is nou teen die" – 12 MR CHASKALSON SC: And can we go up to 13 the next page, 17296? 14 BRIGADIER CALITZ: - "teen die kraal en 15 die groep het dan inderdaad wegbeweeg." Dit is wat ek sê, 16 die neus van die Nyala is teen die, dit is wat ek aangeneem 17 het op daardie stadium en die groep het dan inderdaad 18 wegbeweeg. Die wegbeweeg sal u onthou 'n vroe voorheen wat 19 u my gevra het, het ek wel getuig dat ek gesê het terwyl 20 die groep daar was en die uiteendrywing, dit is wat ons dan 21 verwys na die opdrag, "go and disperse," dis dan die 22 uiteendrywing deur middel van "stun" granate, traangas, 23 water, asook die haelgewere. Daardie uiteendrywing het vir 24 my gelyk toe daar aksie begin plaasvind, dat daar wel van 25 die mense ombeweeg het, en dit is waarna ek daar verwys</p>
<p style="text-align: right;">Page 18051</p> <p>1 keer gehoor. 2 BRIGADIER CALITZ: Okay. 3 CHAIRPERSON: While you're looking at it, 4 may I say I think the use of the word "dispersion" in that 5 context is possibly misleading. If you confine the word 6 "dispersion" to the implementation of the rest of phase 3, 7 you know the dispersion and disarming, so perhaps there's 8 another word to – can you think of another word, Mr 9 Chaskalson, to describe what he wanted to happen at the 10 point that he's now talking about? I think it's blocking 11 and - dispersing I suppose, yes alright. So if we use 12 "dispersing" just for the action of getting people to go 13 away, and we use the word "dispersal" to cover what was 14 going to be part of the continuation of phase 3, because 15 remember phase 3 was going to start with rolling out the 16 wire, then you were going to give a warning, and other 17 things would happen, and then one of the things that was 18 going to happen thereafter was dispersal. So if use those 19 wording – I don't know how you can do it in Afrikaans, but 20 otherwise, I mean if you talk about dispersal, dispersing, 21 in the context of what was happening on the other side of 22 the small kraal then there may be confusion. 23 BRIGADIER CALITZ: Watter gedeelte wil u 24 hê moet ek lees? 25 MNR CHASKALSON SC: Van "Mnr die</p>	<p style="text-align: right;">Page 18053</p> <p>1 het. Ek het nie gesê die hele groep het omgedraai, soos 2 wat u nou gesê het, en terugbeweeg nie. "Toe ek sien dat 3 die voertuig, het ek" – waar was ek nou? – "omtrent by 4 Nyala 3, het ek toe gesien, op daardie stadium was my 5 voertuig Pappa1 nog omtrent by Nyala 3," by Nyala 3 – 6 CHAIRPERSON: That's where it was 7 positioned, wasn't it? 8 BRIGADIER CALITZ: Dit is reg agter die 9 draadkar. Dit is korrek. Dit was by die paal gewees, 10 omtrent het ons gepraat van die skaduwee op daardie 11 stadium. "Toe ek sien dat die voertuig wegbeweeg het en 12 die groep ombeweeg," dit is wat ek vir u gesê het, die 13 groep aan die agterkant het ombeweeg, dit was nader aan die 14 nedersetting, "het dit in my gedagte dat die groep is besig 15 om te 'disperse'." Met ander woorde hulle sou dan na ek 16 die aksie op hulle geloods het op insident 2 nadat hulle 17 met die haelgewere dan op hulle gevuur is, was die indruk 18 dat hulle sal dan uiteengaan. Ek dink mnr die Voorsitter 19 het dieselfde vraag nou net vir my gevra, wat was my 20 gedagte toe ek om ry, het ek gedink dit sou werk. So, en 21 dit was wat ek daar ook bedoel het in die getuienis 22 voorheen, was dit in my gedagte dat die groep besig was om 23 uiteen - om te "disperse" beteken hulle sou dan gereageer 24 het want as ons hulle met haelgeweer rubber en met al die 25 metodes by insident 2 teen hulle optree, kan ek geen rede</p>

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1 ingesien het waarom hulle weer sal kom nie, maar dat hulle
 2 liever sal retireer en weghardloop na die groot gedeelte
 3 waar daar dan geen bedreiging is agter nie. "Hulle gaan
 4 uiteen." Dit beteken, dit is wat die woord "disperse"
 5 beteken. "Met ander woorde hulle beweeg weg in die rigting
 6 van Nkaneng nedersetting." Dit is soos die groep dan nou,
 7 wat ek vir u gesê het die groter groep agter geswaai het.
 8 Tot waar moet ek – "Ek het dan die opdrag gegee vir die
 9 Pappa voertuie, omdat ons reeds aksie gehad het by insident
 10 2 en ons reeds al van hier af uiteendryf-tegnieke gebruik
 11 gemaak het" – onthou as ek sê alreeds van hier af
 12 uiteendryf-tegnieke gebruik gemaak het, dit was nie op "own
 13 initiative" nie, dit was ook in my opdrag, en onthou ek het
 14 "continuous," gereeld, aanmekeer met die Pappa voertuie
 15 gepraat.
 16 [13:00] Dit is waar ek dan weer opdrag gegee het vir die
 17 Pappa voertuie omdat ons reeds aksie gehad het by insident
 18 2 en ons reeds van hier af die uiteendryf tegnieke, dit is
 19 die dispersion actions, gebruik gemaak het, het ons opdrag
 20 gegee dat die Papa Nyalas, dit is die Openbare Orde
 21 Polisiëringpersoneel, my volg en het ek beweeg tussen die,
 22 en daar is 'n spasie, daar is 'n sinkhuisie en 'n klein
 23 kraal, die enigste opening. Ek het toe met my Nyala
 24 voertuig beweeg en stelling ingeneem teen 'n draadheining.
 25 Ek het wel vir hulle daar gesê disperse en ek het ook

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1 daardie selfde opdrag gegee, dat die Papa Nyalas volg my,
 2 so die wat reeds daar was en dan die wat hier agter was het
 3 ek vir hulle gesê, volg my. Die hele doel was om dan oor
 4 te gaan in die fase soos dit aanvanklik beplan was en ek
 5 dink dit is waarna u verwys, mnr die Voorsitter, as ek nou
 6 die regte woord het, dispersal, ja, die laaste fase.
 7 CHAIRPERSON: The continuation to phase
 8 2, that's in fact what you say because you wanted to give
 9 the instruction.
 10 BRIGADIER CALITZ: Ja.
 11 CHAIRPERSON: En die opdrag wou gee vir
 12 my Papa Nyalas, to then make a line as with the planning of
 13 phase 2. So in other words you were going to carry, at
 14 that stage you were going to proceed with, is what you're
 15 telling us, with phase 2?
 16 BRIGADIER CALITZ: Dit is vandaar wat die
 17 uiteendrywing en die opvolgaksie dan sou plaasgevind het.
 18 Ek het ook gesê teen die draadheining en ek dink op 'n
 19 ander foto sal ons duidelik sien hier aan die noordekant,
 20 onder die police line –
 21 MR CHASKALSON SC: Brigadier, from my
 22 side I don't need you to repeat that further –
 23 BRIGADIER CALITZ: O, okay.
 24 MR CHASKALSON SC: - but I do have a
 25 follow up question, if I can ask?

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1 CHAIRPERSON: What Mr Chaskalson was
 2 doing, he was suggesting to you-
 3 BRIGADIER CALITZ: Ek verstaan –
 4 CHAIRPERSON: - that the evidence which
 5 we now see on the screen, which was evidence in chief, is
 6 now different from the evidence that you've given us today.
 7 Now he hasn't had a chance yet to put the second half of
 8 what he says is a contradiction to you, is that right, Mr
 9 Chaskalson?
 10 MR CHASKALSON SC: That's correct,
 11 Chairperson, contradiction may be too harsh but, Brigadier,
 12 let me put to you what my concern is. This line of
 13 questioning started with my asking you, when you took your
 14 decision to move your starting position why did you it, and
 15 your answer to me today was, if I can paraphrase, I did it
 16 because there was an incident taking place at incident 2
 17 and I needed to give some instructions to deal with that
 18 incident and I needed to move my Nyala closer to where it
 19 was happening so that I could get a better sight of it all
 20 because as a commander I needed that to be in a position
 21 where I would be best informed. That's broadly what your
 22 answer was today. The evidence in chief is different.
 23 The evidence in chief says you watched incident 2
 24 from your starting position and when you saw that your
 25 forces had successfully repelled incident 2, you then

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1 decided to move your Nyala and to come around the kraal
 2 because you then wanted to get on with what had originally
 3 been phase 2. That's how I read the evidence in chief and
 4 I need clarity from you on which of the two it was, because
 5 if you were moving to deal with an incident at incident 2
 6 then your focus would obviously have been there and certain
 7 things will flow from that. If you thought that incident 2
 8 had been dealt with and you were getting into position to
 9 start or restart phase 2 of the original plan, then your
 10 focus would have been elsewhere and different consequences
 11 would flow from there. So I need to know which of the two
 12 it was.
 13 MR SEMENYA SC: Well, Chair, my following
 14 of the evidence is different. Of course Mr Chaskalson kept
 15 on saying, you were going there to solve what is happening
 16 at incident 2 but the answers were never a, yes.
 17 CHAIRPERSON: It is now one o'clock, I
 18 think that the best way to deal with this will be when,
 19 assisted by the transcript, which you'll have on Monday.
 20 We're not going to on any further now anyway, it is one
 21 o'clock. I must confess my recollection is the same as Mr
 22 Chaskalson, but my memory may be shown to be incorrect by
 23 reference to the transcript, so we'll wait for the
 24 transcript. We then will be able to do it scientifically
 25 as it were, on the basis of the exact words used and in the

1 meanwhile we will adjourn until Monday morning at nine
2 o'clock.

3 [COMMISSION ADJOURNED]

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