

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 163

6 JANUARY 2014

PAGES 18728 TO 18909



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64 10th Avenue, Highlands North, Johannesburg
P O Box 721, Highlands North, 2037
Tel: 011-440-3647 Fax: 011-440-9119 Cell: 083 273-5335
E-mail: realtime@pixie.co.za
Web Address: <http://mysite.mweb.co.za/residents/pak06278>



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1 [PROCEEDINGS ON 6 JANUARY 2014]
 2 [09:33] CHAIRPERSON: The Commission resumes.
 3 Brigadier Calitz, you're still under oath.
 4 ADRIAAN MARTHINUS CALITZ: Dankie.
 5 Dankie, Kommissaris.
 6 CHAIRPERSON: Mr Chaskalson, are you
 7 ready to continue with your cross-examination?
 8 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 9 I am, Chairperson. Good morning, Brigadier. Happy New
 10 Year.
 11 BRIGADIER CALITZ: Good morning.
 12 Compliments to you as well, Advocate.
 13 MR CHASKALSON SC: Brigadier, just to
 14 recap where we were when we broke in December, we'd been
 15 dealing with the stage of the operation where the
 16 dispersion line had formed up in front of koppie 2. You
 17 recall that?
 18 BRIGADIER CALITZ: I think we ended up
 19 there, yes, where we regrouped next to koppie 2. I think
 20 that is where we were.
 21 MR CHASKALSON SC: And just to recap on a
 22 couple of issues relating to the chronology which we've
 23 already traversed, but which will be context for where I'm
 24 going with questioning today, in terms of eTV time the
 25 shootings were at 15:53:50 – 15:53:50; the dispersion line

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1 was essentially formed up by 15:56:16 – 15:56:16 – and from
 2 the point at which the dispersion line was formed up at
 3 you were waiting for first both water cannons and
 4 ultimately the North West water cannon to arrive because
 5 you needed them for the dispersal action. You recall that?
 6 BRIGADIER CALITZ: I recall.
 7 MR CHASKALSON SC: And ultimately you
 8 waited approximately seven and a half minutes before the
 9 North West water cannon finally arrived at the dispersion
 10 line at eTV time 16:03:51.
 11 BRIGADIER CALITZ: I must take your word
 12 for that, yes.
 13 MR CHASKALSON SC: If there's a dispute
 14 we can go to the –
 15 BRIGADIER CALITZ: No, I take your –
 16 MR CHASKALSON SC: - turn to the video in
 17 due course. Now during this period, Brigadier, you'll
 18 recall that you did not move forward because you needed the
 19 water cannons, so the picture that we see on slide 215 of
 20 the presentation – maybe if we can call that up just to
 21 refresh everybody's memory, slide 215 of exhibit L – that
 22 picture of a dispersion line in front of koppie 2 and the
 23 line of strikers lined up behind koppie 2, that situation
 24 remained essentially unchanged for seven and a half
 25 minutes. Do you recall that?

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1 BRIGADIER CALITZ: Korrek, mnr die
 2 Voorsitter.
 3 MR CHASKALSON SC: One last piece of
 4 context was that your evidence was that when you reached
 5 the dispersion line you noticed that the TRT weren't where
 6 they should be, but had remained behind in a sort of
 7 cluster at scene 1, and if I can take you to your statement
 8 at page 23, the statement is JJJ107, your consolidated
 9 affidavit, page 23, para 116 –
 10 COMMISSIONER HEMRAJ: The dispersion line
 11 or the regrouping line?
 12 MR CHASKALSON SC: Well, I think that
 13 they'd been used interchangeably, Commissioner, but maybe
 14 the Brigadier can clarify that for us. Are you referring
 15 to the dispersion line – well, that line that we just saw
 16 in slide 215, do you refer to that as the dispersion line,
 17 the regrouping line, or both?
 18 BRIGADIER CALITZ: No, no, I confirm that
 19 that was the position where we regrouped because the Nyala
 20 – ag, the water cannons and those were not part of the
 21 dispersion. The dispersion already took place at incident
 22 2 and 3.
 23 MR CHASKALSON SC: But there was going to
 24 have to be a new dispersion, was there not?
 25 BRIGADIER CALITZ: It's not a new

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1 dispersion; it's just a follow-up of the dispersion that
 2 already took place, but that is what we call the line that
 3 was formed up there was the regrouping line.
 4 MR CHASKALSON SC: Alright, well I'd been
 5 referring to the dispersion line. I'm happy to refer to it
 6 as the regrouping line. You understand that that's the
 7 line I've been referring to in all of my earlier questions?
 8 BRIGADIER CALITZ: I understand what you
 9 mean.
 10 MR CHASKALSON SC: Now if we go then to
 11 page 23, paragraph 116 of your statement, "When I looked
 12 through the back of the Nyala in which I was, I noticed the
 13 TRT group was still at the back of the kraal in a cluster.
 14 I contacted the TRT on the radio to enquire why they were
 15 not following the POP action as per the briefing; I'd
 16 expected them to come with the sweeping action. When there
 17 was no response from the TRT I contacted Lieutenant-Colonel
 18 Vermaak on the radio and enquired from him why the TRT was
 19 not following our dispersal action. Lieutenant Vermaak
 20 said he will go and check and later reported the TRT
 21 members were at the kraal and there were bodies lying on
 22 the ground. This report did not conjure in my mind that
 23 there were people who were dead, as we now know. I
 24 thought, given my experience and the absence of such a
 25 report to me, that the bodies was reference to people who

<p style="text-align: right;">Page 18732</p> <p>1 were injured by the dispersion action or lying down to be 2 arrested." Now in the seven and a half minutes while you 3 were waiting for the North West water cannon to arrive, did 4 you not try to contact the TRT again to get them to join 5 the operation as they were supposed to have done? 6 BRIGADIER CALITZ: As I said in my 7 statement - maybe I didn't put the words in again and again 8 - I've contacted them and I could not reach them on the 9 radio. There was no response from them, if I can put it 10 that way, and then I contacted Colonel Vermaak who then 11 related to me what happened at the back. 12 MR CHASKALSON SC: And after you - well, 13 let's take this in stages. How many times did you try to 14 contact the TRT on the radio before you approached Colonel 15 Vermaak? 16 BRIGADIER CALITZ: No, I can't recall 17 that. No, there was a few times. I think you played some 18 evidence by the end of last year where you - 19 MR CHASKALSON SC: Yes. 20 BRIGADIER CALITZ: - where we said the 21 TRT, listen to your radios, TRT - 22 MR CHASKALSON SC: Yes. 23 BRIGADIER CALITZ: So that is an 24 indication maybe which you recall my voice to say and call 25 them to respond. But there was no response from them. I</p>	<p style="text-align: right;">Page 18734</p> <p>1 back a bit to a point that you made in paragraph 117 of 2 your statement, the last sentence. "I thought, given my 3 experience and the absence of such a report to me, that the 4 bodies was reference to people who were injured by the 5 dispersion action or lying down to be arrested." Now so 6 you thought that there was a possibility that the people 7 lying down had been injured. What could have caused the 8 injury as far as you thought at the time? 9 BRIGADIER CALITZ: Mnr die Voorsitter, 10 dit is presies wat ek getuig het. Dit is dat daar klaar 'n 11 "dispersion action" was. Daar was klaar 'n optrede geloods 12 deur die - 13 CHAIRPERSON: Ja, I know that, but would 14 they have been injured, or did the possibility exist that 15 they had been injured by sharp ammunition? 16 BRIGADIER CALITZ: Nee, dit is glad nie 17 wat ek - 18 CHAIRPERSON: Well, how could they have 19 been injured by the dispersion action - 20 BRIGADIER CALITZ: Dit is - 21 CHAIRPERSON: - or what sort of injury 22 would they have sustained if sharp ammunition hadn't been 23 used? 24 BRIGADIER CALITZ: Nee, ek was nie bewus 25 van enige skerp ammunisie nie. Waarna ek kan teruggaan -</p>
<p style="text-align: right;">Page 18733</p> <p>1 also didn't hear any response when Colonel Vermaak spoke to 2 them, so it must have been the hand radios maybe that got a 3 problem. 4 MR CHASKALSON SC: So did Colonel Vermaak 5 independently try to contact the TRT, that you heard on the 6 radio? 7 BRIGADIER CALITZ: I cannot recall, 8 that's why I'm saying I cannot recall any conversation 9 between the TRT and Colonel Vermaak. He just flew back and 10 give me a situation report from what he saw from the air. 11 MR CHASKALSON SC: But I just need to 12 clarify your previous answer. Even if you can't recall any 13 conversation between Colonel Vermaak and the TRT, can you 14 recall Colonel Vermaak asking for a sit rep from the TRT? 15 BRIGADIER CALITZ: No, at this stage no. 16 No, I can't recall that. 17 COMMISSIONER HEMRAJ: In your evidence- 18 in-chief you say you tried to contact Loest. Did you try 19 and contact anyone else in the TRT? 20 BRIGADIER CALITZ: In general, yes. On 21 the radio I just said TRT came in. That was now Captain 22 Loest, but then after that I generally comment, as we heard 23 on the voice recording that I spoke in general to any TRT 24 at that stage, but there was nobody responding. 25 CHAIRPERSON: [Microphone off, inaudible]</p>	<p style="text-align: right;">Page 18735</p> <p>1 CHAIRPERSON: No, no, no, I'm sorry, I 2 don't want us to not understand each other. I understand 3 your case is that you weren't aware that sharp ammunition 4 had been used. I understand that. You've made that clear 5 in the earlier part of your statement, but you do say that 6 you thought when you heard that there were bodies lying on 7 the ground, that the possibility existed that they were 8 people who had been injured. What I'm asking you is what 9 was the possibility - they'd been injured by what? 10 BRIGADIER CALITZ: Kommissaris ja, dit is 11 waarnatoe ek wou gegaan het. Dit is nie "dispersion" wat 12 ek dan opdrag gegee het en dit is slegs deur die POP lede 13 en dit is deur rubber. So as daar persone gelê het in die 14 veld - ek het ook getuig in my vorige ondervinding dat 15 wanneer ons mense uiteendryf met rubber, daar is altyd 16 persone wat met die rubber "balls" getref is en wat dan lê 17 met beserings op hulle bene, lywe - 18 CHAIRPERSON: Thank you. Thank you, I 19 understand now. 20 BRIGADIER CALITZ: Dis die rubber 21 "balls." 22 MR CHASKALSON SC: Well, can I just pick 23 up on the Chairperson's question, on your answer to the 24 Chairperson's question. You knew at the time that the 25 militant group passed you at scene 1 that the TRT was</p>

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1 likely to have been forming up behind you. That was your
 2 testimony last year, if I can just ask for page 18185.
 3 Maybe if I can read – well first, do you need us to go back
 4 to 18185, or will you confirm that you knew that the TRT
 5 would have been forming up in the position where they did
 6 ultimately form up?
 7 BRIGADIER CALITZ: Ek kan nie nou uit die
 8 vuus uit sê wat ek gesê het op daardie bladsy nie, maar ek
 9 het geweet dat die voorligting was dat die Taktiese Respons
 10 Eenheid moet op vorm agter die Openbare Orde Polisiëring en
 11 dit is dan om hulle te, by te staan sou daar dan enige
 12 arrestasies moes plaasvind.
 13 MR CHASKALSON SC: And you knew that if
 14 the POPs action had not been successful, the next line of
 15 defence was going to be the TRT?
 16 BRIGADIER CALITZ: In daardie geval waar
 17 hulle opgevorm het sou dit dan logies so gewees het.
 18 MR CHASKALSON SC: And you knew also that
 19 while you had been watching and the militant group had
 20 passed you heading in the direction of the TRT, teargas and
 21 rubber bullets and stun grenades had appeared not to be
 22 successful in making them change their direction?
 23 BRIGADIER CALITZ: Ja, dit is wat ek
 24 getuig het. Die klein groepie wat voor aan my linkerkant
 25 verby my beweeg het, het ek gesê daar was geen effek nie en

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1 daarom het ek opdrag gegee vir die voertuie om dan tussen
 2 hulle in te beweeg, waar ek ook dan getuig het dat ek het
 3 almal gesien omdraai en wegbeweeg in 'n, ek dink dit is 'n
 4 westelike rigting.
 5 MR CHASKALSON SC: But you also knew that
 6 before you gave that instruction the lead group of the
 7 strikers were heading in the direction where you expected
 8 the TRT to be?
 9 BRIGADIER CALITZ: Ja, onthou ek het vir
 10 u gesê dat ek weet hulle het opgevorm. Ek was ook gevra
 11 het ek geweet hulle was in daardie posisie; nee, ek het
 12 gesê ek weet hulle het egter op gevorm agter om dan die
 13 Openbare Orde Polisiëring te volg as die "dispersion"
 14 sou plaasvind.
 15 MR CHASKALSON SC: And your testimony in
 16 December was also that if there was ultimately a
 17 confrontation with the TRT, there would have been tragic
 18 consequences, and maybe here we should go to your
 19 testimony. That's page 18246. 18246. 3rd of December.
 20 Can we call up the transcript of 3 December? Page 18246;
 21 it's day 160.
 22 BRIGADIER CALITZ: You say it's page
 23 number, line?
 24 MR CHASKALSON SC: 18246 is my question
 25 at line 23. So my question was, "And if there was a

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1 confrontation between the TRT and the strikers, there was
 2 likely to be a high risk of loss of life at least on the
 3 part of the strikers. Would you accept that?" Your
 4 response, "Mnr die Voorsitter, u kan nooit regtig voorspel
 5 wat sal gebeur nie. Indien die Openbare Orde Polisiëring
 6 soos in hierdie geval die aanval nie kon keer nie, en daar
 7 was geen ander metodes wat ons laaste lyn van verdediging
 8 is haelgeweer rubber, en as dit die 'protesters' nie gestop
 9 het nie en hulle keuse was dan om verder aan te val deur na
 10 die TRT lyn, soos u dit stel sou daar 'n konfrontasie
 11 gewees het met tragiese gevolge. Ek kan nie net sê soos u
 12 dit gestel het, net aan die een kant nie. Dit hang van die
 13 omstandighede af wat daar plaasgevind het."
 14 CHAIRPERSON: Perhaps I should translate,
 15 perhaps if we can go back, your answer was, "Mr Chairman,
 16 you can never really predict what will happen. If the
 17 Public Order Policing, as in this case, could not stop the
 18 attack and there was no other method because our last line
 19 of defence is shotgun rubber, and if it did not stop the
 20 protesters and their choice was to attack further through
 21 to the TRT line, as you put it, there would have been a
 22 confrontation then with tragic consequences. I can't just
 23 say as you have put it, just only on the one side. It
 24 depends on circumstances of what happened there." And then
 25 Mr Chaskalson then says in English, "Well, at any rate that

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1 was a consequence you wanted to avoid." I think that's a
 2 correct translation of these, more or less correct, and
 3 then you said, "Mr Chairman, therefore we plan the
 4 dispersion action in such a way and therefore we would have
 5 moved out, we would have warned the group so that there
 6 would have been enough time for them to disperse. That is,
 7 I think all those steps which we put in place was
 8 to avoid," obviously you meant bloodshed. Is there
 9 anything else you want me to translate, Mr Chaskalson?
 10 MR CHASKALSON SC: No, Chairperson, I –
 11 CHAIRPERSON: You're not going to have
 12 difficulty with the Afrikaans.
 13 MR CHASKALSON SC: Chairperson, I was
 14 just interested in the Brigadier's response at the top of
 15 page 18247. Now Brigadier, in your response you said that
 16 it depends on the circumstances, but if we look at what
 17 circumstances were relevant, what circumstances you cited,
 18 you said "en daar was geen ander metode want ons laaste lyn
 19 van verdediging is haelgeweer rubber en as dit die
 20 'protesters' nie gestop het nie en hulle keuse was dan om
 21 verder aan te val deur na die TRT lyn, soos u dit stel, sou
 22 daar konfrontasie gewees het." Now was it not the case
 23 that from your vantage point, at this stage shotgun rubber
 24 had not stopped the protesters and they had continued to
 25 proceed in the direction of where the TRT line was.

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1 [09:53] MR SEMENYA SC: They proceed to attack,
 2 not to proceed to the TRT line.
 3 CHAIRPERSON: I'm sorry, Mr Semenya, you
 4 dropped your words, I didn't hear the last sentence.
 5 MR SEMENYA SC: The answer is, unless
 6 they continued to attack, not continue to go to the TRT
 7 line.
 8 MR CHASKALSON SC: Well, did you perceive
 9 them to be continuing to attack the police?
 10 BRIGADIER CALITZ: Mnr die Voorsitter, ja
 11 as ek kan terugkom daar na my lyn toe. U verwys na die
 12 voorstel wat u gemaak het, ek het ook in my antwoord verwys
 13 soos u dit stel in lyn 8, verder aan te val deur die TRT,
 14 soos u dit stel sou daar konfrontasie gewees het. Ek dink
 15 ons moet ook kyk na lyn 2, lyn 3 waar ek sê, mnr die
 16 Voorsitter, u kan nooit, u kan nooit regtig voorspel wat
 17 daar sal gebeur nie en dan lyn 11 dit hang af van die
 18 omstandighede wat daar plaasgevind het. So -
 19 CHAIRPERSON: That reference to the
 20 concept to the circumstances from which everything depended
 21 follows on the previous sentence, "ek kan nie net sê soos u
 22 dit gestel het net aan die een kant nie," which means I
 23 can't just say as you put it only on the one side. So I
 24 take it what you had in mind, there was the real
 25 possibility that there might have been tragic consequences

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1 for the police as well. There might have been casualties
 2 on the police side, isn't that what you were saying?
 3 BRIGADIER CALITZ: Mnr die Voorsitter, ja
 4 wat ek daar bedoel het is dat dit hang van die
 5 omstandighede af wat daar af, wat agter plaasgevind het en
 6 mens kan nooit regtig op 'n toneel terwyl jy daar is
 7 voorspel, nou met die benefit van hindsight soos ons in
 8 Engels sê is dit maklik om te sien ja dit het gebeur en dit
 9 was die gevolge. Op daardie stadium en ek het so getuig
 10 was dit my oortuiging dat die dispersion action gewerk het,
 11 dat die mense opgedraai het en wel weg beweeg het in 'n
 12 westelike rigting en toe ek nie kon kontak maak met die TRT
 13 agter nie het ek, ek dink u het die tyd gesê twee minute 16
 14 sekondes later gevra waar is hulle en Kolonel Vermaak het
 15 dan vir my verduidelik die posisie van wat daar plaasgevind
 16 het en die persone wat in die veld lê. Ek het verder
 17 getuig dat dit my oortuiging was dat die persone wat in die
 18 veld lê gewond was deur die dispersion line en dit is die
 19 openbare orde polisiëring wat dan met rubber was. So ek
 20 het op daardie stadium glad nie inligting gehad of deur my
 21 gedagte gegaan dat TRT wel opgetree het op daardie toneel
 22 nie, nee.
 23 MR CHASKALSON SC: Brigadier, do you
 24 accept that you understood that what was taking place at
 25 the eastern side of the kraal was in your view an attempt

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1 by the strikers to attack the police lines, is that what
 2 your, is that what you understood to be taking place on the
 3 east side of the kraal when that lead group of strikers
 4 passed you?
 5 BRIGADIER CALITZ: Dit was my getuienis
 6 hulle het wel daar aangeval, ja.
 7 MR CHASKALSON SC: And you accept also
 8 that this attack was moving in the direction where the TRT
 9 were?
 10 BRIGADIER CALITZ: Ek het weereens vir u
 11 gesê ek het nie presies geweet waar hulle opgevorm het nie.
 12 Ek het, my getuienis was dat hulle aan die voor punt verby
 13 my beweeg het, ek dink daar was 'n wit Casspir op my linker
 14 kant en ek het gesê toe die voorste punt verby daar beweeg
 15 het, het ek opdrag gegee om vorentoe te beweeg met die
 16 voertuie. So nee ek het glad nie gesien dat hulle wel, in
 17 watter rigting hulle gehardloop het en of almal wel
 18 omgedraai het en gedisperse het nie.
 19 MR CHASKALSON SC: Yes, but your
 20 testimony also was that the TRT line ultimately formed up
 21 in the position where you expected it to form up, do you
 22 recall that?
 23 BRIGADIER CALITZ: Dit was hulle briefing
 24 gewees dat hulle moet agter die openbare orde polisiëring
 25 lyn op vorm om hulle by te staan sou daar enige arrestasies

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1 en beskerming vir die openbare orde polisiëring wees.
 2 MR CHASKALSON SC: So you could
 3 anticipate where the TRT line was going to be even if you
 4 couldn't see the TRT line?
 5 BRIGADIER CALITZ: Wat ek verneem het op
 6 daardie stadium is dat hulle ons sou gevolg het soos ons
 7 dan uitbeweeg met die voertuie sou hulle dan agterna ook
 8 saam met die voertuie beweeg het en hulle sou dan opgevorm
 9 het agter die dispersion group. Dit is wat ek voorsien
 10 het.
 11 MR CHASKALSON SC: Brigadier, I'm not
 12 sure what you're saying. I mean when I, are you saying
 13 that you were surprised to find out that the TRT line had
 14 formed up in the position that it ultimately formed up?
 15 BRIGADIER CALITZ: Mnr die Voorsitter, op
 16 daardie stadium het ek glad nie geweet waar hulle opgevorm
 17 het nie. Ek het eers in hindsight wel gesien en toe ek die
 18 inligting tot my kennis gekom.
 19 MR CHASKALSON SC: That wasn't my
 20 question, Brigadier. My question was when you were
 21 ultimately informed where the TRT line had formed up did
 22 that come as a surprise to you, did you expect them to have
 23 formed up somewhere else?
 24 BRIGADIER CALITZ: Mnr die Voorsitter,
 25 nee toe ek die inligting na die tyd op die televisie gesien

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1 het en wat daar gebeur het was dit 'n natuurlike skok
 2 gewees en ek het gedink ek weet nie hoe kon dit gebeur het
 3 want ons sou hulle dan uit een dryf, die voertuig vorentoe
 4 beweeg, die hele groep het weg beweeg in 'n westelike
 5 rigting. So, nee, glad nie.

6 MR CHASKALSON SC: Brigadier, I'm still
 7 struggling to understand your answers because I'm not
 8 asking if it was a surprise to you that there had been a
 9 shooting incident. I'm asking whether it was a surprise to
 10 you to see that the TRT line had formed up where it did in
 11 fact form up. Did you expect them to form up somewhere
 12 else?

13 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 14 dink my antwoord was duidelik. Ek het hulle, soos u dit
 15 stel expect, ek het van hulle verwag om op te vorm agter
 16 die openbare orde polisiëring voertuie wat dan vorentoe
 17 beweeg het en so dan hulp verleen tydens die uiteendrywing
 18 met die arrestasies wat sou gevorm het. Ek was glad nie
 19 bewus of verwag van hulle om in daardie reguit lyn te wees
 20 waar hulle was nie. Dit was nie deel van die, kan ek sê
 21 voorligting aan hulle nie nee.

22 MR CHASKALSON SC: So you're now saying
 23 that the TRT line in fact formed up in a position which was
 24 not where they were briefed to form up?

25 BRIGADIER CALITZ: Wat ek getuig is dat

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1 hulle moes die openbare orde polisiëring lyn opvolg, met
 2 ander woorde hulle moes agter hulle aan beweeg en soos die
 3 uiteendrywing plaas vind sou hulle om beweeg en dan hulle
 4 funksie was die arrestasies asook die vee van, soos ek
 5 getuig het koppie 2.

6 MR CHASKALSON SC: Can I ask you to
 7 answer this question with a yes or a no. Is the position
 8 in which the TRT line ultimately formed up the position in
 9 which they were supposed to form up, yes or no?

10 BRIGADIER CALITZ: Mnr die Voorsitter,
 11 nee ek dink nie dat dis 'n maklike yes or no nie. Ons weet
 12 dat die plan ge-onderbreek was. So die voorligting in die
 13 plan was waar hulle moes opgevorm het en dat ons ultimately
 14 sou uitbeweeg en dit daar sou op vorm. So dit is nie net
 15 'n eenvoudige ja of nee nie. Hulle het gereageer en dit is
 16 my laaste sin, dit hang af van die omstandighede wat daar
 17 plaasgevind het. Die omstandighede het so uit gespeel dat
 18 hulle amper kan ek sê geforce was om daar te bly en dan uit
 19 selfverdediging uit op te tree, soos ons getuig het.

20 MR CHASKALSON SC: Well let's put the
 21 question slightly differently. You'll recall we spent a
 22 great deal of time analysing the position of the Nyalas to
 23 the east of the kraal at scene 1 and you'll recall there
 24 was what I described as a passage or a channel between the
 25 Nyalas and the kraal. Do you recall that?

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1 BRIGADIER CALITZ: Ek onthou dat u dit
 2 voorgestel het en dit was ook dan so verder bespreek, ja.

3 MR CHASKALSON SC: Do you, you know the
 4 passage to which, the channel to which I'm referring?

5 BRIGADIER CALITZ: Ek dink ons het
 6 verskil op daardie punt. Maar ek weet waar u gesê het daar
 7 was 'n channel en ek het vir u ook getuig dat ons nooit
 8 daardie ding as 'n channel gesien het nie maar as 'n
 9 dispersion lyn.

10 MR CHASKALSON SC: But there was a gap
 11 between the crescent shaped line of Nyalas and the east
 12 side of the kraal, a gap that of broadly the same distance
 13 running down and around the east side of the kraal, do you
 14 recall that?

15 BRIGADIER CALITZ: Ek dink dit is
 16 duidelik sigbaar op die fotos ook.

17 MR CHASKALSON SC: And you'll recall at
 18 the end of that gap there was no, there were no Nyalas
 19 blocking, closing that gap. So that gap emptied out into
 20 what was the police safe area?

21 BRIGADIER CALITZ: Ek dink dit is waar
 22 ons verskil het. U het dit geplaas en ek dink mnr die
 23 Voorsitter het na verduidelik van die T en die parallel en
 24 dit is waar ek gesê het daar was Nyalas geposisioneer
 25 parallel voor die TRT lyn. So nee ek kan nie met u saam

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1 stem nie. Daar was Nyalas, openbare orde polisiëring wat
 2 daardie gap soos u dit stel toegemaak het en dit is van
 3 waar hulle dan dispersion action geloods het.

4 MR CHASKALSON SC: So you –

5 CHAIRPERSON: Is that in fact correct?

6 If you think back to the videos we saw of the fusillade,
 7 the fatal few seconds when the shots were fired we see a
 8 line of TRT people, we see them moving back slightly and
 9 then firing, we see approaching them a group of strikers.
 10 There's nothing between the TRT line and the strikers. You
 11 can see them advancing, you can see those on the slides as
 12 well. So the, in fact what we do know from some of the
 13 other slides is that the Nyalas were in a line more or less
 14 in -

15 BRIGADIER CALITZ: Parallel.

16 CHAIRPERSON: Opposite the kraal but in
 17 line with that fence, you remember, but the point is there
 18 wasn't a barrier of Nyalas and there wasn't a barrier of
 19 POP members because we can see from the video here's this
 20 group of strikers approaching, a bundle of them, probably
 21 even count them if you stopped a couple of frames, and
 22 there's nothing between them and the line of TRT people.
 23 So surely what Mr Chaskalson is putting to you is born out
 24 by the videos we can see or am I misunderstanding.

25 BRIGADIER CALITZ: Mnr die Voorsitter, ja

<p style="text-align: right;">Page 18748</p> <p>1 ek het getuienis gegee op die video. Ek dink dit is in die 2 transcript, ek kan terug gaan en presies die plek vir u 3 wys. As ek my getuienis reg onthou het ek gesê dat dit was 4 Adjudant Offisier Kuhn wat terug beweeg het en gehak het. 5 My woorde, ek kan nie presies onthou of ek dit presies so 6 aanhaal nie maar die transkripsie sal wys dat ek gesê het 7 die Nyala was voor hom gewees en toe het die Nyala voor hom 8 weg beweeg het hierdie groep verskyn. So ja volgens my was 9 daar wel Nyala voertuie so. Daardie drywers het dan 10 besluit om vorentoe te beweeg, miskien op die opdrag wat ek 11 gegee om te sê laat ons met die voertuie vorentoe gaan. So 12 daar was wel openbare orde polisiëring Nyalas in daardie 13 formasie voor die TRT lyn. So my getuienis was dat toe die 14 Nyala voor Adjudant Offisier Kuhn verby beweeg en dit is 15 wat ons duidelik sien op die, ek is nie seker of dit E-TV 16 Nuus of SABC waar hy dan retereer. So dit is nie laat hy 17 hulle gesien het op 'n 100 meter afstand hier kom hulle en 18 dit so waargeneem het nie, nee. Dit was my getuienis 19 gewees op daardie stadium. 20 COMMISSIONER HEMRAJ: And now you're also 21 saying, correct me if I'm wrong that that TRT line formed 22 up because of the circumstances that played out, the 23 approach of the strikers? 24 BRIGADIER CALITZ: Dit is korrek so, 25 Kommissaris, dit is wat ek getuig het is dit hang af van</p>	<p style="text-align: right;">Page 18750</p> <p>1 saying that they formed up where they did because of the 2 circumstances which confronted them with reference to the 3 strikers coming down around the kraal. My point to you was 4 that is not correct because one can see them already 5 forming up there before the strikers have come down the 6 channel so to speak. 7 BRIGADIER CALITZ: Mnr die Voorsitter, 8 nee ek verskil. Onthou die beplanning was, miskien moet 9 ons net weer kyk wat die plan was, is dat ons sou vreedsaam 10 uit beweeg het, hulle sou ons gevolg het en dan sou daar 'n 11 waarskuwing gewees het na die groep toe, 20 tot 30 minute 12 ons sou vir hulle genoeg tyd gegee het om uiteen te gaan 13 wapens neer te lê. So dit is waar die TRT sou opgevorm het 14 agter ons juis vir die doel is as ons dan disperse en nader 15 beweeg om arrestasies uit te voer en dan soos ek gesê het 16 koppie 2 te sweep. Waar ek gesê hulle het opgevorm as 17 gevolg van die omstandighede is die aanval wat by die 18 polisie gebeur of op die polisie of na die polisie of in 19 die rigting van die polisie, dit is insident 2 en insident 20 3. So daar was nie tyd vir ons om uit te beweeg weens die 21 onderbreking van die plan nie. So definitief kan ek nie 22 insien waarom u sê dit is nie korrek nie, want dit was as 23 gevolg van die omstandighede, die aanval op ons en die 24 geleentheid wat ons nie gegun was om uit te beweeg en dan 25 te doen volgens wat die voorligting was om te doen nie.</p>
<p style="text-align: right;">Page 18749</p> <p>1 die omstandighede wat daar gebeur het. Nou in hindsight 2 kan mens sê die lyn waar hulle wel opgevorm het is as 3 gevolg van wat voor hulle aangespeel het en nie soos die 4 aanvanklike briefing of voorligting aan hulle was nie. 5 MR CHASKALSON SC: But, Brigadier, that 6 answer is not correct because you'll recall on the videos 7 that where we looked at the position of your Nyala when it 8 was stationary on the path adjacent to the kraal the TRT 9 line was already in the process of forming up immediately 10 behind your Nyala, do you recall that? 11 BRIGADIER CALITZ: Mnr die Voorsitter, ja 12 ek dink dit is weer waar ek en u verskil het. U het gesê 13 toe ek stationary in die paadjie was het die mens al om die 14 kraal gekom waar ek vir u bewys het dit kon nie wees nie. 15 Ek dink ons kan teruggaan daarop en dan ook het ek vir u 16 gesê u het gesê ek moes hulle gesien het, ek het vir u gesê 17 ek het op die sitplek nommer 7 dink ek, regs agter het ek 18 gesit aan die ander kant en vorentoe gekyk en die TRT het 19 links agter my opgevorm. So ek het wel getuig en my woorde 20 was dat hulle moes op vorm maar ek het hulle nie gesien op 21 vorm in daardie posisie nie, nee. 22 MR CHASKALSON SC: Yes, but that's not my 23 question. I recall, you are correct, your evidence was 24 that you hadn't seen them forming up behind you. But you 25 were answering a question of Commissioner Hemraj's by</p>	<p style="text-align: right;">Page 18751</p> <p>1 MR CHASKALSON SC: We've seen footage of 2 a number of the members of the TRT cocking their rifles and 3 their pistols at the point at which they form up while you, 4 while your Nyala, while and before your Nyala is on the 5 path to the south of the kraal. Would that be standard 6 practice if they were just preparing for the possibility of 7 having to sweep up behind a dispersion action? 8 BRIGADIER CALITZ: Weereens u moet 9 luister as ek vir u kan met alle respek na u eie vraag u sê 10 cocking of firearms, pulling of firearms if they were to go 11 just do a sweeping action. Inderdaad nee as hulle 12 uitbeweeg het en hulle sou net 'n sweeping aksie agter ons 13 opgevorm het sou hulle normaal uit beweeg het. As gevolg 14 van die omstandighede en die aanval was hulle dan gedwing 15 om in daardie posisie, ons noem dit takties gereed te maak 16 en TRT om takties gereed te maak vir enige polisieman, nie 17 net vir TRT nie, as jy 'n R5 het sal jy daardie wapen dan 18 in 'n gereedheid posisie hê, sou u 'n pistool hê ek 19 verstaan daar was 'n film of video of iets wat ook die 20 spesifieke vier lede wat die wapens trek dit is normale 21 prosedure. Dit is hoe die lede van TRT opgelei is en dit 22 is hoe jy takties gereed maak. As ons 'n huis benader, as 23 ons 'n verdagte voertuig benader sal u 'n wapen uithaal, u 24 sal takties gereed, 45 grade na die grond toe en u sal dan 25 die voertuig, huis, persone so benader. Daar sal nie tyd</p>

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1 wees om u wapen in die holster te los en dan sou daar 'n
 2 aanval kom te kyk wie is die vinnigste en wie kan die
 3 vinnigste as ek die Engel se woord draw kan gebruik nie.
 4 Dit sou sinneloos gewees het. So dit is standaard
 5 prosedure in die polisie en dit is hoe hulle opgelei word
 6 en daar's nie mee fout met die trek van die wapens wat
 7 hulle wel gedoen het nie.

8 MR CHASKALSON SC: Yes, although, that's
 9 my point, Brigadier. At the time that the TRT were forming
 10 up in a line just behind your Nyala which was stationary on
 11 the path adjacent to the kraal they were already making
 12 themselves tactically prepared. They were already
 13 preparing to face a tactical encounter.

14 BRIGADIER CALITZ: Weereens, mnr die
 15 Voorsitter, u het gesê daar was nie omstandighede nie,
 16 insident 2 het op daardie stadium plaasgevind. Daar was
 17 wel 'n uiteendrywing gewees. U kan hoor dat daar
 18 haelgeweer skote is, indien daar wel geskiet word wat
 19 verwag u anderste van die openbare, ag van die TRT wat moet
 20 hulle doen. Hulle kan nie net staan en toe kyk, dit was
 21 hulle taak om dan op te beweeg en die openbare orde
 22 polisiëring te beskerm. So as daar reeds met haelgewere
 23 rubber gevuur is op persone met 'n uiteendryf aksie dan ja,
 24 dan is daar logies die volgende stap dat hulle takties
 25 gereed moet maak.

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1 MR CHASKALSON SC: So you were expecting
 2 the TRT to be in a state of tactical preparedness before
 3 you even crossed the path alongside the kraal?

4 BRIGADIER CALITZ: Nee, dit is nie wat ek
 5 gesê het nie, mnr die Voorsitter.

6 MR CHASKALSON SC: But it's the only
 7 inference to be drawn from what you did say?

8 BRIGADIER CALITZ: Miskien volgens u dit
 9 is nie wat ek getuig het nie.

10 MR CHASKALSON SC: Were you expecting the
 11 TRT, when the TRT line was forming up behind you to the
 12 east of the kraal, not to the east of the kraal, to the
 13 south of the kraal and your Nyala was stationary on the
 14 path behind the kraal, was that a situation in which you
 15 would already have expected the TRT to be in a state of
 16 tactical preparedness?

17 BRIGADIER CALITZ: Soos ek vir u getuig
 18 het, ek was glad nie bewus van die TRT lyn wat daar
 19 opgevorm het nie. Ons praat nou in hindsight, en dit is
 20 nou maklik om daaroor te gesels. Op daardie stadium nee,
 21 ek het vorentoe beweeg en dit was nog steeds deel van die
 22 dispersion action gewees.

23 MR CHASKALSON SC: Brigadier, I'm talking
 24 about before you moved forward. When your, when your Nyala
 25 was stationary on the path was the situation that you saw

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1 one in which you would have expected the TRT to be in a
 2 state of tactical preparedness?

3 BRIGADIER CALITZ: Op daardie stadium het
 4 ek geglo dat die dispersion action wel nog sal werk soos ek
 5 getuig het by insident 2 toe ek voorkom by die draad by
 6 insident 3 het ek wel agtergekom dat die dispersion action
 7 nie gewerk het op daardie stadium en dat hulle weer
 8 aangeval het. So nee, die antwoord op die vraag.

9 MR CHASKALSON SC: So your answer is no.
 10 So if the TRT had put themselves in a state of tactical
 11 preparedness either they were acting irregularly or they
 12 were able to see something on foot which you weren't able
 13 to see?

14 BRIGADIER CALITZ: Mnr die Voorsitter,
 15 nee ek het vir u verduidelik. As die omstandighede dit
 16 vereis en dit is wat hulle sien voor hulle gebeur sal hulle
 17 dan takties gereed maak. So nee hulle het nie onwettig op
 18 getree nie -

19 [10:13] CHAIRPERSON: That's the second half of
 20 the question. You said, they either acted inappropriately
 21 or they were responding to something which they could see,
 22 which you couldn't see?

23 BRIGADIER CALITZ: O ekskuus, ek het die
 24 tweede deel van die vraag gemis.

25 CHAIRPERSON: The second part of the

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1 question I think you're agreeing with?

2 BRIGADIER CALITZ: Ja.

3 CHAIRPERSON: Because they were in a
 4 position to see aspects of this group who were approaching
 5 which you couldn't see and if they saw these people acting
 6 in a way which conveyed to them the clear impression that
 7 they were proposing to attack the police, in fact implement
 8 the threats that had been made earlier in the day then they
 9 would have had to take appropriate action.

10 BRIGADIER CALITZ: U is korrek, mnr die
 11 Voorsitter.

12 CHAIRPERSON: Ja, I think that's the
 13 second half of Mr Chaskalson's question.

14 BRIGADIER CALITZ: Ja, ekskuus, ek het
 15 die tweede deel van die vraag gemis, ek het net op die
 16 eerste deel geantwoord.

17 CHAIRPERSON: We are of course to some
 18 extent engaged in a discussion of what this witness
 19 realised with hindsight, possibly what he should have
 20 realised at the time, but he said he didn't. I don't know
 21 that there is much juice left in this lemon if there is any
 22 at all, but anyway it is for you to decide.

23 MR CHASKALSON SC: I'm happy to move on.
 24 In fairness to the witness I was canvassing this because we
 25 may end up making submissions that either that the witness

<p style="text-align: right;">Page 18756</p> <p>1 is not being truthful where he says he was unaware of what 2 was happening behind him, or that if he was being truthful 3 it was as a result of a deliberate attempt to look the 4 other way or gross negligence on his part. So I would like 5 to canvass this fully before making submissions of that 6 nature.</p> <p>7 COMMISSIONER HEMRAJ: But the degree of 8 preparedness of the TRT line, surely that's something that 9 can with any value really be canvassed with the TRT 10 commanders, but this witness is being asked to use 11 hindsight and conjecture and the value of that –</p> <p>12 MR CHASKALSON SC: With respect not, 13 Commissioner Hemraj. This witness has been asked questions 14 flowing from object of real evidence, video evidence of the 15 TRT line putting themselves into a state of tactical, doing 16 what he says is putting themselves into a state of tactical 17 preparedness, namely cocking their weapons and taking their 18 pistols out of their holsters at a point that we can fix in 19 time as before his Nyala was stationary on the path 20 alongside the kraal, so that's a full 90 seconds before the 21 shootings took place.</p> <p>22 COMMISSIONER HEMRAJ: The reason for 23 that, surely that should best be canvassed with TRT 24 commanders.</p> <p>25 MR CHASKALSON SC: Well, that was the</p>	<p style="text-align: right;">Page 18758</p> <p>1 the seven and a half minutes did you make any further 2 attempts to try to contact the TRT?</p> <p>3 BRIGADIER CALITZ: Ek dink ek het u reeds 4 geantwoord op daardie vraag.</p> <p>5 MR CHASKALSON SC: The answer that you 6 gave was in reference to a passage that can be timed to the 7 very beginning, two seconds into that seven and a half 8 minutes. Did you make any further attempts after that?</p> <p>9 BRIGADIER CALITZ: U het die vraag 10 voorheen gevra, mnr Chaskalson, en ek het vir u gesê dat ek 11 kan nie nou vir u met duidelik sê hoeveel keer ek hulle 12 geroep het in daardie rukkie nie en ek het ook gesê dat ek 13 geen radio kommunikasie gehoor het terug van enige van die 14 TRT af nie.</p> <p>15 MR CHASKALSON SC: Did you try to contact 16 anyone from the TRT on cell phone?</p> <p>17 BRIGADIER CALITZ: Nee, mnr die 18 Voorsitter.</p> <p>19 MR CHASKALSON SC: Why not?</p> <p>20 BRIGADIER CALITZ: Nee, ek dink nie, ek 21 kan nie nou vir u sê why not, ek dink op daardie stadium 22 het die dinge so gebeur rondom ons, die persone wat ge- 23 disburse is op daardie stadium, ek moes gekyk het in watter 24 rigting al die mense beweeg, ek moes my voertuie in lyn 25 kry, ek moes met die bevelvoerders langs my praat om 'n</p>
<p style="text-align: right;">Page 18757</p> <p>1 second half of my question which is that the TRT, either 2 the TRT could see something that he couldn't see from his 3 position in the Nyala, or they were acting irregularly. 4 Now if the TRT could see something from their position 5 which was adjacent to his Nyala and at ground level as 6 opposed to his elevated position and even more elevated 7 position of the driver and the people in the front seat, 8 that would be quite an extraordinary state of affairs but 9 that's something we can canvass with a TRT commander who 10 owns up to calling for the line to form up. We haven't yet 11 found out who that TRT commander is. Well, let's get back 12 to what you did after you'd formed up at the regrouping 13 line or the organisation line. You say you had previously 14 tried to contact the TRT on radio and when you got no 15 response you asked Colonel Vermaak for a report.</p> <p>16 BRIGADIER CALITZ: Korrek, mnr die 17 Voorsitter.</p> <p>18 MR CHASKALSON SC: And you say that 19 Lieutenant-Colonel Vermaak reported to you that the TRT 20 members were at the kraal and that there were, I think 18 21 bodies down and you understood that to mean people who were 22 either injured from the POP's action or people, you say in 23 your statement, "lying down to be arrested." Now you had 24 seven and a half minutes at the reorganisation line in 25 which nothing, which time more or less stood still. During</p>	<p style="text-align: right;">Page 18759</p> <p>1 linie te vorm, sitreps van hulle af te kry, ek moes die 2 waterkanonne inroep. Ek het waargeneem dat die veld voor 3 my aan die brand gesteek is, so dit is ook 'n rede waarom 4 ons die waterkanonne ingeroep het. Ek het probeer 5 observeer in watter rigting al die mense hardloop, so nee, 6 ek het my vertrouwe gestel in Kolonel Vermaak wat dan 'n 7 ervare Openbare Orde Polisiëringsoffisier is vir jare en 8 die feedback wat hy my gegee het was ek tevrede mee en ek 9 het geweet daar is 'n bevelvoerder capable om dan die 10 toneel 1, soos ons dit nou weet, te hanteer.</p> <p>11 MR CHASKALSON SC: But what was going to 12 be necessary to handle at scene 1?</p> <p>13 BRIGADIER CALITZ: Ek verstaan nie die 14 vraag nie, herhaal dit asseblief?</p> <p>15 MR CHASKALSON SC: You said that you knew 16 that there was a commander capable of handling what is now 17 known as scene 1, but what was, in your mind what was there 18 to handle at scene 1?</p> <p>19 BRIGADIER CALITZ: As u die verklaring 20 sien sal u sien dat daar persone was wat beseer is, of wat 21 plat was om gearresteer te word. In daardie geval weet ek 22 daar was 'n bevelvoerder daar agter en daardie persone sal 23 dan na omgesien word, either deur mediese behandeling of 24 dan deur arrestasies. Dit was nie nodig vir die hele 25 operasie om te stop net om terug te gaan daarnatoe nie,</p>

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1 nee.

2 MR CHASKALSON SC: But, Brigadier, this

3 wasn't an issue of stopping the operation, for seven and a

4 half minutes the operation was stopped anyway, for seven

5 and a half minutes that scene that we saw with the

6 reorganisation line in front of K2 remained essentially

7 unchanged.

8 BRIGADIER CALITZ: Ja, ek dink as ons

9 gaan kyk na die timeline, ek het nou nie presies getel hoe

10 lank dit vat vir elke voertuig voor hulle in lyn beweeg

11 nie. Dit is 'n aktiewe toneel, dit is, ek dink ek het laas

12 ook getuig 'n rowwe toneel, die 2 by 4 waterkanonne het

13 gesukkel om by ons uit te kom, so ek dink gegewe die

14 omstandighede en die terrein, sewe minute was baie moontlik

15 vir die lede om op te vorm voordat hulle in daardie posisie

16 was en dan gewag het vir die waterkanonne ook.

17 MR CHASKALSON SC: Yes, but you had seven

18 and a half minutes in which you were stationary in the same

19 position, strikers were stationary in the same position and

20 you say in that seven and a half minutes you didn't think

21 it was worth your while to try to contact the TRT to find

22 out what was, why they hadn't joined the operation.

23 BRIGADIER CALITZ: Nee, dit was nie my

24 getuigenis nie, ek het nie gesê die strikers was stationary

25 in hul position nie. Wat ek getuig het vir u is dat die

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1 mense het nog steeds die groter meerderheid, u verwys

2 miskien na die klein groepie wat u kan sien, die 200 of so

3 wat agter die rotse na koppie 3 toe verwys. Ek het ook

4 verwys na die groter deel, die 2 tot 3,000 wat hy ook na

5 moes omsien en hulle het dan in verskeie rigtings nog

6 steeds beweeg, wat dan my observasie nodig was en dan het

7 ek ook so met my Papa Nyalas gekommunikeer aan die kante om

8 dan waarneming vir ons te doen, so dit was nie dat ons net

9 stilgesit het, hande gevou en niks gedoen het vir sewe

10 minute nie, nee.

11 MR CHASKALSON SC: And didn't you want to

12 try to get the TRT back with the troops so that they would

13 be there for the remainder of the operation as planned?

14 BRIGADIER CALITZ: Soos u gesê het, ek

15 het met die TRT kontak gemaak, ek weet nie hoeveel keer nie

16 en daarna het ons dan besluit om voort te gaan met die

17 dispersion action.

18 MR CHASKALSON SC: Well, for seven and a

19 half minutes after you hadn't received a reply from the TRT

20 you seem to have taken no further steps to try to get them

21 to join the operation as it had originally been planned.

22 Is there a reason for that?

23 BRIGADIER CALITZ: The TRT sou nooit

24 verder deel gewees het van die dispersion nie. Hulle sou

25 tot by koppie 2 gekom het waar die persone dan klaar

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1 afbeweeg het, van daar weg, so ons het 'n verdure

2 dispersion gevoer in die rigting van koppie 2, - ag, koppie

3 3 asook in 'n westelike rigting. So koppie 2 was heeltemal

4 veilig op daardie stadium. U kan sien waar die, ek dink

5 dit is die Taakmag, Casspir of Scorpion inbeweeg het en

6 daardie deel van die koppie sou hulle dan op 'n stadium

7 gaan vee het. Dit was hulle doel gewees.

8 MR CHASKALSON SC: So then would it be

9 fair to say that the absence of the TRT at the

10 reorganisation line at koppie 2 was not a serious issue for

11 the operation that you had to command?

12 BRIGADIER CALITZ: Stel dit weer dat ek

13 net u reg verstaan, the absence waar?

14 MR CHASKALSON SC: The absence of the TRT

15 at the re, or behind the reorganisation line at koppie 2,

16 was not a serious issue for the operation that you had to

17 command, it was something that you could comfortably cope

18 without?

19 BRIGADIER CALITZ: As u praat van die

20 reorganisation line dit is waar ons ge-hergroepeer het en

21 vandaar af het ek met die Openbare Orde Polisiëringslede

22 vorentoe gegaan en dan verder ge-disperse. Daar was wel

23 van die TRT, 'n klein groep van die lede op die Nyalas

24 gewees. Ek dink dit sal duidelik blyk uit van die foto's

25 wat in die arrestasies in die veld gemaak was.

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1 CHAIRPERSON: In fact the deviation from

2 the original plan, the idea was, you would have a line of

3 POP people who would proceed to try and disperse the

4 strikers. If for various reasons that wasn't successful

5 and they themselves were in a dangerous position you needed

6 the TRT behind them to protect them. That was the plan,

7 wasn't it? Now, - is that right, you nod but the

8 microphone doesn't hear you nodding?

9 BRIGADIER CALITZ: Ja, nee, dit was die

10 plan gewees, voor die dispersion action.

11 CHAIRPERSON: Alright, then, you know

12 you're now at the reorganisation line, you've got the POP

13 people there, you're going to proceed with the dispersion.

14 Now what would have happened, you had a view TRT people

15 apparently and the Nyalas, that's all, and you were going

16 ahead with the dispersion. That was a deviation from the

17 plan, was it not, because the dispersion as planned

18 involved the POP people moving forward with the protection

19 if required of a line of TRT people behind, that's right,

20 isn't it?

21 BRIGADIER CALITZ: Die TRT moes wel dan

22 vir ons bystand gee wat betref sekere arrestasies -

23 CHAIRPERSON: Ja, ja, -

24 BRIGADIER CALITZ: - sou die groepe dan

25 in daardie formaat aangehou het.

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1 CHAIRPERSON: Ja, but you didn't have the
 2 TRT people at the reorganisation line, you only had a few
 3 of them and the Nyalas, so that was a deviation from the
 4 operation as originally planned, is that correct?

5 BRIGADIER CALITZ: Kommissaris, ja, daar
 6 was 'n onderbreking in die plan. As ek sê deviation, dit
 7 beteken daar was van die TRT lede nog steeds in die Nyalas
 8 wat vorentoe beweeg het en op daardie stadium was dit
 9 genoegsaam om die toneel te hanteer soos hulle uiteen
 10 gehardloop het want hulle het heeltemal in groepies ge-
 11 disperse. So dit was nie vreeslike groot groepe wat ons
 12 dan weer moes gaan disperse nie, dit was enkeles gewees.

13 CHAIRPERSON: How many TRT people were in
 14 the Nyalas?

15 BRIGADIER CALITZ: Ek sal –

16 CHAIRPERSON: Approximately?

17 BRIGADIER CALITZ: Ek het nie nou die
 18 getal by my nie, ek sal moet gaan vasstel.

19 CHAIRPERSON: Alright.

20 BRIGADIER CALITZ: Ek het dit wel op die
 21 fotos waargeneem waar daar arrestasies in die veld gemaak
 22 is en daar kan duidelik gesien word dat die TRT dan rondom
 23 verdediging, so daar was wel waar hulle bygestaan het.

24 MR CHASKALSON SC: Brigadier, you may
 25 recall that on our last day of December when, of our

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1 sitting in December when I was cross-examining you on how
 2 you had regrouped after scene 1 and how or what followed
 3 from the point of the regrouping line was not materially
 4 different from what had been planned, you testified and I
 5 quote your words, "Die enigste verskil is dat as ons dan
 6 sou opvolg daar sou dan die TRT lyn ons gevolg het sodat
 7 wanneer hierdie groep dan opbreek in kleiner groepies en
 8 ons hulle omsirkel en arrestasies uitvoer, sou hulle dan
 9 assist het, hulle sou ons bygestaan het daarmee." That's
 10 from page 18716 of 5 December, lines 5 to 10. So you said
 11 the only difference was that between what was planned and
 12 what was reorganised at the reorganisation line was that
 13 there should have been a TRT line following you, do you
 14 recall that?

15 BRIGADIER CALITZ: Mm –

16 MR CHASKALSON SC: Do you want to look at
 17 the passage in the record at 18716?

18 BRIGADIER CALITZ: Ek het nie regtig na
 19 hulle toe gegaan nie, maar ek onthou ons het daaroor
 20 gepraat en dit sal dieselfde antwoord wees wat ek nou vir
 21 mnr die Voorsitter gegee het, dat hulle voorligting was dat
 22 na die dispersion sou hulle dan opgevolg het. Sou daar
 23 arrestasies gewees het, ek praat nou van massa arrestasies,
 24 en 'n konfrontasie tussen ons en hulle wat ons dan voorsien
 25 het, sou die TRT dan vir ons daar tot hulp wees en daarna

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1 sou hulle die koppie 2 vee, deursoek. Die opvolgaksie sou
 2 nog steeds voortgegaan het met Openbare Orde
 3 Polisiëringslede na die dispersion line. Daar is nie weer
 4 voorligting gegee en te sê daarna sal hulle weer so opvorm
 5 nie. Dit is 'n continuation van optrede, met ander woorde
 6 die TRT lede wat dan in die Nyala voertuie was het dan wel
 7 bystand gegee.

8 MR CHASKALSON SC: So you didn't regard
 9 the absence of the TRT line behind the POP's vehicles at
 10 koppie 2 and for the remainder of the operation as a
 11 material problem?

12 BRIGADIER CALITZ: As u miskien net vir
 13 my verduidelik wat u bedoel by material problem?

14 MR CHASKALSON SC: As a problem that was
 15 –

16 CHAIRPERSON: 'n Wesenlike probleem, it
 17 wasn't a problem that you were concerned about. It may
 18 have been a problem at some, but it wasn't a problem that
 19 gave you any concern, you know that would be a paraphrase,
 20 I think of what Mr Chaskalson asked you.

21 BRIGADIER CALITZ: Ja, ek het net die
 22 material nie reg verstaan nie, 'n wesenlike probleem. Nee,
 23 ek het die call gemaak op daardie stadium dat met dit wat
 24 tot ons beskikking was en die Openbare Orde
 25 Polisiëringslede, dat dit genoegsaam was om dit wat voor

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1 ons afgespeel het te hanteer en dan daardie kleiner
 2 groepies verder uiteen te dryf en te ontwapen en te
 3 arresteer met die beskikbare mannekrag wat ons gehad het.

4 MR CHASKALSON SC: So if the absence of
 5 the TRT line was the only difference that was caused by the
 6 disruption at scene 1, that's not a difference that can
 7 explain what happened at scene 2, do you accept that,
 8 because it wasn't 'n wesenlike verskil?

9 BRIGADIER CALITZ: Mnr die Voorsitter –

10 MR CHASKALSON SC: 'n Wesenlike probleem?

11 BRIGADIER CALITZ: Ek wil weer miskien
 12 die, okay, ja.

13 MR SEMENYA SC: Chair, I don't follow the
 14 question, can it be re-put to the witness?

15 MR CHASKALSON SC: So what happened at
 16 scene 2 was not in any way linked to the absence of the TRT
 17 line behind the POP's vehicles at scene 2?

18 MR SEMENYA SC: I still don't understand
 19 what is it that happened at scene 2?

20 CHAIRPERSON: No, I think the problem, as
 21 Mr Semenya says is, it is not clear what you mean by what
 22 happened at scene 2. If you mean the deaths that occurred
 23 at scene 2, the people who were injured at scene 2, if you
 24 mean, is that what you mean then I presume the question is
 25 more intelligible but if it doesn't mean that I'm afraid I

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1 join Mr Semenya in confessing an inability to understand
 2 the question fully.
 3 MR CHASKALSON SC: Sorry, that is what I
 4 mean, the deaths and injuries that happened at scene 2, are
 5 they something that in your opinion can be attributed to
 6 the absence of the TRT line behind the POP's vehicles or
 7 the deaths and injuries that were independent of the
 8 absence of the TRT line.
 9 [10:33] MR SEMENYA SC: We know that the TRT was
 10 at koppie 3, so I don't see how that question can be
 11 formulated like that.
 12 MR CHASKALSON SC: No, Mr Semenya's
 13 objection is not well founded, Chairperson. The TRT that
 14 was at koppie 3 were the unsolicited TRT members of Captain
 15 Kidd who came up from the southwest. The TRT who should
 16 have been at koppie 3 were the line that ought to have been
 17 coming behind the POPS Nyalas, not an advance party that
 18 ended up being the first people to engage with strikers at
 19 koppie 3 from the opposite direction to that which was
 20 planned.
 21 CHAIRPERSON: Mr Semenya, do you wish to
 22 reply to that?
 23 MR SEMENYA SC: Chair, we do know - and I
 24 must repeat the objection – that there was never a
 25 proposition that the TRT, only that TRT will form that

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1 before the dispersion line goes to koppie 3. This was an
 2 ongoing episode from the dispersal at scene 1. We've just
 3 given these issues labels about being koppie 2, koppie 3,
 4 scene 1, scene 2, but it was one uniform action.
 5 CHAIRPERSON: Alright.
 6 COMMISSIONER HEMRAJ: Mr Chaskalson, is
 7 your question that the injuries and deaths at scene 2 were
 8 because the TRT got there ahead of POPS, as opposed to the
 9 plan which would be POPS first and then TRT?
 10 MR CHASKALSON SC: No, my question goes
 11 somewhere else, Commissioner. My question – let me put the
 12 end point to which, of the purpose for which I'm asking the
 13 question. It's been suggested that why there were deaths
 14 on the day was because the plan was disrupted. The
 15 attitude of the evidence leaders, which was made clear
 16 during the cross-examination of Colonel Scott and was in
 17 fact accepted by Colonel Scott, was that is possibly an
 18 explanation for scene 1, but it's not an explanation for
 19 scene 2 because well in advance of scene 2 SAPS had
 20 reorganised and had reorganised in a manner that was not in
 21 any material respects different from that which was
 22 planned. So whatever disruption took place earlier didn't
 23 affect what happened at scene 2. When I question Brigadier
 24 Calitz on this he pointed to one difference, which was that
 25 there ought to have been a TRT line behind the POPS line.

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1 So that was the one material difference that flowed from
 2 scene 1 to scene 2, so to speak. Today he has suggested
 3 that if it was a material difference it wasn't a
 4 sufficiently important problem for the operation to proceed
 5 and I just want to clarify that – maybe the question
 6 doesn't, maybe it's a matter for argument at this point
 7 because he's clarified that he didn't regard it as a
 8 "wesenlike probleem" and maybe I should just leave it at
 9 that point.
 10 MR SEMENYA SC: And when that happens,
 11 Chair, it is not our case that the deaths and injuries
 12 occurred because of a disruption. The SAPS' position was
 13 all those injuries and the deaths were a result of self
 14 and/or private defence.
 15 MR CHASKALSON SC: We can hammer this out
 16 when we have an argument and understand each other's cases
 17 clearer.
 18 CHAIRPERSON: Part of the problem of
 19 course is this witness doesn't know very much about what
 20 happened at scene 2, as he concedes. Am I right,
 21 Brigadier?
 22 BRIGADIER CALITZ: Ek kan glad nie vir u
 23 meer duidelikheid gee wat op toneel 2 of koppie 3 gebeur
 24 het nie, nee. Waar ek heen beweeg het en wat my aksies was
 25 en dan hier rondom van 5 uur af, 17:00, wel –

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1 CHAIRPERSON: Ja, but all the relevant
 2 shots had been fired by then.
 3 BRIGADIER CALITZ: Ek kan nie daar – nee,
 4 dit sal ander getuies, Generaal Naidoo en die TRT en die
 5 mense wat daar was kan daarvoor getuig.
 6 MR CHASKALSON SC: Before we leave this
 7 topic of your failure to make further attempts to contact
 8 the TRT to establish what had happened with them –
 9 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 10 – nee, u sit woorde in my mond. "Failure to contact" – ek
 11 het vir u gesê ek kan nie onthou hoeveel keer ek hulle
 12 gekontak het nie. Nou sê u daar was 'n "failure to contact
 13 them." So dit is nie wat ek getuig het nie.
 14 MR CHASKALSON SC: Well Brigadier, we can
 15 actually time that, we can periodise it to seven and a half
 16 minutes because we have a transcript of radio
 17 communications on the Protea Coin Security video and
 18 there's nothing of that nature audible from you during that
 19 period. We do have on the television footage that evidence
 20 of your attempt to contact the TRT and that took place
 21 seven and a half minutes before the water cannon reached
 22 the dispersion line. So –
 23 BRIGADIER CALITZ: Nee, al wat ek gesê
 24 het –
 25 MR CHASKALSON SC: - seven and a half

<p style="text-align: right;">Page 18772</p> <p>1 minutes is what we're talking about.</p> <p>2 BRIGADIER CALITZ: Al wat ek gesê het,</p> <p>3 mnr die Voorsitter, is daar was nie 'n "failure" om hulle</p> <p>4 te kontak nie. Ek het wel met hulle gekontak en ek het wel</p> <p>5 met die TRT probeer kontak en daar was geen respons van</p> <p>6 hulle kant af nie en daarom het ek die hulp ingeroep van</p> <p>7 die helikopter om my by te staan in daardie geval. So dit</p> <p>8 is die punt wat ek wil maak.</p> <p>9 MR CHASKALSON SC: Well, I still have</p> <p>10 difficulties with your answer because if I look at</p> <p>11 paragraph 117 of your statement where you report what</p> <p>12 Lieutenant-Colonel Vermaak reported to you, and we know</p> <p>13 from the radio, the record of the radio communications in</p> <p>14 the JOC that what Lieutenant-Colonel Vermaak reported was</p> <p>15 there were 18 bodies down at scene 1, your report is that,</p> <p>16 "I thought, given my experience and the absence of such a</p> <p>17 report to me, that the bodies" – and we know from what was</p> <p>18 heard in the JOC that it was 18 bodies – "was reference to</p> <p>19 people who were injured by the dispersion action or lying</p> <p>20 down to be arrested." Now 18 injured or surrendering</p> <p>21 strikers on the ground doesn't really explain why the</p> <p>22 entire TRT detachment had to stay behind at scene 1, does</p> <p>23 it?</p> <p>24 BRIGADIER CALITZ: Nee, mnr die</p> <p>25 Voorsitter, ek het glad nie verwys dat die, dit is die rede</p>	<p style="text-align: right;">Page 18774</p> <p>1 hoeveel. Ek het nie "ge-concede" 18 nie. U het gesê dit</p> <p>2 is wat in die VB staan. Ek het wel gesê ek dink hy het op</p> <p>3 'n stadium meer getel as dit. Ek dink in sy getuienis as</p> <p>4 hy kom getuig en in sy verklaring sal u dit ook dan opmerk.</p> <p>5 MR CHASKALSON SC: Well, whether it's 18,</p> <p>6 19, 20, or even 30, that wouldn't explain why the entire</p> <p>7 TRT detachment had to stay behind, would it?</p> <p>8 BRIGADIER CALITZ: Mnr die Voorsitter,</p> <p>9 operasioneel, ek weet nie - om te vra die agtergrond is</p> <p>10 seker onregverdig van die Advokaat, maar operasioneel</p> <p>11 indien daar dinge gebeur op die grond en daar is persone</p> <p>12 wat beseer is, operasioneel hanteer jy dit. Dit hang af</p> <p>13 wat die omstandighede is en wat daar gebeur het en die</p> <p>14 redes kan legio wees oor hoekom hulle agtergebly het. Dit</p> <p>15 kan wees dat die persone wat beseer is in hulle</p> <p>16 teenwoordigheid was, voor hulle was, dat hulle die toneel</p> <p>17 wou beveilig. Daar kan verskeie redes wees. So nee.</p> <p>18 CHAIRPERSON: [Microphone off, inaudible]</p> <p>19 have been injured, you thought some of them had been</p> <p>20 injured, whose job would it have been to have attended to</p> <p>21 them?</p> <p>22 BRIGADIER CALITZ: Indien daar enige</p> <p>23 persone was wat beseer is, dan sou van 'forward holding</p> <p>24 area 1" af kontak gemaak word waar die paramedici was, mnr</p> <p>25 die Voorsitter, en dan onder Generaal Naidoo se bevel, so</p>
<p style="text-align: right;">Page 18773</p> <p>1 waarom hulle agter gebly het nie. Ek het net gesê ek het</p> <p>2 hulle probeer kontak en dit is die inligting wat aan my</p> <p>3 gegee is.</p> <p>4 MR CHASKALSON SC: Well, was any other</p> <p>5 explanation offered to you as to why the TRT who should</p> <p>6 have been sweeping up behind you had chosen not to do that?</p> <p>7 BRIGADIER CALITZ: Nie op daardie stadium</p> <p>8 nie, nee, mnr die Voorsitter.</p> <p>9 MR CHASKALSON SC: So the only</p> <p>10 explanation that was given to you were that there were 18</p> <p>11 people who were injured or possibly lying on the ground to</p> <p>12 be arrested.</p> <p>13 CHAIRPERSON: He wasn't given a number.</p> <p>14 He wasn't given the number of 18. He was just told that</p> <p>15 there were bodies on the ground which –</p> <p>16 MR CHASKALSON SC: Well –</p> <p>17 CHAIRPERSON: Oh, you said –</p> <p>18 MR CHASKALSON SC: - 18 is what was</p> <p>19 recorded on that radio communication in the JOC and I think</p> <p>20 in your cross-examination by Mr Budlender you conceded that</p> <p>21 what you would have heard is what they would have heard.</p> <p>22 CHAIRPERSON: Yes, I think you're</p> <p>23 correct. I'm sorry.</p> <p>24 BRIGADIER CALITZ: Ja, ek dink ek het</p> <p>25 verwys na Kolonel Vermaak wat getel het, hy het my vertel</p>	<p style="text-align: right;">Page 18775</p> <p>1 hulle sou dan ingeroep word en ingebring word na van waar</p> <p>2 die beseerdes is. Wat ek bedoel met die TRT, gewoonlik sou</p> <p>3 ons arrestasies maak of sou daar persone wees wat beseer</p> <p>4 is, gewoonlik wat hulle doen en dit, ek dink van die foto's</p> <p>5 wys dit ook, hulle gee partykeer 'n rondom verdediging</p> <p>6 sodat – onthou dit is nog steeds 'n hibriede aktiewe</p> <p>7 toneel, so dit is nie dat die mense het weg gegaan en nou</p> <p>8 is daar niemand nie. Daar was nog steeds groepe wat in die</p> <p>9 omgewing was, selfs van die woonbuurt se kant af. So die</p> <p>10 TRT, dit is hoekom ek sê daar is verskeie omstandighede.</p> <p>11 Ek glo Kaptein Loest of wie ook al van die TRT sal wel kan</p> <p>12 sê waarom hulle besluit het en wat hulle aksies was dan,</p> <p>13 wat agtergebly het, sou hulle rondom verdediging gegee het,</p> <p>14 sou hulle gehelp het. Ons het wel op die "footage" gesien</p> <p>15 na die tyd is dat die TRT was besig om die wapens weg te</p> <p>16 vat van die persone wat nog beweeg het, so daar is, dis</p> <p>17 verskeie omstandighede.</p> <p>18 CHAIRPERSON: Mr Chaskalson, I was</p> <p>19 proposing to take the tea adjournment at quarter to 11 or</p> <p>20 thereabouts. If it's convenient to take it now we will do</p> <p>21 so. If you want to ask a few more questions first, I'm in</p> <p>22 your hands.</p> <p>23 MR CHASKALSON SC: Chairperson, now is as</p> <p>24 good a time as any.</p> <p>25 CHAIRPERSON: We'll adjourn for the tea</p>

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1 adjournment at this stage.
 2 [COMMISSION ADJOURNS COMMISSION RESUMES]
 3 [11:16] CHAIRPERSON: The Commission resumes.
 4 Brigadier, you're still under oath.
 5 ADRIAAN MARTHINUS CALITZ: s.u.o.
 6 CHAIRPERSON: Mr Chaskalson. [Microphone
 7 off, inaudible] you start, we're proposing to take the
 8 lunch adjournment at 1 o'clock and to resume at quarter to
 9 2 when we'll have a meeting with the evidence leaders and
 10 others at half past 1. So the proposal from now on is to
 11 have half an hour lunch but today will be an exception for
 12 the reason I have indicated.
 13 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
 14 Brigadier, shortly before the adjournment you were asked a
 15 question from the Commissioner about responsibility for
 16 bringing in medics, medical attention to wounded persons.
 17 I'd just like to raise a couple of concerns I have in this
 18 regard. As I understand your statement you recognise that
 19 there was a possibility that the people on the ground may
 20 have been injured and awaiting medical attention.
 21 BRIGADIER CALITZ: Dit is korrek, mnr die
 22 Voorsitter.
 23 MR CHASKALSON SC: Now did you hear any
 24 reports over the radio that medical personnel had been
 25 called in to scene 1?

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1 BRIGADIER CALITZ: Mnr die Voorsitter,
 2 nee, en as ek nou so vinnig dink, nee. Ek weet daar is
 3 verklarings, daar is bewyse dat die persone na die JOC toe
 4 en dat die JOC ook gereël het vir die mediese personeel
 5 saam met Generaal Naidoo, maar of dit oor die radio was, ek
 6 kan nie vir u sê nie, nee.
 7 MR CHASKALSON SC: No, I'm not asking
 8 whether it was or wasn't on the radio. I'm asking whether
 9 you heard anything on the radio calling medical personnel –
 10 BRIGADIER CALITZ: Nee, mnr die
 11 Voorsitter.
 12 MR CHASKALSON SC: - to the JOC. You
 13 didn't. Did you not take any steps to clarify whether
 14 medical personnel had been called to scene 1?
 15 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 16 kan nie nou vir u sê of daar enige – ek kan glad nie onthou
 17 in daardie rukkie wat ons daar gestaan het wie het ons
 18 gekontak. Ek dink die tjopper het op 'n stadium gesê, as
 19 ek – ek sal moet teruggaan en gaan kyk na die transkripsie.
 20 Ek dink op 'n stadium toe Kolonel Vermaak het gepraat en
 21 gesê dat daar is persone beseer en ek dink, ek is nie seker
 22 of dit hy is of dit dan die JOC is wat dan die mediese
 23 personeel ingeroep het nie. Ek wil so iets amper onthou,
 24 maar ek kan nie met sekerheid sê dat ek dit gehoor het nie,
 25 nee.

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1 MR CHASKALSON SC: If you didn't hear it
 2 would it not have been your responsibility as overall
 3 commander to ensure that medics were called in to scene 1
 4 as part of your function of coordinating the various units
 5 under your control –
 6 CHAIRPERSON: Not the overall commander,
 7 the operational commander –
 8 MR CHASKALSON SC: Operational commander.
 9 I'm sorry. As part of your function of coordinating the
 10 various units in the operation.
 11 BRIGADIER CALITZ: Ja, dit is hoekom ek
 12 vir u sê ek vertrou, ek glo dat as Kolonel Vermaak dit vir
 13 my gesê het, het ek dit gehoor. Volgende vraag sou gewees
 14 het deur wie. Ek kan nie met sekerheid sê wie het hulle
 15 geroep nie, maar ek weet daar was mediese personeel na
 16 toneel 1 toe ontbied.
 17 MR CHASKALSON SC: Yes, but again I don't
 18 want us to be at cross purposes. We know that ultimately
 19 approximately an hour after the event medical personnel
 20 made it to scene 1. My question is whether you heard an
 21 instruction over the radio shortly after scene 1, calling
 22 medics to scene 1.
 23 BRIGADIER CALITZ: Ek moet onder
 24 korreksie getuig as ek sê ek onthou wel daar was gepraat en
 25 daar was persone beseer en dat mediese hulp word verlang,

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1 maar ek kan nie vir u sê – ek dink dit was Kolonel Vermaak.
 2 As ek, ek het getuig daaroor, maar ek kan nie vir u sê deur
 3 wie, wie het dit genoem nie, nee.
 4 CHAIRPERSON: As operational commander
 5 was it one of your responsibilities to see to it that
 6 persons injured received medical attention promptly?
 7 BRIGADIER CALITZ: Mnr die Voorsitter,
 8 soos ek gesê het, as deel van die operasionele bevelvoerder
 9 se funksies was die koördinerende van al die verskillende
 10 groepe op die grond. So ek het, wat ek gesê het, ek het
 11 gehoor iemand het geroep daarvoor en ek weet dan Generaal
 12 Naidoo en Kolonel Vermaak het dan "ge-respond". Ek weet
 13 dit nou na die tyd maar ek kan nie nou vir u sê wie het
 14 hulle geroep op daardie stadium nie, nee.
 15 CHAIRPERSON: You see, one can see
 16 already that one of the points that's going to be dealt
 17 with in the argument is that there was a failure to give
 18 medical treatment to the injured parties at scene 1 for an
 19 hour and there will be criticism addressed to the SAPS on
 20 the basis of that and we'd have to deal with that in our
 21 report. Now in view of the fact that you concede that
 22 that's part of your, as I understood you, part of your
 23 operational responsibilities, would you wish to respond to
 24 any criticism based upon the fact that there was this delay
 25 of nearly an hour which may well have contributed either to

<p style="text-align: right;">Page 18780</p> <p>1 the deaths of some of those who died or certainly perhaps 2 aggravated the injuries of those who were injured? I'm not 3 saying you are responsible. I'm just want that to be 4 clear. If the point is raised, as I think it will be, what 5 will your answer be to it?</p> <p>6 BRIGADIER CALITZ: Kommissaris, dis wat 7 ek gesê het; ek is nie seker op daardie stadium wie was 8 dit. Ek glo dit was Kolonel Vermaak as ek dan moet getuig, 9 maar ek doen dit onder korreksie. So as ek verkeerd is en 10 dit was nie hy nie, daar was wel iemand wat die mediese 11 personeel gereël het. Waarnatoe hulle gereël is en of 12 hulle eers na, watter pad hulle gevolg het en hoe hulle 13 daar uitgekome het, dit kan ek nie vir u sê nie. Ek glo 14 daar sal personee wees tussen Kaptein Loest, die JOC wat 15 ingelig is ek dink minute daarna, asook Generaal Naidoo, 16 wie het met hom gekommunikeer in die geval. Daar was wel, 17 die vraag aan my was het ek iets gehoor, hoekom ek gesê het 18 ek was nie seker op daardie stadium, en die volgende vraag 19 sou wees wie het dit gerapporteer. So dit kan ek nie met 20 sekerheid sê nie. Daar was wel kommunikasie gewees dat 21 daar mediese personeel benodig word by die toneel, ja.</p> <p>22 COMMISSIONER HEMRAJ: Well, immediately 23 that you became aware that there might be injuries, should 24 you have tried to ascertain where the medical personnel 25 were and were they on their way to the scene?</p>	<p style="text-align: right;">Page 18782</p> <p>1 groepbevelvoerders wat elkeen se rol en "responsibility" 2 was, en hulle sal dan soos hulle dan dit doen en nader 3 beweeg glo en vertrou aan my rapporteer sou daar enige 4 probleem gewees het. Daar was geen probleme op daardie 5 stadium aan my gerapporteer of daar tekort was of dat die 6 mense te lank vat. U het gesê, ek dink daar was 'n uur 7 verloop, dit was ook nie aan my gerapporteer nie. So ek 8 het, ek was van die veronderstelling dat alles het vlot 9 verloop daar.</p> <p>10 CHAIRPERSON: During that hour did you 11 hear anything on the radio or learn in any other way that 12 General Naidoo was busy at scene 2?</p> <p>13 BRIGADIER CALITZ: Nee, mnr die 14 Voorsitter, ek het hom eers vir die eerste keer gesien toe 15 ek daar aankom rondom 5 uur.</p> <p>16 CHAIRPERSON: You weren't aware of that?</p> <p>17 BRIGADIER CALITZ: Nee, glad nie, mnr die 18 Voorsitter.</p> <p>19 CHAIRPERSON: I take it you learned later 20 General Naidoo on his way I think to scene 1 somehow got 21 involved in various operations, engagements at scene 2. I 22 take it you heard that later, did you?</p> <p>23 BRIGADIER CALITZ: Ek het na die tyd 24 verneem, in "hindsight," dat Generaal Naidoo toe hy 25 inbeweeg het, het daar 'n insident gebeur en hy is toe na</p>
<p style="text-align: right;">Page 18781</p> <p>1 BRIGADIER CALITZ: Kommissaris ja, dis 2 wat ek probeer sê, miskien net in ander woorde, is dat toe 3 ek hoor daar word wel gereël het ek geglo dat die Generaal 4 Naidoo wat dan in beheer was daarvoor saam met die JOC het 5 dit uitgevoer. Ek het nie op daardie stadium bevestig van 6 my kant af van hom waar is hulle op daardie stadium nie, 7 nee.</p> <p>8 MR CHASKALSON SC: Brigadier, it goes a 9 little further than that because your coordinating role 10 isn't just about ensuring that medics have been called; 11 it's also about coordinating the movement of the medics to 12 scene 1 with the rest of the operation and then in 13 particular what you don't want is a situation where the 14 medics come up on one route and you disperse the strikers 15 directly into the direction of the medics and so prevent 16 the medics getting to scene 1 through that problem. Would 17 you accept that?</p> <p>18 BRIGADIER CALITZ: Mnr die Voorsitter, 19 nee, ek verskil van u. Die deel van die koördinering is 20 net dat Generaal Naidoo en die personeel, hulle is die 21 groepbevelvoerders. Ek kan nie "all over" weet waar elkeen 22 se beweging is. Soos ek sê, hulle het gerapporteer en ek 23 het gehoor daar was dan die persoon wat geroep het en gesê 24 het daar word mediese bystand verlang. So tydens die 25 voorligting sessie was dit duidelik gegee aan al die</p>	<p style="text-align: right;">Page 18783</p> <p>1 koppie 3, wat bekendstaan as "scene 2."</p> <p>2 CHAIRPERSON: Yes, scene 2.</p> <p>3 BRIGADIER CALITZ: Ja, waarnatoe hy die 4 mediese personeel gestuur het eerste, dit kan ek nie vir u 5 sê nie.</p> <p>6 CHAIRPERSON: Ja, I see.</p> <p>7 MR CHASKALSON SC: Well, Brigadier, 8 General Naidoo's version is that he was in the process of 9 bringing the medical personnel up around the western side 10 of the power station and bringing them up between koppie 3 11 and, or planning to come up between koppie 3 and koppies 1 12 and 2 when his unit, or his members were engaged by the 13 strikers who were being dispersed out of the koppie. If 14 that version is correct, whose responsibility was it to 15 ensure that the medics, either to avoid such a situation or 16 to ensure that the medics reach scene 1 notwithstanding 17 that situation? Was it yours as operational commander or 18 was it Major-General Naidoo's as section commander of the 19 medics?</p> <p>20 BRIGADIER CALITZ: Generaal Naidoo was 21 nog steeds die groepbevelvoerder van die, nie net die 22 "medics" nie maar ook van die speurders, die K9. So hy het 23 beheer gehad en bevel en beheer oor die hele groep. Soos 24 hulle verneem het wat gebeur het, het hy dan die mense 25 getaak watter roete om te volg. Ek verneem u sê watter</p>

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1 kant toe hulle ombeweeg het. Ek dra nie kennis nie. Ek
 2 kan nie vir u daarmee help nie, maar Generaal Naidoo sal
 3 dan kan verduidelik watter kant toe hy die mediese
 4 personeel gestuur het. Ek weet ook die JOC, wat die "joint
 5 operational centre" is, is, ons het klaar dit vasgestel,
 6 onmiddellik ingelig. So ek glo van hulle kant af ook wat
 7 dan die oorhoofse bevelvoerder is wat verantwoordelik is
 8 vir al die aksies wat op die grond geneem is, van die JOC
 9 af word dit dan gewoonlik beheer en gekommunikeer sou daar
 10 'n probleem iewers wees.

11 MR CHASKALSON SC: So in terms of your
 12 coordinating function as operational commander, are you
 13 saying that it's not part of your responsibility to ensure
 14 that the route taken by the medics isn't a route that will
 15 be interfered with by the playing out of the operation?

16 BRIGADIER CALITZ: Nee, dit is nie my
 17 verantwoordelikheid nie, mnr die Voorsitter.

18 COMMISSIONER HEMRAJ: General Naidoo's
 19 version is that he told the medical personnel to stand down
 20 because of the live ammunition being fired. Isn't that so?
 21 He told them to take cover.

22 MR CHASKALSON SC: He brought them up in
 23 the direction of koppie 3 and then they heard live
 24 ammunition and thought they were coming under fire.

25 COMMISSIONER HEMRAJ: And then he

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1 directed them to hold –

2 MR CHASKALSON SC: He directed them to
 3 return.

4 COMMISSIONER HEMRAJ: - to hold back.

5 MR CHASKALSON SC: Yes. I think to
 6 return. It may be to hold back, but it would have been to
 7 return because they'd come forward with him a little and
 8 then were sent back.

9 CHAIRPERSON: [Microphone off, inaudible]
 10 when he comes. These questions I'm sure will be addressed
 11 to him.

12 MR CHASKALSON SC: Now Brigadier, just
 13 before we adjourned you were giving a range of different
 14 reasons why the TRT may have chosen to stay behind at scene
 15 1. Now you were the operational commander and even if
 16 there was a very good reason for the TRT to stay behind at
 17 scene 1, wasn't it incumbent upon them to inform you first
 18 of all that they would be staying behind at scene 1, and
 19 second of all why they were staying behind at scene 1?

20 BRIGADIER CALITZ: Dit sal van enige
 21 groepbevelvoerder verwag word om my in te lig sou daar
 22 enige probleem ontstaan op enige van die dele van die
 23 operasie. So dit sluit die TRT in, ja.

24 MR CHASKALSON SC: And that presumably
 25 would be a standard SAPS protocol?

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1 BRIGADIER CALITZ: Die operasionele
 2 bevelvoerder oor die koördinerings van 'n operasie wat strek
 3 oor, soos hier omtrent twee kilometer of die gebied is
 4 groot, kan nie beheer vat oor elke aspek van – en daarom is
 5 daar groepbevelvoerders aangestel. So dit geld dwars deur
 6 die bank. Indien iemand sou inbeweeg na 'n toneel toe, of
 7 indien iets sou plaasvind en iets wat moes gebeur het nie
 8 gebeur nie, dan moet die operasionele bevelvoerder ingelig
 9 word van so iets. As hulle my nie inlig nie sal dit nie
 10 tot my kennis kom nie, so dan kan ek nie daarop reageer
 11 nie.

12 COMMISSIONER HEMRAJ: But Brigadier, what
 13 is the protocol when there's been a shooting incident where
 14 policemen have fired their firearms? Are they permitted to
 15 leave the scene?

16 BRIGADIER CALITZ: General, no. The
 17 crime scene management manual is clear; the people involved
 18 there must stay at the scene. They must secure the scene
 19 and as far as possible wait for the evidence, the Local
 20 Criminal Record Centre, om dan die toneel te kom hanteer.
 21 So hulle groot taak was dan om die toneel te beveilig en
 22 soseer seker te maak dat die nodige mense agterbly. Sou
 23 hulle die toneel verlaat het, het 'n mens altyd die
 24 probleem van wie was op die toneel, wat het daar gebeur.

25 COMMISSIONER HEMRAJ: Now would that

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1 Standing Order apply only to those involved in the shooting
 2 who actually fired shots, or would it apply to the entire
 3 unit? Or the entire number of people deployed there?

4 BRIGADIER CALITZ: Ja, not only –
 5 Kommissaris, nie net tot hulle wat gevuur het nie, maar
 6 soos ek getuig is, as ons dan, sê maar hier gebeur 'n
 7 insident hier nou, gaan ons almal hier in die saal hou.
 8 Ons gaan niemand laat uitgaan by die deure tot ons die
 9 verklarings gevat het, IPID gekontak het en hulle kom op
 10 die toneel en seker te maak wie was die ooggetuies, wat het
 11 daar gebeur, en dan so te probeer vasstel. Mens probeer
 12 altyd almal wat betrokke is by enige insident so na as
 13 moontlik aan die toneel hou tot dan die speurders opdaag.

14 MR CHASKALSON SC: But presumably that
 15 would only emphasise the need for a report to the
 16 operational commander because if the whole unit is going to
 17 have to stay behind the operational commander needs to
 18 know.

19 BRIGADIER CALITZ: Ek het reeds dit so
 20 aan u gesê en ek het saam met u gestem; daar was 'n
 21 nodigheid dat wat ook al gebeur deurlopend van die toneel,
 22 maak nie saak watse insident plaasvind nie, die
 23 operasionele bevelvoerder moet daarvan ingelig word sodat
 24 hy dit kan deurgee na die oorhoofse bevelvoerder wat dan
 25 verantwoordelik is vir al die aksies wat op die grond

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1 plaasvind.

2 MR CHASKALSON SC: So have you ever

3 raised with the TRT commanders on the day why they didn't

4 report to you why they were staying behind at scene 1?

5 BRIGADIER CALITZ: Nie op daardie

6 stadium, maar in "hindsight," later die dag het Kaptein

7 Loest wel meegedeel hulle het probeer om ons te kontak.

8 Hulle het die hand radio-sisteem gehad en hy kon net nie op

9 daardie stadium ons kontak nie. Ek dink daarom het hy ook

10 gesê hy het vir die JOC, ek dink Brigadier Pretorius – ek

11 praat onder korreksie – gekontak, en haar dan meegedeel wat

12 op die toneel aangaan.

13 MR CHASKALSON SC: Is there any

14 explanation why neither you nor the TRT used your cell

15 phones to try to contact each other in these circumstances?

16 BRIGADIER CALITZ: Ek het vir u

17 verduidelik vroeër wat my omstandighede was. Hoekom hulle

18 my nie probeer kontak het op die selfoon kan ek nie vir u

19 sê. Dieselfde vir die JOC; ek dra nie kennis hoekom ek nie

20 gekontak is nie.

21 MR CHASKALSON SC: And if the JOC was

22 informed by the TRT of the incidents at scene 1 and that

23 the TRT hadn't been able to contact the operational

24 commander, would it have been incumbent on the JOC to

25 contact the operational commander to explain that the TRT

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1 would be staying behind?

2 BRIGADIER CALITZ: Enige rapport wat nie

3 aan die operasionele bevelvoerder gemaak word nie moet na

4 die "joint operational centre" in elk geval gemaak word

5 want dis waar die voorvalleboek inskrywings gemaak word.

6 Dit is ook waar die oorhoofse bevelvoerder is. Soos ek

7 voorheen vir u gesê het, die "overall commander," die

8 oorhoofse bevelvoerder is verantwoordelik vir al die aksies

9 wat op die grond plaasvind in sy, kan ek sê "job

10 description" of in sy takings, so dit is baie belangrik om

11 die JOC in te lig van enige gebeure en die oorhoofse

12 bevelvoerder sal dan die nodige en die regte besluite neem

13 van wie ingelig moet word of wat die volgende stap is, of

14 dan met my kommunikeer op die grond.

15 MR CHASKALSON SC: But presumably you

16 would expect the JOC to inform you if a unit has to stay

17 behind and is now going to be removed from the operation

18 because you can no longer depend on that unit.

19 BRIGADIER CALITZ: Soos ek vir u

20 meegedeel het, ek is nie gekontak deur die JOC nie. Op

21 hierdie stadium, ek verneem daar is persone wat gesê het

22 hulle het met die selfoon probeer. Ek dink dit is bespreek

23 laas jaar, einde laas jaar, waar ons gesê het is dit 'n

24 sein probleem of is dit 'n "missed call" probleem. Ons, ek

25 kan nie vir u sê nie, maar op die radio, die "transcript"

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1 is duidelik, op die radio het niemand my probeer kontak in

2 hierdie geval nie, nee.

3 MR CHASKALSON SC: My question was would

4 you have expected to have been contacted?

5 BRIGADIER CALITZ: Ek het reeds vir u

6 geantwoord en gesê ja, al die gebeure op die grond moet aan

7 die operasionele bevelvoerder gerapporteer word.

8 [11:36] MR CHASKALSON SC: If I can then take you

9 to another passage of your evidence at page 18113, it is,

10 sorry, 2 December and in fact if we can start at 1811 at

11 the foot of 1811, start at 18112 if we go up the page, line

12 18. So I put to you, you testified earlier that you saw

13 the lead group of the protestors pass you moving in a

14 direction where they were going towards the gap between the

15 kraal and the shack and you knew presumably that the police

16 were attempting to seal off that gap, did you? Your

17 answer, "ek weet daar was voertuie en ek weet daardie

18 voorste groep het verby my Nyala aan die linkerkant beweeg,

19 dit was my getuienis, meneer". Chairperson should we

20 translate as we go along or at the end?

21 CHAIRPERSON: As we go along I think.

22 MR CHASKALSON SC: Then from line 24 "I

23 knew there were vehicles, I know –

24 CHAIRPERSON: "I know there were

25 vehicles and I know that front group het verby my, went

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1 passed my Nyala on the left hand side, that was my

2 evidence, sir".

3 MR CHASKALSON SC: Then I proceed, "so

4 you could anticipate there was going to be a confrontation

5 between the lead group of the strikers and the police in

6 the gap between the kraal and the shack, do you accept

7 that".

8 CHAIRPERSON: And the answer was "if you

9 refer to confrontation if it refers to the attack on police

10 in that event I agree with you".

11 MR CHASKALSON SC: I then said "well

12 let's accept it on that basis for now because that is my

13 point. If you thought that the police were about to be

14 attacked in that location was it not crucial for you to

15 know exactly what happened with the attack as soon as the

16 attack took place and then your answer" and Chairperson

17 it's a lengthy answer, should we translate it sentence by

18 sentence?

19 CHAIRPERSON: I think so yes. "Mr

20 Chairman, that's exactly when I saw the second, that the

21 people moved passed me and I then testified, I saw that as

22 the attack, immediately I began to communicate with my

23 vehicles and I said to them move forward. That was not the

24 only communication I would also have talked with my

25 vehicles to make a line to say in which direction the

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1 people are running and the first opportunity which I then
 2 had were the person, I saw that they saw that they were
 3 dispersing and they weren't turning for a further attack
 4 then I would have regrouped, I would have stopped and
 5 ascertained what precisely was, I take it was happening
 6 with all my commanders so that they could give a report to
 7 me". There's some words missing from what he said but I
 8 take it that's the gist of what he said.

9 MR CHASKALSON SC: I'm interested in
 10 those last few lines. Because what I understand them to
 11 mean is that your intention when you moved away from your
 12 position at scene 1 after the strikers passed you moving in
 13 the direction of what we know now was where the TRT line
 14 was, your intention then was that after you had regrouped
 15 you would contact your commanders to get a report on what
 16 had happened out of sight behind you. Is that correct?

17 BRIGADIER CALITZ: U vra my dieselfde of
 18 ek staan by wat ek hier gesê het in die -

19 MR CHASKALSON SC: Yes, do you stand by
 20 what you said?

21 BRIGADIER CALITZ: In die konteks wat
 22 hier staan, ja, meneer.

23 MR CHASKALSON SC: Now do you recall that
 24 in answer to Mr Ntsebeza on the 5th of December, day 162 at
 25 page 18664 line 8 to 18665 line 13, so if we, maybe - I

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1 don't think we need to call it up, let me put the question
 2 to you and if you want to see the record you can. But in
 3 answer to Mr Ntsebeza at that point you identified
 4 Lieutenant Colonel Mere and Lieutenant Colonel Makhubela as
 5 the two officers you would have contacted for a situation
 6 report if you had been made aware that there had been
 7 shootings at scene 1. Do you recall that?

8 BRIGADIER CALITZ: Ek het dit nie voor my
 9 nie, maar ek onthou dat ons gepraat dat hulle twee die
 10 bevelvoerders was wat agter gebly het ja.

11 MR CHASKALSON SC: Would you like to look
 12 at that section of the record because those are the two
 13 officers you identify as the people you would have
 14 contacted if anyone had informed you that there had been
 15 shootings at scene 1.

16 BRIGADIER CALITZ: Ja Kolonel Makhubela
 17 was tydens die voorligting gebrief dat hy sou dan die
 18 oorhoofse of die bevelvoerder wees wat omsien na die
 19 toneel. Ons het geweet dat ons gaan uitgebeweeg en daar
 20 sal 'n dispersion action wees en dan opvolg met die
 21 dispersion so Kolonel Makhubela was dan die persoon wat dan
 22 agter bly.

23 MR CHASKALSON SC: That is in fact what
 24 your testimony was and you also mentioned that Lieutenant
 25 Colonel Mere was a commander who would be at the scene.

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1 BRIGADIER CALITZ: Hy was van die
 2 openbare orde polisiëring vir die dispersion groep ja.

3 MR CHASKALSON SC: The identification of
 4 those two people was in response to a question about who
 5 you would have contacted if you knew that there were
 6 shootings. But presumably those would have been the same
 7 two commanders who you would have asked for a situation
 8 report about what happened when the strikers moved down the
 9 east side of the kraal out of your line of vision after you
 10 had later regrouped, is that not correct?

11 BRIGADIER CALITZ: Kolonel Makhubela was
 12 die bevelvoerder op daardie stadium agter, ja.

13 MR CHASKALSON SC: Did you make any
 14 attempt to contact either Colonel Makhubela or Lieutenant
 15 Colonel Mere in that seven and a half minute period after
 16 you had regrouped?

17 MR SEMENYA SC: Chairperson, Chairperson,
 18 we have spent the morning dealing with aspects really that
 19 Mr Budlender dealt with the witness. We were told then
 20 that time that what Mr Chaskalson was going to handle was
 21 the movements of the cars at scene 2. But we're at the
 22 same spot again.

23 CHAIRPERSON: - about that, Mr
 24 Chaskalson, you in fact you moved on to scene 2 when we
 25 adjourned at the end of the year. You've now stepped

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1 backwards and dealing with other aspects but what do you
 2 say in response to Mr Semanya?

3 MR CHASKALSON SC: Chairperson, I'm, what
 4 I moved on to at scene 2 was the seven minute period in
 5 which that reorganisation line was static in front of
 6 koppie 2, that's the only topic I touched on and that is
 7 the only topic I'm touching on now. There were seven and a
 8 half minutes where nothing happened where the scene did not
 9 change and my question is you said earlier that you would
 10 have contacted these people once you had regrouped, you had
 11 seven and a half minutes in which you had regrouped and no
 12 further action was being taken, did you contact them.

13 MR SEMENYA SC: No, but still, Chair,
 14 that is if he was made aware that scene 1 had happened.

15 MR CHASKALSON SC: No -

16 CHAIRPERSON: I don't think it's that
 17 because he knew presumably that something was going to
 18 happen because he saw the militant group marching off,
 19 going off, marching onward, going off in the direction of
 20 where we now know the TRT line was. He gave instructions
 21 for certain action that was to be taken. He didn't state,
 22 see what the result of that action was. But he proceeded
 23 elsewhere, so he may not have known, in fact I accept he
 24 didn't know what happened, that scene 1 had actually taken
 25 place but I think the thrust of the question is he must

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1 have known that something was, may well have taken place
2 and that's the purpose of the question, I'll allow it on
3 that basis.

4 MR CHASKALSON SC: Chairperson, I don't
5 want to be misunderstood about the thrust of the question
6 because it actually goes further than that. The thrust of
7 the question is when asked about whether it was important
8 for him to find out what had happened after the strikers
9 had passed him at scene 1 in an apparent attack on the
10 police his answer was yes it was important and this is what
11 my course of action would be. So the question is did you
12 at any stage contact either Colonel Makhubela or Lieutenant
13 Colonel Mere to find out what had happened after the
14 strikers passed out of your sight at scene 1?

15 BRIGADIER CALITZ: Ek dink die vraag was,
16 ek dink Adv Ntsebeza of iemand het my ook gevra dat was
17 daar kommunikasie tussen my en Kolonel Makhubela, ek het
18 vir u gesê dat nee dit was, hy was tydens die voorligting
19 sessie ingelig dat sou ons vorentoe gaan met die uiteendryf
20 aksie hy dan beheer sal vat oor die toneel daar agter. So
21 nee op daardie stadium was dit nie vir my nodig om hom te
22 kontak, ek het geweet hy is op die toneel en hy vat beheer.
23 So ook het ek nou nie elke keer vir die waterkanon gevra
24 waar is hy, waar is die, waar is daai, die bevelvoerders
25 van elke groep sal met my kontak maak sou daar 'n probleem

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1 of sou daar enigiets wees wat nie volgens die plan verloop
2 nie. Sou hulle dan met my kontak maak. Ek wil miskien u
3 net ook wys hier in my gedagtegang, ek sien u het nou net
4 die een sinnetjie dan 'n report aan my gegee, as ons
5 miskien net kan afgaan op daai selfde, die derde, ek dink
6 daar my antwoord -

7 CHAIRPERSON: You mean you want to
8 proceed with some of the evidence?

9 BRIGADIER CALITZ: Yes, as ons net kan -

10 CHAIRPERSON: 18114?

11 BRIGADIER CALITZ: Yes.

12 CHAIRPERSON: Mr Chaskalson asked you at
13 line 3 surely you needed to know immediately whether the
14 police had been successful or unsuccessful in repelling
15 this attack, that you be shown the rest of the evidence at
16 the moment. Could we please see the rest of page 18114
17 after line 5. We don't seem to have it on the screen.
18 Perhaps you can -

19 BRIGADIER CALITZ: Mnr die Voorsitter, ek
20 kan dit miskien lees net, wat my antwoord -

21 CHAIRPERSON: Ja, give us your answer
22 then.

23 BRIGADIER CALITZ: As dit nou nie op die
24 bord, "focus on the operation would have changed
25 immediately," is daai laaste sinnetjie sewe wat uitgesny

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1 is, toe sê ek, "mnr die Voorsitter weereens in my gedagte
2 was dit suksesvol, ons het gepraat van die uiteendrywing.
3 Soos ek vorentoe beweeg het met die Nyalas kon ek sien dat
4 die persone links asook die groot groep omgeswaai en
5 weggehardloop het. So in my gedagtegang was die operasie
6 suksesvol, die uiteendrywing ons het die persone begin
7 terug dryf na die voertuie waar hulle dan ook uiteendryf
8 aksie was. So dit was deur my gedagtegang op, so dit is
9 wat deur my gedagte gegaan het op daardie stadium.

10 CHAIRPERSON: Line 8?

11 BRIGADIER CALITZ: Yes, daar's die -

12 CHAIRPERSON: [Inaudible, microphone off]
13 once again, your answer, Mr Chaskalson's question was you
14 probably didn't know immediately what happened because it
15 altered the focus of the operations. You said, "Mr
16 Chairman, once again in my thoughts it was successful, as I
17 said I moved forward with the Nyalas, I could see that the
18 persons, the people were moving to the left as well as the
19 big group and running away. So in my thought process the
20 operation was successful, we had begun driving the people
21 back to the vehicles where there were also dispersion
22 actions, that is what went through my mind at that stage."

23 BRIGADIER CALITZ: Ja, dit is miskien net
24 as, my antwoord oor wat voorheen genoem was is dat in my
25 gedagtegang was die uiteendryf aksie suksesvol gewees, die

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1 persone het weggehardloop, ek het gesien aan die linkerkant
2 sowel as die groter groep aan die regterkant in 'n
3 westelike rigting en daarom ek het onder geen omstandighede
4 bewus gewees van persone wat gedood of so was agter my nie.
5 So ek het geen rede regtig, Kolonel Makhubela was getaak om
6 daardie uiteendryf aksie sou daar beserings wees hy sou dit
7 hanteer en hulle het niks aan my gerapporteer dat daar
8 enige fout is, of daar enige probleem was nie. Sou ek wel
9 bewus geword daarvan dan was daar ander opsies wat ek kon
10 doen.

11 COMMISSIONER HEMRAJ: I'm not sure I
12 understand that. The people that were on the left had
13 passed you already, gone towards the POPS and the TRT line
14 and the people that you saw dispersing were the groups that
15 were in front of you.

16 BRIGADIER CALITZ: Kommissaris, ja wat ek
17 gesê het soos die groep, onthou die grootste, die klein
18 groepie voor, toe hulle die voertuie terug beweeg het, het
19 ek dan vir al die Nyala Papa voertuie gegee, gesê beweeg
20 vorentoe tussen hulle in. So dis nie net my voertuig aan
21 die voorkant nie maar ook die, almal agter my. So, en toe
22 hulle begin beweeg het ek gesien die mense storm almal
23 terug. So my gedagtegang was die hele groep het dan gesien
24 hier kom, wat ons op die toneel gehad, 8, 9, 10 Nyalas,
25 weet in hulle rigting. So daar was geen rede vir my om te

<p style="text-align: right;">Page 18800</p> <p>1 twyfel dat die mense wel begin disperse het en 2 weggehardloop het nie. Met my operasionele ondervinding 3 het dit ook nooit, nooit voorheen so gebeur nie. 'n 100% 4 van die kere het die mense wel gedisperse in die rigting 5 wat ons hulle uiteendryf. 6 CHAIRPERSON: Are you saying you thought 7 that the whole group had been effectively dispersed and 8 were retreating because of what was happening? 9 BRIGADIER CALITZ: Ek het gesê, ek het 10 gedink dit uiteendryf aksie van die openbare orde was 11 suksesvol, dit is korrek, mnr die Voorsitter. 12 CHAIRPERSON: And then when you got the 13 report from Vermaak which you deal with in paragraph 117 of 14 your statement you must then have realised that what you 15 had assumed in that regard was not correct. That they all 16 had not been dispersed, in fact some of them were now lying 17 down, either injured or waiting to be arrested? 18 BRIGADIER CALITZ: Dit is as gevolg van 19 die dispersion action, Kommissaris, ag mnr die Voorsitter, 20 in enige uiteendryf aksie wat ons doen met rubber is daar 21 altyd mense wat beserings het weens die rubber balls wat 22 dan beseer is, neerlê of dan hulleself oorgee om 23 gearresteer te word. 24 CHAIRPERSON: Mr Chaskalson, I'm inclined 25 to think you've taken that point as far as you can take it.</p>	<p style="text-align: right;">Page 18802</p> <p>1 het ons na die tyd agter gekom. 2 MR CHASKALSON SC: Well you knew that 3 radio communications were not being answered because you 4 had called for the TRT to respond and they hadn't 5 responded. 6 BRIGADIER CALITZ: Dit is korrek. 7 MR CHASKALSON SC: Can we look at KKK4 8 which is a list of cell phone calls and if we go to 9 15:53:31 we'll see that Major General Naidoo attempted to 10 contact you at 15:53:31 which happens to be almost exactly 11 the moment of the shootings. When did you first become 12 aware of this call from Major General Naidoo that lasted 12 13 seconds and which we know from the Vodacom records went 14 onto your voicemail? 15 BRIGADIER CALITZ: Ek dra glad nie kennis 16 dat dit oorgegaan het na my voicemail, ek het eers baie 17 later daardie aand toe alles rustiger geword het, het ek 18 wel gesien die poging van hom om my te kontak. 19 MR CHASKALSON SC: So you didn't see it 20 as a responsibility of yours to check your cell phone at 21 all during this operation? 22 BRIGADIER CALITZ: Nee, dit is nie dat ek 23 sê dit was nie 'n responsibility nie, ek sê dat ek dit glad 24 nie gehoor die selfoon wat op daardie stadium gelui nie en 25 met al die dinge wat rondom my aangaan kan ek nie vir u sê</p>
<p style="text-align: right;">Page 18801</p> <p>1 MR CHASKALSON SC: Yes. 2 CHAIRPERSON: But you have material – 3 MR CHASKALSON SC: There are a couple of 4 other issues I just briefly want to canvas, not on Colonel 5 Makhubela and Lieutenant Colonel Mere but during the seven 6 and a half minutes did you check your cell phone to see if 7 anybody had been trying to call you? 8 BRIGADIER CALITZ: Nee, ek kan nie vir u 9 sê dat my selfoon gelui het op daardie stadium of dat ek 10 gekyk het na hom nie, nee. 11 MR CHASKALSON SC: Well wasn't the cell 12 phone supposed to be a backup form of communication during 13 the operation? 14 BRIGADIER CALITZ: Mnr die Voorsitter, 15 operasioneel tydens 'n aktiewe toneel is dit maar selde 16 laat ons op selfone met mekaar kommunikeer. Die basis van 17 die kommunikasie sal wees oor die radio en dan ook die 18 ander bevelvoerders aan jou rapporteer per radio. 19 MR CHASKALSON SC: But in this case you 20 had a failing radio system. You knew that your 21 communications from the radio system were not being 22 answered. 23 BRIGADIER CALITZ: Ja, op daardie stadium 24 was ek glad nie bewus dat hulle my gekontak het, soos u nou 25 sê dat ek bewus daar was 'n failing radio system nie, dit</p>	<p style="text-align: right;">Page 18803</p> <p>1 die sein wat daar was het daar ooit 'n oproep deurgekom of 2 het hy direk oorgegaan op my voicemail, dit kan ek nie vir 3 u sê nie. Generaal Naidoo sal kan getuig of hy 'n 4 voicemail gelos het en of, wat is die boodskap as hy gelos 5 het. 6 [11:56] MR CHASKALSON SC: Well, you see, 7 Brigadier, on your version the noise inside the Nyala was 8 so great that you didn't hear a volley of 300 shots in 9 eight seconds. Now in those circumstances you wouldn't 10 hear a cell phone ringing, do you accept that? 11 BRIGADIER CALITZ: Korrek, mnr die 12 Voorsitter. 13 MR CHASKALSON SC: So in those 14 circumstances wouldn't it have been prudent to check your 15 cell phone from time to time to see if any of your superior 16 officers were trying to contact you? 17 BRIGADIER CALITZ: Mnr die Voorsitter, 18 weereens het ek vir u gesê die omstandighede en die dinge 19 wat daar rondom ons aangegaan het, dit was 'n hibriede 20 aanhoudende situasie waar ons gemonitor het, so ek was 21 omtrent deurentyd op die radio gewees. Ek dink the 22 transcript sal wys 23 tussen my en Colonel Vermaak, daar was deurentyd 24 'n gesprek gewees, so daar was nie regtig tyd om rustig, 25 soos u sê sewe minute stil te sit en niks het gebeur nie.</p>

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1 Daar het nie niks gebeur nie, daar het baie gebeur in
2 daardie sewe minute.

3 MR CHASKALSON SC: Well, maybe you can
4 explain to us what exactly happened in those seven and a
5 half minutes because the line-up of the vehicles didn't
6 move, the line of the protestors behind koppie 2 didn't
7 move. What did move?

8 BRIGADIER CALITZ: Ek sal net wil sien, u
9 sê die foto wat geneem is op daardie stadium, wat het
10 voorafgegaan en wat het daarna gegaan. Op hierdie stadium
11 weet ek nie of daar enige video materiaal of footage is wat
12 dit vir u kan wys nie. Volgens my het die voertuie
13 vorentoe beweeg en teen die tyd wat die foto geneem is,
14 miskien kan u vir my meer inligting gee oor die timeline.
15 Ek sê net dat ek het kommunikasie gehad met al my ander
16 voertuie. Ek het my voertuie probeer op-line of in 'n lyn
17 kry na my linker en regterkant toe, ons het dopgehou wat
18 die gemeenskap, die strikers op daardie stadium gedoen het.
19 Ons het nou 'n groep gesien aan die linkerkant, dit wat
20 agter die rots uit gesteeke het van waar my posisie was, ek
21 het ook aan die regterkant gesien dat daar is 'n baie
22 groter groep, 2 na 3 000 wat in daardie rigting beweeg het.
23 Ek het gesien daar is groepe wat agter links by die
24 nedersetting bymekaar kom, so al hierdie kommunikasie was
25 tussen ons Papa voertuie die heelyd op die radio gewees.

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1 MR CHASKALSON SC: Well, this group you
2 say of 2 or 3,000 on your right hand side, where were they
3 going, where were they moving?

4 BRIGADIER CALITZ: Daar was verskeie
5 groepe gewees, dit is die groep wat by die nedersetting
6 gestaan het nader, en daar is ook oorhoofse kragdrade wat
7 dan, ek kan sê van die nedersetting in 'n westelike rigting
8 beweeg of geplant is. So hulle was meer gevorm onder
9 hierdie kragdrade en dit is dan ook die rigting waarin ons
10 beweeg het vanaf waar ons ge-herposisioneer het, ek dink
11 drie of vier van my Nyalas het in daardie rigting saam met
12 my beweeg om daar ook verder te gaan uiteendryf en
13 arrestasies uit te voer.

14 MR CHASKALSON SC: Are you aware of any
15 real evidence that shows 2 or 3,000 people gathered to your
16 right hand side, any video evidence, any photographic
17 evidence? We've got extensive photographic and video
18 evidence of the scene over this period and I haven't seen
19 any evidence of 2 or 3,000 people on your right side, are
20 you aware of it?

21 BRIGADIER CALITZ: Mnr die Voorsitter,
22 ja, al wat ek kan sê is, ek was op die grond gewees en die
23 persone is waargeneem en dit is dan ook in die rigting wat
24 drie of vier Nyalas beweeg het. Ons sou nie in daardie
25 rigting beweeg het of persone gaan uiteendryf het of gaan

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1 arresteer het as daar geen mense was nie. Die groter groep
2 wat weg beweeg het, die kleiner groepie was agter die
3 koppie 2 op pad na koppie 3 toe. Dit was die kleiner, die
4 minderheid. Die ander 2 na 3,000, as u vir my kan sê hulle
5 het net spoor lys verdwyn, dit is nie so nie. Hulle het op
6 'n verdere stadium onder die kragdrade weer opgevorm en
7 daar gestaan.

8 MR CHASKALSON SC: How many people did
9 you end up arresting when you moved off to the north?

10 BRIGADIER CALITZ: Ek dink in totaal saam
11 met die by koppie 3 was 259.

12 MR CHASKALSON SC: No, I am not talking
13 about "saam met koppie," –

14 BRIGADIER CALITZ: Ek is nog –

15 MR CHASKALSON SC: - I am talking about
16 the people to the right. Well, I would like you to answer
17 my question. How many people did you end up arresting when
18 you moved off to the north of this group of 2 or 3,000?

19 BRIGADIER CALITZ: Mnr die Voorsitter, as
20 ek net die geleentheid kry, die hele grope wat gearresteer
21 was saam met die koppie 3 was 259 en ek sal moet gaan kyk
22 en dit opbreek om te gaan sien hoeveel was gearresteer in
23 daardie gebied. Ek kan nie nou uit die vuus uit vir u sê
24 nie. Ek weet ek was self betrokke by arrestasies. Op 'n
25 stadium op die radio het ons gesê, ek dink 5 of 6 en 2, ek

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1 dink 'n getal van 20 of 29, onder korreksie, dit is soos
2 die mense weggehardloop het en dit is soos die Canters en
3 die foto's ook geneem was, waar hulle dan in die
4 verskillende oprit trokke gelaai was.

5 MR CHASKALSON SC: So you ended up
6 arresting, you say you were up a limit of what you estimate
7 was 29, I think, to the north. How many did you end up
8 arresting inside koppie 3?

9 BRIGADIER CALITZ: Nee, ek het gesê dit
10 is na die weste toe en nie na die noorde toe nie, die
11 weste. Die noorde is na die village en –

12 MR CHASKALSON SC: I am aware of that but
13 I'm questioning you on this sort of group of 2 or 3,000
14 relative to the number of arrests that were made in the
15 different locations. You said there was a total of 295
16 arrests in all, - 259?

17 BRIGADIER CALITZ: 259.

18 MR CHASKALSON SC: 29 to the north and
19 the rest inside the koppie?

20 BRIGADIER CALITZ: No, 29 to the west, in
21 daardie rigting en dan die ander verneem ek in die koppie.
22 Ek sal moet gaan vasstel by die persone in die koppie self,
23 want toe ek daar aankom was die persone reeds daar en die
24 res het met die cantor voertuie soontoe beweeg.

25 MR CHASKALSON SC: So out of the 2 to

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1 3,000 people that you saw you ended up arresting only 29?
 2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 dit is nie 'n aanduiding dat as die groep 2,000 is ons moet
 4 2,000 arresteer nie. Indien ons die mense uiteendryf en
 5 hulle hardloop weg, die wat wel omsingel is, ontwapen is en
 6 gearresteer is, dit is die getal. Ek weet daar was vorige
 7 getuienis, ek is nie seker nie, ek dink dit is die TRT van
 8 Kaptein Kidd of Generaal Annandale of iemand het getuig
 9 dat, ek dink daar was op 'n stadium so iets soos 500 verby
 10 hulle in 'n filtering lyn, so die vorige getuienis dui op
 11 baie mense wat weggehardloop het van die toneel af, soos
 12 ons hulle opgevolg het.

13 CHAIRPERSON: What is the criterion for
 14 arresting? I take it a number of the people who were on
 15 the koppie, even what we can call the non-militant group,
 16 either had no weapons at all or just had sticks and so on,
 17 is that correct?

18 BRIGADIER CALITZ: Die nie-Militêre
 19 groep?

20 CHAIRPERSON: Ja.

21 BRIGADIER CALITZ: Ja, hulle was gewapen
 22 met tradisionele wapens. Ek kan nie sê net met dit nie,
 23 maar –

24 CHAIRPERSON: Ja, presumably someone who
 25 was just carrying a stick wouldn't have been arrested,

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1 would he, unless he did something he shouldn't have done.
 2 Is that right?

3 BRIGADIER CALITZ: Mnr die Voorsitter,
 4 daar is baie laat gaan wat, die opdrag was en dit was in
 5 die briefing ook gewees, sou ons die geleentheid gekry het,
 6 as ek miskien net kan teruggaan, sou ons die geleentheid
 7 gekry het om vir die mense te sê, sit neer die wapens en
 8 beweeg uit, die wat dan hulle wapens neergelê het en
 9 uitgekome het sou nie gearresteer geword het nie.

10 CHAIRPERSON: Did that happen, I am sorry
 11 to interrupt you, but did that happen? Did anybody put
 12 down his weapon in response to an invitation or a request
 13 from the police that he should do so?

14 BRIGADIER CALITZ: Daar was heelwat sulke
 15 gevalle gerapporteer.

16 CHAIRPERSON: Yes, some people did that,
 17 other people presumably didn't have weapons, they only had
 18 sticks and so forth.

19 BRIGADIER CALITZ: Dan sou hulle nie
 20 gearresteer –

21 CHAIRPERSON: And they weren't arrested
 22 either?

23 BRIGADIER CALITZ: Hulle sou nie.

24 CHAIRPERSON: So a substantial proportion
 25 therefore of the 2,000 weren't really candidates for

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1 arrests, either because they had voluntarily put down their
 2 weapons when requested or because they didn't have
 3 dangerous weapons to put down in the first place, is that
 4 correct?

5 BRIGADIER CALITZ: Dit is korrek, mnr die
 6 Voorsitter, maar ons moes nog steeds dan net voortgaan met
 7 die uiteendryf aksie sodat daar nie weer 'n hergroepering
 8 is nie en dit was dan wat ek sê suksesvol. Hulle het
 9 fisies uiteengegedryf.

10 MR CHASKALSON SC: During the seven and a
 11 half minute period where the line remained unchanged what
 12 was your plan in relation to this group of 2 or 3,000
 13 people that were apparently gathering to the north? What
 14 were you hoping to do with them?

15 COMMISSIONER HEMRAJ: Can we just
 16 establish if this group had gathered to the north or were
 17 they part of the disperse of people being dispersed, can we
 18 ascertain that please first?

19 MR CHASKALSON SC: Well, he talked about
 20 people gathering under the power lines to the north.

21 BRIGADIER CALITZ: Ja, I am not sure
 22 about the map, you keep on referring to the north, I said
 23 more to the west.

24 CHAIRPERSON: You say the north and he
 25 says the west.

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1 BRIGADIER CALITZ: The north is where the
 2 village is, the Nkaneng side, according to the map I'm not
 3 so sure if I'm mistaken, I'm under correction.

4 MR CHASKALSON SC: Maybe we should call
 5 up, maybe we should call up that slide again so that we're
 6 not at cross purposes.

7 CHAIRPERSON: You are at cross purposes
 8 at the moment, but let's get clarity once and for all on
 9 what the correct compass direction is.

10 MR CHASKALSON SC: Can we have slide, I
 11 think it is slide 215. Now, Brigadier, can you mark on
 12 this map and maybe this is not the best slide to use, if
 13 we, let me –

14 BRIGADIER CALITZ: This is fine, I think
 15 on this map north is indicated to you on the top right hand
 16 corner and that is why I am saying you keep on referring to
 17 north, I am saying the sun is coming up to the right of
 18 that arrow and that is the east. The south would be the
 19 power station where Nyala 1 starts throwing out the barbed
 20 wire and the west is towards the bottom left, if we can
 21 indicate towards 215. So you keep on saying to the north,
 22 we did not move the forces backwards. That means that I
 23 must make an about turn all those vehicles and we must
 24 drive into the village.

25 MR CHASKALSON SC: So where was this

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1 group that had gathered?

2 BRIGADIER CALITZ: Can you see the white

3 chopper on the left of the screen, Mr Chaskalson?

4 MR CHASKALSON SC: I can.

5 BRIGADIER CALITZ: To the left of that, I

6 have said there is pylon, when we do the inspection in loco

7 you can go and see, there is a line of, what you call a

8 pylon, elektrisiteitspale wat dan afgaan van 'n oostelike

9 rigting af na 'n westelike rigting en dit is onder hierdie

10 drade waar die mense gegroep het, hetsy groepe nader aan

11 die nedersetting asook dan groepe wat onder die verskeie

12 drade gaan staan het, meer na 'n westelike rigting toe,

13 verby, ver verby koppie 3 en dit is hoekom ek dan my

14 gedagtegang, om terug te kom na u vraag toe, was my

15 kommunikasie met die voertuie soos hulle daar op gelyk is

16 met Kolonel Vermaak om dan die waterkanonne te vat en dan

17 die groep wat gaan hergroepeer in daardie, u kan sien

18 daardie permanente, kan ek maar sê digte groepering, die

19 militante groep, die waterkanonne om dan daardie groep

20 verder uiteen te dryf en dan voort te gaan met die

21 dispersion action en dan het ek 2 of 3 Nyalas gevat saam

22 met my na die groter groep toe wat aan die regterkant was,

23 hier onder die drade om hulle dan uiteen te dryf om seker

24 te maak daar is nie verdere hergroepering nie. Dit is wat

25 'n mens wou verhoed, dat daar verdere hergroepering is en

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1 dan die situasie weer van vooraf hê.

2 BRIGADIER CALITZ: So your plan was to,

3 you understood the people behind koppie 2 to be the

4 reformed militant group and you wanted them dispersed with

5 the water cannon and you also would then wanted the

6 apparently non militant people who had gathered further,

7 now we say to the west, sort of north-west I would –

8 CHAIRPERSON: Well, he is right, it is

9 more west than east, and if you look at the shadows of the

10 vehicles, the shadows presumably, the sun, it is now nearly

11 four o'clock in the afternoon in August, so the sun is

12 obviously on the western side of the sky and you can see

13 the shadows, as we look at the photograph, the shadows of

14 the vehicles are on the right, so that indicates to us

15 where the west is and that is confirmed by the arrow in the

16 top right hand corner to indicate the position north and

17 whether it is north-west or west is a point we don't have

18 to decide, but he is right in saying it is not north.

19 BRIGADIER CALITZ: Nee, ek wou net seker

20 maak dat mnr Chaskalson nie bedoel het ons gaan noord in

21 die nedersetting nie, want dit is nie waarna ons toe beweeg

22 het nie. Ek het beweeg in die westelike rigting.

23 CHAIRPERSON: Ja, the truth was, there

24 was a misunderstanding between the two of you but I think

25 that's now being sorted out and you were right, it wasn't

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1 north, it was west or perhaps north-west but certainly not

2 north. Now that Mr Chaskalson and you are on the same page

3 and you're using the same compass directions you can now

4 proceed without misunderstanding.

5 MR CHASKALSON SC: So you thought that

6 the group up to the west or north-west was not a militant

7 group and could be dispersed with a few Casspirs but the

8 militant group you thought was the group gathered behind

9 koppie 2, is that correct?

10 BRIGADIER CALITZ: Dit is nader aan

11 korrek, die groep wat agter die koppie 2 is, soos u dit

12 daar kan op sien, is meer 'n close formation groep wat ons

13 dan gesien het as 'n groep wat 'n groter bedreiging het as

14 die groep wat uitgebrei is, en die word is nou miskien ge-

15 scatter is, onder die pylons, so daarom het ek gedink

16 hierdie groep het dan, waar die waterkanonne na hulle toe

17 geroep het omdat u ook sien die veld wat aan die brand

18 gestek is het ek nie geweet op daardie stadium na watter

19 rigting daardie vuur en daardie vlamme gaan nie. So dit is

20 ook die rede hoekom ons gewag het vir die waterkanon.

21 MR CHASKALSON SC: And did you want to

22 disperse this group behind koppie 2 before you moved off to

23 the bigger group to the west?

24 BRIGADIER CALITZ: Mnr die Voorsitter,

25 toe ons begin beweeg het met die voertuie het hierdie hele

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1 groepie gehardloop wat ons nou weet na koppie 3.

2 COMMISSIONER HEMRAJ: The larger group

3 that you talk about have they actually gathered or were

4 they in the process of leaving the scene?

5 BRIGADIER CALITZ: Kommissaris, hulle

6 was, as ons sê gather, hulle was meer, nie so 'n tight

7 formasie soos hierdie nie, maar jy kon sien daar was skares

8 wat bymekaar gestaan het, so dit was makliker om hulle, met

9 voertuie tussen hulle in te beweeg. Hulle was nie so 'n

10 tight formation, as ek dit so kan noem, soos wat hierdie

11 groepie was nie.

12 CHAIRPERSON: Were they standing or

13 moving?

14 BRIGADIER CALITZ: Hulle het stil gestaan

15 op daardie stadium, dieselfde as hierdie groep om seker te

16 sien wat volgende gebeur.

17 CHAIRPERSON: Okay, so these people here

18 that we see on slide 215, Exhibit L, in the vicinity of

19 koppie number 2, they were standing.

20 BRIGADIER CALITZ: Op hierdie stadium het

21 hulle –

22 CHAIRPERSON: And the other group you

23 refer to whom we can't see on the slide but who are to the

24 left of the helicopter, were they moving or were they

25 standing also?

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1 BRIGADIER CALITZ: Nee, hulle het ook
2 stil gestaan, van hulle. Daar was beweging agter by die
3 nedersetting, maar meer in 'n groep vorm wat gestaan het
4 maar nie so digby soos die militante groep gevorm is nie,
5 meer uit gesprei.

6 CHAIRPERSON: It has been suggested to me
7 it might be appropriate for us to take a comfort break,
8 either at this stage of when it is convenient for you that
9 we should do so.

10 MR CHASKALSON SC: Chairperson, let's
11 take it now.

12 CHAIRPERSON: Let's take the comfort
13 break now.

14 [COMMISSION ADJOURNS COMMISSION RESUMES]
15 [12:25] CHAIRPERSON: The Commission resumes.
16 Brigadier, you're still under oath.

17 ADRIAAN MARTHINUS CALITZ: s.u.o.
18 CHAIRPERSON: Mr Chaskalson.

19 CROSS-EXAMINATION BY MR CHASKALSON SC (CONTD.):
20 Brigadier, maybe if we can look at slide 218 of exhibit L,
21 you can explain to me where this group of people were.

22 CHAIRPERSON: You mean the larger –
23 MR CHASKALSON SC: The 2 to 3000.
24 CHAIRPERSON: The larger non-militant
25 group.

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1 MR CHASKALSON SC: What we see in slide
2 218 is koppie 3. There at the foot of the page in the
3 middle of the page are what I would imagine are the two
4 pylons to which you are referring. Is that correct?

5 BRIGADIER CALITZ: Ja, ek moet net my
6 rigting orienteer. Ek sien noord is nou hierdie kant toe,
7 so I must just, I don't know from which direction, but yes,
8 die oorhoofse kragdrade sal jy aan die onderkant, so dit
9 sal dan aan die, basies aan die onderkant van die bladsy
10 wees. Ek weet nie op watse stadium hierdie foto geneem was
11 nie.

12 CHAIRPERSON: According to the note at
13 the top it was taken at 15:55.

14 BRIGADIER CALITZ: Ja, dit sal dan na
15 die, soos daardie rigting nou wys, ek weet nie, dis, die
16 "pylons" is nou aan die noordekant, maar ons het nou
17 ooreengekom noord is waar die "village" is, so meer noord,
18 noordwes dan. Ek het – ja.

19 CHAIRPERSON: Do you want to say
20 something, Brigadier?

21 BRIGADIER CALITZ: Commissioner, during
22 the break I just paged through also exhibit, maybe if we
23 can – I don't know if he's finished with this page. Are we
24 – can I go to another one maybe just to indicate –
25 CHAIRPERSON: Ja, tell us what page you

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1 want us to look at.

2 BRIGADIER CALITZ: 205. I was just
3 paging through exhibit L because the Advocate said there
4 was no footage of any persons of this 2 to 3000. So that
5 is the nearest that I can maybe get –

6 CHAIRPERSON: Are we now going to see –
7 BRIGADIER CALITZ: - at this stage.
8 CHAIRPERSON: - 205?
9 BRIGADIER CALITZ: Same exhibit –
10 CHAIRPERSON: Now we've got 205, yes.
11 BRIGADIER CALITZ: Ja, if you see the
12 people, the – well, this is a photographs of what we call
13 now incident, I think 3, but the people moving here
14 downwards, those are those that we referred to, the bigger,
15 the larger group, and they moved. Some of them had moved
16 parallel to the village of those groups as we start moving,
17 and then the rest of these people that you see basically in
18 this photograph ran towards the northwest that we agree
19 upon the direction. So that is basically what I'm –
20 CHAIRPERSON: This is a photograph taken
21 according to the note at the top at 15:50. It shows the
22 protesters approaching, third approach, what's described as
23 the protesters' third approach to the police line. It
24 effectively shows them going down on the northern side of
25 the small kraal. That's the tightly packed group, and then

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1 lower down on the slide we see people scattered virtually
2 all over the page. Those you say are the people who
3 weren't so closely packed in formation.

4 BRIGADIER CALITZ: Ja.
5 CHAIRPERSON: The non-militant group –
6 BRIGADIER CALITZ: The non-militant
7 group, ja.
8 CHAIRPERSON: - who were moving, you say,
9 in the direction you've described, and certainly if north
10 is correctly depicted on this slide then the majority of
11 these people would be –
12 BRIGADIER CALITZ: In the west –
13 CHAIRPERSON: - on the western side.
14 BRIGADIER CALITZ: Dit is korrek, mnr die
15 Voorsitter. So dis miskien net die groep wat ek verwys
16 het, die wat verder dan wegbeweeg het en hierdie groep het
17 nie na Nkaneng "village" toe gegaan maar meer in 'n
18 westelike rigting en daar was dan nou nie 'n nedersetting
19 in daardie – so dit is waar ons hulle dan nou net verder
20 gaan uiteendryf het en van waar hulle dan "ge-disperse"
21 het.
22 CHAIRPERSON: I take it those people
23 wouldn't have been seen as a source of much threat.
24 BRIGADIER CALITZ: No.
25 CHAIRPERSON: So they were taking

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1 themselves off really and although you say at one point
 2 some of them were, a number of them were standing, they
 3 were stationary, but you wouldn't have seen them as a
 4 threat, or certainly not as much of a threat as the more
 5 militant group. Is that correct?

6 BRIGADIER CALITZ: Mnr die Voorsitter,
 7 korrek. Die probleem het ons net nie geweet is die hele
 8 militante groep saam met die groepie agter koppie 2 nie, of
 9 is daar van hulle wat dan ook by daardie groep was. So die
 10 opsie om almal dan uiteen te dryf en dan fisies te, basies
 11 te, op te breek in kleiner groepe, te ontwapen, dit was die
 12 doel gewees voor die arrestasies uitgevoer is.

13 MR CHASKALSON SC: Can we go back to 218,
 14 because I just want to get clarity on where you say
 15 relative to 218 this group was.

16 CHAIRPERSON: 218 of course is a picture
 17 of koppie 3. We see some pylons. I take it we can see
 18 pylons near the top of the picture.

19 MR CHASKALSON SC: That's correct,
 20 Chairperson.

21 BRIGADIER CALITZ: At the bottom there's
 22 one, it's at the bottom, mnr die Voorsitter.

23 CHAIRPERSON: And we see some at the top,
 24 we see some at the bottom.

25 BRIGADIER CALITZ: Ja.

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1 CHAIRPERSON: So the ones you were
 2 talking about, they're the ones at the bottom?

3 BRIGADIER CALITZ: At the bottom, ja.
 4 More to the west. If you see where the north arrow is
 5 pointing now, I think those group, people grouping there, I
 6 think that is maybe those that went into the koppie, or
 7 some of them might move back towards the pylons. I'm not
 8 sure – when is your previous photograph taken, the one that
 9 you say the nine minutes, that one that showed the
 10 grouping?

11 MR CHASKALSON SC: Sorry, which grouping
 12 are you referring to?

13 BRIGADIER CALITZ: When we had the – toe
 14 ek die hergroeperingslyn gevorm het, watse tyd is daardie
 15 foto –

16 MR CHASKALSON SC: 215, but that –

17 BRIGADIER CALITZ: Ek wil net weet watse
 18 tyd is die foto geneem.

19 MR CHASKALSON SC: The eTV time of that
 20 photograph is 16:00:19, 215.

21 BRIGADIER CALITZ: Oukei, so dan sou
 22 hierdie, dit beteken daardie groep het dan gestaan nog
 23 nadat hierdie foto geneem was.

24 MR CHASKALSON SC: Yes, the eTV time of
 25 this photograph 218 is 15:56:31.

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1 BRIGADIER CALITZ: Okay.
 2 MR CHASKALSON SC: So it is –
 3 BRIGADIER CALITZ: So dit kan beteken dat
 4 ek net – my afleiding wat ek dan wil maak is dat hierdie
 5 groep is dan groepe wat verder dan wes beweeg het weg van
 6 die koppie af en nie saam met die militante groepie direk
 7 na die koppie toe nie. So soos hulle "ge-disperse" het in
 8 die veld het hierdie groepe dan verder beweeg. So hierdie
 9 was dan nog voordat daardie foto geneem is. Dis dan ook 'n
 10 bewys van die mense wat verder wegbeweeg het.

11 MR CHASKALSON SC: Yes, but from your
 12 position sort of watching people disperse in the distance
 13 in the west, it's not something that's going to prevent you
 14 making a cell phone call, is it?

15 BRIGADIER CALITZ: Ek verstaan nie u
 16 vraag nie.

17 MR CHASKALSON SC: If in the seven and a
 18 half minutes when the vehicles didn't move, what you were
 19 watching was people under the pylons dispersing further
 20 west or gathering somewhere that we've never seen, why
 21 would that be a particular significance for you?

22 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 23 weet nie, mnr Chaskalson weet ek nie wat is die, u
 24 ondervinding met Openbare Orde Polisiëring of wat het u
 25 waargeneem of miskien al in sake betrokke gewees nie.

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1 Wanneer u groepe uiteendryf moet daar altyd 'n opvolgaksie
 2 wees. Met ander woorde soos u die groepe dan sou
 3 uiteendryf kan u nie die groep los nadat u een groep
 4 uiteengedryf het. Sê met ander woorde hulle pak 'n pad toe
 5 met klippe en obstruksies en ons dryf die groep uiteen uit,
 6 is dit nie te sê die polisie gaan net 15, 20 rubber skote
 7 skiet en dan die mense los, hulle hardloop en ons los hulle
 8 nie. Daar moet altyd opvolgaksie wees en dit is wat ons
 9 "policy" dokument ook, ek dink ek het in paragraaf 5.2.8 of
 10 so iets van ons "policy" dokument staan dit duidelik dat
 11 indien daar enige aksie is, "offensive action," ons moet
 12 opvolg en daar moet dan verder verhoed word dat die mense
 13 weer verder groepeer. Ek dink ek het voorheen getuig dat
 14 die groepie wat wel weg gekom het, het onmiddellik na
 15 insident 2 by koppie 3, het hulle dan beweeg na Wonderkop
 16 Hostel toe waar daar dan vyf, of vier, onder korreksie,
 17 voertuie gebrand is, waar hulle weer die perseel van Lonmin
 18 aangeval het. So dit wys vir u die klein groepie wat wel
 19 weg gekom het, het nog steeds die intensie gehad om verder
 20 misdaad te pleeg.

21 CHAIRPERSON: [Microphone off, inaudible]
 22 of them, I take it. Not all 2000 or 3000.

23 BRIGADIER CALITZ: Dit is hoekom ons
 24 hulle soveel as moontlik moet uiteendryf, mnr die
 25 Voorsitter, en seker maak dat daardie wat die intensie het

<p style="text-align: right;">Page 18824</p> <p>1 en wat hulle wapens by hulle hou en wat "resist," daardie 2 is gearresteer. Maar die wat vreedsaam uiteengaan, dit 3 gebeur baie in my 20 jaar ondervinding as ons hulle 4 uiteendryf, daar is baie wat vreedsaam van daar af na hulle 5 huise toe terugkeer en hulle word nie gearresteer nie omdat 6 hulle gehoor gegee het aan die uiteendrywing. 7 MR CHASKALSON SC: So are you saying that 8 keeping an eye on this group of people that you say was 2 9 to 3000 people, but of which we can't see any photographic 10 evidence, was sufficiently important that in seven and a 11 half minutes you didn't have the time to look at your cell 12 phone to make a call to find out why the TRT hadn't 13 responded to you, to find out from Lieutenant-Colonel 14 Makhubela and Colonel Mere what had happened when the lead 15 group of the strikers had passed you at scene 1 because you 16 were preoccupied with the group, with monitoring the 17 movements of that group somewhere out in the west? 18 BRIGADIER CALITZ: Mnr die Voorsitter, ek 19 weet nie of ek die vraag weer moet antwoord. U het 20 dieselfde vraag weer gevra, so ek – 21 CHAIRPERSON: He's trying to sum up your 22 evidence, as I understand it. He wants to know whether 23 he's summing it up correctly. Do you say that the reason 24 that you didn't make follow-up cell phone calls and so on 25 during the seven and a half minutes was because you were</p>	<p style="text-align: right;">Page 18826</p> <p>1 we see them now over the entire seven-minute period were 2 the two water cannons. 3 BRIGADIER CALITZ: Mnr die Voorsitter, 4 nee, my woorde was dat die kommunikasie met die 5 bevelvoerders om hulle in so 'n lyn te kry en dan die 6 kommunikasie verder met die verskillende voertuie, wie in 7 watter rigting, so my opdragte is konstant aan hulle gewees 8 wat die volgende stappe gaan wees. 9 CHAIRPERSON: I may be misunderstanding 10 you, or I maybe misunderstand the evidence, but am I 11 correct in thinking the seven and a half minutes you're 12 talking about, Mr Chaskalson, is seven and a half minutes 13 of which we have a sound track available through the 14 helicopter? Is that correct? 15 MR CHASKALSON SC: For all but about 15 16 or 20 seconds. I can give you the exact – 17 CHAIRPERSON: Alright, let's take the 15 18 seconds out, so we've got seven and a half minutes minus 15 19 seconds, so you're really talking about what you say is 20 seven and a quarter minutes of radio silence as far as the 21 sound track – of that's the right word – of the, I think it 22 was the Coin helicopter, is concerned. Am I understanding 23 it correctly? 24 MR CHASKALSON SC: Chairperson, let my 25 look at my note, because I don't want to put something that</p>
<p style="text-align: right;">Page 18825</p> <p>1 concentrating on keeping an eye on these people who had 2 gone off to the west and were in a stationary position more 3 or less by the pylons? He says is that what you say. 4 BRIGADIER CALITZ: Mnr die Voorsitter, 5 ja, dit is wat ek gesê het, maar ek het ook ander redes by 6 gesê dat daar was konstante kommunikasie tussen my en die 7 ander voertuie. Ek het hulle probeer in 'n lyn kry. Ek 8 het met die helikopter gekommunikeer. Ek het terugvoer 9 gekry van die grond af. Jy praat met die voertuie links 10 van jou, jy praat met hulle. Dit is nie net outomaties dat 11 daardie voertuie so wonderbaarlik in 'n lyn op ry en daar 12 stop hulle nie. Dit is koördinerings, en dit is wat ek die 13 heeltyd mee besig was om dan die voertuie te roep en hulle 14 uit te plaas en sê so gaan so, en die ouens wat naderbeweeg 15 het, het vir my gesê watter voertuie kom nader, dan plaas 16 ons hulle aan watter kant, en so het ons besluit wie sou 17 dan verder gaan in watter rigting. So daar was konstante 18 kommunikasie gewees. Sewe minute in operasionele tyd gaan 19 regtig baie vinnig verby. Dit klink miskien na 'n lang 20 tyd, maar operasioneel is dit nie. 21 MR CHASKALSON SC: Brigadier, in relation 22 to the movement of vehicles that's not an answer because 23 the line that we see was formed up for that whole seven 24 minutes, with the exception of the two water cannons. The 25 only two vehicles that weren't there in that position where</p>	<p style="text-align: right;">Page 18827</p> <p>1 isn't accurate. 2 CHAIRPERSON: This is the longest seven 3 and a half minutes that we've ever had in the Commission, 4 but I understand why. 5 BRIGADIER CALITZ: Mnr die Voorsitter, 6 die transkripsie wat – ek weet nie of dit gaan help nie – 7 van my gesprek met Kolonel Vermaak begin 000 tot 01, die 8 eerste "Male Voice" sê hulle "Faint, water cannons go 9 forward, go straight, go towards the koppie." So dit is 10 alreeds, waar die transkripsie begin van die video is 11 alreeds, waar die waterkanonne na die koppie toe beweeg. So 12 ek sal graag ook net wil – 13 CHAIRPERSON: Okay, and I'm grateful, but 14 you see I understood the point to be that there's seven and 15 a quarter minutes of radio silence. If that's correct, 16 that of course contradicts your statement that you were 17 busy doing all these other things during that time, but if 18 of course my basic assumption was wrong then that point 19 falls away and it's important I think before we move away 20 from this point just to get clarity on that point. You 21 referred to the transcript, but Mr Chaskalson is looking at 22 his notes and if he can't give us the answer immediately, 23 perhaps we'll have to move on to something else and come 24 back to it later if it's necessary. 25 MR CHASKALSON SC: No, Chairperson, it's</p>

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1 certainly not an issue of seven and a half minutes of radio
 2 silence. There is radio communication. Some of it is not
 3 audible. Some of it is audible.
 4 CHAIRPERSON: Sorry, when I said
 5 "silence," I meant seven and a half minutes of what we can
 6 call "Calitz silence." You say there is dealing with the
 7 water cannons. That takes up about a quarter of a minute.
 8 Is that right? 15 to 20 seconds, but the remainder of that
 9 time, is that what one can call "Calitz silence" on the
 10 radio? If you understand what I mean.
 11 MR CHASKALSON SC: The problem with that
 12 period on the radio is that the communications are very
 13 muffled, so making them out is difficult. One can make out
 14 some of them and one can't make out all of them. One knows
 15 that one can establish that there is radio communication
 16 taking place over that period. What is clear over the
 17 seven and a half minutes is that the reorganisation line
 18 has moved up and doesn't move from its position from the
 19 start of that seven and a half minutes to the end of the
 20 seven and a half minutes. So directions about the movement
 21 of vehicles in the reorganisation line –
 22 CHAIRPERSON: Those would be over?
 23 MR CHASKALSON SC: Those would be over.
 24 CHAIRPERSON: Alright.
 25 MR CHASKALSON SC: The only two vehicles

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1 that weren't in the reorganisation line are the two water
 2 cannons which –
 3 CHAIRPERSON: That's dealt with in the
 4 first quarter of a minute.
 5 MR CHASKALSON SC: No, the Johannesburg
 6 water cannon reaches the dispersion, the reorganisation
 7 line relatively quickly. The North West water cannon
 8 vehicle reaches it only at the end of the seven and a half
 9 minutes. It's at the point that the North West water
 10 cannon reaches the dispersion line that the operation moves
 11 back into action. So for seven and a half minutes what we
 12 see is that line formed as we saw it on slide, I think it
 13 was 213, with at a certain point the Johannesburg water
 14 cannon joining and at a later point the North West water
 15 cannon joining. There is one piece of movement from within
 16 the line, and maybe that should be canvassed with the
 17 Brigadier now because at a point four minutes into the Coin
 18 Security chopper we see the Brigadier's Nyala reverse out
 19 of the line to a position a little bit behind the line
 20 alongside the Johannesburg water cannon. Do you recall
 21 that, Brigadier?
 22 BRIGADIER CALITZ: Dit is korrek, mnr die
 23 Voorsitter.
 24 MR CHASKALSON SC: And do you remember
 25 why you did that?

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1 BRIGADIER CALITZ: Daar was vir ons
 2 aanduiding gewees dat hulle radio probleme gegee het en ons
 3 het 'n ekstra hand radio by Kolonel McIntosh gehad en die
 4 drywer het ek dan opdrag gegee om na die waterkanon te
 5 gaan, wat baie na aan die rots was by koppie 2. Kolonel
 6 McIntosh het uit gesprong, die hand radio vir die persone
 7 gegee, teruggesprong, en u sal sien iewers in die
 8 "transcript" het ek dan vir die tjopper gesê dat die
 9 waterkanon se hand radio werk nou weer, hulle het verdere
 10 kommunikasie.
 11 MR CHASKALSON SC: Yes, that is at 5:55
 12 into the transcript, 5 minutes and 55 seconds into the Coin
 13 Security transcript you say, "Chopper, water cannon has got
 14 a radio. You can talk to him now." Were you aware that up
 15 until that point the Johannesburg water cannon did not have
 16 a radio inside it?
 17 BRIGADIER CALITZ: Nee, daar is aan my
 18 gerapporteer dat daar is probleme met hulle radio, so dit
 19 is hoekom ek gesê het hulle moet 'n ander radio vir hulle
 20 gee, nie dat daar geen radio was nie. Dit was nie aan my
 21 gerapporteer nie.
 22 CHAIRPERSON: Let me ask this question.
 23 Someone told you that they had a problem with their radio.
 24 So you then asked Lieutenant-Colonel McIntosh to take them
 25 his spare radio so that you could communicate with them.

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1 Is that correct?
 2 BRIGADIER CALITZ: Ja, we first drove to
 3 them and then –
 4 CHAIRPERSON: Yes, so you received a
 5 report that there's a problem with the water cannon's
 6 radio. You then drive near them, McIntosh then leaves your
 7 Nyala, goes across to the water cannon, gives them the
 8 radio and comes back. Is that right? And you then say you
 9 can communicate with them now, they've got a radio. Now
 10 how long did that whole process take from the time you were
 11 told that they had a problem with the radio to the time
 12 when McIntosh came back and you said you can now
 13 communicate with the water cannon? Because that would
 14 account, that period that I've sketched to you would
 15 account for some at least of the seven and a quarter
 16 minutes that we're talking about.
 17 BRIGADIER CALITZ: Mnr die Voorsitter, ek
 18 wens ek kon u help. Ek weet nie of daar foto's of
 19 "evidence" of video miskien iets kan wys. Ek sien hulle
 20 wys die "radio inaudible," maar dit is aan ons gerapporteer
 21 dat die waterkanon het 'n probleem. Ek het opdrag gegee
 22 vir die Nyala drywer om na hom toe te beweeg. As ons
 23 miskien kan weer teruggaan na die foto waar ons in die
 24 groep in die lyn staan, kan ons miskien die afstand sien of
 25 wanneer die waterkanon by die koppie gekom het. Ek neem

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1 aan daar is foto's. So miskien –

2 CHAIRPERSON: McIntosh has got to get

3 out –

4 BRIGADIER CALITZ: Dit sal 'n –

5 CHAIRPERSON: Sorry to interrupt you.

6 McIntosh has then got to get out.

7 BRIGADIER CALITZ: Ja.

8 CHAIRPERSON: He's got to go across to

9 them, give them the radio.

10 BRIGADIER CALITZ: Yes.

11 CHAIRPERSON: And then come back.

12 BRIGADIER CALITZ: That's right.

13 CHAIRPERSON: And all that seconds of

14 time which goes into explaining some at least of the seven

15 and a quarter minutes, so what I'm interested in, can we

16 work out – you suggested a way of reaching some kind of

17 approximation, can we work out with a fair degree of

18 accuracy what time was spent in that particular activity

19 that I summarised?

20 [12:45] BRIGADIER CALITZ: Mnr die Voorsitter, ek

21 kan nie nou vir u sê nie, ek wil graag sê sewe en 'n half

22 minute, maar –

23 CHAIRPERSON: Ja, but I don't think you

24 can - but let's see how much of it is reasonable.

25 BRIGADIER CALITZ: Seker maar nader aan

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1 'n minuut of, die Nyala moes na die voertuig toe ry,

2 Kolonel Macintosh, dit is nou nie die kleinste persoon nie,

3 hy het uitgeklim en na die voertuig toe beweeg, terugbeweeg

4 in die voertuig en ons het terugbeweeg na my posisie, so

5 dit sal die meeste seker van 'n minuut plus wees.

6 CHAIRPERSON: I think –

7 MR CHASKALSON SC: Chairperson, I can be

8 of some assistance here, sorry to interrupt.

9 BRIGADIER CALITZ: Maybe, ja.

10 MR CHASKALSON SC: The Nyala starts

11 moving at about 3:55 on the video. The report starts

12 moving reversing to the water cannon, the report on the

13 arrival of the radio is at 5:55, so this took approximately

14 two minutes from when the Nyala started moving to the point

15 at which it reported on the radio that it had now –

16 CHAIRPERSON: And there is little time

17 before that when he got the report that the water cannon's

18 radio wasn't working and something had to be done about it.

19 So it looks as if we're looking at, is it two and a half

20 minutes at least, explain?

21 MR CHASKALSON SC: Possibly, ja.

22 BRIGADIER CALITZ: Ja.

23 CHAIRPERSON: So we've got two and a half

24 minutes for you, Brigadier.

25 BRIGADIER CALITZ: Dankie, ek –

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1 CHAIRPERSON: You can find –

2 BRIGADIER CALITZ: Ek sal dit koop,

3 dankie mnr die Voorsitter.

4 MR CHASKALSON SC: Well, the main, I mean

5 the main reason for the seven and a half minute delay was

6 that the north-west water cannon couldn't make its way

7 through to the reorganisation line, it was driving around

8 in circles behind the barbed wire, so that's why the

9 operation was stalled. Would you accept that, Brigadier?

10 BRIGADIER CALITZ: Mnr die Voorsitter,

11 nee, glad nie. Ek dink u moet die verklaring van die

12 bestuurder gaan lees en as u dit nog nie in u besit het

13 nie, sal u sien dat daar is nie net in sirkels gery nie.

14 Hy het gesukkel om uit te kom. Onthou daar was persone,

15 die waterkannon kon wel sien dat daar lê bodies, dit is 'n

16 crime scene. So jy kan nie net, hier lê, hoeveel was op

17 toneel 1, 16 onder korreksie, wat almal by die kraal en dit

18 is die enigste pad waar hy moet uitbeweeg. So caution wat

19 hy aan die dag gelê het is baie belangrik en as hy 'n ander

20 uitgang probeer soek het wat dalk minder, want sodra jy

21 verby beweeg is die probleem jy trap die doppies in die

22 grond in, jy vernietig evidence, so daar is 'n legio redes

23 waarom hy miskien, soos u sê in sirkels gery het, maar dit

24 is nie die probleem nie.

25 Hy was 'n 2 by 4 voertuig en nadat hy sy pad

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1 uitgekry het tussen die persone wat daar op die grond gelê

2 het en onthou aan die agterkant van die kraal het daar ook

3 gelê, so dit is nie net 'n kwessie van –

4 CHAIRPERSON: Now we know why he took

5 time to get there.

6 BRIGADIER CALITZ: Dit is korrek, mnr die

7 Voorsitter.

8 CHAIRPERSON: There was a very good

9 reason.

10 MR CHASKALSON SC: Well, Chairperson, we

11 don't know, we have Brigadier Calitz' commentary –

12 CHAIRPERSON: Ja, well, -

13 MR CHASKALSON SC: - on that, we also

14 have video footage which shows the driver struggling to

15 find the gap to the west of the kraal and driving around in

16 circles looking for it.

17 CHAIRPERSON: Well, driving around in

18 circles is maybe geometrically an accurate description but

19 of course he may not have, the innuendo of driving around

20 in circles, he didn't know where he was going, he may well

21 have deliberately gone around in circles, trying to avoid

22 driving over dead bodies because there may be allegations

23 about that in the inquiry otherwise, but anyway we have

24 accounted it for something like probably two and a half

25 minutes, is that right?

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1 BRIGADIER CALITZ: Die waterkanon voor hy
2 by ons –

3 CHAIRPERSON: Ja, firstly you have to be
4 told that they haven't got a radio, right.

5 BRIGADIER CALITZ: Ja.

6 CHAIRPERSON: You then got to decide how
7 to deal with the problem. Then you tell your driver to
8 drive towards the water cannon so that they can be given
9 the radio and then these other things happen and then you
10 go back to your original position. So we know that the
11 movement of the Nyalas from the beginning of that activity
12 to return to its original position are about two minutes.
13 We got a CD in some time before that when you got the
14 report about the defective radio and that gives us, I would
15 reckon around about two and a half minutes, would you agree
16 with that?

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

19 CHAIRPERSON: Alright.

20 COMMISSIONER HEMRAJ: Mr Chaskalson,
21 which video is reliance being placed upon to establish that
22 that reformed line of Nyalas was stationary for seven
23 minutes? I've missed it.

24 MR CHASKALSON SC: Well, it is a
25 triangulation of several videos, it is the Botha video. It

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1 is some of the Botha aerial photos and it is the Coin
2 Security video. It is also the aerial photographs of
3 Captain Nel.

4 CHAIRPERSON: It sounds as if we knocked
5 some of your seven and a quarter minutes out of the way and
6 the question is and I think we've taken, we are
7 substantially more than seven and a half minutes on this
8 problem, but to sum up shortly, how do you explain what
9 happened in those seven and a quarter minutes? You've
10 explained now the question of getting the radio. Mr
11 Chaskalson says and if you don't agree with that, well,
12 that's another matter. He says that the line was more or
13 less reorganised before the clock started ticking on those
14 seven and a half minutes. So what else were you doing
15 during that period which would explain the delay?

16 BRIGADIER CALITZ: Mnr die Voorsitter,
17 daar moet weer onthou, ons moet miskien teruggaan na die
18 oorspronklike plan toe. Die plan het gesê ons sou
19 deurbeweeg tot by die, as ons onthou die woordjie, "river
20 bend" en daar sou ons dan gehergroepeer het. Dit is dan
21 die operasionele bevelvoerder se prerogatief om te
22 koördineerder om te sien wie is saam met hom, wie is nie
23 saam met hom nie en dit moet vasgestel word. So ek het
24 vasgestel op daardie stadium watter karre by my is, die
25 Nyalas, die Papa voertuie. Ons het vasgestel daar is van

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1 die voertuie wat, soos ek gesê het TRT lede by hulle het,
2 daardie deel moes ons bevestig het. Dan vandaar af moet
3 ons dan 'n tipe van 'n briefing gee vir die ander voertuie
4 om te sê van nou af gaan ons, almal kan nie net ry in 'n
5 rigting nie, hulle moet tog 'n aanduiding kry en dit is
6 waar ons gesê het die twee waterkanonne gaan saam met die
7 pantser voertuie en Kolonel Vermaak sal hulle dan in
8 begelei vanwaar daardie groepie hardloop.

9 Daardie groep het dan beweeg direk na koppie 3
10 toe, die res is audible in die transkripsie waar Kolonel
11 Vermaak dan uit sy eie gesien het wat gebeur het en een
12 groep links om en groep regs om gevat het. Dit is dan die
13 pantser voertuie, omdat die waterkanonne is nie pantser
14 voertuie nie en hulle is net 2 by 4, so hulle kan nie enige
15 plek ry nie. Die ander moes ons dan voorligting gegee het
16 en gesê het ons gaan na die westelike rigting, ons sien die
17 persone daar, ons moet caution hê, ons het met die agterste
18 persone gekommunikeer wat by die nedersetting was. Ek dink
19 was Nyalas 6, die draadkar wat uitbeweeg het. U sal onthou
20 daar was 'n liggaam wat verder weg gelê het. Op 'n stadium
21 het hulle dit vir my gerapporteer, so daardie persoon moes
22 daar rondom verdediging, beveiliging, die publiek was baie
23 na aan dit, so daar moes voertuie soontoe gestuur gewees
24 het en dan in 'n westelike rigting waar die groter groep
25 was moes ons dan vir hulle gesê het, ons gaan nou vorentoe

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1 beweeg, ons gaan voort met die uiteendryf aksie, weereens
2 herhaal dat die persone en ek dink ek het dit in die
3 transcript gesê.

4 Ek dink ses minute of so in die, toe ons begin
5 beweeg het vir die uiteendryf groep, dit is waar ek
6 verkeerd ge-quote was in die media, waar ek gesê het, "not
7 necessary to shoot unless a target" en ek het daar bedoel
8 presies dit, die Nyalas wat opvolg en die persone wat
9 weghardloop, dat ons nie net blindelings uit die Nyalas uit
10 op die mense skiet wat weghardloop nie want dit is
11 sinneloos, slegs as ons uitklim en daar is 'n konfrontasie
12 en 'n aanval dan kan hulle van 'n uiteendryf aksie gebruik
13 maak deur middel van die rubber. Al die kommunikasie moet
14 tog vir die lede gegee word voor ons dan vorentoe gaan om
15 sodoende te verseker dat dit 'n suksesvolle operasie is op
16 die einde van die dag, en na my mening was die
17 uiteendrywing suksesvol, die persone wat gearresteer is,
18 die wapens wat gekry is, die wapens en die persone self wat
19 gearresteer is, ja, so dit was die hele bespreking rondom
20 dit gewees.

21 MR CHASKALSON SC: Brigadier, you
22 mentioned a body that was found in a far out position or a
23 further away position and that presumably was one of the
24 victims at scene 1.

25 BRIGADIER CALITZ: Nee, ons het net gesê

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1 'n voertuig het gesê die beseerdes, daar is persone wat in
2 daardie omgewing lê en ek glo dit is die persoon van toneel
3 1, dit kan net van toneel 1 wees.

4 CHAIRPERSON: I think that's what Mr
5 Chaskalson put to you, that was one of the people from
6 scene 1, I think that's right, Mr Chaskalson?

7 MR CHASKALSON SC: Yes, but your noun was
8 not beseerde, your noun was liggaam. You were told about a
9 body in, I forget what your adjective was, but it was
10 something along the lines of a far flung position, a
11 position further away.

12 BRIGADIER CALITZ: Dit is korrek, dit is
13 dieselfde as wat Kolonel Vermaak vir my gerapporteer het,
14 die persone wat daar lê en dit is bodies.

15 MR CHASKALSON SC: No, Colonel –

16 CHAIRPERSON: But there was one other,
17 there was one body specifically which was some distance
18 away from the other bodies at scene 1, isn't that correct?

19 BRIGADIER CALITZ: Dit is so.

20 CHAIRPERSON: Is this the body you're
21 talking about?

22 BRIGADIER CALITZ: Dit is die een waar ek
23 gesien het Nyala 6, die persone agter, ek het gesien daar
24 is 'n draadkar en ons het vasgestel dat daar ook persone is
25 wat beseer is en daardie draadkar is nader aan die Nkaneng

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1 nedersetting gewees.

2 MR CHASKALSON SC: But you referred to a
3 body, not to a range of people who were injured, you said a
4 liggaam. What did you understand by that?

5 BRIGADIER CALITZ: Dieselfde wat ek
6 verstaan het toe Kolonel Vermaak aan my die ander
7 rapporteer het.

8 MR CHASKALSON SC: So it would either be
9 someone lying on the ground to be arrested or it would be
10 someone who was injured?

11 BRIGADIER CALITZ: By the dispersion
12 group, the rubber, yes.

13 MR CHASKALSON SC: Now it couldn't have
14 been someone who was lying on the ground waiting to be
15 arrested because that wouldn't have posed a problem at that
16 stage, they had just been arrested, do you accept that?

17 BRIGADIER CALITZ: Mnr die Voorsitter, ek
18 kan net vir u sê wat in daardie tyd vir my gerapporteer is,
19 so dit is wat hulle vir my deurgegee het.

20 MR CHASKALSON SC: And what instruction
21 did you give in response to this communication about a body
22 a distance away from scene 1?

23 BRIGADIER CALITZ: Nee, ek dink nie die
24 gesprek het gegaan oor die body nie, die gesprek het gegaan
25 oor die bevelvoerders en die uit plaas van die voertuie.

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1 Ek het gesê ons het teruggekyk en gesien Nyala 6 het aan
2 die agterkant gestaan, 'n redelike distance en dit is waar
3 daar ook 'n groepering was en ons het dan daardie
4 groepering ook bespreek en ek het vir mnr die Voorsitter
5 gesê dit is waar, later dat ons dan gesien het daar 'n
6 liggaam was. So dit gaan oor die posisieonering van die
7 voertuie en waarnatoe die persone moet beweeg sou ons dan
8 van die hergroeperingslyn af vorentoe beweeg.

9 MR CHASKALSON SC: I would like to listen
10 to the tape of what you said in that regard because that
11 wasn't my recollection of it but I may be incorrect. I'll
12 do that over the lunch break and maybe we can come back to
13 this after lunch.

14 CHAIRPERSON: Should we take the lunch
15 break?

16 MR CHASKALSON SC: Can we, Chairperson,
17 thank you.

18 CHAIRPERSON: Very well, we'll take the
19 lunch break until quarter to two as I've explained.

20 [COMMISSION ADJOURNS COMMISSION RESUMES]

21 [14:17] CHAIRPERSON: The commission resumes. I
22 did indicate before we adjourned for lunch that there was
23 some housekeeping matters which we would keep us, I thought
24 for a quarter of an hour, I'm afraid as so often is the
25 case my estimate of time was wrong. I apologise to those

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1 who came here at quarter to 2 and waited in vain.
2 Brigadier, I'm going to remind you in a moment that you're
3 still under oath but I want to say something that arises
4 from our housekeeping discussion and that is I'm not sure
5 at this stage whether any of the parties wishes to call
6 evidence from any witness in respect of whom a statement
7 has not yet been provided. If that is the case, I can
8 understand of course that it may be that points may arise
9 later in respect of which it will be possible for and more
10 desirable for a party to lead rebutting evidence. But
11 absent that something which is not foreseeable, absent that
12 if there are witnesses whom any of the parties are
13 proposing to call in respect of whom statements have not
14 yet been provided I want to say that the time has come for
15 me to say that those statements must be made available to
16 us within the next two weeks otherwise we won't be able to
17 receive that evidence. That's obviously subject to the
18 fact that there may be an unforeseeable factor which arises
19 and rebutting evidence is desirable but we are as you know
20 under severe time constraints and it's very important that
21 we should be able to plan our work very precisely for the
22 time that's available to us and knowledge of which
23 witnesses are still to be called, what they will say and
24 whether in fact it will be necessary for them to give oral
25 evidence or whether if they do give oral evidence the

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1 evidence be confined to certain issues, that information is
 2 necessary for us. So by the end of next week I would
 3 expect any statements that are going to be produced to be
 4 produced and the consequences of not producing them by then
 5 I've made clear. Brigadier, you're still under oath.
 6 BRIGADIER CALITZ: Dankie.
 7 CHAIRPERSON: Mr Chaskalson?
 8 MR MPOFU: Chairperson, I'm sorry for
 9 clarification on the consequences part. Are you saying
 10 that the door will be closed or that there will have to be
 11 applications, what are the consequences?
 12 CHAIRPERSON: The application, you might
 13 come along and say look we didn't, we intended calling
 14 witnesses A, B, C and here's their statements. We didn't
 15 realise that an issue would arise which has now arisen in
 16 respect of which witness D can give direct evidence of a
 17 rebutting nature or an explanatory nature. We can't be
 18 prevented from presenting this evidence because we didn't
 19 realise that the problem would arise until now. So you can
 20 apply because you know the attitude up to now has always
 21 been a flexible one because we realised we've only one
 22 purpose in this commission and that's to find the truth and
 23 you don't find the truth by having technical rules and
 24 being inflexible. On the other hand an element of realism
 25 and practicality is also relevant and I'm sure all the

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1 parties here present will agree with that approach.
 2 MR MPOFU: Thank you, Chairperson, yes.
 3 CHAIRPERSON: Of course and there's a
 4 further point that Commissioner Hemraj reminds me of and
 5 that is the latter the affidavit comes of course the
 6 greater the risk that there will be issues which really
 7 require to be interrogated which won't be able to be
 8 interrogated or not be able to be interrogated properly and
 9 that includes, I'm not only referring to oral evidence,
 10 there are a mass of statements which have to be worked
 11 through which may well contain information which will
 12 assist us even though the deponents of the statements won't
 13 necessarily have to give oral evidence and of course
 14 there's also issues which may well be able to be solved by
 15 a careful study of the video material or the photographic
 16 material but, unless one knows what to look for you won't
 17 realise the answer to the issue because it won't be an
 18 issue until perhaps at that stage that the answer to the
 19 issue may be found on a video clip. So I'm sure you'll
 20 agree with that.
 21 MR MPOFU: Thanks, Chairperson.
 22 CHAIRPERSON: Mr Chaskalson?
 23 MR BIZOS SC: Mr Chairman, the question –
 24 CHAIRPERSON: Sorry.
 25 MR BIZOS SC: The question of the calling

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1 of the forensic experts that has not been resolved because
 2 it was suggested that there may be admissions in relation
 3 to it. I don't know whether the state or the other parties
 4 have made up their minds as to what is going to happen.
 5 CHAIRPERSON: Have the forensic experts
 6 yet had a conference? By forensic you're referring to the
 7 –
 8 MR BIZOS SC: We have not been invited to
 9 any conference, I don't know that we should have taken the
 10 initiative.
 11 CHAIRPERSON: I didn't ask the question
 12 in the critical sense. May I suggest, this is a matter
 13 which could be discussed outside the chamber with the
 14 evidence leaders and the other parties, particularly the
 15 representatives of the police. It may well be that if a
 16 meeting is arranged between the various pathologists they
 17 may well be able to reach a substantial degree or perhaps
 18 total unanimity, if they can't substantially agree
 19 unanimity and if oral evidence is required can be really
 20 confined focused issues. But I suggest you raise that with
 21 Mr Chaskalson and he will then take it further with the
 22 others. But certainly an issue that we have to bear in
 23 mind. We understand that Mr Wesley's been involved in
 24 correspondence with pathologists, is that correct, Mr
 25 Wesley?

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1 MR WESLEY: Chair, yes, the position as
 2 at it presently stands is that we've, we have the state
 3 pathology reports which are exhibit A, the private
 4 pathologists from the Legal Resources Centre have submitted
 5 pathology reports as well of their own. We have now then
 6 received follow-up reports if I can use the loose term,
 7 from the state pathologists. At this stage we've
 8 identified where are there differences and the next step is
 9 in fact to have a conference where we can have the parties,
 10 the pathologists together where they can either sort out
 11 their issues or agree to disagree as it were. So the
 12 matter is at hand.
 13 CHAIRPERSON: Thank you, Mr Wesley. The
 14 problem obviously was that Mr Bizos who had tried be
 15 involved in that he wasn't aware of that. But anyway
 16 perhaps you and he can discuss the matter afterwards, after
 17 we've adjourned.
 18 MR WESLEY: We'll do so, Chair.
 19 CHAIRPERSON: It is important that he
 20 and his, and those instructing him and his clients be in
 21 the loop on the whole issue and of course I also hope it
 22 will be possible for the public order policing experts to
 23 be in communications as well to see whether they can't
 24 narrow the area of dispute, but that's something also that
 25 we don't have to discuss here in the chamber now. Mr

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1 Chaskalson, are you now ready after that –

2 MS LE ROUX: Chair, could I just ask one

3 –

4 CHAIRPERSON: Oh sorry, Ms Le Roux, I

5 beg your pardon.

6 MS LE ROUX: A further point of

7 clarification. Does the two week deadline apply to the

8 statements that the SAPS have said they're in the process

9 of preparing even though some of those people may not be

10 called?

11 CHAIRPERSON: They've been told that

12 that applies to them as well. I understand you might well

13 wish or some parties may, I don't want to extend things

14 unnecessarily but again I don't want to be unfair, it may

15 well be that on the last day for filing a statement SAPS

16 for example, and I merely put that as an example, that's

17 not intended necessarily to be correct, may produce a

18 statement which may then provoke one of the other parties

19 to then say well we'd like to answer that statement to deal

20 with it and obviously that will be dealt with in a flexible

21 way but I would like the end of next week really to be the

22 time by which we know which witnesses are going to be

23 called and what they're going to say. But subject to the

24 sort of furry edges which one will have to face as well.

25 Yes, Mr Mpofu?

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1 MR MPOFU: Chairperson, I don't want to

2 be difficult.

3 CHAIRPERSON: Why are you being

4 difficult?

5 MR MPOFU: Or anticipate problems which

6 may not arise. But from our side I can certainly say that

7 the two weeks will not be sufficient. But maybe let's

8 cross that bridge next Friday if we want more time because

9 I'm anticipating having to convene meetings which would

10 only happen the weekend after. At the same time I also

11 might have to have certain consultations with SAPS. Then

12 example is the simple, I'll just make an example with some

13 of the evidence that was given now, that people were

14 arrested had arms on them. I know a specific witness who

15 is depicted on the video having been arrested with his

16 hands up and so on, that's a small thing which between

17 myself and Mr Semenya, we can just watch the video and get

18 an admission. On the other hand there might be bigger

19 controversies which might not be resolved that easily. But

20 maybe let's leave that till next Friday.

21 CHAIRPERSON: It sounds as if the date

22 I've fixed is not going to work but anyway, well if you

23 don't have your statements ready by next Friday you may

24 have to explain to me why that was so and I will deal with

25 the matter as I consider it appropriate then. Very well, I

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1 think we've now disposed of housekeeping both in chambers

2 and in the chamber and, Mr Chaskalson, would you care to

3 continue with your cross-examination?

4 MR CHASKALSON SC: Thank you,

5 Chairperson. Brigadier, we broke early for me to listen to

6 the tape and I've taken a verbatim note of what your

7 testimony was on the tape. I'd like to read it out and

8 then, so that everyone can hear it. Maybe the

9 Commissioner, can translate as I go along, the Chairperson.

10 CHAIRPERSON: You can interpret.

11 MR CHASKALSON SC: I can try to

12 interpret, if any one wants to correct my interpretation

13 please do and then I will raise individual passages with

14 you and where I would like to ask a question or two. The

15 passage that I transcribed starts as follows. "Ons moet

16 met die agterste persone kommunikeer wat by die

17 nedersetting was. We had to and if I translate that we had

18 to communicate with the people at the back who were at the

19 scene," scene 1 I take that to be. Then you said, "ek dink

20 dit was Nyala 6 die draad kar wat uitbeweeg het, I think it

21 was Nyala 6, the barbed wire Nyala which moved out. U sal

22 onthou dat daar 'n liggaam wat verder weg gele het, you

23 will remember that there was a body which lay further away.

24 Op 'n stadium het hulle dit vir my gerapporteer, at a point

25 they reported this to me."

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1 CHAIRPERSON: Stage.

2 MR CHASKALSON SC: "At a stage they

3 reported this to me, they reported back to me. So daardie

4 persoon moes daar rondom verdediging beveiliging vir and

5 then die publiek was baie na aan dit, now I was trying to

6 catch your words I think that, I played it again and again

7 and again and I think this is what you said, "so daardie

8 persoon moes daar rondom verdediging beveiliging vir die

9 publiek was baie na aan dit. So that person must, around

10 there protection, sorry defence protection for the public,

11 there were many of the public, sorry the public was very

12 near to it, die publiek was baie na aan dit."

13 CHAIRPERSON: Close it to I suppose.

14 MR CHASKALSON SC: "Close to it. So daar

15 moes voertuie soontoe gestuur wees gewees het, so we had to

16 send, so there had to be vehicles sent to it, sent there.

17 Now that as –

18 CHAIRPERSON: Is that as you remember

19 what you said? Are you happy with the translation?

20 BRIGADIER CALITZ: Mnr die Voorsitter, ek

21 sal sy woord daarvoor vat. Ons sal sien more as die

22 transkripsie maar vir nou is ek, ek sal kan antwoord as dit

23 die woorde waarop hy wil hê ek moet kommentaar lewer op

24 hierdie sal ek kan antwoord.

25 MR CHASKALSON SC: So to start with you

<p style="text-align: right;">Page 18852</p> <p>1 said ons moet met die agterste persoon gekommunikeer wat by 2 die nedersetting was. You had to communicate with people 3 back at the scene. 4 CHAIRPERSON: Nedersetting is the 5 settlement, it's not the scene, die toneel will be the 6 scene. Die nedersetting would be the settlement, I take it 7 it's Nkaneng, if he used the word nedersetting. 8 MR CHASKALSON SC: Nedersetting, it was 9 nedersetting. So at the settlement did you in fact 10 communicate with your members who were near Nkaneng at 11 scene 1? 12 BRIGADIER CALITZ: Mnr die Voorsitter, ja 13 dit is waar ek op, neergekom het dat ons met ons 14 bevelvoerders gekommunikeer het. Die hele punt hier is 15 rondom die groepering van die groter getal mense by die 16 nedersetting en daarom het ons 'n punt daarvan gemaak om 17 met die bevelvoerders te kommunikeer om te sê daar's 'n 18 groepering daar agter ek dink ek kom na die volgende punt 19 toe nou, maar dit was die groepering by die nedersetting en 20 dit was een van die take wat ek vir die voertuie gegee het 21 is om dan, sou ons beweeg, terug te beweeg in daardie 22 rigting en dan ook daar te gaan kyk vir daardie persone wat 23 daar is uiteen te dryf. 24 MR CHASKALSON SC: Now everyone who was 25 still at scene 1 and who was close to Nkaneng would have</p>	<p style="text-align: right;">Page 18854</p> <p>1 scene 1? 2 BRIGADIER CALITZ: Nee, dit sal wees my 3 Papa voertuie wat saam met my voor was op daardie stadium. 4 MR CHASKALSON SC: And did, are you 5 suggesting that one of those vehicles then undertook to 6 move back to the area near the settlement? 7 BRIGADIER CALITZ: Ek sal moet gaan kyk 8 op die, as daar enige fotograaf, wie se materiaal, wie het 9 terug beweeg, ek kan nie nou vir u sê uit die vuur uit wie 10 het soontoe beweeg en wat daar gebeur het nie, nee. Ek is 11 na die weste toe. 12 MR CHASKALSON SC: Now my, again we're 13 possibly not on the same page. You said you had to 14 communicate met die agterste persone, people at the back. 15 Okay those were your words, agterste, "ons moet met die 16 agterste persone gekommunikeer wat by die nedersetting 17 was." Now who were those people with whom you had to 18 communicate? 19 BRIGADIER CALITZ: Dit is waarna ek 20 voorheen ook verwys het. Dit is dieselfde met die TRT om 21 uit te vind wat het daar gebeur, hoekom is die mense nog 22 steeds agter, u het vir my gevra ek dink die vraag was die 23 sewe minute, wat het in daardie sewe minute gebeur. So dit 24 is die verskillende mense wat ons probeer kontak het in 25 daardie tydperk om uit te vind wat gaan aan. Ek het nie</p>
<p style="text-align: right;">Page 18853</p> <p>1 known about the dead and the wounded, do you accept that? 2 BRIGADIER CALITZ: Ek verneem die 3 persone, die TRT veral wat daar voor was hulle moet seker 4 bewus gewees het van die mense wat gewond was, die dooies 5 sal ek nie weet op watter stadium hulle bewus geraak het 6 daarvan nie. 7 MR CHASKALSON SC: Do you recall who you 8 communicated with in relation to the people at the back, 9 people behind? 10 BRIGADIER CALITZ: Nee, ek kan nie onthou 11 nie, dit was een van die bevelvoerders voertuie wat saam 12 met my op die lyn was wat ek gesê het ons sal moet terug 13 beweeg en gaan kyk na die groepering wat ook daar besig is 14 om op te vorm. 15 MR CHASKALSON SC: Sorry so you say that 16 a vehicle in the reorganisation line moved back to look at 17 the people who were forming up near the settlement? 18 BRIGADIER CALITZ: Dit was die taking 19 moet gewees dat ook daar was 'n groepering gewees en dan 20 sou ons verder beweeg, die voertuie moet daar dan ook daar 21 aan aandag gegee word. 22 MR CHASKALSON SC: I just need to clarify 23 this because I'm not sure I'm understanding you correctly. 24 Was the communication with people who were in your 25 reorganisation line already or with people who were back at</p>	<p style="text-align: right;">Page 18855</p> <p>1 gesê daar was enige terugvoer van die TRT af of - 2 MR CHASKALSON SC: Well who other then 3 the TRT did you communicate with back at the scene? 4 BRIGADIER CALITZ: Ek het die Papa 5 bevelvoerder Nyalas geroep en gevra watter voertuie is daar 6 en die lede het dan hulle call signs ook so vir my gegee en 7 dan het ons bepaal hoeveel voertuie saam met ons daar was. 8 So op daardie stadium het ek agter gekom dat Kolonel Mere 9 en Kolonel Makhubela agter is saam met die TRT groep. 10 MR CHASKALSON SC: But you didn't speak 11 to Colonel Mere or Colonel Makhubela? 12 BRIGADIER CALITZ: Daar was nie 13 kommunikasie van hulle kant af toe ek gekommunikeer het 14 nie, nee. 15 MR CHASKALSON SC: Did you try to 16 communicate with them? 17 BRIGADIER CALITZ: Dit is wat ek - 18 CHAIRPERSON: When he says he 19 communicated with them he means he sent a communication to 20 them as it were but he says he didn't hear a response. So 21 in the sense of communication there wasn't communication 22 but there was an attempt by him to communicate with them, 23 he, did you speak to them? 24 BRIGADIER CALITZ: Kommissaris, miskien - 25 CHAIRPERSON: How did it work, explain to</p>

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1 us.

2 BRIGADIER CALITZ: Miskien moet ek die

3 prentjie operasioneel. As u staan waar ek gestaan het en u

4 kyk rondom dan sou u sien daar's verskillende plekke waar

5 mense saamdrom. Waarna ek hier verwys het is agter en toe

6 het ek gesê daar by die nedersetting was ook 'n groep mense

7 en ons moes kommunikeer met hulle om uit te vind hoekom is

8 daar 'n groepering want ons kan sien wat hier aangaan. So

9 daarom het ek ook vir die Papa voertuig gesê when we go and

10 disperse een voertuig moet ook vir my in daardie rigting

11 aandag gaan gee sodat ons kan seker maak wat watter groep

12 is want ek kon sien daar's 'n konsentrasie van voertuie,

13 daarom het ek vir u gesê Nyala 6 ek dink op die fotos, ek

14 kan nie onthou waar het ek dit gesien, ek dink dit is op

15 een van die video fotos het ek gesê en daarom het ek na die

16 voorsitter gekyk en sê u sal onthou dit is waar die liggaam

17 dan was. So dit is, miskien as ek dit kan "clarify" vir

18 duidelikheid.

19 [14:36] CHAIRPERSON: They didn't respond. Is

20 that right? Do you –

21 BRIGADIER CALITZ: Daar was geen –

22 CHAIRPERSON: I take it they must have

23 got, they had to have heard you, but they didn't reply and

24 presumably they went off where you asked them to go, but

25 you never got "terugvoer," you never got report back from

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1 them as to what happened –

2 BRIGADIER CALITZ: Dit is korrek, ja. Ek

3 het glad nie met die agterste voertuie weer kontak gehad.

4 MR CHASKALSON SC: But Brigadier, that

5 isn't what your evidence was earlier, because you said "Ek

6 dink dit was Nyala 6, die draadkar, wat uitbeweeg het. U

7 sal onthou dat daar 'n liggaam wat verder weg gelê het. Op

8 'n stadium het hulle dit vir my gerapporteer." So somebody

9 did report to you that there was a body lying further away.

10 BRIGADIER CALITZ: Dit was die beseerdes

11 gewees, of die "bodies down," soos u my gevra het wat

12 Kolonel Vermaak vir my gerapporteer het. Ek kan nie nou

13 vir u sê of dit Kolonel Vermaak is wat vir my gesê het

14 verder nie, maar daar is ook later gesê daar is persone in

15 daardie rigting waar die persone dan saamdrom.

16 MR CHASKALSON SC: Brigadier, remember

17 where this line of questioning started. You were

18 explaining what you were doing in the seven and a half

19 minutes while the line, the reorganisation line at koppie 2

20 didn't move and you said, "Op 'n stadium het hulle dit vir

21 my gerapporteer." So in that context I understood that you

22 were saying in that seven and a half minutes somebody

23 reported back to me that there was a body that lay further

24 away. Have I misunderstood you?

25 BRIGADIER CALITZ: Mnr die Voorsitter, ek

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1 weet nie hoe kan ek dit beter verduidelik miskien as wat ek

2 nou verduidelik het nie. Ek kan net sê wat aan my

3 gerapporteer was. Ek weet nie hoe om –

4 VOORSITTER: Wat is aan u gerapporteer?

5 So what was reported to you?

6 BRIGADIER CALITZ: Mnr die Voorsitter,

7 dit is moeilik. Ek het nie nou minuut vir minuut daardie

8 sewe minute gaan rekord hou wat het ek gesê vir wie nie.

9 Daar was kommunikasie met die bevelvoerders en dan het

10 hulle vir my gesê aan die westekant, daar is persone daar;

11 agter by Nkaneng, daar is persone daar. Daar is ook

12 persone daar naby wat beseer is. So dit is die gesprekke

13 wat oor die radio gekom het. So, en dit is waar ek dan die

14 take gegee het vir die voertuie om te sê ons gaan in 'n

15 westelike rigting beweeg, een voertuig beweeg vir my

16 agtertoe, gaan kyk daar; twee pantser voertuie beweeg saam

17 met die waterkanonne; Kolonel Vermaak, vat beheer oor

18 hulle. So dit is die crux van die gesprek gewees.

19 MR CHASKALSON SC: So somebody reported

20 to you that there were people who had been injured.

21 MR SEMENYA SC: Chair, maybe if I may –

22 the evidence which Mr Chaskalson is referring to, if I

23 recall it, the witness is describing where those people

24 were behind him and then says that is where the body was

25 later found, not that the report, that is where it was

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1 reported a body was found.

2 CHAIRPERSON: Mr Semanya, I think you're

3 right. In other words he is giving parenthetically, as it

4 were, he is giving extra information about the position at

5 the back, but the bit in parenthesis isn't what he was told

6 at the time, it is what he was told later, but he's

7 mentioning it to describe perhaps more precisely the area

8 that is being talked about. Is that correct?

9 BRIGADIER CALITZ: Mnr die Voorsitter, as

10 u –

11 CHAIRPERSON: Have I got it right?

12 BRIGADIER CALITZ: As u na die woorde

13 kyk, "U sal onthou," het ek na u gekyk en gesê "U sal

14 onthou dat daardie 'body' daar was." Dit is nou in

15 "hindsight," ja, want ek bedoel u was ook nie op die

16 toneel, so dit is, ek stem saam met u nou.

17 MR CHASKALSON SC: No, but Brigadier,

18 when I asked you before the break, before we'd actually

19 looked at verbatim what you had said that somebody reported

20 to you that there was a body lying further away, your

21 response to that wasn't no, no, they didn't report that to

22 me, that's something that I learned with hindsight much

23 later. Your answer was yes, those were the words they

24 used, body, and I understood that to mean someone who was

25 lying down or injured. That was the tenor of what you

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1 answered to me.

2 BRIGADIER CALITZ: Miskien het ons dit

3 dan nou reggestel, as daar 'n misverstand was.

4 MR CHASKALSON SC: Well, I'm not sure

5 that we've put it right now. I think we may be trying to

6 clear up what was an error the previous time in disclosing

7 what had actually happened.

8 BRIGADIER CALITZ: Nee, ek stem nie saam

9 met u nie, mnr die Voorsitter.

10 MR CHASKALSON SC: Well, the record will

11 speak for itself in this regard, but are you saying now

12 that nobody from the scene spoke to you in those seven and

13 a half minutes?

14 BRIGADIER CALITZ: Ek het wel

15 kommunikasie met die Pappa voertuie wat saam my voor was

16 van agter af, van die TRT se kant af. Daar was geen

17 kommunikasie vorentoe rondom enigiets wat daar gebeur het

18 nie. Daardie inligting het later tot my aandag gekom.

19 MR CHASKALSON SC: Yes, but it wasn't

20 just the TRT who had stayed behind. There were Papa

21 vehicles who had stayed behind as well. Are you saying

22 that none of those spoke to you during the seven and a half

23 minutes?

24 BRIGADIER CALITZ: Dit is korrek.

25 MR CHASKALSON SC: I want to put to you

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1 that the record suggests something other than that in

2 relation to your answers earlier, but I won't take that

3 further now.

4 BRIGADIER CALITZ: Mnr die Voorsitter, ek

5 sê weereens, as ek u dalk misverstaan het of daar is enige

6 woorde wat u sê hoe ek dit bedoel het, dan dit is hoe ek

7 dit nou getuig, dit is wat ek dan sê, dan stel ons dit reg.

8 Ek sal kyk as ek die "transcript" more sien kan ek my

9 presiese woorde miskien dit dan so verduidelik, maar dit is

10 my getuienis nou.

11 MR CHASKALSON SC: If we can now turn to

12 your movements after the reorganisation line breaks up,

13 I've put to you earlier that the reorganisation line stayed

14 broadly in a stationary and unchanging position for seven

15 and a half minutes until the North West water cannon joined

16 the line. We can see from the Protea Coin video that the

17 North West water cannon finally sprayed the crowd. It

18 didn't actually stop at the reorganisation line; it went

19 straight through the reorganisation and sprayed the crowd

20 when it reached the crowd. That was at eTV time 16:04:18 –

21 16:04:18, and just to contextualise it, it was 10 minutes

22 after, more than 10 minutes after the shootings at scene 1,

23 more than eight minutes after you'd formed up the

24 reorganisation line.

25 Now like I say, I want to canvass with you your

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1 movements after the North West water cannon broke up that

2 line, and you've dealt with them in your statement, JJJ107,

3 from pages 24 to 26, paragraphs 120 to 130. Now can you go

4 to those pages, 24 to 26, and maybe if we can call them up

5 so that people inside the room can see them too. Now when

6 I read the statement it reads to me like a sequential

7 narrative, by which I mean a description of events in the

8 order that they happened. Can you read paragraphs 120 to

9 130 and tell me whether to the best of your knowledge and

10 recall there are any events that are described in those

11 paragraphs that are out of sequence in the statement, that

12 didn't happen in the order that they are described, or is

13 that sequential narrative correct?

14 BRIGADIER CALITZ: Mnr die Voorsitter,

15 nee, ek sal nou nie kan getuig dat hierdie volgens hier,

16 dit op 'n tydlyn geskryf is nie. Dis 'n verklaring en dit

17 is soos ek die inligting deurgegaan het, en wat u sal sien

18 na die verklaring is daar goed genoem onder "miscellaneous"

19 en verder aan. So ek dink nie hy is presies op 'n tydlyn

20 geskryf nie, maar ek kan dit vir u lees en sê wat ek daarby

21 bedoel het, as dit is wat u wil hê.

22 MR CHASKALSON SC: Well, I'm interested

23 in chronology really, so is there – I mean maybe we'll get

24 there on the same basis if you read and tell me what you

25 had in mind, but my first question is – and it's not, I

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1 mean it's less than two pages – is there anything in there

2 that strikes you as being out of sequence? Because I'm

3 trying to understand –

4 BRIGADIER CALITZ: Nee, laat ons –

5 MR CHASKALSON SC: - what triggered your

6 movements and why you moved when you did at a particular

7 time.

8 BRIGADIER CALITZ: Ek dink laat ons deur

9 die paragrawe gaan, soos u versoek het. As ons lees, "As

10 we moved, Lieutenant-Colonel Vermaak was directing the

11 water cannons towards what we know now as koppie 3 where

12 the strikers were regrouping. The voice of Colonel Vermaak

13 and the instructions that he and I were given is captured

14 on the recordings and was played in the Commission

15 hearings." Dit verwys dan na Kolonel Vermaak wat saam met

16 die waterkanonne gepraat het. "There was still a large" –

17 MR CHASKALSON SC: Well Brigadier, maybe

18 if we can do it this way; let me put to you what I'd just

19 like clarified, which may speed it up. If we start with

20 120 to 124, what I see there is that after the dispersion

21 some strikers regrouped to koppie 3 and some moved off to

22 the north. Were you aware of that at the time that there

23 were some who had regrouped in koppie 3 and some were –

24 sorry, you say to the north; we've now clarified that we

25 think that what you mean is west.

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1 BRIGADIER CALITZ: No, I think when the
2 Commission started there were some rectifications made to
3 my statement and that was one of them.
4 MR CHASKALSON SC: Okay.
5 BRIGADIER CALITZ: It was to the
6 northwest, if the notes were taken.
7 MR CHASKALSON SC: Okay, so it's the
8 northwest.
9 BRIGADIER CALITZ: Dit is korrek, mnr die
10 Voorsitter.
11 MR CHASKALSON SC: At the time were you
12 aware that some of the strikers had regrouped inside koppie
13 3 and others had moved off to the northwest?
14 BRIGADIER CALITZ: Ek het die groep
15 gesien wat links voor my gestaan het. Dit is die volgende
16 paragraaf, "There was still a large group of strikers on
17 the northwest" - dit is waarna ek verwys het, die 2 tot
18 3000 wat onder die drade gestaan het, asook agter by die
19 nedersetting - "where we were positioned. I instructed the
20 Nyala to move in that direction." Nou om net terug te kom
21 na u vorige vraag toe, as u nou praat van "sequence,"
22 Kolonel Vermaak het nadat ek die Nyalas "ge-instruct" het,
23 het hy beheer gevat. So klaar is hier nie 'n "sequence"
24 nie. So dit is hoekom ek vir u sê dit was nie so in
25 "sequence" geskryf wat u nou - "Some of the Nyalas

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1 accompanied the water cannons" - daar verwys ek weer daar
2 na Kolonel Vermaak - "and that were under the command of
3 the instruction of Colonel Vermaak," so 121 verwys terug na
4 120 toe wat ek dan klaar genoem het hy het die waterkanonne
5 opdrag gegee. En dan Nyala, "About three of the Nyalas" -
6 ek sê "about," ek is nie seker nie - "which I was moved to
7 the north-westerly direction" - dit was ook reggestel -
8 "where several arrests were effected." Dit is die persone
9 wat ek self waargeneem het onder die kragdrade en waar daar
10 dan 'n verdere uiteendrywing was. "Warrant-Officer Nong
11 came in," en daar verduidelik ek net hoe daar foto's geneem
12 is en hoe die persone in die Nyalas gelaai is, en dan in
13 paragraaf 127 -
14 MR CHASKALSON SC: Can I just stop you as
15 you're going through, Brigadier, because I want to raise my
16 concerns with you as we do that. In your evidence-in-chief
17 you touch on the arrests that were made. That's page
18 17348, and if I can just read what you said, "Daar was
19 verskeie arrestasies gemaak soos ons op beweeg het en
20 verder beweeg het in die veld, by my groep - ek dink, ek
21 praat onder korreksie - iets soos 20, 29 arrestasies. Ek
22 dink op die radio het ek op 'n stadium gesê ses
23 arrestasies. Dit is waar ons self uit gesprink het, mense
24 gearrester het en dan wag ons vir die Canter voertuie en
25 die opruktrouke om nader te kom en hulle dan in te laai en

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1 soos ons deur die veld beweeg is verskeie arrestasies
2 gemaak van persone wat juis in die veld gaan lê het en
3 hulle wapens neergelê het." I've got a couple of questions
4 about that. You say, "Dit is waar ons self uit gesprink
5 het." Did you yourself get out of the Nyala to make
6 arrests or to observe them, or was it only other members of
7 the SAPS who left the Nyala?
8 BRIGADIER CALITZ: Nee, op daardie
9 stadium was die Nyalas by mekaar. Die lede het uit
10 gesprink; ek was ook self op 'n stadium buitekant die Nyala
11 om te sien wat het daar aangegaan. Die lede het op die
12 persone geskreeu om die wapens neer te sit. Van hulle het
13 weggehardloop, die wapens neer gegooi, weggehardloop. Van
14 hulle het wel gaan lê met die wapens by hulle en dit is dan
15 verder so die arrestasies uitgevoer.
16 MR CHASKALSON SC: And how long were you
17 out of the Nyala?
18 BRIGADIER CALITZ: Nee, ek kan nie vir u
19 sê nie. Dit is -
20 MR CHASKALSON SC: An estimate. Couple
21 of minutes? 15 seconds? 10 minutes?
22 BRIGADIER CALITZ: Nee, ek kan nie vir u
23 sê nie. As u nou vir my sê hoe laat het ons weg getrek by
24 koppie, langs koppie 2, en ek het daar aangekom by koppie 3
25 om 16:55, die tydperk tussen dit was dit in-uit, in-uit, u

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1 weet, om te kyk in watter rigting en wat gebeur. So die
2 meeste van die tyd, ek sou sê - maar dit was sekondes. Ek
3 het fisies in die deur gestaan, weer toegemaak. Onthou ons
4 het op daardie stadium nie geweet die persone het nog
5 steeds, onder die inligting, u weet, die wapens was nog
6 steeds in, moontlik in hulle besit. So daar was vir die
7 lede gesê om baie takties te beweeg agter die voertuie.
8 MR CHASKALSON SC: So you're saying you -
9 I still don't understand that just in terms of time and
10 occasions. You were just in and out of the door, but I
11 mean how many times were you in and out of the door? About
12 how much time were you out of the Nyala?
13 BRIGADIER CALITZ: Mnr Chaskalson, ek kan
14 nie vir u sê nie. Dit is 'n operasionele gebied; ek het
15 nie rekord gehou van hoeveel keer ek uit die voertuig uit
16 geklim het en wat ek -
17 MR CHASKALSON SC: No, but it's an
18 important question because it goes to what you could and
19 couldn't see, and that's relevant to your testimony here
20 today. So in broad terms, was most of your time spent
21 inside the Nyala or was it roughly evenly split inside and
22 outside the Nyala while the Nyala was stationary?
23 BRIGADIER CALITZ: No, I will say 95, 98%
24 inside the Nyala, if I must make an estimate, because when
25 your members are jumping out and they're chasing after

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1 suspects, you just peek out, see what's happening, they are
 2 busy arresting, then I shout to them "Just keep under
 3 cover; just keep under cover." En dan het ons kontak
 4 gemaak met die tjopper en versoek dat die Canters nader
 5 gebring word in daardie omstandighede.
 6 MR CHASKALSON SC: But there was a period
 7 that we can see from the photographs that things were
 8 fairly relaxed at that scene, a fairly lengthy period where
 9 you had arrested strikers lying on the ground and being
 10 moved towards the Canters and photographed by Warrant-
 11 Officer Nong where there seemed to be very little apparent
 12 threat to you. Were you still in the Nyala during that
 13 period?
 14 BRIGADIER CALITZ: Dit is korrek, ja. Ek
 15 sal graag wil verneem wat u bedoel by "relaxed"
 16 omstandighede want dit was alles behalwe "relaxed"
 17 omstandighede op daardie dag.
 18 MR CHASKALSON SC: Well, "relaxed" is
 19 possibly the wrong word; where there didn't seem to be much
 20 threat to you. Maybe we can show some of the photographs
 21 to -
 22 BRIGADIER CALITZ: Maar u sê weereens -
 23 daarom kan ek nou teruggaan en sê u het nou net gesê
 24 "relaxed" en nou verander u die woorde. So miskien moet
 25 ons nie direk gaan op wat gesê is nie maar wat bedoel word.

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1 MR CHASKALSON SC: You're the witness,
 2 Brigadier, not me.
 3 BRIGADIER CALITZ: Ek sê dit met alle
 4 respek, mnr die Voorsitter. U het dit so pas 10 sekondes
 5 terug, 10 minute terug met my gedoen.
 6 CHAIRPERSON: Both of you are using
 7 language -
 8 BRIGADIER CALITZ: Dit is hoekom ek -
 9 CHAIRPERSON: - as a means of
 10 communicating information and language is a very imperfect
 11 way of communicating information, but it's the main way we
 12 have. So we have to do our best, but I'm trying to think
 13 of what he was saying and I suppose he meant, he didn't
 14 mean "ontspanne" but he meant not "spanne," if you know
 15 what I mean.
 16 BRIGADIER CALITZ: Met die grootste
 17 respek antwoord ek die vrae, mnr die Voorsitter.
 18 MR CHASKALSON SC: Well, let's see some
 19 of these pictures. Can we go to Colonel Botha's photograph
 20 5134? 5134.
 21 CHAIRPERSON: Is this an exhibit?
 22 MR CHASKALSON SC: It is already an
 23 exhibit. It -
 24 CHAIRPERSON: Alright, give us the
 25 exhibit number, please.

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1 MR CHASKALSON SC: It was, the Botha
 2 photographs were an annexure to Colonel Botha's statement.
 3 They haven't been given a JJJ exhibit like everybody else's
 4 photographs. Maybe we should give them an exhibit number
 5 in their own right. Can I suggest that we just make it the
 6 latest KKK?
 7 CHAIRPERSON: According to my notes the
 8 latest one is KKK12, so unless I'm wrong, the next exhibit
 9 will be KKK13.
 10 MR CHASKALSON SC: We're without Ms
 11 Pillay, so I'm afraid - we're apparently at, the next one
 12 is 16 now.
 13 CHAIRPERSON: Well, my notes are very
 14 defective then. Alright, KKK16, what is it?
 15 MR CHASKALSON SC: And will be Colonel
 16 Botha's photographs and -
 17 CHAIRPERSON: How many photographs are
 18 there?
 19 MR CHASKALSON SC: There are photographs
 20 that run from 5108, 5108 to 5157.
 21 [14:56] CHAIRPERSON: That looks like 49
 22 photographs but we're not going to look at all of them, so
 23 perhaps you should identify the particular ones you want to
 24 rely on and we can then call it KKK16.1 and 16.2, etcetera.
 25 MR CHASKALSON SC: No, Chairperson, we

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1 are going to, we probably will be using all of them, it is
 2 like the sequence that we, - when I took Colonel Scott
 3 through each one of those series of photographs, -
 4 CHAIRPERSON: Well, okay, -
 5 MR CHASKALSON SC: - so if we can just
 6 call them KKK16.5108 to 51 -
 7 CHAIRPERSON: 57, well, certainly it
 8 would mean it is easier to deal with it now, yes, alright,
 9 let's do it that way.
 10 MR CHASKALSON SC: 5134, if we can call
 11 that up, yes, 5134, and if we can zoom in on the scene in
 12 the bottom right hand corner of this photograph, that scene
 13 which we've zoomed into now is the scene of your Nyala Papa
 14 5, some Canters, a Casspir and Papa 4 in the area where you
 15 were making these arrests to the north-west of koppie 3.
 16 Do you see any threat to any of your people at that point?
 17 BRIGADIER CALITZ: Mnr die Voorsitter,
 18 weereens, wat verstaan Advokaat Chaskalson onder "threat"
 19 en dan kan ek hom miskien antwoord. Ek sien heelwat, die
 20 gras is aan die brand, die persone wat gearrester was het
 21 wapens by hulle gehad, die inligting was nog steeds dat die
 22 groep persone in besit was van drie haelgewere, 'n R5, daar
 23 is verskeie dreigemente. Dit is hoekom ek vir die mense
 24 die heelyd gesê het om te probeer om tussen die voertuie
 25 te bly en nie net weg te beweeg nie en die heelyd het ek

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1 met hulle gepraat. U sal sien in die transkripsie het ek
 2 melding gemaak en gesê "under protection, under protection
 3 of the Papa Nyalas."
 4 MR CHASKALSON SC: So you thought that
 5 there may be an imminent threat to some of your members in
 6 the scene.
 7 BRIGADIER CALITZ: Mnr die Voorsitter,
 8 tydens enige operasionele optrede is daar enige tyd, altyd
 9 'n moontlikheid vir 'n dreigement op jou lede, so daarom as
 10 operasionele bevelvoerder moet jy alle moontlike caution
 11 toepas om die lede so veilig as moontlik te hou. Dit sal
 12 baie roekeloos wees om vir die outjies te sê, klim uit,
 13 stap deur die veld en dit wat julle kry hanteer dit. Ek
 14 het 20 jaar ondervinding met Openbare Orde Polisiëring
 15 waar ek persone uiteendryf. Dit is wat ek elke dag doen en
 16 ek glo veiligheid is aan die orde van die dag. So dit wat
 17 ons hier gedoen het was die veiligste moontlike manier vir
 18 my personeel.
 19 MR CHASKALSON SC: At 5139 in the series
 20 –
 21 CHAIRPERSON: I don't know how many
 22 photographs you want to show, Mr Chaskalson, but when you
 23 reach an appropriate stage we will take the tea adjournment
 24 but I leave it to you to determine when that will be.
 25 MR CHASKALSON SC: It may be more

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1 efficient if we take the break now and then we can line up
 2 all of those photographs.
 3 CHAIRPERSON: In the interest of
 4 efficiency we will take the tea adjournment now.
 5 [COMMISSION ADJOURNS COMMISSION RESUMES]
 6 [15:18] CHAIRPERSON: The Commission resumes,
 7 Brigadier, you're still under oath. Mr Chaskalson, you
 8 were taking us through some of Colonel Botha's photographs?
 9 MR CHASKALSON SC: I'm going to shift
 10 from Colonel Botha to Captain Nel now, Chairperson. These
 11 are JJJ6 and the first one is 1245.
 12 CHAIRPERSON: But we only looked at the
 13 one, you were going to show us more than one of Colonel
 14 Botha or did you change your mind? Well, you're entitled
 15 to it.
 16 MR CHASKALSON SC: Well, I'll confine
 17 myself to the one from Botha, there are several that show
 18 more or less the same scene. 1245, JJJ6, Captain Nel,
 19 first of all can we zoom in on the Nyala in the top left of
 20 the picture? Do you recognise that as the Bakkie's Botha
 21 like frame of Colonel McIntosh?
 22 BRIGADIER CALITZ: Gelukkig hoor hy nie
 23 vir jou nie. Dit is Colonel McIntosh met die wit hemp en
 24 die kaki broek, inderdaad so, Kommissaris, - ag, mnr die
 25 Voorsitter.

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1 MR CHASKALSON SC: I think the phrase was
 2 yours, Brigadier, I've only borrowed it from you.
 3 BRIGADIER CALITZ: We can debate that.
 4 MR CHASKALSON SC: He is standing outside
 5 your Nyala Papa1. If we go down to Papa 5 we'll see the
 6 arrested strikers and if we can zoom in you'll see that you
 7 have the arrested strikers all lying face down. Can we
 8 zoom back out? Sorry, do you agree with that?
 9 BRIGADIER CALITZ: Ja, dit is normale
 10 arrestasie prosedure, as ek dit so kan stel. Ek kan nou
 11 nie sien dat almal face down is soos u sê nie, maar dit is
 12 normale arrestasie prosedure, jy maak 'n lang lyn en laat
 13 hulle so lê en dit lyk vir my hulle is, dit lyk soos een of
 14 'n cable tie miskien.
 15 MR CHASKALSON SC: Can we just zoom out
 16 again to the full photograph, and you'll see there seemed
 17 to be some SAPS members walking in the direction of your
 18 Nyala from the direction of either Papa5 or the line of
 19 arrested strikers, at least one SAPS member, possibly two.
 20 BRIGADIER CALITZ: Ja, maybe if we can
 21 zoom in again to the top left hand corner, you can see the
 22 Nyala door is closed. If you say to me, do you mean to my
 23 Nyala?
 24 MR CHASKALSON SC: To your Nyala, yes.
 25 BRIGADIER CALITZ: Oh sorry, sorry, I

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1 thought you said to me, because I presume I was inside.
 2 CHAIRPERSON: The –
 3 BRIGADIER CALITZ: The other two, sorry,
 4 Chairperson?
 5 CHAIRPERSON: The driver's door looks
 6 open.
 7 BRIGADIER CALITZ: The driver's door and
 8 that is Warrant Office Nong, that is why I just wanted to
 9 zoom in to see because in my statement I said Warrant
 10 Officer Nong climbed out of the vehicle. I am not sure if
 11 it is him pointing with his left hand, it might be and then
 12 behind him with the denim and the green shirt, that is also
 13 one of the hostage negotiators, it looks like Captain
 14 Greyling.
 15 MR CHASKALSON SC: And Captain Greyling
 16 was one of the members inside your Nyala.
 17 BRIGADIER CALITZ: He was one of mine,
 18 yes.
 19 MR CHASKALSON SC: If we go then to
 20 JJJ1248 –
 21 COMMISSIONER HEMRAJ: Just before we
 22 leave this photograph, the two policemen up the bottom of
 23 the photograph who seemed to be kneeling down, holding
 24 firearms, what were they doing there, if you could just
 25 zoom out again please of the photograph?

<p style="text-align: right;">Page 18876</p> <p>1 BRIGADIER CALITZ: Die een wat rondom, 2 hoe kan ek sê, rondom verdediging is wat u sê op hulle 3 hurke sit? 4 COMMISSIONER HEMRAJ: Yes, the two 5 policemen, the foremost two policemen in the photograph? 6 BRIGADIER CALITZ: Dit is korrek, 7 Kommissaris. U sal onthou ek het voorheen getuig dat daar 8 was TRT lede wat saam met die voertuie beweeg het wat dan 9 soos ons arrestasies maak die rondom verdediging gee en dit 10 is presies hulle wat hier dan bystand gee. Dit is lede van 11 TRT. 12 MR CHASKALSON SC: Just for chronology, 13 this photograph is taken at ETV time 16:13:37 and the 14 Colonel Botha, 5134 photograph was approximately two and a 15 half minutes later at 16:16:09. So what we saw in the 16 Colonel Botha photograph 5134 was two and a half minutes 17 after what we see in this photograph. If we can go down to 18 Captain Nel, JJJ61248 and we see a similar picture to 1245, 19 again strikers faced down, part of Captain McIntosh visible 20 in the top left hand corner of the photograph, driver's 21 door open in your Papa 1 Nyala. That's 16:13:41. 22 Then the last photos I would refer to in this 23 context are Warrant Officer Nong's photos that you've just 24 mentioned. They run from JJJ83675 to 3695, the relevant 25 ones and there are 21 different mug shots of the suspects</p>	<p style="text-align: right;">Page 18878</p> <p>1 in. Dit is verskriklik moeilik om dan te bepaal wie het 2 wie gearreesteer op 'n stadium, so dit hier is dit baie 3 belangrik om te weet en soos Adjudant-Offisier Nong die 4 foto's geneem het sou hy dan ook aangedui het die persone 5 wat die arrestasies gemaak het. 6 MR CHASKALSON SC: But, Brigadier, if 7 that was your concern, if there had been an imminent threat 8 of course it would have been impossible to put all of these 9 people in the Canter and take them to a place where there 10 wasn't an imminent threat and then have them photographed. 11 It is not like there were other suspects in the Canter 12 already. 13 BRIGADIER CALITZ: Mnr die Voorsitter, 14 nee, ek verskil van u. Uit my ondervinding uit en jare 15 ondervinding, dit is hoe dit gedoen word. U doen dit op 'n 16 toneel as u persone inlaai, dit is hoekom daar Rondom 17 Verdediging is, dit is hoekom die TRT ook daar is en dit is 18 hoe ons dit normaalweg doen en van hier af is hulle an 19 verder vervoer. 20 MR CHASKALSON SC: Would it be practice 21 to record the names of the people who you were 22 photographing? 23 BRIGADIER CALITZ: Ek glo Adjudant- 24 Offisier Nong is die persoon om daardie te vra, ek het dit 25 nie verder met hom opgevolg nie. Soos ek u sê, in normale</p>
<p style="text-align: right;">Page 18877</p> <p>1 who we see faced down in this photograph, maybe if we can 2 just see the first and the last, JJJ83675 and if we skip 3 then to the last, JJJ83695, they appear to be taken against 4 the backdrop of a white SAPS vehicle, possibly a Canter. 5 Can we go to 3695, and that's the last of these mug shots. 6 So there was time for Captain Nong to take 21 photographs 7 of individual suspects who were brought to be photographed 8 on the scene before they were presumably put into the 9 Canter for arrest. Would that be a correct assessment of 10 what had happened? 11 BRIGADIER CALITZ: Mnr die Voorsitter, 12 ja, eerstens dit is Adjudant-Offisier Nong, nie Kaptein 13 Nong nie, maar hy het wel foto's geneem en ek het dan ook 14 vir hom so in my verklaring melding gemaak dat hy was 15 buitekant die voertuig. U sal sien dat die Nyala voertuie, 16 dit was by die Canters, daar in die agtergrond sal u sien 17 dit is 'n Nyala voertuig. So die foto's is dan ook geneem 18 onder beskerming van pantser voertuie. 19 MR CHASKALSON SC: Now if you'd perceived 20 an imminent threat to your men would you have allowed the 21 photographing of the suspects of this nature to proceed at 22 that time? 23 BRIGADIER CALITZ: Mnr die Voorsitter, 24 ja, dit is altyd later baie moeilik om te weet as ons 'n 25 mass arrestasie doen en ek vat 10, 12, 14 en ons laai hulle</p>	<p style="text-align: right;">Page 18879</p> <p>1 praktyk, ek het nie gesê Adjudant-Offisier Nong het dit 2 gedoen op daardie stadium nie, ek het gesê in die normale 3 praktyk, dit is hoe ons dit doen. 4 MR CHASKALSON SC: So normal practice 5 would be to record the names of these people, you don't 6 know whether Warrant Officer Nong did it in this case? 7 BRIGADIER CALITZ: Ek sal nie weet of hy 8 dit gedoen het of nie gedoen het en of dit op 'n latere 9 stadium vasgestel is nie. 10 MR CHASKALSON SC: But it would be normal 11 practice? 12 BRIGADIER CALITZ: Sê weer, mnr die 13 Voorsitter? Ekskuus, ek het nie gehoor nie? 14 MR CHASKALSON SC: But it would have been 15 normal practice? 16 BRIGADIER CALITZ: It would have been, as 17 u sê "it would have been normal practice," dit is hoe ek sê 18 hoe ons dit normaalweg doen in die veld. Dit is nie 19 voorgeskryf nie, dit is nie 'n policy, 'n opdrag dat dit so 20 moet gedoen word nie, maar dit is hoe dit normaalweg gedoen 21 word. 22 MR CHASKALSON SC: Let's go back to your 23 statement and we've reached, I think paragraphs 122 to 125 24 which seemed to describe the next stage of proceedings. 25 "If I can take you to paragraphs, 122 describes Warrant</p>

<p style="text-align: right;">Page 18880</p> <p>1 Officer Nong taking the photographs that we have not seen, 2 and then 123, Lieutenant-Colonel Vermaak who was within the 3 Nyala screamed and informed me that one of the members was 4 under attack.”</p> <p>5 CHAIRPERSON: Colonel McIntosh, you said 6 Vermaak?”</p> <p>7 MR CHASKALSON SC: Lieutenant-Colonel 8 McIntosh. “He climbed out of the Nyala and ran immediately 9 in the direction of the member. Lieutenant-Colonel Vermaak 10 reported over the radio that the armed strikers were 11 encircled. I instructed all POP’s members in Nyalas to get 12 out of the vehicles to engage, meaning to approach the 13 koppie, disperse the group into smaller pockets, encircle 14 them, disarm and affect their arrests as per their briefing 15 received. At that moment I shouted at Warrant-Officer Nong 16 to come quickly to the Nyala. On his arrival we drove to 17 where Lieutenant-Colonel was attending to a striker who was 18 lying on the ground. This is the person who has been 19 identified as body C, that’s Mr Mpumza. Lieutenant-Colonel 20 McIntosh informed me that the person had died.”</p> <p>21 I’ve got a series of questions flowing from those 22 paragraphs but the first is, it appears from the statement 23 that three things happened more or less simultaneously. 24 Warrant-Officer Nong was photographing strikers who had 25 been arrested outside the Nyala, that’s in 122.</p>	<p style="text-align: right;">Page 18882</p> <p>1 So terwyl ons nog besig was met arrestasies het 2 die chopper gerapporteer daar was bodies. Dit is net om 3 die imminent threat vir u te verduidelik. Daar was nog 4 steeds, die dinge het gebeur, dit was nie dat alles still 5 en peaceful was nie. Dit is op die lewendige transkripsie, 6 so dit is hoe dit gerapporteer is.”</p> <p>7 MR CHASKALSON SC: And what did you 8 understand by bodies?</p> <p>9 BRIGADIER CALITZ: Sê weer?</p> <p>10 MR CHASKALSON SC: What did you 11 understand by bodies that the chopper was reporting?</p> <p>12 BRIGADIER CALITZ: Presies wat ek 13 voorheen getuig het, mnr die Voorsitter, niks anders nie.</p> <p>14 MR CHASKALSON SC: Well, let me take you 15 up on that, let me take you up on that. What the 16 transcription says and maybe let’s go to it. You hear 17 Colonel Vermaak saying, “JOC chopper, JOC chopper,” and 18 then he is interrupted by somebody else and then he says, 19 “JOC chopper, 2 bodies at the back of the small koppie.” 20 Do you recall that?</p> <p>21 BRIGADIER CALITZ: My transkripsie is nie 22 soos u dit verwys nie, my transkripsie wys net, “JOC, JOC 23 chopper.” Daar wys nie hy is interrupt nie, “2 bodies, 2 24 bodies at the back of the second koppie, 2 bodies.” Dit is 25 wat op my transkripsie staan.</p>
<p style="text-align: right;">Page 18881</p> <p>1 Lieutenant-Colonel McIntosh saw a member under attack and 2 screamed and then climbed out of the Nyala to go to the 3 member and in your evidence in chief you actually explained 4 that you tried in vain to stop him. We’ll give you the 5 reference, it is day 154, page 17349, lines 2 to 14, and 6 you were also getting a report from Lieutenant-Colonel 7 Vermaak that the strikers in the koppies were encircled, so 8 you ordered the members in the koppie to get out of the 9 Nyalas and to engage and make arrests in the koppie. Am I 10 correct in reading your statement to suggest that these 11 three things were happening more or less simultaneously?</p> <p>12 BRIGADIER CALITZ: Mnr die Voorsitter, 13 voorheen ek het vir u gesê die ding of die verklaring was 14 nie in sequence geskryf soos wat u gevra het nie. Ek het 15 vir u gewys dat 121 na byvoorbeeld 120 gebeur het. As ons 16 kyk daar na paragraaf 122, “moved in a north-westerly 17 direction where several arrests were affected, Warrant- 18 Officer Nong climbed out of the Nyala.” “Several arrests 19 were affected,” as ons dan gaan kyk na die transkripsie dan 20 dink ek gaan ons ‘n meer akkurate tydlyn kry, byvoorbeeld 21 waar ek gesê het, ek dink 11 minute, 25 sekondes hier in 22 die transkripsie, “We made arrests and I counted 1, 2, 3, 23 4, 5, 6 arrests,” onmiddellik na dit, “JOC chopper, JOC 24 chopper, 2 bodies, 2 bodies at the back of the second 25 koppie, 2 bodies.”</p>	<p style="text-align: right;">Page 18883</p> <p>1 MR CHASKALSON SC: What you’ve left out 2 is Colonel Vermaak’s attempt to make this report before you 3 get in to make your report of the arrests. So at 11:47 you 4 hear Colonel Vermaak saying, “JOC chopper,” and you then 5 butt in and say, “Small koppie, we make 1, 2, 3, 4, 5, 6 6 arrests with these reservists,” and then Lieutenant-Colonel 7 Vermaak gets his opportunity and says, “JOC, JOC chopper, 2 8 bodies, 2 bodies at the back of the second koppie, 2 9 bodies.”</p> <p>10 BRIGADIER CALITZ: Dit was my getuienis, 11 ja.</p> <p>12 MR CHASKALSON SC: Now we’ve been through 13 the entire transcription of the tape. This is the only 14 report on the tape that Lieutenant-Colonel Vermaak makes to 15 the JOC expressly. Do you accept that?</p> <p>16 BRIGADIER CALITZ: Nee, ek stem nie saam 17 nie, ek dink die bodies by scene 1 het hy ook na verwys, na 18 die JOC toe en dit is hoekom daar ‘n [17:16] inskrywing was 19 van die 18.</p> <p>20 MR CHASKALSON SC: On the tape I’m 21 talking about, that was before the Lonmin chopper 22 transcript, the Lonmin chopper video, - sorry, the Protea 23 Coin chopper video started. So, on the tape this is the 24 only report that Lieutenant-Colonel Vermaak makes to the 25 JOC.</p>

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1 BRIGADIER CALITZ: Dit is wat hier staan,
 2 ja, dit is korrek wat op die tape ge-record is.
 3 MR CHASKALSON SC: You've said that when
 4 he reported the bodies that he was counting first time out
 5 he also made that report to the JOC.
 6 BRIGADIER CALITZ: Sê net weer, ek is nie
 7 met u nie?
 8 MR CHASKALSON SC: You said, when I said
 9 this is the only report he made you said that he made an
 10 earlier report when he was counting the bodies out at scene
 11 1, that was also a report to the JOC.
 12 BRIGADIER CALITZ: Ja, dit is korrek, ja,
 13 en toe sê u praat net van wat op die tape recording is.
 14 MR CHASKALSON SC: Well, we thought this
 15 was quite significant because why would Colonel Vermaak
 16 want to report something to the JOC if it wasn't about a
 17 body that may be a dead body? Why would Colonel Vermaak
 18 want to report to the JOC that there were people lying
 19 down, possibly waiting to be arrested, possibly injured?
 20 MR SEMENYA SC: It would be a pure
 21 conjecture, Chair, on his part to read the mind of Colonel
 22 Vermaak.
 23 CHAIRPERSON: What do you say about that,
 24 Mr Chaskalson?
 25 MR CHASKALSON SC: No, with respect it is

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1 not an issue of reading the mind of Colonel Vermaak with
 2 the view to establishing what Colonel Vermaak's actual
 3 intention was. It is a view to hearing, to interpreting a
 4 communication that Lieutenant-Colonel Vermaak made with the
 5 view to establishing what someone who heard that
 6 communication would understand the communication to mean.
 7 If that communication is addressed to the JOC someone
 8 hearing it will understand that to mean something very
 9 different to a communication that isn't addressed to the
 10 JOC, because there would be no purpose whatsoever in
 11 addressing to the JOC specifically a report –
 12 CHAIRPERSON: Your point is that Colonel
 13 Vermaak is the eye in the sky and he is giving most of the
 14 time instructions to people on the ground to what to do
 15 based upon what he can see from the sky, whereas when he is
 16 giving information to the JOC he is not giving instructions
 17 to the JOC as to what they must do, because manifestly they
 18 can do nothing sitting as they are in the JOC, is that the
 19 point you're making?
 20 MR CHASKALSON SC: Indeed, so why would
 21 he make a report to the JOC of 2 bodies or 18 bodies if he
 22 didn't think that they may be dead bodies.
 23 [15:38] MR SEMENYA SC: Still I can't see how
 24 this witness can answer that question, Chair. You're still
 25 interrogating why Colonel Vermaak would have made that

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1 report and you're asking somebody else to opine on it.
 2 CHAIRPERSON: No, I hear the point you're
 3 making. Perhaps the problem can be solved as follows.
 4 When you heard Colonel Vermaak making a report to the JOC
 5 about bodies, did it not occur to you that in view of the
 6 fact that he was talking to the JOC it was possible, if not
 7 probable, that he was talking about dead bodies?
 8 BRIGADIER CALITZ: Mnr die Voorsitter,
 9 nee glad nie. By "scene" 1 het Kolonel Vermaak ook dit
 10 gerapporteer en die JOC sou dit seer sekerlik dan ook
 11 verneem het, anderste sou daar nie 'n VB-inskrywing –
 12 voorvalleboek inskrywing gewees het van die 18 "bodies"
 13 nie. So presies dieselfde wat ons verneem het daar met die
 14 "dispersion action," as ons vir u gesê het dat die
 15 "dispersion" het, is 'n deurlopende aksie gewees, dit het
 16 nie gestop en ander persone het aangegaan nie. Ons het met
 17 ons Pappa voertuie die "dispersion action" volgehou, so die
 18 "bodies" sou dan gewees het mense wat dan weereens in my
 19 oogpunt beseer was as gevolg van die uiteendrywing en van
 20 die ander aksies wat daar plaasgevind het. So onder geen
 21 omstandighede was ek bewus van enige ander persone behalwe
 22 die Openbare Orde Polisiëring, Pappa Nyalas voertuie wat
 23 dan die uiteendrywing gedoen het nie.
 24 MR CHASKALSON SC: It didn't strike you
 25 as strange that these were the only two communications that

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1 Lieutenant-Colonel Vermaak addressed to the JOC?
 2 BRIGADIER CALITZ: Mnr die Voorsitter,
 3 nee, Kolonel Vermaak het deurentyd met die JOC gesels en
 4 deurentyd met my gepraat en deurentyd met die voertuie
 5 gepraat. Ek dink as u gaan luister sal u hoor dat die lug
 6 was, ek dink die persone wat nie ons kon bereik nie het
 7 gesê dat ons het aanmekaar gepraat. So alles wat hy sien
 8 was hy veronderstel om te rapporteer.
 9 MR CHASKALSON SC: Yes, but these are the
 10 only two communications that are expressly addressed to the
 11 JOC, not to you, not to any of the Papa Nyalas on the
 12 ground, but to the JOC.
 13 BRIGADIER CALITZ: Ek sal nie kan
 14 antwoord wat Kolonel Vermaak, hoekom hy net spesifiek die
 15 twee en het hy enige ander gesien van die lug af. Dit is
 16 'n vraag wat ek glo hy sal kan kom antwoord.
 17 CHAIRPERSON: Mr Chaskalson, I think the
 18 point, insofar as it's a point that's being made, you can
 19 argue it further. I don't think there's any point in
 20 arguing it further with the witness.
 21 MR CHASKALSON SC: Okay, I won't take it
 22 further, Chairperson, at this stage. Let's go back to the
 23 sequence. You've drawn a distinction between the time when
 24 the arrests were made and the time when Lieutenant-Colonel
 25 Vermaak reported over the radio that armed strikers were

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1 encircled. I wasn't talking when I said three things were
 2 happening simultaneously about the arrests. I was talking
 3 about Warrant-Officer Nong photographing the arrested
 4 person, Lieutenant-Colonel Vermaak reporting over the radio
 5 that the armed strikers were encircled, and Lieutenant-
 6 Colonel McIntosh running out of the – screaming and running
 7 out of the Nyala to attempt to assist the member under
 8 threat. Is that what you are conveying in this statement,
 9 or did these things happen at different times?

10 BRIGADIER CALITZ: Mnr die Voorsitter,
 11 weereens verwys u na my verklaring as in "sequence." Ek
 12 dink dis die derde keer wat ek vir u sê ek het dit nie in
 13 "sequence" geskryf nie. Om terug te kom na u vraag toe, as
 14 u sien die arrestasies is gemaak, ons kan dit baie maklik
 15 oplos want Kolonel McIntosh het geskreeu daar was 'n
 16 persoon onder "attack" en dit is Mr Mpumza, "body C" soos
 17 ons gemerk is, en dit het ongeveer om 16:20 gebeur, as ek
 18 op die tydlyn reg het. Dan Kolonel Vermaak het die opdrag
 19 gegee, "People are encircled," op die "transcript" 13:28 in
 20 die "transcript" in, so ek dink u is die ekspert op die
 21 tydlyn, so u kan dalk vir ons 'n beter aanduiding gee wat
 22 het eerste plaasgevind. Soos ek sê, ek het nie in
 23 "sequence" nie, ek het dit soos ek dit onthou het en soos
 24 die dag vir my verloop het, het ek dit net in my verklaring
 25 gesit. Maar ek weet dat die voorval in 123, paragraaf 123

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1 op bladsy 25, was dan die laaste skietvoorval. Dit het ons
 2 na die tyd vasgestel. So die persone wat dan "ge-encircle"
 3 was, as u die tyd uit die "transcript" uit vir ons kan gee,
 4 wat ek glo u het, kan ons sien of dit net voor of net na
 5 "body C" was.

6 MR CHASKALSON SC: No, I'll get to that
 7 in due course, but I want to again take up your answer a
 8 little further. Look at 125. Read 124 and then read 125.
 9 "Lieutenant-Colonel Vermaak reported over the radio that
 10 the armed strikers were encircled. I instructed all POP
 11 members in the Nyalas to get out of the vehicles to engage,
 12 meaning to approach the koppie, disperse the group into
 13 smaller pockets, encircle them, disarm and effect the
 14 arrests as per their briefing received. At that moment I
 15 shouted at Warrant-Officer Nong to quickly come to the
 16 Nyala. On his arrival we drove to where Lieutenant-Colonel
 17 McIntosh was attending to a striker who was lying on the
 18 ground." Now when I read those two paragraphs together it
 19 doesn't leave much scope for doubt that when you had given
 20 your instruction to disperse the groups into smaller
 21 pockets, encircle them, disperse and effect the arrests,
 22 when you'd done that, at that moment you shouted at
 23 Warrant-Officer Nong to come quickly to the Nyala and on
 24 his arrival you then drove to Lieutenant-Colonel McIntosh.
 25 What do you say to that?

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1 BRIGADIER CALITZ: Dit is hoe dit in my
 2 verklaring staan, mnr die Voorsitter.

3 MR CHASKALSON SC: No, absolutely that's
 4 how it stands in your statement, but do you now disavow
 5 what's in your statement?

6 BRIGADIER CALITZ: Gee my net 'n
 7 Afrikaanse woord vir "disavow."

8 MR CHASKALSON SC: Do you still stand by
 9 what's in your statement?

10 BRIGADIER CALITZ: Dit is korrek, mnr die
 11 Voorsitter. Miskien pla die woordjie "at that moment," is
 12 dit die gedeelte wat u bekommerd is oor?

13 MR CHASKALSON SC: Yes, that is the
 14 concern that I have. There's another concern with 123, if
 15 you go back.

16 BRIGADIER CALITZ: Ek dink nie as ons vat
 17 McIntosh het uit die Nyala uitgespring, toe het ek die
 18 gedeelte van Kolonel Vermaak ingesit. Soos ek weereens vir
 19 u sê, dit was nie bedoel om in "sequence" te wees nie. "At
 20 that moment I shouted," so paragraaf 125 volg op 23 waar
 21 McIntosh uitgespring het. So ek dink nie –

22 CHAIRPERSON: I'm sorry, you must forgive
 23 me, Brigadier, but there's something I don't understand
 24 about this whole thing. If you take it slowly and be
 25 patient with me I'll be grateful. What we see here is

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1 first of all there was this large group of strikers to the
 2 north of the northwest and you sent a Nyala in that
 3 direction to deal with them, right. Then some of the
 4 Nyalas then went with the water cannons to koppie 3 and
 5 they were being instructed from the air by Colonel Vermaak.
 6 Is that right?

7 BRIGADIER CALITZ: Korrek, mnr die
 8 Voorsitter.

9 CHAIRPERSON: Then three of the Nyalas,
 10 including your one, moved off in a northerly direction.
 11 Several people were arrested. They were made to lie on the
 12 ground with their faces down and Warrant-Officer Nong
 13 climbs out of the Nyala to take pictures, right?

14 BRIGADIER CALITZ: Dit is korrek, mnr die
 15 Voorsitter.

16 CHAIRPERSON: Now he's outside the Nyala.
 17 That's at 122. McIntosh is with you in your Nyala, screams
 18 and says one of the members is under attack, and then he
 19 gets out of the Nyala and runs in that direction, and then
 20 Lieutenant-Colonel Vermaak from the air reports that the
 21 armed strikers were encircled. Now I don't know what armed
 22 strikers are being talked about because it hasn't been
 23 mentioned yet in the narrative, but it would appear that,
 24 if one thinks back to the photograph we saw, you stopped,
 25 the other Nyala stopped. People were arrested, made to lie

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1 down on the ground. Nong went and took photographs of
 2 them. We see McIntosh then getting out of, having got out
 3 of your Nyala, right. Nong has got the door open, and is
 4 that the time when McIntosh shouts to you - you're still in
 5 the Nyala, it would appear – shouts to you one of the
 6 members is under attack. Now where did that attack take
 7 place? I take it that wasn't visible on the photograph we
 8 saw. Is that correct? Was that to the left of the
 9 photograph? Because remember, McIntosh appears to be going
 10 towards the left, top left of the photograph. So was
 11 McIntosh at that point moving in the direction of the
 12 person who was under attack?

13 BRIGADIER CALITZ: Dit is korrek, mnr die
 14 Voorsitter. Van waar daardie groepering van voertuie was,
 15 van daar af het hy dan gehardloop na die persoon wat onder
 16 aanval was.

17 CHAIRPERSON: Right, so what I take it is
 18 missing is that there was a member who is not on the
 19 photograph, who's somewhere to the left possibly higher up
 20 of that photograph, not visible and there's a group of
 21 armed strikers there who are attacking him or was it just
 22 one person who was attacking him?

23 BRIGADIER CALITZ: Nee, hy't geskreeu dat
 24 die polisiemanne onder aanval was, later in my verklaring,
 25 paragraaf 126 I noticed on our arrival Macintosh informed

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1 me that the person has died and then I noticed a TRT
 2 members who were at the scene.

3 CHAIRPERSON: Yes, yes, I understand
 4 that.

5 BRIGADIER CALITZ: Dit was die eerste
 6 keer wat -

7 CHAIRPERSON: I'm trying to understand
 8 what happened at the scene. So Macintosh's getting out of
 9 your Nyala, top of the paragraph, going to the left and
 10 there's something happening off the scene as we can see
 11 it, presumably to the left and up -

12 BRIGADIER CALITZ: Ek dink dis in die
 13 rigting van koppie 3.

14 CHAIRPERSON: Ja, in die rigting van
 15 koppie 3, yes I understand that but we can't see from the
 16 photographs depicting this –

17 BRIGADIER CALITZ: No, no, no, ja.

18 CHAIRPERSON: So it's to the left and
 19 virtually north west if one uses that, diagonally to the
 20 left corner of the photograph and beyond, is that, would
 21 that be right? You understand what I mean? Assuming this
 22 is the photograph, I'm showing you the photograph and the
 23 top left hand corner is your Nyala and Macintosh has got
 24 out of it and he's moving to the left, right, is that
 25 correct?

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1 BRIGADIER CALITZ: I will say to the
 2 bottom of the page.

3 CHAIRPERSON: The bottom of the page.

4 BRIGADIER CALITZ: We were, yes,
 5 Kommissaris, mnr die Voorsitter, as ons miskien 'n foto kan
 6 kry waar die voertuie sal u sien ons is aan 'n noord
 7 westelike kant van die koppie.

8 CHAIRPERSON: Ja.

9 BRIGADIER CALITZ: So basies was die
 10 voertuie waar ons bymekaar gekom het om die arrestasies uit
 11 te voer en die koppie 3, die persoon wat dan aangeval is
 12 kan ek maar sê is amper in die middel dan tussen ons
 13 voertuie en die koppie 3.

14 CHAIRPERSON: Okay, I understand that.
 15 But he's not visible on the photograph we saw?

16 BRIGADIER CALITZ: No.

17 CHAIRPERSON: But where would he, where
 18 would he have been if the picture had been slightly bigger?

19 MR CHASKALSON SC: Can I suggest we look
 20 at the photograph of Colonel Botha which may assist in
 21 showing a bigger picture.

22 CHAIRPERSON: And clear up my problem.

23 MR CHASKALSON SC: In fact –

24 CHAIRPERSON: Suddenly you're talking
 25 once and for all about the armed strikers and they haven't

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1 been mentioned before, if we look at Colonel Botha's
 2 photographs and it may become clear.

3 MR CHASKALSON SC: Can we look at 5139 of
 4 Colonel Botha's 5139. KKK16 5139.

5 CHAIRPERSON: Where are you now, maybe
 6 you can orientate me on this photograph. This is koppie 3
 7 I take it and the scene that was depicted in the other
 8 photograph of the people lying on the ground who have been
 9 arrested with Macintosh hastily exiting from your Nyala,
 10 now where do we see that or part of it on this photograph?

11 BRIGADIER CALITZ: Mnr die Voorsitter,
 12 daar waar daardie groep voertuie, as ek sê daar is dit so
 13 links onder die wit helikopter op daardie foto, waar
 14 daardie vier, vyf voertuie dan by mekaar staan. Dit was
 15 waar ons, waar my Nyala was en dan -

16 CHAIRPERSON: Sorry where do we, do we
 17 see your Nyala in the photograph?

18 BRIGADIER CALITZ: Yes.

19 CHAIRPERSON: Where is it?

20 BRIGADIER CALITZ: Ek is nie seker of hy,
 21 dit sal seker die een wees in die middel, aan die regter
 22 kant. Die een heel regs sal ek aanneem, ek is nie op
 23 hierdie stadium 'n 100% seker.

24 MR CHASKALSON SC: You are correct, in
 25 fact –

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1 CHAIRPERSON: Which one, is it the one -
 2 BRIGADIER CALITZ: Papa1.
 3 CHAIRPERSON: There's one in the bush -
 4 MR CHASKALSON SC: The one he's busy
 5 marking now.
 6 CHAIRPERSON: Oh I see. There's one in
 7 the middle of the photograph next to a bush and if one goes
 8 diagonally upwards towards the right there's a Nyala. So
 9 that's that Nyala, right? That's your Nyala?
 10 BRIGADIER CALITZ: Die een op die verste
 11 regs is my Nyala.
 12 CHAIRPERSON: That's right and where were
 13 the arrested people lying on the ground, do we see them?
 14 BRIGADIER CALITZ: Hulle is nog steeds
 15 daar op die grond, mnr die Voorsitter.
 16 CHAIRPERSON: Near the Canter?
 17 BRIGADIER CALITZ: Dit is korrek.
 18 CHAIRPERSON: They're still on the ground
 19 are they?
 20 BRIGADIER CALITZ: Dit is korrek, daar's
 21 van hulle wat op die grond lê en van hulle sal dan in die
 22 Canter soos hulle fotograaf in die Canter gelaai word.
 23 CHAIRPERSON: Yes, I understand. Alright
 24 and where is, in which direction is Macintosh running?
 25 BRIGADIER CALITZ: Directly down, if I

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1 say down, down to the photograph in the direction of koppie
 2 3, I think we can maybe get -
 3 CHAIRPERSON: So now we see a bit of
 4 koppie 3 in this photograph.
 5 BRIGADIER CALITZ: There's the
 6 photograph, I think the body was between that tree where
 7 the, is it Nyala or Canter standing there, between the tree
 8 and there's rocks somewhere in there.
 9 CHAIRPERSON: You say between the tree
 10 but which tree are you talking about?
 11 BRIGADIER CALITZ: There's the Nyala
 12 vehicle standing next to a tree -
 13 CHAIRPERSON: Oh that's the one I
 14 describe as the bush. If one goes down to the left from
 15 your Nyala -
 16 BRIGADIER CALITZ: That's correct.
 17 CHAIRPERSON: Diagonally there's an Nyala
 18 and there's a bush next to it? A bush or a tree, whatever,
 19 ja. Now where was Macintosh going to, where was the member
 20 who was being attacked?
 21 BRIGADIER CALITZ: Ek kan nie vir u
 22 presies 'n plek op hierdie foto wys maar dit sal tussen
 23 daardie bush en die koppie wees. Iewers in daardie, maar
 24 ek glo daar is 'n foto -
 25 CHAIRPERSON: Okay, somewhere down there.

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1 BRIGADIER CALITZ: Wat ons uitwys, so hy
 2 het in daardie rigting gehardloop.
 3 CHAIRPERSON: And he was being attacked
 4 by how many people?
 5 BRIGADIER CALITZ: Mnr die Voorsitter,
 6 nee ek het dit nie -
 7 CHAIRPERSON: You see because you say he
 8 was being attacked, you don't say by whom, but then later
 9 on in the next paragraph 124 you suddenly talk about the
 10 armed strikers were encircled so there was a group of armed
 11 strikers who didn't mentioned in the notes previously and
 12 they were encircled, now where were they, where was the
 13 encirclement?
 14 BRIGADIER CALITZ: Dit is die wat by
 15 koppie 3 self was. Dit is wat oor die radio gegee is deur
 16 Kolonel Vermaak. So dit het niks met daardie lede wat
 17 gearrester is op die grond te doen nie. Dit is wat ons
 18 oor die radio gekry het wat by koppie 3 besig was om te
 19 gebeur. Sodra, toe hy vir ons sê daardie persone is ge-
 20 encircle het ek dan opdrag gegee vir die Papa Nyalas om
 21 nader, om uit te beweeg uit die voertuig en dan sodoende
 22 die persone te arrester.
 23 CHAIRPERSON: Right now at that point,
 24 sorry at that stage Nong was still outside your Nyala
 25 because he got out to take the photographs?

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1 BRIGADIER CALITZ: Hy was omtrent daar
 2 waar die Canter voertuig, die Canter voertuig is net op my
 3 -
 4 CHAIRPERSON: Ja, okay. I see that. So
 5 you then told all the POP members in the Nyalas to get out
 6 of the vehicles and to presumably to run in the direction
 7 of koppie 3 to deal with the attack which had been launched
 8 on one of your members, is that correct?
 9 BRIGADIER CALITZ: Nee, mnr die
 10 Voorsitter.
 11 MR CHASKALSON SC: Chairperson, maybe if
 12 I can clarify through the Brigadier because what's
 13 happening is three different processes. The communication
 14 in relation to the, the communication from Lieutenant
 15 Colonel Vermaak and the Brigadier's response relate to
 16 events that are happening inside the koppie itself.
 17 BRIGADIER CALITZ: Ja.
 18 MR CHASKALSON SC: And maybe if we can
 19 just read the transcript of what that communication was, my
 20 note which is at 13, starts at approximately 13:48 of the
 21 Protea Coin video, Lieutenant Colonel Vermaak says, "ja
 22 Papa1 if that water cannon can wait," in other words a
 23 water cannon at koppie 3, "the people they are encircled,
 24 you can make arrests now there, arrests in koppie 3."
 25 BRIGADIER CALITZ: Dit is binne koppie 3,

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1 ja.

2 MR CHASKALSON SC: And the Brigadier then

3 responds okay water cannons hold back, take's up Lieutenant

4 Colonel Vermaak's suggestion that the water cannon must

5 wait. So the Brigadier responds, "okay water cannons hold

6 back. Guys get out of the Nyalas under protection, under

7 protection, get out, get out there, engage, get out there

8 and engage those vehicles of the task force."

9 BRIGADIER CALITZ: With the task force.

10 MR CHASKALSON SC: With the task force.

11 BRIGADIER CALITZ: Dit verwys na die Papa

12 voertuie wat saam met die taakmag beweeg het na koppie 3

13 toe onder beskerming. So ons het gepraat op daardie

14 stadium nie met die twee, drie Nyalas wat saam met my is

15 daar bo by die arrestasie nie, maar net met die Nyala Papa

16 voertuie wat saam met, onder, kan ek sê onder Kolonel

17 Vermaak se beheer was daar.

18 CHAIRPERSON: Alright but that, what I

19 still don't know where this attack was taking place and in

20 which direction Lieutenant Colonel Macintosh ran because

21 what you say in your statement is that we see, having seen

22 Macintosh jump out of your Nyala in the first photograph,

23 we are then told that he ran immediately as you put it in

24 paragraph 123 in the direction of the members. That must

25 be in the member whose been attacked. So which direction

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1 did, have you got a point there, can you point for us.

2 BRIGADIER CALITZ: I've just asked if

3 someone can –

4 CHAIRPERSON: And you can also when you

5 get the pointer you can indicate to us where this attack

6 was taking place. Mr Wesley is going to help us.

7 BRIGADIER CALITZ: Ek weet daar's 'n foto

8 van -

9 CHAIRPERSON: It should be on this

10 photograph.

11 BRIGADIER CALITZ: As iemand kan, nee,

12 nie op hierdie, hierdie foto is voor die tyd geneem, mnr

13 die Voorsitter. Die insident het plaasgevind nadat, na

14 hierdie.

15 MR CHASKALSON SC: The position is

16 marked approximately in annexure GW6C to JJJ178. So maybe

17 if we can get JJJ178 annexure GW6C there is a slide where

18 the position of the body is marked.

19 [15:57] CHAIRPERSON: Is this going to be body C

20 or body N?

21 MR CHASKALSON SC: Body C, Mr Mpumza, and

22 it is page 23 of that slide, page 23 of that annexure. If

23 we can magnify that and the position of Papa 1 is marked on

24 this slide. Brigadier, can you just mark Papa 1?

25 CHAIRPERSON: I take it Papa 1 is the P1

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1 on the slide?

2 BRIGADIER CALITZ: As u agter, miskien op

3 die –

4 CHAIRPERSON: Is P1 Papa 1?

5 BRIGADIER CALITZ: Dit is korrek.

6 CHAIRPERSON: So there it is, it is

7 marked already, P1 and I don't know where your red thing

8 is?

9 BRIGADIER CALITZ: No, no, -

10 CHAIRPERSON: Your red thing is under P4,

11 that's the wrong place.

12 BRIGADIER CALITZ: Nee, nee, mnr die

13 Voorsitter, ek wou net verwys het, dit is die rooi kol

14 waarna Kolonel Vermaak gehardloop het, daardie rigting.

15 Dit is waar die body C was.

16 CHAIRPERSON: Alright, so we get things

17 in sequence first. P1 is your Nyala, right?

18 BRIGADIER CALITZ: Korrek, mnr die

19 Voorsitter.

20 CHAIRPERSON: And then to the left of the

21 slide we see a number of Nyalas, one is a water cannon, a

22 north-west water cannon and a Canter, in fact two water

23 cannons, a Canter and some Nyalas and we see under P4 is a

24 red dot and that's where the body was?

25 BRIGADIER CALITZ: Dit is korrek, mnr die

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1 Voorsitter.

2 CHAIRPERSON: Is that where the attack

3 was taking place on the member?

4 BRIGADIER CALITZ: Dit is so gerapporteer

5 aan my.

6 CHAIRPERSON: And is that the direction

7 in which Colonel McIntosh ran?

8 BRIGADIER CALITZ: Dit is korrek, mnr die

9 Voorsitter.

10 CHAIRPERSON: Alright, and where were the

11 armed strikers who were encircled? Were they, - was the

12 member who was being attacked at the red spot, was he being

13 attacked by more than one person?

14 BRIGADIER CALITZ: No, I presume he was

15 one person running out towards the policemen, attacking him

16 and then the police acted in self defence.

17 CHAIRPERSON: Okay, I can understand that

18 but you see I'm interested in this statement in paragraph 1

19 to 4, Lieutenant-Colonel Vermaak reported over the radio

20 that the armed strikers were encircled. Now is this part

21 of the same narrative or is this something different?

22 BRIGADIER CALITZ: Nee, dit is die

23 persone verwys na binne in koppie 3 wat dan gearreesteer is,

24 deel van die 259 wat daar gearreesteer is binne in die

25 koppie 3. Dit is die persone wat van koppie 2 af na koppie

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1 3 toe, kan ek maar sê gevlug het. Die waterkanon het hulle
 2 binne toe gespuit en dan was daar ook my POP voertuie daar
 3 rondom.
 4 CHAIRPERSON: I just want to make sure I
 5 understand it. So at the lower end of the picture was a
 6 group of strikers who were encircled, alright, but some
 7 distance away from them was a single striker who was
 8 attacking a member.
 9 BRIGADIER CALITZ: Korrek, mnr die
 10 Voorsitter.
 11 CHAIRPERSON: And that is more or less at
 12 the red spot.
 13 BRIGADIER CALITZ: Dit is so –
 14 CHAIRPERSON: Below P4 on the picture?
 15 BRIGADIER CALITZ: Korrek, mnr die
 16 Voorsitter.
 17 CHAIRPERSON: McIntosh ran from your
 18 Nyala, P1 in that direction?
 19 BRIGADIER CALITZ: Korrek, mnr die
 20 Voorsitter.
 21 CHAIRPERSON: And while that was
 22 happening Vermaak then, the eye in the sky, reported that
 23 there was a group of strikers in the vicinity but on koppie
 24 3 and you then instructed the POP members in your group of
 25 Nyalas over there on the right hand side of the picture, to

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1 get out, go towards the koppie and do the necessary, to
 2 disarm and arrest the people, is that correct? So you did
 3 that while McIntosh was running towards the member who was
 4 being attacked at the spot indicated by the red mark, is
 5 that correct?
 6 BRIGADIER CALITZ: Kommissaris, ja, ek
 7 het vir hulle die opdrag gegee toe McIntosh uit die
 8 voertuig uit, ek kan nie op daardie stadium sê is dit in
 9 sequence of toe ons op pad was soontoe nie, maar dit was –
 10 CHAIRPERSON: More or less the same time?
 11 BRIGADIER CALITZ: More or less the same
 12 time, ja.
 13 CHAIRPERSON: So it was effectively two
 14 incidents, one was the disarmament and arrest of the group
 15 at the edge there of koppie 3 which is particularly
 16 described in paragraph 124 and there was the other incident
 17 of the attack on the member which McIntosh ran to deal with
 18 which is described in 123 and which follows immediately on
 19 what we saw in that photograph of McIntosh. It actually
 20 preceded the picture we saw of McIntosh having left your
 21 Nyala and moved to the left on the photograph, is that
 22 correct?
 23 BRIGADIER CALITZ: Dit is korrek, mnr die
 24 Voorsitter.
 25 CHAIRPERSON: Alright.

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1 BRIGADIER CALITZ: Ek, - ja.
 2 CHAIRPERSON: So then McIntosh goes to
 3 deal with the situation at the red dot, your other members
 4 go down to the koppie acting on the information you
 5 received from Vermaak about the group –
 6 MR CHASKALSON SC: Sorry, Chairperson,
 7 can I interrupt –
 8 CHAIRPERSON: Yes –
 9 MR CHASKALSON SC: - because I think you
 10 may be at cross purposes. Brigadier, your instruction to
 11 get out of the Nyalas and to make the arrests, that wasn't
 12 an instruction that was addressed to your group of Nyalas.
 13 BRIGADIER CALITZ: Nee, -
 14 MR CHASKALSON SC: That was a radio
 15 instruction to the Nyalas in the koppie?
 16 BRIGADIER CALITZ: Ja, ek het net gewag
 17 dat mnr die Voorsitter klaar praat. Hy het gemeld die
 18 persone aan my regterkant, ek wou hom maar net die
 19 geleentheid gegee het om klaar te maak en dan sou ek gesê
 20 het dit is die persone wat onder Kolonel Vermaak se beheer
 21 was op die linkerkant, die Papa4, Papa18, Papa9, Papa7,
 22 Papa4, asook dan die taakmag, die Casspir wat daar was.
 23 Daardie Papa voertuie, daardie lede het ek dan opdrag gegee
 24 om uit te beweeg aangesien hulle basies die mense ge-
 25 encircle het. Die lede op die regterkant by my het daar

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1 gebly, hulle het daardie mense klaar geprosesseer in die
 2 Canters en van daar het hulle ons gevolg. Ek het dadelik
 3 beweeg na Colonel McIntosh toe. Toe ek daar aankom het hy
 4 vir my vertel die persoon is oorlede en dan kan ons dan
 5 verder gaan op die verklaring waar ek dit aan die JOC
 6 gerapporteer het.
 7 CHAIRPERSON: And the person who was
 8 "oorlede", as you put it, he was dead, is the person, I
 9 can't remember his name –
 10 BRIGADIER CALITZ: Mr Mpumza –
 11 CHAIRPERSON: - but he is described as
 12 body C?
 13 BRIGADIER CALITZ: Dit is reg, ek het hom
 14 as Mr Mpumza.
 15 CHAIRPERSON: Okay?
 16 BRIGADIER CALITZ: Mr Mpumza.
 17 CHAIRPERSON: I see, Mr Mpumza, thank
 18 you. So effectively, just to get this right, there were
 19 two incidents that took place more or less at the same
 20 time, - there were three incidents. The first is the
 21 arrest by you and the people with you of the strikers who
 22 were made to lie down on the ground and who were eventually
 23 loaded into the Canters and whose pictures were taken by
 24 Nong, that's incident 1. Incident 2 is the attack on a
 25 member in the vicinity of the red spots which McIntosh ran

1 to deal with. The third incident is the arrest of a group
 2 of strikers who were at the outer edge there of the koppie
 3 and who had been seen by Colonel Vermaak from the air.
 4 BRIGADIER CALITZ: Hulle was binne in die
 5 koppie gewees, ja.
 6 CHAIRPERSON: That's right.
 7 BRIGADIER CALITZ: Encircled.
 8 CHAIRPERSON: And you then instructed the
 9 people in the Nyalas 18, 9, 4, etcetera, -
 10 BRIGADIER CALITZ: Dit is korrek -
 11 CHAIRPERSON: - to go and deal with them?
 12 BRIGADIER CALITZ: Dit is korrek, ja.
 13 CHAIRPERSON: And you told Nong to get
 14 back into your Nyala because he had been out of it taking
 15 pictures, to get into your Nyala and drive quickly in the
 16 direction of McIntosh so that you could assist there and
 17 when you got there McIntosh reported that the striker was
 18 dead, is that the story?
 19 BRIGADIER CALITZ: Dit is korrek, ek was
 20 bekommerd omdat hy alleen uit gehardloop het en dit was
 21 onveilig en dit is hoekom ek geskree het ons moet gou na
 22 hom toe beweeg.
 23 MR CHASKALSON SC: Chairperson, I see
 24 we've run past four.
 25 CHAIRPERSON: Sorry, if you want to wrap

1 it up before we adjourn do so, and as soon as it is
 2 convenient we can -
 3 MR CHASKALSON SC: I'm afraid there is
 4 quite a lot still to be said about this, so if we can pick
 5 it up tomorrow morning.
 6 CHAIRPERSON: Alright, well, in the
 7 circumstances we will adjourn now until tomorrow morning at
 8 nine o'clock.
 9 [COMMISSION ADJOURNED]
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